

Maryland Stadium Authority

333 West Camden Street, Suite 500

Baltimore, Maryland 21201



Request for Proposals
FOR
UNDERWRITER SERVICES

RFP # 19-046

ISSUE DATE: JANUARY 9, 2019

DUE DATE: FEBRUARY 1, 2019

KEY INFORMATION SUMMARY SHEET

MARYLAND STADIUM AUTHORITY

RFP #19-046

Issuing Office: Maryland Stadium Authority
Procurement Officer: John Samoryk
Maryland Stadium Authority
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Submit Proposals to: Procurement Officer
Solicitation Issue Date: January 9, 2019
Deadline for Receipt of Questions: 4:00 pm (local time) January 18, 2019
Proposal Due Date and Time: 2:00 pm (local time) February 1, 2019
Tentative Contract Award: March 6, 2019

NOTICE

Prospective Offerors who have obtained this document from a source other than as a direct solicitation from the Issuing Office, must immediately contact the Procurement Officer and provide their name and contact information in order to receive any amendments to the RFP, or any other communications relevant thereto.

Table of Contents

SECTION I -- Procurement Information	6
1.01 SUMMARY	6
1.02 PROCUREMENT OFFICER	6
1.03 CONTRACT OFFICER	6
1.04 PRE-PROPOSAL CONFERENCE	6
1.05 QUESTIONS AND INQUIRIES	6
1.06 SUBMISSION DEADLINE	6
1.07 FALSE STATEMENTS	7
1.08 ANTI-BRIBERY	7
1.09 DURATION OF OFFER	8
SECTION II. The Maryland Stadium Authority	8
2.01 OVERVIEW OF MARYLAND STADIUM AUTHORITY	8
2.02 MSA BOND ISSUES	8
A. Background Information	8
B. Baltimore City Public Schools	9
C. Upcoming Bond Issue(s).....	9
SECTION III. General Information.....	9
3.01 DISCLOSURE	9
3.02 EXPENSES	9
3.03 OFFEROR’S AFFIDAVITS	10
3.04 ACCEPTANCE OF TERMS AND CONDITIONS	10
3.05 MANDATORY CONTRACTUAL TERMS	10
3.06 PROCUREMENT REGULATIONS	10
3.07 MINORITY PARTICIPATION	10
3.08 MULTIPLE CONTRACTS AND ASSIGNMENTS	10
3.09 NO GUARANTEE OF WORK	11
3.10 CONTRACT TERM	11
3.11 START-UP	11

3.12 ELECTRONIC FUNDS TRANSFER.....	11
3.13 AMENDMENT OR CANCELLATION OF RFP	11
3.14 PROPOSAL ACCEPTANCE; DISCUSSIONS.....	12
3.15 ORAL PRESENTATION	12
3.16 MULTIPLE PROPOSALS	12
3.17 PROTESTS	12
3.18 PROPOSAL OPENING	12
Proposals will not be opened publicly.	12
3.19 REPRESENTATIONS	12
3.20 ORDER OF PRECEDENCE.....	13
SECTION IV. Minimum Qualifications.....	13
SECTION V. Scope of Services	13
5.01 SCOPE OF SERVICES.....	13
A. In General.....	13
B. Follow MSA’s Policies	14
C. Prepare and Deliver	14
D. Consult with MSA	14
5.02 STANDARD OF CARE.....	15
Section VI. Proposal Format.....	15
6.01 TRANSMITTAL LETTER.....	15
6.02 TWO-VOLUME SUBMISSION	15
6.03 VOLUME I – TECHNICAL PROPOSAL	15
A. General Information.....	16
B. Demonstrate compliance with the Minimum Qualifications as described in Section IV.	16
C. Firm’s Experience	16
D. Project Team	16
E. Structuring and Marketing Strategies (Limit response to 5 pages, and provide any case studies or examples in an appendix)	17

6.04 DISCLOSURES.....	17
6.05 VOLUME II - PRICE PROPOSAL	17
SECTION VII. Evaluation and Selection Procedure	18
7.01 QUALIFYING PROPOSALS	18
7.02 EVALUATION COMMITTEE AND EVALUATION CRITERIA	18
7.03 TECHNICAL EVALUATION	18
7.04 PRICE EVALUATION	18
7.05 BEST AND FINAL OFFER	18
7.06 FINAL EVALUATION AND RECOMMENDATION FOR AWARD	19
7.07 DEBRIEFING OF UNSUCCESSFUL OFFERORS	19

SECTION I -- PROCUREMENT INFORMATION

1.01 SUMMARY

The Maryland Stadium Authority (“MSA”) is requesting proposals for underwriting services on an on-call as needed basis in connection with bond issues secured by a pledge of revenues, subject to appropriation, from leases between the State and MSA. MSA intends to select one or more underwriters whose backgrounds demonstrate the experience and capabilities to assist MSA and its financing team (including its financial advisor, bond counsel, and the Office of the Attorney General) in structuring and negotiating the sale and issuance of its bonds to investors on terms that best meet the needs and goals of MSA and the State of Maryland (the “State”).

1.02 PROCUREMENT OFFICER

The sole point of contact for purposes of this procurement is the Procurement Officer identified on the Key Information Summary Sheet. The Procurement Officer may designate others to act on his behalf. MSA may change the Procurement Officer at its discretion.

1.03 CONTRACT OFFICER

The Contract Officer identified on the Key Information Summary Sheet monitors the daily activities of the Contract and provides technical guidance to the Contractor. The Contract Officer is the point of contract post award, by whom work will be assigned, and to whom invoices will be submitted.

1.04 PRE-PROPOSAL CONFERENCE

There will not be a pre-proposal conference.

1.05 QUESTIONS AND INQUIRIES

All Offerors should direct their questions and inquiries to the Procurement Officer. Questions must be submitted in writing by mail or via email and received by the Issuing Office no later than 4:00 pm (local time) on January 18, 2019. Oral questions will not be permitted. If the questions or inquiries pertain to a specific section of the RFP, Offerors must reference the relevant page and section number(s).

1.06 SUBMISSION DEADLINE

To be considered for award, Offerors must submit to the Procurement Officer a package containing one (1) written proposal and three (3) copies (a total of 4) of the Technical Proposal and the Price Proposal, each in separate sealed envelopes. **PROPOSALS MUST BE SUBMITTED IN SEPARATE SEALED ENVELOPES AND DELIVERED TO THE PROCUREMENT**

OFFICER PRIOR TO THE DEADLINE. PROPOSALS DELIVERED BY EMAIL OR OTHER ELECTRONIC FORMAT WILL NOT BE CONSIDERED. All submissions shall indicate the RFP Title and number and the Offeror's name and address. Proposals must be received by the Procurement Officer no later than 2:00 p.m. local time on February 1, 2019. Additionally, each Offeror must provide to the Procurement Officer one flash drive containing a copy of the Technical Proposal and one flash drive containing a copy of the Price Proposal submitted. As with the written submission, the electronic copy submission of the Technical Proposal and the Price Proposal must be provided in separate sealed envelopes. Refer to Section VI Proposal Format for two-volume submission requirements.

MSA will not grant requests for extension of the submission date or time. Offerors mailing proposals should allow sufficient mail and internal delivery time to ensure timely receipt of the proposals by the Procurement Officer at the Issuing Office. MSA will not consider proposals or unsolicited amendments to proposals arriving at the Issuing Office or received by the Procurement Officer after the date and time when the proposals are due, regardless of the method of their transmission. MSA will not consider proposals submitted by electronic means only (facsimile or e-mail).

1.07 FALSE STATEMENTS

Offerors are advised that State Finance and Procurement Article § 11-205.1, Annotated Code of Maryland provides as follows:

- (a) *In general.* – In connection with a procurement contract a person may not willfully:
 - (1) falsify, conceal, or suppress a material fact by any scheme or device;
 - (2) make a false or fraudulent statement or representation of a material fact; or
 - (3) use a false writing or document that contains a false or fraudulent statement or entry of a material fact.
- (b) Aiding or conspiring with others. – A person may not aid or conspire with another person to commit an act under subsection (a) of this section.
- (c) Penalty. – A person who violates any provision of this section is guilty of a felony and on conviction is subject to a fine not exceeding \$20,000 or imprisonment not exceeding 5 years or both.

1.08 ANTI-BRIBERY

Anti-Bribery. Offeror certifies that, to the Offeror's best knowledge, neither the Offeror, nor (if the Offeror is a corporation or partnership) any of its officers, directors, partners, or controlling stockholders, nor any employee of the Offeror who is proposed to be directly involved in the Offeror's activities in connection with the services to be provided, has been convicted of

bribery, attempted bribery, or conspiracy to bribe under the laws of any state or of the United States.

1.09 DURATION OF OFFER

Proposals submitted in response to this solicitation are irrevocable for 120 days following the later of the proposal due date or the date the Procurement Officer receives best and final offers, if any. At the request of the Procurement Officer, the Offeror may agree in writing to extend this period.

SECTION II. THE MARYLAND STADIUM AUTHORITY

2.01 OVERVIEW OF MARYLAND STADIUM AUTHORITY

MSA is a body politic and corporate and is an instrumentality of the State established pursuant to Title 10, Subtitle 6 of the Economic Development Article of the Annotated Code of Maryland ("ED"). MSA is responsible for the development, management, operation, and oversight of the State's professional sports facilities at Camden Yards which includes both the football stadium ("M & T Bank Stadium") and Oriole Park at Camden Yards (together "Camden Yards"). MSA also has statutory authority for financing and leasing the Baltimore Convention Center, the Hippodrome Performing Arts Center, the Montgomery County Conference facility and the Ocean City Convention facility (collectively, the "Facilities").

MSA has general authority, subject to certain requirements, to undertake projects involving feasibility studies, design and construction for other units of the State, the University of Maryland Medical System and political subdivisions. In 2013 MSA's role expanded into financing and managing improvements to Baltimore City public schools pursuant to the Baltimore City Public School Construction and Revitalization Act of 2013 (the "Act") passed by the General Assembly.

2.02 MSA BOND ISSUES

A. Background Information

MSA is authorized to issue taxable and tax-exempt bonds for Camden Yards and the Facilities pursuant to ED Sections 10-628 through 10-639. Bond issues to date have had varied structures. By way of example and not limitation they have included: revenue bonds and lease or leaseback arrangements with the State; short-term bonds, variable rate bonds with interest rate exchange agreements ("Swap Agreements"); negotiated public offerings; and private placements. Several MSA bonds have been refunded, and others may be considered for refunding to unwind the Swap Agreements or to take advantage of lower interest rates. MSA may enter into additional Swap Agreements with the existing or new counterparties and may require on-going advice about Swap Agreements.

B. Baltimore City Public Schools

The Act (see ED Sections 10-645 and 10-646) authorizes MSA to issue up to \$1.1 billion in debt as limited obligations of MSA to finance improvements to, or replacement of aging and deteriorated Baltimore City public schools ("City School Bonds"). To date there have been two tax-exempt, fixed rate revenue bond issues in the aggregate principal amount of \$726,400,000 for these purposes. Under the Act, City School Bond issues are secured by money in a fund consisting of statutorily mandated deposits from several sources, including the State and Baltimore City. The underwriter(s) selected in connection with this solicitation will not serve as the underwriter for future bonds issued for any public school project, whether or not such bonds are issued under the Act.

C. Upcoming Bond Issue(s)

MSA expects to issue up to \$55 million in bonds to finance certain capital improvement projects at Camden Yards by the end of the first quarter of calendar year 2019 (the "2019 Bonds"). Specifically, the financing plan anticipates issuing two series – one either taxable or tax-exempt in the approximate amount of \$20.5 million for projects related solely to M & T Bank Stadium (the "Stadium"), and a second taxable series in the approximate amount of \$34.5 million to finance projects related to the B&O Warehouse (the "Warehouse"), the parking lots and pedestrian walkways. MSA expects any tax-exempt bonds for the Stadium projects to be issued with a level annual debt service amortization for a 7-year term (coterminous with the years remaining on the current Stadium lease); and the second series for the Warehouse and other projects, issued with a level annual debt service amortization in years 8 to 20. The 2019 Bonds will be payable from lease revenue payable from the State to MSA pursuant to existing Master Lease and Sublease Agreements (as amended and supplemented) between the State and MSA.

SECTION III. GENERAL INFORMATION

3.01 DISCLOSURE

Proposals shall be subject to disclosure pursuant to the provisions of Maryland's Public Information Act, Section 4-101 et seq. of the General Provisions Article of the Annotated Code of Maryland (the "Public Information Act"). An Offeror must identify specifically those portions of its Proposal, if any, which it deems to contain trade secrets or confidential or proprietary information and must provide justification why such materials should not, upon request, be disclosed by the State under the Public Information Act. The decision regarding whether or not to release information requested pursuant to the requirements of the Public Information Act remains with the State.

3.02 EXPENSES

MSA and the State are not responsible for direct or indirect expenses that an Offeror may incur in preparing and submitting a Proposal.

3.03 OFFEROR'S AFFIDAVITS

Each Offeror shall complete and submit the Bid/Proposal Affidavit attached hereto as Attachment A with the Offeror's Technical Proposal. A successful Offeror will be required to complete a Contract Affidavit in the form attached hereto as Attachment B at the time of execution of the contract entered into as a result of this RFP.

3.04 ACCEPTANCE OF TERMS AND CONDITIONS

By submitting a Proposal the Offeror accepts all of the terms and conditions set forth in this RFP including all attachments.

3.05 MANDATORY CONTRACTUAL TERMS.

By submitting a proposal in response to this RFP, an Offeror, if selected for award, shall be deemed to have accepted the terms of this RFP and the standard contract terms and conditions included in the Form Contract attached hereto as Attachment C. Any exceptions to this RFP or Attachment C must be clearly identified in the Executive Summary submitted with the Technical Proposal. A proposal that takes exception to these terms may not be reasonably susceptible of being selected for award.

3.06 PROCUREMENT REGULATIONS

The RFP and any Contract entered into as a result hereof is not subject to the provisions of Division II of the State Finance and Procurement Article of the Maryland Annotated Code (the "Procurement Article") except as set forth in MSA's procurement policies available online at www.mdstad.com.

3.07 MINORITY PARTICIPATION.

Minority Business Enterprises are encouraged to respond to this solicitation.

3.08 MULTIPLE CONTRACTS AND ASSIGNMENTS

Although it is anticipated that one Contract will be awarded, MSA may elect to make an award to more than one Offeror. If more than one contract is awarded, the Contract Officer (or his designee) will determine, in the Contract Officer's sole discretion, which Contractor will be retained to provide advice on any particular matter.

3.09 NO GUARANTEE OF WORK

No Contractor is guaranteed any minimum amount of work or compensation. MSA can make no assurances it will issue bonds.

3.10 CONTRACT TERM

The Contract term shall commence as of a date to be specified in the Contract and shall end at the later of: (a) three years after the commencement date, or (b) the time that all work which was authorized before the expiration date is completed, unless sooner terminated in accordance with the Contract. At the sole option of MSA, the Contract may be renewed on the same terms and conditions for two additional one-year terms.

3.11 START-UP

The Underwriter shall conduct any necessary due diligence, and familiarize itself with MSA, its enabling statute, the Act, and MSA's projects before commencement of the Contract at no cost to MSA or the State.

3.12 ELECTRONIC FUNDS TRANSFER

By submitting a response to this RFP, the Offeror agrees to accept payments by electronic transfer unless the State Comptroller's Office grants and exemption. The selected Offeror shall register using the COT/GAD X-10 Vendor Electronic Funds (ETF) Registration Request Form. Any request for exemption must be submitted to the State's Comptroller's Office for approval at the address specified on the COT/GAD X-10 form and must include the business identification information as stated on the form and include the reason for the exemption. The COT/GAD X-10 Vendor Electronic Funds Registration Form may be downloaded from:

http://comptroller.marylandtaxes.com/Vendor_Services/Accounting_Information/

3.13 AMENDMENT OR CANCELLATION OF RFP

The Office reserves the right to amend the RFP prior to the proposal due date and time. Any amendments will be provided to prospective Offerors that were sent this RFP, or otherwise are known to the Procurement Officer to have obtained this RFP. Offerors will be required to acknowledge in writing the receipt of all amendments. In addition, MSA will post amendments to this RFP on the MSA's Web Page at: www.mdstad.com. MSA will send amendments made after the due date for proposals only to those Offerors who submitted a timely proposal.

Failure to acknowledge receipt of amendments does not relieve the Offeror from complying with all terms of any such amendment.

3.14 PROPOSAL ACCEPTANCE; DISCUSSIONS

MSA reserves the right to accept or reject any and all proposals, in whole or in part, received in response to this RFP, to waive or permit cure of minor irregularities, and to conduct discussions with all qualified Offerors in any manner necessary to serve the best interest of MSA and the State. MSA also reserves the right, in its sole discretion, to award the Contract based upon the written proposals received without prior discussions or negotiations.

3.15 ORAL PRESENTATION

In support of their proposals, Offerors may be required to make an oral presentation not more than two calendar weeks after the office has requested an Offeror to do so. Failure to be prepared to make an oral presentation within this time period may prevent the Offeror's proposal from receiving further consideration. All oral representations will become part of the Offeror's proposal and are binding if the Contract is awarded to the Offeror.

3.16 MULTIPLE PROPOSALS

MSA will not accept multiple or alternative proposals from a single Offeror.

3.17 PROTESTS

Any protest or dispute related respectively to this solicitation or the resulting contract shall be subject to MSA's policies which can be accessed online at MSA's website at: www.mdstad.com.

3.18 PROPOSAL OPENING

Proposals will not be opened publicly.

3.19 REPRESENTATIONS

By submitting a proposal in response to this RFP, the Offeror represents that (a) it is not in arrears in the payment of any obligations due to and owing to the State or any department or unit thereof, including but not limited to the payment of taxes and employee benefits (the "State Obligations"), and (b) it is in compliance with all federal, State and local laws applicable to its activities and obligations under the Contract. Further, if selected for award, the Offeror agrees that these representations will continue in effect during the term of the Contract.

3.20 ORDER OF PRECEDENCE

The relationship between the parties will be embodied in the following documents listed in their order of precedence:

1. the Bond Purchase Agreement (to be negotiated);
2. the executed Contract;
3. the RFP;
4. the Offeror's Proposal.

MSA will not accept any modifications to the order of precedence provision of this solicitation. If the Offeror proposes any terms and conditions in consistent with the requirements of the solicitation, the Offeror must clearly state those terms and conditions in its proposal.

SECTION IV. MINIMUM QUALIFICATIONS

The following qualification must be met to be considered for a contract award:

The firm must hold and maintain at all times all licenses and registrations required by applicable federal and State laws and regulations for firms offering underwriting services.

SECTION V. SCOPE OF SERVICES

5.01 SCOPE OF SERVICES

The scope of services to be rendered to MSA by the Underwriter in connection with the issuance of proposed bonds will include, but not be limited to the following:

A. In General.

Providing on-call underwriting services in connection with its taxable and tax-exempt bond issues and secured by the pledge of revenues subject to appropriation, from leases between the State and MSA, and other related matters, including but not necessarily limited to: providing written and oral advice addressing market conditions, risk analysis and rating agency considerations, financing terms and policy implications; proposing underwriter compensation; in cooperation with MSA, its bond counsel, financial advisor, and the Office of the Attorney General, providing guidance on marketing strategy; and assisting in document preparation and providing input as necessary and appropriate, to include by way of example not limitation, offering documents, purchase agreements, trust indentures, and disclosure agreements.

B. Follow MSA's Policies

Follow MSA's policies, either oral or written, for liability and designation procedures.

C. Prepare and Deliver

Prepare and deliver preliminary pricing information to the MSA and its Financial Advisor, at least one week prior to the scheduled sale. This information should include:

- (a) Actual quotations for the spread components;
- (b) Opinions of syndicate members and an estimated interest rate scale detailing rates and yields;
- (c) Details on comparable recent sales, indicating the interest rates, spread components, ratings, unusual aspects, and so forth;
- (d) A description, characterization and explanation of the economic and market conditions;
- (e) The proposed strategy (including cost estimates) for marketing to investors and others;
- (f) Prepare post-sale summary of the transaction. This document should include:
 - (i) Orders and allotments by firm; and
 - (ii) Discussion of any circumstances relating to the market or the offering that may have impacted the sale results.

D. Consult with MSA

Consult with MSA regarding the selection of persons on the underwriting team; and consult with MSA and its Financial Advisor regarding the structure, timing and sizing of the proposed bond financing.

E. Assist the Office's Assistant Attorney General and Bond Counsel in preparation of legal documentation for the financing.

F. Be responsible (through underwriter's counsel) for the review of the preliminary and final official statement for the bond issue.

G. Participate with the MSA and its Financial Advisor in activities associated with the procurement of ratings.

H. In consultation with the MSA, its Financial Advisor, and underwriting syndicate, or others as directed by the MSA, propose, develop and implement a detailed marketing plan for the bonds appropriate for market conditions at the time of sale and assist financing team members in all other matters as necessary to ensure the successful marketing and sale of the bonds to achieve the lowest possible borrowing cost.

I. Assist as needed in making presentations on proposed bond sales to rating agencies, the Board of Public Works and other State officials and other interested parties.

J. Perform any other service necessary, customary, or incidental to the sale of bonds.

K. Coordinate closing arrangements with the MSA and its Assistant Attorney General, Bond Counsel, and Financial Advisor.

5.02 STANDARD OF CARE

The Underwriter shall perform the services:

- (i) With the standard of care, skill and diligence normally provided by an underwriter in the performance of services similar to the services hereunder; and
- (ii) In accordance with Maryland and applicable federal laws and regulations that govern MSA and its bond financings.

Notwithstanding any review, approval, acceptance or payment for the services by MSA, the Underwriter shall be responsible for the professional and technical accuracy of its work and materials furnished by it under the Contract.

SECTION VI. PROPOSAL FORMAT

6.01 TRANSMITTAL LETTER

Offerors must submit a brief transmittal letter prepared on the Offeror's business stationery, to accompany the original and required three (3) copies of the two-volume proposal. The transmittal letter must be signed by an individual authorized to bind the Offeror to all statements, including services and price, contained within the proposal. The transmittal letter should also indicate that if, selected, the Offeror will execute a contract materially the same as the form of contract set forth in Attachment C.

6.02 TWO-VOLUME SUBMISSION

The selection procedure for this procurement requires that the initial technical evaluation of the proposal be completed before consideration of an Offeror's price proposal. Consequently, each proposal must be submitted in two volumes as indicated below.

6.03 VOLUME I – TECHNICAL PROPOSAL

The volume containing the technical proposal shall be labeled "Volume I – Maryland Stadium Authority- RFP for Underwriting Services - Technical, RFP # 19-046."

The technical proposal volume shall contain the transmittal letter (Section 6.01 above), and the completed Bid/Proposal Affidavit (Attachment B).

The technical proposal volume should be prepared in a clear and concise manner. The ideal response would reiterate each subsection and then list the Offeror's response, item by item so that an evaluator can read the requirement followed by the response.

Offerors submitting proposals for underwriting services need to address the information requested in the following subsections:

A. General Information

- a. Name of Offeror;
- b. The firm's Federal Employer Identification Number;
- c. The name, telephone number and e-mail address of the representative of the firm who is authorized to discuss the firm's proposal.

B. Demonstrate compliance with the Minimum Qualifications as described in Section IV.

Confirm and demonstrate that licenses are current and in good standing with each of the following:

1. The U.S. Securities and Exchange Commission;
2. The National Association of Securities Dealers; and,
3. The State of Maryland.

C. Firm's Experience

1. Provide a brief description of your firm, its capital position and its capabilities. (2 pages maximum)
2. Describe your firm's senior managing underwriting experience for negotiated taxable and tax-exempt fixed rate obligations, issued in 2016, 2017 and 2018. Include the name of the issue, name of the issuer, sale date, and size of the issue. (Provide a one page narrative and list of transactions in an appendix)
3. Describe your firm's municipal sales and distribution capabilities both nationally and in Maryland. (1 page maximum)

D. Project Team

Identify the key members of your firm who will participate in the MSA bond financings and their respective roles (e.g., investment banking, sales, trading). (2 page maximum). Brief resumes should be attached as an appendix to the proposal.

E. Structuring and Marketing Strategies (Limit response to 5 pages, and provide any case studies or examples in an appendix)

1. Discuss why the MSA bond issue(s) will achieve a lower borrowing cost if offered and sold on a negotiated basis with your firm as the senior managing underwriter rather than through competitive sale. Provide details on similar issues senior managed by your firm where the issuer elected a negotiated sale over a competitive sale and provide information on the issuer's rationale to the extent possible.
2. Generally discuss marketing strategies for municipal revenue bonds that may achieve the lowest possible borrowing cost. Discuss in particular such factors as length of marketing period, composition of underwriting syndicate or selling group, and potential benefit of retail business.
3. As a follow-up to #2, discuss market conditions or other factors that may affect marketing, sales, distribution and pricing.
4. Your recommended strategy for future retail sales, including a definition of "retail" and associated rationale; any market conditions that could alter your recommendation; any minimum recommended size for a retail sale; and any strategies for structuring a retail sale.

6.04 DISCLOSURES

Disclose any relationships with persons or entities that may create a conflict of interest, or the appearance of a conflict of interest. This is inclusive of bond counsel or underwriter counsel firms, and GIC or investment brokers. Currently, MSA's financial team consists of Wye River Financial Advisors as the financial advisor and McKennon Shelton and Henn LLP as the Bond Counsel. Should your firm be selected, MSA may require further disclosure of any client relationships that may give rise to a conflict of interest.

Disclose specific details of any criminal or regulatory investigations, legal proceedings (criminal or civil), or regulatory or disciplinary actions by any state or federal regulatory agency involving the firm or members of the firm, or any convictions, judgments or settlements resulting from such proceedings or actions, within the past five years.

6.05 VOLUME II - PRICE PROPOSAL

This volume must be separately sealed and shall be labeled, "Volume II - Maryland Stadium Authority RFP for Underwriting Services - Price Proposal." Offerors proposing to perform underwriting services must complete the "Price Proposal Form," included as Attachment D to this RFP. The price proposal will be evaluated using the weighted average underwriting spread per (\$1,000) bond for services identified in Section V 5.01, including all management and underwriting fees for each bond sale. Also required, for information, are the underwriter's estimated legal and miscellaneous reimbursable expenses.

SECTION VII. EVALUATION AND SELECTION PROCEDURE

7.01 QUALIFYING PROPOSALS

The Procurement Officer first will review each proposal for completeness of response to requirements contained in Section VI, Proposal Format. Failure to respond to the appropriate questions or in the manner required may disqualify an Offeror's proposal from consideration by the Evaluation Committee.

7.02 EVALUATION COMMITTEE AND EVALUATION CRITERIA

All qualifying proposals (those proposals that are reasonably susceptible to selection for Contract award) received by the submission deadline will be evaluated by an Evaluation Committee which will rank the proposals and make a recommendation for award based on (1) technical merit (see Section 7.03 below), as demonstrated in the technical proposal and oral presentations, if any, and (2) fees, both as presented in the best and final offer, if any.

7.03 TECHNICAL EVALUATION

After the Procurement Officer identifies the qualifying proposals the Evaluation Committee will conduct an initial evaluation of the technical merit of each qualifying proposal based on the information provided in the proposal in response to Section 6.03 Volume I - Technical Proposal. The Evaluation Committee's final technical evaluation may include information obtained during oral presentations, if any.

For the technical evaluation, the Evaluation Committee will take into consideration the following factors listed in the order of relative importance:

1. Firm's Experience and Capabilities;
2. Project Team; and
3. Structuring and Marketing Strategies.

7.04 PRICE EVALUATION

Following completion of the initial technical evaluation, the Evaluation Committee will conduct an initial evaluation of the pricing of each proposal and will establish a financial ranking of all proposals.

7.05 BEST AND FINAL OFFER

When deemed in the best interest of MSA and the State, the Procurement Officer may permit qualified Offerors to revise their initial proposals by submitting best and final offers. The

Procurement Officer shall notify each qualified Offeror of the scope of the requested best and final offer, and shall establish a date and time for the submission. The Procurement Officer may require more than one series of best and final offers and discussions, if determined that it is in MSA's or the State's best interest to do so. If more than one best and final offer is requested, an Offeror's immediate previous offer shall be construed as its best and final offer unless the Offeror submits a timely notice of withdrawal or another best and final offer. The Procurement Officer may consult with and seek the recommendation of the Evaluation Committee during the best and final offer process.

7.06 FINAL EVALUATION AND RECOMMENDATION FOR AWARD

Following oral presentations, if any, reference checks, and submissions of best and final offers, if any, the Evaluation Committee will perform its final evaluations and will make a recommendation to the Procurement Officer for award of the Contract(s) to the responsible Offerors whose proposals are determined to be the most advantageous to MSA and the State based on the results of the final technical and price evaluations which will result in an agreed upon compensation schedule to be presented to Offerors. Contract award, if any, is subject to the approval of MSA's Board of Directors upon the recommendation of the Procurement Officer.

7.07 DEBRIEFING OF UNSUCCESSFUL OFFERORS

MSA will provide a debriefing for an unsuccessful Offeror provided the Procurement Officer receives a written request, within a reasonable period of time after sending notice of a final determination of award. Request for debriefings shall be honored at the earliest feasible time after the request has been received.

ATTACHMENTS

ATTACHMENT A – BID/PROPOSAL AFFIDAVIT

ATTACHMENT B – CONTRACT AFFIDAVIT

ATTACHMENT C – CONTRACT FORM

ATTACHMENT D – PRICE PROPOSAL FORM

ATTACHMENT A – BID/PROPOSAL AFFIDAVIT

A. AUTHORITY

I hereby affirm that I, _____ (name of affiant) am the _____ (title) and duly authorized representative of _____ (name of business entity) and that I possess the legal authority to make this affidavit on behalf of the business for which I am acting.

B. CERTIFICATION REGARDING COMMERCIAL NONDISCRIMINATION

The undersigned Bidder/Offeror hereby certifies and agrees that the following information is correct: In preparing its Bid/proposal on this project, the Bidder/Offeror has considered all Bid/proposals submitted from qualified, potential subcontractors and suppliers, and has not engaged in “discrimination” as defined in § 19-103 of the State Finance and Procurement Article of the Annotated Code of Maryland. “Discrimination” means any disadvantage, difference, distinction, or preference in the solicitation, selection, hiring, or commercial treatment of a vendor, subcontractor, or commercial customer on the basis of race, color, religion, ancestry, or national origin, sex, age, marital status, sexual orientation, sexual identity, genetic information or an individual’s refusal to submit to a genetic test or make available the results of a genetic test, disability, or any otherwise unlawful use of characteristics regarding the vendor’s, supplier’s, or commercial customer’s employees or owners. “Discrimination” also includes retaliating against any person or other entity for reporting any incident of “discrimination”. Without limiting any other provision of the solicitation on this project, it is understood that, if the certification is false, such false certification constitutes grounds for the State to reject the Bid/proposal submitted by the Bidder/Offeror on this project, and terminate any contract awarded based on the Bid/proposal. As part of its Bid/proposal, the Bidder/Offeror herewith submits a list of all instances within the past four (4) years where there has been a final adjudicated determination in a legal or administrative proceeding in the State of Maryland that the Bidder/Offeror discriminated against subcontractors, vendors, suppliers, or commercial customers, and a description of the status or resolution of that determination, including any remedial action taken. Bidder/Offeror agrees to comply in all respects with the State’s Commercial Nondiscrimination Policy as described under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland.

B-1. CERTIFICATION REGARDING MINORITY BUSINESS ENTERPRISES.

The undersigned Bidder/Offeror hereby certifies and agrees that it has fully complied with the State Minority Business Enterprise Law, State Finance and Procurement Article, § 14-308(a)(2), Annotated Code of Maryland, which provides that, except as otherwise provided by law, a contractor may not identify a certified minority business enterprise in a Bid/proposal and:

- (1) Fail to request, receive, or otherwise obtain authorization from the certified minority business enterprise to identify the certified minority bid/proposal;
- (2) Fail to notify the certified minority business enterprise before execution of the contract of its inclusion in the Bid/proposal;
- (3) Fail to use the certified minority business enterprise in the performance of the contract; or
- (4) Pay the certified minority business enterprise solely for the use of its name in the Bid/proposal.

Without limiting any other provision of the solicitation on this project, it is understood that if the certification is false, such false certification constitutes grounds for the State to reject the Bid/proposal submitted by the Bidder/Offeror on this project, and terminate any contract awarded based on the Bid/proposal.

B-2. CERTIFICATION REGARDING VETERAN-OWNED SMALL BUSINESS ENTERPRISES.

The undersigned Bidder/Offeror hereby certifies and agrees that it has fully complied with the State veteran-owned small business enterprise law, State Finance and Procurement Article, § 14-605, Annotated Code of Maryland, which provides that a person may not:

- (1) Knowingly and with intent to defraud, fraudulently obtain, attempt to obtain, or aid another person in fraudulently obtaining or attempting to obtain public money, procurement contracts, or funds expended under a procurement contract to which the person is not entitled under this title;
- (2) Knowingly and with intent to defraud, fraudulently represent participation of a veteran-owned small business enterprise in order to obtain or retain a Bid/proposal preference or a procurement contract;
- (3) Willfully and knowingly make or subscribe to any statement, declaration, or other document that is fraudulent or false as to any material matter, whether or not that falsity or fraud is committed with the knowledge or consent of the person authorized or required to present the declaration, statement, or document;
- (4) Willfully and knowingly aid, assist in, procure, counsel, or advise the preparation or presentation of a declaration, statement, or other document that is fraudulent or false as to any material matter, regardless of whether that falsity or fraud is committed with the knowledge or consent of the person authorized or required to present the declaration, statement, or document;
- (5) Willfully and knowingly fail to file any declaration or notice with the unit that is required by COMAR 21.11.13; or
- (6) Establish, knowingly aid in the establishment of, or exercise control over a business found to have violated a provision of § B-2(1) - (5) of this regulation.

C. AFFIRMATION REGARDING BRIBERY CONVICTIONS

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business (as is defined in Section 16-101(b) of the State Finance and Procurement Article of the Annotated Code of Maryland), or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities including obtaining or performing contracts with public bodies has been convicted of, or has had probation before judgment imposed pursuant to Criminal Procedure Article, § 6-220, Annotated Code of Maryland, or has pleaded nolo contendere to a charge of, bribery, attempted bribery, or conspiracy to bribe in violation of Maryland law, or of the law of any other state or federal law, except as follows (indicate the reasons why the affirmation cannot be given and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of person(s) involved, and their current positions and responsibilities with the business):

D. AFFIRMATION REGARDING OTHER CONVICTIONS

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities including obtaining or performing contracts with public bodies, has:

- (1) Been convicted under state or federal statute of:
 - (a) A criminal offense incident to obtaining, attempting to obtain, or performing a public or private contract; or
 - (b) Fraud, embezzlement, theft, forgery, falsification or destruction of records or receiving stolen property;
- (2) Been convicted of any criminal violation of a state or federal antitrust statute;
- (3) Been convicted under the provisions of Title 18 of the United States Code for violation of the Racketeer Influenced and Corrupt Organization Act, 18 U.S.C. § 1961 et seq., or the Mail Fraud Act, 18 U.S.C. § 1341 et seq., for acts in connection with the submission of Bids/Proposals for a public or private contract;
- (4) Been convicted of a violation of the State Minority Business Enterprise Law, § 14-308 of the State Finance and Procurement Article of the Annotated Code of Maryland;
- (5) Been convicted of a violation of § 11-205.1 of the State Finance and Procurement Article of the Annotated Code of Maryland;
- (6) Been convicted of conspiracy to commit any act or omission that would constitute grounds for conviction or liability under any law or statute described in subsections (1) — (5) above;
- (7) Been found civilly liable under a state or federal antitrust statute for acts or omissions in connection with the submission of Bids/Proposals for a public or private contract;
- (8) Been found in a final adjudicated decision to have violated the Commercial Nondiscrimination Policy under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland with regard to a public or private contract;
- (9) Been convicted of a violation of one or more of the following provisions of the Internal Revenue Code:
 - (a) §7201, Attempt to Evade or Defeat Tax;
 - (b) §7203, Willful Failure to File Return, Supply Information, or Pay Tax,
 - (c) §7205, Fraudulent Withholding Exemption Certificate or Failure to Supply Information;
 - (d) §7206, Fraud and False Statements, or
 - (e) §7207 Fraudulent Returns, Statements, or Other Documents;
- (10) Been convicted of a violation of 18 U.S.C. §286 Conspiracy to Defraud the Government with Respect to Claims, 18 U.S.C. §287, False, Fictitious, or Fraudulent Claims, or 18 U.S.C. §371, Conspiracy to Defraud the United States;
- (11) Been convicted of a violation of the Tax-General Article, Title 13, Subtitle 7 or Subtitle 10, Annotated Code of Maryland;

- (12) Been found to have willfully or knowingly violated State Prevailing Wage Laws as provided in the State Finance and Procurement Article, Title 17, Subtitle 2, Annotated Code of Maryland, if:
- (a) A court:
 - (i) Made the finding; and
 - (ii) Decision became final; or
 - (b) The finding was:
 - (i) Made in a contested case under the Maryland Administrative Procedure act; and
 - (ii) Not overturned on judicial review;
- (13) Been found to have willfully or knowingly violated State Living Wage Laws as provided in the State Finance and Procurement Article, Title 18, Annotated Code of Maryland, if:
- (a) A court:
 - (i) Made the finding; and
 - (ii) Decision became final; or
 - (b) The finding was:
 - (i) Made in a contested case under the Maryland Administrative Procedure act; and
 - (ii) Not overturned on judicial review;
- (14) Been found to have willfully or knowingly violated the Labor and Employment Article, Title 3, Subtitles 3, 4, or 5, or Title 5, Annotated Code of Maryland, if:
- (a) A court:
 - (i) Made the finding; and
 - (ii) Decision became final; or
 - (b) The finding was:
 - (i) Made in a contested case under the Maryland Administrative Procedure act; and
 - (ii) Not overturned on judicial review; or
- (15) Admitted in writing or under oath, during the course of an official investigation or other proceedings, acts or omissions that would constitute grounds for conviction or liability under any law or statute described in §§ B and C and subsections D(1)—(14) above, except as follows (indicate reasons why the affirmations cannot be given, and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of the person(s) involved and their current positions and responsibilities with the business, and the status of any debarment):
-
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E. AFFIRMATION REGARDING DEBARMENT

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the

business's contracting activities, including obtaining or performing contracts with public bodies, has ever been suspended or debarred (including being issued a limited denial of participation) by any public entity, except as follows (list each debarment or suspension providing the dates of the suspension or debarment, the name of the public entity and the status of the proceedings, the name(s) of the person(s) involved and their current positions and responsibilities with the business, the grounds of the debarment or suspension, and the details of each person's involvement in any activity that formed the grounds of the debarment or suspension).

F. AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES

I FURTHER AFFIRM THAT:

- (1) The business was not established and does not operate in a manner designed to evade the application of or defeat the purpose of debarment pursuant to Sections 16-101, et seq., of the State Finance and Procurement Article of the Annotated Code of Maryland; and
 - (2) The business is not a successor, assignee, subsidiary, or affiliate of a suspended or debarred business, except as follows (you must indicate the reasons why the affirmations cannot be given without qualification):
-
-

G. SUBCONTRACT AFFIRMATION

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, has knowingly entered into a contract with a public body under which a person debarred or suspended under Title 16 of the State Finance and Procurement Article of the Annotated Code of Maryland will provide, directly or indirectly, supplies, services, architectural services, construction related services, leases of real property, or construction.

H. AFFIRMATION REGARDING COLLUSION

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business has:

- (1) Agreed, conspired, connived, or colluded to produce a deceptive show of competition in the compilation of the accompanying Bid/proposal that is being submitted; or
- (2) In any manner, directly or indirectly, entered into any agreement of any kind to fix the Bid/proposal price of the Bidder/Offeror or of any competitor, or otherwise taken any action in restraint of free competitive bidding in connection with the contract for which the accompanying Bid/proposal is submitted.

I. CERTIFICATION OF TAX PAYMENT

I FURTHER AFFIRM THAT:

Except as validly contested, the business has paid, or has arranged for payment of, all taxes due the State of Maryland and has filed all required returns and reports with the Comptroller of the Treasury,

State Department of Assessments and Taxation, and Department of Labor, Licensing, and Regulation, as applicable, and will have paid all withholding taxes due the State of Maryland prior to final settlement.

J. CONTINGENT FEES

I FURTHER AFFIRM THAT:

The business has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency working for the business, to solicit or secure the Contract, and that the business has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency, any fee or any other consideration contingent on the making of the Contract.

K. CERTIFICATION REGARDING INVESTMENTS IN IRAN

- (1) The undersigned certifies that, in accordance with State Finance and Procurement Article, §17-705, Annotated Code of Maryland:
 - (a) It is not identified on the list created by the Board of Public Works as a person engaging in investment activities in Iran as described in State Finance and Procurement Article, §17-702, Annotated Code of Maryland; and
 - (b) It is not engaging in investment activities in Iran as described in State Finance and Procurement Article, §17-702, Annotated Code of Maryland.
- (2) The undersigned is unable to make the above certification regarding its investment activities in Iran due to the following activities:

L. CONFLICT MINERALS ORIGINATED IN THE DEMOCRATIC REPUBLIC OF CONGO (FOR SUPPLIES AND SERVICES CONTRACTS)

I FURTHER AFFIRM THAT:

The business has complied with the provisions of State Finance and Procurement Article, §14-413, Annotated Code of Maryland governing proper disclosure of certain information regarding conflict minerals originating in the Democratic Republic of Congo or its neighboring countries as required by federal law.

M. PROHIBITING DISCRIMINATORY BOYCOTTS OF ISRAEL

I FURTHER AFFIRM THAT:

In preparing its bid/proposal on this project, the Bidder/Offeror has considered all bid/proposals submitted from qualified, potential subcontractors and suppliers, and has not, in the solicitation, selection, or commercial treatment of any subcontractor, vendor, or supplier, refused to transact or terminated business activities, or taken other actions intended to limit commercial relations, with a person or entity on the basis of Israeli national origin, or residence or incorporation in Israel and its territories. The Bidder/Offeror also has not retaliated against any person or other entity for reporting such refusal, termination, or commercially limiting actions. Without limiting any other provision of the solicitation for bid/proposals for this project, it is understood and agreed that, if this certification is false, such false certification will constitute grounds for the State to reject the bid/proposal submitted by the Bidder/Offeror on this project, and terminate any contract awarded based on the bid/proposal.

N. I FURTHER AFFIRM THAT:

Any claims of environmental attributes made relating to a product or service included in the bid or bid/proposal are consistent with the Federal Trade Commission's Guides for the Use of Environmental Marketing Claims as provided in 16 C.F.R. §260, that apply to claims about the environmental attributes of a product, package or service in connection with the marketing, offering for sale, or sale of such item or service.

O. ACKNOWLEDGEMENT

I ACKNOWLEDGE THAT this Affidavit is to be furnished to the Procurement Officer and may be distributed to units of: (1) the State of Maryland; (2) counties or other subdivisions of the State of Maryland; (3) other states; and (4) the federal government. I further acknowledge that this Affidavit is subject to applicable laws of the United States and the State of Maryland, both criminal and civil, and that nothing in this Affidavit or any contract resulting from the submission of this Bid/proposal shall be construed to supersede, amend, modify or waive, on behalf of the State of Maryland, or any unit of the State of Maryland having jurisdiction, the exercise of any statutory right or remedy conferred by the Constitution and the laws of Maryland with respect to any misrepresentation made or any violation of the obligations, terms and covenants undertaken by the above business with respect to (1) this Affidavit, (2) the contract, and (3) other Affidavits comprising part of the contract.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

By:

Signature of Authorized Representative and Affiant

Printed Name:

Printed Name of Authorized Representative and Affiant

Title:

Date:

ATTACHMENT B - CONTRACT AFFIDAVIT

A. AUTHORITY

I hereby affirm that I, _____ (name of affiant) am the _____ (title) and duly authorized representative of _____ (name of business entity) and that I possess the legal authority to make this affidavit on behalf of the business for which I am acting.

B. CERTIFICATION OF REGISTRATION OR QUALIFICATION WITH THE STATE MSA OF ASSESSMENTS AND TAXATION

I FURTHER AFFIRM THAT:

The business named above is a (check applicable box):

- (1) Corporation — ☐ domestic or ☐ foreign;
- (2) Limited Liability Company — ☐ domestic or ☐ foreign;
- (3) Partnership — ☐ domestic or ☐ foreign;
- (4) Statutory Trust — ☐ domestic or ☐ foreign;
- (5) ☐ Sole Proprietorship.

and is registered or qualified as required under Maryland Law. I further affirm that the above business is in good standing both in Maryland and (IF APPLICABLE) in the jurisdiction where it is presently organized, and has filed all of its annual reports, together with filing fees, with the Maryland State Department of Assessments and Taxation. The name and address of its resident agent (IF APPLICABLE) filed with the State Department of Assessments and Taxation is:

Name and MSA ID Number:

_____ *Address:* _____

and that if it does business under a trade name, it has filed a certificate with the State Department of Assessments and Taxation that correctly identifies that true name and address of the principal or owner as:

Name and Department ID Number:

_____ *Address:* _____

C. FINANCIAL DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, the provisions of State Finance and Procurement Article, §13-221, Annotated Code of Maryland, which require that every business that enters into contracts, leases, or other agreements with the State of Maryland or its agencies during a calendar year under which the business is to receive in the aggregate \$100,000 or more shall, within 30 days of the time when the aggregate value of the contracts, leases, or other agreements reaches \$100,000, file with the Secretary of State of Maryland certain specified information to include disclosure of beneficial ownership of the business.

D. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, Election Law Article, §§14-101 — 14-108, Annotated Code of Maryland, which requires that every person that enters into contracts, leases, or other agreements with the State of Maryland, including its agencies or a political subdivision of the State, during a calendar year in which the person receives in the aggregate \$100,000 or more shall file with the State Board of Elections a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election.

E. DRUG AND ALCOHOL FREE WORKPLACE

(Applicable to all contracts unless the contract is for a law enforcement agency and the agency head or the agency head's designee has determined that application of COMAR 21.11.08 and this certification would be inappropriate in connection with the law enforcement agency's undercover operations.)

I CERTIFY THAT:

(1) Terms defined in COMAR 21.11.08 shall have the same meanings when used in this certification.

(2) By submission of its Bid/Proposal, the business, if other than an individual, certifies and agrees that, with respect to its employees to be employed under a contract resulting from this solicitation, the business shall:

(a) Maintain a workplace free of drug and alcohol abuse during the term of the contract;

(b) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of drugs, and the abuse of drugs or alcohol is prohibited in the business' workplace and specifying the actions that will be taken against employees for violation of these prohibitions;

(c) Prohibit its employees from working under the influence of drugs or alcohol;

(d) Not hire or assign to work on the contract anyone who the business knows, or in the exercise of due diligence should know, currently abuses drugs or alcohol and is not actively engaged in a bona fide drug or alcohol abuse assistance or rehabilitation program;

(e) Promptly inform the appropriate law enforcement agency of every drug-related crime that occurs in its workplace if the business has observed the violation or otherwise has reliable information that a violation has occurred;

(f) Establish drug and alcohol abuse awareness programs to inform its employees about:

- (i) The dangers of drug and alcohol abuse in the workplace;
- (ii) The business's policy of maintaining a drug and alcohol free workplace;
- (iii) Any available drug and alcohol counseling, rehabilitation, and employee assistance programs; and

- (iv) The penalties that may be imposed upon employees who abuse drugs and alcohol in the workplace;

(g) Provide all employees engaged in the performance of the contract with a copy of the statement required by §E(2)(b), above;

(h) Notify its employees in the statement required by §E(2)(b), above, that as a condition of continued employment on the contract, the employee shall:

- (i) Abide by the terms of the statement; and
- (ii) Notify the employer of any criminal drug or alcohol abuse conviction for an offense occurring in the workplace not later than 5 days after a conviction;

(i) Notify the procurement officer within 10 days after receiving notice under §E(2)(h)(ii), above, or otherwise receiving actual notice of a conviction;

(j) Within 30 days after receiving notice under §E(2)(h)(ii), above, or otherwise receiving actual notice of a conviction, impose either of the following sanctions or remedial measures on any employee who is convicted of a drug or alcohol abuse offense occurring in the workplace:

- (i) Take appropriate personnel action against an employee, up to and including termination; or
- (ii) Require an employee to satisfactorily participate in a bona fide drug or alcohol abuse assistance or rehabilitation program; and

(k) Make a good faith effort to maintain a drug and alcohol free workplace through implementation of §E(2)(a)—(j), above.

(3) If the business is an individual, the individual shall certify and agree as set forth in §E(4), below, that the individual shall not engage in the unlawful manufacture, distribution, dispensing, possession, or use of drugs or the abuse of drugs or alcohol in the performance of the contract.

(4) I acknowledge and agree that:

- (a) The award of the contract is conditional upon compliance with COMAR 21.11.08 and this certification;

(b) The violation of the provisions of COMAR 21.11.08 or this certification shall be cause to suspend payments under, or terminate the contract for default under COMAR 21.07.01.11 or 21.07.03.15, as applicable; and

(c) The violation of the provisions of COMAR 21.11.08 or this certification in connection with the contract may, in the exercise of the discretion of the Board of Public Works, result in suspension and debarment of the business under COMAR 21.08.03.

F. CERTAIN AFFIRMATIONS VALID

I FURTHER AFFIRM THAT:

To the best of my knowledge, information, and belief, each of the affirmations, certifications, or acknowledgements contained in that certain Bid/Proposal Affidavit dated _____, 2019, and executed by me for the purpose of obtaining the contract to which this Exhibit is attached remains true and correct in all respects as if made as of the date of this Contract Affidavit and as if fully set forth herein.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date: _____ By: _____
(printed name of Authorized Representative and Affiant)

(signature of Authorized Representative and Affiant)

SUBMIT THIS FORM UPON NOTICE OF AWARD OF CONTRACT

ATTACHMENT C

CONTRACT

THIS CONTRACT (the “**Contract**”) is made as of the ____ day of _____, 20__, by and between [NAME AND ADDRESS] (the “Contractor”), and the MARYLAND STADIUM AUTHORITY, (the “**Authority**”) a body politic and corporate and an instrumentality of the State of Maryland (the “**State**”), 333 West Camden Street, Suite 500, Baltimore, Maryland 21201.

IN CONSIDERATION OF the promises and the covenants herein contained, the parties agree as follows:

ARTICLE I - SCOPE OF SERVICES

The Authority hereby engages the Contractor to perform the services set forth below:

1.1. General Services. The Contractor shall provide underwriting services as described in this Contract, which includes the following exhibits:

Exhibit A The Authority’s Request for Proposals (“RFP”) for Underwriting Services, RFP #19-046;

Exhibit B Contractor’s Proposal dated ____;

Exhibit C Contractor’s Price Proposal dated ____;

Exhibit D Contractor’s Oral Presentation dated ____;

Exhibit E Bid/Proposal Affidavit and Contract Affidavit

1.2. If there are any inconsistencies between this Contract and the Exhibits, the terms of this Contract shall control. If there is any conflict among the Exhibits, Exhibit A, shall control.

1.3 The Procurement Officer may, at any time, by written order, make changes in the work within the general scope of the Contract. No other order, statement or conduct of the Procurement Officer or any other person shall be treated as a change or entitle the Contractor to an equitable adjustment under this section. Except as otherwise provided in this Contract, if any change under this section causes an increase or decrease in the Contractor’s cost of, or the time required for, the performance of any part of the work, whether or not changed by the order, an equitable adjustment in the Contract price shall be made and the Contract modified in writing accordingly. The Contractor must assert in writing its right to an adjustment under this section within thirty (30) days of receipt of written change order and shall include a written statement setting forth the nature and cost of such claim. No claim by the Contractor shall be allowed if asserted after final payment under this Contract. Failure to agree to an adjustment under this section shall be a dispute under

Section 4.5., Disputes. Nothing in this section shall excuse the Contractor from proceeding with the Contract as changed.

ARTICLE II – TERM

2.1. The initial term of this Contract shall be for the period beginning _____201__ and ending _____.

2.2. In addition there shall be two additional one-year renewal options, which may be exercised at the sole discretion of the Authority.

2.3. The provisions of Sections 4.1 (Indemnification), 4.5 (Disputes), 4.6 (Maryland Law Prevails), 4.21 (Retention of Records/Audit), 4.25 (Ownership of Documents and Materials) and 4.26 (Patents, Copyrights and Trade Secrets) of this Contract shall survive termination of this Contract for any reason.

ARTICLE III - CONSIDERATION, PAYMENT AND PERFORMANCE

A. The fees for this Contract will be in accordance with the [Date of Schedule], Schedule of Compensation, agreed to by the Authority and by the Contractor and attached hereto as Exhibit _____. The fees will be incorporated into Bond Purchase Agreements to be negotiated by the Authority and the Contractor for each negotiated sale of Authority bonds. In addition to the customary reasonable legal and miscellaneous expenses which must be approved by the Contract Officer, the take-down management fees per (\$1,000) Bond will be per the “Schedule of Compensation.” The State will pay by maturity for the services identified in the RFP and the Technical Proposal and payments may not be contingent on any other factor or condition in any manner. However, the Authority reserves the right to renegotiate the take-down/management fee for any and all bond sales in a period of extraordinary conditions. Payments to the Contractor shall be made from bond proceeds at, or after closing, in an amount approved by the Contract Officer. In the event that the sale is cancelled, bonds are not sold, or closing does not occur, no payment will be made to the Contractor.

B. Payments to the Contractor may be withheld, without interest or penalty, when in the sole discretion of the Authority, the Contractor’s performance of any of the services under this Contract is unsatisfactory, or does not meet generally accepted industry standards. Notice of such withholding of payment and the reasons therefore shall be promptly provided to the Contractor, who shall be afforded an opportunity to cure any performance deficiencies.

C. 1. All invoices for services shall be submitted to the Contract Officer:

David Raith
Chief Financial Officer
Maryland Stadium Authority
333 West Camden Street, Suite 500
Baltimore, Maryland 21201

2. Invoices for customary reasonable legal and miscellaneous expenses must be submitted prior to or within 30 days after closing of each bond sale.

3. Payments of the customary reasonable legal and miscellaneous expenses to the Contractor pursuant to this Contract normally shall be made at closing from bond proceeds, in the amount approved by the Contract Officer. If made after closing, such payments shall be made no later than 30 days after receipt by the Authority of a proper invoice from the Contractor. Each invoice for services rendered must reflect the Contractor's federal tax identification number, which is _____, and shall clearly indicate the specific type of service provided. Charges for late payment of invoices, other than as prescribed by Title 15, Subtitle 1 of the State Finance and Procurement Article, Annotated Code of Maryland, as from time to time amended are prohibited.

ARTICLE IV – GENERAL CONDITIONS

4.1. Liability

The Contractor agrees to assume full responsibility for any and all damage to the property of the Authority, both real and personal, which results from or arises in connection with, the performance of this Contract.

The Contractor hereby agrees to indemnify and save harmless the State against all claims, damages, costs, losses and liabilities whatsoever, for any and all injury to persons and property that may arise out of the performance of this Contract.

The Contractor agrees to maintain adequate insurance coverage in order to fulfill its responsibilities under this section.

4.2. Reserved

4.3. Subcontracting; Assignment

The Contractor may not subcontract any portion of the services provided under this Contract without obtaining the prior written approval of the Authority, nor may the Contractor sell, transfer, or otherwise assign its obligations under this Contract, or any portion thereof, or any of its rights or obligations hereunder, without the prior written approval of the Authority; provided, however, that the Contractor may subcontract services under or make an assignment of this Contract to an affiliate of the Contractor that is fully capable of performing such services if the Contractor retains full responsibility for the Contract. Any such subcontract or assignment shall be subject to any terms and conditions that the Authority deems necessary to protect the interest of the Authority and the State. The Office shall not be responsible for the fulfillment of the Contractor's obligations to subcontractors.

4.4. Non-Hiring of Officials and Employees

No official or employee of the State of Maryland, as defined under State Government Article, §15-102, Annotated Code of Maryland, whose duties as such official or employee include matters relating to or affecting the subject matter of this Contract, shall during the pendency and term of this Contract and while serving as an official or employee of the State become or be an employee of the Contractor or any entity that is a subcontractor on this Contract.

4.5. Disputes

4.5.1 All disputes arising under or as a result of a breach of the resulting Contract which are not disposed of by mutual agreement shall be resolved in accordance with this Section 4.5.

4.5.2 When a controversy cannot be resolved by mutual agreement, the Contractor shall submit a written request for a final decision to the Executive Director of the Authority. The written request shall set forth all of the facts surrounding the controversy.

4.5.3 The Executive Director shall render a written decision within 90 days of receipt of the Contractor's written request for final decision, unless the time is extended by mutual agreement of the parties to this Contract. This decision shall be furnished to the Contractor by certified mail, return receipt requested or by any other method that provides evidence of receipt. The decision shall be deemed the final action of the Authority. If a decision is not issued within 90 days, or within such extension of time as may be agreed upon by the parties to the Contract, it shall be deemed a decision not to grant the relief requested by the Contractor.

4.5.4 Pending resolution of the claim, the Contractor shall proceed diligently with the performance of the Contract in accordance with the Procurement Officer's decision.

4.6. Maryland Law Prevails

The provisions of this Contract shall be governed by the Laws of Maryland.

4.7. Amendments

This Contract, including the Exhibits hereto, 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. Any amendment to this Contract must first be approved in writing by the Procurement Officer, subject to any additional approvals required by the Authority's Board of Directors and State law. No amendment to this Contract shall be binding unless so approved and unless it is in writing and signed by the party to be charged.

4.8. Nondiscrimination in Employment

The Contractor agrees: (a) not to discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, marital status, national origin, ancestry or disability of a qualified individual with a disability; (b) to include a provision similar to that contained in subsection (a), above, in any subcontract except a subcontract for standard

commercial supplies or raw materials; and (c) to post and to cause subcontractors to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause.

4.9. Commercial Nondiscrimination Clause

4.9.1. As a condition of entering into this Contract, Contractor represents and warrants that it will comply with the State's Commercial Nondiscrimination Policy, as described under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland. As part of such compliance, Contractor may not discriminate on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, disability or other unlawful forms of discrimination in the solicitation, selection, hiring, or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall Contractor retaliate against any person for reporting instances of such discrimination. Contractor shall provide equal opportunity for subcontractors, vendors, and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that this clause does not prohibit or limit lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the marketplace. Contractor understands that a material violation of this clause shall be considered a material breach of this Contract and may result in termination of this Contract, disqualification of Contractor from participating in State contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.

4.9.2. As a condition of entering into this Contract, upon the Maryland Human Relations Commission's request, and only after the filing of a complaint against Contractor under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland, as amended from time to time, Contractor agrees to provide within 60 days after the request a complete list of the names of all subcontractors, vendors, and suppliers that Contractor has used in the past 4 years on any of its contracts that were undertaken within the State of Maryland, including the total dollar amount paid by Contractor on each subcontract or supply contract. Contractor further agrees to cooperate in any investigation conducted by the State pursuant to the State's Commercial Nondiscrimination Policy as set forth under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland, and to provide any documents relevant to any investigation that is requested by the State. Contractor understands that violation of this clause is a material breach of this Contract and may result in Contract termination, disqualification by the State from participating in State contracts, and other sanctions.

4.10. Contingent Fee Prohibition

The Contractor 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 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 fee or any other consideration contingent on the making of this Contract.

4.11. Reserved

4.12 Multi-Year Contracts Contingent upon Appropriations

If the General Assembly 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 State'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 State 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 nonrecurring costs incurred but not amortized in the price of the Contract. The State 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.

4.13 Termination for Default

If the Contractor fails to fulfill its obligation under this Contract properly and on time, or otherwise violates any provision of the Contract, the Authority 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 Authority's option, become the Authority's property. The Authority shall pay the Contractors fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by Contractor's breach. If the damages are more than the compensation payable to the Contractor, the Contractor will remain liable after termination and the Authority can affirmatively collect damages. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.11B.

4.14. Termination for Convenience

The performance of work under this Contract may be terminated by the Authority in accordance with this clause in whole, or from time to time in part, whenever the Authority shall determine that such termination is in the best interest of the Authority. The Authority will pay all reasonable costs associated with this Contract that the Contractor has incurred up to the date of termination and all reasonable costs associated with termination of the Contract. However, the Contractor shall not be reimbursed for any anticipatory profits that have not been earned up to the date of termination. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.12A(2).

4.15. Delays and Extensions of Time

The Contractor agrees to prosecute the work continuously and diligently and no charges or claims for damages shall be made by it for any delays or hindrances from any cause whatsoever during the progress of any portion of the work specified in this Contract. Time extensions will be granted only for excusable delays that arise from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to, acts of God, acts of the public enemy, acts of the State in either its sovereign or contractual capacity, acts of another contractor in the performance of a contract with the State, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of either the Contractor or the subcontractors or suppliers.

4.16. Reserved

4.17. Reserved

4.18. Pre-Existing Policies

Authority policies in effect and regulations set forth in in Title 21 (“Policies and Regulations”) of the Code of Maryland Regulations applicable to this Contract at the time of its execution shall continue to apply to this Contract, subsequent amendments to the Policies and Regulations notwithstanding.

4.19. Financial Disclosure

The Contractor shall comply with the provisions of §13-221 of the State Finance and Procurement Article of the Annotated Code of Maryland, which requires that every business that enters into contracts, leases, or other agreements with the State of Maryland or its agencies during a calendar year under which the business is to receive in the aggregate \$100,000 or more, shall, within 30 days of the time when the aggregate value of these contracts, leases or other agreements reaches \$100,000, file with the Secretary of State of Maryland certain specified information to include disclosure of beneficial ownership of the business.

4.20. Political Contribution Disclosure

The Contractor shall comply with the Election Law Article § 14-101 – 14-108, Annotated Code of Maryland, which requires that every person that enters into contracts, leases, or other agreements with the State, a county or an incorporated municipality, or their agencies, during a calendar year in which the person receives in the aggregate \$200,000 or more, shall file with the State Board of Elections a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election. The statement shall be filed with the State Board of Elections: (1) before a purchase or execution of a lease or contract by the State, a county, an incorporated municipality, or their agencies, and shall cover the preceding two calendar years; and (2) if the contribution is made after the execution of a lease or

contract, then twice a year, throughout the Contract term, on: (a) February 5, to cover the 6-month period ending January 31; and (b) August 5, to cover the 6-month period ending July 31.

4.21. Retention of Records/Audit

The Contractor shall retain and maintain all records and documents relating to this Contract for three years after final payment by the Authority hereunder or any applicable statute of limitations, whichever is longer, and shall make them available for inspection and audit by authorized representatives of the State, including the Procurement Officer or his designee, at all reasonable times.

4.22. Compliance with Laws

The Contractor hereby represents and warrants that:

4.22.1. 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;

4.22.2. It is not in arrears with respect to the payment of any monies due and owing the State of Maryland, 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;

4.22.3. It shall comply with all federal, State and local laws, regulations and ordinances applicable to its activities and obligations under this Contract; and

4.22.4. 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.

4.23. Liability for Loss of Data

In the event of loss of any data or records necessary for the performance of this Contract where such loss is due to the error or negligence of the Contractor, the Contractor shall be responsible, irrespective of cost to the Contractor, for recreating such lost data or records.

4.24. Reserved

4.25. Ownership of Documents and Materials

The Contractor agrees that all documents and materials including, but not limited to, reports, studies, specifications, estimates, graphics, and computations prepared by or for it under the terms of this Contract shall at any time during the performance of the services be made available to the Authority upon request by the Authority and shall become and remain the exclusive property of the Authority upon termination or completion of the services.

The Authority shall have the right to use same without restriction or limitation and without compensation to the Contractor other than that provided by this Contract. The Authority shall be the owner for purposes of copyright, patent or trademark registration.

4.26. Patents, Copyrights and Trade Secrets

4.26.1. If the Contractor furnishes any design, device, material, process or other item, which is covered by a patent, or copyright or which is proprietary to or a trade secret of another, Contractor shall obtain the necessary permission or license to use such item.

4.26.2. Contractor will defend or settle, at its own expense, any claim or suit against the Authority or the State alleging that any such item furnished by Contractor infringes any patent, trademark, copyright, or trade secret. Contractor also will pay all damages and costs that by final judgment may be assessed against the Authority or the State due to such infringement and all attorney fees and litigation expenses reasonably incurred by the Authority or the State to defend against such a claim or suit. The obligations of this paragraph are in addition to those stated in paragraph 4.26.3. below.

4.26.3. If any product(s) furnished by Contractor become, or in Contractor's opinion are likely to become, the subject of a claim of infringement, Contractor will, at its option: (1) procure for the Authority the right to continue using the applicable item; (2) replace the product with a non-infringing product substantially complying with the item's specifications; or (3) modify the item so it becomes non-infringing and performs in a substantially similar manner to the original item.

4.27. Confidentiality

Subject to the Maryland Public Information Act and any other applicable laws, including all confidential or proprietary information and documentation relating to either party (including without limitation, any information or data stored within the Contractor's computer systems) shall be held in absolute confidence by the other party. Each party shall, however, be permitted to disclose relevant confidential information to its officers, agents and employees to the extent that such disclosure is necessary for the performance of their duties under this Contract, provided the data may be collected, used, disclosed, stored and disseminated only as provided by and consistent with the law and the confidentiality provisions of the RFP. The provisions of this section shall not apply to information that (a) is lawfully in the public domain; (b) has been independently developed by the other party without violation of this Contract; (c) was already in the possession of such party; (d) was supplied to such party by a third party lawfully in possession thereof and legally permitted to further disclose the information; or (e) which such party is required to disclose by law.

ARTICLE V - NOTICES

5.1. All notices required to be given by one party to the other hereunder shall be in writing and shall be addressed as follows:

If to the Authority: Procurement Officer
333 West Camden Street, Suite 500
Baltimore, Maryland 21201

With a copy to: Cynthia M. Hahn
Counsel
Office of the Attorney General
200 St. Paul Place, 20th Floor
Baltimore, Maryland 21202

If to the Contractor:

5.2 All invoices and all correspondence and inquiries relating to invoices or payments shall be addressed to:

David Raith
Chief Financial Officer
333 West Camden Street, Suite 500
Baltimore, Maryland 21202

ARTICLE VI – ADMINISTRATION

6.1. The work to be accomplished under this Contract shall be performed under the direction of the Contract Officer, David Raith, CFO. All matters relating to the administration of this Contract shall be referred to the Procurement Officer for determination.

6.2 As used herein, the Authority also means and refers to the State.

ARTICLE VII – REPRESENTATIONS

7.1. Each party to this Contract represents and warrants to the other that it has full right, power, and authority to execute this Contract.

IN WITNESS WHEREOF, the parties have executed this Contract as of the date hereinabove set forth.

ATTEST: [FIRM NAME]

_____ By: _____

WITNESS MARYLAND STADIUM AUTHORITY

_____ By; _____

Approved for form and legal sufficiency

For the Maryland Stadium Authority:

Assistant Attorney General

ATTACHMENT D – PRICE PROPOSAL FORM

(see attached in Excel)