Pennsylvania Infrastructure Investment Authority

Source Justification Form

This document serves as the written Determination of Sole Source Procurement pursuant to the Pennsylvania Procurement Code, 62 Pa.C.S. §§ 101-4604 (the “Procurement Code”).

Procurement Description: Clean Water Procurement Program Nutrient Reduction Purchase

Supplier: HGS LLC

Contact: Hannah Kalk

317 East Carson Street

Suite 373

Pittsburgh, PA 15202

SRM Supplier Number: 558069

Contract Amount: $16,632.25 in increased funding, total funding $5,886,464.49

Contract End Date: December 31, 2026

Statutory Authority 62 Pa.C.s. §§ 515(b)(1), 515(b)(4), and 515(b)(10)

The Pennsylvania Infrastructure Investment Authority (“PENNVEST”), by its Executive Director, has determined, pursuant to Section 515(b) of the Procurement Code, to increase the quantity of nitrogen reductions and the associated phosphorus and sediment reductions purchased, and the total funds allocated under the agreement, dated June 11, 2024, (the “Agreement”) between PENNVEST and HGS LLC (“HGS”). The unit price per unit of nitrogen reduction remains unchanged.

Current Services: Pursuant to the above-referenced Nutrient and Sediment Reduction Purchase Agreement, PO4300817772, HGS has agreed to provide to PENNVEST up to 29,438.95 pounds of nitrogen reductions, as well as the associated phosphorous and sediment reductions. PENNVEST has determined that HGS has the capacity to provide additional nitrogen reductions, along with the associated phosphorus and sediment reductions, under the terms of the Agreement. PENNVEST has further determined that continuation of the Agreement provides the Commonwealth with nutrient reductions which will assist the Commonwealth in achieving the most current total maximum daily load limits for nitrogen, phosphorus and sediment relating to the Chesapeake Watershed as established by the United States Environmental Protection Agency.

Justification: Pennsylvania’s Fiscal Year 2022-2023 Budget, Act 54 of 2022, allocated $22M in American Rescue Plan Act (ARPA) funds to PENNVEST for the establishment of the PENNVEST Clean Water Procurement Program (CWPP) and the purchase of verified nutrient or sediment reductions by PENNVEST through a competitive bidding process.   PENNVEST is required to obligate all ARPA funds by 12/31/2024; however, the Office of Budget has requested that agencies have ARPA funds under contract by 6/30/2024, allowing ample time for the Office of Budget to reallocate any unused funds.  PENNVEST has conducted two competitive bidding rounds to date, successfully awarding $21,983,367.75 over seven purchase agreements and leaving a remaining balance of $16,632.25 in unused ARPA funds.  In an effort to obligate the full $22M allocated to PENNVEST under the CWPP, PENNVEST has determined that a sole source extension with HGS represents the best way to commit the remaining $16,632.25 in ARPA funds prior to 6/30/2024.

Pursuant to Section 515(b) of the Procurement Code, PENNVEST may award a contract or extension if it determines in writing that the conditions of the procurement satisfy one of the conditions enumerated in the Procurement Code. PENNVEST has determined that the extension of the contract between PENNVEST and HGS is appropriate because the nature of the best management practice being implemented by HGS to produce the associated nutrient reductions makes HGS the entity best situated to produce the additional nutrient reductions in a timely manner and provides the strongest likelihood that PENNVEST will be able to fully implement the intended purpose of the ARPA funds by the applicable disbursement deadlines, satisfying Section 515(b)(1), that competitively bidding for the procurement of additional nutrient reductions is clearly not feasible, satisfying Section 515(b)(4), and that the procurement of this extension is in the best interest of PENNVEST and the Commonwealth, satisfying Section 515(b)(10).

HGS, as a current provider of reductions, represents the most reasonably available vendor to continue providing the additional nutrient reductions required to fully implement the use of ARPA funds under Act 54 of 2022. To competitively bid the extension of the current contract PENNVEST would waste valuable staff time and resources to increase the total contract value by a proportionately small amount. Further, competitively bidding the extension could not be completed by the deadlines associated with the underlying source of funds, would increase the cost of procurement and create inefficiencies, which cannot be justified by the relatively small increase in reductions being purchased, none of which are in the best interests of PENNVEST or the Commonwealth.