

**October 12, 2022**

**RFP# FIN10122022**

# City of Hyattsville – RFP



**Request for Proposal**

**Financial Forecast  
Services**

**City of Hyattsville**

4310 Gallatin Street  
Hyattsville, MD 20781

# Table of Contents

<u>REQUESTS FOR PROPOSALS.....</u>	<u>2</u>
<u>CITY BACKGROUND .....</u>	<u>2</u>
<u>OBJECTIVE AND SOLICITATION SCHEDULE.....</u>	<u>2</u>
<u>SCOPE OF SERVICES.....</u>	<u>2</u>
<u>DELIVERABLES AND TIMING.....</u>	<u>4</u>
<u>RECORDS &amp; REPORTS.....</u>	<u>4</u>
<u>MINIMUM FIRM/INDIVIDUAL QUALIFICATIONS.....</u>	<u>4</u>
<u>REQUIRED SUBMITTALS FOR PROPOSAL.....</u>	<u>4</u>
<u>SUBMISSION OF PROPOSALS.....</u>	<u>5</u>
<u>PROPOSAL DOCUMENTS.....</u>	<u>5</u>
<u>EVALUATION CRITERIA AND SELECTION PROCEDURES.....</u>	<u>5</u>
<u>COMPENSATION FOR SERVICES (FEE) .....</u>	<u>6</u>
<u>GENERAL CONDITIONS FOR PROPOSALS.....</u>	<u>6</u>
<u>CONFIDENTIALITY.....</u>	<u>6</u>
<u>DURATION OF PROPOSALS.....</u>	<u>6</u>
<u>AMENDMENT OR CANCELLATION OF THE RFP.....</u>	<u>6</u>
<u>PROPOSAL MODIFICATIONS.....</u>	<u>6</u>
<u>PRESENTATION OF SUPPORTING EVIDENCE.....</u>	<u>6</u>
<u>ERRONEOUS DISBURSEMENT OF FUNDS.....</u>	<u>6</u>
<u>PROPOSAL PREPARATION COSTS.....</u>	<u>7</u>
<u>THIS SOLICITATION IS NOT A CONTRACT.....</u>	<u>7</u>
<u>SUB-CONTRACTORS.....</u>	<u>7</u>
<u>LEGAL TERMS.....</u>	<u>7</u>
<u>PROPOSAL DOCUMENTS.....</u>	<u>8</u>
Attachment (A) – City of Hyattsville Sample Contract Form.....	9-22

## **REQUESTS FOR PROPOSALS**

The City of Hyattsville, Maryland invites sealed responses from qualified consultants to this Request for Proposal (RFP) #FIN10122022, for a long-range Financial Forecast for the City of Hyattsville.

## **CITY BACKGROUND**

The City of Hyattsville is a Smart-Growth community making it a prime candidate for assistance offered by the State of Maryland and the Federal Government for investment. The City of Hyattsville is located only one mile from Washington DC and is approximately 2.7 square miles of historic and urban residential, commercial, industrial and high-density mixed-use residential/commercial/office and development. The residential neighborhoods of Hyattsville are one of the community's best-kept secrets. They are thriving, stable enclaves of tree-lined streets with an architecturally diverse housing stock.

The City of Hyattsville has convenient access to transit and transportation options for residents and visitors. We are located on the Metro's Green and Yellow line, served by two stations: West Hyattsville and Prince George's Plaza. In addition to Metro, the City is traversed by an excellent network of roads, buses, freight transportation, and rail services including THE BUS, AMTRAK, and MARC. We are also located near the region's three airports: Baltimore Washington International, Reagan National (accessible via Metro) and Dulles.

The City of Hyattsville is in close proximity to the University of Maryland campus at College Park as well as many other private and public colleges and universities. Public and private schools for all age groups include Northwestern High School and the nationally recognized DeMatha Catholic High School.

## **OBJECTIVE AND SOLICITATION SCHEDULE**

The purpose of this RFP is to solicit proposals for a long-range Financial Forecast Services for the City of Hyattsville, in accordance with the attached specifications and proposal documents.

RFP Solicitation Schedule:

October 12, 2022: Solicitation

October 17, 2022: Questions Due by 5:00PM

October 28, 2022: Proposals Due by 3:00PM

October 31, 2022: Proposals Opened

November 17, 2022: Notification of Intent to Award

## **SCOPE OF SERVICES**

Currently, the City produces an annual budget and a five-year forecast, which is updated from time to time as necessary. A copy of the current adopted, budget is available at the City's website using the following web link: [Finance | Hyattsville, MD - Official Website](#)

1. Establish baseline revenue and expenditure assumptions that include any recommendations for process improvements (i.e., "best practices"). These baseline assumptions must include maintaining fund reserves, remaining competitive regionally by meeting pension obligations, sustaining internal service funding to meet replacement cycles, fulfilling the City's debt service obligations, and other major factors that staff will identify with the consultant at the outset.
2. Provide revenue estimates for the current year and subsequent ten years for the following General Fund categories: Real Property Tax, Personal Property Tax, Sales Tax, Operating Tax, Franchise Fees, Business License Taxes, Fines, Forfeitures, Penalties, Real Property Transfer Tax, Licenses

- and Permits, Medical Cannabis-related Tax, Income Taxes, Interest Income, Highway Tax Revenues, Admissions Taxes, and Intergovernmental Charges for current services
3. Provide expenditure estimates for the current year and subsequent ten years for the following General Fund categories: Salaries, Overtime, and Benefits to include Medical Premiums, Vision and Dental, Long-Term Disability, Life Insurance Premiums, Employee Assistance Program, Medicare, Federal Income Tax, and Pension Obligations that can adjust to change in conditions, Services and Supplies, Other Post-Employment Benefits (OPEB), and Equipment, Capital Outlay, Debt Service, Internal Service Fund Charges, "Other" Charges that include grants and transfers out, Termination Pay-outs, Legal Fees. Distinguish Capital Improvement Program (CIP) labor, retiree medical premiums, and non-labor expenditures, including debt service.
  4. The work document must be scenario driven. This means the work document must visualize graphically all revenues (section b), expenditures (section c), required general fund reserve limits, and with a graphic representation of any impact to actual reserves (i.e., a "bottom line" analysis). Related graphs must be dynamic in nature, but also understandable, repeatable, and flexible.
  5. The work document must allow the end-user to make changes using an "if this, then that" approach. For instance, if the City adds 2 officers to the police department, then the impact to reserves will be X, running a deficit by fiscal year XXXX. Or, if the City introduces revenue measure Y, the impact on general fund reserves would generate a surplus in fiscal year YYYY. This forecast will not be utilized to predict the future, but rather provide insight to elected officials and the City's executive team as an intellectual exercise.
  6. The work document must offer the end-user the ability to adjust the forecast with contemporaneous information—a downturn in the economy, a revenue measure impact, or labor negotiation impacts.
  7. Each category listed in section (b) and section (c) should have associated sensitivity analyses to show how significant an impact any subsequent changes would have on fund reserves. If a significant sales tax generator leaves the City, how sensitive will General Fund revenues be to each of the top ten economic drivers.
  8. Describe the methodology for the revenue and expenditure estimates as well as the modeling for the ten-year forecast period. Provide any "best practices" incorporated into the forecast extended out ten years.
  9. The work document must display information on both a calendar and fiscal year basis.
  10. The work document must display information in the following formats: 1) an executive-level summary with impacts on City Reserves; and 2) a financial manager-level summary at the fund balance and service-delivery impact level. The second format must provide scenarios around impacts to gain/loss of revenues and expenditures.
  11. The estimates will be provided twice annually, with a preliminary estimate typically provided in late October/early November and the final forecast provided in late January/early February for incorporation into the City's General Fund Ten-Year Forecast that is released prior to the ensuing fiscal year. The consultant shall be responsible for maintaining the workbook on an annual basis or as frequently as staff requests it.
  12. Provide local and national economic forecasts concerning topics to be selected by the City, including but not limited to: Employment, Unemployment, Inflation, Gross Domestic Product (GDP), and Housing Prices.
  13. Provide a written overview of the current and forecasted economic conditions at the local, state and national levels. This written overview should incorporate local economic drivers and the relative significance of their business has on the General Fund.
  14. Prepare a ten-year budget model for the City's General Fund (as an Excel workbook), which an intermediate user of Excel could operate.
  15. Meet with City staff on the forecast twice annually and potentially present information to the City Administrator, Mayor and City Council.

## **DELIVERABLES AND TIMING**

For the purposes of this RFP all items noted above in the "SCOPE OF SERVICES" are deemed the deliverables and are required to complete this project.

## **RECORDS & REPORTS**

The City will require the firm to maintain an original set of records on work performed including daily reports, working papers, testing reports, certifications, and any other documents as may be required in performance of this work. The City will be provided a duplicate set of records, but upon request may require the firm to provide specific records for the purpose of confirming City records or use in litigation.

## **MINIMUM FIRM/INDIVIDUAL QUALIFICATIONS**

The respondent firm selected shall be validly licensed and certified under all relevant federal, state, and local laws and regulations, to do business with the City. Notwithstanding any of the qualifications specified in any other section of this Solicitation, the firm shall meet the following minimum qualifications in order to be eligible to submit a Proposal in response to this Solicitation:

- 1.) The firm shall have a minimum of three (3) to five (5) years' experience providing services similar to those under this Solicitation.
- 2.) The firm shall be able to fulfill its obligations under the terms and conditions of this Solicitation and the Contract.

Firms may be required to furnish satisfactory evidence that they are qualified and regularly engaged in performing the Services for which they are submitting a Proposal and maintain a regularly established place of business. An authorized representative of the City may visit any firm's place of business or place where the Services are performed to determine ability, capacity, reliability, financial stability and other factors necessary to perform the Contract. If so requested, a firm may be required to submit information about its reputation, past performance, business and financial capability and other factors that demonstrate the firm is capable of satisfying the City's needs and requirements.

## **REQUIRED SUBMITTALS FOR PROPOSAL**

To ensure a uniform review process and to obtain the maximum degree of comparability, each proposal must be organized as follows:

1. *General.* A title page/cover letter on the firm's stationary. The purpose of this letter is to provide a record of the transmittal of the proposal and an acknowledgment of any amendments, addendums, and changes to the RFP. The letter should be signed by an individual who is authorized to commit the firm to the services and requirements stated in this RFP.
2. *Profile of the firm,* including the number of years in business, type of operation, number of employees, and a summary of the firm's expertise and experience in performing the scope of services.
3. *Narrative.* The firm shall submit a brief narrative highlighting the qualifications and experience that substantiates the firm as having substantial auditing experience with Maryland local governments and the firm's capacity to provide the auditing services set forth in this RFP.
4. *Work plan and timeline for completing of financial forecast.*
5. *Management's technical approach for completion of financial forecast.*
6. *References.* Provide at least three state/local government, non-profits/universities, or quasi government

unit references, providing name, address, contact person, title, phone number, and email.

7. *Fees.* Complete detailed schedule of all fees, service charges, and the like. Clear description of optional or additional services, and reimbursable costs not included in the base fee, and an hourly rate.

8. *Additional information required by this RFP.* Clear description of optional or additional services, and reimbursable costs not included in the base fee, and an hourly rate.

### **SUBMISSION OF PROPOSALS**

The RFPs will be received by the **Natally Palma, Deputy Finance Manager**, no later than **3:00 PM, Friday, October 28, 2022**, and shall be mailed or hand delivered to:

**The City of Hyattsville  
4310 Gallatin Street  
Hyattsville, Maryland 20781  
Attn: Laura Reams, City Clerk**

For additional information regarding the services specified in this request for qualifications, contact Theresa Love, in writing by email at [tlove@hyattsville.org](mailto:tlove@hyattsville.org). Questions specific to this solicitation will be accepted until **5:00 PM on Monday, October 17, 2022**.

### **PROPOSAL DOCUMENTS**

A firm responding to this RFP for the “**Financial Forecasting Services for the City of Hyattsville**” must submit the Proposal Documents included at the end of this document. Failure to comply with these requirements may result in a disqualification of the firm. The City will base the selection of a firm on documentation submitted in the Proposal Documents.

Applicants must submit **seven (7) total copies of their Proposal. These copies must adhere to the following format: five (5) bound, one (1) unbound and one (1) digital pdf copy of the proposal on thumb drive.** Each firm will be evaluated, rated and/or ranked, based on information provided in their Proposal.

### **EVALUATION CRITERIA AND SELECTION PROCEDURES**

#### **Evaluation Criteria:**

- Understanding the Requirements and Ability to Meet
- Work Plan and Timeline
- Management Plan and Technical Approach
- Firm Experience and Capabilities
- Staff Qualifications, Experience and Capabilities
- Pricing

The RFPs will be publicly opened and read on **Monday, October 31<sup>st</sup> via video conference, link will be posted on the City’s website Monday October 17, 2022.**

Proposals from all firms meeting the minimum qualifications detailed in this solicitation will be reviewed and evaluated. The firms best meeting the experience and approach will then be selected for interviews.

The City reserves the right to reject any and all RFP submissions and further reserves the right to re-issue the RFP.

### **COMPENSATION FOR SERVICES (FEE)**

The City intends to enter into a professional services contract(s) for the proposed project term. Compensation for the services rendered, will be based upon a contract and is not to exceed fees provided in the response to this proposal.

### **GENERAL CONDITIONS FOR PROPOSALS**

Failure to read the (RFP) and comply with its instructions will be at the firm's own risk. Corrections and/or modifications received after the closing time specified in this RFP will not be accepted. The proposal must be signed by a designated representative or officer authorized to bind the firm contractually. Submission of a signed proposal to the City will be interpreted to indicate the firm's willingness to comply with all terms and conditions set forth the herein.

### **CONFIDENTIALITY**

Proposals will be available for public inspection after the award announcement, except as to the extent that an audit firm designates trade secrets or other proprietary data to be confidential. Material designated as confidential must be readily separable from the remainder of the proposal to facilitate public inspection of the non-confidential portion of the proposal. An audit firm's designation of material as confidential will not necessarily be conclusive, and the audit firm may be required to provide justification why such material should not be disclosed, on request, under the Maryland Public Information Act, Section 4-355 General Provisions Article, Annotated Code of Maryland.

### **DURATION OF PROPOSALS**

The proposals and price proposals submitted are irrevocable for a period of **120 days** following the proposal due date.

### **AMENDMENT OR CANCELLATION OF THE RFP**

The City of Hyattsville reserves the right to cancel, amend, modify or otherwise change this application process at any time if it deems to be in the best interest of the City of Hyattsville to do so.

### **PROPOSAL MODIFICATIONS**

No additions or changes to any proposal will be allowed after the application due date, unless such modification is specifically requested by the City of Hyattsville. The City, at its option, may seek retraction and/or clarification by an applicant regarding any discrepancy or contradiction found during its review of applications.

### **PRESENTATION OF SUPPORTING EVIDENCE**

Firms responding to this solicitation must be prepared to provide substantiation of any experience, performance, ability and/or financial sureties claimed in their Proposal that the City of Hyattsville deems to be necessary or appropriate.

### **ERRONEOUS DISBURSEMENT OF FUNDS**

The City of Hyattsville reserves the right to correct any inaccurate awards of monies under this Program

made to an applicant. This may include, in extreme circumstances, revoking an award of funds made under this program to an applicant subsequently awarding those funds to another applicant.

**PROPOSAL PREPARATION COSTS**

Firms are responsible for all costs and expenses incurred in the preparation of a proposal to respond to this solicitation.

**THIS SOLICITATION IS NOT A CONTRACT**

This solicitation is not a contract and will not be interpreted as such.

**SUB-CONTRACTORS**

The firm submitting a proposal certifies and warrants that all payments of fees charged by any sub-contractors pursuant to that contract are the sole responsibility of the contractor.

**LEGAL TERMS**

It is the policy of the City of Hyattsville that all legal disputes are heard in a court of law in Prince George's County, Maryland, and that each party is responsible to pay for the cost of their own legal fees.

**The City of Hyattsville will not agree to terms that are not consistent with this policy.**

**END OF RFP**



**PROPOSAL DOCUMENTS**

In order to qualify for this Project, Contractors must submit all information requested in the following pages.

**CONTRACTOR INFORMATION**

Proposals must adhere to the format of these Proposal forms and content of this RFP. Proposals will not be evaluated unless all parts of the Proposal form are submitted in a complete package. The information set forth is the minimum required in order to qualify for consideration.

Firm Name

---

Address

---

City, State, Zip

---

Contact Person

---

Phone Number

---

Email Address

---

**PROPOSAL FORM PRICE AUTHORIZATION**

By signing this Proposal form, such action certifies that the Contractor has personal knowledge of the following: That said Contractor has examined the RFP and specifications, carefully prepared the Proposal form, and has checked the same in detail before submitting said Proposal; and that said Contractor, or the agents, officers, or employees thereof, have not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive Proposing in connection with this Proposal. That all of said work will be performed at the Contractor's own proper cost and expense. The Contractor will furnish all necessary materials, labor, tools, machinery, apparatus and other means of construction in the manner provided in the applicable specifications, and at the time stated in the contract. The undersigned, being a reputable Contractor and having submitted the necessary pre-qualification forms, hereby submits in good faith and in full accordance with all specifications, attached or integral, his/her Proposal:

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

Authorized Signature \_\_\_\_\_

Name and Title of Signatory \_\_\_\_\_

Date \_\_\_\_\_

Type of Organization (circle one):    Corporation                  Partnership                  Proprietorship

SEAL:  
(If corporation)

## **INSURANCE REQUIREMENT**

Submit a certificate of Insurance from your insurance agent or insurance company that evidences your company's ability to obtain the following minimum insurance requirements. Attach and label as Exhibit 1.

### **1. Workers Compensation**

Statutory

Coverage A: \$500,000 Bodily Injury by Accident for Each Accident

Coverage B: \$500,000 Bodily Injury by Disease for Policy Limit

\$500,000 Bodily Injury by Disease for Each Employee

### **2. Commercial Auto Liability Insurance for All Owners, Non-Owned and Hired Autos.**

\$1,000,000 Combined Single Limit for Bodily Injury and Property Damage Liability

### **3. Commercial General Liability Insurance**

\$2,000,000 General Aggregate

\$1,000,000 Products/Completed Operations Aggregate

\$1,000,000 Personal and Advertising Injury Limit

\$1,000,000 Combined Single Limit Bodily Injury & Property Damage – Each Occurrence

\$50,000 Fire Legal Limit

\$5,000 Medical Payment

### **4. Umbrella/Access Liability Insurance**

\$2,000,000 Each Occurrence

**COMPANY BACKGROUND**

Company Name \_\_\_\_\_

Main Office Location \_\_\_\_\_

Year Founded \_\_\_\_\_

Project Manager Name \_\_\_\_\_

Project Manager Phone \_\_\_\_\_

Project Manager Email \_\_\_\_\_

Years of Experience \_\_\_\_\_

**Has the company ever operated under another name? If yes, what name?**

\_\_\_\_\_

**Do you have the equipment and staff available to start within 10 days of notice to proceed?**

\_\_\_\_\_

**If no to the previous question, how long would it take to have the equipment and staff available?**

\_\_\_\_\_

**Has the company ever done work with the City of Hyattsville? If yes, when and what type of work.**

\_\_\_\_\_

**REFERENCES**

Complete and submit the following for three (3) projects of similar nature as the project specified. Make copies and/or attach additional pages as needed.

Name of Project

---

Owner of Project

---

Address of Project

---

Contact Person

---

Phone Number

---

Email address

---

Description of work

Comments

**AGREEMENT**

**THIS AGREEMENT** is made this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by and between **THE CITY OF HYATTSVILLE**, a municipal corporation of the State of Maryland, hereinafter referred to as the “City,” and **ASSOCIATE BUILDERS, INC.**, hereinafter referred to as “Contractor”.

**RECITALS**

**WHEREAS**, the Hyattsville City Council authorized the City Administrator to enter into a contract regarding community outreach and project design to re-imagine Magruder Park (hereinafter, the “Project”).

**WHEREAS**, the Contractor and the City pursuant to that authorization are entering into this Agreement for the above Project pursuant to a response to a site visit and the City’s oral Request for Proposal (hereinafter, the “RFP”), all of Contractor’s Proposal responses which are hereby incorporated herein, in exchange for a fee schedule as Proposal and other valuable consideration.

**TERMS**

**NOW, THEREFORE**, in consideration of the mutual covenants and obligations contained herein and other good and valuable consideration, the sufficiency of which is hereby mutually acknowledged, the City and Contractor agree as follows:

**ARTICLE I. SCOPE OF SERVICES**

The Project shall include all work outlined in the recitals above, in the drawing for the Project and related documents, as well as all other work as reasonably required by the City.

**ARTICLE II. PERIOD OF PERFORMANCE**

Contractor agrees to commence work immediately upon execution of the Contract and shall perform all other services required by this Agreement or by the City as expeditiously as is consistent with good

professional skill and best industry practice. Time is critical factor in the successful execution of the terms of this Agreement.

### ARTICLE III. COMPENSATION FOR SERVICES (FEE)

The City intends to enter into a professional services contract(s) for the proposed project term. Compensation for the services rendered, will be based upon a contract and is not to exceed fees provided in the response to this proposal.

### ARTICLE IV. THE CONTRACT DOCUMENTS

This Agreement and the following enumerated documents form the entire Contract between the parties.

Where there is a conflict between any of the contract documents and this Agreement, the language of this Agreement shall govern. The documents identified below are as fully a part of the Contract as if hereto attached. They constitute the entire understanding of the parties and supersede any prior proposals or agreements:

- A. Request for Proposal
- B. Contractor's Response

### ARTICLE V. CONTRACTOR SERVICES

As directed by the City, Contractor shall:

- A. Be responsible for the preparation, technical completeness and sufficiency of all submitted proposals.
- B. Comply with the Prince George's County Code, the City of Hyattsville Code and Charter, The City of Hyattsville Specifications and Standards for Public Works Construction, when applicable, and all pertinent Federal, State, and County laws and regulations.
- C. Attend hearing/conferences with City or persons designated by City as necessary for the

successful completion of this Agreement.

D. Be responsible directly to the City Administrator or their designee, who is the City's agent and duly authorized representative to whom Contractor shall ordinarily direct communication and submit documents for approval and from whom Contractor shall receive directions concerning the subject of this Agreement and approval of any documents in writing. Any revisions requiring additional compensation to Contractor shall not be commenced without the City's written authorization approved by the City Administrator.

#### ARTICLE VI. CITY' S RESPONSIBILITY

The City shall provide information regarding its requirements, including related budgetary information. However, the Contractor shall notify the City in writing of any information or requirements provided by the City, which the Contractor believes to be inappropriate.

#### ARTICLE VII. COOPERATION

The Contractor agrees to perform its services under this Contract in such manner and at such times so that City and/or any Contractor who has work to perform, or contracts to execute, can do so without unreasonable delay. Contractor further agrees to coordinate its work under this Agreement with any and all other Contractors deemed necessary by the City.

#### ARTICLE VIII. OWNERSHIP OF DOCUMENTS

The City shall have unlimited rights in the ownership of all drawings, designs, specifications, notes and other work developed in the performance of the Agreement, including the right to use same on any other City Project without additional cost to City, and with respect thereto Contractor agrees to and does hereby grant to City an exclusive royalty-free license to all data which he or she may cover by copyright and to all designs as to which he or she may assert any rights or establish any claim under the patent or



copyright laws. The City's rights in ownership of documents under this Article shall include any and all electronic files generated by Contractor in the performance of its duties pursuant to this Agreement.

A. In the case of future reuse of the documents, City reserves the right to negotiate with Contractor for the acceptance of any professional liability.

#### ARTICLE IX. SPECIAL PROVISIONS

A. Contractor may not assign or transfer any interest in this Agreement except with City's written approval.

B. City may waive specific minor provisions of the Agreement on Contractor's request in the interest of expediting the contract. Waiver shall not constitute a waiver of any liability ensuing there from.

C. Except as otherwise provided in the contract documents, the City Administrator, shall decide all disputes after consultation with Contractor, and any other appropriate parties. The City Administrator's decision shall be reduced to writing and delivered to Contractor and such dispute resolution shall not be considered a Change pursuant to this contract unless the dispute resolution modifies either the services rendered or the total fee for services as provided herein.

D. The City Administrator's decision shall be final and conclusive.

E. Until a dispute is finally resolved, Contractor shall proceed to meet the terms of this Agreement and comply with City Administrator's orders.

F. Contractor shall not hire or pay any employee of the City or any department, commission agency or branch thereof.

#### ARTICLE X. TERMINATION

A. This Agreement may be terminated by the City at the City's convenience upon not less than thirty (30) days written notice to the Contractor.

B. In the event of termination, which is not the fault of Contractor, the City shall pay to

Contractor the compensation properly due for services properly performed or goods properly delivered prior to the effective date of the termination and for reasonable reimbursable expenses properly incurred prior to the termination. The City shall not be liable for any damages, costs or expenses for lost profit, overhead or discontinuation of contract or equitable adjustment in the event of termination by the City

C. In the event the Contractor, through any cause fails to perform any of the terms, covenants or provisions of this Agreement on his part to be performed, or if Contractor for any cause, fails to make progress in work hereunder in a reasonable manner, or if the conduct of Contractor impairs or prejudices the interest of the City, or if Contractor violates any of the terms, covenants, or provisions of this Agreement, the City shall have the right to terminate this Agreement for cause by giving notice in writing of the termination and date of such termination to Contractor. The City shall have the sole discretion to permit the Contractor to remedy the cause of the contemplated termination without waiving the City's right to terminate the Agreement. All drawings, specifications, electronic files and other documents relating to the design of the good, scope of the service or supervision of work, not in the public domain, shall be surrendered forthwith by Contractor to the City as required by the City. The City may take over work to be done under this Agreement and prosecute the work to completion, or procure the good or service, by contract or otherwise, and Contractor shall be liable to the City for all reasonable cost in excess of what the City would have paid the Contractor had there been no termination. The City shall not be liable for any damages, costs or expenses for lost profit, overhead or discontinuation of contract or equitable adjustments in the event of such termination.

#### ARTICLE XI. APPLICABLE LAW

The laws of the State of Maryland, excluding conflicts of law rules, shall govern this Agreement as if this Agreement were made and performed entirely within the State of Maryland. Any suit to enforce the terms hereof or for damages or other relief as a consequence of the breach or alleged breach hereof shall be brought exclusively in the courts of the State of Maryland in Prince George's County, and the parties

expressly consent to the jurisdiction thereof and waive any right which they have or may have to bring such elsewhere.

## ARTICLE XII. CHANGES

A. The City Administrator may, at any time, by written order designated or indicated to be a change order, make any change in the work within the general scope of this Agreement, provided any change is co-signed by the City Treasurer, or in his or her absence, the Mayor.

B. Any other written order from the City, which causes any change, shall be treated as a change order under this clause, provided that Contractor gives the City written notice stating the date, circumstance, and source of the order and the City consents to regard the order as a change order.

C. Except as herein provided, no order, statement, or conduct of the City shall be treated as a change under this clause or entitle Contractor to an equitable adjustment hereunder.

D. If any change under this clause causes an increase or decrease in the cost of, or the time required for, the performance of any part of this Agreement, whether or not changed by any order, an equitable adjustment shall be made and the Agreement modified in writing accordingly. If Contractor intends to assert a claim for an equitable adjustment under this clause, Contractor shall, within thirty (30) days after receipt of a written change order under (A) above, or the furnishing of written notice under (B) above, submit to the City Administrator a written statement setting forth the general nature and monetary extent of such claim, unless this period is extended by the City Administrator. The statement of claim hereunder may be included in the notice under (B) above.

E. The amount of any adjustment to the contract sum under this clause shall be a negotiated fixed fee.

F. No claim by Contractor for an equitable adjustment shall be allowed if asserted after final payment under this Agreement or if made later than thirty (30) days after receipt as required herein.

## ARTICLE XIII. SUCCESSORS AND ASSIGNS

The parties each binds itself, its partners, successors, assigns and legal representatives to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Neither party shall assign, sublet or transfer his interest, including but not limited to the proceeds thereof, in this Agreement, without the written consent of the other party.

#### ARTICLE XIV. INSURANCE

A. All Contractors shall obtain and maintain liability insurance coverage. The Contractor shall, within ten (10) days of the execution of this Agreement, file with the City Administrator, the Certificate from an insurance company authorized to do business in the State of Maryland and satisfactory to the City showing issuance of liability insurance in the amount of at least One Million Dollars (\$1,000,000.00) coverage with a deductible no greater than Ten Thousand Dollars (\$10,000.00). Contractor shall be fully and completely responsible to pay the deductible. Unless waived in writing by the City, the Certificate shall bear an endorsement in words exactly as follows: The insurance company certifies that the insurance covered by this certificate has been endorsed as follows: "The insurance company agrees that the coverage shall not be canceled, changed, allowed to lapse, or allowed to expire until thirty (30) days after notice to: City Administrator, 4310 Gallatin Street, Hyattsville, Maryland 20781 (City's Representative)."

B. In addition, Contractor shall, throughout the term of this Agreement, maintain comprehensive general liability insurance in the following amounts and shall submit an insurance certificate as proof of coverage prior to final Agreement approval:

1. Personal injury liability insurance with a limit of \$1,000,000.00 for each occurrence and \$1,000,000.00 aggregate, where insurance aggregates apply; and

2. Property damage liability insurance with limits of \$1,000,000.00 for each occurrence and \$5,000,000.00 aggregate, where aggregates apply.

C. Comprehensive general liability insurance shall include completed operations and

contractual liability coverage. The Certificates of Insurance evidencing this insurance shall provide that the City shall be given at least thirty (30) days prior written notice of the cancellation of, intention not to renew, or material change in coverage.

D. Contractor shall comply with the requirements and benefits established by the State of Maryland for the provision of Workers' Compensation insurance and shall submit an insurance certificate as proof of coverage prior to beginning work under this Agreement.

E. Contractor shall obtain both performance and Restoration bonds, acceptable to the City prior to commencing any public works construction project.

#### ARTICLE XV. INDEMNIFICATION

Contractor hereby acknowledges and agrees that it shall be responsible for and indemnify, defend, and hold the City harmless against any claim for loss, personal injury and/or damage that may be suffered as a result of their own negligence or willful misconduct in the performance of the services herein contracted for or for any failure to perform the obligations of this Agreement, including, but not limited to, attorney's fees and any other costs incurred by the City, in defending any such claim. Contractor further agrees to notify the City in writing within ten (10) days of receipt of any claim or notice of claim made by third parties against the Contractor or any sub- Contractor regarding the services and work provided to the City pursuant to this Contract. Contractor shall provide the City copies of all claims, notice of claims and all pleadings as the matter progresses. This Article shall survive termination of the Contract.

#### ARTICLE XVI. ADA COMPLIANCE

In performance of this Agreement for public works construction projects, or where there is an ADA component involved, the Contractor acknowledges that it is acting on behalf of the City and warrants to the best of its professional information, knowledge, and belief that its design, product or completed

infrastructure, will conform to, and comply with, the applicable provisions of the Americans with Disabilities Act. The Contractor hereby indemnifies and holds harmless the City from damages and costs arising from any claim that the Contractor's has failed to conform to the applicable provisions of the Americans with Disabilities Act.

#### ARTICLE XVII. CERTIFICATIONS OF CONTRACTOR

The Contractor and the individual executing this Agreement on the Contractor's behalf warrants it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee or agent working for it, to solicit or secure this Agreement, 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 fee or any other consideration contingent on the making of this Agreement.

#### ARTICLE XVIII. SET-OFF

In the event that the Contractor shall owe an obligation of any type whatsoever to the City at any time during the term hereof, or after the termination of the relationship created hereunder, the City shall have the right to offset any amount so owed the Contractor against any compensation due to the Contractor for the provision of Construction, Goods or Services covered by the terms of this Agreement.

#### ARTICLE XIX. MISCELLANEOUS

A. This Agreement is subject to audit by the City, and the Contractor agrees to make all of its records relating to the goods or services provided to the City available to the City upon request and to maintain those records for six (6) years following the date of substantial completion of this Agreement; or a longer period, if reasonably requested by the City.

B. If any term or provision of this Agreement shall be held invalid or unenforceable to any extent, the remainder of this Agreement shall not be affected thereby, and each term and provision of this

Agreement shall be enforced to the fullest extent permitted by law.

C. The person executing this Agreement on behalf of the Contractor hereby covenants, represents and warrants that he/she is duly authorized to execute and deliver this Agreement on behalf of the Contractor.

D. All representations, warranties, covenants, conditions and agreements contained herein which either are expressed as surviving the expiration and termination of this Agreement or, by their nature, are to be performed or observed, in whole or in part, after the termination or expiration of this Agreement shall survive the termination or expiration of this Agreement. This Agreement is entered into as of the day and year first written above.

E. This Agreement represents the entire and integrated Agreement between the City and Contractor and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by the duly authorized representatives of the City and the Contractor.

F. The recitals above are hereby incorporated into this Agreement.

CONTRACTOR

By: \_\_\_\_

THE MAYOR AND CITY COUNCIL OF HYATTSVILLE

By: \_\_\_\_\_