COOPERATIVE

AGREEMENT

**THIS AGREEMENT,** isentered into on \_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_, by and between the Mayor and City Council of Baltimore, a municipal corporation of the State of Maryland (hereinafter referred to as “City”) and

**Vendor’s Legal Name**

 (hereinafter referred to as “Contractor”).

 **WHEREAS**, Contractor was awarded the competitive contract **#NUMBER** **AND NAME OF CONTRACT** **(e.g.** **AMD10-16 – Dodge Road Rescue Medic Units)** by **LEAD PROCUREMENT AGENCY (e.g. Houston-Galveston Area Council)** (“Lead Procurement Agency”), which allows for use by other government entities.

 **WHEREAS**, the City is an eligible government entity.

**WHEREAS,** the City, through its Board of Estimates, awards Contract **#number (e.g. AMD10-16)**, to the Contractor, who agreed to furnish all labor, materials and equipment, and perform all work required to satisfactorily deliver all items awarded in Contract **#number**, in strict accordance with all drawings, conditions, covenants, stipulations and terms contained in the specifications and bid or proposal thereof, which are on file at the Bureau of Procurement and are in all respects made a part of this Agreement; and

**WHEREAS,** one of the City’s conditions of such award is that the Contract **#number** terms be formalized with an agreement executed by the City and the Contractor.

**NOW THEREFORE, THIS AGREEMENT WITNESSETH THAT,** in consideration of the foregoing and the mutual promises set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. The Contractor shall well and faithfully furnish all labor, material and equipment for and shall perform all work required on items awarded pursuant to this Agreement.

2. The City hereby agrees to pay and the Contractor agrees to accept a sum not to exceed **$PROVIDE AMOUNT** as full and complete payment for all services to be performed under this Agreement, when due and payable under the terms and specifications of the award.

1. This Agreement shall commence on **PROVIDE SPECIFIC DATE or DATE OF BOARD OF ESTIMATES APPROVAL** and shall expire on **PROVIDE END DATE**, and can be renewed by the City if renewed by the Lead Procurement Agency.

1. Time is of the essence in the performance of this Agreement.
2. Required City provisions:
3. **Tax Exempt Status.** The City is exempt from Federal Excise Tax pursuant to Section 4221 of the Internal Revenue Code, as amended from time to time. The City is exempt from Maryland Sales and Use Tax pursuant to Exemption Certificate #30000559.
4. **Invoices.** Invoices must show City’s full current Purchase Order number as issued to the Contractor and be sent to the bill-to-address as shown on the Purchase Order or email: City-Payables@BaltimoreCity.gov to be promptly considered for payment. Payment shall be made in accordance with any and all instructions on the Purchase Order or Purchase Order Release.
5. **Governing Law.** This Agreement is made in the State of Maryland and Maryland law shall govern its interpretations, performance and enforcement, exclusive of its conflict of laws rules. Furthermore, the parties agree that any suits or actions brought by either party against the other shall be brought in a court of competent jurisdiction in Baltimore City.
6. **Notice.** Any notice required or permitted under this Agreement shall be in writing and hand delivered with receipt obtained therefore or mailed, postage prepaid, to the other party by certified mail, return receipt requested, to the parties at the following addresses:

|  |  |
| --- | --- |
| **FOR THE CITY:**City Purchasing AgentBureau of Procurement7 E. Redwood Street, 10th FloorBaltimore, Maryland 21202 | **FOR THE CONTRACTOR:****Name/Title****Address****Address****City, State, Zip** |

1. **Termination for Convenience.** The City shall have the right to terminate this Agreement in whole or in part 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 Contractor. Upon termination of this Agreement in accordance with this section, the Contractor is entitled to an equitable adjustment hereunder. Said equitable adjustment may include costs reasonably incurred by the Contractor as a direct result of early termination, but shall not include, under any circumstance, anticipated but unearned profits.
2. **Indemnification.** Notwithstanding anything contained in this Agreement to the contrary, the Contractor shall indemnify, defend, and save harmless the City, its elected/appointed officials, employees, agents, and volunteers against or from all costs, expenses, damages, injury or loss to which the City may be subjected by reason of any wrongdoing, misconduct, want of care or skill, negligence, or default upon the part of the execution or performance of this Agreement and shall save and keep harmless the City, its elected/appointed officials, employees, agents, and volunteers against and from all claims and losses to it from any causes whatsoever.
3. **Nondiscrimination.** TheContractor 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 Contractor 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 28 of the Baltimore City Code, as amended from time to time. The Contractor 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.
4. **Contract Disclosure Requirement.** Upon the City’s request, and only after filing a complaint against the Contractor pursuant to Article 5, Subtitle 29, of the Baltimore City Code, as amended from time to time, the Contractor agrees to provide the City within sixty (60) calendar days, a truthful and complete list of the names of all subcontractors, vendors, and suppliers that the Contractor 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, Section 28-1(d) of the Baltimore City Code, as amended from time to time, including the total dollar amount paid by the Contractor for each subcontract or supply contract. The Contractor 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 Contractor understands and agrees that violation of this section is a material breach of this Agreement and may result in contract termination, debarment, and other sanctions.
5. **Insurance.** TheContractor shall maintain in force, throughout the term of this Agreement or any extension thereof, the insurance levels as determined by Risk Management, including:
6. Workers’ Compensation coverage as required by the State of Maryland or other applicable State’s law.
7. Commercial General Liability Insurance, at a limit of not less than $1,000,000 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 $2,000,000 is required. Such insurance shall include contractual liability insurance.
8. In the event vehicles will be used in the performance of the contract Business Automobile Liability at limits of not less than $1,000,000 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.
9. The Contractor will name the Mayor and City Council of Baltimore City as an additional insured.
10. **Unfair Labor Practices.** Notwithstanding any other provisions in this Agreement, the Contractor shall comply with the terms of the Board’s Resolution dated June 29, 1994 (if applicable) which states as follows:
11. 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.
12. 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.
13. If the Board determines that a contractor, subcontractor, or their agents have violated the policy set forth in this Resolution said contractor, or subcontractor will be disqualified from bidding on Baltimore City contracts, and if they are currently completing contracts, they will be found in default of their contracts.
14. **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 Contractor 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 Contractor. The Contractor will make good faith efforts to utilize minority and women’s business enterprises and maintain records reasonably necessary for monitoring compliance with this subtitle. (See Art. 5, § 28-54, Baltimore City Code).
15. **Audits.** At any time during business hours and as often as the City may deem necessary, there shall be made available to the City for examination, the Contractor’s records with respect to matters covered by this Agreement. The Contractor 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.
16. **Local Hiring.** Article 5, Subtitle 27 of the Baltimore City Code, as amended (the “Local Hiring Law”) and its rules and regulations apply to contracts and agreements executed by the City on or after the Local Hiring Law’s effective date of December 23, 2013 and is applicable to all vendors. The Local Hiring Law applies to every contract for more than $300,000 made by the City, or on its behalf, with any person. It 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.
17. **Assignment of Antitrust Claims**. The Contractor and the City recognize that in actual economic practice, overcharges by the Contractor’s suppliers resulting from violations of state or federal antitrust laws are in fact borne by the City. Therefore, the Contractor assigns to the City any and all causes of action both now and in the future that it may have against any party under all state and federal antitrust laws for the products or services that are the subject of this Contract, or as to any products or services that are otherwise related to the products or services that are the subject of this Contract.
18. Required State Provision.
19. **Political Contribution Disclosure.** The Contractor represents and certifies that the Contractor and/or any person attributed to the Contractor such as an officer, director or partner, complies fully with Election Article §14-104, et seq. which requires disclosure of contributions by Persons Doing Public Business.
20. **Conflict.** In the event of conflict between this Agreement and Contract **#number**, this Agreement shall control.
21. The Contractor represents and warrants that 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. Further, the person executing this Agreement on behalf of the Contractor warrants that he/she has the authority to legally bind the Contractor.

**[signature page follows]**

**IN WITNESS WHEREOF,** the parties hereby evidence their agreement to the above terms and conditions by having caused this Agreement to be executed, sealed and delivered the day and year first above written.

ATTEST/WITNESS MAYOR AND CITY COUNCIL OF BALTIMORE

By: By:

 Custodian of the City Seal Erin Sher Smyth, Esq. CPPO, City Purchasing Agent

ATTEST/WITNESS CONTRACTOR

By: By: (SEAL)

 Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

APPROVED AS TO FORM AND LEGAL SUFFICIENCY APPROVED BY THE BOARD OF ESTIMATES

By: By:

 Assistant City Solicitor Clerk Date