

STATE OF MARYLAND

MARYLAND DEPARTMENT OF TRANSPORTATION

MARYLAND TRANSIT ADMINISTRATION (MTA)



REQUEST FOR PROPOSALS (RFP)

FOR

Bus Shelter Installation and Advertising Services

CONTRACT NO. MTA - 1377

ISSUE DATE: October 16, 2012

NOTICE: PROSPECTIVE OFFERORS WHO HAVE RECEIVED THIS DOCUMENT FROM A SOURCE OTHER THAN THE ISSUING OFFICE SHOULD IMMEDIATELY CONTACT THE ISSUING OFFICE TO PROVIDE THEIR NAME AND ADDRESS SO THAT AMENDMENTS OR OTHER COMMUNICATIONS MAY BE SENT TO THEM. ANY PROSPECTIVE OFFEROR WHO FAILS TO PROVIDE THIS INFORMATION TO THE ISSUING OFFICE ASSUMES COMPLETE RESPONSIBILITY IN THE EVENT THEY DO NOT RECEIVE COMMUNICATIONS PRIOR TO THE CLOSING DATE.

Minority Business Enterprises are Encouraged to Respond to this Solicitation

STATE OF MARYLAND

NOTICE TO VENDORS/CONTRACTORS

In order to help us improve the quality of State proposal solicitations, and to make our procurement process more responsive and business friendly, we ask that you take a few minutes and provide comments and suggestions regarding the enclosed solicitation. Please return your comments with your proposal. If you have chosen not to bid on this contract, please fax or e-mail this completed form to: 410-333-4810 (Attention: Marsha Turnipseed) or mturnipseed@mta.maryland.gov.

Title: **Bus Shelter Installation and Advertising Services**

Project No. **MTA-1377**

1. If you have responded with a "no bid", please indicate the reason(s) below:

- Other commitments preclude our participation at this time.
- The subject of the Contract is not something we normally provide.
- We are inexperienced in the work/commodities required.
- Specifications are unclear, too restrictive, etc. (Please Explain in Remarks Section)
- The scope of work is beyond our current capacity.
- Doing business with Government is simply too complicated. (Please Explain in Remarks Section)
- We cannot be competitive. (Explain in Remarks Section)
- Time allotted for bid/proposal is insufficient.
- Start-up time is insufficient.
- Bonding/Insurance requirements are prohibitive.(Explain in Remarks Section)
- Bid/Proposal requirements (other than specifications) are unreasonable or too risky. (Explain in Remarks Section)
- MBE requirements (Explain in REMARKS section.).
- Prior experience with State of Maryland contracts was unprofitable or otherwise unsatisfactory. (Explain in Remarks Section)
- Payment schedule too slow.
- Other:

2. If you have submitted a bid or proposal, but wish to offer suggestions or express concerns, please use the REMARKS section below. (Use reverse or attach additional pages as needed.)

REMARKS: _____

Vendor Name: _____ Date _____

Contact Person: _____ Phone (____) _____ - _____

Address: _____

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SECTION 1

INTRODUCTION

1.1 PURPOSE:

- A. The Maryland Transit Administration (MTA) seeks a Contractor to assume operation of an existing Bus Shelter Advertising Program in Baltimore City, Baltimore County, and Anne Arundel County and other jurisdictions as applicable. The selected Contractor will assume maintenance of existing advertising and non-advertising shelters as well as install new shelters and sell and post advertising on those shelters. The firm awarded this contract will be required to design and install a minimum number of new shelters. The contract shall be for a term of 10 years, commencing at Notice to Proceed.
- B. This is a “revenue generating” contract, which is exempt from COMAR 21 regulations (COMAR 21.01.03B.d.i). In the interest of maintaining open and fair competition, the MTA shall conduct this procurement pursuant to State Procurement Regulations COMAR, Title 21.05.03, Procurement by Competitive Sealed Proposals.

1.2 BACKGROUND:

The Maryland Transit Administration (MTA) operates a multi-modal network of buses, trains, and paratransit vehicles either through direct operation or contractual arrangement. This network serves a population of over two million people living in an area of about 1,800 square miles. In addition, the MTA provides financial and administrative assistance to locally operated transit systems throughout Maryland. The seven main components of MTA’s transit service are:

- A. Core Bus – The MTA operates 51 “core” bus lines serving Baltimore City as well as Anne Arundel and Baltimore counties. Most core bus routes operate between 5:00 a.m. and 1:00 a.m.; nine of them operate 24 hours a day. Service is primarily radial with routes connecting downtown Baltimore and outlying neighborhoods. The MTA fleet is comprised of 668 buses. The core bus routes carry an average of 275,000 unlinked passengers on a typical weekday.
- B. Commuter Bus (Baltimore) – as part of the MTA bus service, the commuter bus program provides express transit service (at a premium fare) within the Baltimore metropolitan region. These long-haul, peak period routes connect suburban residential areas, downtown Baltimore, and suburban employment centers. Commuters are able to access these express lines via a number of Park-and-Ride lots located throughout the region. Of the eleven (11) commuter lines, four (4) are directly-operated by MTA while the other five (5) are operated by private contractors. Ridership on the Baltimore area commuter routes on an average weekday is approximately 1500 persons.
- C. Commuter Bus (Washington) – the commuter bus program also serves the Washington, D.C. metropolitan area. The MTA provides thirteen (13) privately-contracted commuter bus services which offer long-haul service, primarily during

peak hours, from points throughout Maryland to Washington, D.C. and its inner-ring suburbs. These routes carry 16,000 unlinked passengers on an average weekday.

- D. Metro Subway – the Metro heavy-rail service operates on a 15.5-mile single line with 14 stations. The Metro Subway system operates from the Owings Mills corporate and shopping complex in Baltimore County, through the heart of Downtown Baltimore’s business, shopping and sightseeing districts to world-renowned Johns Hopkins Hospital. Metro operates seven (7) days a week including holidays. Ridership on a typical weekday is 47,000.
- E. Light Rail – the Central Light Rail Line is presently 29.5 miles long, serving 33 stations between Hunt Valley and Glen Burnie. Light Rail operates seven days. Ridership on a typical weekday is approximately 26,000 unlinked trips.
- F. MARC – the Maryland Transit Administration operates MARC commuter rail service, a 201-mile, forty-two (42) station system serving Washington, D.C., Baltimore City, seven Maryland counties, and parts of eastern West Virginia. 87 trains operate each weekday with no weekend service provided. MARC trains use the tracks of Amtrak for its Penn Line service and CSX tracks for the Brunswick and Camden Lines. Trains are dispatched by Amtrak or CSX and share tracks with freight trains and Amtrak passenger trains. The MARC train fleet is comprised of 35 passenger cars, 30 diesel locomotives and 10 electric locomotives. The passenger cars and electric locomotives are maintained by Amtrak in Washington, diesel locomotives by CSX in Baltimore. The trains are staffed by railroad employees. One (1) station is staffed by MARC (Odenton), four (4) by Amtrak, one (1) by CSX (Brunswick) and one (1) by Greyhound (Frederick). Ridership averages around 34,000 trips per day. Ridership has increased by 25% in the last five years.
- G. Mobility / Paratransit – MTA Mobility is a special service mandated by the 1990 Americans with Disabilities Act which provides curb to curb, shared ride service for individuals with disabilities who are unable to use MTA core local services (Local Bus, Light Rail, and Metro Subway). MTA owns the vehicles and manages the reservation and routing system.

END OF SECTION 1

SECTION 2

ADMINISTRATIVE AND CONTRACTUAL INFORMATION

2.1 SOLICITATION IDENTIFICATION: **MTA-1377**

2.2 SOLICITATION TITLE: **BUS SHELTER INSTALLATION AND
ADVERTISING SERVICES**

2.3 ISSUE DATE: **OCTOBER 16, 2012**

2.4 PROCUREMENT OFFICER:

Marsha Turnipseed
Maryland Transit Administration
Procurement Division, 7th Floor
6 Saint Paul Street
Baltimore, MD 21202
Tel: 410-767-8329
Email: mturnipseed@mta.maryland.gov

2.5 PRE-PROPOSAL CONFERENCE:

- A. A pre-proposal conference for interested Offerors will be held on **NOVEMBER 8, 2012** at the Maryland Transit Administration (MTA) located at 6 St. Paul Street, Baltimore, Maryland, 21202 beginning at 10:00 a.m.; 7th Floor Conference Room 731-2.
- B. All Offerors are encouraged to attend this meeting, but attendance is not mandatory.
- C. Offerors who plan to attend the Conference must notify the Procurement Officer, via e-mail or fax, at least four (4) business days prior to the Conference. Adequate seating may be limited. Therefore, be prepared to tell the Procurement Officer or his assistant how many representatives from your firm will be attending.

2.6 CLOSING DATE:

- A. Proposals must be delivered to the attention of the MTA Procurement Officer, no later than **4:00 p.m., Eastern Standard Time (EST), on DECEMBER 14, 2012.**
- A. Proposals not received by the time and date stated shall not be considered.
- C. The Technical Proposal and the Price Proposal must each be submitted separately in sealed envelopes marked with:
 - 1. The name of the firm submitting the proposal.
 - 2. The contract number.
 - 3. The contract title.

4. The words "Technical Proposal" or "Price Proposal," as appropriate.

2.7 INQUIRIES:

A. Authority

All communications regarding this solicitation are to be made solely through the Procurement Officer or her designee. Only information communicated by the Procurement Officer or her designee shall be the official position of the Agency.

B. Submission

1. Questions may be submitted by mail, facsimile, or by e-mail to the Procurement Officer. Questions, both oral and written, will also be accepted from prospective Offerors attending the Pre-Proposal Conference. As reasonably possible and appropriate, these questions will be answered at the pre-proposal conference.
2. Questions regarding this solicitation may be directed verbally to the Procurement Officer or the designee; however, the Procurement Officer reserves the right to require that the Offeror submit any question in writing.

C. Timeliness

Questions will also be accepted subsequent to the pre-proposal conference. All post-conference questions must be submitted in a timely manner, in writing, to the Procurement Officer only. **The submission deadline for post-conference questions shall be no later than 4:00 p.m. (EST), on NOVEMBER 26, 2012.**

In the case of questions not received in a timely manner, the Procurement Officer will, based on the availability of time to research and communicate an answer, decide whether an answer can be given prior to the proposal due date.
Distribution

In the event that any written questions are submitted, the questions as well as any amendments to the solicitation will be distributed to all vendors who are known to have received a copy of the RFP. Answers to all substantive questions that have not previously been answered, and are not clearly specific only to the requestor, will be distributed. Therefore, an Offeror who receives a copy of this solicitation from a source other than the Procurement Officer should notify the Procurement Officer to add their name to the distribution list.

2.8 PUBLIC INFORMATION ACT NOTICE:

- A. Offerors should give specific attention to the identification of those portions of their proposals that they deem to be confidential, proprietary information and provide any justification why such materials, upon request, should not be disclosed by the State under the Access to Public Records Act, State Government

Article, Title 10, Subtitle 6, Annotated Code of Maryland. A blanket statement that the entire proposal is confidential is not acceptable.

- B. Proposals will not be opened publicly. All Proposals will be confidential until after contract award. When the contract is awarded, those portions of proposals available under Maryland laws regarding access to public information will be made available for inspection by appointment with the Procurement Officer.

2.9 ARREARAGES

By submitting a response to this RFP, an Offeror shall be deemed to represent that it is not in arrears in the payment of any obligation due and owing to the State of Maryland, including the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of the contract if selected for contract award.

2.10 PROTESTS

- A. Any protest regarding this solicitation must be filed in writing with the Procurement Officer only. If the reason for the protest is apparent before the proposal opening, the protest must be filed before the proposal opening. In all other cases, the protest must be filed within 7 calendar days after the reason for the protest is known or should have been known.
- B. The term "filed" means receipt by the Procurement Officer who has issued this solicitation.
- C. The protest must be in writing and must contain (1) the name and address of the protester; (2) the appropriate identification of the solicitation and, if a contract has been awarded, the contract number if it is known; (3) a statement of the reasons for the protest; and (4) any supporting exhibits, evidence, or documents to substantiate any claims unless the documents are not available within the filing time, in which case the date by which the supporting documents are expected to be available is to be noted. The Procurement Officer will respond to the protest in writing as expeditiously as possible.

2.11 DISCUSSIONS

- A. The MTA may enter into discussions with all Qualified Offerors. The term "Qualified Offerors" includes only those responsible Offerors who submitted proposals initially judged by the Procurement Officer to be reasonably susceptible of being selected for award. Offerors shall be notified of the time, date and location of the discussions. Submission of a proposal does not guarantee an Offeror the opportunity to be invited in for discussions.
- B. The MTA, however, retains the right, at its discretion, not to hold discussions with any Offerors and may award a contract on the basis of the technical and price proposals as submitted.

2.12 PROPOSALS

To be considered, Offerors shall submit a complete response to the RFP following the format provided in Section 4 “Proposal Preparation” of this solicitation.

2.13 SIGNATURES

Each proposal must be signed by an officer authorized to make a binding commitment for the firm(s) making the proposals.

2.14 INCURRING COSTS

The MTA shall not be liable for any cost incurred by any Offeror in preparation of its proposal for these services.

2.15 ADDENDA AND SUPPLEMENTS TO RFP

The Offeror must acknowledge receipt of all amendments, addenda, or changes in this solicitation.

2.16 ACCEPTANCE OF PROPOSALS

- A. The MTA intends to award one contract to the Offeror that best satisfies the needs of the MTA, price and other factors considered. This Request for Proposals does not, however, commit the MTA to award any contract. Contents of the proposal may become contractual obligations if a contract ensues. Failure of the Offeror to honor its obligations may result in cancellation of the award.
- B. By submitting a proposal in response to this RFP, the Offeror thereby accepts the terms and conditions set forth herein, including the MDOT General Conditions for Service Contracts which will be part of any contract entered into as a result of this RFP (See Exhibit A).

2.17 CANCELLATION OF SOLICITATION

The MTA reserves the right to cancel this solicitation in whole or in part at any time as provided for in COMAR 21.06.02.02.

2.18 REJECTION OF PROPOSALS

The MTA reserves the right to reject any or all proposals in whole or in part, in accordance with State Procurement Regulations.

2.19 PROPOSAL DURATION

A vendor's proposal is irrevocable for 180 days following the closing date for submissions.

2.20 FINAL CONTRACT

The contract entered into with the successful Offeror shall be based upon firm, fixed, all-inclusive rates. Any contract entered into shall also contain the MDOT General Conditions for Service Contracts (Exhibit A) and Contract Affidavit (Exhibit B).

2.21 MULTIPLE OR ALTERNATE PROPOSALS

Multiple or alternate proposals will not be accepted.

2.22 FINAL EVALUATION AND RECOMMENDATION FOR AWARD

The contract resulting from this solicitation will be awarded to the responsible Offeror whose proposal is determined to be most advantageous to the MTA using the evaluation factors stated as follows:

A. General

1. The procurement regulations in Title 21 of the Code of Maryland Regulations (COMAR) define a "responsible" Offeror as one "...who has the capability in all respects to perform fully the contract requirements, and the integrity and reliability which shall assure good faith performance."
2. COMAR, Title 21, also requires that the Procurement Officer determine before awarding a contract to an Offeror whether the Offeror is responsible. The determination of responsibility is based on the subjective judgment of the Procurement Officer about whether the Offeror meets the definition of a "responsible" Offeror.
3. In addition, the unreasonable failure of an Offeror to supply information promptly in connection with the determination of responsibility shall be grounds for a determination that the Offeror is not responsible.

2.23 DEBRIEFING FOR UNSUCCESSFUL OFFERORS

Unsuccessful Offerors shall be debriefed upon their written request, provided the request is made within a reasonable period of time after receiving notice of not being recommended for award from the Procurement Officer. Request for debriefings shall be honored by the Department at the earliest feasible time after the request has been received. Debriefings shall be held in accordance with COMAR 21.05.03.06.

2.24 RESIDENT BUSINESS RECIPROCAL PREFERENCES

- A. A "resident business" is a business whose principal office or principal base of operations is located in the State.
- B. A resident business preference is any preference that favors a resident business over a non-resident business. Such preferences include percentage preferences, discounts, point allowances, and employee residence requirements. Such

preferences can be established by statute, regulation, executive or administrative order, directive, policy or practice.

- C. Maryland law does not authorize procurement officers to favor a resident business over a non-resident business when awarding procurement contracts, unless the resident business is competing against a non-resident business whose home state grants resident business preferences. In the event that a non-resident business' home state grants resident business preferences, the procurement officer will give the resident business a reciprocal preference, i.e. the same preference as is offered by the out-of-state vendor's home state, unless the application of the reciprocal preference conflicts with a federal law or a grant affecting the procurement contract.

2.25 VERIFICATION OF REGISTRATION AND TAX PAYMENTS

Before a corporation can do business in the State of Maryland it must be registered with the Department of Assessments and Taxation, State Office Building, Room 803, 301 West Preston Street, Baltimore, Maryland 21201. They can be reached at 410-767-1908, or online at www.dat.state.md.us. It is strongly recommended that any potential Offeror complete registration prior to the due date for receipt of proposals. 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.

2.26 HIRING AGREEMENT

- A. By submitting a bid or proposal in response to this solicitation, the bidder/offeror agrees to execute and comply with the enclosed Maryland Department of Human Resources (DHR) Hiring Agreement (Exhibit C). The Hiring Agreement is to be executed by the Bidder/Offeror and delivered to the Procurement Officer within ten days following notification that it is being recommended for contract award. The Hiring Agreement will become effective concurrently with the award of the contract.
- B. The Hiring Agreement provides that the Contractor and DHR will work cooperatively to promote hiring by the Contractor of qualified Maryland Temporary Cash Assistance customers to fill job openings resulting from this procurement, in accordance with §13-224, State Finance and Procurement Article.

2.27 MINORITY BUSINESS ENTERPRISE

- A. An overall Minority Business Enterprise (MBE) subcontracting participation goal of ten (10%) percent has been established for this solicitation. An Offeror awarded this contract agrees that the subcontractor(s) selected to assist with meeting the participation goal must be MDOT-certified, prior to contract award.
- B. Forms Submission - An Offeror must complete and submit the following documents with the technical proposal:

1. A completed **Certified MBE Utilization and Fair Solicitation Affidavit (Exhibit D-MBE FORM A)** whereby the Offeror must acknowledge the certified MBE participation goal or requests a waiver, commits to make a good faith effort to achieve the goal, and affirms that MBE subcontractors were treated fairly in the solicitation process.
 2. A completed **MBE Participation Schedule (Exhibit D-MBE FORM B)** whereby the Offeror must respond to the expected degree of Minority Business Enterprise participation as stated in the solicitation and identify the specific commitment of certified MBEs at the time of submission. The Offeror shall specify the price and/or the percentage of contract value associated with each MBE subcontractor identified on the MBE Participation Schedule.
- C. Award Barrier - If an Offeror fails to submit either MBE FORM A or MBE FORM B with the offer, as required, the Procurement Officer shall deem the bid “non-responsive” or shall determine that the offer is not “reasonably susceptible” of being selected for award.
- D. Apparent Awardee Additional Documentation - Within ten (10) working days from notification that it is the apparent awardee or from the date of the actual award, whichever is earlier, the apparent awardee must provide the following documentation to the Procurement Officer.
1. Outreach Efforts Compliance Statement (**Exhibit D-MBE FORM C**).
 2. Subcontractor Project Participation Statement (**Exhibit D-MBE FORM D**).
 3. If the apparent awardee believes a waiver (in whole or in part) of the overall MBE goal or of any sub goal is necessary, it must submit a fully documented waiver request that complies with COMAR 21.11.03.11.
 4. The Procurement Officer may require additional documentation to ascertain the Offeror’s responsibility, in connection with meeting or exceeding the certified MBE participation goal.
- E. If the apparent awardee fails to return each completed document within the required time, the Procurement Officer may determine that the apparent awardee is not responsible and therefore not eligible for contract award. If the contract has already been awarded, the award is voidable.
- F. MBE Directory - A current directory of MBEs is available through the Maryland State Department of Transportation, Office of Minority Business Enterprise, 7201 Corporate Center Drive, P.O. Box 548, Hanover, Maryland 21076. The phone number is 410-865-1269. The directory is also available at www.mdot.state.md.us. Select the MBE Program label. The most current and up-to-date information on MBEs is available via this web site, which is also searchable.

2.28 BOND INFORMATION

To ensure performance in accordance with the terms and conditions of the Contract and to protect the MTA and its patrons in the event of the Contractor's default on its contractual obligations, the Contractor shall be required to submit a Performance Guaranty to the MTA. The Performance Guaranty shall be executed by the Contractor and submitted, prior to the issuance of a "Notice to Proceed" with the contract services. The Guaranty shall equal fifty percent (50%) of the minimum guarantee per Bus Shelter month (as determined in the price proposal). **The Offeror shall identify and select one of the three (3) forms of performance guaranty it intends to utilize, if awarded this contract.**

(a) A performance bond in the format specified in Exhibit G. The completed form shall be delivered to the MTA within fifteen (15) calendar days after receipt of a "Letter of Intent" to award the contract. The following Surety Bond Qualifications shall apply:

(1) Bonds shall be written through surety insurers authorized to do business in the State of Maryland as surety, with a rating of at least "B V" as to management and financial strength according to the latest edition of Best's Insurance Guide, published by A. M. Best Company, Oldwick, New Jersey.

(2) Surety insurers shall be listed in the latest Circular 570 of the U.S. Department of the Treasury entitled "Surety Companies Acceptable on Federal Bonds", published annually. The bond amount shall not exceed the underwriting limitations as shown in this circular.

(3) Surety Bonds guaranteed through the U.S. Government Small Business Administration or Contractors Training and Development Inc. will also be acceptable.

(4) The attorney-in-fact or other officer who signs a contract bond for a surety company must file with such bond a certified copy of their power of attorney authorizing him or her to do so. The contract bond must be countersigned by the surety's resident Maryland Agent.

The Maryland Small Business Development Financing Authority (MSBDFA) can provide assistance in obtaining bonds to qualifying small businesses that do not meet the commercial surety industry's standard underwriting criteria. MSBDFA can directly issue bid, performance or payment bonds up to \$500,000. MSBDFA may also guarantee up to 90% of a surety's losses as a result of a contractor's breach of contract; MSBDFA's exposure on any bond guaranteed may not, however, exceed \$900,000. Questions regarding the bonding assistance program should be referred to:

Maryland Department of Business and Economic Development
Division of Business Development
Maryland Small Business Development Financing Authority
826 E. Baltimore Street
Baltimore, Maryland 21202

Phone: (410) 333-4270
Fax: (410) 333-2522
Email: stanley.tucker@mmggroup.com

- (b) A pledge of U.S. Government Securities or cash held in escrow by a Maryland bank in the amount of ten percent (10%) of the total net annual revenue-generated by the Contractor for the MTA. The securities or cash is to be held by a Maryland bank in escrow for the base ten (10) year term of the contract and any yearly option renewals exercised thereto. The form of the pledge must allow the MTA to direct the bank to liquidate the securities and withdraw funds from the escrow account upon presentation to the bank of a certification from the MTA Administrator that the Contractor has been issued a notice of termination for default in accordance with the terms of the contract. No countersignature or approval of the Contractor shall be required. The pledge must be signed and notarized by authorized officials of both the Contractor and the bank.

- c. An irrevocable Letter of Credit (LOC) issued by a Maryland financial institution in a form acceptable to the MTA in the amount of ten (10) percent (10%) of the total net annual revenue-generated by the Contractor for the MTA. The form of the LOC must allow the MTA to draw upon the funds upon presentation to the bank of a certification from the MTA Administrator that the Contractor has been issued a notice of termination for default in accordance with the terms of the contract. No countersignature or approval of the Contractor shall be required. The LOC must be signed and notarized by authorized officials of both the Contractor and the bank.

2.29 SITE VISIT

Not applicable.

END OF SECTION 2

SECTION 3

SCOPE OF SERVICES

A. Description

The Maryland Transit Administration (MTA) seeks a Contractor to assume operation of an existing Bus Shelter Advertising Program in Baltimore City, Baltimore County, and Anne Arundel County and other jurisdictions as applicable. The selected Contractor will assume maintenance of existing advertising and non-advertising shelters as well as install new shelters and sell and post advertising on those shelters. The firm awarded this contract will be required to design and install a minimum number of new shelters, see charts in Section B. Scope of Services.

B. Scope of Services

The Contractor shall have the exclusive right to sell print advertising on transit shelters. In exchange, the contractor will be responsible for the following:

- a. Assume maintenance of existing advertising shelters and non-advertising shelters currently under contract. Replace shelters currently maintained by MTA either with new advertising or non-advertising shelters.
- b. Install new advertising and non-advertising shelters.
- c. Ensure that shelters are constructed in accord with design specifications provided in this document.
- d. Pay to the MTA the greater of a percentage of the contractor's gross advertising revenues or the minimum guarantee offered in the Contractor's proposal.

Existing

	Advertising	Non-Advertising	Status
Contractor maintained	213	42	To be maintained
MTA maintained	0	153	To be replaced

New

Year 1	Years 2-5	Years 6-10
24	60 per year	50 per year

Total

Contractor	255	Maintain
MTA	153	Replace
New	24	Year 1
	240	Years 2-5
	250	Years 6-10
Total	922	

1. The Contractor shall provide and maintain a sales organization with the expertise, integrity, experience and business relationships of sufficient scope to attract and maintain local, regional, national advertising for display in MTA’s bus shelters.
2. To furnish all labor, management, supervision, structures, hardware, materials, equipment, and services necessary and incidental to provide, install, operate and maintain shelters at locations approved by MTA.
3. MTA currently has 255 bus shelters under Contract, 213 of the bus shelters contain advertising, and 42 are non-advertising. The contractor will be required to install a minimum of 667 new shelters over the life of this contract; 153 of these shelters will replace existing MTA bus shelters that are not under the current contract. MTA and the Contractor will jointly determine if some of these shelters may be removed and not replaced.
4. During the ten year period of the contract the following schedule is required:
 - Year 1: 24 shelters,
 - Years 2-5: 240 shelters (60 shelters per year),
 - Years 6-10: 250 shelters (50 shelters per year).
5. The contractor shall obtain all approvals from the roadway owner (either state or local government) with regard to the construction of advertising shelters.
6. Non-advertising shelters should not exceed 20% of the total shelter inventory.
7. At the termination or expiration of the Contract Term, the MTA shall take title (ownership) to the Advertising and Non-advertising shelters installed by the Contractor. At the end of the 10 year contract term, the shelters will become property of the MTA with no remaining rights for the selected contractor.
8. There shall be no reimbursement due to Contractor’s default, as set forth herein. That is,

in the event the Contractor defaults on the Contract during the term, and the Contract is subsequently terminated as a result thereof, and the remainder of the depreciated period is not yet completed, the Contractor shall immediately transfer title (ownership) of all shelters and all improvements to the MTA at no cost.

9. Once installed, the Contractor will be responsible for maintaining the shelters.
10. The Contractor shall pay the MTA, on a quarterly basis an agreed upon amount which would be the greater of a percentage of gross advertising revenue or the minimum guarantee, adjusted annually for the most current Baltimore Region CPI. This information shall be provided with the proposal.
11. The Contractor shall pay MTA on a quarterly basis, per shelter for any electric use. The cost shall be based upon BG& E metering. MTA will pay BG&E for electric usage.

C. Shelter Design

1. Existing Shelters. MTA and local jurisdictions have been using a consistent shelter design and specifications. MTA prefers a consistent design type.
2. The Contractor's shelter designs for MTA's consideration and approval are subject to the following minimum required design standards. Vendors will be expected to address the following functionality and design.
 - a. Shelters shall have the capability of being modified to meet the requirements of each site.
 - b. The Contractor shall ensure that all materials supplied on this contract meet the latest requirements of the Underwriters Laboratory labeling.
 - c. All shelters shall at a minimum comply with all Federal, State, and local accessibility requirements.
 - d. It is the sole responsibility of the Contractor to verify the completeness of the shelter and advertising material list to meet the intent of the specifications, the details in the MTA's specifications notwithstanding.
 - e. It is intended that each bus shelter that contains advertising shall contain at a single end one back-lit advertising display box with provisions for displaying advertising on both sides. For purposes of providing passenger visibility of approaching transit vehicles, the advertising box or panel shall be located at the end of the shelter opposite the direction from which transit vehicles approach. The side panel on the opposite side of the lighted advertising panel shall be of appropriate size to provide visibility and accommodate wheelchair/pedestrian access, as required by the Americans With Disabilities Act.
 - f. Shelters shall have a roof.

- g. Shelter material shall be expected to be tolerant of high winds, temperature extremes, salt corrosion, and sunlight. Shelters shall conform to all applicable federal, local, and State of Maryland safety, electrical, and structural codes. Materials, particularly those on exposed finish surfaces, shall be attractive, durable and resistant to graffiti and vandalism.
 - h. Shelters, depending upon location, shall generally be rectangular in shape. MTA may grant exceptions to accommodate narrow sidewalks.
 - i. All other non-advertising bus shelter side panels are to be composed of transparent (tinted green), tempered safety glass (at least 3/8 inches thick) or equivalent materials, and shall be resistant to etching, scratching, or discolorations due to exposure of sunlight.
 - j. Transparent tinted rear and side panels shall include decals or strips to visually alert pedestrians against accidental collisions. All side panels shall be installed above the adjoining sidewalk grade to minimize the accumulation of trash and debris.
 - k. Each shelter shall include a bench made of aluminum or other approved structurally equivalent material and shall be designed to prevent reclining or lying down.
 - l. Each bus shelter shall be fastened to sidewalk paving surfaces with structural grade bolts. All exposed construction bolts and associated hardware shall be of a tamper-proof design and meet safety requirements.
3. Cantilever shelters are preferred within the boundaries of the Baltimore Central Business District defined as the east side: I-83, west side Martin Luther King Jr. Blvd, south side: Inner Harbor, north side: North Avenue (C-5 Zoning District). Barrel shelters are preferred elsewhere.
4. All shelters shall be illuminated. MTA prefers that illumination be powered by solar panels attached to the shelter. Where solar powered illumination is not feasible, the contractor shall install electric service according the standards of the local utility. This may include the installation of individual meters. Electric service must be below grade (excluding meter) and include two conduits.
5. The Contractor, MTA or a local jurisdiction may propose site-specific (i.e., unique) designs based on commercial requirements or community preferences. Unique shelters shall conform to the standards established in the section. For bus stops with boardings in excess of 250 per day, MTA may require larger shelters. Revenue associated with such shelters shall be established via Letter of Agreement with the MTA.
6. Public telephones and vending machines may not be installed at any shelter.

D. Permit Application Process

1. Submission of Proposed Sites - The MTA will provide to the Contractor a list of proposed shelter locations. The Contractor will evaluate sites from MTA's list and submit to MTA a list of favored locations. The contractor's list shall specify the location of each bus shelter including the street name and address, zoning district, bus shelter design to be installed, distances from street and curbs, proposed method of electrical service provision, and any other information which may be requested by the MTA, State Highway Administration or local jurisdiction. MTA shall notify the Contractor of the approved sites. It is anticipated that these lists will result from face to face meetings between the Contractor, MTA, SHA and appropriate local jurisdiction.
2. For approved sites, the MTA and local jurisdiction will solicit community input. If required by MTA, the Contractor shall coordinate obtaining community support for the program and shall attend community meetings and hearings to explain and present information brochures, exhibits, or other public information materials relating to the program.
3. Shelters located on State-owned property (e.g., MTA, numbered Maryland State highways) are not required to obtain local jurisdiction approval or permits, however, MTA shall notify the local jurisdiction as shelters are proposed.
4. Upon approval, the Contractor shall begin construction within 60 days.
5. The Contractor shall obtain at the Contractor's cost all applicable permits to work in the public right-of-way.
6. Payment of Fees - The Contractor shall be responsible for payment of all applicable fees for permits assessments, or taxes that are part of the bus shelter and advertising application and installation process.
7. Notification of Adjoining Property Owners – The Contractor, MTA and local government jurisdiction will agree on how to handle the notification of adjoining property owners.

E. Shelter Installation

1. MTA will appoint a "Project Supervisor" who will coordinate all work with the Contractor.
2. Adherence to Law. The Contractor agrees to perform all services in accordance with all zoning, safety, and access laws, regulations, and standards. The bus shelters shall be subject to all State, federal, local and City zoning, safety, access, design and air space laws, regulations, and requirements.
3. The Contractor shall be responsible for site preparation (including arrangement for utilities), construction, materials, and labor during the installation and construction phase. The Contractor shall be responsible for any accidents at its work sites.
4. The Contractor's shall ensure that installation of the shelters does not hamper or impede MTA operations and passenger loading, both during and after construction.

5. The Contractor shall confer with MTA regarding the replacement of existing MTA-owned bus shelters, including the disposition of shelters that are removed.
6. Inspection. Installation of bus shelters shall be subject to the MTA's field inspection for conformance to structural and electrical codes and other applicable regulations.
7. During any work performed all responsibility to maintain the pedestrian and /or traffic shall be the responsibility of the Contractor. Traffic control plans shall be reviewed and approved by the local jurisdiction or State Highway Administration as appropriate.
8. During the course of the Contract, periodic progress meetings will be organized and conducted by the MTA's Representative to discuss the progress of the Contract. The Contractor shall attend these meetings.
9. All materials and equipment shall be installed and completed in a neat and workmanlike manner in accordance with the best modern methods and practices. Any materials or equipment installed which shall not present an orderly and reasonably neat workmanlike appearance shall be removed and replaced at the Contractor's expense when so directed by the MTA Project Supervisor.
10. It shall be the sole responsibility of the Contractor to protect and safeguard materials, tools and equipment. The MTA and the local jurisdiction shall not assume any responsibility for vandalism and/or theft of the Contractor's material, tools and equipment being used during the life of this contract.

F. Accepted and Closeout

1. The Contractor shall notify the MTA Project Supervisor, in writing, when the work at each site is completed.
2. Upon receipt of the notification, the Project Supervisor will make an inspection.
3. Acceptance of the work will be made only when all items of work are completed to the Project Supervisor's satisfaction.
4. Advertising revenue will start accruing to the MTA no later than 14 days after shelter has been completed.
5. Safety Equipment. The Contractor shall furnish and maintain in good condition all necessary safety equipment, barricades, signs, flashing lights, etc., as required for this type of work in accordance with the latest OSHA, MOSHA, and EPA rules and regulations, plus those in effect by the local jurisdiction and the MTA.
6. The Contractor shall be responsible for all utility coordination and hookup arrangements, including notifying Miss Utility prior to any excavations. All bus shelters sites are to be provided by the MTA "as is" and without any other warranties.

7. No bus shelter shall be physically constructed over a sidewalk less than 10 feet wide, on a traffic island, or on a grade over 10% except as approved in writing by the MTA Project Supervisor. Where sidewalks are less than 10 feet wide a shelter pad shall be provided, or a narrow shelter may be approved.
8. Generally, no part of any bus shelter shall be placed within forty-five (45) feet from any adjacent point of curb return or 10 feet from any driveway unless adequate sight distance can be provided to the satisfaction of the MTA Project Supervisor.
9. Shelters must not obstruct any existing bikeway, or impede or obstruct travel by pedestrians, wheelchairs, or vehicles. Shelters must not block motorists' sight lines at intersections or obstruct pedestrian footways. The minimum clearance between bus shelters and any other adjoining facility or objects such as trees or utility poles shall be thirty-six (36) inches, except as approved in writing by the MTA Supervisor.
10. Where a sidewalk does not presently exist at a bus shelter installation site, the Contractor shall, at its cost, be responsible for installation of concrete pad conforming to the jurisdiction or State if located on State roadway. Any additional improvements, such as sidewalk curbing, etc. may be deducted as cost on time and materials basis from the minimum guarantee as approved by MTA and the Contractor.
11. Bus Shelters on Private Owned Land. A shelter may not be constructed on private property without the written consent of MTA, the appropriate local jurisdiction and the property owner.
12. As Built Drawing. The Contractor shall provide the MTA, local jurisdiction or State Highway Administration as appropriate with "as built" engineering quality plans for each bus shelter location that is installed, which shall include distances to nearby buildings, standpipes, utility poles, etc.
13. The Contractor shall provide the MTA with a monthly updated listing (specifying type and location) of:
 - a. completed shelters,
 - b. shelters under construction, and
 - c. proposed shelters.

G. Advertising - Advertising Contracts and Rates

1. All advertising copy shall be in good taste, professionally developed and presented in a such a manner as to be inoffensive to the general public and be of such high caliber as to contribute to the MTA as prestigious location for commercial advertising. MTA reserves the right to pre-approve Ad Copy at any time throughout the duration of the contract.

2. The Contractor shall provide to the MTA Marketing Division current copies of all of its latest contracts that the Contractor may enter into during the course of the Bus Shelter Program, including trade/ barter contracts, as related to this contract.
 3. The Contractor shall establish and publish all advertising rates and shall keep an updated copy on file with the MTA Marketing Division.
 4. Advertising Content. The Contractor shall adhere to all MTA and local jurisdictions' policies and restrictions regarding advertising standards and subject matter, and must attest in its proposal its willingness to comply with the MTA's high standards of good taste and aesthetics.
 5. PROPOSERS ARE ESPECIALLY ADVISED THAT NO ADVERTISING SHALL BE ALLOWED FOR ALCOHOL OR TOBACCO PRODUCTS OR FOR COMPANIES OTHERWISE KNOWN FOR ALCOHOL OR TOBACCO PRODUCTS.
 6. The Contractor shall provide at least 5% of its advertising inventory to MTA for promotion, public service messages, and MTA partnership ads at no cost to MTA. The Contractor shall be responsible for the costs associated with installing such ads upon bus shelters. The Contractor shall not be responsible for the costs associated with the preparation of such ads.
 - f. Removal of Dated Material-The Contractor shall promptly remove dated advertising copy at a maximum of one month after the date cited in the advertisement. All old advertising copy shall be completely and cleanly removed prior to posting of new materials.
 7. Information Displays. The Contractor, at its cost, shall provide on shelter information display panels that the MTA or local jurisdiction can use for posting information (e.g., system map cases). These displays shall not count towards 5% MTA promotion space.
 8. Advertising Arrangements. The Contractor is to assume all responsibility for marketing of advertising services and preparation of and payment for advertising posters and displays. The Contractor shall be responsible for posting and maintaining all advertising signs in good condition at all times, including those designated as public service announcements. The Contractor likewise shall be responsible for the maintenance of the information display panels located at each bus shelter.
 9. Advertising Standards. Advertising is not to be displayed which:
 - a. Is misleading, false, deceptive, or libelous;
 - b. Is sexually explicit, obscene, or deemed materially harmful to minors;
 - c. Favorably depicts violence, illegal activity and/or antisocial behavior;
 - d. Display advertising for alcohol or tobacco products;
 - e. Relates to illegal activities;
 - f. Holds individuals or groups of people to public ridicule, derision, or embarrassment;
 - g. Includes language that is obscene, vulgar, profane, or scatological;
-

h. Is not allowed under Maryland or local jurisdiction, statute.

H. Shelter Maintenance & Repairs

1. The Contractor shall be responsible for repairing, replacing, and maintain all bus shelter components at no cost to MTA, including all components that may be damaged due to weather elements, vandalism, struck by vehicles, etc.
2. The Contractor shall furnish all labor, hardware, management, materials, equipment, and services necessary to perform installation, operation, processing, and maintenance of the Bus Shelter Program, and shall keep all bus shelters in a safe, attractive, and “like new” condition during the entire term of the Contract.
3. All shelter locations shall be competently cleaned at least once per week, including a surrounding area to 10 feet from each structure.
4. Maintenance shall include, but is not limited to:
 - a. continuous removal of graffiti and stickers;
 - b. repairs to paving surfaces within and immediately adjacent to the bus shelters;
 - c. abatement of weeds;
 - d. removal of all trash, litter, feces, and debris;
 - e. replacement of broken components;
 - f. continuous removal of ice and snow including a path to the bus boarding location;
 - g. repairs to all electrical components including lighting fixtures, wires, ballasts, and bulbs; and
 - h. repairs to benches, side-panels and supports.
5. The Contractor shall provide any needed maintenance activities at specific locations within 48 hours if requested by the MTA in response to citizen complaints or field observation.
6. The Contractor shall replace or repair any damaged shelter(s) within 48 hours upon notification by MTA. 100% of all shelters shall have trash receptacle maintained by the Contractor. Complaints of overflowing trash receptacles shall be addressed by the Contractor within 48 hours.
7. The Contractor shall respond to request to correct any emergency conditions including replacement of broken panels and components, such as those conditions which present hazards to persons or property, within four (4) hours. MTA will determine what constitutes an emergency situation.
8. Should the Contractor fail to maintain, repair, or relocate a bus shelter within the time periods specified, MTA may at its discretion perform the necessary services itself and bill the Contractor accordingly.

9. Repeated instances of unsatisfactory performance could result in termination of contract for default.
10. Complaints from the Public. Each bus shelter shall contain a conspicuously displayed sign containing a bus shelter unique identification number, the Contractor's name, and telephone numbers where the public can call the Contractor to report problems or complaints pertaining to the bus shelter. The Contractor shall maintain a daily log of these complaints outlining the nature of the request, time, day, bus shelter identification number, name and means of contacting the caller, action taken, and by whom. The logs will be made available for MTA inspection for the duration of the Contract.
11. Should a bus shelter be destroyed, Contractor shall, at its sole cost, replace it.

I. Shelter Replacement, Relocation, & Removal

1. The MTA shall have the right to require, at the Contractor's sole cost, removal, relocation, or replacement of shelters due to safety considerations, street or utility construction, or discontinuance of MTA bus service.
2. The Contractor may, with the permission of the MTA, remove or relocate bus shelters for reasons including, but not limited to, excessive vandalism, community requests, or development of adjoining properties, provided documentation has been developed and maintained that justifies the request.
3. Upon permanent removal of a bus shelter, the Contractor shall restore the area to its original condition prior to bus shelter installation subject to local jurisdiction inspection and approval.
4. Credits for revenue received by the MTA from a bus shelter that is removed shall be prorated.
5. The Contractor will be required to replace or restore severely vandalized shelters twice. After that, the Contractor and MTA will agree on a replacement plan.

J. Contractor's Local Office

1. The Contractor shall maintain a business office within 20 miles of MTA Headquarters in downtown Baltimore that shall have a professional full-time staff sufficient to handle all sales and maintenance activities.
2. The local office shall be the repository for the books of account and records required under this Contract, and shall be the place where the MTA may serve all notices, directions, orders, and requests.

K. MTA's Responsibilities

1. MTA reserves the right to approve all shelter designs, applications, locations and site plans.

2. MTA will provide the Contractor with all available information for each proposed shelter site, and will provide guidance and direction to located information.
3. MTA reserves the right-of-entry onto any bus shelter location at any time for the purpose of inspection and/or performing work.

L. Payments to the MTA

1. In consideration of the rights and privileges to be granted to the Contractor by the MTA and in addition to any other fees paid to the MTA for shelters, the Contractor shall pay the following fees. In consideration of MTA executing this Contract and granting the rights herein enumerated, Contractor shall pay to the MTA as compensation therefore and during the term of the Contract **the greater of the following:**

The Percentage, _____% of the gross advertising revenues

OR

A Minimum Guarantee of \$_____ per Bus Shelter Month,

for the first year of the agreement,

The guarantee shall be adjusted annually for the most current Baltimore Region C.P.I. for each subsequent year of the term of the contract.

2. The Minimum Guarantee for each shall be prorated on a quarterly basis during the term of the Contract. The Contractor shall furnish to the MTA, on or before the twentieth (20th) day following each complete calendar quarter during the Term of this Contract, a statement, certified by the Contractor and prepared in a manner satisfactory to the MTA, of the Gross Revenues derived from its operations, during the previous calendar quarter.
3. Within one hundred twenty (120) days after the end of each contract year during the term of this Contract, Contractor shall employ a CPA who shall provide an unqualified written statement to MTA stating whether in the CPA's opinion the Minimum Guarantee or the gross agreed upon percentage, whichever is greater, remitted by Contractor to MTA during the preceding Contract Year pursuant to this Contract were made in accordance with the terms and conditions of this Contract. Such statement shall contain a list by month of the Gross Revenues as shown on the books and records of Contractor that were used to compute the payments made to MTA during the period covered by the statement.
4. Payments not received within ten (10) days from date due may be assessed an additional three quarters percent (.75%) fee per month, 9% per annum, late charge until paid. In the event Contractor's past due account is forwarded by the MTA to the State of Maryland Central Collection Unit (CCU), the Contractor will be responsible to pay CCU's standard collection fees in addition to any amounts due to the Administration.
5. Remittances shall be made to the MTA by ACH.

M. Reporting/Record Keeping Requirements

1. Quarterly Report: Within ten (10) days after the expiration of each calendar quarter during the term of this Contract and any extension thereof, concurrently with the remittance of payment to the MTA, Contractor shall deliver a detailed summary statement, signed and certified by an authorized representative of the Contractor, of
 - a. All Gross Revenues earned during the preceding calendar month by Advertising group or type;
 - b. The Gross Monthly amount due the MTA (provided individually for electric and advertising);
 - c. A schedule of which advertising shelters are not leased;
 - d. The name of each contracted Advertiser or Filler;
 - e. The total occupancy rate of the Advertising Program for the month, and
 - f. A list of all advertising agreements in effect during the preceding month.
 - g. Statements not received by the tenth (10th) day following each completed quarter for calendar year during the term of the Contract may be assessed a fifty dollar (\$50.00) per day late charge payable to the MTA.
2. Annual Report: Within one hundred twenty (120) days after the expiration of each contract year during the term of this Contract and any extension thereof, Contractor shall deliver a detailed summary statement, signed and certified by an independent CPA, of all Gross Revenues earned and payments due the MTA for such year.
3. Acceptance of Reports and Payments: The acceptance by the MTA of any statement of the Contract or of any payment from the Contractor, shall not be deemed a waiver of the right of MTA to claim additional payment due after a review and inspection of Contractor's books and records.
4. False Statements: Knowingly furnishing to the MTA false statements will constitute a default of the Contract and the MTA may use any and all available remedies, including but not limited to the option to declare the Contract terminated and exercise such other remedies available at law or herein.
5. Record Keeping: Contractor shall retain and keep available for three (3) years after each year of the Contract term, or until specific prior written approval from the MTA is granted, the books and records of accounts of its business conducted for the MTA for each such year. Those original records and documents must be easily retrievable and stored in an organized manner to facilitate a timely audit, and be protected from loss in a location and manner acceptable to the MTA. All books and records relating to the performance of the Contract shall be kept in accordance with generally accepted accounting principles.
6. Audit: At any point in time during the term of this Contract, the MTA may cause to have performed an audit of Contractor's records. The MTA may request upon seven (7) calendar days advance written notice to the Contractor access to all original books, records, reports, correspondence, etc... pertaining to the Contract for the purpose of copying, inspection, and/or special audit.

7. Historical revenue information is provided in Attachment A.

8. All Proposers are hereby advised to perform market surveys and other evaluations as deemed appropriate by them to determine potential revenue estimates.

N. Rider Clause

1. The Contractor shall extend to any or all of the transit systems in the State of Maryland the right to utilize this agreement in accordance with the scope of services noted. However, due to the geographic expanse, population disparity, and demographic differences throughout the State, the Contractor and the local transit systems will negotiate the revenue percentage, annual guarantee, and ad to non-ad ratios.
2. Any participating transit system in the State of Maryland that utilizes the Rider Clause may work directly with the Contractor; however, there shall be no obligation on the part of any participating transit system to utilize this Rider Clause.
3. Each transit system has the option of executing a separate contract with the Contractor. Contracts entered into with participating transit systems may contain terms and conditions unique to the jurisdiction including, by way of illustration, and not limitation, clauses covering areas such as minority participation, non-discrimination, etc. If when preparing such a contract, the general terms and conditions of a jurisdiction are unacceptable to the Contractor, the Contractor may withdraw its extension of the Contract to that jurisdiction. The MTA shall not be held liable for any costs or damage incurred by a jurisdiction transit system as a result of any contract activities extended by the Contractor to the jurisdiction under this Rider Clause.

END OF SECTION 3

SECTION 4

PROPOSAL PREPARATION AND FORMAT

4.1 GENERAL GUIDELINES

- A. Offerors preparing technical and financial proposals under this solicitation should clearly outline their comprehensive approach to fulfilling the requirements and fully describe their plans for addressing each element described in the “Scope of Services” section.
- B. After the MTA has recommended an Offeror for award, discussions and negotiations are limited to the following:
 - 1. Any discussions or negotiations about the scope of services and any other terms and conditions of this solicitation must be completed by the due date and time for receipt of Financial Proposals.
 - 2. Any discussions or negotiations regarding the terms of compensation outlined in this solicitation must be completed by the time that the MTA makes the recommendation for award.
- C. Offerors are further advised that the MTA reserves the right to accept, in whole or part, an Offeror’s proposal without having any discussions or negotiations.

4.2 TECHNICAL PROPOSAL SUBMISSION

A. General Requirements

Offerors shall respond to this section, in accordance with the format outlined below, so as to ensure the submission of information essential to a comprehensive evaluation of the proposal.

B. Technical Proposal Format

- 1. A transmittal letter must accompany the Technical Proposal. The purpose of this letter is to transmit the proposal and to acknowledge the receipt of any addenda. In addition, the letter should contain the following:
 - a. A statement that the Contractor has accepted, agreed to, and will comply with the “General Conditions for Service Contracts.
 - b. A statement that the firm understands that by submitting a response to this solicitation, it represents that it is not in arrears in the payment of any obligation due and owing to the State of Maryland, including the payment of taxes and employee benefits,

and that it shall not become so in arrears, during the term of the the contract, if selected for contract award.

- c. Finally, the letter must be signed by an individual who is authorized to commit the Offeror to the scope of services and other contractual requirements, as stated in the RFP.
2. The proposal must also contain the items outlined below. Sections and subsections must have tabs keyed to the Table of Contents. Proposals need not be too elaborate nor should they contain unnecessary art work; rather, it should be typewritten two-sided allowed on “8 ½ x 11” paper (font size at least 10 point) and reproduced, in as economical a manner as possible, to present the following information:
 - a. **Title Page – 1 page**
 - b. **Transmittal Letter – 1 page**
 - c. **Table of Contents – 1 page**
 - d. **Executive Summary – 1 page**
 - e. **Responses to the Scope of Services**
3. The proposal must be sealed in a separate package(s) and labeled “Technical Proposal”. Clearly labeled on the outside of the package(s) must be the name and address of the Offeror(s), the name and number of the RFP (Bus Shelter Installation and Advertising Services - Contract No. MTA-1377”), and the date and time the proposal was submitted.

Enclosed inside the package(s) must be **one (1) original**, to be so labeled, and **four (4) copies** of the proposal. All pages in the proposal must be sequentially numbered. One (1) of the copies should be unbound. The Technical Proposal must include the following information:

C. Response to the Scope of Services

1. Technical Approach – Provide a description of the methodologies and procedures proposed to accomplish each element of the Scope of Services as outlined in Section 3 of this RFP. Discuss industry standards, guidelines, indices, etc. which apply and how they will be used. Include specific issues and/or problems inherent in a project of this type. If applicable, suggest ways to manage the tasks efficiently and cost-effectively. Graphic depictions of processes and proposed shelters to be used shall be included.
2. Work Plan – Provide a description of a conceptual advertising work plan that shows specific task assignments, estimated time frames and their interrelationships.
3. Marketing Plan – Submit a marketing plan that will precisely describe your firm’s strategy to sell the authorized space to assure the maximum use of the space. The plan should include any packaging that is

envisioned by the Contractor, i.e., will advertising space be sold only in packages or will clients be permitted to purchase space on a per-unit basis? What is the Contractor's definition of a "quarter", "half" or "full" showing?

4. Contract Documents - The Offeror must include a copy of all contract documents, including all terms and conditions, and all associated forms that it plans to use with its clients under this contract. *NOTE: Unless permitted by the MTA in writing or amended by a BAFO, these contractual documents are to be used for the duration of the Contract.*
5. Project Organization – Submit a copy of your firm's Project Organization Chart. The organization chart must contain all key personnel and their potential allocation to the specific tasks may be assigned, in relation to the contract.
6. Key Personnel – All Offerors must submit a resume of the five (5) key personnel who will be in charge of the significant portions work, as it relates to the scope of services. Please limit resumes of the key personnel to one (1) page per person. The Offeror may include a listing of other staff professionals who will either be in charge of various tasks or be contributing significant efforts toward meeting the service and performance goals set for the contract.
7. Team Composition – Provide a description of the proposed team and other subcontracting arrangements, as applicable. The interrelationship of all participant firms should be included with respect to experience, capabilities and task assignments.
8. Experience on Similar Projects – Provide a brief description of a minimum of three (3) projects performed by the prime contractor which are most related to the requirements of this contract.
 - a. Limit descriptions to those most relevant to the project and most representative of the team's capabilities.
 - b. References should be for projects completed or awarded within the past five (5) years.
 - c. For each client reference, provide a contact person's name, title and a current, accurate phone number for verification.
9. Economic Benefits - All proposals received will be evaluated to assess the benefits to Maryland's economy. Therefore, Offerors must submit with their proposals a brief narrative that addresses the following listed items (*a through f*) describing the benefits that will accrue to the Maryland economy, as a direct or indirect result of their performance on this

Contract. Proposals will be evaluated to assess the benefit to Maryland's economy specifically offered.

a. The Contract dollars (or percentage of dollars) to be recycled into Maryland's economy in support of the Contract, through the use of Maryland subcontractors, suppliers and joint venture partners. Be as specific as possible. Provide a breakdown of expenditures (percentages) in this category.

b. The number and types of jobs for Maryland residents resulting from the Contract. Indicate job classifications, number of employees in each classification and the aggregate payroll to which the Offeror has committed at both prime and, if applicable, subcontract levels.

c. Tax revenues to be generated for Maryland and its political Subdivisions as a result of the Contract. Indicate tax category (sales taxes, payroll taxes, inventory taxes and estimated personal income taxes for new employees). Provide a forecast of the total tax revenues resulting from the Contract.

d. Subcontract dollars committed to Maryland small businesses and MBEs. (These are also included under the first category). **To be considered an MBE, the business must be certified by the Maryland Department of Transportation.**

e. Other benefits to the Maryland economy which the Offeror promises will result from awarding the Contract to the Offeror. Describe the benefit, its value to the Maryland economy, and how it will result from the Contract award.

f. Each offeror must provide its most recent Financial Statement of the Prime contractor or joint venture firms only.

10. Required Forms-The following forms must be completed and submitted with the sealed Technical Proposal only. Failure to comply with this requirement may result in your entire proposal being deemed "not reasonably susceptible" for contract award.

a. Certified MBE Utilization and Fair Solicitation Affidavit
(MDOT MBE **FORM A**-EXHIBIT D)

b. MBE Participation Schedule (MDOT MBE **FORM B**-EXHIBIT D)

c. Conflict of Interest Affidavit (EXHIBIT E)

d. Bid/Proposal Affidavit (EXHIBIT F)

e. Hiring Agreement (EXHIBIT C)

- D. Oral Presentations - After the Technical Proposals have been ranked, the MTA may decide to hear oral presentations from the Offerors classified as “*reasonably susceptible*” of being selected for contract award. An Offeror classified as “*not reasonably susceptible*” for contract award will **not** be allowed to give oral presentations.

In addition, the MTA may elect to hear on-site oral presentations at the Offeror’s location with an accompanying site walk-through. Regardless of the location, oral presentation should not exceed a total of **one hour and thirty minutes** (one hour for a presentation by the Offeror and a half-hour for questions from MTA representatives).

- E. The Contractor must not include in the Technical Proposal any information about the compensation payable to MTA.

4.3 PRICE PROPOSAL SUBMISSION

A. General Requirements

Offerors shall respond to this section, in accordance with the format outlined below, so as to ensure the submission of information essential to a comprehensive evaluation of the proposal. All Offerors remaining in competition following oral presentations will have their “Financial Proposals” opened, calculated, and ranked.

- B. Under separate sealed package(s) from the Technical Proposal and clearly identified with the same information noted on the Technical Proposal, the Contractor should submit **one (1) original and four (4) copies** of the price proposal. This proposal must contain the following information:

- i. Transmittal letter which certifies that all information contained in the Price Proposal is accurate and all proposed prices are valid for a minimum of 180 days from the date of submittal.
- ii. Revenue Information (See Bid Proposal form attached Exhibit H)
- iii. Annual Report or Statement of Financial Condition (one copy included in Original Volume only)

END OF SECTION 4

SECTION 5

EVALUATION FACTORS

5.1 OVERVIEW

A. Evaluation and Selection Committee

All vendors' proposals received by the closing deadline will be evaluated by an Evaluation Committee.

B. Final Ranking and Selection

The Committee will make recommendations to the Procurement Officer for the award of the Contract to the responsible vendor whose proposal is determined to be the most advantageous to the State, considering both technical and financial factors set forth in the RFP.

5.2 TECHNICAL FACTORS

As specifically described in Section 4 of this RFP, listed below are the technical factors of an Offeror's proposal that will be evaluated and ranked, in the following order of decreasing importance.

A. The Offeror's organized and comprehensive response to the scope of services.

B. Shelter Design, to be inclusive of:

- i. Overall appearance and adaptability of design
- ii. Detailing of shelter
- iii. Lighting/Appearance at night
- iv. Integration of amenities

C. The Offeror's relevant experience, to be inclusive of:

- i. Expertise of the firm, assigned personnel, and subcontractors in managing an advertising transit shelter contract
- ii. Actual experience in managing similar advertising transit shelter contracts and where the shelters are located
- iii. Reference checks

D. The Offeror's Project Organization, to be inclusive of:

- i. The firm's organization chart
- ii. Experience and qualifications of Key Personnel
- iii. Team Composition
- iv. Location
- v. Ability of work plan to meet installation timetable

E. The economic benefits that the Offeror's proposal will provide to the Maryland economy.

5.3 PRICE FACTORS

The separate financial volume of each qualified proposal will be distributed to the Committee following the completion of the technical evaluation. The Committee will rank the proposals in order of highest offer of compensation (net present value) which is the greater of a proposed percentage of the gross revenues earned under the contract or; a minimum annual guarantee (may be expressed per advertising shelter per month.)

END OF SECTION 5

SECTION 6
CONTRACT AGREEMENT
BETWEEN
MARYLAND TRANSIT ADMINISTRATION
AND

CONTRACT INTRODUCTION

THIS CONTRACT, made this ___ day of _____, 20___, by and between MARYLAND TRANSIT ADMINISTRATION, a Unit of the State of Maryland Department of Transportation, hereinafter referred to as “MTA”, and _____, hereinafter referred to as Contractor” or “Prime Contractor.”

WITNESSETH

WHEREAS, the MTA is responsible for providing efficient mass transit services to the citizens of Metropolitan Baltimore and other areas in Maryland; and,

WHEREAS, the MTA requires the assistance of a Contractor to assume operation of an existing Bus Shelter Advertising Program in Baltimore City, Baltimore County, and Anne Arundel County and other jurisdictions as applicable.; and,

WHEREAS, the Contractor has agreed to provide assistance to the MTA in accordance with the terms and conditions herein stated.

NOW, THEREFORE, it is mutually agreed by the parties hereto as follows:

ARTICLE I

GENERAL

1.1 DEFINITIONS

The following Definitions of Terms apply to this Contract:

- A. “Department” means the Maryland Department of Transportation.
- B. “Fiscal Year” means the period beginning July 1 and ending June 30.
- C. “MDOT” means the Maryland Department of Transportation.
- D. “MTA” means the Maryland Transit Administration.
- E. “Procurement Officer” means any person authorized by a procurement agency in accordance with law or regulations to formulate, enter into, or administer contracts or make written determinations and findings with respect to them. The term also includes an authorized representative acting within the limits of authority.
- F. “Project” means the services specified in the RFP, Section III.
- G. “Services” means all of the work required to be performed, directly or through others, by the Contractor under Article III of this Contract.
- H. “COMAR” means the Code of Maryland Regulations. Offerors are advised that although this type of revenue-producing contract is exempt from COMAR regulations, the MTA is conducting this solicitation, evaluation, and ranking process using the “Procurement by Competitive Sealed Proposals” method found under COMAR 21.05.03. However, the final contract award will be approved and executed by the MTA.

1.2 AUTHORITIES AND RESPONSIBILITIES

- A. The Contractor shall perform or cause to be performed the Services. The Contractor shall perform the Services in accordance with the terms, conditions and covenants set forth in this Contract.
- B. Subject to the authority of the Secretary of MDOT, the MTA Administrator or designee is responsible for the overall management and policy direction of this Contract. The MTA Administrator shall designate an MTA Representative with responsibility to monitor, inspect, and direct the Services, assist in the resolution of problems and to provide coordination with services being provided by others. After Notice to Proceed is issued to the Contractor, all routine communications, liaison services, and project coordination with the MTA shall be through the MTA Representative.

- C. The MTA will furnish to the Contractor all pertinent plans, reports, records, maps, and supporting data which are available to the MTA and which the Contractor may require in performance of the Services.

1.3 ACCESS TO THE WORK

The MTA and MDOT through their authorized representatives shall at all times have full access to the work being performed by or under the responsibility of the Contractor.

1.4 SUBCONTRACTORS

- A. The Contractor shall not subcontract any of the Services, including subcontracts of any tier, without the prior written approval of the MTA. All subcontractor services shall be based upon a written agreement between the Contractor and Subcontractor incorporating the provisions of this contract except where expressly waived by the Procurement Officer.
- B. The Contractor shall comply with all applicable laws, regulations, and procedures of the MTA, and MDOT, in the procurement of all subcontractors, and the approval of a subcontract by the MTA shall not operate as a waiver of this requirement or an acknowledgement that it has been satisfied.
- C. With respect to the performance of work by subcontractors working for the Contractor, the Contractor shall use its recognized professional judgment, care, and prudence in accepting such work.

1.5 HIRING AGREEMENT

The Contractor agrees to execute with the Maryland Department of Human Resources (DHR), and to comply with, a Hiring Agreement (Exhibit C.) The Hiring Agreement provides that the Contractor and DHR will work cooperatively to promote hiring by the contractor of qualified entry level Maryland Temporary Cash Assistance customers to fill entry level job openings resulting from this procurement, in accordance with §13-224, State Finance and Procurement Article.

1.6 ORDER OF PRECEDENCE

In the event of any discrepancy or dispute, the following is the order of precedence: (1) The Contract Agreement, (2) General Provisions, (3) Request for Proposals, (4) Technical Proposal, and (5) Financial Proposal.

1.7 MARYLAND BOARD OF CONTRACT APPEALS

Despite any other statements to the contrary in or referenced by this contract, the Maryland Board Of Contract Appeals does not have jurisdiction to hear appeals of contract claim decisions made by the Procurement Officer. This lack of jurisdiction occurs because COMAR 21.01.03.03B(1)(d)(i) makes procurements for the kind of work done under this contract exempt from COMAR, Title 21.”

END OF ARTICLE I

ARTICLE II

TIME OF PERFORMANCE

- 2.1 The initial base term of this contract shall be for a ten (10) year period, effective from the date of full execution of the contract and issuance of a Notice to Proceed.
- 2.2 Not applicable.
- 2.3 The Contractor shall be authorized to commence performance of the services upon receiving a fully executed contract agreement and the MTA's written Notice to Proceed.
- 2.4 Neither party hereto shall be considered in default in the performance of its obligation with respect to time of performance to the extent that the performance of any such obligation is prevented or delayed by any cause beyond the reasonable control of the affected party. Should the Services be delayed by any cause, the Contractor shall minimize any reduction in revenue to the MTA resulting from such delay.
- 2.5 Excusable Delays
 - A. Except for defaults of subcontractors at any tier, the Contractor shall not be in default because of any failure to perform this contract under its terms if the failure arises from causes beyond the control and without the fault of negligence of the Contractor. In each instance, the failure to perform must be beyond the control and without the fault or negligence of the Contractor. "Default" includes failure to make progress in the work so as to endanger the performance.
 - B. If the failure to perform is caused by the failure of a subcontractor at any tier to perform or make progress, and if the cause of the failure was beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be deemed to be in default.

END OF ARTICLE II

ARTICLE III

Scope of Services

Please see RFP, Section III.

END OF ARTICLE III

ARTICLE IV

COMPENSATION

A. PAYABLE TO THE MTA

The Contractor agrees to provide all supervision, labor, materials, maintenance, as necessary and incidental, to erect, install, maintain, operate, sell and post advertisements for a Bus Shelter Installation and Advertising Services Program for the MTA. The Contractor agrees to pay to the MTA **the greater of the following:**

The Percentage, _____% of the gross advertising revenues

OR

A Minimum Guarantee of \$_____ per Bus Shelter Month,

for the first year of the agreement,

The guarantee shall be adjusted annually for the most current Baltimore Region C.P.I. for each subsequent year of the term of the contract.

A Bus Shelter Month is defined as a bus shelter (authorized for advertising) that is available for advertising for one month.

B. PAYMENT DUE DATE

The amounts payable to MTA must be mailed no later than 30 days after the end of the month or year being reported

C. PAYMENT ADDRESS

All payments shall be mailed to:

Maryland Transit Administration
William Donald Schaefer Tower
6 Saint Paul Street, 8th Floor
Baltimore, Maryland 21202-1614
ATTENTION: Elizabeth D. Lobangco
Finance and Accounting Department
Phone: 410-767-3730

D. CHECK CASHING DISCLAIMER

The MTA does not agree that the act of cashing a check payable to the MTA from the Contractor can be considered payment in full for the monies due the MTA by the Contractor, regardless of any wording on the check that makes such an assertion. The amount of money due the MTA from the Contractor is governed only by the terms of this contract.

END OF ARTICLE IV

ARTICLE V

5.1 COMMUNICATIONS

- A. By mutual agreement and on a case by case basis, the Contractor and the MTA will send all required contract documents by certified mail. Postage shall be prepaid by the sender.
- B. Unless otherwise indicated or mutually agreed to, all required documents sent to the Contractor are to be delivered to:

**INSERT CONTRACTOR'S CONTACT PERSON(S), COMPANY NAME,
MALING ADDRESS, E-MAIL ADDRESS, AND TELEPHONE NUMBER**

- C. Unless otherwise identified in this contract, all required documents sent to the MTA by the Contractor are to be delivered to:

Pat Keller, Deputy CAO of Statewide Service Development

6 St. Paul St., 12th Floor

Baltimore, MD 21202-1614

410-767-3889

END OF ARTICLE V

ARTICLE VI

6.1 INDEMNIFICATION MEASURES

- A. The Contractor shall protect, defend, indemnify and hold harmless, and shall require in its agreements with contractors and subcontractors that they shall protect, indemnify, defend and hold harmless, the MTA, its officers, agents, employees, successors and assigns, against and with respect to any and all liabilities arising out of or in any way connected with the exercise or performance by Contractor (or its agents, officers, employees, successors or assigns or subcontractors) of any of its rights or obligations hereunder.

- B. As used herein, "Liabilities" shall include any and all losses, claims, damages, suits, liabilities or costs whatsoever (including without limitation reasonable attorney's fees and cost of suit), which arise out of:
 - 1. Injury to any person (including without limitation loss of limb or death);
 - 2. Damage to or destruction of any property of any person whatsoever;
 - 3. Interruption of rail or transit services including without limitation loss of revenue income;
 - 4. Damage to or destruction of the environment, including without limitation land, air, water, wildlife or vegetation (including, but not limited to costs and expenses incident to monitoring, remedial actions, proceedings or investigations or the defense of any claim);
 - 5. Or occasioned by, any breach or default by Contractor (or its officers, employees, agents, licensees, invitees, or subcontractors) in performing any of its obligations hereunder or under any applicable law.
 - 6. The foregoing obligations shall survive termination of this Agreement with respect to the liabilities arising during its term.

6.2 INSURANCE

- A. The Contractor shall procure and pay for insurance specified herein, issued by companies acceptable to the Administration and authorized to do business in the State of Maryland.

- B. The Contractor shall maintain the following insurance program throughout the term of this contract.
 - 1. Workmen's Compensation and Employer's Liability. Limits - Coverage A, Statutory and Coverage B to a minimum limit of \$500,000.

2. Comprehensive General Liability with a combined single limit of \$1,000,000 per occurrence.
 3. Professional Liability with a combined single limit of \$5,000,000.
 4. Automobile Liability Insurance with a combined single limit of \$1,000,000.
 5. The Contractor shall deliver to the Administration upon execution of this contract accurate and true Certificates of Insurance which show that:
 6. The above coverage has been procured,
 7. The MTA has been named as an additional insured under the insurance provided for in 6.2.2, 6.2.3 and 6.2.4 and,
 8. The policies will not be canceled, terminated or modified without 30 days prior written notice to the Administration.
- C. A Certificate of Insurance is acceptable in lieu of true copies of the policies if all policy exclusions are noted on the Certificate or through attachment to the Certificate by the policy writer.

END OF ARTICLE VI

ARTICLE VII

7.1 EXHIBITS

The following Exhibits, although not attached, are incorporated by reference and made part of this Contract:

- Exhibit A The Maryland Department of Transportation "General Conditions for Service Contracts", as revised August 10, 2004
- Exhibit B Contract Affidavit
- Exhibit C Hiring Agreement
- Exhibit D MBE Forms A-D
- Exhibit E Conflict of Interest Affidavit and Disclosure
- Exhibit F Bid/Proposal Affidavit
- Exhibit G Performance Bond Form
- Exhibit H Bid Proposal Form

END OF ARTICLE VII

ARTICLE VIII

8.1 EXCLUSIVE AGREEMENT

- A. This Contract is the exclusive statement of the agreement of the parties with respect to its subject matter and supersedes all prior agreements, negotiations, representations, proposals, and awards, written and oral, relating to its subject matter. The parties expressly acknowledge that this Contract is the product of mutual negotiations, and intend that neither party shall be construed to be the primary drafter thereof; no provisions (except for modifications issued under Exhibit A, MDOT General Conditions for Service Contracts, Section 27, Changes, Alterations and Modifications in the Services) of this Contract may be changed or modified except by an agreement in writing executed by both parties and approved by the MTA Administrator or designee, as applicable.

- B. The failure of the MTA to insist on any one or more instances upon a strict performance by the Contractor of any of the provisions, terms, covenants, reservations, conditions or stipulations contained in this contract, or to exercise any right or remedy under this contract, shall not constitute nor be construed as a waiver or relinquishment thereof for the future, but shall continue and remain in full force and effect, and no waiver by the MTA of any provisions, terms, covenants, reservations, conditions or stipulations hereof shall be deemed to have been made in any instance unless specifically expressed in writing by the MTA as an approved modification to the Contract.

- C. Headings, titles and paragraph captions are inserted in the Contract for convenience and are descriptive only, and shall not be deemed to add or detract from or otherwise modify the meaning of the paragraphs.

END OF ARTICLE VIII

ARTICLE IX

9.1 EXECUTION

It is agreed and understood by all parties hereto that the execution of this Contract and its effectiveness is contingent upon approval by the Maryland Department of Transportation/Maryland Transit Administration, as applicable. This Contract shall be considered to bind the parties in accordance with the Constitution and laws of the State of Maryland, and Maryland Law shall apply with respect to any questions or disputes as to the validity or interpretation of the Contract.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed in duplicate.

WITNESS:

CONTRACTOR'S

NAME: _____ (Print)

BY: _____

_____ (Signature)

CONTRACTOR F.E.I.N.

TITLE: _____ (Print)

DATE: _____

WITNESS:

MARYLAND TRANSIT ADMINISTRATION

NAME: _____ (Print)

BY: _____

BY: _____ (Signature)

TITLE: _____ (Print)

DATE: _____

Approved as to Form and Legal Sufficiency:

Assistant Attorney General

DATE: _____

END ARTICLE IX

EXHIBITS and ATTACHMENT

**GENERAL CONDITIONS
FOR
SERVICE CONTRACTS**

**Maryland State
Department of Transportation**

**GENERAL CONDITIONS
FOR
SERVICE CONTRACTS**

Revised August 10, 2004

August 10, 2004

MARYLAND DEPARTMENT OF TRANSPORTATION (MDOT)

GENERAL CONDITIONS FOR SERVICE CONTRACTS

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MARYLAND DEPARTMENT OF TRANSPORTATION (MDOT)
GENERAL CONDITIONS FOR SERVICE CONTRACTS

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MARYLAND DEPARTMENT OF TRANSPORTATION (MDOT)

GENERAL CONDITIONS FOR SERVICE CONTRACTS

1. **DEFINITIONS**

Wherever in these General Conditions or in other contract documents the following terms or abbreviations are used, the meaning shall be as follows:

A. **Organizational Structure**

The Maryland Department of Transportation (MDOT) is composed of the following Administrations:

- (1) The Secretary's Office (TSO)
- (2) Maryland Aviation Administration (MAA)
- (3) Maryland Port Administration (MPA)
- (4) Maryland Transportation Authority (MdTA)
- (5) Maryland Transit Administration (MTA)
- (6) Motor Vehicle Administration (MVA)
- (7) State Highway Administration (SHA)

B. **Organizational Definitions**

Administration – The word “Administration” shall mean any one of the Administrations within the MDOT as listed in Section A above.

Department – The word “Department” shall mean the Maryland Department of Transportation.

Executive Director – The Chief Executive Officer of an Administration or Jurisdiction.

Procurement Officer – Any person authorized by the MDOT in accordance with law or regulations to formulate, enter into, or administer contracts or make written determinations and findings with respect to them. The term also includes and authorized representative acting within the limits of authority.

Secretary - The Chief Executive Officer of the MDOT.

C. **General Definitions**

Agreement - Contract

Award - The decision by a Jurisdiction to execute a purchase agreement or contract after all necessary approvals have been obtained.

Bid - A statement of price, terms of sale, and description of the supplies, services, or construction offered by a vendor to the State (see "Proposal").

Bidder - A person formally submitting a bid for the work contemplated, acting directly as the, or through the, duly authorized representative-same as Offeror.

Bid Security - See Proposal Guaranty.

Board - The Board of Public Works (BPW) of the State of Maryland.

Business - A corporation, partnership, individual, sole proprietorship, joint venture, or any other legal entity through which business or commercial activity is conducted.

Calendar Day - Every day shown on the calendar; Saturdays, Sundays, and Holidays included.

Change Order - A written order signed by the responsible procurement officer, directing a contractor to make changes which the modification clause of a contract authorizes the procurement officer to order, with or without the consent of the contractor.

COMAR Title 21 - Code of Maryland State Procurement Regulations.

Contract - Any agreement entered into by a procurement agency for the acquisition of supplies, services, construction, construction related services, or any other item and includes:

- (1) Awards and Notices of award;
- (2) Contracts of a fixed-price, cost-reimbursement, cost-plus-a-fixed-fee, fixed-price incentive, or cost-plus incentive fee type;
- (3) Contracts providing for the issuance of job or task orders;
- (4) Leases;
- (5) Letter contracts;
- (6) Purchase Orders;
- (7) Supplemental agreements with respect to any of these;
- (8) Orders; and
- (9) Grants.

Contract does not include:

- (1) Collective bargaining agreements with employee organizations;
- (2) An employee with an employment contract; or
- (3) Medical, Medicare, Judicare, or similar reimbursement contracts for which user eligibility and cost are set by law regulation.

Contract Affidavit - A completed Contract Affidavit must be submitted by the successful bidder/offeror prior to issuance of the Notice to Proceed and the Contract.

Contract Documents - The written agreement executed between the MDOT and the successful offeror, covering the performance of the work and furnishing of labor, equipment and materials, by which the Contractor is bound to perform the work and furnish the labor, equipment, services, and materials, and by which the MDOT is obligated to compensate the Contractor at the mutually established and accepted rate or price.

The contract shall include the Invitation for Bids, Notice to Contractors, Instructions to Bidders, Request for Proposal, Contract Forms and Bonds, MDOT General Conditions, Specifications, Supplemental Specifications, all Special Provisions, all Technical Provisions, all Plans and Notices to Proceed, also any written Modifications, Change Orders and Supplemental Agreements that are required to complete the scope of the work or services in an acceptable manner, including authorized extensions thereof.

Contract Modification - Any written alteration or change in the specifications, delivery point, date of delivery, contract period, price, quantity, or other provision of any existing contract, whether accomplished in accordance with a contract provision, or by mutual action of the parties to the contract. It includes without limitation Change Orders, extra Work Orders, Supplemental Agreements, Contract Amendments, or Reinstatements, or any changes made to a contract as a consequence of partial termination or settlements.

Contractor - Any person having a contract with the MDOT. Contractor does not include employees with labor contracts (collective bargaining agreements) or an employee with an employment contract.

Cost-Reimbursement Contract - A contract under which the MDOT reimburses the Contractor for those contract costs, within as stated ceiling, and a fee, if any, which are recognized as allowable and allocable under the cost and price principle regulations.

Day - Calendar day unless otherwise designated.

Notice to Proceed - A written notice to the contractor of the date on or before which the contractor shall begin the work or service to be performed under the contract.

Procurement - Includes all functions that pertain to the obtaining of any public procurement, including description of requirements, solicitation of sources, selection, preparation and award of contract, all phases of Contract Administration.

Proposal - The response by an offeror to a solicitation by the MDOT to obtain goods or services. The response may include, but is not limited to, an offeror's price and terms for the proposed contract, a description of technical expertise, work experience and other information as requested in the solicitation. As used herein the words "Proposal," "Offer," or "Bid," have the same meaning.

Proposal Guaranty - Acceptable security for bid, performance, and payment bonds, as stated in COMAR 21.06.07.01B, designated in the Proposal, to be furnished by the Offeror as a guaranty of good faith to enter into a contract with the MDOT.

Services - The rendering of time, effort or work, rather than the furnishing of a specific physical product other than reports incidental to the required performance. It includes, but is not limited to, the professional, personal and/or contractual services provided by architects, engineers, attorneys, accountants, physicians, consultants, appraisers, land surveyors, and where the service is associated with the provision of expertise or labor, or both.

"Services" does not include services included within the definitions of maintenance, construction-related services, architectural services, engineering services, or energy performance contract services.

Solicitation - Invitation for bids, request for quotations, request for proposals, or any other method or instrument used to provide public notice and advertisement of the MDOT's intent to procure supplies, services, and construction.

Specification - A written description of functional performance or salient characteristics. It may include a statement of any of the user's requirements and may provide for inspection, testing, or preparation of a sample or prototype before procurement.

State - The State of Maryland acting through its authorized representative.

Subcontractor - Any person undertaking the providing of a part of the scope of work or service under the terms of the contract, by virtue of an agreement with the contractor, who, prior to such undertaking, receives the approval of the MDOT and, if applicable, the Surety.

Scope of Work or Services - shall mean the furnishings of all labor, materials, equipment, and other deliverables necessary to the successful completion of the contract and the carrying out of all the duties and obligations imposed by the contract.

2. **PREPARATION OF PROPOSAL/BID**

- A. Bidder submission shall be on the forms furnished or in the format provided by the MDOT, carefully following preparation instructions. A completed Bid/Proposal Affidavit is an essential part of the proposal submission.
- B. Offerors should give specific attention to the identification of those portions of of the Proposal which they deem to be confidential, proprietary information or trade secrets. Offeror should provide any justification of why such materials, upon request, should not be disclosed by the MDOT under the Maryland Public Information Act, Section **10-611 et seq.** of the State Government Article of the Annotated Code of Maryland. The MDOT makes the final determination of whether a document must be disclosed.

3. **SMALL BUSINESS PROCUREMENT**

If the solicitation for bid or proposal indicates that a procurement has been designated for a small business preference, the provisions of COMAR Title **21.11.01.02** pertaining to small business preferences shall apply and are incorporated herein by reference.

4. **SANCTIONS UPON IMPROPER ACTS**

- A. In the event the Contractor or any of it's officers, partners, principals, or employees, is convicted of a crime arising out of, or in connection with, the procurement of work or service to be done or payment to be made under this contract, the contract may, in the discretion of the MDOT, be terminated.
- B. Section **16-203** of State Finance and Procurement Article of the Annotated Code, and COMAR **21.08.01**, which relate to contracts with persons convicted of bribery, attempted bribery or conspiracy to bribe are incorporated into this contract by reference.
- C. Section **11-205** of State Finance and Procurement Article and COMAR **21.08.03** relating to collusion for purposes of defrauding of the State are incorporated into this contract by reference.

- D. Subtitle **08** of Title **21** of COMAR, "Disqualification, Suspension, Debarment, Reinstatement, and Sanctions" is incorporated into this contract by reference.

5. **COMPLIANCE WITH LAWS**

The Contractor hereby represents and warrants that:

- A. It is qualified to do business in the State of Maryland and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified;
- B. It is not in arrears with respect to the payment of any monies due and owing the State of Maryland, or any department or unit thereof, including, but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this contract;
- C. It shall comply with all Federal, State, and local laws, regulations and ordinances applicable to its activities and obligations under this contract; and
- D. It shall obtain, at its expense, all licenses, permits, insurance, and Government approvals, if any, necessary to the performance of its obligations under this contract.

6. **NON-DISCRIMINATION IN EMPLOYMENT**

A. Compliance with State Law and regulations

(1). State Law: The Contractor agrees:

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

- (2). Sanctions for Non-compliance: In the event of the Contractor's non-compliance with the non-discrimination provisions of this Agreement, the Department shall impose such sanctions as it may determine to be appropriate, including but not limited to:
 - (a) withholding of payment to the Contractor under the Agreement until the Contractor complies, and/or
 - (b) cancellation, termination or suspension of the Agreement in whole or in part.

B. Compliance with Federal Law

Contractors providing materials, equipment, supplies, or services to the State under this contract herewith assure the State that they are conforming to the provision of the Civil Rights Act of 1964, and Section 202 of Executive Order 11246 of the President of the United States of America as amended December 1, 1996.

The Contractor shall comply with all applicable Federal law pertaining to non-discrimination in employment.

7. **DISSEMINATION OF INFORMATION**

During the term of this contract, the Contractor shall not release any information related to the services or performance of the services under this Contract nor publish any final reports or documents without the prior written approval of the MDOT.

8. **NON-HIRING OF EMPLOYEES**

No employees 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 contract, 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.

9. **CONTINGENT FEE PROHIBITION (Revised 10/94)**

- A. The contractor, architect, or engineer 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 contractor, architect, or engineer, 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, bona fide salesperson, or commercial selling agency, any fee or other consideration contingent on the making of this Agreement.

- B. For breach or violation of this warranty the MDOT shall have the right to terminate this Agreement without liability, or, at MDOT's discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

10. **CONFLICT OF INTERST LAW:**

It is unlawful for any State officer, employee, or agent to participate personally in his official capacity through decision, approval, disapproval, recommendation, advise, or investigation in any contract or other matter in which he, his spouse, parent, minor child, brother, or sister, has any financial interest or to which any firm, corporation, association, or other organization in which he has a financial interest or in which he is serving as an officer, director, trustee, partner, or employee, or any person or organization with whom he is negotiating or has an arrangement concerning prospective employment, is a party, unless such officer, employee, or agent has previously complied with the provisions of Sections 15-501 through 15-509 of the State Government Article of the Annotated Code of Maryland.

11. **FINANCIAL DISCLOSURE**

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

12. **POLITICAL CONTRIBUTION DISCLOSURE**

The Contractor shall comply with Election Law Article, §§14-101 - 14-108, Annotated Code of Maryland, which requires that every person that enters into contracts, leases, or other agreements with the State, 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 yeas; and (2) if the contribution is made after the execution of a lease or contact, 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.

13. **PERSONAL LIABILITY OF PUBLIC OFFICIALS**

In carrying out any of the provisions of the contract, or in exercising any power or authority granted to them by or within the scope of the contract, there shall be no liability upon the MDOT, procurement officer or other authorized representatives, either personally or as officials of the State, it is being understood that in all such matters the above act solely as agents and representatives of the State.

14. **COST AND PRICE CERTIFICATION**

A. The Contractor by submitting cost or price information certifies that, to the best of its knowledge, the information submitted is accurate, complete, and current as of a mutually determined specified date prior to the conclusion of any price discussions or negotiations for:

(1) A negotiated contract, if the total contract price is expected to exceed \$100,000, or a smaller amount set by the procurement officer; or

(2) A change order or contract modification, expected to exceed \$100,000, or a smaller amount set by the procurement officer.

B. The price under this Contract and any change order or modification hereunder, including profit or fee, shall be adjusted to exclude any significant price increase occurring because the Contractor furnished cost or price information which, as of the date agreed upon between the parties, was inaccurate, incomplete, or not current.

15. **CONTRACT ADMINISTRATION**

This contract will be administered on behalf of the MDOT by the procurement officer and/or by the responsible contract administrator(s).

16. **AUTHORITY OF THE PROCUREMENT OFFICER**

A. The procurement officer and/or responsible contract administrator(s) shall decide all questions which may arise as to the quality and acceptability of work performed and as to the rate of progress of said work; all questions which may arise as to the interpretation of any or all plans and/or specifications; and all questions as to the acceptable fulfillment of the Contract on the part of the

Contractor.

- B. The procurement officer and/or responsible contract administrator(s) shall determine the amount of work performed to be paid for under the Contract.
- C. The procurement officer shall have the authority to suspend the work wholly or in part due to the failure of the Contractor to carry out provisions of the Contract.
- D. The procurement officer and/or responsible contract administrator(s) may authorize progress payments for work satisfactorily completed, subject to such retainage that the procurement officer deems appropriate.

17. **CORPORATE REGISTRATION AND TAX PAYMENT CERTIFICATION**

Corporations are required to execute a Certification of Corporation Registration and Tax Payment.

18. **INVITATION OF WORK**

The Contractor shall not commence performance of the services until it receives from the MDOT a formal, written Notice to Proceed.

19. **NOTICE TO PROCEED AND PROSECUTION OF WORK**

- A. After the contract has been executed, the MDOT will issue to the Contractor a Notice to Proceed and this notice will stipulate the date on or before which the Contractor is expected to begin work. Any preliminary work, started before receipt of the Notice to Proceed, shall be at the risk of the Contractor.
- B. The Contractor shall begin work promptly within the time specified by the procurement officer. After the work has once been started, it shall be prosecuted diligently until the entire Contract is complete.

20. **DISCREPANCIES IN CONTRACT DOCUMENTS**

In the event the Contractor discovers any discrepancies in the Contract documents, he shall immediately notify the Procurement Officer. The procurement Officer will then make such corrections and interpretations as may be deemed necessary in the best interests of MDOT and for fulfilling the intent of the Contract.

21. **CONTRACTOR INSURANCE**

Prior to the start of work on any contract, the Contractor shall submit to the

procurement officer certificate(s) of insurance indicating that he carries insurance against the risks and in the amounts specified elsewhere in the Contract.

22. **RESPONSIBILITY FOR CLAIMS AND LIABILITY**

- A. It is expressly understood that the Contractor shall indemnify and save harmless the MDOT, the Administration and its officers, agents, and employees from and against all claims, suits, judgments, expenses, actions, damages and costs of every name and description, arising out of or resulting from errors, omissions, negligent acts, negligent performance or nonperformance of the services of the Contractor or those of his subcontractors, agents, or employees under this Contract, or arising from or based on the violation of applicable Federal, State or local law, ordinance, regulation, order, or decree, whether by himself or his employees or subcontractors.
- B. Further, the Contractor shall pay any claims for personal injury, bodily injury or property damage which the Contractor is legally obligated to pay and shall indemnify the State against such claims. The Contractor shall undertake to defend any third party claim seeking those damages.

23. **MINORITY BUSINESS ENTERPRISE/AFFIRMATIVE ACTION/CONTRACT COMPLIANCE**

- A. This Contract is subject to Executive Order **01.01.1995.19**, July 17, 1995 (Code of Fair Practices). This Contract is subject to the applicable provisions of the State Finance and Procurement Article - **Title 14, Subtitle 3; COMAR Title 21.11.03** - Minority Business Enterprise Policies; and **COMAR Title 21.11.04** - Contractor's Affirmative Action Plan Review/Approval and Compliance Monitoring Process - DOT; and the provisions of **COMAR 11.01.10** which incorporates by reference the Minority Business Enterprise Program. Copies of the Minority Business Enterprise Program may be requested from the Maryland Department of Transportation, Office of Minority Business Enterprise/ Equal Opportunity, P.O. Box 8755, BWI Airport, Maryland 21240. This Contract is also subject to pertaining to Minority Business Enterprise and Affirmative Action.
- B. To the extent of any of the above laws or regulations are applicable to this Contract, they are specifically incorporated herein.

24. **COOPERATION BY CONTRACTOR**

The Contractor shall give the work and/or services the constant attention necessary to facilitate the progress thereof, and shall cooperate with the procurement officer and/or contract administrator(s) in every way possible.

25. **COOPERATION BETWEEN CONTRACTORS**

The Contractor agrees in the event of dispute as to cooperation between contractors, the procurement officer and/or contract administrator(s) will act as referee and decisions made by the procurement officer and/or contract administrator(s) will be binding. The Contractor agrees to make no claims against the MDOT for any inconvenience, delay or loss experienced because of the presence and operations of other contractors.

26. **ASSIGNMENT**

The Contractor shall not assign the whole or any part of this Contract, or any monies due or to become due under this Contract without the prior written consent of the MDOT. In case the Contractor assigns all or any part of the monies due or to become due under this contract, the instrument of assignment shall contain a clause providing that the right of the assignee in and to any monies due or to become due to the Contractor shall be subject to prior claims of all persons, firms and corporations for services rendered or materials supplied for the performance of the work called for in this contract. The MDOT is not responsible for Contractor assignments.

27. **CHANGES, ALTERATIONS OR MODIFICATIONS IN THE SERVICES**

The MDOT shall have the unilateral right, at its discretion, to change, alter or modify in writing the services provided for in this Agreement and such changes, alterations or modifications may be made even though it will result in an increase or decrease in the services of the Contractor or in the contract cost thereof.

28. **APPROVAL AUTHORITY**

This Contract and any change order or amendment thereto, is subject to the approval requirements established by the Secretary of Transportation or his designee and the Board of Public Works of Maryland. The Contract shall be considered to bind the parties hereto in accordance with the Constitution and Laws of the State of Maryland.

29. **OWNERSHIP OF DOCUMENTS**

The Contractor agrees that all data and material including, but not limited to, reports, drawings, studies, specifications, estimates, maps, photographs, dies, prints, diskettes and computations prepared by or for him under the terms of this Agreement shall at any time during the performance of the services be made available to the MDOT upon request and shall become and remain the property of the MDOT upon termination or completion of the services. The MDOT shall have the right to use same without restriction or limitation and without compensation to the Contractor other than that provided in the Contract.

30. **MULTI-YEAR CONTRACTS CONTINGENT UPON APPROPRIATIONS**

If the General Assembly fails to appropriate funds or if funds are not otherwise made available for continued performance for any fiscal period of this Contract succeeding the first fiscal period, this Contract shall be cancelled automatically as of the beginning of the fiscal year for which funds were not appropriated or otherwise made available; provided, however, that this will not affect either the State's rights or the Contractor's rights under any termination clause in this Contract. The effect of termination of the Contract hereunder will be to discharge both the Contractor and the State from future performance of the Contract, but not from their rights and obligations existing at the time of termination. The Contractor shall be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of the Contract. The State shall notify the Contractor as soon as it has knowledge that funds may not be available for the continuation of the Contract for each succeeding fiscal period beyond the first.

31. **CONTRACTOR'S INVOICES**

Contractor agrees to include on the face of all invoices billed to the State, his Federal Tax Identification or Social Security Number.

32. **OCCUPATIONAL SAFETY AND HEALTH ACT (OSHA)**

All materials, supplies, equipment or services supplied as a result of this Contract shall comply with the applicable U.S. and Maryland OSHA standards.

33. **DISPUTES**

This Contract shall be subject to the provisions of State Finance and Procurement Article Title 15, Subtitle 2 - Dispute Resolution of the Annotated Code of Maryland and COMAR 21.10 - Administrative and Civil Remedies. Pending resolution of a claim, the Contractor shall proceed diligently with the performance of the Contract in accordance with the procurement officer's decision.

34. **REMEDIES AND TERMINATION**A. **Termination for default**

If the Contractor fails to fulfill its obligations under this Contract properly and on time, or otherwise violates any provision of the Contract, the MDOT may terminate the Contract by written notice to the Contractor. The notice shall specify the acts of omission relied on as a cause for termination. All finished or unfinished supplies and services provided by the Contractor shall, at the MDOT's option, become the MDOT's property. The MDOT shall pay the Contractor fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by Contractor's breach. If the damages are more than the compensation payable to the Contractor, the Contractor will remain liable after termination and the MDOT can affirmatively collect damages. Termination, including determination of the rights and obligations of the parties, shall be governed by the provisions of COMAR, Title **21.07.01.11.B.**

B. **Termination for Convenience of the State**

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

C. **Obligations of Contractor Upon Termination**

Upon notice of termination as provided in paragraph A. and B. above, the Contractor shall:

- (1) Take immediate action to discontinue its work and demobilize its work force in an orderly manner so as to minimize the incurrence of costs.
- (2) Take such action as may be necessary to protect the property of the State of Maryland, place no further orders or subcontracts, assign to the MDOT in the manner and to the extent directed by the MDOT all of the rights, title and, if ordered by the MDOT, possession and interest of Contractor under the orders or subcontracts terminated.

- (3) Transfer title to the MDOT of all materials, equipment, data, drawings, specifications, reports, estimates and such other information accumulated by the Contractor in performing this Contract, for the cost of which the Contractor has been or will be reimbursed under this Contract.

D. **Remedies Not Exclusive**

The rights and remedies contained in this General Conditions are in addition to any other right or remedy provided by law, and the exercise thereof is not a waiver of any other right or remedy provided by law.

35. **DELAYS AND EXTENSIONS OF TIME**

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

36. **GENERAL GUARANTY**

Neither the final acceptance of the work or payment therefore nor any provision in the Contract documents nor partial or entire use of the work by the MDOT shall constitute an acceptance of work not performed in accordance with the contract documents or relieve the Contractor of liability for any express or warranties or responsibility for faulty materials or workmanship. The Contractor shall remedy any defects in the work, and pay for any damage to other work resulting from defects in his work which shall appear within a period of one (1) year from the date of final acceptance of work, unless a longer period is specified. The MDOT will give notice of observed defects with reasonable promptness.

37. **PATENT INDEMNITY**

Contractor shall indemnify, protect and save harmless the State, its officers, agents and employees from all claims growing out of any patent or copyright infringements or claims thereof pertaining to any design, drawings, specifications or other patentable or

copyrighted items used by the Contractor.

38. **GENERAL CONDITIONS PREVAILING**

In event of a conflict between these General Conditions and any other provisions of the Contract documents, these General Conditions shall prevail unless such other provision expressly provides to the contrary.

39. **INCORPORATION BY REFERENCE**

All terms and conditions under the solicitation, any amendments thereto, are made a part of this Contract.

40. **MISCELLANEOUS**

For the purpose of these General Conditions, the words Contract and Agreement are synonymous.

41. **MARYLAND LAW PREVAILS**

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

42. **RESIDENT BUSINESS PREFERENCE**

- A. Contracts are subject to the applicable provisions of COMAR Title **21.05.01.04**, which authorizes that when awarding a contract by competitive bidding, the MDOT may give a preference to the lowest responsive and responsible bid from a Maryland firm over that of a non-resident firm if the State in which the non-resident firm is located gives a resident business preference.
- B. The preference given under this Section shall be identical to the preference, through law, policy or practice, given to its residents by the State in which the non-resident firm is located.
- C. This provision shall not apply if it conflicts with any Federal grant or regulation affecting this Contract.

43. **COMPLIANCE WITH AMERICANS WITH DISABILITIES ACT (ADA)**

Contractor shall comply with the ADA, **42 USC §§ 12101 et seq.** and applicable regulations. To the extent required by the ADA, Contractor's facilities, services, and programs shall be accessible to persons with disabilities. Contractor shall bear sole

responsibility for assuring that its activities under this Agreement conform to the ADA. Contractor shall indemnify and hold the State harmless in any administrative proceeding

or other action brought pursuant to the ADA for all damages, attorney fees, litigation expenses and costs, if such action or proceeding arises from the acts of Contractor, Contractor's employees, agents or subcontractors.

44. **PAYMENT OF STATE OBLIGATIONS**

- A. Payment to the Contractor pursuant to this Contract shall be made no later than thirty (30) days after the State's receipt of a proper invoice from the Contractor. 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.
- B. A proper invoice shall include a description of the items or services provided; the date the goods were received, or the inclusive dates the services were rendered; the Contract price(s); retention, if any; the basis for the billing; the Contract or purchase order number; the Contractor's Federal Tax Identification Number or Social Security Number; the name and address of the proper invoice recipient.
- C. In order to receive payment of interest, the Contractor must submit a proper invoice for accrued interest within 30 calendar days after the payment date of the amount on which the interest is claimed to have accrued. Interest may not be claimed for more than one year following the 31st calendar day after the date that a proper invoice was received, or on amounts representing unpaid interest, or if a claim has been filed under State Finance and Procurement Article Title **15**, Subtitle **2** of the Annotated Code of Maryland.
- D. For the purpose of this Contract, an invoice amount will not be deemed due and payable if:
 - (1) The amount invoiced is inconsistent with the Contract;
 - (2) The proper invoice has not been received by the party or location specified in the Contract;
 - (3) The invoice or performance under the Contract is in dispute, or the Contractor has failed to otherwise comply with the provisions of the Contract;
 - (4) The item or services have not been accepted;
 - (5) The quantity of items delivered is less than the quantity ordered;

- (6) The items or services do not meet the quality requirements of the Contract.

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- (7) The proper invoice for the progress payment, if applicable, has not been submitted according to the schedule contained in the Agreement;
- (8) All stipulated conditions for release of the retainage, if applicable, have not been met; and
- (9) Satisfactory documentation or other evidence reasonably required by the procurement officer or by the Contract administrator(s) concerning performance under the Contract has not been submitted by the Contractor.

45. **SUSPENSION OF WORK**

The procurement officer unilaterally may order the Contractor in writing, to suspend, delay, or interrupt all or any part of the work for such period of time as he or she may determine to be appropriate for the convenience of the State.

46. **PRE-EXISTING REGULATIONS**

In accordance with the provisions of Section **11-206** of the State Finance and Procurement Article, Annotated Code of Maryland, the regulations set forth in COMAR, Title **21** State Procurement Regulations, in effect on the date of execution of this Contract are applicable to this Contract.

47. **RETENTION OF RECORDS**

The Contractor shall retain and maintain all records and documents relating to this Contract for three (3) years after final payment by 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 the State, including the procurement officer or designee, at all reasonable times.

48. **INSOLVENCY**

If the Contractor becomes insolvent, files a bankruptcy petition in any court, becomes the subject of an involuntary bankruptcy petition, makes a general assignment for the benefit of creditors, has a receiver appointed for assets, or ceases to conduct business, the Contractor shall be considered in default of the Contract. If any of these events occurs, the Contractor must immediately notify the procurement officer or designee.

49. **BOND ASSISTANCE PROGRAM**

Assistance in obtaining bid, performance, and payment bonds may be available to

EXHIBIT A

qualifying small businesses through the Maryland Small Business Development Financing Authority (MSBDFA). MSBDFA can directly issue bid, performance, or payment bonds up to \$750,000.

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Questions regarding the bonding assistance program should be referred to:

Maryland Department of Business and Economic Development
Maryland Small Business Development Financing Authority
217 E. Redwood St., 22nd Floor
Baltimore, MD 21202
(410) 767-6359

CONTRACT AFFIDAVIT

CONTRACT AFFIDAVIT

A. AUTHORITY

I HEREBY AFFIRM THAT:

I, _____ (print name), possess the legal authority to make this Affidavit.

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 \$100,000 or more

shall, within 30 days of the time when the aggregate value of the contracts, leases, or other agreements reaches \$100,000, file with the Secretary of State of Maryland certain specified information to include disclosure of beneficial ownership of the business.

D. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

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

E. DRUG AND ALCOHOL FREE WORKPLACE

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

I CERTIFY THAT:

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

(2) By submission of its bid or offer, 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 _____, 20____, and executed by me for the purpose of obtaining the contract to which this Exhibit is attached remains true and correct in all respects as if made as of the date of this Contract Affidavit and as if fully set forth herein.

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

Date: _____

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

_____ (signature of Authorized Representative and Affiant)

HIRING AGREEMENT

EXHIBIT C

**MARYLAND
DEPARTMENT OF HUMAN RESOURCES
HIRING AGREEMENT**

This Hiring Agreement (“Agreement”) is effective this _____ day of _____, 20__, and is entered into by and between the Maryland Department of Human Resources (“Department”) and

_____ (the “Contractor”), pursuant to State Finance and Procurement Article, § 13-224, Annotated Code of Maryland, arising out of a contract for services between Contractor and _____ (“Entity”), contract number _____ (“Procurement Contract”).

WITNESSETH:

WHEREAS, the Department has identified the Procurement Contract as eligible for execution of this Agreement; and

WHEREAS, the Contractor, Department and the Entity, have discussed and reviewed an inventory of job openings that exists or the Contractor is likely to fill during the term of the Procurement Contract in the State of Maryland; and

WHEREAS, the Contractor, Department and the Entity have discussed and reviewed the job descriptions, locations, and skill requirements for those positions; and

WHEREAS, Department and the Entity have identified and discussed with the Contractor the workforce related benefits and support services available to Contractor as a result of the Agreement, including:

- Medicaid coverage for the employee and the employee’s dependents for up to one year after placement in the job;
- Maryland Children’s Health Program (MCHP) medical coverage for the employee’s dependents after one year of employment for as long as eligibility is met;
- Food Stamps for the employee and the employee’s dependents for as long as eligibility requirements are met;
- Child Care subsidies for the employee’s dependents for up to one year after employment as long as eligibility requirements are met;
- Transportation subsidies for the employee for a period of time after employment;

- Other retention services including counseling on an as needed basis; and
- Assistance with claiming tax credits for hiring and retaining Candidates.

WHEREAS, the Contractor and Department agree to work cooperatively to develop responses to the workforce development requirements faced by the Contractor and to promote the hiring of the Department's current and former Family Investment Program ("FIP") recipients, their children, foster youth, and child support obligors ("Candidates") by the Contractor.

NOW THEREFORE, upon valuable consideration received, the Contractor and the Department specifically agree as follows:

A. The Contractor will:

1. Notify the Department of all job openings that exists or result from the Procurement Contract.
2. Declare the Department the "first source" in identifying and hiring Candidates for those job openings.
3. Work with Department as necessary and appropriate to develop necessary training programs which enable Candidates to qualify for and secure the jobs.
4. Give first preference and first consideration, to the extent permitted by law and any existing labor agreements, to Candidates that Department refers.
5. Agree to give Candidates referred to the Contractor by the Department priority in the filling of a job opening so long as the Candidate meets the qualifications of the position and the Department refers qualified candidates within three (3) working days.
6. Provide Department with feedback regarding the disposition of all referrals made, to include the progress and employment status of those Candidates who are hired, or an explanation of why any such Candidate was not hired or considered qualified.
7. Designate a specific contact person who will:
 - provide additional information regarding "first source" jobs and clarify their requirements;
 - receive Department referrals, and
 - provide feedback to a Department account representative upon request regarding the dispositions of those referrals as well as the progress/employment status of those candidates hired by the Contractor.

B. That Department will designate an account representative who will:

1. Process all the Contractor's job notices in accordance with this Agreement.
2. Refer screened and qualified Candidates to the Contractor's designated contact person.
3. Make referrals in a timely manner, that is, within three (3) working days after receiving the Contractor's job opening notices.
4. Assist in the development of any mutually agreed upon training and/or internship programs that will better prepare the Candidates for employment with the Contractor.
5. Provide follow-up and post hire transitional/supportive services, (e.g. Medicaid, MCHP, Food Stamps, child care, transportation, retention counseling, and access to tax credits) as necessary and appropriate.
6. Insure that the Contractor is advised of available subsidies and provide any assistance to the Contractor to obtain those subsidies.
7. Report the Contractor to the procurement Entity if the Contractor does not fulfill its responsibilities in accordance with this Agreement.
8. Review and evaluate the effectiveness of this undertaking with the Contractor and make modifications as necessary and appropriate.

C. Disclaimers:

Nothing in this Agreement shall cause the Contractor, except as explicitly provided in Section A above, to alter existing hiring practices or to hire an individual into a position for which he/she is not qualified.

D. Non-discrimination:

The Contractor agrees that there shall be no discrimination against any employee or candidate for employment because of race, color, sex, religion, national origin, age, sexual preference, disability or any other factor specified in Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1983 and subsequent amendments and that they will comply with all other pertinent federal and State laws regarding discrimination.

E. MARYLAND LAW PREVAILS

The place of performance of this Agreement shall be the State of Maryland. This Agreement shall be construed, interpreted, and enforced according to the laws and regulations of the State of Maryland, including approval of the Board of Public Works where appropriate.

F. EFFECTIVE DATE:

This Agreement shall take effect on the date of the aforementioned Procurement Contract, and it shall remain in effect for the duration of the Procurement Contract, including any option periods or extensions.

IN WITNESS, WHEREOF, the Contractor and Department have affixed their signatures below:

FOR THE CONTRACTOR

FOR THE DEPARTMENT

SIGNATURE

SIGNATURE

TITLE

TITLE

DATE

DATE

**Approved as to form and Legal Sufficiency by the
Department Attorney General's Office**

MBE FORMS A-D

MDOT MBE FORM A
STATE-FUNDED CONTRACTS
CERTIFIED MBE UTILIZATION AND FAIR SOLICITATION AFFIDAVIT
PAGE 1 OF 2

THIS AFFIDAVIT MUST BE INCLUDED WITH THE BID/PROPOSAL. IF THE BIDDER/OFFEROR FAILS TO ACCURATELY COMPLETE AND SUBMIT THIS AFFIDAVIT AS REQUIRED, THE BID SHALL BE DEEMED NOT RESPONSIVE OR THE PROPOSAL NOT SUSCEPTIBLE OF BEING SELECTED FOR AWARD.

In connection with the bid/proposal submitted in response to Solicitation No. _____, I affirm the following:

1. MBE Participation (PLEASE CHECK ONLY ONE)

I have met the overall certified Minority Business Enterprise (MBE) participation goal of _____ percent (_____ %) and the following subgoals, if applicable:
_____ percent (_____ %) for African American-owned MBE firms
_____ percent (_____ %) for Hispanic American-owned MBE firms
_____ percent (_____ %) for Asian American-owned MBE firms
_____ percent (_____ %) for Women-owned MBE firms

I agree that these percentages of the total dollar amount of the Contract, for the MBE goal and subgoals (if any), will be performed by certified MBE firms as set forth in the MBE Participation Schedule - Part 2 of the MDOT MBE Form B (State-Funded Contracts).

OR

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. Within 10 business days of receiving notice that our firm is the apparent awardee or as requested by the Procurement Officer, I will submit a written waiver request and all required documentation in accordance with COMAR 21.11.03.11. For a partial waiver request, I agree that certified MBE firms will be used to accomplish the percentages of the total dollar amount of the Contract, for the MBE goal and subgoals (if any), as set forth in the MBE Participation Schedule - Part 2 of the MDOT MBE Form B (State-Funded Contracts).

2. 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 business days of receiving such notice:
(a) Outreach Efforts Compliance Statement (MDOT MBE Form C - State-Funded Contracts);
(b) Subcontractor Project Participation Statement (MDOT MBE Form D - State-Funded Contracts);
(c) MBE Waiver Request documentation per COMAR 21.11.03.11 (if waiver was requested); and
(d) Any other documentation required by the Procurement Officer to ascertain bidder's responsibility/ offeror's susceptibility of being selected for award in connection with the certified MBE participation goal and subgoals, if any.

I acknowledge that if I fail to return each completed document (in 2 (a) through (d)) within the required time, the Procurement Officer may determine that I am not responsible and therefore not eligible for contract award or that the proposal is not susceptible of being selected for award.

MDOT MBE FORM A
STATE-FUNDED CONTRACTS
CERTIFIED MBE UTILIZATION AND FAIR SOLICITATION AFFIDAVIT
PAGE 2 OF 2

3. 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.

4. Products and Services Provided by MBE firms

I hereby affirm that the MBEs are only providing those products and services for which they are MDOT certified.

I solemnly affirm under the penalties of perjury that the information in this affidavit is true to the best of my knowledge, information and belief.

Company Name

Signature of Representative

Address

Printed Name and Title

City, State and Zip Code

Date

MDOT MBE FORM B
STATE-FUNDED CONTRACTS
MBE PARTICIPATION SCHEDULE

PART 1 – INSTRUCTIONS FOR MBE PARTICIPATION SCHEDULE

PARTS 2 AND 3 MUST BE INCLUDED WITH THE BID/PROPOSAL. IF THE BIDDER/OFFEROR FAILS TO ACCURATELY COMPLETE AND SUBMIT PART 2 WITH THE BID/PROPOSAL AS REQUIRED, THE BID SHALL BE DEEMED NOT RESPONSIVE OR THE PROPOSAL SHALL BE DEEMED NOT SUSCEPTIBLE OF BEING SELECTED FOR AWARD.

PAGE 1 OF 2

***** STOP *****

FORM INSTRUCTIONS
PLEASE READ BEFORE COMPLETING THIS FORM

1. Please refer to the Maryland Department of Transportation (MDOT) MBE Directory at www.mdot.state.md.us to determine if a firm is certified for 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, please visit www.naics.com. 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.
2. In order to be counted for purposes of achieving the MBE participation goals, the firm must be certified for that specific NAICS (“MBE” for State-funded projects designation after NAICS Code). **WARNING:** If the firm’s NAICS Code is in **graduated status**, such services/products **will not be counted** for purposes of achieving the MBE participation goals. Graduated status is clearly identified in the MDOT Directory (such graduated codes are designated with the word graduated after the appropriate NAICS Code).
3. Examining the NAICS Code is the **first step** in determining whether an MBE firm is certified and eligible to receive MBE participation credit for the specific products/services to be supplied or performed under the contract. The **second step** is to determine whether a firm’s Products/Services Description in the MBE Directory includes the products to be supplied and/or services to be performed that are being used to achieve the MBE participation goals.
4. 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 at mbe@mdot.state.md.us.
5. The Contractor’s subcontractors are considered second-tier subcontractors. Third-tier contracting used to meet an MBE goal is to be considered the exception and not the rule. The following two conditions must be met before MDOT, its Modal Administrations and the Maryland Transportation Authority may approve a third-tier contracting agreement: (a) the bidder/offeror must request in writing approval of each third-tier contract arrangement, and (b) the request must contain specifics as to why a third-tier contracting arrangement should be approved. These documents must be submitted with the bid/proposal in Part 2 of this MBE Participation Schedule.
6. For each MBE firm that is being used as a supplier/wholesaler/regular dealer/broker/manufacturer, please follow these instructions for calculating the **amount of the subcontract for purposes of achieving the MBE participation goals:**
 - A. Is the firm certified as a broker of the products/supplies? If the answer is YES, please continue to Item C. If the answer is NO, please continue to Item B.
 - B. Is the firm certified as a supplier, wholesaler, regular dealer, or manufacturer of such products/supplies? If the answer is YES, continue to Item D. If the answer is NO, continue to Item C **only** if the MBE firm is certified to perform trucking/hauling services under NAICS Codes 484110, 484121, 484122, 484210, 484220 and 484230. If the answer is NO and the firm is not certified under these NAICS Codes, then **no** MBE participation credit will be given for the supply of these products.
 - C. For purposes of achieving the MBE participation goal, you may count **only** the amount of any reasonable fee that the MBE firm will receive for the provision of such products/supplies - **not** the total subcontract amount or the value (or a percentage thereof) of such products and/or supplies. For Column 3 of the MBE Participation Schedule, please divide the amount of any reasonable fee that the MBE firm will receive for the provision of such products/services by the total Contract value and insert the percentage in Line 3.1.

MDOT MBE FORM B
STATE-FUNDED CONTRACTS
MBE PARTICIPATION SCHEDULE

PART 1 – INSTRUCTIONS FOR MBE PARTICIPATION SCHEDULE

PAGE 2 OF 2

- D. Is the firm certified as a manufacturer (refer to the firm’s NAICS Code and specific description of products/services) of the products/supplies to be provided? If the answer is NO, please continue to Item E. If the answer is YES, for purposes of achieving the MBE participation goal, you may count the total amount of the subcontract. For Column 3 of the MBE Participation Schedule, please divide the total amount of the subcontract by the total Contract value and insert the percentage in Line 3.1.
- E. Is the firm certified as a supplier, wholesaler and/or regular dealer? If the answer is YES and the MBE firm is furnishing and installing the materials and is certified to perform these services, please divide the total subcontract amount (including full value of supplies) by the total Contract value and insert the percentage in Line 3.1. If the answer is YES and the MBE firm is only being used as a supplier, wholesaler and/or regular dealer or is not certified to install the supplies/materials, for purposes of achieving the MBE participation goal, you may only count sixty percent (60%) of the value of the subcontract for these supplies/products (60% Rule). To apply the 60% Rule, first divide the amount of the subcontract for these supplies/products only (not installation) by the total Contract value. Then, multiply the result by sixty percent (60%) and insert the percentage in Line 3.2.
7. For each MBE firm that **is not** being used as a supplier/wholesaler/regular dealer/broker/manufacturer, to calculate the **amount of the subcontract for purposes of achieving the MBE participation goals**, divide the total amount of the subcontract by the total Contract value and insert the percentage in Line 3.1.

Example: \$ 2,500 (Total Subcontract Amount) ÷ \$10,000 (Total Contract Value) x 100 = 25%

8. **WARNING:** The percentage of MBE participation, computed using the percentage amounts in Column 3 for all of the MBE firms listed in Part 2, MUST at least equal the MBE participation goal and subgoals (if applicable) as set forth in MDOT MBE Form A – State-Funded Contracts for this solicitation. If a bidder/offeror is unable to achieve the MBE participation goal and/or any subgoals (if applicable), then the bidder/offeror must request a waiver in Form A or the bid will be deemed not responsive, or the proposal not susceptible of being selected for award. You may wish to use the Goal/Subgoal Worksheet shown below to assist you in calculating the percentages and confirming that you have met the applicable MBE participation goal and subgoals (if any).

GOAL/SUBGOAL WORKSHEET	
Total African American Firm Participation (Add percentages listed for African American-Owned Firms in Column 3 of MBE Participation Schedule)	(A) _____%
Total Hispanic American Firm Participation (Add percentages listed for Hispanic American-Owned Firms in Column 3 of MBE Participation Schedule)	(B) _____%
Total Asian American Firm Participation (Add percentages listed for Asian American-Owned Firms in Column 3 of MBE Participation Schedule)	(C) _____%
Total Women-Owned Firm Participation (Add percentages listed for Women-Owned Firms in Column 3 of MBE Participation Schedule)	(D) _____%
Total for all other MBE Firms (Add percentages for firms listed as Other MBE Classification in Column 3 of the MBE Participation Schedule)	(E) _____%
Total MBE Firm Participation (Add percentages listed for all MBE Firms in Column 3 of MBE Participation Schedule)	(F) _____%
The percentage amount in Box F should be equal to the sum of the percentage amounts in Boxes A through E.	

MDOT MBE FORM B
STATE-FUNDED CONTRACTS
MBE PARTICIPATION SCHEDULE

PART 2 – MBE PARTICIPATION SCHEDULE

PARTS 2 AND 3 MUST BE INCLUDED WITH THE BID/PROPOSAL. IF THE BIDDER/OFFEROR FAILS TO ACCURATELY COMPLETE AND SUBMIT PART 2 WITH THE BID/PROPOSAL AS REQUIRED, THE BID SHALL BE DEEMED NOT RESPONSIVE OR THE PROPOSAL SHALL BE DEEMED NOT SUSCEPTIBLE OF BEING SELECTED FOR AWARD.

PAGE ___ OF ___

Prime Contractor	Project Description	Solicitation Number

LIST INFORMATION FOR EACH CERTIFIED MBE SUBCONTRACTOR YOU AGREE TO USE TO ACHIEVE THE MBE PARTICIPATION GOAL AND SUBGOALS, IF ANY.

COLUMN 1	COLUMN 2	COLUMN 3
		Unless the bidder/offeror requested a waiver in MDOT MBE Form A – State Funded Contracts for this solicitation, the cumulative MBE participation for all MBE firms listed herein must equal at least the MBE participation goal <u>and</u> subgoals set forth in Form A.
NAME OF MBE SUBCONTRACTOR AND TIER	CERTIFICATION NO. AND MBE CLASSIFICATION	FOR PURPOSES OF ACHIEVING THE MBE PARTICIPATION GOAL AND SUBGOALS, refer to sections 6 and 7 in Part 1 - Instructions. State the percentage amount of the products/services in Line 3.1, except for those products or services where the DBE firm is being used as a wholesaler, supplier, or regular dealer. For items of work where the MBE firm is being used as a supplier, wholesaler and/or regular dealer, complete Line 3.2 using the 60% Rule.
<input type="checkbox"/> Please check if MBE firm is a third-tier contractor (if applicable). Please submit written documents in accordance with Section 5 of Part 1 - Instructions	Certification Number: _____ (If dually certified, check only one box.) <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 _____	3.1. <u>TOTAL PERCENTAGE TO BE PAID TO THE SUBCONTRACTOR (STATE THIS PERCENTAGE AS A PERCENTAGE OF THE TOTAL CONTRACT VALUE- EXCLUDING PRODUCTS/SERVICES FROM SUPPLIERS, WHOLESALERS OR REGULAR DEALERS).</u> _____ % (Percentage for purposes of calculating achievement of MBE Participation goal and subgoals, if any) 3.2 <u>TOTAL PERCENTAGE TO BE PAID TO THE SUBCONTRACTOR FOR ITEMS OF WORK WHERE THE MBE FIRM IS BEING USED AS A SUPPLIER, WHOLESALER AND/OR REGULAR DEALER) (STATE THE PERCENTAGE AS A PERCENTAGE OF THE TOTAL CONTRACT VALUE AND THEN APPLY THE 60% RULE PER SECTION 6(E) IN PART 1 - INSTRUCTIONS).</u> _____ % Total percentage of Supplies/Products x _____ 60% (60% Rule) _____ % (Percentage for purposes of calculating achievement of MBE Participation goal and subgoals, if any)

Please check if Continuation Sheets are attached.

MDOT MBE FORM B
STATE-FUNDED CONTRACTS
MBE PARTICIPATION SCHEDULE
CONTINUATION SHEET

PAGE ___ OF ___

Prime Contractor	Project Description	Solicitation Number

LIST INFORMATION FOR EACH CERTIFIED MBE SUBCONTRACTOR YOU AGREE TO USE TO ACHIEVE THE MBE PARTICIPATION GOAL AND SUBGOALS, IF ANY.

COLUMN 1	COLUMN 2	COLUMN 3
		<p>Unless the bidder/offeror requested a waiver in MDOT MBE Form A – State Funded Contracts for this solicitation, the cumulative MBE participation for all MBE firms listed herein must equal at least the MBE participation goal <u>and</u> subgoals set forth in Form A.</p>
<p>NAME OF MBE SUBCONTRACTOR AND TIER</p>	<p>CERTIFICATION NO. AND MBE CLASSIFICATION</p>	<p>FOR PURPOSES OF ACHIEVING THE MBE PARTICIPATION GOAL AND SUBGOALS, refer to Sections 6 and 7 in Part 1 - Instructions. State the percentage amount of the products/services in Line 3.1, except for those products or services where the DBE firm is being used as a wholesaler, supplier, or regular dealer. For items of work where the MBE firm is being used as a supplier, wholesaler and/or regular dealer, complete Line 3.2 using the 60% Rule.</p>
<p><input type="checkbox"/> Please check if MBE firm is a third-tier contractor (if applicable). Please submit written documents in accordance with Section 5 of Part 1 - Instructions</p>	<p>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>3.1. TOTAL PERCENTAGE TO BE PAID TO THE SUBCONTRACTOR (STATE THIS PERCENTAGE AS A PERCENTAGE OF THE TOTAL CONTRACT VALUE- EXCLUDING PRODUCTS/SERVICES FROM SUPPLIERS, WHOLESALERS OR REGULAR DEALERS).</p> <p>_____ % (Percentage for purposes of calculating achievement of MBE Participation goal and subgoals, if any)</p> <p>3.2 TOTAL PERCENTAGE TO BE PAID TO THE SUBCONTRACTOR FOR ITEMS OF WORK WHERE THE MBE FIRM IS BEING USED AS A SUPPLIER, WHOLESALER AND/OR REGULAR DEALER) (STATE THE PERCENTAGE AS A PERCENTAGE OF THE TOTAL CONTRACT VALUE AND THEN APPLY THE 60% RULE PER SECTION 6(E) IN PART 1 - INSTRUCTIONS).</p> <p>_____ % Total percentage of Supplies/Products</p> <p>x _____ 60% (60% Rule)</p> <p>_____ % (Percentage for purposes of calculating achievement of MBE Participation goal and subgoals, if any)</p>

Please check if Continuation Sheets are attached.

MDOT MBE FORM B
STATE-FUNDED CONTRACTS
MBE PARTICIPATION SCHEDULE

PART 3 – CERTIFICATION FOR MBE PARTICIPATION SCHEDULE

PARTS 2 AND 3 MUST BE INCLUDED WITH THE BID/PROPOSAL
AS DIRECTED IN THE INVITATION TO BID/ REQUEST FOR PROPOSALS.

I hereby affirm that I have reviewed the Products and Services Description (specific product that a firm is certified to provide or areas of work that a firm is certified to perform) set forth in the MDOT MBE Directory for each of the MBE firms listed in Part 2 of this MBE Form B for purposes of achieving the MBE participation goals and subgoals that were identified in the MBE Form A that I submitted with this solicitation, and that the MBE firms listed are only performing those products/services/areas of work for which they are certified. I also hereby affirm that I have read and understand the form instructions set forth in Part 1 of this MBE Form B.

The undersigned Prime Contractor hereby certifies and agrees that they have 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 or proposal and:

- (1) fail to request, receive, or otherwise obtain authorization from the certified minority business enterprise to identify the certified minority business enterprise in its bid or proposal;
- (2) fail to notify the certified minority business enterprise before execution of the contract of its inclusion of the bid or 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 or proposal.

I solemnly affirm under the penalties of perjury that the contents of Parts 2 and 3 of MDOT MBE Form B are true to the best of my knowledge, information and belief.

Company Name

Signature of Representative

Address

Printed Name and Title

City, State and Zip Code

Date

MDOT MBE FORM C
STATE-FUNDED CONTRACTS
OUTREACH EFFORTS COMPLIANCE STATEMENT

In conjunction with the offer/proposal submitted in response to Solicitation No. _____, I state the following:

1. Bidder/Offeror took the following efforts to identify subcontracting opportunities in these specific work categories:

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

3. Bidder/Offeror made the following attempts to personally contact the solicited MBE firms:

4. Please Check One:

- This project does not involve bonding requirements.
- Bidder/Offeror assisted MBE firms to fulfill or seek waiver of bonding requirements. (DESCRIBE EFFORTS)

5. Please Check One:

- Bidder/Offeror did attend the pre-bid/pre-proposal meeting/conference.
- No pre-bid/pre-proposal meeting/conference was held.
- Bidder/Offeror did not attend the pre-bid/pre-proposal meeting/conference.

Company Name

Signature of Representative

Address

Printed Name and Title

City, State and Zip Code

Date

MDOT MBE FORM D

STATE-FUNDED CONTRACTS

MBE SUBCONTRACTOR PROJECT PARTICIPATION AFFIDAVIT

IF THE BIDDER/OFFEROR FAILS TO RETURN THIS AFFIDAVIT WITHIN THE REQUIRED TIME, THE PROCUREMENT OFFICER MAY DETERMINE THAT THE BIDDER/OFFEROR IS NOT RESPONSIBLE AND THEREFORE NOT ELIGIBLE FOR CONTRACT AWARD OR THAT THE PROPOSAL IS NOT SUSCEPTIBLE OF BEING SELECTED FOR AWARD. SUBMIT ONE FORM FOR EACH CERTIFIED MBE FIRM LISTED IN THE MBE PARTICIPATION SCHEDULE. BIDDERS/OFFERORS ARE HIGHLY ENCOURAGED TO SUBMIT FORM D PRIOR TO THE TEN (10) DAY DEADLINE.

Provided that _____ (Prime Contractor's Name) is awarded the State contract in conjunction with Solicitation No. _____, such Prime Contractor will enter into a subcontract with _____ (Subcontractor's Name) committing to participation by the MBE firm _____ (MBE Name) with MDOT Certification Number _____ (if subcontractor previously listed is also the MBE firm, please restate name and provide MBE Certification Number) which will receive at least \$_____ or ____% (Total Subcontract Amount/Percentage) for performing the following products/services for the Contract:

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

I solemnly affirm under the penalties of perjury that the information provided in this MBE Subcontractor Project Participation Affidavit is true to the best of my knowledge, information and belief. I 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.

PRIME CONTRACTOR	SUBCONTRACTOR (SECOND-TIER)	SUBCONTRACTOR (THIRD-TIER)
Signature of Representative: _____	Signature of Representative: _____	Signature of Representative: _____
Printed Name and Title: _____ _____	Printed Name and Title: _____ _____	Printed Name and Title: _____ _____
Firm's Name: _____	Firm's Name: _____	Firm's Name: _____
Federal Identification Number: _____	Federal Identification Number: _____	Federal Identification Number: _____
Address: _____ _____	Address: _____ _____	Address: _____ _____
Telephone: _____	Telephone: _____	Telephone: _____
Date: _____	Date: _____	Date: _____

IF MBE FIRM IS A THIRD-TIER SUBCONTRACTOR, THIS FORM MUST ALSO BE EXECUTED BY THE SECOND-TIER SUBCONTRACTOR THAT HAS THE SUBCONTRACT AGREEMENT WITH THE MBE FIRM.

CONFLICT OF INTEREST AFFIDAVIT

EXHIBIT E
CONFLICT OF INTEREST AFFIDAVIT AND DISCLOSURE

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

B. "Person" has the meaning stated in COMAR 21.01.02.01B(64) and includes a bidder, offeror, contractor, consultant, or subcontractor or subconsultant at any tier, and also includes an employee or agent of any of them if the employee or agent has or will have the authority to control or supervise all or a portion of the work for which a bid or offer is made.

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

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

E. The bidder or offeror agrees that if an actual or potential conflict of interest arises after the date of this affidavit, the bidder or 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 bidder or 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)

BID PROPOSAL AFFIDAVIT

EXHIBIT F
Bid/Proposal Affidavit

A. AUTHORITY

I HEREBY AFFIRM THAT:

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

B. CERTIFICATION REGARDING COMMERCIAL NONDISCRIMINATION

The undersigned bidder hereby certifies and agrees that the following information is correct: In preparing its bid on this project, the bidder has considered all 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, or on the basis of 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 submitted by the bidder on this project, and terminate any contract awarded based on the bid. As part of its bid or proposal, the bidder herewith submits a list of all instances within the past 4 years where there has been a final adjudicated determination in a legal or administrative proceeding in the State of Maryland that the bidder 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 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 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 or proposal and:

- (1) Fail to request, receive, or otherwise obtain authorization from the certified minority business enterprise to identify the certified minority proposal;
- (2) Fail to notify the certified minority business enterprise before execution of the contract of its inclusion in the bid or 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 or 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 submitted by the bidder on this project, and terminate any contract awarded based on the bid.

B-2. Certification Regarding Veteran-Owned Small Business Enterprises. The undersigned bidder 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 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 21.11.12; or

(6) Establish, knowingly aid in the establishment of, or exercise control over a business found to have violated a provision of §B-2(1) — (5) of this regulation.

C. AFFIRMATION REGARDING BRIBERY CONVICTIONS

I FURTHER AFFIRM THAT:

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

D. AFFIRMATION REGARDING OTHER CONVICTIONS

I FURTHER AFFIRM THAT:

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

(1) Been convicted under state or federal statute of:

(a) A criminal offense incident to obtaining, attempting to obtain, or performing a public or private contract; or

(b) Fraud, embezzlement, theft, forgery, falsification or destruction of records or receiving stolen property;

(2) Been convicted of any criminal violation of a state or federal antitrust statute;

(3) Been convicted under the provisions of Title 18 of the United States Code for violation of the Racketeer Influenced and Corrupt Organization Act, 18 U.S.C. §1961 et seq., or the Mail Fraud Act, 18 U.S.C. §1341 et seq., for acts in connection with the submission of bids or 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 or 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; or

(9) 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)—(8) above, except as follows (indicate reasons why the affirmations cannot be given, and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of the

person(s) involved and their current positions and responsibilities with the business, and the status of any debarment):

E. AFFIRMATION REGARDING DEBARMENT

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities, including obtaining or performing contracts with public bodies, has ever been suspended or debarred (including being issued a limited denial of participation) by any public entity, except as follows (list each debarment or suspension providing the dates of the suspension or debarment, the name of the public entity and the status of the proceedings, the name(s) of the person(s) involved and their current positions and responsibilities with the business, the grounds of the debarment or suspension, and the details of each person's involvement in any activity that formed the grounds of the debarment or suspension).

F. AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES

I FURTHER AFFIRM THAT:

(1) The business was not established and it 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. SUB-CONTRACT 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 or offer that is being submitted;

(2) In any manner, directly or indirectly, entered into any agreement of any kind to fix the bid price or price proposal of the bidder or 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 or offer 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, the State Department of Assessments and Taxation, and the 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. 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 or 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.

Date: _____

By: _____ (print name of Authorized Representative and Affiant)

_____ (signature of Authorized Representative and Affiant)

PERFORMANCE BOND

**EXHIBIT G
PERFORMANCE BOND FORM**

STATE OF MARYLAND
MARYLAND DEPARTMENT OF TRANSPORTATION
PERFORMANCE BOND

PENAL SUM OF THIS PAYMENT BOND (Express in words and figures. Sum shall equal total amount of Contract Price)	DESCRIPTION OF CONTRACT Contract Number: Contract Name or Description:
DATE OF BOND (Shall be no later than date on Contract)	DATE OF CONTRACT (To be filled in by the Administration)
State of Maryland by and through the following Administration acting for the Maryland Department of Transportation: <p align="center">MARYLAND TRANSIT ADMINISTRATION</p>	

KNOW ALL MEN BY THESE PRESENTS, That we, the principal named below and Surety named below, being authorized to do business in Maryland, and having business addresses as shown below are held and firmly bound unto the obligee named above in the Penal Sum of this Performance Bond stated above, for the payment of which Penal Sum we bind ourselves, our heirs, executors, administrators, personal representatives, successors, and assigns, jointly and severally, firmly by these presents. However, where Surety is composed of corporations acting as co-sureties, we, the co-sureties, bind ourselves, our successors and assigns, in such Penal Sum jointly and severally as well as severally only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each co-surety binds itself, jointly and severally with the Principal, for the payment of such sum as appears above its name below, but if no limit of liability is indicated, the limit of such liability shall be the full amount of the Penal Sum.

WHEREAS, Principal has entered into or will enter into a contract with the State of Maryland, by and through the Administration named above acting for the State of Maryland, which contract is described and dated as shown above, and incorporated herein by reference. The contract and all items incorporated into the contract, together with any and all changes, extensions of time, alterations, modifications, or additions to the contract or to the work to be performed thereunder or to the Plans, Specifications, and Special Provisions, or any of them, or to any other items incorporated into the contract shall hereinafter be referred to as "the Contract".

WHEREAS, it is one of the conditions precedent to the final award of the Contract that these presents be executed.

NOW, THEREFORE, during the original term of said Contract, during any extensions thereto that may be granted by the Administration, and during the guarantee and warranty period, if any, required under the Contract, unless otherwise stated therein, this Performance Bond shall remain in full force and effect unless and until the following terms and conditions are met:

1. Principal shall well and truly perform the Contract; and
2. Principal and Surety shall comply with the terms and conditions contained in this Performance Bond.

Whenever Principal shall be declared by the Administration to be in default under the Contract, the Surety may, within fifteen (15) days after notice of default from the Administration, notify the Administration of its election to either promptly proceed to remedy the default or promptly proceed to complete the Contract in accordance with and subject to its terms and conditions. In the event the Surety does not elect to exercise either of the above stated options, then the Administration thereupon shall have the remaining contract work completed, Surety to remain liable hereunder for all expenses of completion up to but not exceeding the penal sum stated above.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the work to be performed thereunder or the Specifications accompanying the same shall in any way affect its obligations on this Performance Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the work or to the Specifications.

This Performance Bond shall be governed by and construed in accordance with the laws of the State of Maryland and any reference herein to Principal or Surety in the singular shall include all entities in the plural who or which are signatories under the Principal or Surety heading below.

IN WITNESS WHEREOF, Principal and Surety have set their hands and seals to this Performance Bond. If any individual is a signatory under the Principal heading below, then each such individual has signed below on his or her own behalf, has set forth below the name of the firm, if any, in whose name he or she is doing business, and has set forth below his or her title as a sole proprietor. If any partnership or joint venture is a signatory under the Principal heading below, then all members of each such partnership or joint venture have signed below, each member has set forth below the name of the partnership or joint venture, and each member has set forth below his or her title as a general partner, limited partner, or member of joint venture, whichever is applicable. If any corporation is a signatory under the Principal or Surety heading below, then each such corporation has caused the following: the corporation's name to be set forth below, a duly authorized representative of the corporation to sign below on behalf of the corporation, a duly authorized representative of the corporation to affix below the corporation's seal and each such duly authorized representative to sign below and to set forth below his or her title as a representative of the corporation. If any individual acts as a witness to any signature below, then each such individual has signed below and has set forth below his or her title as a witness. All of the above has been done as of the Date of Bond shown above.

FILL IN BELOW WHERE APPLICABLE. PLEASE TYPE OR PRINT ALL INFORMATION TO BE FILLED IN BELOW, EXCEPT WHERE A SIGNATURE IS INDICATED.

PRINCIPAL	
1. Firm Name: Address: Signature: _____ Name & Title: _____ Attest or Witness: _____ (Signature) Name & Title: _____	CORPORATE SEAL State of Incorporation: _____
2. Firm Name: Address: Signature: _____ Name & Title: _____ Attest or Witness: _____ (Signature) Name & Title: _____	CORPORATE SEAL State of Incorporation: _____
3. Firm Name: Address: Signature: _____ Name & Title: _____ Attest or Witness: _____ (Signature) Name & Title: _____	CORPORATE SEAL State of Incorporation: _____

BID PROPOSAL FORM

EXHIBIT H
BID PROPOSAL FORM
Bus Shelter Installation and Advertising Services

COMPANY NAME: _____

ADDRESS: _____

PHONE: _____ FAX: _____

EMAIL: _____

TO MTA Contracting Office:

The undersigned agree to provide all supervision, labor, materials, maintenance, as necessary and incidental, to erect, install, maintain, operate, sell and post advertisements for a Bus Shelter Installation and Advertising Services Program for the MTA. The undersigned agrees to pay to the MTA **the greater of the following**:

The Percentage, _____% of the gross advertising revenues

OR

A Minimum Guarantee of \$ _____ per Bus Shelter Month,

for the first year of the agreement,

The guarantee shall be adjusted annually for the most current Baltimore Region C.P.I. for each subsequent year of the term of the contract.

A Bus Shelter Month is defined as a bus shelter (authorized for advertising) that is available for advertising for one month.

(Signature of Authorized Agent)

(Date)

(Printed Name)

(Date)

REVENUES

Attachment A: Revenues – net revenues received by contractor.

2011	4 th Quarter	Oct. – Dec.	\$167,983.46
	3 rd Quarter	July – Sept.	\$157,904.60
	2 nd Quarter	April - June	\$193,722.11
	1 st Quarter	Jan. – March	\$238,933.20
2010	4 th Quarter		\$336,954.92
	3 rd Quarter		\$263,723.55
	2 nd Quarter		\$307,998.17
	1 st Quarter		\$160,513.99
2009	4 th Quarter		\$230,527.70
	3 rd Quarter		\$254,722.55
	2 nd Quarter		\$242,039.01
	1 st Quarter		\$188,934.46
2008	4 th Quarter		\$267,159.24
	3 rd Quarter		\$436,194.67
	2 nd Quarter		\$367,211.89
	1 st Quarter		\$161,073.15
2007	4 th Quarter		\$305,684.70