

METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS  
RFP 25—017  
LOWER BEAVERDAM CREEK TRASH AND DEBRIS REMOVAL



**REQUEST FOR PROPOSAL (RFP) 25-017**

**Lower Beaverdam Creek Trash and Debris  
Removal**

Proposers shall submit an electronic copy of their proposal to the  
COG LOCKBOX system, as per the submission instructions in  
Section X of this RFP.

RELEASED DATE: May 8, 2025

Submission Due Date: **June 5, 2025 by 2:00 PM EDT**

Questions regarding the RFP shall be submitted  
as directed in Section XI.

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**I. SUMMARY**

Services requested	Seeking a CONTRACTOR to remove large metal scrap, trash and debris from a 1,500-foot section of the Lower Beaverdam Creek stream channel in Prince George’s County, MD. Work shall include assessment of the material to determine whether or not it is eligible for removal, recycling, loading, and hauling material to an approved disposal facility.
Contract type	Fixed Price
Number of awards	Single award
Duration of contract	Multi-year
Payment method	Net 30
Planned duration of RFP advertisement	Approximately 3 weeks
Start of advertisement period for RFP	May 8, 2025
Deadline for questions about RFP	10 business days before deadline
Deadline for COG responses to questions	5 business days before deadline
Deadline for proposals	June 5, 2025 by 2PM ET

**II. INTRODUCTION**

- A. The Metropolitan Washington Council of Governments (“COG”) is an independent, non-profit association that serves as the principal regional organization of the Washington area's major local governments and their governing officials. Membership includes 300 elected officials from 22 local governments, plus area members of the Maryland and Virginia legislatures and the U.S. Congress. The Anacostia Watershed Restoration Partnership (AWRP) was created with a continued commitment to carry out the Anacostia Six-Point Action Plan. The Partnership is the collaboration between governments, communities and the private sector for shared restoration efforts to recreate the watershed as an asset. The key elements of the Partnership are the 1) Steering Committee, 2) Management Committee, and 3) Community Advisory Committee. In 1990, the first Anacostia restoration project was completed. The Partnership has contributed greatly to the success of the watershed conservation effort and improving this amenity for the community.
- B. COG provides a focus for action on issues of regional concern such as comprehensive transportation planning, air and water quality management, environmental monitoring, tracking economic development and population growth and their effects on the region, coordinating public safety programs, and promoting childcare and housing for the region. COG is supported by financial contributions from its participating local governments, federal and state government grants and contracts, and through grants and contracts from foundations and the private sector.

**C. PROJECT OVERVIEW**

Through its environmental work, the COG’s Department of Environmental Programs is advancing **Region Forward** goals for clean water, air, and land, and a more sustainable region. As part of the National Oceanic and Atmospheric Administration (NOAA) grant award project,

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COG is seeking to remove trash and debris from the Lower Beaverdam Creek (LBC). Removal will focus on large metal scrap, trash and debris (i.e., material) removal from a 1,500-foot section of the LBC stream channel (project reach). The stream section, all in Maryland, begins at the terminus of the concrete channel located underneath of Kenilworth Avenue (MD Route 201). The stream channel and northern stream bank are currently owned by the National Railroad Corporation (Amtrak). The southern bank property is owned by WSSCWater. There is a small portion of the stream located at the western most end of the project boundary that is owned by Prince George's County. Within the project boundary stream reach, there are two below stream bed grade sewer line crossings. Additionally, the project reach is within the tidal portion of LBC (Exhibit 1 – Lower Beaver Dam Creek Removal Site Map ).

D. SUMMARY OF REQUEST

COG is seeking a CONTRACTOR to remove large metal scrap, trash and debris from a project reach located in Prince George's County, MD. Work shall include developing a work plan, securing temporary access permits, assessment of the material to determine whether or not it is eligible for removal, recycling, loading, hauling material to an approved disposal facility and project reporting.

III. DEFINITIONS

MWCOG Contracting Officer.	Executive Director of the Metropolitan Washington Council of Governments or their designee.
Anacostia Watershed Restoration PARTNERSHIP (PARTNERSHIP)	The partnership is administered by COG and comprises governments, communities and the private sector serving the District of Columbia, Prince George's county and Montgomery County, Maryland.
CONTRACTOR	An individual or organization awarded a prime contract based on this solicitation.
Electronic Payment	The payment of money to a vendor by electronic means, including by means of a purchase card (p-card) or automated clearing house (ach) funds transfer method.
LBC	Lower Beaverdam Creek
National Oceanic and Atmospheric Administration (NOAA)	Federal grantee agency
Project Partners	National Railroad Corporation (Amtrak), WSSCWater, Prince George's County Department of Environments and Maryland Department of Environment

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Proposer.	The party of interest submitting a proposal in response to this RFP.
Subcontractor.	An individual or business firm contracted to perform part or all of a Contractor's contract.
Technical Selection Committee (TSC)	The Committee established by COG to review proposals received in response to this solicitation and which recommends selection of contractors to the COG Contracting Officer.

#### IV. STATEMENT OF WORK

##### PROJECT TASKS:

##### **TASK 1:** Meeting Coordination & Project Management

This task will cover project management to define the work plan.

Task 1 activities include but is not limited to:

- Project Kickoff Meeting – meet with COG staff present the proposed work plan as submitted in the proposal.
- Coordinate one on-site “pre-construction” meeting with COG staff and project partners to walk through the draft work plan.
- Revise and finalize the work plan.
- One on-site, project close-out meeting.

##### *Deliverable:*

Provide a final project work plan to include, scope, schedule showing start and end dates for each task, budget, resources, risk management and safety plan.

##### **TASK 2:** Permit and Compliance for LBC Stream Work in Maryland

CONTRACTOR shall secure all necessary permits for working in Maryland streams for this task. The CONTRACTOR must comply with all regulations and provide necessary documentation, including detailed impact plans and stream cross-sections, if necessary.

Task 2 activities include but is not limited to:

- Coordinate with COG and secure [Amtrak's Temporary Permit](#) for right of entry to the LBC stream channel. CONTRACTOR must secure this permit prior to construction.
- Coordinate with COG to secure WSSC Water permission for right of entry for the Anacostia II Wastewater Pumping Station facility to access the stream, to remove the trash and debris along the southern stream bank and transport the trash and debris to the temporary on-site sorting area, per the construction work plan.
- Coordinate with COG to secure permits for the work plan activities from MDE, USACE, and MDDNR permit coordinators.

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- Coordinate with COG to secure the access approval from Prince George's County Department of Permitting, Inspection and Enforcement and/or Prince George's County Soil Conservation.
- All work must follow Exhibit 2 - NOAA Environmental Best Management Compliance List.
- The CONTRACTOR must have a written safety plan for management of employees, and contractors working on the project, as applicable. This plan should ensure that a safety briefing is conducted prior to their hands-on removal activities.

*Deliverable:*

Provide to COG a copy of the Amtrak's Temporary Permit, other permits to execute the work plan, where necessary and the safety plan.

**TASK 3: Material Removal and Disposal**

CONTRACTOR shall access the stream from the south bank, through the WSSC Water Anacostia II Wastewater Pumping station facility. The south bank access will likely be granted by way of Andalusia Lane. the CONTRACTOR shall propose routes to the five stream access areas, methods to remove material and sort metal for recycling, and proper disposal of the material. We request that potential CONTRACTORS visit the project stream site and look down the stream channel to familiarize themselves with the site conditions and project requirements. The project stream site is near 1942 Kenilworth Avenue, Capitol Heights, MD 20743. For your convenience, the following Google Map link provides the location to the project stream site. Please be advised that access onto the WSSC Water facility is not permitted during the independent project stream site visit.

**TASK 4: Monitoring and Final Reporting**

- Capture photographs of construction activity, material hauled and sorting area with material. Track the total number of materials removed. Track the number of tires and car batteries. Track the number of 35-gallon trash bags that include but not limited to plastic bags, plastic bottles, food wrappers, expanded foam products, etc.
- Track the total weight by haul by date. Track the total weight of the recycled metal scraps.
- Notification to the COG Project Manager upon the Material Removal and Disposal task completion, with necessary documentation.

*Deliverable:* Provide a summary final report upon completion, detailing the amount and types of debris removed, disposal methods, and any environmental restoration activities performed to include list for lessons learned.

***\*\* Remainder of page is blank. Period of Performance continues on next page \*\****

**V. PERIOD OF PERFORMANCE**

The Period of Performance for this work shall be 20 months from the date of award. COG, in its discretion, may exercise an option for another 12 to 20 months, based on contractor performance and available funding, by mutual agreement.

**VI. PRICES/BILLING/TYPE**

A. The anticipated budget is as follows:

Period 1. Maximum \$325,000 20 months

Period 2. \$TBD next 12 to 20 months

B. Unless stated otherwise below, all Initial prices for period 1 prices offered by Proposers shall be firm against any increase for the duration of the initial contract period.

C. Optional awards are based on CONTRACTOR performance and COG available funding.

D. NCR Travel expenses are allocated in Period 1 budget.

E. Contractor shall set up its billing system to ensure that invoices do not include sales tax. COG, and any Participating Agencies, will provide certificates of exemption for sales tax upon request.

F. Submit Price Proposal detailing

**VII. QUESTIONS CONCERNING THIS RFP**

A. All questions concerning this RFP must be submitted in writing, via the Bonfire portal. No questions are to be submitted outside of that system. Any questions submitted to COG email addresses will not receive a response.

B. All questions must be submitted no later than 2:00pm Eastern Time, ten (10) business days before due date of the proposals.

C. Answers shall be provided via the Bonfire portal no later than five (5) business days before the due date of the proposals.

**VIII. DISADVANTAGED BUSINESS ENTERPRISE (DBE)**

A. Disadvantaged Business Enterprise (“DBE”) participation shall be an integral component of the Contractor selection process for this RFP. COG's DBE Policy may be viewed on its website [www.mwcog.org](http://www.mwcog.org). Responding firms shall submit with their proposals a DBE Participation Plan to meet this goal. The plan shall identify any DBE (defined in 49 CFR Part 26) that shall be participating in the Contract, including the Proposer.

B. The plan shall include the name and address of the participating firm, a **copy of the firm's current DBE Certification** from any federal, state, or local government agency that certifies DBE ownership (please note only **DBE** certifications will be accepted by COG for this

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purpose). *Failure to provide DBE certification proof with the submission will result in no points being awarded for DBE. No exceptions.*

- C. DBE Assurance – The Contractor or Subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.
- D. A total of 15 possible points (out of a maximum of 100 points) may be awarded for DBE participation, as measured in dollars, either as the Contractor or "Subcontractor". In the event of a tie score between two (2) or more proposals, the proposal with the largest percentage of DBE participation, as measured in dollars, will be awarded the contract. DBE points are to be awarded as follows:

**PARTICIPATION POINTS**

10% to 14%	3
15% to 19%	6
20% to 24%	9
25% to 34%	12
35%	16

- E. Failure to have DBE participation does NOT disqualify a Proposer from being awarded a contract.
- F. Effective May 2025, this section will be updated as legally required.

**IX. EVALUATION AND SCORING CRITERIA**

- A. The proposals will be evaluated by a Technical Selection Committee made up of subject matter experts.
- B. In evaluating the proposals, the following factors will be considered, with points awarded up to the maximum shown on next page:

***\*\* Remainder of page is blank. Scoring Factor Chart follows on next page \*\****



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<b>Scoring Factor Chart</b>	
Factor	Max Points
Understanding of Scope: Proposal demonstrates a clear understanding of the project scope, objectives, and desired outcomes.	30
Technical Quality of Proposal: Proposal is well-written, organized, free of errors. Proposed strategies, timelines, and methods align with the goals of the project. Company and staff experience and expertise highlighting qualifications and past successes.	30
Relevant Experience: Demonstrates experience in working in the local stream environment (e.g., Anacostia, etc.), working on WSSC Water facility property and hold valid background clearance; and working on Amtrak and Prince George's County properties. Possesses valid certification and license applicable to this project.	20
DBE Participation	15
Cost Proposal: Proposal provides a competitive and transparent budget within the stated constraints.	5
<b>TOTAL</b>	<b>100</b>

## X. PROPOSAL INSTRUCTIONS

### A. Proposal Sections

#### 1. Technical Submission

##### a. 8-9 pages maximum

- Describe how your firm will carry-out and manage the work and execute the deliverables of the project.
- Provide a proposed Statement of Work ("SOW"), including narrative on proposed approach to completing each task.
- Provide an estimate of the level of effort and project schedule that includes a timeframe required to complete each task.
- Provide a list of proposed staff to handle each task, noting number of years of experience supporting natural resources planning work and 1-3 examples of recent related project experience.

#### 2. Administrative Submission

##### a. Task Order Response Form and Price Proposal, 2-3 pages maximum, including assumptions and constraints.

- Provide the estimated level of effort (LOE) and total cost for each of the required project Tasks.

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- Provide the estimated level of effort (LOE) and fully burdened hourly rate of each of the key and other staff proposed to support work under this Task Order.
  - Provide the total amount of the Task Order Cost that will be allocated to any proposed subcontractor(s) and the name of the subcontractor(s)
3. Project Resumes and Samples, 25 pages maximum
- a. Resumes are required for all members of the project team including subcontractor(s)
  - b. Samples - Please provide additional information or samples of similar project deliverables, can be provided as hyperlink, PDF, or actual .xlsx or .docx file. Hyperlinks are preferred. These are optional.
4. File Submission - Files should be named and submitted as follows and should not exceed 5MB each:
- File 1 – Technical – includes Summary, Overview and Project Description.  
File 2 – Administrative– includes Proposal Checklist/ Response Form, Price, and DBE submission documents.  
File 3 – Project Resumes and Completed Project Summaries
5. The requested Letter of Interest must be signed by an authorized principal or agent of the Proposer, and provide an overview of Proposer's offer, as well as a name, title, phone number, and email address of the person to whom questions may be directed concerning the proposal.
6. Proposers must include in their RFP submission the additional documentation specified below or they may be determined to be non-responsive and disqualified.
- a. Please complete attached PROPOSER REFERENCES, attached as described above.
  - b. Each Proposal shall be accompanied by a NON-COLLUSION AFFIDAVIT regarding price fixing, gratuities, bribery, and discriminatory employment practices. When the Proposer is a corporation, a duly authorized representative shall execute the affidavit.
  - c. Each Proposal shall be accompanied by a DBE PLAN GOALS SUBMISSION FORM, even if Proposer is not a DBE and does not intend to include DBE subcontractors..
7. All Proposals must be completed by responsible company officials and submitted to the COG LOCKBOX on or before the due date and time.
8. Proposals will not be accepted if submitted through hard copy, mail, courier, fax, email, or any other electronic method except as described below. Proposals submitted through any method other than the COG LOCKBOX system will be rejected.
9. Bidders shall submit files to the COG LOCKBOX system in the following fashion:

**XI. SUBMISSION DATE, LOCKBOX, AND CONTACT**

**COG has replaced its prior submission system. Be sure to carefully review current access requirements.**

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1. The proposals shall be submitted by no later than TIME AND DATE posted on the cover page and/or updated via Addendum on the Bonfire Portal.
2. Proposals may not be submitted through hard copy, fax or other electronic methods except as designated below.
3. Please use the RFQ number and your firm name in the file name of your electronic Submission

**A. SUBMISSION INSTRUCTIONS**

1. Go to link :

Proposers shall submit electronic files to the Bonfire system at <https://mwcog.bonfirehub.com/opportunities>.

2. To contact COG or to ask questions in relation to this RFP, Proposers must register with COG's public purchasing portal at the above URL and initiate the communication electronically through the Vendor Discussion or Ask a Question feature. COG will not accept any communications regarding this RFP via other means. Attempts to contact COG employees regarding this RFP through any other means than the above may result in disqualification of the Proposer.
3. Please do not wait until the last moment to register. If problems occur during registration or submission, please contact Bonfire at [support@gobonfire.com](mailto:support@gobonfire.com), and cc [purchasing@mwcog.org](mailto:purchasing@mwcog.org).
4. All questions regarding discrepancies, omissions, specifications, instructions, or the required forms may be directed via email no later than ten (10) business days in advance of the deadline via the Bonfire system. COG will post any addendum necessary to address questions no later than five (5) business days before the due date of proposals.
5. Proposal responses should indicate that Proposers have reviewed the latest addenda on the Proposal Form via the Proposal Form Checklist.
6. Proposers must acknowledge their understanding of all terms listed in this RFQ by signing the Proposal Response Form as part of their submission.
7. Any variation to the solicitation specifications should be noted by the Proposer as an exception with an explanation attached to the Proposal Form.
  - i. Exceptions taken do not obligate COG to change the specifications.
  - ii. In some cases, exceptions may result in the Proposer being disqualified or result in a lower score in the evaluation process.
  - iii. Failure to report exceptions with the submission may result in withdrawal of award if exceptions to the RFP are raised after award.

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8. All questions regarding discrepancies, omissions, specifications, instructions, or the required forms may be directed via the Bonfire message portal no later than ten (10) business days in advance of the deadline.
  - i. COG will post all necessary addendum to the Bonfire portal to address questions no later than five (5) business days before the due date of proposals.
  - ii. Once Rolling Admissions begin, the Question due date will be 5 days prior to the proposal due date.
9. It is the responsibility of the Proposer to check if any addenda have been issued. Addenda will be posted at the Bonfire portal and COG's website at <http://www.mwcog.org/purchasing-and-bids/cog-bids-and-RFQs/>.
10. Proposal responses should indicate that Proposer has reviewed the latest addenda on the Proposal Form via the Checklist.
11. Proposers must acknowledge their understanding of all terms listed in this RFQ by signing the Proposal Response Form as part of their submission.
12. Any variation to the solicitation specifications should be noted by the vendor/contractor as an exception, with an explanation attached to the Proposal Form.
  - i. Exceptions taken do not obligate COG to change the specifications.
  - ii. In some cases, exceptions may result in the Proposer to be disqualified or result in a lower score in the evaluation process.
  - iii. Failure to report exceptions with the submission may result in disqualification.

**B. REQUIRED FILES SUBMISSION**

• Letter of Interest	• Non Collusion Form
• Technical Proposal	• DBE Plan
• Price Proposal	• Proof of Insurance
• Reference	• Jurisdiction Good Standing Letter
• Debarment Form	• Exceptions to RFP
• Exceptions to Terms and Conditions	• Proposal Response Form/Checklist

## XII. COOPERATIVE PURCHASING PROGRAM RIDER CLAUSE

The COG Cooperative Purchasing Program works to aggregate the public entity and non-profit purchasing volumes in the National Capital Region of Maryland, Virginia and Washington, D.C.

### I. Format

COG serves as the Lead Agency of this procurement and has included this Cooperative Rider Clause indicating its willingness to allow other public entities to participate in this procurement ("Participating Agency") pursuant to the following Terms and Conditions:

### II. Terms

- A. A Participating Agency, through their use of this Cooperative Rider Clause, agree to the terms and conditions of the resulting contract to the extent that they can be reasonably applied to the Participating Agency.
- B. A Participating Agency may also negotiate additional terms and conditions specific to their local requirements upon mutual agreement between the parties.

### III. Other Conditions - Contract and Reporting

- A. The resulting contract shall be governed by and "construed" in accordance with the laws of the State/jurisdiction in which the Participating Agency is officially located.
- B. Contract obligations rest solely with the Participating Agency only.
- C. Contractor must provide semi-annual contract usage reporting information to COG, including but not limited to quantity, unit pricing and total volume of sales by entity on demand and without further approval of Participating Agency:

Semi-annual reporting Due Dates beginning from Contract execution:

- November 30, covering May 1 – October 31
- May 31, covering November 1 – April 30

- D. Contractor is required to report any Participating Agency that is added to the contract and a **COG Rider Clause Approval Form** must be filled out by the Participating Agency and approved by COG (see form below).
- E. Contractor must provide to COG a semi-annual administrative fee of two percent (2.0%) on all gross invoices at the time of the semi-annual report submission due dates listed above.
- F. Significant changes in total contract value may result in further negotiations of contract pricing with the Lead Agency and any Participating Agency.
- G. Although Participating Members (see next page) are the priority of this rider clause, organizations not on this list are permitted to use this clause by mutual agreement and approval by COG.

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**II. Participating Members**  
**COG Member Governments**

• **District of Columbia**

Maryland

- Town of Bladensburg
- City of Bowie
- City of College Park
- Charles County
- City of Frederick
- Frederick County
- City of Gaithersburg
- City of Greenbelt
- City of Hyattsville
- City of Laurel
- Montgomery County
- Prince George's County
- City of Rockville
- City of Takoma Park

Virginia

- City of Alexandria
- Arlington County
- City of Fairfax
- Fairfax County
- City of Falls Church
- Loudoun County
- City of Manassas
- City of Manassas Park
- Prince William County

Other Local Governments

- Town of Herndon
- Spotsylvania County
- Stafford County
- Town of Vienna

Public Authorities/Agencies

- Alexandria Renew Enterprises
- District of Columbia Water and Sewer Authority
- Metropolitan Washington Airports Authority
- Montgomery County Housing Opportunities Commission
- Potomac & Rappahannock Transportation Commission/ Omni Ride
- Prince William County Service Authority
- Upper Occoquan Service Authority
- Washington Metropolitan Area Transit

Authority

- Washington Suburban Sanitary Commission
- School Systems
  - Alexandria Public Schools
  - Arlington County Public Schools
  - Charles County Public Schools
  - District of Columbia Public Schools
  - Frederick County Public Schools
  - Loudoun County Public Schools
  - City of Manassas Public Schools
  - Montgomery College
  - Montgomery County Public Schools
  - Prince George's County Public Schools
  - Prince William County Public Schools
  - Spotsylvania County Schools
- State Agencies
  - Maryland-National Capital Park and Planning Commission

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Baltimore Metropolitan council

- City of Annapolis
- Anne Arundel County
- Anne Arundel County Public Schools
- Anne Arundel Community College
- City of Baltimore
- Baltimore City Public Schools
- Baltimore County
- Baltimore County Public Schools
- Community College of Baltimore County
- Carroll County
- Harford County
- Harford County Public Schools
- Harford Community College
- Howard County
- Howard County Public Schools System
- Howard Community College
- Queen Anne's County
- Queen Anne's County Public School

## COG Rider Clause Approval Form

This form must be executed for any Participating Agency, both within and outside of the Metropolitan Washington Council of Governments (COG) region, to use the COG Cooperative Rider Clause to ride solicitations and contracts.

NOTE: Effective January 1, 2019, COG does not authorize the use of the MAPT/COG Cooperative Rider Clause without this form being completed and approved.

-----  
Participating Agency Name \_\_\_\_\_

Contact Person \_\_\_\_\_

Phone \_\_\_\_\_ Email Address \_\_\_\_\_

-----  
Solicitation/Contract Information:

Name Solicitation/Contract \_\_\_\_\_

Lead Agency/Contract Holder \_\_\_\_\_

Contact Person \_\_\_\_\_

Solicitation/Contract Number \_\_\_\_\_ Other Reference \_\_\_\_\_

-----  
Vendor Information:

Contractor Name \_\_\_\_\_

Address \_\_\_\_\_

City/State/Zip \_\_\_\_\_

Contact Person \_\_\_\_\_

Phone \_\_\_\_\_ Email Address \_\_\_\_\_

See questions on next page.

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- | Questions –   | YES   | NO    |
|---|-------|-------|
| 1. Is the Contract active and currently in force?   | _____ | _____ |
| 2. Is the Participating Agency’s specifications/scope of work the same or very similar to that in the Contract?   | _____ | _____ |
| 3. Is riding this Contract within the rules and regulations of the Participating Agency and approved by the Participating Agency’s Purchasing Department? | _____ | _____ |
| 4. Signatures   |       |       |

	Participating Entity	Metropolitan Washington Council of Governments
<b>Name</b>		
<b>Title</b>	_____	_____
<b>Signature</b>	_____	_____
<b>Date</b>	_____	_____
	_____	_____



### **XIII. COG STANDARD TERMS AND CONDITIONS**

*NOTE: COG will not negotiate Terms and Conditions at the time of contract award. Exceptions to the Terms and Conditions MUST be made as part of the Proposal. Failure to do so may disqualify the Proposer now or at a later time.*

This document sets out provisions generally applicable to Metropolitan Washington Council of Governments (“COG”) contracts. The provisions herein do not constitute a complete agreement, and must be appended to a document, executed by all parties, which identifies the specific work to be performed, compensation, term, incorporated attachments, and special conditions, if any.

#### **I. Compliance with Law**

CONTRACTOR hereby represents and warrants that:

- A. It has the power and authority to enter into and perform the Contract, that the Contract, when executed and delivered, shall be a valid and binding obligation of CONTRACTOR, enforceable in accordance with its terms.  
E.
- B. Its performance under the Contract shall be in a good and workmanlike manner and in accordance with all applicable professional standards.  
F.
- C. It is qualified to do business in the jurisdictions covered by the Contract and that it will take such action as, from time-to-time hereafter, may be necessary to remain so qualified.  
G.
- D. It is not in arrears in the payment of any obligations due and owing to any agency involved in this Contract, including, but not limited to, the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Contract.  
H.
- E. It shall comply with all federal, state, and local laws, regulations, and ordinances applicable to its activities and obligations under this Contract.  
I.
- F. It shall obtain, at its expense, all licenses, permits, insurance and governmental approvals, if any, necessary for the performance of its obligations under this Contract.

#### **II. Civil Rights Requirements - 29 U.S.C. § 62, 42 U.S.C. § 2000, 42 U.S.C. § 602, 42 U.S.C. § 12112, 42 U.S.C. § 12132, 49 U.S.C. § 5332<sup>1</sup>**

##### **A. Nondiscrimination**

In accordance with Title VI of the Civil Rights Act, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and all other provisions of federal law, CONTRACTOR agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, CONTRACTOR agrees to comply

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<sup>1</sup> All references to statutes and regulations include any amendments to present.

with applicable federal implementing regulations. The clauses of Appendix A and E of the U.S. DOT Standard Title VI Assurances (USDOT 1050.2A) are incorporated herein by reference.

B. **Equal Employment Opportunity**. The following equal employment opportunity requirements apply to the underlying Contract:

1. Race, Color, Creed, National Origin, Sex

In accordance with Title VII of the Civil Rights Act, 42 U.S.C. § 2000e, CONTRACTOR agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq. (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable federal statutes, executive orders, regulations, and federal policies that may in the future affect activities undertaken in the course of this PROJECT. CONTRACTOR agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff, or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, CONTRACTOR agrees to comply with apprenticeship. In addition, CONTRACTOR agrees to comply with any implementing requirements the funding federal agency may issue.

2. Age

In accordance with section 4 of the Age Discrimination in Employment Act of 1967, 29 U.S.C. § 623 and other applicable law, CONTRACTOR agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, CONTRACTOR agrees to comply with any implementing requirements the funding federal agency may issue.

3. Disabilities

In accordance with section 102 of the Americans with Disabilities Act, , 42 U.S.C. § 12112, CONTRACTOR agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, CONTRACTOR agrees to comply with any implementing requirements the funding federal agency may issue.

- C. CONTRACTOR also agrees to include these requirements in each subcontract financed in whole or in part with federal assistance, modified only, if necessary, to identify the affected parties.

### III. DBE Assurance

- A. CONTRACTOR or its SUBCONTRACTOR(s) shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. CONTRACTOR shall carry out applicable requirements of 49 CFR part 26 in the award and administration of this Contract.
- B. CONTRACTOR is required to make a good faith effort to include disadvantaged Business Enterprises (DBE) in its work under this Contract.
- C. Failure by CONTRACTOR to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as COG deems appropriate, which may include, but is not limited to:
  - (1) Withholding monthly progress payments;
  - (2) Assessing sanctions as set forth in the CONTRACT;
  - (3) Liquidated damages which will be spelled out in the CONTRACT; and/or
  - (4) Disqualifying the CONTRACTOR from future bidding as non-responsible.

### IV. Responsibility of CONTRACTOR

- A. CONTRACTOR shall perform the services with the standard of care, skill, and diligence normally provided by a contractor in the performance of services similar to the services hereunder.
- J.
- B. Notwithstanding any review, approval, acceptance, or payment for the services by COG, CONTRACTOR shall be responsible for the professional and technical accuracy of its work, design, drawings, specifications, and other materials furnished by CONTRACTOR under this Contract.
- K.
- C. If CONTRACTOR fails to perform the services, or any part of the services, in conformance with the standard set forth in subparagraph A above, it shall, if required by COG, perform at its own expense and without additional cost to COG, those services necessary for the correction of any deficiencies or damages resulting, in whole or in part, from CONTRACTOR's failure. This obligation is in addition to and not in substitution for any other remedy available to COG under the "Remedies" paragraph, or otherwise available by law.

### V. Governing Law

This Contract shall be governed by and construed in accordance with the laws of the District of Columbia without regard to principles of conflicts of law.

### VI. Indemnification

- A. CONTRACTOR shall protect, hold free and harmless, defend and indemnify COG from all liability, penalties, costs, losses, damages, expenses, causes of action, claims, or judgments (including attorney's fees) resulting from injury to, or death of, any person or damage to property of any kind, which injury, death or damage arises out of, or is in any way connected with the performance of the work or failure to perform its obligations under this Contract.
- B. This obligation of indemnification shall apply to any acts or omissions, negligent conduct, whether active or passive, including acts or omissions of CONTRACTOR's agents or employees; except that it shall not be applicable to injury, death, or damage to the property arising from the sole negligence of COG, its officers, agents, and employees.

**VII. Force Majeure**

- A. Neither COG nor CONTRACTOR shall be held responsible for delay or default caused by fire, riot, acts of God, declaration of emergency, or war where such cause was beyond, respectively, COG's or CONTRACTOR's reasonable control. COG and/or its members and CONTRACTOR shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Contract.
- B. The party claiming force majeure must give of its claim to the other party within 5 working days.

**VIII. Independent CONTRACTOR**

- A. CONTRACTOR shall perform the work required by this Contract as an "Independent Contractor." Although COG reserves the right to determine the delivery schedule for the work to be performed and to evaluate the quality of the completed performance, COG cannot and will not control the means or manner of CONTRACTOR's performance. CONTRACTOR shall comply promptly with any requests by COG relating to the emphasis or relative emphasis to be placed on various aspects of the work or to such other matters pertaining to the work under this Contract. CONTRACTOR is responsible for determining the appropriate means and manner of performing the work.
- L.
- B. CONTRACTOR represents and warrants that CONTRACTOR is not an employee of COG, is not currently employed by the Federal Government, and is not an officer, employee, or agent of COG.
- M.
- C. CONTRACTOR shall be responsible for all federal or state taxes applicable to any compensation or payments paid to CONTRACTOR under this Contract. CONTRACTOR is not eligible for any federal Social Security, unemployment insurance, or workers' compensation benefits from compensation or payments paid to CONTRACTOR under this Contract.
- N.
- D. CONTRACTOR agrees to immediately provide COG notice of any claim made against CONTRACTOR by any third party. CONTRACTOR also agrees not to assign to any third party, without COG's written consent, any obligation of COG to indemnify CONTRACTOR for any actions under this Contract.

**IX. Insurance Requirements**

- A. CONTRACTOR shall obtain, and at all times keep in effect, Commercial General Liability Insurance in the amounts listed below for its activities and operations. The insurance shall include coverage for personal injury, discrimination, and civil rights violation claims. All such insurance shall name COG as ADDITIONAL INSURED. A copy of the certificate of insurance shall be filed with COG prior to the time any services are rendered. CONTRACTOR shall maintain coverage in the amount of \$1,000,000 per occurrence and \$2,000,000 general aggregate and \$500,000 for property damage. Coverage shall be written on an occurrence form (Accord Form).
- B. CONTRACTOR shall obtain, and at all times keep in effect, automobile insurance on all vehicles used in this Contract with COG to protect CONTRACTOR against claims for damages resulting from bodily injury, including wrongful death, and property damage that may arise from the operations of any owned or hired automobiles used by CONTRACTOR in connection with the carrying out of this Contract. All such insurance shall name COG and/or individual members, their employees, and agents as ADDITIONAL INSURED.
- C. CONTRACTOR shall, upon request, provide COG with certification of Workers' Compensation Insurance, with employer's liability in the minimum amount required by the governing jurisdiction's law in effect for each year of this Contract.
- D. CONTRACTOR shall obtain and maintain at all times during the prosecution of the work under this Agreement professional liability insurance. Limits of liability shall be \$1,000,000 per claim and \$2,000,000 aggregate.
- E. All insurance policies shall have a minimum 30 days' notice of cancellation. Immediate written notice to COG and members involved in the Contract shall be required in the event of cancellation or restriction by the insurance company of any insurance policy referred to in this section.
- F. When insurance coverage is renewed, CONTRACTOR shall provide new certificates of insurance prior to expiration of current policies to all participating agencies.

**X. Ownership of Documents and Materials**

- A. CONTRACTOR agrees that all documents and materials, including but not limited to, reports, drawings, studies, specifications, estimates, maps, photographs, designs, graphics, mechanicals, artwork, and computations prepared by or for CONTRACTOR under the terms of this Contract shall at any time during the performance of the services be made available to COG upon request and shall become and remain the exclusive property of COG upon termination or completion of the services.
- B. COG and participating jurisdictions shall have the right to use the same without restriction or limitation and without compensation to CONTRACTOR other than that provided in this Contract. COG and/or the participating jurisdiction(s) shall be the owner for the purposes of copyright, patent, or trademark registration.

- C. If CONTRACTOR obtains or uses for purposes of this Contract, or subcontracts for, any design, device, material, or process covered by letters of patent for copyright, it shall provide an assignment to COG and/or its jurisdictional members of ownership for purposes of copyright, patent or trademark and of all right to possess and to use such design, device, material or process and a legally sufficient agreement with the patentee or owner, and a copy of such agreement shall be filed with COG and/or its members.
- D. CONTRACTOR shall indemnify and hold harmless COG from any and all claims for infringement by reason of the use of any such patented design, device, materials, or process, or any trademark or copyright, and shall indemnify, protect, and save harmless COG, its officers, agents, and employees with respect to any claim. Actions for costs or infringement, for royalties or user fees, arising out of purchase or use of materials, construction, supplies, equipment, or services are covered by this provision.

#### **XI. Access to Records and Reports**

- A. CONTRACTOR shall maintain all fiscal records relating to this Contract in accordance with generally accepted accounting principles. In addition, CONTRACTOR shall maintain any other records pertinent to this Contract in such a manner as to clearly document CONTRACTOR's performance hereunder.
- B. CONTRACTOR acknowledges and agrees that COG and its duly authorized representatives shall have access to such fiscal records and all other books, documents, papers, plans, and writings of the CONTRACTOR that are pertinent to this Contract. All such fiscal records, books, documents, papers, plans, and writing shall be retained by CONTRACTOR and kept accessible for a minimum of three (3) years, except as required longer by law, following final payment and termination of this Contract, or until the conclusion of any audit, controversy, or litigation arising out of or related to this Contract, whichever date is later.
- C. All subcontracts shall also comply with these provisions.

#### **XII. Invoicing and Payments**

- A. Invoices shall be submitted not more than 30 days after the end of the month and, if submitted according to Project and CONTRACT requirements. Payments to the CONTRACTOR pursuant to this CONTRACT shall be made no later than 30 days after COG's receipt of a proper invoice from CONTRACTOR.
- B. Any invoice for work in the fiscal year (FY) must be submitted by CONTRACTOR within 30 days after the end of the COG's June 30 FY.
- C. Payments to CONTRACTOR pursuant to this CONTRACT shall be made no later than 30 days after COG's receipt of a proper invoice from the CONTRACTOR.
- D. Electronic Payment means the payment of money to a vendor by electronic means, including by means of a Purchase Card (P-card) or Automated Clearing House (ACH) funds transfer method.

- a. CONTRACTORS will receive payment from the P-Card in the same manner as other credit card purchases. The payments typically are transferred within 48 hours.
- b. ACH transactions will be acceptable as a form of payment to COG vendors. Please keep in mind the turn-around time on ACH transactions can be as long as 30 days.
- c. Accordingly, SUBRECIPIENTS must presently have the ability to accept these P-Cards or ACH and take whatever steps necessary to implement this ability before the start of the CONTRACT term, or CONTRACT award by the COG. COG reserves the right to revise this program, as necessary.

**XIII. Contingent Fee Prohibition**

CONTRACTOR, architect or engineer (as applicable) warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee or agent working for CONTRACTOR, architect or engineer, to solicit or secure this Contract, and that it has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee or agent, any commission, percentage, brokerage, or contingent fee or other consideration contingent on the making of this Contract.

**XIV. Severability/Waiver**

- A. COG and CONTRACTOR agree that, if any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.
- B. The failure of either party to enforce any provision of this Contract shall not constitute a waiver by that party of that or any other provision of this Contract.

**XV. Subcontracting or Assignment**

The benefits and obligations hereunder shall inure to and be binding upon the parties hereto and neither this Contract nor the services to be performed hereunder shall be subcontracted, or assigned or otherwise disposed of, either in whole or in part, except with the prior written consent of COG. COG have the right to withhold such consent for any reason COG deems appropriate.

**XVI. Survival**

The terms, conditions, representations, and all warranties contained in this Contract shall survive the termination or expiration of this Contract.



**XVII. Breaches and Dispute Resolution**

A. Disputes

- B. Disputes arising in the performance of this Contract, which are not resolved by agreement of the parties, shall be decided in writing by the COG Executive Director or his/her designee. This decision shall be final and conclusive, unless within ten (10) working days from the date of receipt of its copy, the CONTRACTOR mails or otherwise furnishes a written appeal to the Executive Director or his/her designee.

- C. In connection with any such appeal, the CONTRACTOR shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the Executive Director or his/her designee shall be final and binding upon the CONTRACTOR, and the CONTRACTOR shall abide by the decision.

D. Performance During Dispute

Unless otherwise directed by COG, the CONTRACTOR shall continue performance under this Contract while matters in dispute are being resolved.

E. Claim for Damages

Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of its employees, agents, or others for acts it is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

**XVIII. Remedies**

A. Corrections of errors, defects, and omissions

CONTRACTOR agrees to perform the work as may be necessary to correct errors, defects, and omissions in the services required under this Contract, without undue delays and without cost to COG. The acceptance of the work set forth herein by COG shall not relieve CONTRACTOR of the responsibility of subsequent corrections of such errors.

B. Set Offs

COG may deduct from and set-off against any amounts due and payable to CONTRACTOR any back-charges, penalties, or damages sustained by COG, their agents, employees of recipients of its services, by virtue of any breach of this Contract by CONTRACTOR or by virtue of the failure or refusal of CONTRACTOR to perform the services or any part of the services in a satisfactory manner. Nothing herein shall be construed to relieve CONTRACTOR of liability for additional costs resulting from a failure to satisfactorily perform the services.



C. Cumulative

All rights and remedies of COG/and its participating members and CONTRACTOR shall be cumulative and may be exercised successively or concurrently. The foregoing is without limitation to or waiver of any other rights or remedies of COG by law.

**XIX. Termination**

- A. If CONTRACTOR fails to fulfill its obligations under the Contract properly and on time, or otherwise violates any provision of the Contract, COG may terminate the Contract by written notice to CONTRACTOR.
- B. The notice shall specify the acts or omissions relied upon as cause for termination.
- C. All finished or unfinished work provided by CONTRACTOR shall, at COG's option, become COG's and/or member's property. COG shall pay the CONTRACTOR fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by CONTRACTOR's breach. If the damages are more than the compensation payable to the CONTRACTOR, CONTRACTOR will remain liable after termination and COG can affirmatively collect damages.

**XX. Termination of Contract for Convenience**

- A. The performance of work under this Contract may be terminated by COG, in whole or in part, upon written notice to CONTRACTOR, when COG determines such termination is in the best interest of COG. The termination for convenience is effective on the date specified in COG's written notice.
- B. COG will pay for all reasonable costs allocable to the Contract for work or costs incurred by CONTRACTOR up to the date of termination. However, CONTRACTOR shall not be reimbursed for any anticipatory profits that have not been earned up to the date of termination.

**XXI. Termination of Multi-Year Contract**

- A. If COG fail to appropriate funds or if funds are not otherwise made available for continued performance for any fiscal period of this Contract succeeding the first fiscal period, this Contract shall be cancelled automatically as of the beginning of the fiscal year for which funds were not appropriated or otherwise made available; provided, however, that this will not affect either COG's and/or participating members rights or the CONTRACTOR's rights under any termination clause in this Contract.
- B. The effect of termination of the Contract hereunder will be to discharge both CONTRACTOR and COG from future performance of the Contract, but not from their rights and obligations existing at the time of termination. CONTRACTOR shall be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of the Contract. COG shall notify CONTRACTOR as soon as it has knowledge that funds may not be available for the continuation of this Contract for each succeeding fiscal period beyond the first.

**XXII. Bankruptcy**

Upon filing for any bankruptcy proceeding by or against CONTRACTOR, whether voluntary or involuntary, or upon the appointment of a receiver, trustee, or assignee for the benefit of creditors, CONTRACTOR must notify COG immediately. Upon learning of the actions herein identified, COG reserves the right at its sole discretion either to cancel/terminate the Contract or to affirm the Contract and hold CONTRACTOR responsible for damages. The exercise of this right is in addition to any other rights COG may have as provided in this Contract or by law.

**XXIII. Time is of the Essence**

Time is of the essence in CONTRACTOR's performance of each and every obligation and duty under this Contract.

**XXXIV. Entire Contract**

This Contract constitutes the complete and exclusive statement of the Contract between the parties relevant to the purpose described herein and supersedes all prior agreements or proposals, oral or written, and all other communication between the parties relating to the subject matter of this Contract.

In the event of a conflict between or among any of the terms, conditions, and requirements applicable to this Contract, the conflict shall be resolved by giving weight in accordance with the following priorities, in the order as stated below:

1. Terms and conditions of any grant that provides funding for this Contract, in whole or in part;
2. Terms and conditions set forth or referenced within this Contract;
3. Terms and conditions and representations set forth or referenced within Attachments A and F to this Contract;
4. Terms, conditions, specifications, and requirements set forth within any solicitation (e.g., RFP or IFB) pursuant to which this Contract was awarded;
5. Offers, representations, promises, terms, and conditions set forth with the bid or proposal submitted in response to any solicitation (e.g., RFP or IFB) pursuant to which this Contract was awarded.

*(Revised 3/14/2024)*

***Acknowledged and Accepted***

\_\_\_\_\_  
**Authorized Official's Name**

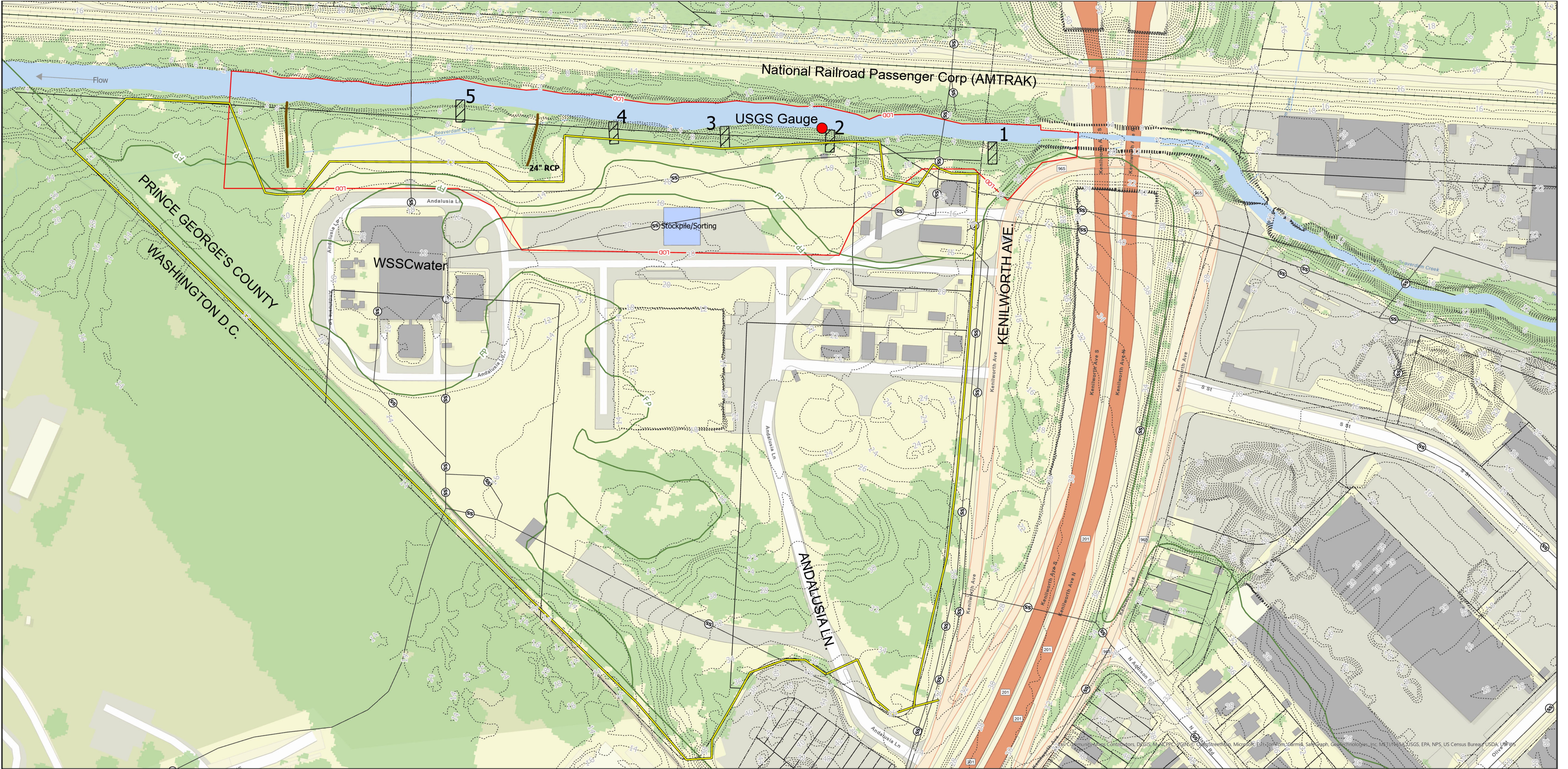
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**Signature**

\_\_\_\_\_  
**Date**

**EXHIBIT 1 – LOWER BEAVER DAM CREEK DEBRIS REMOVAL SITE MAP**





**Legend**

- Access Areas
- Stream
- Railroad
- Upland Drainage
- Existing Contour
- Property Boundaries
- Tree Canopy
- Buildings
- Existing 100-Year Floodplain
- LOD Line
- Sanitary Sewer
- Stockpile/Sorting Location
- 8' Chainlink Fence



# Lower Beaverdam Creek Debris Removal Site Map Prince George's County, Maryland

Anacostia II Wastewater  
Pumping Station  
1700 Andalusia Lane  
Capitol Heights, MD



Metropolitan Washington  
Council of Governments

777 North Capitol St, N.E., Suite 300  
Washington DC, 20002



**EXHIBIT 2 – ENVIRONMENTAL BEST MANAGEMENT PRACTICES (BMPs)**

**ENVIRONMENTAL BEST MANAGEMENT PRACTICES (BMPs)**  
**NOAA-FUNDED PROJECTS – WASHINGTON D.C. & MARYLAND**

**1. Sensitive Habitats, Wildlife, and Fisheries Resources**

- ☐ Avoid and minimize impacts and disturbance to sensitive shoreline, intertidal, and benthic habitats including salt, brackish, intermediate, and freshwater marshes; swamps; scrub-shrub wetlands; mussel beds; and submerged aquatic vegetation (SAV).
- ☐ Avoid and minimize impacts and disturbance to wildlife and fisheries species and their habitats, including all protected species and critical habitat.

**2. USACE Section 404 Clean Water Act and Section 10 Rivers and Harbors Act Permits**

- ☐ Permits may be required if temporary structures or discharge of dredged or fill material are required during marine debris removal activities. If permits are required, coordination with the USACE Baltimore District may be required. Refer to general permit limits, pre-construction notice requirements, self-verification notification requirements, and general and regional conditions, as applicable. Additional state-specific information can be found here:
  - Permits in Washington, D.C. (<https://www.nab.usace.army.mil/Missions/Regulatory/Permits-DC/>)
  - Permits in Maryland (<https://www.nab.usace.army.mil/Missions/Regulatory/Permits-MD/>)
- ☐ Contact the USACE Baltimore Regulatory District for specific federal permitting guidance in Washington D.C. and Maryland (410-962-3670).

**3. State Environmental Permitting**

- ☐ Washington, D.C. Department of Energy & Environment (DOEE)
  - Coordination with the DOEE may be required to obtain a Wetland and Stream Permit and/or develop an Erosion and Sediment Control Plan for debris removal in the Anacostia River.
- ☐ Maryland Department of the Environment (MDE)
  - Coordination with the MDE may be required to obtain a Maryland Waterways and Wetland Permit for debris removal in Lower Beaverdam Creek.
- ☐ Maryland Coastal Zone Management Program, Maryland Department of Natural Resources
  - The project components in Maryland should strive for the removal of debris from the water to land-use developed sites so that vegetation in the Critical Area is not impacted. The Critical Area Buffer is the area of at least one hundred feet located directly adjacent to the State's tidal waters, tidal wetlands, and tributary streams.

**4. NMFS Endangered Species Act (ESA), Marine Mammal Protection Act (MMPA), Essential Fish Habitat (EFH), Fish and Wildlife Coordination Act (FWCA)**

**Specific Marine Debris Removal:**

- ☐ Marine debris removal activities shall be limited to marine debris that poses a threat to navigation, human health and safety, and/or natural resources (flora, fauna, and their habitats), such as, but not limited to derelict vessels, derelict fishing gear, and various construction/demolition/vegetative debris.
- ☐ Removal of marine debris may require visual confirmation (e.g., observation and assessment, including use of divers, swimmers, and cameras when applicable) that the item can be removed without causing further damage to natural resources.
- ☐ Marine debris shall be lifted straight up and not be dragged through SAV, mussel beds, marshes, swamps, or other sensitive habitats. Trawling also cannot be used as a means of marine debris removal. Debris shall be properly disposed of in appropriate facilities in accordance with applicable federal and state requirements.
- ☐ An absorbent blanket or boom shall be immediately deployed on the surface of the water around any marine debris to be removed if fuel, oil, or other free-floating pollutants are anticipated or observed during the work. If reportable quantities of fuel, oil, or pollutants are released to the environment during removal operations, a National Response Center (NRC) report shall be filed with the U.S. Coast Guard (USCG, 800-424-8802).
- ☐ All marine debris removal activities must be conducted during daylight hours.

**General In-Water Work:**

Education and observation:

- ☐ All personnel associated with the project will be instructed about the potential presence of species and critical habitat protected under the ESA, as well as Essential Fish Habitat (EFH) protected under the Magnuson-Stevens Fishery Conservation and Management Act (MSA). All on-site project personnel will be responsible for observing

water-related activities for the presence of protected species and habitats. All personnel shall be advised that there are civil and criminal penalties for harming, harassing, or killing ESA-listed species. To determine which species and critical habitat may be found in the project area, please review the relevant Protected Species Lists at: [NOAA Fisheries Species Directory](https://www.fisheries.noaa.gov/national/habitat-conservation/essential-fish-habitat#essential-fish-habitat-in-the-regions). For more information on EFH see <https://www.fisheries.noaa.gov/national/habitat-conservation/essential-fish-habitat#essential-fish-habitat-in-the-regions>.

#### Vessel traffic and equipment:

- ☐ All vessel operators must watch for and avoid collision with species protected under the ESA. Vessel operators must avoid potential interactions with protected species and operate in accordance with the following protective measures.
- ☐ All vessels associated with marine debris removal activities shall operate at “Idle Speed/No Wake” at all times while operating in water depths where the draft of the vessel provides less than a 4-ft clearance from the bottom, and after a protected species has been observed in and has departed the area.
- ☐ Operation of any mechanical construction equipment, including vessels, shall cease immediately if a protected or ESA-listed species is observed within a 50-ft radius of construction equipment and shall not resume until after the species has departed the area of its own volition.
- ☐ If the detection of species is not possible during certain weather conditions (e.g., fog, rain, wind), then in-water operations will cease until weather conditions improve and detection is feasible again.

#### All Vessels:

- ☐ When protected species are sighted while the vessel is underway (e.g., bow-riding), attempt to remain parallel to the animal’s course. Avoid excessive speed or abrupt changes in direction until the animals have left the area.

#### Turbidity control measures:

- ☐ Turbidity must be monitored and controlled; prior to in-water work turbidity curtains shall be installed as per below criteria. Turbidity control measures are especially critical in areas of ADV removal, as SAV may be present in these areas.
- ☐ Turbidity curtains may be waived if minimal turbidity is generated during marine debris removal or if the current is too strong for curtains to stay in place throughout work activities to control erosion and siltation and ensure that turbidity remains in place.
- ☐ Install floating turbidity barriers with weighted skirts that extend to within 1 ft of the bottom around all work areas that are in, or adjacent to, surface waters.
- ☐ Use these turbidity barriers throughout work activities to control erosion and siltation and ensure that turbidity levels within the project area do not exceed background conditions (i.e., the normal water quality levels from natural turbidity).
- ☐ Monitor and maintain turbidity barriers in place until the authorized work has been completed and the water quality in the project area has returned to background conditions.

#### Entanglement:

- ☐ All turbidity curtains, hard and sorbent booms, buoys, anchors, and other in-water equipment must be properly secured with materials that reduce the risk of entanglement of marine species (described below). Turbidity curtains and booms likewise must be made of materials that reduce the risk of entanglement of marine species.
- ☐ In-water lines (rope, chain, and cable, including the lines to secure turbidity curtains and boom) must be stiff, taut, and non-looping. Examples of such lines are heavy metal chains or heavy cables that do not readily loop and tangle. Flexible in-water lines, such as nylon rope or any lines that could loop or tangle, must be enclosed in a plastic or rubber sleeve/tube to add rigidity and prevent the line from looping and tangling. In all instances, no excess line is allowed in the water.
- ☐ Turbidity curtains, booms, and other in-water equipment must be placed in a manner that does not entrap species within the construction area or block access for them to navigate around the construction area.

#### **Sensitive Habitats MPs:**

- ☐ Avoid work vessel grounding; prop, bow, keel, and skeg scarring; and prop washing in sensitive habitats, especially locations with marshes, swamps, SAV, mussel beds, or other sensitive habitats.
- ☐ Avoid anchoring/spudding on marshes, swamps, and mussel beds; minimize anchoring/spudding on SAV: anchor and spud on bare sand and mud bottoms whenever possible.

**NMFS ESA, MMPA, EFH (continued)**

- ☐ Avoid/minimize shading of seagrasses with barges for more than a few days; move barges off seagrasses onto bare sand or mud substrates when not undergoing active operations (such as in barge staging areas).
- ☐ Prior to hoisting, refloating, and removing large marine debris, crews shall evaluate the immediate area and determine an ingress/egress path that will have the least impact on sensitive habitats. Review of habitat maps, bathymetric charts, aerial photography, remote sensing images, and/or other appropriate data shall also be used as available and applicable.
- ☐ Temporary stakes/buoys (with appropriate lines, see entanglement above) shall be used to mark the ingress/egress path, if applicable, to assist in staying on course and to avoid the areas with the greatest extent and quality of sensitive habitats.
- ☐ In shoreline and shallow nearshore areas with sensitive habitats, consider land-side access and removals from roads, bulkheads, or other developed or disturbed areas for marine debris removal, where feasible.
- ☐ Where equipment or crews must access marine debris sites in or across sensitive habitats, use shallow draft vessels, specialized equipment with low pressure/flotation tires or tracks, equipment mats, walk boards, or other comparable methods to minimize disturbance, including equipment and foot traffic, as applicable.
- ☐ Avoid pulling marine debris across or onto sensitive habitats - items shall be hoisted or refloated if possible. Use of lift bags, roller bags, equipment mats, and other methods shall be evaluated to minimize impacts, such as bottom scarring and soil rutting and compaction.
- ☐ Cutting up or otherwise disassembling large debris in place into smaller pieces for removal, in part or whole, using less intrusive equipment or hand crews when applicable, shall be considered, to avoid and minimize sensitive habitat impacts.
- ☐ Avoid and minimize digging, excavation, jetting, use of pump hoses on sediments, and similar methods in and/or near sensitive habitats. If such methods must be used, turbidity barriers shall be deployed, even when working on bare sand and mud bottoms (see turbidity control measures, above). When using these methods, permits may be required (see federal and state permitting, above).

**Reporting Requirements/Contacts:**

- ☐ Any collision(s) with and/or injury to any seal, sturgeon or other ESA-listed species, marine mammal, or critical habitat occurring during marine debris removal activities shall be reported as soon as possible to NMFS GARFO PRD by email to [nmfs.gar.incidental-take@noaa.gov](mailto:nmfs.gar.incidental-take@noaa.gov). Additional information on take reporting can be found at <https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/section-7-take-reporting-programmatics-greater-atlantic>.
- ☐ Sturgeon: Report stranded, injured, or dead sturgeon to 978-281-9328 or email [noaa.sturg911@noaa.gov](mailto:noaa.sturg911@noaa.gov).
- ☐ Marine mammals and sea turtles: Report stranded, injured, trapped, entangled, or dead animals to 866-755-6622.

**5. USFWS Endangered Species Act (ESA), Migratory Bird Treaty Act (MBTA), Marine Mammal Protection Act (MMPA), Fish and Wildlife Coordination Act (FWCA), and Bald and Golden Eagle Protection Act (BGEPA)****Education and Observation:**

- ☐ All personnel associated with the project will be instructed about the potential presence of species and critical habitat protected under the ESA and MBTA. All on-site project personnel will be responsible for observing work areas and activities for the presence of protected species. All personnel shall be advised that there are civil and criminal penalties for harming, harassing, or killing ESA-listed species and migratory birds. To determine which ESA-listed species and critical habitat may be found in the project area, please review the relevant species lists at: <https://ecos.fws.gov/ipac/>. Refer also to the NMFS sensitive habitats PDCs and BMPs above, which also apply to USFWS protected resources.

**Birds:**

- ☐ Designate shoreline access points, staging areas, waste collections areas, and travel corridors away from known shorebird foraging and roosting areas and keep all personnel, vehicles, and equipment within those designated corridors to minimize disturbance to birds and beach topographic alterations.
- ☐ Avoid and minimize disturbance to waterbird nesting sites and colonies (wading birds, seabirds, and shorebirds), bald eagle and osprey nesting sites, and other bird aggregation areas if working on or near the shoreline, beaches, dunes, tidal flats, marshes, forested swamps, and other wetlands. Maintain a minimum 300-ft buffer from waterbird nesting sites or colonies. Be aware of marked nesting colonies (look for posted signs and roped-off areas) and do not enter these areas.



**USFWS ESA, MBTA, MMPA, FWCA, and BGEPA (continued)**

- ☐ If marine debris removal activities are likely to disturb nesting waterbirds or nesting bald eagles, contact USFWS – Chesapeake Bay Field Office (410-573-4599) for further guidance.
- ☐ To limit disturbance to nesting birds, work crews should be limited in size and number to the minimum amount of personnel and equipment required to complete marine debris removal in an efficient time frame. Equipment and personnel should work as closely together as is feasible and limit repetitive alongshore transits to and from work areas, to minimize disturbance.
- ☐ Avoid deliberately flushing birds. If birds are flushed, calling loudly, acting alarmed, etc., move away from the area and observe a larger buffer distance to avoid and minimize disturbance.

**Additional Considerations:**

- ☐ Do not block major egress points in channels, passes, and bays to avoid disturbance to natural coastal processes.
- ☐ Minimize the disturbance footprint when removing marine debris.
- ☐ Where possible, equipment should be operated from existing hard top or impacted sites to remove marine debris from natural habitats.
- ☐ Marine debris removal activities should be accomplished with the smallest equipment needed, including hand crews where possible, to minimize disturbance of habitat.
- ☐ Ingress and egress corridors for vehicle and equipment operations and debris removal should minimize impact to natural habitats. Care should be taken to restrict equipment/vehicles to roadways and roadbeds and away from vegetated or other sensitive areas.
- ☐ Trimming of standing native trees during marine debris removal should be minimized.
- ☐ All trash resulting from marine debris removal activities should be removed from the area as appropriate or disposed of properly in covered trash receptacles (raccoons, fox, and other animals can present nuisance, human health and safety, and natural resource management hazards if trash is not secured properly).

**Reporting Requirements/Contacts:**

- ☐ Birds and any other wildlife not listed above: seek local wildlife rehabilitation services for any live animal that appears severely injured or ill. Do not remove wildlife from its habitat unless you have consulted with a wildlife professional. If a bird or terrestrial animal (live or dead) is found entangled, entrapped, or otherwise impacted by marine debris, please take photos and report the incident to the appropriate contact at the US Fish and Wildlife Service.
  - Chesapeake Bay Field Office: 410-573-4599

**6. SHPO Section 106 National Historic Preservation Act**

- ☐ Cease all activities involving subsurface disturbance, and immediately contact the Washington D.C. and Maryland SHPOs (D.C. SHPO – 202-442-7600; Maryland Historical Trust – 410-697-9591) and the Chickahominy Indian Tribe – Eastern Division (804-966-7815) if prehistoric/historic artifacts, such as pottery or ceramics, projectile points, dugout canoes, metal implements, historic building materials, or any other physical remains that could be associated with Native American, early European, or American settlement are encountered at any time (and leave all artifacts in place). Marine debris removal activities shall not resume without verbal and/or written authorization. In the event unmarked human remains are encountered during marine debris removal activities, stop all work immediately and contact the SHPO(s) and Chickahominy Indian Tribe – Eastern Division.
- ☐ For marine debris removal sites not already pre-screened during initial SHPO coordination, the D.C. and Maryland SHPOs and the Chickahominy Indian Tribe – Eastern Division shall be notified of efforts that require substantial ground or bottom disturbance beyond the initial disturbance caused by the marine debris event. The SHPO(s) will be provided with project coordinates for review and will review the project area and provide notification if historic or archaeological sites are present or are likely present. If no sites are present or are unlikely to be present, the activity may proceed with inclusion of the unanticipated discoveries procedure (previous bullet). If sites are present or are likely present, the state SHPO(s) may provide recommendations to avoid or minimize potential effects to the sites.

**7. Tribal Coordination**

- ☐ See SHPO BMPs above.

**Time of Year Restrictions / Notes:**

Agency	Restriction Time Frame	BMPs	Reasoning
NMFS	February 15 – June 15	Avoid work in the Lower Beaverdam Creek during the restricted time frame.	Lower Beaverdam Creek is spawning habitat for river herring (collectively, alewife <i>Alosa sapidissima</i> and blueback herring <i>A. pseudoharengus</i> ). By avoiding work in this area during the restricted time frame, impacts to migratory fish during a sensitive stage in their life history will be minimized.

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**Sources:** Primary sources for this document come from recent (2018-2024) NOAA MDP environmental consultations for similar activities; NOAA MDP Biological Evaluation for a Programmatic Consultation under the ESA (2021); recent NOAA MDP 2020-2021 Hurricane season marine debris removal grants; USCG BMP checklists utilized during Emergency Support Function (ESF) - 10/3 emergency response missions (2017-2022); the NMFS Guidance for Endangered Species Act (ESA) Emergency Consultations for Hurricane Response Activities in the Southeast United States (2019); the NMFS USACE Jacksonville District's Programmatic Biological Opinion (JAXBO, 2017); the NMFS Programmatic EFH Consultation for NOAA MDP Activities (2015); and discussions and materials provided by multiple USFWS, NMFS, and State Agency offices.

