



**Maryland Stadium Authority  
Request for Proposals  
Preliminary Design Services  
Prince George's County Blue Line Corridor - Fieldhouse**

**Issue Date: August 4, 2023**

**NOTICE**

A Prospective Offeror that has received this document from a source other than eMaryland Marketplace (eMMA) <https://procurement.maryland.gov> should register on eMMA. See Section 1.8 of this RFP.

**MINORITY BUSINESS ENTERPRISES ARE ENCOURAGED TO RESPOND TO THIS SOLICITATION.**

## KEY INFORMATION SUMMARY SHEET

### MARYLAND STADIUM AUTHORITY

#### Request for Proposals Preliminary Design Services

#### Prince George's County Blue Line Corridor - Fieldhouse

<b>Issue Date:</b>	August 4, 2023
<b>Procurement Officer:</b>	Yai Waite Maryland Stadium Authority 351 West Camden Street, Suite 300 Baltimore, Maryland 21201 Phone: 443-602-0681 E-mail: <a href="mailto:ywaite@mdstad.com">ywaite@mdstad.com</a>
<b>Procurement Method:</b>	Competitive Sealed Proposals
<b>MBE Participation Goal:</b>	40% overall, and subgoals of 7% African-American firms, and 10% Women Owned firms
<b>Pre-Proposal Conference:</b>	August 14, 2023 at 12:00 p.m. (Local Time) Web Conference
<b>Site Visit:</b>	August 15, 2023 at 10:00 a.m. (Local Time) 9441 Peppercorn Place Largo, Maryland 20774
<b>Closing Date and Time Technical Proposals:</b>	October 4, 2023 at 1:00 p.m. (Local Time)

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## **SECTION 1**

### **GENERAL INFORMATION**

#### **1.1 Summary Statement**

Chapter 61 of the Acts of 2022 as codified in ED §§ 10-601, 10-646.4, and 10-657.6 authorizes the Maryland Stadium Authority (the “MSA”) to finance up to \$400,000,000 for site acquisition and the planning, design, and construction of specific facilities proposed to be included in the Prince George’s County Blue Line Corridor development initiative. On January 25, 2023, MSA and Prince George’s County (the “Client”) entered into a Memorandum of Understanding that formalizes the relationship and role of each in the execution of the work.

Through this solicitation, MSA is seeking a highly qualified Architect/Engineer (“A/E”) firm to provide the Preliminary Design Services outlined in Section 3.1 of this Request for Proposal (the “RFP”) for a proposed fieldhouse as described in **Attachment C** to the RFP.

If constructed, the Contract entered into with the A/E Offeror selected through this solicitation may be modified to include the Project Design and Construction Administration services outlined in Section 3.2 of the RFP. MSA anticipates that the Project will be delivered under the guaranteed maximum price via the Construction Manager at Risk method.

#### **1.2 Abbreviations and Definitions**

For purposes of the RFP, the following abbreviations and terms have the meanings indicated below:

- a. A/E - Means the Architect/Engineer Offeror selected pursuant to the requirements and procedures contained in the RFP.
- b. Client –Prince George’s County (“PGC”).
- c. COMAR - Code of Maryland Regulations (available at [www.dsd.state.md.us](http://www.dsd.state.md.us)).
- d. Construction Manager (“CM”) – A third party engaged by the MSA to provide pre-construction and construction management services.
- e. Contract - The formal, written agreement entered into between MSA and the selected Offeror responding to the RFP. The Contract will include all general MSA terms and conditions and will incorporate the entire RFP, including any amendments or addenda and all or indicated portions of the selected Offeror’s

proposal. A sample contract agreement is attached to this solicitation as **Attachment G**.

- f. Contract Administrator (“CA”) – The MSA representative for this Contract that is primarily responsible for contract administration functions, including issuing written direction, monitoring this Contract to ensure compliance with the terms and conditions of the Contract, and to assist the consultant in achieving on budget, on time and on target (e.g., within scope) completion of the Contract requirements. MSA may change the CA at any time by written notice to the A/E.
- g. eMMA - eMaryland Marketplace Advantage (<https://emma.maryland.gov/>).
- h. Key Personnel - All Contractor Personnel identified in the solicitation as such that are essential to the work to be performed under the Contract. See RFP Section 4.3.d.1.c.).
- i. Local Time - Time in the Eastern Time Zone as observed by the State.
- j. MBE - Minority Business Enterprise certified by the Maryland Department of Transportation (“MDOT”).
- k. MSA - Maryland Stadium Authority ([www.mdstad.com](http://www.mdstad.com)).
- l. MSA Business Hours - 8:30 a.m. to 5:00 p.m., local time, Monday through Friday, excluding State holidays.
- m. MSA Procurement Policies - MSA procurement policies and procedures (available at [www.mdstad.com/contracting](http://www.mdstad.com/contracting)).
- n. Notice to Proceed (“NTP”) – A formal notification issued by the Procurement Officer that directs the successful Offeror to perform work and establishes the date on which the work is to commence on the Project.
- o. Offeror - An individual or entity, regardless of legal status or organization, that submits a Proposal in response to this RFP. The Offeror is the individual or entity that will be executing the Contract with MSA.
- p. Procurement Officer (“PO”) - The MSA representative responsible for this RFP. MSA may change the Procurement Officer at any time and will provide written notice to the Offerors of any such change.
- q. Project –The development of the fieldhouse athletic facility through preliminary design, design and construction.

- r. Project Manager (“PM”) – The MSA representative primarily responsible for monitoring the daily activities associated with, and providing technical guidance for, the Project. The Project Manager is the point of contact, post-award, who will assign work and to whom invoices will be submitted. MSA may change the PM at any time by written notice to the A/E.
- s. Project Team – Includes the A/E, MSA, PGC, MSA’s CM and any other consultant or government agency MSA may engage.
- t. Proposal - The submissions provided by an Offeror in response to this RFP. “Proposal” includes any Technical Proposal, clarifications, oral presentation material, Financial Proposal and Best and Final Offer(s) requested by the Procurement Officer.
- u. Proposal Closing Date– as identified in Section 1.10 of the RFP or as amended via addendum.
- v. Request for Proposals (“RFP”) - This document announcing the Project and soliciting proposals for the execution of the Project, as amended.
- w. Selection Committee - The persons responsible for selecting the successful Offeror.
- x. State – The State of Maryland.

### **1.3 Contract Type**

The contract that results from this RFP will include a fixed fee for professional services, a not-to-exceed allowance for certain reimbursable expenses, and a contingency amount to be used by MSA in its sole discretion.

### **1.4 Contract Duration**

The term of the Contract will be for a period necessary to complete the scope of work and as agreed upon by MSA and the A/E.

### **1.5 Procurement Officer**

The sole point-of-contact for purposes of this RFP is the Procurement Officer listed below. MSA may change the Procurement Officer at any time and will provide written notice to the Offerors if any such change occurs.

Yai Waite  
Maryland Stadium Authority  
351 West Camden Street, Suite 300  
Baltimore, Maryland 21201  
Telephone: 443-602-0681  
Email: [ywaite@mdstad.com](mailto:ywaite@mdstad.com)

## **1.6 Pre-Proposal Conference and Site Visit**

A virtual pre-proposal conference (“Conference”) will be held on **August 14, 2023 at 12:00 p.m., Local Time**. Please click on the link below to for details regarding the Conference and to RSVP to the event.

<https://us02web.zoom.us/meeting/register/tZcqO-vpzktG9ZkXP36Atw7JItZoiK8JW5o>

A site visit will be held on **August 15, 2023 at 10:00 a.m., Local Time**. Please click on the link below to register.

<https://www.eventbrite.com/e/site-visit-prince-georges-county-blue-line-corridor-in-door-field-house-tickets-691644295707?aff=oddtcreator>

## **1.7 Contract and Project Manager**

The Contract and Project Manager is:

Brent Miller  
Maryland Stadium Authority  
351 West Camden Street, Suite 300  
Baltimore, Maryland 21201

Prior to contract award, MSA may change the Project Manager at any time and will provide written notice to the Offerors. After Contract award, MSA may change the Project Manager at any time by written notice to the A/E.

## **1.8 e-Maryland Marketplace Advantage (eMMA)**

eMMA is the electronic commerce system for the State of Maryland. In order to receive a contract award, a vendor must be registered on eMMA. Registration is free. You can register at: <https://emma.maryland.gov/>. Click on “New Vendor? Register Now” to begin the process, and follow the prompts.

## **1.9 Questions**

All questions regarding this RFP shall be submitted electronically, in Word or PDF format, via the following upload link no later than **September 6, 2023 at 1:00 p.m., Local Time**:

<https://mdstad.sharefile.com/r-r9coc71e84da3495e88ddbb39c4796a57>

Please include information regarding the name of the firm, representative’s name, and contact information. Based on the availability of time to research and communicate an answer, the Procurement Officer will decide whether an answer can be given before the proposal closing date. Answers to all substantive questions that

have not previously been answered, and are not clearly specific to the requestor, will be provided via addendum. Responses to any questions, whether responded to verbally or in writing, are not binding unless issued, in writing, via addendum.

#### **1.10 Proposal Closing Date and Time**

To be considered, both technical and financial Proposals must be uploaded to the following links no later than **October 4, 2023 at 1:00 p.m, Local Time**:

Link to upload technical Proposals:

<https://mdstad.sharefile.com/r-r716d24d3c60a4f3b9dc6865f3d7c673b>

Link to upload password protected financial Proposals:

<https://mdstad.sharefile.com/r-rf91134304a4f481d91be514ec18396e1>

Requests for an extension of this date and/or time will not be granted. Offerors should allow sufficient electronic transmission time to ensure timely receipt of their proposals. Proposals received by MSA after the deadline will not be considered. Proposals will not be reviewed publicly.

#### **1.11 Oral Presentations**

Short-listed Offerors will be required to attend oral presentations. Significant representations made by an Offeror during their oral presentation must be confirmed in writing. All such representations will become part of the Offeror's Proposal and are binding if a contract is awarded as a result of this RFP. Oral Presentations are to be held on October 23 through October 25, 2023. Availability for the dates provided shall be acknowledged in the Technical Proposal. Typically, oral presentations will follow a specified format and generally be limited to 60 minutes [45 minutes for the presentation and 15 minutes for questions]. The Procurement Officer will notify the short-listed Offerors with details and instructions prior to the presentation. The presentation must consist of, but not be limited to, a discussion of the Offeror's specific approach to the Project and understanding of the scope of work.

#### **1.12 Duration of Offer**

Proposals submitted in response to this RFP are irrevocable for **180 days** following the closing date for proposals. This period may be extended at the Procurement Officer's request only with the Offeror's written agreement.

#### **1.13 Offeror's Affidavits**

(a) Bid/proposal Affidavit. Each Offeror shall complete and submit the Bid/Proposal Affidavit attached hereto as **Attachment A** with the Offeror's Technical Proposal.

(b) Conflict of Interest Affidavit. Each Offeror shall complete and submit the Conflict of Interest Affidavit attached hereto as **Attachment B** with the Offeror's Technical Proposal.

(c) Contract Affidavit. Affidavit is included for informational purposes only as **Attachment J** of this RFP. This Affidavit must be provided within five business days after notification of proposed contract award. For purposes of completing Section B of the affidavit (Certification of Registration or Qualification with the State Department of Assessments and Taxation), a business entity that is organized outside of the State of Maryland is considered a "foreign" business.

(d) Corporate Diversity Addendum and Affidavit. Each Offeror shall complete and submit the Corporate Diversity Addendum and Affidavit attached hereto as **Attachment M** with the Offeror's Technical Proposal.

#### **1.14 Procurement Method**

The Contract resulting from this RFP will be awarded in accordance with the Competitive Sealed Proposals process under Section 3 (C) of MSA's Procurement Policies. MSA's Procurement Policies are available for review on MSA's website ([www.mdstad.com/contracting](http://www.mdstad.com/contracting)) or may be obtained by contacting the Procurement Officer.

#### **1.15 Arrearages**

By submitting a response to this RFP, an Offeror represents that it is not in arrears in the payment of any obligations due and owing the State of Maryland, including, by way of example only, the payment of taxes and employee benefits, and that it will not become so in arrears during the term of the Contract if selected for contract award.

#### **1.16 Revisions to the RFP**

- a. If it becomes necessary to revise this RFP before the closing date for proposals, an addendum/addenda will be posted on eMMA, Gov Delivery, and MSA's website. Addenda issued after the closing date for proposals will be sent only to those Offerors who submitted a responsive and timely proposal, or, if applicable, Offerors that were short-listed to participate in the next phase of the procurement process.
- b. Acknowledgment of the receipt of all addenda to this RFP issued before the proposal closing date must accompany the Offeror's Proposal as identified in Section 4.3.c.1.
- c. Acknowledgement of receipt of addenda to the RFP issued after the proposal closing date shall be in the manner specified in the addendum notice.

- d. Failure to acknowledge receipt of addenda does not relieve the Offeror from complying with all terms of any such document.

#### **1.17 Cancellations; Discussions**

MSA reserves the right to cancel this RFP, 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 any or all qualified or potentially qualified Offerors in any manner necessary to serve the best interests of MSA. This may be followed by submission of Offeror-revised Proposals and best and final offers (hereinafter “BAFO”). MSA also reserves the right, in its sole discretion, to award a contract based upon written proposals received, without prior discussions or negotiations.

#### **1.18 False Statement**

MSA incorporates by reference the provisions of Section 11-205.1 of the State Finance and Procurement Article of the Annotated Code of Maryland regarding truthfulness in the information included in the contract documents. Offerors shall comply with the obligations set forth therein, including, without limitation, the following:

- a. 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. A person may not aid or conspire with another person to commit an act under subsection of this section.
- c. 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 five (5) years or both.

#### **1.19 Minority Business Enterprise**

Minority Business Enterprises are encouraged to respond to this solicitation. The Offeror shall submit a completed D-1A form with its technical Proposal. Please refer to the Key Information Summary Sheet of this RFP.

- a. 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.

- b. Notwithstanding any subgoals established for this RFP, the A/E 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.
- c. 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.
- d. An Offeror that does not commit to meeting the entire MBE participation goal outlined in this Section 1.20 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 Proposal to the RFP will result in the State's rejection of the Offeror's Proposal.** This failure is not curable.
- e. Attachments:
  - 1. Minority Business Enterprise instructions, and forms are provided in **Attachment D** to assist Offerors.
  - 2. The Offeror shall include with its technical Proposal a completed MBE Utilization and Fair Solicitation Affidavit (**Attachment D-1A**) whereby:
    - a.) 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
    - b.) 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.
    - c.) An 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.
    - d.) If the Offeror fails to submit a completed **Attachment D-1A** with the technical Proposal, as required, the Procurement Officer shall determine that the Proposal is not reasonably susceptible of being

selected for award.

3. 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 by the Maryland Department of Transportation and has the correct NAICS codes allowing it to perform the committed work.
4. 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.
- f. 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.**
- g. An Offeror that requests 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.

- h. 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 Sample Contract – **Attachment G**).
- i. The Offeror is advised that liquidated damages will apply in the event the A/E fails to comply in good faith with the requirements of the MBE program and pertinent Contract.
- j. As set forth in COMAR 21.11.03.12-1(D), when a certified MBE firm participates on a contract as a prime contractor (including a joint-venture where the MBE firm is a partner), a procurement agency may count the distinct, clearly defined portion of the work of the contract that the certified MBE firm performs with its own work force towards fulfilling up to fifty-percent (50%) of the MBE participation goal (overall) and up to one hundred percent (100%) of not more than one of the MBE participation subgoals, if any, established for the contract.

#### **1.20 Incurred Expenses; Economy of Preparation**

Neither MSA nor the Client is responsible for any costs incurred by an Offeror in preparing and submitting a proposal, in making an oral presentation, in providing a demonstration or in performing any other activities relative to this RFP. Proposals should be prepared simply and economically, providing a straightforward, concise description of how the Offeror proposes to meet the requirements of this RFP.

#### **1.21 Protests/Disputes**

Any protest or dispute related to this RFP will be subject to Section 10 of MSA's Procurement Policies and Procedures and the relevant provisions of the Contract. MSA's Procurement Policies are available for review on MSA's website at [www.mdstad.com/contracting](http://www.mdstad.com/contracting) or may be obtained by contacting the Procurement Officer.

#### **1.22 Access to Public Records Act Notice**

An Offeror should give specific attention to the clear identification of those portions of the Proposal that it considers confidential and/or proprietary commercial information or trade secrets, and provide written justification why such materials, upon request, should not be disclosed by the State under the Public Information Act, Title 4 of the General Provisions Article of the Annotated Code of Maryland. This information should be identified by page and section number and placed after the Title Page and before the Table of Contents in the technical Proposal and if applicable, separately in the financial Proposal. Offerors are advised that, upon

request for this information from a third party, the Procurement Officer is required to make an independent determination whether the information may be disclosed.

### **1.23 Offeror Responsibilities**

The Offeror shall be responsible for all products and services required by this RFP. Subcontractors must be identified, and a complete description of their roles relative to the Proposal must be included in the Proposal. The Offeror retains responsibility for all work to be performed by and any deliverable submitted by a subcontractor. If an Offeror that seeks to perform or provide the services required by this RFP is the subsidiary of another entity, all information submitted by the Offeror such as, but not limited to, references and financial reports, shall pertain exclusively to the Offeror, unless the parent organization will guarantee the performance of the subsidiary. If applicable, the Offeror's proposal must contain an explicit statement that the parent organization will guarantee the performance of the subsidiary.

### **1.24 Patents, Copyrights, and Intellectual Property**

- a. If the A/E furnishes any design, device, material, process or other item that is covered by a patent or copyright or that is proprietary to or a trade secret of another, it shall obtain the necessary permission or license to permit MSA or the Client to use such item.
- b. The A/E will defend or settle, at its own expense, any claim or suit against MSA and the Client alleging that any such item furnished by the A/E infringes any patent, trademark, copyright, or trade secret. If a third party claims that a product infringes that party's patent, trademark, copyright or trade secret, the A/E will defend MSA and the Client against that claim at the A/E's expense and will pay all damages, costs, and attorneys fees that a court finally awards, provided MSA and the Client: (i) promptly notifies the A/E in writing of the claim; and (ii) allows the A/E to control and cooperates with the A/E in, the defense and any related settlement negotiations. The obligations of this paragraph are in addition to those stated in the next paragraph.
- c. If any products furnished by the A/E become, or in the A/E's opinion are likely to become, the subject of a claim of infringement, the A/E will, at its option and expense: (i) procure for MSA and Client the right to continue using the applicable item; (ii) replace the product with a non-infringing product substantially complying with the item's specifications; or (iii) modify the item so that it becomes non- infringing and performs in a substantially similar manner to the original item.

### **1.25 Non-Availability of Funding**

If the General Assembly fails to appropriate funds or if funds are not otherwise made available for continued performance for any fiscal period of a contract succeeding the first fiscal period, the contract shall be canceled automatically as of the beginning of the fiscal year for which funds were not appropriated or otherwise

made available; provided, however, that this will not affect the rights of the A/E, the MSA and PGC under any termination clause in the contract. The effect of termination of the contract hereunder will be to discharge the A/E, the MSA and the Client from future performance of the contract, but not from their rights and obligations existing at the time of termination. The A/E shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the contract. The MSA and the Client shall notify the A/E as soon as it has knowledge that funds may not be available for the continuation of the contract for each succeeding fiscal period beyond the first.

#### **1.26 Financial Disclosure**

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

#### **1.27 Non-Exclusive Use**

Neither this RFP nor any resulting Contract shall be construed to require the MSA to use any Offeror or exclusively use the A/E for the services described in this RFP. MSA reserves the right to obtain services of any nature from other sources when it is in the best interest of the MSA to do so and without notice to any party. The MSA makes no guarantees that it will purchase any products or services from the A/E resulting from this RFP.

#### **1.28 Sustainability Policies**

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.

#### **1.29 Payments by Electronic Fund Transfer**

By submitting a response to this RFP, the Offeror agrees to accept payments by electronic funds transfer (EFT). A form will be provided to the selected Offeror.

#### **1.30 Confidentiality**

Subject to the Maryland Public Information Act and any other applicable laws, all confidential or proprietary information and documentation relating to either party to a Contract resulting from this RFP (including without limitation any information or data stored within the A/E's computer systems) shall be held in absolute confidence by the other party. Each party shall, however, be permitted to disclose

relevant confidential information to its officers, agents, and employees to the extent that such disclosure is necessary for the performance of their duties under the Contract, provided that the data may be collected, used, disclosed, stored, and disseminated only as provided by and consistent with the law. The provisions of this section shall not apply to information that (a) is lawfully in the public domain; (b) has been independently developed by the other party without violation of the Contract; (c) was already in the possession of such party; (d) was supplied to such party by a third-party lawfully in possession thereof and legally permitted to further disclose the information; or (e) such party is required to disclose by law.

### **1.31 Loss of Data**

In the event of loss of any MSA and/or Project related data or records where such loss is due to the intentional act or omission or negligence of the A/E or any of its sub consultants or agents, the A/E shall be responsible for recreating such lost data in the manner and on the schedule set by the Project Manager. The A/E shall ensure that all data is backed up and recoverable by the A/E.

### **1.32 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 procurement, shall, during the pendency and term of a resulting Contract, and while serving as an official or employee of the State, become or be an employee of the A/E or any entity that is a subconsultant on Contract.

### **1.33 Nondiscrimination in Employment**

The A/E agrees: (a) not to discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, marital status, sexual orientation, national origin, ancestry or disability of a qualified individual with a disability; (b) to include a provision similar to that contained in subsection (a) above in any subcontract except a subcontract for standard commercial supplies or raw materials; and (c) to post, and to cause sub consultants to post, in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause.

### **1.34 Contingent Fee Prohibition**

The A/E warrants that it 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 A/E, to solicit or secure an Agreement, and that it 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 other consideration contingent on the making of an Agreement.

### **1.35 Political Contribution Disclosure**

The A/E shall comply with Election Law Article, §§14-101 to 14-108, Annotated Code of Maryland, which requires that every person that enters into contracts, leases, or other agreements with the State, a county, or an incorporated municipality, or their agencies, during a calendar year in which the person receives in the aggregate \$100,000 or more, shall file with the State Board of Elections a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election. The statement shall be filed with the State Board of Elections: (1) before a purchase or execution of a lease or contract by the State, a county, an incorporated municipality, or their agencies, and shall cover the preceding two calendar years; and (2) if the contribution is made after the execution of a lease or contract, then twice a year, throughout the contract term, on: (a) February 5, to cover the 6-month period ending January 31; and (b) August 5, to cover the 6-month period ending July 31.

### **1.36 Verification of Registration and Tax Payment**

Before a corporation can do business in the State, it must be registered with the Department of Assessments and Taxation, State Office Building, Room 803, 301 West Preston Street, Baltimore, Maryland 21201. It is strongly recommended that any potential Offeror complete registration prior to the Proposal due date and time. An Offeror's failure to complete registration with the Department of Assessments and Taxation may disqualify an otherwise successful Offeror from final consideration and recommendation for contract award under this RFP.

Prior to contract award under this RFP, the selected firm, including the joint ventures, must provide a Certificate of Good Standing from the Maryland State Department of Assessments and Taxation.

### **1.37 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. The system provides various work-flow automation features that improve the project reporting process and monitors contractual compliance. The prime firm, its first-tier consultants, 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 before, during, or after Agreement award.

### **1.38 Maryland Law**

This RFP shall be construed, interpreted, and enforced according to the laws of the State of Maryland.

### **1.39 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. Any exceptions to this RFP or the Contract shall be clearly identified in the Executive Summary of the technical Proposal. All exceptions will be taken into consideration when evaluating the Offeror's Proposal. MSA reserves the right to accept or reject any exceptions.

### **1.40 Procurement Regulations**

The RFP and any Agreements 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](http://www.mdstad.com).

### **1.41 Multiple Proposals**

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

### **1.42 Commercial Nondiscrimination**

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

As a condition of entering into this Contract, upon the request of the Commission on Civil Rights, and only after the filing of a complaint against Contractor under Title 19 of

the State Finance and Procurement Article of the Annotated Code of Maryland, as amended from time to time, Contractor agrees to provide within 60 days after the request a complete list of the names of all subcontractors, vendors, and suppliers that Contractor has used in the past four (4) years on any of its contracts that were undertaken within the State of Maryland, including the total dollar amount paid by Contractor on each subcontract or supply contract. Contractor further agrees to cooperate in any investigation conducted by the State pursuant to the State 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 are requested by the State. Contractor understands that violation of this clause is a material breach of this Contract and may result in Contract termination, disqualification by the State from participating in State contracts, and other sanctions.

## **SECTION 2**

### **OFFEROR QUALIFICATIONS**

#### **2.1. Qualifications**

The Offeror shall clearly demonstrate in the Executive Summary of its technical Proposal that as of the Proposal Closing Date and Time the Offeror meets the minimum qualifications listed below. The Executive Summary shall include a reference(s) to the page number(s) in the proposal where such evidence can be found.

- a. Been in business for at least five (5) years;
- b. Is an architectural/engineering firm that has members registered to practice in the State of Maryland;
- c. Has a minimum of five (5) years of experience in providing design services for Government and/or commercial clients;
- d. Has substantial experience with community involvement during the planning and design phases of a project;
- e. Has substantial design experience related to the complex construction and renovation of structures located in an urban environment;
- f. Has experience in innovative design methods to meet programmatic goals of building efficiencies, on-time delivery, cost containment, and value engineering strategies;
- g. Has a minimum of five (5) years of design experience related to the construction of athletic facilities at the collegiate level or above; and
- h. Has the ability to meet the insurance coverage requirements outlined in the RFP.

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

## **SECTION 3**

### **SCOPE OF WORK**

#### **3.1. Scope of Work – Preliminary Design**

The A/E selected through this procurement will provide the Preliminary Design Services as described in the Preliminary Design Services Agreement included in **Attachment G**.

Preliminary Design Services include, but are not limited to, the following, as applicable:

- Preliminary Design (10 to 15% Schematic Design)
- Site Development/Planning
- Infrastructure Analysis
- Environmental Impact Analysis
- Archaeological Impact Analysis
- Geotechnical Analysis/Engineering
- Traffic Analysis (Ingress/Egress - Pedestrian and Vehicular)
- Value Engineering
- Quality Assurance
- Assisting MSA with Professional and Technical Service Procurements as requested.

##### **a. Services**

1. The A/E shall work with MSA and the Project Team, as directed, to plan, schedule and coordinate building access, meetings and interviews with key stakeholders identified by MSA and the Client. The A/E will meet with the Client's staff as many times as the parties deem necessary for the A/E to complete the preliminary design. This may include, by way of example and not limitation, individual meetings, walk-throughs of the proposed site(s), etc.
2. The A/E shall conduct a kick-off meeting with the Project Team within seven (7) days of receiving a Notice to Proceed for preliminary design services.
3. The A/E shall become familiar with the types of spaces typically included in buildings with similar uses and occupancy.
4. The A/E, in consultation with the Project Team shall:
  - a.) Identify qualitative and quantitative problems;
  - b.) Identify factors that influence the existence or extent of these problems;

- c.) Identify consequences of these problems;
  - d.) Ascertain space criteria requirements;
  - e.) Determine number of square feet per person or purpose for the spaces;
  - f.) Ascertain relationships of spaces for the various purposes (space adjacencies);
  - g.) Determine ratios of net assignable square footage for specific space to gross square footage;
  - h.) Ascertain equipment and utility requirements;
  - i.) Ascertain storage needs;
  - j.) Determine access requirements, including ADA compliance issues;
  - k.) Determine technical, mechanical, electrical, security or other issues unique to use;
  - l.) Understand the Client's objectives and goals for construction;
  - m.) Understand the Client's objectives and goals for operations and economic return;
  - n.) Understand the Client's project timetable and limits, criteria and requirements for project budget;
  - o.) Understand other design criteria that may affect architectural design (i.e. accessibility, windows/natural lighting, and public versus private spaces); and
  - p.) Understand energy use standards.
5. The A/E shall provide status reports and updates on the progress of the preliminary design as requested by MSA.
  6. The A/E and Project Team shall meet on a regular basis to discuss the status reports and updates on the progress of the preliminary design.

## **b. Scheduling**

1. The A/E shall prepare and periodically update a master project schedule that tracks and monitors the progress of the preliminary design and identifies milestones and critical decision points required by the Project Team including MSA, PGC and the A/E.

2. The A/E shall provide scheduling services to produce a high-level project schedule for each Project component. Each schedule shall outline the major items of the work and clearly show the expected overall duration to complete the Work.

**c. Cost Estimating**

1. The A/E shall provide cost estimating services to produce a cost estimate for the Project.

**d. Deliverables**

1. Upon completion of the preliminary design phase, the A/E shall provide a minimum of two (2) hard copies and one electronic copy (in .pdf format) of the documents produced as part of the preliminary design.

**3.2. Scope of Work – Project Design & Construction Administration**

Project Design and Construction Administration services are described in the Architect Agreement for Architectural/Engineering Services Agreement included in Attachment H

If constructed, MSA anticipates procuring the services of a Construction Manager to provide Preconstruction and Construction Management Services. Samples of MSA's Construction Manager contracts are available upon request. MSA anticipates engaging the Construction Manager at the Design Development Phase.

The scope of work includes, but is not limited to the following:

- a. Schematic Design Phase
  1. Cost estimating
- b. Design Development Phase
  1. Cost estimating and reconciliation(s) with the CM's cost estimate.
- c. Construction Documents Phase
  1. Cost estimating and reconciliation(s) with the CM's cost estimate.
- d. Bidding or Negotiating Phase
- e. Construction Phase Administrative Services

## **SECTION 4**

### **PROPOSAL SUBMISSION AND REQUIREMENTS**

#### **4.1 Solicitation Process**

The solicitation will follow a multi-step process to select the successful Offeror.

**a. Step 1– Submission of technical and financial Proposals**

Offerors shall follow the instructions provided in section 1.10 of the RFP. Offerors must submit Proposals in two separate volumes: Volume I Technical Proposal, and Volume II Financial Proposal. Volume II, Financial Proposal, shall be password protected, per the requirements in section 4.3 of this RFP. After the Proposal Closing Date and Time, technical proposals will be reviewed and those deemed responsible and reasonably susceptible of being selected for award will be reviewed by the Selection Committee. Offerors must respond to all requirements of the RFP. Offerors that fail to do so will be deemed not reasonably susceptible of being selected for award.

**b. Step 2 – Review of Technical Proposals**

The Selection Committee will review technical Proposals and rank the Proposals according to technical merit. Based on their achieved technical rankings, selected Offerors will be “short-listed” to participate in the oral presentation phase of the procurement.

**c. Step 3 – Short-list and Oral Presentations**

Short-listed Offerors will be asked to make an oral presentation. Offerors that are not short-listed will be notified that they are not reasonably susceptible of being selected for award.

**d. Step 4 – Short-list and Review of Financial Proposals**

After Oral Presentations, and based on achieved ranking, the Selection Committee will short-list firms to participate in the financial phase of the procurement. Short-listed firms will be requested to provide the password to their financial Proposal.

Offerors that are not short-listed will be notified that they are not reasonably susceptible of being selected for award.

**e. Step 5 – Recommendation for Award**

The Offeror deemed to provide the best value (technical and financial) to the Project by the Selection Committee will be recommended for award.

## **4.2 Instruction for Submission of Proposals–General Requirements**

Offerors shall submit proposals labeled “**Request for Proposals – Architectural/Engineering Services – Prince George’s County Blue Line Corridor - Peppercorn Fieldhouse**” and labeled either “**Volume I - Technical Proposal**” or “**Volume II - Financial Proposal**”. All pages of each proposal volume must be consecutively numbered from beginning (Page 1) to end (Page “x”). The final page shall state “Final Page.”

The electronic submissions (formatted as .pdf file) shall include the firm’s name in the file name and shall be formatted so each page can be legibly printed in 8 1/2” x 11” format.

## **4.3 Volume I - Technical Proposal**

This section provides specific instructions for submission of the Offeror’s technical Proposal. Technical Proposals shall be uploaded electronically to the link provided in Section 1.10 of the RFP. The technical Proposal shall follow the format provided below.

### **a. Transmittal Letter**

A transmittal letter must accompany the technical Proposal. The purpose of this letter is to transmit the proposal to the Procurement Officer. The transmittal letter should be brief, and signed by an individual who is authorized to commit the Offeror to the services and requirements as stated in this RFP.

### **b. Title and Table of Contents**

The technical Proposal shall begin with a title page bearing the name and address of the Offeror, point of contact information (including phone number and e-mail address) for **two (2) people**, and the title of this RFP. A table of contents for the Proposal should follow the title page. Information that is claimed to be confidential shall be clearly identified. Unless there is a compelling case, an entire proposal should not be labeled confidential; only those portions that can reasonably be shown to be proprietary or confidential should be so labeled.

### **c. Executive Summary**

The Offeror shall condense and highlight the contents of the technical Proposal in a separate section titled “Executive Summary”. The summary shall:

1. State the Offeror’s legal name;
2. acknowledge the receipt of any amendments or addenda associated with this RFP;

3. provide the Offeror's tax identification number;
4. identify any joint ventures at the time of submission, if any, and the roles these relationships will have in the performance of the Contract. Upon MSA's request, Offerors shall make available within 24 hours the joint venture scope of work documents and/or agreement;
5. cross reference each minimum qualification requirement, identified in Section 2 of the RFP, with the location in the submission (section or page number) where the Offeror has demonstrated or documented that it meets the requirement;
6. provide the Offeror's availability for oral presentations; and
7. list any exceptions the Offeror has taken to the requirements of this RFP, the sample Contract, or any other exhibits or attachments. If an Offeror takes no exception, the Executive Summary should so state.

**Warning: Exceptions to terms and conditions may result in having the proposal deemed unacceptable or classified as not reasonably susceptible for award.**

**d. Experience and Qualifications (Tab 1)**

Sections 2 and 3 outline the desired requirements of this solicitation. The information below shall also be included in this Section.

**1. Architect-Engineer Qualifications & Experience – SF330 (Attachment E)**

a.) Responses must include key subcontractors and/or consultants that will participate in the preliminary design identified in Sections 3.3.

b.) Organizational Chart (Attachment E, SF330, Section D):

1. Clearly identify the team member(s) that will attend design meetings and serve as the day-to-day contact for the proposed team(s).

c.) Resumes of Key Personnel (Attachment E, SF330, Section E):

At a minimum, submit resumes for each of the major disciplines identified below. Each resume should include the years of experience the individual has had relative to the Scope of Work set forth in this solicitation.

1. Principal in Charge
2. Project Manager

3. Project Designer
4. Civil Engineer
5. Structural Engineer
6. Geotechnical Engineer
7. Mechanical Engineer
8. Electrical Engineer
9. Plumbing Engineer
10. Fire Protection Engineer
11. Athletic Facility Event/Space Planning Consultant
12. Athletic Playing Surface Specialist or Consultant
13. Landscape Architect
14. Telecommunications/IT Consultant
15. LEED Consultant
16. Other Key Personnel the Offeror May Deem Appropriate

d.) Example Projects: For each Project Component that illustrate experience and qualifications. (Attachment E, SF330, Section F)

- i. Four (4) projects for the A/E; four (4) projects for the Athletic facility event/space planning consultant; four (4) projects for the athletic playing surface specialist or consultant; two (2) projects for the civil engineer; two (2) projects for the structural engineer; one (1) project for the geotechnical engineer; one (1) project for mechanical engineer and one (1) project for the electrical engineer.

g.) Small Business Status (Attachment E, SF330, Part II, 5b):

- i. Indicate if the Offeror is a Maryland MDOT MBE and/or Small Business Reserve (SBR). Include applicable certification number(s) as appropriate.

**e. Work Plan (Tab 2)**

1. Staffing Plan: Provide a Staffing Plan in the format included in **Attachment F** that shows the minimum percentage of time that each Key Personnel member will dedicate to the Project.
2. Conceptual CPM Schedule: Provide a high-level schedule that includes the preliminary design effort identified in Section 3.3 that shows the Offeror's proposed sequence of activities and durations required to complete the milestones included in the scope of work outlined in this RFP.
3. Provide a descriptive summary of the Offeror's approach to the items below. Provide this information in the exact order listed and using the headings indicated. This information shall clearly demonstrate what the Offeror has done in the past or what is being proposed for this Project.

- a.) Preliminary Design: Describe the process by which the Offeror will manage and administer the preliminary design services and the subsequent design, scheduling and cost estimating services outlined in Section 3. As part of the narrative, describe the Offeror's approach to working collaboratively with the Project Team to complete the work. Highlight any unique skills or abilities that the Offeror can/will provide in the execution of the work.
- b.) Design Management: Describe the process by which the Offeror will lead the design team in the execution of the scope of work outlined in this RFP. As part of the narrative, describe the Offeror's approach to working collaboratively with the Project Team to help guide the overall program and design of the Project. Highlight any unique skills or abilities that the Offeror can/will provide in the execution of the Project.
- c.) Project Challenges Related to the Fieldhouse: Identify the three (3) most significant challenges to designing and constructing the Project, in order of importance, based on the information made available in this RFP and the site visit(s). Provide a brief description of the Offeror's approach to addressing each, including specific experience resolving similar challenges.

**f. Other Required Submissions (Tab 3)**

Offerors must submit the following items in the technical Proposal:

- 1. A completed Bid/Proposal Affidavit (**Attachment A**). The form must be completed by the Offeror and all joint venture partners (if applicable).
- 2. A completed Conflict of Interest Information/Affidavit and Disclosure (**Attachment B**). The form must be completed by the Offeror and all joint venture partners (if applicable). By submitting a Conflict of Interest Affidavit and Disclosure, the Contractor shall be construed as certifying all Contractor Personnel and subcontractors are also without a conflict of interest as defined in COMAR 21.05.08.08A.
- 3. A completed MBE Attachment D-1A (**Attachment D**).
- 4. Corporate Profile (**Attachment K**)
- 5. Capacity Summary Sheet (**Attachment L**)
- 6. Corporate Diversity Affidavit and Addendum (**Attachment M**)
- 7. Proof of insurance certifying the Offeror's ability to comply with the insurance requirements, as set forth in the sample Contract attached hereto in **Attachment G**. The Offeror shall demonstrate its ability to meet this

requirement by providing:

- a.) A copy of its current certificate of insurance showing the types and limits of insurance in effect as of the Proposal submission date; or
- b.) A statement from the Offeror's insurance carrier, on the carrier's letterhead, indicating the Offeror's ability to comply with the requirements set for the in **Attachment G**.

#### **4.4 Volume II - Financial Proposal**

Financial Proposals shall be submitted in the manner indicated in section 1.10 of the RFP and shall be password protected. After review of the technical Proposals, the Procurement Officer will request the password to the Financial Proposal from short-listed Offerors only. Failure from the Offeror to provide the password upon request from the Procurement Officer will deem the Offeror's Proposal not reasonably susceptible of being selected for award. The financial Proposal shall include the Pricing Form (**Attachment I**).

A sample copy of the Pricing Form is attached hereto as Attachment I. Each Offeror submitting a financial proposal will also have to submit a copy of its current Dun and Bradstreet's Comprehensive Report.

Note: MSA reserves the right to require, during proposal evaluation, that the Offeror provide a copy of its most current Annual Report or audited Statement of Financial Condition to include a Balance Sheet, Income Statement and Cash Flow Statement or other acceptable financial information. These documents may be relied upon in any selection determination.

## **SECTION 5**

### **EVALUATION CRITERIA AND SELECTION PROCEDURE**

#### **5.1 Evaluation Criteria**

Evaluation of the Proposals will be performed by the Selection Committee and will be based on the criteria set forth below. Technical criteria shall be given more weight than financial criteria.

#### **5.2 Technical Criteria**

Criteria used to rate the technical Proposal includes, without limitation, the following:

- a. Understanding of the Project and adequacy of the Work Plan presented to provide the proposed services.
- b. Experience and qualifications of the Offeror and its Key Personnel, with specific emphasis on key personnel with similar projects.
- c. Past Performance and References of Offeror.
- d. Work Capacity of Offeror and Key Personnel.
- e. Overall Quality of Submission.
- f. Oral Presentation.

#### **5.3 Financial Criteria**

Short-listed Offerors that submit a financial Proposal and are deemed as meeting all of the requirements will be ranked (most advantageous to least advantageous) based on an analysis of the information provided in the financial Proposal submission.

#### **5.4 Reciprocal Preference**

Although Maryland law does not authorize procuring agencies to favor resident Offerors in awarding procurement contracts, many other states do grant their resident businesses preferences over Maryland contractors. COMAR 21.05.01.04 permits procuring agencies to apply a reciprocal preference under the following conditions:

- a. The Maryland resident business is a responsible Offeror;

- b. The most advantageous Proposal is from a responsible Offeror whose principal office, or principal base of operations is in another state;
- c. The other state gives a preference to its resident businesses through law, policy, or practice; and
- d. The preference does not conflict with a federal law or grant affecting the procurement Contract.

## **5.5 General Selection Process**

- a. The Contract will be awarded in accordance with the competitive sealed proposals process under Section 3(C) of MSA's Procurement Policies.
- b. Prior to award of a Contract pursuant to this RFP, MSA may require any and all Offerors to submit such additional information bearing upon the Offeror's ability to perform the contract as MSA may deem appropriate. MSA may also consider any information otherwise available concerning the financial, technical, and other qualifications or abilities of the Offeror.
- c. MSA may hold discussions with any or all Offerors judged reasonably susceptible of being selected for award, or potentially so. MSA also reserves the right to develop a short-list of Offerors deemed most qualified based upon their technical Proposals and conduct discussions with only the short-listed Offerors. However, MSA also reserves the right to make an award without holding discussions. Whether or not discussions are held, MSA may determine an Offeror to be not responsible or not reasonably susceptible of being selected for award, in its sole and absolute discretion, at any time after the initial closing date for receipt of proposals and the review of those proposals.

## **5.6 Award Determination**

Upon completion of all evaluations, discussions and negotiations, and reference checks, the Procurement Officer will recommend award of the Contract to the responsible Offeror(s) whose proposal is determined to be the most advantageous considering the technical and financial evaluation factors as set forth in this RFP. The award is subject to approval by the MSA Board of Directors.

## **ATTACHMENTS**

Attachments can be downloaded via the following link:

<https://mdstad.sharefile.com/d-s2ed55a27462d4060bd7b54671dcoa514>

- A.....BID/PROPOSAL AFFIDAVIT**
- B.....CONFLICT OF INTEREST AFFIDAVIT & DISCLOSURE**
- C.....PROJECT INFORMATION**
- D.....MBE INSTRUCTIONS AND FORMS**
- E.....ARCHITECT/ENGINEER QUALIFICATIONS (SF330)**
- F.....STAFFING PLAN**
- G.....PRELIMINARY DESIGN SERVICES AGREEMENT**
- H.....ARCHITECT AGREEMENT FOR  
ARCHITECTURAL/ENGINEERING SERVICES**
- I. ....SAMPLE REQUEST FOR FINANCIAL PROPOSAL**
- J. ....CONTRACT AFFIDAVIT**
- K.....CORPORATE PROFILE**
- L. ....CAPACITY SUMMARY SHEET**
- M. ....CORPORATE DIVERSITY AFFIDAVIT**

**ATTACHMENT A**  
**Bid/Proposal Affidavit**

<b>Attachment A. Bid/Proposal Affidavit</b>
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**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/Offeree 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/Offeree 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):

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**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).

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**F. AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES**

I FURTHER AFFIRM THAT:

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

**G. SUBCONTRACT AFFIRMATION**

I FURTHER AFFIRM THAT:

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

**H. AFFIRMATION REGARDING COLLUSION**

I FURTHER AFFIRM THAT:

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

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

**I. CERTIFICATION OF TAX PAYMENT**

I FURTHER AFFIRM THAT:

Except as validly contested, the business has paid, or has arranged for payment of, all taxes due the State of Maryland and has filed all required returns and reports with the Comptroller of the Treasury, State Department of Assessments and Taxation, and Department of Labor, Licensing, and Regulation, as applicable, and will have paid all withholding taxes due the State of Maryland prior to final settlement.

**J. CONTINGENT FEES**

I FURTHER AFFIRM THAT:

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

**K. CERTIFICATION REGARDING INVESTMENTS IN IRAN**

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

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

I FURTHER AFFIRM THAT:

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

**M. PROHIBITING DISCRIMINATORY BOYCOTTS OF ISRAEL**

I FURTHER AFFIRM THAT:

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

**N. I FURTHER AFFIRM THAT:**

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

**O. ACKNOWLEDGEMENT**

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

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

By:

\_\_\_\_\_  
*Signature of Authorized Representative and Affiant*

Printed Name:

\_\_\_\_\_  
*Printed Name of Authorized Representative and Affiant*

Title:

\_\_\_\_\_  
*Title*

Date:

\_\_\_\_\_  
*Date*

**ATTACHMENT B**  
**Conflict of Interest Affidavit**

<b>Attachment B.      Conflict of Interest Affidavit and Disclosure</b>
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**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 Offeror, Contractor, consultant, or subcontractor or sub-consultant 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 Proposal is made.

C. The 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 Offeror agrees that if an actual or potential conflict of interest arises after the date of this affidavit, the 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 which the 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: \_\_\_\_\_

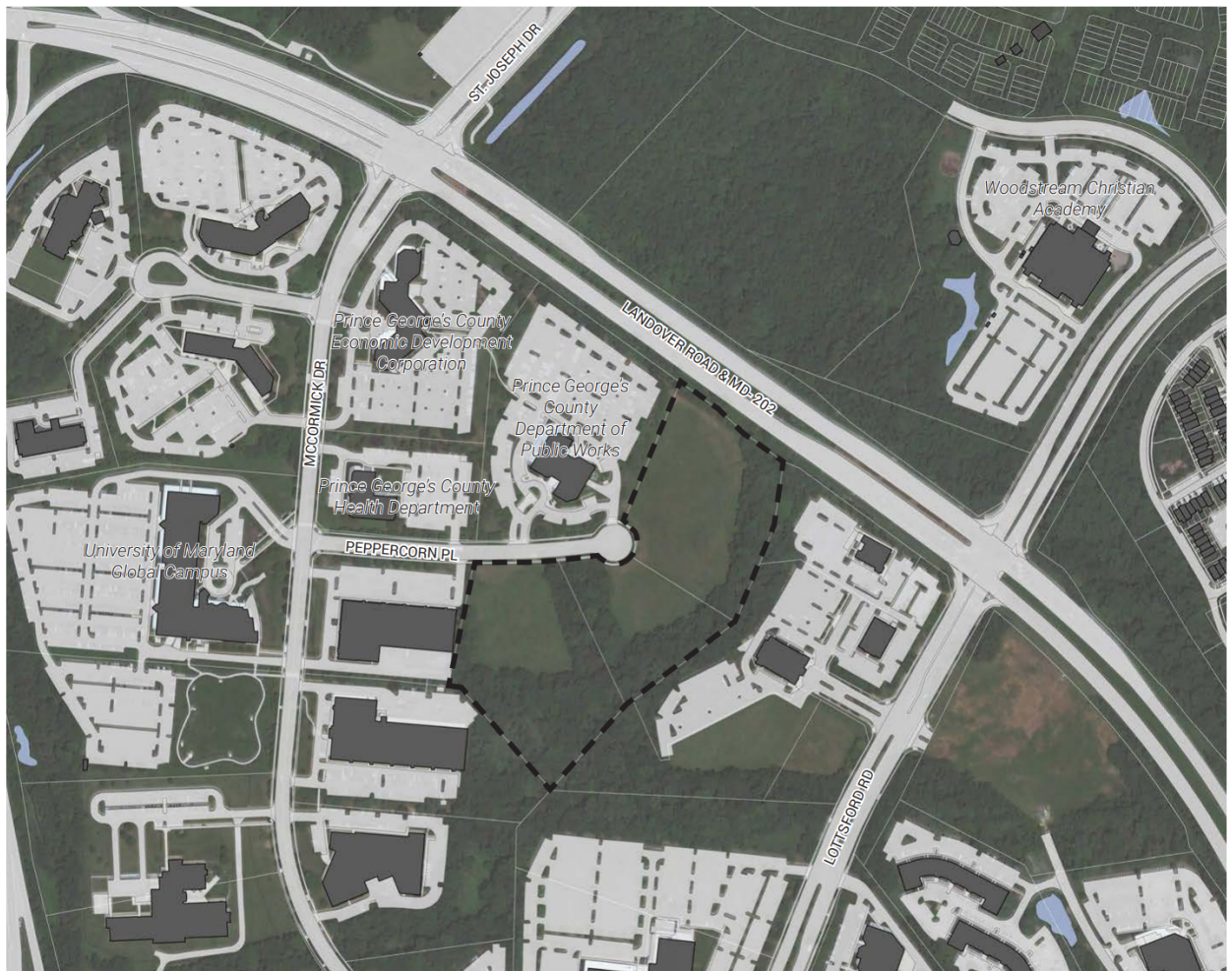
(Authorized Representative and Affiant)

**SUBMIT THIS AFFIDAVIT WITH BID/PROPOSAL**

**ATTACHMENT C**  
**Project Information**

## Project Location

- Project Address: 9441 Peppercorn Pl, Largo, Maryland 20774



## Potential Programming and Design Details

The Fieldhouse project is envisioned as a facility that will provide economic impact to the Client. This is envisioned to include multipurpose courts with ancillary amenities to act as a major tournament destination and youth sports capital of the nation. MSA is currently conducting a market and economic impact study which will establish and refine final programming and scope. The facility is currently anticipated to be 180,000 SF with potential program as outlined below.

### Potential Programing May Include but not limited to:

- Focus on basketball and volleyball
- Large open spaces so additional sports can be accommodated included but not limited to:
  - o Futsal

- o MMA
  - o Gymnastics
  - o Pickleball
- Associated short and long term storage spaces
- Viewing gallery for patrons with the ability to be split into several different viewing areas as required
- Lockers rooms
- Athletic training rooms
- Concession area with kitchen, storage, and seating
- Meeting rooms
- Administrative spaces for the facility and separate space for tournament offices
- Merchandising space

**ATTACHMENT D**  
**MBE Instructions and Forms**

## Attachment D. Minority Business Enterprise (MBE) Forms

### D-1A MBE UTILIZATION AND FAIR SOLICITATION AFFIDAVIT & MBE PARTICIPATION SCHEDULE

#### **PART 1 - INSTRUCTIONS**

***PLEASE READ BEFORE COMPLETING THIS DOCUMENT***

**This form includes Instructions and the MBE Utilization and Fair Solicitation Affidavit & MBE Participation Schedule which must be submitted with the bid/proposal. If the bidder/offeror fails to accurately complete and submit this Affidavit and Schedule with the bid or proposal, the Procurement Officer shall deem the bid non-responsive or shall determine that the proposal is not reasonably susceptible of being selected for award unless the inaccuracy is determined to be the result of a minor irregularity that is waived or cured in accordance with COMAR 21.06.02.04.**

1. Contractor shall structure its procedures for the performance of the work required in this Contract to attempt to achieve the minority business enterprise (MBE) subcontractor participation goal stated in the Invitation for Bids or Request for Proposals. Contractor agrees to exercise good faith efforts to carry out the requirements set forth in these Instructions, as authorized by the Code of Maryland Regulations (COMAR) 21.11.03.
2. MBE Goals and Subgoals: Please review the solicitation for information regarding the Contract's MBE overall participation goals and subgoals. After satisfying the requirements for any established subgoals, the Contractor is encouraged to use a diverse group of subcontractors and suppliers from the various MBE classifications to meet the remainder of the overall MBE participation goal.
3. MBE means a minority business enterprise that is certified by the Maryland Department of Transportation ("MDOT"). Only MBEs certified by MDOT may be counted for purposes of achieving the MBE participation goals. In order to be counted for purposes of achieving the MBE participation goals, the MBE firm, including a MBE prime, must be MDOT-certified for the services, materials or supplies that it is committed to perform on the MBE Participation Schedule. A firm whose MBE certification application is pending may not be counted.
4. Please refer to the MDOT MBE Directory at <https://mbe.mdot.maryland.gov/directory/> to determine if a firm is certified with the appropriate North American Industry Classification System ("NAICS") Code **and** the product/services description (specific product that a firm is certified to provide or specific areas of work that a firm is certified to perform). For more general information about NAICS codes, please visit <https://www.census.gov/eos/www/naics/>. Only those specific products and/or services for which a firm is certified in the MDOT Directory can be used for purposes of achieving the MBE participation goals. **CAUTION:** If the firm's NAICS Code is in graduated status, such services/products may not be counted for purposes of achieving the MBE participation goals. A NAICS Code is in the graduated status if the term "Graduated" follows the Code in the MDOT MBE Directory.
5. **Guidelines Regarding MBE Prime Self-Performance.** Please note that when a certified MBE firm participates as a prime contractor on a Contract, a procurement agency may count the distinct, clearly defined portion of the work of the Contract that the certified MBE firm performs with its own workforce toward fulfilling up to, but no more than, fifty-percent (50%) of the overall

MBE participation goal, including up to one hundred percent (100%) of not more than one of the MBE participation subgoals, if any, established for the Contract.

- ✓ In order to receive credit for self-performance, an MBE prime must be certified in the appropriate NAICS code to do the work and must list its firm in the MBE Participation Schedule, including the certification category under which the MBE prime is self-performing and include information regarding the work it will self-perform.
  - ✓ For the remaining portion of the overall goal and the remaining subgoals, the MBE prime must also identify on the MBE Participation Schedule the other certified MBE subcontractors used to meet those goals or request a waiver.
  - ✓ These guidelines apply to the work performed by the MBE Prime that can be counted for purposes of meeting the MBE participation goals. These requirements do not affect the MBE Prime's ability to self-perform a greater portion of the work in excess of what is counted for purposes of meeting the MBE participation goals.
  - ✓ Please note that the requirements to meet the MBE participation overall goal and subgoals are distinct and separate. If the contract has subgoals, regardless of MBE Prime's ability to self-perform up to 50% of the overall goal (including up to 100% of any subgoal), the MBE Prime must either commit to use other MBEs for each of any remaining subgoals or request a waiver. As set forth in Attachment 1-B Waiver Guidance, the MBE Prime's ability to self-perform certain portions of the work of the Contract will not be deemed a substitute for the good faith efforts to meet any remaining subgoal or the balance of the overall goal.
  - ✓ In certain instances where the percentages allocated to MBE participation subgoals add up to more than 50% of the overall goal, the portion of self-performed work that an MBE Prime may count toward the overall goal may be limited to less than 50%. Please refer to the Governor's Office of Small Minority & Women Business Affairs' website for the MBE Prime Regulations Q&A for illustrative examples.  
[http://www.goMDsmallbiz.maryland.gov/Documents/MBE\\_Toolkit/MBEPrimeRegulation\\_QA.pdf](http://www.goMDsmallbiz.maryland.gov/Documents/MBE_Toolkit/MBEPrimeRegulation_QA.pdf)
6. Subject to items 1 through 5 above, when a certified MBE performs as a participant in a joint venture, a procurement agency may count a portion of the total dollar value of the Contract equal to the distinct, clearly-defined portion of the work of the Contract that the certified MBE performs with its own forces toward fulfilling the Contract goal, and not more than one of the Contract subgoals, if any.
7. The work performed by a certified MBE firm, including an MBE prime, can only be counted towards the MBE participation goal(s) if the MBE firm is performing a commercially useful function on the Contract. Please refer to COMAR 21.11.03.12-1 for more information regarding these requirements.
8. **Materials and Supplies: New Guidelines Regarding MBE Participation.**
- ✓ Regular Dealer (generally identified as a wholesaler or supplier in the MDOT Directory): Up to 60% of the costs of materials and supplies provided by a certified MBE may be counted towards the MBE participation goal(s) if such MBE is a Regular Dealer of such materials and supplies. Regular Dealer is defined as a firm that owns, operates, or maintains a store, a warehouse, or any other establishment in which the materials, supplies, articles, or equipment are of the general character described by the specifications required under the contract and are bought, kept in stock, or regularly sold or leased to the

public in the usual course of business; and does not include a packager, a broker, a manufacturer's representative, or any other person that arranges or expedites transactions.

*Example for illustrative purposes of applying the 60% rule:*

*Overall contract value: \$2,000,000*

*Total value of supplies: \$100,000*

*Calculate Percentage of Supplies to overall contract value: \$100,000 divided by \$2,000,000 = 5%*

***Apply 60% Rule - Total percentage of Supplies/Products 5% x 60% = 3%***

***3% would be counted towards achieving the MBE Participation Goal and Subgoal, if any, for the MBE supplier in this example.***

- ✓ **Manufacturer:** A certified MBE firm's participation may be counted in full if the MBE is certified in the appropriate NAICS code(s) to provide products and services as a manufacturer.
- ✓ **Broker:** With respect to materials or supplies purchased from a certified MBE that is neither a manufacturer nor a regular dealer, a unit may apply the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, fees, or transportation charges for the delivery of materials and supplies required on a procurement toward the MBE contract goals, provided a unit determines the fees to be reasonable and not excessive as compared with fees customarily allowed for similar services. A unit may not apply any portion of the costs of the materials and supplies toward MBE goals.
- ✓ **Furnish and Install and other Services:** The participation of a certified MBE supplier, wholesaler, and/or regular dealer certified in the proper NAICS code(s) to furnish and install materials necessary for successful contract completion may be counted in full. Includes the participation of other MBE service providers in the proper NAICS code(s) may be counted in full.

9. **Dually certified firms.** An MBE that is certified in more than one subgroup category may only be counted toward goal fulfillment of ONE of those categories with regard to a particular contract.

*Example: A woman-owned Hispanic American (dually certified) firm may be used to fulfill the women-owned OR Hispanic American subgoal, but not both on the same contract.*

10. CAUTION: The percentage of MBE participation, computed using the percentage amounts determined for all of the MBE firms listed in PART 3, MUST meet or exceed the MBE participation goal and subgoals (if applicable) as set forth in PART 2- for this solicitation. If a bidder/offeror is unable to meet the MBE participation goal or any subgoals (if applicable), then the bidder/offeror must request a waiver in PART 2 or the bid will be deemed not responsive, or the proposal not reasonably susceptible of being selected for award. You may wish to use the attached Goal/Subgoal Worksheet to assist in calculating the percentages and confirming that your commitment meets or exceeds the applicable MBE participation goal and subgoals (if any).

11. If you have any questions as to whether a firm is certified to perform the specific services or provide specific products, please contact MDOT's Office of Minority Business Enterprise at 1-

800-544-6056 or via email to [mbe@mdot.state.md.us](mailto:mbe@mdot.state.md.us) sufficiently prior to the submission due date.

### **Subgoals (if applicable)**

Total African American MBE Participation:	_____ %
Total Asian American MBE Participation:	_____ %
Total Hispanic American MBE Participation:	_____ %
Total Women-Owned MBE Participation:	_____ %

### **Overall Goal**

Total MBE Participation (include all categories):	_____ %
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## **PART 2 - MBE UTILIZATION AND FAIR SOLICITATION AFFIDAVIT & MBE PARTICIPATION SCHEDULE**

**This MBE Utilization and Fair Solicitation Affidavit and MBE Participation Schedule must be completed in its entirety and included with the bid/proposal. If the bidder/offeror fails to accurately complete and submit this Affidavit and Schedule with the bid or proposal as required, the Procurement Officer shall deem the bid non-responsive or shall determine that the proposal is not reasonably susceptible of being selected for award.**

In connection with the bid/proposal submitted in response to RFP for Preliminary Design Services Prince George's County Blue Line Corridor - Fieldhouse, I affirm the following:

### **1. MBE Participation (PLEASE CHECK ONLY ONE)**

☐ I acknowledge and intend to meet IN FULL both the overall certified Minority Business Enterprise (MBE) participation goal of 40% percent and all of the following subgoals:

7% percent for African American-owned MBE firms  
\_\_\_\_\_ percent for Hispanic American-owned MBE firms  
\_\_\_\_\_ percent for Asian American-owned MBE firms  
10% percent for Women-owned MBE firms

Therefore, I am not seeking a waiver pursuant to COMAR 21.11.03.11. I acknowledge that by checking the above box and agreeing to meet the stated goal and subgoal(s), if any, I **must** complete PART 3 - MBE Participation Schedule and Part 4 Signature Page in order to be considered for award.

### **OR**

☐ After making good faith outreach efforts prior to making this submission, I conclude that I am unable to achieve the MBE participation goal and/or subgoals. I hereby request a waiver, in whole or in part, of the overall goal and/or subgoals I acknowledge that by checking this box and requesting a partial waiver of the stated goal and/or one or more of the stated subgoal(s) if any, I **must** complete Part 3, the MBE Participation Schedule and Part 4 Signature Page for the portion of the goal and/or subgoal(s) if any, for which I am not seeking a waiver, in order to be considered for award. I acknowledge that by checking this box and requesting a full waiver of the stated goal and the stated subgoal(s) if any, I **must** complete Part 4 Signature Page in order to be considered for award.

### **Additional MBE Documentation**

I understand that if I am notified that I am the apparent awardee or as requested by the Procurement Officer, I must submit the following documentation within 10 working days of receiving notice of the potential award or from the date of conditional award (per COMAR 21.11.03.10), whichever is earlier:

- (a) Good Faith Efforts Documentation to Support Waiver Request (Attachment D-1C)
- (b) Outreach Efforts Compliance Statement (Attachment D-2);
- (c) MBE Subcontractor/MBE Prime Project Participation Statement (Attachments D-3A and 3B);
- (d) Any other documentation, including additional waiver documentation if applicable, required by the Procurement Officer to ascertain bidder or offeror responsibility in connection with the certified MBE participation goal and subgoals, if any.

I understand that if I fail to return each completed document within the required time, the Procurement Officer may determine that I am not responsible and therefore not eligible for contract award. If the contract has already been awarded, the award is voidable.

### **Information Provided to MBE firms**

In the solicitation of subcontract quotations or offers, MBE firms were provided not less than the same information and amount of time to respond as were non-MBE firms.

## **PART 3 - MBE PARTICIPATION SCHEDULE**

SET FORTH BELOW ARE THE (I) CERTIFIED MBEs I INTEND TO USE, (II) THE PERCENTAGE OF THE TOTAL CONTRACT VALUE ALLOCATED TO EACH MBE FOR THIS PROJECT AND, (III) THE ITEMS OF WORK EACH MBE WILL PROVIDE UNDER THE CONTRACT. I HAVE CONFIRMED WITH THE MDOT DATABASE THAT THE MBE FIRMS IDENTIFIED BELOW (INCLUDING ANY SELF-PERFORMING MBE PRIME FIRMS) ARE PERFORMING WORK ACTIVITIES FOR WHICH THEY ARE MDOT-CERTIFIED.

Prime Contractor	Project Description	Project/Contract Number
	Preliminary Design- PGCO Blue Line- Fieldhouse	

LIST INFORMATION FOR EACH CERTIFIED MBE FIRM YOU AGREE TO USE TO ACHIEVE THE MBE PARTICIPATION GOAL AND SUBGOALS, IF ANY. **MBE PRIMES:** PLEASE COMPLETE BOTH SECTIONS A AND B BELOW.

### **SECTION A: For MBE Prime Contractors ONLY (including MBE Primes in a Joint Venture)**

<p>MBE Prime Firm Name: _____</p> <p>MBE Certification Number: _____</p> <p>(If dually certified, check only one box.)</p> <p> <input type="checkbox"/> African American-Owned  <input type="checkbox"/> Hispanic American- Owned  <input type="checkbox"/> Asian American-Owned  <input type="checkbox"/> Women-Owned  <input type="checkbox"/> Other MBE Classification         </p> <p>NAICS code: _____</p>	<p>Percentage of total Contract Value to be performed with own forces and counted towards the MBE <b>overall participation goal</b> (up to 50% of the overall goal): _____% <b>Please refer to Item #8 in Part 1- Instructions of this document for new MBE participation guidelines regarding materials and supplies.</b></p> <p>Percentage of total Contract Value to be performed with own forces and counted towards the <b>subgoal</b>, if any, for my MBE classification (up to 100% of not more than one subgoal): _____%</p> <p> <input type="checkbox"/> Supplier, wholesaler and/or regular dealer (count 60%)  <input type="checkbox"/> Manufacturer (count 100%)  <input type="checkbox"/> Broker (count reasonable fee/commission only)  <input type="checkbox"/> Furnish and Install and other Services (count 100%)         </p> <p><b>Complete the applicable prompt (select only one) from prompts A-C below that applies to the type of work your firm is self-performing to calculate amount to be counted towards achieving the MBE Participation Goal and Subgoal, if any.</b></p> <p><b>A. Percentage amount of subcontract where the MBE Prime firm is being used for manufacturer, furnish and install, and/or services</b> (excluding products / services from suppliers, wholesalers, regular dealers and brokers) ____%</p> <p><b>B. Percentage amount for items of work where the MBE Prime firm is being used as supplier, wholesaler, and/or regular dealer</b> (60% Rule). Total percentage of Supplies/Products ____% x 60% = ____%</p> <p><b>C. Percentage amount of fee where the MBE Prime firm is being used as broker</b> (count reasonable fee/commission only) ____%</p> <p>Description of the work to be performed with MBE prime's own forces: _____ _____</p>
---	---

## SECTION B: For all Contractors (including MBE Primes and MBE Primes in a Joint Venture)

<p>MBE Firm Name: _____</p> <p>MBE Certification Number: _____</p> <p>(If dually certified, check only one box.)</p> <p><input type="checkbox"/> African American-Owned</p> <p><input type="checkbox"/> Hispanic American- Owned</p> <p><input type="checkbox"/> Asian American-Owned</p> <p><input type="checkbox"/> Women-Owned</p> <p><input type="checkbox"/> Other MBE Classification</p> <p>NAICS code: _____</p>	<p><b>Please refer to Item #8 in Part 1- Instructions of this document for new MBE participation guidelines regarding materials and supplies.</b></p> <p><input type="checkbox"/> Supplier, wholesaler and/or regular dealer (count 60%)</p> <p><input type="checkbox"/> Manufacturer (count 100%)</p> <p><input type="checkbox"/> Broker (count reasonable fee/commission only)</p> <p><input type="checkbox"/> Furnish and Install and other Services (count 100%)</p> <p><b>Complete the applicable prompt (select only one) from prompts A-C below that applies to the type of work that the MBE firm named to the left will be performing to calculate the amount to be counted towards achieving the MBE Participation Goal and Subgoal, if any.</b></p> <p><b>A. Percentage of total contract amount where the MBE firm is being used for manufacturer, furnish and install, and/or services</b> (excluding products/services from suppliers, wholesalers, regular dealers and brokers) ____ %</p> <p><b>B. Percentage of total contract amount for items of work where the MBE firm is being used as supplier, wholesaler, and/or regular dealer (60% Rule)).</b> Total percentage of Supplies/Products ____ % X 60% = ____ %</p> <p><b>C. Percentage amount of fee where the MBE firm is being used as broker</b> (count reasonable fee/commission only) ____ %</p> <p>Description of the work to be performed: _____ _____</p>
<p>MBE Firm Name: _____</p> <p>MBE Certification Number: _____</p> <p>(If dually certified, check only one box.)</p> <p><input type="checkbox"/> African American-Owned</p> <p><input type="checkbox"/> Hispanic American- Owned</p> <p><input type="checkbox"/> Asian American-Owned</p> <p><input type="checkbox"/> Women-Owned</p> <p><input type="checkbox"/> Other MBE Classification</p> <p>NAICS code: _____</p>	<p><b>Please refer to Item #8 in Part 1- Instructions of this document for new MBE participation guidelines regarding materials and supplies.</b></p> <p><input type="checkbox"/> Supplier, wholesaler and/or regular dealer (count 60%)</p> <p><input type="checkbox"/> Manufacturer (count 100%)</p> <p><input type="checkbox"/> Broker (count reasonable fee/commission only)</p> <p><input type="checkbox"/> Furnish and Install and other Services (count 100%)</p> <p><b>Complete the applicable prompt (select only one) from prompts A-C below that applies to the type of work that the MBE Firm named to the left will be performing to calculate the amount to be counted towards achieving the MBE Participation Goal and Subgoal, if any.</b></p> <p><b>A. Percentage of total contract amount where the MBE firm is being used for manufacturer, furnish and install, and/or services</b> (excluding products/services from suppliers, wholesalers, regular dealers and brokers) ____ %</p> <p><b>B. Percentage of total contract amount for items of work where the MBE firm is being used as supplier, wholesaler, and/or regular dealer (60% Rule)).</b> Total percentage of Supplies/Products ____ % X 60% = ____ %</p> <p><b>C. Percentage amount of fee where the MBE firm is being used as broker</b> (count reasonable fee/commission only) ____ %</p> <p>Description of the work to be performed: _____ _____</p>

<p>MBE Firm Name: _____</p> <p>MBE Certification Number: _____</p> <p>(If dually certified, check only one box.)</p> <p><input type="checkbox"/> African American-Owned</p> <p><input type="checkbox"/> Hispanic American- Owned</p> <p><input type="checkbox"/> Asian American-Owned</p> <p><input type="checkbox"/> Women-Owned</p> <p><input type="checkbox"/> Other MBE Classification</p> <p>NAICS code: _____</p>	<p><b>Please refer to Item #8 in Part 1- Instructions of this document for new MBE participation guidelines regarding materials and supplies.</b></p> <p><input type="checkbox"/> Supplier, wholesaler and/or regular dealer (count 60%)</p> <p><input type="checkbox"/> Manufacturer (count 100%)</p> <p><input type="checkbox"/> Broker (count reasonable fee/commission only)</p> <p><input type="checkbox"/> Furnish and Install and other Services (count 100%)</p> <p><b>Complete the applicable prompt (select only one) from prompts A-C below that applies to the type of work that for the MBE firm named to the left will be performing to calculate the amount to be counted towards achieving the MBE Participation Goal and Subgoal, if any.</b></p> <p><b>A. Percentage of total contract amount where the MBE firm is being used for manufacturer, furnish and install, and/or services</b> (excluding products/services from suppliers, wholesalers, regular dealers and brokers) ____ %</p> <p><b>B. Percentage of the total contract amount for items of work where the MBE firm is being used as supplier, wholesaler, and/or regular dealer (60% Rule).</b> Total percentage of Supplies/Products ____ % X 60% = ____ %</p> <p><b>C. Percentage amount of fee where the MBE firm is being used as broker</b> (count reasonable fee/commission only) ____ %</p> <p>Description of the work to be performed: _____ _____</p>
<p>MBE Firm Name: _____</p> <p>MBE Certification Number: _____</p> <p>(If dually certified, check only one box.)</p> <p><input type="checkbox"/> African American-Owned</p> <p><input type="checkbox"/> Hispanic American- Owned</p> <p><input type="checkbox"/> Asian American-Owned</p> <p><input type="checkbox"/> Women-Owned</p> <p><input type="checkbox"/> Other MBE Classification</p> <p>NAICS code: _____</p>	<p><b>Please refer to Item #8 in Part 1- Instructions of this document for new MBE participation guidelines regarding materials and supplies.</b></p> <p><input type="checkbox"/> Supplier, wholesaler and/or regular dealer (count 60%)</p> <p><input type="checkbox"/> Manufacturer (count 100%)</p> <p><input type="checkbox"/> Broker (count reasonable fee/commission only)</p> <p><input type="checkbox"/> Furnish and Install and other Services (count 100%)</p> <p><b>Complete the applicable prompt (select only one) from prompts A-C below that applies to the type of work that the MBE firm named to the left will be performing to calculate the amount to be counted towards achieving the MBE Participation Goal and Subgoal, if any.</b></p> <p><b>A. Percentage of total contract amount where the MBE firm is being used for manufacturer, furnish and install, and/or services</b> (excluding products/services from suppliers, wholesalers, regular dealers and brokers) ____ %</p> <p><b>B. Percentage of total contract amount for items of work where the MBE firm is being used as supplier, wholesaler, and/or regular dealer (60% Rule)).</b> Total percentage of Supplies/Products ____ % X 60% = ____ %</p> <p><b>C. Percentage amount of fee where the MBE firm is being used as broker</b> ____ %</p> <p>Description of the work to be performed: _____ _____</p>

CONTINUE ON SEPARATE PAGE IF NEEDED

## **PART 4 – SIGNATURE PAGE**

**To complete Affidavit committing to MBE(s) or requesting waiver,  
Bidder/Offeror must sign below:**

**I solemnly affirm under the penalties of perjury that: (i) I have reviewed the instructions for the MBE Utilization & Fair Solicitation Affidavit and MBE Schedule, and (ii) the information contained in the MBE Utilization & Fair Solicitation Affidavit and MBE Schedule is true to the best of my knowledge, information and belief.**

\_\_\_\_\_  
Bidder/Offeror Name  
*(PLEASE PRINT OR TYPE)*

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Address

\_\_\_\_\_  
Printed Name and Title

\_\_\_\_\_  
City, State and Zip Code

\_\_\_\_\_  
Date

**SUBMIT THIS AFFIDAVIT WITH BID/PROPOSAL**

## D-1B WAIVER GUIDANCE

### GUIDANCE FOR DOCUMENTING GOOD FAITH EFFORTS TO MEET MBE PARTICIPATION GOALS

In order to show that it has made good faith efforts to meet the Minority Business Enterprise (MBE) participation goal (including any MBE subgoals) on a contract, the Offeror must either (1) meet the MBE Goal(s) and document its commitments for participation of MBE Firms, or (2) when it does not meet the MBE Goal(s), document its Good Faith Efforts to meet the goal(s).

#### I. Definitions

**MBE Goal(s)** – “MBE Goal(s)” refers to the MBE participation goal and MBE participation subgoal(s).

**Good Faith Efforts** - The “Good Faith Efforts” requirement means that when requesting a waiver, the Offeror must demonstrate that it took all necessary and reasonable steps to achieve the MBE Goal(s), which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient MBE participation, even if those steps were not fully successful. Whether the Offeror that requests a waiver made adequate good faith efforts will be determined by considering the quality, quantity, and intensity of the different kinds of efforts that the Offeror has made. The efforts employed by the Offeror should be those that one could reasonably expect the Offeror to take if the Offeror were actively and aggressively trying to obtain MBE participation sufficient to meet the MBE contract goal and subgoals. Mere *pro forma* efforts are not good faith efforts to meet the MBE contract requirements. The determination concerning the sufficiency of the Offeror's good faith efforts is a judgment call; meeting quantitative formulas is not required.

**Identified Firms** – “Identified Firms” means a list of the MBEs identified by the procuring agency during the goal setting process and listed in the procurement as available to perform the Identified Items of Work. It also may include additional MBEs identified by the Offeror as available to perform the Identified Items of Work, such as MBEs certified or granted an expansion of services after the procurement was issued. If the procurement does not include a list of Identified Firms, this term refers to all of the MBE Firms (if State-funded) the Offeror identified as available to perform the Identified Items of Work and should include all appropriately certified firms that are reasonably identifiable.

**Identified Items of Work** – “Identified Items of Work” means the Proposal items identified by the procuring agency during the goal setting process and listed in the procurement as possible items of work for performance by MBE Firms. It also may include additional portions of items of work the Offeror identified for performance by MBE Firms to increase the likelihood that the MBE Goal(s) will be achieved. If the procurement does not include a list of Identified Items of Work, this term refers to all of the items of work the Offeror identified as possible items of work for performance by MBE Firms and should include all reasonably identifiable work opportunities.

**MBE Firms** – “MBE Firms” refers to firms certified by the Maryland Department of Transportation (“MDOT”) under COMAR 21.11.03. Only MDOT-certified MBE Firms can participate in the State's MBE Program.

#### II. Types of Actions Agency will Consider

The Offeror is responsible for making relevant portions of the work available to MBE subcontractors and suppliers and select those portions of the work or material needs consistent with the available MBE subcontractors and suppliers, so as to facilitate MBE participation. The following is a list of types of actions the procuring agency will consider as part of the Offeror's Good Faith Efforts when the Offeror fails to meet the MBE Goal(s). This list is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.

##### A. Identify Proposal Items as Work for MBE Firms

###### 1. Identified Items of Work in Procurements

- (a) Certain procurements will include a list of Proposal items identified during the goal setting process as possible work for performance by MBE Firms. If the procurement provides a list of Identified Items of Work, the Offeror shall make all reasonable efforts to solicit quotes from MBE Firms to perform that work.
- (b) Offerors may, and are encouraged to, select additional items of work to be performed by MBE Firms to increase the likelihood that the MBE Goal(s) will be achieved.

###### 2. Identified Items of Work by Offerors

- (a) When the procurement does not include a list of Identified Items of Work or for additional Identified Items of Work, Offerors should reasonably identify sufficient items of work to be performed by MBE Firms.

- (b) Where appropriate, Offerors should break out contract work items into economically feasible units to facilitate MBE participation, rather than perform these work items with their own forces. The ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the Offeror of the responsibility to make Good Faith Efforts.

## **B. Identify MBE Firms to Solicit**

### **1. MBE Firms Identified in Procurements**

- (a) Certain procurements will include a list of the MBE Firms identified during the goal setting process as available to perform the items of work. If the procurement provides a list of Identified MBE Firms, the Offeror shall make all reasonable efforts to solicit those MBE firms.
- (b) Offerors may, and are encouraged to, search the MBE Directory to identify additional MBEs who may be available to perform the items of work, such as MBEs certified or granted an expansion of services after the solicitation was issued.

### **2. MBE Firms Identified by Offerors**

- (a) When the procurement does not include a list of Identified MBE Firms, Offerors should reasonably identify the MBE Firms that are available to perform the Identified Items of Work.
- (b) Any MBE Firms identified as available by the Offeror should be certified to perform the Identified Items of Work.

## **C. Solicit MBEs**

### **1. Solicit all Identified Firms for all Identified Items of Work by providing written notice. The Offeror should:**

- (a) provide the written solicitation at least 10 days prior to Proposal opening to allow sufficient time for the MBE Firms to respond;
- (b) send the written solicitation by first-class mail, facsimile, or e-mail using contact information in the MBE Directory, unless the Offeror has a valid basis for using different contact information; and
- (c) provide adequate information about the plans, specifications, anticipated time schedule for portions of the work to be performed by the MBE, and other requirements of the contract to assist MBE Firms in responding. (This information may be provided by including hard copies in the written solicitation or by electronic means as described in C.3 below.)

### **2. “All” Identified Firms includes the MBEs listed in the procurement and any MBE Firms you identify as potentially available to perform the Identified Items of Work, but it does not include MBE Firms who are no longer certified to perform the work as of the date the Offeror provides written solicitations.**

### **3. “Electronic Means” includes, for example, information provided *via* a website or file transfer protocol (FTP) site containing the plans, specifications, and other requirements of the contract. If an interested MBE cannot access the information provided by electronic means, the Offeror must make the information available in a manner that is accessible to the interested MBE.**

### **4. Follow up on initial written solicitations by contacting MBEs to determine if they are interested. The follow up contact may be made:**

- (a) by telephone using the contact information in the MBE Directory, unless the Offeror has a valid basis for using different contact information; or
- (b) in writing *via* a method that differs from the method used for the initial written solicitation.

### **5. In addition to the written solicitation set forth in C.1 and the follow up required in C.4, use all other reasonable and available means to solicit the interest of MBE Firms certified to perform the work of the contract. Examples of other means include:**

- (a) attending any pre-Proposal meetings at which MBE Firms could be informed of contracting and subcontracting opportunities; and
- (b) if recommended by the procurement, advertising with or effectively using the services of at least two minority focused entities or media, including trade associations, minority/women community organizations, minority/women contractors' groups, and local, state, and federal minority/women business assistance offices listed on the MDOT Office of Minority Business Enterprise website.

#### **D. Negotiate with Interested MBE Firms**

Offerors must negotiate in good faith with interested MBE Firms.

1. Evidence of negotiation includes, without limitation, the following:
  - (a) the names, addresses, and telephone numbers of MBE Firms that were considered;
  - (b) a description of the information provided regarding the plans and specifications for the work selected for subcontracting and the means used to provide that information; and
  - (c) evidence as to why additional agreements could not be reached for MBE Firms to perform the work.
2. The Offeror using good business judgment would consider a number of factors in negotiating with subcontractors, including MBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration.
3. The fact that there may be some additional costs involved in finding and using MBE Firms is not in itself sufficient reason for the Offeror's failure to meet the contract MBE goal(s), as long as such costs are reasonable. Factors to take into consideration when determining whether an MBE Firm's quote is excessive or unreasonable include, without limitation, the following:
  - (a) dollar difference between the MBE subcontractor's quote and the average of the other subcontractors' quotes received by the Offeror;
  - (b) percentage difference between the MBE subcontractor's quote and the average of the other subcontractors' quotes received by the Offeror;
  - (c) percentage that the MBE subcontractor's quote represents of the overall contract amount;
  - (d) number of MBE firms that the Offeror solicited for that portion of the work;
  - (e) whether the work described in the MBE and Non-MBE subcontractor quotes (or portions thereof) submitted for review is the same or comparable; and
  - (f) number of quotes received by the Offeror for that portion of the work.
4. The above factors are not intended to be mandatory, exclusive, or exhaustive, and other evidence of an excessive or unreasonable price may be relevant.
5. The Offeror may not use its price for self-performing work as a basis for rejecting an MBE Firm's quote as excessive or unreasonable.
6. The "average of the other subcontractors' quotes received" by the Offeror refers to the average of the quotes received from all subcontractors. Offeror should attempt to receive quotes from at least three subcontractors, including one quote from an MBE and one quote from a Non-MBE.
7. The Offeror shall not reject an MBE Firm as unqualified without sound reasons based on a thorough investigation of the firm's capabilities. For each certified MBE that is rejected as unqualified or that placed a subcontract quotation or offer that the Offeror concludes is not acceptable, the Offeror must provide a written detailed statement listing the reasons for this conclusion. The Offeror also must document the steps taken to verify the capabilities of the MBE and Non-MBE Firms quoting similar work.
  - (a) The factors to take into consideration when assessing the capabilities of an MBE Firm, include, but are not limited to the following: financial capability, physical capacity to perform, available personnel and equipment, existing workload, experience performing the type of work, conduct and performance in previous contracts, and ability to meet reasonable contract requirements.
  - (b) The MBE Firm's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of Proposals in the efforts to meet the project goal.

#### **E. Assisting Interested MBE Firms**

When appropriate under the circumstances, the decision-maker will consider whether the Offeror made reasonable efforts to assist interested MBE Firms in obtaining:

1. The bonding, lines of credit, or insurance required by the procuring agency or the Offeror; and
2. Necessary equipment, supplies, materials, or related assistance or services.

### III. Other Considerations

In making a determination of Good Faith Efforts the decision-maker may consider engineering estimates, catalogue prices, general market availability and availability of certified MBE Firms in the area in which the work is to be performed, other Proposals or offers and subcontract Proposals or offers substantiating significant variances between certified MBE and Non-MBE costs of participation, and their impact on the overall cost of the contract to the State and any other relevant factors.

The decision-maker may take into account whether the Offeror decided to self-perform subcontract work with its own forces, especially where the self-performed work is Identified Items of Work in the procurement. The decision-maker also may take into account the performance of other Offerors in meeting the contract. For example, when the apparent successful Offeror fails to meet the contract goal, but others meet it, this reasonably raises the question of whether, with additional reasonable efforts, the apparent successful Offeror could have met the goal. If the apparent successful Offeror fails to meet the goal, but meets or exceeds the average MBE participation obtained by other Offerors, this, when viewed in conjunction with other factors, could be evidence of the apparent successful Offeror having made Good Faith Efforts.

### IV. Documenting Good Faith Efforts

At a minimum, the Offeror seeking a waiver of the MBE Goal(s) or a portion thereof must provide written documentation of its Good Faith Efforts, in accordance with COMAR 21.11.03.11, within 10 Business Days after receiving notice that it is the apparent awardee. The written documentation shall include the following:

#### A. Items of Work (Complete Good Faith Efforts Documentation Attachment D-1C, Part 1)

A detailed statement of the efforts made to select portions of the work proposed to be performed by certified MBE Firms in order to increase the likelihood of achieving the stated MBE Goal(s).

#### B. Outreach/Solicitation/Negotiation

1. The record of the Offeror's compliance with the outreach efforts prescribed by COMAR 21.11.03.09C(2)(a). **(Complete Outreach Efforts Compliance Statement - D-2).**
2. A detailed statement of the efforts made to contact and negotiate with MBE Firms including:
  - (a) the names, addresses, and telephone numbers of the MBE Firms who were contacted, with the dates and manner of contacts (letter, fax, e-mail, telephone, etc.) **(Complete Good Faith Efforts Attachment D-1C- Part 2, and submit letters, fax cover sheets, e-mails, etc. documenting solicitations);** and
  - (b) a description of the information provided to MBE Firms regarding the plans, specifications, and anticipated time schedule for portions of the work to be performed and the means used to provide that information.

#### C. Rejected MBE Firms (Complete Good Faith Efforts Attachment D-1C, Part 3)

1. For each MBE Firm that the Offeror concludes is not acceptable or qualified, a detailed statement of the reasons for the Offeror's conclusion, including the steps taken to verify the capabilities of the MBE and Non-MBE Firms quoting similar work.
2. For each certified MBE Firm that the Offeror concludes has provided an excessive or unreasonable price, a detailed statement of the reasons for the Offeror's conclusion, including the quotes received from all MBE and Non-MBE firms proposing on the same or comparable work. **(Include copies of all quotes received.)**
3. A list of MBE Firms contacted but found to be unavailable. This list should be accompanied by an MBE Unavailability Certificate (see **D-1B - Exhibit A** to this Part 1) signed by the MBE contractor or a statement from the Offeror that the MBE contractor refused to sign the MBE Unavailability Certificate.

#### D. Other Documentation

1. Submit any other documentation requested by the Procurement Officer to ascertain the Offeror's Good Faith Efforts.
2. Submit any other documentation the Offeror believes will help the Procurement Officer ascertain its Good Faith Efforts.

**D-1B - Exhibit A**  
**MBE Subcontractor Unavailability Certificate**

1. It is hereby certified that the firm of \_\_\_\_\_  
(Name of Minority firm)  
located at \_\_\_\_\_  
(Number) (Street)  
\_\_\_\_\_  
(City) (State) (Zip)

was offered an opportunity to bid on Solicitation No. \_\_\_\_\_  
in \_\_\_\_\_ County by \_\_\_\_\_  
(Name of Prime Contractor's Firm)

\*\*\*\*\*

2. \_\_\_\_\_ (Minority Firm), is either unavailable for the work/service or unable to prepare a Proposal for this project for the following reason(s):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\*\*\*\*\*

\_\_\_\_\_  
(Signature of Minority Firm's MBE Representative)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(MDOT Certification #)

\_\_\_\_\_  
(Telephone #)

\*\*\*\*\*

3. To be completed by the prime contractor if Section 2 of this form is not completed by the minority firm.

To the best of my knowledge and belief, said Certified Minority Business Enterprise is either unavailable for the work/service for this project, is unable to prepare a Proposal, or did not respond to a request for a price Proposal and has not completed the above portion of this submittal.

\_\_\_\_\_  
(Signature of Prime Contractor)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)

**D-1C**  
**GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST**

PAGE \_\_ OF \_\_

<b>Prime Contractor:</b>	<b>Project Description:</b>	<b>PROJECT/CONTRACT</b>
Offeror Company Name, Street Address, Phone		<b>Solicitation #:</b>

Parts 1, 2, and 3 must be included with this certificate along with all documents supporting your waiver request.

I affirm that I have reviewed **Attachment D-1B**, Waiver Guidance. I further affirm under penalties of perjury that the contents of Parts 1, 2, and 3 of this **Attachment D-1C** Good Faith Efforts Documentation Form are true to the best of my knowledge, information, and belief.

Company:

Company Name (please print or type)

By:

Signature of Authorized Representative

Printed Name:

Printed Name

Title:

Title

Date:

Date

Address:

Company Address

**GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST**  
**PART 1 – IDENTIFIED ITEMS OF WORK OFFEROR MADE AVAILABLE TO MBE FIRMS**

PAGE \_\_ OF \_\_

<b>Prime Contractor:</b>	<b>Project Description:</b>	<b>PROJECT/CONTRACT</b>
Offeror Company Name, Street Address, Phone		<b>Solicitation #:</b>

Identify those items of work that the Offeror made available to MBE Firms. This includes, where appropriate, those items the Offeror identified and determined to subdivide into economically feasible units to facilitate the MBE participation. For each item listed, show the anticipated percentage of the total contract amount. It is the Offeror's responsibility to demonstrate that sufficient work to meet the goal was made available to MBE Firms, and the total percentage of the items of work identified for MBE participation equals or exceeds the percentage MBE goal set for the procurement. Note: If the procurement includes a list of Proposal items identified during the goal setting process as possible items of work for performance by MBE Firms, the Offeror should make all of those items of work available to MBE Firms or explain why that item was not made available. If the Offeror selects additional items of work to make available to MBE Firms, those additional items should also be included below.

Identified Items of Work	Was this work listed in the procurement?	Does Offeror normally self-perform this work?	Was this work made available to MBE Firms? If no, explain why not.
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

☐ Please check if Additional Sheets are attached.

**GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST**

**PART 2 – IDENTIFIED MBE FIRMS AND RECORD OF SOLICITATIONS**

PAGE \_\_ OF \_\_

<b>Prime Contractor:</b>	<b>Project Description:</b>	<b>PROJECT/CONTRACT</b>
<i>Offeror Company Name, Street Address, Phone</i>		<b>Solicitation #:</b>

Identify the MBE Firms solicited to provide quotes for the Identified Items of Work made available for MBE participation. Include the name of the MBE Firm solicited, items of work for which quotes were solicited, date and manner of initial and follow-up solicitations, whether the MBE provided a quote, and whether the MBE is being used to meet the MBE participation goal. MBE Firms used to meet the participation goal must be included on the MBE Participation Schedule. Note: If the procurement includes a list of the MBE Firms identified during the goal setting process as potentially available to perform the items of work, the Offeror should solicit all of those MBE Firms or explain why a specific MBE was not solicited. If the Offeror identifies additional MBE Firms who may be available to perform Identified Items of Work, those additional MBE Firms should also be included below. Copies of all written solicitations and documentation of follow-up calls to MBE Firms must be attached to this form. This list should be accompanied by a Minority Contractor Unavailability Certificate signed by the MBE contractor or a statement from the Offeror that the MBE contractor refused to sign the Minority Contractor Unavailability Certificate (**Attachment D-1B - Exhibit A**). If the Offeror used a Non-MBE or is self-performing the identified items of work, Part 4 must be completed.

<b>Name of Identified MBE Firm &amp; MBE Classification</b>	<b>Describe Item of Work Solicited</b>	<b>Initial Solicitation Date &amp; Method</b>	<b>Follow-up Solicitation Date &amp; Method</b>	<b>Details for Follow-up Calls</b>	<b>Quote Rec'd</b>	<b>Quote Used</b>	<b>Reason Quote Rejected</b>
Firm Name: _____ MBE Classification (Check only if requesting waiver of MBE subgoal.) <input type="checkbox"/> African American-Owned <input type="checkbox"/> Hispanic American- Owned <input type="checkbox"/> Asian American-Owned <input type="checkbox"/> Women-Owned <input type="checkbox"/> Other MBE Classification		Date: _____ <input type="checkbox"/> Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail	Date: _____ <input type="checkbox"/> Phone <input type="checkbox"/> Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail	Time of Call: _____ Spoke with: _____ <input type="checkbox"/> Left Message	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Used Other MBE <input type="checkbox"/> Used Non-MBE <input type="checkbox"/> Self-performing
Firm Name: _____ MBE Classification (Check only if requesting waiver of MBE subgoal.) <input type="checkbox"/> African American-Owned <input type="checkbox"/> Hispanic American- Owned <input type="checkbox"/> Asian American-Owned <input type="checkbox"/> Women-Owned <input type="checkbox"/> Other MBE Classification		Date: _____ <input type="checkbox"/> Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail	Date: _____ <input type="checkbox"/> Phone <input type="checkbox"/> Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail	Time of Call: _____ Spoke with: _____ <input type="checkbox"/> Left Message	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Used Other MBE <input type="checkbox"/> Used Non-MBE <input type="checkbox"/> Self-performing

☐ Please check if Additional Sheets are attached.

**GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST**  
**PART 3 – ADDITIONAL INFORMATION REGARDING REJECTED MBE QUOTES**

PAGE \_\_ OF \_\_

<b>Prime Contractor:</b>	<b>Project Description:</b>	<b>PROJECT/CONTRACT NUMBER:</b>
<i>Offeror Company Name, Street Address, Phone</i>		<b>Solicitation #:</b>

This form must be completed if Part 1 indicates that an MBE quote was rejected because the Offeror is using a Non-MBE or is self-performing the Identified Items of Work. Provide the Identified Items Work, indicate whether the work will be self-performed or performed by a Non-MBE, and if applicable, state the name of the Non-MBE. Also include the names of all MBE and Non-MBE Firms that provided a quote and the amount of each quote.

Describe Identified Items of Work Not Being Performed by MBE (Include spec/ section number from Proposal)	Self-performing or Using Non-MBE (Provide name)	Amount of Non-MBE Quote	Name of Other Firms who Provided Quotes & Whether MBE or Non-MBE	Amount Quoted	Indicate Reason Why MBE Quote Rejected & Briefly Explain
	<input type="checkbox"/> Self-performing <input type="checkbox"/> Using Non-MBE _____	\$ _____	_____ <input type="checkbox"/> MBE <input type="checkbox"/> Non-MBE	\$ _____	<input type="checkbox"/> Price <input type="checkbox"/> Capabilities <input type="checkbox"/> Other
	<input type="checkbox"/> Self-performing <input type="checkbox"/> Using Non-MBE _____	\$ _____	_____ <input type="checkbox"/> MBE <input type="checkbox"/> Non-MBE	\$ _____	<input type="checkbox"/> Price <input type="checkbox"/> Capabilities <input type="checkbox"/> Other
	<input type="checkbox"/> Self-performing <input type="checkbox"/> Using Non-MBE _____	\$ _____	_____ <input type="checkbox"/> MBE <input type="checkbox"/> Non-MBE	\$ _____	<input type="checkbox"/> Price <input type="checkbox"/> Capabilities <input type="checkbox"/> Other
	<input type="checkbox"/> Self-performing <input type="checkbox"/> Using Non-MBE _____	\$ _____	_____ <input type="checkbox"/> MBE <input type="checkbox"/> Non-MBE	\$ _____	<input type="checkbox"/> Price <input type="checkbox"/> Capabilities <input type="checkbox"/> Other
	<input type="checkbox"/> Self-performing <input type="checkbox"/> Using Non-MBE _____	\$ _____	_____ <input type="checkbox"/> MBE <input type="checkbox"/> Non-MBE	\$ _____	<input type="checkbox"/> Price <input type="checkbox"/> Capabilities <input type="checkbox"/> Other
	<input type="checkbox"/> Self-performing <input type="checkbox"/> Using Non-MBE _____	\$ _____	_____ <input type="checkbox"/> MBE <input type="checkbox"/> Non-MBE	\$ _____	<input type="checkbox"/> Price <input type="checkbox"/> Capabilities <input type="checkbox"/> Other

☐ Please check if Additional Sheets are attached.

**D- 2**  
**OUTREACH EFFORTS COMPLIANCE STATEMENT**

Complete and submit this form within 10 Business Days of notification of apparent award or actual award, whichever is earlier.

In conjunction with the Proposal submitted in response to Solicitation No. \_\_\_\_\_, I state the following:

1. Offeror identified subcontracting opportunities in these specific work categories:

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2. Attached to this form are copies of written solicitations (with Proposal instructions) used to solicit certified MBE firms for these subcontract opportunities.

3. Offeror made the following attempts to personally contact the solicited MDOT-certified MBE firms:

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4. **Please Check One:**

- ☐ This project does not involve bonding requirements.
- ☐ Offeror assisted MDOT-certified MBE firms to fulfill or seek waiver of bonding requirements. (DESCRIBE EFFORTS):

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5. **Please Check One:**

\_\_\_\_\_ Offeror did attend the pre-Proposal conference.

\_\_\_\_\_ No pre -Proposal meeting/conference was held.

\_\_\_\_\_ Offeror did not attend the pre-Proposal conference.

PLEASE PRINT OR TYPE

Company:

---

Company Name (please print or type)

By:

---

Signature of Authorized Representative

Printed Name:

---

Printed Name

Title:

---

Title

Date:

---

Date

Address:

---

Company Address

**CERTIFIED MBE SUBCONTRACTOR PARTICIPATION CERTIFICATION****INSTRUCTIONS:**

**PRIME CONTRACTOR:** After completing SECTIONS A, B, and D, provide this form to *each* certified Minority Business Enterprise subcontractor (MBE) listed on the MBE Participation Schedule (Attachment D-1A) allowing sufficient time for the MBE to respond within the required timeframe.

**CERTIFIED MBE SUBCONTRACTOR:** Complete SECTION C to acknowledge and certify the information in SECTION A. Return the completed form directly to the Procurement Officer identified in SECTION D within 10 days after notice from the Prime Contractor of the State's intent to award the Contract. Provide a copy to the Prime Contractor.

***IF THIS FORM IS NOT RETURNED WITHIN THE REQUIRED TIME, THE PROCUREMENT OFFICER MAY DETERMINE THAT THE PRIME CONTRACTOR IS NOT RESPONSIBLE AND THEREFORE NOT ELIGIBLE FOR CONTRACT AWARD.***

**SECTION A**

Provided that (Prime Contractor) \_\_\_\_\_ is awarded the State contract in conjunction with Solicitation Number \_\_\_\_\_, (Prime Contractor) \_\_\_\_\_ intends to enter into a subcontract with (Certified MBE Subcontractor) \_\_\_\_\_ with MDOT Certification Number \_\_\_\_\_ committing to participation by (Certified MBE Subcontractor) \_\_\_\_\_ of at least \$ \_\_\_\_\_ which equals \_\_\_\_\_% of the Total Contract Value for the following products/services:

NAICS CODE	WORK ITEM, SPECIFICATION NUMBER, LINE ITEMS OR WORK CATEGORIES (IF APPLICABLE)	DESCRIPTION OF SPECIFIC PRODUCTS AND/OR SERVICES

The Contractor and certified MBE each acknowledge that, for purposes of determining the accuracy of the information provided herein, the Procurement Officer may request additional information, including, without limitation, copies of the subcontract agreements and quotes. The Contractor and certified MBE each solemnly affirms under the penalties of perjury that: (i) the information provided in this Certified MBE Subcontractor Participation Certification is true to the best of its knowledge, information and belief, and (ii) 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 MBE in a Bid/Proposal and:

- (1) fail to request, receive, or otherwise obtain authorization from the MBE to identify the MBE in its Bid/Proposal;
- (2) fail to notify the MBE before execution of the Contract of its inclusion of the Bid/Proposal;
- (3) fail to use the MBE in the performance of the Contract; or
- (4) pay the MBE solely for the use of its name in the Bid/Proposal.

**SECTION B – Prime Contractor**

Signature of Representative: \_\_\_\_\_

Printed Name and Title: \_\_\_\_\_

Prime Firm's Name: \_\_\_\_\_

Federal Identification Number: \_\_\_\_\_

Street Address, City, State, Zip Code: \_\_\_\_\_  
\_\_\_\_\_

Phone: \_\_\_\_\_

Date: \_\_\_\_\_

**SECTION C – Certified MBE Subcontractor**

Signature of Representative: \_\_\_\_\_

Printed Name and Title: \_\_\_\_\_

MBE Firm's Name: \_\_\_\_\_

Federal Identification Number: \_\_\_\_\_

Street Address, City, State, Zip Code: \_\_\_\_\_  
\_\_\_\_\_

Phone: \_\_\_\_\_

Date: \_\_\_\_\_

**SECTION D**

*This completed form is due to the Procurement Officer on or before:* \_\_\_\_\_

Solicitation #: \_\_\_\_\_ Solicitation Title: \_\_\_\_\_

Agency/Dept.: \_\_\_\_\_ Procurement Officer: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Street Address, City, State, Zip Code: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**D-3B**  
**MBE PRIME PROJECT PARTICIPATION CERTIFICATION**

**Please complete and submit this form to attest to each specific item of work that your MBE firm has listed on the MBE Participation Schedule (Attachment D-1A) for purposes of meeting the MBE participation goals. This form must be submitted within 10 Business Days of notification of apparent award. If the Offeror fails to return this affidavit within the required time, the Procurement Officer may determine that Proposal is not susceptible of being selected for Contract award.**

Provided that \_\_\_\_\_ (Prime Contractor's Name) with Certification Number \_\_\_\_\_ is awarded the State contract in conjunction with Solicitation No. \_\_\_\_\_, such MBE Prime Contractor intends to perform with its own forces at least \$ \_\_\_\_\_ which equals to \_\_\_\_ % of the Total Contract Amount for performing the following goods and services for the Contract:

NAICS CODE	WORK ITEM, SPECIFICATION NUMBER, LINE ITEMS OR WORK CATEGORIES (IF APPLICABLE) For Construction Projects, General Conditions must be listed separately	DESCRIPTION OF SPECIFIC PRODUCTS AND/OR SERVICES	VALUE OF THE WORK

**MBE Prime Contractor**

Company:

\_\_\_\_\_  
*Company Name (please print or type)*

FEIN:

\_\_\_\_\_  
*Federal Identification Number*

Company Address: \_\_\_\_\_

\_\_\_\_\_  
Phone:

\_\_\_\_\_  
Printed Name:

\_\_\_\_\_  
Title:

\_\_\_\_\_  
By:

\_\_\_\_\_  
*Signature of Authorized Representative*

\_\_\_\_\_  
Date:

**D-4A**  
**Minority Business Enterprise Participation**  
**Prime Contractor Paid/Unpaid Invoice Report**

Report #:	Contract #:
Reporting Period (Month/Year):	Contracting Unit:
<b>Prime Contractor: Report is due to the MBE Liaison by the 10th of the month following the month the services were provided.</b> <b>Note: Please number reports in sequence</b>	Contract Amount:
	MBE Subcontract Amt:
	Project Begin Date:
	Project End Date:
	Services Provided:

Prime Contractor:			Contact Person:		
Address:					
City:			State:		ZIP:
Phone:		FAX:		E-mail:	
MBE Subcontractor Name:			Contact Person:		
Phone:		FAX:		E-mail:	
Subcontractor Services Provided:					
<b>List all payments made to MBE subcontractor named above during this reporting period:</b>			<b>List dates and amounts of any outstanding invoices:</b>		
	<b>Invoice #</b>	<b>Amount</b>		<b>Invoice #</b>	<b>Amount</b>
1.			1.		
2.			2.		
3.			3.		
4.			4.		
<b>Total Dollars Paid: \$</b>			<b>Total Dollars Unpaid: \$</b>		

- If more than one MBE subcontractor is used for this contract, you must use separate **Attachment D-4A** forms. Information regarding payments that the MBE prime will use for purposes of meeting the MBE participation goals must be reported separately in **Attachment D-4B**.
- Return one copy (hard or electronic) of this form to the following addresses (electronic copy with signature and date is preferred):**

\_\_\_\_\_  
Contract Monitor Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Email

\_\_\_\_\_  
Signature (Required)

\_\_\_\_\_  
Contracting Unit

\_\_\_\_\_  
City, State Zip

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Date

**D-4B**  
**Minority Business Enterprise Participation**  
**MBE Prime Contractor Report**

MBE Prime Contractor:	Contract #:
Certification Number:	Contracting Unit:
Report #:	Contract Amount:
Reporting Period (Month/Year):	Total Value of the Work to the Self-Performed for purposes of Meeting the MBE participation goal/subgoals:
<b>MBE Prime Contractor: Report is due to the MBE Liaison by the 10th of the month following the month the services were provided.</b> <b>Note: Please number reports in sequence</b>	
	Project Begin Date:
	Project End Date:

Contact Person:			
Address:			
City:		State:	ZIP:
Phone:	FAX:	E-mail:	

Invoice Number	Value of the Work	NAICS Code	Description of Specific Products and/or Services

**Return one copy (hard or electronic) of this form to the following addresses (electronic copy with signature and date is preferred):**

<hr/> <p>Contract Monitor Name</p> <hr/> <p>Address</p> <hr/> <p>Email</p> <hr/> <p>Signature (Required)</p>	<hr/> <p>Contracting Unit</p> <hr/> <p>City, State Zip</p> <hr/> <p>Phone Number</p> <hr/> <p>Date</p>
--	--

**D-5**  
**Minority Business Enterprise Participation**  
**MBE Subcontractor Paid/Unpaid Invoice Report**

Report #:	Contract #:
Reporting Period (Month/Year):	Contracting Unit:
Report is due by the 10th of the month following the month the services were performed.	MBE Subcontract Amt:
	Project Begin Date:
	Project End Date:
	Services Provided:

MBE Subcontractor Name:					
MDOT Certification #:					
Contact Person:					
Address:					
City:			State:		ZIP:
Phone:		FAX:		E-mail:	
<b>Subcontractor Services Provided:</b>					
<b>List all payments received from Prime Contractor during reporting period indicated above.</b>			<b>List dates and amounts of any unpaid invoices over 30 days old.</b>		
	<b>Invoice Amount</b>	<b>Date</b>		<b>Invoice Amount</b>	<b>Date</b>
1.			1.		
2.			2.		
3.			3.		
4.			4.		
<b>Total Dollars Paid: \$</b>			<b>Total Dollars Unpaid: \$</b>		
Prime Contractor:			Contract Person:		

**Return one copy of this form to the following addresses (electronic copy with signature and date is preferred):**

\_\_\_\_\_

Contract Monitor Name

\_\_\_\_\_

Address

\_\_\_\_\_

Email

\_\_\_\_\_

Signature (Required)

\_\_\_\_\_

Contracting Unit

\_\_\_\_\_

City, State Zip

\_\_\_\_\_

Phone Number

\_\_\_\_\_

Date

**ATTACHMENT E**  
**Architect/Engineer**  
**Qualifications (SF330)**

## ARCHITECT-ENGINEER QUALIFICATIONS

OMB Control Number: 9000-0157

Expiration Date: 2/29/2024

Paperwork Reduction Act Statement - This information collection meets the requirements of 44 USC § 3507, as amended by section 2 of the Paperwork Reduction Act of 1995. You do not need to answer these questions unless we display a valid Office of Management and Budget (OMB) control number. The OMB control number for this collection is 9000-0157. We estimate that it will take 29 hours (25 hours for part 1 and 4 hours for Part 2) to read the instructions, gather the facts, and answer the questions. Send only comments relating to our time estimate, including suggestions for reducing this burden, or any other aspects of this collection of information to: U.S. General Services Administration, Regulatory Secretariat Division (M1V1CB), 1800 F Street, NW, Washington, DC 20405.

### PURPOSE

Federal agencies use this form to obtain information from architect-engineer (A-E) firms about their professional qualifications. Federal agencies select firms for A-E contracts on the basis of professional qualifications as required by 40 U.S.C. chapter 11, Selection of Architects Engineers, and Part 36 of the Federal Acquisition Regulation (FAR).

The Selection of Architects and Engineers statute requires the public announcement of requirements for A-E services (with some exceptions provided by other statutes), and the selection of at least three of the most highly qualified firms based on demonstrated competence and professional qualifications according to specific criteria published in the announcement. The Act then requires the negotiation of a contract at a fair and reasonable price starting first with the most highly qualified firm.

The information used to evaluate firms is from this form and other sources, including performance evaluations, any additional data requested by the agency, and interviews with the most highly qualified firms and their references.

### GENERAL INSTRUCTIONS

Part I presents the qualifications for a specific contract.

Part II presents the general qualifications of a firm or a specific branch office of a firm. Part II has two uses:

1. An A-E firm may submit Part II to the appropriate central, regional or local office of each Federal agency to be kept on file. A public announcement is not required for certain contracts, and agencies may use Part II as a basis for selecting at least three of the most highly qualified firms for discussions prior to requesting submission of Part I. Firms are encouraged to update Part II on file with agency offices, as appropriate, according to FAR Part 36. If a firm has branch offices, submit a separate Part II for each branch office seeking work.

2. Prepare a separate Part II for each firm that will be part of the team proposed for a specific contract and submitted with Part I. If a firm has branch offices, submit a separate Part II for each branch office that has a key role on the team.

### INDIVIDUAL AGENCY INSTRUCTIONS

Individual agencies may supplement these instructions. For example, they may limit the number of projects or number of pages submitted in Part I in response to a public announcement for a particular project. Carefully comply with any agency instructions when preparing and submitting this form. Be as concise as possible and provide only the information requested by the agency.

### DEFINITIONS

**Architect-Engineer Services:** Defined in FAR 2.101.

**Branch Office:** A geographically distinct place of business or subsidiary office of a firm that has a key role on the team.

**Discipline:** Primary technical capabilities of key personnel, as evidenced by academic degree, professional registration, certification, and/or extensive experience.

**Firm:** Defined in FAR 36.102.

**Key Personnel:** Individuals who will have major contract responsibilities and/or provide unusual or unique expertise.

### SPECIFIC INSTRUCTIONS

#### Part I - Contract-Specific Qualifications

##### Section A. Contract Information.

1. Title and Location. Enter the title and location of the contract for which this form is being submitted, exactly as shown in the public announcement or agency request.

2. Public Notice Date. Enter the posted date of the agency's notice on the Federal Business Opportunity website (FedBizOpps), other form of public announcement or agency request for this contract.

3. Solicitation or Project Number. Enter the agency's solicitation number and/or project number, if applicable, exactly as shown in the public announcement or agency request for this contract.

##### Section B. Architect-Engineer Point of Contact.

4-8. Name, Title, Name of Firm, Telephone Number, Fax (Facsimile) Number and E-mail (Electronic Mail) Address. Provide information for a representative of the prime contractor or joint venture that the agency can contact for additional information.

---

## Section C. Proposed Team.

### 9-11. Firm Name, Address, and Role in This Contract.

Provide the contractual relationship, name, full mailing address, and a brief description of the role of each firm that will be involved in performance of this contract. List the prime contractor or joint venture partners first. If a firm has branch offices, indicate each individual branch office that will have a key role on the team. The named subcontractors and outside associates or consultants must be used, and any change must be approved by the contracting officer. (See FAR Part 52 Clause "Subcontractors and Outside Associates and Consultants (Architect-Engineer Services)"). Attach an additional sheet in the same format as Section C if needed.

## Section D. Organizational Chart of Proposed Team.

As an attachment after Section C, present an organizational chart of the proposed team showing the names and roles of all key personnel listed in Section E and the firm they are associated with as listed in Section C.

## Section E. Resumes of Key Personnel Proposed for this Contract.

Complete this section for each key person who will participate in this contract. Group by firm, with personnel of the prime contractor or joint venture partner firms first. The following blocks must be completed for each resume:

12. Name. Self-explanatory.

13. Role in this contract. Self-explanatory.

14. Years Experience. Total years of relevant experience (block 14a), and years of relevant experience with current firm, but not necessarily the same branch office (block 14b).

15. Firm Name and Location. Name, city and state of the firm where the person currently works, which must correspond with one of the firms (or branch office of a firm, if appropriate) listed in Section C.

16. Education. Provide information on the highest relevant academic degree(s) received. Indicate the area(s) of specialization for each degree.

17. Current Professional Registration. Provide information on current relevant professional registration(s) in a State or possession of the United States, Puerto Rico, or the District of Columbia according to FAR Part 36.

18. Other Professional Qualifications. Provide information on any other professional qualifications relating to this contract, such as education, professional registration, publications, organizational memberships, certifications, training, awards, and foreign language capabilities.

19. Relevant Projects. Provide information on up to five projects in which the person had a significant role that demonstrates the person's capability relevant to her/his proposed role in this contract. These projects do not necessarily have to be any of the projects presented in Section F for the project team if the person was not involved in any of those projects or the person worked on other projects that were more relevant than the team projects in Section F. Use the check box provided to indicate if the project was performed with any office of the current firm. If any of the professional services or construction projects are not complete, leave Year Completed blank and indicate the status in Brief Description and Specific Role (block (3)).

## Section F. Example Projects Which Best Illustrate Proposed Team's Qualifications for this Contract.

Select projects where multiple team members worked together, if possible, that demonstrate the team's capability to perform work similar to that required for this contract. Complete one Section F for each project. Present ten projects, unless otherwise specified by the agency. Complete the following blocks for each project:

20. Example Project Key Number. Start with "1" for the first project and number consecutively.

21. Title and Location. Title and location of project or contract. For an indefinite delivery contract, the location is the geographic scope of the contract.

22. Year Completed. Enter the year completed of the professional services (such as planning, engineering study, design, or surveying), and/or the year completed of construction, if applicable. If any of the professional services or the construction projects are not complete, leave Year Completed blank and indicate the status in Brief Description of Project and Relevance to this Contract (block 24).

23a. Project Owner. Project owner or user, such as a government agency or installation, an institution, a corporation or private individual.

23b. Point of Contact Name. Provide name of a person associated with the project owner or the organization which contracted for the professional services, who is very familiar with the project and the firm's (or firms') performance.

23c. Point of Contact Telephone Number. Self-explanatory.

24. Brief Description of Project and Relevance to this Contract. Indicate scope, size, cost, principal elements and special features of the project. Discuss the relevance of the example project to this contract. Enter any other information requested by the agency for each example project.

25. Firms from Section C Involved with this Project. Indicate which firms (or branch offices, if appropriate) on the project team were involved in the example project, and their roles. List in the same order as Section C.

#### Section G. Key Personnel Participation in Example Projects.

This matrix is intended to graphically depict which key personnel identified in Section E worked on the example projects listed in Section F. Complete the following blocks (see example below).

26. and 27. Names of Key Personnel and Role in this Contract. List the names of the key personnel and their proposed roles in this contract in the same order as they appear in Section E.

28. Example Projects Listed in Section F. In the column under each project key number (see block 29) and for each key person, place an "X" under the project key number for participation in the same or similar role.

29. Example Projects Key. List the key numbers and titles of the example projects in the same order as they appear in Section F.

#### Section H. Additional Information.

30. Use this section to provide additional information specifically requested by the agency or to address selection criteria that are not covered by the information provided in Sections A-G.

#### Section I. Authorized Representative.

31. and 32. Signature of Authorized Representative and Date. An authorized representative of a joint venture or the prime contractor must sign and date the completed form. Signing attests that the information provided is current and factual, and that all firms on the proposed team agree to work on the project. Joint ventures selected for negotiations must make available a statement of participation by a principal of each member of the joint venture.

33. Name and Title. Self-explanatory.

### SAMPLE ENTRIES FOR SECTION G (MATRIX)

26. NAMES OF KEY PERSONNEL (From Section E, Block 12)	27. ROLE IN THIS CONTRACT (From Section E, Block 13)	28. EXAMPLE PROJECTS LISTED IN SECTION F (Fill in "Example Projects Key" section below first, before completing table. Place "X" under project key number for participation in same or similar role.)									
		1	2	3	4	5	6	7	8	9	10
Jane A. Smith	Chief Architect	X		X							
Joseph B. Williams	Chief Mechanical Engineer	X	X	X	X						
Tara C. Donovan	Chief Electrical Engineer	X	X		X						

### 29. EXAMPLE PROJECTS KEY

NUMBER	TITLE OF EXAMPLE PROJECT (From Section F)	NUMBER	TITLE OF EXAMPLE PROJECT (From Section F)
1	Federal Courthouse, Denver, CO	6	XYZ Corporation Headquarters, Boston, MA
2	Justin J. Wilson Federal Building, Baton Rouge, LA	7	Founder's Museum, Newport, RI

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## Part II - General Qualifications

See the **"General Instructions"** on page 1 for firms with branch offices. Prepare Part II for the specific branch office seeking work if the firm has branch offices.

1. Solicitation Number. If Part II is submitted for a specific contract, insert the agency's solicitation number and/or project number, if applicable, exactly as shown in the public announcement or agency request.

2a-2e. Firm (or Branch Office) Name and Address. Self-explanatory.

3. Year Established. Enter the year the firm (or branch office, if appropriate) was established under the current name.

4. Unique Entity Identifier. Insert the unique entity identifier issued by the entity designated at SAM. See FAR part 4.6.

5. Ownership.

a. Type. Enter the type of ownership or legal structure of the firm (sole proprietor, partnership, corporation, joint venture, etc.).

b. Small Business Status. Refer to the North American Industry Classification System (NAICS) code in the public announcement, and indicate if the firm is a small business according to the current size standard for that NAICS code (for example, Engineering Services (part of NAICS 541330), Architectural Services (NAICS 541310), Surveying and Mapping Services (NAICS 541370)). The small business categories and the internet website for the NAICS codes appear in FAR part 19. Contact the requesting agency for any questions. Contact your local U.S. Small Business Administration office for any questions regarding Business Status.

6a-6c. Point of Contact. Provide this information for a representative of the firm that the agency can contact for additional information. The representative must be empowered to speak on contractual and policy matters.

7. Name of Firm. Enter the name of the firm if Part II is prepared for a branch office.

8a-8c. Former Firm Names. Indicate any other previous names for the firm (or branch office) during the last six years. Insert the year that this corporate name change was effective and the associated unique entity identifier. This information is used to review past performance on Federal contracts.

9. Employees by Discipline. Use the relevant disciplines and associated function codes shown at the end of these instructions and list in the same numerical order. After the listed disciplines, write in any additional disciplines and leave the function code blank. List no more than 20 disciplines. Group remaining employees under "Other Employees" in column b. Each person can be counted only once according to his/her primary function. If Part II is prepared for a firm (including all branch offices), enter the number of employees by disciplines in column c(1). If Part II is prepared for a branch office, enter the number of employees by discipline in column c(2) and for the firm in column c(1).

10. Profile of Firm's Experience and Annual Average Revenue for Last 5 Years. Complete this block for the firm or branch office for which this Part II is prepared. Enter the experience categories which most accurately reflect the firm's technical capabilities and project experience. Use the relevant experience categories and associated profile codes shown at the end of these instructions, and list in the same numerical order. After the listed experience categories, write in any unlisted relevant project experience categories and leave the profile codes blank. For each type of experience, enter the appropriate revenue index number to reflect the professional services revenues received annually (averaged over the last 5 years) by the firm or branch office for performing that type of work. A particular project may be identified with one experience category or it may be broken into components, as best reflects the capabilities and types of work performed by the firm. However, do not double count the revenues received on a particular project.

11. Annual Average Professional Services Revenues of Firm for Last 3 Years. Complete this block for the firm or branch office for which this Part II is prepared. Enter the appropriate revenue index numbers to reflect the professional services revenues received annually (averaged over the last 3 years) by the firm or branch office. Indicate Federal work (performed directly for the Federal Government, either as the prime contractor or subcontractor), non-Federal work (all other domestic and foreign work, including Federally-assisted projects), and the total. If the firm has been in existence for less than 3 years, see the definition for "Annual Receipts" under FAR 19.101.

12. Authorized Representative. An authorized representative of the firm or branch office must sign and date the completed form. Signing attests that the information provided is current and factual. Provide the name and title of the authorized representative who signed the form.

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List of Disciplines (*Function Codes*)

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Code	Description	Code	Description
01	Acoustical Engineer	32	Hydraulic Engineer
02	Administrative	33	Hydrographic Surveyor
03	Aerial Photographer	34	Hydrologist
04	Aeronautical Engineer	35	Industrial Engineer
05	Archeologist	36	Industrial Hygienist
06	Architect	37	Interior Designer
07	Biologist	38	Land Surveyor
08	CADD Technician	39	Landscape Architect
09	Cartographer	40	Materials Engineer
10	Chemical Engineer	41	Materials Handling Engineer
11	Chemist	42	Mechanical Engineer
12	Civil Engineer	43	Mining Engineer
13	Communications Engineer	44	Oceanographer
14	Computer Programmer	45	Photo Interpreter
15	Construction Inspector	46	Photogrammetrist
16	Construction Manager	47	Planner: Urban/Regional
17	Corrosion Engineer	48	Project Manager
18	Cost Engineer/Estimator	49	Remote Sensing Specialist
19	Ecologist	50	Risk Assessor
20	Economist	51	Safety/Occupational Health Engineer
21	Electrical Engineer	52	Sanitary Engineer
22	Electronics Engineer	53	Scheduler
23	Environmental Engineer	54	Security Specialist
24	Environmental Scientist	55	Soils Engineer
25	Fire Protection Engineer	56	Specifications Writer
26	Forensic Engineer	57	Structural Engineer
27	Foundation/Geotechnical Engineer	58	Technician/Analyst
28	Geodetic Surveyor	59	Toxicologist
29	Geographic Information System Specialist	60	Transportation Engineer
30	Geologist	61	Value Engineer
31	Health Facility Planner	62	Water Resources Engineer

List of Experience Categories (*Profile Codes*)

Code	Description	Code	Description
A01	Acoustics, Noise Abatement	E01	Ecological & Archeological Investigations
A02	Aerial Photography; Airborne Data and Imagery Collection and Analysis	E02	Educational Facilities; Classrooms
A03	Agricultural Development; Grain Storage; Farm Mechanization	E03	Electrical Studies and Design
A04	Air Pollution Control	E04	Electronics
A05	Airports; Nav aids; Airport Lighting; Aircraft Fueling	E05	Elevators; Escalators; People-Movers
A06	Airports; Terminals and Hangars; Freight Handling	E06	Embassies and Chanceries
A07	Arctic Facilities	E07	Energy Conservation; New Energy Sources
A08	Animal Facilities	E08	Engineering Economics
A09	Anti-Terrorism/Force Protection	E09	Environmental Impact Studies, Assessments or Statements
A10	Asbestos Abatement	E10	Environmental and Natural Resource Mapping
A11	Auditoriums & Theaters	E11	Environmental Planning
A12	Automation; Controls; Instrumentation	E12	Environmental Remediation
		E13	Environmental Testing and Analysis
B01	Barracks; Dormitories	F01	Fallout Shelters; Blast-Resistant Design
B02	Bridges	F02	Field Houses; Gyms; Stadiums
C01	Cartography	F03	Fire Protection
C02	Cemeteries ( <i>Planning &amp; Relocation</i> )	F04	Fisheries; Fish ladders
C03	Charting: Nautical and Aeronautical	F05	Forensic Engineering
C04	Chemical Processing & Storage	F06	Forestry & Forest products
C05	Child Care/Development Facilities	G01	Garages; Vehicle Maintenance Facilities; Parking Decks
C06	Churches; Chapels	G02	Gas Systems (Propane; Natural, Etc.)
C07	Coastal Engineering	G03	Geodetic Surveying: Ground and Air-borne
C08	Codes; Standards; Ordinances	G04	Geographic Information System Services: Development, Analysis, and Data Collection
C09	Cold Storage; Refrigeration and Fast Freeze	G05	Geospatial Data Conversion: Scanning, Digitizing, Compilation, Attributing, Scribing, Drafting
C10	Commercial Building ( <i>low rise</i> ) ; Shopping Centers	G06	Graphic Design
C11	Community Facilities	H01	Harbors; Jetties; Piers, Ship Terminal Facilities
C12	Communications Systems; TV; Microwave	H02	Hazardous Materials Handling and Storage
C13	Computer Facilities; Computer Service	H03	Hazardous, Toxic, Radioactive Waste Remediation
C14	Conservation and Resource Management	H04	Heating; Ventilating; Air Conditioning
C15	Construction Management	H05	Health Systems Planning
C16	Construction Surveying	H06	Highrise; Air-Rights-Type Buildings
C17	Corrosion Control; Cathodic Protection; Electrolysis	H07	Highways; Streets; Airfield Paving; Parking Lots
C18	Cost Estimating; Cost Engineering and Analysis; Parametric Costing; Forecasting	H08	Historical Preservation
C19	Cryogenic Facilities	H09	Hospital & Medical Facilities
D01	Dams ( <i>Concrete; Arch</i> )	H10	Hotels; Motels
D02	Dams ( <i>Earth; Rock</i> ); Dikes; Levees	H11	Housing ( <i>Residential, Multi-Family; Apartments; Condominiums</i> )
D03	Desalinization ( <i>Process &amp; Facilities</i> )	H12	Hydraulics & Pneumatics
D04	Design-Build - Preparation of Requests for Proposals	H13	Hydrographic Surveying
D05	Digital Elevation and Terrain Model Development		
D06	Digital Orthophotography		
D07	Dining Halls; Clubs; Restaurants		
D08	Dredging Studies and Design		

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List of Experience Categories (*Profile Codes continued*)

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Code	Description	Code	Description
I01	Industrial Buildings; Manufacturing Plants	P09	Product, Machine Equipment Design
I02	Industrial Processes; Quality Control	P10	Pneumatic Structures, Air-Support Buildings
I03	Industrial Waste Treatment	P11	Postal Facilities
I04	Intelligent Transportation Systems	P12	Power Generation, Transmission, Distribution
I05	Interior Design; Space Planning	P13	Public Safety Facilities
I06	Irrigation; Drainage	R01	Radar; Sonar; Radio & Radar Telescopes
J01	Judicial and Courtroom Facilities	R02	Radio Frequency Systems & Shieldings
L01	Laboratories; Medical Research Facilities	R03	Railroad; Rapid Transit
L02	Land Surveying	R04	Recreation Facilities (Parks, Marinas, Etc.)
L03	Landscape Architecture	R05	Refrigeration Plants/Systems
L04	Libraries; Museums; Galleries	R06	Rehabilitation (Buildings; Structures; Facilities)
L05	Lighting (Interior; Display; Theater, Etc.)	R07	Remote Sensing
L06	Lighting (Exteriors; Streets; Memorials; Athletic Fields, Etc.)	R08	Research Facilities
M01	Mapping Location/Addressing Systems	R09	Resources Recovery; Recycling
M02	Materials Handling Systems; Conveyors; Sorters	R10	Risk Analysis
M03	Metallurgy	R11	Rivers; Canals; Waterways; Flood Control
M04	Microclimatology; Tropical Engineering	R12	Roofing
M05	Military Design Standards	S01	Safety Engineering; Accident Studies; OSHA Studies
M06	Mining & Mineralogy	S02	Security Systems; Intruder & Smoke Detection
M07	Missile Facilities (Silos; Fuels; Transport)	S03	Seismic Designs & Studies
M08	Modular Systems Design; Pre-Fabricated Structures or Components	S04	Sewage Collection, Treatment and Disposal
N01	Naval Architecture; Off-Shore Platforms	S05	Soils & Geologic Studies; Foundations
N02	Navigation Structures; Locks	S06	Solar Energy Utilization
N03	Nuclear Facilities; Nuclear Shielding	S07	Solid Wastes; Incineration; Landfill
O01	Office Buildings; Industrial Parks	S08	Special Environments; Clean Rooms, Etc.
O02	Oceanographic Engineering	S09	Structural Design; Special Structures
O03	Ordnance; Munitions; Special Weapons	S10	Surveying; Platting; Mapping; Flood Plain Studies
P01	Petroleum Exploration; Refining	S11	Sustainable Design
P02	Petroleum and Fuel (Storage and Distribution)	S12	Swimming Pools
P03	Photogrammetry	S13	Storm Water Handling & Facilities
P04	Pipelines (Cross-Country - Liquid & Gas)	T01	Telephone Systems ( <i>Rural; Mobile; Intercom, Etc.</i> )
P05	Planning (Community, Regional, Areawide and State)	T02	Testing & Inspection Services
P06	Planning (Site, Installation, and Project)	T03	Traffic & Transportation Engineering
P07	Plumbing & Piping Design	T04	Topographic Surveying and Mapping
P08	Prisons & Correctional Facilities	T05	Towers ( <i>Self-Supporting &amp; Guyed Systems</i> )
		T06	Tunnels & Subways

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List of Experience Categories (*Profile Codes continued*)

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<b>Code</b>	<b>Description</b>
U01	Unexploded Ordnance Remediation
U02	Urban Renewals; Community Development
U03	Utilities (Gas and Steam)
V01	Value Analysis; Life-Cycle Costing
W01	Warehouses & Depots
W02	Water Resources; Hydrology; Ground Water
W03	Water Supply; Treatment and Distribution
W04	Wind Tunnels; Research/Testing Facilities Design
Z01	Zoning; Land Use Studies

# ARCHITECT-ENGINEER QUALIFICATIONS

## PART I - CONTRACT-SPECIFIC QUALIFICATIONS

### A. CONTRACT INFORMATION

1. TITLE AND LOCATION (City and State)

2. PUBLIC NOTICE DATE

3. SOLICITATION OR PROJECT NUMBER

### B. ARCHITECT-ENGINEER POINT OF CONTACT

4. NAME AND TITLE

5. NAME OF FIRM

6. TELEPHONE NUMBER

7. FAX NUMBER

8. E-MAIL ADDRESS

### C. PROPOSED TEAM

(Complete this section for the prime contractor and all key subcontractors.)

	(Check)				9. FIRM NAME	10. ADDRESS	11. ROLE IN THIS CONTRACT
	PRIME	J-V	PARTNER	SUBCON-TRACTOR			
a.					<input type="checkbox"/> CHECK IF BRANCH OFFICE		
b.					<input type="checkbox"/> CHECK IF BRANCH OFFICE		
c.					<input type="checkbox"/> CHECK IF BRANCH OFFICE		
d.					<input type="checkbox"/> CHECK IF BRANCH OFFICE		
e.					<input type="checkbox"/> CHECK IF BRANCH OFFICE		
f.					<input type="checkbox"/> CHECK IF BRANCH OFFICE		

### D. ORGANIZATIONAL CHART OF PROPOSED TEAM

☐ (Attached)

**E. RESUMES OF KEY PERSONNEL PROPOSED FOR THIS CONTRACT***(Complete one Section E for each key person.)*

12. NAME	13. ROLE IN THIS CONTRACT	14. YEARS EXPERIENCE	
		a. TOTAL	b. WITH CURRENT FIRM
15. FIRM NAME AND LOCATION <i>(City and State)</i>			
16. EDUCATION <i>(Degree and Specialization)</i>		17. CURRENT PROFESSIONAL REGISTRATION <i>(State and Discipline)</i>	
18. OTHER PROFESSIONAL QUALIFICATIONS <i>(Publications, Organizations, Training, Awards, etc.)</i>			

**19. RELEVANT PROJECTS**

a.	(1) TITLE AND LOCATION <i>(City and State)</i>	(2) YEAR COMPLETED	
	(3) BRIEF DESCRIPTION <i>(Brief scope, size, cost, etc.)</i> AND SPECIFIC ROLE	PROFESSIONAL SERVICES	CONSTRUCTION <i>(If applicable)</i>
		<input type="checkbox"/> Check if project performed with current firm	
b.	(1) TITLE AND LOCATION <i>(City and State)</i>	(2) YEAR COMPLETED	
	(3) BRIEF DESCRIPTION <i>(Brief scope, size, cost, etc.)</i> AND SPECIFIC ROLE	PROFESSIONAL SERVICES	CONSTRUCTION <i>(If applicable)</i>
		<input type="checkbox"/> Check if project performed with current firm	
c.	(1) TITLE AND LOCATION <i>(City and State)</i>	(2) YEAR COMPLETED	
	(3) BRIEF DESCRIPTION <i>(Brief scope, size, cost, etc.)</i> AND SPECIFIC ROLE	PROFESSIONAL SERVICES	CONSTRUCTION <i>(If applicable)</i>
		<input type="checkbox"/> Check if project performed with current firm	
d.	(1) TITLE AND LOCATION <i>(City and State)</i>	(2) YEAR COMPLETED	
	(3) BRIEF DESCRIPTION <i>(Brief scope, size, cost, etc.)</i> AND SPECIFIC ROLE	PROFESSIONAL SERVICES	CONSTRUCTION <i>(If applicable)</i>
		<input type="checkbox"/> Check if project performed with current firm	
e.	(1) TITLE AND LOCATION <i>(City and State)</i>	(2) YEAR COMPLETED	
	(3) BRIEF DESCRIPTION <i>(Brief scope, size, cost, etc.)</i> AND SPECIFIC ROLE	PROFESSIONAL SERVICES	CONSTRUCTION <i>(If applicable)</i>
		<input type="checkbox"/> Check if project performed with current firm	

<b>F. EXAMPLE PROJECTS WHICH BEST ILLUSTRATE PROPOSED TEAM'S QUALIFICATIONS FOR THIS CONTRACT</b> <i>(Present as many projects as requested by the agency, or 10 projects, if not specified. Complete one Section F for each project.)</i>		20. EXAMPLE PROJECT KEY NUMBER		
21. TITLE AND LOCATION <i>(City and State)</i>	22. YEAR COMPLETED <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 2px;">PROFESSIONAL SERVICES</td> <td style="width: 50%; padding: 2px;">CONSTRUCTION <i>(If applicable)</i></td> </tr> </table>		PROFESSIONAL SERVICES	CONSTRUCTION <i>(If applicable)</i>
PROFESSIONAL SERVICES	CONSTRUCTION <i>(If applicable)</i>			
<b>23. PROJECT OWNER'S INFORMATION</b>				
a. PROJECT OWNER	b. POINT OF CONTACT NAME	c. POINT OF CONTACT TELEPHONE NUMBER		
24. BRIEF DESCRIPTION OF PROJECT AND RELEVANCE TO THIS CONTRACT <i>(Include scope, size, and cost)</i>				

<b>25. FIRMS FROM SECTION C INVOLVED WITH THIS PROJECT</b>			
<b>a.</b>	(1) FIRM NAME	(2) FIRM LOCATION <i>(City and State)</i>	(3) ROLE
<b>b.</b>	(1) FIRM NAME	(2) FIRM LOCATION <i>(City and State)</i>	(3) ROLE
<b>c.</b>	(1) FIRM NAME	(2) FIRM LOCATION <i>(City and State)</i>	(3) ROLE
<b>d.</b>	(1) FIRM NAME	(2) FIRM LOCATION <i>(City and State)</i>	(3) ROLE
<b>e.</b>	(1) FIRM NAME	(2) FIRM LOCATION <i>(City and State)</i>	(3) ROLE
<b>f.</b>	(1) FIRM NAME	(2) FIRM LOCATION <i>(City and State)</i>	(3) ROLE

[illegible]

## 29. EXAMPLE PROJECTS KEY

NUMBER	TITLE OF EXAMPLE PROJECT <i>(From Section F)</i>	NUMBER	TITLE OF EXAMPLE PROJECT <i>(From Section F)</i>
1		6	
2		7	
3		8	
4		9	
5		10	

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**H. ADDITIONAL INFORMATION**

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30. PROVIDE ANY ADDITIONAL INFORMATION REQUESTED BY THE AGENCY. ATTACH ADDITIONAL SHEETS AS NEEDED.

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**I. AUTHORIZED REPRESENTATIVE**  
*The foregoing is a statement of facts.*

31. SIGNATURE

32. DATE

33. NAME AND TITLE

## 1. SOLICITATION NUMBER (If any)

(If a firm has branch offices, complete for each specific branch office seeking work.)

2a. FIRM (or Branch Office) NAME			3. YEAR ESTABLISHED	4. UNIQUE ENTITY IDENTIFIER
2b. STREET			5. OWNERSHIP	
2c. CITY	2d. STATE	2e. ZIP CODE	a. TYPE	
			b. SMALL BUSINESS STATUS	
6a. POINT OF CONTACT NAME AND TITLE			7. NAME OF FIRM (If Block 2a is a Branch Office)	
6b. TELEPHONE NUMBER	6c. EMAIL ADDRESS			
8a. FORMER FIRM NAME(S) (If any)			8b. YEAR ESTABLISHED	8c. UNIQUE ENTITY IDENTIFIER

[illegible]

11. ANNUAL AVERAGE PROFESSIONAL SERVICES REVENUES OF FIRM FOR LAST 3 YEARS (Insert revenue index number shown at right)		PROFESSIONAL SERVICES REVENUE INDEX NUMBER	
a. Federal Work		1. Less than \$100,000	6. \$2 million to less than \$5 million
b. Non-Federal Work		2. \$100,000 to less than \$250,000	7. \$5 million to less than \$10 million
c. Total Work		3. \$250,000 to less than \$500,000	8. \$10 million to less than \$25 million
		4. \$500,000 to less than \$1 million	9. \$25 million to less than \$50 million
		5. \$1 million to less than \$2 million	10. \$50 million or greater

*The foregoing is a statement of facts.*

a. SIGNATURE	b. DATE
c. NAME AND TITLE	

**ATTACHMENT F**  
**Staffing Plan**

**Request for Proposals (RFP) - A/E Services - BLC Fieldhouse**  
**Staffing Plan**

Offeror Name: \_\_\_\_\_  
Date: \_\_\_\_\_

*\* List name, position and number of hours, as indicated. Include all key personnel listed in Attachment E. Add rows as needed.*

[illegible]

**ATTACHMENT G**  
**Preliminary Design Services Agreement**

This Preliminary Design Services Agreement (this “**Agreement**”) is made as of this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between the Maryland Stadium Authority (“**MSA**”), a body politic and instrumentality of the State of Maryland located the Warehouse at Camden Yards, 333 West Camden Street, Suite 500, Baltimore, MD 21201, and \_\_\_\_\_ (the “**Architect**”) whose address is \_\_\_\_\_.

## RECITALS

WHEREAS, MSA issued a Request for Proposals (“**RFP**”) dated as \_\_ of for the purpose of procuring Preliminary Design Services (“**A/E Services**”) for the development of \_\_\_\_ (the “**Project**”), which RFP is attached hereto as Exhibit A and made a part hereof; and

WHEREAS, the Architect submitted its Proposal (the “**Proposal**”) dated \_\_, and its Best and Final Offer (“**BAFO**”) which are attached hereto as Exhibit B and made a part hereof. The Proposal and the BAFO are herein referred to together as the “**Proposal**”; and

WHEREAS, the Architect represents that it obtained clarification of its questions with respect to the proposed scope of work (the “**Work**”) set forth in the RFP prior to submission of its Proposal; and

WHEREAS, the Architect represents that is has the knowledge and experience necessary to perform the Preliminary Design Services set forth in this Agreement; and

**Incorporation of Recitals.** The foregoing Recitals are incorporated herein by reference and made a part of this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, MSA and the Architect hereby agree as follows:

## ARTICLE 1 GENERAL PROVISIONS

### Section 1.0 Relationship

Architect recognizes and accepts that MSA is entering into this Agreement in reliance on Architect’s expertise, skills and abilities with respect to performing its obligations hereunder. Architect accepts the relationship of trust and confidence established between it and MSA and shall furnish its best skill and judgment and cooperate with MSA and its contractors and consultants in furthering the interests of MSA. Architect shall furnish efficient business administration and management of its services in an expeditious and economical manner consistent with the interests of MSA. Architect shall be an agent of MSA to the extent and only to the extent required to properly perform the services requested of it by MSA under this Agreement; and

Architect shall not represent or hold itself out to have any authority to act on behalf of or bind MSA other than as specifically provided herein.

### **Section 1.02 Compliance with laws**

The Architect 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 Agreement;

(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) Architect 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 Work required under this Agreement.

### **Section 1.03 Quality of Work and Standard of Care**

1.03.1 All services to be performed by the Architect in respect of this Agreement shall be provided in a manner consistent with the degree of care and skill usually exercised by architects experienced in projects of similar scope and in accordance with standards of care and skill expected of architects experienced in the design of projects similar to the Project and under the direction of architects and engineers licensed and duly qualified in the jurisdiction in which the Project is located.

### **Section 1.04 Order of Document Precedence**

If there is any conflict among the Agreement 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 Architect's Proposal.

### **Section 1.05 Entire Agreement**

This Agreement (including all Exhibits) represents the entire and integrated agreement between MSA and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral.

### **Section 1.06 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.

## **ARTICLE 2 PRELIMINARY DESIGN SERVICES**

### **Section 2.01 Basic Preliminary Design Services**

The Basic Preliminary Design Services required from the Architect are set forth in the RFP. The Architect shall provide these services in accordance with the terms and conditions of this Agreement and any Exhibits attached hereto or amendments issued hereunder. MSA shall have the unilateral right to require changes in the scope of services in this Agreement, provided such changes are within the general scope of the work to be performed. In addition, the Architect shall perform and be bound by any and all obligations set forth in the RFP and the Proposal.

2.01.1 Project. The Architect is not authorized to make any changes to the Project without written consent from MSA.

2.01.2 Design Criteria. In addition to the scope of services set forth in the RFP, design criteria shall ensure that the Preliminary Design Services, to the maximum extent possible include consideration of the following:

- (a) design and construction to achieve efficient utilization of space, and sustainable design goals, enhance the health and wellness of building users, and reduce consumption of non-renewable resources.;
- (b) economical construction, operation, and maintenance;
- (c) sound structures of conventional shapes that are attractive and functional, with special attention to the economics of the interrelationship of architectural, structural, mechanical and electrical systems;
- (d) efficient site utilization;
- (e) consideration for adjacent structures;
- (f) logical and safe pedestrian and vehicular circulation patterns;
- (g) clear identification of the main entrance;
- (h) efficient and well organized floor plans;
- (i) flexibility for future use

- (l) prevention of the unnecessary removal of vegetation during the land development process; and
- (m) promoting energy conservation through the cooling and wind buffering effects of trees.

NOTE: The Architect shall investigate the availability of energy incentive/rebate programs offered by the local utility company. Appropriate features will be incorporated into the lighting design to accrue the maximum benefit of such programs for the State. NOTE: The Architect will comply with the National Energy Policy Act (DOE) prohibiting the manufacture of certain light sources.

### **Section 2.02 Additional Services**

Additional Services requested of, or by Architect shall be provided with MSA's and Architect's mutual written agreement executed by both parties. Unless otherwise specified, the Architect's compensation for additional services shall be paid for in accordance with Article 3 and based upon actual time spent at the hourly rate(s) agreed to in advance in writing by MSA.

### **Section 2.03 Merger of Agreements**

2.03.1 Architect Agreement. MSA in MSA's sole discretion may offer the Architect the opportunity to enter into an Architect Agreement for Architectural/Engineering Services Agreement (the "**Architect Agreement**") with MSA following the conclusion of the Preliminary Design Services set forth in this Agreement. If Architect and MSA execute an Architect Agreement, Architect shall be bound by all of the terms and conditions set forth in this Agreement as if those terms and conditions are restated in their entirety in the Architect Agreement. Architect's actual knowledge of the Project, the required scope of work, and the facts and circumstances learned during preliminary design will be an important consideration in MSA's selection of the Architect for the Architect Agreement.

2.03.2 A *sample* of the Architect Agreement is attached as Exhibit C. The sample agreement may not contain all of the same provisions as the final Architect Agreement for the Project.

### **Section 2.04 MSA'S Responsibilities**

MSA shall provide the Architect with any additional information it has or may obtain regarding requirements for the Project and which are relevant to the Preliminary Design work.

## **ARTICLE 3 COMPENSATION AND PAYMENT PROVISIONS**

### **Section 3.01 Architect's Compensation**

Architect's total fees for A/E Services shall not exceed \$\_\_\_\_, as set forth on the BAFO ("**Architect Compensation**").

### **Section 3.02 State Payment Provisions**

(a) In addition to any other information required by the Procurement Officer, the Architect's invoices shall include a tax payer identification number and contract identification number.

(b) Payments to the Architect 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 Architect.

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

### **Section 3.03 Reimbursable Expenses**

3.03.1 The Architect shall be reimbursed for all reasonable, allowable and allocable direct costs and expenses incurred by the Architect (its employees or consultants) in the performance of this Agreement, subject to the terms and conditions set forth in the RFP, this Agreement, and the approval of MSA, and shall include but not be limited to:

3.03.2 The *actual costs* of reproducing and delivering (via USPS, messenger or overnight delivery services) project documents to MSA and other State agencies that will issue permits for the Project or for required review submissions.

3.03.3 Transportation expenses are included with Basic Services. Therefore, reimbursement will only apply to transportation expenses incurred by the Architect in connection to travel that is (a) over and above what is included in Basic Services; and (b) requested by, or with the prior approval of MSA. Reimbursement shall be at the standard State rate of travel.

3.03.4 Such other expenses incurred in connection with the Project with the prior written authorization by MSA.

3.03.5 Reimbursable expenses shall be documented with receipts and highlighted in expense reports if combined with non-reimbursable expense. Any reimbursable expenses in excess of \$1,000 requires prior written approval from MSA.

3.03.6 The Architect's projected itemized schedule of reimbursable expenses is attached hereto as Exhibit D.

### **Section 3.04 Non-Reimbursable Expenses**

3.04.1 The Architect shall not be reimbursed for indirect or miscellaneous office expenses such as: (i) secretarial services; (ii) preparation and review of billings; (iii) in-house messenger services; (iv) employee overtime costs; (v) long distance telephone or other communication services between the Architect and MSA or between employees or consultants of the Architect; and (vi) cost to reproduce and deliver documents between the Architect's (or its consultants') offices.

3.04.2 All photocopying charges shall be at cost.

## **ARTICLE 4 INTELLECTUAL PROPERTY**

Architect agrees to indemnify and save harmless MSA, its officers, agents and employees with respect to any claim, action, costs, or judgment for patent infringement, or trademark or copyright violation arising out of purchase or use of materials, supplies, equipment or services covered by this Agreement.

## **ARTICLE 5 OWNERSHIP OF DOCUMENTS AND MATERIALS**

Architect agrees that all documents and materials including, but not limited to, reports, drawings, schedules, plans, maps, studies, specifications, estimates, maps, photographs, designs, graphics, mechanical, artwork, and computations prepared by or for it under the terms of the Agreement shall at any time during the performance of the services be made available to MSA upon request by MSA and shall become and remain the exclusive property of MSA upon termination or completion of the services. MSA shall have the right to use same without restriction or limitation and without compensation to the Architect other than that provided by this Agreement. MSA shall be the owner for purposes of copyright, patent or trademark registration.

## **ARTICLE 6 INDEMNIFICATION AND RESPONSIBILITY FOR CLAIMS AND LIABILITY**

### **Section 6.01 Indemnification**

(a) Architect agrees to indemnify, defend, protect and hold harmless MSA and its 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 Architect's negligence or willful misconduct.

(b) Architect shall not be responsible for the acts or omissions of MSA, or any Architect, subcontractor, subsubcontractor, or Consultant used by MSA with respect to the Project.

(c) Neither Architect 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. However, in the event of any such delays, the period by which the Architect has to provide the services under this Agreement shall be extended by a period of time corresponding with the period of which the work was delayed and Architect shall be entitled to an equitable adjustment in its Compensation.

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

#### **Section 6.02 Responsibility for Claims and Liability**

The Architect 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 this Agreement. Further, it is expressly understood that the Architect shall indemnify and save harmless MSA its 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 Architect under this Agreement.

### **ARTICLE 7 RETENTION OF RECORDS**

The Architect 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 8 CONFIDENTIAL INFORMATION**

#### **Section 8.01 Confidential Information**

In order for Architect to fulfill this Agreement effectively, it may be necessary or desirable for MSA to disclose to Architect information which MSA deems confidential or proprietary or information categorized as trade secrets (collectively "**Confidential Information**") and that pertain to MSA's past, present or future activities. Any information which MSA designates as Confidential, Architect shall take all necessary steps to maintain in a secure and confidential manner, and to limit access to only those persons under Architect's direct supervision who are required to access the information in order to accomplish the Work under this Agreement. Architect further agrees that it will not disclose any such Confidential Information without the prior written consent of MSA.

Upon termination of this Agreement, Architect shall upon written request from MSA return to MSA all documents and records provided by MSA, and any information or materials derived therefrom, which are in Architect's possession or control. However, Architect shall be allowed to make copies of such documents, records, information and material.

## **ARTICLE 9 INSURANCE REQUIREMENTS**

### **Section 9.01 Insurance**

(a) Architect shall maintain Workmen's Compensation Insurance, as required by law, by coverage with an insurance company acceptable to MSA for damages which may arise from operations under this Agreement.

(b) Architect shall insure itself, name the State, MSA (and others directed by MSA) as an additional insured, and shall hold MSA harmless from any claim for bodily injury, liability and property damage liability arising from Architect's work.

(c) The limits for bodily injury liability shall not be less than \$1,000,000 per occurrence, and \$2,000,000 in the aggregate. The minimum limit for property damage liability shall be \$1,000,000 per occurrence and \$2,000,000 in the aggregate.

(d) Architect shall provide, at its own expense, during the term of the Agreement, automobile liability insurance covering all owned and non-owned and hired vehicles used in connection with the work under this Agreement, with the following limits: personal injury including death: \$500,000 per person, \$1,000,000 per accident; and property damage \$50,000 per accident. Said insurance shall provide coverage of both on-site and off-site work under this Agreement.

(e) Certificates of Architect's insurance shall be provided to MSA and shall be subject to MSA's approval. No work shall be started until appropriate certificates have been provided to and approved by MSA.

9.01.1 The insurance requirements under the Architect Agreement, if applicable, may be different than those required under this Agreement.

## **ARTICLE 10 STATE TERMS**

### **Section 10.01 General State Terms**

10.01.1 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.

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

10.01.3 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 Agreement to the State of Maryland, or any agency or department thereof. The

Architect 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 Architect

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

10.01.5 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 Architect or any entity that is a subcontractor on this Agreement.

10.01.6 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.

10.01.7 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 10.02 Non-Discrimination Provisions**

10.02.1 Nondiscrimination in Employment. Architect 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.

#### **Section 10.03 Disclosures and Ethics**

10.03.1 Financial Disclosure. Architect 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.

10.03.2 Statement of Political Contributions. Architect 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-

10.03.3. 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.

10.03.4 Anti-Bribery. Architect 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.

10.03.5 Contingent Fees. Architect warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee or agent working for the Architect, 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.

10.03.6 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 the Architect and MSA from future performance of this Agreement, but not from their rights and obligations existing at the time of termination. The Architect 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 Architect 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. Architect may not recover anticipatory profits or costs incurred after termination.

#### **Section 10.04 Drug and Alcohol Free Workplace**

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

#### **Section 10.05 Tax Exemption**

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

#### **Section 10.06 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 10.07 Tort Claims Acts**

Architect agrees for itself and for its insurers, that neither Architect 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 or Client, unless requested by MSA.

### **Section 10.08 Independent Architect Status**

The Architect is an independent Architect and neither the Architect 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 and the Architect.

### **Section 10.09 No Arbitration**

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

### **Section 10.10 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 Architect that such approvals have been obtained.

### **Section 10.11 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 Architect. There are no intended third party beneficiaries of this Agreement.

### **Section 10.12 Time of the Essence**

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

### **Section 10.13 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 10.14 Termination**

TERMINATION. At any time during the effectiveness of the Agreement, MSA shall have the right, with or without cause, upon ten (10) days written notice to Architect, to terminate this Agreement in whole or in part. In the event of a termination, Architect shall deliver to MSA all materials within Architect's custody or control pertaining to the Project, and MSA shall pay to Architect all amounts due and earned to the time of the termination, in accordance with the provisions of this Agreement. Except as specially set forth above, such termination shall not give rise to any cause of action or claim against MSA for damages, loss of profits, expenses or other remuneration of any kind. Notwithstanding any other provisions of this Agreement, if in the judgment of MSA, such termination is made necessary or desirable because of Architect's failure

to fulfill its obligations under this Agreement or any other fault of Architect, MSA may withhold payment of all or any part of any monies which otherwise may be payable to Architect under this Agreement. Such monies may be applied toward any damages or expenses sustained by MSA as a result of such failure including, without limitation, any excess costs incurred by MSA in completing the Project. Notwithstanding the foregoing, Architect shall remain liable to MSA for all such damages and expenses without limitation to any such monies withheld by MSA. The failure of MSA to withhold monies from Architect shall not be construed as an acknowledgment by MSA that no such damages or expenses exist and shall not prevent MSA from thereafter making any claim against Architect therefore.

#### **Section 10.15 Taxes; Withholding**

MSA shall not withhold federal, State, and local taxes and FICA taxes, if any, from payments made pursuant to this Agreement.

#### **Section 10.16 Dispute Resolution**

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

10.16.1 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.

10.16.2 A claim shall be made in writing and submitted to the Project Executive identified in Section 10.18 for decision within thirty days of when the basis of the claim was known or should have been known, whichever is earlier.

10.16.3 When a claim cannot be resolved by mutual agreement, the Architect shall submit a written request for final decision to the Project Executive. The written request shall set forth all the facts surrounding the controversy.

10.16.4 The Architect shall be afforded an opportunity to be heard and to offer evidence in support of his claim.

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

10.16.6 The Project Executive's decision shall be final and conclusive without prejudice to the rights of the Architect to institute suit after completion of the Work in a court of competent

jurisdiction for losses incurred by Architect as a result of the Project Executive's decision. Architect hereby waives any rights that he 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 Work under the Contract Documents. The applicable statute of limitations shall be extended until six (6) months following completion of the Work.

10.16.7 Pending resolution of a claim, the Architect shall proceed diligently with the performance of the Agreement in accordance with the Project Executive's decision.

#### **Section 10.17 Contract Affidavit**

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

#### **Section 10.18 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 Project Manager:

MSA Project Executive:

Architect Project Manager:

#### **Section 10.19 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:**

Maryland Stadium Authority  
351 West Camden Street, Suite 300  
Baltimore, MD 21201-2435  
Attention: Al Tyler, Vice President

##### **With copy to:**

Office of the Attorney General  
Attn: Cynthia Hahn, Counsel MSA  
200 St. Paul Place, 20<sup>th</sup> Floor  
Baltimore, MD 21202

##### **If to the Architect:**

Company Name:

City, State, Zip:

Attn:

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.

**Signatures on following page**

The effective date (the “**Effective Date**”) of this Agreement shall be the last date that this Agreement is executed either by the Architect or the Maryland Stadium Authority.

ATTEST:

MARYLAND STADIUM AUTHORITY

By: \_\_\_\_\_

By: \_\_\_\_\_

Michael J. Frenz, Executive Director

Approved for legal form and sufficiency on  
behalf of the Maryland Stadium Authority

\_\_\_\_\_  
Amy K. Mataban  
Assistant Attorney General

ATTEST:

ARCHITECT

By: \_\_\_\_\_

By: \_\_\_\_\_ (SEAL)

Authorized Officer

## **Exhibit A**

## **Exhibit B**

## **Exhibit C**

## CONTRACT AFFIDAVIT

### 1.0 AUTHORIZED REPRESENTATIVE

**I HEREBY AFFIRM THAT:**

I am the (title) \_\_\_\_\_

and the duly authorized representative of \_\_\_\_\_

and that I possess the legal authority to make this Affidavit on behalf of myself and the business for which I am acting.

### 2.0 CERTIFICATION OF CORPORATION REGISTRATION AND TAX PAYMENT

**I FURTHER AFFIRM THAT:**

.1 The business named above is a (domestic ☐) (foreign ☐) corporation registered in accordance with the Corporations and Associations Article, Annotated Code of Maryland, and that it is in good standing and has filed all of its annual reports, together with filing fees, with the Maryland State Department of Assessments and Taxation, and that the name and address of its resident agent filed with the State Department of Assessments and Taxation is:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

.2 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, the State Department of Assessments and Taxation, and the Employment Security Administration, as applicable, and will have paid all withholding taxes due the State of Maryland prior to final settlement.

### 3.0 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, or any of its employees directly involved in obtaining or performing contracts with public bodies (as defined in Section 16-101(f) of the State Finance and Procurement Article of the Annotated Code of Maryland), has been convicted of, or has had probation before judgment imposed pursuant to Article 27, Section 641 of the 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 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):

**4.0 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 or agent 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 or agent, any fee or any other consideration contingent on the making of the Contract.

**5.0 DRUG AND ALCOHOL FREE WORKPLACE**

**I CERTIFY THAT:**

.1 Terms defined in COMAR 21.11.08 shall have the same meaning when used in this certification.

.2 By submission of its bid or offer, the business, if other than an individual, certifies and agrees that, with respect to its employees to be employed under this contract, the business shall:

- .1 Maintain a workplace free of drug and alcohol abuse during the term of the contract;
- .2 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;
- .3 Prohibit its employees from working under the influence of drugs or alcohol;
- .4 Not hire or assign to work on the contract anyone whom 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;
- .5 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;
- .6 Establish drug and alcohol abuse awareness programs to inform its employees about:
  - .1 The dangers of drug and alcohol abuse in the workplace;
  - .2 The business policy of maintaining a drug and alcohol free workplace;
  - .3 Any available drug and alcohol counseling, rehabilitation, and employee assistance programs; and
  - .4 The penalties that may be imposed upon employees who abuse drugs and alcohol in the workplace;
  - .5 Provide all employees engaged in the performance of the contract with a copy of the statement required by §5.2.2, above;
  - .6 Notify its employees in the statement required by §5.2.2, above, that as a condition of continued employment on the contract, the employee shall:
    - .1 Abide by the terms of the statement;
    - .2 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;
  - .7 Notify the procurement officer within ten (10) days after receiving notice under §5.2.8.2, above, or otherwise receiving actual notice of a conviction;
  - .8 Within thirty (30) days after receiving notice under §5.2.8.2, 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:

- .1 Take appropriate personnel action against an employee, up to and including termination; or
  - .2 Require an employee to satisfactorily participate in a bona fide drug or alcohol abuse assistance or rehabilitation program; and
  - .9 Make a good faith effort to maintain a drug and alcohol free workplace through implementation of §5.2.1-.10, above.
- .3 If the business is an individual, the individual shall certify and agree as set forth in §5.4, 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:
- .1 The award of the contract is conditional upon compliance with COMAR 21.11.08 and this certification;
  - .2 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
  - .3 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 21.08.06.

**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 H**  
**Architect Agreement for Architectural/  
Engineering Services**



**ARCHITECT AGREEMENT**  
**FOR**  
**ARCHITECTURAL/ENGINEERING DESIGN SERVICES**  
**[PROJECT]**  
**BETWEEN**  
**MARYLAND STADIUM AUTHORITY**  
**&**  
**TBD**

MSA CONTRACT No. \_\_\_\_\_

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## **AGREEMENT**

made as of the \_\_\_\_\_ day of \_\_\_\_\_ in the year of 2019.

**BETWEEN** the Owner:

Maryland Stadium Authority  
The Warehouse at Camden Yards  
351 West Camden Street, Suite 300  
Baltimore, Maryland 21201

and the Architect:

for the following project:

[PROJECT] which is described in more detail in the Project Program attached hereto as **Exhibit 1** (the "Project").

The Construction Manager (the "CM") is:

The Client is:

### **INTRODUCTORY STATEMENT**

- A. The Owner was established by the State of Maryland, pursuant to Section 13-701 et seq. of the Maryland Stadium Authority Act (Chapter 283 of the Acts of the General Assembly of 1986, now codified, as amended, as §§ 10-601 *et seq.* of the Economic Development Article of the Annotated Code of Maryland (the "Stadium Act"), as amended.
- B. The Owner will approve a Schedule (the "Construction Schedule") established by the CM for the Project which shows that design and construction will be completed on or before the date set forth in the Project Master Schedule attached as **Exhibit 3** hereto (the "Scheduled Completion Date").
- C. The Owner has established a budget for the design and construction of the Project (the "Budget"), a copy of which is attached as **Exhibit 4** hereto.
- D. The Owner desires to engage the Architect to render professional services with respect to the entire Project, subject to the terms of this Agreement.
- E. The Architect desires to be retained by the Owner to perform the architectural services required herein for the Owner.

NOW, THEREFORE, in consideration of the foregoing Introductory Statement, which is deemed a material and substantive part of this Agreement, and in further consideration of the promises and agreements hereinafter set forth, the Owner and the Architect agree as follows:

# **TERMS AND CONDITIONS OF AGREEMENT BETWEEN OWNER AND ARCHITECT**

## **ARTICLE 1 ENGAGEMENT AND RELATIONSHIP**

**1.1 ENGAGEMENT:** Upon, subject to, and in accordance with the terms, conditions, and provisions of this Agreement, the Owner engages the Architect with respect to the furnishing of those professional services set forth in this Agreement, and the Architect accepts such engagement.

**1.2 RELATIONSHIP:** The Architect accepts the relationship of trust and confidence established between it and the Owner by this Agreement and shall furnish its professional skill and judgment consistent with the standards of the profession and cooperate with the Owner, the Client, the CM, and the Owner's other consultants and contractors in furthering the interests of the Owner throughout the duration of this Agreement. For clarity, Architect's status is that of a design professional, not fiduciary. The Architect shall furnish efficient business administration and management services as required herein and shall use its professional efforts to perform its services in an expeditious and economical manner consistent with the interests of the Owner. The Architect shall be an agent of the Owner to the extent, and only to the extent, required to properly perform its obligations under this Agreement. The Architect shall not represent or hold itself out to have any authority to act on behalf of or bind the Owner other than as specifically provided herein.

**1.3 THE CLIENT:** The agreement entered into between the Owner and Client (the "Client Agreement") provides that the Client will actively participate in the design and construction process, which shall be a cooperative, mutual endeavor in which the Owner and Client will work together. The Architect shall recommend appropriate channels of communications with the Owner that will facilitate a continuous and meaningful interface between the Owner, the Client, the Architect and the CM with respect to the planning and design of the Project. The Architect shall use all reasonable best efforts to perform its services under this Agreement in a manner so as not to disrupt the Owner's relationship with the Client; provided that the Owner shall have responsibility for establishing coordination procedures which will adequately involve the Client in the decision making process.

**1.4 THE ARCHITECT:** It is the intent of the Owner and the Architect that this Agreement be construed in a manner that requires the Architect to provide all necessary and customary architectural and engineering services for the Project, including, without limitation, the specific services set forth in Articles 1, 2 and 3 of this Agreement and those services that are reasonably inferable from the terms, provisions and conditions thereof. The Architect understands that all services under this Agreement shall conform to the Contracting Strategy attached hereto as Exhibit 2 (which the Owner may modify at the Owner's sole discretion).

**1.5 STANDARD OF CARE:** All services to be performed by the Architect in respect of this Agreement shall be provided in a manner consistent with the degree of care and skill usually

exercised by architects experienced in projects of similar scope and in accordance with standards of care and skill expected of architects experienced in the design of projects similar to the Project and under the direction of architects and engineers licensed and duly qualified in the jurisdiction in which the Project is located.

The approval of any material produced by the Architect, in connection with the Project by the Owner in no way relieves the Architect of its responsibility for the accuracy and completeness of such Documents, nor compliance with required Standards, Codes, Ordinances or other applicable regulations, nor compliance with the Agreement and applicable law.

**1.6 ARCHITECT'S EMPLOYEES AND CONSULTANTS:** The Architect's services shall consist of those services performed by the Architect, the Architect's employees and the Architect's consultants. The Architect shall be responsible for the provision of all Services whether provided by the Architect or its consultants, agents, representatives or employee or others on behalf of the Architect. Any consultant employed by the Architect is subject to the approval of Owner, which shall not be unreasonably withheld.

**1.7 CONSTRUCTION MANAGER:** The Architect's services shall be provided in conjunction with the services of a CM.

Prior to the Construction Phase of the Project, the CM's services, duties, and responsibilities will be as described in the Preconstruction Contract for Construction Management Services between the Owner and the CM (the "CM Preconstruction Agreement") attached hereto as **Exhibit 11**. The Owner shall deliver a copy of the CM Preconstruction Agreement to the Architect once completed.

Unless the Owner modifies the Contracting Strategy attached hereto as **Exhibit 2** (which the Owner may modify at the Owner's sole discretion), the Owner shall select a construction manager to act as a "construction manager at risk" for the Construction Phase of the Project. The Owner may choose to retain the pre-construction CM or choose another construction manager as the CM for the Construction Phase. If another construction manager is selected for the Construction Phase, the Owner shall notify the Architect and the new CM shall thereafter be, for all purposes under this Agreement, the CM during and after the Construction Phase. Upon selection of the CM for the Construction Phase, the Owner shall negotiate and enter into a construction management agreement with the CM (the "CM Construction Agreement"). The Owner shall deliver a copy of the CM Construction Agreement to the Architect once completed.

Prior to the Construction Phase of the Project, the term "CM Agreement" shall mean and refer to the "CM Preconstruction Agreement." During and after the Construction Phase of the Project, the term "CM Agreement" shall mean and refer to the "CM Construction Agreement."

The CM Agreement shall not be modified in a manner which materially affects any of the responsibilities of the Architect without making appropriate adjustments to this Agreement.

**1.8 DESIGN SCHEDULE:** The Architect's services shall be performed as expeditiously as is consistent with professional skill and care and the orderly progress of the Architect's services. The Architect and Owner hereby agree to the design schedule, attached as **Exhibit 3** hereto,

which will be incorporated and made a part of the Project Master Schedule. Time limits established by this schedule shall not, except for reasonable cause, be exceeded by the Architect. Any adjustments to the schedule shall be void and of no force and effect until such adjustments are agreed to in writing by Owner and Architect.

**1.9 OWNER'S CONSULTANTS:** The Owner reserves the right to retain additional architects, consultants, engineers, contractors, or others for similar or dissimilar services. It is understood between the parties that, under conditions where the Owner deems it beneficial to the Project, the Architect may be working in coordination and cooperation with other consultants who will be employed independently by the Owner and totally responsible to the Owner for their work and the performance of their respective agreements with the Owner. The Owner shall inform the Architect of the specific relationship with other consultants, if any. All coordination fees associated therewith shall be included as part of Basic Services hereunder unless they arise after the date of this Agreement.

**1.10 BUILDING CODES AND LAWS:** Subject to Section 1.5, all of the Architect's services shall comply with all applicable building codes, statutes, ordinances, laws, rules and regulations, including but not limited to the IBC/BOCA, Americans with Disabilities Act ("ADA"), Elevator/Escalator, Health, and NFPA/Life Safety codes, Mechanical, and Energy Conservation Codes, National Electrical Code, International Energy Conservation Code and ASHRAE standards. The Architect shall develop its specifications and drawings in strict adherence to meet or exceed these requirements and regulations impacting on the project. The Architect shall coordinate approval of all plans with the Fire Marshal, Elevator, and Health Code Officials. Early submissions of design documents or early review meeting(s) shall be implemented as required to maintain the Project Schedule.

**1.11 BUILDING SYSTEMS REQUIREMENTS:** The Architect shall incorporate the requirements of ANSI/ASHRAE 111-1988 or the most current approved version, Practices for Measurement, Testing, Adjusting, and Balancing of Building Heating, Ventilation, Air Conditioning, and Refrigeration Systems, into the construction specifications. The Architect shall address in the construction specifications the requirements of the contractor to provide detailed and comprehensive operations and maintenance manuals for all equipment and systems in an organized format.

**1.12 DEFECTS:** Any defective designs or specifications furnished by the Architect will be promptly, upon notice or discovery, corrected by the Architect at no cost to the Owner, and the Architect will promptly reimburse the Owner for all damages, if any, to the extent caused by such defective designs or specifications. The Owner's approval, acceptance, use of or payment for all or any part of the Architect's services hereunder or of the Project itself shall in no way alter the Architect's obligations or the Owner's rights hereunder.

**1.13 COPIES:** As a part of Basic Services, the Architect shall furnish the Owner with physical copies (in such quantities as are reasonably requested by the Owner) and electronic copies of the documents prepared pursuant to Article 2 at the end of each design phase. The Architect shall also provide all additional copies required by any agency performing permit, code

compliance or other reviews as necessary to facilitate the work of the reviewing agency pursuant to Section 1.10.

**1.14 COMMUNITY RELATIONS:** As part of the Basic Services, upon the Owner's request at any time during the duration of this Agreement the Architect shall assist and support the Owner in preparing presentations of, and attending meetings with respect to, the intended design and status of the Project. Meetings and presentations will be with and to various organizations, including, but not limited to, governmental agencies, legislative bodies, community and civic associations, special interest groups and any other groups deemed necessary by the Owner. The Architect shall assist the Owner to work out methods for ameliorating community concerns and shall contribute articles to any newsletters to be published by the Owner and distributed to civic associations and key public officials.

**1.15 MEETINGS:** The Owner, Client, CM and Architect shall, unless waived by the Owner, conduct design meetings and other meetings scheduled by the Owner on at least a bi-weekly (once every two weeks) basis or as mutually agreed upon as a part of Basic Services. The Architect shall provide at such meetings and at other intervals mutually agreeable to the Owner, Client, CM and Architect appropriate drawings, schedules and other documents which depict the current status of design for the Owner's and Client's review and the CM's information.

**1.15.1** The Owner, Client, CM and Architect shall, unless waived by the Owner, conduct other meetings to review the current construction estimate, engage in value engineering discussions and/or to discuss other project related matters as scheduled by the Owner as a part of Basic Services. The Architect shall provide at such meetings documents which may be required to facilitate discussions such as drawings, schedules, etc.

**1.15.2** The Architect shall keep minutes of all meetings for the Owner's approval and shall distribute the minutes to the Owner, Client, CM and other attendees.

**1.16 SUBMISSIONS FOR OWNER'S APPROVAL:** As part of the Basic Services, upon completion of each design phase, the Architect shall submit drawings, specifications and other documents to the Owner, the Client, and the CM for the Owner's approval, the Client's review and comment, and the CM's information.

**1.17 GOVERNMENTAL APPROVALS:** As part of the Basic Services, the Architect shall assist the Owner and CM in connection with the Owner's responsibility for submitting and/or filing documents required for the review and/or approval of governmental authorities having jurisdiction over the Project.

**1.18 DUTIES:** Duties, responsibilities and limitations of authority of the Architect shall not be restricted, modified or extended without written agreement of the Owner and Architect.

**1.19 COMMUNICATIONS:** Communications by and with the Architect's consultants shall be through the Architect unless direct communication between the Owner and any of Architect's consultants is deemed necessary by Owner to expedite the Project. The Architect shall be

advised of the substance of the direct communication between the Owner and any of the Architect's consultants.

**1.20 PERFORMANCE SPECIFICATIONS:** The Architect shall not provide for the design of any aspects of the Project by any contractors in the contract documents (performance specifications) without the prior written approval of the Owner. The Owner's approval shall not relieve the Architect of any of its responsibilities under this Agreement.

**1.21 PROPRIETARY SPECIFICATIONS:** The Architect agrees to specify at least three capable manufacturers that can meet each specification item as a part of Basic Services. If it is a benefit to the Project to use less than three capable manufacturers, then the Architect must request approval in writing from the Owner.

**1.22 TEST EVALUATION:** The Architect shall identify and provide to the Owner and CM a written list of all necessary and appropriate testing requirements identified in the specifications. The Architect shall review and take appropriate action with regard to the results of all tests as a part of Basic Services.

## **ARTICLE 2**

### **SCOPE OF ARCHITECT'S BASIC SERVICES**

#### **2.1 BASIC SERVICES GENERALLY**

**2.1.1 Scope:** The Architect's Basic Services consist of those services described in this Article 2, Exhibits 5 and 6 (RFP and Proposals) and any other services specifically identified as Basic Services in Article 1 or elsewhere in this Agreement and shall include, without limitation, land surveys, geo-technical, structural, mechanical, civil, electrical and other engineering services necessary or appropriate for the Project. Subject to Section 1.5, the Architect shall provide all necessary services in order to provide a complete design that meets the design criteria and the intended program of the Project.

**2.1.1.1** The Architect shall collect all required information from the Client, local jurisdictions, and utilities owners and operators.

**2.1.1.2** Available existing land surveys, building plans, utility plans, and site maps will be given to the Architect. No assurances, however, are given that these records are complete or accurate. The Architect is responsible for verifying the accuracy of any information provided.

**2.1.1.3** The Architect is responsible for investigating and accurately defining existing conditions and the impact of these conditions on the design. The Architect is required to examine existing drawings and confirm their accuracy, order electrical load tests, and any other means necessary to ensure accuracy for the design. Existing drawings, whether "as built" or construction drawings should only be used as a guide and for reference and under no circumstances be construed as accurate. All conditions shall be field verified by the Architect during the design development of the project. All outages anticipated during any investigative work must be coordinated with the Client in order to determine the best windows of opportunity for the outage. Once the window has been established, a minimum of ten (10) days advance notice is required prior to all outages.

**2.1.1.4** The Architect shall prepare land survey(s) that documents all existing conditions of the site and confirms all information provided by the Owner or the Client. The extent of the information and work required by the survey shall include, but not be limited to, all existing topography, utilities, hazmat, roads and improvements, significant vegetation and natural features, existing utilities, boundaries, easements, and any legal restrictions that are applicable. The survey shall establish the benchmark(s) to be used for the Project. The Architect shall provide a final survey of the property at the completion of the Project.

**2.1.2 Interior Design:** The Architect shall provide interior design and other similar services required for or in connection with the selection of furnishings and related equipment, as part of Basic Services. These services shall include, but not be limited to, the interior design and coordination for the building; selection and/or coordination of interior paint colors, finishes, and materials; design of wall, floor, and window treatments; architectural signage and graphics. The

Architect shall also provide for the inclusion of all furniture, fixtures, and equipment shown in plan and elevation as necessary to demonstrate that all programmed functions can be accommodated. The Architect shall provide design coordination services for any equipment requiring special environmental conditions and/or building system conditions and connections as well as public space furniture.

Identification of methods of installation and connection with building utility services, and provision of necessary clearances for convenient, safe use, and maintenance of equipment shall be included in the interior design documents. These documents shall be fully coordinated with mechanical, electrical, structural, plumbing (i.e., building systems), and all other pertinent construction documents. The Owner will provide a final list of equipment and furniture requirements during the design development phase. These requirements will be presented in two categories: a) Fixed Equipment—equipment that will be included in the construction contract; and b) Movable Equipment—new equipment that will be purchased and installed via separate contracts, or existing equipment which will be reused.

**2.1.3 Constructability and Maintenance:** The Architect shall also keep in mind the constructability of the design and the maintenance of the facility for the Client. The Architect shall be cautious as not to specify materials that will require replacement from unique (sole) sources that will be difficult or costly for the Client's long term use of the facility. Deviations will require written approval from the Owner and Client. The Construction Manager will advise on constructability issues as a part of its review of the documents.

**2.1.4 Green Building Standards:** In designing the Project, the Architect shall also keep in mind that the Project must meet or, to the extent feasible, exceed the Green Building Standards (as defined below) in effect during the Design Phase of the Project. The "Green Building Standards" shall mean the State of Maryland's and the Client's required standards regarding energy savings, resource conservation, storm water management, environmental site design, renewable energy, and any other sustainability strategies to achieve budgetary and life-cycle cost savings and/or health benefits for building occupants. If there is a conflict between the Green Building Standards of the State of Maryland and the Client, the Architect shall notify the Owner of such conflict and the Owner shall determine which Green Building Standard to apply.

**2.1.5 Construction Cost:** The Architect shall exert its professional efforts to work with the CM to keep the Construction Cost (as defined in Article 6) for the Project within the fixed limit for the Construction Cost set forth in Exhibit 7 (the "Construction Cost Limit"). If the Construction Cost of the design, as developed, exceeds the established Construction Cost Limit for the Project, the Architect shall work with the Owner, the Client, and the CM to modify the Construction Cost of the design to be within the Construction Cost Limit. Such modifications of the design shall generally be done at no additional cost to the Owner; provided, however, that the Architect may negotiate with the Owner for reimbursement of a substantial cost impact in design fees arising from a major change that either occurred after 50% construction documents were completed or resulted from the Architect's reliance on inaccurate cost projections by the CM.

**2.2 BUILDING INFORMATION MODELING:** Building Information Modeling ("BIM") shall be used on this project as a means of preparing construction documents. All lead design teams and

sub-consultants shall collaborate on the same BIM model to produce drawings and other components as required.

## **2.3 SCHEMATIC DESIGN PHASE**

**2.3.1 Site Use and Improvements:** The Architect shall review with the Owner and CM proposed site use and improvements; selection of building materials, systems, and equipment; and methods of Project delivery.

**2.3.2 Alternative Approaches:** The Architect shall review with the Owner, the Client and CM alternative approaches to design and construction of the Project, and shall provide the Owner with at least three (3) conceptual drawings of alternative approaches.

**2.3.3 Documents:** Based on the mutually verified and agreed upon conceptual design and the Project Master Schedule and Construction Cost requirements, the Architect shall prepare, for approval by the Owner, Schematic Design Documents consisting of drawings, outline specifications and other documents illustrating the scale and relationship of Project components.

**2.3.4 Studies:** At intervals appropriate to the progress of the Schematic Design Phase and mutually agreeable to the Owner, CM and Architect, the Architect shall provide schematic design studies for the Owner's and Client's review and the CM's information.

**2.3.5 Existing Conditions:** The Architect shall review by visual observation all existing conditions and facilities and any as-built documentation provided by the Owner. The Architect shall advise the Owner in writing: (a) if the Architect believes that the existing conditions or facilities do not conform to the as-built documentation ; or (b) if the Architect believes that further testing or inspections should be conducted by the Owner.

**2.3.6 Construction Estimate:** In the further development of the drawings and specifications during this and subsequent phases of design, the Architect shall be entitled to assume the accuracy of the estimates of Construction Cost (as defined in Article 6 hereof) which are to be provided by the CM under the CM Agreement.

**2.3.7 Modification of Design:** If, following completion of the Schematic Design Phase, the total Construction Cost is projected to exceed the established Construction Cost Limit, the Architect shall modify the design (which may include the modification of the level of quality, the design and or the Project Scope to fit within the established Construction Cost Limit) and/or establish alternates at no additional cost to the Owner.

## **2.4 DESIGN DEVELOPMENT PHASE**

**2.4.1 Authorization to Proceed:** The Architect shall begin the Design Development stage upon receipt of Owner's written authorization to implement the documents presented in the Schematic Design Phase.

**2.4.2 Cost Analyses:** The Architect shall assist the Owner and CM in the development and preparation of detailed analyses of the long-term cost effectiveness of alternative design choices for the systems described in the Schematic Design Documents. The selection of any particular system shall not be considered as firm until the full interrelationship of all systems is fully approved in writing and accepted by the Owner.

**2.4.3 Documents:** The Architect shall prepare from the approved Schematic Design, the Design Development Documents consisting of design criteria, drawings, specifications and other documents to establish and describe the size and character of the entire Project and as to architectural, structural, civil, mechanical and electrical systems, materials, landscaping and such other essentials as may be appropriate and submit those documents for approval by the Owner. The Architect shall provide written verification that all design comments from the Schematic Document phase were incorporated in the Design Development Documents. Any comments not included will need to be identified in writing with a reason as why they were not incorporated. MEP systems shall be well defined, identified and requirements provided.

## **2.5 CONSTRUCTION DOCUMENTS PHASE**

**2.5.1 Authorization to Proceed:** Based on the approved Design Development Documents and any further adjustments authorized by the Owner in the scope or quality of the Project or in the Budget, the Architect, utilizing data and estimates prepared by the CM, shall prepare for approval by the Owner Construction Documents consisting of drawings, specifications and alternates setting forth in detail the requirements for the construction of the Project. The Architect shall provide that the documents between the design disciplines have been coordinated amongst themselves, including but not limited to details, specifications, etc.

**2.5.2 GMP Documents:** Upon completion of the **XX%** Construction Documents Phase, the Architect shall provide **XX%** Construction Documents for the Owner's approval and the CM's information. The Architect shall provide written verification that all design comments from the previous design phases were incorporated in the documents. The Architect shall provide to the Owner, in writing, a list of all comments not included together with the reasons why they were not incorporated.

**2.5.3 Bidding Documents:** The Construction Documents shall be produced as one (1) complete design package. The Architect shall assist the Owner and CM in the preparation of the necessary bidding information, bidding forms, the conditions of the contracts, the form for the CM Construction Agreement, and the forms for the agreements with trade contractors in accordance with the Contracting Strategy specified in **Exhibit 2**. The Architect shall include the Owner's Project Manual/General Conditions as a part of the Bidding Documents. The Architect shall assist the CM in issuing bidding documents to bidders and conducting pre-bid conferences with prospective bidders. The Architect, with the assistance of the CM, shall respond to questions from bidders, and shall issue addenda as appropriate. As a part of the Construction Documents there shall be a separate schedule created from the specifications listing all attic stock requirements, and any documents that are to be submitted to the Architect as a part of the construction process.

## **2.6 BIDDING OR NEGOTIATION PHASE**

**2.6.1 Bidding:** The Architect, following the Owner's approval of the Construction Documents and of the CM's latest estimate of Construction Cost, shall assist the CM in obtaining bids or negotiated proposals.

**2.6.2 Modification of Design:** If the total of the bids exceed the established Construction Cost Limit as set forth in Exhibit 4 hereto, the Architect shall modify the design so it is within the established Construction Cost Limit at no additional cost to the Owner or as stipulated in Section 2.1.5. The Architect acknowledges that the Project may not proceed into the Construction Phase unless and until the Construction Cost of the Project is within the established Construction Cost Limit. The Architect must also recognize the Project Master Schedule and the end date of the Project and work expeditiously to solve any problems, for the end date cannot change and compression of the Project Master Schedule will most likely have significant financial impacts upon the Construction Cost for the Project.

## **2.7 CONSTRUCTION PHASE**

**2.7.1 Commencement/Completion:** The Architect's responsibility to provide Basic Services for the Construction Phase under this Agreement commences with the first award of a Contract for construction and subject to Article 12.7 ends upon the issuance by the Owner to the Architect of the final Project payment and the Architect's submission of the Record Documents.

**2.7.2 Cooperation:** The Architect shall provide administration of the Contract for construction in cooperation with the CM as set forth in the CM Agreement.

**2.7.3 Site Representation:** The Architect shall be a representative of and shall advise and consult with the Owner as a Basic Service during the Construction Phase. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement unless otherwise modified by written instrument.

**2.7.4 Permit Coordination:** The Architect shall endeavor to identify all necessary or desirable permits and licenses applicable to the Project and advise the Owner and CM as to the method of obtaining the same and assist in obtaining building permits and special permits for permanent improvements, excluding permits required to be obtained directly by the various trade contractors.

**2.7.5 Site Visits:** The Architect shall visit the site at least bi-weekly (once every two weeks) or as agreed by the Owner and Architect to become familiar with the progress and quality of the contractors' work completed and to determine if the contractors' work is being performed in a manner indicating that the work when completed will be in accordance with the contract documents. On the basis of on-site observations as an architect, the Architect shall keep the Owner informed of the progress and quality of the contractors' work, and shall endeavor to guard the Owner against defects and deficiencies in the work that may be observed while on the field visits agreed upon in the contract.

**2.7.6 Partnering:** As a part of the Architect's visits, time will be available to meet with the Owner, the Client and CM to work out any Project issues. The primary purpose of this meeting is to insure

a cohesive and cooperative working relationship between parties. Meetings may be cancelled from time to time by the Owner.

**2.7.7 Construction Means and Methods:** The Architect shall not have control over or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the contractors' work. Unless otherwise provided in this Agreement, the Architect shall not be responsible for the contractors' schedules or failure to carry out the contractors' work in accordance with the contract documents. Unless otherwise provided in this Agreement, the Architect shall not be responsible for the performance by the CM of the services required by the CM Agreement. Unless otherwise provided in this Agreement, the Architect shall not have control over or charge of acts or omissions of the contractors, subcontractors, or their agents or employees, or of any other persons performing services or portions of the work.

**2.7.8 Access:** The Architect shall at all times have access to the contractors' work wherever it is in preparation or progress.

**2.7.9 Contractor Payment Review:** After review and approval by the CM and based on the Architect's observations at the site of the contractors' work and evaluations of each contractor's application for payment, the Architect shall review and certify the amounts due the respective contractors within two (2) business days after receipt of contractor's application for payment. The Architect shall forward the contractor's payment application for payment to the Owner for approval of payment.

**2.7.9.1** The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's observations at the site as provided in Subsection 2.7.5, on the approval and recommendations of the CM and on the data comprising the contractor's application for payment, that, to the best of the Architect's knowledge, information and belief, the contractor's work has progressed to the point indicated and the quality of the contractor's work is in accordance with the contract documents. The foregoing representations are subject to an evaluation of the contractor's work for conformance with the contract documents upon Substantial Completion, to results of subsequent tests and inspections, to minor deviations from the contract documents correctable prior to completion and to specific qualifications expressed by the Architect. The issuance of a certificate for payment shall further constitute a representation that the contractor is entitled to payment in the amount certified.

**2.7.9.2** The issuance of a certificate for payment shall not be a representation that the Architect has: (a) made exhaustive or continuous on-site inspections to check the quality or quantity of the contractor's work; (b) reviewed construction means, methods, techniques, sequences or procedures; (c) reviewed copies of requisitions received from subcontractors and material suppliers and other data requested by the Owner to substantiate the contractor's right to payment; or (d) ascertained how or for what purpose the contractor has used money previously paid on account of the contract sum.

**2.7.10 Nonconformance of the Work:** The Architect shall advise Owner, together with notification to the CM, to reject any contractors' work which the Architect has determined does

not conform to the contract documents. Whenever the Architect considers it necessary or advisable for implementation of the intent of the contract documents, the Architect will have the responsibility and authority, upon written authorization from the Owner, to require additional inspection or testing of the contractors' work in accordance with the provisions of the contract documents, whether or not such contractors' work is fabricated, installed, or completed; provided, however, the Architect must obtain the Owner's prior written approval of any such special inspection or testing.

**2.7.11 Submittals:** The Architect shall review and approve or take other appropriate action upon contractors' submittals such as shop drawings, product data and samples, for the purpose of checking for conformance with the requirements of the contract documents. The Architect's action shall be taken within ten (10) business days so as to cause no delay in the contractors' work or in construction by the Owner's own forces. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities or for substantiating instructions for installation or performance of equipment or systems designed by the contractors, all of which remain the responsibility of the contractors to the extent required by the contract documents. All submittals to be transmitted electronically through Architect's website per Architect's standard submittal procedures. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component. When professional certification of performance characteristics of materials, systems or equipment is required by the contract documents, the Architect shall be entitled to rely upon such certification to establish that the materials, systems or equipment will meet the performance criteria required by the contract documents. The Architect shall not modify a submittal such that it would cause a change to the Contract without issuing the proper documentation such as a Construction Change Directive. First and second submittal review is within Basic Scope of Services, but third and beyond reviews are an additional service per Article 3 provided the need for multiple reviews is not caused by the Architect or any of the Architect's consultants.

The Architect shall prepare the initial schedule of all submittals required by the Contract Documents.

**2.7.12 Requests for Information (RFI's):** The Architect shall respond to RFI's pre-screened and sent in by the CM requesting clarification to the Contract Documents. The Architect shall take no longer than an average of two business days to return an answer to the RFI. If the RFI response causes a change to the Contract Documents, the Architect shall immediately issue a Construction Change Directive, after Owner's approval. The Architect shall endeavor to provide complete and concise responses.

**2.7.13 Changes:** The Architect shall review and sign or take other appropriate action on change orders and construction change directives approved and prepared by the CM. The Architect shall provide drawings, specifications and other documentation and supporting data, evaluating contractors' proposals for changes in the scope of work and shall provide services in connection with evaluating substitutions proposed by contractors and making subsequent revisions to

drawings, specifications and other documentation resulting therefrom. The Architect may make recommendations to the Owner to make changes in the contractors' work.

**2.7.14 Supplemental Instructions:** The Architect shall issue, through the CM, architectural supplemental instructions, field instructions, sketches, etc. to clarify any questions raised by any contractors.

**2.7.15 Contractor Performance:** The Architect shall interpret and make recommendations concerning performance of the contractors under the requirements of the contract documents on written request of the Owner. The Architect's response to such requests shall be made within ten (10) business days.

**2.7.16 Interpretations:** Interpretations and recommendations of the Architect shall be consistent with the intent of and reasonably inferable from the contract documents and shall be in writing or in the form of drawings or sketches.

**2.7.17 Architect Recommendations:** The Architect's recommendations on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the contract documents and accepted by the Owner.

**2.7.18 Contractor Claims:** At the Owner's request, the Architect shall render written recommendations within ten (10) business days on all claims, disputes or other matters in question between the Owner and contractors relating to the execution or progress of the contractor's work as provided in the contract documents.

**2.7.19 Owner's Consultants:** The Architect shall provide coordination services in connection with the work of separate consultants retained by the Owner.

**2.7.20 Substantial Completion:** The Architect, assisted by the CM, shall conduct one (1) inspection to determine the date or dates of substantial completion and the date of final completion of each contractor's work. With respect to each contractor's work that has been determined to be substantially complete, the Architect, CM, and Owner shall sign off on a certificate of substantial completion (the "Certificate of Substantial Completion") in the form attached as part of **Exhibit 8**.

**2.7.21 Punch List:** Upon completion of an initial punchlist, the Architect shall prepare the punch list in a spreadsheet format compatible with that of the CM. The punch list items shall be a part of the Certificate of Substantial Completion.

**2.7.22 Project Close-Out:** As part of Project close-out, the Architect shall forward to the Owner warranties and similar submittals required by the contract documents which have been received from the CM and/or any of the contractors, including the final payment application. With respect to each contractor's work that has been determined to be complete and meriting final payment, the Architect, CM, and Owner shall sign-off on a final certificate of completion ("Final Completion Certificate") in the form attached as part of **Exhibit 8**.

**2.7.23 Record Documents:** The Architect shall review the Contractor's as-built documents provided by the contractors to check whether they included all Change Orders, Field Instructions, etc on these documents. The Architect shall transfer the Contractor mark ups to the original contract documents. The Architect shall provide the Owner with one (1) set of reproducible record documents (posted with all changes, and supplemental instructions), drawings, specifications, BIM model(s) and computer-aided design/drafting (CADD) system disks showing all significant changes to the drawings during the Construction Phase. Three (3) electronic copies shall be provided.

## **ARTICLE 3**

### **ADDITIONAL SERVICES**

**3.1 GENERAL:** Subject to Section 2.1.1, the services described in this Article 3 are not included in Basic Services and shall be paid for by the Owner, as provided in this Agreement, in addition to the compensation for Basic Services. The services described under this Article 3 shall only be provided if authorized or confirmed in writing by the Owner.

**3.2 PROJECT REPRESENTATION BEYOND BASIC SERVICES:** If more extensive representation at the site than is described in Subsection 2.7.3 and 2.7.5 is required, the Architect shall provide one or more Project Representatives, with the reasonable approval of the Owner, to assist in carrying out such additional on-site responsibilities.

**3.2.1 Project Representatives:** Project Representatives shall be selected, employed and directed by the Architect, and the Architect shall be compensated therefor as agreed by the Owner and Architect. Through the observations by such Project Representatives, the Architect shall endeavor to provide further protection for the Owner against defects and deficiencies in the contractors' work, but the furnishing of such project representation shall not modify the rights, responsibilities or obligations of the Architect as described elsewhere in this Agreement. The Project Representatives shall also work to solve problems that arise and keep the best interest of the Project in mind.

**3.2.2 Full-time On-site Representation:** If the Owner deems it necessary, in the best interest of the Project, the Owner shall direct the Architect to provide, as an Additional Service, a full-time on-site representative. A full-time on-site representative, if provided, shall further expedite the review of shop drawings and shall resolve field issues and problems of the CM and keep the best interest of the Project in mind. This person should have both design and construction experience. Owner shall provide working space, telephone, fax, Internet access & photocopying at no cost to the Architect.

**3.3 CONTINGENT ADDITIONAL SERVICES:** The services described below, if approved in writing by the Owner, shall be contingent additional services.

**3.3.1 Major Revisions:** Making major revisions in drawings, specifications or other documents when such revisions are:

**3.3.1.1** Inconsistent with written approvals or instructions previously given by the Owner;

**3.3.1.2** Required by the enactment of new codes, laws or regulations subsequent to the preparation of such documents; or

**3.3.1.3** Due to changes required as a result of the Owner's failure to render decisions within a time period reasonably specified by the Architect.

**3.3.2 Significant Changes:** Providing services required because of significant changes in the Project including, but not limited to, changes in size, quality, complexity, or the Owner's or CM's schedule, or the method of bidding or negotiating and contracting for construction, provided that the changes are not required as result of the Project being over the Construction Cost Limit, or as a result of the Architect not providing complete and accurate documents. Any modifications as a result of the Project being over Budget shall not constitute an additional service unless as stipulated in Section 2.1.5.

**3.3.3 Damage:** Providing consultation concerning replacement of work damaged by fire or other cause during construction, and furnishing services required in connection with the replacement of such work.

**3.3.4 Defects or Default:** Providing services made necessary by the termination or default of the CM or a contractor, or by major defects or deficiencies in the work of a contractor.

**3.3.5 Claims:** Providing services in evaluating an extensive number of claims submitted by a CM or others in connection with the work subject to the limitations set forth in Section 3.3.7(a) below.

**3.3.6 Legal Proceedings:** Providing services in connection with a public hearing, arbitration proceeding or legal proceeding except where the Architect is party thereto.

**3.3.7 Architect's Failure to Perform:** Notwithstanding anything to the contrary in this Agreement: (a) Owner shall not be responsible to pay and the Architect shall not be entitled to receive compensation for any Contingent Additional Services if such services were required due to the fault of the Architect or the Architect's failure to perform in accordance with the terms of this Agreement; and (b) the services described in this Section 3.3 shall be deemed Additional Services only if the Architect can demonstrate to Owner that a direct and material increase in the Architect's costs has been incurred and caused by the Owner, the Owner's consultants, the CM or any of the contractors or subcontractors.

## **ARTICLE 4**

### **PERSONNEL**

**4.1 PROJECT STAFFING:** Except as hereinafter provided, the Architect shall staff the Project and render its services hereunder in strict accordance with the project staffing plan (the "Staffing Plan") attached hereto as **Exhibit 9**. The Architect shall not deviate from the Staffing Plan or increase or decrease its staff without first obtaining the prior written consent of the Owner in each instance, except that minor changes in staff which do not involve Key People (as defined in **Section 4.2** below), may be made without the prior written consent of the Owner so long as there is no increase in cost to the Owner as a result of such change. Each request for a staff change shall be accompanied by a resume and qualification package with respect to the proposed new staff member. If an increase in staff by Architect is required as a result of Architect's negligence or failure to properly perform its services hereunder, then the services of such staff shall be provided by Architect without cost and with no increase in Architect's Fee (hereinafter defined). Architect shall be responsible for all damages and other liabilities (including any which arise under the Client Agreement) to the extent caused by Architect's failure to properly staff the Project in accordance with the Staffing Plan. If an increase in the staff is required due to circumstances beyond the control of the Architect and the Architect has obtained the Owner's prior written approval for such additional staff, the Architect shall be compensated for such staff in accordance with **Article 12**).

**4.2 KEY PEOPLE:** Architect agrees that it shall assign Key Person(s) to this Project (the "Key People") as set forth in the Staffing Plan attached as **Exhibit 9** or as otherwise approved by the Owner; and that the Key People shall devote their time as necessary to the Project as may be appropriate to and consistent with full and timely performance of this Agreement by the Architect. Key People are principals and employees of the Architect that the Owner desires to be and remain assigned to the Project. The Architect agrees that the Key People shall not be removed from their responsibilities on this Project without the prior written consent of Owner, except in the event of death, disability or departure from the employment of Architect. All computations and other work performed by the employees of the Architect shall be adequately supervised by one or more of the Key People.

**4.2.1 Replacements:** If any of the Key People becomes unavailable to perform services in connection with the Project under this Agreement, the Architect shall provide the Owner with resumes and rates of compensation of possible replacements and the Owner shall have the opportunity to interview any such replacement candidates. The Architect shall not appoint any replacement without the prior written approval of the Owner, but shall promptly appoint the replacement approved by the Owner in writing.

**4.2.2 Re-Assignment:** The Architect shall not transfer or re-assign any of the Key People to other matters undertaken by the Architect without the prior written consent of the Owner. The Owner shall have the right to require that the Architect re-assign any of the Key People or any of the Architect's other personnel at the reasonable discretion of the Owner.

**4.2.3 Removal:** If the Owner determines that any of the Key People are not performing the job satisfactorily, the Owner shall have the right to direct that such individual(s) be replaced. The Architect shall provide the Owner with resumes and rates of compensation of possible replacements and the Owner shall have the opportunity to interview any such replacement candidates. The Architect shall not appoint any replacement without the prior written approval of the Owner, but shall promptly appoint the replacement approved by the Owner in writing.

**4.2.4 Consultants' Key People:** The Architect shall include a provision in all agreements with its consultants requiring each consultant to obtain the prior written approval of the Owner before the consultant assigns its Key People to the Project, and to include provisions relating to staffing substantially the same as those set forth in this Article 4.

## **ARTICLE 5**

### **OWNER'S RESPONSIBILITIES**

**5.1 CONSULTATION WITH THE ARCHITECT:** The Owner shall consult with the Architect regarding requirements for the Project, including the Owner's contemplated objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems, and site requirements.

**5.2 BUDGET UPDATE:** The Owner shall establish and update the Budget based on consultation with the CM, the Architect and the Client, which shall include the Construction Cost, the Construction Cost Limit, the Owner's other costs, and reasonable contingencies related to all of these costs.

**5.3 OWNER'S REPRESENTATIVE:** The Owner shall designate a representative authorized to act on the Owner's behalf with respect to the Project. The Owner's Representative is as detailed on the list attached hereto as **Exhibit 10**.

**5.4 CONSTRUCTION MANAGER:** The Owner shall retain a CM to administer the Project. The CM's services, duties and responsibilities will be as described in the CM Agreement attached hereto as **Exhibit 11**. The CM Agreement shall be furnished to the Architect and shall not be modified in a manner which materially affects any of the responsibilities of the Architect without making appropriate adjustments in this Agreement. The Architect shall not be responsible for actions taken by the CM. The CM will prepare a Construction Schedule for the Project, subject to the approval of the Owner, that will show that construction of the Project will be completed on or before the Scheduled Completion Date. The Design Schedule and the Construction Schedule will be incorporated into and made part of the Project Master Schedule.

**5.5 LEGAL DESCRIPTIONS:** Pursuant to **Section 2.1.1.2**, the Owner shall furnish all available surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site, if available. The surveys and legal information may include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; adjacent drainage; rights-of-way, flood plains, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data pertaining to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

**5.6 ADDITIONAL OWNER CONSULTANTS:** The Owner shall furnish the services of additional consultants when such services are reasonably required by the scope of the Project as mutually determined by the Architect and the Owner, provided that Owner shall retain such consultants only if such consultants are not retained by Architect.

**5.7 TESTS AND INSPECTIONS:** The Owner shall furnish all necessary geotechnical/soil, structural, mechanical, chemical, air and water pollution tests, tests for hazardous materials, and other laboratory and environmental tests, inspections and reports required by law or the contract documents.

**5.8 LEGAL AND ACCOUNTING SERVICES:** The Owner shall furnish all legal, accounting and insurance counseling services as may be necessary at any time for the Project, including auditing services the Owner may require to verify any contractor's application for payment or to ascertain how or for what purposes the contractor has used the money paid by or on behalf of the Owner.

**5.9 CERTIFICATES:** To the extent the form of certificates or certifications have not been agreed to prior to the execution of this Agreement and attached hereto by way of Exhibit, proposed language of certificates or certifications requested of the Architect or Architect's consultants shall be submitted to the Architect for review and approval at least five (5) business days prior to execution. The Owner shall not request certifications that would require knowledge or services beyond the scope of this Agreement.

**5.10 APPROVALS:** The Owner shall furnish the required information and services and shall render approvals and decisions as expeditiously as possible for the orderly progress of the Architect's services and work of the contractors.

**5.11 COMMUNICATION:** The Owner shall furnish the Architect copies of material written communications with the CM and contractors. The Owner may elect to have the CM communicate directly with the Architect.

**5.11 BUILDER'S RISK INSURANCE:** Owner shall procure, or require the CM to procure, maintain, Builder's Risk Insurance. Owner and Architect mutually waive all rights against each other and each other's respective CM, contractors, subcontractors, and consultants, for losses or damages solely to the extent covered by Builder's Risk Insurance. Owner and Architect shall require similar waivers of their contractual privies of every tier.

## **ARTICLE 6**

### **CONSTRUCTION COST**

**6.1 CONSTRUCTION COST:** The Construction Cost shall be the total cost or estimated cost associated with actual construction to the Owner of all elements of the Project designed or specified by the Architect. The Construction Cost shall include the cost at current market rates of labor and materials furnished by the Owner and equipment designed, specified, selected, or specially provided for by the Architect, plus a reasonable allowance for the contractors' overhead, profit, and escalation. If the Construction Cost Limit is not yet identified in the Project Budget attached hereto as **Exhibit 4** and/or the Schedule of Construction Costs attached hereto as **Exhibit 7**, then during the Schematic Design Phase, the Owner, with the assistance of the Architect and the CM shall establish a Construction Cost Limit that is equal to or less than the amount of (a) the total Project Budget, less (b) the amounts not included in Construction Cost as described in **Section 6.2** below.

**6.2 CONSTRUCTION COST EXCLUSIONS:** Construction Cost does not include the compensations of the Architect and Architect's consultants, the CM and the CM's consultants during preconstruction, the costs of the land, rights-of-way, financing or other costs which are the responsibility of the Owner as provided in **Article 5**, but that are a part of the Project Budget.

**6.3 RESPONSIBILITY FOR CONSTRUCTION COST:** The Architect's review of the Project Budget and of preliminary estimates of Construction Cost or detailed estimates of Construction Cost prepared by the CM is solely for the Architect's guidance in the Architect's preparation of the Construction Documents. Accordingly, the Architect cannot and does not warrant the accuracy of the estimates of the CM, or warrant or represent that bids of negotiated prices will not vary from the Project Budget or from any estimate of Construction Cost or evaluation reviewed by the Architect.

## **ARTICLE 7**

### **OWNERSHIP AND USE OF ARCHITECT'S DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS**

**7.1 DOCUMENTS:** All drawings, specifications, reports, surveys, Computer-Aided Design/Drafting (CADD) System disks/tapes and other documents, including models, photographs and renderings, prepared and/or furnished by the Architect pursuant to this Agreement, shall be the property of the Owner and may not be copyrighted by the Architect or its consultants. In the event that the Owner reuses any of the final working drawings and specifications for the construction of another project by Owner through another licensed professional, the Architect's name shall be removed therefrom and another licensed professional shall assume full responsibility for the reuse of such drawings and specifications. The Architect shall have no liability or responsibility arising from such reuse. Nothing contained herein shall prohibit the Architect from retaining a copy of the above documents. The Architect shall require all of its consultants and/or sub-consultants to give the Owner copyright protection substantially as set forth in this Article 7.

**7.2 OWNERSHIP:** The data used in compiling, and the results of, any tests, surveys or inspections at the Site, as well as all photographs, drawings, specifications, schedules, data processing output, computations, studies, audits, reports, models and other items of like kind prepared by or with the assistance of the Architect or CM, and its employees and consultants, shall be the property of the Owner.

**7.3 RELEASE OF PROJECT INFORMATION; CONFIDENTIALITY:** The Architect shall not issue any press releases or engage in any dialogues or interviews with the media or any other persons or entities for the dissemination to the general public without the prior written consent of the Owner. The contents and substance of all discussions and communications, oral or written, between the Owner, the Client and the Architect shall be kept confidential by the Architect and shall not be disclosed by the Architect to any persons or entities unaffiliated with the Project, including, without limitation, governmental authorities and community groups, without the prior written consent of the Owner. The Architect shall obtain a similar agreement from firms, consultants and others employed by it in the form attached as **Exhibit 12**. The Owner reserves the right to release all information as well as to time its release, form, and content. This requirement shall survive the expiration of this Agreement.

**7.4 ARCHITECT'S USE IN PROMOTIONAL MATERIALS:** The Architect shall have the right, with the prior written consent of the Owner, to include representations of the design of the Project, including photographs of the exterior and interior, among the Architect's promotional and professional materials. The Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary.

## **ARTICLE 8**

### **COMPLIANCE WITH LAWS AND REGULATIONS**

**8.1 EMPLOYMENT LAWS; LICENSING REQUIREMENTS:** The Architect shall comply, at its own expense, with the provisions of all laws and regulations applicable to the Architect as an employer of labor or otherwise. The Architect shall further comply, at its own expense, with all laws and regulations, including, but not limited to, licensing requirements, pertaining to its professional status and that of its employees, partners, associates, consultants under subcontracts and others employed to render the services under this Agreement.

**8.2 NON-DISCRIMINATION IN EMPLOYMENT:** The Architect agrees: (a) not to discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, marital status, national origin, ancestry, or physical or mental handicap unrelated in nature and extent so as reasonably to preclude the performance of such employment; (b) to include a provision similar to that contained in clause (a), above, in any subconsultant agreement except a subconsultant agreement for standard commercial supplies or raw materials; and (c) to post and to cause subconsultants to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause.

**8.3 MINORITY BUSINESS ENTERPRISES:** The Architect shall make all reasonable efforts to comply with the Minority Business Enterprise ("MBE") participation goal pursuant to Title 14, Subtitle 3 of the State Finance and Procurement Article of the Annotated Code of Maryland. The name, address, percentage and dollar value of each State of Maryland Department of Transportation certified MBE that the Architect intends to use on the Project is attached hereto as **Exhibit 13**. The Architect's MBE Affidavit is attached hereto as **Exhibit 13**.

**8.4 AMERICANS WITH DISABILITIES ACT:** The Project shall be designed in accordance with the Americans with Disabilities Act ("ADA"). If applicable, the Architect shall appoint an ADA task force during the design process. The task force shall meet on a regular basis and provide comments regarding project ADA compliance to the Owner and Client if applicable.

## **ARTICLE 9**

### **DISPUTE RESOLUTION/ARBITRATION**

**9.1 DISPUTES:** In the event of any dispute or controversy of any nature whatsoever, the Architect shall strictly abide by the Owner's decision for the purpose of the prompt and uninterrupted continuation of the performance of its duties, obligations and services under this Agreement; but the Architect may submit to Owner a written exception to any decision of the Owner within ten (10) days after receipt of such decision stating the basis of its exception and reserving the right to file a claim against the Owner after completion of the Project for additional compensation or damages. The continued performance by the Architect of its duties, obligations and services under this Agreement shall not operate as a waiver of any such claim, nor shall it be prejudicial to the Architect's rights, hereby reserved, to have such exception and claim later adjudicated by a court of competent jurisdiction after completion of the Project.

**9.2 CONTINUED PERFORMANCE AND PAYMENT:** Pending resolution of any dispute, the Architect shall continue to perform its obligations under this Agreement and the Owner shall continue to make payments of all amounts due the Architect that are not in dispute.

**9.3 NO ARBITRATION:** No dispute or controversy under this Agreement shall be subject to binding arbitration except to the extent that either (a) the Owner and Architect mutually agree to arbitrate or (b) the Architect is joined as a party in an arbitration proceeding between the Owner and/or the Client and a contractor or the CM.

## **ARTICLE 10**

### **TERMINATION, POSTPONEMENT OR SUSPENSION**

**10.1 TERMINATION:** At any time during the effectiveness of this Agreement, the Owner shall have the right, with or without cause, upon ten (10) days written notice to the Architect, to terminate this Agreement in whole or in part. In the event of a termination, the Architect shall deliver to the Owner all drawings, specifications, reports and other data, records and materials in the Architect's custody or control pertaining to the Project, and the Owner shall pay to the Architect all amounts due and earned to the time of the termination, in accordance with the provisions of this Agreement. Except as specifically set forth above, such termination shall not give rise to any cause of action or claim against the Owner for damages, loss of profits, expenses or other remuneration of any kind. Notwithstanding any other provisions of this Agreement if, in the judgment of the Owner, such termination is made necessary or desirable because of the Architect's failure to fulfill the Architect's obligations under this Agreement or any other fault of the Architect, the Owner may withhold payment of all disputed amounts which otherwise may be payable to the Architect under this Agreement. Such monies may be applied toward any damages or expenses sustained by the Owner as a result of such failure including, without limitation, any reasonable excess costs incurred by the Owner in completing the Project by the use or employment of other licensed professionals or otherwise. Notwithstanding the foregoing, the Architect shall remain liable to the Owner for all such damages and expenses to the extent caused by the fault of the Architect without limitation to any such monies being withheld by the Owner. The failure of the Owner to withhold monies from the Architect shall not be construed as an acknowledgment by the Owner that no such damages or expenses exist and shall not prevent the Owner from thereafter making any claim against the Architect therefor.

**10.2 POSTPONEMENT OR SUSPENSION:** At any time during the effectiveness of this Agreement, the Owner shall have the right, with or without cause, upon ten (10) days written notice to the Architect, to postpone or suspend all or any part of the Project. In the event of any postponement or suspension, the Owner shall have the right, in its discretion, upon written notice to Architect, to keep this Agreement in effect during the period of such postponement or suspension; provided however, that if the postponement or suspension exceeds a period of ninety (90) days the Architect shall be reimbursed for the actual costs incurred by the Architect as a result of such postponement or suspension. Except as specifically set forth above, such postponement or suspension shall not give rise to any cause of action or claim against the Owner for damages, loss of profits, expenses or other remuneration of any kind. Notwithstanding any other provisions of this Agreement if, in the judgment of the Owner, such postponement or suspension is made necessary or desirable because of the Architect's failure to fulfill the Architect's obligations under this Agreement or any other fault of the Architect, the Owner may withhold payment of all disputed amounts which otherwise may be payable to the Architect under this Agreement. Such monies may be applied toward any damages or expenses sustained

by the Owner as a result of such failure including, without limitation, any reasonable excess costs incurred by the Owner in completing the Project by the use or employment of other licensed professionals or otherwise. Notwithstanding the foregoing, the Architect shall remain liable to the Owner for all such damages and expenses to the extent caused by the fault of the Architect without limitation to any such monies being withheld by the Owner. The failure of the Owner to withhold monies from the Architect shall not be construed as an acknowledgment by the Owner that no such damages or expenses exist and shall not prevent the Owner from thereafter making any claim against the Architect therefor.

## **ARTICLE 11**

### **INSURANCE REQUIREMENTS AND INDEMNIFICATION**

**11.1 INSURANCE REQUIREMENTS:** Per the requirements of the RFP, Architect shall maintain, at its own expense, the following insurance coverages, insuring the Architect, its employees, agents and designees, and the Indemnitees (as hereinafter defined), which insurance shall be placed with insurance companies rated "A-VII" or better by A.M. Best & Company and lawfully authorized to do business in the State of Maryland:

- (a) Architect's Professional Liability Insurance in the amount of \$1 million per \$10 million of Construction Cost (including contractual liability coverage, if available, with all coverage retroactive to the earlier of the date of this Agreement or the commencement of Architect's services in relation to the Project), said coverage to be maintained for a period of five (5) years after the date of final payment or the date of final completion of the Project, whichever is later.
- (b) Comprehensive General Liability Insurance in the amount of Four Million Dollars (\$4,000,000) including coverage for blanket contractual liability, broad form property damage and personal injury, and on-going operations and completed operations.
- (c) Umbrella Liability Insurance in the amount of Five Million Dollars (\$5,000,000) following the underlying Comprehensive General Liability Insurance, Commercial Automobile Liability Insurance and Employers' Liability Insurance.
- (d) Commercial Automobile Liability Insurance, including owned, hired and non-owned vehicles, if any, in the amount of One Million Dollars (\$1,000,000) covering bodily injury and property damage.
- (e) Workers Compensation Insurance in the amount required under and in accordance with the State of Maryland's statutory requirements and Employers' Liability Insurance with limits not less than One Million Dollars (\$1,000,000) per accident.

All insurance policies shall provide that they cannot be cancelled, materially changed or non-renewed unless the Owner, Indemnitees and Professional Liability Indemnitees (if available) are given at least thirty (30) days prior written notice. All deductibles on any policy of insurance to be purchased by Architect hereunder shall be borne by the Architect.

**11.2 ADDITIONAL INSURED:** Architect shall insure specifically the indemnity set forth in Section 11.5.below and shall include the Indemnitees (as defined in Section

11.5.1) as additional insureds by causing amendatory riders or endorsements to be attached to the insurance policies described above in subsections 11.1(b), 11.1(c), and 11.1(d). Neither the Owner nor any of the other Indemnitees shall be an additional insured on the professional liability insurance described above in subsection 11.1(a). The insurance coverage afforded under these policies shall be primary to any insurance (or self-insurance) carried independently by the Indemnitees. Said amendatory riders or endorsements shall indicate that, as respects the Indemnitees, there shall be severability of interest under said insurance policies for all coverages provided under said insurance policies. The following language shall be specifically included as an endorsement under the Architect's Comprehensive General Liability policy:

"The coverage afforded to the additional insured under this policy shall be primary insurance. The amount of the Company's liability under this policy shall not be reduced by the existence of any other insurance. It is further agreed that the coverage afforded to the additional insured shall not apply to the sole negligence of the additional insured."

**11.3 CONSULTANTS INSURANCE:** The Architect shall require that its consultants maintain, at their own expense, the insurance coverages set forth in Section 11.1, or other amounts as agreed in writing by the Owner.

**11.4 CERTIFICATE:** Architect shall submit valid certificates in form and substance satisfactory to Owner evidencing the effectiveness of the foregoing insurance policies along with copies of the amendatory riders to any such policies to Owner for Owner's approval before Architect commences the rendition of any services hereunder.

## **11.5 INDEMNIFICATION:**

**11.5.1** The Architect hereby agrees to indemnify, defend and hold harmless the Owner, the Client, the CM, and their respective members, directors, officers, authorized agents, employees and designees (collectively, the "Indemnitees") from and against any and all losses, claims, demands, liabilities, actions, suits, injuries, damages, judgments, costs and expenses (including, without limitation, reasonable attorneys' fees as and when incurred) asserted by any persons (including, but not limited to, any one or more of the Indemnitees) that are caused by or arise from any negligent acts, errors, or omissions of the Architect, its authorized agents, licensees, employees, and contractors occurring in connection with the performance or lack of performance by the Architect of its duties and obligations under or pursuant to this Agreement. The foregoing indemnity shall be limited to the amount of the insurance policies required under subsections 11.1(b), 11.1(c), and 11.1(d), as applicable.

**11.5.2** With respect to professional liability for design and construction administration services covered under Architect's professional liability insurance policy, the Architect hereby agrees to indemnify and hold harmless the Owner and the Client and their respective members, directors, officers, authorized agents, employees and designees (collectively the "Professional Liability Indemnitees") from and against all losses, claims,

demands, liabilities, actions, suits, injuries, damages, judgments, costs and expenses (including, without limitation, reasonable attorneys' fees) caused by the negligent performance or lack of performance by the Architect, or any of the Architect's consultants, of their duties and obligations under or pursuant to this Agreement.

**11.6 TORT CLAIMS ACTS:** The Architect agrees, for itself and for its insurers, that neither Architect nor its insurers may raise or use 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) in the adjustment of claims or in the defense of suits against the Owner or the Client, unless requested by the Owner.

## **ARTICLE 12**

### **PAYMENTS AND BASIS OF COMPENSATION**

**12.1 PAYMENTS:** Subject to the provisions of this **Article 12**, the Client shall make payments directly to the Architect within thirty (30) days after the Owner's receipt and approval of (a) the Architect's detailed monthly statement, lien waivers or releases (b) a certificate duly executed by Architect covering that portion of the services completed on the Project prior to the date of said certificate; and (c) a notarized updated MBE Summary indicating the participation of MBEs on the Project for architectural services in accordance with the form attached hereto as **Exhibit 13**.

**12.2 INITIAL PAYMENT:** There shall be no initial payment made upon execution of this Agreement.

**12.3 TOTAL COMPENSATION:** The Client shall compensate the Architect for the services provided by the Architect hereunder as follows: (a) for Basic Services, on the basis of the services actually performed as provided in **Section 12.4** for the total lump sum fee set forth in the description of Architect's compensation (the Description of Architect's Compensation) attached hereto as **Exhibit 14**, (b) for Additional Services as provided in **Section 12.5** and **Exhibit 14**.

**12.4 BASIC SERVICES:** Basic Services shall include all services described in **Article 2**, and any other services specifically identified in this Agreement as part of Basic Services. The total of all payments to the Architect for Basic Services shall not exceed the stipulated sum stated in the Description of Architect's Compensation attached as **Exhibit 14** unless approved in advance by Owner in writing.

**12.4.1 Phased Basic Services:** Progress payments for Basic Services shall be made as set forth in the following amounts:

Programming & Due Diligence	\$
Schematic Design	\$
Design Development	\$
Construction Documents	\$
Bidding/Negotiating	\$
Construction Administration	\$
<hr/>	
<b>Total Basic Compensation:</b>	<b>\$</b>

**12.4.2 Change in Project Scope:** In the event of a material change in the scope of the Project or the scope of the Architect's services, the Architect shall continue to perform in accordance with the terms of this Agreement during the course of any renegotiation of the Architect's compensation hereunder.

**12.5 ADDITIONAL SERVICES:** For Additional Service as described in Article 3, other than (a) Increased Project Representation, as described in Section 3.2; and (b) services of outside consultants, which shall be compensated as set forth in Subsection 12.5.1, compensation shall be computed as the direct personnel expense as set forth in Exhibit 15. Direct personnel expense ("Direct Personnel Expense") shall be defined as the direct salaries of the Architect's personnel engaged on the Project and the portion of the cost of their mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, pensions and similar contributions and benefits.

**12.5.1 Additional Services of Outside Consultants:** For Additional Services of outside consultants, compensation shall be computed as the Direct Personnel Expense of the outside consultant as set forth in Exhibit 14.

**12.5.2 Increased Project Representation:** For Increased Project Representation as described in Section 3.2, compensation shall be as set forth in Exhibit 14.

## **12.6 REIMBURSABLE EXPENSES**

**12.6.1 General:** For Reimbursable Expenses, as hereinafter described, compensation shall be computed as the actual amount of the reimbursable expenses, subject to the limitations set forth below. Reimbursable Expenses include only those reasonable and actual expenditures made by the Architect and the Architect's employees and consultants in the interest of the Project for the items listed in the following subsections. Reimbursable Expenses shall be documented with receipts and shall be highlighted in expense reports if combined with non-reimbursable expenses. Any Reimbursable Expense items (other than travel and living expenses of the Architect and its employees for trips to the Project area and reasonable telephone expenses) requiring expenditures in excess of one thousand dollars (\$1,000.00) per each separate occasion shall require the prior written approval of the Owner (or, when so indicated by Owner, oral approval from Owner's authorized representative, provided that each such oral approval shall be confirmed in writing). The Architect has provided the Owner with a projected schedule of items of reimbursable expense specifically set forth in the Architect's Financial Proposal included in Exhibit 6 attached hereto, which shall not be materially exceeded without the prior written approval of the Owner. These expenses will be reimbursed at cost and without a mark up and shall include:

**12.6.1.1** Costs of public stenographic services and transcripts for meetings as required by the Owner;

**12.6.1.2** Transportation expenses incurred in connection with the Project if the Architect is required to travel more than fifty (50) miles from the Architect's office at the standard State rate of travel pursuant to Exhibit 15, or at the direct

cost of transportation expense incurred when traveling by common carrier (airfare or rail: coach class only); and

**12.6.1.3** Such other expenses incurred in connection with the Project when specifically authorized in advance in writing by the Owner.

**12.7 PROJECT COMPLETION:** It is the intent of the parties that the Architect shall continue to perform the services required hereunder through the three (3) months after the Scheduled Completion Date as described in **Exhibit 3**. If Basic Services have not been completed within three (3) months after the Architect's signature on the Final Completion Certificate under subsection 2.7.22, through no fault of the Architect, the Architect shall be compensated for its services as an Additional Service under Section 12.5. The Architect shall have no claim against the Owner, its consultants or contractors, or the Client for any loss, cost, expense, claim or liability incurred as a result of the failure to attain project close-out by the Scheduled Completion Date, but shall look to its right to increased compensation as set forth above as its sole remedy for any such failure; all other remedies being hereby expressly waived. The foregoing shall not, however, be deemed to invalidate the indemnification obligations set forth in Section 11.5.

**12.8 ARCHITECTS ACCOUNTING RECORDS:** Records of Architect's expenses and hours pertaining to the Project shall be kept in accordance with generally accepted accounting principles, which principles shall be consistently applied. Said records shall be available to the Owner or its authorized representative for inspection and copying during regular business hours during the term of this Agreement and for three (3) years after the date of the final payment under this Agreement.

## **ARTICLE 13**

### **AUDITS BY OWNER**

**13.1 ACCESS TO ARCHITECT'S BOOKS AND RECORDS:** The Architect agrees that the Owner or any of its duly authorized representatives shall, until the expiration of three (3) years after final payment under this Agreement have access to and the right to examine any directly pertinent books, documents, papers, and records of the Architect involving transactions related to this Agreement.

**13.2 ACCESS TO CONSULTANT'S BOOKS AND RECORDS:** The Architect further agrees to include in all its consultant agreements hereunder a provision to the effect that the consultants agree that the Owner or any of its duly authorized representatives shall, until expiration of three (3) years after final payment under the consultant agreements, have access to and the right to examine any directly pertinent books, documents, papers, and records of such consultants, involving transactions related to the Project.

## **ARTICLE 14**

### **MISCELLANEOUS PROVISIONS**

**14.1 GOVERNING LAW:** This Agreement shall be governed by the laws of the State of Maryland.

**14.2 SUCCESSORS AND ASSIGNS:** The Owner and the Architect, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement.

**14.3 ASSIGNMENTS:** The Architect shall not assign, encumber, pledge, sublet or transfer any interest in this Agreement without the written consent of the Owner. The Architect shall notify the Owner 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 Architect. Except for an assignment by Owner of any of its rights under this Agreement to the State of Maryland, or any agency or department thereof, or an entity supplying funds for the construction of the Project, the Owner shall not assign, encumber, pledge, sublet or transfer any interest in this Agreement without the written consent of the Architect, which consent shall not be unreasonably withheld or delayed. When requested by an entity supplying funds for the construction of the Project, including any lender, the Architect shall enter into a reasonable and customary "Agreement to Complete".

**14.4 REMEDIES CUMULATIVE:** The remedies provided in this Agreement shall be in addition to, and not in substitution for, the rights and remedies which would otherwise be vested in either party hereto, under law or at equity, all of which rights and remedies are specifically reserved by each party. The failure to exercise any remedy provided for in this Agreement shall not preclude the resort to any such remedy for future breaches by the other party, nor shall the use of any special remedy hereby provided prevent the subsequent or concurrent resort to any other remedy which by law or equity would be vested in either party for the recovery of damages or otherwise in the event of a breach of any of the provisions of this Agreement to be performed by the other party.

**14.5 JURISDICTION AND VENUE:** If the Owner is a party to any litigation with respect to the Project (whether as plaintiff, defendant or third party defendant) the Architect consents to being joined in such action and to the jurisdiction of the Court in which the action is instituted (if the Architect is named as a defendant or impleaded as a third party defendant) and to service of process by that court; and the Architect waives any right to contest its joinder in such action on the grounds of improper jurisdiction or venue.

**14.6 CONTRACT AFFIDAVIT:** Simultaneously with the execution of this Agreement, the Architect shall execute, seal and deliver to the Owner the signed Contract Affidavit attached hereto as **Exhibit 16**.

**14.7 EXHIBITS:** All exhibits attached hereto are hereby incorporated into this Agreement and are deemed a material part of this Agreement.

**14.8 NON-HIRING OF EMPLOYEES:** No employee of the State of Maryland or any unit thereof, whose duties as such employee include matters relating to or affecting the subject matter of this Agreement, shall, while so employed, become or be an employee of the party or parties hereby contracting with the State of Maryland or any unit thereof.

**14.9 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 the Maryland Stadium Authority or any employees or representatives of the Owner, either personally or as officials of the State, it being understood that in all such matters they act solely as agents and representatives of the Owner.

**14.10 POLITICAL CONTRIBUTION DISCLOSURE:** The Architect shall comply with Election Law Article, Title 14, Annotated Code of Maryland, which requires that every person that enters 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 contributions made during the reporting period to a candidate for elective office in any primary or general election; and (b) the name of each candidate to whom one or more contribution 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. Additional information is available on the State Board of Election website: [http://www.elections.state.md.us/campaign\\_finance/index.html](http://www.elections.state.md.us/campaign_finance/index.html)

**14.11 MULTI-YEAR CONTRACTS CONTINGENT UPON APPROPRIATION:** If the General Assembly fails to appropriate funds or if funds are not otherwise made available by the Client for continued performance for any fiscal period of this Agreement succeeding the first fiscal period, this Agreement shall be cancelled automatically as of the beginning of the fiscal year for which funds were not appropriated or otherwise made available; provided, however, that this will not affect either the Owner's rights or the Architect's rights under any termination clause in this Agreement. The effect of termination of the Agreement hereunder will be to discharge both the Architect and the Owner from future performance of the Agreement, but not from their rights and obligations existing at the time of termination. The Architect shall be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of the Agreement.

The Owner shall notify the Architect 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.

**14.12 RECEIPT OF FUNDS AS CONDITION PRECEDENT:** The Architect also acknowledges that the Project will be paid for with funds appropriated by the State to the Client. As of the date of this agreement, the Owner has not received funds from the Client sufficient in amount to pay the Owner's obligations under this Agreement. Therefore, the Architect agrees that the Owner's receipt of funds from the Client is a condition precedent to the Owner's obligations to pay any sums hereunder.

**14.13 NOTICES:** All notices required or permitted to be given by one party to the other hereunder shall be in writing and shall be sent by certified U.S. Mail or commercial messenger receipt service, or shall be hand-delivered, as set forth in **Exhibit 17**. Either party may change its address for the purpose of receiving notices under this Agreement by written notice to the other party in the manner set forth above.

**14.14 GENERAL CONDITIONS:** Terms which are not defined in this Agreement shall have the same meaning as those in the General Conditions of the CM Construction Agreement provided to the Architect by Owner.

**14.15 INTEGRATED AGREEMENT:** This Agreement and the RFP included in **Exhibit 5** (unless modified by this Agreement) represent the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Architect.

**14.16 NO JOINT VENTURE:** Architect acknowledges that Owner is not a partner or joint venturer of Architect and that Architect is not an employee or agent of Owner.

**14.17 HAZARDOUS MATERIALS:** Unless otherwise provided in this Agreement, the Architect and Architect's consultants shall have no responsibility for the discovery, presence, handling, removal or disposal of or exposure of persons to hazardous materials in any form at the Project site, including but not limited to asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic substances; provided, however, the Architect shall report to the Owner the presence and location of any hazardous material that an architect of similar skill and expertise should have noticed.

**14.18 OWNER APPROVAL:** Whenever provision is made herein or in the contract documents for the approval or consent of Owner, or that any matter be to Owner's satisfaction, such approval or consent shall be made by Owner in its sole discretion and determination unless another standard is expressly stated in that specific provision.

**14.19 HEADINGS:** The headings and captions of the Sections in this Agreement are inserted for identification purposes only, and shall not govern the construction, nor alter,

vary, or change any of the terms, conditions, or provisions of this Agreement or any Sections hereof.

**14.20 TIME OF THE ESSENCE:** Time is of the essence in the performance of the obligations of the Architect under this Agreement.

**This Agreement entered into as of the day and year first written above.**

**WITNESS:**

**OWNER:**

Maryland Stadium Authority

\_\_\_\_\_

\_\_\_\_\_  
Michael J. Frenz, Executive Director

.....  
**WITNESS:**

**ARCHITECT:**

\_\_\_\_\_

\_\_\_\_\_  
Name, Title

Approved as to form and legal sufficiency this  
\_\_\_\_\_ day of \_\_\_\_\_, 2019:

\_\_\_\_\_  
Assistant Attorney General

## **LIST OF EXHIBITS**

### **[PROJECT]**

- Exhibit 1.....Project Program
- Exhibit 2.....Contracting Strategy
- Exhibit 3.....Project Schedule
- Exhibit 4.....Budget
- Exhibit 5.....Request for Proposal “RFP”
- Exhibit 6.....Proposals – Technical & Price
- Exhibit 7.....Schedule of Construction Cost
- Exhibit 8.....Certificate of Substantial Completion & Final Completion Certificate
- Exhibit 9.....Staffing Plan
- Exhibit 10.....Owner's Representatives
- Exhibit 11.....Sample Pre-Construction and Construction Management Agreements
- Exhibit 12.....Confidentiality Agreement
- Exhibit 13.....MDOT Certified MBE Utilization & Fair Solicitation Affidavit
- Exhibit 14.....Description of Architect's Compensation
- Exhibit 15.....State Standard of Travel Reimbursement
- Exhibit 16.....Contract Affidavit
- Exhibit 17.....Notices

# **EXHIBIT 1**

## **PROJECT PROGRAM** **[PROJECT]**

To be determined per Section 3.3 of the RFP.

## **EXHIBIT 2**

### **CONTRACTING STRATEGY** **[PROJECT]**

The Contracting Strategy will be Construction Manager at Risk.

## **EXHIBIT 3**

### **PROJECT SCHEDULE** **[PROJECT]**

See pages XXXX of the Technical Proposal dated XXXXXXXX.

## **EXHIBIT 4**

### **BUDGET** **[PROJECT]**

The Total project budget is: To Be Determined.

## **EXHIBIT 5**

### **REQUEST FOR PROPOSAL** **[PROJECT]**

Refer to attached Maryland Stadium Authority Request for Proposals –Architectural/Engineering Services, dated XXXXX, 2019, together with:

- Addendum No. 1 thereto, dated XXXXX, 2019; and
- Addendum No. 2 thereto, dated XXXXX, 2019.

## **EXHIBIT 6**

### **PROPOSALS – TECHNICAL & FINANCIAL** **[PROJECT]**

Refer to the attached Technical, Financial, and BAFO Proposals dated:

## **EXHIBIT 7**

### **SCHEDULE OF CONSTRUCTION COST** **[PROJECT]**

The Schedule of Construction Cost is: To Be Determined

EXHIBIT 8

MARYLAND STADIUM AUTHORITY  
351 W. Camden Street, Suite 300  
Baltimore, Maryland 21201

CERTIFICATE OF SUBSTANTIAL COMPLETION  
[PROJECT]

CONTRACT NO.: \_\_\_\_\_ CONTRACT DATE: \_\_\_\_\_  
CONTRACT NAME: \_\_\_\_\_  
PROJECT NAME: Department of Legislative Services Building Improvements

**DEFINITION:** The date of Substantial Completion on the Work or designation portion thereof is the Date certified by the Architect/Engineer when construction is sufficiently complete, in accordance with the Contract Documents, so the Owner and or Client can occupy or utilize the Work or designated portion thereof for the use for which it is intended, as expressed in the Contract Documents.

PROJECT OR DESIGNATED PORTION THEREOF, INCLUDED IN THIS CERTIFICATE:

\_\_\_\_\_

The Work to which this Certificate applies has been reviewed and found to be substantially complete. The date of Substantial Completion of the Project or portion thereof designated above is established as \_\_\_\_\_, which is also the date of commencement of applicable warranties required by the Contract Documents, except as stated below:

\_\_\_\_\_

A list of items to be completed or corrected, prepared by the contractor and amended by the Architect/Engineer and Construction Manager is attached hereto. The failure to include any items on such a list does not alter the responsibilities of the Contractor to complete all work in accordance with the Contract Documents. The list of items shall be completed or corrected by the Contractor within thirty (30) days of the above date of Substantial Completion. The date of commencement of warranties for items on the attached list will be the date of final payment unless otherwise agreed to in writing. The responsibilities of the Owner/Client and Contractor for security, maintenance, heat utilities, damages to the Work and insurance shall be as follows:

OWNER: \_\_\_\_\_  
CONTRACTOR: \_\_\_\_\_

\*\*\*\*\*  
\*\*\*\*\*

**This Certificate does not constitute an acceptance of Work not in accordance with the Contract Documents, nor is it a Release of Contractors obligations to complete the Work in accordance with the Contract Documents.**

<b>ARCHITECT/ENGINEER:</b>	<b>CONSTRUCTION MANAGER:</b>
Date: _____	Date: _____
A/E: _____	CM: _____
By: _____	By: _____
<b>CONTRACTOR</b> agrees to this Certificate of Substantial Completion on:	<b>OWNER</b> agrees to this Certificate of Substantial Completion on:
Date: _____	Date: _____
Contr.: _____	Owner: _____
By: _____	By: _____

## EXHIBIT 8 - continued

MARYLAND STADIUM AUTHORITY  
351 W. Camden Street, Suite 300  
Baltimore, Maryland 21201

### FINAL COMPLETION CERTIFICATE [PROJECT]

CONTRACT NO.: \_\_\_\_\_ CONTRACT DATE: \_\_\_\_\_

CONTRACT NAME:

PROJECT NAME: Department of Legislative Services Building Improvements

**DEFINITION:** The date of Final Completion on the Work is the Date certified by the Architect/Engineer when construction is complete, including all close out documents, claims settled and is, in accordance with the Contract Documents. The Owner and or Client took beneficial occupancy of the Work for the use for which it is intended, as expressed in the Contract Documents.

#### PROJECT OR DESIGNATED PORTION THEREOF, INCLUDED IN THIS CERTIFICATE:

\_\_\_\_\_  
The Work to which this Certificate applies has been reviewed and found to be complete. The date of Completion of the Project or portion thereof designated above (the Contract) is established as of \_\_\_\_\_. The Contractor has no claims or liens against the Project or the Owner.

The responsibilities of the Owner/Client and Contractor for security, maintenance, heat utilities, damages to the Work and insurance shall be as follows:

OWNER:

\_\_\_\_\_  
CONTRACTOR:

\*\*\*\*\*  
This Certificate does not constitute an acceptance of Work not in accordance with the Contract Documents, nor is it a Release of Contractors' obligations of the Contract Documents.  
\*\*\*\*\*

**ARCHITECT/ENGINEER:**

Date: \_\_\_\_\_

A/E: \_\_\_\_\_

By: \_\_\_\_\_

**CONSTRUCTION MANAGER:**

Date: \_\_\_\_\_

CM: \_\_\_\_\_

By: \_\_\_\_\_

\*\*\*\*\*  
**CONTRACTOR** agrees to this Certificate of Final Completion on:

Date: \_\_\_\_\_

Contr.: \_\_\_\_\_

By: \_\_\_\_\_

**OWNER** agrees to this Certificate of Final Completion on:

Date: \_\_\_\_\_

Owner: \_\_\_\_\_

By: \_\_\_\_\_

[PROJECT]  
Exhibit 8

## **EXHIBIT 9**

### **STAFFING PLAN** **[PROJECT]**

See pages XXXXX of the Technical Proposal dated XXXXX, 2019.

## **Exhibit 10**

### **OWNER' S REPRESENTATIVES** **[PROJECT]**

1. Executive Director, Michael J. Frenz
2. Senior Vice President, Gary McGuigan
3. Vice President, Al Tyler
4. Project Manager, TBD
5. Fiscal Officer, Dawn Abshire
6. Compliance Officer, Lisa Johnson
7. Project Coordinator, Malaika Damon
8. Principal Counsel, Cynthia Hahn

## **Exhibit 11**

### **CONSTRUCTION MANAGEMENT AGREEMENT** **[PROJECT]**

See attached sample CM Pre-construction & Construction Management Agreements.

## Exhibit 12

### **CONFIDENTIALITY/COPYRIGHT AGREEMENT AND ACKNOWLEDGMENT** **[PROJECT]**

I, \_\_\_\_\_ as the (title) \_\_\_\_\_ and duly authorized representative of (company) \_\_\_\_\_, which is engaged to do work for the project, understand that certain information regarding the project is or may be sensitive to the Owner and that the timing of its release is of considerable importance to the Owner. I further understand and acknowledge that any materials prepared or furnished by (company) \_\_\_\_\_ in connection of this project shall be the property of the Owner.

THEREFORE, I hereby acknowledge and agree that (company) \_\_\_\_\_ shall not issue any press releases or engage in any dialogues or interviews with the media or any other persons or entities for the dissemination to the general public without the prior written consent of the Owner. The Owner reserves the right to release all information as well as to time its release, form and content. The contents and substance of all discussions and communications, oral or written, between this company and the Architect, Owner, Construction Manager, and/or any other contractors engaged to perform work on the project shall be kept confidential and shall not be disclosed by this company to any persons or entities unaffiliated with the project, including, without limitation, governmental authorities and community groups, without the prior written consent of the Owner.

I further acknowledge and agree that all drawings, specifications, reports, surveys, CADD System disks/tapes and other documents, including models, photographs and renderings, prepared or furnished by (company) \_\_\_\_\_ shall be the property of the Owner and may not be copyrighted by (company) \_\_\_\_\_.

This Agreement shall become a substantive part of (company) \_\_\_\_\_ contract to perform work on the project and the Owner shall be entitled to enforce all provisions hereunder, and shall be entitled to reasonable damages for any breach hereof. This Agreement shall survive the expiration of this company's contract to do work on the project.

IN WITNESS WHEREOF, this Agreement was executed on the

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed

## **Exhibit 13**

### **MDOT CERTIFIED MBE & FAIR SOLICITATION AFFIDAVIT** **[PROJECT]**

See attached completed Attachment A – MBE participation schedule and solicitation affidavit.

## **Exhibit 14**

### **DESCRIPTION OF ARCHITECT' S COMPENSATION** **[PROJECT]**

Refer to the attached Financial Proposal included in **Exhibit 6**.

## **Exhibit 15**

### **STATE STANDARD OF TRAVEL REIMBURSEMENT** **[PROJECT]**

Travel reimbursement is included in lump sum fee for all work required in the Request for Proposal “RFP”. Authorized travel beyond what is required for the RFP will be approved, in advance, by the Maryland Stadium Authority.

**Exhibit 16**

**CONTRACT AFFIDAVIT**  
**[PROJECT]**

See attached Contract Affidavit.

## **Exhibit 17**

### **NOTICES** [PROJECT]

#### **TO OWNER:**

Al Tyler  
Maryland Stadium Authority  
351 West Camden, Suite 300  
Baltimore, MD 21201-8601  
Phone: 410-223-4141  
Email: [at Tyler@mdstad.com](mailto:at Tyler@mdstad.com)

#### **TO CLIENT:**

Name  
Company  
Street  
City, State Zip Code  
Phone:  
Email:

#### **TO ARCHITECT:**

Name  
Company  
Street  
City, State Zip Code  
Phone:  
Email:

#### **TO CONSTRUCTION MANAGER:**

Name  
Company  
Street  
City, State Zip Code  
Phone:  
Email:

**ATTACHMENT I**  
**Sample Request for Financial Proposal**

REQUEST FOR FINANCIAL PROPOSAL  
A/E SERVICES

**FINANCIAL PROPOSAL FORM**  
**Prince George's County Blue Line Corridor - Fieldhouse**

**DESCRIPTION OF ITEM & AMOUNT (In Written Words)****AMOUNT**

1.0 Preliminary Design (Scope of Work Item 3.4) at:	\$	-
Phase Specific A/E Reimbursable Allowance	\$	-
<b>Sub-total:</b>	\$	-
Owner Allowance (equal to 15% of sub-total)	\$	-
<b>Total:</b>	\$	-
2.0 Project Design (Scope of Work Item 3.5.a through 3.5.d)		
PERCENTAGE RANGE IF COST OF WORK IS:		
Up to \$100 million		%
\$100 million to \$125 million		%
\$125 million to \$150 million		%
\$150 million to \$175 million		%
\$175 million and above		%
3.0 Construction Administration (Scope of Work Item 3.5.e)		
PERCENTAGE RANGE IF COST OF WORK IS:		
Up to \$100 million		%
\$100 million to \$125 million		%
\$125 million to \$150 million		%
\$150 million to \$175 million		%
\$175 million and above		%

*Financial proposals evaluated on the amount included in Item #1 (Preliminary Design) and an analysis of the percentages included in Item #2 (Project Design) and Item #3 (Construction Administration)*

**Submitted By:**

\_\_\_\_\_  
(Company)

\_\_\_\_\_  
(Typed Name & Title)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

**REQUEST FOR FINANCIAL PROPOSAL  
A/E SERVICES  
Prince George's County Blue Line Corridor - Fieldhouse**

## HOURLY RATES

[illegible]

**REQUEST FOR FINANCIAL PROPOSAL  
A/E SERVICES****WORK TASK DURATION****Prince George's County Blue Line Corridor - Fieldhouse**

<b>START</b>		<b>COMPLETE</b>	<b>NUMBER OF MONTHS</b>
Notice To Proceed	to	Preliminary Design	
Preliminary Design	to	Schematic Design	
Schematic Design	to	Design Development	
Design Development	to	Construction Documents (50%)	
Construction Documents (50%)	to	Construction Documents (70%)	
Construction Documents (70%)	to	Construction Documents (95%)	
Construction Documents (95%)	to	Construction Documents (100%)	

**ATTACHMENT J**  
**Contract Affidavit**

## 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 \$200,000, 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 enters 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 contributions made during the reporting period to a candidate for elective office in 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 Bid/Proposal Affidavit dated \_\_\_\_\_, 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 K**  
**Corporate Profile**

## **Consultant Corporate Profile**

### **Firm Contact Information**

Firm Name: \_\_\_\_\_

Federal ID Number: \_\_\_\_\_

Point of Contact: \_\_\_\_\_ Phone Number: \_\_\_\_\_

Regional Office Address: \_\_\_\_\_

\_\_\_\_\_

### **Firm Background Information**

Year Firm Founded: \_\_\_\_\_

Is the firm MDOT MBE Certified? Yes/No

If certified, provide the certification number and minority status.

\_\_\_\_\_

Primary Business / Service Provided: \_\_\_\_\_

Number of Years Performing Services: \_\_\_\_\_

Number Full Time Employees (Corporate / Regional Office): \_\_\_\_\_ / \_\_\_\_\_

Provide a brief narrative outlining the firm's history.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Provide a brief narrative outlining what services the firm intends to self-perform.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Provide a brief narrative outlining what services the firm intends to subcontract to others.

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Provide a brief narrative outlining the firm's familiarity with standards, laws and conditions as they apply to the work to be performed under this project.

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Provide a brief narrative clarifying the firm's capacity to perform services as outlined in the RFP.

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Provide sales volume and project completion data for the most recently completed three-year period. Note that information provided is to be for the regional / local office that would be responsible for completing work under this solicitation.

Volume	Annual Sales	Completed Projects	Largest Project
2019	<hr/>	<hr/>	<hr/>
2020	<hr/>	<hr/>	<hr/>
2021	<hr/>	<hr/>	<hr/>
2022	<hr/>	<hr/>	<hr/>

## Firm References

Provide three (3) references. Note that references are to be from different projects; that is, only one reference per project is allowed. **MSA staff members cannot be considered as a firm's reference.**

Project Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Company Name: \_\_\_\_\_

Phone Number and email: \_\_\_\_\_

Project Relationship: \_\_\_\_\_

Project Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Company Name: \_\_\_\_\_

Phone Number and email: \_\_\_\_\_

Project Relationship: \_\_\_\_\_

Project Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Company Name: \_\_\_\_\_

Phone Number and email: \_\_\_\_\_

Project Relationship: \_\_\_\_\_

### **Disclosure of Contract Issues; Litigation; Criminal Investigations**

In the last five years, list and discuss any alleged prior or ongoing contract failures (potential judgment/settlement in excess of \$100,000), contract breaches (potential judgment/settlement in excess of \$100,000), other significant civil litigation, and all criminal litigation or investigations, which involved your firm.

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### **Failure to Complete**

In the last five (5) years, disclose any projects that your firm was involved with that were not completed.

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### **Insurance**

Include current certificates of insurance showing the limits of liability maintained by your firm in each of the following categories: workers' compensation, employer's liability, commercial general liability, automobile liability, umbrella or excess liability, and property insurance.

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**Prepared By:**

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

CONFIDENTIAL

**ATTACHMENT L**  
**Capacity Summary Sheet**

## CAPACITY SUMMARY SHEET FOR KEY MANAGEMENT AND PERSONNEL

Name of Firm:

**RFP Title:** Preliminary Design Services- Prince George's County Blue Line Corridor - Field house

In this table, your firm must include information for all key management and other personnel (**including subconsultants**) who were listed as part of the project team in the Work Plan. Please add rows as necessary.

Name/Position Description (must be consistent with Financial Proposal)	Current and Projected Assignments	Value of Contract	Role on Current and Projected Assignments	NTP Date	Approx. Completion Date	Project on Schedule (Y/N)	Committed hours for the next 24 months	Identify issues which may affect individual's ability to perform the services described in this RFP. Indicate if a current project is high-priority/rush. If project is behind schedule, provide brief explanation.
					Total		0	
					Total		0	

**ATTACHMENT M**  
**Corporate Diversity Affidavit**

## CORPORATE DIVERSITY ADDENDUM

Effective August 18, 2022

**Instructions:** Pursuant to § 11-101 of the Tax-Property Article, certain entities must provide a Corporate Diversity Addendum, which contains certain diversity data specified by Code of Maryland Regulation (“COMAR”) 24.01.07. To determine whether you must provide the Corporate Diversity Addendum, please complete Worksheet A.

Failure to complete the Addendum or failure to meet the criteria therein, may prohibit you from receiving certain State benefits. For more information, refer to COMAR 24.01.07.

Please be aware, the information you include in the Corporate Diversity Addendum may be shared with other Maryland State agencies.

### Worksheet A

1. Are you an entity that is required to be in good standing with the State Department of Assessments and Taxation (“SDAT”), and meets the following definition:

(1) A commercial enterprise or business that is formed in the State or registered with SDAT to do business in the State; or (2) a corporation, foundation, school, hospital, or other legal entity for which none of the net earnings inure to the benefit of any private shareholder or individual holding an interest in the entity?

☐ Yes – Proceed to Question 2

☐ No – STOP. You are not required to complete the Corporate Diversity Addendum. Complete Affidavit (I) on Page 2 and submit with the application for a State benefit.

2. Check the appropriate box if you are any of the following types of entities:

☐ Sole Proprietor

☐ Limited liability company (LLC) owned by a single member

☐ Privately held company if at least 75% of the company’s shareholders are family members

☐ Entity that (1) has an annual operating budget or annual sales less than \$5,000,000; and (2) has not qualified for or applied for, and does not intend to apply for, a State benefit, as defined below

Did you check at least one box?

☐ Yes – STOP. You are not required to complete the Corporate Diversity Addendum. Complete Affidavit (I) on Page 2 and submit with the application for a State benefit.

☐ No – Proceed to the Corporate Diversity Addendum on Page 3.

“State benefit” means (1) a State capital grant funding totaling \$1.0 million or more in a single fiscal year (July 1 – June 30); (2) State tax credits totaling \$1.0 million or more in a single fiscal year (July 1 – June 30); or (3) the receipt of a State contract with a total value of \$1.0 million or more. “State contract” means a contract that (a) resulted from a competitive procurement process and (b) is not federally funded in any way.

**AFFIDAVIT (I)**

**UNDER PENALTIES OF PERJURY**, I hereby swear that the entity submitting this report is not required to submit the Corporate Diversity Addendum.

Entity/Business Name: \_\_\_\_\_

Federal Employer Identification Number (FEIN): \_\_\_\_\_

SDAT Identification Number: \_\_\_\_\_

Name of Entity's representative completing this Affidavit (print clearly):

\_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

## CORPORATE DIVERSITY ADDENDUM

**Instructions:** If you are required to provide the Corporate Diversity Addendum, completing Affidavit (II) on Page 4 is mandatory. A response to both items is required. Failure to provide a complete response to either of the two items may render the entity ineligible for certain state benefits. For more information, refer to COMAR 24.01.07.

I. A response to Item I is required. However, the content of your response has no bearing on eligibility for State benefits. Select below the underrepresented communities which are represented on this entity's board or in executive leadership. Select all that apply.

- ☐ Alaska Native
- ☐ Asian-Pacific Islander
- ☐ Black or African-American
- ☐ Hispanic or Latino
- ☐ Native American
- ☐ Native Hawaiian
- ☐ One or more of the racial or ethnic groups listed above
- ☐ None of the above

II. Check the box next to the following Corporate Diversity indicators that pertain to this entity. Note that references to underrepresented communities refers to communities listed in Item I above. The examples provided are intended to be representative, not exclusive. Select all that apply.

1. ☐ Entity maintains written workforce diversity, equity, and inclusion ("DEI") policies.
2. ☐ Entity offers DEI training to its workforce.
3. ☐ Entity assigns a senior-level employee as responsible for oversight and direction of the entity's DEI efforts.
4. ☐ Entity reports performance of its workforce DEI programs on its website.
5. ☐ Entity includes DEI objectives in performance plans of its managers.
6. ☐ Entity publishes information on its website about its DEI commitments and efforts.
7. ☐ Entity provides career advancement training/opportunities for employees, including members of underrepresented communities.
8. ☐ Entity collaborates with educational institutions, or is an educational institution, serving significant or predominant student populations or affinity groups from underrepresented communities (e.g., career fairs, scholarships, internships, apprenticeships).
9. ☐ Entity has a supplier diversity policy that provides business opportunities to diverse suppliers, including businesses owned by members of underrepresented communities, such as State-certified Minority Business Enterprises ("MBEs").
10. ☐ Entity publicizes its procurement opportunities to encourage participation from businesses owned by members of underrepresented communities.
11. ☐ Entity measures percentage of contract dollars awarded to businesses owned by members of underrepresented communities, including MBEs.
12. ☐ Entity provides support and outreach to underrepresented communities and/or organizations that represent underrepresented communities.

Only entities that meet at least 33% (4) of the Corporate Diversity Indicators above, by checking all the applicable boxes, qualify to receive a State benefit.

**AFFIDAVIT (II)**

**UNDER PENALTIES OF PERJURY**, I declare that I have examined this Corporate Diversity Addendum, and to the best of my knowledge and belief, it is true, correct, and complete.

Entity/Business Name: \_\_\_\_\_

Federal Employer Identification Number (FEIN): \_\_\_\_\_

SDAT Identification Number: \_\_\_\_\_

Name of Entity's representative completing this Affidavit (print clearly):

\_\_\_\_\_

Title: \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

**Penalties for Submitting False Information.** If information provided by the entity in this form or by other means is materially false, the entity and the individual providing the false information may be subject to criminal prosecution for perjury, procurement fraud, and other crimes and may be subject to debarment, and all State benefits or contracts to the entity made in reliance upon the inaccurate form or other information may be void or subject to termination for default. See COMAR 24.01.07.