



Jan 20, 2022

Heather Coggins  
 Assistant City Administrator  
 City of Dacula  
 P.O. Box 400  
 Dacula, Georgia 30019

<b>Re:</b>	<b>Broad Street/2nd Avenue Storm Drainage Improvements Project</b> (the “Project”) Dacula, Gwinnett, Ga Proposal to provide Engineering Services (the “Proposal”) Proposal No. 22-0109
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Dear Ms Coggins:

We are pleased to submit this Proposal to provide Engineering services for the above referenced storm drainage improvements Project. Upon verbal or written direction to proceed with performance of the services described herein, this Proposal, along with all attachments thereto, will constitute a binding agreement (the “Agreement”) between MDA, a Bowman company (“MDA/BWMN”) and City of Dacula (the “Client”).

**SCOPE OF SERVICES AND FEES**

MDA, a Bowman Company (*MDA/BWMN*) is pleased to offer this Proposal/Agreement for Engineering Services for Broad Street/2nd Avenue Storm Drainage Improvements Project. MDA/BWMN will provide Civil Engineering Design Services for the City of Dacula in order to design and prepare construction drawings and specifications for the storm drainage improvements as described in the project referenced above.

Task	Description	Fee Type	Total
1	<p><b><u>Design Phase</u></b></p> <p>MDA/BWMN will design and prepare Construction Drawings and Specifications for Broad Street/2nd Avenue Storm Drainage Improvements Projects which includes:</p> <ul style="list-style-type: none"> <li>A. Demolition Plan.</li> <li>B. Site Layout Plan.</li> <li>C. Grading &amp; Drainage Plan.</li> <li>D. Storm Drainage Profiles and Hydrology Calculations.</li> <li>E. Soil &amp; Erosion Control Plans &amp; Details.</li> <li>F. Construction Details.</li> <li>G. Specifications</li> </ul>	Lump Sum	\$8,000.00

<p><b>2</b></p>	<p><b><u>Bid Phase</u></b></p> <p>MDA/BWMN will prepare Bid Phase Documents and send to City, Advertisers, and Bidders for bidding the project out for construction. These services include:</p> <p>A. Prepare Contract Bid Documents.  B. Send Drawings and Documents out to prospective bidders.  C. Prepare advertisement for Bid and send to appropriate advertisers.  D. Respond to Request for Information during the bid phase.  E. Prepare addenda as required.</p>	<p>Lump Sum</p>	<p>\$6,000.00</p>
<p><b>3</b></p>	<p><b><u>Construction Administration Phase</u></b></p> <p>MDA/BWMN will provide construction administration services throughout construction of the project to ensure that the project is being constructed per the contract documents. These services include:</p> <p>A. Prepare Contract Bid Documents.  B. Send Drawings and Documents out to prospective bidders.  C. Prepare advertisement for Bid and send to appropriate advertisers.  D. Respond to Request for Information during the bid phase.  E. Prepare addenda as required.  F. Attend Bid Opening as the Owners Representative.  G. Evaluate Bids.  H. Award the Contract.</p>	<p>Lump Sum</p>	<p>\$6,000.00</p>

**Total Estimated Fees      \$20,000.00**

## REIMBURSABLE EXPENSES

Reimbursable expenses shall include actual expenditures made by MDA in the interest of the Project and will be invoiced at the actual cost to MDA plus fifteen percent (15%) for handling and indirect costs. Reimbursable expenses shall include but not be limited to costs of the following:

- Mailing, shipping, and out source delivery (i.e. DHL, FedEx) costs.
- Fees and expenses of special consultants as authorized by the Client.
- Parking fees and mileage for employee travel by car to facilitate the project.

## REPROGRAPHIC AND COURIER CHARGES

Reprographic, plotting, in-house courier, and archive retrieval services will be invoiced in accordance with Schedule A attached hereto.

## OTHER TERMS

This proposal is based on the scope of services indicated herein and the information available at the time of the proposal preparation. If any additional services are required due to unforeseen circumstances and/or conditions, client or regulatory requested revisions, additional meetings, regulatory changes, etc, MDA will notify the client that additional scope of work and fees are required and will obtain the client's written approval prior to proceeding with any additional work.

MDA's Standard Terms and Conditions and Hourly Rate Schedule are attached hereto and incorporated into this Proposal by reference.

Please indicate your acceptance of this proposal by executing below and returning a copy to this office. Thank you for the opportunity to provide service to City of Dacula.

Sincerely,

**Bowman Consulting Group Ltd.**  
d/b/a McFarland-Dyer & Associates, a Bowman company



Kevin Whigham  
Director of Engineering

**City of Dacula** hereby accepts all terms and conditions of this Proposal (including the Standard Terms and Conditions) and authorizes MDA to proceed with the Project, and the undersigned represents that he or she is authorized by City of Dacula to so execute this Proposal.

**City of Dacula**

By:

Title:  
Date:



## SCHEDULE A - FEES FOR REPROGRAPHIC, DELIVERY, TRAVEL AND OTHER SERVICES

January 2022

### Reprographic Services

B&W Photo Copies	\$0.35/sf, or \$0.23 for 8-1/2" x11" sheet
Color Photo Copies	\$0.50/sf, or \$0.32 for 8-1/2" x11" sheet
Printing (bond)	\$0.35/sf, or \$2.10 for 24" x 36" sheet
Printing (mylar)	\$3.00/sf, or \$18.00 for 24" x 36" sheet

Binding, Mounting and Folding of plan sets, reports, or drawings will be invoiced at our standard hourly rates. Copying of Plans that have been archived in storage is subject to a minimum archive retrieval fee of \$50 plus applicable reprographic fees above.

### Delivery Services

In-house delivery services are invoiced at \$2.00 per mile (one way) and subject to a minimum \$20.00 charge for standard delivery during normal business hours. Rush services and times outside normal business hours are subject to a minimum \$20.00 surcharge.

Outsourced courier services (i.e. Federal Express, DHL, etc.) are invoiced at cost plus 15%.

### Travel

Mileage for employee travel by car to facilitate the project, including travel to the project site and for meetings with the client, project team, contractors, or governmental agencies, will be invoiced at the current IRS standard mileage rate.

Airfare and/or lodging to facilitate the project will be coordinated with the client in advance and will be invoiced at cost plus 15%.

### Miscellaneous

Other costs associated with sub-consultants, specialty equipment, laboratory testing, field testing, tolls, parking or other miscellaneous items will be invoiced at cost plus 15%.

Initials: MDA *K.W.* / Client



**SCHEDULE B - HOURLY RATE**  
January 2022

<b>CLASSIFICATION</b>	<b>HOURLY RATES</b>
Principal	\$290.00/HR
Department Executive	\$230.00/HR
Senior Project Manager	\$215.00/HR
Project Manager	\$180.00/HR
Project Coordinator	\$105.00/HR
Senior Surveyor	\$195.00/HR
Engineer I   II   III	\$115.00/HR   \$125.00/HR   \$155.00/HR
Planner I   II   III	\$125.00/HR   \$145.00/HR   \$165.00/HR
Designer I	\$115.00/HR
II   III	\$125.00/HR   \$130.00/HR
CADD Drafter I	\$ 80.00/HR   \$105.00/HR   \$115.00/HR
II   III	\$165.00/HR
Construction Inspector	\$115.00/HR   \$130.00/HR   \$155.00/HR
Landscape Architect I   II   III	\$110.00/HR   \$125.00/HR   \$140.00/HR
Right of Way Specialist I   II   III	\$ 85.00/HR   \$110.00/HR   \$135.00/HR
Survey Technician I	\$165.00/HR
II   III	\$145.00/HR
Project Surveyor	\$180.00/HR
Survey Field Crew – 1 Man	\$220.00/HR
Survey Field Crew – 2 Man	\$250.00/HR
Survey Field Crew – 3 Man	\$ 75.00/HR
3D Scanning Crew	\$155.00/HR
Survey Field Technician	\$280.00/HR
3D/UAV Modeling Technician	\$140.00/HR
UAV Operation	\$165.00/HR
SUE Field Crew - 1 Man	\$210.00/HR
SUE Field Crew - 2 Man	\$265.00/HR
SUE Field Crew - 3 Man	\$160.00/HR
SUE Field Crew - 4 Man	\$ 85.00/HR   \$110.00/HR   \$135.00/HR
SUE Utility Coordinator	\$145.00/HR
SUE Technician I	\$ 90.00/HR
II   III	
Machine Control Technician	
Administrative Professional	

Initials: Bowman *K.W.* / Client

Table 1812018 - DEFAULT 2022 Florida/Georgia



## SCHEDULE C - REQUEST FOR INFORMATION

Accounts Payable Contact:	
Point of Contact:	
Phone:	
Fax:	
E-Mail:	
Billing Information:	
Billing Entity:	
Billing Address:	<input type="checkbox"/> Same as Proposal
	<input type="checkbox"/> If Different, Please Provide:
Billing Requirements:	
Invoice Due Date:	
Requirements/Attachments:	
Invoices Transmitted Via Electronic Mail to:	
Offer ACH Direct Deposit:	<input type="checkbox"/> Yes, Contact:
	<input type="checkbox"/> Not Sure, Contact Our Office
	<input type="checkbox"/> Not At This Time

Initials: MDA *K.W.* / Client



## TERMS AND CONDITIONS

These Terms and Conditions are incorporated by reference into the Proposal and its exhibits (the "Proposal") from **Bowman Consulting Group Ltd. d/b/a McFarland-Dyer & Associates**, a Bowman company ("MDA") to **City of Dacula** ("Client") for performance of services described in the Proposal and associated with the project described in the Proposal (the "Project"), and in any subsequent approved Change Order related to the Project. These Terms and Conditions, the accepted Proposal, and any Change Orders or other amendments thereto, shall constitute a final, complete, and binding agreement (the "Agreement") between MDA and Client, and supersede any previous agreement or understanding.

**1. Scope of Services.** MDA will provide the services expressly described in and limited by the Proposal (the "Scope"). If in MDA's professional judgment the Scope must be expanded or revised, MDA will forward a change order agreement to Client that describes the revision to the Scope (the "Change Order") and the adjusted fee associated therewith.

**2. Standard of Care.** The standard of care for all services performed by MDA for Client shall be the care and skill ordinarily used by members of the applicable profession practicing under similar circumstances at the same time and locality of the Project. Client shall not rely upon the correctness or completeness of any design or document prepared by MDA unless such design or document has been properly signed and sealed by a licensed professional on behalf of MDA.

**3. Payment Terms.** MDA will invoice Client monthly or more frequently based on a percentage of the work completed for lump sum tasks, number of units completed for unit tasks, and actual hours spent for hourly tasks. Invoices are due and payable in full upon receipt without offset of any kind or for any reason. MDA shall have the discretion to apply payments made by Client to an invoice or retainer account of Client in accordance with its business practices. Client agrees to pay a finance charge of one and one-half percent (1.5%) per month from the invoice date on any unpaid balance not received by MDA within thirty (30) days of the invoice date. Payment of invoices is subject to the following further terms and conditions:

(a) If any invoice is not paid in full within forty-five (45) days of the invoice date, and Client has not timely and in good faith disputed the invoice as provided below, MDA shall have the right at its election by giving notice to Client to either: (i) suspend the performance of further services under this Agreement and, at its sole discretion, suspend the performance of further services on other projects which are being performed by MDA on behalf of Client or any related Client entities, until all invoices are paid in full and MDA has received a retainer in such amount as MDA deems appropriate to be held as described below; or (ii) deem Client to be in material breach of this Agreement and proceed pursuant to Section 17 below. Client agrees to pay any and all charges, costs or fees incurred in collection of unpaid invoices, including reasonable attorneys' fees and costs. Following MDA's election above, MDA shall bear no liability to Client or any other person or entity for any loss, liability or damage resulting from any resulting delay, and any schedule for the performance of services hereunder prepared previously shall be deemed void with any future schedule for the performance of services requiring the approval of both Client and MDA.

(b) If Client disputes any submitted invoice, Client shall give written notice to MDA within thirty (30) days of the invoice date detailing the dispute. If no written notice of a dispute is provided to MDA within that time period, the invoice shall then be conclusively deemed good and correct. If part of an invoice is disputed, Client shall remain liable to timely pay the undisputed portion of the invoice in accordance with the terms of this Agreement. Client and MDA shall promptly negotiate in good faith to resolve any disputed portion of an invoice.

**4. Retainer and Other Payments.** MDA reserves the right to require that Client make a payment to be held by MDA as an advance against future billings (the "Retainer"). The Retainer is not intended as the regular source of payment for invoices issued to Client under this Agreement or otherwise, and the parties intend that the Retainer be applied to the final invoice for the services described in the Agreement, or against any other unpaid amounts owed to MDA should Client (or any affiliate of Client) fail to timely pay invoices due MDA. The Retainer account may consist in part of payments applied by MDA pursuant to the authority granted it under Paragraph 3 above. If the Retainer is applied during the course of the Agreement, Client agrees to promptly replenish the Retainer upon request of MDA. Upon the conclusion of this Agreement, or its earlier termination, MDA shall (a) apply the Retainer to any unpaid amount owed MDA by Client (or its affiliates), and (b) return any unapplied portion to Client. The Retainer shall not be required to be held in a separate account nor shall it bear interest, and the Retainer may include other amounts paid to MDA by Client with respect to the Project or other projects.

**5. Client Duties and Responsibilities.** Client shall inform MDA of any special criteria or requirements related to the Project or Scope, and shall timely and at its cost furnish any and all information in its possession relating to the Project, including reports, plans, drawings, surveys, deeds, topographical information and/or title reports. MDA shall bear no responsibility for errors, omissions, inaccuracy or incompleteness in third-party information or additional costs arising out of its reliance upon such third-party information supplied by Client. Client warrants and represents that: (a) Client has obtained the full and unconditioned prior written consent from any third-party for MDA to use such third-party information; (b) such consent shall be provided to MDA upon request; and (c) such consent shall be in a form that, in MDA's reasonable discretion, does not violate any applicable law, regulation, or code of ethics. If the Scope requires a current title report, Client shall timely and at its cost provide such title report to MDA. If the Scope includes preparation of plats to be recorded in the land records of the Project jurisdiction, Client shall timely prepare, submit, and record necessary deeds and pay all recording fees associated with deeds and plats. All off-site easements are the responsibility of Client. Client shall indemnify and hold harmless MDA from and against any and all claims, demands, losses, costs, and liabilities, including without limitation reasonable attorney fees and expenses incurred by MDA and arising out of (a) Client's breach of this Agreement or (b) an action by Client or a third-party with respect to any matter not included in the Scope or that is excluded from the responsibility of MDA pursuant to this Agreement.

**6. Insurance.** MDA and its employees are protected by workman's compensation, commercial general liability, automobile liability, and professional liability insurance policies. Upon request of Client, MDA shall provide a certificate of insurance to Client evidencing such coverage and shall attempt to include Client as an additional insured on those coverages that permit additional insured status. Client acknowledges it has been offered the opportunity to review the current limits of such coverage and finds them satisfactory, and further agrees that in no event shall MDA's liability to Client or any party claiming through Client be greater than the limits of such insurance. From time to time MDA may, without notice to Client, amend the carriers, conditions, exclusions, deductibles or limits of any such insurance; provided that prior to any decrease in any insurance limit becoming effective MDA shall give notice thereof to Client.

**7. Potential Liability of MDA.** The following provisions shall operate with respect to any potential liability of MDA arising under the Agreement:

(a) Client may not assert that there is a breach, defect, error, omission or negligence in the services performed by MDA that Client believes creates liability on the part of MDA unless Client gave written notice to MDA not later than the first to occur of (i) the beginning of any corrective work, or (ii) thirty (30) days after Client had knowledge of the existence of the breach, defect, error, omission or negligence. MDA shall have the opportunity to participate in decisions regarding the corrective work, and Client shall ensure that corrective action is taken at the lowest reasonable expense under the circumstances.

(b) Notwithstanding any other provision of this Agreement, the total liability, in the aggregate, of MDA and MDA's officers, directors, partners, employees, agents, and consultants to Client and anyone claiming through Client, shall not in any manner whatsoever exceed the direct losses incurred by Client (to the extent of and in proportion to MDA's comparative degree of fault) that resulted from the error, omission or negligent act of MDA in the performance of services under this Agreement.

(c) To the fullest extent permitted by law, MDA and MDA's officers, directors, partners, employees, agents, and sub-consultants shall not be liable to Client or anyone claiming through Client for any special, incidental, indirect, or consequential damages whatsoever arising out of, resulting from, or in any way related to the Project or this Agreement, regardless of whether such damages are alleged to be caused by the negligence, professional errors or omissions, strict liability, breach of contract, or breach of express or implied warranty.

(d) Client agrees that MDA's shareholders, principals, partners, members, agents, directors, officers and/or employees shall have no personal liability whatsoever arising out of or in connection with this Agreement or the performance of services hereunder.

**8. Certificate of Merit.** In addition to the requirement of notice under section 7(a) above, Client shall make no claim (whether directly or in the form of a third-party claim) against MDA unless Client shall have first provided MDA with a written certification executed by an independent professional licensed in the state in which the Project is located and licensed in the profession to which the claim relates. Such certificate shall: (a) contain the name and license number of the certifier; (b) specify each and every act or omission which the certifier contends constitutes a violation of the standard of care expected of a professional performing professional services under similar circumstances; (c) state in complete detail the basis for the certifier's opinion that each such act or omission constitutes such a violation; and (d) be provided to MDA thirty (30) days prior to the presentation of and as a precondition to any such claim, or the institution of any mediation, arbitration, judicial or other dispute resolution proceeding.

**9. Conflict Resolution and Applicable Law.** Any dispute, controversy or claim arising out of or relating to this Agreement, or the breach thereof, that cannot be resolved by the parties and for which the amount in controversy is less than One Hundred Thousand Dollars (\$100,000.00) shall be settled by arbitration administered in Fairfax County, Virginia by the American Arbitration Association in accordance with its Commercial Arbitration Rules and Expedited Procedures, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction over the parties. For any other dispute, controversy or claim arising out of or relating to this Agreement, or the breach thereof, the parties agree to first submit such dispute, controversy or claim to non-binding mediation,



with each party to bear its own costs of such mediation and to equally share the costs of any mediator. If such mediation does not successfully resolve all issues, then the parties agree that the state and federal courts located in Virginia shall have jurisdiction and venue over such dispute. This Agreement shall be governed and interpreted in accordance with the laws of the state in which the Project is located, without giving effect to conflicts of laws principles thereof.

#### **10. Ownership of Documents and Other Rights of MDA.**

(a) All reports, plans, specifications, computer files, field data, notes, and other documents and instruments prepared by MDA as instruments of service ("Work Product") shall remain the property of MDA up until such time as all monies due to MDA have been paid in full, at which time (i) Client may take possession of the Work Product, and (ii) MDA shall be deemed to have granted Client a fully paid, non-exclusive license to use the same solely for the Project. Subject to such license MDA shall retain all common law, statutory, and other reserved rights, including the copyright to all Work Product. If Client or a party acting on Client's behalf modifies any part of the Work Product or reuses them on a different project, Client agrees to indemnify and hold MDA harmless from any claim, liability or cost (including reasonable attorneys' fees and defense costs) arising therefrom. Client acknowledges that if MDA provides Client with Work Product in an electronic or digital format ("Electronic Data"), Client is responsible for cross checking the Electronic Data with the applicable paper document for full conformance and consistency between such paper document and the Electronic Data.

(b) MDA reserves the right to include photographs and descriptions of the Project in its promotional, marketing, and professional materials. Client grants its consent to MDA for MDA to install reasonable signage at the Project equivalent to that which is or could be installed by other vendors to the Project.

**11. Modification.** From time to time MDA may either in writing or by electronic mail submit a Change Order to Client and Client shall be deemed to have approved such Change Order if: (a) Client signs the Change Order; (b) Client signifies its consent to the Change Order by electronic mail; or (c) a representative of Client with actual or apparent authority to approve the Change Order orally approves it and MDA subsequently confirms such approval in writing or by email and begins work associated therewith without receiving written or electronic mail objection thereto. Except for Change Orders authorized by Client as provided immediately above, this Agreement may be amended, modified, or supplemented only in writing signed by all parties hereto. Any signature required or permitted hereunder may be either by hand or by electronic signature.

**12. Exclusions from Scope.** By way of illustration and not limitation, unless specifically included in the Scope, MDA has no obligation or responsibility for: (a) favorable or timely comment or action by any governmental entity; (b) taking into account off-site conditions or circumstances that are not clearly visible or reasonably ascertainable by the performance of on-site services; (c) the accurate location or characteristics of any subsurface utility or feature that is not clearly and entirely visible from the surface; or (d) structural design (including, but not limited, to structural design of retaining wall(s) or of special drainage structure(s)).

#### **13. Limits of Scope.**

(a) Early Bid Documents. Client agrees that if it requests submission of Work Product documents to contractors for bid purposes either prior to full completion thereof by MDA or prior to final governmental approval, the potential exists for additional design and construction costs arising from required subsequent revisions and additions to MDA design documents so as to conform to those of other design disciplines and/or governmental agencies, and any such costs shall be Client's responsibility.

(b) Estimates. Any cost, timing or quantity estimates provided as a part of the Scope are estimates only and reflect MDA's judgment as a design professional familiar with the construction industry, but expressly do not represent a guarantee of quantities or construction costs. Client agrees that MDA has no control over contractors as to cost, timing, or quantity matters, and further agrees that if Client desires greater accuracy as to construction costs it should engage an independent cost estimator.

(c) Construction Means and Methods. Client agrees that MDA does not control and is not responsible for construction means, methods, techniques, sequences, or procedures, or for any safety precautions in connection with the Project or for the acts or omissions of any contractor, subcontractor, or any other person or entity performing work for the Project.

(d) Shop Drawing Review. If specifically included in the Scope, MDA shall review and check the contractor's shop drawings, product data, and samples, but only for the limited purpose of checking for general conformance with the intent of such contract documents. Client acknowledges that such review is not for the purpose of determining or substantiating the accuracy and completeness of other details, such as dimensions or quantities, or for substantiating instructions for installation or performance of equipment or systems designed by the contractor. MDA's review shall not constitute approval of safety precautions, construction means, methods, techniques, schedules, sequences or procedures, or of structural features.

(e) Plan and Permit Processing. If the Scope includes preparation of plans and/or plats for review and approval by public agencies, submission and processing of such plans and plats in a manner consistent with a normal course of business is included within the Scope. If Client requests MDA to either expedite the plan review process by attending meetings, hand carrying plans and documents from agency to agency, or performing similar services, or to prepare and process permit applications of any type, then, unless specifically included in the Scope, those services will be performed by MDA as hourly rate services under Section 14 below.

(f) **Building Plan Coordination.** If the Scope includes preparation of site plans, site grading plans, subdivision plans, or similar plans that involve coordination with building plans (including architectural, mechanical, structural, or plumbing plans) to be prepared by others, Client shall provide such building plans to MDA by such date and in such state as MDA reasonably deems necessary to timely perform its services. If Client fails to so provide building plans to MDA, MDA may make reasonable assumptions regarding building characteristics in order to timely perform its services and any later revisions to MDA plans required to properly coordinate them with building plans will require a Change Order, subject to an additional fee.

**14. Fees by Hourly Rate Schedule.** If Client requests MDA to perform services not included in the Proposal or an approved Change Order (including, without limitation, attending meetings and conferences on an as-needed basis with public agencies), Client shall compensate MDA for such services in accordance with the Hourly Rate Schedule attached to and made a part of the Agreement. Expert witness testimony or participation at legal discussions, hearings or depositions, including necessary preparation time, will be charged at 150% of the quoted rates. If the Project extends beyond the calendar year in which the Proposal is dated, MDA may revise its Hourly Rate Schedule in January of each subsequent year.

**15. Covenants Benefiting Third-Parties.** MDA and Client acknowledge that from time to time third-parties may request MDA to execute documents which benefit that third-party. These documents may include certifications, consent of assignment, and/or waiver of certain of MDA's rights under this Agreement ("Requested Covenant"). Client acknowledges that execution of Requested Covenants is beyond the Scope, is at MDA's discretion, and, if MDA decides to so execute a Requested Covenant, the language, terms, and conditions of such Requested Covenant must be acceptable to MDA, at MDA's discretion.

**16. Assignment.** This Agreement may not be assigned by one party without the express written consent of the other party. Notwithstanding the forgoing, MDA may employ consultants, sub-consultants, or subcontractors as it deems necessary to perform the services described in the scope. Also, MDA may assign its right to receive payments under this Agreement.

**17. Termination.** Either party may terminate the provision of further services by MDA under this Agreement for convenience with thirty (30) days advance notice to the other party. In addition, following a material breach by the other party, the non-breaching party may terminate the provision of further services by MDA under this Agreement by giving ten (10) days prior notice and an opportunity to cure to the reasonable satisfaction of the non-breaching party. Client acknowledges that its failure to timely pay undisputed invoices is a material breach and that full payment of all undisputed invoices is required to cure such breach. Following any termination of services: (a) Client shall immediately pay MDA for all services performed through the termination date, including reasonable costs of transitioning the Project to a new design professional designated by Client, if applicable; (b) MDA shall have the right to withhold from Client the use or possession of Work Product prepared by MDA for Client under this or any other agreement with Client, until all outstanding invoices are paid in full; (c) if the termination by MDA resulted from a material breach by Client, MDA shall have the right to withdraw any Work Product or other documents filed with any governmental agency by MDA in its name on behalf of Client; and (d) if Client selects a new design professional then, as a condition of transferring any files or documents, Client and Client's new design professional shall execute MDA's standard Electronic File Transfer Agreement or such other similar agreement as the parties shall in good faith negotiate.

**18. Miscellaneous.** If any provision of this Agreement shall be held invalid, illegal or unenforceable, the other provisions of this Agreement shall remain in full force and effect. The failure of a party to enforce any provision hereof shall not affect its right at a later time to enforce same. A waiver by a party of any condition or breach hereunder must be in writing to be effective and, unless that writing provides otherwise, shall waive only one instance of that condition or breach. This Agreement is solely for the benefit of the parties hereto and, to the extent provided herein, their respective affiliates, directors, officers, employees, agents and representatives, and no provision of this Agreement shall be to confer upon third-parties any remedy, claim, liability, reimbursement, cause of action, or other right. The headings in this Agreement are for convenience and identification purposes only, are not an integral part of this Agreement, and are not to be considered in the interpretation of any part hereof. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. References in this Agreement to any gender shall include references to all genders. Unless the context otherwise requires, references in the singular include references in the plural and vice versa. The words "include," "including," or "includes" shall be deemed to be followed by the phrase "without limitation." The individual who signs this Agreement warrants that he has the authority to sign as, or on behalf of, Client, and to bind Client to all of the terms and conditions of this Agreement. To the extent that they are inconsistent or contradictory, the terms of the Proposal or an authorized Change Order shall supersede these Terms and Conditions.

**19. Notices.** Any notice, request, instruction, or other document to be given hereunder by a party hereto shall be in writing and shall be deemed to have been deemed delivered: (a) on the day sent if delivered personally or by courier service during regular business hours (i.e., prior to 5:00 p.m. on weekdays that are not Federal holidays); (b) on the business day after the day sent if sent by overnight delivery service; or (c) two business days after the day sent if sent by certified mail or delivered by two-day delivery service.

If to Client, notice shall be addressed to the individual signing this Agreement at the address noted on the Proposal.

If to MDA, notice shall be sent to the address set forth in the proposal, with a copy sent to:

Bowman Consulting Group Ltd.  
12355 Sunrise Valley Drive, Suite 520  
Reston, Virginia 20191  
Attn: Robert A. Hickey

or to such other individual or address as a party hereto may designate for itself by notice given as herein provided.

Initials: MDA *K.W.* / Client