



## **Request for Proposals**

### **City of Westminster Wakefield Valley Park Event Pavilion and Community Building (Design-Build)**

**The City of Westminster  
45 W. Main Street  
Westminster, MD 21157  
Purchaser: John Dick**

**[Bids@westminsterMD.gov](mailto:Bids@westminsterMD.gov)**

**RFP # 23-13  
December 14, 2022**

---

CITY OF WESTMINSTER  
45 West Main Street  
Westminster, Maryland 21157

---



---

TELEPHONE  
Local (410) 848-9000  
Baltimore Line (410) 876-1313  
[www.westminstermd.gov](http://www.westminstermd.gov)

---

Date: December 14, 2022

To: Firms Interested in Submitting a Bid

From: John Dick, Deputy Director of Public Works

Re: Request for Proposals by the City of Westminster for Wakefield Valley Park Event Pavilion and Community Building (Design-Build)

The Mayor and Common Council of Westminster (“the City”) requests Proposals (hereinafter, a “Bid” or “Proposal”) for Wakefield Valley Park Event Pavilion and Community Building (Design-Build) in accordance with the attached Contract documents. By submission of a Bid, the Bidder represents that it has the ability to comply with all requirements contained therein. The City reserves the right to reject any or all proposals or any portion thereof.

**Sealed bids consisting of all required Bid forms should be submitted to John Dick, Deputy Director of Public Works, 45 West Main Street, Westminster MD 21157, no later than 2:00 p.m. on Friday, January 27, 2023. Sealed bids must be clearly marked “Proposal for Wakefield Valley Park Event Pavilion and Community Building (Design-Build)” on the outside of the envelope.**

All Bids are to be accompanied by a bid bond in the amount of 10% of the Bid. A sample bid bond format is provided as part of this Request for Bids.

All blanks on each form submitted in connection with the Request for Proposals must be filled in, and no change shall be made to the items described in the form. All Bids must be signed in ink by the Bidder, with signature in full. A Bid must be good for ninety (90) days.

**A mandatory pre-bid meeting will be held at 10:00 a.m. on Friday, January 6, 2023 (Eastern Standard Time) at 1838 Emerald Hill Lane, Westminster, MD 21157. Bidder attendance is mandatory.**

Bids will be publicly opened and read aloud at 2:15 p.m. on Friday, January 27, 2023. The bid opening will be held at 45 West Main Street, Westminster, MD 21157.

This Request for Bids will be placed on the City website at:

<http://www.westminstermd.gov/bids.aspx>

Any bid addenda will be posted on the City website at <http://www.westminstermd.gov/bids.aspx>.

Prospective bidders who have questions regarding this Request for Proposals should email their questions to [Bids@westminsterMD.gov](mailto:Bids@westminsterMD.gov). The closing time for submission of questions is 4:30 p.m. on Thursday, January 19, 2023. All questions and the associated answers will be posted on the City website at <http://www.westminstermd.gov/bids.aspx>.

To receive notification that information regarding this Request for Proposals has been posted to the City website, bidders are encouraged to register with the City by providing their firm name, name of firm representative, and email address for the firm's point of contact to:

[Bids@westminsterMD.gov](mailto:Bids@westminsterMD.gov)

## **REQUEST FOR BIDS**

City of Westminster

Wakefield Valley Park Event Pavilion and Community Building (Design-Build)

RFB # 23-13

December 14, 2022

### **I. SCOPE OF SERVICES**

The City of Westminster owns and operates Wakefield Valley Park (the former Wakefield Valley Golf Course) at 1000 Fenby Farm Road Westminster, MD 21157. As a part of the Wakefield Valley Park Master Plan, the City wants to selectively demolish a portion of the existing Golf Course Club House (“the Club House”), to construct an Event Pavilion, and fully renovate the remaining part of the Club House to transform it into a Community Events Building.

The design phase of the project should include the following:

- a. Design of selective demolition of a portion of the Club House Building.
- b. Design and construct a new end wall to enclose the remaining Club House.
- c. Design of an Event Pavilion that should accommodate events with a sitting capacity of 200 people. The Pavilion should be constructed on the site of the demolished part of the Club House and be attached to the remaining portion of the building. The Pavilion should be equipped with electricity and lighting.
- d. Evaluation of the Club House and design of the full renovation of the remaining portion to repurpose the remaining part of it into a Community Events Building (“the Building”) for the City.
  1. Exterior is to be completely restored, including windows and doors.
  2. Upper-level interior will remain an open event space, and the lower level will be renovated into a small event space and restrooms.
  3. All electrical and mechanical is to be evaluated.
- e. Landscaping design of the grounds around the Event Pavilion and the Building.
- f. Obtaining all needed permits and approvals from the City and Carroll County Agencies.
- g. The Contractor must provide engineering support during construction, including reviewing submittals, periodical inspections, and participation in pre-construction and progress meetings.

During the design phase, the Contractor must submit preliminary design specifications and drawings and specifications and drawings for 30%, 60%, 90%, and 100% of completion. Each design submission must be provided with an engineering cost estimate.

The construction phase of the project should include the following:

- a. Demolition of a portion of the Club House.
- b. Construction of the new exterior wall.
- c. Construction of the Event Pavilion.
- d. Full renovation of the remaining portion of the Club House.
- e. All necessary site utilities and landscaping work.

The Contractor should be responsible for material inspection on the project and should contract with a certified material testing company for inspections and testing.

The City is providing links to all available drawings of the Club House.

[https://westminstermd.exavault.com/share/view/m217-849jhevl-h0ewe8fh/Wakefield%20Club%20House%20Drawings%20\(John%20Dick\)](https://westminstermd.exavault.com/share/view/m217-849jhevl-h0ewe8fh/Wakefield%20Club%20House%20Drawings%20(John%20Dick))

Password: G!S

All drawings are provided to the bidders for informational purposes only and should be field verified during construction.

## **II. INSTRUCTIONS TO BIDDERS**

### **1. BIDS:**

Sealed Bids will only be accepted by the Mayor and Common Council of Westminster (“the City”) if submitted in accordance with these instructions, the General Conditions, and any other attached Bid documents.

### **2. RESERVATIONS:**

a. The City reserves the right to waive formalities or technicalities in bids as the interests of the City may require.

b. The City may waive minor differences in specifications, provided these differences do not violate the intent of the specification or materially affect the operation for which the item is being acquired.

c. Bids that show omission, irregularity, alteration of forms, or additions not called for, and conditional or unconditional, unresponsive bids, or bids obviously unbalanced may be rejected.

d. The City reserves the right to award Contracts on a lump sum or an individual item basis, or such combination thereof as the interests of the City may require. The manner in which the award will be made is indicated on the Bid Summary Sheet.

e. The City reserves the right to purchase additional like units at the same unit cost.

f. If in the City’s judgment, the City’s best interest will be served by doing so, the City reserves the right to reject any and/or all bids; to accept a portion of a bid or bids only; to advertise for new proposals; to proceed to do the work otherwise; or, to abandon the work.

### **3. QUALIFICATIONS OF BIDDERS:**

The City may make such investigation as it deems necessary to determine the ability of the Bidder to furnish the services and the Bidder shall furnish to the City all such information and data for this purpose that the City may request. The City reserves the right to reject any Bid if the evidence submitted by the Bidder or an investigation of such Bidder fails to satisfy the City that such Bidder is properly qualified to carry out the obligations of the Contract.

### **4. REQUIRED ATTACHMENTS TO BIDS:**

Each Bid shall be accompanied by the following, which are attached herewith:

- a. Bid Form
- b. Schedule of Values
- c. Experience Record Form
- d. List of References
- e. Vendor Responsibility Form

- f. Equal Opportunity Employer Form
- g. Affidavit of Non-Collusion and Non-Conviction
- h. W-9 Form
- i. Bid Bond (10%)

## **5. ACCEPTANCE OR REJECTION OF BIDS; RESERVATIONS:**

The City will accept or reject bids within sixty (60) days of the date set for opening bids. The City reserves the right to reject or accept any or all bids or portion thereof where such rejection or acceptance would, in the City's sole discretion, be in the best interest of the City, and further reserves the right to reduce or modify the scope of the Project in order to meet funding limits, budget, and scheduling constraints.

## **6. NOTICE OF AWARD, SIGNING OF CONTRACT AND BONDS:**

The successful Bidder agrees to sign a Contract in substantially the form included as Exhibit A in the Request for Bids (except that certain additional provisions may be required of non-corporate Contractors pertaining to their status as sole proprietorships or partnerships and their workers' compensation coverage) binding it to the terms of this Bid as set forth in the legal notice inviting bids and the bid documents and any addenda thereto, within ten (10) days of notice of award. Failure of the Bidder to do so may result in the loss of its Bid security and/or its award of Bid.

## **7. BID WITHDRAWALS:**

Prior to the time of opening, Bids may be withdrawn only upon written request received from Bidder. No Bidder may withdraw its Bid for a period of sixty (60) days after the opening of Bids.

## **8. ADDENDA:**

Any addenda issued after the Invitation to Bid and before the opening of Bids shall be covered in the proposal, and in closing the Contract they shall become a part thereof. Bidders will be required to submit a signed and dated copy of the addenda as acknowledgement of receipt.

## **9. SPECIFICATIONS:**

Bidders must examine the specifications carefully. In case doubt shall arise as to the meaning or intent of anything shown in the specifications, inquiry shall be made of the City before the Bid is submitted. The submission of a Bid shall indicate that the Bidder thoroughly understands the terms of the Bid and the specifications.

## **10. BONDS:**

Performance and payment bond in the amount of 100% of Contract is required. A sample format is provided in the Contract Document.

## **11. TAXES:**

The Contractor shall pay all sales, consumer, use, and other similar taxes required by applicable law to be paid with respect to the work performed or the materials or equipment furnished. The City of Westminster is exempt from the payment of such taxes with respect to items purchased directly.

## **12. BID FORMS:**

A. The Bid Form and attachments are included in the Bid package. Bids shall be submitted on the attached forms and shall be filled out in full, in ink or by typewriter. If changes and erasures are made, such changes and erasers shall be clear and legible, and shall be initialed by the person signing the Bid Form. The Bid Form may provide for submission of a price or prices for one or more items, which may be lump sum Bids, alternate prices, or scheduled items resulting in a Bid on a unit of construction or a combination thereof, or other Bidding arrangements. Unless specifically called for, alternate Bids will not be considered.

Bids in which the prices obviously are unbalanced may be rejected. Unbalanced prices shall be interpreted to mean that the unit price for any items is such that it is unreasonable for that particular item when considered by itself and not considered in connection with the Bid submitted on any other item or items.

Bids shall be based on products, materials, and methods named in the Contract Documents.

Bidders must detach the completed Bid Form and required attachments and submit them in a sealed, opaque envelope bearing the Bidder's name and address at the time and place indicated on the Invitation to Bid. Bids may be modified or withdrawn at any time prior to the opening of bids. Signing of Bids shall comply with instructions on the Bid Form.

B. The Bidder assumes full responsibility for timely delivery at location designated for receipt of Bids. Bids received after the designated time for the public bid opening will be returned to the Bidder unopened.

C. Bids will be publicly opened and read aloud at the time and place set forth in the Invitation to Bid. Only bid totals will be publicly read at the Bid opening. Bidders and other interested parties may be present either in person or by representative. Unit prices will be made available after verification by the City. In case of discrepancy between prices in writing and in figures, the writing shall govern. In case of error in the extension of prices in the Bid, unit prices will govern.

## **13. EXECUTION OF THE CONTRACT:**

The form of the Agreement is included with the Bid package as Exhibit A. Changes may be made to the Agreement form at the sole discretion of the City and the Bidder should not rely on an expectation of changes in the Agreement form.

The Bidder to whom the Contract is awarded shall return two copies of the Agreement and such other Documents as required by the Contract Documents properly executed to the City within seven (7) days after the date of issuance of the Notice of Award. The City will execute the Contract within seven (7) days after receipt of the Contractor's executed Contract Form.



Failure by the Bidder to execute the Contract and submit such other Documents as required by the Contract Documents and file acceptable insurance and bonds within the time aforesaid shall be just cause for annulment of the Award. Award may then be made to the next lowest responsible Bidder or the Work may be re-advertised and constructed under Contract or otherwise, as the City may decide.

By executing the Contract, the Bidder represents that it has familiarized itself with, and assumes full responsibility for having familiarized itself with, the nature and extent of the Contract Documents, the work, and the site, and all federal, State and local laws, ordinances, rules, and regulations that may in any manner affect performance of the Work, and represents that it has correlated its study and observations with the requirements of the Contract Documents. The Bidder also represents that it has studied all surveys and investigation reports of subsurface and latent physical conditions referred to in the Contract Documents and made such additional surveys and investigations as it deems necessary for the performance of the Work at the Contract Price in accordance with the requirements of the Contract Documents and that it has correlated the results of all such data with the requirements of the Contract Documents.

#### **14. AFFIDAVIT OF NON-COLLUSION AND NON-CONVICTION:**

Pursuant to § 16-311 of the State Finance and Procurement Article of the Annotated Code of Maryland, any person who has (1) been convicted of bribery, attempted bribery or conspiracy to bribe, under laws of any state or of the federal government; (2) been convicted under a State or federal law or statute of any offense enumerated in § 16-203 of this title; or (3) been found civilly liable under a State or federal antitrust statute as provided in § 16-203 of this Title 16 shall be disqualified from entering into a Contract with the Owner.

A Bidder shall complete and submit with its Bid the attached notarized Anti-Bribery Affidavit. The affiant shall also swear or affirm under the penalties of perjury that the Bidder has not been a party with other Bidders to any agreement to Bid a fixed or uniform price and shall also contain an affirmation that the Bidder shall not knowingly enter into a Contract with the City under which a person or business debarred or suspended under Title 16, Subtitle 3 will provide, directly or indirectly, supplies, services, architectural services, construction related services, leases of real property, or construction.

#### **15. BID SUBMITTAL LIMIT:**

A Bidder may submit only one Bid for each Contract. More than one Bid from an individual, firm or partnership, corporation, or association under the same or different names will not be considered, and will be considered grounds for disqualification of the Bids involved, and rejection of the Bids.

#### **16. GRANT-FUNDED CONTRACTS:**

The Contract may be funded, in whole or in part, using federal or State grant funds and may therefore be subject to conditions imposed by regulations of the governmental entity providing such funds. Such funding, if any, will be identified in the description of the Work or Services included with this Request for Bids. It is the Bidder's responsibility to determine the scope and requirements of, and to comply with, the terms of any regulations relating to or

governing the use of such grant funds. Such regulations may under certain circumstances include, but are not limited to, payment of prevailing wage rates, the purchase of materials manufactured in the United States, the maintenance of specific records for specific periods of time, and/or approval of subcontracts, among other things.

**17. SUBMISSIONS ARE PUBLIC INFORMATION:**

The affidavit required by Section 14 of these Instructions to Bidders shall also indicate the Bidder's understanding that all documents, information, and data submitted in its Bid/Proposal shall be treated as public information unless otherwise indicated.

### **III. GENERAL CONDITIONS**

#### **GC 1. Disputes**

In cases of disputes as to whether or not an item or service quoted or delivered meets the specifications, the decision of the City shall be final and binding on both parties.

#### **GC 2. Completion of Work**

If the Contractor is delayed at any time in the completion of the Services by any act or negligence of the City, or by any act or negligence by separate Contractor employed by the City, or that of any employee of either, or by any changes ordered in the materials or by strike, lockout, fires, unusual delays in transportation, unavoidable casualties or any causes beyond the Contractor's control, or by delay authorized by the City, the City shall decide the permissible extent of such delay.

#### **GC 3. Failure to Deliver**

In the event the Contractor fails to deliver the services and materials covered by the Contract and in accordance with the delivery terms stipulated in the Contract, then the City will have the right to purchase on the open market the services and/or materials covered in the Bid Proposal and shall have as damages the cost of obtaining such services and/or materials and any additional costs incurred by the City as a result thereof.

#### **GC 4. Bonds**

When payment, performance, and/or maintenance bonds are required by the agreement, they shall be posted by the Contractor in a form acceptable to the City. In that instance, template bonds will be included with the bid package.

#### **GC 5. Insurance**

The Contractor shall maintain insurance coverages and shall provide Certificates evidencing such insurance as required in Section 7 in the Agreement.

#### **GC 6. Indemnification**

The Contractor will be required to indemnify, defend, and hold the City harmless against all liability to any person or persons for or by any reason of any condition or malfunction of the materials used, and against any claims made or liability to any person or persons by reason of any act or omission or negligence of the Contractor or any of its agents, servants, or employees. This indemnification shall include reasonable attorney's fees incurred by the City in connection with such claim or liability.

GC 7. Inspection.

The City has the right to inspect and test all services and materials called for by the Contract, to the extent practicable at all times and places during the term of the Contract. The City shall perform inspections and tests in a manner that will not unduly delay the work. If any of the services and/or materials do not conform to Contract specifications, the City may require the Contractor to perform the service or again provide a replacement product in conformity with Contract specifications, at no increase in Contract amount.

## **SUPPLEMENTAL CONDITIONS**

### **SC-01. GENERAL**

These Supplemental General Conditions are made a part of the Contract. In case of conflict with other portions of the specifications, these Supplemental General Conditions shall govern. Any reference herein to the Director of Public Works shall be deemed to mean the Director of Public Works or his or her designee.

Wherever in this Request for Bids the word "State" is used, it shall be construed to mean "City of Westminster." Wherever the word "Administration" is used, it shall be construed to mean "City of Westminster, Department of Public Works." Wherever the words "Chief Engineer", "Assistant Chief Engineer" or "Engineer" are used, they shall be construed to mean "Director of Public Works for the City of Westminster."

The Standard Details for this Contract will be those of the Maryland Department of Transportation, State Highway Administration's "Book of Standards for Highway and Incidental Structures", and revisions thereof or additions thereto.

### **SC-02. INTENT OF DRAWINGS AND SPECIFICATIONS**

It is the intent of the drawings, specifications, and supplementary documents to provide the Contractor with such information and instructions as may be necessary to complete the contemplated work. The work under the Contract shall be constructed or installed in accordance with the materials, sizes, dimensions, on the lines and slopes, at the depths, with the connections, and in the manner called for by the specifications and as shown on the Contract drawings, or in accordance with such changes as may be approved from time to time during the progress of the work as hereinafter provided. In case of any conflict between the specifications and drawings, the Director of Public Works shall determine which shall govern.

### **SC-03. WORK TO BE DONE BY THE CONTRACTOR**

The Contractor shall do all the work and furnish all the labor, materials, tools, and appliances necessary and proper for performing the work required by the Contract, in the manner called for by the specifications and within the Contract time. It shall complete the entire work, together with such extra work as may be required, at the prices bid or fixed thereby to the satisfaction of the City, and in accordance with the specifications and drawings.

### **SC-04. PLANS AND SPECIFICATIONS SUPPLEMENTARY**

The specifications are intended to supplement and clarify the plans as sometimes work is called for in the specifications that is not shown on the plans and sometimes the plans indicate work that is not mentioned in the specifications. Compliance with both plans and specifications is required to fulfill the Contract requirements; any work called for by either is as binding as though it were called for by both. In case of conflict between drawings and specifications, or doubt as to the true meaning of the specifications, plans, and/or drawings, the decision of the City shall be final and conclusive.

## SC-05. CONSTRUCTION IN RIGHTS-OF-WAY AND CONSTRUCTION STRIPS

A. All permanent construction will be within public rights-of-way or other easements or rights-of-way through private property acquired by the City as shown on the drawings and the Contractor shall confine its operations strictly within the limits of the rights-of-way or other easements and construction strips as shown, unless it has the written permission of the City of the adjacent property to occupy additional ground. A copy of the written permission shall be placed on file with the City. Trees in the construction strips shall not be cut down, except with the written permission of the City or the owner of the property. Trees marked to be protected in rights-of-way or other easements or construction strips shall be barricaded by 2-inch by 4-inch boards in a box form 10-foot square. Trees permitted to be cut down shall be cut to cord length and stacked. Stumps, roots, branches, and other debris shall be removed from the site unless otherwise noted or directed.

B. All work through private property shall be done in such manner as to avoid all cutting of vegetation and other disturbances of the terrain not actually necessary in the installation of the pipes and appurtenances. Upon completion of the work, the Contractor shall clean up within the rights-of-way or other easements and construction strips and shall restore the surface, shrubbery, fences, and other valuable improvements to at least equal to original condition. The above work is to be included in the Contract price bid.

C. Any damage by the Contractor to property outside the limits of the rights-of-way or other easements or construction strips, as the case may be, shall be restored by the Contractor at its own expense.

## SC-06. PROTECTION OF PROPERTY AND STRUCTURES

The Contractor shall, at its own expense, sustain in their places and protect from direct or indirect injury all pipes, poles, tracks, walls, buildings, and other structures or property in the vicinity of its work whether above or below the ground or that may appear in the trench. It shall at all times have a sufficient quantity of timber and plank, chains, ropes, etc., on the ground and shall use them as necessary for sheeting its excavations and for sustaining or supporting any structures that are uncovered, undermined, endangered, threatened, or weakened. The Contractor shall take all risks attending the presence or proximity of pipes, poles, tracks, walls, buildings, and other structures and property, of every kind and description, in or over its trenches or in the vicinity of its work, whether above or below the surface of the ground and it shall be responsible for all damages and assume all expense for direct injury caused by its work, to any of them, or to any person or property by reason of injury to them, whether such structures are or are not shown on the drawings.

## SC-07. OBSTRUCTIONS SHOWN ON DRAWINGS

Certain information regarding the reputed presence, size, character, and location of existing underground structures has been shown on the Contract drawings. The City disclaims any certainty as to the accuracy of this information and it shall be considered by the Contractor in this light. The locations of underground structures shown may be inaccurate and obstructions other than those shown may be encountered. The City is not responsible for the correctness or sufficiency of the information given; the Contractor shall have no claim for delay or extra compensation on account

of incorrectness of information given, or on account of the insufficiency, or absence of information regarding obstructions, either revealed or not revealed by the drawings.

#### SC-08. REMOVAL OF OBSTRUCTIONS

A. Should the position of any pipe, conduit, pole or other structures, above or below the ground, be such as, in the opinion of the Director of Public Works, to require its removal, realignment or change, due to work to be done under the Contract, the work of removal, realignment or change will be done as extra work unless called for by the plans and specifications or will be done by the City, without cost to the Contractor. The Contractor shall uncover and support the structures, at its own expense, before such removal, and before and after such realignment or change, as constituting part of the Contract; and, the Contractor shall not be entitled to any claims for damage or extra compensation on account of the presence of said structure or on account of any delay in the removal or rearrangement of the same.

B. The Contractor shall, without extra compensation, break through and reconstruct, if necessary, the invert or arch of any sewer, culvert, or conduit that may be encountered, if said structure is in such position, in the judgment of the City, as not to require its removal, realignment, or complete reconstruction.

C. The Contractor shall not interfere with any persons, firms, or corporations, or with the City, in protecting, removing, changing, or replacing their pipes, conduits, poles, or other structures; but, it shall suffer said persons, firms, or corporations, or the City, to take all such measurements as they may deem necessary or advisable for the purpose aforesaid, and the Contractor shall thereby be in no way relieved of any of its responsibilities under the Contract.

#### SC-09. EXISTING PUBLIC UTILITY STRUCTURES

A. At least three days prior to starting work in the vicinity of gas mains, telephone and electric conduits, and other underground utility structures or their appurtenances, the Contractor shall notify the public utility having jurisdiction of its intention so that the utility may have representatives present. The Contractor shall support and protect the structures as these representatives shall require and shall take any other steps that may be necessary to protect the structures from disturbance or damage. Call "Miss Utility" at (800) 257-7777. Call the City of Westminster at 410-848-9565 for water main locations (48-hour notice). Call Baltimore Gas and Electric Company at 410-561-2584.

B. Any damage to these structures resulting from the Contractor's operations shall be at its responsibility and any expense to which the City may incur by reason of any such damage will be charged against the Contractor and deducted from any monies due or to become due it. All of the provisions contained in this section shall be strictly adhered to by the Contractor at no additional compensation over the price bid for the work.

#### SC-10. STORAGE OF MATERIALS

Materials shall be stored so as to ensure the preservation of their quality and fitness for the work. When considered necessary, they shall be placed on wooden platforms, or other hard, clean

surfaces and not on the ground, and shall be located so as to facilitate prompt inspection. Lawns, grass plots, or other private or public property shall not be used for storage purposes without written permission of the City or lessee of said property.

#### SC-11. STRUCTURES TO BE KEPT CLEAN

During the progress of the work, until the completion and final acceptance thereof, all structures, including pipelines and their appurtenances, shall be kept entirely clean throughout. Obstructions or deposits, at any time discovered, shall be removed at once by the Contractor without extra compensation. After completion of the work, the structures, pipelines, and their appurtenances shall be left clean and in good order.

#### SC-12. FINAL CLEAN UP

Within 10 days after the completion of the work and before final acceptance, the Contractor shall, without charge therefore, tear down and remove all temporary buildings and other structures built by it, shall remove all rubbish of all kinds from any ground which it has occupied, and shall leave the site of the work in a clean and neat condition.

#### SC-13. GUARANTEE

The Contractor hereby guarantees all of the work performed under this Contract for the period stated in the Scope of Work, as follows:

A. Against all faulty or imperfect materials and against all imperfect, careless, and/or unskilled workmanship.

B. That all pipelines and structures shall be watertight and that leakage will not exceed the limits set forth in the specifications.

C. The Contractor agrees to replace with proper workmanship and materials, and to re-execute, correct, or repair without cost to the City, any work which may be found to be improper or imperfect and to restore and maintain all roads, shoulders, ditches, and crossings to their original condition and in accordance with the terms of the appropriate agency permits.

D. No use or acceptance by the City of the work or any part thereof, nor any failure to use the same, nor any repairs, adjustments, replacements, or corrections made by the City due to the Contractor's failure to comply with any of its obligations under the Contract documents, shall impair in any way the guarantee obligations assumed by the Contractor under these documents.

#### SC-14. GUARANTEE BOND (MAINTENANCE BOND)

A. Before final payment is made by the City, the Contractor shall be required to furnish the City with a Guarantee Bond in the amount of ten percent (10%) of the Contract amount. The bond must be executed by a surety satisfactory to the City and shall be effective for the one-year



guarantee period.

B. It is understood and agreed that in the event the Contractor fails to re-execute, correct, or repair any work performed in the construction of the Contract which may be found to be improper or imperfect, or otherwise fails to fulfill the terms of the Guarantee, the City may purchase materials, tools, and equipment and employ labor, or let a Contract, as required to perform the necessary corrective work covered in the Guarantee. All costs and expenses incurred thereby by the City shall be charged against the Guarantee Bond.

#### SC-15. SUPERVISION AND DIRECTION OF WORK

The work shall be under the general supervision of the City. While it is intended that the Contractor shall be allowed to carry on the Contract in accordance with such general plan as may appear to it most desirable, the City, at its discretion, may from time to time direct the order in which and points at which, the work shall be prosecuted; and, shall exercise such general control over the conduct of the work, at any time or place, as shall be required, in its opinion to safeguard the interests of the City. The Contractor shall have no claim for damages or extra compensation on account of the fact that it shall have been necessary to carry on the work in different sequence from that which it may have contemplated. The Contractor shall immediately comply with any orders and instructions given by the City, but nothing herein contained shall be considered such an assumption of control over the work by the City as to relieve the Contractor of any of its obligations or liabilities under the Contract.

#### SC-16. DECISIONS AND EXPLANATIONS BY ENGINEER

A. The City shall make all necessary explanations as to the meaning and intent of the specifications and drawings and shall give all orders and directions, either contemplated therein or thereby, or in every case in which a difficult or unforeseen condition arises during the prosecution of the work. Should there be any discrepancies in or between, or should any misunderstanding arise as to the importance of anything contained in the drawings and specifications, the decision of the City shall be final and binding. Any errors or omissions on the drawings or in the specifications may be corrected by the Director of Public Works when such corrections are necessary for the proper fulfillment of their intent as construed by him.

B. The City shall in all cases determine the amount, quality, and acceptability of the work to be paid for under the Contract, and shall decide all questions in relation to said work. Its decision and estimate shall be final and conclusive, and in case any question shall arise between the parties regarding the Contract, such decision and estimate shall be a condition precedent to the right of the Contractor to receive payment under that part of the Contract which is in dispute.

C. Decisions and interpretations will be rendered by the City as promptly as possible, but should delay occur, for any reason, the Contractor shall have thereby no claim for damage or extra compensation.

#### SC-17. MATERIAL SAMPLES

A. Before any Contract is awarded, the Bidder shall be required to furnish a complete

statement of the origin, composition, and manufacturer of any or all materials to be used in the work, together with samples, which samples may be subjected to the tests provided for in these specifications to determine their qualities and fitness for the work.

B. The Contractor shall notify the City where and when it purchases materials for this Contract and such notice shall be given to the City in sufficient time to allow for inspection of such materials at the point of manufacture.

#### SC-18. CITY MAY INCREASE OR DECREASE QUANTITIES

A. The City reserves the right to increase or decrease the quantity of material to be furnished or work to be done under the Contract wherever it deems it advisable or necessary, and such increase or decrease shall in no way invalidate the terms or conditions the Contract.

B. The Contractor will be paid for the actual quantity of authorized work done or material furnished under each item of the proposal, at the unit price stipulated for such item. In case the quantity of any item is increased, the Contractor shall not be entitled to compensation over and above the unit price bid for such item; and, in case the quantity of any item is decreased, the Contractor shall have no claim for damages on account of loss of anticipated profits because of such decrease.

#### SC-19. INSPECTION

The City will appoint such person or persons as it may deem necessary to properly inspect the materials furnished and the work done under the Contract, and to see that the same strictly correspond with the drawings and specifications. Work and materials will be inspected promptly, but if, for any reason, delay should occur, the Contractor shall have thereby no claim for damages or extra compensation. Materials and workmanship shall be always subject to the approval of the City; but, no inspection, approval, or acceptance of any part of the work or of materials used therein, nor any payment on account thereof, shall prevent the rejection of said materials or work at any time thereafter during the existence of the Contract, should said work or materials be found to be defective or not in accordance with the requirements of the specifications and Contract. Contractor is responsible for contracting with a material testing company for the project.

#### SC-20. COOPERATION OF CONTRACTOR

A. The Contractor will be supplied with three (3) copies of the supplemental attachment and of the specifications. The Contractor shall have available at all times at least one copy of the attachment, and a complete book of the specifications; it shall give the work the constant attention necessary to facilitate the progress thereof, and shall cooperate in every way with the City.

B. The Contractor shall have at all times a competent superintendent or foreman capable of reading and thoroughly understanding the drawings and specifications onsite to direct the work and to receive instructions from the City. The superintendent or foreman shall have full authority to execute the order or directions of the City without delay and to promptly supply such materials, tools, plant equipment, and labor as may be required. Such superintendent or foreman shall be furnished irrespective of the amount of work. The giving of orders or directions in the manner aforesaid shall be equivalent to their receipt by the Contractor.

C. The Contractor shall furnish the City with every reasonable facility for ascertaining whether or not the work performed and materials used are in accordance with the requirements of the specifications and Contracts.

#### SC-21. SERVICE OF NOTICES TO CONTRACTOR

The mailing, in a United States post office box, of a written communication, notice, or order, addressed to the Contractor at the business address filed with the City or to its office at the site of the work shall be considered as sufficient service upon the Contractor of such communication, notice or order, and the date of service shall be the date of such mailing.

#### SC-22. LINES, GRADES, AND ELEVATIONS

A. The Contractor shall furnish the field stakeout of all necessary lines, grades, and elevations to complete the work as shown on the plans and specifications. Such stakeouts must be approved by the City, and corrected if and as necessary, before the Contractor proceeds with construction. The Contractor shall have no claims for damages or extra compensation due to delays originating from unapproved stakeouts and/or necessary corrections thereto.

B. The Contractor shall be required to prepare cut sheets on forms. These forms are to be submitted to the City two days prior to the excavation of any trench section. The Contractor shall be responsible for the accuracy of the finished work.

#### SC-23. WORKMANSHIP

All materials furnished and all work done shall be of the quality and character required by the drawings and specifications. Where no standard is specified for such work or materials, they shall be of a kind acceptable to the City.

#### SC-24. SKILLED LABOR ONLY SHALL BE USED

Competent labor only shall be used. Any employee of the Contractor who shall use profane or abusive language to the Inspector or other employees of the City, or is otherwise disorderly and interferes with him or her in the performance of its duties, or who shall disobey or evade its instructions, or who is careless and incompetent, shall be discharged on the request of the City and shall not again be employed except with the City's consent.

#### SC-25. ALTERATION OF PLANS AND CHARACTER OF WORK

A. The City reserves the right to make such alteration in the plans or in the character of the work as may be considered necessary or desirable from time to time to complete fully and perfectly the construction of the work, provided such alterations do not materially change the original plans and specifications, and such alterations shall not be considered as a waiver of any condition of the Contract, nor to invalidate any of the provisions thereof. Should such alterations in the plans or in the character of the work be productive of increased cost or result in decreased cost to the Contractor, a fair and equitable sum therefore, to be agreed upon in writing by the Contractor and the City before such work is begun, shall be added to or deducted from the Contract price, as the case may be.

B. No alterations in the plans or in the character of the work shall be made without the previous written approval of the City. Approved change orders are required for alterations or work character modifications costing in excess of \$100.00. This applies to Bid or contingent items and/or negotiated work that may not be covered herein.

#### SC-26. TESTS OF MATERIAL SAMPLES

All tests of materials shall be made in accordance with the official approved methods as described or designated at a laboratory or testing bureau approved by the City. The cost of testing samples of materials obtained at the job site shall be paid by the Contractor who shall cooperate and assist in making field tests and in obtaining samples.

#### SC-27. CARE AND PROTECTION OF WORK

From the commencement of the Contract until its completion, the Contractor shall be solely responsible for the care of the work; and, all injury or damage to the same from whatever cause shall be made good at its own expense before the final payment is made. It shall provide suitable means of protection for all materials intended to be used in the work in progress, as well as for complete work.

#### SC-28. DEFECTIVE WORK

Neither the inspection or the supervision of the work, nor the presence or absence of any employee or agent of the City during the execution of any part of the work, shall relieve the Contractor of any of its obligations under the Contract or of conforming its work to the lines, grades, and elevations which are required; and, defective work shall be made good and unsuitable material will be rejected, notwithstanding that such work and material may have been previously overlooked and accepted or estimated for payment. If the work or any part thereof shall be found defective within one year of final acceptance or to have been damaged, at any time before the final acceptance of the whole work, the Contractor shall forthwith make good such defect or injury, in a manner satisfactory to the City, without extra compensation therefore, even though said defect or injury may not have been due to any act, default or neglect on the Contractor's part; provided, however, that should such defective work result from inherent flaws in the materials (if any) furnished by the City, the materials to replace same will be furnished by the City, and the cost of removing and replacing said defect will be paid for as extra work. All materials shall be carefully examined by the Contractor for defects, just before placing, and any found defective shall be rejected.

#### SC-29. CLAIMS FOR DAMAGE

A. If the Contractor shall claim compensation for any damage sustained by reason of the acts of the City, or any official or agent thereof, it shall, within five (5) days after the sustaining of such damage, make a written statement to the City of the nature of the damage sustained, and shall on or before the fifth day of the month succeeding that in which it shall allege that such damage has been sustained, file with the Director of Public Works an itemized statement of the details and amount of such damage. Unless such statement shall be made as thus required, its claim for compensation shall be forfeited and invalidated, and it shall not be entitled to payment on account of any such damage.

B. Whenever it shall appear to the Contractor that due to the urgencies of the work, it is about to incur damage, owing to the neglect or refusal of the Director of Public Works to issue an extra order, or to any other cause whatever, it shall at once notify the City in writing of such fact and state the nature of its possible claim, in order that the Director of Public Works may obtain necessary and authentic information to guide future consideration and action on such claim; and, unless the Contractor shall comply with this requirement, its claim for damage shall be forfeited and invalidated. Such notification shall not take the place of, but shall be in addition to, the written statement hereinbefore required to be submitted within five (5) days after the occurrence of an alleged cause for damage.

C. In no case shall the City be held liable for claims of damage by or between the Director of Public Works and/or Contractor.

#### SC-30. UNAUTHORIZED WORK

Work done without lines and grades being given, work done beyond the lines and grades shown on the plans or as given, except as herein provided or any extra work done without written authority, will be considered as unauthorized and at the expense of the Contractor and will not be approved by the City or paid for by the City. Work so done may be ordered removed and replaced by the City at the Contractor's expense.

#### SC-31. LAWS AND REGULATIONS

In all operations connected with the work, the Contractor shall comply with all applicable federal, state, and local laws and regulations. The Contractor shall protect and indemnify the City and its officers and agents against any claim or liability arising from or based on the violation of any such law or regulation. The Contractor shall pay all taxes required by law.

#### SC-32. PERMITS, LICENSES, CHARGES, NOTICES

The Contractor shall procure and pay for all permits and licenses, pay all royalties, fees, and charges and give all notice necessary and incidental to the due and lawful prosecution of the work.

#### SC-33. PATENT RIGHTS

The Contractor shall be responsible for any claims made against the City, its agents and employees for any actual or alleged infringement of patents by the use of any such patented articles, appliances, etc., in the construction and completion of the work and shall save harmless and indemnify the City, its agents and employees from all costs, expenses, and damages, including solicitor's and attorney's fees, which the City may be obliged to pay by reason of any actual or alleged infringement of patents used in the construction and completion of the work herein specified.

#### SC-34. WATER SUPPLY

The Contractor shall provide at its own expense such quantities of clean water as may be required for any purpose under the Contract. It shall take particular care to furnish its employees with clean and safe drinking water. All sources of water supply to be used by the Contractor in connection

with the work shall be subject to the approval of the City, and shall be indicated to the City by the Contractor five (5) days before beginning work, so that examination of said supplies can be made.

#### SC-35. SANITARY ARRANGEMENTS

A. The Contractor shall provide and maintain approved sanitary facilities for the use of persons employed in connection with the work, properly secluded from public observation, in such manner and at such points as shall be directed by the Engineer, and their use shall be strictly enforced. The facilities shall be cleaned and disinfected daily to the satisfaction of the Engineer and/or removed when and as directed.

B. The Contractor shall provide and maintain in a neat and sanitary condition such accommodations for the use of its employees as may be necessary to comply with the requirements and regulations of the Department of Health or any governmental body having jurisdiction over such matters.

#### SC-36. ELECTRIC POWER

The cost of electric current used for the construction of this Contract, including that current furnished for the Contractor's Field Office, pumping of water, and other purposes shall be borne by the Contractor.

#### SC-37. LIGHTS, BARRICADES, AND SECURITY GUARDS

The Contractor shall place sufficient lights on or near the work and keep the area lit from sunset to sunrise. It shall erect suitable railings, fences, or other protection about open trenches, and provide all security guards on the work, by day or night that may be necessary for the public safety. It shall place proper guards and lights for the prevention of accidents during and after delivery of materials and supplies, and shall at all times take all necessary precautions to avoid accidents or injury to persons or property. The Contractor shall, upon notice from the Director of Public Works that it has not satisfactorily complied with the foregoing requirements, immediately take such measures and provide such means and labor to comply therewith as the Director of Public Works or City may direct, but the Contractor shall not be relieved of its obligations under the Contract by any such notice or directions given by the Director of Public Works or City, or by its neglect, failure, or refusal to give such notice or direction. In case the Contractor shall not comply with any other with respect to guarding its work, or in case of emergency, without notice to the Contractor, if the City deems it necessary, the City shall provide the required protection and the cost thereof will be deducted from any monies due or to become due the Contractor under the Contract. The Contractor shall not be relieved of its obligations under the Contract by any such action of the City.

#### SC-38. EXPLOSIVES

A. The Contractor shall be licensed in accordance with the law of the State of Maryland, and shall store all explosives and conduct all operations in regards to explosives in accordance with the aforementioned regulation.

B. The Director of Public Works shall be empowered to regulate the character and strength of explosives used. Blasts shall be properly and securely covered.

C. The Contractor shall be solely responsible for injury to persons or property that may result from its use of explosives, and the exercise of, or failure of exercise control on the part of the Director of Public Works, shall in no way relieve the Contractor's responsibility for injury or damage resulting from their use.

D. Under no circumstances shall blasting operations be performed without the use of blasting mats and earth cushion.

E. Adequate advance warning of blasting operations shall be given by the Contractor.

#### SC-39. INJURY TO PROPERTY

In case any direct or indirect damage is done to public or private property by or because of the work, or in consequence of any act or omission on the part of the Contractor, its employees or agents, the Contractor shall, at its own expense, restore such property to a condition similar or equal to that existing before such damage was done, by repairing, rebuilding, or otherwise shall make good such damage in a satisfactory manner; and, in case of failure on the part of the Contractor to promptly so restore such property, or make good such damage, the City shall, upon forty-eight (48) hours written notice, proceed to repair, rebuild, or otherwise restore such property as may be necessary and the cost thereof will be deducted from any monies due or to become due the Contractor under the Contract; or the City shall deduct from any monies due the Contractor a sum sufficient in the judgment of the City to reimburse the City of the property so damaged.

#### SC-40. CONTRACT TIME FOR COMPLETION

The Contractor shall schedule its work in such a manner so as to perform the work under this Contract within the number of calendar days stated in the Proposal.

#### SC-41. EXTENSION OF TIME

A. If the Contractor is delayed or obstructed in the prosecution of the work by any neglect, delay, or default attributable to the City, or by any damage that may happen to the work by fire, unavoidable accident, or any unusual action of the elements, it shall be entitled to such an extension of time for the completion of the work as the Director of Public Works shall certify to the City be just and reasonable; provided, however, that the Contractor shall make a claim in writing for such extension of time within ten (10) days after the date the alleged cause for such extension of time occurred.

B. A reasonable and proper extension of time for the completion of the work may also be allowed by the City because of extra work that may be ordered in accordance with the terms of the Contract.

C. If the satisfactory execution and completion of the Contract shall require work or material in greater amounts or quantities than those set forth in the Contract, then the Contract time shall be increased in the same proportion with no change to Contract terms.

#### SC-42. NORMAL WORK WEEK AND HOLIDAYS

A. The City observes the following holidays: New Year's Day, Presidents' Day, Martin Luther King Day, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and the Friday following Thanksgiving, Christmas Eve, and Christmas.

B. The normal work week shall be five (5) days and the Contractor will not be permitted to work on the holidays set forth in subsection A. above or on Saturdays or Sundays unless otherwise authorized by the City in writing.

C. The normal number of working hours per day will be limited to a maximum of eight (8), unless otherwise authorized by the City.

D. In case of an emergency, which may require that work be done on Saturdays, Sundays, holidays, or longer than eight (8) hours per day, the Contractor shall request permission of the City to do so. If in the opinion of the City the emergency is bona fide, it will grant permission to the Contractor to work such hours as may be necessary. Also, if in the opinion of the City, a bona fide emergency exists, it may direct the Contractor to work such hours as may be necessary whether the Contractor requests permission to do so or not. All costs related to overtime wages for inspectors shall be borne by the Contractor provided such overtime is for the convenience of the Contractor.

E. In the event working times exceed those times specified above, for reasons stated above or at the Contractor's request, and the services of inspection personnel are deemed necessary, as determined by the City, the Contractor shall bear the costs for overtime inspection. Such costs shall be deducted from monies due to the Contractor from time to time.

#### SC-43. RESPONSIBILITY OF THE CONTRACTOR

A. It is the responsibility of the Contractor to construct the work under this Contract so that it will be complete and finished in every detail. If mention has been omitted in the Contract documents of any items of work or materials which are necessary for the completion of, or proper functioning of, the construction, it shall be included without extra payment.

B. If damage is done to any existing work or work placed under this Contract, such as cutting masonry, concrete work, paving, damage to existing utilities, etc., such damage must be repaired and made good without extra payment to the full satisfaction and approval of the City and any agencies having jurisdiction whose work has been affected.

#### SC-44. SHOP DRAWINGS

A. The Contractor shall submit for the approval of the City, five (5) prints of certified working drawings for all fabricated or manufactured articles to be used in the work. No items requiring submission of detail drawings shall be manufactured prior to final approval of the drawings.

B. Two (2) prints of each drawing submitted will be returned approved if found correct, or else showing the changes required. Five (5) copies shall be re-submitted after corrections have been made until final approval is given by the City.



C. The approval of the drawings shall not relieve the Contractor from its responsibility to furnish all materials and perform all work as required by the Contract documents. The City will not be responsible for errors or omissions on drawings furnished by the Contractor, even though drawings furnished containing such errors or omissions are inadvertently approved.

#### SC-45. PAYMENT FOR MATERIAL NOT INCLUDED IN THE WORK

Payment for equipment and materials stored on the site of the work and not actually incorporated in the work will be made on the basis of amounts of paid bills submitted to the Director of Public Works along with the monthly estimate as described under "Current Estimates".

#### SC-46. USE OF A PORTION OF THE WORK

A. Whenever in the opinion of the City any portion of the work is completed or is in acceptable condition for use, it may be used for its intended purpose as may be directed; and, such use shall not be held to be in any way an acceptance of that portion of the work used or as a waiver of any of the provisions of these Contract documents.

B. Necessary repairs or renewals made in any section of the work under instructions from the City due to defective materials or work, natural causes, or ordinary wear and tear, or otherwise, pending final completion and acceptance of the entire work, shall be performed at the expense of the Contractor.

#### SC-47. LIENS

Neither the final payment nor any part of the retained percentage shall become due until the Contractor shall deliver to the City a complete release of all liens arising out of this Contract, or receipts in full in lieu thereof and, in either case, an affidavit that so far as it has knowledge or information, the releases and receipts include all the labor and material for which a lien could be filed, but the Contractor may if any subcontractor refuses to furnish a release or receipt in full, furnish a bond satisfactory to the City, to indemnify it against any lien. If any lien remains unsatisfied after all payments are made, the Contractor shall refund to the City all monies that the latter may be compelled to pay in discharging such a lien, including all costs and reasonable attorneys' fee.

#### SC-48. EXECUTION OF WORK

A. The Contractor shall begin work promptly upon issuance of the Notice to Proceed on the Contract and shall diligently execute the Work to completion within the specified number of working days or by the designated completion date. Unless work under the Contract is started within ten (10) days after the Notice to Proceed on the Contract, the City may terminate the Contract with no liability to the Contractor.

B. If at any time, progress in keeping with the intent of the Contract shall not have been made, the Contractor shall increase the force and supply additional equipment as may be necessary to complete the work at the time and in the manner specified in the Contract. Should the prosecution of the work be suspended by the Contractor, with the consent of the Director of Public Works, the Contractor shall notify the Director of Public Works in writing at least two business days before

resuming operations.

C. Notification must be given to the City two business days in advance of any beginning or cessation of work.

#### SC-49. CHARACTER OF WORKERS AND EQUIPMENT

A. The Contractor shall employ only competent, skillful people to do or supervise the work, and whenever the City shall, in writing, notify the Contractor that any person employed on the work is, in its opinion, incompetent, disobedient, unfaithful, disorderly, discourteous, or otherwise unsatisfactory, such person shall be removed and shall not again be employed on the work.

B. The character, condition, adaptability, and quantity of equipment used by the Contractor shall be such as will be necessary for the proper execution of the work within the specified working time. Power shovels, power cranes, compressors, tampers, power rollers, pavement breaking, material handling, and all other equipment used shall be maintained in good condition and shall be subject to approval of the City prior to and during its use in connection with the work to be performed under the Contract.

#### SC-50. STRIKES

The Contractor shall resolve all strikes or other labor troubles in a manner that permits timely completion of the Work, and no allowance will be made for delays due to labor disputes in the time limit provided for in the Contract.

#### SC-51. ABANDONMENT OR DELAY OF WORK

If the work under the Contract shall be abandoned by the Contractor, or if at any time the Director of Public Works shall be of the opinion, and shall so certify in writing to the City that the performance of the Contract is unnecessarily or unreasonably delayed, or that the Contractor is violating any of the provisions of the Contract or is executing the same in bad faith, or if the work is not fully completed within the time named for its completion, together with such extension of time as may have been granted, the City, by written notice, shall order the Contractor to discontinue all work thereunder, or any part thereof; and, thereupon, the Contractor shall discontinue the work, or such part thereof; and, the City shall have the power, by Contract, or otherwise, to complete said work and deduct the entire cost thereof from any monies due or to become due the Contractor under the Contract. For such completion of the work, the City may for itself or its Contractors, take possession of and use or cause to be used any or all materials, tools, machinery, and appliances found on the line of said work. When any part of the Contract is being carried on by the City, as herein provided, the Contractor shall continue the remainder of the work in conformity with the terms of the Contract, and in such manner as not to interfere with the workers employed by the City.

#### SC-52. SCOPE OF PAYMENT

The payment of any current, semi-final, or final estimate or the acceptance of any part of the work as provided in the specifications shall in no way or in no degree affect the obligation of the Contractor to repair, correct, renew, or replace, at its own cost and expense, defects, or imperfections in the construction of the work under the Contract, and this payment shall in no way

affect this responsibility for all damages due or attributable to such defects or imperfections which may be discovered before the final acceptance of the whole work, the City to be the judge of such defects or imperfections.

#### SC-53. EXTRA WORK

A. The Contractor shall perform extra work for which there is no provision included in the Contract, whenever, to complete fully the work as contemplated, it is deemed necessary or desirable, by written authority of the Director of Public Works, and such extra work shall be done in accordance with the specifications therefore, or in the best workmanlike manner as directed. This extra work will be paid for at a unit price or lump sum to be agreed upon previously in writing by the Contractor and the City, or where such a price or sum cannot be agreed upon by both parties, or where this method of payment is impracticable, the City shall order the Contractor to do such work on a "Force Account" basis, as hereinafter specified.

B. The City/Director of Public Works, before ordering any extra work done, from time to time shall determine (1) what extra time, if any, will be allowed for said extra work; or, (2) that the extra work is to be done concurrently with the work under the Contract and without allowance of any additional time.

C. Scope of extra work shall be subject to City's approval, and it shall be considered complete only upon City's acceptance.

#### SC-54. EXTRA WORK AS PART OF CONTRACT

No order for extra work, nor the doing of any extra work at any time or place shall in any manner relieve the Contractor or the Surety of its bond from any of their obligations under the Contract documents; all extra work orders being given and all extra work being done, under and in accordance with the Contract and to be considered a part of the same and subject to each of the terms and requirements of the Contract documents, and fully covered by the bond furnished by the Contractor.

#### SC-55. FORCE ACCOUNT WORK

A. All work done on a "Force Account" basis will be paid for in the following manner:

1. For all labor and foremen in direct charge of the specific operation, the Contractor shall receive the rates of wage applicable to this Contract, to be agreed upon in writing before starting such work, for each and every hour that said laborers and foremen are actually engaged in such work, to which shall be added an amount equal to fifteen percent (15%) of the sum.

2. For all materials used, the Contractor shall receive the actual cost of such materials, including freight charges, as shown by original receipted bills, to which sum shall be added an amount equal to ten percent (10%) of the sum thereof.

3. For any machine-power tools or equipment, and for any hauling equipment, including fuel and lubricants, which it may be deemed necessary or desirable to use, the Director of Public Works shall allow Contractor reasonable rental price, to be agreed upon in writing before such work is begun, for each and every hour that said tools or equipment are in use

on such work, and to which sum no percentage shall be added.

B. The compensation as herein provided shall be received by the Contractor as payment in full for work done on a "Force Account" basis, and shall include superintendence, use of tools and equipment for which no rental is allowed, and profit. The Contractor's representatives and the Director of Public Works shall compare records of work done on a "Force Account" basis at the end of each day. Copies of these records shall be made in duplicate, upon the Director of Public Works' "Force Account" forms provided for this purpose, by the Director of Public Works and signed by both the Director of Public Works and the Contractor's representatives, one copy being forwarded respectively to the Director of Public Works and the Contractor. All claims for work done on a "Force Account" basis shall be submitted to the Director of Public Works by the Contractor upon certified triplicate statements, which shall also include the value of all material used in such work; and, said statements shall be filed not later than the fifteenth (15<sup>th</sup>) day of the month following that in which the work was performed and shall include all labor charges, etc., and material charges insofar as they can be verified.

C. Should the Contractor refuse or fail to prosecute the work as directed or to submit its claim as required, then the City may withhold payment of all current estimates until the Contractor's refusal or failure is eliminated, or after giving the Contractor due notice, the City may make payment for said work on the basis of a reasonable estimate of the value of the work performed.

D. On work as defined in this Section, the Contractor will be reimbursed for its expenditures for Workers' Compensation Insurance, Public Liability Insurance, Social Security Taxes, and Unemployment Compensation, covering the persons actually engaged upon such work. No percentage will be added to such payments, but the Contractor shall be entitled to receive only the actual amount of money expended for such Workers' Compensation Insurance, Public Liability Insurance, Social Security Taxes, and Unemployment Compensation. Such payments shall be based upon the prevailing standard insurance rates supported by receipted vouchers from the insurance vendors and upon the actual amount of taxes paid for Social Security and Unemployment Compensation as evidenced by proper documents furnished by the Contractor.

#### SC-56. CURRENT ESTIMATES

A. The Director of Public Works will, except in the month following that during which the work under the Contract is completed, as soon as possible after the first (1<sup>st</sup>) day of the month, make in writing an estimate such as it shall believe to be just and fair, of the amount of work done under the Contract during the preceding calendar month. Such estimate shall not be required to be made by strict measurement, but may be approximate only and shall be subject to correction in later estimates. Current estimates shall not contain any allowance for materials delivered upon the site of the work, but not incorporated herein, and the Contractor shall not be entitled to receive any payment therefore.

B. Upon the City's approval of each current estimate, the City may pay to the Contractor ninety percent (90%) of the total amount of the estimate; provided, however, that the City may retain out of any such payment any or all sums which by the terms of the Contract, or of any law of the State of Maryland in force at the date of signing of the Contract, it is authorized to retain. Payments on current estimates may be at any time withheld if, in the judgment of the City, the Contractor is not complying with the terms of the Contract.

C. The City may release from the City's surety an amount commensurate with the approved payment to the Contractor, subject to retainage as determined by City.

#### SC-57. CONDITIONAL ACCEPTANCE AND SEMI-FINAL ESTIMATE

A. When the Director of Public Works shall deem that the Contractor shall have fully completed the work under the Contract, it shall make a written semi-final estimate of the whole amount of authorized work done by the Contractor and of the value thereof under the terms of the Contract, and shall certify to the City the completion of the work and the amount of the semi-final estimate. All current estimates are subject to correction in the semi-final estimate. The Director of Public Works' measurements upon which the semi-final estimate is based shall be deemed to be and shall be final and conclusive.

B. Upon approval of the semi-final estimate, the City will notify the Contractor, in writing, of the conditional acceptance of the work, and transmit to it a copy of the estimate. Out of the amount representing the total of the semi-final estimate, the City shall deduct five percent (5%) which shall be in addition to all other amounts which under the Contract it is entitled or required to retain, and shall hold said sum for a period of three (3) months from and after the date of payment of the semi-final estimate, as herein below stipulated. Such part as may be necessary, or all of said retained sum shall be applied to any expense to which the City may be subjected, during said period of three (3) months, in repairing any defects found in the work under the Contract which may be deemed to have been caused by failure of the Contractor to comply with the terms of the Contract, or to any breach of the Contract whatsoever on the part of the Contractor. The City shall be empowered to make any required repairs during said period, with such notice to the Contractor as the City may deem reasonable and feasible under the circumstances if the Contractor shall refuse or neglect to do said required work or make satisfactory progress thereon within such period as the Director of Public Works shall consider necessary or reasonable.

C. Within fifteen (15) days after the approval of the semi-final estimate, the City will pay to the Contractor the amount remaining after deducting from the total amount of the semi-final estimate all such sums as have therefore been paid to the Contractor under the provisions of the Contract and also such amounts as the City is authorized under the Contract to reserve or retain.

#### SC-58. FINAL INSPECTION, FINAL ESTIMATE, AND FINAL PAYMENT

Upon the expiration of the aforesaid period of three (3) months succeeding the payment of the semi-final estimate, paid as above stipulated, the City will make a final inspection of the work under the Contract. After the City is satisfied that all requirements of the Contract have been met, after all repairs have been made to any defective work which may have become evident during the abovementioned three (3) month period, and after the Guarantee or Maintenance Bond has been furnished, the City will pay (as the final payment) to the Contractor all sums reserved or retained, less such amounts as it is empowered under the provisions of the Contract permanently to retain.

#### SC-59. EVIDENCE OF PAYMENT

The Contractor shall furnish the City with satisfactory evidence, before or within ten (10) days after the final completion and acceptance of the whole work under the Contract, and the final payment has been made, that all persons, partnerships, and corporations who have done work or

furnished materials under the Contract, or in or about the work Contracted for, and who have given written notice to the City of claims against the Contractor on account thereof, have been fully paid or secured. In the event such evidence is not furnished by the Contractor, such amount deemed necessary by the City to pay such claims shall be retained by the City out of any money due the Contractor under the Contract until such claims shall have been fully discharged or such notice withdrawn. The City may also, with the written consent of the Contractor, use any money retained, due or to become due under the Contract, for the purpose of paying for both labor and material for the work, for which claims have not been filed with the City.

#### SC-60. TERMINATION OF CITY'S LIABILITY

The acceptance by the Contractor of the final payment made as aforesaid, shall operate as and be a release to the City and every officer and agent thereof, from all claims by the liabilities to the Contractor for anything done or furnished for or relating to or affecting the work under the Contract.

#### SC-61. TELEPHONE NUMBERS

The Contractor shall provide to the City the names, addresses, and telephone numbers of the responsible personnel who may be contacted at all times in the event the Contractor's services may be required for any eventuality or conditions affecting this work.

#### SC-62. EXISTING UTILITIES AND SERVICES

A. There are shown on the plans the approximate location of existing underground services and utilities. These have been placed on the plans from the best available information that could be obtained. However, no guarantee is given to the accuracy or completeness of the extent and location of these services and utilities. The Contractor shall exercise all possible caution in maintaining such services and utilities in a continuous operating condition.

B. If it becomes necessary to interrupt these services and/or utilities, the Contractor shall provide written notice to the individual properties and to the City at least forty-eight (48) hours in advance of actual interruption. In no case shall an individual service be interrupted for a period exceeding four (4) hours.

C. All costs related to repair or replacement of services and/or utilities shall be included in the respective unit prices bid for installation of services.

D. The Contractor is to be aware of the presence of water, sewer, gas mains, electrical wires and conduit, communication cables (both overhead and underground), poles, and house service connections in the street or highway in which the construction project is to be performed. The Contractor shall exercise special care and extreme caution in order to protect and avoid damage to utility company facilities as described in the proceeding sentence. The Contractor shall take into consideration the adjustments and installations by public utilities in areas within the limits of this Contract. Existing utilities have been generally located and shown on the plans as they are believed to exist; however, the City assumes no responsibility for the accuracy of said locations.

E. The Contractor shall be responsible for locating all existing utilities and for the safety of same and shall make good at its own expense any damage thereto due to its locations. Should any

existing utilities be damaged or destroyed due to the operations of the Contractor, the damaged or destroyed component shall be immediately replaced or repaired, as necessary, to restore the utility to a satisfactory operating condition. The cost of such repair to replacement shall be borne entirely by the Contractor.

F. No measurement of direct payment will be made to the Contractor for working around or protecting the utilities within the Contract limits. This will include the removal of temporary materials from the adjusted utilities prior to the placing of the proposed bituminous concrete. It is a requirement that the Contractor cooperate with the owners of the utilities and/or other Contractors. All cost incurred thereby shall be included and considered incidental to several pay items set up in the Bid Proposal.

G. The existing utilities, shall be relocated, or removed by the agency responsible for their maintenance or the owner of the utility unless otherwise indicated in the Contract Documents. The Contractor shall inform the respective utility companies at least five (5) days prior to working in any area. In addition, it will be necessary that the Contractor give sufficient notice to the specific utilities of its overall plan for construction, so that the utility companies may have an adequate establishment of lead time, as necessary to meet the applicable utility work schedule and coordination with the Contractor's work operations.

H. All existing utilities owned, operated and maintained by the State Highway Administration, such as wiring for signals, lighting, signing, etc., are to be considered, respected and protected as any public utility. The Contractor shall inform the District Utility Engineer or Office of Maintenance at least five (5) days prior to working in any area where State Highway facilities may be located. It will be the responsibility of the District Office of Maintenance to generally locate its facilities in the field at the request of the Contractor.

I. The cost of any repair or replacement to State owned utilities caused as a result of the Contractor not adhering to the responsibility outlined in this Special Provision shall be borne entirely by the Contractor.

J. The Contractor shall not begin or make any excavation or drive any guardrail posts without first notifying each and every public service company which may have underground facilities in the area of the proposed work at least forty-eight (48) hours prior to the commencement of said work. The Contractor must contact the Engineer to determine if any City of Westminster facilities are involved.

K. The Contractor must call Miss Utility at 1-800-257-777 at least 48 hours/2 full working days in advance of starting work to arrange for underground utility stake out.

### SC-63. STANDARD SPECIFICATIONS

Whenever standard specifications are referred to, they shall be the latest edition of that specification, and they shall be considered to be a part of these specifications insofar as they apply. Standard specifications referred to herein and the abbreviations by which they are referred to are as follows:

- AASHO – American Association of State Highway Officials
- ASTM – American Society for Testing and Materials

- AWWA – American Water Works Association
- MSHA – Maryland State Highway Administration
- ACI – American Concrete Institute
- AWA – American Welding Society SSPC – Steel Structures Painting Council
- ANSI – American National Standards Institute
- ASME – American Society of Mechanical Engineers
- FS – Federal Standard Stock Catalog
- CS – Commercial Standards, U.S. Department of Commerce, National Bureau of Standards
- MUTCD – Manual on Uniform Traffic Control Devices

#### SC-64. SAFETY

In order to protect the lives and health of its employees under the Contract, the Contractor shall comply with all occupational safety laws adopted by any governmental entity with jurisdiction and shall maintain an accurate record of all cases of death, occupational disease, and injury requiring medical attention or causing loss of time from work, arising out of, and in the course of, employment on work under the Contract. It will erect and maintain, as required by the conditions and progress of the work, all necessary safeguards, including the posting of danger signs and other warnings against hazards. All damage, injury, or loss referred to in the preceding paragraphs caused directly or indirectly, in whole or in part, by the Contractor, or any subcontractor or anyone employed by them will be remedied by the Contractor. The Contractor alone shall be responsible for the safety, efficiency, and adequacy of its plant, appliances, and methods, and for any damage which may result from their failure or their improper construction, maintenance, or operation.

#### SC-65. BID PROPOSAL – QUANTITIES, ETC.

All construction items and quantities are contingent and included in the Contract for use when and as directed by the Engineer. The quantities for these items are established for the purpose of obtaining a bid price. The quantities for these items may be increased or decreased without any adjustment to the Contract unit price or the item(s) may be deleted entirely from the Contract by the Engineer without negotiation. The Contractor will not be allowed to submit a claim against the City of Westminster should the item(s) be increased, decreased, or eliminated.

In the event of approved over/under run in quantities and/or conditions, the Contractor shall be paid/reimbursed in accordance with unit prices in Bid Proposal. Quantities and amounts are as accurate as can be determined from available data and information. Contractor shall expect reasonable deviations from proposed quantities, which may be more or less, and total cost of Contract shall be so determined.

#### SC-66. MAINTENANCE OF TRAFFIC

At all times, the Contractor shall use necessary staff and traffic control signs/devices required by the Specifications or the latest revision thereto, or as directed by the Engineer. Such manpower, devices, and facilities may include, but not be limited to, maintenance of temporary traffic signs, arrow panels, drums, traffic cones and related items. All costs for these items shall be considered incidental to the work covered under this Contract, except as otherwise provided. The Contractor shall not be entitled to any additional compensation for these items.



Traffic must be maintained on all streets during the construction period. The Contractor shall schedule its construction operations in such a manner as will cause the least inconvenience to the public. Costs incurred shall be at the Contractor's expense. Methods of traffic control used shall be in strict accord with the Traffic Control Plan and the MUTCD.

The Contractor shall be solely responsible for providing adequate advance warning to the traveling public for all equipment engaged in the operation(s), and no equipment will be permitted to interfere with the free flow of traffic during non-working hours.

When bituminous concrete surface is used for traffic control purposes, payment shall be at the unit price bid per ton, and shall include the subsequent removal and disposal of the material in advance of any proposed improvement or resurfacing as directed by the Engineer. This material will be used for repairing areas where milling has uncovered deteriorated pavement. This item also covers bituminous concrete necessary to ramp the drop-off of milled areas. This work shall be performed in accordance with all of the applicable sections of the Specifications, and used only when and where as directed by the Engineer, who shall determine the need and define the limits.

#### SC-67. CONSTRUCTION SEQUENCE

The Contractor's attention is directed to the fact that essential services and vehicular access must be maintained in the zone of construction. The sequence of construction shall be established prior to start of construction and presented by the Contractor in a proposed schedule. The schedule will be submitted to the City for approval. Once the Contractor's proposed construction sequence has been approved, no deviation from that sequence without the advance approval of the City will be permitted except in emergencies. All construction of main line sewers shall commence at the lowest point and proceed up slope to the highest point. Installation of manholes, manhole frames and covers, and laterals shall proceed concurrently with main line installations. Installation of laterals between any two (2) adjacent manholes shall commence within fifteen (15) calendar days following the installation of the main line sewer connecting those two (2) manholes and shall be completed as soon as practicable thereafter. For the purposes of this paragraph the term "lowest point" is defined as the point of connection to an existing sewer line or structure.

#### SC-68. EROSION AND SEDIMENT CONTROL

A. The Contractor's attention is directed to the provisions and requirements in the Environment Article of the Annotated Code of Maryland. Under these laws, it may be necessary for the Contractor to obtain permits and/or approvals from the appropriate Carroll County agency for off-site work that includes off-site borrow pits, waste areas, and the treatment of these during and after the completion of the grading. The County agency will refer the plan for such areas to the Soil Conservation District for review and approval of the erosion and sediment control provisions. A copy of the permits or approvals must be furnished to the Director of Public Works prior to starting any work covering the said permits or approvals. In the event of conflict between these Federal, State or Local agencies, the more restrictive laws, rules, or regulations will apply.

B. The erosion control features installed by the Contractor shall be acceptably maintained by the Contractor for the duration of the Contract. The Director of Public Works reserves the right to inspect erosion control measures in off-site borrow pits and waste areas and to report violations of permit requirements to the County agencies.

C. Any required erosion controls for the pipe work shall be complied with by the Contractor as shown on the drawings or on permits issued.

**BID FORM**  
**RFB #23-13**  
**WAKEFIELD VALLEY PARK EVENT PAVILLION AND COMMUNITY BUILDING**  
**DESIGN-BUILD**

The Bidder declares that it has carefully examined and understands the specifications and form of Contract; that it has made such careful examination as is necessary to become informed as to the character and extent of the work required; and that it agrees, if the proposal is accepted, to Contract with the City of Westminster, in the form of Contract hereto attached, to do the required work in the manner set forth in the specifications.

The undersigned acknowledges receipt of Addenda numbers \_\_\_\_ through \_\_\_\_\_, and this Bid reflects the modifications therein.

The Bidder proposes to furnish all materials and labor, requisite and proper, and to provide all necessary machinery, tools, apparatus, and means for performing the work, and the doing of all the above-mentioned work, in the manner set forth, described, and shown in the specifications and within the time shown on the proposal for the following lump sums and/or unit prices: See Attached Schedule of Values.

All work included in the specifications to make a complete and workable installation is to be paid for under the total prices Bid for the various items of work. The absence from the proposal form of specific bid items for any work included in the specifications means that the cost of any such work contemplated by the specifications must be included in the total price bid.

The Bidder must sign here, and the Bidder's address must be given. In the case of firms, the firm's name must be signed and subscribed to by at least one member. In the case of corporations, the corporate name must be signed by some authorized officer or agent thereof, who shall also subscribe its name and office. The seal of the corporation shall be affixed and duly attested by its secretary or other authorized officer.

\_\_\_\_\_  
Bidder, Firm, or Corporate Name

\_\_\_\_\_  
Address

By \_\_\_\_\_ (SEAL)  
Bidder, Firm Member

\_\_\_\_\_  
Signature

ATTEST:  
\_\_\_\_\_

Title \_\_\_\_\_

\_\_\_\_\_  
Date

**SCHEDULE OF VALUES**

<b>ITEM (SCOPE TASK INDICATED NUMERICALLY)</b>	<b>ESTIMATED QUANTITY</b>	<b>BID COST PER UNIT</b>	<b>AMOUNT</b>
<b>PLANNING AND DESIGN PHASE</b>			
1. Organize and attend project pre-construction meeting	Lump Sum		
2. Survey	Lump Sum		
3. Design according to the project Scope of Work and the City Standards (providing preliminary, 30%, 60%, 90% and 100% submission of the Project Specifications and Drawings)	Lump Sum		
4. Site controls (including development of sediment erosion control drawings)	Lump Sum		
5. Obtaining permits from City and County agencies	Lump Sum		
6. Engineering support during construction phase	Lump Sum		
7. As-Builts (see requirements in the link below)	Lump Sum		
<b>CONSTRUCTION PHASE</b>			
1. Mobilization and demobilization	Lump Sum		
2. Demolition of the portion of the Club House	Lump Sum		
3. Construction of the new Exterior Wall	Lump Sum		
4. Interior renovation of the remaining Club House	Lump Sum		
5. Exterior renovation of the remaining Club House			
6. Construction of the Event Pavilion	Lump Sum		
7. Stabilized construction entrances	EA/1		

TOTAL: \$ \_\_\_\_\_

- All quantities are for bid purposes only
- As-Build requirements are in the link :  
<https://www.westminstermd.gov/DocumentCenter/View/1313/Digital-Submission-Requirements?bidId=>

TOTAL PROJECT BID PRICE \$ \_\_\_\_\_  
Written in words

Bidder \_\_\_\_\_

Address \_\_\_\_\_

Phone \_\_\_\_\_

Fax \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

Printed Name \_\_\_\_\_

## **EXPERIENCE RECORD**

Complete the following Experience Record and attach the same to the Bid, covering work performed similar in size and scope to that which is the subject of the request for bids during the past five (5) years.

Name of Project	Date Started	Date Finished	Amount of Contract

(We are) (I am) presently working on the following projects:


EXPERIENCE RECORD (Cont.)

Have you ever defaulted on a construction project?      Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, give Name of Owner, Name of Bonding Company and circumstance:

---

---

---

---

---

---

---

---

---

---

\_\_\_\_\_  
Contractor

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

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## REFERENCES

The Firm shall furnish a representative list of three (3) references involving work as specified herein. Failure to submit the required information with the Proposal may be cause for rejection of the Proposal.

The City may make such investigation, as it deems necessary to determine the ability of the Firm to furnish the services, and the Firm shall furnish to the City all such information and data for this purpose as the City may request. The City reserves the right to reject any proposal if the evidence submitted by or investigation of such Firm fails to satisfy the City that such Firm is properly qualified to carry out the obligations of the contract and deliver the service herein.

Client Name: \_\_\_\_\_

Address: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Phone: \_\_\_\_\_

Email: \_\_\_\_\_ Contract Value: \_\_\_\_\_

Dates of Service: \_\_\_\_\_

---

Client Name: \_\_\_\_\_

Address: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Phone: \_\_\_\_\_

Email: \_\_\_\_\_ Contract Value: \_\_\_\_\_

Dates of Service: \_\_\_\_\_

---

Client Name: \_\_\_\_\_

Address: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Phone: \_\_\_\_\_

Email: \_\_\_\_\_ Contract Value: \_\_\_\_\_

Dates of Service: \_\_\_\_\_



CITY OF WESTMINSTER, MARYLAND

**VENDOR RESPONSIBILITY FORM**

1. Summarize briefly your experience in providing the commodities or service outlined in the attached specifications:

---

---

---

2. List the name and address of one bank or other institution that can provide the City with an adequate credit reference:

---

---

3. State of Maryland General Contractor License No.: \_\_\_\_\_

4. Have you ever refused to sign a contract at your original bid price? Yes \_\_\_\_\_ No \_\_\_\_\_

5. Have you ever defaulted on a contract? Yes \_\_\_\_\_ No \_\_\_\_\_

Federal I.D. #  
\_\_\_\_\_

Name of Bidder: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone #:  
\_\_\_\_\_

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

\_\_\_\_\_  
Typed Name and Title

**BIDDER:** \_\_\_\_\_

**CITY OF WESTMINSTER, MARYLAND**

**Equal Opportunity Employer**

**I HEREBY AFFIRM THAT THIS COMPANY DOES NOT DISCRIMINATE IN ANY MANNER AGAINST ANY EMPLOYEE OR APPLICANT FOR EMPLOYMENT BECAUSE OF AGE, RACE, NATIONAL ORIGIN OR ETHNICITY, SEX, PREGNANCY, GENDER IDENTITY, FAMILY STATUS, CREED OR RELIGION.**

Bidder: \_\_\_\_\_  
Type/Print Name of Firm

Address: \_\_\_\_\_

City/State: \_\_\_\_\_  
Zip Code

By: \_\_\_\_\_  
Signature of Person Authorized to Sign Bid

\_\_\_\_\_  
Type/Print Name and Title of Person  
Authorized to Sign Bid

CITY OF WESTMINSTER, MARYLAND  
AFFIDVAVIT OF NON-COLLUSION AND NON-CONVICTION

The bidder represents, and it is a condition of the acceptance of this bid, that the bidder has not been a party with other bidders to any agreement to bid a fixed or uniform price or to manipulate the outcome of the competitive bidding process in any way. The bidder also represents that none of its officers, directors, partners, or employees who are directly involved in obtaining or performing contracts with any public bodies has:

- (1) been convicted of bribery, attempted bribery, or conspiracy to bribe, under the laws of any state or of the federal government;
- (2) been convicted under a State or federal law or statute of any offense enumerated in Md. Code Ann., State Fin. and Proc. §16-203; or
- (3) been found civilly liable under a State or federal antitrust statute as provided in Md. Code Ann., State Fin. and Proc., §16-203.

The Contractor warrants that it has not been debarred or suspended under Md. Code Ann., State Fin., and Proc., Title 16 Subtitle 3 and that it shall not knowingly enter into a contract with a public body under which a person or business debarred or suspended under Md. Code Ann., State Fin., and Proc., Title 16, Subtitle 3 will provide, directly or indirectly, supplies, services, architectural services, construction related services, leases of real property, or construction.

The Bidder/Offeror and/or any person signing on its behalf acknowledges that all documents, information and data submitted in its Bid/Proposal shall be treated as public information unless otherwise indicated.

ATTEST/WITNESS

\_\_\_\_\_  
Name of Bidder-Type/Print

\_\_\_\_\_ By: \_\_\_\_\_  
Signature of Person Authorized to Sign

\_\_\_\_\_  
Name and Title of Signatory (Type or Print)

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_, TO WIT:

On this \_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_, before the undersigned officer, personally appeared \_\_\_\_\_, known to me or satisfactorily proven to be the person whose name is subscribed on the foregoing instrument for the purposes therein contained.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

BID BOND

BOND NO. \_\_\_\_\_

BID REQUEST NO. \_\_\_\_\_

KNOW ALL PERSONS BY THESE PRESENTS, That we, \_\_\_\_\_ hereinafter called the Principal, as Principal, and of \_\_\_\_\_ a Corporation duly organized and existing under the laws of the State of \_\_\_\_\_ and authorized to do business in the State of Maryland, hereinafter called the Surety, as Surety, are held and firmly bound unto, the Mayor and Common Council of Westminster, hereinafter called the Obligee, in the sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_ .00), good and lawful money of the United States of America, to be paid upon demand of the Obligee, for payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THE FOREGOING OBLIGATION IS SUCH THAT, Whereas, the Principal has submitted to the Obligee a Bid for furnishing all labor, materials, equipment and incidentals thereto necessary for work generally described as:

This Bid Bond shall be governed by and construed in accordance with the laws of the State of Maryland and any reference herein to Principal or Surety in the singular shall include all entities in the plural who or which are signatories under the Principal or Surety heading below.

NOW, THEREFORE, if the Obligee shall accept the Bid of the Principal and the Principal shall enter into a written agreement with the Obligee in accordance with the terms, conditions and price(s) set forth therein, and furnish such insurance and give such bond or bonds as may be specified in the Bidding or Contract Documents with good and sufficient surety for the faithful performance of such Agreement and for the prompt payment of labor and materials furnished in the prosecution thereof, then this obligation shall become null and void; otherwise, it shall remain in full force and effect; and the Surety shall, upon failure of the Principal to comply with any or all of the foregoing requirements immediately pay to the Obligee, upon demand, the amount hereof in good and lawful money of the United States of America, not as a penalty, but as liquidated damages.

Provided, however, that the Surety shall not be liable to the Obligee on this bond for any amount in excess of the principal amount hereof.

The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its Bond shall in no way be impaired or affected by any extension of the time within which the owner may accept such proposal, and said Surety hereby waives notice of any such extension.

IN TESTIMONY WHEREOF, the Principal and Surety have caused these presents to be duly signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

Principal

By \_\_\_\_\_ (Seal)

\_\_\_\_\_  
Official Title

\_\_\_\_\_  
Surety

By \_\_\_\_\_  
Attorney-in-Fact

By \_\_\_\_\_  
Maryland Agent

(Accompany this bond with Attorney-in-Fact's authority from Surety Company certified to include the date of the bond)

BOND NO: \_\_\_\_\_

PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS, that on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, we (“the Contractor”) \_\_\_\_\_ as Principal, and (Bonding Company) \_\_\_\_\_ as Surety, are held and firmly bound unto the Mayor and Common Council of Westminster (“the City”), in the penal sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) for payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents.

WHEREAS, the Principal entered into a Contract (“the Contract”) with the City dated \_\_\_\_\_ 20\_\_ concerning the \_\_\_\_\_ (the “Project”).

NOW, THEREFORE, the proceeds of this bond may be drawn upon by the City, in whole or in part, for the purpose of (1) performing, on its own or through a contractor, any work required by the Contract that has been left unperformed by the Principal more than thirty (30) days past the date on which the Principal is notified by the City of the failure or performing any of the other undertakings, covenants, terms, conditions and agreements imposed by the Contract terms that the Principal fails timely to perform or (2) holding the City harmless from any damages growing out of negligence of the Principal, or its agents, servants, or employees.

The condition of this obligation is such that if the Contractor shall in all respects well and truly perform and fulfill all the undertakings, covenants, terms, conditions and agreements of said Contract and the Project during the term of said Contract and any extension thereof granted by the City, and during the life of any guaranty required under the Contract, and shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions and agreements of all duly authorized modifications of said Contract that may hereafter be made and shall save harmless the City from any expense incurred through the failure of the Principal, its agents and servants, to complete the work as required by the Contract, or any authorized modifications thereof, or from any damages growing out of negligence of the Principal, or its agents, servants, or employees then this obligation shall be null and void and otherwise to be and shall remain in full force and effect until the requirements of the Contract and the Project have been fully completed and approved or accepted by the City.

Any modification made by agreement by and between Principal and City in terms of the Contract or the nature or scope of the work for the Project, or the giving to Principal or its officers, employees, agents, successors or assigns any extension of time on the part of Principal to be performed or any forbearance on the part of City to Principal, or its officers, employees, agents, successors or assigns, shall not in any way release Principal or Surety in this Bond. This Payment Bond will be held by the City until the expiration of three (3) years after the date of final acceptance of the work under the Contract, or earlier upon receipt of a release of liens in a form satisfactory to the City. There shall be no reduction or release of this Payment Bond until all claims by laborers and material suppliers have been paid and a release of claims has been provided to the City.

Notice to the Surety shall be sufficient if sent by certified mail to the individual named below at the following address:

\_\_\_\_\_  
Name and Title

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

IN TESTIMONY WHEREOF, Principal has caused these presents to be executed in its name and its corporate seal to be hereunto affixed by its duly authorized officers and Surety has caused these presents to be executed in its name and its corporate seal to be hereunto affixed by its Attorney-in-fact, duly authorized hereunto so to do, the day and year first above written.

_____	_____ Principal (Typed Name)
_____	_____ Principal (SEAL)
_____	_____ Principal
_____	_____ Corporate Surety (SEAL)
_____	_____ Corporate Surety
_____	_____
_____	_____

By: \_\_\_\_\_  
Attorney in Fact

Provide Name, Address, and telephone number of Branch Office or Resident agent to be contacted in the event action is required on the Bonds supplied, together with signature of Resident Agent.

Firm Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone w/Area Code \_\_\_\_\_

Signature/Resident Agent: \_\_\_\_\_

Date: \_\_\_\_\_ Registration No. \_\_\_\_\_

Note: A certified copy of Power of Attorney of the person signing for Surety Company must be filed with the bond. A corporate acknowledgement is required when a principal is a corporation.

BOND NO: \_\_\_\_\_

PAYMENT BOND

KNOW ALL PERSONS BY THESE PRESENTS, that on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, we \_\_\_\_\_ (Contractor) \_\_\_\_\_ as Principal, and \_\_\_\_\_ (Bonding Company) \_\_\_\_\_ as Surety, are held and firmly bound unto the Mayor and Common Council of Westminster (“the City”), in the penal sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents.

WHEREAS, the Principal entered into a Contract (“the Contract”) with the City dated \_\_\_\_\_ 20\_\_\_\_\_, concerning the \_\_\_\_\_ (the “Project”).

NOW, THEREFORE, the proceeds of this bond may be drawn upon by the City, in whole or in part, for the purpose of paying any contractors, subcontractors or material suppliers left unpaid by the Principal more than thirty (30) days past the date of the first invoice from the contractor, subcontractor or material supplier to the Principal, absent bona fide cause to contest the invoice.

If the Principal shall promptly make proper payment to all persons supplying labor, equipment and materials used in the prosecution of the work provided for in said Contract and the Project, and any duly authorized modifications of said Contract that may hereafter be made, notice of which modification to the Surety being hereby waived, then this obligation will be void; otherwise it will remain in full force and effect.

The condition of this obligation is such that if the Contractor shall in all respects well and truly perform and fulfill all the undertakings, covenants, terms, conditions and agreements of said Contract and the Project during the term of said Contract and any extension thereof granted by the City, and during the life of any guaranty required under the Contract, and shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions and agreements of any duly authorized modifications of said Contract that may hereafter be made and shall save harmless the City from any expense incurred through the failure of the Principal, its agents and servants, to complete the work as required by the Contract, or any authorized modifications thereof, or from any damages growing out of negligence of the Principal, or its agents, servants, or employees then this obligation shall be null and void and otherwise to be and shall remain in full force and effect until the requirements of the Contract and the Project have been fully completed and approved or accepted by the City.

Any modification made by agreement by and between Principal and City in terms of the Contract or the nature or scope of the Project, or the giving to the Principal or its officers, agents, employees, successors or assigns any extension of time on the part of Principal to be performed or any forbearance on the part of the City to Principal, its officers, employees, successors and assigns shall not in any way release Principal or Surety in this Bond.



Notice to the Surety shall be sufficient if sent by certified mail to the individual named below at the following address:

\_\_\_\_\_  
Name and Title

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

IN TESTIMONY WHEREOF, Principal has caused these presents to be executed in its name and its corporate seal to be hereunto affixed by its duly authorized officers and Surety has caused these presents to be executed in its name and its corporate seal to be hereunto affixed by its Attorney-in-fact, duly authorized hereunto so to do, the day and year first above written.

\_\_\_\_\_  
Principal (Typed Name)

\_\_\_\_\_  
Witness/Principal

\_\_\_\_\_  
Principal

(Seal)

\_\_\_\_\_  
Witness/Surety

\_\_\_\_\_  
Corporate Surety

(Seal)

By:

\_\_\_\_\_  
Attorney in Fact

Provide Name, Address and telephone number of Branch Office or Resident agent to be contacted in the event action is required on the Bonds supplied, together with signature of Resident Agent.

Firm Name \_\_\_\_\_

Address \_\_\_\_\_

Telephone w/Area Code \_\_\_\_\_

Signature/Resident Agent \_\_\_\_\_

Date: \_\_\_\_\_ Registration No. \_\_\_\_\_

Note: A certified copy of Power of Attorney of the person signing for Surety Company must be filed with the bond. A corporate acknowledgement is required when a principal is a corporation.

NOTICE OF AWARD

To: \_\_\_\_\_

Attn: \_\_\_\_\_

Project Description: Wakefield Valley Park Event Pavilion and Community Building (Design-Build)

You are hereby notified that your Bid for Wakefield Valley Park Event Pavilion and Community Building (Design-Build), as outlined in the Specifications and other Contract Documents, has been accepted in the amount of (\$\_\_\_\_\_). You are required to execute the Agreement and furnish certificates of insurance within ten (10) calendar days from the date of this Notice of Award provided to you.

If you fail to execute the Agreement and to furnish the same within ten (10) days from the date of this Notice of Award, the City will be entitled to consider all your rights arising out of the City's acceptance of your bid as abandonment and as a forfeiture of your bid bond. The City will be entitled to such other rights as may be granted by law.

You are required to return an acknowledged copy of this Notice of Award to the City.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
The Mayor and Common Council of Westminster  
Owner

By: \_\_\_\_\_  
John Dick, Deputy Director of Public Works

ACCEPTANCE OF NOTICE OF AWARD

Receipt of the above NOTICE OF AWARD is hereby acknowledged:

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

Title: \_\_\_\_\_

This \_\_\_\_\_ day of \_\_\_\_\_, 2023

NOTICE TO PROCEED

To: \_\_\_\_\_

Date: \_\_\_\_\_

Project: \_\_\_\_\_

Contract No. \_\_\_\_\_

---

You are hereby notified to commence WORK in accordance with the AGREEMENT dated on or before \_\_\_\_\_ and to complete the WORK within \_\_\_\_\_ calendar days.

\_\_\_\_\_  
The Mayor and Common Council of Westminster

Owner

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

John Dick, Deputy Director of Public Works

---

ACCEPTANCE OF NOTICE TO PROCEED

Receipt of the above NOTICE TO PROCEED is hereby acknowledged:

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

Title: \_\_\_\_\_

This \_\_\_\_\_ day of \_\_\_\_\_, 2023.

## EXHIBIT A

### AGREEMENT

THIS AGREEMENT is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by the Mayor and Common Council of Westminster (“the City”), a municipal corporation of the State of Maryland, and \_\_\_\_\_ (“the Contractor”) with its principal offices at \_\_\_\_\_.

In consideration of the mutual covenants and obligations contained herein, the sufficiency of which is hereby acknowledged, the City and the Contractor hereby agree as follows:

#### 1. Services Provided:

A. The Contractor shall provide the following services for the City: Wakefield Valley Park Event Pavilion and Community Building (Design-Build) (“the Services”). The Services shall be provided as detailed in the following enumerated documents which form the Contract, and they are incorporated herein as if attached thereto, except that the Contractor’s Proposal is incorporated only as to the scope of work, the pricing proposal, and any warranties or representations about the nature or quality of the services or equipment to be provided contained therein. The listed documents, together with this Agreement, constitute the entire understanding of the parties and supersede any prior proposals or agreements.

- 1) Request for Bids, dated December 14, 2022
- 2) Contractor’s Bid, dated \_\_\_\_\_
- 3) Instructions to Bidders
- 4) General Conditions
- 5) Supplemental Conditions
- 6) Reference List
- 7) Vendor Responsibility Form
- 8) Experience Record
- 9) Equal Opportunity Employer Form
- 10) Affidavit of Non-Collusion and Non-Conviction
- 11) Bid Bond
- 12) Performance Bond
- 13) Payment Bond
- 14) Notice of Award (when issued)
- 15) Insurance Certificate
- 16) Notice to Proceed (when issued)

B. The Contractor agrees to initiate work within ninety (90) days from date of the Notice to Proceed. The Contractor further acknowledges that the City retains the right to reduce the scope of the Services in order to accomplish the project within the City’s established budget and schedule. It is understood by the parties hereto that time is of the essence in the completion of this contract. All work must be completed within \_\_\_\_\_ days since the Notice to Proceed.

C. The Contractor will furnish all equipment needed to perform the Services (the “Contractor’s Equipment”).

**2. Fees:** The City hereby agrees to pay the Contractor as full consideration for the Contractor’s satisfactory performance of its obligations under this Agreement the sum of \_\_\_\_\_ Dollars (\$) payable monthly upon submission of invoices in accordance with the Supplemental Conditions.

**3. Binding Effect of Agreement:** This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns.

**4. Political Contributions:** If this contract involves cumulative consideration of at least \$200,000, the Contractor shall file with the State Board of Elections a statement under oath containing: (i) the name of each candidate, if any, to whom one or more applicable contributions in a cumulative amount of \$500 or more were made during the reporting period; (ii) the office sought by each candidate; (iii) the amount of aggregate contributions made to each candidate; (iv) the name of each unit of a governmental entity with which the person did public business during the reporting period; (v) the nature and amount of public business done with the City; and, (vi) if the contract or the contribution is attributed to another person who is filing the statement, the name of the contracting entity or the person who made the contribution, and the relationship of that person to the person filing the statement. The Contractor’s initial statement shall be filed at that time of the inception of the contract, and shall cover the preceding twenty-four (24) months, and the Contractor shall thereafter file a semi-annual statement, for the six (6) months ending on January 31 or July 31 of every year, for each reporting period during which performance remains uncompleted on the contract, and shall be filed within five (5) days after the end of the applicable reporting period.

**5. Notices:** All notices or other communications required or permitted hereunder shall be in writing and delivered either (a) by hand or (b) by fax and by mail, postage prepaid, certified or registered return receipt requested, addressed as follows:

To the City: Sara Imhulse, City Administrator  
45 W. Main Street  
Westminster, Maryland 21157  
Fax: (410) 857-7476  
simhulse@westminstermd.gov

With a copy to: Elissa D. Levan, Esquire  
City Attorney  
Levan Ruff, LLC  
2007 Tidewater Colony Drive

Annapolis, Maryland 21401  
elevan@levanruff.com

To: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

With a copy to: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**6. Other Payments, Taxes, Expenses:** Except as may be specifically agreed upon by the parties in writing, the Contractor shall be entitled to no fees, bonuses, contingent payments, or any other amount in connection with the services to be rendered or materials provided hereunder. The parties hereto further agree that the City shall have no obligation to reimburse, pay directly or otherwise satisfy any expenses of the Contractor in connection with the performance of its obligations under this Agreement, including, but not limited to, the cost of any insurance or license fees.

It is expressly understood and acknowledged by the parties hereto that the fees payable hereunder shall be paid in gross amount, without reduction for any Federal or State withholding or other payroll taxes, or any other governmental taxes or charges. The parties hereto further recognize that the Contractor is an independent contractor of the City and is therefore responsible for directly assuming and remitting any applicable Federal or State withholding taxes, estimated tax payments, or any other fees, taxes, or expenses whatsoever. In the event that the Contractor is deemed not to be an independent contractor by any local, state or federal government agency, the Contractor agrees to indemnify and hold harmless the City for any and all fees, costs, and expenses, including, but not limited to, attorneys' fees, incurred thereby.

**7. Insurance:** The Contractor agrees to maintain the insurance coverages set forth herein for the full term of the Contract and, in the case of construction contracts, for a period of one year after the completion of the Services. The Contractor further agrees to provide Certificates of Insurance upon signing this Agreement and such Certificates shall be on an occurrences basis and shall either (a) 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 the coverage, or (b) provide that the City shall be given such notice of the cancellation of, intention not to renew, or material change in the coverage as is required by the terms of the Contractor's policy or policies of insurance. In the case of construction contracts, insurance shall include completed operations and contractual

liability coverage. All Certificates must name the City as an additional insured.

Provision of any insurance required herein does not relieve the Contractor of any of the responsibilities or obligations assumed by the Contractor in the contract awarded, or for which the Contractor may be liable by law or otherwise.

A. **Workers' Compensation Insurance:** The Contractor shall comply with the requirements and benefits established by the State of Maryland for the provision of Workers' Compensation Insurance and must submit an insurance certificate as proof of coverage prior to contract approval. If the Contractor is a corporation or a limited liability corporation or other entity eligible to elect an exemption for officers under Md. Code Ann., Lab. & Emp. Art., §9-206, the Contractor shall provide the City with a copy of the election form filed with the Maryland Workers' Compensation Commission together with proof of filing. If the Contractor has no covered employees, the Contractor shall submit a statement attesting to that fact under the penalties of perjury.

B. **Comprehensive General Liability Insurance:** The Contractor shall provide general liability insurance, including X, C, and U, in the following amounts and shall submit an insurance certificate as proof of coverage prior to contract approval:

1. Personal injury liability insurance with a limit of \$1,000,000.00 for each occurrence and \$ 2,000,000.00 aggregate, where insurance aggregates apply;
2. Property damage liability insurance with limits of \$250,000.00 for each occurrence and \$500,000.00 aggregate, where aggregates apply.

C. **Automobile Liability Insurance:** Motor vehicle insurance meeting the requirements of Maryland law and covering every vehicle and driver involved in providing the services, in the following amounts:

1. Bodily injury liability with limits of \$500,000.00 each person and \$1,000,000.00 each accident;
2. Property damage liability with a limit of \$100,000 each accident.

**8. Doing Business in Maryland:** The Contractor warrants and represents that it has paid all taxes, fees, and charges owed by it to any governmental entity. In addition, it warrants and represents that any parent or subsidiary or other business entity with which it is affiliated or has been affiliated has paid all taxes, fees, and charges owed by it to any governmental agency accrued during any period during which the Contractor was affiliated with the entity. The Contractor warrants and represents that it (1) is either (a) incorporated in Maryland, or (b) registered or qualified by the Maryland State Department of Assessments and Taxation (SDAT) as required by the Maryland Annotated Code, Corps. & Assocs. Article, to do business in Maryland, and (2) is in good standing

with SDAT.

**9. Performance and Payment Bonds:** Performance bond in the amount of 100% of contract amount and payment bond in the amount of 100 % of contract amount are required.

**10. Maintenance Bond:** The Contractor will be required to issue a Maintenance Bond in the amount of 10% of the Contract amount for a period of one year from the date of substantial completion. Such bond will designate the City as the Obligee and the Contractor as the Principal. The Bond shall be executed by the Contractor and a corporate bonding company licensed to transact such business in the State of Maryland. The expense of this Bond shall be borne by the Contractor. If at any time a Surety on any such Bond is declared bankrupt or loses its right to do business in the State of Maryland, the Contractor shall, within ten (10) days after notice from the Surety Company, substitute an acceptable Bond in such form and sum and signed by such other surety or sureties as may be satisfactory to the City. The premiums on such Bond shall be paid by the Contractor. No further payments shall be deemed due or shall be made until the new surety or sureties shall have furnished an acceptable Bond to the City. Should the Contract price be increased by 25% or more before Final Acceptance, the amount of the Maintenance Bond shall be increased accordingly.

**11. Compliance with Laws:** The Contractor shall, without any additional expense to the City, be responsible for complying with any and all applicable laws, codes, and regulations in connection with the services provided by the Contractor, including, but not limited to, obtaining any licenses required by the Contractor to perform the Services.

**12. Indemnification:** The Contractor shall be responsible for and indemnify, defend, and hold the City harmless from and against any and all claims for loss, personal injury, and/or other forms of damage that may be suffered as a result of the Contractor's negligence or willful misconduct in the Contractor's performance of the Services, or that of its officers, employees, agents, subcontractors, and invitees, or for any failure of the materials supplied under this contract or for any failure by the Contractor to perform the obligations of this Agreement, including, but not limited to, attorneys' fees, and any other cost incurred by the City in defending any such claim. The Contractor shall be responsible for and shall indemnify and hold the City harmless against any claim for loss, howsoever arising or incurred, for damage that may occur to the Contractor's property or property of third parties that is being stored at the construction site and/or maintained/used by the Contractor in delivery of the Services.

**13. Not Assignable:** The Contractor shall not assign, transfer, or subcontract any interest, obligation, or claim under this Agreement except as may be agreed upon and authorized in writing



by the City and no contract shall be made by the Contractor with any other party for furnishing any of the Services without the prior approval of the City.

**14. Relief:** In the event of a breach or a threatened breach by the Contractor of any provision of the Agreement, the Contractor recognizes the substantial and immediate harm that a breach or threatened breach will impose upon the City, and further recognizes that in such event monetary damages will be inadequate to fully protect the City. Accordingly, in the event of a breach or threatened breach of this Agreement, the Contractor consents to the City's entitlement to such ex parte, preliminary, interlocutory, temporary, or permanent injunctive, or any other equitable relief, protecting and fully enforcing the City's rights hereunder and preventing the Contractor from further breaching any of its obligations set forth herein. The Contractor expressly waives any requirement based on any statute, rule of procedure, or other source, that the City post a bond as a condition of obtaining any of the above-described remedies. Nothing herein shall be construed as prohibiting the City from pursuing any other remedies available to the City by law or in equity for such breach or threatened breach, including the recovery of damages from the Contractor.

**15. City's Right to Terminate:** The Services may be terminated immediately by the City upon written notice in whole or in part, when the City, in its sole and absolute discretion, determines such action to be in its best interests and shall be terminated whenever adequate funds have not been appropriated by the City Council in the annual budget for the purpose set forth herein. The Contractor is advised that the City does not guarantee the appropriation of funds for any subsequent fiscal year (beginning July 1). The Contractor shall not perform services in any fiscal year following the current fiscal year without verification from the Director of Public Works that adequate funds have been appropriated for that purpose in the budget for the relevant fiscal year. Upon termination, the City shall be liable to the Contractor only for payment for services actually provided prior to the effective date of the termination.

**16. Entire Understanding:** This Agreement contains the entire understanding between the parties, and any additions or modifications hereto may only be made in writing, executed by both parties.

**17. Liquidated Damages:** It is acknowledged that the Contractor's failure to complete the Services within the time provided for in the Contract Documents will cause the City to incur economic and non-economic damages and losses of types and in amounts that are impossible to compute and ascertain with certainty and accuracy so as to be a basis for recovery by the City of actual damages, and that the liquidated damages set forth herein represent a fair, reasonable, and appropriate estimate thereof. Accordingly, in lieu of actual damages for such delay, the Contractor

agrees that liquidated damages may be assessed and recovered by the City against the Contractor and its Surety, in the event of delayed completion and without the City being required to present any evidence of the amount or character of actual damages sustained by reason of the delay. The Contractor shall be liable to the City for payment of liquidated damages in the amount of \$100.00 per day for each day that the Services are delayed beyond the time for performance set forth in the Contract Documents. Such liquidated damages are intended to represent estimated actual damages and are not intended as a penalty and the Contractor shall pay them to the City without limiting the City's right to terminate the Agreement for default as provided elsewhere herein.

**18. Applicable Law:** This Agreement shall be interpreted in accordance with the laws of the State of Maryland. Any suit to enforce the terms hereof or for damages or other remedy for breach or anticipated breach hereof shall be brought exclusively in the courts of the State of Maryland for Carroll County, and the parties expressly acknowledge that venue is proper therein and consent to the jurisdiction thereof and waive any right that they may otherwise have to bring such action in or transfer or remove such suit in or to the courts of any other jurisdiction.

**19. Conflict of Interest:** The person executing this Agreement on behalf of the Contractor certifies that he or she understands the provisions of the City Charter and Code dealing with conflicts of interest and the prohibition of the solicitation or acceptance of gifts.

**20. 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 the Services.

**21. Severability:** 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.

**22. Record Retention, Audits, and Inspections:** The Contractor shall:

A. Retain all financial and programmatic records for a period of three (3) years from the date of issuance of final payment hereunder.

B. Permit the City to have access to any and all records, including all subcontracts covered by this Agreement, for the purpose of making audits, examinations, reproductions, excerpts, and transcripts. Access shall be available at any time during normal business hours and as often as deemed necessary by the City.

**IN WITNESS WHEREOF**, on the date hereinabove set forth, the parties hereto have executed this Agreement in two duplicate originals, any one of these shall be adequate proof of this Agreement without locating or accounting for the other.

WITNESS:

[CONTRACTOR]

\_\_\_\_\_ By: \_\_\_\_\_  
[Insert name and title of signatory]

WITNESS:

MAYOR AND COMMON COUNCIL OF  
WESTMINSTER

\_\_\_\_\_ By: \_\_\_\_\_  
Douglass Barber, City Clerk Dr. Mona Becker, Mayor

Approved for form and legal sufficiency  
this \_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Elissa D. Levan, City Attorney