



City of Takoma Park, Maryland

Request for Proposals

RFP # CTTV-20211115

Contract for Services: Channel Automation, Digital Signage, and Closed Captioning Systems

Publication Date:

Request for Proposals (RFP) documents will be available beginning Wednesday, February 9, 2022. Bid packages may be obtained from the City of Takoma Park's website at www.takomaparkmd.gov.

Deadline:

Proposals are due no later than 11:59 p.m. on **March 11, 2022**

Purpose:

The City of Takoma Park invites qualified firms to submit responses ("proposals") to this Request for Proposals in order to assist the City's Communications Department in upgrading the Channel Automation System and Digital Signage System and installing an automated Closed Captioning System. The selected firm will work with CTTV team to improve access and quality of the City of Takoma Park's media channels and digital communications.

Contact:

Alvaro C. Calabia
TV Production Manager
7500 Maple Avenue
Takoma Park, Md 20912
301-891-7253
alvaroc@takomaparkmd.gov

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STATEMENT OF PURPOSE

In this Request for Proposals ("RFP"), the City of Takoma Park ("City") is seeking a qualified and experienced firm for the upgrade of the Channel Automation System, the Bulletin Board/Digital Signage System, and installation of an automated Closed Captioning System.

BACKGROUND

Takoma Park City TV is a government cable access channel in Montgomery County, Maryland, operated by the City of Takoma Park. The City of Takoma Park is located in the southern part of Montgomery County, Maryland, and borders Washington, DC and Prince George's County, MD. The City, which is about 2.4 square miles in size, is primarily residential in character, and has a population of 17,672. The City's population is diverse with a majority of residents being people of color: 32.95% Black or African American, 11.61% Hispanic or Latinx, 5.29% Asian, 46.33% White, and 3.82% identifying as other. The city and its residents celebrate its diverse, progressive identity.

Other entities in Montgomery County, such as Montgomery College, Montgomery County Government, the Public Schools, the City of Rockville also operate PEG (Public, Educational and Government) Access channels as well, and these comprise the PEG Network. These channels offer cable subscribers the ultimate in local programming, with shows featuring local government, schools, teachers, soccer games, performances, hearings, classes and events that the major broadcast programmers tend not to cover in a major metropolitan area such as this.

The channel uses Cablecast and Carousel, both Tightrope Media Systems platforms. The channel cablecasts many live performances and events from the Takoma Park Community Center auditorium, including the weekly city council meeting, poetry readings, public forums, and music and dance performances. At this moment, the City doesn't use any Closed Captioning system, but plans to implement an ENCO system. The Digital Signage system operates on three screens inside the Takoma Park Community Center lobby areas.

SCOPE OF WORK AND DELIVERABLES

The Firm shall provide services consisting of, but not limited to, the components listed below. Please also identify any other tasks that may be necessary to complete the scope of work:

- Upgrade and installation of Cablecast hardware and software.
- Upgrade and installation of Carousel Bulletin Board/Digital Signage hardware and/or software.
- Installation and integration of ENCO automated Closed Captioning system.
- Connection and integration with Creston touch panel system as necessary.
- Cabling and connection with control room, server room, and peripherals as necessary.
- Cabling and connection to stream encoder.
- Cabling and connection with LiveShot system.
- Cabling and connection with other AV equipment as necessary.
- Installation and integration of a NAS server (size to be discussed with engineering firm).

These services might change and/or expand upon recommendation and in agreement with the firm selected.

PROPOSED PROJECT TIMELINE

February 9, 2022	Request for Proposals Opens
March 11, 2022	Request for Proposals Closes
March 22, 2022	Proposal Review
March 29, 2022	City Council Contract Award
April 11, 2022	Contract Agreement
April 18, 2022	Develop Upgrade Schedule
June 30	Project Completion Date

SUBMISSION REQUIREMENTS

Submissions must include the following information to be considered complete. Firms are encouraged to be thorough, yet concise. The City reserves the right to disregard any incomplete bid responses.

1. Cover Letter: A transmittal letter on the Respondent's business stationery from the individual(s) or a principal officer of the firm offering the proposal and certifying that the proposal and price proposal will remain in effect for ninety (90) days after the proposal due date. The letter should include the RFP number and provide the name and address of the individual or firm and contact information for the individual or officer (telephone number and email address). In addition, the attached Qualification and Certification Statement must be completed and included with the proposal.
2. Services to be Provided: The Respondent shall submit a narrative description of the services to be provided to the City, including the Respondent's approach to carry out the Scope of Services outlined in this RFP. The description of services should include information about when the services would be provided and the approximate amount of time that the firm would spend on these services. In addition, a list of other services or additional work hours that may be provided at additional cost may be included.
3. Personnel Qualifications: A company profile, including the number of years in business, type of operation, and the number of employees, and a list of all persons who will be directly or indirectly involved in providing services to the City of Takoma Park under this proposal. This description and identification of personnel should indicate the abilities, qualifications, and experience of all persons involved in providing services.
4. Firm Experience: Provide a listing of current and past clients of the firm for which services of similar scope were provided. Describe other contracts for similar services that were performed or undertaken within the past five years.
5. Capacity: Provide assurance that the firm can provide the described services to the City of Takoma Park in addition to the other responsibilities or commitments of the firm. Firms should have the adequate staff capacity to handle the demands of the work.

6. Ability to Represent Takoma Park: Firms should be able to provide services to the City of Takoma Park without significant conflicts of interest related to the firms' other clients. Identify any conflicts of interest or potential conflicts with other clients of the firm.
7. References: Provide at least three references of clients for whom engineer services such as those described in the Scope of Services were provided. Provide a description of the work provided, dates of service, and contact information for those references (include organization name, contact person's name and title, telephone number, and email address).
8. Samples: Firms are encouraged to provide a sample of similar studies or services previously completed.
9. Price Proposal - For all pages containing pricing, insert at bottom of page, in a distinguishable, red color font, the following terms “**PROPRIETARY INFORMATION - BUSINESS CONFIDENTIAL**”.
Provide details of the cost for the proposal, including:
 - i. A lump sum total cost proposal, as well as line-item costs where applicable, for completing the Scope of Services for the project described in this RFP.
 - ii. An estimate of the number of hours by the person that will be required to accomplish the various activities described in the Scope of Services described in this RFP.
 - iii. All non-personnel costs, such as deliveries, transportation, and other expenses, are to be included within the lump sum total cost proposal.
 - iv. Identify costs for any other related services or additional work hours that were identified above or may be provided at additional cost.

1. Required Certifications

The following certifications must be submitted with the proposal:

- a. Form A: Qualification and Certification Statement;
- b. Form B: Certification of Non-Involvement in the Nuclear Weapons Industry;
- c. Form C: Living Wage Requirements Certification.

SUBMISSION INFORMATION AND DEADLINE

The deadline for submissions is 12:00 pm on Friday, March 11, 2022. Proposals shall be emailed to Alvaro C. Calabia, TV Production Manager, City of Takoma Park, at alvaroc@takomaparkmd.gov. The email subject line shall read "RFP #CTTV-20211115 Takoma Park Channel Automation, Bulletin Board/Digital Signage, and Closed Captioning Systems." The proposal document shall be a single PDF attachment.

A confirmation email will be sent within 24 hours of the receipt of a proposal email. If no confirmation is received within that timeframe or before the deadline date and time, please contact Alvaro Calabia at alvaroc@takomaparkmd.gov or 301-891-7253 to confirm that the proposal was received.

Requests for extensions of the date and time will not be granted, and no late proposal or late request for modifications will be considered.

ADDITIONAL INFORMATION

If you require additional information, contact Alvaro C. Calabia at alvaroc@takomaparkmd.gov or 301-891-7253.

EVALUATION CRITERIA AND SELECTION PROCESS

A contract award will be made on the basis of a recommendation made by an evaluation panel composed of City staff, and authorized by formal action of the Takoma Park City Council. The evaluation panel may request an interview with any or all responders to this RFP before making a recommendation.

Proposals will be evaluated and ranked based on the following criteria:

- Experience and qualifications of the Firm;
- Responsiveness and understanding of the scope of services;
- Prior experience working with local governments on open space strategic plans;
- Qualifications and experience of personnel to be assigned to the project;
- Client references;
- Cost

Rejection of Submissions: The City of Takoma Park has the right, in its sole and absolute discretion, to reject any and all proposals in the best interests of the City, to accept or reject any part of any proposal, to select the proposal deemed most advantageous to the City, to waive any technical or formal defect therein, and to elect not to proceed with the process set forth in this RFP.

Only submissions that comply with all the objectives, provisions, and requirements of this solicitation will be considered for review. The City will determine, in its sole discretion, whether an individual submission is responsive. The decision of the City of Takoma Park is final. Submissions deemed "Non-Responsive" will not be considered for selection.

Firms shall make no contacts with any City employee, staff member, or Council member unless authorized by the TV Production Manager. Any attempt by a Firm to contact or influence a member of staff regarding this RFP may result in the immediate disqualification of the Firm and the rejection of their proposal.

Confidentiality: Proposals will be available for public inspection after the award announcement, except as to the extent that a respondent designates trade secrets or other proprietary data to be confidential. Material designated as confidential must be readily separable from the remainder of the proposal to

facilitate public inspection of the non-confidential portion of the proposal. A respondent's designation of material as confidential will not necessarily be conclusive, and the Respondent may be required to provide justification why such material should not be disclosed, on request, under the Maryland Public Information Act ("PIA"), Title 4 of the General Provisions Article ("GP") of the *Annotated Code of Maryland*.

Proposal Expenses: The City is not responsible for expenses incurred in preparing and submitting proposals.

Duration of Prices: The price proposal submitted is irrevocable for a period of ninety (90) days from the proposal due date.

Procurement Law: This RFP and any contract entered into as a result of this RFP are governed by the Takoma Park *Takoma Park Code*, Title 7, Division 1 (Purchasing).

GENERAL TERMS AND CONDITIONS

The accompanying contract template (Exhibit A) will apply to all formal solicitations and awards for the City of Takoma Park, Maryland. Proposers are responsible for informing themselves of the requirements therein prior to submission of proposals.

Acceptance of Terms and Conditions: By submitting a proposal, Firms accept the terms and conditions set forth in this RFP.

GENERAL CLARIFICATION AND QUESTIONS

General clarifications and questions related to this RFP may be submitted in writing and emailed to alvaroc@takomaparkmd.gov. Please include "RFP – CTTV System Upgrades clarification" in the subject line of the email. All questions will be answered via email.

FORMS AND EXHIBITS

FORM A

QUALIFICATIONS AND CERTIFICATION STATEMENT

NAME OF ENTITY _____

Business Address: _____

Telephone Number _____

Fax: _____

Web Site: _____

AUTHORIZED REPRESENTATIVE

Name: _____

Title: _____

Telephone Number (office and cell): _____

E-Mail: _____

ORGANIZATIONAL STRUCTURE

Identify the legal structure of the entity responding to the Request for Proposals and include requested information with this submission.

____ A.1. A corporation incorporated under the laws of the State of Maryland, and in good standing to do business in the State of Maryland.

____ A.2. List the name of the corporation and the names and titles of the corporation's directors and officers:

____ B.1. A corporation incorporated under the laws (insert jurisdiction) _____

____ B.2. The foreign corporation is registered or qualified and in good standing to do business in the State of Maryland.

____ B.3. List the name of the corporation and the names and titles of the corporation's directors and officers:

____ C. A sole proprietor doing business under his/her individual name. Individual name: _____

____ D. A sole proprietor doing business under a trade or business name (for example, John Doe t/a Doe Masonry). List individual name and the trade or business name: _____

____ E. A partnership. List the type of partnership and the names of all general partners:

____ F.1. A limited liability company organized under the laws of the State of Maryland and authorized and in good standing to do business in the State of Maryland.

____ F.2. List the limited liability company name and the names of all members:

- ____ G.1 A limited liability company organized under the laws of _____ (insert jurisdiction name).
- ____ G.2. The foreign limited liability company is authorized and in good standing to do business in the State of Maryland.
- ____ G.3. List the foreign limited liability company name and the names of all members:

- ____ H. Other (explain):

CERTIFICATION

The undersigned proposes to furnish and deliver all labor, supplies, material, equipment, or services in accordance with specifications and stipulations contained in the Invitation for Bids or the Request for Proposals for the prices listed on the enclosed Price Proposal Sheet, if any, and/or upon the terms and conditions set forth in the proposal.

The undersigned certifies that this bid/proposal is made without any previous understanding, agreement or connection with any person, firm, or corporation submitting a bid or proposal for the same labor, supplies, material, equipment, or services and is, in all respects fair and without collusion or fraud. The undersigned further certifies that he/she is authorized to sign for the Respondent.

Respondent Name (print): _____

By: _____
 Signature Date

Print Name _____

Title: _____

**FORM B
CITY OF TAKOMA PARK, MARYLAND
CERTIFICATION OF NON-INVOLVEMENT IN THE
NUCLEAR WEAPONS INDUSTRY**

KNOW ALL PERSONS BY THESE PRESENTS:

Pursuant to the requirements of Chapter 14.04 of the Takoma Park Code, the Takoma Park Nuclear Free Zone Act, the undersigned person, firm, corporation, limited liability company or entity hereby certifies that he/she/it is not knowingly or intentionally a nuclear weapons producer.

Note: The following definitions apply to this certification per Section 14.04.090:

“Nuclear weapons producer” is any person, firm, corporation, facility, parent or subsidiary thereof or agency of the federal government engaged in the production of nuclear weapons or its components.

“Production of nuclear weapons” includes the knowing or intentional research, design, development, testing, manufacture, evaluation, maintenance, storage, transportation or disposal of nuclear weapons or their components.

“Nuclear weapon” is any device the sole purpose of which is the destruction of human life and property by an explosion resulting from the energy released by a fission or fusion reaction involving atomic nuclei.

“Component of a nuclear weapon” is any device, radioactive substance or nonradioactive substance designed knowingly and intentionally to contribute to the operation, launch, guidance, delivery or detonation of a nuclear weapon.

IN WITNESS WHEREOF, the undersigned has signed this Certification this _____ day of _____, 20____.

Signature

Contractor Name: _____ By: _____ (SEAL)

Print Name & Title

State of _____, County of _____:

Subscribed and sworn to before me this ____ day of _____, 20____.

Notary Public

My commission expires: _____

FORM C
LIVING WAGE REQUIREMENTS CERTIFICATION
(Takoma Park Code, section 7.08.200.B)

Business Name: _____
Address: _____
City, State, Zip Code: _____
Phone Number: _____ Fax Number: _____
E-Mail: _____

Please specify the contact name and information of the individual designated by your business to monitor your compliance with the City's living wage requirements, unless exempt under Section 7.08.190 (*see* item B below):

Contact Name: _____
Title: _____
Phone Number: _____ Fax Number: _____
E-Mail: _____

CHECK ALL APPROPRIATE LINES BELOW THAT APPLY IN THE EVENT THAT YOU ARE AWARDED THE CONTRACT AND BECOME A CONTRACTOR.

A. Living Wage Requirements Compliance

_____ This Contractor as a "covered employer" will comply with the requirements of the City of Takoma Park Living Wage Law (*Takoma Park Code, Section 7.08.180 et. seq.*, amended by Ordinance No. 2013-26). Contractor and its subcontractors will pay all employees who are not exempt from the wage requirements and who perform measurable work for the City related to any contract for services with the City, the living wage requirements in effect at the time of the City contract. The bid price submitted under this procurement solicitation includes sufficient funds to meet the living wage requirements.

B. Exemption Status (if applicable)

This Contractor is exempt from the living wage requirements because it is:

_____ The total value of the contract for services (based on the bid or proposal being submitted under this procurement solicitation) is less than \$20,000.00.

_____ A public entity.

_____ A nonprofit organization that has qualified for an exemption from federal income taxes under Section 501c (3) of the Internal Revenue Code.

_____ A contract procured through an emergency procurement, sole source procurement, or cooperative procurement.

_____ A contract for electricity, telephone, cable television, water, sewer or similar service delivered by a regulated public utility.

_____ A contract for the purchase or lease of goods, equipment or vehicles.

_____ A contractor who is prohibited from complying with the City's living wage requirements by the terms of an applicable federal or state program, contract, or grant requirement. **(Must specify the law and/or furnish a copy of the contract or grant.)**

C. Living Wage Requirements Reduction.

_____ This Contractor provides health insurance to the employees who will provide services to the City under the City contract and it desires to reduce its hourly rate paid under the living wage requirements by an amount equal to, or less than, the per employee hourly cost of the employer's share of the health insurance premium. This Contractor certifies that the per employee hourly cost of the employer's share of the premium for that health insurance is \$_____.

(Must submit supporting documentation showing the employee labor category of all employee(s) who will perform measurable work under the City contract, the hourly wage the Contractor pays for that employee labor category, the name of the health insurance provider and plan name, and the employer's share of the monthly health insurance premium.)

Contractor Certification and Signature

Contractor submits this certification in accordance with *Takoma Park Code* section 7.08.200.B. Contractor certifies, under penalties of perjury, that all of the statements and representations made in this Living Wage Requirements Certification are true and correct. Contractor and any of its subcontractors that perform services under the resultant contract with the City of Takoma Park will comply with all applicable requirements of the City's living wage law.

Authorized corporate, partner,
member or proprietor signature: _____

Print name: _____

Title of authorized person: _____

Date: _____

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EXHIBIT A

CONTRACT FOR _____

**[CONTRACTOR]
CITY OF TAKOMA PARK, MARYLAND**

THIS AGREEMENT, hereinafter referred to as “Agreement,” is made this ____ day of _____ 202____, by and between the **CITY OF TAKOMA PARK**, a municipal corporation of the State of Maryland, located at , 7500 Maple Avenue, Takoma Park, MD 20912, hereinafter referred to as “the City,” and **[CONTRACTOR]**, a [description of Contractor’s type of business] located at _____, hereinafter referred to as “Contractor,” and both collectively referred to hereinafter as “the Parties.”

RECITALS

WHEREAS, [Insert multiple **WHEREAS** clauses providing the factual background underlying the Agreement, including any City solicitation of bids/proposals].

WHEREAS, the City desires to retain Contractor to assist it in [insert a description of the activities required], hereinafter referred to as the “Project;” and

WHEREAS, the Mayor and City Council, by enacting Ordinance No. 202__, have authorized the City Manager to enter into this Agreement in pursuit of the Project. [This **WHEREAS** clause may be removed if the Council is not required to authorize the Agreement, under Chapter 7.04 of the Takoma Park Code.]

TERMS

NOW, THEREFORE, in consideration of the mutual promises of the Parties, and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, the Parties agree as follows:

SECTION 1. SCOPE OF SERVICES

1. During the term of this Agreement, Contractor agrees that it will have the following responsibilities with respect to the Project:

1.1. **[Insert subsections concerning the activities required under the Project]**

2. The Project shall also include all other work as reasonably and additionally required by the City and agreed to by Contractor. Any such work shall be reduced to written form and will require the Parties to execute a modification to this Agreement as set forth in Section 5 of this Agreement.

SECTION 2. PERIOD OF PERFORMANCE

1. The effective term for this Agreement is for _____, commencing upon the execution of this Agreement.

2. By agreement of the Parties, this Agreement may be renewed or extended for up to _____ (____) additional one-year terms following the expiration of the initial term of this Agreement. Continuation of Contractor's performance under this Agreement beyond the initial term is contingent upon, and subject to, the appropriation of funds and encumbrance of those appropriated funds for payments under this Agreement. If funds are not appropriated and encumbered to support continued Contractor's performance in a subsequent fiscal period, Contractor's performance must end, without further cost to the City, upon the receipt of notice from the City. Contractor acknowledges that the City Manager has no obligation to recommend, and the City Council has no obligation to appropriate, funds for this Agreement in subsequent fiscal years. Furthermore, the City has no obligation to encumber funds to this Agreement in subsequent fiscal years, even if appropriated funds may be available. Accordingly, for each subsequent contract term, Contractor must not undertake any performance under this Agreement until Contractor receives a purchase order or contract amendment from the City that authorizes Contractor to perform work for any subsequent term of this Agreement. **[Only retain this clause if renewal or extension is permitted.]**

3. Contractor agrees to perform all services required by this Agreement, including any modifications agreed to by the Parties, as expeditiously as is consistent with good professional skill and best industry practice.

4. Time is of the essence and a critical factor in the successful execution of the terms of this Agreement.

5. Contractor must not commence work under this Agreement until all conditions for commencement are met, including execution of this Agreement by the Parties, compliance with insurance requirements, and the issuance of any required notice to proceed.

SECTION 3. FEE FOR SERVICES

1. In exchange for these good and valuable services, Contractor will receive a fee not to exceed the amount of _____ (\$_____). The Parties may agree to an equitable adjustment of this fee as set forth in Section 5 of this Agreement.

2. The compensation due to Contractor under this Agreement shall not, in any event, exceed _____ Dollars (\$_____). **[Insert this provision if the Contract is not for a set amount or is for hourly or tasked-based compensation]**

3. The City agrees to pay the fee contemplated in Subsection 3.1 to Contractor in _____ monthly installments in the amount of _____ (\$_____) per installment. The first monthly installment shall be paid one (1) month after the execution of this Agreement. **[Omit this provision if the payment structure under the Agreement is for a lump sum or does not call for monthly installments.]**

4. The City agrees to pay the fee contemplated in Subsection 3.1 to Contractor in a lump sum, after receiving an invoice from Contractor, and to pay said invoice within ____ days of receipt. **[Remove if the pay structure of the Agreement is not for a lump sum]**

5. Contractor shall submit invoices to the City on a monthly basis. Invoices shall be based on time expended by Contractor to complete the tasks required under this Agreement. Invoices shall include the name of the assignment; a detailed description of the services provided; the results of the services; recommendations for future actions; the date; and the amount of time expended in providing the services. Payment will be made to Contractor within thirty (30) calendar days after the City's receipt of an invoice in a form deemed acceptable by the City. Payment will be contingent upon the City's verification that the work has been satisfactorily

performed as determined by the City in its reasonable discretion. The City reserves the right to verify and approve the work represented by the invoice prior to payment of the invoice. **[Retain this provision if Section 3.3 will be utilized; omit it if an alternative payment structure is utilized.]**

6. No payment by the City may be made, or is due, under this Agreement, unless funds for the payment have been appropriated and encumbered by the City.

SECTION 4. PRIORITY OF DOCUMENTS

1. The terms and conditions of this Agreement supersede any prior proposals or agreements.
2. The following documents are incorporated herein by reference into and made a part of this Agreement and are enumerated herein in the order of their legal precedence in the event of a conflict in their terms: (i) _____; (ii) _____; (iii) _____; and (iv) _____. In the event of a conflict in language between this Agreement and any of said documents, the terms of this Agreement shall control.

SECTION 5. CHANGES

1. Within the general scope of services, the City may unilaterally change the work, materials and services to be performed. The change must be in writing and within the general scope of this Agreement. In such cases, this Agreement will be modified to reflect any time or money adjustment Contractor is entitled to receive. Contractor shall not proceed with these changes (either additions or deletions) without a change order or amendment being signed by both the City and Contractor and an order or amendment stating, as applicable, the change in the work and an estimate of the time and/or cost involved in the change.
2. Any claim of Contractor for an adjustment in time or money due to change must be made in writing within thirty (30) days from the date the City notified Contractor of the change, or the claim is waived. Any failure to agree upon a time or money adjustment must be resolved under Section 11 of this Agreement. Contractor must proceed with the prosecution of the work as changed, even if there is an unresolved claim. No charge for any extra work, time or material will be allowed, except as provided in this Section.
3. The amount of any adjustment to this Agreement under this Section shall be a negotiated cost and fee.
4. This Agreement may only be amended or modified by a writing signed by the Parties.

SECTION 6. NOTICES

1. Any required notices or other communications under this Agreement shall be in writing and personally delivered, mailed, delivered by a reputable overnight delivery service, or emailed. Notice via email may be considered official notice only if the receiving party acknowledges receipt via return email or email read receipt. Notices shall be addressed as follows:

If to Contractor: _____

Telephone: _____
E-Mail: _____

If to the City: _____

Telephone: _____
Email: _____

2. Either party may change the person or address for notices by written notice to the other party. Notices shall be deemed given when received or three business days after the notice is deposited, properly addressed and postage prepaid, in the United States mail or one business day after the notice is sent by a reputable overnight mail delivery service (such as, but not limited to, FedEx or UPS Next Day Delivery). For notices by email, the notice shall be deemed given on the day the recipient acknowledges receipt of the notice via return email or email read receipt. Rejection or other refusal to accept or inability to deliver because of changed address, of which no Notice has been given, shall constitute receipt of the Notice.

SECTION 7. CONTRACT ADMINISTRATION

1. For Contractor. _____ is Contractor's Authorized Representative for this Agreement. Contractor's Authorized Representative shall act on behalf of Contractor on all matters pertaining to this Agreement. All matters and correspondence to Contractor pertaining to this Agreement shall be directed to the attention of Contractor's Authorized Representative. Contractor's Authorized Representative shall not be changed without prior written notice to and the agreement of the City.

2. For the City. _____, is the City Manager's designee for purposes of this Agreement and shall act as the Contract Administrator in connection with this Agreement. The City's Contract Administrator may be changed at any time or from time to time by written notice to Contractor. The City's Contract Administrator is not authorized to make determinations (as opposed to recommendations) that alter, modify, terminate or cancel the contract, interpret ambiguities in the language of this Agreement, or waive any of the City's rights hereunder. The City's Contract Administrator is authorized to:

1. Serve as liaison between the City and Contractor;
2. Give direction to Contractor to ensure satisfactory and complete performance;
3. Monitor and inspect Contractor's performance to ensure acceptable timeliness and quality;
4. Serve as records custodian for this Agreement, including wage and prevailing wage requirements;
5. Accept or reject Contractor's performance;
6. Furnish timely written notice of Contractor's performance failures to the City Council, City Manager, and/or City Attorney, as appropriate;
7. Approve or reject invoices for payment;
8. Recommend modifications or terminations of this Agreement; and
9. Issue notices to proceed and task and purchase orders.

SECTION 8. TERMINATION

1. This Agreement may be terminated by the City, in whole or in part, upon written notice to Contractor, when the City determines that such termination is in its best interest. A termination for convenience is effective on the date specified in the City's written notice or, if the notice does not specify an effective date, then five (5) days after notice of termination is given by the City. Termination for convenience may entitle Contractor to payment for reasonable costs allocable to this Agreement for work or costs incurred by Contractor up to the date of termination. Contractor must not be paid compensation as a result of a termination for convenience that exceeds the amount encumbered to pay for work to be performed under this Agreement.

2. In the event of any of the circumstances set forth below, hereinafter referred to as "Default," the City may terminate the Agreement, in whole or in part, and from time to time:

1. Any fraudulent representation in an invoice or other verification required to obtain payment under this Agreement or other dishonesty on a material matter relating to the performance of services under this Agreement; and

2. Non-performance, incomplete service or performance, failure to make satisfactory progress in the prosecution of this Agreement, failure to satisfactorily perform any part of the work required under this Agreement or to comply with any provision of this Agreement, as determined by the City's Contract Administrator in his or her sole discretion, including:

1. Failing to commence work when notified.

2. Abandoning the work. Visual inspection by the City's Contract Administrator will serve as evidence of abandonment.

3. Subcontracting any part of work without the City's prior approval.

4. Receiving two written warnings of unsatisfactory or incomplete work or any other violation of the terms of this Agreement.

5. Failing to adhere to the required specifications for the work required under this Agreement.

3. Contractor, or any partner, member, principal or officer of Contractor, being criminally charged with an offense involving fraud, dishonesty or moral turpitude.

4. Contractor being adjudged bankrupt or making a general assignment for the benefit of creditor or if a receiver shall be appointed on account of Contractor's insolvency.

5. Failure to adhere to the terms of applicable city, county, state, and federal laws, ordinances, regulations, or stated public policy pertaining to the subject matter and performance of this Agreement, including but not limited to the following: the payment of all applicable taxes and withholding, compliance with equal opportunity employment and labor laws, and/or failure to obtain and/or comply with the terms and conditions of any required permits.

3. In the event of a Default, the City shall provide Contractor with a written notice to cure the Default. The termination for Default is effective on the date specified in the City's written notice. However, if the City determines that Default contributes to the curtailment of an essential

service or poses an immediate threat to life, health, or property, the City may terminate this Agreement immediately upon issuing oral or written notice to Contractor without any prior notice or opportunity to cure. In addition to any other remedies provided by law or this Agreement, Contractor must compensate the City for additional costs that foreseeably would be incurred by the City, whether the costs are actually incurred or not, to obtain substitute performance.

4. Notice of any termination must be in writing, state the reason or reasons for the termination, and specify the effective date of the termination.

5. In the event of termination under Subsections 8.1 or 8.2, Contractor consents to the City's selection of another contractor of the City's choice to assist the City in any way in completing the Project. Contractor further agrees to cooperate and provide any information requested by the City in connection with the completion of the Project, including assignment of any contracting rights the City may require. Contractor consents to and authorizes the making of any reasonable changes to the design of the Project by the City and such other contractor as the City may desire.

6. Any termination of this Agreement for cause that is later deemed to be unjustified shall be deemed a termination for convenience under Subsection 8.1.

SECTION 9. CERTIFICATIONS OF CONSULTANT

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

2. Contractor and the City represent and warrant that: (a) they have the full right and authority to enter into, execute, and perform the obligations required under this Agreement and that no pending or threatened claim or litigation known by them would have a material adverse impact on their ability to perform as required under this Agreement; (b) they have accurately identified themselves and have not provided any inaccurate information about themselves or the Project; and (c) they are entities authorized under the laws of the State of Maryland to do business within the State.

3. Contractor certifies that it is not now, and shall not so long as this Agreement remains in effect, engage in the development, research, testing, evaluation, production, maintenance, storage, transportation, and/or disposal of nuclear weapons or their components, or the sale of merchandise produced by companies so involved. Contractor's Certification of Non-Involvement in the Nuclear Weapons Industry is attached hereto and incorporated herein as part of this Agreement.

4. This Agreement is subject to the living wage requirements under *The City of Takoma Park Code*, hereinafter referred to as the "Code," Sections 7.08.150–7.08.210. Contractor and any subcontractor retained or employed on Contractor's behalf agree to pay each employee assigned to perform services under this Agreement a living wage, subject to exemptions from coverage for particular contracts set forth in Code Section 7.08.160 and for particular employees as set forth in Code Section 7.08.180(F). The current living wage is Fifteen US Dollars and Forty Cents (\$15.40) per hour through June 30, 2022. The living wage rate is adjusted on July 1st of each year to reflect the most current Montgomery County living wage rate and said adjustments shall be applicable to this Agreement unless otherwise exempt. Contractor's Living Wage Requirements Certification is attached hereto and incorporated herein as part of this Agreement.

5. Contractor warrants and represents: that it is the sole entity, directly or indirectly, interested in compensation for the delivery of the services and work product awarded, and to be performed under this Agreement; that any proposal upon which this Agreement was based was made without any connection with or common interest in the profits with any undisclosed persons or entity; that this Agreement is fair and made without collusion or fraud; that no employee or official of the City is directly or indirectly interested therein; that none of its officers, directors, or partners or employees directly involved in obtaining contracts or performing any part of the work required under this Agreement has been convicted of bribery, attempted bribery, or conspiracy to bribe under any federal, state, or local law.

6. Contractor agrees to comply with all applicable City, county, state, and federal laws and regulations regarding employment discrimination. Contractor assures the City that it does not, and agrees that it will not, discriminate in any manner on the basis of race, color, religion, ancestry, national origin, age, sex, marital status, disability, sexual orientation, and gender identity.

7. Contractor certifies that all information Contractor has provided or will provide to the City is true and correct and can be relied upon by the City in awarding, modifying, making payments, or taking any other action with respect to this Agreement including resolving claims and disputes. Any false or misleading information is a ground for the City to terminate this Agreement for cause and to pursue any other appropriate remedy. Contractor certifies that Contractor's accounting system conforms with generally accepted accounting principles, is sufficient to comply with Contractor's budgetary and financial obligations and is sufficient to produce reliable financial information.

SECTION 10. INDEMNIFICATION

1. Contractor is responsible for any loss, personal injury, death and any other damage (including incidental and consequential) arising out of, incident to, or caused by reason of Contractor's negligence, malfeasance or failure to perform any contractual obligations. Contractor must indemnify and hold the City harmless from any loss, cost, damage, and other expenses, including attorney's fees and litigation expenses, arising out of, incident to, or caused by Contractor's negligence, malfeasance or failure to perform any of its contractual obligations. If requested by the City, Contractor must defend the City in any action or suit brought against the City arising out of Contractor's negligence, errors, acts or omissions under this Agreement. The negligence or malfeasance of any agent, subcontractor or employee of Contractor is deemed to be the negligence or malfeasance of Contractor. For the purposes of this Subsection, City includes its commissions, departments, agencies, agents, officials, and employees.

2. If Contractor will be preparing, displaying, publicly performing, reproducing, or otherwise using, in any manner or form, any information, document, or material that is subject to a copyright, trademark, patent, or other property or privacy right, then Contractor must: obtain all necessary licenses, authorizations, and approvals related to its use; include the City in any approval, authorization, or license related to its use; and indemnify and hold harmless the City related to Contractor's alleged infringing or otherwise improper or unauthorized use. Accordingly, Contractor must protect, indemnify, and hold harmless the City from and against all liabilities, actions, damages, claims, demands, judgments, losses, costs, expenses, suits, or actions, and attorneys' fees and the costs of the defense of the City, in any suit, including appeals, based upon or arising out of any allegation of infringement, violation, unauthorized use, or conversion of any patent, copyright, trademark or trade name, license, proprietary right, or other related property or privacy interest in connection with, or as a result of, this Agreement or the performance by Contractor of any of its activities or obligations under this Agreement.

3. Contractor further agrees to notify the City in writing within ten (10) days of receipt of any claim or notice of any claim made by third parties against Contractor or any subcontractor

regarding the services and work provided to the City under this Agreement. Contractor shall provide the City copies of all claims, notices of claims, and all pleadings and motions filed therein as the matter progresses. This Section 10 shall survive termination of this Agreement for a period of three (3) years and six (6) months after the termination date.

SECTION 11. DISPUTES

1. Any dispute arising under this Agreement which is not resolved by an agreement between the Parties shall be decided by the City Manager, after reasonable opportunity is provided for the Parties to provide written documentation supporting their position. Pending final resolution of a dispute, except for a termination of this Agreement by the City, Contractor must proceed diligently with performance under this Agreement. A claim must be in writing, for specific relief, or for a sum certain if the claim is for money, and any requested money or other relief must be fully supported by all relevant calculations, including cost and pricing information, records, and other information.

2. A decision by the City Manager or his or her designee under the dispute procedure set forth in this Section shall be a condition precedent to suit being filed by any party. For purposes of any litigation involving this Agreement, exclusive venue and jurisdiction shall be in the Circuit Court for Montgomery County, Maryland or in the District Court of Maryland sitting in Montgomery County.

SECTION 12. INSURANCE

1. Contractor shall obtain and maintain liability insurance coverage at Contractor's own expense. Contractor shall, within thirty (30) days of the execution of this Agreement, file with the City Manager, the Certificate from an insurance company authorized to do business in the State of Maryland and satisfactory to the City showing issuance of liability insurance coverage as set forth more fully herein below with a deductible no greater than _____ Dollars (\$ _____), except as specified in Subsection 12.1.3. Contractor shall be fully and completely responsible to pay the deductible. Unless waived in writing by the City, the Certificate shall bear endorsement in words exactly as follows:

The insurance company certifies that the insurance covered by this Certificate has been endorsed as follows: "The insurance company agrees that the coverage shall not be canceled, changed, allowed to lapse, or allowed to expire until thirty (30) days after notice to: 'City Manager, City of Takoma Park, 7500 Maple Avenue, Takoma Park, MD 20912.'"

Contractor shall, throughout the term of this Agreement, maintain commercial general liability insurance, automobile liability insurance, professional liability insurance, and workers' compensation insurance in the following amounts and shall submit an insurance certificate, as set forth above, as proof of coverage prior to the final approval of this Agreement:

1. Commercial general liability insurance with a minimum combined single limit of _____ Dollars (\$ _____) for bodily injury and property damage per occurrence including contractual liability, premises and operations, and independent contractors and products liability.

2. Automobile liability insurance with coverage for bodily injury of at least _____ Dollars (\$ _____) per person, at least _____ Dollars (\$ _____) per occurrence, and coverage for property damage of at least _____ Dollars (\$ _____) per occurrence.

3. Professional liability insurance with coverage for errors, omissions, and negligent acts, with a maximum deductible of _____ Dollars (\$ _____), of at least _____ Dollars (\$ _____) per claim in the aggregate within one year of such errors, omissions, or negligent acts being discovered. **[This provision may be omitted if the agreement is not for professional services.]**

4. Workers' compensation insurance with coverage limits of at least _____ Dollars (\$ _____) per bodily injury by accident and coverage for disease of at least _____ Dollars (\$ _____) per employee and at least _____ Dollars (\$ _____) in the aggregate.

5. Cyber liability insurance in the amount of _____ Dollars (\$ _____) per claim and _____ Dollars (\$ _____) in the aggregate. **[This provision may be omitted, depending on the nature of services.]**

2. All policies of insurances shall be underwritten by companies licensed to do business in the State of Maryland.

3. The City is not responsible for any damage or loss of property or materials stored on or within facilities owned by the City. Contractor shall provide necessary insurance coverage for such losses or shall assume full risk for replacement cost for its own property or materials and that owned by its subcontractors.

4. Contractor shall assure that all subcontractors carry identical coverage as required by this Section 12, either individually or as an additional insured on Contractor's policies. Exceptions may be made only with the written approval of the City.

SECTION 13. SET OFF

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

SECTION 14. APPLICABLE LAW

1. The laws of the State of Maryland, excluding conflicts of law rules, shall govern this Agreement as if this Agreement were made and performed entirely within the State of Maryland. Any suit to enforce the terms hereof or for damages or other relief as a consequence of the breach or alleged breach hereof shall be brought exclusively in the courts of the State of Maryland in Montgomery County, and the Parties expressly consent to the jurisdiction thereof and waive any right that they have or may have to bring such elsewhere.

SECTION 15. RECORD AND AUDIT

1. Contractor shall maintain books, records, documents, and other evidence directly pertinent to costs, estimates and performance under this Agreement or required under any federal, state, or local rule or regulation, in accordance with accepted professional practice, appropriate accounting procedures, and practices. The City, or any of its duly authorized representatives, shall have access to such books, records, documents, and other evidence for the purpose of inspection, audit and copying. Contractor will provide proper facilities for such access and inspection.

2. Records referred to under Subsection 15.1 shall be maintained and made available during performance under this Agreement and until six (6) years from the date of final completion of the Project. In addition, those records that relate to any dispute or litigation, to the settlement of claims arising out of such performance, or to costs or items to which an audit exception has been taken shall be maintained and available until six (6) years after the date upon which any such dispute, litigation, claim, or exception is resolved.

3. Contractor shall include the provisions of this Section 15 in every subcontract Contractor enters into relating to this Project.

4. All proprietary information furnished by Contractor in connection with this Agreement, but not developed as a result of work under this Agreement or under prior agreements between the City and Contractor, shall be held confidential by the City, and returned to Contractor within thirty (30) days of the completion of the services or the conclusion of litigation wherein Contractor's services were provided. All inventions, techniques, and improvements held by Contractor to be proprietary or trade secrets of Contractor prior to any use on behalf of the City, as well as all inventions, techniques, and improvements developed by Contractor, independent of the services rendered to the City under this Agreement, remain the property of Contractor.

SECTION 16. MISCELLANEOUS

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

2. If any term or provision of this Agreement or applications thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remaining terms and provisions of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

3. This Agreement and any rights or obligations under this Agreement may not be assigned or subcontracted by Contractor without the prior written consent of the City and any attempted assignment or subcontracting without such prior written consent shall be void.

4. All representations, warranties, covenants, conditions, and agreements contained herein which either are expressed as surviving the expiration and termination of this Agreement or, by their nature, are to be performed or observed, in whole or in part, after the termination or expiration of this Agreement shall survive the termination or expiration of this Agreement.

5. This Agreement represents the entire and integrated Agreement between the City and Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral. Notwithstanding any provisions to the contrary in any contract terms or conditions unilaterally supplied by Contractor, the terms of this Agreement supersede Contractor's terms and conditions, in the event of any inconsistency.

6. All section and paragraph captions, marginal references, and table of contents in this Agreement are inserted only as a matter of convenience, and in no way amplify, define, limit, construe, or describe the scope or intent of this Agreement nor in any way affect this Agreement.

7. Neither the City nor Contractor has made any representations or promises with respect to the Project except as expressly set forth herein.

8. The neuter, feminine, or masculine pronoun when used herein shall each include each of the other genders and the use of the singular shall include the plural.

9. This Agreement shall not be construed in favor or against either party on the basis that it was drafted by the City.

10. The waiver of any breach of this Agreement shall not be held to be a waiver of any other or subsequent breach. Any waiver by the City of a requirement of this Agreement, including without limitation, any requirement that a notice be made in writing or that a notice or submission be made within a certain time, shall not operate as a waiver of the same or any other requirement of this Agreement, in any other circumstance or at any other time.

11. This Agreement shall not confer any rights or remedies upon any person other than the Parties and their respective successors and permitted assigns.

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

13. Contractor shall be considered, for all purposes relating to this Agreement, an independent Contractor. Contractor agrees that it is not an agent of the City and shall have no right or authority to enter into any agreements or otherwise bind the City or create any obligations on behalf of the City with any other parties. Nothing contained in this Agreement will be construed to create the relationship of employer and employee, principal and agent, partnership or joint venture, or any other fiduciary relationship between the City and Contractor.

14. This Agreement may be executed electronically and in counterparts. All such counterparts will constitute the same agreement and the signature of any party to any counterpart will be deemed a signature to, and may be appended to, any other counterpart. Executed copies hereof may be delivered by email and, upon receipt, will be deemed originals and binding upon the Parties hereto, regardless of whether originals are delivered thereafter.

[The remainder of this page is intentionally left blank—signature page follows.]

IN WITNESS WHEREOF, the City and Contractor have executed this Agreement as of the date first written above.

Witness:

[Contractor]:

By: _____

By: _____

_____ Date

Witness:

City of Takoma Park:

By: _____

By: _____

_____ Date

Approved as to form and
legal sufficiency:

_____ day of _____, 2021

E.I. Cornbrooks, IV
City Attorney
City of Takoma Park