

**ADDENDUM NO. 2**

Date: October 3, 2016

Bid Date: October 27, 2016  
at 3:00 P.M. (Local Time)RFP Name: Professional Auditing Services for General Government  
And Gainesville Regional Utilities

Bid No.: CAUD-170010-DH

NOTE: This Addendum has been issued only to the holders of record of the specifications and attendees of the non-mandatory pre-bid conference held on September 29, 2016.

The original Specifications remain in full force and effect except as revised by the following changes which shall take precedence over anything to the contrary:

1. Any questions shall be submitted in writing to the City of Gainesville Purchasing Division by 3:00 p.m. (local time), October 13, 2016. Questions may be submitted as follows:
  - Email: [holderds@cityofgainesville.org](mailto:holderds@cityofgainesville.org)
  - or
  - Faxed (352) 334-3163
  - Attention: Diane Holder
2. Please find attached:
  - a) Copy of the black-out period information (Financial Procedures Manual Section 41-423 Prohibition of lobbying in procurement matters)) distributed during mandatory pre-bid meeting.
  - b) List of pre-bid dial-in participants
  - c) Copy of the Pre-Bid sign-in sheet for your information.
  - d) Current contract
3. Diane Holder, Purchasing Division, discussed bid requirements.
  - a. Sign-in Sheet is circulating. A teleconference option was offered.
    - i. If you have dialed-in, please email your information (Business name, address, your name, email address, phone number and fax number) to Diane Holder.
  - b. Discussed bid due date, time and delivery location.
    - i. Deliver (or have delivered) to Purchasing office no later than by 3PM on October 27, 2016.
    - ii. Any bids received after 3:00 p.m. on that date will not be accepted.
  - c. Send questions in writing to Diane Holder via email or fax.
    - i. All communication through Diane Holder or Purchasing staff only. Do not communicate with other City staff.
  - d. Various forms are to be completed and returned with your bid.
    - i. Sign, date and return all Addenda.

*The following are answers/clarifications to questions received at the non-mandatory pre-bid conference:*

4. Question: If you submit a proposal for both, are they evaluated independently or together?  
Answer: They will be evaluated independently.
5. Question: Page 2, C. Proposal Submission. Please clarify the number of submittals?  
Answer: One original and **seven** (7) copies for total of 8.
6. Question: What is the composition of the evaluation committees?  
Answer: Brecka Anderson, Amy Spitzer, and Dan Smierciak for General Government and Eileen Marzak, Claudia Rasnick and Len Loria for GRU.
7. Question: For GRU, there are procedures leading to bond issuances, I see there is an anticipated a bond issuance in the next couple fiscal years during the contract period, what are the typical procedures that are required?  
Answer: Currently (and it may change), the remarketing agents require Agreed Upon Procedures and it depends on when the bond or other debt issuance is going to occur, so it could be at fiscal year-end or it could be another point in time (such as the end of a quarter) .
8. Question: But they are typically agreed upon procedures?  
Answer: Typically, currently.
9. NOTE: Section V-General Provisions, B General Terms and Conditions #7. Term. This will be an initial three year contract with the option to renew for two 2-year extensions.
10. Question: Please clarify the years. Is it September 30, 2017 going forward?  
Answer: Yes, September 30, 2017 going forward.
11. Clarification: For an overview of how the process will go. Teams will be performing the evaluation on the technical and written proposals. For firms deemed qualified, Purchasing staff will open Fee proposals and assign points. More than likely we will have oral interviews; GRU has decided to have interviews, but General Government is still deciding. The City Auditor is the Contract Coordinator and, after receiving the team evaluations and the scoring process complete, will make a recommendation to the Audit and Finance Committee on the final ranking which then goes to the City Commission for final approval. We are projected to bring that recommendation to the Audit and Finance Committee in January 2017 and the City Commission in February 2017. This way, we will have contract in place to do any interim field work for spring or summer for 2017.
12. Question: On page 4, Item K and Exceptions to the RFP unless it's specifically stated. A quick read page, I haven't seen anywhere in here where there are specific areas where we are not allowed to take exceptions. In the General Terms and Conditions on page 18, if we take exception for example to the indemnification clause in number 4, are you expecting a red line "we don't agree with this" or "this is how we would like to see this" or how would you that presented?

Answer: You may submit exceptions as stated in Item K "...All exceptions taken must be specific, and the Proposer must indicate clearly what alternative is being offered to allow the City a meaningful opportunity to evaluate and rank proposals..."

13. Question: Can we get a copy of the contract to use as a template?

Answer: Please refer to the current contract (attached) as a template. This does not include any current changes in law.

***The following are answers/clarifications to questions received after the non-mandatory pre-bid conference:***

14. Question: May we please receive a copy of the General Government prior year financial statements?

Answer: Documents are available at: <http://www.cityofgainesville.org/Portals/0/bf/CAFR%202015.pdf>

15. Question: How many auditors were in the field last year and for approximately how many days during the General Government audit?

Answer: 3 – 4 auditors. 2 weeks during interim and about a month for final.

16. Question: What was the prior year fee for the General Government audit?

Answer: The FY16 audit fees for General Government are as follows:

General Government	\$ 97,599
Wild Spaces Public Places	3,500
Community Redevelopment Agency	<u>5,000</u>
Total FY16 Audit Fees	<u>\$106,099</u>

17. Question: Who is responsible for preparing the General Government financial statements and notes?

Answer: The City prepares the financial statements and the notes with the auditing firm reviewing and consulting?

ACKNOWLEDGMENT: Each Proposer shall acknowledge receipt of this Addendum No. 2 by his or her signature below, **and a copy of this Addendum to be returned with proposal.**

CERTIFICATION BY PROPOSER

The undersigned acknowledges receipt of this Addendum No. 2 and the Proposal submitted is in accordance with information, instructions, and stipulations set forth herein.

PROPOSER: \_\_\_\_\_

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

CITY OF \_\_\_\_\_ FINANCIAL SERVICES  
GAINESVILLE PROCEDURES MANUAL

**41-423      Prohibition of lobbying in procurement matters**

Except as expressly set forth in Resolution 060732, Section 10, during the black out period as defined herein no person may lobby, on behalf of a competing party in a particular procurement process, City Officials or employees except the purchasing division, the purchasing designated staff contact. Violation of this provision shall result in disqualification of the party on whose behalf the lobbying occurred.

Black out period means the period between the issue date which allows for immediate submittals to the City of Gainesville Purchasing Department for an invitation for bid or the request for proposal, or qualifications, or information, or the invitation to negotiate, as applicable, and the time the City Officials and Employee awards the contract.

Lobbying means when any natural person for compensation, seeks to influence the governmental decision making, to encourage the passage, defeat, or modification of any proposal, recommendation or decision by City Officials and Employees, except as authorized by procurement documents.

CITY OF GAINESVILLE  
GENERAL GOVERNMENT PURCHASING DIVISION  
NON-MANDATORY PRE-BID CONFERENCE

Dial-in Participants

RFP for Professional Auditing Services for General Government  
And Gainesville Regional Utilities

DATE: September 29, 2016 @ 3:00 PM LOCAL TIME

BID #CAUD- 170010-DH

DUE DATE: October 27, 2016, AT 3:00PM

YOUR COMPANY'S NAME, ADDRESS &  
PHONE NUMBER

YOUR SIGNATURE, PRINTED NAME,  
EMAIL ADDRESS & FAX NUMBER

1) Mauldin & Jenkins, LLC  
1401 Manatee Avenue West, Suite 1200  
Bradenton, FL 34205  
PHONE # (941)741-2255

\_\_\_\_\_  
SIGNATURE  
Wade P. Sansbury  
PRINTED NAME  
E-MAIL: [wsansbury@mjcpa.com](mailto:wsansbury@mjcpa.com)  
FAX # (941)748-4868

2) EFPR Group, LLP  
6390 Main Street, Suite 200  
Williamsville, NY 14221  
PHONE # (716)204-5768

\_\_\_\_\_  
SIGNATURE  
Peter E. Murphy  
PRINTED NAME  
E-MAIL: [PMurphy@efprgroup.com](mailto:PMurphy@efprgroup.com)  
FAX # (716)932-6168

3) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
PHONE # \_\_\_\_\_

\_\_\_\_\_  
SIGNATURE  
\_\_\_\_\_  
PRINTED NAME  
E-MAIL: \_\_\_\_\_  
FAX # \_\_\_\_\_

4) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
PHONE # \_\_\_\_\_

\_\_\_\_\_  
SIGNATURE  
\_\_\_\_\_  
PRINTED NAME  
E-MAIL: \_\_\_\_\_  
FAX # \_\_\_\_\_

5) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
PHONE # \_\_\_\_\_

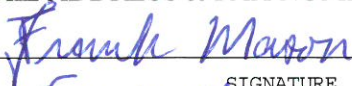
\_\_\_\_\_  
SIGNATURE  
\_\_\_\_\_  
PRINTED NAME  
E-MAIL: \_\_\_\_\_  
FAX # \_\_\_\_\_

CITY OF GAINESVILLE  
GENERAL GOVERNMENT PURCHASING DIVISION  
NON-MANDATORY PRE-BID CONFERENCE  
RFP for Professional Auditing Services for General Government and  
Gainesville Regional Utilities  
DATE: September 29, 2016 @ 3:00 PM LOCAL TIME  
RFP #CAUD-170010-DH  
DUE DATE: October 27, 2016, AT 3:00PM


YOUR COMPANY'S NAME, ADDRESS &  
PHONE NUMBER

1) ~~Frank Mason~~ Carr Riggs + Ingram  
4010 NW 25<sup>th</sup> Place  
Gainesville, FL 32606  
PHONE # (352) 372-6300


YOUR SIGNATURE, PRINTED NAME,  
EMAIL ADDRESS & FAX NUMBER

  
Frank Mason  
SIGNATURE  
Frank Mason  
PRINTED NAME  
E-MAIL: fmason@cricpa.com  
FAX # (352) 337-4613

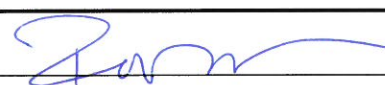
2) Carr, Riggs + Ingram  
4010 NW 25<sup>th</sup> Place  
Gainesville, FL 32606  
PHONE # (352) 372-6300

  
ROBERT LEMMON  
SIGNATURE  
ROBERT LEMMON  
PRINTED NAME  
E-MAIL: rlemmon@cricpa.com  
FAX # (352) 337-4613

3) Purvis Gray & Company  
222 NE 1<sup>st</sup> St.  
Gainesville, FL 32601  
PHONE # (352) 378-2461

  
Barbara Boyd  
SIGNATURE  
Barbara Boyd  
PRINTED NAME  
E-MAIL: bboyd@purvisgray.com  
FAX # ( )

4) Purvis Gray + Co.  
222 NE 1<sup>st</sup> St.  
Gainesville FL 32601  
PHONE # (352) 378-2461

  
Ron Whitesides  
SIGNATURE  
Ron Whitesides  
PRINTED NAME  
E-MAIL: roww@purvisgray.com  
FAX # (352) 378-2505

5) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
PHONE # ( ) \_\_\_\_\_


\_\_\_\_\_  
SIGNATURE  
\_\_\_\_\_  
PRINTED NAME  
E-MAIL: \_\_\_\_\_  
FAX # ( ) \_\_\_\_\_

CITY OF GAINESVILLE  
GENERAL GOVERNMENT PURCHASING DIVISION  
NON-MANDATORY PRE-BID CONFERENCE  
RFP for Professional Auditing Services for General Government and  
Gainesville Regional Utilities  
DATE: September 29, 2016 @ 3:00 PM LOCAL TIME  
RFP #CAUD-170010-DH  
DUE DATE: October 27, 2016, AT 3:00PM


YOUR COMPANY'S NAME, ADDRESS &  
PHONE NUMBER

6) Crowe Horwath, LLP  
401 E. Jackson St. Suite 2900  
Tampa FL 33602  
PHONE # (813) 209-2441


YOUR SIGNATURE, PRINTED NAME,  
EMAIL, ADDRESS & FAX NUMBER

  
SIGNATURE  
Christopher M. Davis  
PRINTED NAME  
E-MAIL: Chris.davis@crowehorwath.com  
FAX # (813) 229-5952


7) Claudia Rasnick, GRU  
301 SE 4th Ave.  
Gainesville, FL  
PHONE # (352) 393-1313

  
SIGNATURE  
Claudia Rasnick  
PRINTED NAME  
E-MAIL: rasnickce@gru.com  
FAX # ( )


8) Eileen Marzak, City  
P.O. Box 490  
Gainesville FL  
PHONE # (352) 393-8632

  
SIGNATURE  
Eileen Marzak  
PRINTED NAME  
E-MAIL: marzakeen@cityofgainesville.org  
FAX # ( )

9) Dan Smierciak, City of Gainesville  
P.O. Box 490  
Gainesville, FL  
PHONE # (352) 393-8741

  
SIGNATURE  
DANIEL J. SMIERCIAK  
PRINTED NAME  
E-MAIL: smierciad@cityofgainesville.org  
FAX # ( )

10) Amy Spitzer  
P.O. Box 490  
Gainesville FL  
PHONE # (352) 393-8835

  
SIGNATURE  
Amy Spitzer  
PRINTED NAME  
E-MAIL: spitzerab@cityofgainesville.org  
FAX # ( )

Witnessed Signatures & Originals to  
Davis, Monk & Company 3/10/09  
Firm - CG Purchasing 3/17/09

Original CRA  
Agreement  
3/17/09

126

## AGREEMENT FOR PROFESSIONAL SERVICES

By this agreement entered into this 12<sup>TH</sup> day of MARCH, 2009, between Davis, Monk & Company, partnership authorized to do business in the State of Florida, hereinafter referred to as "Auditor," and City of Gainesville, Florida, hereinafter referred to as "City," the parties hereto agree as follows:

### Section 1: Scope of Services

The scope of audit services provided will be in accordance with the Statement of Services and Level of Performance which by reference is incorporated into and made a part of this Agreement and appended hereto as Attachment A, the Davis Monk & Company engagement letter dated February 9, 2009 and the provisions contained in the City's Request for Proposals for Professional Auditing Services RFP No. CAUD 90003-FB, dated September 25, 2008. Based on the Statement, an audit opinion and management letter will be issued on the basic financial statements of the City for the years ended September 30, 2009, 2010, 2011, 2012 and 2013 with an option to extend those services for up to three years. The opinion on the City's basic financial statements will be rendered by Auditor and will include the appropriate reference to the separately issued opinion on the basic financial statements of Gainesville Regional Utilities, which will be rendered by another CPA firm.

The Auditor will express opinions on the basic financial statements and provide appropriate audit coverage for required supplementary information pursuant to guidance established by the American Institute of Certified Public Accountants (AICPA). Auditor will issue separate audit opinions on the separate financial statements for the City's pension funds.

City entities not currently in existence and separate audits required by State and Federal authorities (for example, Federal Grant Audits) are excluded from this Agreement. It is contemplated that all such audits would be covered within the "single audit" hereafter described in this Agreement. Such excluded audits, however, if and when required by State law or federal agencies or requested by the City may be added to this Agreement through negotiations between the parties.

It is understood and agreed between the parties that the audit of the City's basic financial statements shall be a "single audit" that will cover all of the City's federal and state financial assistance programs, which will be conducted by Auditor. The financial audit shall also be in accordance with all applicable federal laws and regulations relating to audit standards, requirements, and guidelines. The audit standards, requirements and guidelines for financial assistance programs ("single audit") shall be those set forth in the Office of Management and Budget Circular A-133 and the State of Florida Single Audit Act.

The Auditor shall express an unqualified opinion on the basic financial statements. If unable to express an unqualified opinion, the Auditor must state the reasons for qualification or disclaimer of opinion.



In addition to the standards set forth above, the examination shall be made in accordance with auditing standards generally accepted in the United States and generally accepted governmental auditing standards, applicable to financial audits, as prescribed by the GAO in *Government Auditing Standards* (The "Yellow Book") and the Rules of the Auditor General, State of Florida.

Auditor will submit all required reports to the City by January 31<sup>st</sup> of each year immediately following the end of fiscal years ended September 30, 2009, 2010, 2011, 2012, and 2013. Extensions of time for completion may be allowed for good cause by the City.

## **Section 2: Cancellation**

Either Auditor or City may cancel this Agreement for the next year-end provided that notice of cancellation is furnished in writing to the other party not later than the preceding May 1<sup>st</sup> for all fiscal years ending subsequent to September 30, 2009.

## **Section 3: Compensation**

### **A. Fee for External Auditing Services**

During the period of this Agreement, compensation will be in accordance with the Auditor's fee as negotiated and accepted by the City, which is \$88,500 for the year ended September 30, 2009. For each subsequent year, the fee will be adjusted based on the Consumer Price Index (CPI) percentage change for the Southern Region, all urban consumers, with a limit of 5% per year.

### **B. Manner of Payment**

Auditor will invoice City monthly for work performed in the manner set forth in Attachment B, but in no event more than the maximum price, except for increases caused by the City's request for extra services under Section 6 of this Agreement. All payments for these services will be made payable to Auditor.

In the event that unforeseen conditions are encountered which might necessitate the extension of the auditing work beyond the scope of normal auditing procedures, Auditor agrees to advise the City Auditor in writing of the circumstances and to request an increase in the maximum fee before significant additional time is incurred.

Any such requests for additional fees shall contain a detailed explanation of the conditions of irregularities and why the additional fees are necessary. The City will then determine whether or not to incur the additional expense.

## **Section 4: Consultation with Auditor General and City Auditor**

City expressly consents to Auditor consulting with the Auditor General of the State of Florida and/or the City Auditor on any matter pertaining to the audit, which in the judgment of Auditor would be important to the conduct of its examination or its report on the results thereof.

### **Section 5: Use of City Personnel**

To the extent practicable, the City agrees to provide and Auditor agrees to utilize the City's accounting personnel for the purpose of minimizing the audit fee.

### **Section 6: Extra Services**

City may request additional services at any time from Auditor to the extent that these services are an extension of the scope of this audit as a result of increased regulatory requirements, the addition of agencies to be audited, or any other reason beyond the control of the Auditor. Auditor will be compensated for such extra services in accordance with their normal rate then being charged or as otherwise negotiated. Any extra services to be provided by Auditor will be coordinated through the City Auditor.

### **Section 7: Changes in Laws**

In the event that the laws requiring this audit to be performed are amended, this Agreement may be amended to the extent required by such a change in law.

### **Section 8: Governing Law**

This Agreement shall be construed under the laws of the State of Florida.

### **Section 9: Waiver of Liability**

Auditor shall, separately and not jointly, indemnify, defend, and hold harmless the City, its elected and appointed officers, employees, successors and assigns from and against any and all third party claims, suits, demands, actions, proceedings, judgments, losses, damages, injuries, penalties, costs, expenses (including reasonable attorneys' fees) to the extent they arise solely from the respective Auditor's negligent performance of services under this Agreement. The terms of this paragraph shall survive termination of this Agreement.

### **Section 10: Insurance**

Without limiting his liability hereunder, the Auditor shall maintain and provide proof of compliance with the Rules of the Department of Professional Regulation Chapter 21 A-26.002 regarding minimum capitalization or Adequate Public Liability Insurance for Public Accounting Corporations. Nothing in this Agreement shall be interpreted as a waiver of the City's sovereign immunity under F.S. 768.28.

### **Section 11: Notices**

Any notice of cancellation or breach of this Agreement from either party to the other party shall be in writing and sent by certified mail, return receipt requested, and shall be deemed to have been received when either deposited in a United States Postal Service mailbox or personally delivered with signed proof of delivery. The City's representative and the Auditor's representative are:

City:

Brent Godshalk, City Auditor  
200 E. University Avenue, Room 211  
Gainesville, FL 32602

Auditor:

Alan Nast, Partner  
Davis, Monk & Company  
4010 NW 25<sup>th</sup> Place  
Gainesville, FL 32604

**Section 12: Assignment**

This Agreement shall not be assigned by the Auditor or any successor thereto without the prior written consent of the City.

**Section 13: Entire Agreement**

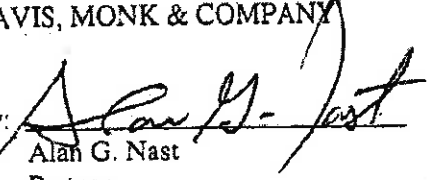
This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter thereof.

**Section 14: Other Matters**

Any controversy or claim arising out of or relating to the services covered by this agreement or hereafter provided by Auditor to the City (including any such matter involving a parent, subsidiary, affiliate, successor in interest, or agent of the City or of Auditor) shall be submitted first to voluntary mediation, and if mediation is not successful, then to binding arbitration, in accordance with the dispute resolution procedures set forth in Attachment C to this Agreement. Judgment on any arbitration award may be entered in any court having proper jurisdiction.

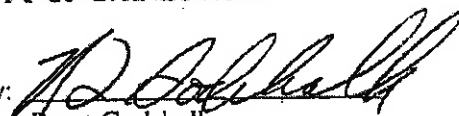
DAVIS, MONK & COMPANY

By:

  
Alan G. Nast  
Partner

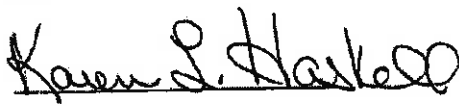
CITY OF GAINESVILLE

By:

  
Brent Godshalk  
City Auditor

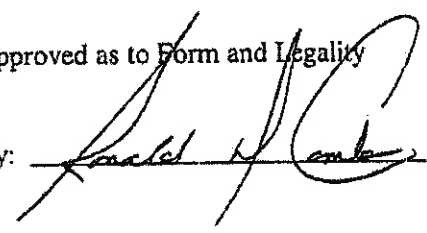
ATTEST

By:



Approved as to Form and Legality

By:



## ATTACHMENT A

### Statement of Services and Level of Performance

Auditor understands the scope of services required as defined in this Agreement and those contained in the Request for Proposals RFP No. CAUD 90003-FB, and will organize the Auditor's audit team and audit plan to insure delivery of the following products on a timely basis:

Item No.	Scope Description	Davis, Monk and Company
1	Opinion on the fair presentation, in accordance with accounting principles generally accepted in the United States, of the basic financial statements of the City of Gainesville.	X *
2	A report on internal control and compliance required by Governmental Auditing Standards (Yellow Book), and similar reports required under either the Federal Single Audit Act or the Florida Single Audit Act.	X
3	Management Letter prepared pursuant to Rules of the Auditor General.	X
4	A report on the fair presentation of the financial statements, in conformity with accounting principles generally accepted in the United States, for the City's pension plans.	X

\* Auditors opinion will include appropriate reference to GRU Auditor's report on the GRU financial statements.

In compliance with City Resolution R-970187, Section 6, all of the above products will be submitted to the City Auditor for City Commission acceptance and distribution to the City Manager, General Manager for Utilities and other pertinent parties.

**ATTACHMENT B**

**Payment Schedule for the Year Ended September 30, 2009**

**Compensation:**

During this agreement for professional auditing services, compensation will be in accordance with the Auditor's fee as negotiated and accepted by the City.

**Payment Schedule:**

For Year I (the fiscal year ended September 30, 2009), the base fee for general audit services of \$88,500 is to be paid in accordance with the following schedule:

October, 2009	30%
November, 2009	20%
December, 2009	40%
Upon Completion	<u>10%</u>
	<u>100%</u>

**Payment Schedule for Years Ending September 30, 2010, 2011, 2012 and 2013**

Payments for subsequent years will be made in accordance with the schedule shown above, however the base fee will be adjusted according to Section 3 of this Agreement.

## ATTACHMENT C

### **Dispute Resolution Procedures**

The following procedures shall be used to resolve any controversy or claim ("dispute") as provided in the attached Agreement for Professional Services. If any of these provisions are determined to be invalid or unenforceable, the remaining provisions shall remain in effect and binding on the parties to the fullest extent permitted by law.

#### *Mediation*

A dispute shall be submitted to mediation by written notice to the other party or parties. In the mediation process, the parties will try to resolve their differences voluntarily with the aid of an impartial mediator, who will attempt to facilitate negotiations. The mediator will be selected by agreement of the parties. If the parties cannot agree on a mediator, a mediator shall be designated by the American Arbitration Association ("AAA") or JAMS/Endispute at the request of a party. Any mediator so designated must be acceptable to all parties.

The mediation will be conducted as specified by the mediator and agreed upon by the parties. The parties agree to discuss their differences in good faith and to attempt, with the assistance of the mediator, to reach an amicable resolution of the dispute.

The mediation will be treated as a settlement discussion and therefore will be confidential. The mediator may not testify for either party in any later proceeding relating to the dispute. No recording or transcript shall be made of the mediation proceedings.

Each party will bear its own costs in the mediation. The fees and expenses of the mediator will be shared equally by the parties.

#### *Arbitration*

If a dispute has not been resolved within 90 days after the written notice beginning the mediation process (or a longer period, if the parties agree to extend the mediation), the mediation shall terminate and the dispute will be settled by arbitration. The arbitration will be conducted in accordance with the procedures in this document and the Arbitration Rules for Professional Accounting and Related Services Disputes of the AAA as in effect on the date of the engagement letter ("AAA Rules"). In the event of a conflict, the provisions of this document will control.

The arbitration will be conducted before a panel of three arbitrators, regardless of the size of the dispute, to be selected as provided in the AAA Rules. Any issue concerning the extent to which any dispute is subject to arbitration, or concerning the applicability, interpretation, or enforceability of these procedures, including any contention that all or part of these procedures are invalid or unenforceable, shall be governed by the Federal Arbitration Act and resolved by the arbitrators. No potential arbitrator may serve on the panel unless he or she has agreed in writing to abide and be bound by these procedures.

The arbitrators may not award non-monetary or equitable relief of any sort. They shall have no power to award punitive damages or any other damages not measured by the prevailing party's actual damages, and the parties expressly waive their right to obtain

such damages in arbitration or in any other forum. In no event, even if any other portion of these provisions is held to be invalid or unenforceable, shall the arbitrators have power to make an award or impose a remedy that could not be made or imposed by a court deciding the matter in the same jurisdiction.

No discovery will be permitted in connection with the arbitration unless it is expressly authorized by the arbitration panel upon a showing of substantial need by the party seeking discovery.

All aspects of the arbitration shall be treated as confidential. Neither the parties nor the arbitrators may disclose the existence, content or results of the arbitration, except as necessary to comply with legal or regulatory requirements. Before making any such disclosure, a party shall give written notice to all other parties and shall afford such parties a reasonable opportunity to protect their interests.

The result of the arbitration will be binding on the parties, and judgment on the arbitrators' award may be entered in any court having jurisdiction.