

Sample Engagement Agreement for Auditing Services

THIS AGREEMENT is entered into this _____ day of _____, 2019, by the Town of Washington Grove ("Town"), a municipal corporation of the State of Maryland, and ("Auditors"), with offices located at

_____.

In consideration of the mutual covenants and obligations contained herein, the sufficiency of which is hereby acknowledged, the Town and the Auditors hereby agree as follows:

1. **Services Provided:** The Auditors shall provide the following services for the Town ("the Services"):
 - A. Conduct the annual audit for the fiscal years ending June 30, 2019, and at the Town's option, for June 30, 2020, June 30, 2021, June 30, 2022 and June 30, 2023, in accordance with generally accepted auditing standards, as prescribed by the American Institute of Certified Public Accountants, the standards set forth for financial audits in the General Accounting Office's (GAO) Government Auditing Standards (1994), the provisions of the federal Single Audit Act of 1984 (as amended in 1996), U. S. Office of Management and Budget (OMB) Circular A-133, Audits of State, Local Governments, and Non-Profit Organizations and Audit Guidelines of the State of Maryland, plus any amendments or revisions thereto. The audit will include such tests of the accounting records and any other procedures that are considered necessary in the circumstances and shall be provided to the Mayor and Council of the Town.
 - B. Reports to be issued by the Auditors to the Mayor and Council of the Town:
 1. The Auditors shall express an opinion as to whether the financial statements are fairly presented in accordance with generally accepted accounting principles. If an unqualified opinion cannot be expressed, the nature of the qualification must be stated.
 2. If grant funds received by the Town are sufficient to require compliance with the single audit act, the Auditors shall prepare for the Mayor and Council of the Town:

- a. A report on the internal control structure based on the Auditors' understanding of the control structure and assessment of control risk.
 - b. A report on compliance with applicable laws and regulations.
 - c. An "in-relation-to" report on the schedule of federal financial assistance.
 - d. A report on the internal control structure used in administering federal financial assistance programs.
 - e. A report on compliance with laws and regulations related to major and non-major federal financial assistance programs. This report should include an opinion on compliance with specific requirements applicable to major federal financial assistance programs, a report on compliance with general requirements applicable to major federal financial assistance programs, and a report on compliance with laws and regulations applicable to non-major federal financial assistance program transactions tested.
 - f. In the required report(s) on internal controls, the Auditors shall communicate any reportable conditions found during the audit. A reportable condition shall be defined as a significant deficiency in the design or operation of the internal control structure, which could adversely affect the organization's ability to record, process, summarize, and report financial data consistent with the assertions of management in the financial statements.
 - 1) Reportable conditions that are also material weaknesses shall be identified as such in the report.
 - 2) Non-reportable conditions discovered by the Auditors shall be reported in a separate letter to management, which shall be referred to in the report(s) on internal controls.
 - g. The reports on compliance shall include all instances of non-compliance.
3. In the event that the Town is not subject to the compliance requirements of the single audit act for a particular fiscal year, the Auditors shall issue a management letter and/or report on internal control to the Mayor and Council of the Town.
 4. The Auditors shall be required to make an immediate, written report of all irregularities and illegal acts, or indications of illegal acts, of which they become aware to the following parties:
 - a. Mayor and Council, Town of Washington Grove
 - b. Town Attorney
 - c. Town Treasurer
 5. The Auditors shall assure themselves that the Town Treasurer is informed of each of the following:

- a. The Auditors' responsibility under general accepted auditing standards
- b. Significant accounting policies
- c. Management judgments and accounting estimates
- d. Significant audit adjustments
- e. Other information in documents containing audited financial statements
- f. Disagreements with management
- g. Management consultation with other accountants
- h. Major issues discussed with management prior to retention
- i. Difficulties encountered in performing the audit

The Auditors shall prepare the State of Maryland Uniform Financial Report ("UFR"), with assistance from Town Treasurer, for filing with the State Department of Legislative Services.

C. Working paper retention and access to working papers:

1. All working papers and reports must be retained, at the Auditors' expense, for a minimum of three (3) years, unless the firm is notified in writing by the Town of the need to extend the retention period. The Auditors will be required to make working papers available, upon request, to the following parties or their designees:
 - a. Town of Washington Grove
 - b. U. S. General Accounting Office ("GAO")
 - c. Parties designated by the federal, state or county governments or by the Town as part of an audit quality review process
 - d. Auditors of entities of which the Town is a sub-recipient of grant funds
2. In addition, the Auditors shall respond to the reasonable inquiries of successor auditors and allow successor auditors to review working papers relating to matters of continuing accounting significance, in accordance with professional standards.

D. The Auditors shall render a report (management letter) to the Town Council which will include any recommendations for improving the accounting operations of the Town. This report will include an opinion on the system of internal accounting control.

2. **Contract Documents:** The Services are additionally subject to the contract documents listed below:

- A. Certificates of Insurance

B. Affidavits

- It is understood by the parties hereto that time is of the essence in the completion of this contract.
 - The annual audit for each fiscal year covered by this Agreement shall be commenced on or before July 1 in the year following the end of the fiscal year to be audited and completed with all required reports issued by October 31 following the end of the fiscal year in question.
 - In the event of any conflict between the referenced Contract Documents and this Agreement, the terms of this Agreement shall prevail.
3. **Additional Services:** Auditors will be available for consultations throughout the audit for fiscal year 2019, and if so determined by the Town through fiscal year 2023, at its "Quoted Hourly Rate" as per Auditors' "Cost Proposal" on an as-needed basis to assist the Town. The hourly rate schedule for such Services is included in the Auditors' Cost Proposal, and shall not be increased during the term of this Agreement or the extension thereof. Such consultations may only be initiated by the mayor in writing and an approximation of the expected cost of each such consultation shall be provided by Auditors in advance of doing any requested work.
4. **Term:** The Agreement shall be in effect for the audit for the fiscal year ending June 30, 2019. Thereafter, the Town shall have the option of extending the Agreement for four additional one-year terms on the same terms and conditions as set out herein.
5. **Fees:** The Town hereby agrees to pay the Auditors a total fee for all Services called for under this Agreement not to exceed _____ Dollars (\$ _____) for the fiscal year ended June 30, 2019;
6. **Binding Effect of Agreement:** This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns.
7. **Other Payments, Taxes, Expenses:** Except as may be specifically agreed upon by the parties in writing, the Auditors shall be entitled to no fee, bonuses, contingent payments, or any other amount in connection with the Services to be rendered hereunder. The parties hereto further agree that the Town shall have no obligation to reimburse, pay directly or otherwise satisfy any expenses of the Auditors in connection with the performance of its obligations under this Agreement, including, but not limited to, the cost of any insurance or license fees. The Auditors covenant to maintain all applicable professional liability and workers compensation insurance in such amounts and form as are determined from time to time to be appropriate. The Auditors further

agree to provide evidence of such insurance to the Town, and have the Town named as an additional insured on said policies.

It is expressly understood and acknowledged by the parties hereto that the fees payable hereunder shall be paid in gross amount, without reduction for any Federal or State withholding or other payroll taxes, or any other governmental taxes or charges. The parties hereto further recognize that the Auditors are independent contractors of the Town and are therefore responsible for directly assuming and remitting any applicable Federal or State withholding taxes, estimated tax payments, or any other fees, taxes or expenses whatsoever. In the event that the Auditors are deemed not to be an independent contractor by any local, state or federal agency, the Auditors agrees to indemnify and hold harmless the Town for any and all fees, costs and expenses, including but not limited to, attorneys' fees, incurred hereby.

8. Insurance:

- A. Workers' Compensation. Auditors shall comply with the requirements and benefits

- B. Liability. During the entire term of this Agreement, Auditors shall maintain the following insurance coverage: comprehensive general liability insurance and professional errors and omissions insurance with limits of not less than those set forth below. On each policy, with the exception of the workers compensation coverage and professional liability (errors and omissions) coverage, Auditors will name the Town as an additional insured with an additional insured endorsement.

By submission of a Proposal, Auditors hereby certify that they are in compliance with applicable requirements.

- 1. Comprehensive General Liability Insurance
 - a. Personal injury liability insurance with a limit of \$1,000,000 each occurrence/aggregate; and
 - b. Property damage liability insurance with limits of \$500,000 each occurrence/aggregate All insurance shall include completed operations and contractual liability coverage.

- 2. Professional Liability (Errors and Omissions) Insurance. Auditors shall maintain a policy with limits of not less than \$1,000,000 each occurrence/aggregate.

Auditors covenant to maintain insurance, in these amounts, which will insure all activities undertaken by Auditors on behalf of the Town under this Agreement. Copies of the required certificates of insurance and additional insured endorsement

shall be furnished to the Town prior to beginning work. Provision of any insurance required herein does not relieve the Auditors of any of the responsibilities or obligations assumed by the Auditors in this Agreement, or for which Auditors may be liable by law or otherwise.

C. By submission of a Proposal, Auditors agree to provide the Town with at least thirty (30) days prior written notice of the cancellation of, intention not to renew, or material change in the coverage.

9. **Relief:** In the event of a breach or a threatened breach by the Auditors of any provision of the Agreement, the Auditors recognize the substantial and immediate harm that a breach or threatened breach will impose upon the Town, and further recognizes that, in such event, monetary damages will be insufficient to protect the Town. Accordingly, in the event of a breach or threatened breach of this Agreement, the Auditors consent to the Town's entitlement to such *ex parte*, preliminary, interlocutory, temporary or permanent injunctive relief for such breach as may be necessary to prevent the Auditors from further breaching any of their obligations set forth herein. Nothing herein shall be construed as prohibiting the Town from pursuing any other remedies available to the Town at law or in equity for such breach or threatened breach, including the recovery of damages from the Auditors.

10. **Compliance with Laws:** The Auditors shall, without any additional expense to the Town, be responsible for complying with any and all applicable laws, codes and regulations in connection with the Services provided by the Auditors including, but not limited to, obtaining any licenses required by the Auditors to perform the Services herein contracted for.

11. **Indemnification:** The Auditors shall be responsible for and indemnify, defend and hold the Town harmless against any claim for loss, personal injury and/or damage that may be suffered as a result of the Auditors' negligence or willful misconduct in the Auditors' performance of the Services herein contracted for or for any failure by the Auditors to perform the obligations of this Agreement, including, but not limited to, any cost incurred by the Town in defending any such claim. The Auditors shall be responsible for and shall indemnify and hold the Town harmless against any claim for loss, howsoever arising or incurred, for damage that may occur to Auditors' property that is stored at the Town and/or maintained/used by the Auditors in the delivery of the Services the Auditors are providing.

12. **Ownership of Records:** In the event of termination of this Agreement for any reason, Auditors agree to immediately return to the Town all original records and information

or other written materials and the like which the Town may have furnished to it in connection with those activities hereunder or which the Auditors may have obtained or prepared in the performance of this Agreement so that none of the foregoing items or copies thereof shall remain in the Auditors' possession. In addition, any other property of the Town shall similarly be returned to the Town at the time of said termination, it being understood by the parties to this Agreement that all records and materials supplied to the Auditors by the Town or obtained by the Auditors in the performance of this Agreement are to remain at all times the sole property of the Town.

13. **Confidentiality:** The Auditors will not at any time during or after their relationship with the Town directly or indirectly disclose to others any confidential information of the Town. While engaged as the independent contractor of the Town, the Auditors may only use any confidential information for a purpose which is necessary to the carrying out of the Auditors' duties as independent contractors of the Town and the Auditors may not make use of any such information after the Auditors are no longer independent contractors of the Town.
14. **Not Assignable:** The Auditors shall not assign or transfer any interest or claim under this Agreement except as may be agreed upon and authorized in writing by the Town and no contract shall be made by the Auditors with any other party for furnishing any of the Services herein contracted for without the prior written approval of the Town.
15. **Auditors' Records:** Daily records of Auditors' direct personnel, consultant and expenses pertaining to the project shall be kept on a generally recognized accounting basis and shall be available to Town or its authorized representative upon request for six years from the date of final payment to the Auditors.
16. **Town's Right to Terminate:** The Services or the Additional Services herein contracted for may be terminated immediately in whole or in part, by the Town upon written notice, when the Town, in its sole and absolute discretion, determines such action to be in its best interest. Upon such termination, the Town shall be liable to the Auditors only for payment for Services actually provided in conformance with the contract prior to the effective date of the termination.
17. **Entire Understanding:** This Agreement contains the entire understanding between the parties, and any additions or modifications hereto may only be made in writing, executed by both parties.

18. **Applicable Law:** This Agreement shall be interpreted in accordance with the laws of the State of Maryland without regard to its conflict-of-laws provisions, as if this Agreement were fully made and performed in the state.
19. **Conflict of Interest:** The person executing this Agreement on behalf of the Auditors certifies that he understands the provisions of the Washington Grove Town Charter and Code of Ordinances, dealing with conflicts of interest and the prohibition of the solicitation or acceptance of gifts.
20. **Set-Off:** In the event that the Auditors shall owe an obligation of any type whatsoever to the Town at any time during the term hereof, or after the termination of the relationship created hereunder, the Town shall have the right to offset any amount so owed the Auditors against any compensation due to Auditors for the provision of the Services.
21. **Severability:** If any term or provision of this Agreement shall be held invalid or unenforceable to any extent, the remainder of this Agreement shall not be affected thereby, and each term and provision of this Agreement shall be enforced to the fullest extent permitted by law.
22. **Notice:** All notices shall be sufficient if delivered in person or sent by certified mail to the parties at the following addresses: For the Town: John G. Compton, Mayor Town of Washington Grove, P.O. Box 216, Washington Grove, MD 20880. Telephone: 240-432-5700 E-mail: johncompton@me.com

For the Auditors:

Name: _____

Title: _____

Firm: _____

Address: _____

Town, State, Zip: _____

Telephone: _____

FAX: _____

E-mail Address: _____

IN WITNESS WHEREOF, on the date hereinabove set forth, the parties hereto have executed this Agreement in two duplicate originals, any one of which shall be adequate proof of this Agreement without locating or accounting for the other.

Witness: TOWN OF WASHINGTON GROVE

John G. Compton, Mayor

Witness: AUDITORS

By: _____

Name: _____

Title: _____

Federal ID No.: _____