Gaithersburg
A CHARACTER COUNTS! CITY

City of Gaithersburg

31 South Summit Avenue, Gaithersburg, Maryland 20877

REQUEST FOR PROPOSALS

Urban Forestry Asset Update and Report

RFP2024-005

Solicitation Issued:	December 20, 2023		
Proposals Due:	January 24, 2024	**Time:**	5:00 PM
Proposals Submitted To:	2024-005@gaithersburgmd.gov		

MAYOR
Jud Ashman

COUNCIL MEMBERS
Neil Harris
Lisa Henderson
Yamil Hernandez
Jim McNulty
Robert T. Wu

CITY MANAGER
Tanisha Briley

TABLE OF CONTENTS

1. Definitions 1

2. INTRODUCTION AND SCOPE OF WORK 2

2.1. INTRODUCTION 2
2.2. BACKGROUND 2
2.3. SCOPE OF WORK 2
2.4. NEW ASSESSMENT TECHNICAL REQUIREMENTS 3
2.5. CITY FACILITY TREE INVENTORY 3
2.6. URBAN FOREST PLAN 3
2.7. TIMELINE AND DELIVERABLES 4
2.8. MINIMUM QUALIFICATIONS OF OFFERORS 4
2.9. REPRESENTATIONS OF OFFEROR 4
2.10. CONTRACT PERIOD AND RENEWALS 4

3. SOLICITATION SCHEDULE AND INFORMATION 5

3.1. SOLICITATION SCHEDULE 5
3.2. SUBMISSION OF OFFEROR QUESTIONS 5

4. PROPOSAL PREPARATION AND SUBMISSION INSTRUCTIONS 5

4.1. PROPOSAL PREPARATION 5
4.2. PROPOSAL SUBMISSION 6

5. EVALUATION CRITERIA AND SELECTION PROCESS 7

5.1. AWARD 7
5.2. SELECTION COMMITTEE 7
5.3. EVALUATION CRITERIA 7
5.4. SELECTION PROCESS 7

6. NOTICE TO OFFERORS 7

6.1. DISCLAIMER 7
6.2. ACCEPTANCE 8
6.3. AUTHORITY TO DISTRIBUTE SOLICITATION DOCUMENTS 8
6.4. RESTRICTED DISCUSSIONS 8
6.5. STATE OF MARYLAND BID AND CONTRACT REQUIREMENTS 8
6.6. ADA REQUIREMENTS 8

7. SOLICITATION AND CONTRACT TERMS AND CONDITIONS 8

7.1. HEADINGS 8
7.2. ACCEPTANCE AND REJECTION OF PROPOSALS 8
7.3. ACCURATE INFORMATION 8
7.4. ADDENDA AND AMENDMENTS 8
7.5. ALTERNATE PROPOSALS 8
7.6. BINDING PROPOSAL 8
7.7. CONFIDENTIALITY 9
7.8. CONTRACT AWARD 9
7.9. ERRORS IN PROPOSALS 9
7.10. INTEREST IN MORE THAN ONE PROPOSAL AND COLLUSION 9
7.11. LATE PROPOSALS 9
7.12. MODIFICATIONS TO PROPOSALS 9
7.13. RETURN OF BID BONDS 10
7.14. OPTIONAL GOODS AND/OR SERVICES 10
7.15. SOLICITATION DOCUMENTS 10
7.16. SOLICITATION PROTEST 10

7.17. USE OF BROKER 10
7.18. ASSIGNMENT OF THE CONTRACT 10
7.19. CHANGES IN GOODS AND/OR SERVICES 10
7.20. CONTRACT DISPUTES 10
7.21. DISSEMINATION OF DATA 11
7.22. EMPLOYMENT AS INDEPENDENT CONTRACTOR 11
7.23. ETHICS LAWS AND REQUIREMENTS 11
7.24. FORCE MAJEURE 11
7.25. GOVERNING LAW 11
7.26. IMMIGRATION REFORM AND CONTROL ACT 11
7.27. INCONSISTENT PROVISIONS 12
7.28. INDEMNIFICATION 12
7.29. LAWS AND REGULATIONS 12
7.30. NO LIENS 12
7.31. NO WAIVER 12
7.32. NONEXCLUSIVE 12
7.33. NON-DISCRIMINATION REQUIREMENTS 12
7.34. OWNERSHIP OF MATERIALS 13
7.35. PATENTS 13
7.36. INVOICES, PAYMENT TERMS AND TAXES 14
7.37. RECORDS 14
7.38. SUBCONTRACTORS 14
7.39. SURVIVAL 14
7.40. TERMINATION 14

8. SPECIAL TERMS AND CONDITIONS 15

8.1. INSURANCE 15
8.2. PAYMENTS 15

9. ATTACHMENTS AND EXHIBITS 15

1. Definitions

Proposal: the offer submitted to the City by an Offeror in response to this Solicitation.
Offeror: any Person submitting a Proposal in response to this Solicitation.
City: the City of Gaithersburg, Maryland, a municipal corporation of the State of Maryland.
City Manager: the City Manager of the City or his or her designee.
Contract: the binding agreement awarded pursuant to this Solicitation, if any.
Contractor: the Offeror awarded the Contract.
Lowest Responsive Proposal: the 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: "the Mayor and City Council of the City.
Person: any individual, or association or business recognized by law.
Procurement Webpage: http://www.gaithersburgmd.gov/government/procurement.
Responsible Offeror: Offeror 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: the goods and/or services described in this Solicitation and to be provided to the City by the Contractor under the Contract.
Solicitation Documents: 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: the events and dates and times thereof specified in Section 3.1 of this Solicitation.
Solicitation: Request for Proposals
Submission Deadline: the date and time, specified in Section 3.1 of this Solicitation, by which all Proposals shall be submitted to and received by the City.

2. INTRODUCTION AND SCOPE OF WORK

2.1. INTRODUCTION

The City is seeking sealed proposals from a qualified consultant or firm to perform a professional field update of the City's existing and new Urban Forestry asset data and to prepare a comprehensive Urban Forest Plan based on the collected data. The Urban Forest Plan should incorporate urban forest management best practices and identify actions to be taken to improve the health and condition of the various field reviewed forested areas.

2.2. BACKGROUND

A. Gaithersburg is among the largest cities in the State of Maryland, with a population in excess of 69,000, 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. Read more about our mission and vision at https://www.gaithersburgmd.gov/about-us/mission-vision-guiding-principles.

B. On October 5, 2015, the Mayor and City Council authorized the funding for an Urban Forestry Study (2017 Study) in accordance with both a recommendation in the Environment & Sustainability Element of the City's Comprehensive Plan and the subsequent annual Strategic Plan action item. The Study was to include:
   - An inventory of the existing street trees within the City of Gaithersburg on private, City, County, and State roads including species, size, and condition.
   - A field review of all current areas under a Category I forest conservation easement as to forest composition/structure and retention value.
   - A description of urban forestry elements on City facilities including narrative description of composition and health.

C. On January 7, 2016, the field work was mostly completed that year with additional refinements in 2017, creating a GIS inventory database of the City's various urban forestry assets. The City intended to update the non-street tree aspects of this database every five years to assess improvement or decline in forest stands, however, the Covid pandemic required delaying this update. Further, the State of Maryland amended the Forest Conservation Act to require a jurisdiction to formulate a forest mitigation/enhancement plan in order to collect fee-in-lieu payments when required forest conservation cannot be performed on-site.

2.3. SCOPE OF WORK

Field Assessments

A. The Consultant shall conduct a field review and update the Forest Conservation easements that were included in the 2017 study. The 2017 study broke up these easements into smaller data plots. The plots divided the existing easements into coherent forest communities. Where one plot ends and another begins delineates an appreciable change in the physical attributes of the forest community. The 2017 Study data was saved as an ESRI GIS database layer with attributes. There are 292 plot points to be updated. The Consultant is to use the X, Y coordinates of the referenced data plot points to conduct the update.

B. In addition to the previous assessment updates, the Consultant is to perform new field reviews of areas located within forest conservation easements created since the 2017 study and forested City-owned properties in designated areas of the City to assess the physical structure of those forests. **Refer to Exhibit A** for the forest conservation easements, 2017 Study data plot points' locations, and the forested City-owned properties that require new assessments. The acreage of forest under easement or on City-owned parcels is 653.95 acres. The City is not requesting a formal forest stand delineation of these new and updated areas, but rather an observed and documentable analysis of the physical state of these individual areas. This analysis is to include:

   i. Identification of species composition, dominant species, size classes, common understory species, and successional stage,
   ii. Description of presence or absence of understory, woody vine, and herbaceous plant layers,
   iii. Description of presence of invasive a non-native species,
   iv. Estimated canopy cover,

v. Absence or presence of specimen trees (30+" DBH) and their species and condition, if observed in study areas, and
vi. Overall Stand(s) condition; Regeneration potential and retention value scored 1-5 as followed:
    a) Score 5: High valued forest, fully functional multi-tiered forest system.
    b) Score 4: Forest is better than mid-valued, but still requires intervention actions to be high valued.
    c) Score 3: Mid valued forest, e.g., lacking healthy plant layer or presence of invasives, but can be made high valued with intervention.
    d) Score 2: Forest is better than Score 1 forest, but not as good as a Score 3 forest. Extensive intervention actions will still be needed to increase retention value.
    e) Score 1: Low valued forest, e.g., monocultured in species, little canopy cover, excessive presence of invasives as dominant species, no understory, etc. Needs extensive intervention to function as a forest.
vii. Additional notes or observations if any.

2.4. NEW ASSESSMENT TECHNICAL REQUIREMENTS

A. The existing forest assessment data plot points, and the new forest conservation easements and forested City-owned properties for new assessment will be provided in an ESRI file geodatabase. The Consultant shall utilize the provided GIS data layers and deliver the updated and new assessment information in a GIS file geodatabase format, compatible in ArcGIS Pro 3.1 environment.

B. For the new assessment study, assessment location should be collected within 2-foot accuracy. Their latitude and longitude or X, Y coordinates should be included in the GIS data layer. The assessment information can be included in the same GIS data layer, or prepared in a table format, readily importable to a GIS database.

2.5. CITY FACILITY TREE INVENTORY

A. The Consultant shall inventory all individual trees located on City owned facilities identified in this solicitation. The acreage of City parcels with individual trees is 150.96 acres and identified in **Exhibit A.** The information collected for each tree in this inventory shall include the following:
    i. Location: Identify the location of each tree using a GNSS device.
    ii. Species: Trees are identified by genus and species using both botanical and common names and by cultivars where appropriate.
    iii. Tree Size: Diameter is measured to the nearest inch in one-inch size classes at 4-1/2 feet above the ground, or diameter-breast-height (DBH).
    iv. Condition: The general condition of each tree is rated according to the following categories adapted from the International Society of Arboriculture's rating system:
        a) Excellent ..... .100%
        b) Good 80%
        c) Fair 60%
        d) Poor 40%
        e) Critical 20%
        f) Dead 0%
    v. Additional notes or observations if any, such as documentation of observed maintenance needs based on ANSI A300 standard specifications. This section may also be used to identify those trees with a high probability of failure or defects.

B. The tree locations should be collected within 2-foot accuracy and the data collection metadata such as horizontal and vertical accuracy should be included for each tree location. The consultant shall provide collected tree inventory data in a ESRI file geodatabase, compatible with ArcGIS Pro 3.1.

2.6. URBAN FOREST PLAN

Using the data collected under the Field Stand Assessments, the Consultant is to determine mitigation and intervention actions, through text and graphics, for those data points that exhibit "Mid" or "Low" forest values. These recommended actions should describe actions to improve the quality, health, and condition of the associated stand. These actions may include but are not limited to invasive removals, supplemental

plantings that increase species diversity, or other forest management best practices. The collected recommended actions are to be compiled in a report format that:

i. For those forests that include multiple stand data points with "Mid" or "Low" forest values, a comprehensive action plan for the forest may be developed rather than for each individual stand data point.
ii. Identify the actions to be taken for said forest or stand data point prioritized by those actions with the greatest benefit.
iii. Organize the various areas by intensity of interventions needed: listing those areas with greatest need to lowest need.
iv. The study should include additional graphics, photos, cost estimates, appendices listing the data collected in a format understandable to the general public, and/or any other information that would benefit the context of or implementation of the recommended actions.
v. The Consultant will provide the City-Approved final report in PDF digital format and include three (3) hard copies.

2.7. TIMELINE AND DELIVERABLES

It is intended that the project would begin with a kick-off meeting between the Consultant and City staff no later than **April 15, 2024**. Thereafter it is the City's intention to have all field-related forest assessment work initiated no earlier than May of 2024, unless agreed upon between the City and the Consultant, and completed by **September 1, 2024**. The individual tree inventories may begin following the kick-off meeting. Final deliverables reviewed and approved by the City, including the final Urban Forest Plan report and GIS files would be due no later than **November 1, 2024**.

2.8. MINIMUM QUALIFICATIONS OF OFFERORS

A. It is required that the Offeror must have at **LEAST** one (1) Certified Arborist as designated by the International Society of Arboriculture or one (1) Maryland Licensed Forester on staff and assigned to the project in a supervisory role and that this professional has been employed with the company for at least one (1) calendar year.
B. The qualified Offeror firm must have at least five (5) years' experience performing work similar to those under this solicitation. The Offeror's project staff, in addition to section A above, should include those having a four (4) year degree in Urban Forestry or a related field of study, or having a "Qualified Professional" as designated under the Maryland Forest Conservation Act, or a combination of knowledge and experience equal to such qualifications in performing the required field work and developing forestry plans.
C. The Contractor must be able to perform the inventory services without delay from other projects and commitments.
D. The Contractor shall utilize personnel listed in its Proposal. Substitution of key personnel shall only be permitted with the prior written permission of the City.

2.9. REPRESENTATIONS OF OFFEROR

The Offeror represents and warrants that:

A. The firm is financially solvent and that its team is experienced in and competent to perform the type of work and possesses the resources to furnish the plans, materials, supplies and equipment to be performed or furnished.
B. The Offeror at all times shall carefully examine the plans, the specifications and the site of the work and that from the Offeror's own investigations, he/she shall satisfy themselves as to the nature and location of the work, the integrity, quantity of surface and subsurface materials likely to be encountered, and character of equipment and other facilities needed for the performance of the work, the general and local conditions and all other materials which may in any way affect performance of the work.

2.10. CONTRACT PERIOD AND RENEWALS

A. The resultant contract period shall be from the date of award through December 1, 2024.

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 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:	**December 20, 2023**	**N/A**
B. Offeror Questions Due in Writing:	**January 10, 2024**	**by 5:00 PM**
C. Q&A Addendum Issued:	**January 17, 2024**	**by 5:00 PM**
D. Submission Deadline:	**January 24, 2024**	**by 5:00 PM**

3.2. SUBMISSION OF OFFEROR QUESTIONS

All questions regarding this Solicitation: (i) shall be submitted in writing by email to the Procurement Division, at procurement@gaithersburgmd.gov; and (ii) shall be received by the date and time specified in the Solicitation Schedule. The solicitation number and title must be included in the subject line of the email. 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. The City's responses to questions received will be issued via Addendum to this solicitation on the date specified in the Solicitation Schedule.

4. PROPOSAL PREPARATION AND SUBMISSION INSTRUCTIONS

4.1. PROPOSAL PREPARATION

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 include material organized into sections as follows:

A. Executive Summary

A cover letter prepared on official business stationary signed by an individual authorized to bind the Offeror to its Proposal and shall include the contact information of an individual to whom the City should direct correspondence. This section shall summarize the organizational structure and size of their business and provide the business' date of organization, current principal and place of business, additional locations, and services offered – with emphasis on information related to this solicitation, history, vision, philosophy and policies or plans for Diversity/Racial Equity and Sustainability.

B. Understanding of the Requirement and Technical Approach

i. Discussion and confirmation of the requirements as they are analyzed by the Offeror and the Offeror's proposed Scope of Work directly correlated to and with the same headings as outlined in this solicitation.

ii. Work Plan describing the phases into which the proposed project can be logically divided and performed. Offeror should also indicate its intent to use subcontractors for completion of any portion of this project with a breakdown of roles and responsibilities. Provide references for each subcontractor/ subconsultants using reference sheet provided in **Attachment A**.

a) The Timeline must coincide with the Work Plan timeline and shall, at a minimum, set forth a realistic plan for the timing of each task in the Work Plan and set forth any and all milestones.

b) The Management Plan shall clearly describe how the Offeror will manage and control all proposed tasks under the Work Plan and Timeline; and explain how the management and administrative processes will ensure that appropriate levels of attention are given so that work is performed properly and in accordance with the Work Plan and Timeline.

iii. Discussion of the Offeror's awareness of the potential difficulties in the completion of this undertaking and resolution strategies, as well as any alternative approaches.

iv. Identify any additional topic specific meetings required, and specify meeting platform, i.e., virtual or in person.

C. Organizational and Staff Experience

i. Address the qualifications of staff assigned by the Offeror to the proposed project. The Offeror shall: (i) include the names of the primary project manager, alternate project manager, and each project team member; (ii) describe the functional discipline and responsibilities for all such persons; and (iii) provide a complete resume for each team member, including what if any qualifications as described under 2.8 they hold.

ii. Provide proof that the Offeror's firm is licensed by and/or registered with the State of Maryland to provide the Services.

iii. Provide examples of three (3) comparable projects with similar scope in progress or completed within the past ten (10) years.

D. References – Offerors must provide at least three (3) customer references for similar or related tasks performed for organizations of similar complexity. A reference sheet is provided in Attachment A of this solicitation.

E. Pricing

A fully burdened cost proposal, organized into columns providing hourly rates for each of the Offeror's project team members, including any proposed subconsultants, and the number of estimated hours worked by such personnel. Additionally, fees for a la carte services and reimbursable expenses shall be delineated. The City will not reimburse for the following items: overtime, travel time, vehicle rental, fuel expenses, meals, lodging, per-diem.

F. Required Forms

This section of the Proposal shall include the following completed forms, blank copies of which are included in Attachment A hereto:

a. Addendum and Amendment Acknowledgement
b. Affidavit of Qualification to Bid
c. Bid Submission Certification
d. References
e. List of Subcontractors
f. Conflict of Interest Certification
g. Litigation and Lien Information
h. W-9
i. Vendor Registration form

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

4.2. PROPOSAL SUBMISSION

The Offeror shall submit its Proposal in accordance with and subject to the following instructions and conditions:

A. The Offeror shall submit its Proposal to the Procurement Division by email to 2024-005@gaithersburgmd.gov. The Proposal shall consist of a single PDF file with the following:

i. Technical proposal
ii. Cost Proposal
iii. Attachment A (Required Forms)

B. Proposals not received by the Submission Deadline shall be deemed non-responsive.
C. The City shall assume no responsibility for delays or errors in the delivery of any Proposal.
D. The Offeror is strictly prohibited from submitting its Proposal by facsimile or by postal mail. The Offeror may not submit its Proposal to any email address other than the one provided at Section 4.2.A

above. The Offeror may not provide any links to Proposal. Any and all Proposals submitted not in compliance with this Section shall be rejected as non-responsive and be removed from consideration.

E. Offerors will receive a confirmation of receipt email with date and time stamp after proper submission of proposals. If no email is received, please contact Procurement immediately at Procurement@gaithersburgmd.gov. **Do not submit proposals to this email address.**

5. EVALUATION CRITERIA AND SELECTION PROCESS

5.1. AWARD

Award of the Contract, if any, shall be to the Offeror whose Proposal is deemed by the City to provide the best value, price and technical factors considered.

5.2. SELECTION COMMITTEE

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

5.3. EVALUATION CRITERIA

The Selection Committee will evaluate each Proposal on the following criteria:

A. Demonstrated understanding of the requirement – 10 pts.
B. Scope of work / Work Plan– 30 pts
C. Qualifications, Experience and Capabilities – 40 pts
D. Pricing – 20 pts.

5.4. SELECTION PROCESS

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.

A. **Review for Responsiveness**
Procurement 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 Committee Chair shall distribute all responsive Proposals to the Selection Committee to be evaluated and scored. Proposals determined to be nonresponsive shall not be distributed to the Selection Committee, subject to approval by the Project Manager and Procurement Manager.

B. **Evaluation and Scoring**
The Selection Committee shall evaluate and score each responsive Proposal to determine the qualifications of the respective Offeror to perform the Services and to establish a list of the highest ranking Offerors or identify the best value Proposal.

C. **Interviews**
Following the evaluation and scoring of all responsive Proposals, the Selection Committee may require an interview with the highest ranking Offerors, each of whom may be required to make a presentation. Following interviews, if any, the Selection Committee will score each Offeror interviewed and make a recommendation of tentative award to the City Manager or Designee. Formal award may be contingent on the approval by the City's Mayor and City Council. The City reserves the right to require any Offeror to make an additional presentation in order to substantiate the qualifications and/or abilities of the Offeror to perform under the Contract.

6. NOTICE TO OFFERORS

6.1. 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 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 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 Offeror until a contract is executed for the Services described herein.

6.2. ACCEPTANCE

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

6.3. 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.

6.4. 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. Any and all verbal statements and/or answers to questions relative to this Solicitation shall not be considered binding, valid or enforceable.

6.5. 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.

6.6. 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.

7. SOLICITATION AND CONTRACT TERMS AND CONDITIONS

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

7.1. 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.

7.2. 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.

7.3. 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.

7.4. 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 Procurement Webpage relative to this Solicitation shall not be considered binding, 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 Procurement Webpage.

7.5. 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.

7.6. 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.

7.7. 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".

7.8. CONTRACT AWARD

A. It is the intent of the City to award the Contract to one (1) Offeror. The City reserves the right to award the Contract to multiple Offerors and/or to award the Contract in whole or in part. Award shall be to the Responsible Offeror that submits the Lowest Responsive 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 Offeror that submitted the next Lowest Responsive Proposal 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.

7.9. 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.

7.10. 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.

7.11. 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 4.2 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 postal 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.

7.12. 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".

7.13. 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 Offeror requests its Proposal to be withdrawn in accordance with Section 5.6 (Binding Proposal) of this Solicitation. The City shall immediately return the bid bond of any Offeror whose 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.

7.14. 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 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.

7.15. 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.

7.16. 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.

7.17. 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.

7.18. 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.

7.19. 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.

7.20. 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.
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.

7.21. 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.

7.22. 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.

7.23. 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: www.gaithersburgmd.gov/government/city-code-regulations.

7.24. 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.

7.25. 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.

7.26. 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.

7.27. 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.

7.28. INDEMNIFICATION

A. The Contractor shall agree to indemnify, hold harmless and defend the City from and against all claims, demands, actions, suits, damages, liabilities, losses, settlements, judgments, costs and expenses ("Claim") suffered or incurred by the City or any third party resulting from any negligent acts by or errors or omissions of the Contractor, its employees, agents or subcontractors in connection with the performance of the Contract, except that if the City reasonably determines that any indemnified Claim might adversely affect the City, the City may take control of the defense at the City's expense. The Contractor may not consent to the entry of any judgment or enter into any settlement of any Claim without the City's prior written consent, which may not be unreasonably withheld.

B. In the event of litigation between the City and the Contractor arising under, related to, or in connection with the Contract, the prevailing party shall be entitled to recover reasonable attorneys' fees from the non-prevailing party at the arbitration, trial and/or appellate levels.

7.29. 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.

7.30. 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.

7.31. 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.

7.32. 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.

7.33. 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 race, color, creed, religion, ancestry, sex, sexual orientation, national origin, affection preference, gender identity, genetic testing, 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 identity, genetic testing, 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 identity, genetic testing, 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.

7.34. 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.

7.35. 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.

7.36. INVOICES, PAYMENT TERMS AND TAXES

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

A. 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. 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. 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.

7.37. RECORDS

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. The Contractor shall include similar provisions in all subcontracts.

7.38. 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.

7.39. SURVIVAL

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

7.40. 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.

8. SPECIAL TERMS AND CONDITIONS

8.1. 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 not 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).

III. Automobile liability insurance in an amount not less than One Million Dollars ($1,000,000); and

IV. Professional liability insurance (errors and omissions) 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 of that policy, such that any cancellation 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 of the insurance and that such cancellation shall not be effective with respect to the City for thirty (30) days after such written notice is given.

D. The Contractor shall also immediately notify the City in writing with a copy of any written notice from the Contractor's insurers of any cancellation or adverse material change in that policy. The Contractor acknowledges and agrees that its failure to provide the City with such notice, a certificate of insurance and/or the failure by the City to demand the delivery of said notice or insurance certificate shall not operate or be deemed to operate as a waiver of the notice, insurance and associated endorsements required under this provision, and the Contractor shall indemnify, defend and hold the City harmless from any liability arising as a result of any such failure(s).

8.2. PAYMENTS

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 7.36 of this Solicitation.

9. ATTACHMENTS AND EXHIBITS

Attachment A: Required Forms
Exhibit A: Data Plot Points, Forest Areas, and Individual Tree Inventory Areas

ATTACHMENT A

City of Gaithersburg

Addendum and Amendment Acknowledgment

Solicitation No. _____

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

_____ _____ _____

Signature Title Date

_____

Printed Name

City of Gaithersburg

Affidavit of Qualification to Bid/Propose

Solicitation No. _____

Please complete this form in its entirety and include it with your Bid/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
Title
representative of the entity _____ and that I possess the
Name of Entity
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 Bidder, or any other person substantially involved in the Bidder'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 bids 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 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 bids for public or private contracts.

6. Bidder hereby declares that this Bid/Proposal is made without any connection or collusion with any person, entity or corporation making a Bid/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 Bid Proposal is accepted, this Bidder will contract to do, for the price stated in the Bid 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

Bid/Proposal Submission Certification

Solicitation No. _____

Please complete this form in its entirety and include it with your Bid/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) _____

BID PROPOSAL SUBMISSION CERTIFICATION

The response this Solicitation includes this Bid/Proposal Submission Certification Form and the Affidavit of Qualification to Bid 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

City of Gaithersburg

Bidder References Form

Solicitation No. _____

Please complete this form in its entirety and include it with your Bid/Proposal. The City reserves the right to reject Bid/Proposals from any Bidder/Offeror that does not meet the minimum qualifications. The Bidder shall be competent and experienced with an established reputation within the community performing the type of work required under the Solicitation and subsequent contract.

Name of Bidder: _____

Street Address: _____

_____

City, State & Zip Code: _____, _____ _____

Provide contact information for three customers for which the Bidder/Offeror completed projects within the last five (5) years that were similar in size and scope to the Services under the Solicitation.

1. REFERENCE		
Name (Business):		
Address:		
Name of Contact:		
Contact's Phone Number:		**Contract Sum:**
Type of Construction:		
Location of Construction:		
Construction Period (in days):		
Construction Completion Date:		
Scope/Description of Work:		

2. REFERENCE		
Name (Business):		
Address:		
Name of Contact:		
Contact's Phone Number:		**Contract Sum:**
Type of Construction:		
Location of Construction:		
Construction Period (in days):		
Construction Completion Date:		
Scope/Description of Work:		

3. REFERENCE		
Name (Business):		
Address:		
Name of Contact:		
Contact's Phone Number:		**Contract Sum:**
Type of Construction:		
Location of Construction:		
Construction Period (in days):		
Construction Completion Date:		
Scope/Description of Work:		

City of Gaithersburg

Subcontractors

Solicitation No. _____

Please complete this form in its entirety for <u>each subcontractor</u> and include it with your Bid/Proposal. The City reserves the right to reject any subcontractor that does not meet the minimum qualifications. The subcontractor shall be competent and experienced with an established reputation within the community in the performance of the type of work required under the Solicitation and subsequent contract.

Offeror: _____

Street Address: _____

_____

City, State & Zip Code: _____, _____ _____

Provide contact information for three potential subcontractors the offeror may employ to fulfill the requirements of the referenced solicitation.

1. SUBCONTRACTOR		
Name (Business):		
Address:		
Name of Contact:		**Phone Number:**
Description of Work:		

2. SUBCONTRACTOR		
Name (Business):		
Address:		
Name of Contact:		**Phone Number:**
Description of Work:		

3. SUBCONTRACTOR		
Name (Business):		
Address:		
Name of Contact:		**Phone Number:**
Description of Work:		

City of Gaithersburg

Conflict of Interest Certification

Solicitation No. _____

Please complete this form in its entirety and include it with your Bid/ 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 _____ (*Name of Entity*) that no 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 Bid/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 _____ (*Name of Entity*) that no employee or agent of _____ (*Name of Entity*) is a member, employee, 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:

_____

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 Bid/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.

Case Number	**Jurisdiction**	**Status**	**Summary**

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

Gaithersburg
A CHARACTER COUNTS! CITY

VENDOR REGISTRATION FORM

Date: _____

Vendor Information:

Employer Identification Number **or** Social Security Number: _____

Company **or** Individual Name: _____
Address: _____
City _____ State _____ Zip Code _____

Remit to Address: (If the same as Company **or** Individual Name address write SAME)
Company **or** Individual Name: _____
Address: _____
City _____ State _____ Zip Code _____

Contact Information:

Name: _____ Title: _____
Phone: _____ Fax: _____
Email: _____

Classification

- ☐ Individual
- ☐ Large Business
- ☐ Small Business
- ☐ Small Disadvantaged Business
- ☐ Minority Owned Business
- ☐ 8(A) Certified
- ☐ Woman Owned Business
- ☐ Other:
- ☐ HubZone
- ☐ Veteran Owned Business
- ☐ Service Disabled Veteran Owned Business
- ☐ Native American Owned Business
- ☐ AK Native American Owned Business
- ☐ Historically Black College & University
- ☐ Non Profit

Form **W-9**
(Rev. October 2018)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

▸ **Go to *www.irs.gov/FormW9* for instructions and the latest information.**

Give Form to the requester. Do not send to the IRS.

Print or type. See **Specific Instructions** on page 3.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only **one** of the following seven boxes.

☐ Individual/sole proprietor or single-member LLC ☐ C Corporation ☐ S Corporation ☐ Partnership ☐ Trust/estate

☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▸ _____

Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is **not** disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.

☐ Other (see instructions) ▸

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any) _____

Exemption from FATCA reporting code (if any) _____

(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.) See instructions.

Requester's name and address (optional)

6 City, state, and ZIP code

7 List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN,* later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number

			–		–				

or

Employer identification number

		–							

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here **Signature of U.S. person** ▸ **Date** ▸

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to *www.irs.gov/FormW9.*

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

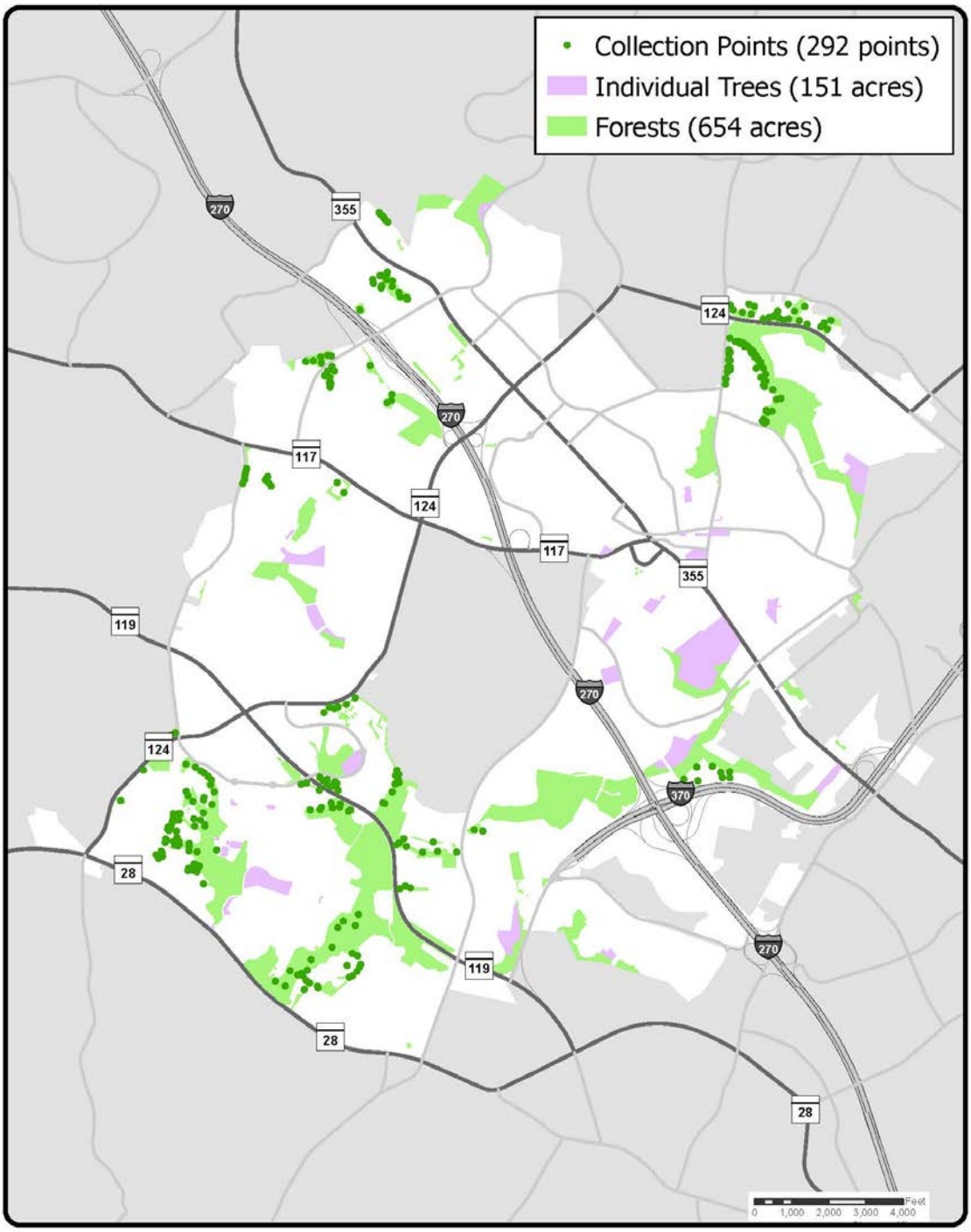
Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, *later.*

EXHIBIT A

EXHIBIT A

Data Plot Points, Forest Areas, and Individual Tree Inventory Areas



Tree Collection Areas in the City

The City of Gaithersburg makes no warranty, express or implied, for the completeness and accuracy of the information depicted on this map. All rights reserved. 11/9/2023 • keby