

Resolution No. 2774

A RESOLUTION OF THE CITY OF SALISBURY, MARYLAND AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH WICOMICO PARTNERSHIP FOR FAMILIES AND CHILDREN FOR THE PURPOSE OF EXPENDING GRANT FUNDS IN THE AMOUNT OF \$30,391.00.

WHEREAS, the City of Salisbury applied for funds through the Wicomico Partnership for Families and Children's (WPFC) Resource Navigation Grant Program; and

WHEREAS, the WPFC has awarded the City of Salisbury funds in the amount of \$30,391.00; and

WHEREAS, these funds shall be used to expand the City's Street Outreach program to encompass resource navigation; and

WHEREAS, the City of Salisbury must enter into a grant agreement with the WPFC defining how these funds must be expended; and


WHEREAS, § 7-29 of the Salisbury City Charter forbids the Mayor from entering into a contract that requires an expenditure not appropriated or authorized by the City Council; and

WHEREAS, appropriations necessary to execute the purpose of this grant must be made upon the recommendation of the Mayor and the approval of four-fifths of the Council of the City of Salisbury;


NOW, THEREFORE BE IT RESOLVED THAT, the Council of the City of Salisbury, Maryland does hereby appropriate the necessary funds and authorize Mayor Jacob R. Day to enter into a grant agreement with the WPFC and expend the awarded funds accordingly.

THE ABOVE RESOLUTION was introduced and duly passed at a meeting of the Council of the City of Salisbury, Maryland held on the 25th day of September, 2017 and is to become effective immediately.

ATTEST:

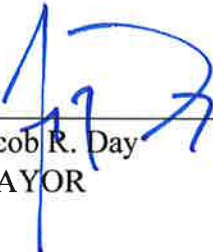


Kimberly R. Nichols
CITY CLERK



John R. Heath
CITY COUNCIL PRESIDENT

APPROVED BY ME this 29 day of SEPTEMBER, 2017.



Jacob R. Day
MAYOR

To: Mayor & City Council
From: Theo Williams
Subject: FY17 LMB Resource Navigation Grant
Date: September 22, 2017

The City of Salisbury has applied for and received grant funding from the Wicomico Partnership for Families and Children to expand our homeless street outreach program to also encompass resource navigation for impoverished families and children. The City of Salisbury received \$30,391 in order to fund a portion of the salary and benefits of the Homeless Services Case Manager and the Housing & Homelessness Manager.

Through the City of Salisbury's street outreach program, we currently serve any individuals that are in a form of literal homelessness (i.e., a shelter, place not meant for human habitation) or someone that is "doubled up" or in a motel/hotel paid by themselves if they have recently (within the past 30-90 days) been in a form of literal homelessness. We have focused on this target population in order to serve the most vulnerable populations of our area with our limited resources. We will not explicitly "deny" anyone services (e.g., assistance with housing applications, referrals), regardless of recent housing status, but we will not offer them case management.

As a part of our application to receiving the resource navigation grant through the Wicomico Partnership for Families and Children, however, we did not intend to restrict our resource navigation services to just individuals that are in a form of homelessness or recently were in a form of homelessness. In accordance with WPFC requirements, we will serve any families that impoverished and require referrals or resource navigation services. Resource navigation services are typically limited to non-financial assistance that is limited to 30 days. If they do, however, also qualify under one of the federal definitions of homelessness (including children that are "doubled up), we will also provide case management services beyond the 30 days, funded through the Community Development Block Grant.

MEMORANDUM OF UNDERSTANDING
Between
WICOMICO PARTNERSHIP FOR FAMILIES AND CHILDREN
And
THE CITY OF SALISBURY

THIS MEMORANDUM OF UNDERSTANDING (hereinafter "MOU"), dated this 5th day of July, 2017 by and between the Wicomico Partnership for Families and Children (hereinafter "WPFC") located at 125 N. Division Street, Room 101, Salisbury, Maryland 21804 and The City of Salisbury (hereinafter "Vendor"), located at 207 W. Main St, Suite 102, Salisbury MD, 21801.

WHEREAS, the WPFC is a local management board funded under State guidelines created to promote a safe, healthy and stable environment for all Wicomico County children and families by achieving a comprehensive system of education, health and human services whose effectiveness and responsiveness addresses the needs of children and families; and

WHEREAS, the Vendor has met all requirements for a financial award and agrees to comply with all applicable requirements of the WPFC Board's Policies and Procedures Manual as adopted July 1, 2016, and as amended from time to time (the "Manual"); online link to the Manual in a PDF file can be accessed from the Governor's Office for Children website - www.goc.state.md.us. From the home page, left column, click "Policies and Procedures" under the GOC tab, then "Local Management Board Policies and Procedures" on the next screen; and

WHEREAS, the WPFC has therefore agreed to award funds to the Vendor.

NOW, THEREFORE, in consideration of the foregoing and of the mutual promises contained in this MOU, and intending to be legally bound thereby, the parties agree as follows:

1. **PREAMBLE.** The preamble and introductory clauses prior hereto are incorporated into this MOU as a part hereof, and such provisions accurately reflect the facts therein recited and the intention of the parties.

2. **SCOPE OF WORK.**

- A. Vendor agrees to perform all of those services specified or outlined in the Request for One-Time Only Support submitted and attached to this MOU. These Attachment(s) are incorporated herein. All such work shall be performed in a timely fashion and a professional manner and in strict accordance with the requirements of the WPFC as specified in the Attachments.
- B. WPFC shall provide Vendor with administrative and technical assistance as available and appropriate.

3. **PAYMENT.**

The WPFC hereby agrees to pay the Vendor the total sum award of \$30,391.00. See budget attachment for further detail. Payments for services rendered under this MOU shall be reimbursed within 30 days following receipt of quarterly expenditure reports and any required program or fiscal reports. Fiscal support for this MOU is dependent upon receipt by WPFC of appropriate Federal, State and/or local funding. Financial/program reports and data are due by the dates outlined in the Attachment(s) unless an extension is negotiated and approved in writing by WPFC contract manager.

- A. The WPFC may reduce or withhold payments if Vendor fails to comply with the terms of this MOU. Compliance will be determined by WPFC based upon Vendor's completion of the tasks outlined in any Scope of Work and/or Attachments to this MOU. Vendor will be notified in writing of the total amount and cause of any reduction and/or withholding of payments. Vendor may appeal any

reduction or withholding of payments to WPFC. Such request shall be in writing, addressed to Director and Chair of WPFC and shall include an explanation of the issue(s) to be addressed, recommended actions or relief sought, and supporting documentation. If Vendor fails to respond within 30 days to a notice of intent by WPFC to withhold funds for non-performance, WPFC may consider the reduced and/or withheld amount to be payment in full for the services performed.

- B. Gift Cards: By applying for and accepting this grant, it is acknowledged and accepted that any request for reimbursement of the purchase of gift cards for any purpose will not be allowed.
- C. Hold back Payment: The WPFC shall retain final payment of the total funds to be distributed under this MOU. Funds retained shall be disbursed once the Vendor submits all final reports to the WPFC and a final reconciliation is conducted.
- D. Flex Funds: Per Section V of the LMB Manual revised July 1, 2011; the use of flex funds is not permissible.
- E. Vendor Information:

Checks shall be addressed and sent to:

Vendor: The City of Salisbury

Address: 207 W. Main St, Suite 102, Salisbury MD 21801

Contact Name: Susan Phillips, Director/Administrative Authority and Theo Williams, Housing and Homelessness Manager

Vendor's Tax Exempt Number is: _____

Vendor's Federal Identification Number is: _____

Vendor Muni's # 2092

- F. Grant Period. The timeline for these grant funds is: July 1, 2017 -- June 30, 2018

4. MODIFICATIONS, SUB-LETTING. No modification to this MOU is binding unless it is in writing and signed by all parties, except as allowable and indicated in the Manual. Vendor shall not assign, transfer, convey, sublet or otherwise dispose of this MOU, or any right, title or interest therein, or any power to execute this MOU, to any other person, firm, or corporation, without the written consent of WPFC; however, in no case shall such consent relieve Vendor from any obligations set forth within this MOU.

- A. Required written approval. A budget modification or request for modification in expenditures must be submitted and approved by WPFC for proposed changes in the following categories and/or line items, unless otherwise specified in this MOU, whenever:
 - 1. The Vendor needs to make any personnel line item changes.
 - 2. Budget modifications in any other category do not require a written budget modification; however a written request for modifications in expenditures must be submitted. Approval is required before changes in expenditures can be made.

5. **TERMINATION/REDUCTION OF AWARD.** Either party may terminate or reduce this MOU with 30 days written notice to the other party outlining the intent to terminate. Upon termination, WPFC will only pay Vendor for expenses verifiable by a final report and having been incurred prior to receipt of notification of termination; and subsequently, an approved plan for transition of services if on-going as allowable under this MOU. An award may be reduced by the WPFC or the fund source as follows:

- A. Failure to meet program targets or objectives;
- B. Reduction in the scope of services to be delivered;
- C. Cutback in appropriations; or
- D. Non-compliance with the MOU.

Vendor is required to notify WPFC within 15 days if there are to be any changes to the Scope of Work from the original proposal or if targets are not being met.

6. **CRIMINAL BACKGROUND CHECKS.** Vendor shall comply with the C.O.M.A.R. 12.15.02, the Maryland Annotated Code, Family Law Article, Title 5, Subtitle 5, and with Section I, Subsection 50 of the Manual, with regards to requiring criminal background checks for any personnel, including volunteers, who, as a result of this MOU, work directly or have direct contact with children and are covered by the discretionary provisions in the Maryland Annotated Code, Family Law Article. Copy of criminal background checks must be maintained by the Vendor.

7. **SERVICE AND FINANCIAL RECORDS, RECORD RETENTION.** As noted in Section I, Subsection 50 of the Manual, WPFC and appropriate State agencies shall have access to any information and/or client records generated under this MOU. Records must be retained for **five years after the child turns 21 years old** or returned to WPFC for archiving.

8. **ASSETS.** Equipment/furniture purchased with grant funds from WPFC in excess of \$100 must be inventoried annually. A list must be maintained, and copy provided in final report to WPFC, for inventory purchased with WPFC funds. Items must be inventoried with identification tags and documentation as supplied by WPFC.

- A. **Reclamation of Assets.** As outlined in Section IV, Subsection 10 of Manual, the State retains the right to claim and dispose of any equipment, buildings, or property purchased with State funds within three years of the date of termination or non-renewal of this MOU or, using IRS guidelines, before the asset may be considered fully depreciated. When WPFC distributes funds on behalf of the funding source which are, in turn, used to purchase assets, WPFC has the right to reclaim such assets at the end of this MOU as an agent of the State.

9. **OWNERSHIP OF REPORTS, STUDIES, PUBLICATIONS; PUBLICITY.** Section II, Subsection 20, 8c. of the Manual requires that all reports, data, studies, materials and/or tangible property in any form, generated or arising from the use of State funds provided under a Memorandum of Understanding or other Agreement covered by the Manual, shall be the exclusive property of the State as represented by WPFC, the Local Management Board of Wicomico County. However, upon receipt of written approval from WPFC, Vendor may publish and/or disseminate information derived from the performance of work completed as part of this MOU based on the following: (a) Vendor shall provide WPFC with a copy of any proposed publication for review and comment at least 60 days prior to submission; (b) Any publication completed as part of this MOU shall carry appropriate acknowledgement of source of funding and WPFC support; and (c) No party to this MOU shall use the name of the other party, or the name of any faculty, member, employee, or student of the other party, in connection with any product, service, promotion, news release or other publicity without written permission of the other party.

10. **PUBLIC RELATIONS/MARKETING.** All vendors are required to reference the Wicomico Partnership for Families and Children and the originating funding source in addition with the State or Federal funding agency when producing outreach materials, public statements, press releases, or when promoting conferences, seminars, workshops, or forums. Please use the following guidelines for type of outreach:

- A. Press Releases, video or media collateral and newspaper articles. Include tagline **"This project is funded through the Wicomico Partnership for Families and Children, the Local Management Board for Wicomico County, with funding from Maryland's Governor's Office for Children."**
- B. Brochures, calendars and other publications for public distribution. Include **WPFC logo** and tagline **"This project is funded through the Wicomico Partnership for Families and Children, the Local Management Board for Wicomico County, with funding from Maryland's Governor's Office for Children."**
- C. No party to this MOU shall use the name of the other party, or the name of any faculty, member, employee, or student of the other party, in connection with any product, service, promotion, news release or other publicity without written permission of the other party.

11. **CONFIDENTIALITY.** No Party to this MOU shall disclose any confidential information that would identify any client whose service and/or personal information is reviewed under this MOU except upon written consent of the other party and the client or, if the client shall be a minor, client's responsible parent or guardian, unless the disclosure is required by court order, or for program monitoring and evaluation by an authorized Federal, State of Maryland or Wicomico County agency. Programs will adhere to HIPPA regulations as appropriate as follows.

A. The Vendor acknowledges its duty to review and comply, to the extent applicable, with all requirements of the federal Health Insurance Portability and Accountability Act (HIPAA), 42 U.S.C. §1320d et seq. and all implementing regulations including 42 CFR Part 2, 45 CFR Parts 142, 160 and 164. The Vendor also agrees to comply, where applicable, with the Maryland Confidentiality of Medical Records Act (MCMRA), Md. Health-General §4-301 et seq. This obligation includes, but is not limited to adhering to the privacy and security requirements entailed for protected health information under federal HIPAA and State MCMRA, making the transmission of all electronic information compatible with the federal HIPAA requirements, and otherwise providing good information management practices regarding all health information and medical records.

B. Protected Health Information as defined in the HIPAA regulations at 45 CFR 160.103 and 164.501, means information transmitted as defined in the regulations, that is individually identifiable; that is created or received by a healthcare provider, health plan, public health authority, employer, life insurer, school or university, or healthcare clearinghouse; and that is related to the past, present, or future physical or mental health or condition of an individual, to the provision of healthcare to an individual. The definition excludes certain education records as well as employment records health by a covered entity in its role as employer.

12. **INDEMNIFICATION.** Vendor shall indemnify and hold WPFC harmless from any and all claims, lawsuits, damages, losses, liabilities, actions or proceedings of any kind by anyone whatsoever, in any way arising out of the willful misconduct, errors, negligent acts or omissions of Vendor, its agents, employees, officers, subcontractor or volunteers in connection with fulfilling the terms and conditions of this MOU.

13. **GOVERNANCE, LEGAL COMPLIANCE.** This MOU shall be governed, construed and interpreted under the Laws of the State of Maryland. Vendor agrees to be aware of and in compliance with all terms and conditions set forth in this MOU as well as with all applicable licensing, accounting, auditing, nondiscrimination, monitoring, and evaluation practices required by the Manual and applicable Federal, State, and local law.

14. LICENSURE. Vendor shall ensure that it has all necessary licenses and permits required by the laws of the United States, State of Maryland, and all other appropriate governmental agencies, and agrees to maintain these licenses and permits in effect for the duration of this MOU. Vendor will notify WPFC immediately of loss or suspension of, or changes to, any such licenses and permits.

15. MONITORING AND OVERSIGHT. Vendor hereby agrees to the following monitoring and oversight requirements:

- A. On-site monitoring. At least one on-site visit will be conducted for program review.
- B. Program Records. Vendor agrees to maintain receipts, audits and criminal background checks. The WPFC reserves the right to review these documents any time.
- C. Program Reports and Evaluation. Monthly financial/program reports and data are due by the 10th of the month unless an extension is negotiated with WPFC contract manager.
- D. Fiscal Site Visit. Grant related receipts and annual audit will be reviewed annually by WPFC fiscal manager.
- E. Oversight and Technical Assistance. Provided to Vendor as needed or as deemed necessary by the WPFC.
- F. Meeting Attendance. Attendance at regular meetings with WPFC staff related to the program is a grant requirement. All vendors must attend WPFC vendor development workshops and trainings, as announced.
- G. Audit Requirement - A copy of an independent audit must be provided annually to the WPFC. The LMB shall acquire and review each vendor's audit report. For any vendor that receives an aggregated sum in excess of \$300,000 in Children's Cabinet funds, the audit must include a separate schedule of revenues and expenses for the Children's Cabinet funds. If a vendor is an instrumentality of local government and is included in the Comprehensive Annual Financial Report (CAFR) for the County, a supplemental schedule or a Program Disbursement Journal report shall also be submitted. If a vendor is providing services to another LMB, in order to determine if a separate schedule is applicable for the required vendor audit, the vendor shall provide a separate schedule or revenue and expenditures for each LMB. A waiver from the audit requirement may be requested by the vendor to the LMB Executive Director. The request shall be made in writing and addressed to the Executive Director of WPFC and shall include the following information:

- i. Name of community vendor;
- ii. Rationale for the waiver;
- iii. Purpose for which the funding is to be given (e.g., services, purchase of equipment);
- iv. Annual revenue of vendor.

The waiver shall be submitted by February 1st, 2018.

Note: The Vendor will make all their data, records and necessary documents, including client records (unless disclosure is prohibited by law), available and accessible to the WPFC staff and State monitors during their on-site monitoring, inspection, and auditing relating to Vendor's performance under this MOU, as deemed necessary by the WPFC. The WPFC reserves the right to retain all funds under this MOU unless and until the Vendor satisfies the auditing requirement.

16. ENTIRE MOU. This instrument and the applicable provisions of the Manual shall represent the entire MOU between the parties hereto, and any and all other supplemental MOUs or subsequent MOUs between the parties shall not be enforceable unless in writing signed by the party to be charged.

17. BINDING. This MOU shall bind the respective agents, successors and assigns of the parties.

18. AGENT RELATION. Nothing herein shall be taken or construed in any manner or under any circumstances whatsoever as creating or establishing the relationship of co-partners, or creating or establishing a relationship of a joint venture between the parties hereto, or as constituting Vendor as the agent or representative of the WPFC or the County for any purpose or manner whatsoever.

IN WITNESS WHEREOF, the parties noted herein have executed this MOU.

ATTEST:

[Signature]

WPFC

By:

[Signature]

Lisa Campbell, Director
Wicomico Partnership for Families & Children

ATTEST:

[Signature]

By:

[Signature]

Susan Phillips, Director
City of Salisbury

Approved by:

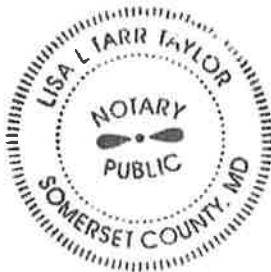
[Signature]

Bob Culver, Wicomico County Executive

STATE OF MARYLAND, WICOMICO COUNTY, TO WIT:

I HEREBY CERTIFY that on this 25th day of July, 2017, before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared Robert L. Culver, Jr. acknowledged himself to be the Wicomico County Executive, and that he, as such officer, being authorized so to do, executed the foregoing MOU for the purposes therein contained by signing the name of Wicomico County, by himself as such officer.

AS WITNESS my hand and Notarial Seal.



Notary Public

My Commission Expires:

[Signature]
12-6-18

WICOMICO COUNTY, MARYLAND
STANDARD TERMS AND CONDITIONS

This document sets out provisions generally applicable to all Wicomico County ("County") contracts. These provisions do not constitute a complete agreement, and must be appended to a document, executed by all parties, which identifies the specific work to be performed, compensation, term, incorporated attachments, and any special conditions. This document and the Contract are intended to be complementary and shall be construed accordingly. Should there be a direct contradiction between these terms and conditions and the Contract, then the Contract shall govern and control those contradictory terms and conditions. The term "Department" includes the County, its various departments, unit, agencies, employees or agents as may be appropriate. The term "Contract" shall include a document entitled "agreement" or any other title on a document that is denoting a contract. The Wicomico County Executive is the person authorized to enter into contracts for Wicomico County.

Amendment. This Contract constitutes the entire agreement between the parties and all other communications prior to its execution, whether written or oral, with reference to the subject matter of this Contract are superseded by this Contract. No amendment to this Contract shall be binding unless in writing and signed by the parties.

Bankruptcy. Upon filing for any bankruptcy proceeding by or against the Contractor, whether voluntary or involuntary, or upon the appointment of a receiver, trustee, or assignee for the benefit of creditors, the Contractor must notify the County immediately. Upon notice of such filing, the County reserves the right at its sole discretion either to cancel the Contract or to affirm the Contract and hold the Contractor responsible for damages. The exercise of this right is in addition to any other rights the County may have as provided in this County or by law.

Compliance with Law. The Contractor hereby represents and warrants that:

- A. It has the power and authority to enter into and perform the Contract, that the Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms;
- B. Its performance under the Contract shall be in a good and workmanlike manner and in accordance with the professional standards;
- C. 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;
- D. It is not in arrears in the payment of any obligations due and owing to the County or any department or unit thereof, including but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Contract;
- E. It shall comply with all federal, State and local laws, regulations, and ordinances applicable to its activities and obligations under this Contract;
- F. It shall obtain, at its expense, all licenses, permits, insurance and governmental approvals, if any, necessary to the performance of its obligations under this Contract.

Contingent Fee Prohibition. The Contractor, architect or engineer (as applicable) 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 Contractor, architect or engineer, to solicit or secure this Contract, 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 commission, percentage, brokerage or contingent fee or other consideration contingent on the making of this Contract.

Counterparts and Signature. This Contract may be executed in several counterparts, each of which shall be an original, all of which shall constitute one and the same instrument. Unless otherwise specified by the County, this Contract may be signed in writing, or by electronic signature, including by email. An electronic signature, or a facsimile copy or computer image, such as a PDF or tiff image, of a signature, shall be treated as and shall have the same effect as an original signature. An electronic signature, a true and correct facsimile copy or computer image of this Agreement shall be treated as and shall have the same effect as an original signed copy of this document.

Force Majeure. Neither the County nor Contractor shall be held responsible for delay or default caused by fire, riot, acts of God, County declaration of emergency, or war where such cause was beyond, respectively, the County's or Contractor's reasonable control. The County and Contractor shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Contract.

Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Maryland and Wicomico County without regard to principles of conflicts of law.

Indemnification. The Contractor shall protect, hold free and harmless, defend and indemnify the County including its officers, agents and employees from all liability, penalties, costs, losses, damages, expenses, causes of action, claims or judgments (including Attorney's fees) resulting from injury to, or death of, any person or damage to property of any kind, which injury, death or damage arises out of, or is in any way connected with the performance of the work or failure to perform its obligations under this Contract. This obligation of indemnification shall apply to any acts or omissions, negligent conduct, whether active or passive, including acts or omissions of Contractor's agents or employees; except that it shall not be applicable to injury, death or damage to the property arising from the sole negligence of Wicomico County, its officers, agents and employees.

Independent Contractor.

- A. Contractor shall perform the work required by this Contract as an "Independent Contractor." Although the County reserves the right to determine the delivery schedule for the work to be performed and to evaluate the quality of the completed performance, the County cannot and will not control the means or manner of the Contractor's performance. The Contractor shall comply promptly with any requests by the County relating to the emphasis or relative emphasis to be placed on various aspects of the work or to such other matters pertaining to the work under this Contract. Contractor is responsible for determining the appropriate means and manner of performing the work.
- B. Contractor represents and warrants that Contractor is not an employee of the County, is not currently employed by the Federal Government, and is not an officer, employee or agent of the County.
- C. Contractor shall be responsible for all federal or state taxes applicable to any compensation or payments paid to Contractor under this Contract. Contractor is not eligible for any federal Social Security, unemployment insurance, or workers' compensation benefits from compensation or payments paid to Contractor under this Contract.
- D. Contractor agrees to immediately provide the County notice of any claim made against Contractor by any third party. Contractor also agrees not to assign to any third party, without the County's written consent, any obligation of the County to indemnify Contractor for any actions under this Contract.

Insurance Requirements.

- A. Contractor shall obtain, and at all times keep in effect, Commercial General Liability Insurance in the amounts listed below for its activities and operations. The insurance shall include coverage for personal injury, discrimination and civil rights violation claims. All such insurance shall name County, its employees, and agents as ADDITIONAL INSURED. A copy of the certificate of insurance shall be filed with the County prior to the time this Contract is executed, providing coverage in the amount of \$1,000,000 per occurrence and \$2,000,000 general aggregate and \$500,000 for property damage. Coverage shall be written on an occurrence form.
- B. Contractor shall obtain, and at all times keep in effect, automobile insurance on all vehicles used in this Contract with the County to protect Contractor against claims for damages resulting from bodily injury,

including wrongful death, and property damage that may arise from the operations of any owned or hired automobiles used by Contractor in connection with the carrying out of this Contract. All such insurance shall name County, its employees, and agents as **ADDITIONAL INSURED**.

- C. Contractor shall provide the County with certification of Workers' Compensation Insurance, with employer's liability in the minimum amount required by Maryland law in effect for each year of this Contract.
- D. All insurance policies shall have a minimum 30 days' notice of cancellation. Immediate written notice to the County shall be required in the event of cancellation or restriction by the insurance company of any insurance policy referred to in this section.
- E. When insurance coverage is renewed Contractor shall provide new certificates of insurance prior to expiration of current policies.

Nondiscrimination. A contractor who is the recipient of County funds, or who proposes to perform any work or furnish any goods under this Contract shall not discriminate against any worker, employee or applicant because of religion, race, sex, age, sexual orientation, physical or mental disability, or perceived disability. Contractor further agrees that this provision will be incorporated in all sub-contracts entered into in connection with this Contract.

Ownership of Documents and Materials.

- A. The Contractor agrees that all documents and materials, including but not limited to, reports, drawings, studies, specifications, estimates, maps, photographs, designs, graphics, mechanicals, artwork, and computations prepared by or for the Contractor under the terms of this Contract shall at any time during the performance of the services be made available to the County upon request by the County and shall become and remain the exclusive property of the County upon termination or completion of the services. The County shall have the right to use the same without restriction or limitation and without compensation to the Contractor other than that provided in this Contract. The County shall be the owner for the purposes of copyright, patent or trademark registration.
- B. If the Contractor obtains or uses for purposes of this Contract, or subcontracts for, any design, device, material, or process covered by letters of patent or copyright, it shall provide an assignment to the County of ownership for purposes of copyright, patent or trademark and of all right to possess and to use such design, device, material or process and a legally sufficient agreement with the patentee or owner, and a copy of such agreement shall be filed with the County.
- C. The Contractor shall indemnify and save harmless the County from any and all claims for infringement by reason of the use of any such patented design, device, materials, or process, or any trademark or copyright, and shall indemnify, protect and save harmless the County, its officers, agents, and employees with respect to any claim, action, costs or infringement, for royalties or user fees, arising out of purchase or use of materials, construction, supplies, equipment or services covered by this Contract.

Payments. Payments to the Contractor pursuant to this Contract shall be made no later than 30 days after the County's receipt of a proper invoice from the Contractor. If an invoice remains unpaid 45 days after the invoice was received, interest shall be charged at a rate of six percent (6%) per annum.

Records. Contractor shall maintain all fiscal records relating to this Contract in accordance with generally accepted accounting principles. In addition, Contractor shall maintain any other records pertinent to this Contract in such a manner as to clearly document Contractor's performance hereunder. Contractor acknowledges and agrees that the County and its duly authorized representatives shall have access to such fiscal records and all other books, documents, papers, plans, and writings of the Contractor that are pertinent to this Contract. All such fiscal records, books, documents, papers, plans, and writing shall be retained by Contractor and kept accessible for a minimum of three years, except as required longer by law, following final payment and termination of this Contract, or until the conclusion of any audit, controversy, or litigation arising out of or related to this Contract, whichever date is later. All subcontracts shall also comply with these provisions.

Remedies.

- A. Corrections of errors, defect and omissions. Contractor agrees to perform the work as may be necessary to correct errors, defects, and omissions in the services required under this Contract, without undue delays and without cost to the County. The acceptance of the work set forth herein by the County shall not relieve the Contractor of the responsibility of subsequent corrections of such errors.
- B. Set Off. The County may deduct from and set-off against any amounts due and payable to the Contractor any back-charges, penalties, or damages sustained by the County, its agents, employees of recipients of its services, by virtue of any breach of this Contract by the Contractor or by virtue of the failure or refusal of the Contractor to perform the services or any part of the services in a satisfactory manner. Nothing herein shall be construed to relieve the Contractor of liability for additional costs resulting from a failure to satisfactorily perform the services.
- C. Cumulative. All rights and remedies of County and Contractor shall be cumulative and may be exercised successively or concurrently. The foregoing is without limitation to or waiver of any other rights or remedies of the County by law.

Responsibility of Contractor.

- A. The Contractor shall perform the services with the standard of care, skill, and diligence normally provided by a Contractor in the performance of services similar the services hereunder.
- B. Notwithstanding any review, approval, acceptance or payment for the services by the County, the Contractor shall be responsible for the professional and technical accuracy of its work, design, drawings, specifications and other materials furnished by the Contractor under this Contract.
- C. If the Contractor fails to perform the services, or any part of the services, in conformance with the standard set forth in subparagraph A above it shall, if required by the County, perform at its own expense and without additional cost to the County, those services necessary for the correction of any deficiencies of damages resulting, in whole or in part, from the Contractor's failure. This obligation is in addition to and not in substitution for any other remedy available to the County under the "Remedies" paragraph, or otherwise available by law.

Severability/Waiver. The County and Contractor agree that, if any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid. The failure of either party to enforce any provision of this Contract shall not constitute a waiver by that party of that or any other provision of this Contract.

Subcontracting or Assignment. The benefits and obligations of this Contract shall inure to and be binding upon the parties and neither this Contract nor the services to be performed shall be subcontracted, or assigned or otherwise disposed of, either in whole or in part, except with the prior written consent of the County. The County has the right to withhold such consent for any reason the County deems appropriate.

Substance Abuse and Drug Testing. Contractors and contract employees are subject to the provisions of the County's policy on substance abuse and drug testing regarding the use, possession, or sale of drugs or alcohol while performing County business or while in a County facility. Violation of these provisions or refusal to cooperate with implementation of the County's policy on substance abuse and drug testing can result in the barring of contract personnel from County facilities or from participating in County operations.

Survival. The terms, conditions, representations, and all warranties contained in this Contract shall survive the termination or expiration of this Contract.

Termination. If the Contractor fails to fulfill its obligations under the Contract properly and on time, or otherwise violates any provision of the Contract, the County may terminate the Contract by written notice to the Contractor. The notice shall specify the acts or omissions relied upon as cause for termination. All finished or unfinished work provided by the Contractor shall, at the County's option, become the County's property. The County shall pay the Contractor fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by the Contractor's breach. If the damages are more than the compensation payable to the Contractor, the Contractor will remain liable after termination and the County can affirmatively collect damages.

Termination of Contract for Convenience. The performance of work under this Contract may be terminated by the County, in whole or in part, upon written notice to the Contractor, when the County determines such termination is in the best interest of the County. The termination for convenience is effective on the date specified in the County's written notice. The County will pay for all reasonable costs allocable to the Contract for work or costs incurred by the Contractor up to the date of termination. However, the Contractor shall not be reimbursed for any anticipatory profits that have not been earned up to the date of termination.

Termination of Multi-year Contract. If the County fails to appropriate funds or if funds are not otherwise made available for continued performance for any fiscal period of this Contract succeeding the first fiscal period, this Contract shall be cancelled automatically as of the beginning of the fiscal year for which funds were not appropriated or otherwise made available; provided, however, that this will not affect either the County's rights or the Contractor's rights under any termination clause in this Contract. The effect of termination of the Contract hereunder will be to discharge both the Contractor and the County from future performance of the Contract, but not from their rights and obligations existing at the time of termination. The Contractor shall be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of the Contract. The County shall notify the Contractor as soon as it has knowledge that funds may not be available for the continuation of this Contract for each succeeding fiscal period beyond the first.

Third Party Beneficiaries. The County and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.

Time is of the essence. Time is of the essence in Contractor's performance of each and every obligation and duty under this Contract.

Use of County Facilities. Contractor and its employees or agents shall have the right to use only those facilities of the County that are necessary to perform the services under this Contract and shall have no right of access to any facility of the County without prior approval of County Administration. County shall have no responsibility for the loss, theft, mysterious disappearance of or damage to equipment, tools, materials, supplies, and other personal property of Contractor or its employees, subcontractors or agents which may be stored on County premises.

Whole Contract. This Contract constitutes the complete and exclusive statement of the Contract between the parties relevant to the purpose described herein and supersedes all prior agreements or proposals, oral or written, and all other communication between the parties relating to the subject matter of this Contract.