

REQUEST FOR BIDS

No. 2018-001

DORSEY ESTATES STREET LIGHTING SYSTEM UPGRADE SERVICES

Solicitation Issued: July 14, 2017

Bids Due: August 11, 2017 **Time:** 1:00 PM

Bids Submitted To: Gizachew Tiruneh, Project Manager
City of Gaithersburg
Department of Public Works
800 Rabbitt Road
Gaithersburg, Maryland 20878

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SECTION 1: Definitions

Bid Proposal: “Bid Proposal” means the offer submitted to the City by a Bidder in response to this Solicitation.

Bidder: “Bidder” means any Person submitting a Bid Proposal in response to this Solicitation.

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

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

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

Contractor: “Contractor” means the Bidder awarded the Contract.

Lowest Responsive Bid Proposal: “Lowest Responsive Bid Proposal” means the Bid Proposal accepted by the City, which offers the lowest total price, including alternates if awarded, and that fully conforms in all material respects to the requirements of this Solicitation, all form and substance included.

Mayor and Council: “Mayor and Council” means the Mayor and City Council of the City.

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

Procurement Webpage: “Procurement Webpage” means <http://www.gaithersburgmd.gov/government/procurement>.

Project Manager: “Project Manager” means a person designated by the City, to coordinate/manage all necessary work/services that are associated with the project.

Responsible Bidder: “Responsible Bidder” means a Bidder: who meets all of the minimum qualifications specified in this Solicitation; and who is fully capable to and able to evidence its ability to provide the Services under the Contract.

Services: “Services” means the goods and/or services described in this Solicitation and to be provided to the City by the Contractor under the Contract.

Solicitation Documents: “Solicitation Documents” mean this Solicitation and any and all documents issued and/or used by the City to solicit Bid 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 Bids.

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

Work Site: “Work Site or Site” means the area where work/services take place.

~ END OF SECTION 1 ~

SECTION 2: Introduction and Notices to Bidders

2.1. INTRODUCTION

The City is seeking sealed Bid Proposals for the removal of existing and outdated lighting system and the replacement of code compliant metered LED lighting system. The work to be performed under the Contract includes, but may not be limited to: labor, materials, equipment, and supervision for the removal of the existing lighting system, installation of code compliant and operational electrical system per the plans and specifications. The project is located in the Dorsey Estates community, along Sullnick Way, beginning near the intersection of MD 117 and Sullnick Way.

2.2. CITY PROFILE

Gaithersburg is among the largest cities in the State of Maryland, with a population in excess of 67,000, occupying more than 10 square miles within Montgomery County. The City provides many services including police protection, licensing and permitting, building inspections, recreation and cultural activities, street maintenance, recycling collection, stormwater management, housing and community development, and snow removal.

The City operates under the council-manager form of municipal government, with the City Manager being appointed by the City Council. The Mayor and City Council are elected to staggered four-year terms; the Mayor serves as Council President. Gaithersburg became a CHARACTER COUNTS! City in 1996. This national ethics education program is based on six pillars of character that people of all cultures, races and religious affiliations can embrace. The pillars include respect, responsibility, fairness, caring, trustworthiness and citizenship.

2.3. DISCLAIMER

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 and/or travel costs related to such response. All Bid Proposals submitted to and accepted by the City shall become the exclusive property of the City and shall not be returned. The City reserves the right to reject any or all Bid Proposals in full or in part and/or to waive any technicalities and/or informalities as best may serve the interests of the City. The City is under no obligation to any Bidder until a contract is executed for the Services described herein.

2.4. AUTHORITY TO DISTRIBUTE SOLICITATION DOCUMENTS

The City is the sole entity with the authority to issue and/or distribute any Solicitation Documents and/or information related thereto. 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.

2.5. RESTRICTED DISCUSSIONS

Bidders 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 Bid Proposal submitted by any Bidder who is in violation of this provision. Any and all verbal statements and/or answers to questions relative to this Solicitation shall not be considered binding, valid or enforceable.

2.6. ACCEPTANCE

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

2.7. STATE OF MARYLAND BID AND CONTRACT REQUIREMENTS

A. Bidders 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, Bidders must be in compliance with the State of Maryland Code of Regulations Title 21, State Procurement Regulations.

2.8. 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 Division by phone at 301-258-6320 or by email to procurement@gaithersburgmd.gov.

~ END OF SECTION 2 ~

SECTION 3: Solicitation Schedule and Information

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. Unless otherwise specified, all references herein to times of day shall be Eastern Time (daylight or standard, as applicable).

EVENT	DATE	TIME
A. Solicitation Issued:	July 14, 2017	N/A
B. Pre-Submission Meeting: <i>See Subsection 3.2 for additional information</i>	July 24, 2017	at 9:00 AM
C. Bidder Questions Due in Writing: <i>See Subsection 3.3 for additional information</i>	July 27, 2017	by 3:00 PM
D. City's Answers to Questions Issued: <i>See Subsection 3.4 for additional information</i>	August 7, 2017	by 5:00 PM
E. Submission Deadline: <i>See Subsection 4.2 for additional information</i>	August 11, 2017	by 1:00 PM
F. Public Bid Proposal Opening: <i>See Subsection 4.2 for additional information</i>	August 11, 2017	at 1:10 PM

3.2. PRE-SUBMISSION MEETING

There will be a Pre-Submission Meeting at the location shown below on the date and at the time specified in the Solicitation Schedule. Attendance of the Pre-Submission Meeting is not mandatory but is strongly encouraged. Bidders are expected to bring a copy of all the Solicitation Documents to the Pre-Submission Meeting; the City will not provide copies.

City of Gaithersburg
Department of Public Works
800 Rabbitt Road
Gaithersburg, Maryland 20878

3.3. SUBMISSION OF BIDDER QUESTIONS

All questions regarding this Solicitation: (i) shall be submitted by email to Gizachew Tiruneh, Project Manager, at Gizachew.Tiruneh@gaitersburgmd.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.

3.4. CITY'S ANSWERS TO BIDDER QUESTIONS

The City's answers to questions submitted by Bidders 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: Bid Proposal Preparation and Submission Instructions

4.1. BID PROPOSAL PREPARATION

In order to provide each Bidder with an equal opportunity for consideration, adherence to a standardized bid proposal format is required; any Bid Proposal submitted outside of the required format shall be cause for the Bid Proposal to be rejected as non-responsive. All Bid Proposals shall include material organized into sections as follows:

A. Business Profile

This section of the Bid Proposal shall include:

- ↪ The legal name of the business and, if applicable under this Solicitation, the trade name of the business;
- ↪ The type of business (i.e. corporation, limited liability corporation or company, partnership, etc.);
- ↪ The state where this business is domiciled (formed);
- ↪ The location of the principle office and any and all branch office(s) for the business;
- ↪ The nature of the business; and
- ↪ The geographical area(s) the business services.

B. Capability and Qualifications

This section of the Bid Proposal shall describe the capabilities and qualifications of and the resources available to the Bidder to provide the Services (not more than two [2] pages in length). The Bidder shall have a minimum of five (5) years of experience in providing services equal to or greater in scope and cost to those under this Solicitation.

C. Financial Wellness

This section of the Bid Proposal shall include a letter of recommendation from a financial institution that attests whether the Bidder is financially responsible to provide the Services.

D. Subcontractors

This Section of the Bid Proposal shall include a list of any and all subcontractors the Bidder will hire to provide any of the Services under the Contract.

E. Construction Plan

This section of the Bid Proposal shall include a project duration schedule and phase plan, schedule of values, and construction progress reporting methods.

F. Safety, Professional Development, and Quality Control Programs

Offerors are to describe in detail (three pages or less), the Offeror's safety, professional development, and quality control programs, and include the following:

- ↳ Bidder's training programs, such as management, OSHA and technical training programs.
- ↳ Any and all of the Bidder's quality control measures.

G. References

This section of the Bid Proposal shall include the contact information for a minimum of three (3) customers that the Bidder wishes to provide as a reference. References shall be for projects completed by the Bidder within the last five (5) years that were similar in size and scope to the Services under this Solicitation. For each reference, the Bidder shall provide a company's name and address, a company representative's name, telephone number and e-mail address, and a description of the services provided, including scope and size.

H. Required Forms

This section of the Bid Proposal shall include the following procurement forms, all of which, except for the Bid Bond, are incorporated herein and attached hereto together as Attachment A:

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

I. Bid Proposal Price Sheet

This section of the Bid Proposal shall include a completed and signed Bid Proposal Price Sheet, a blank copy of which is included in Attachment A hereto.

4.2. BID PROPOSAL SUBMISSION

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

A. The Bid Proposal Package shall contain the following:

- I. One (1) original paper Bid Proposal. All documents and forms shall be completed in their entirety and, when applicable, be notarized and/or signed in ink by an authorized or duly authorized representative of the Bidder.
- II. Two (2) identical paper copies of the original Bid Proposal.
- III. One (1) identical digital copy of the original paper Bid Proposal on a compact disc or flash drive. The digital copy shall be a single combined file in portable document format (PDF).

In the event of any inconsistency between the original paper Bid Proposal and any paper or digital copies thereof, the original paper Bid Proposal shall take precedence over and supersede those paper or digital copies.

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

- ↳ Solicitation Number
- ↳ Solicitation Title
- ↳ Name of the Bidder submitting the Bid Proposal Package

C. The Bid Proposal Package shall be addressed to the person and submitted to the location shown below; Bid Proposal Packages not received at the same location by the Submission Deadline shall be deemed non-responsive. Bid Proposals shall be publicly opened and read aloud immediately following the Submission Deadline.

Gizachew Tiruneh, Project Manager
City of Gaithersburg
Department of Public Works
800 Rabbitt Road
Gaithersburg, Maryland 20878

D. The City shall assume no responsibility for delays or errors in the delivery of any Bid Proposal; postmarking by the Submission Deadline shall not substitute for actual receipt.

E. The Bidder is strictly prohibited from submitting its Bid Proposal by facsimile or by e-mail. Any and all Bid Proposals submitted as such shall be rejected as non-responsive and be removed from consideration.

~ END OF SECTION 4 ~

SECTION 5: Solicitation and Contract Terms and Conditions

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

5.1. 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.

5.2. ACCEPTANCE AND REJECTION OF BID PROPOSALS

The City reserves the right: (i) to accept or reject any or all Bid Proposals in whole or in part; (ii) to waive any technicalities or informalities in Bid 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 Bid Proposal of any Bidder in arrears or in default to the City on any contract, debt, or other obligation.

5.3. ACCURATE INFORMATION

The Bidder 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 Bidder's Bid Proposal or to terminate the Contract if awarded to the Bidder. Such rejection or termination shall relieve the City of any direct or consequential damages or costs incurred by the Bidder.

5.4. 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. Any and all written communication not posted on the City's Procurement Webpage relative to this Solicitation shall not be considered binding, valid or enforceable. It is the responsibility of the Bidder 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.

5.5. ALTERNATE BID PROPOSALS

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

5.6. BINDING BID PROPOSAL

All Bid Proposals shall remain binding for 180 calendar days following the Submission Deadline; Bid Proposals may not be withdrawn at any time within this period. In the event an award is not made during such period, all Bid Proposals shall be automatically extended and remain binding for an additional 180 calendar day period. Bid Proposals shall automatically be renewed until such time as either an award is made or proper notice is given to the City by a Bidder of its intent to withdraw its Bid Proposal. Bid 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.

5.7. 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 Bidder in strictest confidence. The Bidder shall specify in writing to the City the information and/or material the Bidder 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 Bidder 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”.

5.8. CONTRACT AWARD

- A. It is the intent of the City to award the Contract to one (1) Bidder. The City reserves the right to award the Contract to multiple Bidders and/or to award the Contract in whole or in part. Award shall be to the Responsible Bidder that submits the Lowest Responsive Bid Proposal. If for any reason, through no fault of the City, the Contract is not executed within thirty (30) days of formal award, the City may withdraw the award and award to the Responsible Bidder that submitted the next Lowest Responsive Bid Proposal, or solicit new Bid Proposals.
- B. In the event the City receives only one (1) Bid Proposal in response to this Solicitation, the City reserves the right, in its sole discretion, to proceed as a negotiated procurement with the Bidder that submitted the Bid Proposal.

5.9. ERRORS IN BID PROPOSALS

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

5.10. INTEREST IN MORE THAN ONE BID PROPOSAL AND COLLUSION

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

5.11. LATE BID PROPOSALS

It is the responsibility of the Bidder to ensure the delivery of its Bid Proposal by the Submission Deadline and to the location specified in Section 4.2 of this Solicitation. Any and all Bid Proposals delivered or submitted late or to any location other than the designated location shall be rejected as non-responsive. The submission of any Bid Proposal by way of facsimile or e-mail is strictly prohibited; any and all Bid 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 Bid Proposal; postmarking by the Submission Deadline shall not substitute for actual receipt. Any and all Bid Proposals submitted not in compliance with any of the provisions of this paragraph shall be rejected as non-responsive.

5.12. MODIFICATIONS TO BID PROPOSALS

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

- A. The City shall consider a modified Bid Proposal as an entirely new Bid Proposal and shall replace the original Bid Proposal, which shall be deemed to be withdrawn and null and void.
- B. The modified Bid 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 Bid Proposal herein, the modified Bid Proposal shall clearly be labeled "Modified Bid Proposal".

5.13. RETURN OF BID BONDS

In the event a bid bond is required under this Solicitation, all such bonds shall be retained by the City until the Contract is executed or until such time that a Bidder requests its Bid Proposal to be withdrawn in accordance with Section 5.6 (Binding Bid Proposal) of this Solicitation. The City shall immediately return the bid bond of any Bidder whose Bid Proposal is deemed by the City to be non-responsive, or shall immediately return all bid bonds in the event the Solicitation process is canceled by the City.

5.14. 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 Bidder or with another Bidder, whichever is determined to be the most advantageous to the City. 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 Bidder unless otherwise stated.

5.15. SOLICITATION DOCUMENTS

The Bidder 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 Bidder shall make an inquiry as to such meaning and/or intent. The failure of the Bidder to examine and become familiar with any and all of the Solicitation Documents shall in no way relieve the Bidder of its obligations under the Contract, if awarded to the Bidder. The submission of a Bid Proposal shall be taken as prima facie evidence of compliance with this provision and that the Bidder fully understands everything in the Solicitation Documents.

5.16. SOLICITATION PROTEST

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. 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.

5.17. USE OF BROKER

The Bidder 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 Bidder 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.

5.18. 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.

5.19. 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.

5.20. 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.

5.21. 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.
- 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.

5.22. 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.

5.23. 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.

5.24. 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>.

5.25. 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.

5.26. 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.

5.27. 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.

5.28. INCONSISTENT PROVISIONS

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. 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.

5.29. 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.

5.30. 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.

5.31. NO LIENS

The Contractor shall have no title or interest in any of the goods delivered to the City under the 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. The Contractor shall, upon completion of the Services, provide the City with a Release of Liens from any subcontractor or other supplier.

5.32. 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.

5.33. 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.

5.34. 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.

5.35. 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.

5.36. 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.

5.37. INVOICES, PAYMENT TERMS AND TAXES

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

A. 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.

B. 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.

C. 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.

5.38. 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.

5.39. 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.

5.40. SURVIVAL

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

5.41. TERMINATION

A. Termination for Cause

I. 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 addition, the Contract may be terminated for the bankruptcy, dissolution, assignment for the benefit of creditors, or other similar action of the Contractor.

- II. In the event of 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

- I. 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.
- II. 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 5 ~

SECTION 6: Special Terms and Conditions

6.1. BONDS

- A. The Bidder shall submit with its Bid Proposal an executed bid bond in an amount equal to three percent (3%) of the Bidder's total Bid Proposal price. The bond shall include a certified copy of the Power of Attorney of the attorney-in-fact that executed the bond.
- B. The Contractor shall, within ten (10) business days following receipt of a notice of intent to award issued by the City, furnish to the City an executed performance bond in an amount equal to one hundred percent (100%) of the total Contract sum. The performance bond shall: (i) be executed prior to the effective date of the Contract and not expire prior to the end of the term of the Contract; and (ii) include a certified copy of the Power of Attorney of the attorney-in-fact that executed the bond.
- C. Each bond shall be executed in accordance with and subject to the following:
 - I. The bonding entity shall: (i) be registered and in good standing in the State of Maryland in accordance with the State of Maryland Code of Regulations Title 21, State Procurement Regulations; (ii) maintain a rating of A-minus (A-) or better with A.M. Best; and (iii) consent to exclusive venue and jurisdiction in the Circuit Court for Montgomery County, Maryland. This provision shall apply to any and all co-sureties utilized by the bonding entity in execution of the bond.
 - II. The bond shall include provisions similar to the following:
 - ↪ **GOVERNING LAW.** *This Bond shall be governed by, and construed in accordance with the laws of the State of Maryland without regard to its conflict of laws provisions.*
 - ↪ **NO THIRD PARTY BENEFICIARIES.** *The Surety provides this Bond for the sole and exclusive benefit of the City and, if applicable, any dual obligee designated by attached rider, together with their heirs, administrators, executors, successors and assigns. No other party, person or entity shall have any rights against this Surety.*
 - ↪ **VENUE.** *In the event any legal action shall be filed upon this Bond, venue shall lie exclusively in the Circuit Court for Montgomery County, Maryland.*
 - ↪ **WAIVER OF NOTICE.** *The Surety waives notice of any modifications to the Contract, including changes in the Contract Time, the Contract Sum, the amount of liquidated damages, or the Work and/or Services performed.*

6.2. INSURANCE

- A. The Contractor shall, at all times during the term of the Contract, carry and maintain in full force and effect, at its expense, policies of insurance with minimum limits as follows:
 - I. Comprehensive commercial general liability insurance in an amount no less than one million dollars (\$1,000,000); and

- II. Workers' compensation insurance for all non-City employees and workers employed by the Contractor, in an unlimited amount for worker's compensation insurance as required by Maryland law; and for employer's liability insurance, in an amount not less than One Million Dollars (\$1,000,000).
- B. The City shall be named as an additional insured under the comprehensive commercial general liability policy, and shall receive at least thirty (30) days written notice of any cancellation or adverse material change in that policy, such that any 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. Prior to the execution of the Contract, the Contractor shall provide the City with a certificate of insurance, which shall: (i) evidence the above policies; (ii) name the City as additional insured with respect to the comprehensive commercial general liability insurance policy only; and (iii) 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.
- D. The Contractor 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).

6.3. PAYMENTS

- A. Payments under the Contract shall be paid following the completion of milestones by the Contractor, to be later established and agreed upon between the City and the Contractor, and following the City's acceptance and receipt of an undisputed proper invoice(s) for the same. The City shall only pay invoices issued in accordance with Section 5.37 of this Solicitation.
- B. On each application for payment, the Contractor shall deduct, as retainage, five percent (5%) of the total respective application amount. In the event the Contractor fails to deduct such retainage, the City shall deduct the retainage. The Contractor shall be paid the total amount of retainage at the time of Final Payment.

6.4. BIDDER QUALIFICATIONS

Notwithstanding any of the qualifications specified in any other section of this solicitation, the bidder: (i) shall have a minimum of five (5) years' experience providing services similar to those under this solicitation; and (i) shall be able to substantiate it has the capability to fulfill its obligations under the terms and conditions of this solicitation and the contract.

6.5. SUBCONTRACTORS AND SUBCONTRACTS

- A. No portion of the contract shall be subcontracted, assigned or otherwise disposed of except with the written consent of the City. Any assignment, subcontract or other disposition of all or part of the contract without the express written consent of the city shall be null and void. The Contractor shall submit all subcontractor names and qualifications for approval by the City prior to award of any subcontracts.

- B. In the event the City consents to the use of any subcontractor under the contract, the Contractor shall self-perform at minimum fifty percent (50%) of the actual construction work with its own forces (employees of the Contractor). The Contractor agrees that it is fully responsible to the City for the acts and omissions of its employees, subcontractors and agents. Nothing contained in the contract shall create any contractual relation between any subcontractor and the city.

6.6. NOTICE TO PROCEED AND COMPLETION OF SERVICE

- A. Within ten (10) calendar days following the effective date of the Contract, the City will issue to the Contractor a written notice to proceed. The Contractor shall complete the Services no later than 60 calendar days of the date of the notice to proceed (hereinafter referred to as “completion date”), or at a later date as specified by the City.
- B. In the event the contractor fails to complete the services by the completion date, for reasons which the contractor is solely responsible, the contractor shall pay to the City, as liquidated damages and not as a penalty, the sum of three hundred dollars and zero cents (\$300.00) for each working day beyond the completion date for which the Contractor fails to complete the services.

6.7. LIQUIDATED DAMAGES

- A. Delay in completion of the Services by the specified completion date may lead to actual, considerable and multiple costs to the City, including but not limited to delays in completing other projects or delaying the start of other contracts. The actual amounts of monetary damage may be uncertain and not readily ascertainable for these Services. As a result, in the event the Contractor fails to complete the Services by the specified completion date, for reasons which the Contractor is solely responsible, the Contractor shall pay to the City, as liquidated damages and not as a penalty, the sum of three hundred dollars and zero cents (\$300.00) for each working beyond the specified completion date for which the Contractor fails to complete the Services. This amount shall in no event be considered as a penalty or otherwise than as liquidated damages to the City.
- B. The assessment or payment of any liquidated damages imposed shall not constitute a defense to the Contractor nor an election of remedies by the City, or an estoppel against the City, and shall not prevent the City from terminating the Contract for breach thereof when the failure of performance is repeated by the Contractor. Prior failure to perform the work according to the Construction Documents or the election of the City to refrain from assessing liquidated damages for any failure of the Contractor shall not constitute a waiver on the part of the City in the event it shall later elect to terminate the Contract for breach thereof as provided in the Contract and Construction Documents or assess liquidated damages.

6.8. CHANGE ORDERS

The City may make changes consisting of additions, deletions and/or modifications to the services with the sum and date of completion being adjusted accordingly. All such changes shall be set forth in a written change order (“change order”) that is signed by b City and Contractor. Costs shall be limited to the cost of materials, labor, field supervision and field office personnel directly involved in and attributed to the change order. All costs and/or credits to the City for a change order shall be determined by the price breakdown provided by within the Contractor’s price proposal, or by mutual written agreement of the City and Contractor, at a later date.

6.9. CHANGES TO CONSTRUCTION DOCUMENTS

All services shall be performed in accordance with the construction documents, specifications and drawings attached hereto as Exhibit A and incorporated herein, and as provided by the City at a later date. Any alterations, changes, modifications or variations of the construction documents shall not be valid unless approved in writing by the City. Any deviations from the construction documents shall be determined by the City's Project Engineer.

6.10. CLEAN-UP

The Contractor shall keep the premises clean at all times and shall remove all rubbish and debris as often as required. The Contractor shall clean all fixtures and equipment installed under the contract. Upon completion of the work, all materials, equipment, and appurtenances not required, as part of the completed project shall be completely removed from the site. All waste material from concrete and asphalt operations and scattered or unused aggregates shall be removed.

6.11. COMPLETION OF WORK

The Contractor shall order the supplies, materials, equipment and services necessary to complete the project as soon after the signing of the contract as necessary to assure delivery of same in order to complete the job by the date of substantial completion therein.

6.12. CONTRACTOR'S PROJECT SUPERVISION

- A. The Contractor shall assign, at minimum, one full-time supervisor ("Project Supervisor") that shall be present at the work site at all times while work is performed. The Contractor's Project Supervisor shall have a minimum of five (5) years of experience providing services similar to the Services required under the Contract. Upon request by the City, the Contractor shall provide to the Project Manager with a copy of the Project Supervisor's resume for the City's approval. The resume shall, at a minimum, include the education and experience of the supervisor. The Contractor shall only assign a supervisor to the project once it receives written approval by the Project Manager.
- B. The Project Supervisor shall ensure all required services under the Contract are provided and the Project Supervisor's responsibilities may include, but are not limited to the following: (i) coordinating, directing and supervising all work and ensuring all work progresses without delay; (ii) verifying measurements; (iii) receiving, inspecting, accepting and protecting all equipment and/or materials delivered to or stored at the work site; and (iv) inspecting and protecting all completed work. The Contractor agrees the Project Supervisor shall have the authority to execute instructions and/or orders given by the City for any and all services/work required under the Contract.
- C. The Contractor shall verify all measurements at the work site and shall be responsible for their correctness. No extra charge or compensation will be allowed because of differences between actual dimensions and the measurements indicated on the drawings unless such differences are submitted to the City to be resolved before proceeding with the work.

6.13. CORRECTION OF WORK BEFORE FINAL PAYMENT

The Project Engineer and the contractor shall carefully inspect the work area. Any imperfect work shall be corrected prior to final payment, at no additional cost to the City. In addition, the contractor shall promptly remove from the premises, all materials condemned by the City as failing to conform to the contract, whether incorporated in the work or not, and the Contractor shall promptly replace and re-execute the required work in accordance with the contract, at no cost to the City.

6.14. CORRECTION OF WORK AFTER FINAL PAYMENT

Neither the final payment nor any provision in the contract shall relieve the contractor of responsibility for faulty materials or workmanship. The Contractor shall remedy any defects due thereto and pay for any damage to other work resulting therefrom, which shall appear within a period of one (1) year from the date of completion. The City will provide written notice of observed defects with reasonable promptness.

6.15. DAMAGES DEDUCTED

In the event of the failure, neglect, or default of the contractor in the performance of the contract, the amount of such costs or damages caused by the contractor may be deducted and withheld from any money due or to become due under the contract.

6.16. DEDUCTIONS FOR UNCORRECTED WORK

If the City deems it inexpedient to allow the Contractor to correct work that was not completed in accordance with the contract, or to correct other errors or damage caused due to such work, the City shall determine the value and cost of correction thereof and that amount shall be deducted from the contract price.

6.17. FAILURE TO DELIVER

In the event the Contractor fails to deliver any of the supplies, materials, equipment and/or services covered by the Contract and, in accordance with the delivery terms stipulated in the Contract, the City shall have the right to purchase, at the expense of the contractor, on the open market, any of the supplies, materials, equipment and/or services.

6.18. NOTIFICATION TO OTHER AGENCIES

The Contractor shall be responsible for notifying all concerned agencies affected by the work a minimum of 48 hours in advance of any activity, as prescribed by said agencies, including, but not limited to: the Washington gas, Pepco, Verizon, Comcast cable, Montgomery county government, state highway administration, and the Washington suburban sanitary commission. the contractor must notify miss utility at 1-800-257- 7777 a minimum of 72 hours and no more than five (5) working days prior to removal of any pavement or beginning any excavation. There shall be no measurement or direct payment to the contractor for such notification, working around, the protection of, or repair of damage to such existing utilities caused by the proposed construction activities directly or indirectly.

6.19. PARKING, STORAGE AND STAGING AREAS

Parking, storage and staging areas for the Contractor's use during the project must have prior approval of the City . All areas used for storage of equipment or material shall be restored to their original condition, immediately upon completion of the work. No additional compensation will be provided for restoring, re-grading, placement of topsoil, and/or seed and mulch in these areas.

6.20. POSTING PARKING RESTRICTION SIGNS

The Contractor shall be responsible for:

- A. Furnishing adequate personnel, equipment and sign stakes as necessary to post City furnished parking restriction signs a minimum of 48 hours and no more than 72 hours in advance of the construction operations for that particular portion of that street.
- B. Coordinating the schedule in advance with the City and mark the sign with the appropriate restriction dates. Parking may not be restricted for more than three consecutive dates without prior written City approval. Towing of parked vehicles shall be the responsibility of the City only. Vehicles will not be towed unless the City has verified that the proper parking restriction signs were posted a minimum of 48 hours in advance.
- C. Revising the dates on the signs in the event of delays in the schedule and for the prompt removal of the signs when the construction operation is complete. The signing operation shall be closely coordinated with the City and no signs shall be marked, posted, revised, reposted, or removed without the City's advanced authorization. Signs and stakes are to be carefully removed and revised and reused until otherwise authorized by the City. Signs must be spaced no more than 40 feet apart. No additional compensation shall be paid to the Contractor for the posting and/or removal of signs. It shall be the contractor's responsibility to submit a schedule of operations sequences and methods of maintaining traffic to the City and obtain approval prior to starting work on this project.

6.21. WORK DAY AND HOURS

Unless otherwise specified in the contract, all work shall be performed between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday. No work will be allowed on Saturdays, Sundays, OR OBSERVED holidays without the City's prior written permission. It shall be the Contractor's responsibility to ensure that all work performed does not exceed the City's noise level ordinance.

6.22. WORK SITE SAFETY AND USE OF PREMISES

The Contractor shall, at all times:

- Provide any and all guards, signs, fences, dust barriers and/or protective devices required for the safe completion the Services.
- Confine operations/construction to only the areas permitted under the Contract ("Work Zone") or, as specified by the City at a later date. Any and all areas outside of the Work Zone shall not to be disturbed.
- Adhere to the wok site rules and regulations while engaged in construction.
- Keep areas outside the Work Zone clear and available to the public while the facility is open and accessible by the public. Parking and storage areas shall be limited to the areas specified by the City within the Work Zone. If additional storage is necessary, the Contractor shall be responsible to obtain such storage off-site, at no cost to the City.

6.23. FIELD VERIFICATION AND IDENTIFICATION

The Contractor shall verify all field conditions and dimensions within five (5) days of mobilizing work site activity. The Contractor shall report any discrepancies and/or conflicts to the City. In the event that field conditions differ significantly from the contract documents, a revision will be issued by the city with sketches and/or revised contract documents.

6.24. CONSTRUCTION COORDINATION

The Contractor shall prepare and submit a weekly report to the City's Project Manager, which shall include the following:

- ↳ Name of project;
- ↳ Project number;
- ↳ Date of the report;
- ↳ Weather conditions;
- ↳ Manpower status on each type of work being performed, by building;
- ↳ Weekend or holiday worked and/or planned;
- ↳ Work progress;
- ↳ Any and all environmental problems and/or corrections; and
- ↳ Other information such as: special events or occurrences; accidents; recommendations; suggestions; visitors; major equipment or materials received; tests; inspections; equipment start-up and check-out; and occupancy.

In addition, the Contractor shall take any and all necessary action required to specifically alert the Project Manager to any and all items which could result a claim. The Contractor shall also participate in a weekly project progress meeting. The City's Project Manager shall develop the agenda and the Contractor shall prepare the minutes for review and acceptance by the City.

6.25. PERMITS, LICENSES AND INSPECTIONS

- A. The Contractor shall obtain any and all necessary permits, licenses, and/or inspections to properly execute the work under the Contract. The fee for any permits, which are both required by and issued by the city, will be waived.
- B. The Contractor shall give all notices and comply with any and all laws, ordinances, rules, and/or lawful orders. If the Contractor observes that any portion of the Contract is at variance with any applicable law, statute, and/or building code, the Contractor shall promptly notify the City in writing for the City's review. Toilet Facilities
- C. The Contractor shall be responsible for providing such toilet facilities required for the use of the workforce on the project, at a location approved by the City.

6.26. WARRANTIES

Upon completion, the contractor shall provide a written warranty for a minimum of one (1) year to cover any and all defects in materials and/or workmanship. Should the manufacturer's warranty for materials exceed one (1) year, the later warranty period shall apply. All warranties shall start from the date of completion.

6.27. PROJECT CLOSEOUT AND FINAL ACCEPTANCE PROCEDURE

- A. The Contractor shall immediately notify the Project Manager in writing when all of the work under the Contract is complete.
- B. Upon the Contractor's written notification, the City will inspect, within a reasonable time, the work to determine if the work is complete in accordance with the Contract documents. If the City identifies any work that needs to be corrected, the City will issue to the Contractor a written punch list of items to be corrected, after which the Contractor shall proceed promptly to correct such items. Failure by the City to include an item(s) on the punch list shall not alter the responsibility of the Contractor to complete all the work in accordance with the Contract.
- C. The City will notify the Contractor in writing by the issuance of a project acceptance letter ("Acceptance Letter") once: (1) all the items on the punch list are fully corrected and completed in accordance with the Contract documents; and (2) the submittal to and acceptance by the City of all completed documents ("Project Closing Documents"), which include, but are not limited to as-built documentation, drawings, record documents, design documents, complete O&M manuals, warranties, inspection certificates, and any other required documents.
- D. The City will process the final payment (upon receipt of a proper and undisputed invoice).

6.28. SHOP AND AS-BUILT DRAWINGS

The Contractor shall provide shop drawings as needed and as-built drawings shall be provided as part of the project closing documents.

~ END OF SECTION 6 ~

SECTION 7: Scope of Work

7.1. OVERVIEW

The City wishes to replace the existing residential style lights throughout the neighborhood with a code compliant metered LED lighting system. The project is located in the at Dorsey Estate's community along on both sides of Sullnick Way, near the intersection of MD 117 and Sullnick Way.

7.2. OBJECTIVE

- ↪ Remove existing lights and poles per plans
- ↪ Place new lights and poles in the public improvement easement per plans
- ↪ Provide new meter, controls, and wiring
- ↪ Reuse existing meter or provide new meter per plans

A. General Service Requirements

- ↪ Perform services/work as specified in City approved construction documents, drawings and specifications provided by the City.
- ↪ Field verify construction drawings and specifications to determine accuracy of existing site conditions and utilities prior to commencing work and report any discrepancies to the Project Manager.
- ↪ Prepare submittals for specified fixtures and equipment, and order supplies, materials, equipment and services necessary to complete the project by the specified completion date.
- ↪ Obtain all necessary trade permits.
- ↪ Provide a project construction schedule for the entire project for the owner (City of Gaithersburg) approval. Plan to include details of temporary separation of work areas, dust mitigation, and staging strategy in coordination with the City.

B. Work Site

I. Preparation and Phasing

- ↪ Conduct existing underground utility survey to avoid conflict with excavation;
- ↪ Perform soils analysis to select proper backfill material for light poles;
- ↪ Confirm voltage of existing meter and circuit;
- ↪ Provide the required submittals and shop drawings for approval of the architect/engineer, and acceptance of the owner as stipulated in the project documents; and
- ↪ Prepare a waste disposal plan which will address the safe disposal of construction waste, site debris and disposal of environmentally hazardous material if found during demolition.

II. Capitalized Demolition

- ➔ Removal of existing light fixtures and poles, including signage spot light;
- ➔ Removal of existing controls and electric meter;
- ➔ Relocation of existing signage as noted on drawings;
- ➔ Removal of tree roots and other underground obstructions as required for installation of new conduit and/or poles; and
- ➔ Abandon all existing wiring and conduit in place unless they interfere with the new installation. Any wiring and conduit that interfere with the new installation shall be removed and properly disposed.

III. New Work

- ➔ Provide and install new electric meter with circuit breaker for light circuits, if a new meter alternate is selected.
- ➔ Provide and install new street light fixtures and poles, using direct burial method;
- ➔ Provide and install new sign light; and lighting control panel;
- ➔ Route new wiring and circuitry to breaker, controls, and meter utilizing directional boring;
- ➔ Provide and install house side shields on lights at the direction of the City. Installation of shields will occur after new light fixtures are fully operational;
- ➔ Repair damaged asphalt and concrete as required from installation of fixtures and/or wiring; and
- ➔ Provide and install grass seed as required in areas damaged from installation of fixtures and/or wiring.

~ END OF SECTION 7 ~

SECTION 8: Attachments and Exhibits

8.1. ATTACHMENT A

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

8.2. EXHIBIT A

The following exhibits are incorporated herein and attached hereto:

- ↳ Bid Construction Document Set

~ END OF SECTION 8 ~