



MARYLAND TRANSIT ADMINISTRATION

MARYLAND DEPARTMENT OF TRANSPORTATION

Martin O'Malley, Governor • Anthony G. Brown, Lt. Governor
Beverley K. Swaim-Staley, Secretary • Ralign T. Wells, Administrator

August 19, 2011

SUBJECT: T8000-0354 – Commuter Bus Service between Frederick, Montgomery and Prince George's Counties, Maryland - Line No. 204 & 205

Dear Prospective Bidder:

The Maryland Transit Administration of Baltimore, Maryland, has a requirement for commuter bus service between Frederick, Montgomery and Prince George's Counties, known as Line No. 204 and 205. If your company or organization desires to submit a sealed bid for award of this contract, the MTA's website is the official source to view and download the complete IFB specifications. The Multi Step Invitation for Bids (MSIFB) on this contract includes all of the information required to submit a bid for those firms who desire to be considered for contract award. The MTA does not plan to direct mail the IFB specifications, in whole or in part to any prospective bidders. The website address is:

www.mta.maryland.gov

All bid instructions, documents, forms and specification requirements may be accessed, reviewed and downloaded from the MTA website. From the website address shown, it will read, Follow links "Business", "Procurement" and "Bid/Solicitation" "Click" on specifications for the contract of interest, which will transfer you to a registration page. Follow the instructions to obtain a vendor number that will allow you access to the bid documents for review and downloading capabilities.

**Completed Bid Documents must be mailed or hand delivered to:
Maryland Transit Administration
Procurement Division, 7th floor
6 St. Paul Street
Baltimore, Maryland 21202**

All bids must be received no later than 2:00 PM on **October 6, 2011**. Any sealed bids submitted or received after the time and due date, as indicated in the IFB, will be disqualified and returned to the Bidder unopened.

Sincerely,

A handwritten signature in black ink that reads "Nannette C. Gibson". The signature is written in a cursive style with a large, stylized initial 'N'.

Nannette C. Gibson
Procurement Administrator
Maryland Transit Administration
6 St. Paul Street
Baltimore, Maryland 21202

**STATE OF MARYLAND
DEPARTMENT OF TRANSPORTATION
MARYLAND TRANSIT ADMINISTRATION**

**INVITATION FOR BIDS
FOR
COMMUTER BUS SERVICE
BETWEEN**

**FREDERICK, MONTGOMERY
AND
PRINCE GEORGE'S COUNTIES, MARYLAND**

LINE NO. 204 & 205

CONTRACT NO. T-8000-0354

ISSUE DATE: August 19, 2011

Any prospective Offeror who has received this document from a source other than the Issuing Office should immediately contact the Procurement Officer and provide their name and mailing address in order that amendments to the IFB or other communications can be sent to them. Any prospective Offeror who fails to notify the Procurement Officer with this information assumes complete responsibility in the event that it does not receive communications from the Issuing Office to the closing date or thereafter.

**MARYLAND TRANSIT ADMINISTRATION
COMMUTER BUS SERVICE BETWEEN FREDERICK, MONTGOMERY
AND PRINCE GEORGE'S COUNTIES, MARYLAND
Line No. 204 & 205
Contract No. T-8000-0354**

Table of Contents

| | | |
|----|--------------------------------------|------------|
| 1. | SOLICITATION INSTRUCTIONS | SI 1-2 |
| 2. | NO BID NOTICE | NBN 1 OF 1 |
| 3. | GENERAL INFORMATION | GI 1-9 |
| 4. | INSTRUCTION TO BIDDERS | IB 1-7 |
| 5. | SCOPE OF SERVICES | SOS 1-8 |
| 6. | INSURANCE REQUIREMENTS | IR 1-3 |
| 7. | FARE COLLECTION, REPORTING & PAYMENT | FRP 1-3 |
| 8. | BID FORM | BF 1-14 |
| 9. | CONTRACT AGREEMENT | C 1-2 |

EXHIBITS

| | | |
|----|--|-----------|
| A. | SERVICE SCHEDULE / ROUTE DESCRIPTION | SS 1 OF 4 |
| B. | BIDDERS QUESTIONNAIRE | BQ 1-11 |
| C. | SAMPLES: DAILY & MONTHLY TRIP REPORTS | TR 1- 2 |
| D. | CONSIGNMENT AGREEMENT | CA 1 of 1 |

ATTACHMENTS

| | | |
|----|-----------------------------------|-----------|
| A. | PRICE SCHEDULE | PS 1-2 |
| B. | BID/PROPOSAL AFFIDAVIT | BPA 1-5 |
| C. | CONTRACT AFFIDAVIT | CA 1 OF 4 |
| D. | PERFORMANCE BOND | PE 1-3 |
| E. | MINORITY BUSINESS ENTERPRISE FORM | MBE 1-9 |

ATTACHMENTS

| | | |
|----|---|---------------------|
| F. | HOLIDAY SCHEDULE | HS 1 OF 1 |
| G. | CONTRACTOR SUBSTANCE ABUSE PREVENTION | SA 1-3 |
| H. | CONTRACTOR SAFETY REQUIREMENTS | SAF 1-2 |
| I. | ELECTRONIC FUNDS TRANSFER | EFT 1-3 |
| J. | VEHICLE LEASE AGREEMENT | VLA 1-13 |
| K. | LIVING WAGE REQUIREMENTS ATTACHMENT LIVING WAGE REQUIREMENTS AFFIDAVIT | LWR 1-3 LWRA 4-5 |
| L. | MDOT GENERAL CONDITIONS FOR SERVICE CONTRACTS | GC 1-17 |
| M. | PRE-BID CONFERENCE RESPONSE FORM | PBF 1 OF 1 |
| N. | CONFLICT OF INTEREST AFFIDAVIT/DISCLOSURE | COI 1 OF 1 |
| O. | PROMPT PAY REQUIREMENTS | PPR 1 OF 2 |

STATE OF MARYLAND
DEPARTMENT OF TRANSPORTATION
MARYLAND TRANSIT ADMINISTRATION
SOLICITATION INSTRUCTIONS

Contract No.: T-8000-0354

Date: August 19, 2011

Contract Name: Line #204 & 205, Commuter Bus Service between Frederick, Montgomery and Prince George's Counties, Maryland

The Maryland Transit Administration (MTA) has a requirement for Commuter Bus Service between Frederick, Montgomery and Prince George's Counties, Maryland. Service operates via two (2) routes- #204 and #205. The No. 204 operates between Frederick and Montgomery Counties provides for eight (8) daily trips [4AM/ 4PM]. The No. 205 operates for Prince George's County at College Park Metro/MARC Station to Germantown Transit Center, provides for seven (7) daily trips [3AM/1 Mid day/3PM]. The contract is for three (3) years with one (1) two-year MTA option.

The contract for these services will be awarded by using a multi-step sealed bidding process. The process is two phase in which bidders submit unpriced technical proposals; to be evaluated by the MTA and a second phase in which those bidders whose technical proposals have been found to be acceptable during the first phase have their price bids considered. Both the technical proposals and the price bid shall be submitted at the same time.

Bidders will submit one (1) original and four (4) copies of their technical proposal and one (1) original of their price bid in separate sealed envelopes clearly marked as to their contents, not later than **2:00 p.m.** local time on **October 6, 2011** to Nannette C. Gibson, Procurement Administrator, Procurement Division, Maryland Transit Administration, 7th Floor, 6 St. Paul Street, Baltimore, MD. 21202-1614. Late bids will not be accepted.

Bidders are provided the option of responding in the following manner: bid on the #204 line only, bid on the #205 line only, or bid on both.

Bid Documents may be obtained on or after **August 19, 2011** as detailed in the document entitled "Prospective Bidders Letter".

General questions regarding the work should be directed in writing to Nannette C. Gibson, at the Administration Offices at the above address, or by telephone at number 410-767-0813. However, no verbal interpretations shall be binding on the Administration.

The Administration reserves the right to reject any and all bids and/or waive technical defects, if, in its judgment, the interests of the Administration so require.

Bidders are required to acknowledge receipt of all addenda that may be issued.

All bidders will be required to certify that they are not on a U.S. Comptroller General's List of Ineligible Contractors.

The Maryland Transit Administration hereby notifies all bidders that in regard to any contract entered into pursuant to this advertisement, Minority Business Enterprises will be afforded full opportunity to submit bids in response to this notice and will not be subjected to discrimination on the basis of political or religious opinion or affiliation, race, color, creed, sex, age, or national origin in consideration for an award. Minority Business Enterprises are encouraged to respond to this solicitation notice.

Bidders on this work will be required to comply with all applicable Equal Employment Opportunity Laws and Regulations.

Any bid received after the time and date specified shall not be considered. Notice to Bidders may be canceled in accordance with State Procurement Regulations.



Procurement Officer
Maryland Transit Administration

**State of Maryland
Notice to Vendor/Contractors**

In order to help us improve the quality of State solicitations and make our procurement process more responsive and business-friendly, we ask that you take a few minutes and provide comments and suggestions regarding this solicitation. Please return your comments with your bid or proposals (or no bid), as the case may be. Thank you for your assistance.

Bid/Proposal Number T-8000-0354, Entitled: Commuter Bus Service Line 204 &205

- I. If you have responded with a no bid, please indicate the reason 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.
 - The specifications are either unclear or too restrictive. (Please explain in remarks section)
 - The scope of work is beyond our current capacity.
 - Doing business with government is simply too complex.
 - We cannot be competitive. (Please explain in remarks section).
 - Time for completion is insufficient.
 - Bonding/insurance requirements are prohibitive. (Please explain in remarks section).
 - Bid /proposal requirements, other than specifications, are unreasonable or too risky. (Please explain in remarks section).
 - Prior experience with the State of Maryland contracts was unprofitable or otherwise unsatisfactory. (Please explain in remarks section).
 - Other: _____
- II. If you have submitted a bid or proposal, but wish to offer suggestions or express concerns, please use the remarks section below. (Use the back for additional information).

Remarks: _____

Vendor Name: _____ Date: _____

Contract: _____ Phone: () _____

Address: _____

PLEASE FAX THIS FORM TO (410) 333-4810 Attn: Nannette C. Gibson or mail to Procurement Division, 6 St. Paul Street, 7th Floor, Baltimore, MD 21202.

THANK YOU!

GENERAL INFORMATION

A. STATEMENT OF PURPOSE

The purpose of this Invitation for Bid (IFB) is for the Maryland Transit Administration (MTA) to secure, through a competitive procurement process, the services of a bus company to operate a commuter bus route between Frederick, Montgomery, and Prince George's Counties, Maryland known as Lines No. 204 and 205. Morning, midday and evening trips are provided each week day. Handicapped accessible service will be provided on this route. The coaches, provided by the MTA, will be equipped with wheelchair lift equipment in compliance with the Americans with Disabilities Act (ADA).

The MTA. One of six modal administrations of the Maryland Department of Transportation (MDOT) is responsible for the provision and coordination of transit service throughout the State of Maryland. **Starting in 1985, the MTA implemented service under two new programs, the Baltimore Commuter Bus Program and the Washington Commuter Bus Program.**

The Washington Commuter Bus Program provides commuter bus service from suburban Residential area in Maryland to Washington, D.C., Washington Metrorail stations and selected employment centers in the Washington Metropolitan region.

All fares generated from this service shall accrue to the benefit of the MTA. The Contractor shall receive an operating subsidy from the MTA.

B. PROJECT DESCRIPTION

Line No. 204 & 205 will provide morning, midday and evening commuter rush hour express trips each weekday.

The No. 204 requires four (4) buses to operate total of eight (8) daily trips. There will be four (4) morning and four (4) evening trips. The morning routes originate at the Monocacy MARC Station with destinations at the Urbana Park and Ride, Gaithersburg Park and Ride, New Georgia Ave. Park & Ride, FDA- White Oak, UMD-College Park (Stadium Drive) and College Park Metro/MARC. The evening routes originate at College Park Metro/MARC returning to Monocacy MARC Station.

The No. 205 requires three (3) buses to operate a total of seven (7) daily trips. There will be three (3) morning and one (1) afternoon and three (3) evening trips. The morning routes originate at the College Park Metro/MARC Station, with destinations at the Muirkirk MARC Station, Georgia Avenue Park and Ride lot, Shady Grove Metro Station, Shady Grove Hospital, Life Sciences Center, Natl. Inst. Of Standards & Tech. and Germantown transit Center. The afternoon and evening trips originate at Germantown Transit Center returning to College Park Metro/ MARC Station.

The approximate one way mileage is:

| | |
|--------------------------------------|----|
| #204 Monocacy MARC Station | 46 |
| #205 College park Metro/MARC Station | 45 |

NOTE: Service will not be provided on weekends or on the Holidays detailed in Attachment F.

Service shall be provided according to the schedule and route provided in (Exhibit A), as directed by the MTA.

The Contractor shall be responsible to assure that fares are paid in compliance with the MTA established fare structure. The Contractor also agrees to sell MTA fare media on a consignment basis.

The Contractor is required to participate in the Regional Employer Voucher Programs. SmartBenefit Voucher that is administered by the Washington Metropolitan Area Transit Authority and TransitPlus that is administered by the MTA.

C. ISSUING OFFICE

The Issuing Office for this Invitation for Bids (IFB) is:

**Maryland Transit Administration
Procurement Division
6 Saint Paul Street
Baltimore, Maryland 21202-1614**

**Contact Person: Nannette C. Gibson
Procurement Administrator
Procurement Division
410-767-0813**

D. QUESTIONS AND INQUIRIES

Questions and inquiries concerning this IFB shall be submitted in writing to the contact person listed in C above. Closing date for receipt of written inquiries is **September 20, 2011**. Facsimile inquiries, with telephone notification, will be accepted on fax number 410-333-4810.

A Pre-Bid conference is scheduled for **10:00 A.M. September 13, 2011** at the MTA's **Procurement Division, 6 St. Paul Street, 7th Floor Conference Room, Baltimore, Maryland 21202**. Although all Bidders are encouraged to attend the Pre-Bid conference, attendance is not mandatory. The number of representatives from each firm planning to attend the Pre-Bid Conference is limited to no more than two (2) persons. Please complete the Pre-Bid Conference Attendance Form (Attachment M) and submit by **September 12, 2011** to the contact person listed in C above.

A written summary of the Pre-Bid Conference and all known questions and answers provided at the time of the conference will be distributed via the MTA's website.

E. CLOSING DATE

In order to be considered one (1) original and four (4) copies of the technical proposal and one (1) original price bid must be delivered to the Issuing Office by **2:00 P.M. local time on October 6, 2011.** Bids arriving after the closing date and time shall be rejected.

F. DURATION OF BID OFFER

Technical proposals and price bids are to be valid for 120 days following the closing date of this IFB. This period may be extended by written mutual agreement between the bidder and the MTA.

G. ADDENDA TO THE IFB

If it becomes necessary to revise any part of this IFB, addenda will be provided to all prospective bidders who received or requested the initial IFB. Acknowledgement of the receipt of all amendments and addenda shall be required from all prospective bidders receiving the IFB.

H. CANCELLATION OF THE IFB

The MTA reserves the right to cancel in part, or in its entirety, this IFB, at any time before the opening of the bids.

I. BID ACCEPTANCE

The MTA reserves the right to reject any and all bids, in whole or in part, received as a result of this IFB, to waive minor irregularities, allow the Bidder(s) to correct minor irregularities, or to negotiate with all responsible bidders, in any manner necessary, to best serve the interest of the MTA and for the State. Verbal bid modifications or withdrawals will not be accepted.

Technical proposals shall include complete responses to the Bidder's Questionnaire in order to be accepted.

J. CONTRACTOR RESPONSIBILITIES

The Contractor shall be responsible for the provision of all vehicles and services as required by this IFB.

Prior to execution of the contract, the bidder shall provide the MTA with a current valid Maryland Motor Carrier Safety Program inspection certificate with an effective date of no more than 30 days prior to the start of service for each vehicle to be used in providing the required service. Additionally, an annual Maryland Motor Carrier Safety Program inspection

will be required for each vehicle used to provide this service. The Contractor shall incur the costs of these inspections.

K. FINAL CONTRACT

MTA reserve the right to make multiple contract awards as a result of this invitation to bid.

L. General Contractual Information

Award of this contract is limited to companies with senior management personnel who have a minimum of **five (5) years' management experience** in providing fixed route bus service. This requirement pertains to this specific contract project management staff.

Any contract resulting from this IFB shall include the attached MDOT GENERAL CONDITIONS FOR SERVICE CONTRACTS. These general conditions are non-negotiable.

Contract award shall be contingent upon the approval of the MTA and the Maryland Board of Public Works (BPW). This contract shall not take effect until all required filings have been made with the Maryland Public Service Commission (PSC), and inspection requirements have been satisfied.

M. MINORITY BUSINESS ENTERPRISE NOTICE

Minority Business Enterprises are encouraged to respond to this solicitation notice and are therefore encouraged to obtain certification from the Maryland Department of Transportation. All questions related to certification must be directed to the Maryland Department of Transportation Office of Minority Business Enterprise/Equal Opportunity:

Maryland Department of Transportation
Office of Minority Business Enterprise/Equal Opportunity
7201 Corporate Center Drive
P.O. Box 548
Hanover, MD 21276
Telephone: 410-865-1240

Bidders attempting to classify themselves as minority contractors, within the meaning of the State procurement laws and regulations, shall not be so viewed until and unless they are certified as such by the Office of Minority Business Enterprise/Equal Opportunity. The assigned certification number must appear on invoices.

Bidders on this work will be required to comply with all applicable Equal Employment Opportunity Laws and Regulations.

N. MINORITY ENTERPRISE DUAL CERTIFICATION

Effective on October 1, 2009, Minority Business Enterprise (MBE) firms may elect to be dually certified as woman-owned businesses and as members of an ethnic or racial category. For purposes of achieving any gender or ethnic/racial MBE participation subgoals in a particular contract, an MBE firm that has dual certification may participate in the contract either as a woman-owned business or as a business owned by a member of

a racial or ethnic minority group, **but not both**.

WARNING – PLEASE READ:

- ◆ A firm must be listed in the MDOT MBE/DBE Directory with the gender category in order to be used to meet the gender subgoal.
- ◆ A firm must be listed in the MDOT MBE/DBE Directory with an ethnic/racial category in order to be used to meet the ethnic/racial subgoal.
- ◆ A firm must be listed in the MDOT MBE/DBE Directory with both the gender and ethnic/racial categories in order for a contractor to have the option of selecting which of those categories it will use for the firm on a State contract.
- ◆ Contractors should designate whether the MBE firm will be used as a woman-owned business or as a business owned by a member of a racial/ethnic group before calculating the percentage of MBE participation goals and subgoals they intend to meet.

Maryland's MBE/DBE Directory will reflect the dual certification status beginning October 1, 2009. You can access the MBE/DBE Directory at <http://mbe.md.state.md.us>. Firms with dual certification will now be listed as follows:

Example:

ABC Corporation, Inc.
123 Corporate Circle
Hanover, MD 21076

Female/African American
00-000

O. MINORITY BUSINESS ENTERPRISE SUBCONTRACT PARTICIPATION GOAL

An overall Minority Business Enterprise (MBE) subcontract participation goal of **6%** of the total contract dollar amount has been established for this procurement. By submitting a response to this solicitation, the Bidder agrees that these dollar amounts of the contract shall be performed by certified minority business enterprises, including the MBE classifications specified herein.

A contractor may count toward its MBE goal 60 percent of its expenditures for materials and supplies required under the contract and obtained from a MBE regular dealer, and 100 percent of such expenditures to a MBE manufacturer. The MBE credited supplies may not exceed 60 percent of the entire contract goal.

Refer to the MBE participation instruction in Attachment **E**.

P. CONTRACT DURATION

This contract shall be in effect for a period of three (3) years with one (1) two-year option.

Q. PROPOSED START DATE

The selected carrier must have the resources required by the MTA, and the ability to start the proposed service by January 6, 2012.

R. ROUTE AUTHORITY

The successful bidder shall provide proof that they have acquired the appropriate route authority prior to the execution of the contract. If intrastate service is provided, the carrier must obtain route authority from the Public Service Commission prior to the start-up of service, subject to all safety inspections, rules and requirements of the Public Service Commission.

Private bus companies are providing public transit service on behalf of the MTA. Therefore, any changes in routing, schedules, and tariffs will be made by the MTA. The carrier will report such changes to the PSC.

S. DRUG AND ALCOHOL TESTING PROGRAM COMPLIANCE AND DRUG FREE WORKPLACE

All entities doing business with the State of Maryland must maintain a workplace free of drug and alcohol abuse during the term of the contract. To this end, COMAR 21.11.08 provides guidance. This is referenced in the Bid/Proposal Affidavit, Section J. Page 4 of 7. This is in addition to the stringent requirements of 49 CFR Parts 40 and 655 which addresses drug and alcohol prevention concerning safety-sensitive functions and employees. See Attachment G entitled "MTA CONTRACTORS COMPLIANCE REQUIREMENTS".

T. ARREARAGES

By submitting a response to this solicitation, a vendor shall be deemed to represent that it is not in arrears in the payment of any obligation due and owing 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. This is in accordance with State Procurement Regulations COMAR 21.05.08.06.

U. FUEL SURCHARGE

To take into account the fluctuation of fuel during the life of the contract, the MTA will adopt a fuel rider clause. **Accordingly, at the time of submission of your bid, please provide the (<http://www.fuelgaugereport.com/>) AAA website (diesel fuel for Baltimore, Maryland) fuel price used in your pricing.** At the initiation of the contract and the first weekday of each month thereafter, the MTA will check the price of diesel fuel on the AAA website. If the price of fuel has gone up, the Contractor will be reimbursed for the additional cost incurred or alternatively, the MTA will be reimbursed if the cost has gone down. The cost of reimbursement will be as follows:

The total number of gallons of fuel consumed by the contractor will be calculated by dividing the total of revenue miles provided by the contractor during the month by 5.5 miles. The difference between the price of fuel each month compared to the base fuel price will be multiplied by the number of gallons of fuel consumed during the month.

If the calculation results in additional money being owed to the contractor, the contractor will reflect that cost in their next invoice to ensure payment. If the calculation results in a credit for the MTA, this credit should be reflected in the next invoice.

V. BID PREPARATION

Bid must be prepared simply and economically, providing a straightforward, concise description of the Bidder's ability to meet the requirements of this IFB. All bids become the property of the MTA, and neither the MTA nor the State of Maryland shall be responsible for any expenses incurred by the bidders in preparing or submitting their bids, or for any other associated costs.

W. ACCEPTANCE OF TERMS, CONDITIONS AND REQUIREMENTS

By submitting a bid in response to this IFB, a Bidder shall be deemed to have accepted all the terms, conditions, and requirements set forth in this IFB. The selected Bidder shall be responsible for all products and services required by this IFB and shall be liable for completion of the services required hereunder. Subcontractors, if any, except for those used to meet MBE subcontracting goals, must be described and a complete description of their role relative to the bid/proposal must be included. Acts of both omission and commission by subcontractors shall be the sole responsibility of the primary contractor.

X. BID MODIFICATION

Any proposal for terms in addition to or different from those set forth in this Invitation For Bid or General Conditions or any attempt by the Bidder to vary any of the terms of this offer by Bidder's acceptance shall not operate as a rejection of this offer, unless such variance is in the terms of the description, quantity, price or delivery schedule, but shall be deemed a material alteration thereof, and this offer shall be deemed acceptable by the Bidder without the additional or different terms. If this purchase order is an acceptance or a prior offer by the Bidder, the acceptance is expressly conditioned upon Bidder's assent to any additional or different terms contained herein. The Bidder understands and agrees that the terms and conditions of this Invitation For Bid and General Conditions not be waived.

Y. ORDER OF PRECEDENCE

These contract documents are intended to be complimentary and shall be read together so as to give full force and effect to all of their respective provisions. In the event an irreconcilable conflict appears between such provisions and there is no clear intended resolution of the same, the intent of the contract shall be determined by giving effect to the contract documents in the following order of precedence:

- First - Addenda issued by Procuring Agency
- Second - Scope of Service
- Third – Contractor's Bid
- Fourth – Contractor's Technical Proposal

Z. CONFIDENTIAL, PROPRIETARY INFORMATION

Bidders should give specific attention to the identification of those portions of their bid which they deem to be confidential, proprietary information, or trade secrets and provide any justification why this information should not be disclosed under Title 10, State Government Article, Annotated Code of Maryland. Bidders are advised that, upon request for this information from a third party, the MTA is required to make an independent determination as to whether the information may or must be disclosed to the requesting party.

AA. BID PROTEST

Any Bidder or other interested person who is aggrieved by the award or proposed award of the Contract resulting from this solicitation may protest that decision. If a protest is made, it shall be in accordance with Code of Maryland Regulations (COMAR) Section 21.10.

BB. ETHICS

Under the State Government Article, Title 15, 15-105, Maryland Code, A Bidder who employs an individual who assists the MTA in drafting specifications for an Invitation For Bids or a Request For Proposals for a procurement may not submit a bid or proposal for the procurement or assist or represent another person, directly or indirectly, who is submitting a bid or proposal for that procurement. Any Bidder having questions regarding the applicability of this provision of the State Ethics Law in connection with this procurement should contact:

**State Ethics Commission
9 State Circle, Suite 200
Annapolis, Maryland 21401
Telephone: 410-974-2068**

CC. PROSPECTIVE BIDDERS - DEFINED

Prospective Bidders are those persons or firms who: (i) were sent this IFB; (ii) requested this IFB in writing; of (iii) otherwise obtained this IFB and notified the Procurement Officer in writing that they obtained this IFB.

DD. USE OF "E-MARYLAND MARKETPLACE

"e-Maryland Marketplace" is an electronic commerce system administered by the Maryland Department of General Services. In addition to using the e-Maryland Marketplace web site (<http://www.emarylandmarketplace.com>) and other means for transmitting the IFB and associated materials, the solicitation and minutes of the pre-bid conference, Bidder questions and MTA responses, addenda, and other solicitation related information will be provided by the Procurement Officer.

This means that all such information is immediately available to subscribers to e-Maryland Marketplace. Because of the instant access afforded by e-Maryland Marketplace, it is recommended that all Bidders interested in doing business with Maryland State agencies subscribe to e-Maryland Marketplace.

EE. ELECTRONIC FUNDS TRANSFER (EFT)

By submitting a response to this solicitation, the Bidder/Offeror agrees to accept payments by

electronic funds transfer unless the State comptroller's Office grants an exemption. The selected Bidder/Offeror shall register using the attached form COT/GAD X-10 Vendor Electronic Funds (EFT) Registration Request Form (Exhibit J). Any request for exemption must be submitted to the State Comptroller's Office for approval at the address specified on the COT/GAD X-10 form and must include the business identification information as stated on the form and include that the reason for the exemption.

FF. PERFORMANCE BOND

Performance Bond shall be furnished in accordance with the bond form in Attachment D, Pages P.E. 1-3.

GG. LIVING WAGE REQUIREMENTS

A solicitation for services under a State contract valued at \$100,000 or more may be subject to Title 18, State Finance and Procurement (SFP) Article, Annotated Code of Maryland. Additional information regarding the State's wage requirement is contained in this solicitation (see Attachment K entitled Living Wage Requirements for Service Contracts). If the Bidder fails to submit and complete the required documentation under State law, the State may determine a Bidder to be not responsible.

Contractors and Subcontractors subject to the Living Wage Law shall pay each covered employee at least \$12.25 per hour, if State contract services valued at 50% or more of the total value of the contract are performed in the Tier 1 Area. If State contract services valued at 50% or more of the total value are performed in the Tier 2 Area, a Bidder shall pay each covered employee at least \$9.21 per hour. The specific Living Wage rate is determined by whether a majority of services take place in a Tier 1 Area or Tier 2 Area of the State. The Tier 1 Area includes Montgomery, Prince George's, Howard, Anne Arundel, and Baltimore Counties, and Baltimore City. The Tier 2 Area includes any county in the State not included in the Tier 1 Area. In the event that the employees who perform the services are not located in the State, the head of the unit responsible for a State contract pursuant to §18-102 (d) shall assign the tier based upon where the recipients of the services are located.

The contract resulting from this solicitation has been deemed to be a Tier 1 contract.

HH. PROMPT PAY REQUIREMENTS

This procurement and the contract to be awarded pursuant to this solicitation are subject to the Prompt Payment Policy Directive issued by the Governor's Office of Minority Affairs and dated August 1, 2008. Promulgated pursuant to Sections 11-201, 13-205(a), and Title 14, Subtitle 3 of the State Finance and Procurement Article (SFP), and Code of Maryland Regulations (COMAR) 21.01.01.03 and 21.11.03.01 et seq., the Directive seeks to ensure the prompt payment of all subcontractors on non-construction procurement contracts. The successful Bidder who is awarded a contract must comply with the prompt payment requirements outlined in the Contract. Additional information is available on the GOMA website at www.mdminoritybusiness.com.

TWO-STEP PROCUREMENT

INSTRUCTIONS TO BIDDERS

CONTRACT NO. T8000-0354

A. GENERAL

1. This procurement is for bus service between Frederick, Montgomery and Prince George's Counties, Maryland.
 - a. Step One will consist of the submission of technical proposals and price bids. This step will include the evaluation of the technical information and, if appropriate, discussion and modification of them.
 - b. Step Two is the opening of Sealed Price Bids. This step is limited to those bidders who have submitted acceptable technical proposals in Step One. Bids submitted are evaluated and the award is made in accordance with State Procurement Regulations, COMAR 21.05.02.

B. BID PREPARATION AND SUBMITTAL

1. Bidders shall clearly outline their comprehensive approach to fulfilling all the requirements and fully describe their plans for addressing each element in the Scope of Services.
2. The Step One technical proposal will consist of a complete technical response in accordance with Section C of these Instructions to Bidders, including the Bidders qualifications and resources as specified in Exhibit B labeled "Bidder's Questionnaire".
3. Each bid must be responsive to all requirements stated in these instructions, which includes the essential requirements of the Scope of Services, Insurance Requirements and Bidder's Questionnaire.
4. Proposed deviations to the specifications and scope of services shall be clearly and conspicuously identified for evaluation purposes or it will be assumed that no deviation exists.
5. Bidders shall give specific attention to the identification of those portions of their proposals which they deem to be confidential, proprietary information, or trade secrets and provide any justification of why such materials, upon requests, should not be disclosed by the MTA under the Maryland Public Information Act, Section 10-611 of the Annotated Code of Maryland.

6. Bidders shall submit their technical proposal and their price bid at the same time.
7. Bidders shall submit one (1) original and four (4) copies of their technical proposal and one (1) original price bid in separate sealed envelopes clearly marked as to their contents, addressed to the Maryland Transit Administration, Procurement Division, 6 Saint Paul Street, Baltimore, MD 21202-1614 no later than **2:00 PM** local time, **Thursday, October 6, 2011.**
8. Bids received after the date and time specified will not be considered.

C. TECHNICAL PROPOSAL REQUIREMENTS

1. Each technical proposal shall provide the following information, which shall effectively demonstrate how the bidder intends to completely satisfy the Scope of Services and Insurance Requirements, with the intent that the technical proposal of the successful bidder will become part of the contract with the MTA. The bidder shall submit all such information, which will enable the MTA to ascertain how the bidder shall successfully perform the required services.
2. In particular, the technical proposal shall contain those items outlined below.
 - a. Title Page
 - b. Transmittal Letter:
 - 1) A letter of transmittal signed by an officer authorized to make a binding commitment for the firm submitting the bid. This letter must contain:
 - a) A statement that the bidder has accepted, agreed to, and will comply with all the contract provisions, including the General Conditions for Service Contracts. Contract provisions are not negotiable.
 - b) Acknowledgement of receipt of any/all addenda.
 - c. Response to the Scope of Services:
 - 1) Technical Approach - The bidder shall set forth their understanding of the work to be accomplished and shall demonstrate the required capacity and understanding of the expected satisfactory service level.
 - 2) Client References - The references shall include the client, an

address, a contact person and current phone number, brief descriptions of service provided by the Bidder which are most related to the requirements of this procurement. The work shall have been performed during the last five (5) years. Limit of three (3) references, one page each are required.

- d. Fully executed Bidders Questionnaire (Exhibit B). All bidders shall identify the buses currently in their inventory by VIN, model, year and seating. If there no buses in the inventory, the bidder shall furnish proof that buses will be available in the event of contract award including a letter of availability from the vehicle vendor/lessor and commitment of financing. All buses shall be wheelchair lift equipped in compliance with ADA requirements.
- e. Copies of all required inspection certificates.
- f. Insurance Requirements
(Scope of Services, I)
- g. Extreme Weather Plan
(Scope of Services, E, 3)
- h. Accessible Service Plan
(Scope of Services, D)
- i. Pre-Trip Inspection Form
(Scope of Services, B, 3)
- k. Performance Bond
(Attachment D)

D. FINANCIAL CAPACITY/RESPONSIBILITY INFORMATION

- 1) Provide a complete financial statement (compiled or audited by a Certified Public Accountant) for the Bidder's most recently completed business year. Include at least three credit references (including contact names and phone numbers), one of which shall be the Bidder's bank. Provide proof of financial commitment to provide the funds necessary to purchase/lease the required vehicles and facilities.
- 2) Provide proof of insurance to the limits specified in the Scope of Services, I. If coverage is not currently in force, provide a commitment that the coverage will be obtained upon notification of contract award and a letter from the Bidder's insurer/underwriter that the Bidder is eligible for such coverage and it can be secured.

3) Performance Guaranty - To ensure its 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 prior to commencement of the contract. The Guaranty shall equal ten percent (10%) of the total, five-year, estimated contract price and be in one of the forms specified below. **The Bidder shall state in this section which of the four forms of performance guaranty it wishes to utilize.**

a) A performance bond in the format specified in Attachment D. The completed form shall be delivered to the MTA within 30 calendar days after receipt of Notice of Award. The following Surety Bond Qualifications shall apply:

(I) 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.

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.

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

(III) 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.

(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, five-year estimated contract ceiling price to be held by a Maryland bank in escrow for the term of the contract and any extensions 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 percent (10%) of the total, five-year estimated contract ceiling price. 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.
 - (d) Retainage of a portion of the contractor's gross billing amount until the termination of the contract or when the retainage equals ten percent (10%) of the total, five-year estimated contract ceiling price, whichever occurs first. The portion retained shall be ten percent (10%) of each monthly billings for all billings covering the first year of services and five percent (5%) thereafter until the 10% ceiling is reached. If the contract is terminated for default, the retainage shall be forfeited. Forfeiture shall not be construed as a waiver of any other remedies the MTA is entitled to exercise under the contract or at law.
- 4) Commitment of vehicle availability. If vehicles must be purchased or leased, include a letter from the vendor/lessor which provides a complete description of the vehicles and certifies their availability and delivery date. All vehicles are to be lift equipped.
 - 5) Financing plan for new/leased vehicles (if applicable), to include a letter of commitment from the financing organization and acceptance of that financing by the vehicle provider.

E. ACCEPTANCE

- 1. Bidders are advised to submit technical proposals which are fully and clearly acceptable without additional explanations or information. The MTA shall determine as to whether a proposal is acceptable without obtaining further information. However, if the MTA deems it necessary to obtain sufficient acceptable proposals, to assure adequate price competition in the second step, or deems it in its best interest, the MTA may request further information from bidders. Such information will be requested in connection with proposals which the MTA considers reasonably susceptible of being made acceptable by the additional information. In this regard, such information normally will only be requested to clarify or supplement but not change any proposal as submitted and, for this purpose, the MTA may discuss any such proposal with the bidder.
- 2. Evaluation of the proposals will be based upon the criteria contained in this IFB. The proposals as submitted will be categorized as:

- a. Acceptable;
 - b. Reasonably susceptible of being made acceptable by additional information clarifying or supplementing, but not changing the proposal as submitted; or
 - c. In all other cases, unacceptable.
3. Any proposal which fails to conform to the essential requirements of the specifications may be considered unacceptable.
 4. The Procurement Officer may request bidders in category "b" as defined in Paragraph E.2 above to submit additional information, setting forth to the extent practicable the nature of the deficiencies in the proposal as submitted or the nature of the additional information required. The Procurement Officer may fix an appropriate time to conclude discussions, if any, submit all additional information, and to incorporate such additional information as part of their proposal as submitted. Such time may be extended at the sole discretion of the Procurement Officer. If the additional information incorporated as part of a proposal makes it acceptable, the proposal will be so categorized. Otherwise, the proposal will be categorized as unacceptable.
 5. Bidders determined to have submitted an unacceptable proposal will be informed of the determination and the reasons therefore upon completion of the technical evaluations. Their price bids will be returned unopened.

F. PRICE BID REQUIREMENTS

1. Bidders shall submit a fully executed bid form.
2. Bidders shall submit a fully executed Bid/Proposal Affidavit (Attachment B). Each bid submitted is required to include a Bid/Proposal Affidavit.

G. EVALUATION CRITERIA

1. The bids received will be carefully evaluated for acceptance with the requirements of this IFB. The acceptance criteria is as follows:

- a. Timeliness

In order to be considered, all technical proposals and price bids must be received by the Issuing Office no later than **2:00 pm local time on Thursday, October 6, 2011**. Bids arriving after the closing date and time shall be rejected.

b. Completeness

Each technical proposal will be reviewed to ascertain that all the information requested in the Proposal Format Sections have been completely furnished. Proposals determined to be incomplete may be declared unacceptable.

c. Vehicle Requirements

Each bidder is responsible for providing and ensuring that all back up coaches on Lines 204 and 205 are lift equipped.

SCOPE OF SERVICES

A. CONTRACT DURATION / PERFORMANCE

The period of performance will be for three (3) years with one (1) two-year option. Service is scheduled to begin on January 6, 2012.

The Contractor will provide services as detailed in this contract. Failure to provide said services in accordance with the terms of this contract will result in the assessment of liquidated damages as prescribed herein.

B. VEHICLE REQUIREMENTS

1. **Number.** The Contractor is responsible for providing lift-equipped buses for all the #204 and #205 commuter runs. The contract requires buses to be 55-passenger or larger intercity or suburban type buses for the required commuter bus services. The Contractor is responsible to provide backup (spare) transit vehicles as necessary in the event that any vehicle(s) becomes inoperative or is out-of-service for maintenance.

The Contractor, at MTA's sole option, may be required to increase or decrease the number of buses on any service lines. Additional buses must be placed in service within fifteen (15) operating days from MTA's notice to provide additional buses. The contract price will be adjusted by multiplying the revised revenue miles by the applicable revenue mile cost. This is the sole equitable adjustment to be made as a result of any change to the required service. If the change in service requires an increase in time in order to be accomplished the Contractor must request a time extension within fifteen (15) operating days from the beginning of the delay. The Procurement Officer, upon receipt of a written request for a time extension, shall ascertain the facts and adjust the completion date as the findings justified.

The MTA will offer to lease to the Contractor four (4) lift-equipped buses to assist the Contractor in providing accessible services. If the Contractor chooses not to accept the MTA's offer, this shall not reduce the Contractor's responsibility for providing lift-equipped vehicles in accordance with the Scope of Services D, Accessibility Requirements and current State and Federal Regulations.

Reference Attachment J for the terms of Lease Agreement.

2. **Type of Vehicle.**

The Contractor shall provide inter-city or suburban transit vehicles measuring a minimum of forty-five (45) feet in length with a minimum seating capacity for 55

people .

At no time during the term of the contract shall any bus be more than twelve (12) years of age or have more than one million hubodometer miles.

Vehicles are required to have properly functioning, operable air conditioning and heating units and must maintain a comfort level of 68-72 degrees Fahrenheit inside the coach whenever customers are on board. Failure to comply with this requirement will result in a penalty equal to the cost of the run. Further, all vehicles shall have upholstered high backed seats, operable overhead reading lights for each seat and wheelchair lifts that are in full compliance with the ADA.

All Vehicles must be able to communicate with central dispatch located at the main offices of the Contractor.

School buses or modified van-type vehicles are not acceptable.

Detailed specifications on the type of vehicles to be used, as primary and back up must be included in the bidders technical proposal.

An amount equal to 200% of each one-way trip price shall be imposed as liquidated damages each time an unacceptable vehicle is used to provide service.

3. **Maintenance and Condition.** The Contractor shall maintain the buses, including the MTA leased bus, in good, clean condition both operationally and appearance-wise. The Contractor shall provide the personnel, parts, equipment, supplies and supervision necessary to perform all preventative and repair maintenance to keep the vehicles clean, in good working order and to maintain service continuity. Every bus shall meet the criteria of the Commercial Vehicle Safety Alliance and the laws of the State of Maryland.

Not less than fifteen (15) days prior to the scheduled start of service, the Contractor shall provide the MTA with a current valid Maryland Motor Carrier Safety Program inspection certificate. In addition, as subsequent inspections occur, the contractor will provide additional valid Maryland Motor Carrier Safety Program inspection certificates for each vehicle used to provide this service. The Contractor will incur the cost of these inspections.

Failure to provide the required inspections and insurance certificates will cause the contractor to be deemed non-responsible and result in cancellation of the award.

4. **Inspection.** Every bus shall receive a daily pre-trip inspection before being placed in service. ADA lift equipment must be cycled and confirmed to function properly as part of the daily pre-trip inspection. These daily pre-trip inspections shall be

supplemented by regular weekly inspections to insure the proper operating condition of the buses. A record of all such inspections shall be kept by the Contractor and be available to the MTA as part of the Route Manager's weekly report (refer to Scope of Services, subsection F). (Failure to produce these records within the specified time will result in liquidated damages of \$100 per day, per bus. A copy of the pre-trip inspection form shall be submitted with the bid documents).

Non – MTA owned vehicles designated to be used for MTA Commuter Bus service are subject to periodic inspection of vehicle and records as deemed necessary by the MTA. This includes any spare vehicles to be used to operate this service.

In addition, all buses shall be inspected pursuant to and remain in compliance with the laws of the State of Maryland and shall maintain a current Maryland Motor Carrier Safety Program inspection certificate.

The Contractor shall provide MTA with copies of all state inspection certificates required by law. MTA reserves the right, at its sole discretion, to inspect and reject, temporarily or permanently, by notice to the Contractor, any vehicle the Contractor proposes to use, or subsequently uses which MTA deems unacceptable.

5. **Appearance.** The Contractor shall be responsible for maintaining the buses' internal and external appearance. Buses **shall** be kept clean. The inside of each bus, including restrooms, shall be cleaned daily. Additionally, the outside of each bus shall be washed daily, weather permitting. The restroom, if any on board, shall be maintained in operable condition with no noticeable odors at any time.

Liquidated damages of \$100 will be assessed for each one-way trip operated with a bus that is deemed unacceptable in appearance by the MTA.

6. **Identification.** Transit vehicles used to provide service shall display the logo of the Contractor. In addition, a decal supplied by the MTA, stating the following: "Commuter Service Provided under contract to the Maryland Transit Administration" shall be placed near the front entrance of the bus.

Liquidated damages of \$100 will be assessed for each day that each vehicle operates without specified decals.

In-service buses shall carry professionally made destination signs with the initial set furnished by the MTA, which are visible to persons observing the oncoming bus. If a bus has electronic destination signs they must be maintained in good working order. All coaches providing MTA Commuter Bus service must display either electronic, above windshield scroll destination signs or pre-printed window card on the front windshield. Signs must be displayed whenever service is provided. The

cost of replacing the pre-printed destination signs is the responsibility of the Contractor.

For the routes covered by this contract, there are required destinations signs, which should read as follows:

#204 – Monocacy MARC Station

#204 – FDA – White Oak

#205 – College Park Metro/MARC Station

#205 – Germantown Transit Center

Liquidated damages of \$100 will be assessed for each trip operated without appropriate destination signs.

C. **PERSONNEL REQUIREMENTS**

The Contractor shall have complete responsibility for the employment of all personnel required to provide the detailed services.

The Contractor shall certify to the MTA that its drivers are in **compliance with the Federal Motor Carrier Safety Regulations for Operators** and all other applicable state and federal regulations as of the start of this contract. Every bus operator shall have a valid Commercial Driver's license. The Contractor shall ensure that its drivers maintain their compliance. The Contractor shall also be responsible for providing back-up drivers in the event of primary driver absence. Back-up drivers shall meet the same standards as the primary drivers.

D. **ACCESSIBILITY REQUIREMENTS**

The Contractor shall provide ADA compliant lift-equipped service. This is fixed route services proceeding from stop to stop. If additional lift-equipped vehicles are required, the successful bidder shall be responsible to obtain the additional vehicle(s).

1. **Specific Requirements**

- a) ADA compliant lift-equipped commuter buses must be maintained in proper and safe operating conditions as judged by industry standards and the MTA. Drivers shall be trained in the operation of the equipment and in passenger assistance. *Contractor must submit to MTA documentation that each driver has trained in these areas.

The Contractor shall maintain driver training documents and provide them to the MTA, if required.

2. **Damages for Non Coverage**

Liquidated damages of \$500 per trip shall be assessed for any service trip when the Contractor does not provide a bus in compliance with requirements stated above, or, when the lift-equipment is non-operational.

E. **ON-TIME PERFORMANCE**

Failure to perform on the part of the Contractor shall result in damages payable to MTA.

1. **Standards**

The Contractor shall maintain a 95% on-time performance standard. On-time performance is the measure by which the Contractor will be evaluated in meeting the monthly operating requirements of the line. Each trip will be judged as on time or late. An on-time trip is when a bus meets the arrival times of the first stop in the public timetables. A late trip is when a bus departs the first scheduled stop, sixty minutes or more past the times posted in the public timetables.

If a trip operates late to complete all stops on its route, as listed in the public timetable, the Contractor must report this to MTA by noon the next business day.

The Contractor must report any accident involving personal injury or any mechanical related failure in which the service does not operate or where passengers are forced to move from one vehicle to another within 30 minutes of the accident.

2. **Damages**

- a. For any consecutive five months in which the on-time performance standard is less than 95%, liquidated damages of \$1,000 shall be assessed to the Contractor. Repeated failure to meet this performance standard may result in termination of the contract.
- b. Liquidated damages of 200% of the per trip cost shall be assessed for each trip which departs a scheduled stop early.
- c. Liquidated damages of 200% of the per trip cost shall be assessed for each one-way trip not operated. Liquidated damages of 400% of the per trip cost shall be assessed for each one-way not operated which is the last such trip scheduled in either direction for either a.m. or p.m. service. If a trip operates

late or fails to complete all stops on its route, as listed in the public timetable, the Contractor must report this to MTA by noon the next business day.

- d. A one-way trip is defined as the total revenue miles, in either direction, between Monocacy MARC Station and College Park Metro/MARC for the #204 and between College Park Metro/MARC Station and Germantown Transit Center for the #205. A trip not operated is defined as a scheduled trip not made, or replacement trip not substituted before the last schedule trip during that peak period shift.

3. Extreme Weather Conditions & Special Situations

The Contractor shall make every effort to maintain service, without compromising safety, during major snowstorms and similar inclement weather. The Contractor shall include a description of established procedures used to ensure service continuity under adverse operating conditions such as inclement weather, unexpected road conditions, or other conditions beyond its control. The MTA shall establish a procedure with the Contractor for notifying the media and MTA when service shall not operate due to inclement weather.

When such notification is followed, the Contractor compensation shall be reduced by an amount equal to the number of trips canceled times the unit cost of each canceled trip.

F. ROUTE MANAGER

The Contractor shall designate a Route Manager to supervise the complete and proper operation of the required bus service. The Route Manager shall be responsible for the following:

1. Scheduling of all assigned personnel
2. Arranging the assignment of back-up personnel or vehicles whenever necessary.
3. Assuring schedule route adherence
4. Providing route supervision
5. Reporting on-time performance reports including infractions or missed trips in accordance with Section E of this article; reporting customer complaints pertaining to ADA and/or wheelchair lifts.
6. Resolving operational problems and/or passenger complaints and accurately reporting these problems and other customer service issues to the MTA in a timely

manner (weekly telephone report on operational problems, 30 minute notification of personal injury accidents and 24 hour notification of customer service issues); and

If a passenger concern is raised directly with the Contractor, the Contractor shall investigate and respond directly to the passenger within 24 hours, if the matter is within the Contractor's purview, and notify the MTA of the issue and resolution during the weekly operational problems telephone report;

If the MTA forwards a concern to the Contractor to investigate, resolve and respond to the passenger to Contractor will respond directly to the passenger within 24 hours and notify the MTA of the issue and resolution during the weekly operational problems telephone report;

If the MTA requests the Contractors assistance to investigate and resolve a passenger concern, the Contractor will investigate and respond back to the MTA with the resolution within 24 hour so that the MTA may respond to the passenger.

7. Coordinating all vehicle maintenance and inspections.
8. Produce and provide all required reports in the required time frames.
9. Be the primary point of contact between MTA's project manager and the Contractor.
10. All Section 15 reporting must be accurate, complete and included with the monthly invoice submission to the MTA.

H. OPERATIONS REPORTS

1. The Contractor shall maintain daily and monthly Trip Reports including verification of the number of trips operated, bus identification number, number of passengers per trip, type of fare collected and on-time performance. These records shall be made available for review by the MTA, and shall be made part of the monthly payment invoice.

The Contractor shall also submit monthly reports, according to the terms of the Vehicle Lease and Maintenance Agreement, for the MTA leased bus(es).

2. Personal injury accidents shall be reported to MTA within 30 minutes of the incident.

I. "SECTION 15" REPORTING

Section 15(b) of the Federal Transit Act of 1990, as amended, requires agencies that receive Federal Transit Administration (FTA) funds to provide specified operating statistics. This data is used by FTA to determine federal grant apportionments. The Contractor shall furnish the required statistics to MTA.

The Project Manager will furnish the Contractor with the requirements and the time frames for furnishing all such information.

J. SUBCONTRACTING

The Contractor shall not subcontract any of the transportation services associated with the contract without the prior written consent of the Procurement Officer. Likewise, the remaining portions of the contract may only be subcontracted, assigned or otherwise disposed of with the prior written consent of the Procurement Officer. Any subcontract, assignment or other disposition of all or part of this Contract without the express written consent of the Procurement Officer shall be void ab initio. Consent to subcontract, assign or otherwise dispose of any portion of the Contract shall not be construed to relieve the Contractor or Surety of any responsibility for the fulfilling of all the requirements of the Contract. The Contractor shall incorporate by reference or otherwise include these General Conditions and the Contract Terms in every subcontract issued pursuant to or under this Contract. Further, the contractor shall furnish to the MTA, proof of insurance from the subcontractors in the same amount as the contractor is required to provide.

INSURANCE REQUIREMENTS

- I. Contractor shall obtain insurance of the types and in the amounts described below:
- A. Commercial General and Umbrella Liability Insurance
Contractor shall maintain commercial General Liability (CGL) insurance and, if necessary, commercial umbrella insurance with a limit of not less than \$5,000,000 each occurrence. If such CGL insurance contains a general aggregate limit, it shall apply separately to this project.
1. CGL insurance shall be written on Insurance Services Office (ISO) occurrence form CG 00 01 01 96 (or a substitute form providing equivalent coverage) and shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, and the tort liability of another assumed in a business contract.
 2. MTA shall be included as an insured under the CGL, using ISO additional insured endorsement CG 20 11 or a substitute providing equivalent coverage, and under the commercial umbrella, if any. This insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded to MTA. There shall be no endorsements or modification of the CGL to make it excess over other available insurance; alternatively, if the CGL states that it is excess or pro rata, the policy shall be endorsed to be primary with respect to the additional insured.
 3. Waiver of Subrogation. Contractor waives all rights against MTA and its agents, officers, directors, and employees for recovery of damages to the extent these damages are covered by the commercial general liability or commercial umbrella liability insurance maintained pursuant to paragraph 1.A of this agreement.
- B. Automobile and Umbrella Liability Insurance. Contractor shall maintain automobile liability and, if necessary, commercial umbrella liability insurance with a limit of not less than \$5,000,000 each accident.
1. Such insurance shall cover liability arising out of any auto (including owned, hired, and non-owned autos).

2. Coverage as required in paragraph 1.B above shall be written on ISO form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage equivalent to that provided in the 1990 and later additions of CA 00 01.
3. Waiver of Subrogation. Contractor waives all rights against MTA and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the business auto liability insurance obtained by Contractor pursuant to Paragraph 1.B of this agreement.

C. Workers Compensation Insurance. Contractor shall maintain workers compensation and employers liability insurance.

1. Contractors shall maintain such insurance as necessary and/or required under Worker's Compensation Acts, and any other applicable laws.
2. The alternate employer endorsement (WC 00 03 01 A) shall be attached to the policy.
3. Waiver of Subrogation. Contractor waives all rights against MTA and its agents, officers, directors, and employees for recovery of damages to the extent these damages are covered by the workers compensation and employers liability or commercial umbrella liability insurance obtained by Contractor pursuant to Paragraph I.C. of this agreement. Contractor shall obtain an endorsement equivalent to WC 00 03 13 to affect this waiver.

I. General Insurance Requirements

- A. Evidence of Insurance. Prior to commencement of work, Contractor shall furnish MTA with certificates of insurance, executed by a duly authorized representative of each insurer, showing compliance with the requirements set forth above. Failure of MTA to demand such certificate or other evidence of full compliance with these insurance requirements or failure of MTA to identify a deficiency from evidence that is provided shall not be construed as a waiver of Contractor's obligation to maintain such insurance. Failure to maintain the required insurance may result in termination of this contract at MTA's option. If Contractor fails to maintain the insurance as set forth herein, MTA shall have the right, but not the obligation, to purchase said insurance at Contractor's expense. Contractor shall provide certified copies of all insurance policies required above within 10 days of MTA's written request for said copies.
- B. No representation of Coverage Adequacy. By requiring insurance herein, MTA does not represent that coverage and limits will necessarily be adequate to protect

Contractor, and such coverage and limits shall not be deemed as a limitation on Contractor's liability under the indemnities granted to MTA in this contract.

- C. Cross-Liability Coverage. If Contractor's liability policies do not contain the standard ISO separation of insureds provision, or a substantially similar clause, they shall be endorsed to provide cross-liability coverage.

FARE COLLECTION, REPORTING AND PAYMENT

A. FARES

Fares shall be established by the MTA and are subject to change at the MTA's discretion. Ample notice shall be provided to the operator and passengers prior to any fare changes. The Contractor shall be responsible to assure that each bus rider pays the appropriate fare. All fares collected shall accrue to the benefit of the MTA.

Current Fares:

| | <u>ZONE 2</u> | <u>ZONE 3</u> | <u>ZONE 4</u> | <u>ZONE 5</u> |
|----------------------------|---------------|---------------|---------------|---------------|
| One-way Full Fare | \$ 3.50 | \$ 4.25 | \$ 5.00 | \$ 5.75 |
| Senior/Disabled Fare | \$ 2.45 | \$ 3.20 | \$ 3.95 | \$ 4.70 |
| Ten Trip Ticket | \$ 31.50 | \$ 38.25 | \$ 45.00 | \$ 51.75 |
| Senior/Disability Ten-Trip | \$ 24.50 | \$ 32.00 | \$ 39.50 | \$ 47.00 |
| Monthly Pass | \$119.00 | \$144.50 | \$170.00 | \$195.50 |
| Transit Link Card | \$194.00 | \$219.50 | \$245.00 | \$270.50 |

Riders displaying valid monthly or weekly MTA issued passes shall be permitted to ride for free. The Contractor shall assure the passes are valid by type, zone and date.

B. PASS SALES

The Contractor shall be required to sell MTA fare media, currently day passes and ten-trip tickets. Such fare media shall be produced by the MTA and distributed to operators on a consignment basis. Contractor will assure that applicable fare media shall be available for sale on all buses operated under contract to the MTA. Contractor may enforce an "exact change" fare policy. Any shortages of funds shall be the sole responsibility of the Contractor. The MTA shall provide Contractor with an initial supply of passes on consignment. Contractor will be required to reimburse the MTA for the full value of outstanding passes before additional supplies will be provided. When Contractor requires additional passes, the Contractor shall be required to purchase such passes at face value. Payment in the form of cash or check must be received by MTA before additional passes are distributed to the Contractor, unless payment for passes is deducted from the current invoice. At termination of the contract, the Contractor shall return all unused passes to the MTA and make payment to MTA for all passes not returned, so that the initial consignment of passes is accounted for.

The Contractor shall accept Commuter Choice Vouchers for transit fares. Redemption with the MTA is the responsibility of the Contractor.

All funds due shall be subject to MTA verification.

C. FARE COLLECTION AND REPORTING

The Contractor shall be responsible for assuring that all riders pay the appropriate fares as noted per the "Fares" section of this agreement. The Contractor and/or their representative is not authorized to waive fare payment without prior consent from the MTA. Contractor violating this procedure shall be subjected to liquidated damages.

The Contractor shall maintain daily and monthly Trip Reports for the #204 and #205. Daily Trip Reports shall be completed and signed by the driver assigned to each trip. Daily Trip Reports shall include verification of the trip operated, bus identification number, number of passengers per trip (including fare zone and type of fare paid), as well as, scheduled and actual departure and arrival times of the trip. An example of a Daily Trip Report is attached (Exhibit C).

Information per the Day Trip Reports shall be summarized into Monthly Trip Reports. The Contractor shall submit Monthly Trip Reports to the MTA within seven calendar days of the close of the month. Daily Trip Reports are to be kept by the contractor and made available to MTA staff upon request through the duration of the contract period. Payments of monthly invoices shall not be processed until all required reports have been submitted. An example of a Monthly Trip Report is attached (Exhibit C).

MTA employees who show the bus operator a valid MTA photo identification badge shall be allowed to ride free. Examples of valid and invalid identification badges is attached (Exhibit D).

All fares collected accrue to the benefit of the MTA. A monthly summary of ridership and cash due shall be reported in accordance with Exhibit C, and shall accompany the monthly invoice for service provided.

Liquidated damages of 100% of the per trip cost shall be assessed for each one0way trip on which fares are waived/not collected by the Contractor or their representative.

D. PAYMENT

The Contractor shall prepare and submit invoices for payment for services provided the previous month. The payment requests shall be based upon the schedule of prices per this contract, less "**cash fares**" per the Monthly Trip Reports, ten trip ticket purchase adjustment, any penalties assessed, and other adjustments agreed to in writing by the MTA. Monthly trip reports must be submitted with the invoice.

The MTA shall deduct assessed damages pursuant to this contract prior to payment. The Contractor may contest these damages in writing, setting forth their reasons for doing so within 7 days of notification of assessment. If agreement cannot be reached, disputed

penalties shall be resolved in accordance with the "Disputes" provision of the General Conditions for Service Contracts, Section 33.

All payment requests shall be subject to MTA verification. Payments shall be made only for trips run and shall be based upon scheduled route miles.

E. ADDITIONAL SERVICES ALLOWANCE

Funding shall be provided in the total not to exceed contract amount for payment to the Contractor for additional service. Additional services are defined as adding daily trips or extending the current route revenue miles.

Payments for additional service associated with Routes # 204 and #205 shall be based on the current per mile costs at the time of the request for additional service.

Payments for emergency services shall be based on an hourly chart rate with a three hour minimum limit.

All unused monies remaining in this additional service fund shall be retained by the MTA.

F. SERVICE SCHEDULES

MTA shall be responsible for establishing schedules and may add or delete trips, alter trip lengths, and/or adjust schedules as required. MTA will work with the Contractor to assure that service schedules are both effective and efficient, however, MTA retains final authority concerning these issues. If scheduled services are adjusted, payments to the Contractor shall be adjusted based upon the cost per scheduled route miles.

MTA shall be responsible for preparation and production of schedules and rider bulletins. The Contractor shall maintain a supply of schedules on each bus operated and agree to distribute other rider information on an as-needed basis.

STATE OF MARYLAND DEPARTMENT OF TRANSPORTATION

MARYLAND TRANSIT ADMINISTRATION

BID FORM

FOR

CONTRACT NO. T8000-0354

Line No. 204 & 205, Commuter Bus Service Between Frederick, Montgomery and Prince George's Counties, Maryland

TO: MARYLAND TRANSIT ADMINISTRATION
ATTN: CONTRACT ADMINISTRATION DEPARTMENT
6 SAINT PAUL STREET
BALTIMORE, MD 21202-1614

BID DUE DATE: _____
BID DUE TIME: 2:00 PM, Local Time

BID OF: _____
(Bidder's Name)

To Whom It May Concern:

1. This bid is hereby submitted to the Maryland Transit Administration (hereinafter sometimes called the "Administration") in response to SOLICITATION INSTRUCTIONS dated August 19, 2011.
2. The UNDERSIGNED has thoroughly examined, acknowledges receipt of, and is familiar with the Contract Documents as well as the various instructions, information, and requirements covering the same, all as mentioned herein and in said SOLICITATION INSTRUCTIONS.
3. In compliance with said SOLICITATION INSTRUCTIONS the undersigned hereby proposes to furnish all labor, equipment, materials and perform all work described in and in strict accordance with the provisions of the Contract Documents for the consideration of the amounts, lump sum and unit prices listed in the attached Unit Price Schedule, and agrees that, upon Notice of Award, within ninety (90) calendar days after the date of opening of bids, unless mutually extended, he will within 10 calendar days after receipt of the prescribed forms, execute the Contract.
4. The UNDERSIGNED hereby certifies that the _____ (Bidder's Name) / /is, / / is not (CHECK ONE) included on the U.S. Comptroller General's list of ineligible contractors.

PARENT COMPANY

- a. UNDERSIGNED represents that it / /is, / / is not, (CHECK ONE) owned or

controlled by a parent company. For this purpose a parent company is defined as one, which either owns or controls the activities and basic business policies of the UNDERSIGNED. To own another company means the parent company must own at least a majority (more than 50 percent) of the voting rights in that company. To control another company such ownership is not required; if another company is able to formulate, determine or veto basic business policy decisions of the bidder, such other company is considered the parent of the bidder. This control may be exercised through the use of dominant minority voting rights, use of proxy voting, contractual arrangements, or otherwise.

- b. If UNDERSIGNED is owned or controlled by a parent company, insert in the space below the name and main office address of the parent company.

Name

Address

5. CERTIFICATION OF NON-MARYLANBD CORPORATION (FOREIGN CORPORATION)

- a. A corporation not incorporated in the State of Maryland is considered to be a foreign corporation and, therefore, is required to be registered with the Maryland State Department of Assessments and Taxation if awarded this contract.
- b. Where a foreign corporation is currently registered with the Department of Assessments and Taxation, such a bidder shall submit with his bid a copy of the department's certification of his registration or qualification acknowledgement.
- c. If a foreign corporation is not currently registered, such a bidder shall submit with his bid his certification that, if notified of his apparent award of the contract, he will register with the Maryland State Department of assessments and Taxation and provide a copy of the department's certification of his registration or qualification acknowledgement along with the executed contract.

6. The UNDERSIGNED acknowledges receipt of the following addenda to the Bid Documents (Give the Number and date of each).

Addendum No. _____ Dated _____

Failure to acknowledge receipt of all addenda may cause the bid to be considered not responsive to the invitation, which would require rejection of the bid.

7. Enclosed are the following documents and forms:

- 1) Bid Form including Price Schedules
- 2) Bid/Proposal Affidavit
- 3) Bidder's Questionnaire
- 4) Living Wage Requirements
- 5) MBE Forms
- 6) Conflict of Interest Affidavit/Disclosure

SCHEDULE OF PRICES

The bid award for all required commuter bus services will be based on the price for three (3) years of service. The bidder with the lowest three (3) year bid price, and who is also judged responsive and responsible shall be the successful bidder.

At the end of three (3) years, the MTA, at its sole option, may renew this contract for one (1) two-year extension.

Bidder shall provide pricing information on the three (3) year initial term as well as the two (2) year option.

The MTA reserves the sole right during the contract period to add, reduce or terminate service.

The yearly cost shall be determined by the following formula:

Contractor shall be paid on a scheduled revenue mile basis for trips actually run.

There is an average of 46 revenue miles per one-way daily weekday trips on the #204 line. A total of four (4) buses are required daily.

The trip price is defined as the price for a one-way trip.

Daily one-way trips: #204 = eight (8) daily stops (5:18AM/5:42PM)

Annual Operating Days: 250

Annual Revenue Miles: #204 = 46 miles x 8 trips x 250 days =
92,000 annual revenue miles

Up to two (2) of the vehicles will be MTA Leased vehicles.

There is an average of 45 revenue miles per one-way daily weekday trips on the #205 line. A total of three (3) buses are required daily.

The trip price is defined as the price for a one-way trip.

Daily one-way trips: #205 = seven (7) daily stops (5:52AM/5:38PM)

Annual Operating Days: 250

Annual Revenue Miles: #205 = 45 miles x 7 trips x 250 days =
78,750 annual revenue miles

Up to two (2) of the vehicles will be MTA Leased vehicles.

NOTE: Actual annual trips and/or annual revenue miles may vary at the discretion of the MTA.

LINE #204

YEAR ONE

Cost per scheduled revenue mile: (Per revenue mile)

- (a) 45 Ft. 55 Passenger a)
- (b) MTA Leased Equipment b)

YEAR TWO

Cost per scheduled revenue mile: (Per revenue mile)

- (a) 45 Ft. – 55 Passenger a)
- (b) MTA Leased Equipment b)

YEAR THREE

Cost per scheduled revenue mile: (Per revenue mile)

- (a) 45 Ft. – 55 Passenger a)
- (b) MTA Leased Equipment b)

OPTION YEAR

Cost per scheduled revenue mile: (Per revenue mile)

- (a) 45Ft. – 55 Passenger a)
- (b) MTA Leased Equipment b)

OPTION YEAR

Cost per scheduled revenue mile: (Per revenue mile)

- (a) 45 Ft. – 55 Passenger a)
- (b) MTA Leased Equipment b)

LINE #205

YEAR ONE

Cost per scheduled revenue mile: (Per revenue mile)

(a) 45 Ft. – 55 Passenger a)
(b) MTA Leased Equipment b)

YEAR TWO

Cost per scheduled revenue mile: (Per revenue mile)

(a) 45 Ft. – 55 Passenger a)
(b) MTA Leased Equipment b)

YEAR THREE

Cost per scheduled revenue mile: (Per revenue mile)

(a) 45 Ft. – 55 Passenger a)
(b) MTA Leased Equipment b)

OPTION YEAR

Cost per scheduled revenue mile: (Per revenue mile)

(a) 45Ft. - 55 Passenger a)
(b) MTA Leased Equipment b)

OPTION YEAR

Cost per scheduled revenue mile: (Per revenue mile)

(a) 45Ft. – 55 Passenger a)
(b) MTA Leased Equipment b)

LINE #204

TOTAL

PRICES: Commuter Bus Service between Frederick, Montgomery and Prince George's Counties, Maryland.

The amount of annual miles is estimated and is provided for Bidder Purposes.

| | <u>Price per Revenue Mile</u> | | <u>Total Yearly Price</u> |
|-------|-------------------------------|----------|--|
| First | \$ _____ | x 23,184 | Bus/Annual Miles = \$ _____ |
| Year | \$ _____ | x 23,184 | Bus/Annual Miles = \$ _____ (MTA Leased) |
| | \$ _____ | x 23,184 | Bus/Annual Miles = \$ _____ |
| | \$ _____ | x 23,184 | Bus/Annual Miles = \$ _____ (MTA Leased) |

Year One Total \$ _____

| | | | |
|--------|----------|----------|--|
| Second | \$ _____ | x 23,184 | Bus/Annual Miles = \$ _____ |
| Year | \$ _____ | x 23,184 | Bus/Annual Miles = \$ _____ (MTA Leased) |
| | \$ _____ | x 23,184 | Bus/Annual Miles = \$ _____ |
| | \$ _____ | x 23,184 | Bus/Annual Miles = \$ _____ (MTA Leased) |

Year Two Total \$ _____

| | | | |
|-------|----------|----------|--|
| Third | \$ _____ | x 23,184 | Bus/Annual Miles = \$ _____ |
| Year | \$ _____ | x 23,184 | Bus/Annual Miles = \$ _____ (MTA Leased) |
| | \$ _____ | x 23,184 | Bus/Annual Miles = \$ _____ |
| | \$ _____ | x 23,184 | Bus/Annual Miles = \$ _____ (MTA Leased) |

Year Three Total \$ _____

***TOTAL THREE YEAR BID PRICE** \$ _____

BID FORM

OPTION YEAR ONE AND TWO Line # 204

Option \$ _____ x 46,368 Bus/Annual Miles = \$ _____
Year 1 \$ _____ x 46,368 Bus/Annual Miles = \$ _____ (MTA Leased)

Option Year One Total \$ _____

Option \$ _____ x 46,368 Bus/Annual Miles = \$ _____
Year 2 \$ _____ x 46,368 Bus/Annual Miles = \$ _____ (MTA Leased)

Option Year Two Total \$ _____

OPTION YEARS BID PRICE \$ _____

LINE #205

TOTAL PRICES: Commuter Bus Service between Frederick, Montgomery and Prince George's Counties, Maryland.

The amount of annual miles is estimated and is provided for Bidder Purposes.

| | <u>Price per Revenue Mile</u> | <u>Total Yearly Price</u> |
|-------|-------------------------------|--|
| First | \$ _____ x <u>22,680</u> | Bus/Annual Miles = \$ _____ |
| Year | \$ _____ x <u>34,020</u> | Bus/Annual Miles = \$ _____ (MTA Leased) |
| | \$ _____ x <u>22,680</u> | Bus/Annual Miles = \$ _____ (MTA Leased) |

Year One Total \$ _____

| | | |
|--------|--------------------------|--|
| Second | \$ _____ x <u>22,680</u> | Bus/Annual Miles = \$ _____ |
| Year | \$ _____ x <u>34,020</u> | Bus/Annual Miles = \$ _____ (MTA Leased) |
| | \$ _____ x <u>22,680</u> | Bus/Annual Miles = \$ _____ (MTA Leased) |

Year Two Total \$ _____

| | | |
|-------|--------------------------|--|
| Third | \$ _____ x <u>22,680</u> | Bus/Annual Miles = \$ _____ |
| Year | \$ _____ x <u>34,020</u> | Bus/Annual Miles = \$ _____ (MTA Leased) |
| | \$ _____ x <u>22,680</u> | Bus/Annual Miles = \$ _____ (MTA Leased) |

Year Three Total \$ _____

***TOTAL THREE YEAR BID PRICE** \$ _____

BID FORM

OPTION YEAR ONE AND TWO Line # 205

Option \$ _____ x 22,680 Bus/Annual Miles = \$ _____
Year 1 \$ _____ x 56,700 Bus/Annual Miles = \$ _____ (MTA Leased)

Option Year One Total \$ _____

Option \$ _____ x 22,680 Bus/Annual Miles = \$ _____
Year 2 \$ _____ x 56,700 Bus/Annual Miles = \$ _____ (MTA Leased)

Option Year Two Total \$ _____

OPTION YEARS BID PRICE \$ _____

LINE # 204

LINE #204 FIRST YEAR _____

LINE #204 SECOND YEAR _____

LINE #204 THIRD YEAR _____

THREE-YEARS TOTAL (BASIS OF AWARD) _____

OPTION YEAR ONE AND TWO Line # 204

OPTION YEAR ONE _____

OPTION YEAR TWO _____

TWO-YEAR TOTAL (OPTION YEARS) _____

LINE # 205

LINE #205 FIRST YEAR _____

LINE #205 SECOND YEAR _____

LINE #205 THIRD YEAR _____

THREE-YEARS TOTAL (BASIS OF AWARD) _____

OPTION YEAR ONE AND TWO Line # 205

OPTION YEAR ONE _____

OPTION YEAR TWO _____

TWO-YEAR TOTAL (OPTION YEARS) _____

BID FORM

A. CORPORATION BID:

Name of Corporation

State in which Incorporated

Business Address

Telephone

Attest:

Secretary

Print Name

By:

President or Vice President

Print Name

B. PARTNERSHIP BID:

Name of Partnership

Business Address

Telephone

Names of each Partner:

Witness:

By:

Signature

Print Name

C. INDIVIDUAL BID

Name

Business Address

Telephone

Witness:

By:

Print Name

Signature

Print Name

STATE OF MARYLAND
DEPARTMENT OF TRANSPORTATION
MARYLAND TRANSIT ADMINISTRATION
SAMPLE CONTRACT AGREEMENT

FOR

T-8000-0354

COMMUTER BUS SERVICE BETWEEN
FREDERICK, MONTGOMERY AND PRINCE GEORGE'S COUNTIES,
MARYLAND LINES NO. 204 & 205

CONTRACTOR: _____ CONTRACT NO.: T8000-0354
DATE: _____

THIS CONTRACT, made and entered into as of the above date by and between the **MARYLAND TRANSIT ADMINISTRATION**, an instrumentality of the Department of Transportation of the State of Maryland (hereinafter called the "Administration"), and _____ a _____ (hereinafter called "Contractor").

Contractor covenants and agrees to perform all obligations of Contractor set forth in this Contract and in the documents listed below, which documents are incorporated herein by reference and which documents together with this Contract are hereinafter called "Contract Documents".

| | |
|---|------------------------|
| CONTRACT AFFIDAVIT | SERVICE/ROUTE SCHEDULE |
| PROJECT DESCRIPTION | HOLIDAY SCHEDULE |
| BID FORM | MBE REQUIREMENTS |
| BIDDER'S QUESTIONNAIRE | BID/PROPOSAL AFFIDAVIT |
| SCOPE OF SERVICES | |
| FARE COLLECTION, REPORTING & PAYMENT | |
| INSURANCE REQUIREMENTS | |
| CONTRACTOR'S SUBSTANCE ABUSE PREVENTION PROGRAM | |
| CONTRACTOR SAFETY REQUIREMENTS | |
| ELECTRONIC FUNDS TRANSFER REGISTRATION REQUEST | |
| PERFORMANCE BOND | |
| DAILY AND MONTHLY TRIP REPORT | |
| VEHICLE LEASE AND MAINTENANCE AGREEMENT | |
| PRICE SCHEDULE (ATTACHMENT A) | |
| GENERAL CONDITIONS FOR SERVICE CONTRACTS | |
| CONSIGNMENT AGREEMENT | |

PERIOD OF PERFORMANCE: THREE (3) YEARS _____, 2012 THROUGH, _____
2014 WITH ONE (1) TWO (2) YEAR OPTION.

LIQUIDATED DAMAGES: AS SPECIFIED

COMPENSATION:

In consideration of the faithful performance of all of Contractor obligations hereunder, the Administration shall pay to Contractor the compensation specified in Attachment A - Price Schedule.

Aggregated Contract Amount: _____

ADDRESSES:

Contractor:

Administration:

Department of Transportation
Maryland Transit Administration
6 Saint Paul Street
Baltimore, MD 21202-1614

IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the date first above written.

WITNESS:

BY: _____

(Signature)

(Federal Tax I.D. Number)

(Printed Name)

Title: _____

WITNESS:

MARYLAND TRANSIT ADMINISTRATION

BY: _____

(Signature)

James L. Knighton

(Printed Name)

Title: Director of Procurement

Approved as to Form and Legal Sufficiency:

APPROVED BY BOARD OF PUBLIC WORKS

Date: _____ Item No: _____

Assistant Attorney General

Bus Route No. 204
Bus Stops

Inbound to Prince George's County
from Frederick County

Frederick County

Monocacy MARC Station
Urbana Park & Ride

Montgomery County

Gaithersburg Park & Ride
Georgia Avenue Park & Ride
Federal Drug Administration (FDA)

Prince George's County

University of Maryland College Park
College Park Metro/MARC Station

Outbound from Prince George's County
to Frederick County

Prince George's County

College Park Metro/MARC Station
University of Maryland College Park

Montgomery County

Federal Drug Administration (FDA)
Georgia Avenue Park & Ride
Gaithersburg park 7 Ride

Frederick County

Urbana Park & Ride
Monocacy MARC Station

Service will not be provided on Saturdays, Sundays or Holidays listed in Attachment F.

Bus Route No. 205
Bus Stops

Inbound to Montgomery County
from Prince George's County

Prince George's County

College Park Metro/MARC Station
Muirkirk MARC Station

Montgomery County

Georgia Avenue Park & Ride
Shady Grove Metro Station (East Side)
Shady Grove Adventist Hospital
Life Sciences Center
Human Genome (Key West Ave)
NIST (Bureau Drive)
Germantown Transit Center

Outbound from Prince George's County
to Montgomery County

Montgomery County

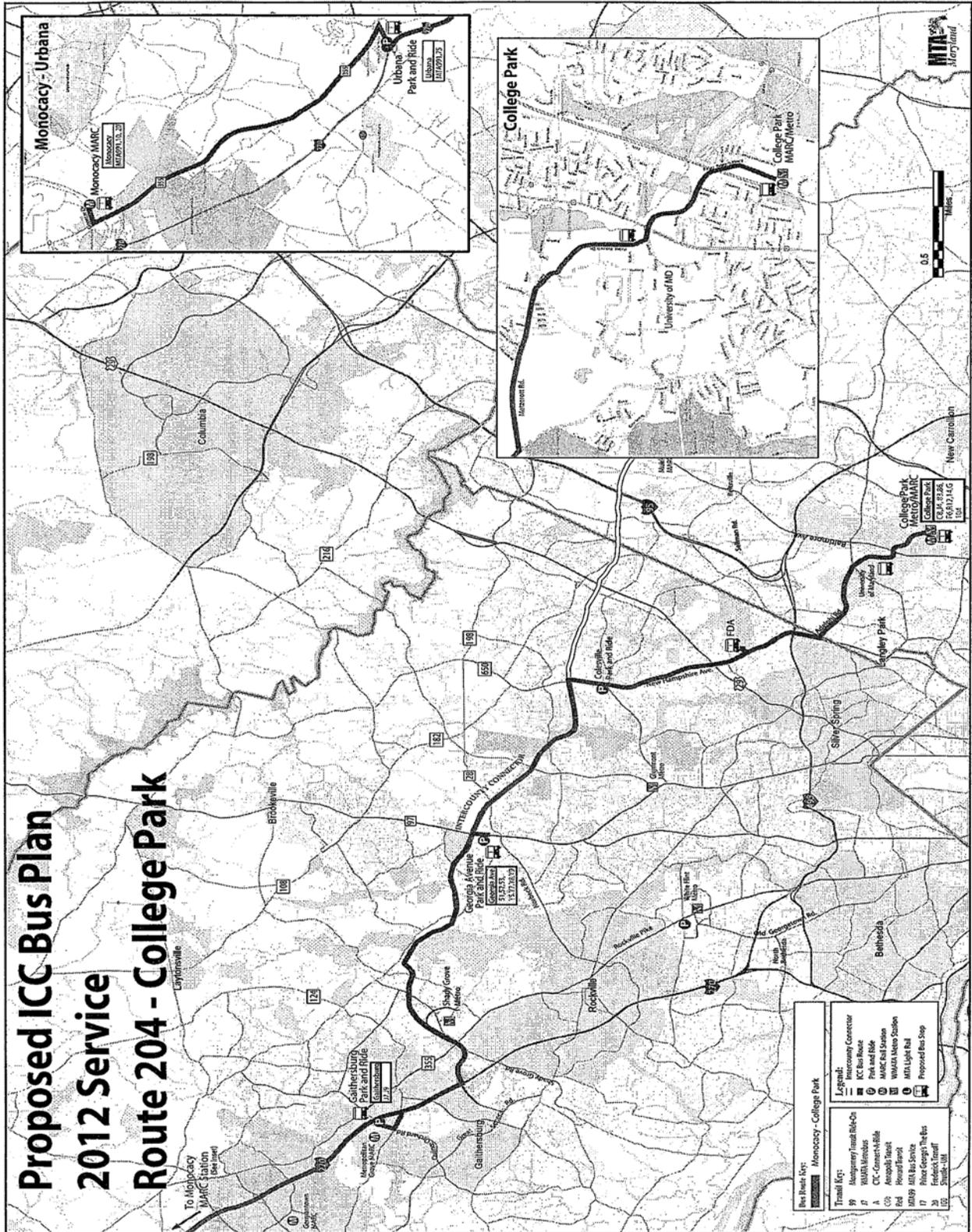
Germantown Transit Center
NIST (Bureau Drive)
Human Genome (Key West Ave)
Life Sciences Center
Shady Grove Adventist Hospital
Shady Grove Metro Station (East Side)
Georgia Avenue Park & Ride

Prince George's County

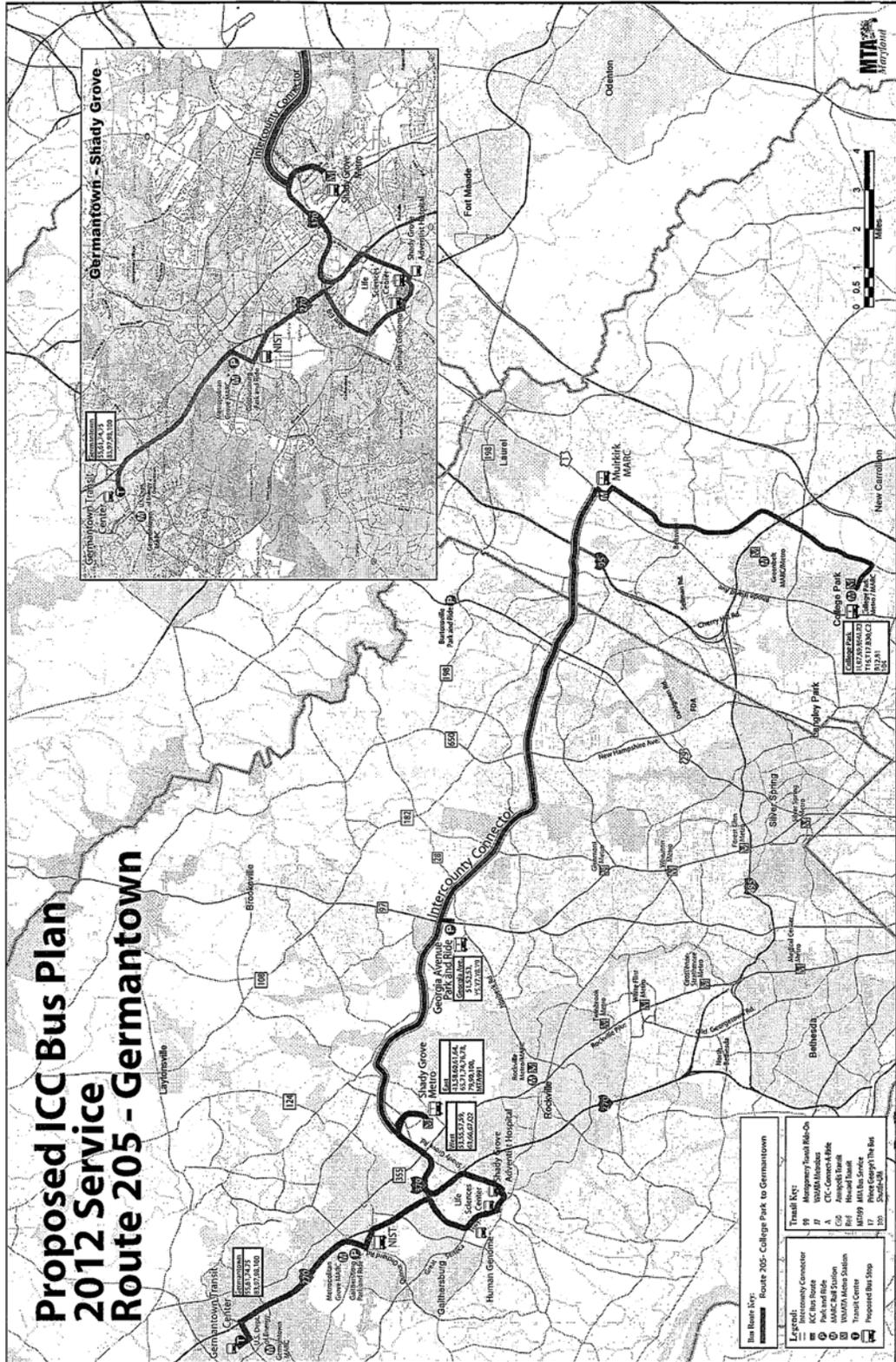
Muirkirk MARC Station
College Park Metro/MARC Station

Service will not be provided on Saturdays, Sundays or Holidays listed in Attachment F.

Bus Route No. 204



Bus Route No. 205



**STATE OF MARYLAND DEPARTMENT OF TRANSPORTATION
MARYLAND TRANSIT ADMINISTRATION**

BIDDERS QUESTIONNAIRE

IMPORTANT

This questionnaire will be used as a basis for establishing the Bidder's qualifications to provide Commuter Bus Service under contract and the Maryland Transit Administration. Each bidder must answer these questions. Attached additional paper as required.

I. GENERAL

A. Legal Title and Address of Company

B. Person who legally represents the Company. Name, Title, Address.

C. Check One: _____Corporation _____Partnership _____Individual

D. If a Corporation:

Date of incorporation_____

State in which Incorporated_____

Name and Title of Principal Officers

Date of Assuming Position

| | |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

E. If Partnership:
Date of Organization
Nature of Partnership (General____Limited____)
Names and Address of Partners:

F. If Individual:
Full Name and Address of Owner:

G. What types of insurance does your firm currently have in place? (Refer to Section 4, Subsection 4.3, #9)

Worker's Compensation

Limits_____

Policy No._____ Agent_____

Company Name_____

General Liability

Limits_____

Policy No._____

Company Name_____

Automobile Liability

Limits_____

Policy No._____ Agent_____

Company Name_____

Excess Liability

Limits _____

Policy No. _____ Agent _____

Company Name _____

III. EXPERIENCE

A. Describe the general nature of your Company's business.

B. How many years of experience does your company have in providing transportation services?

B. List the location(s) of the facilities to be used to garage and maintain vehicles for this contract.

C. Describe your routine vehicle maintenance program. Provide a copy of your preventative maintenance schedule and work order forms. How often is routine and preventative maintenance performed?

D. Attach a copy of your most recent PSC or Maryland Motor Carrier Safety Program inspection certificate for each vehicle assigned to this contract, including back-up vehicles.

E. Indicate your ability to respond to in-service vehicle breakdowns. Explain what procedures are followed and estimate the response time required to resume service if a trip is missed or breakdown occurs.

F. Are vehicles equipped with radios and connected to a central contact/dispatcher?
___ Yes ___ No

Where is central dispatch located? _____

What are dispatch hours of operation? _____

Broadcast range? _____

Tower location? _____

FCC License Number? _____

IV. MANAGEMENT

A. List a key management staff to be assigned to this project.

| <u>Position</u> | <u>Name</u> | <u>Responsibility</u> |
|-----------------|-------------|-----------------------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

B. How often do you check your operators' driving records? Specify the number of points and type, and time frame of violations used as a determinant for hiring, suspension and termination.

C. Explain your company's driver training program.

D. Describe your company's safety procedures, and any safety training provided to operations personnel.

E. Attach Drivers Manual.

F. Describe your company's efforts to establish and maintain a drug free workplace; 49 CFR parts 653 and 654.

G. How many accidents (any passenger incident and/or vehicle accident causing injury or damage) were recorded during the past twelve months.

H. List any customers complaints filed with the PSC and any resulting hearings.

I. What are your procedures for operating during inclement weather (e.g. ice and snow)? What procedures do you have to transport drivers to your garage location to begin work?

J. Explain what procedures your company uses to clean vehicles.

1. inside the bus _____

2. Outside the bus _____

The above statements are certified to be true and accurate.

Date at _____ this _____ day of _____, 20_____.

By _____

(TITLE OF PERSON SIGNING)

(NAME OF ORGANIZATION)

State of _____

County (City) of _____:

On this _____ day of _____, 20_____, before me, _____

_____, the undersigned officer personally

appeared _____, known to me to be the person described in
the

foregoing Bidder's Questionnaire and acknowledged that he (she) executed the same in the capacity therein

stated and for the purposes therein contained.

In witness whereof, I hereunto set my hand and official seal.

(NOTARY PUBLIC)

(SEAL)

My Commission Expires _____

Monthly Summary of Ridership and Cash Due Report

Route(s) _____
 Month/Year: _____

| Day | Number of Riders | | Total Cash Due |
|--------------|------------------|------------|----------------|
| | Total | MTA Passes | |
| 1 | | | |
| 2 | | | |
| 3 | | | |
| 4 | | | |
| 5 | | | |
| 6 | | | |
| 7 | | | |
| 8 | | | |
| 9 | | | |
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| 26 | | | |
| 27 | | | |
| 28 | | | |
| 29 | | | |
| 30 | | | |
| 31 | | | |
| Total | | | \$ |

* Total Cash Due “should be deducted from monthly invoice.

Daily Summary of Ridership and Cash Due Report

Route(s) _____
 Date _____

| Trip No. | Number of Riders | | | Total Cash Due |
|--------------|------------------|------------|-----------|----------------|
| | Total | MTA Passes | 10 - Trip | |
| 1 | | | | |
| 2 | | | | |
| 3 | | | | |
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| 35 | | | | |
| 36 | | | | |
| 37 | | | | |
| 38 | | | | |
| 39 | | | | |
| 40 | | | | |
| Total | | | | \$ |

DATE: _____

CONSIGNMENT AGREEMENT
BETWEEN THE
MARYLAND TRANSIT ADMINISTRATION
AND

On the above date I _____ as a authorized representative of the _____ acknowledge receipt of the following ten (10) trip tickets:

| <u>ZONE</u> | <u>TICKETS</u> | <u>VALUE</u> |
|-------------|----------------|--------------|
| 1 | | \$ |
| 2 | | \$ |
| 3 | | \$ |
| 4 | | \$ |

The _____ acknowledges that the Maryland Transit Administration can at anytime request the return of these ten trip tickets or payment at there current value per ticket. We also understand that as long as we retain this consignment all future orders will be paid for upon receipt.

Company/Organization

Maryland Transit Administration

NAME

NAME

TITLE

TITLE

PHONE

PHONE

ATTACHMENT A

PRICE SCHEDULE

LINE 204

YEAR ONE

- | | | | |
|----|---------------------------|----|------------------|
| a) | 45 ft. – 55 Passenger Bus | \$ | per revenue mile |
| b) | MTA Lease Equipment | \$ | per revenue mile |

YEAR TWO

- | | | | |
|----|---------------------------|----|------------------|
| a) | 45 ft. – 55 Passenger Bus | \$ | per revenue mile |
| b) | MTA Lease Equipment | \$ | per revenue mile |

YEAR THREE

- | | | | |
|----|---------------------------|----|------------------|
| a) | 45 ft. - 55 Passenger Bus | \$ | per revenue mile |
| b) | MTA Lease Equipment | \$ | per revenue mile |

OPTION YEAR

- | | | | |
|----|---------------------------|----|------------------|
| a) | 45 ft. – 55 Passenger Bus | \$ | per revenue mile |
| b) | MTA Lease Equipment | \$ | per revenue mile |

OPTION YEAR

- | | | | |
|----|-------------------------|----|------------------|
| a) | 45 ft. 55 passenger bus | \$ | per revenue mile |
| b) | MTA Lease Equipment | \$ | per revenue mile |

ATTACHMENT A

PRICE SCHEDULE

LINE 205

YEAR ONE

- | | | | |
|----|-------------------------|----|------------------|
| a) | 45 ft. 55 passenger bus | \$ | per revenue mile |
| b) | MTA Lease Equipment | \$ | per revenue mile |

YEAR TWO

- | | | | |
|----|-------------------------|----|------------------|
| a) | 45 ft. 55 passenger bus | \$ | per revenue mile |
| b) | MTA Lease Equipment | \$ | per revenue mile |

YEAR THREE

- | | | | |
|----|-------------------------|----|------------------|
| a) | 45 ft. 55 passenger bus | \$ | per revenue mile |
| b) | MTA Lease Equipment | \$ | per revenue mile |

OPTION YEAR

- | | | | |
|----|-------------------------|----|------------------|
| a) | 45 ft. 55 passenger bus | \$ | per revenue mile |
| b) | MTA Lease Equipment | \$ | per revenue mile |

OPTION YEAR

- | | | | |
|----|-------------------------|----|------------------|
| a) | 45 ft. 55 passenger bus | \$ | per revenue mile |
| b) | MTA Lease Equipment | \$ | per revenue mile |

ATTACHMENT B

Bid/Proposal Affidavit.

A. Each solicitation shall provide notice that the affidavit in §B of this regulation shall be completed and submitted to the procurement agency with the vendor's bid or offer.

B. Mandatory Solicitation Addendum. The solicitation addendum shall be in substantially the same form as follows:

BID/PROPOSAL AFFIDAVIT

A. AUTHORITY

I HEREBY AFFIRM THAT:

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

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.

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)

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)

STATE OF MARYLAND
MARYLAND DEPARTMENT OF TRANSPORTATION
PERFORMANCE BOND

| | |
|--|--|
| Principal | Business Address of Principal |
| <u>Name of Surety:</u> A corporation of the State of _____ and authorized to do business in the State of Maryland | |
| PENAL SUM OF THIS PERFORMANCE BOND | DESCRIPTION OF CONTRACT |
| 10 % OF THE CONTRACT VALUE | Contract Number: T8000-0354 Contract Name or Description: Line 204 & 205 Commuter Bus Service between Frederick, Montgomery County, Maryland and Prince George's County, Maryland. |
| DATE OF BOND | DATE OF CONTRACT |
| (Shall be no later than Date on Contract) | (To be filled in by the Adm.) |
| OBLIGEE | |
| State of Maryland by and through the following Administration acting for the Maryland Department of Transportation: <p style="text-align: center;">MARYLAND TRANSIT ADMINISTRATION</p> | |

KNOW ALL MEN BY THESE PRESENTS, That we, the principal named above and Surety named above, being authorized to do business in Maryland, and having business addresses as shown above 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, 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 in this Performance Bond.

Whenever Principal shall be declared by the Administration to be in default under the Contract, the Surety may, within 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, 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 affix below the corporation's seal and to attach hereto a notarized corporate resolution or power of attorney authorizing such action, 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.

In Presence of:

Individual Principal

Witness:

_____ as to _____ (SEAL)

In Presence of:

Co-Partnership Principal

Witness:

_____ (SEAL)

(Name of Co-Partnership)

_____ as to By: _____ (SEAL)

_____ as to _____ (SEAL)

_____ as to _____ (SEAL)

Corporate Principal

Attest:

_____ (Name of Corporation)

AFFIX

_____ as to By: _____ CORPORATE

Corporate Secretary

President

SEAL

(Surety)

AFFIX

Attest:
(SEAL)

By: _____ CORPORATE

SEAL

_____ Title _____

Signature

Bonding Agent's Name: _____

(Business Address of Surety)

Agent's Address

Approved as to legal form and sufficiency this
_____ day of _____ 20 ____

Assistant Attorney General

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

THIS AFFIDAVIT MUST BE INCLUDED WITH THE BID. IF THE BIDDER FAILS TO ACCURATELY COMPLETE AND SUBMIT THIS AFFIDAVIT AS REQUIRED, THE BID SHALL BE DEEMED NOT RESPONSIVE.

In connection with the bid submitted in response to Solicitation No. T-8000-0354, 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 subgoal of _____ percent (_____ %) for Women-Owned MBE firms and the subgoal of _____ percent (_____ %) for African-American Owned MBE firms. I agree that the MBE firms listed in the MBE Participation Schedule - Part 2 of the MDOT MBE Form B (State-Funded Contracts – Bids Only) will be used to accomplish the MBE participation goal and subgoals (if any) for this Contract for at least the dollar amounts set forth therein.

OR

I conclude that I am unable to achieve the MBE participation goal and/or subgoals. I hereby request a waiver 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. I agree that the MBE firms listed in the MBE Participation Schedule - Part 2 of the MDOT MBE Form B (State-Funded Contracts – Bids Only) will be used to accomplish the MBE participation goal and subgoals (if any) for this Contract for at least the dollar amounts set forth therein.

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 – Bids Only);
- (b) Subcontractor Project Participation Statement (MDOT MBE Form D - State-Funded Contracts – Bids Only);
- (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 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.

MDOT MBE FORM A
STATE-FUNDED CONTRACTS (BIDS ONLY)
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.

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 (BIDS ONLY)
MBE PARTICIPATION SCHEDULE

PART 1 – INSTRUCTIONS FOR MBE PARTICIPATION SCHEDULE

PARTS 2 AND 3 MUST BE INCLUDED WITH THE BID. IF THE BIDDER FAILS TO ACCURATELY COMPLETE AND SUBMIT PART 2 WITH THE BID AS REQUIRED, THE BID SHALL BE DEEMED NOT RESPONSIVE.

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 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 call 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 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 in Part 2 of this MBE Participation Schedule.
6. For each MBE firm that is being used as supplier/wholesaler/regular dealer/broker/manufacturer, please follow these instructions for calculating the **dollar 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. In Column 4 of the MBE Participation Schedule, please state the amount of any reasonable fee that the MBE firm will receive for the provision of such products/services in Line 4.1.
 - 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. In Column 4 of the MBE Participation Schedule, please state the total amount of the subcontract in Line 4.1.

MDOT MBE FORM B
STATE-FUNDED CONTRACTS (BIDS ONLY)
MBE PARTICIPATION SCHEDULE

PART 1 – INSTRUCTIONS FOR MBE PARTICIPATION SCHEDULE

PAGE 2 OF 2

E. Is the firm certified as a supplier, wholesaler and/or regular dealer? If the answer is YES (i) if the MBE firm is furnishing and installing the materials and is certified to perform these services, please include in Line 4.1 the total value of the subcontract amount (including full value of supplies); or (ii) if the 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). In Column 4, Section 4.2 of the MBE Participation Schedule, please state the amount of the subcontract for these supplies/products only (not installation) and sixty percent (60%) of such value.

7. **WARNING:** The percentage of MBE participation, computed using the dollar amounts in Column 4 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 (Bids Only) for this solicitation. If a bidder is unable to achieve the MBE participation goal and/or any subgoals (if applicable), then the bidder must request a waiver in Form A or the bid will be deemed not responsive. You may wish to use the 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).

WORKSHEET

| | | |
|--|----|---------|
| Total African American-Owned Firm Participation Amount | \$ | <hr/> |
| (Add amounts listed for African-American Owned Firms in Column 4 of MBE Participation Schedule) | | |
| Divide by Total Contract Amount | ÷ | <hr/> |
| Percent African American-Owned Participation | = | <hr/> % |
| <hr/> | | |
| Total Women-Owned Firm Participation Amount | \$ | <hr/> |
| (Add amounts listed for Women-Owned Firms in Column 4 of MBE Participation Schedule) | | |
| Divide by Total Contract Amount | ÷ | <hr/> |
| Percent Women-Owned Firm Participation | = | <hr/> % |
| <hr/> | | |
| Total MBE Firm Participation Amount | \$ | <hr/> |
| (Add amounts listed for all MBE Firms in Column 4 of MBE Participation Schedule) | | |
| Divide by Total Contract Amount | ÷ | <hr/> |
| Percent Overall MBE Participation | = | <hr/> % |

MDOT MBE FORM B
STATE-FUNDED CONTRACTS (BIDS ONLY)
MBE PARTICIPATION SCHEDULE

PART 2 – MBE PARTICIPATION SCHEDULE

PART 2 MUST BE INCLUDED WITH THE BID. IF THE BIDDER FAILS TO ACCURATELY COMPLETE AND SUBMIT PART 2 WITH THE BID AS REQUIRED, THE BID SHALL BE DEEMED NOT RESPONSIVE.

PAGE ___ OF ___

| | | |
|-------------------------|----------------------------|----------------------------|
| Prime Contractor | Project Description | Solicitation Number |
| | | |

LIST INFORMATION FOR EACH CERTIFIED MBE SUBCONTRACTOR USED TO ACHIEVE THE MBE PARTICIPATION GOAL

| COLUMN 1 | COLUMN 2 | COLUMN 3 | COLUMN 4 |
|---|---|---|---|
| | | | Unless the bidder requested a waiver in MDOT MBE Form A – State Funded Contracts (Bids Only) 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 | NAICS CODE/S NAICS Code/s of the specific products to be supplied or services to be performed by the MBE firm | FOR PURPOSES OF ACHIEVING THE MBE PARTICIPATION GOAL AND SUBGOALS. State the dollar amount of the products/services in Line 4.1 except for those services or products where the MBE firm is being used as a wholesaler, supplier, regular dealer, or broker. For those items of work where the MBE firm is being used as a supplier, wholesaler and/or regular dealer complete Line 4.2 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: <input type="checkbox"/> Women-Owned <input type="checkbox"/> African American-Owned <input type="checkbox"/> Other MBE Classification | | 4.1 TOTAL AMOUNT TO BE PAID TO THE SUBCONTRACTOR (EXCLUDING PRODUCTS/SERVICES FROM SUPPLIERS, WHOLESALERS, REGULAR DEALERS AND BROKERS) \$ 4.2 TOTAL AMOUNT 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) (PLEASE REFER TO SECTION 6(E) IN PART 1 - INSTRUCTIONS). Total value of Supplies/Products \$ X 60% (60% Rule) = \$ (Amount for purposes of achieving the MBE Participation Goal and Subgoals). |

Please check if Continuation Sheets are attached.

MDOT MBE FORM B
STATE-FUNDED CONTRACTS (BIDS ONLY)
MBE PARTICIPATION SCHEDULE
CONTINUATION SHEET

PAGE ___ OF ___

| | | |
|-------------------------|----------------------------|----------------------------|
| Prime Contractor | Project Description | Solicitation Number |
| | | |

LIST INFORMATION FOR EACH CERTIFIED MBE SUBCONTRACTOR USED TO ACHIEVE THE MBE PARTICIPATION GOAL

| COLUMN 1 | COLUMN 2 | COLUMN 3 | COLUMN 4 |
|--|--|--|---|
| <p>NAME OF MBE SUBCONTRACTOR AND TIER</p> | <p>CERTIFICATION NO. AND MBE CLASSIFICATION</p> | <p>NAICS CODE/S</p> <p>NAICS Code/s of the specific products to be supplied or services to be performed by the MBE firm</p> | <p>Unless the bidder requested a waiver in MDOT MBE Form A – State Funded Contracts (Bids Only) 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>FOR PURPOSES OF ACHIEVING THE MBE PARTICIPATION GOAL AND SUBGOALS. State the dollar amount of the products/services in Line 4.1 except for those services or products where the MBE firm is being used as a wholesaler, supplier, regular dealer, or broker. For those items of work where the MBE firm is being used as a supplier, wholesaler and/or regular dealer complete Line 4.2 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><input type="checkbox"/> Women-Owned <input type="checkbox"/> African American-Owned <input type="checkbox"/> Other MBE Classification</p> | | <p>4.1 TOTAL AMOUNT TO BE PAID TO THE SUBCONTRACTOR (EXCLUDING PRODUCTS/SERVICES FROM SUPPLIERS, WHOLESALERS, REGULAR DEALERS AND BROKERS)</p> <p>\$ _____</p> <p>4.2 TOTAL AMOUNT 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) (PLEASE REFER TO SECTION 6(E) IN PART 1 - INSTRUCTIONS).</p> <p>Total value of Supplies/Products \$ _____</p> <p>X 60% (60% Rule) = \$ _____</p> <p>(Amount for purposes of achieving the MBE Participation Goal and Subgoals).</p> |

Please check if Continuation Sheets are attached.

MDOT MBE FORM B
STATE-FUNDED CONTRACTS (BIDS ONLY)
MBE PARTICIPATION SCHEDULE

PART 3 – CERTIFICATION FOR MBE PARTICIPATION SCHEDULE

PARTS 2 AND 3 MUST BE INCLUDED WITH THE BID. AS DIRECTED IN THE INVITATION TO BID.

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.

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 (BIDS ONLY) OUTREACH EFFORTS COMPLIANCE STATEMENT

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

1. Bidder 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 instructions) used to solicit certified MBE firms for these subcontract opportunities.

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

4. **Please Check One:**

Bidder assisted MBE firms to fulfill or to seek waiver of bonding requirements. (DESCRIBE EFFORTS)

This project does not involve bonding requirements.

5. **Please Check One:**

Bidder did attend the pre-bid meeting/conference

No pre-bid meeting/conference was held.

Bidder did not attend the pre-bid meeting/conference

Company Name

Signature of Representative

Address

Printed Name and Title

Date

MDOT MBE FORM D
STATE-FUNDED CONTRACTS (BIDS ONLY)
MBE SUBCONTRACTOR PROJECT PARTICIPATION AFFIDAVIT

IF THE BIDDER FAILS TO RETURN THIS AFFIDAVIT WITHIN THE REQUIRED TIME, THE PROCUREMENT OFFICER MAY DETERMINE THAT THE BIDDER IS NOT RESPONSIBLE AND THEREFORE NOT ELIGIBLE FOR CONTRACT AWARD. SUBMIT ONE FORM FOR EACH CERTIFIED MBE FIRM LISTED IN THE MBE PARTICIPATION SCHEDULE

Provided that _____ (Prime Contractor's Name) is awarded the State contract in conjunction with Solicitation No. _____, such Prime Contractor will enter into a contract 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) will receive for at least \$ _____ (Total Subcontract Amount) 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: _____ |
| 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.

ATTACHMENT F
HOLIDAY SERVICE

Service will be provided on the designated day of observance for the following Holidays:

New Year's Day

Martin Luther King's Birthday

President's Day

Memorial Day

Independence Day

Labor Day

Columbus Day

Veteran's Day

Thanksgiving Day

Day after Thanksgiving

Christmas Day

Service will be provided on Saturdays and Sundays

Service will not be provided on the holidays shown above or on Saturday or Sunday.

MTA'S CONTRACTORS COMPLIANCE REQUIREMENTS

- A. The Federal Transit Administration requires that any contractors employed to "STAND IN THE SHOES" of MTA Safety Sensitive employees must be in compliance with 49 CFR Part 40, (Procedures for Transportation Workplace Drug and Alcohol Testing Programs) and 49 CFR Part 655 (Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations) at the risk of cancellation of the contract. The contractor must also comply with any amendments or revisions to 49 CFR Parts 40 and/or 655 which could become effective during the contract period. MTA is responsible to assure such compliance and will do so via on-site audits of personnel, facilities, record keeping and reporting requirements as well as monitoring various monthly and quarterly reports. The definition of FTA Safety Sensitive function and covered employee is set forth in 49 CFR part 655.4, definitions.
- B. Any MTA Senior Manager responsible for administering a contract which meets the quoted criteria of "A", above, or who is responsible for the procurement of such a contract after 01/01/95 is responsible for:
1. Notifying in writing all contract service and maintenance providers of applicable regulatory requirements and the need for compliance.
 2. Providing each contractor with a copy of the regulatory requirements.
 3. Requiring each contractor to sign a "Confirmation of Receipt" form acknowledging receipt of the regulations.
 4. Informing contractors of their record keeping and reporting requirements to the MTA, including retention of records, quarterly Management Information System (MIS) reporting on drug and alcohol results, quarterly certification of compliance, and monthly completion of the MTA date and time analysis report. Other reporting requirements may be directed by the MTA at any time.
 - 4a. Retention of record requirements as listed in subpart H-Administrative Requirements of 49 CFR Part 655.71.
 - 4b. Management Information System (MIS) requirements as listed in subpart H-Administrative Requirements of 49 CFR 655.72. Contractors shall complete and submit this calendar year report in quarterly increments.
 - 4c. Certification of Compliance requirements as listed in subpart I-Certifying Compliance of 49 CFR Parts 655.81 and 655.83. Contractors shall certify their compliance each quarter with submission of their quarterly MIS reports to the MTA. The certification must be authorized by the organizations governing board or other authorizing official.

- 4d. The Monthly Date and Time Analysis report requires that each contractor update and maintain a Microsoft Office Excel spreadsheet on FTA drug and alcohol testing based upon random, post accident and reasonable suspicion directed testing. This report shall be submitted to the MTA by the 15th of the month following the month of record. This spreadsheet shall capture the name, date of hire, type of testing, date & time the testing appointment form was issued by a supervisor, time of arrival & departure at the collection center, specimen collection time, and work schedule of the employee tested.
- C. The contractor shall establish and maintain a "Stand in the Shoes" policy in accordance with 49 CFR Parts 40 and 655 which shall contain:
1. A policy statement regarding drug use and alcohol misuse. The policy must contain the required elements of an anti-drug use and alcohol misuse program as outlined in 49 CFR Parts 655.12, 655.15, and 655.16
 2. An employee training and education program which meets the requirements of 49 CFR 655.14.
 3. A testing program for covered employees as described in 49 CFR 655 Subparts C and D which meets the requirements of this part and 49 CFR Part 40.
 4. Procedures for referring a covered employee who has a verified positive drug test result or an alcohol concentration of 0.04 or greater to a Substance Abuse Professional consistent with 49 CFR Part 40.
- This policy must comply with requirements of the MTA Medical Services Section in determining FTA compliance. Contractors shall comply with modification and policy revision requests as deemed appropriate by MTA Medical Services.
- D. The MTA designee responsible for contractor administration shall register contractors required to establish and maintain the above FTA drug and alcohol compliance policy. Contractor shall provide names, addresses and telephone numbers for the persons responsible for monitoring and maintaining daily compliance.
- E. MTA contractors, which fall under FTA Authority, shall comply with all sections of 49 CFR Parts 40 and 655. MTA shall monitor compliance through on-site audits of personnel, facilities, record keeping and reporting requirements. Corrective action may be directed by the MTA at any time to ensure policy compliance or as otherwise required. Failure on the part of any contractor to comply with the requirements as outlined in this Attachment G, denying on-site access of MTA personnel to records, reports, and supporting

documentation, or failing to implement and maintain corrective action determined necessary by MTA, may result in the suspension of payment(s) until such time corrective action complies with MTA requirements. Further, failure to comply with the requirements in this Exhibit H, may result in the loss or suspension of the contract.

- F. Contractors who outsource all or any portion of their drug and alcohol prevention program responsibilities to consultants, consortiums, third party administrator's (TPA) or others shall ensure that those parties will cooperate and comply with the requirements applicable to MTA contractors as contained herein.
- G. Any contractor subcontracting any portion of its transit service contractual responsibilities (i.e. paratransit utilizing subcontracted vans and/or taxi cabs) shall ensure at it's own expense, that their 'subcontractors' are in full compliance with 49 CFR Parts 40 and 655. Further, all reporting, documentation, retention of records, access to records, on-site auditing by MTA, and access to any documentation to support FTA compliance as described herein Attachment G, is made available to the MTA. Any failure to comply or cooperate with the MTA may result in the suspension of payment to the contractor and may result in the loss or suspension of the contract.
- H. [For the purposes of paragraph G above, and its impact on subcontracting with taxi drivers and other transportation providers, the FTA final ruling of Regulatory Information is provided for your review. Published on April 30, 2001, this ruling can be found in the notice of proposed rulemaking (NPRM) proposing changes to conform its drug and alcohol testing regulation (49 CFR Part 655) to the December 19, 2000 revision of DOT's transportation workplace testing procedures at 49 CFR Part 40.]

“The intent of FTA’s regulatory scheme is not to impose federal regulations on the taxi industry; however, taxi companies that contract with transportation service providers receiving federal transit funds are subject to compliance with the drug and alcohol rules. FTA policy continues to recognize the practical difficulty of administering a drug and alcohol testing program to taxi companies that only incidentally provide transit service. Therefore, the drug and alcohol testing rules apply when the transit provider enters into a contract with one or more entities to provide taxi service. The rules do not apply when the patron (using subsidized vouchers) selects the taxi company that provides the transit service”.

MTA-OFFICE OF SAFETY, QUALITY & RISK MANAGEMENT

CONTRACTOR SAFETY REQUIREMENTS:

MTA Safety oversight of **contractor** operation is a very important element of the MTA's System Safety Program Plan. The System Safety Program is used as a means of proactively preventing injuries, accidents/incidents, environmental damage, and other losses while concurrently demonstrating MTA's commitment to safety. **Contractor** will be required to provide the MTA Office of Safety, Quality Assurance & Risk Management a copy of the contractor Safety Plan. Therefore Safety oversight of operations includes but may not be limited to:

INTERNAL SAFETY AUDIT

Scheduled and non-scheduled audits and inspections to verify safety programs have been developed/implemented in accordance with System Safety Program Plan requirements. MTA audit will cover contractor work policies, procedures, and practices (including those related to maintenance activities performed under the contract). Records and signatures verifying work orders and practices will be retrieved for accuracy. Conduct audits of employee qualifications, training and present and past operating records of personnel directly involved with MTA operations and services. It is the responsibility of the contract provider to randomly review employee records and inform MTA of these reviews and investigate any irregularities or disparities found.

ANNOUNCED EXTERNAL SAFETY AUDIT

MTA Office of Safety, Quality Assurance & Risk Management will conduct external audits of the **contractor** operation related to this contract. MTA will submit a list of items to be audited in advance. Audited **contractor** will be given time to produce necessary documentation. The MTA will provide a detailed report that analyzes deficiencies that may exist as well as identifies areas that are performing well. Follow-Up/Corrective Action – A summary of recommended corrective actions, if any, must be included in the audit report process.

ACCIDENT/INCIDENT REPORTING

The **contractor** will forward to the MTA Office of Safety, Quality Assurance & Risk Management all operation and service accident/incident reports (including MTA owned and contractor owned buses, deadhead of service to or from MTA routes and MTA charter service) within a 24 hour period. Fatalities, multiple injuries, or excess of \$25,000.00 in property damage will be reported within a 2-hour period. The MTA is required by the FTA to report all commuter bus accidents to the Federal Transit Administration's National Transit Database. The criterion for this reporting is any transport, (other than illness) and should include on board incidents. Vehicle damage estimates are required and should be reported to the MTA. All accident/incident reports shall be received by the last day of each month. The **contractor's** dispatcher/company designee is responsible for coordinating and monitoring emergency efforts. The **contractor** shall provide the MTA with all applicable information the MTA deems necessary to conduct an accident/incident investigation (if necessary) and to ensure similar

events do not occur. The MTA may also request at any time an investigation of accident/incidents related to or affecting MTA operation and services. The **contractor** will provide the MTA a quarterly and annual report on all accident/incident to track accidents trends.

- a. **Deadhead** – For **contractor** services, when a vehicle is not in revenue service including travel from and to the garage to the first pick-up, from the last drop-off back to the garage, and travel during Operator breaks and other “out of service” times.

TRAINING

Develop and implement training agendas for employees. Training shall address a variety of topics, accident prevention, **Contractor** Safety Rules, Drug and Alcohol Abuse Policies and equipment specifications training. The **contractor** will also provide emergency equipment training, emergency preparedness, response and recovery procedures (including those related to hazardous material situation), and communications. The **contractor** will also provide post accident training. Regulatory requirements for testing and certification and re-certification (CDL & Substance Abuse Policies) will be maintained. **Contractor** shall submit a safety, maintenance (both vehicle and facility maintenance programs), training, QA/QC, and operations management plans for MTA approval that efficiently address all SSPP safety elements. **Contractors** will participate in implementing MTA’s EPPs, SOPs and EOPs. Training and updates will be developed and provided as necessary to ensure all personnel remain cognizant of the most accurate and up to date information. Minutes of all **Contractor** employee safety meetings shall be forwarded to the MTA Safety Department for review. The MTA Safety Department will be periodically attending **contractor** safety meetings to support MTA safety priorities.

CONTRACTOR MUST PROVIDE EMPLOYEES WITH:

- a. Training related to passenger safety awareness, and passenger security.
- b. Training involving the System Safety Program Plan that includes security.
- c. Participation in emergency response management drills with MTA and local emergency response providers such as police and fire departments
- d. Periodic audits and inspection of equipment, maintenance facilities, and other properties deemed necessary by the MTA. Periodic efficiency checks to assess employee’s performance and equipment conditions checks may also be made.

CONTRACT NO.: T8000-0354

ATTACHMENT I
ELECTRONIC FUNDS TRANSFER

PAYMENTS TO CONTRACTORS BY ELECTRONIC FUNDS TRANSFER

Every solicitation for a contract expected to exceed \$200,000 is required to contain the following provision:

The Bidder agrees to accept payments by electronic funds transfer unless the State Comptroller's Office grants an exemption. The selected Bidder shall register using the attached form COT/GAD X-10 Vendor Electronic Funds (EFT) Registration Request Form. Any request for exemption must be submitted to the State Comptroller's Office for approval at the address specified on the COT/GAD X-10 form and must include the business identification information as stated on the form and include the reason for the exemption.

Once a contractor registers to receive payments electronically, all State payments to the contractor (including payments under other State contracts regardless of value) will be disbursed via electronic funds transfer.

The following form should be used to apply for Electronic Funds with the State Comptroller's Office.

**State of Maryland
Comptroller of Maryland**

Vendor Electronic Funds Transfer (EFT) Registration Request Form

Date of request _____

Business identification information (Address to be used in case of default to check):

Business name _____

Address line 1 _____

Address line 2 _____

City _____ State _____

Zip Code □□□□□ - □□□□

Business taxpayer identification number:

Federal Employer Identification Number: □□ □□□□□□□□
(or)

Social Security Number: □□□ □□ □□□□

Business contact name, title and phone number including area code. (And address if different from above).

Financial institution information:

Name and address _____

Contact name and phone number including area code _____

ABA number □□□□□□□□

Account number □□□□□□□□□□□□□□□□

Account type

Checking

Money Market

A VOIDED CHECK from the bank account must be attached.

Transaction requested:

1. _____ Initiate all disbursements via EFT to the above account.
2. _____ Discontinue disbursement via EFT, effective_____.
3. _____ Change the bank account to above information – a copy of the approved Registration Form for the previous bank account must be attached.

I am authorized by

* _____(hereinafter company)

To make the representations contained in this paragraph. Company authorizes the Comptroller and the Treasurer of Maryland to register it for electronic funds transfer (EFT) using the information contained in this registration form. Company agrees to receive all funds from the State of Maryland by electronic funds transfer according to the terms of the EFT program. Company agrees to return to the State of Maryland any EFT payment incorrectly disbursed by the State of Maryland to the Company's account. Company agrees to hold harmless the State of Maryland and its agencies and departments for any delays or errors caused by inaccurate or outdated registration information or by the financial institution listed above.

*Name of registering business entity

Signature of company treasurer, controller or chief financial officer and date

Completed by GAD/STO

Date

received _____

GAD registration information verified _____ Date to STO _____

STO registration information verified _____ Date to GAD _____

R*STARS Vendor No. and Mail Code Assigned:

_____ / _____ / _____

State Treasurer's Office approval date

General Accounting approval date

To Requestor:

Please retain a copy of this form for your records. Please allow approximately 30 days from the date of your request for the Comptroller's and Treasurer's Offices to process you request. Failure to maintain current information with this office could result in errors in payment processing. If you have any questions, please call the EFT registration desk at 410-260-7375.

Please submit form to:

**EFT Registration, General Accounting Division
Room 205, P.O. Box 746
Annapolis, Maryland 21404-0746**

COT/GAD X-10

ATTACHMENT J

VEHICLE LEASE AND MAINTENANCE AGREEMENT

This Lease Agreement made as of the 1st day of January 2012 between the Maryland Transit Administration (MTA), a modal agency of the Maryland Department of Transportation, doing business for and on behalf of the State of Maryland (hereinafter referred to as the "LESSOR"), and _____ (hereinafter referred to as the "LESSEE").

WHEREAS, the MTA has determined that leasing the following vehicles offers economic and service advantages and that development and maintenance of such services is in the best interest of the State and the public it serves;

WHEREAS, pursuant to applicable law, MTA is authorized to contract with any person for any transportation-related purpose; and

WHEREAS, the LESSOR desires to lease vehicles to the LESSEE to perform the transportation services set forth in MTA Contract **T-8000-0354** (Commuter Bus Services) between the parties hereto;

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, the adequacy and sufficiency of which are hereby acknowledged, the LESSOR and the LESSEE hereby mutually covenant and agree as follows:

1. LEASE. LESSOR leases to LESSEE the property (hereinafter referred to as the "vehicles", and described as follows:

| <u>Vehicle</u> | <u>Vehicle Description</u> | <u>Year</u> | <u>VIN No.</u> |
|----------------|----------------------------|-------------------|----------------|
| <u>Vehicle</u> | <u>Year</u> | <u>Make/Model</u> | <u>VIN</u> |

Vehicle information will be provided at a later date.

OWNERSHIP.

- a. It is expressly understood that the LESSEE acquires no ownership, title, property rights or interests in the property described in this Agreement.
- b. LESSEE shall not remove or otherwise alter any logos, or information placed on the vehicle by the LESSOR.
- c. LESSEE shall not place its name or logo on the vehicle(s).

3. DISCLAIMER OF WARRANTIES. LESSOR has made no representation or warranty of any kind, nature or description, express or implied, with respect to the vehicle(s) described herein, including without limitation, the condition of the vehicle(s), their merchantability, or their fitness for any particular purpose. The LESSEE leases the vehicle(s) from the LESSOR "AS IS". In no event shall any defect in, or unfitness of any vehicle or vehicular equipment relieve the LESSEE of any obligations hereunder or as specified in the Commuter Bus Contract.

4. TERM. This Lease shall commence on the above-stated date of this agreement and terminate at the latest on the date the Commuter Bus Service Contract terminates or earlier should either the Commuter Bus Service Contract or this lease be terminated for the convenience of the State of Maryland, MDOT and/or the MTA.

5. PERMITTED USE.

- a. The LESSEE shall utilize the leased vehicle(s) solely to provide MTA contracted Commuter Bus services as specified by the Commuter Bus Services Contract. Only MTA Commuter Bus Services customers shall be permitted to be serviced by these vehicles.

ATTACHMENT J

- b. The LESSEE agrees to use the vehicle(s) to provide transportation services in a careful and proper manner, and in compliance with all applicable federal, state and municipal laws and regulations relating to the possession or use of the vehicles.
- c. The LESSEE shall permit the vehicle(s) to be operated only by qualified employees.
- d. The LESSEE shall not utilize the leased vehicle(s) in charter service. No employee, agent, representative or contractor of the MTA is authorized to modify this provision and grant the right to use the leased vehicles for Charter service.
- e. The LESSEE shall not place or cause to be placed any advertising on the vehicle(s). Failure to comply will result in the loss of the leased vehicles. LESSEE shall be liable for the cost of removal of advertising and restoration of the leased vehicle(s). Monthly inspections will be conducted by the MTA Maintenance Coordinator to insure compliance.

6. ASSIGNMENT, SUBLEASE. The LESSEE shall not assign, transfer or encumber this lease or enter into any sublease, management contract or other agreement relating to the vehicle(s), or any portion thereof, or enter any agreement or participate in any transaction (including but not limited to mergers, consolidations, acquisitions or other transactions resulting in the existence of new "related persons") except on such terms and conditions approved in writing by the LESSOR.

7. RENT. The LESSEE shall pay the LESSOR a rent of \$1.00 per month per vehicle for the full term of the lease.

8. MONTHLY REPORTS

- a. LESSEE shall supply the following information for the lease vehicle(s) by the fifth

ATTACHMENT J

business day each month as detailed below:

- (1) Mileage Report: Total vehicle miles accrued during the prior month as registered on the odometer inside the coach.
 - (2) The completed service log for the prior month as specified in the Service Agreement. All mileage reports, last inspection performed reports, maintenance reports, etc. must be forwarded to the MTA Maintenance Coordinator.
- b. The LESSEE shall advise the LESSOR of the status of the vehicles at such times and such manner as the LESSOR may require.
 - c. The LESSEE shall collect and submit to the LESSOR such financial statements, data, records, contracts and other documents relating to each vehicle or the use thereof, as may be deemed reasonably necessary by the LESSOR.
 - d. LESSEE shall perform oil sample analysis at each engine oil change. Cost of this analysis shall be the responsibility of the LESSEE. Analysis reports shall be provided to the MTA Maintenance Coordinator within five (5) days of report completion.
 - e. LESSEE shall complete semi-annual and annual inspections of the Amerex Supression System on buses equipped with this system.
 - f. The FTA requires all lift failures be reported. The LESSEE shall only notify the MTA Maintenance Coordinator within twenty-four hours of the occurrence of a lift failure. Repairs, at the LESSEE's expense, shall be performed as mutually agreed upon with the LESSOR.
 - g. Reports of all warranty claims must be forwarded to the MTA Maintenance Coordinator within five (5) business days of the occurrence.
 - h. Physical damage to the vehicle(s) shall be reported to the MTA Maintenance Coordinator within five (5) business days of the occurrence.

ATTACHMENT J

i. LESSEE shall maintain pre-trip cards for the vehicle(s). Cards shall be readily available for the MTA Maintenance Coordinator to review when announced/unannounced inspections are conducted.

9. MAINTENANCE.

a. The LESSEE shall maintain the leased equipment in good order and repair, and in accordance with the manufacturer's and MTA's written maintenance procedures and specifications. Any failure of the LESSEE to comply with these requirements constitutes a default. A service log shall be maintained documenting all maintenance and repairs.

b. The MTA must pre-approve all preventative maintenance programs and intervals the contractor will follow for the leased vehicles. This includes, but is not limited to: oil changes, brake inspections, vehicle major inspections, wheel chair, climate control inspections, etc. The MTA reserves the right to standardize all preventative maintenance programs used for the leased vehicles.

c. The LESSEE shall provide the LESSOR with a bi-weekly report, in a form and manner \ prescribed by LESSOR, on maintenance activities associated with each leased vehicle.

d. Upon the expiration of this lease, vehicles will be returned to the LESSOR in the same condition that they were in when initially leased, discounting normal wear and tear. The tread of the tires shall be 50% or greater. If vehicles require repairs other than for normal wear and tear or for unperformed maintenance as detailed in the maintenance specifications, final payment that may be due and owing to the LESSEE will be withheld up to the cost of the estimated repairs.

LESSOR will retain from the final payment, and LESSEE will not be due such payment, all finalized costs of repairs as required in this section.

e. The MTA reserves the right to inspect vehicles and vehicle maintenance records at any time and at any location.

10. REPAIRS.

a. LESSEE shall maintain the vehicles in good operating condition without interruption of accessible service.

b. Replacement parts for the leased vehicle(s) shall meet or exceed original equipment specifications of the manufacturer, and conform to all applicable laws and regulations.

Replacement parts will be provided by LESSEE. In those cases where MTA furnishes those parts to LESSEE for the repair of MTA leased vehicles, the LESSEE will be charged at the MTA's cost for these parts.

11. LESSEE PROVIDED EQUIPMENT

a. The LESSEE shall equip the vehicle(s) with tires and batteries conforming to the manufacturer's specifications at LESSEE's cost and expense.

b. The LESSEE shall have the right to install and, upon termination of this Agreement, remove all LESSEE owned equipment such as tires and tubes, radio, fareboxes and batteries.

c. If LESSEE originally accepted vehicle(s) with LESSOR's tires and batteries, then the vehicle(s) must contain these items in the same condition at the conclusion of the lease as they were at the beginning of the lease. The tread of the tires shall be 50% or greater. Removal of equipment, return of rented equipment and filling of holes from attachment screws or rivets shall be at the LESSEE's expense.

d. LESSOR shall inspect vehicle(s) at the conclusion of the lease. LESSEE shall return vehicles to LESSOR in as good condition as at the time of delivery, normal wear and tear excepted. Costs associated with repairs shall be deducted from LESSEE's final invoice.

ATTACHMENT J

12. CHARGES, FEES AND EXPENSES. The LESSEE shall pay any and all expenses, taxes, charges, assessments, permit fees, inspection fees, traffic fines or other costs, including but not limited to highway use taxes and vehicle excise taxes, imposed upon the vehicle(s) or the operation thereof, whether such taxes, charges, fees or other costs are levied against the LESSEE or the LESSOR.

13. MANUFACTURER'S WARRANTIES.

a. The LESSEE shall not infringe or impair the warranty on the vehicle(s), and shall make the vehicle(s) available to the LESSOR and the sales or service representatives of the manufacturer upon request for warranty service or warranty inspection.

b. The LESSOR shall be responsible for submitting, in a timely manner, all warranty claims directly to the manufacturer for processing in accordance with MTA's Warranty Claim Procedure. LESSOR shall send LESSEE a copy and inform the LESSEE of the status of each warranty claim made.

c. All credits, proceeds, parts or adjustments obtained by the LESSOR to the extent of the warranty claim shall accrue to the LESSOR. LESSEE agrees to furnish documentation as required. All amounts in excess of warranty claims or proceeds from other settlements shall be paid to the LESSOR.

d. LESSEE will be responsible for sending vehicles to the Dealer or the Dealer's representative for warranty work.

14. INSPECTIONS.

a. LESSEE shall make available each vehicle to the Motor Vehicle Administration for periodic inspection. The LESSEE shall pay for all costs of inspection. LESSOR reserves the

ATTACHMENT J

right to inspect the vehicle(s) from time to time.

- b. LESSOR reserves the right to perform off-site inspections of the vehicle(s) to insure proper maintenance. LESSOR will make reasonable effort to provide twenty-four (24) hours notice as these inspections will require the vehicle(s) to be away from the LESSEE for up to twenty-four (24) hours. Any deficiencies will be reported to the LESSEE and necessary repairs will be completed within a mutually agreed upon time at the LESSEE's sole expense.
- c. LESSOR reserves the right to conduct unannounced inspections at LESSEE's facility.

15. INSURANCE.

- a. The LESSEE shall, at LESSEE's sole cost, carry for the term of this Agreement and the term of the renewal thereof, all insurance coverage in the amounts and in the manner described in the Commuter Bus Contract, which is incorporated herein by reference.
- b. In addition to the insurance required in the Commuter Bus Contract, LESSEE shall, at LESSEE's sole cost, procure and maintain for the duration of this Lease, property insurance covering the Leased vehicles and any property owned by the LESSOR against all risks of physical damage. The LESSEE's property insurance shall carry limits sufficient to cover the scheduled value of all LESSOR's vehicles and/or property in LESSEE's care, custody and control. LESSOR shall be named as an additional insured. LESSEE shall cause its property insurer to waive all rights of subrogation against LESSOR.

16. ACCIDENT REPORTING AND INVESTIGATION. The LESSEE must report any accident involving personal injury or any mechanical related failure in which the service does not operate or where passengers are forced to move from one vehicle to another within 30 minutes of the accident.

17. INDEMNIFICATION. LESSEE shall indemnify, defend, and hold harmless the LESSOR, MDOT and the State of Maryland, their officers, agents, representatives and employees, from any and all liabilities that result from LESSEE's use of the vehicles herein described. Liabilities shall include any and all losses, claims, demands, payments, suits, actions, recoveries, and judgments (including without limitation reasonable attorney fees and costs of any proceeding) brought, recovered, or exacted against LESSOR, MDOT and the State or LESSEE for or on account of death, personal injury or property damage (including Workmen's Compensation) arising out of any act or omission or which arise (a) out of injury to any person; (b) out of destruction to the environment, including without limitation, land, air, water, wildlife or vegetation and including but not limited to, costs, expenses incident to monitoring remedial actions, proceedings or investigations or the defense of any claim; or (c) out of or occasioned by any breach or default by the LESSEE, its agents, servants, employees, visitors, guests, subcontractors or any and all persons or corporations dealing with the LESSEE in any way in the rendering of services under the Commuter Bus Contract, in the use of the leased vehicle(s) or obligations arising under any applicable law, regardless of cause.

18. RECORDS AND REPORTS. The LESSEE shall advise the LESSOR of the status of the vehicles at such times and in such manner as the LESSOR may require. The LESSEE shall collect and submit to the LESSOR such data, records, contracts and other documents relating to each vehicle or the use thereof, as may be deemed reasonably necessary by the LESSOR and at a minimum, those reports required by Paragraph 8.

19. AUDIT. The LESSEE shall permit the authorized representatives of the LESSOR to inspect and audit on a periodic basis all data and records of the LESSEE relating to its

ATTACHMENT J

performance and the use of the vehicles under the Agreement.

20. EMERGENCY DECLARATION. In the event of a declaration of emergency by the Governor of the State of Maryland, the LESSEE shall make said vehicle(s) available for the provision of such service as shall be designated by the MTA Administrator, with or without notice, whichever is in the convenience of the State. Additionally, the MTA will physically inspect each leased coach twice a year.

21. USE DURING STRIKES. In the event of a strike by the employees of the LESSEE, the LESSOR shall have the right to take possession and use the vehicle(s). During this period, the LESSOR will reasonably compensate the LESSEE if the LESSOR uses any of the LESSEE's equipment, such as fareboxes. If the LESSOR leaves the vehicle(s) with the LESSEE during a strike, the LESSEE is responsible for the safety of the vehicle(s) in its possession during the strike period.

22. REPAIRS AND MAINTENANCE DURING EMERGENCY OR STRIKE. The LESSEE shall not be responsible for repairs, costs, or damages incurred during use by LESSOR or another carrier of leased vehicle(s) pursuant to the provisions of Section 16 and 17, and such vehicle(s) shall be returned to the LESSEE in the same or similar condition.

23. TERMINATION - DEFAULT.

a. This Lease Agreement may be terminated by the LESSOR for default. Upon default and notification by the LESSOR, the LESSEE shall assemble the vehicle(s) and deliver same at a place and time designated. The vehicle(s) shall be delivered in as good condition as at the time of original receipt by the Contractor from MTA, normal wear and tear excepted.

ATTACHMENT J

b. Any failure by the LESSEE to fulfill its obligations under this lease or any violation of any provisions of this contract may, upon notice by the LESSOR, constitute a default.

c. The following are additional events (not an all inclusive list) of default hereunder: (a) LESSEE's bankruptcy, receivership, insolvency, assignment for the benefit of creditors or similar action or condition relating to LESSEE or LESSEE's property which causes LESSOR in good faith to deem itself insecure with respect to the collection of the total rent for the unexpired term of the lease; and (b) without LESSOR's prior written consent, LESSEE attempts to remove, sell, transfer, encumber or otherwise part with possession of said equipment or infringe on LESSOR's ownership rights.

24. TERMINATION - COMPLETION OF LEASE.

a. At the end of the Lease term and/or the termination or end of the Commuter Bus Contract, unless this Lease is renewed, the LESSEE shall assemble the vehicle(s) and deliver same at a place and time designated by the LESSOR. The vehicle(s) shall be delivered in as good condition as at the time of delivery, normal wear and tear excepted, including but not limited to the tires and batteries, as outlined in Paragraph 11 of this Agreement.

b. In the event that the LESSEE fails to so deliver the vehicle(s), or delivers the vehicles in less than as good condition, the LESSEE shall be responsible to reimburse to the LESSOR, LESSOR's expenses in repossessing the vehicles, including but not limited to transaction costs, attorney fees, court costs/fees, and any other costs and expenses incurred to restore the vehicles to as good condition.

25. TERMINATION FOR CONVENIENCE. This Lease may be terminated by the State of Maryland in conformance with this clause in whole, or from time to time in part, whenever the

ATTACHMENT J

State shall determine that such termination is in the best interest of the State.

26. LEASE RENEWAL. This Lease may be renewed in whole or in part and at the sole discretion of the LESSOR under like terms and conditions in the event LESSEE continues to operate contracted Commuter Bus services under the Commuter Bus Contract. LESSOR reserves the right to inspect the vehicle(s) prior to a decision to renew the Lease.

27. ENTIRE AGREEMENT. This Lease represents the entire Agreement between the Parties as relating solely to the lease of vehicles as listed in Paragraph 1, and no provisions of this lease may be waived or modified, except by an instrument in writing signed by both parties. The Lease Agreement, however, does not waive or modify any provision in the Commuter Bus Contract. The intent of this Lease is to supplement the Commuter Bus Contract. The provisions of the Commuter Bus Contract, and any amendment thereto, are incorporated herein by reference. To the extent that there is any conflict between this Lease and the Commuter Bus Contract, the Commuter Bus Contract takes precedence.

28. WAIVER. The LESSOR's failure to insist upon the strict performance of any condition of this Agreement shall not be deemed a waiver on the part of the LESSOR of the future performance by the LESSEE of the terms and conditions of the Agreement.

29. NOTICE. All notices to be given under this Lease shall be done in accordance with the notice provision in the Commuter Bus Contract.

30. SEVERABILITY. If any provision of this Lease is contrary to, prohibited by, or deemed invalid under applicable laws and regulations, then such provision shall be deemed omitted but shall not invalidate the remaining provisions of this Lease.

ATTACHMENT J

IN WITNESS WHEREOF, this Lease has been executed by the State of Maryland acting by and through MTA and/or MDOT, who has caused the seal of this office to be affixed hereto, and the LESSEE by and through a duly authorized representative who has executed this Lease effective the date and year first above written.

Attest:

By: _____ By: _____

Attest:

MARYLAND DEPARTMENT
OF TRANSPORTATION AND/OR
MARYLAND TRANSIT ADMINISTRATION

By: _____ By: _____

James L. Knighton,
Procurement Director,
Procurement Division

Approved as to Form and Legal Sufficiency:

Assistant Attorney General

Approved by

Board of Public Works

ATTACHMENT K

Living Wage Requirements for Service Contracts

- A. This solicitation is subject to the Living Wage requirements under Title 18, State Finance and Procurement Article, Annotated Code of Maryland and the regulations proposed by the Commissioner of Labor and Industry. The Living Wage generally applies to a Contractor or Subcontractor who performs work on a State contract for services that is valued at \$100,000 or more. An employee is subject to the Living Wage if he/she is at least 18 years old or will turn 18 during the duration of the contract; works at least 13 consecutive weeks on the State Contract and spends at least one-half of the employee's time during any work week on the State Contract. The Living Wage Law does not apply to an employee who works less than thirteen consecutive weeks and full-time on a contract subject to the Living Wage.
- B. The Living Wage Law does not apply to:
- (1) A Contractor who:
 - (A) has a State contract for services valued at less than \$100,000, or
 - (B) employs 10 or fewer employees and has a State contract for services valued at less than \$500,000.
 - (2) A Subcontractor who:
 - (A) performs work on a State contract for services valued at less than \$100,000,
 - (B) employs 10 or fewer employees and performs work on a State contract for services valued at less than \$500,000, or
 - (C) performs work for a contractor not covered by the Living Wage Law as defined in B(1)(B) above, or B (3) or C below.
 - (3) Contracts involving services needed for the following:
 - (A) Services with a Public Service Company;
 - (B) Services with a nonprofit organization;

- (C) Services with an officer or other entity that is in the Executive Branch of the State government and is authorized by law to enter into a procurement (“Unit”); or
 - (D) Services between a Unit and a County or Baltimore City.
- C. If the Unit responsible for the State contract determines that application of the Living Wage would conflict with any applicable Federal program, the Living Wage does not apply to the contract or program.
- D. A Contractor must not split or subdivide a contract, pay an employee through a third party, or treat an employee as an independent contractor or assign work to employees to avoid the imposition of any of the requirements of Title 18, State Finance and Procurement, Annotated Code of Maryland.
- E. Each Contractor/Subcontractor, subject to the Living Wage Law, shall post in a prominent and easily accessible place at the work site(s) of covered employees a notice of the Living Wage Rates, employee rights under the law, and the name, address, and telephone number of the Commissioner.
- F. The Commissioner of Labor and Industry shall adjust the wage rates by the annual average increase or decrease, if any, in the Consumer Price Index for all urban consumers for the Washington/Baltimore metropolitan area, or any successor index, for the previous calendar year, not later than 90 days after the start of each fiscal year. The Commissioner shall publish any adjustments to the wage rates on the Division of Labor and Industry’s Website. An employer subject to the Living Wage Law must comply with the rate requirements during the initial term of the contract and all subsequent renewal periods, including any increases in the wage rate, required by the Commissioner, automatically upon the effective date of the revised wage rate.
- G. A Contractor/Subcontractor who reduces the wages paid to an employee based on the employer’s share of the health insurance premium, as provided in §18-103(c), State Finance and Procurement Article, Annotated Code of Maryland, shall not lower an employee’s wage rate below the minimum wage as set in §3-413, Labor and Employment Article, Annotated Code of Maryland. A Contractor/Subcontractor who reduces the wages paid to an employee based on the employer’s share of health insurance premium shall comply with any record reporting requirements established by the Commissioner of Labor and Industry.
- H. A Contractor/Subcontractor may reduce the wage rates paid under §18-103(a), State Finance and Procurement, Annotated Code of Maryland, by no more than 50 cents of the hourly cost of the employer’s contribution to an employee’s deferred compensation plan. A Contractor/Subcontractor who reduces the wages paid to an employee based on the employer’s contribution

to an employee's deferred compensation plan shall not lower the employee's wage rate below the minimum wage as set in §3-413, Labor and Employment Article, Annotated Code of Maryland.

- I. Under Title 18, State and Finance Procurement Article, Annotated Code of Maryland, if the Commissioner determines that the Contractor/Subcontractor violated a provision of this title or regulations of the Commissioner, the Contractor/Subcontractor shall pay restitution to each affected employee, and the State may assess liquidated damages of \$20 per day for each employee paid less than the Living Wage.
- J. Information pertaining to reporting obligations may be found by going to the DLLR Website <http://www.dllr.state.md.us/> and clicking on Living Wage.

Affidavit of Agreement
Maryland Living Wage Requirements-Service/Maintenance Contracts

Contract No. _____

Name of Contractor _____

Address _____

City _____ State _____ Zip Code _____

If the Contract is Exempt from the Living Wage Law

The Undersigned, being an authorized representative of the above named Contractor, hereby affirms that the Contractor is exempt from Maryland's Living Wage Law for the following reasons: (check all that apply)

- Bidder/Offeror is a nonprofit organization
- Bidder/Offeror is a public service company
- Bidder/Offeror employs 10 or fewer employees and the proposed contract value is less than \$500,000
- Bidder/Offeror employs more than 10 employees and the proposed contract value is less than \$100,000

If the Contract is a Living Wage Contract

- A. The Undersigned, being an authorized representative of the above named Contractor, hereby affirms our commitment to comply with Title 18, State Finance and Procurement Article, Annotated Code of Maryland and, if required, to submit all payroll reports to the Commissioner of Labor and Industry with regard to the above stated contract. The Bidder/Offeror agrees to pay covered employees who are subject to living wage at least the living wage rate in effect at the time service is provided for hours spent on State contract activities, and to ensure that its Subcontractors who are not exempt also pay the required living wage rate to their covered employees who are subject to the living wage for hours spent on a State contract for services. The Contractor agrees to comply with, and ensure its Subcontractors comply with, the rate requirements during the initial term of the contract and all subsequent renewal periods, including any increases in the wage rate established by the Commissioner of Labor and Industry, automatically upon the effective date of the revised wage rate.

Affidavit of Agreement (Continued)
Maryland Living Wage Requirements – Service/Maintenance Contracts

B. _____ (initial here if applicable) The Bidder/Offeror affirms it has no covered employees for the following reasons: (check all that apply)

___ All employee(s) proposed to work on the State contract will spend less than one-half of the employee's time during every work week on the State Contract;

___ All employee(s) proposed to work on the State contract will be 17 years of age or younger during the duration of the State contract; or

___ All employee(s) proposed to work on the State contract will work less than 13 consecutive weeks on the State contract.

The Commissioner of Labor and Industry reserves the right to request payroll records and other data that the Commissioner deems sufficient to confirm these affirmations at any time.

Name of Authorized Representative: _____

Signature of Authorized Representative Date

Title

Witness Name (Typed or Printed)

Witness Signature Date

**Maryland
Department of
Transportation**

**GENERAL
CONDITIONS
FOR
SERVICE
CONTRACTS**

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

TABLE OF CONTENTS

| <u>SECTION</u> | <u>SUBJECT</u> | <u>PAGE</u> |
|-----------------------|---|--------------------|
| 1..... | Definitions | 1-4 |
| 2..... | Preparation of Proposal/Bid..... | 5 |
| 3..... | Small Business Procurement..... | 5 |
| 4..... | Sanctions Upon Improper Acts..... | 5 |
| 5..... | Compliance With Laws..... | 5-6 |
| 6..... | Non-Discrimination in Employment..... | 6-7 |
| 7..... | Dissemination of Information..... | 7 |
| 8..... | Non-Hiring of Employees..... | 7 |
| 9..... | Contingent Fee Prohibition (Revised 10/94) | 7 |
| 10..... | Conflict of Interest Law | 7 |
| 11..... | Financial Disclosure | 8 |
| 12..... | Political Contribution Disclosure (Revised 5/21/97)..... | 8 |
| 13..... | Personal Liability of Public Officials | 8 |
| 14..... | Cost and price Certification | 8-9 |
| 15..... | Contract Administration | 9 |
| 16..... | Authority of the Procurement Officer..... | 9 |
| 17..... | Corporate Registration and Tax Payment Certification..... | 9 |
| 18..... | Invitation of Work..... | 9 |
| 19..... | Notice to Proceed and Prosecution of the Work..... | 9-10 |
| 20..... | Discrepancies in Contract Documents | 10 |
| 21..... | Contractor Insurance..... | 10 |
| 22..... | Responsibility for Claims and Liability..... | 10 |
| 23..... | Minority Business Enterprise/Affirmative Action/Contract Compliance | 10-11 |
| 24..... | Cooperation by Contractor..... | 11 |
| 25..... | Cooperation Between Contractors | 11 |
| 26..... | Assignment | 11 |
| 27..... | Changes, Alterations, or modifications in the Services | 11 |
| 28..... | Approval Authority..... | 11 |
| 29..... | Ownership of Documents and Materials | 12 |
| 30..... | Multi-Year contracts Contingent upon Appropriations | 12 |
| 31..... | Contractor's Invoices..... | 12 |
| 32..... | Occupational Safety and Health Act (OSHA) | 12 |
| 33..... | Disputes | 12 |
| 34..... | Remedies and Termination | 13-14 |
| 35..... | Delays and Extensions of Time | 14 |
| 36..... | General Guaranty | 14 |
| 37..... | Patent Indemnity | 14 |

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

TABLE OF CONTENTS

| <u>SECTION</u> | <u>SUBJECT</u> | <u>PAGE</u> |
|-----------------------|--|--------------------|
| 38..... | General Conditions Prevailing..... | 15 |
| 39..... | Incorporation by Reference | 15 |
| 40..... | Miscellaneous | 15 |
| 41..... | Maryland Law Prevails..... | 15 |
| 42..... | Resident Business Preference | 15 |
| 43..... | Compliance With Americans With Disabilities Act (ADA)..... | 15 |
| 44..... | Payment of State Obligations | 16-17 |
| 45..... | Suspension of Work..... | 17 |
| 46..... | Pre-Existing Regulations | 17 |
| 47..... | Retention of Records | 17 |
| 48..... | Insolvency | 17 |
| 49..... | Surety Bond Assistance Program | 17-18 |

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 of services. It includes, but is not limited to, the professional, personal and/or contractual services provided by attorneys, accountants, physicians, consultants, appraisers, land surveyors, and property management, where the service is associated with the provision of expertise and/or labor. Examples include, but are not limited to, property management, janitorial, security, waste disposal, pest control, environmental control, trash removal, window cleaning, computer hardware and software, snow removal, equipment maintenance, professional and consultant services.

"Services" does not include services contained within the definitions of maintenance, construction-related services, architectural services or engineering 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 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 its 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 INTEREST 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 a 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 whom he is negotiating or has any arrangement concerning prospective employment, is a part, unless such officer, employee, or agent has previously complied with the provisions of **Article 40A, subsection 3-101 et seq.** 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 (Revised 5/21/97)**

The Contractor shall comply with Article 33, §§14-101 - 14-104, 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 received in the aggregate \$100,000 or more, shall file with the State Board of Election a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election. The statement shall be filed with the State Board of Elections: (1) before a purchase or execution of a lease or contract by the State, a county, an incorporated municipality, or their agencies, and shall cover the preceding two calendar years; and (2) if the contribution is made after the execution of a lease or contract, then twice a year throughout the contract term, on: (a) February 5, to cover the 6-month period ending January 31; and (b) August 5, to cover the 6-month period ending July 31.

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, 7201 Corporate Center Drive, P.O. Box 548, Hanover, Maryland 21076. 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 **25.01.01.04**, 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.
 - (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. **SURETY BOND ASSISTANCE PROGRAM**

Assistance in obtaining bid, performance, and payment bonds may be available to qualifying small businesses through the Maryland Small Business Development Financing Authority (MSBDF). MSBDF can directly issue bid, performance, or payment bonds up to \$750,000.

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

PRE-BID CONFERENCE RESPONSE FORM

T-8000-0354 – COMMUTER BUS SERVICE – LINE 204 & 205

DATE: September 13, 2011

TIME: 10:00 AM

LOCATION: MARYLAND TRANSIT ADMINISTRATION
6 ST. PAUL STREET – 7TH FLOOR
BALTIMORE, MD 21202

Company Name: _____

Contact Name/Title: _____

Company Phone/Fax/E-mail _____

**Names/Titles of Associates Attending Pre-Bid Conference
(Limited to two (2) members)**

1. _____

2. _____

**Please fax Pre-Bid Conference Response Form to Nannette C. Gibson
at 410-333-4810 or call for reservation at 410-767-0813 no later than
September 12, 2011**

CONFLICT OF INTERESTAFFIDAVIT/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 advantage.
- B. "Person" has the meaning stated in COMAR 21.01.02.01B(64) and includes a bidder, Offeror, Contractor, consultant or subcontractor or sub consultant at any tier, and also includes an employee or agent of any of them if the employee or agent has or will have the authority to control or supervise all or a portion of the work for which a bid or offer is made.
- C. The bidder of Offeror warrants that, except as disclosed in § D, below, there are no revenant 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-attached 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 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 KNOWLDEGE, INFORMATION, AND BELIEF.

Date: _____ By: _____
(Authorized Representative or Affiant)

**MARYLAND TRANSIT ADMINISTRATION
COMMUTER BUS SERVICES – LINE 204 & 205
CONTRACT NO. T-8000-0354**

Contract Language

Prompt Pay Requirements

1. If a contractor withholds payment of an undisputed amount to its subcontractor, the Agency, at its option and in its sole discretion, may take one or more of the following actions:
 - 1.1 Not process further payments to the contractor until payment to the subcontractor is verified;
 - 1.2 Suspend all or some of the contract work without affecting the completion date(s) for the contract work;
 - 1.3 Pay or cause payment of the undisputed amount to the subcontractor from monies otherwise due or that may become due;
 - 1.4 Place a payment for an undisputed amount in an interest-bearing escrow account; or
 - 1.5 Take other or further actions as appropriate to resolve the withheld payment.
2. An “undisputed amount” means an amount owed by a contractor to a subcontractor for which there is no good faith dispute, including any retainage withheld, and includes an amount withheld because of issues arising out of an agreement or occurrence unrelated to the agreement under which the amount is withheld.
3. An act, failure to act, or decision of a procurement officer or a representative of the Agency, concerning a withheld payment between a contractor and subcontractor under this policy directive, may not:
 - 3.1 Affect the rights of the contracting parties under any other provision of law;
 - 3.2 Be used as evidence on the merits of a dispute between the Agency and the contractor in any other proceeding; or
 - 3.3 Result in liability against or prejudice the rights of the Agency.
4. The remedies enumerated above are in addition to those provided under COMAR 21.11.03.13 with respect to subcontractors that have contracted pursuant to the Minority Business Enterprise program.
5. To ensure compliance with certified MBE subcontract participation goals, the Agency may, consistent with COMAR 21.11.03.13, take the following measures:
 - 5.1 Verify that the certified MBEs listed in the MBE participation schedule actually are performing work and receiving compensation as set forth in the MBE participation schedule.
 - 5.2 This verification may include, as appropriate:

5.2.1 Inspecting any relevant records of the contractor;

5.2.2 Inspecting the jobsite; and

5.2.3 Interviewing subcontractors and workers.

5.2.4 Verification shall include a review of:

5.2.4.1 The contractor's monthly report listing unpaid invoices over 30 days old from certified MBE subcontractors and the reason for nonpayment; and

5.2.4.2 The monthly report of each certified MBE subcontractor, which lists payments received from the contractor in the preceding 30 days and invoices for which the subcontractor has not been paid.

5.3 If the Agency determines that a contractor is in noncompliance with certified MBE participation goals, then the Agency will notify the contractor in writing of its findings, and will require the contractor to take appropriate corrective action.

5.3.1 Corrective action may include, but is not limited to, requiring the contractor to compensate the MBE for work performed as set forth in the MBE participation schedule.

5.4 If the Agency determines that a contractor is in material noncompliance with MBE contract provisions and refuses or fails to take the corrective action that the Agency requires, then the Agency may:

5.4.1 Terminate the contract;

5.4.2 Refer the matter to the Office of the Attorney General for appropriate action; or

5.4.3 Initiate any other specific remedy identified by the contract, including the contractual remedies required by this Directive regarding the payment of undisputed amounts.

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