

Maryland Stadium Authority
333 West Camden Street, Suite 500
Baltimore, Maryland 21201



Request for Proposals
SOLID WASTE REMOVAL AND RECYCLING SERVICES
CAMDEN YARD SPORTS COMPLEX
MSA Project No. 21-002

ISSUE DATE: September 28, 2020

DUE DATE: November 18, 2020

KEY INFORMATION SUMMARY SHEET

MARYLAND STADIUM AUTHORITY

RFP MSA 21-002

Issuing Office: Maryland Stadium Authority

Procurement Officer: Sandra Fox
Maryland Stadium Authority
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Contract Officer: Jeff Provenzano
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**Proposal Submission --
Electronically To:** Negometrix eProcurement System:
<https://www.negometrix.com/us/general-terms-Conditions-privacy/>

Solicitation Issue Date: September 28, 2020

Deadline for Receipt of Questions: November 10, 2020 at 4:00 p.m. (local time)

Proposal Due Date and Time: November 18, 2020 no later than 2:00 p.m. (local time)

Tentative Contract Award: January, 2021

**Pre-Proposal Meeting
via Teleconference –** Meet.google.com/tan-onro-qkg
1 929-238-0033 PIN: # 222 771 215#

Date and Time: October 8, 2020 at 10:00 a.m.

MBE Goal: 15% of Contract Value with no subgoals

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 receive any amendments to the RFP, or any other communications relevant thereto.

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SECTION I. PROCUREMENT INFORMATION

1.01 SUMMARY

The Maryland Stadium Authority (“MSA”) is requesting proposals for a highly qualified firm (the “Contractor”) to provide solid waste removal and recycling services at the Camden Yards Sports Complex (CYSC). CYSC includes Oriole Park at Camden Yards (OPCY), the Warehouse at Camden Yards (WH), Camden Station (CS) and M&T Bank Stadium (“M&T”).

- 1.01.1 OPCY is host to a minimum of 81 baseball games per year, which games occur mostly at night, as well as on weekends and holidays. M&T is host to a minimum of 10 NFL football games, as well as other major public events, including, but not limited to, soccer games, concerts and collegiate football games. Events at M&T typically occur on weekends, and also occur at night and on holidays. The WH and CS include fully occupied tenant spaces for office and other commercial uses, including, but not limited to, restaurant spaces.
- 1.01.2 The Contractor’s attention is called to the fact that neither interruption of CYSC operations, nor the existence of any condition which may create a hazard to CYSC operations shall be tolerated during work completed under this contract. For this reason, the Contractor shall strictly comply with the requirements of this Scope of Work and the written and verbal direction of the Contract Administrator and/or Contract Monitors. The proposed work shall be conducted so as to interfere as little as possible with other contractors on-site, event spectators, MSA tenants and employees, and the parking facilities and operations at the CYSC.
- 1.01.3 Due to the nature and schedule of operations at the CYSC, the Contractor will be required to conduct its services under this contract as directed by the Contract Administrator and Contract Monitors whenever necessary to accommodate the event schedule at CYSC. Services may be required 24/7 365 days per year.
- 1.01.4 MSA is seeking a contractor that will be proactive in helping MSA manage all waste and recyclables as accurately and efficiently as possible. The operations at OPCY, WH and CS generate approximately **995** tons of waste per year, approximately **90 tons** of which were diverted for recycling in **2019**. The operations at M&T generate approximately **707** tons of waste per year, approximately **253** of which were diverted for recycling in **2019**.
- 1.01.5 The Maryland Stadium Authority intends to make a single award.
- 1.01.6 An Offeror, either directly or through its subcontractor(s), must be able to provide all goods and services and meet all of the requirements requested in this solicitation and the successful Offeror shall remain responsible for Contract performance regardless of subcontractor participation in the work.

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 its 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 be a pre-proposal conference held remotely at the date and time indicated on the Key Information Summary Sheet.

1.05 QUESTIONS AND INQUIRIES

All Offerors (also referred to herein as “Contractor”) should direct their questions and inquiries to the Procurement Officer. Questions must be submitted in writing by email or other electronic means and received by the Procurement Officer no later than 4:00 pm (local time) on the date specified on the Key Information Summary Sheet. Emailed questions should include in the subject “**MSA Project No. 21-002–Solid Waste Removal and Recycling Services**.” 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

1.06.1 To be considered for award, Offerors should submit their proposal electronically as directed on the Key Information Summary Sheet and **Attachment J** hereto; (ii) electronic proposals must be submitted into the Negometrix eProcurement System no later than the date and time set forth on the Key Information Summary Sheet; and (iii) Proposal submissions must comply with the Proposal Submission Requirements in Section VIII.

Registration for Negometrix is free. Please refer questions to Negometrix Help Desk or the MSA Procurement Officer. **PROPOSALS DELIVERED BY EMAIL OR OTHER ELECTRONIC MEANS WILL NOT BE CONSIDERED.** Refer to Section 5 Proposal Format for two-volume submission requirements. In the event the Offeror must submit paper copies, Offeror must contact the Procurement Officer for instructions to do so. In any event, the proposal must be received by the Procurement Officer prior to the deadline for submission.

1.06.2 MSA will not grant requests for extension of the submission date or time. MSA will not consider Proposals or unsolicited amendments to Proposals after the date and time when the proposals are due, regardless of the method of their transmission.

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. GENERAL INFORMATION

2.01 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 requires the Procurement Officer to make an independent determination whether or not information must be disclosed.

2.02 EXPENSES

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

2.03 OFFEROR'S AFFIDAVITS

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

2.04 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.

2.05 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 F. Any exceptions to this RFP or Attachment F 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.

2.06 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.

2.07 MINORITY PARTICIPATION

Minority Business Enterprises are encouraged to respond to this solicitation.

2.07.1 An overall MBE subcontractor participation goal as identified in the Key Information Summary Sheet has been established for this procurement, representing a percentage of the total Contract dollar value, including all renewal option terms, if any, has been established for this procurement.

2.07.2 Notwithstanding any subgoals established for this RFP, the Contractor is encouraged to use a diverse group of subcontractors and suppliers from any/all of the various MBE classifications to meet the remainder of the overall MBE participation goal.

2.07.3 By submitting a response to this solicitation, the Offeror acknowledges the overall MBE subcontractor participation goal and subgoals, and commits to achieving the overall goal and subgoals by utilizing certified minority business enterprises, or requests a full or partial waiver of the overall goal and subgoals.

2.07.4 An Offeror that does not commit to meeting the entire MBE participation goal outlined in this Section 4.28 must submit a request for waiver with its proposal submission that is supported by good faith efforts documentation to meet the MBE goal made prior to submission of its proposal as outlined in Attachment D-1B, Waiver Guidance. Failure of an Offeror to properly complete, sign, and submit Attachment D-1A at the time it submits its Technical Response(s) to the RFP will result in the State's rejection of the Offeror's Proposal for the applicable Service Category. This failure is not curable.

2.07.5 Attachments.

- A. Minority Business Enterprise instructions, and forms are provided in Attachment D to assist Offerors.
- B. The Offeror shall include with its Proposal a completed MBE Utilization and Fair Solicitation Affidavit (Attachment D-1A) whereby:
 1. The Offeror acknowledges the certified MBE participation goal and commits to make a good faith effort to achieve the goal and any applicable subgoals, or requests a waiver, and affirms that MBE subcontractors were treated fairly in the solicitation process; and
 2. The Offeror responds to the expected degree of MBE participation, as stated in the solicitation, by identifying the specific commitment of certified MBEs at the time of Proposal submission. The Offeror shall specify the percentage of total contract value associated with each MBE subcontractor identified on the MBE participation schedule, including any work performed by the MBE prime (including a prime participating as a joint venture) to be counted towards meeting the MBE participation goals.
 3. The Offeror requesting a waiver should review Attachment D-1B (Waiver Guidance) and D-1C (Good Faith Efforts Documentation to Support Waiver Request) prior to submitting its request.
 4. If the Offeror fails to submit a completed Attachment D-1A with the Proposal as required, the Procurement Officer shall determine that the Proposal is not reasonably susceptible of being selected for award.

2.07.6 Offerors are responsible for verifying that each MBE (including any MBE prime and MBE prime participating in a joint venture) selected to meet the goal and any subgoals and subsequently identified in Attachment D-1A is appropriately certified and has the correct NAICS codes allowing it to perform the committed work.

2.07.7 Within ten (10) Business Days from notification that it is the recommended awardee or from the date of the actual award, whichever is earlier, the Offeror must provide the following documentation to the Procurement Officer:

- A. Outreach Efforts Compliance Statement (Attachment D-2);
- B. MBE Subcontractor/Prime Project Participation Certification (Attachment D-3A/3B); and
- C. Any other documentation required by the Procurement Officer to ascertain Offeror responsibility in connection with the certified MBE subcontractor participation goal or any applicable subgoals.

D. Further, if the recommended awardee believes a waiver (in whole or in part) of the overall MBE goal or of any applicable subgoal is necessary, the recommended awardee must submit a fully-documented waiver request that complies with COMAR 21.11.03.11.

If the recommended awardee fails to return each completed document within the required time, the Procurement Officer may determine that the recommended awardee is not responsible and, therefore, not eligible for Contract award. If the Contract has already been awarded, the award is voidable.

2.07.8 A current directory of certified MBEs is available through the Maryland State Department of Transportation (MDOT), Office of Minority Business Enterprise, 7201 Corporate Center Drive, Hanover, Maryland 21076. The phone numbers are (410) 865-1269, 1-800-544-6056, or TTY (410) 865-1342. The directory is also available on the MDOT website at <http://mbe.mdot.maryland.gov/directory/>. The most current and up-to-date information on MBEs is available via this website. Only MDOT-certified MBEs may be used to meet the MBE subcontracting goals.

2.07.9 The Offeror that requested a waiver of the goal or any of the applicable subgoals will be responsible for submitting the Good Faith Efforts Documentation to Support Waiver Request (Attachment D-1C) and all documentation within ten (10) Business Days from notification that it is the recommended awardee or from the date of the actual award, whichever is earlier, as required in COMAR 21.11.03.11.

2.07.10 All documents, including the MBE Utilization and Fair Solicitation Affidavit & MBE Participation Schedule (Attachment D-1A), completed and submitted by the Offeror in connection with its certified MBE participation commitment shall be considered a part of the Contract and are hereby expressly incorporated into the Contract by reference thereto. All of the referenced documents will be considered a part of the Proposal for order of precedence purposes (see Contract – Attachment F).

2.07.11 The Offeror is advised that liquidated damages will apply in the event the Contractor fails to comply in good faith with the requirements of the MBE program and pertinent Contract.

2.08 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.

2.09 NO GUARANTEE OF WORK

No Contractor is guaranteed any minimum amount of work or compensation.

2.10 CONTRACT DELIVERABLES

A. The Contract term shall commence as of a date to be specified in the Contract.

B. Offeror shall acknowledge the above delivery dates in its proposal and advise if the current COVID travel restrictions will impact the schedule. MSA understands COVID related restrictions are evolving and subject to change. Should this occur, MSA and the Contractor shall mutually agree upon a revised schedule.

2.11 START-UP

The Contractor shall conduct any necessary due diligence prior to commencement of the Contract in order to perform the work at no cost to MSA or the State.

2.12 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 an 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/

2.13 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.

2.14 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.

2.15 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.

2.16 MULTIPLE PROPOSALS

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

2.17 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.

2.18 PROPOSAL OPENING

Proposals will not be opened publicly.

2.19 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.

2.20 ORDER OF PRECEDENCE

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

1. the executed Contract;
2. the Contract Affidavit;
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.

2.21 RESERVED

2.21.2 Direct Damages.

2.21.2.1 MSA may deduct for direct damages sustained as a result of Contractor's failure to perform as required under this Contract.

2.21.3 Payment Adjustments.

2.21.3.1 MSA shall notify the Contractor of each payment adjustment due to the imposition of liquidated or direct damages.

2.21.3.2 MSA shall provide the Contractor with such evidence as MSA determines is adequate to justify each adjustment.

2.21.3.3 If the Contractor does not agree with the adjustment or the action taken to obtain the adjustment, the Contractor's sole remedy to resolve the issue is as provided in Article 12 (Disputes) of this Contract.

2.22 RESERVED

2.23 CONSUMER PRICE INDEX

2.23.1 If the option years for 2024 and 2025 (option years 4 and 5) are exercised by MSA, on each February anniversary of the contract, the unit prices for the contract shall be adjusted by the change in the Consumer Price Index for the immediate twelve month period using the CPI formula as set out herein. The contract adjustment each for each such extension year shall be the increase in the Consumer Price Index, which increase shall not exceed 5%.

2.23.2 The Consumer Price Index shall be defined as follows: At the end of the contract term or of any extension or renewal hereof, the contract amount for the next succeeding year shall be increased by the annual increase in the Consumer Price Index ("CPI") where "CPI" is the Consumer Price Index for the month of January just preceding such anniversary year, and the "Base CPI" is the Consumer Price Index for March of the previous contract year. As used herein, Consumer Price Index shall mean and refer to the table in the Consumer Price Index published by the United States Department of Labor, Bureau of Labor Statistics, now known as the "Consumer Price Index" for all Urban Consumers (Index 1982-1984=100). If such Index referred to above shall be discontinued, then any successor Consumer Price Index of the United States Bureau of Labor Statistics, or successor agency thereto, shall be used.

2.24 SUSTAINABILITY POLICIES

The MSA is committed to procuring all supplies, services, maintenance, construction and architect-engineer services in a manner consistent with the promotion of sound environmental practices. Moreover, Camden Yards Sports Complex has adopted certain policies and procedures in furtherance of its LEED certification endeavor. In connection therewith, all goods and services provided in response to this solicitation shall conform to the policies attached hereto as Attachment I as applicable.

2.25 MBE AND PREVAILING WAGE COMPLIANCE SYSTEM

As part of MSA's commitment to assist firms in complying with legal and contractual requirements, MSA maintains a web-based MBE and prevailing wage compliance system (See Appendix I – MSA Contract Compliance System Information). The system was designed to provide various workflow automation features that improve the project reporting process. This system will monitor contract compliance for all Program contracts. The prime firm, its first tier Contractors, and all MBE participation subcontractors awarded contracts will be required to use the web-based system to submit project information including, but not limited to, certification of payments made and received and certified payroll records (if the contract includes prevailing wage and/or workforce development requirements). MSA may require additional information related to the contract to be provided electronically through the system at any time, during, or after contract award.

SECTION III. MINIMUM QUALIFICATIONS

3.01 OFFEROR MINIMUM QUALIFICATIONS

Each Offeror shall clearly demonstrate and document within the Technical Proposal that as of the proposal due date the Offeror meets the following Minimum Qualifications. The Executive Summary shall include reference to the page number(s) in the Technical Proposal where such evidence can be found.

3.01.1 The Offeror must demonstrate that it possesses, within the last five (5) years minimum experience in providing 24/7 waste hauling and recycling services of the same type and size at large commercial facilities that operate in a similar fashion to the CYSC. The experience of individual employees or combinations of employees may not be substituted for company experience.

3.01.2 The Contractor must be registered to do business in the State of Maryland and must be in good standing in order to receive a contract award.

3.01.3 Copies of required licenses and certifications, if any, shall be provided with the Technical Offer.

3.01.4 Whether or not a Bidder is qualified for award is at the sole and absolute discretion of the Procurement Officer or designee.

NOTE: An Offeror meeting these minimum requirements does not guarantee that the Offeror will be deemed responsible or have its Technical Offer deemed acceptable.

SECTION IV. Scope of Services

4.01 SCOPE OF SERVICES

4.01.1 **Management of Waste and Recyclables** The Contractor shall:

- (a) manage all waste streams from CYSC facilities including all regularly generated solid, non-hazardous waste and recyclables;
- (b) maintain existing waste and recycling service levels for a seamless program transition;
- (c) develop waste and cost reduction initiatives;
- (d) improve upon quantities and types of materials currently recycled;
- (e) shall provide full documentation of material removed in a monthly report submitted to MSA; and.
- (f) must meet all Federal EPA, OSHA, and MDE guidelines.

4.01.2 **General Requirements**

4.01.2.1 All waste found in the containers at the time of collection shall become the sole property and responsibility of the Contractor. If there are unauthorized items found in the containers, the Contractor shall request MSA to remove such items.

4.01.2.2 MSA shall not be responsible for the manner in which the Contractor hauls, disposes, or otherwise handles solid waste and recyclable after collection.

4.01.2.3 MSA may contact the Contractor at any time to report the need for emergency solid waste and recycling services and the Contractor must respond and initiate required corrective action within two (2) hours from the time of call at no additional cost to MSA. MSA reserves the right to withhold part of any payment due to the Contractor if the Contractor fails to respond to MSA within the two (2) hour response time. The withheld amount shall be at the sole discretion of MSA and be not less than ten percent (10%), nor more than fifty percent (50%) of the authorized amount. Failure to respond with the time specified may also result in default of the Contractor and termination of the contract at no cost and penalty to MSA. If the contractor is unable to respond within the requested time frame, MSA may also elect to employ an alternate contractor to perform the necessary work.

4.01.2.4 The Contractor may be required to work with or provide reporting information to third party consultant(s) as assigned by MSA, to assist with record keeping, reporting of waste and recycling statistics, etc. at no additional cost to MSA.

4.01.2.5 The Contractor shall support MSA's sustainability efforts by providing assistance with increased recycling, improved operational efficiency, and other environmental management solutions at the CYSC.

4.01.2.6 MSA utilizes CMMS (Computerized Maintenance Management Software) to track and trend all maintenance costs. The CMMS number must be on each daily work ticket and included with any billing.

4.01.3 Container Requirement, Condition and Placement

4.01.3.1 The Contractor shall not place or submit to MSA any container that is in an unacceptable condition. All containers shall be painted an acceptable color by MSA and must have appropriate markings and labels. No container shall leak or have rust spots.

4.01.3.2 The Contractor shall keep the exterior surface of all containers, including compactors, clean and in acceptable condition. Weather permitting – when temperatures are above freezing – all compactors shall be pressure washed using a detergent once a month, or as required by MSA. The monthly compactor cleaning service shall be at no additional cost to MSA. The location of this cleaning shall be determined by MSA. MSA reserves the right to request additional cleaning services for any of the containers. Compensation for additional cleaning shall be according to the labor rates set forth in the Financial Bid.

4.01.3.3 The Contractor shall paint and re-label all containers on an annual basis or as determined by MSA at no additional cost to MSA.

4.01.3.4 The placement of containers is subject to change by MSA with no additional cost to MSA.

4.01.3.5 The Contractor must assist with cleaning up any spills and debris during the collection cycles at no additional cost to MSA. Refuse within ten feet of the container on the ground shall be picked up by the Contractor regardless if the spill was caused by the contractor or by others. Excessive debris around the container(s) shall be documented and reported to MSA.

4.01.3.6 The Contractor shall ensure that all load-packers or other vehicles used at CYSC do not leak from the trash hopper or petroleum products from the engine or hydraulics. MSA reserves the right to restrict access to any vehicle that leaks and requires a replacement or immediate repair of such vehicle at no additional cost to MSA.

4.01.3.7 The Contractor shall be responsible for observing, documenting and immediately reporting to MSA any hazardous conditions; including, but not limited to, the discovery of hazardous materials placed in improper containers, tripping hazards, chemical spills, etc.

4.01.3.8 MSA reserves the right to restrict access if the vehicle emits noxious odors.

4.01.3.9 All containers furnished by the Contractor remain the property of the Contractor unless purchased by MSA.

4.01.4 Collection, Transport and Return of Containers

4.01.4.1 The Contractor shall collect containers from CYSC on a scheduled basis as directed by MSA, and return the containers, after being emptied, to the collection sites. The Contractor may have the option of exchanging containers at the collection site

4.01.4.2 The maximum time allowed for the collection cycle (pick-up and return of one (1) container) shall be sixty (60) minutes.

4.01.4.3 The Contractor shall maintain a log showing the date and time of each collection cycle. The Contractor shall submit this log along with the monthly invoice.

4.01.5 Additional Containers and/or Collections

4.01.5.1 Additional containers and/or cycles will be required for post-event clean-up at OPCY and M&T Bank. Typical events at OPCY require four (4) 30-yard open top containers for solid waste and two (2) 30-yard open top containers for recycling. Typical events at M&T require one (1) 30-yard open top containers for solid waste and three (3) 30-yard open top containers for recycling. More or less containers may be required based upon the amount of solid waste and recyclables generated at the particular event. The actual number of containers for any given event will be determined by the MSA Contract Monitor.

4.01.5.2 The cost to MSA for the additional containers and/or cycles shall be in accordance with the unit prices in the Financial Proposal.

4.01.6 Preventive Maintenance and Repairs

4.01.6.1 The Contractor shall perform preventive maintenance and repair service as needed to all containers at no additional cost to MSA. Compensation for the preventive maintenance service shall be included in the price of the collection cycles.

4.01.6.2 Preventive maintenance to compactors shall be performed according to manufacturer's recommendations. Preventive maintenance shall include, but is not limited to, inspecting hoses and rails, greasing all fittings, changing of hydraulic filters, checking of fluid levels, removing dust and dirt from outside of the control box, cleaning refuse from behind ram, and checking the cylinder pins and retaining bolts. Repairs shall be made as needed and when found. The Contractor shall submit a work ticket for each compactor detailing what preventive maintenance was performed, repairs made (if any) and any recommendations.

4.01.7 **Communications**

4.01.7.1 The Contractor shall establish a communications link with MSA for the duration of the contract. The Contractor must provide a home/office phone number where MSA can contact or leave a message on a 24-hour, seven (7) days a week basis.

4.01.7.2 The Contractor must also provide MSA an email address or cell phone number where work requests can be forward or other exchanges of information may occur.

4.01.7.3 MSA's Contract Monitor(s) shall be the primary point of contact for MSA following award of the contract.

4.01.8 **MSA Contract Administration**

4.01.8.1 MSA's assigned Contract Monitor shall administer the day-to-day functions and communications between MSA and the Contractor.

4.01.8.2 The monitoring of the performance of the Contract is vested in the MSA Contract Monitor, designee and higher supervision. The Contract Monitor, designee and higher supervision shall decide any and all questions which arise under the contract, including, but not limited to, quality and acceptability of materials furnished, work performed and the manner of performance and rate of progress of the work.

4.01.9 **Compensation to the Contractor**

4.01.9.1 The Contractor shall be compensated on a monthly basis for work completed the previous month in accordance with the unit rates identified in the Financial Proposal.

4.01.9.2 The financial price and number of collection cycles indicated in this specification and/or on the Financial Proposal form is not a guarantee of payment to the Contractor. Payment to the Contractor shall be made for the actual quantities of contract items performed in accordance with the specifications. The indicated schedule in the financial proposal worksheet is based on the estimated number of collection cycles required. Approval of the actual work schedule is at the sole discretion of the MSA and subject to schedule adjustments, depending on the requirements of MSA.

4.01.9.3 The Contractor shall be compensated for the following items:

- a. Collection Cycles
 - i. Solid Waste Removal
 - ii. Recycling Removal

*** the unit price for each collection cycle shall include, but not be limited to, the following:

- containers;
- collection;
- transportation of containers;
- all labor;
- preventive maintenance and repairs;
- return or replacement of empty containers;

- all fees, permits, etc. associated with disposing of the waste; and
- Contractor's overhead and profit, etc.

b. Solid Waste Disposal Allowance

MSA shall compensate the Contractor for all waste disposal costs at the per ton rate submitted in the Financial Proposal regardless of the actual cost of the waste disposal or any other cost.

c. Recycling Disposal Allowance

MSA shall compensate the Contractor for all recycling disposal costs at the per ton rate submitted in the Financial Bid regardless of the actual cost of the recycling disposal or any other cost.

d. Additional Container Cleanings

MSA reserves the right to request additional compactor pressure washing services or the pressure washing of additional containers. Compensation for the additional cleaning services shall be in accordance with the unit rates established in the Financial Proposal.

4.01.9.4. MSA may at its discretion reduce the monthly cost between ten percent (10%) to fifty percent (50%) depending upon the number of infractions, repeat offenses, etc. if work is incomplete or not properly completed as determined by MSA, until the work is completed and approved by MSA.

MSA reserves the right to perform any work called for in this contract by MSA forces or other contractual means.

4.02 STANDARD OF CARE

The Contractor shall perform the services:

- (i) With the standard of care, skill and diligence normally provided by a Contractor 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 properties.

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

SECTION V. PROPOSAL FORMAT

5.01 TRANSMITTAL LETTER

Offerors must submit a brief transmittal letter prepared on the Offeror's business stationery, to accompany the technical 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 F.

5.02 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.

5.03 VOLUME I – TECHNICAL PROPOSAL

The volume containing the technical proposal shall be labeled "Volume I – Solid Waste Removal and Recycling - Technical, RFP # 21-002."

The technical proposal volume shall contain the transmittal letter (Section 5.01 above) and the completed Bid/Proposal Affidavit (Attachment).

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 Solid Waste Removal and Recycling 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 Offeror who authorized to discuss the Offeror's proposal.
- B. Demonstrate compliance with the Minimum Qualifications as described in Section III.
- C. Project Work Plan and Contract Understanding

To demonstrate your understanding of the scope of work and how the contract requirements are proposed to be met under this contract, provide a detailed Work Plan that specifically addresses the firms' plan to meet the contract requirements. Include, at a minimum:

- (a) proposed timing and delivery of services for daily operations, baseball games, football games and other events that may occur during all hours of the day and night, seven days a week, 365 days per year;
- (b) proposed equipment and resources needed;
- (c) maintenance plan, etc.

- (d) MBE Subcontract Participation Plan – Provide a detailed description of how your firm intends to meet the MBE goal of **15 percent (15%)** with no subgoals. Describe specifically the tasks proposed to be completed by your MBE partners.

D. Sustainability Initiatives

Provide a brief statement on your firm’s ability to partner with MSA in meeting and exceeding MSA’s sustainability goals, particularly with respect to waste diversion.

- What do you see as MSA’s biggest challenge(s) when it comes to increasing its diversion/recycling rate? How might your firm be able to assist MSA with enhancing its recycling program.
- Does your firm currently perform large scale commercial compost hauling in the State of Maryland? If so, where? Discuss any current opportunities or challenges to MSA in successfully diverting organic waste from its facilities.

E. Experience and Qualifications of Proposed Staff

The Offeror shall briefly summarize the experience of key personnel who would be working on this contract. Include information on past experience with similar projects and/or services.

F. Offeror Qualifications and Capabilities

Address, at a minimum, the following:

Provide a brief company overview including:

Note: The same information should be provided for any identified subcontractors or joint venture partners that would be working on the contract.

- History of the company, including the number of years the Offeror has provided these services.
- Company size.
- Number total of employees.
- Provide a description of prior and existing solid waste and recycling service contracts that are similar in size and scope to this contract. Highlight other solid waste removal and recycling contracts the firm has performed and describe the similarity to the Camden Yards Sports Complex.
- A minimum of five (5) contract references; including the name, title and telephone number of point-of-contact for each reference. References from other MLB and/or NFL stadium operators are preferred.
- Provide the size of your fleet in the Baltimore metropolitan area and the amount of drivers employed in this region;
- State whether your firm currently perform any other contract(s) that require round the clock availability 365 days per year. If so, please describe the similarity of services to this contract.

F. Subcontractors

The Offeror shall provide a complete list of all subcontractors that will work on the Contract if the Offeror receives an award, including those utilized in meeting the MBE subcontracting goal, if applicable. This list shall include a full description of the duties each subcontractor will perform and why/how each subcontractor was deemed the most qualified for this project. See Section F for additional Offeror requirements related to subcontractors.

G. Legal Action Summary

This summary shall include:

1. A statement as to whether there are any outstanding legal actions or potential claims against the Offeror and a brief description of any action;
2. A brief description of any settled or closed legal actions or claim against the Offeror over the past five (5) years;
3. A description of any judgments against the Offeror within the past five (5) years, including the case name, court case docket number, and what the final ruling or determination was from the court; and;
4. In instances where litigation is on-going and the Offeror has been directed not to disclose information by the court, provide the name of the judge and location of the court.

5.04 DISCLOSURES

Disclose any relationships with persons or entities that may create a conflict of interest, or the appearance of a conflict of interest. Should Offeror be selected, MSA may require further disclosure of any client relationships that may give rise to a conflict of interest.

5.05 VOLUME II – PRICE PROPOSALS

This volume must be uploaded as a separate attachment separately in the e-procurement system and shall be labeled, “Volume II – **RFP for 21-002 Price Proposal.**” Offerors proposing to perform Solid Waste Removal and Recycling must complete the “Price Proposal Form,” included as **Attachment B** to this RFP. The Offeror shall complete the Financial Proposal Form only as provided in the Financial Proposal Instructions and the Financial Proposal Form itself. Do not amend, alter, or leave blank any items on the Financial Proposal Form or include additional clarifying or contingent language on or attached to the Financial Proposal Form. Failure to adhere to any of these instructions may result in the Proposal being determined to be not reasonably susceptible of being selected for award and rejected by the MSA.

The price *must* be a fixed lump sum fee to complete all contract requirements. The fee *shall include* all sums payable by MSA, including all anticipated travel expenses and costs Offeror would incur and otherwise “pass through.”

SECTION VI. EVALUATION AND SELECTION PROCEDURE

6.01 QUALIFYING PROPOSALS

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

6.02 SELECTION PROCEDURES

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 6.03 below), as demonstrated in the technical proposal and oral presentations, if any, and (2) financial proposal, as presented, or in the best and final offer, if any. MSA reserves the right to develop a short-list of firms most susceptible for award and to make an award without holding discussions. With or without discussions, MSA may determine an offeror to be not responsible or the Offeror's proposal to be not susceptible of being selected for award at any time after the initial closing date for receipt of proposals and prior to contract award.

6.03 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 5.03 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, as described in Section 5.03 above:

1. Offeror Qualifications and Capabilities, with an emphasis on prior successful experience on other similar contracts, particularly NFL and/or MLB facilities;
2. Work Plan;
3. Experience and Qualifications of Proposed Staff and Subcontractor; and
4. Sustainability Initiatives.

6.04 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. Offers will be ranked from the lowest (most advantageous) to the highest (least advantageous) price based on the fee proposal as may be amended by a best and final offer in accordance with Section 6.05.

6.05 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.

6.06 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 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. Contract award, if any, is subject to the approval of MSA's Board of Directors upon the recommendation of the Procurement Officer.

6.07 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 that a final determination has been made. Request for debriefings shall be honored at the earliest feasible time after the request has been received.

RFP ATTACHMENTS AND APPENDICES

ATTACHMENT A - RESERVED

ATTACHMENT B - Financial Proposal Instructions and Form

ATTACHMENT C - Bid/Proposal Affidavit

ATTACHMENT D – MBE Forms

ATTACHMENT E - Conflict of Interest Affidavit and Disclosure

ATTACHMENT F - Contract Form

ATTACHMENT G - Contract Affidavit

ATTACHMENT H – RESERVED

ATTACHMENT I – MSA Sustainability Policies

ATTACHMENT J - Negometrix Instructions

ATTACHMENT A. - RESERVED

ATTACHMENT B. FINANCIAL PROPOSAL INSTRUCTIONS AND FORM

B-1 Financial Proposal Instructions

In order to assist Offerors in the preparation of their Financial Proposal and to comply with the requirements of this solicitation, Financial Proposal Instructions and a Financial Proposal Form have been prepared. Offerors shall submit their Financial Proposal on the Financial Proposal Form in accordance with the instructions on the Financial Proposal Form and as specified herein. Do not alter the Financial Proposal Form or the Proposal may be determined to be not reasonably susceptible of being selected for award. The Financial Proposal Form is to be signed and dated, where requested, by an individual who is authorized to bind the Offeror to the prices entered on the Financial Proposal Form.

The Financial Proposal Form is used to calculate the Offeror's TOTAL Proposal PRICE. Follow these instructions carefully when completing your Financial Proposal Form:

- A) All Unit and Extended Prices must be clearly entered in dollars and cents, e.g., \$24.15. Make your decimal points clear and distinct.
- B) All Unit Prices must be the actual price per unit the State will pay for the specific item or service identified in this RFP and may not be contingent on any other factor or condition in any manner.
- C) All calculations shall be rounded to the nearest cent, e.g., .344 shall be .34 and .345 shall be .35.
- D) Any goods or services required through this RFP and proposed by the vendor at **No Cost to the State** must be clearly entered in the Unit Price, if appropriate, and Extended Price with **\$0.00**.
- E) Every blank in every Financial Proposal Form shall be filled in. Any changes or corrections made to the Financial Proposal Form by the Offeror prior to submission shall be initialed and dated.
- F) Except as instructed on the Financial Proposal Form, nothing shall be entered on or attached to the Financial Proposal Form that alters or proposes conditions or contingencies on the prices. Alterations and/or conditions may render the Proposal not reasonably susceptible of being selected for award.
- G) It is imperative that the prices included on the Financial Proposal Form have been entered correctly and calculated accurately by the Offeror and that the respective total prices agree with the entries on the Financial Proposal Form. Any incorrect entries or inaccurate calculations by the Offeror will be treated as provided in COMAR 21.05.03.03.F and may cause the Proposal to be rejected.
- H) If option years are included, Offerors must submit pricing for each option year. Any option to renew will be exercised at the sole discretion of the State and comply with all terms and conditions in force at the time the option is exercised. If exercised, the option period shall be for a period identified in the RFP at the prices entered in the Financial Proposal Form.
- I) All Financial Proposal prices entered below are to be fully loaded prices that include all costs/expenses associated with the provision of services as required by the RFP. The Financial Proposal price shall include, but is not limited to, all: labor, profit/overhead, general operating, administrative, and all other expenses and costs necessary to perform the work set forth in the solicitation. No other amounts will be paid to the Contractor. If labor rates are requested, those amounts shall be fully-loaded rates; no overtime amounts will be paid.
- K) Failure to adhere to any of these instructions may result in the Proposal being determined not reasonably susceptible of being selected for award.

B-1 Financial Proposal Form (Separate Attachment)

The Financial Proposal Form shall contain all price information in the format specified on these pages. Complete the Financial Proposal Form only as provided in the Financial Proposal Instructions. Do not amend, alter or leave blank any items on the Financial Proposal Form. If option years are included, Offerors must submit pricing for each option year. Failure to adhere to any of these instructions may result in the Proposal being determined not reasonably susceptible of being selected for award.

ATTACHMENT C. 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):
-

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: _____
(print name of Authorized Representative and Affiant)

Title: _____
Title

Date: _____
Date

ATTACHMENT D. - MBE FORMS
(SEPARATE ATTACHMENT)

ATTACHMENT E. - CONFLICT OF INTEREST AFFIDAVIT AND DISCLOSURE

Reference COMAR 21.05.08.08

A. "Conflict of interest" means that because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to the State, or the person's objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage.

B. "Person" has the meaning stated in COMAR 21.01.

02.01B(64) and includes a Bidder/Offeror, Contractor, Contractor, or subcontractor or sub-Contractor at any tier, and also includes an employee or agent of any of them if the employee or agent has or will have the authority to control or supervise all or a portion of the work for which a Bid/Proposal is made.

C. The Bidder/Offeror warrants that, except as disclosed in §D, below, there are no relevant facts or circumstances now giving rise or which could, in the future, give rise to a conflict of interest.

D. The following facts or circumstances give rise or could in the future give rise to a conflict of interest (explain in detail—attach additional sheets if necessary):

E. The Bidder/Offeror agrees that if an actual or potential conflict of interest arises after the date of this affidavit, the Bidder/Offeror shall immediately make a full disclosure in writing to the procurement officer of all relevant facts and circumstances. This disclosure shall include a description of actions that the Bidder/Offeror has taken and proposes to take to avoid, mitigate, or neutralize the actual or potential conflict of interest. If the contract has been awarded and performance of the contract has begun, the Contractor shall continue performance until notified by the procurement officer of any contrary action to be taken.

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: _____

(Authorized Representative and Affiant)

ATTACHMENT F. – SAMPLE CONTRACT FORM

SOLID WASTE REMOVAL AND RECYCLING SERVICES

BETWEEN

MARYLAND STADIUM AUTHORITY

AND

[CONTRACTOR]

MSA CONTRACT NO. 21-002

**MARYLAND STADIUM AUTHORITY
CONTRACT NO. 21-002
SOLID WASTE REMOVAL AND RECYCLING SERVICES
CAMDEN YARDS SPORTS COMPLEX**

THIS SOLID WASTE REMOVAL AND RECYCLING SERVICES AGREEMENT (this "**Agreement**") is entered into this _____ day of _____, 2021 by and between the MARYLAND STADIUM AUTHORITY, a body politic and corporate and an instrumentality of the State of Maryland ("**MSA**"), and _____ a [State of Organization] [Type of Organization] ("**Contractor**").

RECITALS

WHEREAS, MSA issued a Request for Proposals (the "**RFP**") on _____ for solid waste removal and recycling services at the Camden Yards Sports Complex (the "**Services**") and

WHEREAS, MSA selected Contractor based on its technical qualifications, proposal and related submissions; and

WHEREAS, MSA and Contractor desire to enter into this Agreement.

AGREEMENT

INCORPORATION OF RECITALS. The foregoing Recitals are incorporated herein by reference and made a part of this Agreement.

NOW, THEREFORE, for and in consideration of the promises and covenants, conditions, representations, and warranties contained herein, and for good and valuable consideration, the sufficiency and adequacy of which is hereby acknowledged, the Parties agree as follows:

**ARTICLE 1
GENERAL PROVISIONS**

Section 1.1 Relationship

Contractor accepts the relationship of trust and confidence established with MSA by this Agreement, and covenants to provide Contractor's reasonable skill and judgment and to cooperate with MSA and its various partners and contractors in furthering the interests of MSA, the Baltimore

Orioles and Baltimore Ravens (collectively, the “Teams”) in connection with the Services provided under this Agreement.

Section 1.2 Compliance with Laws

The Contractor hereby represents and warrants that:

(a) It is qualified to do business in the State of Maryland (whether a domestic business or a foreign corporation) pursuant to § 7-201 et seq. of the Corporations and Associations Article of the Annotated Code of Maryland, and that it will take such action as, from time to time hereafter may be necessary to remain so qualified;

(b) It is not in arrears with respect to the payment of any moneys 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;

(c) EPA compliance. Materials, supplies, equipment and other services shall comply in all respects with the Federal Noise Control Act of 1972, where applicable;

(d) Occupational Safety and Health (OSHA). All materials, equipment, supplies or services shall comply with the applicable U.S. and the Maryland Occupational Safety and Health Act Standards and related regulations;

(e) All materials, equipment, supplies or services shall conform to federal and State laws and regulations and to the specifications contained in this Agreement; and

(f) Contractor shall obtain at its own expense (except as provided in this Agreement), and comply with federal, State, and local permits, licenses, certifications, inspections, insurance, and governmental approvals, required in connection with the Services required under this Agreement.

Section 1.3 Quality of Work & Standard of Care

In performing its duties hereunder, Contractor shall use a level of skill and exhibit a standard of care that is appropriate for a contractor providing the requisite Services in connection with a service contract of similar size and scope to this Agreement. Contractor understands and acknowledges that MSA's decision to appoint Contractor is based upon the experience, qualifications, and other materials submitted in response to the RFP. Contractor further represents and warrants that such materials are, as of the date that they were submitted and as of the date hereof, accurate in all material respects and fairly represent the capabilities of Contractor and its subcontractors.

Section 1.4 Representations

Contractor represents that it is thoroughly familiar with, and understands the requirements of this Agreement and is experienced in providing the requisite Services.

Section 1.5 Contract Documents

1.5.1 Contract Document Priority. The Contract Documents consist of this Agreement, the Contract Affidavit, the RFP including all attachments, exhibits and addenda, the Contractor's Technical Proposal and Financial Proposal (as amended by a best and final offer if applicable). The Technical Proposal and Financial Proposal are together the "**Proposal**".

If there is any conflict among the Contract Documents, then the following order of precedence will govern:

- a. This Agreement, including all exhibits and any amendments thereto,
- b. The Contract Affidavit;
- c. The RFP and subsequent addenda;
- d. The Contractor's Proposal.

1.5.2 The order of priority in section 1.5.1 notwithstanding, it is the Contractor's responsibility to inform MSA of any material inconsistencies and confirm any information necessary for the complete, successful prosecution of the Services.

1.5.3 Nothing in the Proposal or other submissions from the Contractor shall prevail over any Contract Document unless expressly agreed to in writing by MSA with a properly approved Change Order (see Article 9) or modification to the Agreement.

1.5.4 Inconsistent Terms or Requirements. Any provisions herein to the contrary notwithstanding, all Contract Documents shall be construed consistently to the extent possible.

1.5.5 Interpretation of the Contract Documents. MSA's Project Manager shall be the final interpreter of the Contract Documents and shall furnish with reasonable promptness any clarifications deemed necessary for the proper execution of the Services.

1.5.6 Unless otherwise stated in the Contract Documents, words which have well-known technical industry meanings are used in the Contract Documents in accordance with such recognized meanings.

1.5.7 Contract Representatives. Contractor's Project Manager identified in its Technical Proposal, shall be deemed to have authority to render any decision or take any action required under this Agreement. MSA's Project Manager identified in Section 14.18 is the Contractor's MSA contact for the purpose of communicating routine information, requesting assistance, or making routine inquiries regarding this Agreement. This subsection 1.5.8 notwithstanding, only an authorized MSA official acting in the capacity of Contract Representative is authorized to make changes to the scope of Services or to consent to modifications to this Agreement. The Contract Representative may also be MSA's Procurement Officer.

1.5.8 Entire Agreement. This Agreement represents the entire and integrated agreement between MSA and Contractor and supersedes all prior negotiations, representations or agreements, either written or oral.

1.5.9 References to Articles and Sections. As used in this Agreement, any reference to an Article or Section number refers to Articles and Sections in this Agreement unless otherwise stated.

Section 1.6 Period of Performance

The period of performance (the “**Term**”) shall commence on the date written above and, and unless terminated sooner pursuant to this Agreement, terminate three years after the commencement date. MSA retains two one year options to extend the Agreement at its sole discretion at the prices quoted and accepted in the Contractor’s Proposal.

ARTICLE 2 **SERVICES**

Section 2.1 Generally

The Contractor is being engaged to perform the Services and all requirements set forth in the RFP.

Section 2.2 Additional Services

Additional Services (“**Additional Services**”) requested of, or by Contractor shall be provided upon MSA’s and Contractor’s mutual written agreement. Unless otherwise specified, the Contractor’s compensation for additional services shall be paid for in accordance with Article 6 and based upon actual time spent at the hourly rate(s) agreed to in advance in writing by MSA.

Section 2.3 Ownership of Materials

2.3.1 Any work product, whether written or in electronic format, prepared by Contractor during the term of this Agreement for MSA shall become the sole and exclusive property of MSA. MSA shall have the right to use the same without restriction and without compensation to the Contractor other than as specifically provided for herein.

2.3.2 Contractor agrees that at all times during the term of this Agreement and thereafter, work created under this Agreement, and services performed under this Agreement shall be “works made for hire” as that term is interpreted under U.S. copyright law. To the extent that any materials created under this Agreement are not works made for hire for MSA, the Contractor hereby relinquishes, transfers, and assigns to the MSA all of its rights, title, and interest, (including all intellectual property rights) to all such products created under the Agreement.

Section 2.4 Patents, Copyrights, Trade Secrets and Protected Matters

2.4.1 The Contractor assumes the risk that any materials, equipment, processes, or other items required under this Agreement or furnished by the Contractor are subject to any patent, copyright, trademark, trade secret or other property right of another. Contractor shall pay for all royalties and license fees and shall obtain all necessary licenses or permits to permit use of any such item by MSA. Contractor shall defend all suits or claims of infringement of any patent, copyright,

trademark, trade secret or other property right of another and shall hold harmless MSA, the State and/or the Teams from loss or expense on account thereof.

Section 2.5 MSA’s Responsibilities

MSA shall provide Contractor with all information regarding its requirements for the Services to be provided under this Agreement.

Article 3 **Staffing**

Section 3.1 Staffing Plan

3.1.1 The Contractor shall not make any changes in the composition of its key personnel (the “Key Personnel”) identified in its Proposal, or as otherwise consented to in writing by MSA. Any change to the Key Personnel without MSA’s written consent shall be cause for Termination.

3.1.2 If required by applicable State or federal law, Contractor’s personnel – including members of the Key Personnel and any subcontractors, shall be subject to a security and/or criminal background check. Before or after award of the contract, at the sole discretion of MSA, those persons found to be unfit to work on State contracts may be excluded from work on the contract at no additional cost to MSA.

3.1.3 Only personnel thoroughly trained and skilled in the tasks assigned them may be employed for any portion of the Services. Any Contractor employee, Management Team member, or subcontractor found to be unskilled or untrained shall be removed.

3.1.4 When municipal, county, State or federal laws require that certain personnel (electricians, plumbers, etc.) be licensed, then all such personnel, including subcontractors, employed by, or under contract with, the Contractor shall be so licensed.

3.1.5 If the MSA in its sole discretion determines that any employee or subcontractor is not performing satisfactorily, MSA shall have the right to direct the Contractor or its subcontractor to replace the individual(s). The Contractor shall provide MSA with resumes of possible replacements and MSA shall have the opportunity, but not the obligation to interview replacement candidates.

ARTICLE 4
SUBCONTRACTORS

SECTION 4.1 Contractual Responsibility

4.1.1 Except as specified in the Proposal, Contractor shall not subcontract any of the Services to be performed under this Agreement without the prior written consent of MSA.

4.1.2 The Contractor is fully responsible to MSA and the Teams for the acts and omissions of its subcontractors at any tier, and persons either directly or indirectly employed by them, as well as for the acts and omissions of itself and persons directly employed by it.

4.1.3 Nothing contained in the Contract Documents shall create any contractual relationship between a subcontractor at any tier and MSA or the Teams, and nothing in the Contract Documents is intended to make any such entity a beneficiary of the contract between MSA and Contractor. No subcontractor at any tier shall have or make any claim or cause of action directly against MSA or the Teams.

Section 4.2 Prompt Payment of Subcontractors

4.2.1 If the Contractor withholds payment of an undisputed amount to its subcontractor, the MSA, at its option and in its sole discretion, may take one or more of the following actions:

- (a) Not process further payments to the Contractor until payment to the subcontractor is verified;
 - (b) Suspend all or some of the contract work without affecting the completion date(s) for the contract work;
 - (c) Pay or cause payment of the undisputed amount to the subcontractor from monies otherwise due or that may become due;
 - (d) Place a payment for an undisputed amount in an interest-bearing, escrow account;
- or
- (e) Take other or further actions as appropriate to resolve the withheld payment.

4.2.2 An "undisputed amount" means an amount owed by the Contractor to a subcontractor for which there is no good faith dispute, Such "undisputed amounts" include, without limitation;

- (a) Retainage which had been withheld and is, by the terms of the agreement between the Contractor and subcontractor, due to be distributed to the subcontractor; and
- (b) An amount withheld because of issues arising out of an agreement or occurrence unrelated to the agreement under which the amount is withheld.

4.2.3 An act, failure to act, or decision of a Procurement Officer or a representative of the MSA, concerning a withheld payment between the Contractor and a subcontractor under this provision, may not:

- (a) Affect the rights of the contracting parties under any other provision of law;
- (b) Be used as evidence on the merits of a dispute between MSA and the Contractor in any other proceeding; or
- (c) Result in liability against or prejudice the rights of the MSA.

4.2.4 The remedies enumerated above are in addition to those provided under COMAR 21. 11. 03. 13 with respect; to subcontractors that have contracted pursuant to the Minority Business Enterprise (MBE) program.

4.2.5 To ensure compliance with certified MBE subcontract participation goals, MSA may, consistent with GOMAR.21. 1 1.03. 13, take the following measures:

(a) Verify that the certified MBEs listed in the MBE participation schedule actually are performing work and receiving compensation as set forth in the MBE participation schedule. This verification may include, as appropriate:

- (i) Inspecting any relevant records of the Contractor;
- (ii) Inspecting the jobsite; and
- (iii) Interviewing subcontractors and workers.

(b) Verification shall include a review of the:

- (i) The Contractor's monthly report listing unpaid invoices over thirty (30) days old from certified MBE subcontractors and the reason for nonpayment; and
- (ii) ii. The monthly report of each certified MBE subcontractor, which lists payments received from the Contractor in the preceding thirty (30) days and invoices for which the subcontractor has not been paid.

(c) If MSA determines that the Contractor is not in compliance with certified MBE participation goals, then the MSA will notify the Consultant in writing of its findings, and will require the Consultant to take appropriate corrective action, Corrective action may include, but is not limited to, requiring the Consultant to compensate the MBE for work performed as set forth in the MBE participation schedule.

(d) If the MSA determines that the Consultant is in material noncompliance with MBE contract provisions and refuses or fails to take the corrective action that the MSA requires, then the MSA may:

- (i) Terminate the contract;

(ii) Refer the matter to the Office of the Attorney General for appropriate action; or

(iii) Initiate any other specific remedy identified by the contract, including the contractual remedies required by any applicable laws, regulations, and directives regarding the payment of undisputed amounts.

(e) Upon completion of the Contract, but before final payment or release of retainage or both, the Contractor shall submit a final report, in affidavit form under the penalty of perjury, of all payments made to, or withheld from, MBE subcontractors.

SECTION 4.3 RESERVED

Section 4.4 Subcontract – Contract Provisions

4.4.1 In addition to any other required term or provision contained herein, the Contractor must bind every subcontractor - and will see that every subcontractor agrees to be bound - by the terms of the Contract Documents, as far as applicable to its work, unless specifically noted to the contrary in a subcontract approved by MSA. Contractor must include in any subcontracts the following provisions:

4.4.2 Subcontractor agrees to be bound to the Contractor by the terms of the Contract Document between the Contractor and MSA, and to assume toward it all obligations and responsibilities that the Contractor, by those documents assumes towards MSA.

4.4.3 Subcontractor agrees to submit to the Contractor applications for payment in such reasonable time as to enable the Contractor to apply for payment under Article 6.

4.4.4 The provisions required by Sections 4.2 and 4.4.

4.4.5 Each contract shall be assignable to MSA at MSA's election in the event the Contractor is terminated or fails to perform its obligations under the Contract Documents. MSA may assign its rights under those documents and this Agreement to any other unit or instrumentality of the State without notice to the subcontractor.

4.4.6 The provisions of this Section 4.4 notwithstanding, unless there is an assignment of contract pursuant to this Section the Contractor shall be solely responsible for all subcontractors and none of MSA or the Teams shall have privity of contract with, or, obligations or liabilities to the subcontractors.

ARTICLE 5
RESERVED

ARTICLE 6
COMPENSATION AND PAYMENT PROVISIONS

Section 6.1 Compensation and Method of Payment

6.1.1 Contract Price. In consideration of the satisfactory performance of the work set forth in this Agreement, MSA shall pay the Contractor in accordance with this contract and at the unit prices quoted on the Financial Proposal Form (Exhibit __). Unless properly authorized by MSA, payment to the Contractor pursuant to this Agreement shall not exceed _____ Dollars (\$_____).

6.1.2 Additional Services. Additional Services performed pursuant to subsection 2.2 shall be paid for in accordance with this Article 6. Compensation for Additional Services shall be based on actual time spent at hourly rates mutually agreed upon by Contractor and MSA.

6.1.3 Invoices. Contractor shall submit detailed invoices (“Invoice”), setting forth (i) the name of the employee or subcontractor performing services; (ii) the date(s) of service(s); (iii) a complete description of services performed; (iv) the agreed upon rates charged for said services; and (v) the hours - or fractional hours expended, if applicable.

6.1.4 Payment for Additional Services. Contractor’s compensation will be based upon a reasonable number of actual hours expended by Contractor's employees and subcontractors in the performance of Services, as approved by MSA, multiplied by the agreed upon rates for such Services.

Section 6.2 State Payment Provisions

6.2.1 Invoices are reviewed and approved by MSA. Payment is made by the Maryland State Treasurer subject to the following:

6.2.1 Invoices are reviewed and approved by MSA. Payment is made by the Maryland State Treasurer subject to the following:

(a) In addition to any other information required by the Procurement Officer, the Contractor’s invoices shall include a taxpayer identification number and contract identification number and MSA's Blanket Purchase Order Number (to be provided by MSA).

(b) Payments to the Contractor pursuant to this Agreement and which are not in dispute shall be made no later than thirty (30) days after MSA’s receipt of a proper invoice from the Contractor.

(c) Charges for late payment of invoices, other than as prescribed by SF Title 15, Subtitle 1, or by the Public Service Commission of Maryland with respect to regulated public utilities as applicable, are prohibited.

6.2.2 Contractor shall be paid by Electronic Funds Transfer as required by the RFP unless it has requested and been granted an exemption.

6.2.3 Taxes. The State nor MSA shall not withhold federal, State, local or FICA taxes, if any, from payments made pursuant to this Agreement.

ARTICLE 7

MINORITY BUSINESS ENTERPRISE

Section 7.1 MBE Certification

7.1.1 Contractor submitted an MDOT-Certified MBE Utilization and Fair Solicitation Affidavit (the "MBE Affidavit") with its Proposal. A copy of the MBE Affidavit is attached hereto as Exhibit 6. Unless otherwise permitted by MSA in accordance with SF Title 14, subtitle 3 and the regulations promulgated pursuant thereto, Contractor shall utilize the MBE's as specified in the MBE Affidavit. Contractor may not terminate, cancel, or change the scope of work/value of a subcontract with a certified MBE listed on the MBE Affidavit without:

- (a) Showing good cause why the subcontract with the certified MBE should be terminated or cancelled;
 - (b) Obtaining the prior written consent of MSA's MBE liaison and Executive Director;
- and
- (c) Subsequently amending this Agreement.

Section 7.2 Reporting Requirements

7.2.1 Contractor shall:

- (a) Permit MSA to inspect any relevant matter, including records and the jobsite and to interview subcontractors and workers;
- (b) Using MSA's web-based system (B2G), submit monthly to MSA a report listing payments made to each MBE subcontractor in the preceding thirty (30) days and any unpaid invoices over thirty (30) days old received from a certified MBE subcontractor, and the reason payment has not been made;
- (c) Include in its agreements with its certified MBE subcontractors a requirement that the certified MBE subcontractors (through MSA's web-based system (B2G)) submit monthly to MSA a report identifying the prime contract, and listing:

(i) Payments received from Contractor in the preceding thirty (30) days, and

(ii) Invoices for which the subcontractor has not been paid; and

(iii) Before final payment and release of any retainage, submit a final report, in affidavit form and under penalty of perjury, of all payments made to, or withheld from, MBE subcontractors.

Section 7.3 MBE Liquidated Damages

7.3.1 If MSA has determined that Contractor will not fulfill its MBE requirements as identified in the Contract Documents, MSA may withhold an amount equal to the liquidated damages set forth below until Contractor has satisfied the goal.

Effective July 1, 2019 COMAR 21.07.01.14 requires liquidated damages for violations of MBE requirements for all contracts with certified MBE participation goals.

7.3.2 Violations and Liquidated Damages Amounts

<u>MBE COMPLIANCE</u>	
<u>COMPLIANCE FAILURE</u>	<u>LIQUIDATED DAMAGES CALCULATION</u>
(a) Failure to submit each monthly payment report in full compliance with COMAR 21.11.03.13B(3)	\$50 per day until the monthly report is submitted as required.
(b) Failure to include in its agreements with an MBE subcontractor a provision requiring submission of payment reports in full compliance with COMAR 21.11.03.13B(4)	\$60 per MBE subcontractor
(c) Failure to comply with COMAR 21.11.03.12 in terminating, cancelling or changing the scope of work/value of a contract with an MBE subcontractor and/or amendment of the MBE participation schedule.	The difference between the dollar value of the MBE participation commitment on the MBE participation schedule for that specific firm and the dollar value of the work actually performed by that MBE firm under this Agreement.

(d) Failure to meet the full MBE participation goal and sub-goal commitments.	The difference between the dollar value of the total MBE participation commitment on the MBE participation schedule and the MBE participation actually achieved.
(e) Failure to pay all undisputed amounts to an MBE subcontractor in full compliance with the prompt payment provisions of this contract	\$100 per day until the undisputed amount due to the MBE subcontractor is paid

Notwithstanding the use of liquidated damages, the State reserves the right to terminate the contract and exercise all other rights and remedies provided in the contract or by law.

Article 8
INSURANCE

Insurance coverage shall include, at a minimum:

A. Commercial General Liability Insurance

The Contractor shall obtain and maintain, from and after the date of the Contract, insurance coverage for general liability claims (including, but not limited to, claims for bodily injury and property damage, including loss of use) arising from the operations of the Contractor, subcontractors, and suppliers that satisfies the following requirements:

1. Commercial General Liability (“CGL”) insurance to be provided through the use of ISO Coverage Form CG-00-01-1001 or its equivalent.
2. Minimum coverage limits of: \$1,000,000 as a per occurrence limit; \$2,000,000 as a general aggregate limit (applied separately to claims arising from the Contractor’s performance under the Contract); and \$2,000,000 as a products/completed operations limit.
3. MSA, the State, the Baltimore Orioles Limited Partnership, the Baltimore Ravens Limited Partnership (collectively “Additional Parties”) shall be added as Additional Insureds by additional insured endorsements ISO CG-20-10 and CG-20-37 or their equivalents. As Additional Insureds, the Additional Parties shall have coverage for liability arising out of the Contractor’s ongoing and completed operations performed.
4. The CGL insurance policy shall include waivers of subrogation in favor of the Additional Parties.
5. The CGL insurance policy shall be primary and noncontributory with respect to the coverage afforded to the Additional Parties.
6. The CGL insurance policy shall not contain any exclusion for: X, C and/or U hazards; third party actions over claims; or punitive damages.
7. The CGL insurance policy shall include Blanket Written Contractual Liability covering all contractual liabilities and indemnities assumed by the Contractor pursuant to the Contract.
8. The CGL insurance policy shall also include the following extensions:
 - a. The general aggregate limit shall apply separately to the Contract;
 - b. Premises/Operations;

- c. Actions of Independent Contractors;
- d. Products/Completed Operations to be maintained for at least two (2) years after the expiration or termination of the Contract;
- e. Personal injury liability including coverage for offenses related to employment and for offenses assumed under the Contract (including deletion of any standard employment and/or contractual exclusions if contained in the personal injury coverage section); and

C. Automobile Liability

The Contractor shall obtain and maintain, from and after the date of the Contract, insurance coverage for third party legal liability claims arising from bodily injury and/or damage to property of others resulting from the ownership, maintenance, or use of any motor vehicle (whether owned, hired, or not owned), both on-site and off-site. Such Business Automobile Liability (“BAL”) insurance shall also include coverage against uninsured motorists and automobile contractual liability. The BAL insurance shall satisfy the following requirements:

1. Minimum \$2,000,000 combined single limit on coverage.
2. The BAL insurance policy shall include waivers of subrogation in favor of the Additional Parties.
3. The BAL insurance policy shall name the Additional Parties as Additional Insureds.
4. If a Project encroaches within fifty (50) feet of the centerline of a railroad, the BAL insurance policy shall include ISO Endorsement CA- 20-70 or its equivalent prior to the Contractor beginning any work on such Project.

D. Workers Compensation and Employers Liability

The Contractor shall obtain and maintain, from and after the date of the Contract, insurance coverage for claims arising from Workers Compensation statutes and from Employer’s Liability or other third party legal liability claims arising from bodily injury, disease, or death of the Contractor’s employees. Such insurance shall satisfy the following requirements:

1. The Contractor shall provide Workers Compensation coverage for all employees and require that their subcontractors provide Workers Compensation coverage for all their employees in accordance with the statutory requirements of the jurisdiction in which the work is being performed.
2. The policy shall provide for both Workers Compensation coverage (“Part A”) and Employers Liability coverage (“Part B”).

3. The minimum limits of coverage for Part A (Workers Compensation) shall be in accordance with the statutory requirements of the jurisdiction in which the work is being performed. The minimum limits of coverage for Part B (Employers Liability) shall be \$1,000,000 for each accident, \$1,000,000 for each employee, and a \$1,000,000 aggregate policy limit for disease.
4. Part B (Employers Liability) of such insurance policy shall include waivers of subrogation in favor of the Additional Parties. The Additional Parties shall be named as Additional Insureds with respect to Part B (Employers Liability).

E. Excess Liability / Umbrella Liability

The Contractor shall obtain and maintain, from and after the date of the Contract, insurance coverage for third party legal liability claims against the Contractor that exceed the per occurrence or general aggregate limits of the CGL insurance policy, the BAL insurance policy, and Part B (Employer's Liability) of the Workers' Compensation and Employer's Liability insurance policy. Such excess/umbrella insurance shall satisfy the following requirements:

1. Unless otherwise specified by the Procurement Officer, the required minimum coverage limits for such insurance is \$2,000,000 per occurrence.
2. The Additional Parties shall be named as Additional Insureds with respect to such excess/umbrella liability insurance.
3. The excess/umbrella liability insurance policy shall include waivers of subrogation in favor of the Additional Parties.
4. The excess/umbrella liability insurance shall be primary and noncontributory with respect to the coverage afforded to the Additional Parties.

F. Additional insurance requirements

1. The amount of insurance coverage specified herein shall be the minimum amount of insurance available to satisfy claims. The Contractor shall purchase and maintain such insurance with a minimum of the limits of liability as specified herein, as otherwise specified by the Procurement Officer with respect to a particular project, or as required by law, whichever is greatest.

2. A policy is not acceptable if it allows the costs associated with investigating, managing, or defending against any claim or any other costs incurred by the insured or the insurer to be deducted from the policy limits.

3. Required insurance shall be purchased from and maintained with a company or companies lawfully authorized to do business in the State of Maryland. Insurance companies providing coverage as required herein shall have an AM Best rating of A-VII or better. All policies must be on a primary basis. All policies, except Professional Liability and Workers' Compensation, shall name the Additional Parties as "Additional Insured."

4. Contractor shall be responsible for the maintenance of this insurance regardless of whether the work is performed directly by Contractor, by any subcontractor, by any person employed by the Contractor or any subcontractor, or by anyone for whose acts the Contractor may be liable.

5. The Contractor agrees, for itself and for its insurers, that neither Contractor nor its insurers may raise or use in the adjustment of claims or in the defense of suits against the Additional Parties, any immunity from or limitation of liability for torts (including under the Maryland Tort Claims Act and/or the Maryland Local Government Tort Claims Act) unless requested by MSA.

6. MSA prefers that all liability insurance policies (whether for professional liability, commercial general liability, business automobile liability, excess and/or umbrella liability, employer liability, or otherwise) be written on an "occurrence basis." However, if any liability insurance policy is on a "claims made" basis, the insurance must be maintained for a period of no less than ten (10) years after the end of the term of the Contract and the retroactive date must be listed as prior to or on the date on which the Contract is executed. If the policy is scheduled to be cancelled, not renewed, or not replaced prior to the expiration of such ten (10) year period, then prior to such cancellation, nonrenewal, or non-replacement, the Contractor must purchase an Extended Reporting Coverage (Tail) to cover the exposures past the cancellation, termination, or expiration date, as applicable.

7. No acceptance and/or approval of any insurance by MSA shall be construed as relieving the Contractor, or the surety or bond, if any, from any liability or obligation imposed upon any of them by the Contract.

Article 9
Changes to Services or Agreement

Section 9.1 Change Directives

9.1.1 MSA may, without invalidating the Agreement, order changes in the Services required under the Agreement, including additions, deletions or modifications. Any such change must be conveyed by MSA to Contractor via an executed written change directive (a "Change Directive").

9.1.2 Prompt Notice. If Contractor encounters or discovers Conditions which it reasonably believes may have a material impact on the Services to be provided it shall promptly notify MSA in writing of such Conditions, and the possible effect on cost and schedule. Any notice shall be given as soon as possible, but in no event more than five (5) calendar days following the earlier of when Contractor knew or should have known of the Conditions. Contractor acknowledges that failure to provide timely notice may limit or eliminate MSA's ability to investigate, verify or mitigate such Conditions. Any adjustment to Contractor's price shall be determined by MSA after its review and consideration of the Conditions. Contractor shall include provisions similar to this provision in all of its subcontracts.

9.1.3 Failure to Agree. In the event of a dispute between MSA and the Contractor as to whether any Services are included in the scope of the Agreement such that the Contractor would be obligated to provide that Service at no additional cost to MSA, the Project Manager may order the Contractor under this Section 9.1 to perform the Service with issuance of a Change Directive. Contractor shall proceed with the work and MSA's Change Directive, without interruption or delay, and may make a claim as provided in Section 10 of this Agreement. Failure to proceed due to a dispute over a Change Directive shall constitute a material breach of this Agreement and entitle MSA to all available remedies for such breach, including, without limitation, termination for default.

Article 10
DISPUTES

Section 10.1 Dispute Resolution

Except as otherwise may be provided by law, all disputes arising under or as a result of a breach of this contract that are not disposed of by mutual agreement shall be resolved in accordance with this Section.

10.1.1 As used herein, "claim" means a written demand or assertion by one of the parties seeking, as a legal right, the payment of money, adjustment or interpretation of contract terms, or other relief, arising under or relating to this Agreement. A voucher, invoice, or request for payment

that is not in dispute when submitted is not a claim under this Article. However, if the submission subsequently is not acted upon in a reasonable time, or is disputed as to liability or amount, it may be converted to a claim for the purpose of this Article.

10.1.2 A claim shall be made in writing and submitted to the Contract Administrator for decision within thirty days of when the basis of the claim was known or should have been known, whichever is earlier.

10.1.3 When a claim cannot be resolved by mutual agreement, the Contractor shall submit a written request for final decision to the Procurement Officer. The written request shall set forth all the facts surrounding the controversy.

10.1.4 The Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its claim.

10.1.5 The Procurement Officer shall render a written decision on all claims within 90 days of receipt of the Contractor's written claim, unless the Procurement Officer determines that a longer period is necessary to resolve the claim. If a decision is not issued within 90 days, the Procurement Officer shall notify the Contractor of the time within which a decision shall be rendered and the reasons for such time extension. The decision shall be furnished to the Contractor, by certified mail, return receipt requested, or by any other method that provides evidence of receipt. The Procurement Officer's decision shall be deemed the final action of the MSA.

10.1.6 The Procurement Officer's decision shall be final and conclusive without prejudice to the rights of the Contractor to institute suit after completion of the Services in a court of competent jurisdiction for losses incurred by Contractor as a result of the Procurement Officer's decision. Contractor hereby waives any rights that it may have at any time to institute suit or file other claims or causes of action, at law or in equity, prior to completing all of the Services under the Contract Documents.

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

Article 11

INDEMNIFICATION AND RESPONSIBILITY FOR CLAIMS AND LIABILITY

Section 11.1 Indemnification

(a) Contractor agrees to indemnify, defend, protect and hold harmless MSA, the Baltimore Orioles Limited Partnership (Orioles), the Baltimore Ravens Limited Partnership (Ravens), their respective officers, agents, members and employees from and against all claims, damages, losses, liens, causes of action, suits, judgments and expenses, including reasonable attorney fees, arising out of, caused by, or resulting from Contractor's negligence or willful misconduct.

(b) Contractor shall not be responsible for the acts or omissions of MSA, the Orioles, or the Ravens, as the case may be, or any contractor or subcontractor hired or engaged directly by MSA, the Orioles or the Ravens, as the case may be.

(c) Neither Contractor nor MSA shall be liable to the other for any delays in the performance of their obligations and responsibilities occurring beyond their reasonable controls and/or without their fault or negligence, including but not limited to, any of the following events or occurrences: fire, flood, earthquake and epidemic, atmospheric condition of unusual severity, war, and strikes.

(d) The above indemnity shall survive expiration or termination of this Agreement.

Section 11.2 Responsibility for Claims and Liability

The Contractor shall be responsible for all damage to life and property due to its activities or those of its agents or employees, in connection with the Services required under the Agreement. Further, it is expressly understood that Contractor shall indemnify and save harmless MSA, the Orioles, the Ravens, their respective officers, agents, and employees from and against all claims, suits, judgments, expenses, actions, damages and costs of every name and description, including reasonable attorney's fees and litigation expenses arising out of or resulting from the negligent performance of the Services of the Contractor under the contract.

Article 12

RETENTION OF RECORDS

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

Article 13

DISSEMINATION OF INFORMATION

Unless Contractor has obtained the prior written consent of MSA, Contractor shall not (a) release, disseminate, publish, distribute, or circulate, in any manner whatsoever, any information,

data, document or materials related to the Services or performance of the Services under this Agreement, or (b) publish any final reports or documents.

Article 14 **STATE TERMS**

Section 14.1 General State Terms

14.1.1 Governing Law. The provisions of this Agreement shall be governed by the laws of the State of Maryland and the parties hereto expressly agree that the courts of the State of Maryland shall have jurisdiction to decide any question arising hereunder after all administrative remedies, if any, have been exhausted.

14.1.2 Amendment. This Agreement may be amended by and only by an instrument executed and delivered by each party hereto.

14.1.3 Assignment. This Agreement may not be assigned by either Party, in whole or in part without the written consent of the other; provided however, that MSA may assign any or all of its rights under this Contract to the State of Maryland, or any agency or department thereof. The Contractor shall notify the MSA immediately in writing of any significant changes in its ownership or organization or in the ownership or organization of any of the joint venturers comprising the Contractor.

14.1.4 Incorporation by Reference. All terms and conditions and any changes thereto, are made a part of this Agreement.

14.1.5 Non-Hiring of Employees. No official or employee of the State as defined in 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 Agreement shall, during the pendency or term of this Agreement 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 Agreement.

14.1.6 Articles and Headings. The Article and Section headings contained in this Agreement are solely for convenience of reference and shall not affect the meaning or interpretation of this Agreement or provision thereof.

14.1.7 Personal Liability of Public Officials. In carrying out any of the provisions of the Agreement, or in exercising any power or authority granted to them by or within the scope of this Agreement, there shall be no personal liability upon the members of MSA, either personally or as officials of the State, it being understood that in all such matters the act solely as agents and representation of MSA.

Section 14.2 Non-Discrimination Provisions

14.2.1 Nondiscrimination in Employment. Contractor agrees 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 physical or mental handicap unrelated in nature and extent so as reasonably to preclude the performance of such employment and 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.

14.2.2 Commercial Nondiscrimination. As a condition of entering into this Agreement, the 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, the company may not discriminate on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, or on the basis of 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. The 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 nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the marketplace. The Contractor understands and agrees that a material violation of this clause shall be considered a material breach of this agreement and may result in termination of this agreement, disqualification of the 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.

As a condition of entering into this agreement, upon the request of the Commission on Civil Rights, and only after the filing of a complaint against the Contractor under Title 19 of the State Finance and Procurement Article, as amended from time to time, the company agrees to: provide to the State within 60 days after the request a truthful and complete list of the names of all subcontractors, vendors, and suppliers that the company 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 the contractor on each subcontract or supply contract. The company 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. The company understands and agrees that violation of this clause shall be considered a material breach of this agreement and may result in contract termination, disqualification by the State from participating in State contracts, and other sanctions.

Section 14.3 Disclosures and Ethics

14.3.1 Financial Disclosure. Contractor shall comply with State Finance and Procurement Article, §13-221, Annotated Code of Maryland, which requires that every business that enters into contracts, leases or other agreements with the State and receives in the aggregate \$200,000 or more during a calendar year shall, within 30 days of the time when the \$200,000 is reached,

file with the Secretary of State certain specified information to include disclosure of beneficial ownership of the business.

14.3.2 Statement of Political Contributions. Contractor shall comply with the Election Law Article, Title 14 Subtitle 1, Md. Code Ann., which requires that a person doing public business with the State, shall file a statement with the State Board of Elections as provided in section 14.

14.3.3. Generally, this applies to every person that enters into contracts, leases, or other agreements with the State of Maryland or a political subdivision of the State, including its agencies, during a calendar year in which the person receives in the aggregate \$200,000 or more, shall file with the State Board of Election 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.

14.3.4 Anti-Bribery. Contractor warrants that neither it nor any of its officers, directors, or partners nor any of its employees who are directly involved in obtaining or performing contracts with any public body has been convicted of bribery, attempted bribery, or conspiracy to bribe under the laws of any state or of the federal government or has engaged in conduct since July 1, 1977, which would constitute bribery, attempted bribery, or conspiracy to bribe under the laws of any state or the federal government.

14.3.5 Contingent Fees. 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 Contractor, to solicit or secure this agreement, 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 Agreement.

14.3.6 Appropriation of Funds. If funds are not appropriated or otherwise made available to MSA to support continuation of this Agreement, this Agreement shall terminate automatically as of the beginning of the fiscal year for which funds are not available; provided, however, that this will not affect either party's rights under any termination clause in this Agreement. The effect of termination of the Agreement hereunder will be to discharge both Contractor and MSA from future performance of this Agreement, but not from their rights and obligations existing at the time of termination. The Contractor shall be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of this Agreement. MSA shall notify the Contractor as soon as it has knowledge that funds may not be available for the continuation of

this Agreement for each succeeding fiscal period beyond the first. Contractor may not recover anticipatory profits or costs incurred after termination.

14.3.7 False Statements. Contractor shall be governed by all laws and regulations prohibiting false or fraudulent statements and claims made to MSA in connection with this Agreement.

Section 14.4 Drug and Alcohol Free Workplace

The Contractor warrants that it shall comply with COMAR 21.11.08 Drug and Alcohol Free Workplace, and that it shall remain in compliance throughout the term of this Agreement.

Section 14.5 Tax Exemption

MSA is generally exempt from federal excise taxes, Maryland sales and use taxes, District of Columbia sales taxes and transportation taxes. Where a Contractor (or the Contractor) is required to furnish and install material in the construction or improvement of real property in performance of a contract, the Contractor shall pay the Maryland Sales Tax and the exemption does not apply.

Section 14.6 Governmental Immunities

Nothing in the preceding provision, or in any other term or provision in this Agreement, shall waive, limit, or otherwise affect in any way the limitations, immunities or notice requirements applicable to claims against MSA as unit of the State of Maryland.

Section 14.7 Tort Claims Acts

Contractor agrees for itself and for its insurers, that neither Contractor nor its insurers may raise or use any governmental immunity from or limitation of liability for torts (including under the Maryland Tort Claims Act and/or the Maryland Local Government Tort Claims Act) in the adjustment of claims or in the defense of suits against MSA, the State or the City, unless requested by MSA.

Section 14.8 Independent Contractor Status

The Contractor is an independent Contractor and neither the Contractor nor its employees, agents or representatives shall be considered employees, agents or representative of the State or of MSA. Nothing contained in this Agreement is intended or should be construed as creating the

relationship of co-partners, joint venturers or an association between the State or MSA or the City and the Contractor.

Section 14.9 No Arbitration

No Arbitration: No dispute or controversy under this Agreement shall be subject to binding arbitration.

Section 14.10 Approvals

This Agreement shall not be effective until all required approvals of the Maryland Stadium Authority Board and the State of Maryland Board of Public Works (if required) have been obtained. No work shall be commenced hereunder until MSA notifies the Contractor that such approvals have been obtained.

Section 14.11 No Third Party Beneficiaries

Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either MSA or the Contractor. There are no intended third party beneficiaries of this Agreement.

Section 14.12 Time of the Essence

Time is of the essence in the performance of the obligations of the Contractor under this Agreement.

Section 14.13 Counterparts

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

Section 14.14 Termination

14.14.1 Termination for Default. If the Contractor fails to fulfill its obligation under this Agreement properly and on time, or otherwise violates any provision of the Agreement, MSA 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 MSA's option, become MSA's property. The State / MSA shall pay Contractor 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 MSA or the State 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.

14.14.2 Termination for Convenience. The performance of work under this Agreement may be terminated by MSA in accordance with this clause in whole, or from time to time in part, whenever MSA or the State shall determine that such termination is in the best interest of the State. The State /MSA will pay all reasonable costs associated with this Agreement that the Contractor has incurred up to the date of termination and all reasonable costs associated with termination of the Agreement. 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).

Section 14.15 Severability

If any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement.

Section 14.16 Contract Affidavit

Simultaneously with the execution of this Agreement, Contractor shall execute, seal and deliver to MSA the signed contract affidavit attached hereto as Exhibit 5.

Section 14.17 Authority to Execute

The individual signing this Agreement on behalf of Contractor represents and warrants that (i) Contractor is duly organized and authorized to do business in the State of Maryland; and (ii) this

Agreement has been duly authorized and is validly executed by an authorized officer of the Contractor.

Section 14.18 Contract Representatives

The following individuals are designated as representatives for the purposes of the routine management of the Agreement and communication between the parties.

MSA Contract Representatives:

Contract Administrator: Jeff Provenzano, or designee

Contract Manager: Bart Shifler, or designee

Procurement Officer: Sandra Fox, or designee

Contractor's Contract Representative(s):

Project Manager:

Section 14.19 Notices

All notices required or permitted hereunder shall be in writing and delivered personally or by registered or certified mail (restricted delivery) return receipt requested, postage prepaid to the addresses set forth below:

If to MSA:

With copy to:

Maryland Stadium Authority

Office of the Attorney General

333 West Camden Street, Suite 500

Attn: Cynthia Hahn, Counsel / MSA

Baltimore, MD 21201-2435

200 St. Paul Place, 20th Floor

Attn: John F. Samoryk, Vice President

Baltimore, MD 21202

If to Contractor:

Name

Address

City, State, Zip

Attn: (Name & Title)

Any party may designate another addressee or change its address by notice given to the other party pursuant to this Section. All notices shall be deemed given upon receipt thereof or at the time delivery is refused.

The effective date (the "Effective Date") of this Agreement shall be the date first written above.

MARYLAND STADIUM AUTHORITY

By: _____ (SEAL)

Michael J. Frenz, Executive Director

CONTRACTOR

By: _____ (SEAL)

Authorized Officer

LIST OF EXHIBITS

- Exhibit 1 Request for Proposals
- Exhibit 2 Technical Proposal
- Exhibit 3 Price Proposal
- Exhibit 4 Bid/Proposal Affidavit
- Exhibit 5 Contract Affidavit/Disclosure
- Exhibit 6 MDOT-Certified MBE Utilization and Fair Solicitation Affidavit
- Exhibit 7 Conflict-of-Interest Information and Disclosure Affidavit

ATTACHMENT G. – 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
DEPARTMENT 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 Department 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 \$200,000 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 Title 14 Annotated Code of Maryland which requires that every person that enter into a procurement contract with the State, a county, or a municipal corporation, or other political subdivision of the State during a calendar year in which the person receives a contract with a governmental entity in the amount of \$200,000 or more shall file with the State Board of Elections statements disclosing: (a) any primary or general election; and (b) the name of each candidate to whom one or more contributions in a cumulative amount of \$500 or more were made during the reporting period. The statement shall be filed with the State Board of Elections: (a) before execution of a contract by the State, a county, a municipal corporation, or other political subdivision of the State, and shall cover the 24 months prior to when a contract was awarded; and (b) if the contribution is made after the execution of a contract, then twice a year, throughout the contract term, on or before: (i) May 31, to cover the six (6) month period ending April 30; and (ii) November 30, to cover the six (6) month period ending October 31.

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 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 Proposal Affidavit dated_____, 2020, 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:_____ (print name of Authorized Representative and Affiant)

_____ (signature of Authorized Representative and Affiant)

ATTACHMENT H. – RESERVED

ATTACHMENT I. - MSA SUSTAINABILITY POLICIES

**Camden Yards Sports Complex
LEED Existing Building: Operations and Maintenance**

Solid Waste Management Policy



Solid Waste Management Policy

LEED for Existing Buildings: Operations and Maintenance

SECTION 1: POLICY SCOPE

This policy applies to the collection, sorting, diversion, and disposal of ongoing consumables, durable goods, and building materials associated with facility alterations and additions accrued in the operations of The Maryland Stadium Authority's facility located at 1101 Russell Street Baltimore, MD 21230; and that are within the building and site management's control.

This policy will apply to, but is not limited to, the following types of materials:

- Ongoing Consumables, including but not limited to:
 - Paper
 - Cardboard
 - Glass
 - Plastic
 - Metals
 - Landscape waste
 - Batteries
- Mercury-containing lamps
- Durable Goods, including but not limited to:
 - Electronic equipment
 - Furniture
- Building Materials used in facility alterations and additions, including but not limited to:
 - Building components and structures (wall studs, insulation, doors, windows)
 - Panels
 - Attached finishings (drywall, trim, ceiling panels)
 - Carpet and other flooring material
 - Adhesives
 - Sealants
 - Paints and coatings

SECTION 2: POLICY GOALS

To manage solid waste in a manner that will:

- protect the environment and public health
- conserve natural resources
- minimize landfilling and/or incineration and reduce toxicity

SECTION 3: PERFORMANCE METRIC

The successful implementation of this policy will be measured by the ongoing recycling rate achieved. The recycling rate is derived by comparing the amount of consumables diverted from the landfill to those consumables sent to the landfill over a given time period. The policy's initial performance metric will be to achieve the reuse, recycling and/or composting of:

- At least 50% of the ongoing consumable waste stream (by weight or volume)
- At least 80% of discarded batteries
- 100% of all mercury-containing lamps within the building and site management's control
- At least 75% of the durable goods waste stream (by weight, volume, or replacement value)
- At least 70% of waste (by volume) generated by facility alterations and additions

SECTION 4: PERFORMANCE EVALUATION

Monthly reports, including waste recycling and/or disposal receipts, must be provided by the waste haulers/vendors to allow for ongoing documentation, monitoring and assessment of the program results.

The responsible party will, whenever possible, compile the reports and include an evaluation of the performance, safety, cost and environmental/public health benefits achieved through source reduction, reuse, recycling and composting. Reports should also relate the progress in meeting the stated objectives of The Maryland Stadium Authority as set forth under Sections (2) and (3).

SECTION 5: RESPONSIBLE PARTY

Jeff Provenzano, Vice President, Facilities, shall implement this policy within Camden Yards Sports Complex in coordination with other appropriate organization personnel, including but not limited to, the building's janitorial staff and any contracted waste haulers. Jeff Provenzano shall coordinate training, education and outreach programs throughout the organization, with the aim of promoting and maintaining the goals of this policy.

Due to the nature of this building, contracts are constantly being reevaluated and new bids from other providers are always being reviewed for economic value. All requests for bids for contractors, and current contractors, specific to waste management will receive this plan and be required to adhere to the requirements.

SECTION 6: PROCEDURES AND STRATEGIES

The following table lists recyclable wastes at the building site, their disposal method and handling procedures.

Source/Consumables	Disposal Method	Handling Procedure
Glass, Plastic, Metals (commingled)	Building occupants dispose of these recyclables in separately provided collection points periodically placed around the stadium and in suites.	Amounts are tracked and taken away by hauler on a regular basis (same schedule as current waste pickup) for recycling.
Mercury-containing Lamps	Maintenance staff collects fluorescent lamps and stores the unbroken lamps for disposal.	Taken away or dropped off to an authorized hauler for safe disposal, in accordance with local regulations on disposal of products containing mercury.
Cardboard/Paper/newspapers	Building occupants dispose of paper/newspapers in separately provided collection points periodically placed around the stadium and in suites.	Amounts are tracked and taken away by hauler on a regular basis (same schedule as current waste pickup) for recycling.
Batteries	Building occupants deliver batteries to a specially-designated collection point for disposal.	Taken away/ dropped off to an authorized hauler on a regular basis for proper disposal.
Durable Goods (Electronic Waste and Furniture)	Building management provides a secure collection area to store durable goods that have reached the end of their life within the building but still have value and may be donated/re-used.	Amounts are tracked and taken away/ dropped off to an authorized hauler or re-use center on a regular basis for recycling.
Building Materials	Building management coordinates with contractors to collect construction waste for re-use/recycling.	Amounts are tracked and taken away by an authorized hauler at the end of the demolition/construction period for recycling.

SECTION 7: TIME PERIOD

With respect to the Time Period, this Solid Waste Management Policy was established in March 2012 and is currently in effect. This plan is to remain in effect for the life of the building and to be regularly evaluated for any improvements. During the life of this policy, the Solid Waste Management Policy will, at a minimum, address the diversion of waste and toxins generated through building operations from landfills and incineration facilities that are within the building and site management's control.



ATTACHMENT J. – NEGOMETRIX INSTRUCTIONS

(SEE WWW.APP.NEGOMETRIX.COM-REGISTER)

Appendix I. MSA Contract Compliance System Information

Maryland Stadium Authority's Contract Compliance System

SYSTEM ACCESS

Vendor Account Look Up:

Find your account and retrieve your password at

<https://mdsta.d.diversitycompliance.com/FrontEnd/UserSearchPublic.asp>



CONTRACT COMPLIANCE & REPORTING

For Prime Contractor

Prime Contractor receives regular reporting notices by email. Simply click the link provided to log in, and enter payments made to the list of subcontractors displayed.

For Subcontractors

Once the prime Contractor reports their payments, an email notice is sent to each subcontractor.

The subcontractor clicks the link provided to log in, and then confirms the payment reported by the prime has been received.

Additional Contractor Benefits

Immediate visibility to contract goal achievement at the overall contract level.

Visibility to Subcontractors that may not be reporting in a timely basis. Integrated messaging to support communication with your contract compliance officer.

Online subcontractor addition/substitution request process.

Getting Started with Subcontractor Utilization Reporting

An email with instructions will be sent to Contractors when online reporting starts.

Before then you can determine if an account has been set up for your company through the Account Lookup link on the portal.