

## REQUEST FOR PROPOSALS

**No. 2015-022**

### Review and Comprehensive Update to Personnel Rules and Regulations Manual

**Solicitation Issued:** June 03, 2015

**Proposal Submissions Due:** July 15, 2015      Time: 2:00 PM

**Submissions Received By:** Wes Rhodes, Procurement Manager  
City of Gaithersburg  
Division of Procurement  
31 South Summit Avenue  
Gaithersburg, Maryland 20877

**TABLE OF CONTENTS**

**SECTION 1: Definitions ..... 1**

**SECTION 2: Introduction and Notices to Offerors ..... 2**

    2.1. Introduction ..... 2

    2.2. City’s Liability ..... 2

    2.3. Authority to Distribute Solicitation Documents..... 2

    2.4. Acceptance ..... 2

    2.5. Restricted Discussions ..... 2

    2.6. State of Maryland Bid and Contract Requirements ..... 2

    2.7. ADA Requirements ..... 3

**SECTION 3: Solicitation Schedule and Questions ..... 4**

    3.1. Solicitation Schedule..... 4

    3.2. Submission of Offeror Questions..... 4

    3.3. City’s Answers to Offeror Questions ..... 4

**SECTION 4: Proposal Format, Content, Preparation and Submission ..... 5**

    4.1. Proposal Format and Content..... 5

        A. Part A: Technical Proposal ..... 5

        B. Part B: Price Proposal..... 6

    4.2. Proposal Preparation and Submission..... 6

**SECTION 5: Evaluation Criteria and Selection Process ..... 8**

    5.1. Award..... 8

    5.2. Selection Committee ..... 8

    5.3. Evaluation Criteria..... 8

    5.4. Selection Process..... 8

        I. Review for Responsiveness ..... 8

        II. Evaluation and Scoring..... 8

        III. Interviews ..... 9

**SECTION 6: General Terms and Conditions..... 10**

    6.1. Headings ..... 10

    6.2. Acceptance and Rejection of Proposals ..... 10

    6.3. Accurate Information ..... 10

    6.4. Addenda and Amendments..... 10

    6.5. Alternate Proposals..... 10

    6.6. Binding Proposal..... 10

    6.7. Confidentiality ..... 11

    6.8. Contract Award..... 11

    6.9. Errors in Proposals..... 11

    6.10. Interest in More than One Proposal and Collusion ..... 11

    6.11. Late Proposals ..... 11

    6.12. Modifications to Proposals..... 12

    6.13. Optional Goods and/or Services ..... 12

    6.14. Solicitation Documents..... 12

    6.15. Solicitation Protest..... 12

6.16. Use of Broker .....	13
6.17. Accounting System and Audit .....	13
6.18. Assignment of the Contract.....	13
6.19. Changes in Goods and/or Services .....	13
6.20. Contract Disputes.....	14
6.21. Dissemination of Data .....	14
6.22. Employment as Independent Contractor.....	14
6.23. Ethics Laws and Requirements.....	14
6.24. Force Majeure.....	15
6.25. Governing Law .....	15
6.26. Immigration Reform and Control Act.....	15
6.27. Inconsistent Provisions .....	15
6.28. Indemnification.....	15
6.29. Laws and Regulations .....	16
6.30. No Liens .....	16
6.31. No Waiver.....	16
6.32. Non-Discrimination Requirements .....	16
6.33. Nonexclusive.....	17
6.34. Ownership of Materials .....	17
6.35. Patents.....	17
6.36. Payment Terms, Taxes and Invoices.....	17
A. Payment .....	17
B. Taxes.....	18
C. Invoices .....	18
6.37. Records.....	18
6.38. Subcontractors .....	18
6.39. Survival .....	18
6.40. Termination.....	19
A. Termination for Cause .....	19
B. Termination for Convenience .....	19
C. Termination for Non-Appropriation of Funds.....	19
<b>SECTION 7: Special Terms and Conditions .....</b>	<b>20</b>
7.1. Insurance.....	20
7.2. Payments .....	20
7.3. Contractor Personnel .....	20
7.4. Offeror Qualifications .....	20
<b>SECTION 8: Project Information, Background and Scope of Services.....</b>	<b>21</b>
8.1. Objectives.....	21
8.2. Related Documents .....	21
8.3. About the City.....	21
8.4. Personnel Rules and Regulations Manual Background.....	22
8.5. Scope of Work.....	22
8.6. Deliverables.....	23
<b>SECTION 9: Attachments .....</b>	<b>24</b>
9.1. Attachments .....	24
9.2. Exhibit A.....	24

## SECTION 1: Definitions

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**City Manager:** “City Manager” means the City Manager of the City or his or her designee.

**City:** “City” means the City of Gaithersburg, Maryland, a municipal corporation of the State of Maryland.

**Contract:** “Contract” means the binding agreement awarded pursuant to this Solicitation, if any.

**Contractor:** “Contractor” means the Offeror awarded the Contract.

**Offeror:** “Offeror” means any Person submitting a Proposal in response to this Solicitation.

**Person:** “Person” means any individual, or association or entity recognized by law.

**Price Analysis:** “Price Analysis” means the examination of the Proposal Price to ensure it is fair and reasonable.

**Procurement Webpage:** “Procurement Webpage” means the webpage on the City’s website dedicated to procurement: <http://www.gaithersburgmd.gov/government/procurement/current-bids>.

**Proposal:** “Proposal” means the technical proposal, price proposal and any and all documents submitted to the City by an Offeror in response to this Solicitation.

**Solicitation Documents:** “Solicitation Documents” mean this Solicitation and any and all documents issued and/or used by the City to solicit Proposals, including but not limited to: addendums, amendments, forms and specifications.

**Solicitation Schedule:** “Solicitation Schedule” refers to the events and dates and times thereof specified in Section 3.1 of this Solicitation.

**Solicitation:** “Solicitation” means this Request for Proposals.

**Submission Deadline:** “Submission Deadline” means the date and time, specified in Section 3.1 of this Solicitation, in which all Proposals shall be submitted to and received by the City.

~ END OF SECTION 1 ~

## **SECTION 2: Introduction and Notices to Offerors**

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### **2.1. INTRODUCTION**

The City requests proposals from interested and highly qualified Human Resources consulting firms with experience in reviewing personnel policies and regulations for organizations and governments to conduct a full review of the City's existing Personnel Rules and Regulations Manual and all personnel forms referenced therein (hereinafter referred to as "Services").

The current Personnel Rules and Regulations Manual was originally prepared by the City Manager and adopted by the Mayor and City Council effective FY 2010 (July 1, 2009); and amended periodically thereafter. Over the last several years, the City has undergone reorganization of some departments and significant changes in operations and staffing. An official review of the Personnel Rules and Regulations Manual by an outside agency has never been completed; and as a result, the City is desirous of a thorough study of the Manual to ensure compliance with all local, state, and federal laws as well as consistency and clarity in the personnel rules, regulations, policies, procedures, and practices that uniformly regulate and govern employment with the City.

### **2.2. CITY'S LIABILITY**

This is a Solicitation only, it is not a contract. The City shall assume no obligation to pay or reimburse any Person for any costs, fees, or expenses incurred in preparation of a response to this Solicitation, or for any meetings or travel costs related to such response. The City reserves the right to reject any or all Proposals in full or in part and/or to waive any technicalities or informalities as best may serve the interests of the City. The City is under no obligation to any Offeror until a contract is executed for the Services described herein.

### **2.3. AUTHORITY TO DISTRIBUTE SOLICITATION DOCUMENTS**

The City is the sole entity with the authority to issue and/or distribute any Solicitation Documents. Any and all Solicitation Documents obtained from any source other than the City may be incomplete or incorrect. The City assumes no responsibility for any error, omission or misinterpretation resulting from the reliance or use of any Solicitation Documents not both issued and distributed by the City. Any and all Solicitation Documents shall be posted on the Procurement Webpage.

### **2.4. ACCEPTANCE**

The submission of a Proposal shall constitute acknowledgement and acceptance by the Offeror of the requirements, specifications and terms and conditions specified herein.

### **2.5. RESTRICTED DISCUSSIONS**

Offerors are prohibited from discussing this Solicitation or any part thereof with any employee, agent, or representative of the City except as expressly authorized herein. The City may, in its sole discretion, reject the Proposal submitted by any Offeror who is in violation of this provision.

### **2.6. STATE OF MARYLAND BID AND CONTRACT REQUIREMENTS**

- A. Offerors must be qualified to bid in the State of Maryland in accordance with §16-202 and §16-203 of the State Finance and Procurement Article of the Annotated Code of Maryland.

- B. To enter into any contract with the City, Offerors must be in compliance with the State of Maryland Code of Regulations Title 21, State Procurement Regulations.

**2.7. ADA REQUIREMENTS**

Individuals with a disability, who would like to receive the information in this Solicitation in another form, may contact the City's Procurement Manager by phone at 301-258-6320 or by email at wrhodes@gaitthersburgmd.gov.

**~ END OF SECTION 2 ~**

## **SECTION 3: Solicitation Schedule and Questions**

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### **3.1. SOLICITATION SCHEDULE**

Below is the schedule of events for this Solicitation. The City reserves the right to modify the Solicitation Schedule at any time as best may serve the interests of the City; any and all modifications shall be made by addendum or amendment and posted on the City's Procurement Webpage.

<b>EVENT</b>	<b>DATE</b>	<b>TIME</b>
<b>A. Solicitation Issued:</b>	<b>June 3, 2015</b>	<b>N/A</b>
<b>B. Offeror Questions Due in Writing:</b> <i>See Subsection 3.3 for additional information</i>	<b>June 17, 2015</b>	<b>2:00 PM</b>
<b>C. City's Answers to Questions Issued:</b> <i>See Subsection 3.4 for additional information</i>	<b>July 1, 2015</b>	<b>N/A</b>
<b>D. Submission Deadline:</b> <i>See Subsection 4.2 for additional information</i>	<b>July 15, 2015</b>	<b>2:00 PM</b>

### **3.2. SUBMISSION OF OFFEROR QUESTIONS**

All questions regarding this Solicitation: (i) shall be submitted by email to Kim Yocklin, Director of Human Resources, at [kyocklin@gaitthersburgmd.gov](mailto:kyocklin@gaitthersburgmd.gov); and (ii) shall be received by the date and time specified in the Solicitation Schedule. Any and all questions received not in compliance with this paragraph will not be answered unless the City, at its sole discretion, deems that a response to a question is necessary to clarify anything in the Solicitation Documents.

### **3.3. CITY'S ANSWERS TO OFFEROR QUESTIONS**

The City's answers to questions submitted by Offerors will be posted by addendum on the City's Procurement Webpage on the date specified in the Solicitation Schedule.

~ END OF SECTION 3 ~

## **SECTION 4: Proposal Format, Content, Preparation and Submission**

### **4.1. PROPOSAL FORMAT AND CONTENT**

In order to provide each Offeror with an equal opportunity for consideration, adherence to a standardized proposal format is required; any Proposal submitted outside of the required format shall be cause for the Proposal to be rejected as non-responsive. All Proposals shall contain a separate technical proposal (hereinafter referred to as “Technical Proposal”) and separate price proposal (hereinafter referred to as “Price Proposal”) as follows:

#### **A. Part A: Technical Proposal**

The Technical Proposal shall be submitted separate from the Price Proposal and shall include the following material organized into sections as follows:

##### **I. Section 1: Cover Letter**

Include a cover letter prepared on the Offeror’s business stationery and which is signed by an individual authorized to bind the Offeror to its Proposal. In addition, the cover letter shall include, at a minimum, the Offeror’s name and the name, business title, address, email address and telephone number of the individual authorized to represent the Offeror and to whom the City should direct correspondence.

##### **II. Section 2: Statement of Understanding, Methods and Procedures**

Provide a statement describing the Scope of Work as you understand it, and describe the approach, means, methods, and procedures to be employed to gather the data, analyze findings, and develop recommendations as requested.

##### **III. Section 3: Structure and Content of Work Product**

Describe the way in which the work product will be structured and presented upon completion.

##### **IV. Section 4: Work Plan and Timeline**

Provide a timeline indicating tasks required and the start and completion dates for each task. Indicate which tasks the project manager will perform and which may be performed by other consultant staff. Explain in detail what, if any, work that City staff will be required to perform as part of the study.

##### **V. Section 5: Resumes and References**

Provide resumes for all key personnel assigned to conduct the study; all resumes must include a description of experience. In addition, provide a minimum of five (5) references for which comparable services have recently been rendered (local government preferred). All such references shall include names, addresses, telephone numbers, and a brief description of the services provided.

##### **VI. Section 6: Forms and Documents**

This section of the Technical Proposal shall include the following documents and forms, all of which are incorporated herein and attached hereto as Attachment A:

- Addendum and Amendment Acknowledgement Form
- Affidavit of Qualification to Propose
- Conflict of Interest Certification
- Litigation and Lien Information
- Proposal Submission Certification

All documents and forms shall be completed in their entirety and, when applicable, shall be notarized and/or signed in ink by an authorized or duly authorized representative of the Offeror.

**B. Part B: Price Proposal**

The Price Proposal shall be submitted separate from the Technical Proposal and shall include the following material organized as follows:

- I. A total cost estimate and not to exceed amount for the work described under Scope of Work.
- II. A rate schedule for computing any extra work not specified in the contracted Scope of Work, including hourly rates for all positions plus unit costs for incidental expenses.

**4.2. PROPOSAL PREPARATION AND SUBMISSION**

The Offeror shall submit complete sets of its Proposal in a sealed package (hereinafter referred to as "Proposal Package") in accordance with and subject to the following instructions and conditions:

A. The Proposal Package shall contain the following:

- I. One (1) sealed envelope clearly labeled *Technical Proposal*, which shall contain one (1) original paper Technical proposal and seven (7) identical paper copies thereof. All documents and forms shall be completed in their entirety and, when applicable, shall be notarized and/or signed in ink by an authorized or duly authorized representative of the Offeror.
- II. One (1) sealed envelope clearly labeled *Price Proposal*, which shall contain one (1) original paper Price Proposal and seven (7) identical paper copies thereof. All Price Proposals shall be signed in ink by an authorized or duly authorized representative of the Offeror.
- III. One (1) sealed envelope clearly labeled *Technical Proposal and Price Proposal Electronic Copies*, which shall contain, on a compact disc or flash drive, one (1) identical electronic copy of the original Technical Proposal and original Price Proposal.

B. The Proposal Package shall have the following information printed clearly on the outside of the Proposal Package:

- I. Solicitation Number;
- II. Solicitation Title; and
- III. Name of the Offeror submitting the Proposal Package

- C. The Proposal Package shall be addressed to Wes Rhodes, Procurement Manager, and be submitted at the following location by the Submission Deadline:

City of Gaithersburg  
Division of Procurement  
31 South Summit Avenue  
Gaithersburg, Maryland 20877

Any and all Proposals not received by the City by the Submission Deadline and/or that are not submitted at the above location shall be deemed non-responsive.

- D. The City shall assume no responsibility for delays or errors in the delivery of any Proposal; postmarking by the Closing Date shall not substitute for actual receipt.
- E. The Offeror is strictly prohibited from submitting its Proposal by facsimile or by e-mail. Any and all Proposals submitted as such shall be rejected as non-responsive and be removed from consideration.
- F. Any and all Proposals submitted not in compliance with any of the provisions herein shall be rejected as non-responsive and be removed from consideration.

**~ END OF SECTION 4 ~**

## SECTION 5: Evaluation Criteria and Selection Process

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### 5.1. **AWARD**

Award of the Contract, if any, shall be to the Responsible Offeror whose Proposal: (i) fully conforms in all material respects to the requirements of this Solicitation, including all form and substance; and (ii) is, in the sole discretion of the City, the most advantageous to the City, price and other factors considered.

### 5.2. **SELECTION COMMITTEE**

The City shall assign a committee comprised of personnel it considers to be stakeholders in the project (hereinafter referred to as "Selection Committee") to: review, evaluate and score all Proposals; conduct interviews, if required; and select and recommend the most qualified Offeror for award.

### 5.3. **EVALUATION CRITERIA**

The Selection Committee will evaluate each Proposal on the following criteria (hereinafter referred to as "Evaluation Criteria"):

Criteria	Max Points	
A. Experience, Qualifications and Capabilities	30	
B. Methodology	30	
C. Work Plan and Timeline	20	
D. Price	20	
<b>Maximum Score:</b>		<b>100</b>

### 5.4. **SELECTION PROCESS**

A. Below is the anticipated selection process for this Solicitation; however, the City reserves the right, in its sole discretion, to modify this process as best may serve the interests of the City.

#### I. **Review for Responsiveness**

The Procurement Manager shall perform an initial review of each Proposal to determine its responsiveness to the requirements set forth in this Solicitation. Following the initial review, the Procurement Manager shall distribute all responsive Proposals to the Selection Committee to be evaluated and scored. In the event a Proposal is determined to be nonresponsive, it shall be retained by the Procurement Manager and not be distributed to the Selection Committee.

#### II. **Evaluation and Scoring**

The Selection Committee shall evaluate and score each responsive Proposal to determine the responsibility of the respective Offeror to perform the Services and to establish a list of the highest ranking Offerors (up to three).

III. Interviews

Following the evaluation and scoring of all responsive Proposals, the Selection Committee may require an interview, either in person or by a video communication (Skype), with the highest ranking Offerors, each of which who may be required to make a presentation. Following interviews, if any, the Selection Committee will score each Offeror on their interview to make a recommendation of tentative award to the City Manager or Designee.

Prior to such recommendation of tentative award, the Selection Committee may request meetings with the successful Offeror to formulate plans in greater detail, to clarify specific areas, and/or to otherwise complete negotiations. The scope of work may be modified and/or refined during this time; however, proposed “not to exceed” amount and/or rate schedules included in the Proposal may not be adjusted.

Formal award shall be contingent on the approval by the City’s Mayor and City Council.

- B. Proposals lacking any of the submission criteria may be determined non-responsive and may be removed from consideration. The City reserves the right, where it may serve the best interest of the City, to request additional information and/or clarification from Offerors; Offerors should be prepared to submit such additional clarification and/or supplementary information in a timely manner, when so requested.

**~ END OF SECTION 5 ~**

## **SECTION 6: General Terms and Conditions**

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The following terms and conditions shall apply to and survive this Solicitation and be incorporated into the Contract:

**6.1. HEADINGS**

Any and all of the headings contained in any of the Solicitation Documents are for reference purposes only and shall not in any way affect the meaning or interpretation of any of the same.

**6.2. ACCEPTANCE AND REJECTION OF PROPOSALS**

The City reserves the right: (i) to accept or reject any or all Proposals in whole or in part; (ii) to waive any technicalities or informalities in Proposals; and (iii) to cancel or postpone this Solicitation at any time if determined to serve the best interests of the City. The City may reject the Proposal of any Offeror in arrears or in default to the City on any contract, debt, or other obligation.

**6.3. ACCURATE INFORMATION**

The Offeror certifies that all information provided or to be provided to the City is true and correct and may be relied upon by the City in awarding the Contract. Any false and/or misleading information is cause for the City to reject the Offeror's Proposal or to terminate the Contract if awarded to the Offeror. Such rejection or termination shall relieve the City of any direct or consequential damages or costs incurred by the Offeror.

**6.4. ADDENDA AND AMENDMENTS**

In the event any addenda or amendments are issued to this Solicitation, all the terms and conditions of this Solicitation shall govern and apply unless specifically stated or modified in any such addenda or amendments. Verbal or written statements and/or answers to questions not posted on the City's Procurement Webpage relative to this Solicitation shall not be considered valid or enforceable. It is the responsibility of the Offeror to inquire about and obtain any and all addenda and/or amendments issued, all of which shall be published on the City's Procurement Webpage.

**6.5. ALTERNATE PROPOSALS**

The Offeror is expected to clearly respond to the requirements set forth in this Solicitation. Any and all alternate Proposals for the Services shall be rejected as non-responsive and shall be removed from consideration.

**6.6. BINDING PROPOSAL**

All Proposals shall remain binding for 180 calendar days following the Submission Deadline; Proposals may not be withdrawn at any time within this period. In the event an award is not made during such period, all Proposals shall be automatically extended and remain binding for an additional 180 calendar day period. Proposals shall automatically be renewed until such time as either an award is made or proper notice is given to the City by an Offeror of its intent to withdraw its Proposal. Proposals may only be withdrawn by written notice to the City at least fifteen (15) calendar days prior to the expiration of the then current 180 calendar day period.

**6.7. CONFIDENTIALITY**

- A. The City agrees, to the extent permitted by law and in accordance with the terms set forth in this Solicitation, to hold all confidential information and material belonging to the Offeror in strictest confidence. The Offeror shall specify in writing to the City the information and/or material the Offeror deems to be a trade secret or other confidential information and/or material. Written notification shall also contain the reason such information and/or material is considered to be a trade secret and/or confidential.
- B. The Offeror agrees that all knowledge and information it may receive from the City or from its officials, employees or other sources, or by virtue of the performance of Services under and pursuant to the Contract, if awarded the Contract, which are included or referenced in Title 4 of the General Provisions Article of the Annotated Code of Maryland, shall not be directly or indirectly disclosed to any person whatsoever unless authorized to do so by the City Manager. This confidentiality provision shall also apply to any information, activity, or record designated by the City as being “confidential” or “privileged”.

**6.8. CONTRACT AWARD**

- A. It is the intent of the City to award the Contract to one (1) Offeror; however, the City reserves the right in its sole discretion to award the Contract to multiple Offerors in whole or in part. If for any reason, through no fault of the City, the Contract is not executed within thirty (30) days’ following formal award, the City may withdraw the award and award to another Offeror, or solicit new Proposals.
- B. In the event the City receives only one (1) Proposal in response to this Solicitation, the City reserves the right, in its sole discretion, to proceed as a negotiated procurement with the Offeror that submitted the Proposal.

**6.9. ERRORS IN PROPOSALS**

Obvious error(s) in calculations in any Proposal may not be corrected without the prior written consent of the City and may be cause for the Proposal to be deemed non-responsive. If an error is made in an extended price, the unit price will govern.

**6.10. INTEREST IN MORE THAN ONE PROPOSAL AND COLLUSION**

Multiple Proposals submitted in response to this Solicitation by any Offeror under the same or different names shall be rejected as non-responsive. Reasonable grounds for believing that any Offeror has interest in more than one (1) Proposal for this Solicitation, both as the Offeror and as a subcontractor for another Offeror, shall result in the rejection of all Proposals in which the Offeror has interest and disqualify the Offeror from responding to any reissuance of this Solicitation. However, a Person acting only as a subcontractor may be included as a subcontractor for multiple Offerors. The City may reject all Proposals if reasonable cause exists for believing that collusion exists among Offerors.

**6.11. LATE PROPOSALS**

It is the responsibility of the Offeror to ensure the delivery of its Proposal by the Submission Deadline and to the location specified in Section 3.1 (Event E) of this Solicitation. Any and all Proposals delivered or submitted late or to any location other than the designated location shall be rejected as non-responsive. The submission of any Proposal by way of

facsimile or e-mail is strictly prohibited; any and all Proposals submitted as such shall be rejected as non-responsive. The City assumes no responsibility for any delays and/or errors in the delivery of a Proposal; postmarking by the Submission Deadline shall not substitute for actual receipt. Any and all Proposals submitted not in compliance with any of the provisions of this paragraph shall be rejected as non-responsive.

**6.12. MODIFICATIONS TO PROPOSALS**

The Offeror may only modify its Proposal prior to the Submission Deadline and in accordance with and subject to the following:

- A. The City shall consider a modified Proposal as an entirely new Proposal and shall replace the original Proposal, which shall be deemed to be withdrawn and null and void.
- B. The modified Proposal shall be subject to all the requirements, specifications and terms and conditions set forth herein.
- C. Notwithstanding the provisions with respect to the submission of a Proposal herein, the modified Proposal shall clearly be labeled "Modified Proposal".

**6.13. OPTIONAL GOODS AND/OR SERVICES**

The City reserves the right to request and evaluate optional goods and/or services which may be in the best interests of the City, and to negotiate the price of such goods and/or services with the successful Offeror or with another Offeror, whichever is determined to be the most advantageous to the City. While pricing for optional goods and/or services may be requested in this Solicitation, the City is under no obligation to consider such optional goods and/or services when selecting the successful Offeror unless otherwise stated.

**6.14. SOLICITATION DOCUMENTS**

The Offeror is expected to carefully and thoroughly examine all of the Solicitation Documents for accuracy and completeness, and to become familiar with the same. If doubt exists as to the meaning and/or intent in or of any of the Solicitation Documents, the Offeror shall make an inquiry as to such meaning and/or intent. The failure of the Offeror to examine and become familiar with any and all of the Solicitation Documents shall in no way relieve the Offeror of its obligations under the Contract, if awarded to the Offeror. The submission of a Proposal shall be taken as prima facie evidence of compliance with this provision and that the Offeror fully understands everything in the Solicitation Documents.

**6.15. SOLICITATION PROTEST**

- A. Any protest of this Solicitation shall be in writing to the City Attorney. The provisions of COMAR Title 21.01.03.01A(7), State Procurement Regulations, do not apply to municipalities and are not applicable to this Solicitation. Protests of alleged improprieties in this Solicitation shall be filed prior to the Submission Deadline.
- B. Any written protest shall, at a minimum, include: (i) the name, address, telephone number, and if available, email address of the Person making the protest; (ii) the Solicitation number and a detailed statement of the legal and factual grounds for the protest, including a description of resulting harm to the Person making the protest; and (iii) any and all copies of supporting exhibits, evidence and/or documents to substantiate the claim.

**6.16. USE OF BROKER**

The Offeror warrants that no person or selling agency has been employed or retained to solicit or secure the Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees, or bona fide established commercial or selling agencies maintained by the Offeror for the purpose of securing business. For violation of this provision, the City shall have the right, in its sole discretion: (i) to terminate or suspend the Contract without liability to the City, its officials or employees; or (ii) to deduct from the Contract price or consideration, the full amount of such commission, percentage, brokerage, or contingent fee.

**6.17. ACCOUNTING SYSTEM AND AUDIT**

A. The Contractor certifies its accounting system conforms to Generally Accepted Accounting Principles (GAAP) and is sufficient to comply with its budgetary and financial obligations under the Contract. In addition, the Contractor acknowledges and agrees to the following:

I. The Contractor: (i) shall maintain any and all necessary source documentation, accounting records and supporting documentation in such a manner that will provide for a separation between direct and indirect costs; and (ii) shall enforce sufficient internal controls as dictated by GAAP to properly account for expenses incurred under the Contract.

II. The Contractor: (i) shall allow the City to examine and/or obtain copies of the Contractor's records to determine and verify compliance with the terms and conditions of the Contract; (ii) shall grant the City access to such records at all reasonable times during the Contract term and for a period of five (5) years thereafter; and (iii) shall make such records available for examination and/or to obtain copies by any and all Federal, State and/or County authorities if the Contract is supported to any extent with any funds of the same.

B. The Contractor shall include a similar provision in any and all subcontracts.

**6.18. ASSIGNMENT OF THE CONTRACT**

The City's rights under the Contract are personal to the Contractor. It is mutually understood and agreed that the Contractor shall not assign, convey, sublet, transfer or otherwise dispose of its Contract or its right, title or interest therein, or its power to execute the Contract, to any other person without the express written consent of the City; however, in no case shall such consent relieve the Contractor from its obligations under the Contract, or change the terms and conditions of the Contract.

**6.19. CHANGES IN GOODS AND/OR SERVICES**

The City, without invalidating the Contract, may order changes in the goods and/or Services within the general scope of the Contract, consisting of additions, deletions and/or other revisions, and the Contract sum and term shall be adjusted accordingly. Any cost or credit to the City from a change in Services shall be determined by mutual written agreement between the City and the Contractor. The Contractor shall provide all of the goods and services that may be required to complete the Contract at the price agreed upon. Any alterations of variables to the terms of the Contract shall not be valid or binding upon the City unless made in writing and signed by the City and the Contractor.

**6.20. CONTRACT DISPUTES**

Any and all disputes arising under the Contract, except under the provisions for termination, which are not disposed of by agreement between the City and the Contractor, shall be decided under procedures A-D listed below. Pending final resolution of a dispute, the Contractor shall proceed diligently with Contract performance. A claim must be in writing for a sum certain and any money requested must be fully supported by all cost and pricing information.

- A. All disputes, claims, questions of fact or interpretations of the documents of the Contract not disposed of by agreement or express provision of the Contract arising between the City and the Contractor after performance of the Contract has commenced but before final payment and termination of the Contract, are decided by the City Manager or designee ("City Manager").
- B. The City Manager must give the Contractor not less than three (3) working days to submit documentation and written reasons supporting the Contractor's position in the dispute. The City Manager may consider any other information or written submissions from City employees or agents and may conduct an informal, non-record hearing for receipt of testimony, evidence and/or argument. The City Attorney may participate in the hearings to protect the City's interest.
- C. The City Manager must render a decision, in writing, stating reasons for such decision and provide copies to the Contractor and the City Attorney. If the decision is mailed to the Contractor, it must be mailed "certified" and dated the date of mailing; otherwise, it must be dated the date of delivery to the Contractor.
- D. The City Manager's decision may be submitted to Binding Arbitration by either Party under the auspices of an arbitrator appointed by the American Arbitration Association.

**6.21. DISSEMINATION OF DATA**

The Contractor shall not release any information related to the Services under the Contract or publish any reports or documents related to the same without the prior written approval of the City. The Contractor shall include a similar provision in all subcontracts.

**6.22. EMPLOYMENT AS INDEPENDENT CONTRACTOR**

The City and the Contractor recognize and agree: (i) that the Contractor shall act as an independent Contractor to the City; (ii) that the Contract does not create any actual or apparent agency, partnership, franchise, or relationship of employer and employee between the parties; (iii) that neither party shall be entitled to participate in any of the other party's benefits, including without limitation, any health or retirement plans; (iv) that the Contractor shall not be entitled to any remuneration, benefits, or expenses other than as specifically provided for in the Contract; and (v) that the City shall not be liable for any insurance, taxes, or withholding for or on behalf of the Contractor; all such insurance, taxes or withholding, and costs for same, shall be the sole responsibility of the Contractor.

**6.23. ETHICS LAWS AND REQUIREMENTS**

The Contractor shall comply with the financial disclosure and conflict of interest and lobbying provisions of the City's ethics laws, which may be found on the City's website at: <http://www.gaithersburgmd.gov/government/city-code>.

**6.24. FORCE MAJEURE**

The City and the Contractor acknowledge and agree that either party hereto will be relieved of its obligations hereunder in the event and to the extent that the performance of its obligations under the Contract is delayed or prevented by any cause beyond its control, including, without limitation, acts of God, public enemies, war, insurrection, acts or orders of governmental authorities, fire, flood, explosion, or riots (“Force Majeure”). Failure to receive necessary materials and supplies will not excuse performance hereunder unless such failure is itself due to an event of Force Majeure. A party obtaining relief under this provision shall make every reasonable effort to minimize the effects thereof and will promptly resume performance as soon as possible.

**6.25. GOVERNING LAW**

The Contract shall be construed in accordance with the laws and regulations of the Federal Government, State of Maryland, and the City. For purposes of litigation involving the Contract, exclusive venue and jurisdiction shall be in the Circuit Court of Maryland for Montgomery County, District Court of Maryland for Montgomery County or the United States District Court of Maryland.

**6.26. IMMIGRATION REFORM AND CONTROL ACT**

The Contractor shall warrant that it does not and shall not hire, recruit or refer for a fee for employment under the Contract, an alien, knowing the alien is an unauthorized alien, and hire any individual without complying with the requirements of the Immigration Reform and Control Act of 1986 (“Act”), including but not limited to any verification and record keeping requirements. The Contractor shall further assure the City that, in accordance with the Act, it does not and will not discriminate against an individual with respect to hiring, or recruitment or referral for a fee, of the individual for employment or the discharging of the individual from employment because of such individual's national origin or in the case of a citizen or intending citizen, because of such individual's citizenship status.

**6.27. INCONSISTENT PROVISIONS**

- A. Notwithstanding any provisions to the contrary in the terms and conditions of any contract supplied by the Contractor, the conditions of this Solicitation and the Contract supersede those terms and conditions in the event of inconsistency.
- B. In the event of any inconsistency between any of the provisions of this Solicitation and any of the provisions of the Contract, the provisions of the Contract shall take precedence over and supersede those provisions in the event of any inconsistency.

**6.28. INDEMNIFICATION**

The Contractor shall indemnify and hold harmless the City, its officials, employees and agents from the following:

- A. Any and all direct or indirect damages, costs, claims, actions, suits, judgments or liens resulting from the negligent act or commission or omission of the Contractor, its employees, agents or subcontractors; and
- B. Any and all direct or indirect costs, claims, actions, suits, judgments or liens for damages resulting from the Contract arising from the negligence or omission of the Contractor, its employees, agents or subcontractors. The Contractor shall, upon completion of the Services, provide the City with a Release of Liens from any

subcontractor, supplier, material, or other supplier of goods and services to the project.

**6.29. LAWS AND REGULATIONS**

The Contractor shall comply with any and all applicable federal, state and local laws, codes and regulations with respect to the Services under the Contract.

**6.30. NO LIENS**

The Contractor shall have no title or interest in any of the goods delivered to the City under this Contract. In no event shall the Contractor encumber any such goods delivered to the City with any lien of any kind or offer such goods as collateral in any transaction whatsoever.

**6.31. NO WAIVER**

Except as otherwise specifically provided in the Contract, a waiver by either party to the Contract of any breach of any provision of the Contract, or either party's decision not to invoke or enforce any right under the Contract, shall not be deemed a waiver of any right or subsequent breach, and all provisions of the Contract shall remain in force.

**6.32. NON-DISCRIMINATION REQUIREMENTS**

- A. The Contractor acknowledges and agrees that during the term of the Contract it shall:
  - I. Not discriminate against any employee or applicant for employment because of gender preference, race, color, creed, religion, ancestry, sex, sexual orientation, national origin, affection preference, disability, age, marital status or status with regard to public assistance or as a disabled veteran or veteran of the Vietnam era.
  - II. Take affirmative action to ensure that applicants and employees are treated without regard to their race, color, creed, religion, ancestry, sex, sexual orientation, national origin, affection preference, gender preference, disability, age, marital status or status with regard to public assistance or as a disabled veteran or veteran of the Vietnam era. Such action shall include but not be limited to the following: employment, upgrade, demotion or transfer; recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
  - III. In all solicitations for employees, state that all qualified applicants will receive consideration for employment without regard to race, color, creed, religion, ancestry, sex, sexual orientation, national origin, affection preference, gender preference, disability, age, marital status or status with regard to public assistance or as a disabled veteran or veteran of the Vietnam era. The Contractor agrees to use clauses similar to those above in all contracts and subcontracts. In the event the Contractor fails to comply with the nondiscrimination clauses of the Contract, or fails to include such provisions in all contracts and subcontracts, as hereinabove provided, the Contract may at the sole discretion of the City be declared void AB INITIO, canceled, terminated or suspended in whole or in part with waiver of any

recourse by the Contractor against the City or its officials or employees, and the Contractor may be declared ineligible for further contracts with the City.

- B. Any employee, applicant for employment, or prospective employee with information concerning any breach of these requirements may communicate such information to City Manager who shall commence a prompt investigation of the alleged violation. Pursuant to such investigation, the Contractor shall permit access to their books, records and accounts. In the event the City Manager concludes, on the basis of such investigation, that the Contractor has failed to comply with these nondiscrimination clauses, the City Manager may invoke the remedies hereinabove set out.

**6.33. NONEXCLUSIVE**

Nothing in the Contract shall be deemed to act as a bar to the City's solicitation or purchasing of equipment, goods or services from any other company or entity.

**6.34. OWNERSHIP OF MATERIALS**

Unless otherwise agreed in writing by the City and the Contractor, any work, specifications, information, data, drawings, software and other items produced under the Contract, other than any Contractor Tool, is to be deemed a work-for-hire to the extent permitted by law, and, to the extent not so permitted, shall be assigned to, and shall become, the exclusive property of the City.

**6.35. PATENTS**

- A. Whenever any article, material, appliance, process composition, means or things called for by the specifications ("Materials") under this Solicitation is covered by Letters of Patent, the Contractor shall secure, prior to using or employing such Materials, the assent in writing of the owner or licensee of such Letters of Patent and file the same with the City.
- B. The Contractor shall defend, at its own expense, and pay the cost and damages awarded in any action brought against the City based on an allegation that the Materials provided by the Contractor infringe on any patent, copyright, license or trade secret. In the event that an injunction shall be obtained against the City's use of the Materials by reason of infringement of any patent, copyright, license or trade secret, the Contractor shall, at its own expense, procure for the City the right to continue using the Materials or replace or modify the same so that it becomes non-infringing.

**6.36. PAYMENT TERMS, TAXES AND INVOICES**

The City shall only pay original proper invoices issued in accordance with the following:

**A. Payment Terms**

The City's standard terms of payment are net thirty (30) days; however, this does not preclude the Contractor from providing a prompt payment discount for the payment of invoices in less than thirty (30) days. Payments considered past-due may be subject to incurred interest not to exceed one percent (1%) per month.

**B. Taxes**

The City is exempt from sales and use taxes. The Contractor shall exclude such taxes from all forms of requests for payments issued to the City; the City shall not be liable for or pay or reimburse the Contractor for any such taxes. A copy of the City's Sales and Use Tax Exemption Certificate is provided below.



**C. Invoices**

Original invoices shall include at a minimum, the Contractor's name, address, telephone and fax numbers, and if applicable, email address and corresponding purchase order number. Invoices shall be submitted to: City of Gaithersburg, Accounts Payable Division, 31 South Summit Avenue, Gaithersburg, Maryland 20877.

**6.37. RECORDS**

- A. The Contractor shall retain any and all records and documents relating to the Services under the Contract for a minimum of five (5) years following payment of the Contractor's final undisputed proper invoice for the complete rendered Services. The Contractor shall make available to the City, State of Maryland and any and all appropriate Federal agencies, all records and documents with respect to any and all matters under the Contract at any time during normal business hours, as often as the City deems necessary, to audit, examine, and make copies, excerpts and/or transcripts of any and all relevant data.
- B. The Contractor shall include similar provisions in all subcontracts.

**6.38. SUBCONTRACTORS**

The Contractor acknowledges and agrees: that if it shall be necessary to hire or subcontract with competent personnel to fulfill its obligations under the Contract, it shall do so at its own expense; and to ensure that any and all work assigned to any subcontractor shall be performed in compliance with all of the terms and conditions of the Contract. Nothing contained in the Contract shall create any contractual relation between any subcontractor and the City.

**6.39. SURVIVAL**

The representations, warranties and indemnities contained herein shall survive the termination of the Contract.

## 6.40. **TERMINATION**

### **A. Termination for Cause**

If through any cause, the Contractor fails to fulfill in a timely and proper manner its obligations under the Contract, or if the Contractor violates any of the provisions of the Contract, the City may upon written notice to the Contractor, terminate the right of the Contractor to proceed under the Contract or with such part or parts of the Contract to which there has been default, and may hold the Contractor liable for any damages caused the City by reason of such default and termination, if the default is not corrected within 15 days' notice to cure. In the event of such termination, any completed Services performed by the Contractor under the Contract shall, at the option of the City, become its property and the Contractor shall be entitled to receive equitable compensation for any work completed to the satisfaction of the City. The Contractor, however, shall not thereby be relieved of liability to the City for damages sustained by the City by reason of any breach of the Contract by the Contractor, and the City may withhold any payments to the Contractor for the purpose of setoff until such time as the amount of damages due the City from the Contractor is determined. The Contractor shall not be responsible for damages under this article solely for reasons of delay if the delay is due to causes beyond its control and without its fault or negligence, but this shall not prevent the City from terminating the Contract for such delay.

### **B. Termination for Convenience**

The City may, upon written notice and without cause, terminate the Contract in whole or in part at any time for its convenience. In such instance, payment shall be made to the Contractor for the reasonable costs of the work performed through the date of termination. Termination costs do not include lost profits, consequential damages, delay damages, unabsorbed or under-absorbed overhead of the Contractor or its subcontractors or suppliers. Failure of the Contractor to include a termination for convenience clause into its subcontracts and material purchase orders shall not result in any liability to the City for lost profits in conjunction with a termination for convenience.

The Contractor expressly waives any damages, delay damages, or indirect costs which may arise from the City's election to terminate the Contract in whole or in part for its convenience.

### **C. Termination for Non-Appropriation of Funds**

The City shall not be obligated to the Contract for any future fiscal year until funds are appropriated for each such future fiscal year. In the event funding appropriation is not approved, the City may, upon written notice, terminate the Contract in whole or in part and without penalty or expense to the City. The effect of such action shall terminate the Contract on the last day of the fiscal year for which appropriations were made.

~ END OF SECTION 6~

## **SECTION 7: Special Terms and Conditions**

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### **7.1. INSURANCE**

- A. The Contractor shall be responsible for obtaining and maintaining in force, at its expense, policies of insurance with minimum limits as follows:
  - I. Commercial General Liability Insurance in an amount no less than One Million Dollars (\$1,000,000.00);
  - II. Professional Liability Insurance in an amount no less than One Million Dollars (\$1,000,000.00); and
  - III. Workers' Compensation Insurance in an amount no less than One Million Dollars (\$1,000,000.00).
- B. Prior to the execution of the Contract, the Contractor shall provide the City with a certificate of insurance, which: (i) shall evidence the above policies and name the City as additional insured with respect to the Commercial General Liability Insurance only; and (ii) shall contain a provision that requires the Contractor's insurers to provide the City with a written notice of any cancellation or adverse material change in the insurance and that such cancellation or adverse material change shall not be effective with respect to the City for thirty (30) days after such written notice is given.
- C. The Contractor hereby acknowledges and agrees that its failure to provide the City with a certificate of insurance and/or the failure by the City to demand the delivery of said certificate shall not operate or be deemed to operate as a waiver of the insurance and associated endorsements required under this provision, and the Contractor shall hold the City harmless from any liability arising as a result of any such failure(s).

### **7.2. PAYMENTS**

Payments under the Contract shall be based on the Contractor's completion milestones, to be later established and agreed upon between the City and the Contractor, and following the receipt of undisputed proper invoices for the same, which are issued in accordance Section 6.36 of this Solicitation.

### **7.3. CONTRACTOR PERSONNEL**

The Contractor shall utilize personnel listed in their Proposal. Substitution of key personnel shall only be permitted with the prior written permission of the City.

### **7.4. OFFEROR QUALIFICATIONS**

Notwithstanding any of the qualifications specified in any other section of this Solicitation, the Offeror shall have a minimum of five (5) years of experience providing services similar to those under this Solicitation.

~ END OF SECTION 7 ~

## **SECTION 8: Project Information, Background and Scope of Services**

### **8.1. OBJECTIVES**

The City desires to enter into a contract with a highly qualified Human Resources consulting firm to conduct a full review and comprehensive update of the City's Personnel Rules and Regulations Manual to ensure the following:

- A. Consistency and clarity between the Personnel Rules and Regulations Manual and the City's Ethics Code.
- B. Consistency with industry best practices.
- C. Legal compliance with current local, state, and federal laws as well as relevant court cases.

### **8.2. RELATED DOCUMENTS**

- A. The current Personnel Rules and Regulations Manual, which is incorporated herein by reference, may be viewed on the City's website at:  
[www.gaithersburgmd.gov/government/departments/human-resources/personnel-rules-and-regulations-manual](http://www.gaithersburgmd.gov/government/departments/human-resources/personnel-rules-and-regulations-manual)
- B. A copy of the City's Ethics Code is incorporated herein and attached hereto as Exhibit A.

### **8.3. ABOUT THE CITY**

The City of Gaithersburg is an established municipality within Montgomery County, Maryland, incorporated on April 5, 1878. The City serves approximately 61,000 residents and operates under a City Council/City Manager form of government. The City is approximately ten square miles in size.

The City provides a wide range of municipal services administered by the following departments: Office of the City Manager; Community & Public Relations; Finance & Administration; Human Resources; Information Technology; Parks, Recreation & Culture; Planning & Code Administration; Police; and Public Works.

The City currently budgets for approximately 290 full-time management, professional, technical, administrative, clerical, public safety, and general labor positions. During peak season, the City will hire between 300-400 part-time workers to work mainly with the Parks, Recreation & Culture Department and with the Public Works Department.

The City's fiscal year begins on July 1 and ends on June 30. The updated Personnel Rules and Regulations Manual from this review are anticipated to be adopted by the Mayor and City Council effective in FY 2017 (July 1, 2016).

City employees are not represented by a labor union and are not subject to a collective bargaining agreement.

**8.4. PERSONNEL RULES AND REGULATIONS MANUAL BACKGROUND**

The Manual is comprised of the current personnel rules, regulations, policies, procedures, and practices that uniformly regulate and govern employment with the City. Also identified in the Manual are benefit programs and other services available to employees. As a consolidated reference guide, it also assists the supervisor in standardizing the application of the City's personnel system and serves to protect and clarify the rights and responsibilities of employees. Interpretations of the Manual are directed to the Human Resources Director to ensure a consistent application of policies and practices throughout the City.

The Manual is designed to assist all employees in understanding the rules, regulations, policies, procedures, and practices with regard to their employment with the City. Some sections of the Manual do not apply to part-time employees. The City does not have an employee handbook.

**8.5. SCOPE OF WORK**

The City anticipates that the project shall include but not be limited to the following phases of work:

- A. Meet with Human Resources and other designated City staff to discuss the project, provide options and recommendations for review process, and agree on methodology and process to be used.
- B. Prepare a list of specific recommendations to remedy gaps, deficiencies, omissions, and/or errors in the City's current Manual and recommend new rules, regulations, policies, procedures, and practices to be included as appropriate.
- C. After review and approval of proposed recommendations by designated City staff, prepare draft version of revised Personnel Rules and Regulations Manual in its entirety, including all forms (developed by the City) referenced therein.
- D. Present draft Manual to City management and officials for final approval. Following approval, provide the City with one (1) electronic copy of the Manual.
- E. Respond to any additional requests for information or clarification on an as-needed basis during the ongoing internal review process.
- F. Train Supervisors to effectively administer and implement the adopted revised Personnel Rules and Regulations. Develop a supervisory guide on administration of the new policies and procedures and an employee guide outlining employee rights and responsibilities
- G. Make recommendations of software and other tools that can assist the City with program administration.
- H. Assist in the development of informational materials appropriate for inclusion on the City's intranet site and/or in employee newsletters or mailings to help explain the project to employees.

**8.6. DELIVERABLES**

- A. The products that the Contractor shall deliver to the City must include but are not limited to the following:
  - I. Updated Personnel Rules and Regulations Manual, updated forms, new forms, and notices associated with personnel procedures shall be complete no later than April 1, 2016. Final documents will need to be adopted by the Mayor and City Council prior to the July 1, 2016 effective date.
  - II. A hands-on training program for City of Gaithersburg Human Resources, management, and supervisory staff designed to ensure they understand and can implement and administer updated policies and procedures City-wide.
  - III. Curriculum and training aids (such as PowerPoint presentations) for Human Resources, management, supervisory, and general staff to be utilized in the training and orientation of new hires.
- B. All deliverables shall be in hard copy and electronic formats (suitable for ongoing customization).

**~ END OF SECTION 8 ~**

## **SECTION 9: Attachments**

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### **9.1. ATTACHMENTS**

The following documents and forms are incorporated herein and attached hereto:

- ↳ Addendum and Amendment Acknowledgement Form
- ↳ Affidavit of Qualification to Propose
- ↳ Conflict of Interest Certification
- ↳ Litigation and Lien Information
- ↳ Proposal Submission Certification

### **9.2. EXHIBIT A**

A copy of the City's Ethics Code is incorporated herein and attached hereto as Exhibit A .

**~ END OF SECTION 9 ~**

**ATTACHMENT**  
**REQUIRED FORMS**

Request for Proposals

No. 2015-022

Review and Comprehensive Update to  
Personnel Rules and Regulations Manual



# City of Gaithersburg

## Addendum and Amendment Acknowledgment

Solicitation No. \_\_\_\_\_

Please complete this form in its entirety and include it with your Proposal.

Name of Entity: \_\_\_\_\_

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

City, State & Zip Code: \_\_\_\_\_, \_\_\_\_\_ \_\_\_\_\_

### **ADDENDUM/AMENDMENT ACKNOWLEDGMENT**

1.  Addendum /  Amendment No: \_\_\_\_\_ Date of Issuance: \_\_\_\_\_

2.  Addendum /  Amendment No: \_\_\_\_\_ Date of Issuance: \_\_\_\_\_

3.  Addendum /  Amendment No: \_\_\_\_\_ Date of Issuance: \_\_\_\_\_

4.  Addendum /  Amendment No: \_\_\_\_\_ Date of Issuance: \_\_\_\_\_

5.  Addendum /  Amendment No: \_\_\_\_\_ Date of Issuance: \_\_\_\_\_

I hereby acknowledge receipt of the addendum(s) and/or amendment(s) listed herein and attests that all requirements stated therein have been incorporated into my Proposal.

\_\_\_\_\_  
Signature Title Date

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



# City of Gaithersburg

## Affidavit of Qualification to Propose

Solicitation No. \_\_\_\_\_

Please complete this form in its entirety and include it with your Proposal. For the purpose of completing this form, "entity" means an individual, sole proprietor, partnership, corporation, limited liability corporation (LLC), company, or association.

\*Does not apply to individuals or sole proprietors - indicate with "N/A"

I HEREBY AFFIRM THAT:

1. I am the \_\_\_\_\_ and the duly authorized representative of the entity \_\_\_\_\_ and that I possess the legal authority to make this affidavit on behalf of myself and the entity for which I am acting.

\*2. The entity \_\_\_\_\_ is either a Maryland corporation or is a foreign corporation properly registered with the Maryland State Department of Assessments and Taxation, in compliance with the State of Maryland Code of Regulations, Title 21, State Procurement Regulations.

3. Except as described in Paragraph five (5) below, neither I nor the above entity, nor to the best of my knowledge, any of its officers, directors, or partners, or any of its employees directly involved in obtaining contracts with the State of Maryland or any municipality, county, bi-county, or multi-county agency, or subdivision of the State of Maryland have been convicted of, or have pleaded nolo contendere to a charge of, or have, during the course of an official investigation or other proceeding, admitted in writing or under oath, acts of omissions which constitute bribery, attempted bribery, or conspiracy to bribe, whether or not in furtherance of obtaining a contract with a public body, under the provisions Md. Code Ann., State Finance and Procurement Article, §16-202 (1995 Repl. Vol.) and Article 27 of the Annotated Code of Maryland or under the laws of any local, state or the federal government (conduct prior to July 2, 1977 is not required to be reported).

4. List any conviction, plea, or admission described in paragraph three (3) above, with the date, court, official, or administrative body; the individuals involved and their position with the entity; and the sentence or disposition, if any. Otherwise, state "none" as appropriate.

5. Neither I nor the above entity, nor to the best of my knowledge an officer, partner, controlling stockholder or principal of the Offeror, or any other person substantially involved in the Offeror's contracting activities has: (1) been convicted under the laws of the State of Maryland, another state or the United States of: (i) a criminal offense incident to obtaining, attempting to obtain, or performing a public or private contract, except as provided in Section 16-202 of the State Finance and Procurement Article of the Annotated Code of Maryland; or (ii) fraud, embezzlement, theft, forgery, falsification or destruction of records, or receiving stolen property; (2) been convicted of a criminal violation of an antitrust statute of the State of Maryland, another state or the United States; (3) been convicted of a violation of the Racketeer Influenced and Corrupt Organization Act, or the Mail Fraud Act, for acts in connection with the submission of proposals for public or private contracts; (4) been convicted of a violation of Section 14-308 of the State Finance and Procurement Article of the Annotated Code of Maryland; (5) been convicted of a conspiracy to private contract; (4) been convicted of a

**Affidavit of Qualification to Propose**

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violation of Section 14-308 of the State Finance and Procurement Article of the Annotated Code of Maryland; (5) been convicted of a conspiracy to commit any act or omission that would constitute grounds for conviction under any of the laws or statutes described herein; (6) been found civilly liable under an antitrust statute of the State of Maryland, another state or the United States for acts or omissions in connection with the submission of proposals for public or private contracts.

6. Offeror hereby declares that this Proposal is made without any connection or collusion with any person, entity or corporation making a Proposal for the same work; that pursuant to this affidavit; that the attached specifications and any drawings referred to herein have been carefully examined and are understood; that careful examination has been made as is necessary to become informed as to the character and extent of the work required; and, that if this Proposal is accepted, this Offeror will contract to do, for the price stated in the Proposal, all of the work described in the specifications, drawings and contract conditions.

7. I acknowledge that this affidavit is to be furnished to the City Manager or designee for the City of Gaithersburg, Maryland. I further acknowledge that, if the representations set forth in this affidavit are not true and correct, the City of Gaithersburg may terminate any contract awarded and take any other appropriate action.

I do solemnly declare and affirm under the penalties of perjury that the contents of this affidavit are true and correct.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date

**NOTARY ATTESTATION**

State of: \_\_\_\_\_

County of: \_\_\_\_\_

**I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, before me the subscriber, a Notary Public in and for the State of \_\_\_\_\_ and County aforesaid, personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to this instrument and acknowledged that same was executed for the purposes contained therein.**

**Witness my hand and Notarial seal:** \_\_\_\_\_

**My Commission expires:** \_\_\_\_\_

**Notary Public:** \_\_\_\_\_  
Printed Name



# City of Gaithersburg

## Conflict of Interest Certification

Solicitation No. \_\_\_\_\_

Please complete this form in its entirety and include it with your Proposal. For the purpose of completing this form, "entity" means an individual, sole proprietor, partnership, corporation, limited liability corporation (LLC), company, or association.

\*Does not apply to individuals or sole proprietors - indicate with "N/A"

Name of Entity: \_\_\_\_\_

\* Federal ID No: \_\_\_\_\_

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

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

City, State & Zip Code: \_\_\_\_\_, \_\_\_\_\_ \_\_\_\_\_

Telephone Numbers: (P) \_\_\_\_\_ (F) \_\_\_\_\_

(P) \_\_\_\_\_ (C) \_\_\_\_\_

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

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

### **CONFLICT OF INTEREST CERTIFICATION**

I HEREBY CERTIFY, on behalf of \_\_\_\_\_ that no  
*Name of Entity*  
employee, agent or elected official of the City of Gaithersburg, or member of a commission, board or corporation controlled or appointed by the Mayor and Council of the City of Gaithersburg has received or has been promised directly or indirectly, any financial benefit by way of fee, commission, finder's fee, or in any other manner, remuneration directly or indirectly related to this contract. Upon request by the City Manager or designee, or other authorized agent, as a prerequisite to payment pursuant to the terms of a contract awarded pursuant to this Proposal submission, will furnish to the City, under oath, answers to any interrogatories and comply with any request to review documents related to a possible conflict of interest as herein embodied.

I HEREBY CERTIFY, on behalf of \_\_\_\_\_ that no  
*Name of Entity*  
employee or agent of \_\_\_\_\_ is a member, employee,  
*Name of Entity*  
or elected official of the City of Gaithersburg of any agency, commission, or board of the City of Gaithersburg or is the spouse or any other relative of any of the foregoing. If unable to so certify, the details of any such relationship with the City of Gaithersburg are as follows:

\_\_\_\_\_

**Conflict of Interest Certification**

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I do solemnly declare and affirm under the penalties of perjury that the contents of this affidavit are true and correct.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date

**NOTARY ATTESTATION**

State of: \_\_\_\_\_

County of: \_\_\_\_\_

**I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, before me the subscriber, a Notary Public in and for the State of \_\_\_\_\_ and County aforesaid, personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to this instrument and acknowledged that same was executed for the purposes contained therein.**

**Witness my hand and Notarial seal:** \_\_\_\_\_

**My Commission expires:** \_\_\_\_\_

**Notary Public:** \_\_\_\_\_  
Printed Name



# City of Gaithersburg

## Litigation and Lien Information

Solicitation No. \_\_\_\_\_

Please complete this form in its entirety and include it with your Proposal. For the purpose of completing this form, "entity" means an individual, sole proprietor, partnership, corporation, limited liability corporation (LLC), company, or association.

Name of Entity: \_\_\_\_\_

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

City, State & Zip Code: \_\_\_\_\_, \_\_\_\_\_ \_\_\_\_\_

Telephone Numbers: (P) \_\_\_\_\_ (F) \_\_\_\_\_

### **LITIGATION INFORMATION**

Is your entity currently involved in any litigation or had a litigation claim(s) within the previous twenty-four (24) month period?

Yes /  No

If yes, please provide a detailed list including case number, jurisdiction, status and brief summary of such litigation.

<b><u>Case Number</u></b>	<b><u>Jurisdiction</u></b>	<b><u>Status</u></b>	<b><u>Summary</u></b>
_____	_____	_____	_____
_____	_____	_____	_____

### **LIENS**

Does your entity have any outstanding mechanics liens?

Yes /  No

If yes, please explain: \_\_\_\_\_

Does your entity have any outstanding tax liens?

Yes /  No:

If yes, please explain: \_\_\_\_\_

\_\_\_\_\_  
Signature Title Date

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



# City of Gaithersburg

## Proposal Submission Certification

Solicitation No. \_\_\_\_\_

Please complete this form in its entirety and include it with your Proposal. For the purpose of completing this form, "entity" means an individual, sole proprietor, partnership, corporation, limited liability corporation (LLC), company, or association.

Name of Entity: \_\_\_\_\_

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

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

City, State & Zip Code: \_\_\_\_\_, \_\_\_\_\_ \_\_\_\_\_

Telephone Numbers: (P) \_\_\_\_\_ (F) \_\_\_\_\_

### **PROPOSAL SUBMISSION CERTIFICATION**

The response to Solicitation No. \_\_\_\_\_ as submitted includes this Proposal Submission Certification Form and the Affidavit of Qualification to Propose Form, Conflict of Interest Certification Form, and Litigation and Lien Information Form. I, the undersigned, hereby attest to the truth and completeness of the information and responses provided and certify that my entity has met the minimum selection criteria as outlined in the Solicitation document.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date

### **NOTARY ATTESTATION**

State of: \_\_\_\_\_

County of: \_\_\_\_\_

**I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, before me the subscriber, a Notary Public in and for the State of \_\_\_\_\_ and County aforesaid, personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to this instrument and acknowledged that same was executed for the purposes contained therein.**

**Witness my hand and Notarial seal:** \_\_\_\_\_

**My Commission expires:** \_\_\_\_\_

**Notary Public:** \_\_\_\_\_

Printed Name

**EXHIBIT A**  
**CITY'S ETHICS CODE**

Request for Proposals

No. 2015-022

Review and Comprehensive Update to  
Personnel Rules and Regulations Manual

## EXHIBIT A – CITY’S ETHICS CODE

### Chapter 7A - ETHICS CODE

FOOTNOTE(S):

--- (1) ---

**Editor’s note**— Ord. No. O-24-10, adopted Oct. 18, 2010, effective Nov. 8, 2010, amended Ch. 7A in its entirety to read as herein set out. Former Ch. 7A, §§ 7A-1—7A-9, pertained to similar subject matter, and derived from Ord. No. O-2-82. See also the Code Comparative Table.

#### **Sec. 7A-1.1. - Findings and purpose.**

(a) The council finds that:

- (1) Officials, employees and representatives of the city shall maintain the highest standards of political and professional responsibility and maintain the highest respect for the interests of the citizens and the city.
- (2) Representative government depends upon the citizens having the highest trust in their public officials.
- (3) The trust, necessary to our system of government, is dangerously eroded not only by improper conduct by employees and officials of government but by the appearance of improper conduct, as well.
- (4) In order to maintain the fact and appearance of high standards of conduct, it is necessary to have clearly articulated standards of conduct, a procedure for resolving questions that may arise concerning the propriety of specific acts and a forum for receipt and review of complaints and questions, whether raised by concerned citizens, employees or those doing business with the city.
- (5) The citizens have a right to expect that decisions made in the name of the government of the City of Gaithersburg will be made for the general welfare of the citizens of Gaithersburg, rather than for the private gain or personal motives of the official or employee making the decision.
- (6) Employees and officials of government have a right to know that the government clearly articulates the standards of conduct by which their actions will be measured.
- (7) Employees and officials of government have a right to expect that their personal lives, choices, associations and those of their families will not unduly or unnecessarily be burdened because of their choice to serve the city.
- (8) Full and timely disclosure to the ethics commission as required by this chapter of information and private activities that could affect the nature of public decisions allows the public to be aware of real or actual conflicts and make its own judgments about such conflicts.

(b) In order to meet these needs and to articulate the balance which the council has struck between the needs and expectations of the citizens, employees and those with whom the city does business, the council has enacted this ethics chapter.

(c) On behalf of the citizens of the City of Gaithersburg, the council intends that this chapter be liberally construed to accomplish these goals without unduly restricting the rights of the officials and employees and their families.

(Ord. No. O-24-10, 10-18-2010)

## EXHIBIT A – CITY’S ETHICS CODE

### Sec. 7A-1.2. - Applicability of chapter.

The provisions of this chapter shall apply to all city employees, all elected officials, as well as officials appointed to the following boards and commissions:

Planning Commission;  
Board of Appeals;  
Board of Supervisors of Elections;  
Ethics Commission;  
Landlord-Tenant Commission;  
Animal Control Board;  
Personnel Review Board;  
Historic District Commission.

In addition, section 7A-6 of this chapter applies to lobbyist.

(Ord. No. O-2-82; Ord. No. O-24-10, 10-18-2010)

### Sec. 7A-1.3. - Definitions.

- (a) *Business relationship.* A relationship that may include, but is not limited to, any of the following:
- (1) The commitment or securing of one thousand five hundred dollars (\$1,500.00) or more of city funds, with the exception of funds expended on charitable organizations and trade associations.
  - (2) Prospective employment with the city in any capacity.
  - (3) Approval of a zoning entitlement or building permit application until such time construction has received all final approvals.
- (b) *Community event.* An event to which the public is invited that takes place in the City of Gaithersburg or Montgomery County.
- (c) *Gift.* Unless otherwise provided in this chapter, the transfer of anything of economic value valued at fifty dollars (\$50.00) or more or a combination of transfers from any person or entity within a one calendar year period valued at one hundred dollars (\$100.00) or more. A gift does not include campaign contributions or contributions or donations to the city or sponsorships of city events or programs.
- (d) *Honoraria.* Payments of money or anything of value given to an individual for services for which fees are not legally or traditionally required, such as speeches and attending a meeting or event.

(Ord. No. O-24-10, 10-18-2010)

### Sec. 7A-2. - Ethics commission.

There shall be a city ethics commission, which shall be composed of three (3) members appointed by the mayor and subject to confirmation by the city council. The commission shall be advised by the city attorney and shall have the following responsibilities:

- (a) To review all forms generated by this chapter for compliance with the provisions of this chapter.
- (b) To provide published advisory opinions to persons subject to this chapter as to the applicability of the provisions of this chapter to them.
- (c) To process and make determinations as to complaints filed by any person alleging violations of this chapter.

(Ord. No. O-2-82; Ord. No. O-24-10, 10-18-2010)

## EXHIBIT A – CITY’S ETHICS CODE

### Sec. 7A-3. - Responsibilities of city attorney.

The city attorney shall have the following responsibilities:

- (a) To create and maintain all forms generated by this chapter.
- (b) To provide staff assistance to the city ethics commission.
- (c) To provide information, guidance, and training on a regular basis in order to promote understanding and compliance with this chapter.
- (d) To maintain all forms and disclosure statements filed pursuant to this chapter for at least five (5) years as public records available for inspection and copying.

(Ord. No. O-2-82; Ord. No. O-24-10, 10-18-2010)

### Sec. 7A-4. - Conflicts of interest.

Persons who are subject to this chapter shall not:

- (a) Participate on behalf of the city in any matter which would, to their knowledge, have a direct financial impact on:
  - (i) Them;
  - (ii) Their spouse;
  - (iii) Their children;
  - (iv) Their siblings;
  - (v) Their parents;
  - (vi) Any other relative who shares the person's legal residence or over whose financial affairs the person has legal or actual control; or
  - (vii) Any business entities with which they are affiliated, as distinguished from the public generally.
- (b) Hold or acquire interests of either five (5) percent or greater in business entities that have or are negotiating contracts of five thousand dollars (\$5,000.00) or more with the city or are regulated by their agency, except as exempted by the commission pursuant to section 7A-7.
- (c) Be employed by business entities that have or are negotiating contracts of more than five thousand dollars (\$5,000.00) with the city or are regulated by their agency, except as exempted by the commission pursuant to section 7A-7.
- (d) Hold any outside employment relationships that would directly impact their impartiality or independence of judgment with regard to their official capacities.
- (e) Represent any parties, for contingent fees, before any city agency or department.
- (f) Within one year following termination of city service, act as compensated representatives of others in connection with any specific matters within their official responsibilities in which they participated substantially as city officials or employees.
- (g) Solicit any gift from any person or business entity.
- (h) Accept any gift from any person or business entity, except as provided herein, that has or seeks a business relationship with the city or is regulated by their office, department or board, except where such gifts would not violate this chapter.

Unless a gift of any of the following would tend to impair the impartiality and the independence of judgment of the official or employee receiving it or, would give the appearance of doing so, or, the recipient official or employee believes, or has reason to believe, that it is designed to do so, subsection (h) of this section does not apply to:

## EXHIBIT A – CITY’S ETHICS CODE

- (1) Meals and beverages valued at up to fifty dollars (\$50.00) consumed in the presence of the donor;
  - (2) Ceremonial gifts or awards which have insignificant monetary value;
  - (3) Gifts of nominal value or trivial items of informational value;
  - (4) Reasonable expenses for food, travel, lodging and scheduled entertainment of the official or the employee for a meeting which is given in return for participation in a board, committee, panel or speaking engagement at a meeting;
  - (5) Gifts of tickets or free admission extended by the sponsoring entity of the event that does business with the city to an elected official to attend a charitable, community, cultural or political event, if the purpose of this gift or admission is a courtesy or ceremony extended to the office;
  - (6) A specific gift or class of gifts which the commission exempts from the operation of this section upon a finding, in writing, that acceptance of the gift or class of gifts would not be detrimental to the impartial conduct of the business of the City of Gaithersburg or that the gift is purely personal and private in nature;
  - (7) Gifts that are purely personal and private in nature from family and household members that would not be detrimental to the impartial conduct of the business of the city; or
  - (8) Honoraria, provided the honorarium is limited to reasonable expenses for the official's or employee's meals, travel, and lodging and provided that:
    - (i) The payor of the honorarium does not have an interest that may be affected substantially and materially, in a manner distinguishable from the public generally, by the performance or nonperformance of the official's or employee's official duties; and
    - (ii) The offering of the honorarium is not related in any way to the official's or employee's official position.
- (i) Use the prestige of their position except to aid or benefit the public generally.
  - (j) Use confidential information acquired in their official city positions for their own benefit or that of others.
  - (k) While employed with or in the service of the city or within one year following termination of city service, purchase any property or equipment from the city, either directly or through a third party such as an auction house, unless the purchase is subject to prior written approval by the city manager.

(Ord. No. O-2-82; Ord. No. O-18-83, 11-7-83; Ord. No. O-4-90, 3-5-90; Ord. No. O-12-04, 11-15-04; Ord. No. O-24-10, 10-18-2010)

### **Sec. 7A-5. - Financial statements and disclosure statements.**

- (a) A financial statement is required from all elected officials, all appointed officials designated in section 7A-1.2, the city manager, the city attorney, the assistant city manager(s), the heads of all departments, and all candidates for elective office. Statements shall be filed on an annual basis by no later than January 31 for the preceding year and shall be under oath. In addition, a disclosure statement shall be filed by all persons subject to this chapter for each incident when there is non-compliance with the requirements of this chapter. The statement shall identify the date of occurrence, donor, gift, value and reason for acceptance. The statement must be filed with the ethics commission for review within thirty (30) days of each occurrence. All occurrences in which honoraria in excess of the gift limit have been accepted must be reported.
- (b) Candidates for elective office shall file statements consistent with the requirements of subsection (a) of this section at the time that they file their certificates of candidacy.
- (c) All city officials and candidates for elective office subject to this chapter shall file a statement with the commission disclosing any interest or employment, the holding of which would require

## EXHIBIT A – CITY’S ETHICS CODE

disqualification from participation pursuant to section 7A-4, sufficiently in advance of any anticipated action to allow adequate disclosure to the public.

(Ord. No. O-2-82; Ord. No. O-7-85, 6-24-85; Ord. No. O-7-96, 7-1-96; Ord. No. O-24-10, 10-18-2010)

### **Sec. 7A-6. - Lobbying disclosures.**

- (a) Any person who personally appears before any city official with the intent to influence that person in performance of his official duties and who, in connection with such intent, expends funds on food, entertainment or Gifts for such officials, shall file a registration statement with the commission no later than January 15 of the calendar year or within five (5) days after making such appearances.
- (b) The registration statement shall include complete identification of the registrant and of any other person or entity on whose behalf the registrant acts. It shall also identify the subject matter on which the registrant proposes to make such appearances and shall cover a defined registration period, not to exceed one calendar year.
- (c) Registrants under this section shall file a report with the city attorney's office within thirty (30) days after the end of any calendar year during which they were registered, disclosing the value, date and nature of any food, entertainment or Gift provided to a city official.
- (d) The registrations and reports filed pursuant to this section shall be maintained by the commission as public records, available for public inspection and copying.

(Ord. No. O-2-82; Ord. No. O-18-83, 11-17-83; Ord. No. O-24-10, 10-18-2010)

### **Sec. 7A-7. - Exemptions and modifications.**

The commission may grant exemptions and modifications to the provisions of sections 7A-4 and 7A-5, if it determines that application of those provisions would:

- (a) Constitute an unreasonable invasion of privacy;
- (b) Significantly reduce the availability of qualified persons for public service; and
- (c) Not be required to procure the purposes of this chapter.

(Ord. No. O-2-82; Ord. No. O-24-10, 10-18-2010)

### **Sec. 7A-8. - Enforcement of chapter; violations and penalties.**

- (a) The commission may issue a cease and desist order against any person found to be in violation of this chapter and may seek enforcement of such order in the circuit court of the county. The court may issue a cease and desist order and may also impose a fine of up to five hundred dollars (\$500.00) for any intentional violation of the provisions of this chapter.
- (b) Persons found to have violated this chapter may be subject to disciplinary or other appropriate personnel action, including suspension of city salary or other compensation and suspension and/or removal from office.
- (c) Violations of this chapter shall be a misdemeanor, subject to the provisions of section 1-7.

(Ord. No. O-2-82; Ord. No. O-24-10, 10-18-2010)