

**NON-CONSTRUCTION
CONSULTANT AGREEMENT
BY AND BETWEEN
MAYOR AND CITY COUNCIL OF BALTIMORE
AND
CONSULTANT’S LEGAL NAME**

THIS AGREEMENT (this “Agreement”) is entered into by and between the **MAYOR AND CITY COUNCIL OF BALTIMORE**, a municipal corporation of the State of Maryland, acting by and through the **PROVIDE SPECIFIC DEPARTMENT/AGENCY** (the “City”) and **CONSULTANT’S LEGAL NAME** (the “Consultant”).

RECITALS

WHEREAS, the City has a need for a consultant to **PROVIDE A GENERAL STATEMENT** on behalf of the City; and

WHEREAS, the City hereby wishes to engage the services of the Consultant and the Consultant has agreed to provide the services described herein to the City.

NOW, THEREFORE, in consideration of the foregoing and the respective representations, warranties, covenants, and agreements set forth below, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. SCOPE OF SERVICES:

- 1.1.** The Consultant shall provide services as described in the scope of services and budget, which is attached hereto as **Exhibit A** and incorporated herein (the “Project”). The City, at its discretion, will have the right, at any point prior to completion, to order Consultant in writing to terminate, alter, or modify the services to be performed in whole or in part, even though such termination, alteration, or modification will result in an increase or decrease in the services of the Consultant.
- 1.2.** Upon request of the City, the Consultant shall provide draft copies of any reports and/or document deliverables for the City’s review and approval prior to the Consultant’s finalization of the reports and/or document deliverables. If such reports and/or document deliverables do not meet the approval of the City, it will be the responsibility of the Consultant to address any reasonable changes to meet the satisfaction of the City at no additional cost to the City.

2. PROFESSIONAL RESPONSIBILITY:

- 2.1.** The Consultant shall exercise independent professional judgment and shall assume professional responsibility for all services provided hereunder.
- 2.2.** The Consultant warrants that it is authorized by law to engage in the performance of the services of this Agreement. The Consultant warrants that it has secured all required

licenses and certifications to provide services under this Agreement.

3. CITY'S RESPONSIBILITIES:

3.1. The City shall provide the Consultant with access to its offices and personnel as are reasonably required for the Consultant to perform its duties and responsibilities under this Agreement. The City will also make reasonable efforts to provide all relevant and necessary information in its possession requested by the Consultant for this Project.

4. TERM:

4.1. The term ("Term") of this Agreement will commence on _____ and will terminate on _____, unless terminated sooner in accordance with this Agreement.

5. COMPENSATION:

5.1. The Consultant shall provide the services agreed to in this Agreement as identified in **Exhibit A** for a total cost (including fees and expenses) not to exceed _____ Dollars (\$_____.00), as set forth in the scope of services and budget (**Exhibit A**). The Consultant agrees that all expenditures are to be made in accordance with the terms and conditions of the funding source identified in **Exhibit B**, attached hereto and incorporated herein. The Consultant agrees to prosecute the work continuously and diligently and that compensation or extension of time resulting from delays, not the fault of the Consultant, shall be determined by the City.

5.2. Payment in excess of the amount set forth above will not be made unless there is a mutually agreed upon change in the scope of services which requires an increase in the total Project cost. Such an increase in the total Project cost will only occur through a written amendment to this Agreement that is approved by the parties and the Board of Estimates of Baltimore City (the "Board"), if necessary.

5.3. The Consultant shall submit invoices monthly to the City for work performed under this Agreement. Each invoice shall show the number of hours worked, the services performed, and expenses, if any, related to work performed up until the time of invoice submission. Expenses shall include transportation (train, air, rideshare, taxi, mileage, tolls, and parking), lodging, meals, reproduction costs, and miscellaneous expenses to the extent allowable by the City and in accordance with the requirements of the City's Administrative Manual. Invoices must be structured in a format that is approved by the City.

5.4. The City shall make its best efforts to pay the Consultant for approved invoices within thirty (30) days of receipt of the invoices for work satisfactorily performed by the Consultant. Under no circumstances shall the City be required to pay any interest or additional charges of any kind whatsoever.

6. INSURANCE:

- 6.1.** The Consultant shall procure and maintain the following specified insurance coverage during the entire life of this Agreement, including extensions thereof:
 - 6.1.1.** Professional Liability, Errors, and Omissions Insurance, at a limit of not less than \$1,000,000.00 per occurrence in the event that service delivered pursuant to this Agreement, either directly or indirectly, involves professional services.
 - 6.1.2.** Technology Liability, Errors, and Omissions Insurance, with annual, aggregate limits of no less than \$1,000,000.00, pertaining to programming errors, software performance, and performance failures rendered by the Consultant or its agents or employees. If coverage is purchased on a “claims-made” basis, the Consultant warrants continuation of coverage, either through policy renewals or the purchase of an extended discovery period from the date of contract termination, and/or conversion from a “claims-made” form to an “occurrence” coverage form. Additionally, a three (3) year extended reporting period is required for those policies written on a “claims-made” basis. *Said policy shall be required in the event the services performed, pursuant to this Agreement, either directly or indirectly, are technology related.*
 - 6.1.3.** Cyber Liability Insurance, including but not limited to, Network Privacy, Technology, Security, Web-Media Services, Breach Containment, Technology Extortion, and Data Restoration, at a limit of not less than \$1,000,000.00 per occurrence with an aggregate limit of \$1,000,000.00 is required. If coverage is purchased on a “claims-made basis,” the Consultant warrants continuation of coverage, either through policy renewals or the purchase of an extended discovery period from the date of contract termination, and/or conversion from a “claims made” form to an “occurrence” coverage form. Additionally, a three (3) year extended reporting period is required for those policies written on a “claims made basis.” *Said policy shall be required in the event the services performed, pursuant to this Agreement, either directly or indirectly, are technology related.*
 - 6.1.4.** Workers’ Compensation coverage as required by the State of Maryland or other applicable State’s law.
 - 6.1.5.** Commercial General Liability Insurance, at a limit of not less than \$1,000,000.00 per occurrence for claims arising out of bodily injuries or death, and property damages, including products and completed operations coverage. For those policies with aggregate limits, a minimum limit of \$1,000,000.00 is required. Such insurance shall include contractual liability insurance.
 - 6.1.6.** Business Automobile Liability at a limit of not less than \$1,000,000.00 per occurrence for claims arising out of bodily injuries or death, and property damages. The insurance shall apply to any owned, non-owned, leased or hired automobiles used in the performance of this Agreement.

- 6.2. The Consultant's insurance shall apply separately to each insured against whom claim is made and/or lawsuit is brought, except with respect to the limits of the insurer's liability.
- 6.3. To the extent of the Consultant's negligence, the Consultant's insurance coverage shall be primary insurance with respect to the City, its elected/appointed officials, employees, and agents. Any insurance and/or self-insurance maintained by the City, its elected/appointed officials, employees, or agents shall not contribute to the Consultant's insurance or benefit the Consultant in any way.
- 6.4. Required insurance coverage shall not be suspended, voided, canceled, or reduced in coverage or in limits, except by the reduction of the applicable aggregate limit by claims paid, until after forty-five (45) days' prior written notice has been given to the City. There will be an exception for non-payment of premium, which requires ten (10) days' notice of cancellation.
- 6.5. Unless otherwise approved by the City, insurance is to be placed with insurers with a Best's rating of no less than A:VII, or, if not rated with Best's, with minimum surpluses equivalent to Best's surplus size VII and said insurers must be licensed/approved to do business in the State of Maryland.
- 6.6. The Mayor and City Council of Baltimore, its elected/appointed officials, employees, and agents shall be covered, by endorsement, as additional insured with respect to liability arising out of activities performed by or on behalf of the Consultant in connection with this Agreement.
- 6.7. The Consultant shall furnish to the City a "Certificate of Insurance" with a copy of the additional insured endorsement as verification that coverage is in force. The City reserves the right to require complete copies of insurance policies at any time.
- 6.8. Failure to obtain insurance coverage as required or failure to furnish Certificate(s) of Insurance or complete copies as required shall be a default by the Consultant under this Agreement.
- 6.9. Notwithstanding anything to the contrary in any applicable insurance policy, the Consultant expressly warrants, attests and certifies that there are no carve outs or exclusions to the policy coverage and limitations stated herein, except as required by law.

7. INDEMNIFICATION:

- 7.1. The Consultant shall indemnify, defend and hold harmless the City, its elected/appointed officials, employees, and agents from any and all claims, demands, liabilities, losses, damages, fines, fees, penalties, costs, expenses, suits, and actions, including attorneys' fees and court costs, connected therewith, brought against the City, its elected/appointed officials, employees, and agents, arising as a result of: (a) breach of the Consultant's representations, warranties, covenants, or agreements under this Agreement; (b) the Consultant's violation or breach of any federal, state, local, or

common law, regulation, law, rule, ordinance, or code, whether presently known or unknown; (c) breach of the Consultant's confidential obligations, including data security and privacy obligations; (d) any claim that the intellectual property provided by the Consultant within the scope of this Agreement infringes any patent, copyright, trademark, license or other intellectual property right; and (e) any direct or indirect, willful, negligent, tortious, intentional, or reckless action, error, or omission of the Consultant, its officers, directors, employees, agents, or volunteers in connection with the performance of this Agreement, whether such claims are based upon contract, warranty, tort, strict liability or otherwise. This requirement shall be included in all subcontractor or subconsultant agreements.

- 7.2. The City shall have the right to control the defense of all such claims, lawsuits, and other proceedings. In no event shall the Consultant settle any such claim, lawsuit or proceeding without the City's prior written approval. In the event of any liability claim against the Consultant, the Consultant shall not seek to join the City, its elected/appointed officials, employees, or agents in such action or hold the City responsible in any way for legal protection of the Consultant.
- 7.3. The Consultant represents and warrants to the City that any concepts, idea, studies, models, presentations, graphics, images, maps, guides, photos, printed materials, reports, brochures, operating manuals, designs, data, electronic files, software, processes, plans, procedures or other materials prepared or used by the Consultant in performance of services under this Agreement (the "Property") do not infringe or otherwise violate any intellectual property right of others, including patent, copyright, trademark, or trade secret.
- 7.4. Should the Property become, or in the Consultant's opinion be likely to become, the subject of any intellectual property claim, the City may at its sole option direct the Consultant to (i) procure for the City the right to continue using the Property, (ii) replace or modify the Property so as to make it non-violating, or, if (i) and (ii) are not commercially reasonable, (iii) terminate this Agreement and the City shall be entitled an equitable adjustment in accordance with the Agreement.
- 7.5. Except as expressly provided in this Agreement, in no event shall the Consultant be entitled to recover from the City any consequential damages, exemplary damages, lost profits, nor punitive damages.
- 7.6. The obligations of this Section shall survive the expiration or earlier termination of this Agreement.

8. **TERMINATION:**

- 8.1. **Termination for Cause.** If the Consultant shall fail to fulfill its obligations under this Agreement in a timely and proper manner, or if the Consultant shall violate any of the representations, warranties, covenants, terms or stipulations of this Agreement, the City shall thereupon have the right to terminate this Agreement, provided the Consultant has failed to cure such violation within ten (10) days after receiving written notification

from the City. The Consultant will receive compensation for actual hours worked and actual expenses incurred for any approved invoices related to work completed prior to such termination pursuant to the terms of this Agreement. Notwithstanding the above, the Consultant shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of this Agreement.

8.2. Termination for Convenience. The City shall have the right to terminate this Agreement at any time during the Term of this Agreement, for any reason, including without limitation, its own convenience, upon thirty (30) days' prior written notice to the Consultant. If this Agreement is so terminated and the Consultant shall not have been in default, the Consultant will be compensated for all work accomplished, but not yet paid for, in accordance with the provisions of this Agreement. The Consultant will not receive any further payments under this Agreement.

8.3. Appropriations. The payment of invoices and any amounts due the Consultant under this Agreement is contingent upon the proper appropriation of funds by the Baltimore City Council in accordance with the Baltimore City Charter and Code. If funds are not appropriated for payment under this Agreement, the City may terminate this Agreement without the assessment of any charges, fees or financial penalties against the City by providing written notice of intent to terminate to the Consultant. The Consultant shall not begin any additional work or services related to this Agreement upon receipt of notification of intent to terminate by the City.

9. RETENTION OF RECORDS:

9.1. The Consultant shall retain and maintain all records and documents relating to this Agreement for a minimum of three (3) years from the date of final payment under this Agreement or pursuant to any applicable statute of limitations, whichever is longer, except in cases where unresolved audit questions require retention for a longer period as determined by the City. The Consultant shall make such records and documents available for inspection and audit at any time to authorized representatives of the City, and if applicable to state and/or federal government authorized representatives. If the Consultant should cease to exist, custody of all records related to this Agreement will be transferred to the City.

10. AUDITS:

10.1. At any time during business hours and as often as the City may deem necessary the Consultant shall make available to the City for examination, the Consultant's records with respect to matters covered by this Agreement. The Consultant shall permit the City to audit, examine and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, records of personnel, conditions of employment and other data relating to matters covered by this Agreement.

11. OWNERSHIP OF THE DELIVERABLES:

11.1. To the extent any graphics, images, maps, guides, photos, printed materials, brochures, operating manuals, designs, data, processes, plans, procedures and information

prepared by the Consultant in performance of services under this Agreement include material subject to copyright protection, such materials have been specifically commissioned by the City, and they shall be deemed “work for hire” as such term is defined under U.S. copyright law. The Consultant shall secure a “work for hire” agreement on behalf of the City from any subcontractor who provides materials for this Agreement.

- 11.2.** To the extent any of the materials may not, by operation of law, be a work made for hire in accordance with the terms of this Agreement, the Consultant hereby assigns to the City all right, title, and interest in and to any intellectual property, reports, deliverables, and materials created by the Consultant in accordance with this Agreement, and the City shall have the right to obtain and hold in its own name any copyrights, registrations, and other proprietary rights which may be available.
- 11.3.** The City shall own all reports and/or document deliverables and has sole discretion as to how such reports and/or document deliverables are to be used.

12. CONFIDENTIALITY:

- 12.1.** The Consultant agrees that any confidential information received from the City or its personnel in the furtherance of this Agreement shall remain strictly confidential and shall not be made available to any individual or organization without the prior written approval of City or pursuant to applicable federal, state, or local laws. The provisions of this Section shall remain binding upon the Consultant after the expiration or earlier termination of this Agreement.
- 12.2.** The Consultant shall comply with all applicable federal and state confidentiality requirements regarding personal information, including Md. Code Ann. State Gov. §10-1301 et seq.
- 12.3.** As required under the Maryland Public Information Act, the Consultant shall implement and maintain reasonable security procedures and practices that are appropriate to the nature of the personal information disclosed to the Consultant by the City or other government agencies and which are reasonably designed to help protect the personal information from unauthorized access, use, modification, disclosure, or destruction.
- 12.4.** If the Consultant becomes aware of any unauthorized access to, disclosure of, use of, or damage to the confidential information, the Consultant shall within forty-eight (48) hours notify the City of all facts known to it concerning such unauthorized access, disclosure, use, or damage. Additionally, the Consultant shall use diligent efforts to remedy such breach of security or unauthorized access that is caused by or attributed to the Consultant or its officers, directors, employees, subcontractors, agents, or volunteers in a timely manner, be responsible for any remedial measures required by statute, assist and cooperate with the City in any litigation against third parties that the City undertakes to protect the security and integrity of the confidential information, and deliver to the City, if requested, the root cause assessment and future incident

mitigation plan with regard to any such breach of security or unauthorized access. The Consultant shall comply with all applicable U.S. and international laws governing or relating to privacy, data security and the handling of data security breaches.

13. PUBLICATION:

13.1. Prior to any advertising, publicity, or promotional materials initiated by the Consultant relating to the services under this Agreement, the Consultant shall obtain prior written approval regarding such promotional materials from the City before such materials can be released. Materials shall be presented to the City for prior written approval and shall be returned to the Consultant in a timely manner. The provisions of this Section shall survive the expiration or earlier termination of this Agreement.

14. MODIFICATIONS AND AMENDMENTS:

14.1. Any and all modifications, alterations, or amendments to the provisions of this Agreement must be by means of a written amendment that refers to and incorporates this Agreement, is duly executed by an authorized representative of each party, and is approved by the Board, if necessary. No modifications, alterations, or amendments of this Agreement are valid and enforceable unless the above requirements have been satisfied.

15. COMPLIANCE WITH LAWS:

15.1. The Consultant hereby represents, warrants, covenants, and agrees that:

15.1.1. It is qualified to do business in the State of Maryland and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified;

15.1.2. Its name in this Agreement is its full legal name;

15.1.3. It has the requisite corporate power (if applicable), authority and legal capacity to enter into this Agreement and fulfill its obligations hereunder;

15.1.4. Its execution, delivery, and performance by it of its obligations hereunder have been duly authorized by all requisite action of its stockholders, partners or members, and by its board of directors or other governing body (if applicable);

15.1.5. It has read and understands the terms of this Agreement and has been represented or had the opportunity to be represented by legal counsel of its own choice prior to the execution of this Agreement;

15.1.6. During the Term, it will comply with all federal, state and local laws, ordinances, rules and regulations, including interim expenditure and annual report requirements, and applicable codes of ethics pertaining to or regulating the services to be performed pursuant to this Agreement, including those now in effect and hereafter adopted;

15.1.7. There are no suits or proceedings pending or threatened, whether in law or in equity, to the best of the Consultant's knowledge, which if adversely determined, would have a material adverse effect on the financial condition or business of the Consultant; and

15.1.8. It has obtained, at its expense, any and all licenses, permits, insurance, and governmental approvals necessary to perform its obligations under this Agreement.

15.2. The Consultant's violation of the above representations and warranties shall entitle the City to terminate this Agreement immediately upon delivery of written notice of termination to the Consultant.

16. DISPUTES:

16.1. The City shall in all cases: determine the amount or quantity, quality, and acceptability of the work and materials which are to be paid under this Agreement; decide all questions in relation to said work and the performance thereof, and; decide questions which may arise relative to the fulfillment of this Agreement or to the obligations of the Consultant thereunder. To prevent disputes and litigation where the Consultant is not satisfied with the decision of the City, the Consultant shall submit the claim to the head of the City agency (or their designee) who will decide any dispute between the Consultant and the City, and the head of the City agency's determination, decision and/or estimate shall be a condition precedent to the right of the Consultant to receive any monies under this Agreement, and is subject to review on the record by a court of competent jurisdiction.

17. CITY REQUIREMENTS:

17.1. Nondiscrimination.

17.1.1. The Consultant shall operate under this Agreement so that no person otherwise qualified is denied employment or other benefits on the grounds of race, color, religion, ancestry, national origin, sex, age, marital status, sexual orientation, disability or other unlawful forms of discrimination except where a particular occupation or position reasonably requires consideration of these attributes as an essential qualification for the position. The Consultant shall post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

17.1.2. The Consultant shall not discriminate on the basis of race, gender, religion, national origin, ethnicity, sexual orientation, gender identity or expression, age, or disability in the solicitation, selection, hiring, or treatment of subcontractors, vendors, suppliers, or commercial customers. The Consultant shall provide equal opportunity for subcontractors to participate in all of its public sector and private sector subcontracting opportunities, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that has occurred or is occurring in the marketplace, such as those specified in Article 5, Subtitle 29 of the Baltimore City Code, as amended from

time to time. The Consultant understands and agrees that violation of this clause is a material breach of this Agreement and may result in contract termination, debarment, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.

17.1.3. Upon the City's request, and only after the filing of a complaint against the Consultant pursuant to Article 5, Subtitle 29, of the Baltimore City Code, as amended from time to time, the Consultant agrees to provide the City, within 60 calendar days, a truthful and complete list of the names of all subcontractors, vendors, and suppliers that the Consultant has used in the past four (4) years on any of its contracts that were undertaken with the Baltimore City Market Area as defined in Article 5, §29-2(b) of the Baltimore City Code, as amended from time to time, including the total dollar amount paid by the Consultant for each subcontract or supply contract. The Consultant agrees to fully cooperate in any investigation conducted by the City pursuant to the City's Commercial Non-Discrimination Policy, as contained in Article 5, Subtitle 29, of the Baltimore City Code as amended from time to time. The Consultant understands and agrees that violation of this clause is a material breach of this Agreement and may result in contract termination, debarment, and other sanctions.

17.2. MBE/WBE. The requirements of the Baltimore City Code, Article 5, Subtitle 28 (pertaining to Minority and Women's Business Enterprise), as amended, are hereby incorporated by reference into this Agreement. If applicable, failure of the Consultant to comply with this subtitle shall constitute a material breach of this Agreement and shall entitle the City to terminate this Agreement immediately upon delivery of written notice of termination to the Consultant. The Consultant will make good faith efforts to utilize minority and women's business enterprises and maintain records reasonably necessary for monitoring compliance with this subtitle.

17.3. Local Hiring. Article 5, Subtitle 27 of the Baltimore City Code, as amended (the "Local Hiring Law") and its rules and regulations apply to every contract for more than \$300,000, whether by original contract award total or by later contract modification, made by the City, or on its behalf, with any person. The Local Hiring Law also applies to every agreement authorizing assistance valued at more than \$5,000,000 to a City-subsidized project. Please visit www.oedworks.com for details on the requirements of the law. If applicable, the Local Hiring Law and the Local Hiring Rules and Regulations shall be attached hereto as **Exhibit C** and incorporated herein.

17.4. Conflict of Interest. No elected official of the City, nor other officer, employee or agent of the City who exercises any functions or responsibilities in connection with this Agreement, shall have any personal interest, direct or indirect, in this Agreement. By executing this Agreement, the Consultant asserts that it has not engaged in any practice or entered into any past or ongoing agreement that would be considered a conflict of interest with this Agreement. The Consultant agrees to refrain from entering into all such practices or agreements during the Term of this Agreement (and any extensions thereto) that could give rise to a conflict of interest. Furthermore, the Consultant asserts that it has fully disclosed to the City any and all practices and/or agreements of

whatever nature or duration that could give rise to a conflict of interest and will continue to do so during the Term of this Agreement and any extensions thereto.

17.5. Unfair Labor Practices. Notwithstanding any other provisions in instant Agreement, the Consultant shall comply with the terms of the Board Resolution (the “Resolution”) dated June 29, 1994 (if applicable) which states as follows:

17.5.1. Consultants, contractors, subcontractors, their agents and employees may not engage in unfair labor practices as defined under the National Labor Relations Act and applicable federal regulations and state laws.

17.5.2. Consultants, contractors, subcontractors, and their agents may not threaten, harass, intimidate or in any way impede persons employed by them who on their own time exercise their rights to associate, speak, organize, or petition governmental officials with their grievance.

17.5.3. If the Board determines that a consultant, contractor, subcontractor, or their agents have violated the policy set forth in the Resolution, said consultant, contractor, or subcontractor will be disqualified from bidding on City contracts, and if they are currently completing contracts, they will be found in default of their contracts.

17.6. No Dumping. The Consultant’s violation of any provision of City Health Title 7 {“Waste Control”}, Subtitle 6 {“Prohibited Disposal”}, constitutes a breach of this Agreement; and the City may determine, in its discretion, whether the violation is a material breach warranting termination of this Agreement.

18. STATE REQUIREMENTS:

18.1. Political Contribution Disclosure. The Consultant is aware of, and will comply with, all applicable provisions of the Maryland Annotated Code, Election Law Article, §14-101 et seq., “Disclosure By Persons Doing Public Business” (“Election Law”). The Consultant certifies, in accordance with §14-107 of the Election Law, that it has filed the statement required under §14-104(b)(1) of the Election Law.

19. MISCELLANEOUS PROVISIONS:

19.1. No Waiver. A party’s failure to insist on compliance or enforcement of any provision of this Agreement shall not affect its validity or enforceability or constitute a waiver of future enforcement of that provision or of any other provision of this Agreement.

19.2. Severability. Each provision of this Agreement shall be deemed to be a separate, severable, and independently enforceable provision. The invalidity or breach of any provision shall not cause the invalidity or breach of the remaining provisions or of this Agreement, which shall remain in full force and effect.

19.3. Governance.

19.3.1. This Agreement is made in the State of Maryland and shall be governed by the laws

of the State of Maryland, including the applicable statute of limitations, without regard to the conflict of law rules.

19.3.2. The legal venue of this Agreement and any disputes arising from it shall be settled in Baltimore City, Maryland. The Consultant hereby irrevocably waives any objections and any right to immunity on the ground of venue or the convenience of the forum, or to the jurisdiction of such courts or from the execution of judgments resulting therefrom.

19.4. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the respective personal and legal representatives, successors, guardians, heirs and permitted assigns of the parties hereto and all persons claiming by and through them.

19.5. Agency. Nothing herein contained shall be construed to constitute any party the agent, servant or employee of the other party, except as specifically provided in this Agreement. No party has the authority to act as an agent of the other party except as specifically provided in this Agreement.

19.6. Notice.

19.6.1. All notices, requests, claims, demands and other communications required or permitted under this Agreement (collectively, "Notices") shall be in writing and be given (i) by delivery in person, (ii) by a nationally recognized next day courier service, or (iii) by registered or certified mail, postage prepaid, to the address of the party specified in this Agreement or such other address as either party may specify in writing to the following:

FOR THE CITY:

Director's Name, Title
Name of Department, Title
Address
City, State Zip Code
Email

FOR THE CONSULTANT:

Consultant's Legal Name
Name, Title
Address
City, State Zip Code
Email

19.6.2. All Notices shall be effective upon receipt by the party to which notice is given.

19.7. Payment to the City. Any payment(s) to the City or any of its Departments, Agencies, Boards or Commissions due under the terms of this Agreement or arising incident thereto shall be made to the Director of Finance and be mailed or delivered to: Director of Finance c/o Bureau of Revenue Collections, Abel Wolman Municipal Building, 200 N. Holliday Street Baltimore, Maryland 21202. Wiring instructions may be obtained from the Bureau of Treasury Management.

19.8. Non-Hiring of Officials and Employees. The Consultant agrees that no official or employee of the City, whose duties as such official or employee include matters relating to or affecting the subject matter of this Agreement, shall during the pendency

and terms of this Agreement and while serving as an official or employee of the City become or be an employee of the Consultant or any entity that is a subcontractor of the Consultant on this Agreement.

- 19.9. Gender.** Words of gender used in this Agreement may be construed to include any gender; words in the singular may include the plural of words, and vice versa.
- 19.10. Headings.** Any heading of the paragraphs in this Agreement is inserted for convenience and reference only, and shall be disregarded in construing and/or interpreting this Agreement.
- 19.11. Multiple Copies.** This Agreement may be executed in any number of copies and each such copy shall be deemed an original.
- 19.12. Recitals.** The recitals are hereby incorporated as part of this Agreement.
- 19.13. Survival.** The representations, warranties, covenants, promises, and agreements contained in this Agreement shall survive the execution and consummation of this Agreement, and shall continue until the applicable statute of limitations shall have barred any claims thereon.
- 19.14. Interpretation.** In the event of an ambiguity or question as to the meaning of any provision of this Agreement, or a conflict, or inconsistency between similar terms, conditions, or language between or within this Agreement and the provisions of any exhibit or schedule attached hereto or any document referred to herein, the interpretation placed thereon by the City shall be final and binding on the parties hereto, provided that any such interpretation shall not be unreasonable.
- 19.15. Remedies Cumulative.** The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by any party shall not preclude or waive the right to use any or all other remedies. Said rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.
- 19.16. Independent Contractor.**
- 19.16.1.** It is agreed by the parties that at all times and for all purposes hereunder that the Consultant is not an employee of the City. No statement contained in this Agreement shall be construed so as to find the Consultant or any of its employees, subcontractors, servants, or agents to be employees of the City, and they shall be entitled to none of the rights, privileges, or benefits of employees of the City.
- 19.16.2.** The Consultant warrants that individual(s) performing work under this Agreement shall be employee(s) of the Consultant for all purposes, including but not limited to unemployment insurance, tax withholdings, workers compensation coverage as required by applicable federal and state law.
- 19.17. Contingent Fee Prohibition.** The Consultant warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide

employee or agent working for the Consultant 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 any other consideration contingent on the making of this Agreement.

- 19.18. Assignability/Subcontracting.** The Consultant shall not assign, transfer, or subcontract any part of this Agreement without the prior written consent of the City, which shall not be unreasonably withheld.
- 19.19. Further Assurances.** Each party shall cooperate with the other and execute such instruments or documents and take such other actions as may reasonably be requested from time to time in order to carry out, evidence or confirm their rights or obligations or as may be reasonably necessary or helpful to give effect to this Agreement. Furthermore, the Consultant agrees to comply with the City's Technology Acceptable Use Policy and will execute the Acknowledgment of Technology Acceptable Use Policy (AM-118-1) prior to commencing any work pursuant to this Agreement, if applicable.
- 19.20. Force Majeure.** Neither party will be liable for its non-performance or delayed performance if caused by a "Force Majeure" which means an event, circumstance, or act of a third party that is beyond a party's reasonable control, such as an act of God, an act of the public enemy, an act of a government entity, strikes or other labor disturbances, hurricanes, earthquakes, fires, floods, epidemics, embargoes, war, or any other similar cause. Each party will notify the other if it becomes aware of any Force Majeure that will significantly delay performance. The notifying party will give such notice promptly (but in no event later than fifteen (15) calendar days) after it discovers the Force Majeure. If a Force Majeure occurs, the parties may modify this Agreement in accordance with the requirements herein.
- 19.21. Entire Agreement.** This Agreement constitutes the entire, full and final understanding between the parties hereto and neither party shall be bound by any representations, statements, promises or agreements not expressly set forth herein. The parties do not intend to sign this Agreement under seal to make it a specialty under Maryland law and hereby agree to impose the standard statute of limitations on this Agreement.
- 19.22. Null and Void.** Should this Agreement not be approved by the Board, it shall be considered null and void.

[SIGNATURE PAGE FOLLOWS]

THIS AGREEMENT represents the full intent and interest of the parties hereto as evidenced by their respective signatures affixed below.

MAYOR AND CITY COUNCIL OF BALTIMORE

By: _____
Name/Title: _____
Department of _____

CONSULTANT'S LEGAL NAME

By: _____ (Seal)
Name, Title: _____

**APPROVED AS TO FORM
AND LEGAL SUFFICIENCY**

APPROVED BY THE BOARD OF ESTIMATES

Assistant/Chief Solicitor

Clerk

Date

EXHIBIT A

SCOPE OF SERVICES AND BUDGET

(see attached).

EXHIBIT B

FUNDING SOURCE IDENTIFICATION

Source of Funding:	Federal	State	City
Name of Awarding Agency:			
Award Title:			
Award Id. #:			
CFDA Id. #:			
Term of Award:			
Award Amount:			
Cost Center:			
Worktag:			

1. The Consultant acknowledges that the funding of this Agreement is from federal, state, and/or City funds. The identification of the source of funding is indicated above. As applicable, the Consultant shall comply with the requirements of the funding source, including but not limited to the terms and conditions of the notice of grant award, statutes and regulations, and manuals.

2. The Consultant agrees to accept any additional conditions governing the use of funds or performance of programs as may be required by executive order, federal, state or local statute, ordinance, rule or regulation or by policy announced by the City. However, should the Consultant find such additional condition or conditions unacceptable, the Consultant may terminate this Agreement upon thirty (30) days written notice.

EXHIBIT C

**THE LOCAL HIRING LAW
AND THE LOCAL HIRING RULES AND REGULATIONS**

Attach if applicable.