

**A/E SOLICITATION
FOR
ON CALL MECHANICAL/ELECTRICAL ENGINEERING DESIGN SERVICES FOR
ACADEMIC PROJECTS
BY
THE UNIVERSITY OF MARYLAND, BALTIMORE
RFP# 88838 CB**

ISSUED: January 2, 2020

PRE-PROPOSAL MEETING:	Thursday January 9, 2020 at 9:00 a.m. UMB Office of Strategic Sourcing and Acquisition Services Saratoga Street Offices, Office Level 02 220 Arch Street, Room 02-101 Baltimore, Maryland 21201 (See UMB Campus Map: http://www.umb.edu/map/)
TECHNICAL PROPOSAL DUE DATE:	Monday January 27, 2020 at or before 2:00 p.m. UMB Office of Strategic Sourcing and Acquisition Services Saratoga Street Offices, Office Level 02 (13 th Floor) 220 Arch Street, Room 02-100 Baltimore, Maryland 21201
PROCUREMENT/ISSUING OFFICE:	UMB Office of Strategic Sourcing and Acquisition Services University of Maryland Saratoga Street Offices, Office Level 02 220 Arch Street, Room 02-100 Baltimore, Maryland 21201
PROJECT MANAGEMENT:	UMB Office of Design and Construction University of Maryland, Baltimore 620 W Lexington St, 6th Floor Baltimore, Maryland 21201

SPECIAL ACCESS: Anyone requiring special assistance in obtaining a copy of the solicitation, in attending a pre-proposal conference or in delivering a proposal are requested to contact the Buyer listed above at least 48 hours in advance.

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ATTACHMENT A	<p>The following forms are to be submitted by each proposer as indicated in the solicitation documents herein:</p> <ul style="list-style-type: none">- MBE Attachment H-1A, MBE Utilization and Fair Solicitation Affidavit- Bid/Proposal Affidavit- Professional Liability Insurance Form- Registration Documentation Form- Key Personnel/Firm Reference Form- Acknowledgement of Receipt of Addenda Form (if applicable)- eBuilder Affidavit- Certification Regarding Investment Activities In Iran
ATTACHMENT B:	<p>The following forms are to be submitted/signed by the successful firm:</p> <ul style="list-style-type: none">- Contract Affidavit Form- University's Standard Form of Agreement with Architects and Engineers

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ATTACHMENT D: Intentionally Omitted

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SECTION 00100

INSTRUCTIONS TO PROPOSERS

SECTION 00100
INSTRUCTIONS TO PROPOSERS FOR THE
ARCHITECT/ENGINEER (A/E) CONTRACT

A. SUMMARY:

1. The University of Maryland, Baltimore (herein referred to as the University or UMB) is seeking proposals for on call full service mechanical / electrical engineering services for academic projects for the University of Maryland.

The M/E will be required to provide complete design services as requested (i.e., Schematic Design, Design Development, Construction Documents, Bidding, Construction Administration and Post Construction) as well as any other identified special services on individual projects on a task order basis. The On Call M/E contracts are anticipated to be used primarily at the University of Maryland institutions in the Baltimore region, however, they may be used at any University of Maryland institution. The M/E team is to include the following:

Principal In Charge;
M/E Project Manager;
Principal Mechanical Design Engineer;
Principal Electrical Design Engineer;
Cost Estimator
Principal Structural Design Engineer;
Principal Architect;
Principal Multi-Media Consultant; and,
Principal Site Civil Engineer

The University anticipates multiple awards as a result of this procurement. The initial contract term is thirty-six (36) months with the University retaining the sole option to renew these contracts for one additional two (2) year term at the University's sole discretion.

2. Upon selection of the M/E firm and approval by the Board of Public Works (BPW), the Contract will be fully executed with the successful M/E firms.
3. The Contract will govern all design work performed by the awarded firms. A copy of the University's Standard Form of Agreement with Architects and Engineers can be found in Attachment B of this solicitation; this document will be the contract form to be signed by the successful M/E firms.

4. The University anticipates having a contract in place with the successful M/E firms on or about **Wednesday April 15, 2020**.

B. INSTRUCTIONS FOR SUBMITTAL OF PROPOSALS:

For detailed information on preparation and submittal of proposals see Section 00300 "Proposals, Evaluation, Forms".

C. ISSUING OFFICE:

1. The Issuing Office is:
University of Maryland
Office of Strategic Sourcing and Acquisition Services
Saratoga Street Offices
220 Arch Street, Office Level 02 (13th Floor), Room 02-100
Baltimore, Maryland 21201

Attn: Christina Blair (410) 706-4728
cblair@umaryland.edu

or

Jean Graziano (410) 706-7197
jgraziano@umaryland.edu

Fax: 410-706-8577

2. The Issuing Office shall be the **sole** point of contact with the University for purposes of the preparation and submittal of proposals in response to this solicitation.
3. All questions on this procurement are to be directed in writing to the Issuing Office.

D. PRE-PROPOSAL CONFERENCE:

1. A **Pre-Proposal Conference** will be held on **Thursday January 9, 2020 at 9:00 a.m. at:**
UMB – Office of Strategic Sourcing and Acquisition Services
Saratoga Street Offices
220 Arch Street, Room 02-101
Baltimore, MD 21201
<http://www.umaryland.edu/map/>

2. Attendance is not mandatory, but is strongly recommended as clarifications may be provided.

E. **DUE DATE AND TIME:**

1. An original plus seven (7) copies (for a **total of 8**) of the **Technical Proposal** must arrive at the Issuing Office by **Monday January 27, 2020 at or before 2:00 p.m.** in order to be considered. Proposers are requested to clearly mark the "original" set of the Initial Technical Proposal.
2. Fee Proposals will be requested from the highest technically rated M/E firms as a result of the Technical Evaluation (see Section 00300 for further details). The University anticipates the **Fee Proposal due date** to be on or around **Thursday February 27, 2020**.
3. Proposers mailing proposals shall allow sufficient mail delivery time to insure timely receipt by the Issuing Office. Proposals or unsolicited amendments to proposals arriving after the due date and time will not be considered.
4. The Saratoga Street Offices, which houses the Office of Strategic Sourcing and Acquisition Services, is accessible by the general public between the hours of 8:00 a.m. until 5:00 p.m. Monday through Friday with exception of legal holidays. There is a guard in the lobby area and vendors are required to sign in at the guard's desk and gain permission to enter the Office Levels of the building. Office Level 2 (13th floor), where the Office of Strategic Sourcing and Acquisition Services is located is accessible to the public by two elevators located in the main lobby of the building. If you park in the Saratoga Street Garage and Office building, you must take the garage elevators down to the ground level and then enter the Lobby where the guard's desk is located and utilize the elevators located in the Lobby in order to ascend to the Office Level 2 (13th floor). Vendors must allow sufficient time in delivering replies to solicitations to insure timely receipt by the Issuing Office.
5. **LATE PROPOSALS CANNOT BE ACCEPTED.** Proposals are to be delivered to the University's Office of Strategic Sourcing and Acquisition Services, Saratoga Street Offices, Room 02-100, Office Level 02, 220 Arch Street, Baltimore, Maryland 21201. The University recommends against use of mail or delivery services that will not guarantee delivery directly to Room 02-100. Proposals delivered to the campus central mail facility or to locations other than 02-100 will not be considered "received" by the University's Office of Strategic Sourcing and Acquisition Services until they arrive at Room 02-100 and are clocked in. The University will not waive delay in delivery resulting from need to transport a proposal

from another campus location to Room 02-100, or error or delay on the part of the carrier.

F. MODIFICATIONS AND WITHDRAWAL OF PROPOSALS:

1. Withdrawal of, or modifications to, proposals are effective only if written notice thereof is filed to the Issuing Office prior to the time proposals are due. A notice of withdrawal or modification to a proposal must be signed by an officer with the authority to commit the company.
2. No withdrawal or modifications will be accepted after the time proposals are due.

G. QUESTIONS AND INQUIRIES:

1. Should a proposer find discrepancies in the RFP documents, be in doubt as to the meaning or intent of any part thereof, he must, not later than **Tuesday January 14, 2020**, request clarification in writing from the Issuing Office. Failure to request such clarification is a waiver to any claim by the Proposer for expense made necessary by reason of later interpretation of the RFP documents by the University. Requests shall include the RFP number and name. Oral explanations or instructions will not be binding.
2. Questions and inquiries shall be directed in writing, preferably by email, to the individuals referenced with the Issuing Office above. The Issuing Office will be open from 8:00 a.m. to 5:00 p.m., weekdays.

H. RIGHT TO REJECT PROPOSALS AND WAIVE INFORMALITIES:

The University reserves the right to reject either all proposals after the opening of the proposals but before award, or any proposal, in whole or part, when it is in the best interest of the University. For the same reason, the University reserves the right to waive any minor irregularity in a proposal.

I. IRREVOCABILITY OF PROPOSALS:

The final M/E fee/price proposal shall be irrevocable for one hundred twenty (120) calendar days from the final price proposal due date. This period may be extended by written mutual agreement between the Proposer and the University. The quoted hourly billing rates will be applicable for the full duration of the contract.

J. COMPETITIVE NEGOTIATION:

The University reserves the right to make an award with or without negotiations. Only those proposers who are determined “to be reasonably susceptible of being selected for award shall be offered the opportunity to participate in the process.”

K. LICENSES AND REGISTRATIONS:

Proposers must be licensed and registered as required by the Laws of the State of Maryland and shall submit proof of current licensing and/or registration, upon request.

L. ORAL PRESENTATION: If required at the sole discretion of the University of Maryland

1. Proposers who submit proposals and are shortlisted as a result of the initial technical evaluation may be required to make individual presentations to University representatives (see Section 00300 for details).
2. The University also reserves the right to visit Proposer's place of business during the evaluation process.

M. ECONOMY OF PREPARATION:

Proposals should be prepared simply and economically, providing a straight forward, concise description of the proposer's offer to meet the requirements of the solicitation.

N. CONFIDENTIAL/PROPRIETARY INFORMATION:

Proposers should 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 request, should not be disclosed by the State under the Access to Public Records Act, State Government Article, Title 10, Subtitle 6 of the Annotated Code of Maryland. Proposals are not publicly opened. Proposers must clearly indicate each and every section that is deemed to be confidential, proprietary or a trade secret (it is NOT sufficient to preface your entire proposal with a proprietary statement).

O. MINORITY BUSINESS ENTERPRISE NOTICE:

1. Establishment of Goal and Subgoals.

The MBE participation for this procurement will be set per task order. An overall MBE subcontractor participation goal may be set for any task order over \$50,000 and subgoals may be set for any task order over \$200,000.

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

2. **Attachments H-1 to H-5** – The following Minority Business Enterprise participation instructions, and forms are provided to assist Bidders/Offerors:

Attachment H-1A	MBE Utilization and Fair Solicitation Affidavit & MBE Participation Schedule (must submit with Technical Proposal)
Attachment H-1B	Waiver Guidance
Attachment H-1C	Good Faith Efforts Documentation to Support Waiver Request
Attachment H-2	Outreach Efforts Compliance Statement
Attachment H-3A	MBE Subcontractor Project Participation Certification
Attachment H-3B	MBE Prime Project Participation Certification
Attachment H-4A	Prime Contractor Paid/Unpaid MBE Invoice Report
Attachment H-4B	MBE Prime Contractor Report
Attachment H-5	Subcontractor/Contractor Unpaid MBE Invoice Report
Attachment H-6	Liquidated Damages Provisions for Non-Construction Contracts Containing MBE Participation Goals

3. A Bidder/Offeror shall include with its Bid/Proposal a completed MBE Utilization and Fair Solicitation Affidavit (**Attachment H-1A**) whereby:

- (a) The Bidder/Offeror acknowledges the certified MBE participation goal and commits to make a good faith effort to achieve the goal and any applicable subgoals, or requests a waiver, and affirms that MBE subcontractors were treated fairly in the solicitation process; and
- (b) The Bidder/Offeror responds to the expected degree of MBE participation, as stated in the solicitation, by identifying the specific commitment of certified MBEs at the time of task order submission. The Bidder/Offeror shall specify the percentage of total contract value associated with each MBE subcontractor identified on the MBE participation schedule, including any work performed by the MBE prime (including a prime participating as a joint venture) to be counted towards meeting the MBE participation goals.
- (c) A Bidder/Offeror requesting a waiver should review Attachment H-1B (Waiver Guidance) and H-1C (Good Faith Efforts Documentation to Support Waiver Request) prior to submitting its request.

If a Bidder/Offeror fails to submit a completed Attachment H-1A with the Bid/Proposal as required, the Procurement Officer shall determine that the Bid is non-responsive or the Proposal is not reasonably susceptible of being selected for award.

4. Bidders/Offerors are responsible for verifying that each of the MBE(s) (including any MBE primes and/or MBE primes participating in a joint venture), selected to meet the goal and any subgoals and subsequently identified in **Attachment H-1A** is appropriately

certified and has the correct NAICS codes allowing it to perform the committed work.

5. MBE Attachment H-1A part 4 (MBE Participation Schedule) is to be included with each task order price proposal. Within ten (10) Working Days from notification that it is the recommended awardee or from the date of the actual award of an individual task order, whichever is earlier, the Bidder/Offeror must provide the following documentation to the Procurement Officer.
 - (a) Outreach Efforts Compliance Statement (**Attachment H-2**).
 - (b) MBE Prime/Subcontractor Project Participation Certification (**Attachment H-3A/3B**).
 - (c) If the recommended awardee believes a waiver (in whole or in part) of the overall MBE goal or of any applicable subgoal is necessary, the recommended awardee must submit a fully-documented waiver request that complies with COMAR 21.11.03.11.
 - (d) Any other documentation required by the Procurement Officer to ascertain Bidder/Offeror responsibility in connection with the certified MBE subcontractor participation goal or any applicable subgoals.

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

6. A current directory of certified MBEs is available through the Maryland State Department of Transportation (MDOT), Office of Minority Business Enterprise, 7201 Corporate Center Drive, Hanover, Maryland 21076. The phone numbers are (410) 865-1269, 1-800-544-6056, or TTY (410) 865-1342. The directory is also available on the MDOT website at <http://mbe.mdot.state.md.us/directory/>. The most current and up-to-date information on MBEs is available via this website. **Only MDOT-certified MBEs may be used to meet the MBE subcontracting goals.**
7. The Contractor, once awarded a Contract, will be responsible for submitting or requiring its subcontractor(s) to submit the following forms to provide the State with ongoing monitoring of MBE Participation:
 - (a) **Attachment H-4A** (Prime Contractor Paid/Unpaid MBE Invoice Report).
 - (b) **Attachment H- 4B** (MBE Prime Contractor Report)
 - (c) **Attachment H-5** (MBE Subcontractor/Contractor Unpaid MBE Invoice Report).
8. A Bidder/Offeror that requested a waiver of the goal or any of the applicable subgoals will be responsible for submitting the Good Faith Efforts Documentation to Support Waiver Request (Attachment H -1C) and all documentation within ten (10) Working Days from notification that it is the recommended awardee or from the date of the actual award, whichever is earlier, as required in **COMAR 21.11.03.11**.

9. All documents, including the MBE Utilization and Fair Solicitation Affidavit & MBE Participation Schedule (**Attachment H-1A**), completed and submitted by the Bidder/Offeror in connection with its certified MBE participation commitment shall be considered a part of the resulting Contract and are hereby expressly incorporated into the Contract by reference thereto. All of the referenced documents will be considered a part of the Bid/Proposal for order of precedence purposes.
10. The Bidder/Offeror is advised that liquidated damages will apply in the event the Contractor fails to comply in good faith with the requirements of the MBE program and pertinent Contract provisions. (See Attachment H-6).
11. As set forth in COMAR 21.11.03.12-1(D) when a certified MBE firm participates on a contract as a prime contractor (including a joint-venture where the MBE firm is a partner), a procurement agency may count the distinct, clearly defined portion of the work of the contract that the certified MBE firm performs with its own work force towards fulfilling up to fifty-percent (50%) of the MBE participation goal (overall) and up to one hundred percent (100%) of not more than one of the MBE participation sub-goals, if any, established for the contract.

In order to receive credit for self-performance, an MBE prime must list its firm in Section 4A of the MBE Participation Schedule (Attachment H-1A) and include information regarding the work it will self-perform. For the remaining portion of the overall goal and the sub-goals, the MBE prime must also identify other certified MBE subcontractors (see Section 4B of the MBE Participation Schedule (Attachment H-1A)) used to meet those goals. If dually-certified, the MBE prime can be designated as only one of the MBE classifications but can self-perform up to 100% of the stated sub-goal.

As set forth in COMAR 21.11.03.12-1, once the Contract work begins, the work performed by a certified MBE firm, including an MBE prime, can only be counted towards the MBE participation goal(s) if the MBE firm is performing a commercially useful function on the Contract.

12. With respect to Contract administration, the Contractor shall:
 - (a) Submit by the 10th of each month to the Agency's designated representative:
 - (i) A Prime Contractor Paid/Unpaid MBE Invoice Report (Attachment H-4A) listing any unpaid invoices, over 45 days old, received from any certified MBE subcontractor, the amount of each invoice and the reason payment has not been made; and
 - (ii) (If Applicable) An MBE Prime Contractor Report (Attachment H-4B) identifying an MBE prime's self-performing work to be counted towards the MBE participation goals.
 - (b) Include in its agreements with its certified MBE subcontractors a requirement that those subcontractors submit by the 10th of each month to the Department's designated representative an MBE Subcontractor Paid/Unpaid Invoice Report (Attachment H-5) that identifies the Contract and lists all payments to the MBE subcontractor received from

the Contractor in the preceding 30 days, as well as any outstanding invoices, and the amounts of those invoices.

- (c) Maintain such records as are necessary to confirm compliance with its MBE participation obligations. These records must indicate the identity of certified minority and non-minority subcontractors employed on the Contract, the type of work performed by each, and the actual dollar value of work performed. Subcontract agreements documenting the work performed by all MBE participants must be retained by the Contractor and furnished to the Procurement Officer on request.
- (d) Consent to provide such documentation as reasonably requested and to provide right-of-entry at reasonable times for purposes of the State's representatives verifying compliance with the MBE participation obligations. Contractor must retain all records concerning MBE participation and make them available for State inspection for three years after final completion of the Contract.
- (e) Upon completion of the Contract and before final payment and/or release of retainage, submit a final report in affidavit form and under penalty of perjury, of all payments made to, or withheld from MBE subcontractors.

P. 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.

Q. BID/PROPOSAL AFFIDAVIT:

The Bid/Proposal Affidavit included in this package (see Attachment A for this form) must be executed by each responding proposer and submitted with the proposer's technical proposal.

R. JOINT VENTURE PROPOSERS:

If the Proposer is a joint venture firm, the Proposer must provide all identification information for all parties and all requirements for all parties (i.e., licenses, insurance, etc.) as requested. As part of the initial technical proposal submission, the proposer must identify the percentage partnership for each joint venture party, the responsibilities of each joint venture party with respect to the scope of services/work inclusive of the requirements for each entity based on such services as described in this RFP document.

NOTE: If the selected M/E is a joint venture firm, all joint venture parties will be held responsible for the contract obligations separately and severally.

S. ADDENDUM

Any addendum/amendments to the solicitation must be acknowledged by persons and entities known to have been issued, or otherwise to have received the solicitation. An Acknowledgement of Addendum form is provided in Attachment A and is to be submitted accordingly with the Initial Technical Proposal. All Addenda to this solicitation will be posted on the UMB website:
<https://www.umaryland.edu/procurement/ebid-board/> Click on eBid Board.

T. INCURRED EXPENSES:

The University will not be responsible for any costs incurred by any vendor/firm in preparation and submittal of a proposal.

U. MARYLAND PUBLIC ETHICS LAW, TITLE 15

1. The Maryland Public Ethics Law prohibits, among other things: State employees or officials (and in some cases, former employees) and businesses in which such an individual is employed or holds a financial interest from (i) submitting a bid or proposal, (ii) negotiating a contract, and (iii) entering into a contract with the governmental unit with which the individual is affiliated per the Maryland Code, State Government Article, SS 15-502.
2. If the bidder/offeror has any questions concerning application of the State Ethics Law to the bidder/offeror's participation in this procurement, it is incumbent upon the bidder/offeror to seek advice from the State Ethics Commission: Executive Director, State Ethics Commission, 45 Calvert Street, 3rd Floor, Annapolis, Maryland 21401, 410-260-7770
3. The procurement officer may refer any issue raised by a bid or proposal to the State Ethics Commission. The procurement officer may require the bidder/offeror to obtain advice from the State Ethics Commission and may reject a bid or proposal that would result in a violation of the Ethics Law.
4. The resulting contract is cancelable in the event of a violation of the Maryland Public Ethics Law by the vendor or any State of Maryland employee in connection with this procurement.

V. USE OF AFFILIATES TO AVOID TAXATION ON INCOME FROM STATE USE CONTRACTS

Contractor may not for any period during the Contract term, seek to reduce the amount of Contractor's income subject to Maryland income tax by payments made to an affiliated entity or an affiliate's agent for the right to use trademarks,

trade names, or other intangible property associated with Contractor. Contractor agrees that during the course of this Contract it shall not make any such royalty or similar payments to any affiliated company; and if any such royalty or similar payments are made, Contractor and the affiliated company shall file separate Maryland income tax returns and pay their respective Maryland income taxes in such a manner that Contractor does not claim a deduction against Maryland income tax for such payments, and the affiliated company receiving the royalty or similar payment files Maryland income tax returns and pays Maryland tax, under a formula that reasonably apportions the income of the affiliated company among the states, including Maryland, in which the Contractor does business. Contractor agrees that it is authorized to bind its affiliated entities to the terms hereof.

W. PROCUREMENT REGULATIONS

This RFP and any resulting contract shall be governed by the USM Procurement Policies and Procedures and the State Finance and Procurement Article of the Annotated Code of Maryland and by State Procurement Regulations, Code of Maryland Regulations Title 21, as applicable.

X. PAYMENTS TO CONTRACTORS BY ELECTRONIC FUNDS TRANSFER (EFT)

If the annual dollar value of this contract will exceed \$500,000.00, the Bidder/Offeror is hereby advised that electronic funds transfer (EFT) will be used by the State to pay the Contractor for this Contract and any other State payments due Contractor unless the State Comptroller's Office grants the Contractor an exemption.

By submitting a response to this solicitation, the Bidder/Offeror agrees to accept payments by EFT. The selected Bidder/Offeror shall register using 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.

The form is available as a pdf file on the web site of the General Accounting Division of the Comptroller of Maryland. That web address is:

http://comptroller.marylandtaxes.com/Vendor_Services/Accounting_Information/Static_Files/GADX10Form20150615.pdf

Y. eMARYLAND MARKETPLACE ADVANTAGE

The successful bidder/offeror under this solicitation must be registered on eMaryland Marketplace Advantage prior to receiving a contract award.

Contractors shall pay the fee in accordance with guidelines issued by the Maryland Department of General Services. These guidelines can be found on the eMaryland Marketplace website at <https://procurement.maryland.gov/>.

Z. CONTRACTOR REPORTING OF SUSPECTED CHILD ABUSE AND NEGLECT

Maryland law contains mandatory reporting requirements for all individuals who suspect child abuse or neglect. Contractors performing work on campus also must comply with USM Board of Regents (BOR) VI-1.50 – *Policy on the Reporting of Suspected Child Abuse and Neglect*, as well as the UMB *Procedures for Reporting Suspected Child Abuse and Neglect*. A copy of the USM Policy and UMB Procedures are available at:

http://www.umaryland.edu/offices/accountability/child_abuse. The Policy and Procedures are incorporated herein. UMB reserves the right to terminate this contract if Contractor fails to comply with the above-referenced policy or procedures, or if, in the judgment of UMB, termination is necessary to protect the safety and welfare of children who come into contact with the UMB community.

AA. E BUILDER PROJECT MANAGEMENT SOFTWARE

The University Facilities and Operations utilizes eBuilder Project Management software to assist in the management of all projects. Use of the eBuilder system involves submission of all documentation through the web based system. Such documentation includes submissions during design and construction phases, and includes construction document submissions, cost estimates, constructability reviews, reports, requests for information, product submittals, shop drawings, outage requests, and other project related documents.

The University of Maryland, Baltimore Design and Construction (UMB D&C) has switched to an eBuilder unlimited licensing plan. This means that the Consultant team will be required to register for use of the eBuilder system through UMB D&C and will NO longer be required to purchase an annual license for each staff managing task orders under this contract. This is ONLY for projects specifically at or managed by UMB. See eBuilder affidavit for further details.

Use of the eBuilder system at other USM campuses may require the purchase of an annual license for each Project Manager from the A/E managing task orders at those Universities. The Consultant will be required to show proof of purchase of the annual license (approximate annual cost of \$1200 per Project Manager) at the time of issuance of the first task order from institutions other than UMB. The annual cost will not be recoverable as a reimbursable expense for the task order.

BB. DEBRIEFING OF UNSUCCESSFUL PROPOSERS

A debriefing of an unsuccessful proposer shall be conducted upon written request submitted to the procurement officer within 10 days after the proposer knew or should have known its proposal was unsuccessful. The debriefing shall be limited to discussion of the unsuccessful offeror's proposal only and shall not include a discussion of a competing offeror's proposal. Debriefings shall be conducted at the earliest feasible time. A summarization of the procurement officer's rationale for the selection may be given.

CC. CERTIFICATION REGARDING INVESTMENT ACTIVITIES IN IRAN

Offerors must complete, sign and return the Certification Regarding Investment Activities in Iran with their solicitation response. Companies appearing on the Investment Activities In Iran list are ineligible for award.

DD. CANCELLATION OF THE RFP:

The University may cancel this RFP, in whole or in part, at any time before the opening of the proposals.

EE. PROPOSAL ACCEPTANCE:

The University reserves the right to accept or reject any and all proposals, in whole or in part, received as a result of this RFP; to waive minor irregularities; or to negotiate with all responsible proposers, in any manner necessary, to serve the best interest of the University of Maryland. Further, the University reserves the right to make a whole award, multiple awards, a partial award, or no award at all.

FF. MULTIPLE/ALTERNATIVE PROPOSALS:

Proposers may not submit more than one (1) proposal nor may proposers submit an alternate to this RFP.

END OF SECTION 00100

SECTION 00200

INFORMATION AVAILABLE TO PROPOSERS

SECTION 00200
INFORMATION AVAILABLE TO PROPOSERS

A. **CONTRACT DOCUMENTS:** This A/E solicitation #88838 CB dated **January 2, 2020** consists of the documents noted below.

All sections are contained **within the solicitation document** with other documents packaged separately as noted:

- 00100 Instructions to Proposers;
- 00200 Information Available to Proposers;
- 00300 Proposals, Evaluation and Forms (Articles 1 through 3);
- 00400 M/E Scope of Work (Articles 1 through 3);

Attachment A University Forms Required with Proposal Submittal(s):
MBE Attachment H-1A, MBE Utilization and Fair Solicitation Affidavit, Bid/Proposal Affidavit, Professional Liability Insurance Form, Registration Documentation Form, Key Personnel/Firm Reference Form, Acknowledgement of Receipt of Addenda Form (if applicable), eBuilder Affidavit, Certification Regarding Investment Activities In Iran

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Attachment H MBE Forms and Instructions H-1A through H-6

Attachment I Intentionally Omitted

All of these materials will be included in the Contract with the University awarded as a result of this solicitation. The Proposer by submitting its proposal agrees that if awarded the Contract that it, as M/E, will be bound under the Contract to all the terms and conditions thereof inclusive of the University's Standard Form of Agreement with Architects and Engineers

B. **SET OF DOCUMENTS AVAILABLE TO PROPOSERS:** A set of documents which consists of the sections noted above shall be provided to all interested parties via eBidBoard at <http://www.umaryland.edu/procurement/ebid-board/>

END OF SECTION 00200

SECTION 00300

PROPOSALS, EVALUATION AND FORMS

SECTION 00300
PROPOSALS, EVALUATION, AND FORMS

ARTICLE 1
INTRODUCTION/OVERVIEW

A. **INTRODUCTORY SUMMARY OF PROPOSAL SUBMITTALS:** Responses to the A/E solicitation **RFP# 88838 CB** are to consist of the following:

1. **Transmittal Letter:** A transmittal letter prepared on the Proposer's business stationery must accompany the Technical Proposal Submittal. The purpose of this letter is to transmit the Proposal; therefore, they should be brief, but shall list all items contained within the Technical Proposal. The letter must be signed by an individual who is authorized to bind his firm to all statements, including services and financials, contained in the Proposal.
2. **Technical Proposal Submittal** (see Article 2 of this Section 00300 for detailed information). One (1) original and seven (7) copies (for a total of 8) of the Technical Proposal Submittal are to be provided by each proposer. The Technical Proposal Submittal is due by **Monday January 27, 2020 at or before 2:00 p.m. to the Issuing Office.**
3. **Fee Proposal Submittal** (see Article 3 of this Section 00300 for detailed information): Only the highest rated technical firms will be engaged in fee negotiations with the University. Multiple awards are anticipated.

The anticipated due date for fee proposals is **Thursday February 27, 2020** by 2:00 P.M.

B. **SIGNING OF FORMS**

The Price Proposal, if submitted by an individual, shall be signed by the individual; if submitted by a partnership or joint venture, shall be signed by such member or members of the partnership or joint venture as have authority to bind the partnership or joint venture; if submitted by a corporation, shall be signed by an officer, and attested by the corporate secretary or an assistant corporate secretary.

If not signed by an officer, there must be attached a copy of that portion of the by-laws or a copy of a board resolution, duly certified by the corporate secretary, showing the authority of the person so signing on behalf of the corporation. Signatures shall be under seal, i.e.: indicated by the word "(Seal)" following signature of individual and partner bidders, and indicated by affixing the Corporate Seal at corporate signatures.

END OF SECTION 00300, ARTICLE 1

SECTION 00300
PROPOSALS, EVALUATION, AND FORMS

ARTICLE 2
TECHNICAL PROPOSAL SUBMITTAL

The Technical Proposal must be submitted in a sealed envelope. The following information shall be clearly written on the sealed envelope:

1. The Proposer's name,
2. The project name "On Call Mechanical/Electrical Engineering Design Services for Academic Projects"
3. The words "RFP# 88838 CB"
4. The words, "TECHNICAL PROPOSAL".
5. The full address of the Issuing Office to which the proposal is being delivered

Technical Proposals shall be delivered on, or before, **Monday January 27, 2020 at 2:00 p.m.** to UMB's Strategic Sourcing and Acquisition Services at the address noted in Section 00100 of the RFP as "The Issuing Office".

REQUIRED FORMS:

All Proposers are to use the Standard Form SF 330 and required forms described below. Failure to include any of the items listed below and/or use SF330 may result in a determination by the Procurement Officer that the Proposer is not reasonably susceptible of being selected for award.

Standard Form SF 330 consists of:

1. SF 330 Part I, Contract Specific Qualifications and additional information requested in this RFP
2. SF 330, Part II General Qualifications

Standard Form 330, Extra Pages for Part 2 of SF 330, Extra Section E for SF 330, and Extra Section F for SF 330 are available on the General Services Administration's website :
<http://www.gsa.gov>. Click on "Federal Forms," and select "Standard Forms"

The following items must be included in this Initial Technical Proposal (forms for items #2, #3, #4, #5, #6, and #7 are included in the solicitation package in Attachment A):

1. Standard Form SF 300, Part I, Section A, Contract Information; Section B, Architect-Engineer Point of Contact; and, Section C, Proposed Team
2. Detailed responses to Section 00300, Article 2, Technical Proposal Criteria, Items 1 through 10 (noted below);

3. MBE Attachment H-1A – MBE Utilization and Fair Solicitation Affidavit;
4. Bid/Proposal Affidavit;
5. eBuilder Affidavit;
6. Certification Regarding Investment Activities in Iran; and
7. Acknowledgment of Receipt of Addenda (If addenda are issued prior to the Technical Proposal due date, this form acknowledging receipt of all addenda MUST be included with your Technical Proposal.)

TECHNICAL PROPOSAL CRITERIA:

The following information must be furnished in the Technical Proposal per this solicitation. Failure to include any of the items listed below may result in a determination by the Procurement Officer that the Proposer is not reasonably susceptible of being selected for award.

Proposers should describe in detail and provide evidence supporting the qualifications requested below. All proposers are to compile their Technical Proposals in the order listed. It is preferable that tabs separating each section/aspect of the response be utilized. Technical criteria are listed in order of importance.

1. ORGANIZATION CHART OF PROPOSED TEAM: (SF330, Part 1)

- 1.1. Section D, Include the following information:
 - a. Each firm's name and discipline or specialty.
 - b. Each key person's name, role and discipline or specialty.
 - c. The managerial relationship among the persons and/or firms.
 - d. Provide a written description of the proposed contractual relationships among the firms. If the proposal includes more than one architecture firm or a joint venture, identify the proposed general scope of work of each architecture firm.
- 1.2. Provide a summary or matrix of prior working relationships among proposed team members.

2. **KEY PERSONNEL:** (Standard Form SF 330, Part I) Submit form completing the following sections according to the form's instruction. Provide the following information.

2.1. Section E, Resumes of Key Personnel Proposed for this Contract

a. Key Personnel: Submit resumes and experience for the following:

Principal In Charge;
M/E Project Manager;
Principal Mechanical Design Engineer;
Principal Electrical Design Engineer;
Cost Estimator;
Principal Structural Design Engineer; and,
Principal Architect;

Note: If a person has less than five years with his/her current employer, Proposers are to provide prior employment history for this Key Person (i.e. prior employer(s) name and number of years with that employer(s)).

Note: These key personnel must be **direct** employees of the applicable design or consulting firm.

b. Qualification Requirements for Key Personnel:

Principal-in-Charge: Senior level position from prime/proposing M/E firm (such as Vice President) who will oversee the project from an executive level and to whom the M/E Project Manager directly reports.

M/E Project Manager: Professional from the prime/proposing M/E firm who is responsible for the management of the design professions (i.e., Mechanical Engineer, Electrical Engineer, etc) and the completion of the awarded "task orders."

Principal Mechanical Design Engineer: Licensed, professional engineer who is responsible for directing the mechanical design work and assigning personnel to individual task orders.

Principal Electrical Design Engineer: Licensed, professional engineer who is responsible for directing the electrical design work and assigning personnel to individual task orders.

Cost Estimator: Professional person who is directly responsible for the cost estimating services.

Principal Structural Design Engineer: Licensed, professional engineer who is responsible for directing and overseeing the structural design of the individual task orders and assigning personnel.

Principal Architect: Licensed, professional architect who is responsible for directing the architectural design and assigning personnel to individual task orders.

Note: These key personnel must be direct employees of the applicable prime and subconsultant firm(s).

Note regarding project experience. Resumes for the Key Personnel should include similar and relevant project experience. Information provided for Project Experience and each of the Key Personnel should include the name, location, and full description of the project including the role the person performed on the project, the dollar amount, start and completion date of the project, construction method, square footage, use of building etc. to adequately convey the experience and expertise of the person. Refer to section 3.1.a. for the criteria to be used to evaluate project experience.

- c. Personnel Commitment: By submitting the names of these key personnel for consideration, the Proposer is committing these people to the University for this contract's duration if awarded the project. No personnel changes will be permitted without written authorization from the University via a contract modification issued by the Procurement Officer. In the event the consultant proposes to add or substitute staff for any of the key personnel positions designated, the individual(s) proposed must demonstrate similar qualifications, experience, and documentation as required in this RFP to successfully perform such duties. The Procurement Officer shall have the sole right to determine whether key personnel proposed as substitutes are qualified to provide services for the work.

2.2. Other Key Personnel: In a separate section of the initial technical proposal, the proposing A/E firm is to submit resumes and project experience for all other key design team members inclusive of the Principal Multi-Media Consultant, and Principal Site Civil Engineer, and any other key design support personnel and indicate his/her role and area of expertise.

3. **EXAMPLE PROJECTS:** (Standard Form SF 330, Part I) Submit form completing the following sections according to the form's instruction.

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

a. **Project Experience:** Submit six (6) projects which are similar or relevant to the University academic projects as indicated below. All projects submitted under this category **must** be a maximum of ten (10) years old based on the project completion date. The University prefers projects less than five (5) years old. The project submission shall include the following:

- Project Name and Location;
- Project Owner, Contact Person and Telephone Number;
- Design Start Date, Construction Start and Project Completion Date;
- Construction Cost;
- Contract Method (i.e., GC, CM or DB)
- Project Gross Square Footage;
- Brief Project Description including classroom, studio, office facility, computer labs in the higher education setting;
- Project Setting (i.e., university, urban setting, occupied, etc.);
- Similarities of the submitted project to the type of work to be done under the University's On Call contracts; and
- Names of Proposed Key Personnel who were involved in the project and the assigned role for each key person. The University prefers key people who were involved in the submitted projects and particularly in the proposed role;

i) **Prime M/E Firm Experience:** **Three (3) projects** are to be submitted by the **prime M/E firm** in which the proposing/prime M/E firm was the Engineer of Record. Such projects **must** meet the criteria **noted above as well as the following items** in order to be considered:

- The prime/proposing M/E firm must submit three (3) projects as follows:

1. One project **must** be a (i) mechanical and/or electrical feasibility or building evaluation study (ii) in which the prime M/E is the author. The study is required to be complete, and a maximum of 5 years old, with University preference if the study is less than 3 years old. The University prefers if the study resulted in a constructed project.

2. Of the other two projects:

a. One **must** be from each discipline.

b. One project must be completed and occupied for at least six (6) months. The other must be

substantially complete, with University preference if the project is completed and occupied for at least six (6) months.

- c. One project must be a (i) university or academic facility (i.e. classroom, studio, office facility, computer lab), and (ii) in excess of \$400K for construction costs.
- d. One project must be a (i) renovation project, and (ii) in excess of \$400K for construction costs. The University prefers if the project was done in an occupied academic setting (i.e. classroom, studio, office facility, computer lab).

NOTE: Should the proposing M/E firm be a joint venture, the majority joint venture party must submit two (2) of the three (3) projects and the other joint venture party must submit one (1) project.

ii) **Cost Estimating Firm: One (1) project** is to be submitted from the Cost Estimating Firm which meets the criteria noted above in 3.1.a and below. The project must be complete and occupied for at least six (6) months.

1. One project should be a (i) renovation of an existing building, in an occupied setting, and (ii) in excess of \$400K for construction costs and (iii) estimating services must be performed by the Cost Estimating Firm. The University prefers if the project was done in a higher education setting.

iii) **Structural Engineering Firm: One (1) project** is to be submitted from the Structural Engineering Firm which meet the criteria noted above in 3.1.a and below, the project must be complete and occupied for at least six (6) months.

1. One project should be a (i) renovation of an existing building, in an occupied setting, (ii) in excess of \$400K for construction costs and (iii) must designed by the structural firm. The University prefers if the project was done in a higher education setting.

iv) **Architectural Firm: One (1) project** is to be submitted from the

Architectural Firm which meets the criteria noted above in 3.1.a and below. The project must be complete and occupied for at least six (6) months.

1. One project must be a (i) renovation of an existing building, in an occupied setting, (ii) in excess of \$400K for construction costs and (iii) designed by the Architectural Firm. The University prefers if the project was done in an occupied academic setting (i.e., classroom, studio, office facility, computer lab).

NOTES:

- The projects submitted by the Cost Estimating, Structural, and Architectural firms may duplicate the projects submitted by the Prime M/E firm.
- The projects submitted are to be similar in size, function and complexity to the type of work to be done. The criteria used in the evaluation includes, but is not limited to, the following:
 - Projects which are higher education* facilities inclusive of renovations in an existing building;
 - Projects which include academic settings (i.e. classroom, studio, office facility, computer labs);
 - Projects located in a higher education setting;
 - Projects which are constructed in the occupied setting;
 - Projects which have site constraints; and,
 - Projects which include multi-media elements.

*University/Higher Education is defined as a 4-year or more degree awarding institution.

- 3.2. **KEY PERSONNEL PARTICIPATION IN EXAMPLE PROJECTS**
(Standard Form SF 330, Part I) Section G, Provide matrix depicting key personnel identified in Section E, provide role on the example projects, and proposed roles in this contract.
- 3.3. **ADDITIONAL INFORMATION.** (Standard Form SF 330, Part I) Section H, Provide a Summary of Qualifications, a written description of why the Proposer is most qualified and skilled to design these projects. This should be objective and limited to not more than one typewritten pages.
4. **KEY PERSONNEL REFERENCES:** Provide two (2) project references for each Key Personnel based on two (2) of the submitted projects for each person's resume in Section 2.1, by completing the Key Personnel Reference Form.
5. **FIRM REFERENCES:** Provide the following firm references by completing the Firm

Reference Form (see Attachment A of the M/E Solicitation Document for this form):

- a. Prime/ Proposing Mechanical/Electrical Engineering Firm: Provide three (3) firm references based on the three (3) submitted projects in section 3.1.a.
- b. Cost Estimating Firm: Provide one (1) firm reference based on the one (1) submitted project in section 3.1.a.
- c. Structural Engineering Firm: Provide one (1) firm reference based on the one (1) submitted project in section 3.1.a.
- d. Architectural Firm: Provide one (1) firm reference based on the one (1) submitted project in section 3.1.a.

Reference Notes:

- Such references are to be from different projects; that is, only one reference per project is allowed. Only one (1) reference may be from the University of Maryland, Baltimore and only one (1) reference may be from each of the client institutions: Coppin State University (CSU), University of Baltimore (UB), University of Maryland Baltimore County (UMBC) and Towson University (TU).
- The University reserves the right to verify all information given if it so chooses, as well as to check any other sources available. As well, the University may use itself as a reference even if not given by the Proposer.
- Please be sure that accurate information is provided and that the contact person is capable of speaking to a firm's and/or key person's capability in performing the services required. References will be held in the strictest of confidence.

6. **BASIS FOR SELECTION:** Provide a brief explanation as to why each firm was selected for the proposed M/E team. (limit 6 pages)
7. **GENERAL QUALIFICATIONS:** (Standard Form SF 330, Part II,) Submit form for each proposed firm and proposed branch office, completing all sections and following the form's instructions. For Item 9, Employees by Discipline, if a person spans disciplines, the disciplines should be clearly noted with partial times indicated (i.e., $\frac{1}{2}$ project manager and $\frac{1}{2}$ architect, etc.).
8. **PROFESSIONAL LIABILITY COVERAGE:** Complete the Professional Liability Coverage Form (found in Attachment A) to confirm the required professional liability insurance coverage (\$1M) including current and/or proposed additional coverage to be guaranteed if awarded the contract. Please include in this statement the dollar value of such coverage, expiration date and name of the insurance company.

Note: Where the proposing M/E team is a joint venture (JV), either (a) the JV, as a legal entity, must have the required \$1M professional liability insurance coverage; OR (b) each party of the JV must have the required \$1M professional liability insurance coverage.

9. **ECONOMIC BENEFIT:** Provide a detailed, but concise, overall description as to how the award of this contract will benefit the economy of the State of Maryland if your firm is the successful M/E. Such information is to include, but are not limited to, (i) M/E team members who are Maryland firms and (ii) number of employees in each M/E team member firm who are Maryland residents.
10. **REGISTRATION DOCUMENTATION:** Complete and submit the Registration Documentation form (found in Attachment A).

Note: It is preferred that the proposed Key People be registered in the State of Maryland and listed on the registration documentation. If the Key People are not registered in the State of Maryland, you must list the name of the person who is registered in the State of Maryland and will be able to sign documents for the Key People. **In any event, you must have someone registered in the state of Maryland for each discipline listed prior to the start of any fee negotiations.**

END OF SECTION 00300, ARTICLE 2

SECTION 00300
PROPOSALS, EVALUATION, AND FORMS

ARTICLE 3
EVALUATION AND NEGOTIATIONS PROCESSES

A. TECHNICAL EVALUATION:

1. An evaluation of the Technical Proposals will be conducted by the University's Qualification Committee. Firms will be ranked with a shortlist recommended by the Qualification Committee. Only shortlisted M/E firms will advance in the procurement process.
2. The Qualification Committee will submit to the Procurement Officer the final ranking of the shortlisted M/E firms.
3. The Procurement Officer will review these rankings accordingly and upon approval notify all firms.
4. Upon approval of the Qualification Committee's ranking report, the Procurement Officer shall request price proposals from all shortlisted M/E firms.

B. FEES NEGOTIATIONS:

1. The shortlisted M/E firms shall submit a price proposal. Price Proposals are anticipated to be submitted on **Thursday February 27, 2020**, at 2:00 p.m.
2. Negotiations shall be conducted between the candidate firm(s) and the University Negotiation Committee.
3. If the Procurement Officer determines that a satisfactory contract cannot be negotiated, the negotiations shall be terminated.
4. Upon successful completion of negotiations, the USM Service Center will proceed with the contract award(s).

***Note regarding reimbursables for A/E:**

Please note the following regarding reimbursable: The University only accepts the following items as "reimbursable": (i) printing expenses (reproduction of documents for review by other parties such as the University and other State agencies), (ii) out-of state travel (if any) defined as a minimum of seventy five miles one way from the University, (iii) geotechnical testing, (iv) renderings, (v) models, (vi) fire flow tests, and (vii) Green Building Certification application and credit review fees paid to the applicable certification body. All other expenses are

part of the cost of doing business and, therefore, included in a firm's overhead rate.

C. AWARD:

1. The successful M/E firms will be required to sign the University's AE contract Prior to Board of Public Works (BPW) approval (see Attachment B for the University's Standard Form of Agreement with Architects and Engineers).
2. Upon approval by the Board of Public Works the University shall fully execute the contract with the successful M/E firms.

END OF SECTION 00300, ARTICLE 3

END OF SECTION 00300

SECTION 00400

SCOPE OF WORK

SECTION 00400 SCOPE OF WORK

ARTICLE I GENERAL PROVISIONS

A. INSTITUTIONAL PROFILES

1. **University of Maryland, Baltimore**

The University of Maryland, Baltimore (UMB) is a public university that is part of the University System of Maryland, a public corporation and instrumentality of the State of Maryland. Located in Baltimore, the campus consists of 72 acres with 6.7 million gross square feet of space in 69 buildings.

Opened in 1807, the University of Maryland, Baltimore (UMB) is Maryland's public health, law, and human services university, dedicated to excellence in education, research, clinical care, and public service. UMB enrolls over 6,700 students in six nationally ranked professional schools — dentistry, law, medicine, nursing, pharmacy, and social work — and an interdisciplinary Graduate School. The University offers 62 doctoral, master's, baccalaureate, and certificate programs confer most of the practice doctoral degrees awarded in Maryland

2. **Coppin State University (CSU):** Founded in 1900, CSU is a historically black four-year liberal arts college which provides academic programs in the arts and sciences, teacher education, nursing, graduate studies, and continuing education for an enrollment of approximately 2,800 students. Its residential campus is set on 38 acres in the northwestern section of Baltimore City. Most of the facilities are of recent vintage and serve academic, administrative, athletic, physical education, recreation, residential and parking needs.
3. **Towson University (TU):** Founded in 1866 as a teacher's-training school, the present university offers 64 undergraduate, 37 graduate degree, and 4 doctoral degree programs in the liberal arts and sciences, pre-professional and professional areas of study, with outstanding programs in writing, business, fine arts, women's studies and teacher education. TU is the largest university in the Baltimore area with a fast-growing enrollment which currently numbers approximately 19,000 students. Its extensive 329-acre residential campus is set in suburban Towson at the northern edge of Baltimore City and consists of buildings dating from 1914 to the present.
4. **University of Baltimore (UB):** The University of Baltimore dates to 1925 when a private institution was established to offer part-time, evening courses in business and law.

During the mid-twentieth century, the mergers of several private school created the institution now known as University of Baltimore and became part of the University of Maryland System in 1988.

The University of Baltimore (UB) serves undergraduate, graduate, doctoral, and professional students at the freshman, sophomore, junior, and senior year levels with an enrollment of approximately 5,000 students. Located in Baltimore's Mount Royal cultural district, UB offers graduate and professional programs in such fields as law, business, publications design, and public administration. Facilities are a mixture of recent new construction intermingled with older commercial and row house structures, some with historic value.

5. **University of Maryland, Baltimore County (UMBC):** Founded in 1966, the present research university offers 48 majors and 38 minors and 25 certificate programs in the physical and biological sciences, in the arts and humanities, sciences and engineering, and mathematics, 39 master's and 24 doctoral programs. The current enrollment is approximately 13,500 students. The facilities on its suburban Catonsville campus are all of recent vintage.

- B. **ON-CALL M/E FIRMS:** The intent of this procurement is to establish on-call Design Services Contracts for full M/E services for the Office of Facilities and Operations at the University of Maryland, Baltimore, or the applicable institutions Physical Plant (PP) for use by UMB and any of the University System of Maryland (USM) institutions but primarily those noted above.

- C. **CONTRACT TERM:** The initial contract term is thirty-six (36) months with the University retaining the sole option to renew these contracts for one additional two (2) year term.

- D. **CONTRACT AMOUNT:** Each On Call M/E firm will be awarded a contract in the amount of \$2,100,000 for the duration of this contract. All proposers are advised that such dollar amounts are estimates only and all proposers further understand and agree that in providing such estimates, the University makes no guarantee that any or all of the estimated work will be assigned to the selected On-Call M/E firms. It is the University's intent to award multiple On Call M/E contracts.

- E. **IMPLEMENTATION:**

- 1.1 **Rotational Basis:** Due to the nature of on call design services, the University will be rotating among the awarded On Call M/E firms as follows:
 - a. Rotation will commence with the awarded M/E firm who achieved the highest total score in this procurement with rotation continuing in order with the other

awarded firms based on technical score.

- b. The University reserves the right to award a specific project task order out of the rotation should there be special circumstances which the University deems appropriate.
- c. The On Call M/E firm agrees to provide written documentation to Procurement Services if declining a project.
- d. The University reserves the right to request information from an On Call M/E firm for review and evaluation for specialized projects to determine the appropriateness of the particular M/E firm for such work (i.e., fitness center, etc.)
 - a. An M/E's turn in rotation is lost if a project is cancelled.

1.2 The University's representative will contact the On Call M/E firm, schedule a meeting and site visit and provide the firm with a written scope of work.

1.3 The On Call M/E firm is to provide the University representative with a fee proposal for the specific task order based on the M/E scope of work and this contract. This proposal shall be in accordance with the University's format and presented within fourteen (14) calendar days from the proposal meeting. If a revised and or final proposal is requested by the University, it is due within seven (7) calendar days after the University's request. See Section 00300, Article 3, Item B regarding allowable reimbursable expenses.

1.4 The University will review the M/E's fee proposal based on the quoted hourly billing rates, position, and estimated hours and tasks. The University will negotiate accordingly with the On Call M/E firm. The M/E firm shall have a maximum of three (3) submittals on any on call negotiation, base, revised and final offer. Should the University find that fee negotiations will not be successful or the M/E fails to submit proposal(s) in a timely manner, the University may elect to terminate said fee negotiations and contact the next On Call M/E firm in the rotation.

1.5 Upon completion of successful fee negotiations, the M/E fee proposal will be the lump sum compensation to be provided to the M/E by the University, excepting any items for which a not-to-exceed allowance may have been established in the M/E fee proposal.

1.6 The University will issue a Purchase Order to the On Call M/E firm.

1.7 At any time the University may elect to not award a rotation.

2. Contract Term: Each On Call M/E firm will be awarded a contract for the duration of this contract.
3. It is anticipated that the no project fee will exceed \$700,000, with project fees averaging \$125,000.
4. Contract issues shall be addressed to the University's Strategic Sourcing and Acquisition Services. All other communications on projects by the On Call M/E firm are to be directed to the designated University's Project Manager only. All instructions, directions, and information will be by the designated University's Project Manager **only**.
5. All change order work shall **not** proceed until an additional Change Order Notice has been issued by the University's Procurement Office confirming this additional work and the applicable additional cost. The University will review the M/E's fee proposal based on the quoted hourly billing rates, position, estimated hours, and tasks.
6. Any staff changes by the selected On Call M/E firms in the submitted M/E key personnel must be reviewed and approved by UMB's Procurement Services via the issuance of a contract amendment prior to any reassignments being made. In the event the consultant proposes to add or substitute staff for any of the key personnel positions designated, the individual(s) proposed must demonstrate similar qualifications, experience, and documentation as required in this RFP to successfully perform such duties. The Procurement Officer shall have the sole right to determine whether key personnel proposed as substitutes are qualified to provide services for the work.
7. Minority Business Enterprise Participation: As noted Section 00100, the MBE participation level is to be set for each task order that exceeds \$50,000 for the selected On-Call M/E firms under this contract, and subgoals may be set for any task order over \$200,000. MBE Attachment H-1A Part 3 (MBE Participation Schedule) must be included with each fee proposal and MBE Attachments H-2, H-3A and H-3B are to be submitted within 10 working days of notice of award on an individual task order. MBE Schedule forms are available from UMB's Office of Strategic Sourcing and Acquisition Services.

END OF SECTION 00400, ARTICLE 1

SECTION 00400 SCOPE OF WORK

ARTICLE 2 DESIGN SERVICES

1. GENERAL PROVISIONS:

1.1 Purpose and Definition of On Call M/E Design Services Contract

The On Call M/E shall provide the necessary services/work which includes, but is not limited to, the following:

- (a) Engage licensed professional A/E or E/A design firm(s) per the On Call M/E contract and provide all required M/E services in accordance with (i) the M/E Scope of Work for specific projects done under this On Call Contract and (ii) RFP# 88838 CB, and (iii) all applicable codes and regulations;
- (b) provide all design and construction administration services necessary to implement the goals of each project done under this On Call Contract inclusive of, but not limited to, the following: mechanical, electrical, plumbing design services, architectural, civil, electrical, structural and any required specialty design consultants as required for a specific Project;
- (c) develop design and construction schedules;
- (d) coordinate/communicate the activities of the M/E Team throughout the design and construction processes.

1.2 Payments:

- A. Payments shall be made on the evaluation of the Work accomplished.
- B. Application for payment shall be submitted on/or about the 25th day of each month, but not less than (30) days after commencement of service.
- C. The On Call M/E firm will be paid for 100% of the approved monthly fees earned.
- D. Payments to the On Call M/E firm pursuant to this Contract shall be made no later than thirty (30) days after UMB's receipt of a proper invoice from the On Call M/E firm.

1.3 Insurance Coverage Requirements: The M/E shall obtain and maintain from and after the date of the On Call M/E Contract the following insurance:

- (i) Professional Liability insurance in an amount not less than \$1,000,000 from the date of the On Call M/E Contract and through ten (10) years after final acceptance by UMB of the Projects done under this On Call Contract.
- (ii) General Liability insurance in an amount not less than \$1,000,000 from and after the date of the On Call M/E Contract and through two (2) years after final acceptance by UMB of the projects done under this On Call Contract. Such insurance is to include a contractual liability endorsement.
- (iii) Workmen's Compensation insurance per statutory requirements.

All General Liability insurance with the exception of Workmen's Compensation shall name the University of Maryland, Baltimore, any client University, and the State of Maryland as additional insureds.

As a condition to the A/E Agreement, the On Call M/E firm shall have the M/E deliver to UMB, not later than the date of execution of the On Call M/E Contract, a certificate of insurance verifying compliance with the above insurance requirements. Such Certificates/ Memoranda shall also provide for notice to UMB not later than forty-five (45) days prior to the expiration or cancellation of the referenced policy.

Any and all insurance obtained and maintained by the M/E under this Agreement shall indicate, in form satisfactory to UMB that UMB may make a claim against such insurance.

Failure to do so shall be a material breach of the On Call M/E Contract. In the event that the M/E terminates, as a business entity, for any reason whatsoever, or in any manner whatsoever, the M/E shall obtain and provide for the maintenance of professional liability insurance, specifically covering the M/E's obligations performed or to be performed under this Agreement, in the amount set forth herein for the remainder of the time set forth herein.

Satisfactory proof of purchase of required insurance shall be furnished on the Accord format for certificates prior to execution of the Contract and upon renewal of any policy, and upon obtaining any new insurance policy. The M/E shall defend, indemnify and save harmless the State of Maryland, the University System of Maryland, Towson University, Coppin State University, University of Baltimore, University of Maryland, Baltimore County, and each of their officers, employees and agents, from any and all claims, liability, losses and causes of actions which may arise out of the performance by the M/E, employees or agents, of the work

covered by this Contract.

Each insurance policy shall contain the following endorsements: "It is understood and agreed that the Insurance Company shall notify in writing Procurement Officer forty-five (45) days in advance of the effective date of any reduction in or cancellation of this policy." A certificate of each policy of insurance shall be furnished to the Procurement Officer. With the exception of Workmen's Compensation, upon the request of the Procurement Officer a certified true copy of each policy of insurance, including the above endorsement manually countersigned by an authorized representative of the insurance company, shall be furnished to the Procurement Officer. A certificate of insurance for Workmen's Compensation together with a properly executed endorsement for cancellation notice shall also be furnished. Following the notice of Contract award, the requested Certificates and Policies shall be delivered as directed by the Procurement Officer. Notices of policy changes shall be furnished to the Procurement Officer.

1.4 Ownership of Project Documents

All data, information, material and matter of any nature and all copies thereof in any and all forms whatsoever developed by the On Call M/E firm or in the On Call M/E firm's possession or control relating to the Project are the property of the University shall be delivered to the University upon completion of any project done under this On Call Contract. In addition, all documents in progress are the property of the University and shall be delivered to the University promptly in the event of termination of the On Call M/E Contract prior to completion of the contract.

The On Call M/E firm shall be responsible for protection and/or replacement of any Construction Documents or other documents in its possession. The University shall receive all original documents and the On Call M/E firm shall retain a reproducible copy. (See specific USM institutions' Design Standards for further requirements.)

2. ON CALL M/E FIRM'S OBLIGATIONS

2.1 Overview: The On Call M/E firm's services shall consist of the two main parts described as follows:

Part A: To provide professional design services as required on projects done under this On Call Contract.

Part B: To provide Construction Phase services as required on projects done under this On Call Contract to include Construction Administration and Post-Construction phases.

The On Call M/E firm's obligations are defined in this RFP under Design Phase Services (Part A) and Construction Phase Services (Part B). The On Call M/E firm will be **solely responsible** for all aspects of the design of the project done under this On Call Contract and will be responsible for insuring that the projects are designed and constructed in accordance with the Project Documents issued for each project done under this On Call Contract and RFP# 88838 CB.

2.2A Part A: To provide professional design services as required on projects done under this On Call Contract.

(a) Overview: The On Call M/E firm shall procure the services of all the required design consultants in accordance with its Technical Proposal in response to this RFP.

Complete professional A/E services as necessary for completion of projects done under this On Call Contract shall be in accordance with the (i) specific Project Programs provided, (ii) the Contract Documents listed in Section 00200, (iii) UMB A/E Procedure Manual and UMB Design Standards and (iv) standards of the design and construction industry for public institutional projects.

Major work which may be subcontracted for construction such as structural, electrical, and architectural systems shall be furnished as designed by the M/E rather than by a trade/subcontractor under a design-build subcontract (including selection and review of proprietary or franchised systems).

All Contract Documents (drawings, specifications, etc.) for specific projects shall bear the seal and signature of the primary M/E and the seal and signature of each consultant to the primary M/E on drawings and specifications within his area of responsibility.

(b) Project Review: The Mechanical Engineer, Architect, Engineers, other design team members and UMB shall meet to fully understand the Program requirements, the project scope and all other pertinent aspects of the project.

(c) Design Submittal: M/E deliverables, per the Project Task Order M/E Scope of Work, shall be submitted to the University for review and approval as required.

Note: See applicable University CAD Standards in the applicable USM institution's Architectural and Engineering Design Standards.

(d) Bidding: The M/E is to attend all pre-bid meetings and is to interpret the contract documents during the bidding period. Interpretations shall be given by written instruction only.

2.2B Part B: To provide Construction and Post Construction Phase A/E services as required on projects done under this On Call Contract.

- (a) Overview: A/E services for Construction and Post Construction to be provided per the A/E Scope of Work for specific Project Task Orders done under this contract and the Contract Documents noted in Section 00200 of this RFP.
- (b) Construction Progress Meetings: The M/E shall attend all construction progress meetings which include the Contractor, University's Project Manager and other University representatives, if any.
- (c) Submittal and Shop Drawing/Review and Approval:
 - (1) The M/E shall review all submitted shop drawings for compliance with design documents, in accordance with the Contract Documents of this RFP listed in Section 00200, and in accordance with good design and engineering practice.
 - (2) The M/E shall review and approve the Trade/ Subcontractors' submittals such as Shop Drawings, Product Data and Samples, checking for conformance with information given and the design concept expressed in the Construction Documents. The M/E's action shall be taken within the required time frame for the project so as to cause no delay in the work, while allowing sufficient time in the M/E's professional judgement to permit adequate review. The M/E's action on all shop drawings/submittals will be reviewed by UMB prior to the transmission to the Contractor. Refer to the UMB AE Procedure Manual for specific instructions regarding the Shop Drawing and Submittal review process and timelines.
- (d) Requests for Information (RFIs) and Document Interpretation: The M/E shall interpret Construction Documents as necessary and issue the applicable documents as may be necessary to explain construction details.
- (e) Quality Assurance/Inspection:

The M/E shall make periodic visits to the Project as required by the progress of the construction work or as requested by the University to gain familiarity with the progress and quality of the construction and to determine in general if the construction of the Project is proceeding in accordance with the Construction Documents. In making such periodic visits to the site and on the basis of such on-site observations the M/E shall guard the University against defects and deficiencies in the construction work and shall report to the University's representative any observed defect or observed deficiency.

- (f) Punch List: The M/E shall be responsible for the preparation and review of punch lists. Such punch lists will only be performed once a written statement from the Project Contractor is received by the University stating that the Project is complete and in accordance with the Contract Documents.
- (g) Record Drawings: The M/E shall be responsible for the provision of record documents in accordance with the UMB A/E Procedure Manual.
- (h) Post Construction Services: The M/E shall participate in one (1) site visit within the two (2) year project warranty period. It is anticipated that this site visit will be incorporated with other visits to the campus.

END OF SECTION 00400 ARTICLE 2

SECTION 00400
SCOPE OF WORK

ARTICLE 3
PROJECT TYPE/SPECIFICATIONS

1. SCOPE

- a. The On Call M/E firm is to furnish all services necessary to design and construct the project in accordance with the program/scope of work furnished by authorized personnel of the University.
- b. The On Call M/E firm is to coordinate all design work with its consultants.
- c. The On Call M/E firm shall complete his work in the time required by the University and in accordance with the requirements stated within the Purchase Order for that task.
- d. The design services will be provided on interior renovation work and infrastructure renovation/upgrades done in occupied buildings and, in some cases, with ongoing classes. The selected On-Call M/E firms will be required to take special consideration when designing in such environments, including developing a phasing schedule for the construction work.

2. The design work to be included under the On Call M/E is as described, but not limited to, the following type of construction:

PRIMARY

a. **PLUMBING**

Installation of underground storm and sanitary sewers-waste and vent piping; installation of all plumbing equipment and fixtures including water heaters, booster pumps, water closets, lavatories, sinks, etc.; installation of all piping for hot and cold water, gases and vacuum. Insulation of plumbing piping. Installation of Fire Protection piping and devices. RO/DI water piping, chemical waste piping and backflow preventers.

b. **MECHANICAL**

The installation of all types of HVAC systems and equipment, including air handling units, chillers, cooling towers, pumps, heat exchangers - piping-pipe insulation - temperature control work. All steam and hot water heating piping including insulation. Fabrication and installation of ductwork, fire dampers, diffusers and including stainless steel ductwork to hood exhausts. Insulation of ductwork.

c. **ELECTRICAL WORK**

High voltage feeders and switchgear-power poles & transformer installation-up grading existing electrical services-wiring of all type of machinery-complete wiring for new construction-conduit and wire installation -installation of interior and exterior lighting-

extension of existing circuits - control wiring-fire alarm, fiber optics electronics cabling and installation, and telecommunications.

d. **MULTI-MEDIA WORK**

The installation of audio/visual systems, including projector screens, microphones and data lines and connections.

SECONDARY

e. **PATCHING AND PAINTING WORK**

Interior and exterior painting - surface preparation to include scraping, burning and caulking. Minor plaster repair. Staining, sealing and stripping wood casework.

f. **SPECIAL FLOORING AND WALL FINISHES**

All types of composition and resinous flooring, wall finishes and systems, resilient floor systems, and ceramic base systems.

g. **GENERAL WORK**

Carpentry, rough concrete, ceilings, tile, installation of cabinets and millwork, installation of door hardware, renovations of existing facilities, curb cuts, handicapped modifications, hanging and finishing of dry wall, and demolition work.

3. All work shall be designed in accordance with applicable codes and standards. See USM Procedure Manual for Professional Services for further details.

END OF SECTION 00400 ARTICLE 3

END OF SECTION 00400

ATTACHMENT A

- MBE Attachment H-1A, MBE Utilization and Fair Solicitation Affidavit
- Bid/Proposal Affidavit
- Professional Liability Insurance Form
- Registration Documentation Form
- Key Personnel/Firm Reference Form
- Acknowledgement of Receipt of Addenda Form (if applicable)
- eBuilder Affidavit
- Certification Regarding Investment Activities In Iran

**MBE ATTACHMENT H-1A:
MBE UTILIZATION AND FAIR SOLICITATION AFFIDAVIT
& MBE PARTICIPATION SCHEDULE**

INSTRUCTIONS

PLEASE READ BEFORE COMPLETING THIS DOCUMENT

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

1. Contractor shall structure its procedures for the performance of the work required in this Contract to attempt to achieve the minority business enterprise (MBE) subcontractor participation goal stated in the Invitation for Bids or Request for Proposals. Contractor agrees to exercise good faith efforts to carry out the requirements set forth in these Instructions, as authorized by the Code of Maryland Regulations (COMAR) 21.11.03.
2. MBE Goals and Subgoals: Please review the solicitation for information regarding the Contract's MBE overall participation goals and subgoals. After satisfying the requirements for any established subgoals, the Contractor is encouraged to use a diverse group of subcontractors and suppliers from any/all of the various MBE classifications to meet the remainder of the overall MBE participation goal.
3. MBE means a minority business enterprise that is certified by the Maryland Department of Transportation ("MDOT"). Only entities certified by MDOT may be counted for purposes of achieving the MBE participation goals. In order to be counted for purposes of achieving the MBE participation goals, the MBE firm, including a MBE prime, must be MDOT-certified for the services, materials or supplies that it is committed to perform on the MBE Participation Schedule.
4. Please refer to the MDOT MBE Directory at www.mdot.state.md.us to determine if a firm is certified with the appropriate North American Industry Classification System ("NAICS") Code and the product/services description (specific product that a firm is certified to provide or specific areas of work that a firm is certified to perform). For more general information about NAICS, 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. **WARNING:** If the firm's NAICS Code is in graduated status, such services/products may not be counted for purposes of achieving the MBE participation goals. A NAICS Code is in the graduated status if the term "Graduated" follows the Code in the MDOT MBE Directory.
5. **NOTE: New Guidelines Regarding MBE Prime Self-Performance.** Please note that when a certified MBE firm participates as a prime contractor on a contract, a procurement agency may count the distinct, clearly defined portion of the work of the contract that the certified MBE firm performs with its own forces toward fulfilling up to fifty-percent (50%) of the MBE participation goal (overall) and up to one hundred percent (100%) of not more than one of the MBE participation subgoals, if any, established for the contract. In order to receive credit for self-performance, an MBE prime must list its firm in Section 4A of the MBE Participation Schedule, including the certification category under which the MBE prime is self-performing and include information regarding the work it will self-perform. For the remaining portion of the overall goal and the subgoals, the MBE prime must also identify other certified MBE subcontractors (see Section 4B of the MBE Participation Schedule) used to meet those goals or request a waiver. For example, for a construction contract that has a 27% MBE overall participation goal and subgoals of 7% for African

American firms and 4% for Asian American firms, subject to Section 4 above and this Section 5, a certified African American MBE prime can self-perform (a) up to 13.5 % of the overall goal and (b) up to 7% of the African American subgoal. The remainder of the overall goal and subgoals would have to be met with other certified MBE firms or a waiver request.

For a services contract with a 30% percent MBE participation goal (overall) and subgoals of 7% for African-American firms, 4% for Asian American firms and 12% for women-owned firms, subject to Sections 4 above and this Section 5, a dually-certified Asian American/Woman MBE prime can self-perform (a) up to 15% of the overall goal and (b) up to four percent (4%) of the Asian American subgoal OR up to twelve percent (12%) of the women subgoal. Because it is dually-certified, the company can be designated as only ONE of the MBE classifications (Asian American or women) but can self-perform up to one hundred percent (100%) of the stated subgoal for the single classification it selects.

6. Subject to the restrictions stated in Section 5 above, when a certified MBE that performs as a participant in a joint venture, a procurement agency may count a portion of the total dollar value of the contract equal to the distinct, clearly-defined portion of the work of the contract that the certified MBE performs with its own forces toward fulfilling the contract goal, and not more than one of the contract subgoals, if any. For example, if a MBE firm is a joint venture partner and the State determines that it is performing with its own forces 35 percent of the work in the contract, it can use this portion of the work towards fulfilling up to fifty percent (50%) of the overall goal and up to one hundred percent (100%) of one of the stated subgoals, if applicable.
7. As set forth in COMAR 21.11.03.12-1, once the Contract work begins, the work performed by a certified MBE firm, including an MBE prime, can only be counted towards the MBE participation goal(s) if the MBE firm is performing a commercially useful function on the Contract. Please refer to COMAR 21.11.03.12-1 for more information regarding these requirements.
8. If you have any questions as to whether a firm is certified to perform the specific services or provide specific products, please contact MDOT's Office of Minority Business Enterprise at 1-800-544-6056 or via email to mbe@mdot.state.md.us sufficiently prior to the submission due date.
9. Worksheet: The percentage of MBE participation, calculated using the percentage amounts for all of the MBE firms listed on the Participation Schedule MUST at least equal the MBE participation goal and subgoals (if applicable) set forth in the solicitation. If a bidder/offeror is unable to achieve the MBE participation goal and/or any subgoals (if applicable), the bidder/offeror must request a waiver in Item 1 of the MBE Utilization and Fair Solicitation Affidavit (Attachment H-1A) or the bid will be deemed not responsive, or the proposal determined to be not susceptible of being selected for award. You may wish to use the Subgoal summary below to assist in calculating the percentages and confirm that you have met the applicable MBE participation goal and subgoals, if any.

Subgoals (if applicable)

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

Overall Goal

Total MBE Participation (include all categories): _____ %

PART 2 - MBE UTILIZATION AND FAIR SOLICITATION AFFIDAVIT & MBE PARTICIPATION SCHEDULE

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

In connection with the bid/proposal submitted in response to Solicitation No. **88838 CB**, I affirm the following:

1. MBE Participation (PLEASE CHECK ONLY ONE)

I acknowledge and intend to meet the overall certified Minority Business Enterprise (MBE) participation goal.

The MBE participation for this procurement will be set per task order.

An overall MBE subcontractor participation goal will be set for any task order over \$50,000 and subgoals will be set for any task order over \$200,000.

Therefore, I am not seeking a waiver pursuant to COMAR 21.11.03.11.

OR

I conclude that I am unable to achieve the MBE participation goal and/or subgoals. I hereby request a waiver, in whole or in part, of the overall goal and/or subgoals. Within 10 Working days of receiving notice that our firm is the apparent awardee or as requested by the Procurement Officer, I will submit the completed Good Faith Efforts Documentation to Support Waiver Request (Attachment H-1C) and all required waiver documentation in accordance with COMAR 21.11.03.

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 notice of the potential award or from the date of conditional award (per COMAR 21.11.03.10), whichever is earlier:

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

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

[CONTINUED ON NEXT PAGE]

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 I have reviewed the instructions for the MBE Utilization & Fair Solicitation Affidavit and that the information included is true to the best of my knowledge, information and belief.

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

Signature of Authorized Representative

Address

Printed Name and Title

City, State and Zip Code

Date

SUBMIT THIS AFFIDAVIT WITH TECHNICAL PROPOSAL

BID/PROPOSAL AFFIDAVIT

A. AUTHORIZED REPRESENTATIVE

I HEREBY AFFIRM THAT:

I am the (title) _____ and the duly authorized representative of (business) _____ and that I possess the legal authority to make this Affidavit on behalf of myself and the business for which I am acting.

B. CERTIFICATION REGARDING COMMERCIAL NONDISCRIMINATION

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

B-1. Certification Regarding Minority Business Enterprises.

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

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

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

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. FINANCIAL DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, the provisions of Section 13-221 of the State Finance and Procurement Article of the 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.

J. 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.

K. 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 whom the business knows, or in the exercise of due diligence should know, currently abuses drugs or alcohol and is not actively engaged in a bona fide drug or alcohol abuse assistance or rehabilitation program;

(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' 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 §K(2)(b), above;

(h) Notify its employees in the statement required by §K(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 §K(2)(h)(ii), above, or otherwise receiving actual notice of a conviction;

(j) Within 30 days after receiving notice under §K(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 §K(2)(a)—(j), above.

(3) If the business is an individual, the individual shall certify and agree as set forth in §K(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.

L. CERTIFICATION OF CORPORATION REGISTRATION AND TAX PAYMENT

I FURTHER AFFIRM THAT:

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

(If not applicable, so state).

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

M. 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.

N. Repealed.

O. ACKNOWLEDGEMENT

I ACKNOWLEDGE THAT this Affidavit is to be furnished to the Procurement Officer and may be distributed to units of: (1) the State of Maryland; (2) counties or other subdivisions of the State of Maryland; (3) other states; and (4) the federal government. I further acknowledge that this Affidavit is subject to applicable laws of the United States and the State of Maryland, both criminal and civil, and that nothing in this Affidavit or any contract resulting from the submission of this bid 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: _____ (Authorized Representative and Affiant)

12.0021 (Rev. 07/2010)

M/E FIRM:

Firm's statement of professional liability insurance coverage including current and/or proposed additional coverage to be guaranteed if awarded the project must be inserted below. The firm recommended for appointment will be required to submit evidence of \$1M professional liability insurance coverage prior to execution of the contract. Failure to complete the insurance information may result in your firm being disqualified from further consideration for this project.

Dollar Value: \$ _____

Expiration Date: _____

Insurance Company: _____

Comments (if any):

Note: Please include information on current and/or proposed additional coverage to be guaranteed if awarded the contract. Should an M/E firm not provide confirmation of the required professional liability insurance coverage during the technical phase of this procurement, it will be disqualified from further consideration.

**AE SOLICITATION RFP# 88838 CB
REGISTRATION DOCUMENTATION**

**ON CALL M/E SERVICES FOR ACADEMIC PROJECTS
TECHNICAL PROPOSAL**

M/E FIRM:

All individuals practicing occupations requiring registration or licensure must be currently registered with the appropriate State of Maryland Registration Board. It is, therefore, important that the Architect/Engineer address himself/herself to the disciplines of registration required for this project.

Disciplines required for this project are listed below and marked with an asterisk(*). For each marked discipline, insert name of the individual, and where required, date of Maryland registration, and Maryland registration number. Every individual named on this attachment should be represented in the U.S. Standard Form 330, Section E, "Resumes of Key Persons."

<u>Discipline Required</u>	<u>Name of Individual</u>	<u>Date of Md. Registration</u>	<u>Md. Reg. Number</u>
(*) Principal	_____	_____	_____
(*) Mechanical Engineer	_____	_____	_____
(*) Electrical Engineer	_____	_____	_____
(*) Architect	_____	_____	_____
(*) Structural Engineer	_____	_____	_____
(*) Civil Engineer	_____	_____	_____

Note: Failure to complete the requested information on this form shall result in being disqualified from further consideration for this project.

The foregoing is a statement of facts.

Signature: _____

Typed Name & Title: _____

Date: _____ Name of Firm: _____

PROPOSING M/E FIRM NAME: _____ Page 1 of 3

Prime/Proposing M/E Firm: Provide three (3) firm references based on the three (3) submitted projects. Such references are to be **project references**; that is, the University is interested in speaking to a Project Owner regarding the firm's performance on a particular project. These references are to be from the projects submitted by the M/E firm under the SF 330, Section F. Such references are to be from different projects; that is, only one reference per project is allowed. Such references will be held in strictest confidence by the University. Please insure that the information is accurate and that the reference named can speak to the **firm's performance on the project**.

1. CONTACT PERSON: _____ TEL#:_____

COMPANY NAME: _____

PROJECT NAME: _____

DESCRIPTION OF PROJECT (INCLUSIVE OF CONSTRUCTION COSTS, AND PROJECT COMPLETION DATE) DONE:

2. CONTACT PERSON: _____ TEL#:_____

COMPANY NAME: _____

PROJECT NAME: _____

DESCRIPTION OF PROJECT (INCLUSIVE OF CONSTRUCTION COSTS, AND PROJECT COMPLETION DATE) DONE:

3. CONTACT PERSON: _____ TEL#:_____

COMPANY NAME: _____

PROJECT NAME: _____

DESCRIPTION OF PROJECT (INCLUSIVE OF CONSTRUCTION COSTS, AND PROJECT COMPLETION DATE) DONE:

PROPOSING M/E FIRM NAME:: _____

Page 2 of 3

Cost Estimating Firm: Provide one (1) firm reference based on the submitted project. Such references are to be **project references**; that is, the University is interested in speaking to a Project Owner regarding the firm's performance on a particular project. These references are to be from the projects submitted by the A/E firm under the SF 330, Section F. Such references are to be from different projects; that is, only one reference per project is allowed. Such references will be held in strictest confidence by the University. Please insure that the information is accurate and that the reference named can speak to the **firm's performance on the project**.

1. CONTACT PERSON: _____ TEL#: _____

COMPANY NAME: _____

PROJECT NAME: _____

DESCRIPTION OF PROJECT (INCLUSIVE OF CONSTRUCTION COSTS, AND PROJECT COMPLETION DATE) DONE:

Structural Firm: Provide one (1) firm reference based on the submitted project. Such references are to be **project references**; that is, the University is interested in speaking to a Project Owner regarding the firm's performance on a particular project. These references are to be from the projects submitted by the A/E firm under the SF 330, Section F. Such references are to be from different projects; that is, only one reference per project is allowed. Such references will be held in strictest confidence by the University. Please insure that the information is accurate and that the reference named can speak to the **firm's performance on the project**.

1. CONTACT PERSON: _____ TEL#: _____

COMPANY NAME: _____

PROJECT NAME: _____

DESCRIPTION OF PROJECT (INCLUSIVE OF CONSTRUCTION COSTS, AND PROJECT COMPLETION DATE) DONE:

PROPOSING M/E FIRM NAME:: _____

Page 3 of 3

Architectural Firm: Provide one (1) firm reference based on the submitted project. Such references are to be **project references**; that is, the University is interested in speaking to a Project Owner regarding the firm's performance on a particular project. These references are to be from the projects submitted by the A/E firm under the SF 330, Section F. Such references are to be from different projects; that is, only one reference per project is allowed. Such references will be held in strictest confidence by the University. Please insure that the information is accurate and that the reference named can speak to the **firm's performance on the project**.

1. CONTACT PERSON: _____ TEL#: _____

COMPANY NAME: _____

PROJECT NAME: _____

DESCRIPTION OF PROJECT (INCLUSIVE OF CONSTRUCTION COSTS, AND PROJECT COMPLETION DATE) DONE:

PROPOSING FIRM: _____

Page 1 of 1

KEY PERSON/POSITION: _____ / _____

FIRM EMPLOYED BY: _____

Two (2) project references are requested. Such references are to be **project references not employment references**; that is, the University is interested in speaking to a Project Owner regarding the person's performance on a particular project. These references are to be from the submitted projects listed on the person's resume, SF 330 Section E. Such references are to be from different projects; that is, only one reference per project is allowed. Such references will be held in strictest confidence by the University. Please insure that the information is accurate and that the reference named can speak to the **person's performance in the role to be assigned on this project**.

1. CONTACT PERSON: _____ TITLE: _____

TELEPHONE #: _____

COMPANY NAME: _____

PROJECT NAME: _____

DESCRIPTION OF PROJECT (INCLUSIVE OF CONSTRUCTION COSTS, AND PROJECT COMPLETION DATE) DONE:

2. CONTACT PERSON: _____ TITLE: _____

TELEPHONE #: _____

COMPANY NAME: _____

PROJECT NAME: _____

DESCRIPTION OF PROJECT (INCLUSIVE OF CONSTRUCTION COSTS, AND PROJECT COMPLETION DATE) DONE:

RFP#: 88838 CB

RFP FOR: ON CALL MECHANICAL/ELECTRICAL ENGINEERING DESIGN
SERVICES FOR ACADEMIC PROJECTS

DUE DATE: Monday January 27, 2020 at or before 2:00 p.m.

NAME OF PROPOSER: _____

ACKNOWLEDGEMENT OF RECEIPT OF ADDENDA

The undersigned, hereby acknowledges the receipt of the following addenda:

Addendum No. _____ dated _____

Signature _____

Printed Name _____

Title _____

Date _____

**E BUILDER
AFFIDAVIT**

This document MUST BE included with the bid or offer. If the Bidder or Offeror fails to complete and submit this form with the bid or offer as required, the procurement officer shall deem the bid non-responsive or shall determine that the offer is not reasonably susceptible of being selected for award.

In conjunction with the bid or offer submitted in response to **On Call M/E Services for Academic Projects** Solicitation No. **88838 CB**, I affirm the following:

I acknowledge and intend to obtain an annual license for eBuilder (see chart for purchase requirements), and will submit all project documentation through eBuilder as instructed by UMB.

I solemnly affirm under the penalties of perjury that the contents of this Affidavit are true to the best of my knowledge, information, and belief.

eBuilder Usage By Campus:

		Location of Project				
		CSU	TU	UB	UMB	UMBC
Project Managed by	CSU PM	No eBuilder	-	-	-	-
	TU PM	-	No eBuilder	-	-	-
	UB PM	-	-	No eBuilder	-	-
	UMB PM	eBuilder provided by UMB no cost				
	UMBC PM	-	-	-	-	Project Manager must purchase eBuilder annual license

Bidder/Offeror Firm Name

Signature of Affiant

Address

Printed Name, Title

City, State, Zip

Phone

Fax

E-Mail

Date

CERTIFICATION REGARDING INVESTMENT ACTIVITIES IN IRAN

Ref: Maryland Board of Public Works Advisory Number 2013-1

1. The undersigned certifies that, in accordance with State Finance & procurement Article § 17-705:

(i) it is not identified on the list created by the Board of Public Works as a person engaging in investment activities in Iran as described in §17-702 of State Finance & Procurement Article; and

(ii) it is not engaging in investment activities in Iran as described in State Finance & Procurement Article §17-702.

Or;

2. The undersigned is unable to make the above certification regarding its investment activities in Iran due to the following activities:

Company Name

Signature

Title

Print

Date

Note: List is available at:

<http://bpw.maryland.gov>
Click on “Debarments”

ATTACHMENT B

- Contract Affidavit
- University's Standard Form of Agreement with Architects and Engineers

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 items):

- (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, Annotated Code of Maryland, Section 101 *et seq.*, 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 \$200,000 or more shall file with the State Board of Elections a statement disclosing

contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election.

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), of this regulation;
 - (h) Notify its employees in the statement required by §E(2)(b), of this regulation, 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), of this regulation, or otherwise receiving actual notice of a conviction;
 - (j) Within 30 days after receiving notice under §E(2)(h)(ii), of this regulation, 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), of this regulation.

(3) If the business is an individual, the individual shall certify and agree as set forth in §E(4), of this regulation, 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)

12.00061 (12/15)



UNIVERSITY *of* MARYLAND
BALTIMORE

UNIVERSITY OF MARYLAND, BALTIMORE

CONSTRUCTION SERVICE CENTER
OFFICE OF STRATEGIC SOURCING AND ACQUISITION SERVICES

STANDARD FORM OF AGREEMENT WITH ARCHITECTS & ENGINEERS

Revised 2011

<i>Project No.</i>	<i>Contract No.</i>	<i>Client University</i>
____-____AE	C-_____	_____

STANDARD FORM OF AGREEMENT WITH ARCHITECTS & ENGINEERS

THIS AGREEMENT is made effective as of the date set forth on the signature page between University System of Maryland, a public corporation and an instrumentality of the State of Maryland ("USM"), acting through University of Maryland, Baltimore, one of its constituent institutions ("University"), and _____, a corporation organized under the laws of the State of _____ (the "A/E"), EIN # _____.

RECITALS

A/E acknowledges that it (i) has been informed of the scope of the Project and/or Program (if the term Program is applicable); (ii) has read, examined and understood the scope of the Project and/or Program (if the term Program is applicable); and (iii) has submitted its Proposal to the University. By executing this Agreement and by submitting its Proposal, A/E represents and has represented to University that A/E is qualified to perform the Work, and to execute the same satisfactorily, within the times specified. (All capitalized terms in this paragraph are defined below)

A/E by this Agreement acknowledges that University has relied upon and is entitled to rely upon A/E's representations set forth in this Agreement. In reliance upon those representations, University hereby engages A/E to perform the Work on the terms and conditions set forth in this Agreement. A/E hereby accepts that engagement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are acknowledged hereby, the parties agree as follows:

ARTICLE I DEFINITIONS

1.1 **Definitions:** The following terms, as used in this Agreement shall have the following meanings:

“Additional Services” has the meaning set forth in Section 2.1.2.

“Additional Work” has the same meaning as “Additional Services.”

“A/E Commencement Date” means that date indicated in the Notice To Proceed (“NTP”).

“A/E Construction Commencement Date” means that date indicated in the Construction NTP.

“Agreement” means collectively the following: (i) this Agreement; (ii) any and all documents and materials attached hereto; (iii) the scope of work and/or Program (whichever is applicable), (iv) any and all task orders; (v) any and all drawings, models, specifications and other documents (including electronic versions) developed or prepared by A/E in performance of the Agreement and approved by University, (vi) any and all documents and materials referenced herein or made part hereof (including without limitation the scope of work and/or Program, whichever is applicable, and its components); (vii) any and all amendments of any of these; and (viii) any and all Change Orders.

“Change Order” means any orders which is or is deemed to be a change order in accordance with Section 3.10.

“Client University” The constituent institution of University System of Maryland which will manage and use the Project upon completion. This may be University of Maryland, Baltimore, or another constituent institution of USM.

“Concept Documents” has the meaning set forth in Section 4.4.

“Construction Manager” or “CM” means the person or entity designated from time to time by University to carry out the function of construction manager (with provision of guaranteed maximum price) for the Project. University shall identify CM to A/E upon the selection of CM. During the term of this Agreement, a substitute CM may be designated by University from time to time with notification of such substitution provided in writing to A/E.

“Construction Documents” has the meaning set forth in Section 7.3.

“Construction Phase” has the meaning set forth in Section 2.1(c).

“Construction NTP” means that Notice to Proceed issued by the Owner’s Representative authorizing A/E to commence the Construction Services.

“Construction Services” means that portion of the Work to be performed during the Construction Phase.

“Contract Documents” means collectively the following: (i) the agreement between the University and the General Contractor (GC”) or CM (also referred to herein as “GC/CM”), (ii) the conditions of the contract (general, supplementary, and other conditions), (iii) the drawings, (iv) the specifications, and (v) all addenda issued prior to, and all modifications issued after, execution of the agreement between the University and the GC/CM.

“Design Development Documents” has the meaning set forth in Section 6.3.

“Design Phase” has the meaning set forth in Section 2.1(c).

“Design Services” means that portion of the Work to be performed during the Design Phase.

“Design NTP” means the Notice to Proceed issued by the Owner’s Representative authorizing A/E to commence the Design Services.

“Design Standards” means the design standards established by University’s or Client University’s Architectural and Engineering Design Standards Manual (or comparable standards), as amended from time to time.

“General Contractor” or GC means the person or entity designated from time to time by University to carry out the function of general contractor for the Project. University shall identify GC to A/E upon selection of GC. During the term of this Agreement, a substitute GC may be designated by University from time to time with notification of such substitution provided in writing to A/E.

“Master Specifications” means the UMB Master Specifications (or of Client University, if applicable), as amended from time to time.

“Owner’s Representative” has the same meaning as “Project Manager.”

“Phases” shall have the definition attributed in Section 2.1(c) and shall also refer to as the context requires the time assigned for the performance of that portion of the Services, in the Schedule or otherwise in the Agreement. As used in the Agreement, the designations assigned to the several Phases in Section 2.1(c) shall mean the part of the Services to be performed in each of the Phases respectively as well as the time assigned for the performance of that portion of the Services in the Schedule or otherwise in the Agreement.

“Probable Construction Cost” means the total amount (but not including contingencies) determined under any construction cost estimate to be the total hard construction cost for the Project in accordance with the Program.

“Procedure Manual” means the University’s Procedure Manual for Professional Architectural/Engineering Services for UMB Construction and UMB Service Center Projects, as amended..

“Procurement Officer” means an individual designated from time to time by University’s Department of Procurement Services to function as the Procurement Officer and to administer State procurement law and regulations for the Agreement. During the term of this Agreement, a substitute Procurement Officer may be designated by University with notification of such substitution provided in writing to A/E.

“

“Program” (if applicable) means collectively the following: the Project Program (if applicable); the Proposal; the RFP; the Procedure Manual; the Master Specifications; and the Design Standards.

Alternative: “Project” means one or more particular portions of a facility to be located at _____, as more fully described severally and collectively in the Program.

“Project Amendment” has the meaning set forth in Section 2.1(d).

“Project Construction Costs” is the amount of _____. These are the maximum hard construction costs for construction of the Project for the Phases designated, exclusive only of A/E fees, CM’s (if applicable) pre-construction fees, hazardous material abatement, and University’s construction contingency. The Project Construction Costs include all CM construction costs (*i.e.*, CM construction fee, on-site staff reimbursables, non-personnel General Conditions, and CM/GMP contingency).

“Project Manager” means the individual designated from time to time by University’s Office of Facilities Management to serve as University’ representative with respect to matters relating to this Agreement, other than those matters which are the responsibility of the Procurement Officer or CM. The Project Manager shall be designated by University. During the term of this Agreement, a substitute Project Manager, may be designated by University with notification of such substitution provided in writing to A/E.

“Project Team” means the representatives of University, A/E, GC/CM, and project consultants assigned to the Project.

“Proposal” means the Price Proposal and the Technical Proposal submitted by the A/E dated _____, inclusive of the organizational chart which denotes the key team firms and the key personnel to be assigned for the duration of the Project.

“RFP” means the University’s Request for Proposal #**88838**, dated **January 2, 2020**, titled **On Call M/E Services for Academic Projects**, together with all addenda and responses to questions from bidders.

“Schedule” means the timetable for completion of the Services. Unless otherwise modified as provided in this Agreement, the Schedule shall be the timetable set forth in the task order. A/E’s obligation in connection with bidding will be set forth on the Schedule and will not necessarily be included in the Design Phase.

“Schematic Design Documents” has the meaning set forth in Section 5.4.

“Services” means the professional services to be provided by or caused to be provided by A/E and its agents and consultants under and in compliance with this Agreement, as set forth in the Agreement or which are appropriate or necessary to the implementation, performance, or completion of A/E’s engagement set forth in the Program. Notwithstanding anything herein to the contrary, the Services shall include additional work and matters included in Change Orders.

“State” means the State of Maryland.

“Task Order” means an order for services placed against an established contract.

“Work” has the same meaning as the term “Services.”

1.2 Applicability of Definitions. Any definition set forth in this Agreement shall apply in all of its provisions unless otherwise indicated. Any definitions set forth in the Procedure Manual or in the GC/CM’s solicitation documents shall apply throughout the Agreement unless (i) otherwise indicated, or (ii) another definition has been set forth.

1.3 Construction if Documents Conflict. If the provisions of the several parts of the Agreement are in conflict or are contradictory, the following in order of priority will be the order of precedence in construing and interpreting the Agreement (unless explicitly stated otherwise in any of the following): the Agreement, the Procedure Manual, the Design Standards, the Project Program (if applicable), then the Proposal.

ARTICLE II **GENERAL OBLIGATIONS OF A/E SCOPE OF ENGAGEMENT**

2.1 Engagement.

a. A/E is engaged generally to provide professional services in accordance with and subject to the provisions contained in the Agreement, including any and all task orders. It is the intent of the parties to set forth in the Agreement the

terms and conditions in effect for: (i) the Design Phase from and after the date hereof; and (ii) the Construction Phase from and after the effective date of the Project Amendment with respect to the Construction Phase.

b. In addition to the scope of engagement set forth above and the Services required by the Agreement, A/E shall undertake, as University may direct in writing, studies or special consulting work not identified originally in the Agreement. Such Services shall be “**Additional Services**,” and shall be subject to University’s prior approval of the price and services. In such case, A/E shall engage appropriate consultants or specialists as directed by University. Compensation for any Additional Services and any such consultants or specialists will be determined pursuant to the provisions of this Agreement governing Change Orders.

c. The Services shall be divided into the following parts, referred to collectively as “**Phases**” and each Phase respectively by the designation set forth below:

Design Phase, which includes the following:

- (1) Concept Phase, if applicable
- (2) Schematic Design Phase
- (3) Design Development Phase
- (4) Construction Documents Phase
- (5) Bidding Phase

Construction Phase, which includes the following:

- (6) Construction Administration Phase
- (7) Post-Construction Phase

Provisions of the Agreement applicable to Phases generally shall be applicable specifically to each Phase designated herein.

2.2 Standard of Performance

a. A/E shall provide the Services as required by the Agreement completely and adequately in every detail. A/E solely shall be responsible for the technical completeness, sufficiency, and accuracy of the performance of the Services and any material of any nature whatsoever produced by A/E and delivered to University.

b. A/E shall perform the Services in all respects in accordance with those usual and customary standards of professional aptitude, skill, and diligence which, at the time of performance of the Services, commonly are followed by architects and engineers of the highest quality and stature in the performance of the same or similar services.

c. A/E shall be responsible for the provision of all Services, whether provided by A/E or its consultants, agents, representatives, employees, or others on behalf of A/E.

d. The Contract Documents shall be carefully coordinated by A/E so as not to conflict one with the other; and as appropriate for each respective Phase, so that they are clear, accurate, and precise in such detail as may be necessary to delineate what is to be furnished, where, and the final results to be obtained, as to architectural detail, structural strength, clearances, mechanical and electrical sufficiency and dimensional accuracy (as appropriate.)

e. The approval of Contract Documents, any material produced by A/E, and any construction installed in connection with the Project by University or the State in no way relieves A/E of its responsibility for: the accuracy and completeness of such Contract Documents; compliance with required law, standards, codes, ordinances or other applicable regulations; or compliance with the Agreement.

2.3 Timeliness of Performance

a. Upon issuance of the Design NTP or the Construction NTP, University shall re-establish the dates in the Schedule with reference to the start date set forth in the Design NTP or the Construction NTP.

b. A/E shall perform the Services as expeditiously as is consistent with good professional skill and care and the orderly progress of the Services and the Project.

c. A/E shall perform the Services and the portions thereof each within the times established in the Schedule. If dates set on the Schedule are not met (either because portions of the Work are performed earlier or later than the date set forth), then University at its sole discretion reserves the right to modify the Schedule. Any such modification shall not be, or be deemed to be, a waiver of any rights University or A/E may have in connection with a party's failure to comply with the Schedule from time to time. A modification of the Schedule by University shall provide an extension of the various deadlines identified in the Schedule and shall not allow any new intervening time gaps dividing the period covered by the Schedule.

2.4 Consultants. A/E shall engage (i) those consultants identified in the Technical Proposal only for the purposes identified in the scope of work, or (ii) other consultants not identified in the Proposal only with the prior written approval of University. The names of all consultants not identified in the Proposal, shall be submitted to University by A/E for approval before any Services are performed by such persons. A/E shall provide University any and all material and information requested about any proposed consultant. A/E may rely only upon approval issued by University in writing. Such engagement shall not constitute an engagement of a consultant by University. A/E shall be responsible to University for any and all Services performed by a consultant. In all instances, the term "A/E" as used in the Agreement includes action by consultants, as appropriate. A/E shall cause all consultants engaged by A/E to be bound by the applicable terms of the Agreement.

2.5 Meetings.

a. A/E shall (i) attend conferences and meetings with the Project Manager, GC/CM, the Procurement Officer, and the Project Team, as provided in the Program and as necessary to execute the various Phases of the Services; (ii) present to University documents required under the Phases of the Services for review and approval; and (iii) present documents to the State Board of Architectural Review as requested by University or as required in the Procedure Manual.

b. A/E shall prepare concise minutes of any and all conferences held which A/E is required to attend as contemplated in Section 2.5(a). These minutes shall state all decisions reached and who made them. The original shall be addressed to the Project Manager, with copies as required for persons concerned.

c. A/E shall notify the Project Manager of all meetings desired by or anticipated by A/E sufficiently in advance of the meeting to permit the attendance of all concerned parties. As a general rule, such meetings will be held at University's Office of Facilities Management.

d. Presentations before the Board of Architectural Review shall be in compliance the Procedure Manual.

e. If the project is CM, the A/E shall fully participate in all value engineering workshops or sessions conducted by CM during the Design Phase.

2.6 Design Criteria

a. A/E shall prepare, design, and provide Services in connection toward the following objectives:

1. That the Project shall be attractive and functional and have an efficient utilization of space;

2. That the Project shall be economically and environmentally sustainable to construct, operate and maintain, and at the minimum possible cost consistent with the Program;

3. That the Project shall be of sound structure of conventional shape or shapes, which avoid extraneous features and excessive perimeter walls;

4. That the Project achieve economy in construction by simplification in design, by standardization in materials, by minimizing architectural embellishment, and the like, where appropriate.

b. A/E shall give special attention to the economics of the interrelationship of architectural, structural, mechanical, and electrical systems.

2.7 Project Coordination

a. A/E shall serve as a member of the “**Project Team**.” The Project Team shall be led by University or its designee. The Project Manager will act as coordinator between University, GC/CM, and A/E.

b. A/E shall direct copies of all correspondence, drawings, specifications, estimates, and other matters to the Project Manager, who will furnish such information as necessary to others. Direct contact or communication by A/E shall be made only with the prior knowledge and concurrence of the Project Manager in each instance.

c. A/E’s professional team for the Project shall be the same persons identified as stated in the team data submitted in response to the solicitation, unless a change is requested and approved in advance in writing by University via the issuance of a contract amendment by UMB’s Department of Procurement Services.

d. During each Phase, A/E shall (i) present its work on an ongoing basis to University and to GC/CM, and (ii) be responsive to their comments, suggestions, and remarks.

e. A/E shall provide University with the monthly progress schedule, in compliance with the Procedure Manual.

2.8 Documents

a. The Provisions of this Section 2.8 apply to all documents which A/E is required to produce under the Agreement.

b. A/E shall develop all of the documents required under the Agreement in a timely manner and in accordance with the Agreement. All documents shall anticipate a complete Project contemplated in the Program ready for efficient and continued use. A/E shall be responsible directly to University and more particularly to the Project Manager, to whom A/E shall direct all communications and submit all documents for approval and from whom A/E shall receive directions concerning the Project and approval of or comments on all documents.

c. If documents submitted by A/E in satisfaction of the Design Phase are not approved in the form submitted, A/E at its own expense shall revise the same until approved by University. If any revision required to be made by A/E is caused by revising previously approved drawings and/or specifications to accomplish changes not initiated by A/E, A/E may be compensated for effecting such revisions only as set forth below, provided, that A/E shall not commence such revisions without written authorization of University.

d. A/E shall file with the Project Manager a certificate in a form prescribed by University before award of any construction contracts or commencement of any construction work, certifying that said contract documents are in compliance with the Building Code of the State of Maryland. After certificates have been filed with University, contract documents shall not be changed in any respect, except with the written consent of University.

e. All Contract Documents shall bear the seal and signature of A/E and of each of A/E’s consultants.

f. A/E is responsible to care for, protect, and know the whereabouts of the documents until they are finally delivered to University, fully corrected as “as built” drawings.

2.9 Press Releases. A/E shall not issue any press release to any publication, including newspaper or media, without first clearing the text with University and obtaining the prior written approval of University in each instance.

2.10 Project Number. The project number assigned to the Program must be used on all correspondence, drawings, specifications, estimates, shop drawings, and all other matters relative to the Project.

2.11 Construction Cost Estimates.

a. The provisions of this Section shall apply in each instance that A/E is required under the Agreement to provide construction cost estimates.

b. Construction cost estimates must be furnished by A/E as set forth in the scope of work provided to the A/E

c. If the project is CM, notwithstanding anything herein to the contrary, the construction cost estimate prepared by A/E shall be reconciled with CM’s construction cost estimate at the designated intervals noted above with the exception of

the 50% Construction Document estimate. The cost estimate format must be developed between A/E and CM and approved by University prior to the 100% SD submittal. The provisions of Section 6.4 shall govern the content of A/E's review.

c. University may require revision or restudy of any of the construction cost estimates as may be necessary to keep the Project within the budget or to require more realistic figures.

d. Unless otherwise provided in the Program, each and every construction cost estimate delivered to University by A/E shall be prepared by a professional cost estimator retained by A/E, at A/E's cost.

e. Each construction cost estimate shall show the cost as of its respective submission dates, escalated to the anticipated bid-due date as set forth on the Schedule, with contingencies, fees, etc. so that each estimate reflects a total project estimate of cost.

f. Revised estimates may be further required by University, particularly when a delay occurs between the time of submission and bidding.

g. All estimates shall reflect all additions and deletions during the Design Phase.

2.12 Compliance. A/E shall be responsible to ensure that all Services are performed according to and in compliance with: the Master Specifications; Design Standards; Procedure Manual; those matters identified in the Program; all applicable laws, rules, regulations, and codes; and other requirements of University.

2.13 Procedure Manual and Design Standards. In particular, shall be responsible to ensure that the following Services are performed according to and in compliance with the Procedure Manual and/or Design Standards, as applicable:

- a. Sub-Surface Investigation and Evaluation
- b. Sediment Control
- c. Sanitary Facilities
- d. Value Engineering
- e. Life Cycle Cost Accounting and Energy Conservations
- f. Sustainability
- g. Measurements

2.14 Procedure Memoranda. From time to time as may be appropriate, University may issue standards or regulations relative to design and/or construction of improvements. These regulations will be issued in the form of numbered Procedure Memoranda ("PM") and A/E shall be obligated to perform the services in accordance therewith. In the event compliance with a PM issued after the date of the Agreement directly results in a change in the scope of the Services, such changes shall be incorporated, at A/E's request, in a Change Order. The PMs in effect as of the date of the Agreement are set forth in Division III of the Procedure Manual.

2.15 Professional Liability Insurance. A/E shall obtain and maintain professional liability insurance specifically covering A/E's obligations performed or to be performed under the Agreement, in the amounts, for the time(s), and under the conditions set forth in the RFP. Failure to do so shall be a material breach of A/E's obligations under the Agreement. If A/E terminates as a business entity for any reason whatsoever or in any manner whatsoever, A/E shall obtain and provide for the maintenance of professional liability insurance specifically covering A/E's obligations performed or to be performed under the Agreement, in the amount set forth in the RFP, for the remainder of the time set forth in the RFP. A/E shall have delivered to University, prior to the A/E Commencement Date and as a condition of the Agreement, a copy of any and all policies obtained in accordance with the Agreement and a certificate of insurance setting forth that the stated insurance is then in effect forty-five (45) days prior to the expiration or termination of any insurance policy obtained by A/E pursuant to the Agreement, A/E shall deliver to University an insurance binder evidencing continued insurance coverage as required hereunder and a certificate of insurance on the effective date of the replacement policy. The insurance policy and any certificate shall be endorsed to provide that the insurance obtained shall not be terminated and shall not expire unless the Procurement Officer has received not less than forty-five (45) days prior written notice.

2.16 Change in Personnel. A/E must notify University immediately of any major changes in its organization or personnel. A major change includes a change of the personnel identified in the Program or in any or all of those persons being

unavailable to perform the services as indicated in the Program. A change in personnel identified in the Program requires the written approval by University via the issuance of an amendment to this Agreement.

ARTICLE III **AVAILABILITY OF FUNDS, FEES, AND PAYMENT**

3.1 The fees and reimbursable amounts, if any, to be paid to A/E in connection with future Phases of the design (Design Development, Construction Documents, Bidding, Construction Administration, and Post-Construction) shall be subject to the availability of funds. A/E understands that the funds available under the Agreement (and if amended by a Project Amendment with respect to a Phase) are to include all fees and expenses payable to and incurred by A/E under the Agreement.

3.2 The agreed upon rates shall be set forth in Exhibit A. The approved billing rates are inclusive of direct salary costs, fringe benefits, overhead, profit, materials and all other billing indirect costs and must be used for each task order Any and all amendments to that amount specifically shall be stated as such in Change Orders, agreements for Additional Services, the subsequent Phase Amendment, or orders from University to A/E.

3.3 Notwithstanding anything in Section 3.3 to the contrary, A/E may apply to University by submitting invoices for payments on account against the fee allocated to each Phase respectively at intervals not more frequently than monthly. A/E will indicate the percentage of the Services in each Phase for which payment is requested. University will grant the application for payment only if University agrees that A/E has performed the indicated percentage of the Services. When required by University, A/E shall substantiate the degree of completion claimed in any such application for periodic payments, and furnish University with copies of the documents evidencing the degree of completion claimed.

3.4 A/E may request reimbursements only for those matters identified in the scope of work as reimbursables.. There shall be no mark-up on reimbursement of actual costs.

3.5 The granting of A/E's application for periodic payments by University and remittance shall not constitute in any sense approval by University for the percentage of Services completed for a Phase or any part thereof, such approval being expressly reserved to University upon the completion of each Phase.

3.6 The compensation payable to A/E under the Agreement may be reduced by reason of additional costs of constructing the Project incurred by University or the Client University, as a result of A/E's errors in, or improper coordination of, the Construction Documents. The amount of such reduction in compensation, if any, shall not exceed the amount of such additional costs incurred in connection with constructing the Project. Reduction of the compensation to A/E as contemplated in this Section shall not be deemed to be a waiver by A/E of any rights and remedies it may have in connection with such reduction.

3.7 If the Project is abandoned or curtailed, or if University cancels the Agreement at any time for reasons other than default by A/E, A/E shall be paid a proportionate part of the compensation due and payable to A/E at the completion of the Phase wherein said abandonment, curtailment or cancellation occurs. Notice of abandonment, curtailment or cancellation may be oral, but shall be confirmed in writing within thirty (30) days by University, at which time A/E shall immediately file with University documents substantiating the status of the Services performed to the date of such action.

3.8 Requests for Payment.

- a. Upon all applications for periodic payments of compensation (except the first such application), A/E shall certify in writing to University that all consultants whose work comprised a portion of the prior applications for periodic payment were paid in full to the extent paid by University to A/E within ten (10) days from receipt. All A/E invoices to University shall set forth A/E's Federal Employer Identification Number.
- b. A/E shall submit each request for payment on the form provided by University.
- c. A/E request for payment shall include one copy of the current monthly progress schedule.

d. All Services set forth in connection with a Phase and each prior Phase must be completed prior to payment in full for the fees allocated to each Phase (except for rendering(s) and 3-D model which are typically part of the Design Development Documents and shall be delivered during the Construction Document Phase as contemplated in Article VI).

e. University has the right to request substantiation to its satisfaction for all requests for payment.

3.9 Changes in the Work; Change Orders.

a. The Procurement Officer, may at any time, by written order, make unilateral changes within the general scope of this Agreement in any one or more of the following:

- (1) Description of services to be performed.
- (2) Time of performance (i.e., hours of the day, days of the week, etc.).
- (3) Place of performance.
- (4) Drawings, designs, or specifications when any supplies to be furnished are to be specially manufactured for the University in accordance with the drawings, designs, or specifications.
- (5) Method of shipment or packing of supplies.
- (6) Place of delivery

b. Section 3.11 prohibits the A/E from making charges or claims for damages for any delays or hindrances from any cause whatsoever during the progress of any portion of the work specified in this Agreement. If a change, as allowed above, causes an increase or decrease in the cost of the work which is not time-related, the University shall make an equitable adjustment in the Agreement price and shall modify the Agreement.

3.10 Delays and Extensions; Liquidated Damages.

a. A/E agrees to prosecute the work continuously and diligently. No charges or claims for damages shall be made by it for any delays or hindrances from any cause whatsoever during the progress of any portion of Work as specified in this Agreement.

b. Time extensions will be granted by the Procurement Officer only for excusable delays that arise from unforeseeable causes beyond the control and without the fault or negligence of A/E, including without limitation 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 University, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or delays of subcontractors, consultants, or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of A/E or its subcontractors, consultants, or suppliers.

c. For each day that the Services or any portion thereof remain uncompleted beyond the times specified in the Agreement, A/E shall be liable for liquidated damages of **\$750.00** per day (which shall apply with respect to each Phase), or any other amount if stated elsewhere in the Agreement; *provided, however,* that due account shall be taken of any adjustment of specified completion time(s) for completion of the Services or any portion thereof as provided by University-approved Change Orders or Project Amendments. Time is of the essence in the Agreement.

ARTICLE IV
CONCEPT PHASE

4.1 This Article IV applies specifically to the Concept Phase (if applicable), but is in addition to, and not instead of, any and all provisions of the Agreement applicable to the Concept Phase or all Phases.

4.2 The Concept Phase shall commence on the A/E Commencement Date, and shall terminate on the date of acceptance by University of the Concept Documents (but no later than the applicable date set forth in the Schedule). Acceptance of the Concept Documents shall be effective upon A/E's receipt of University's written approval.

4.3 In rendering professional services for preparation and furnishing of the Concept Phase requirements, in addition to any other matters A/E deems appropriate or necessary, A/E shall (i) visit the site of the Project, (ii) become familiar with the

use, operational conditions, and limitations of the site, and (iii) obtain measurements and other information relative to existing improvements as required in the scope of work.

4.4 In accordance with the Schedule, A/E shall prepare and submit for University's approval concept documents ("Concept Documents") per the Procedure Manual for Professional A/E Services to illustrate the size and relationship of the Project components for each design alternate (minimum of 3),

ARTICLE V SCHEMATIC DESIGN PHASE

5.1 This Article V applies specifically to the Schematic Design Phase, but is in addition to and not instead of any and all provisions of the Agreement applicable to the Schematic Design Phase or all Phases.

5.2 The Schematic Design Phase shall commence on the A/E Commencement Date, and terminate on the date of acceptance by University of the Schematic Design Documents (but no later than the applicable date set forth in the Schedule). Acceptance of the Schematic Design Documents shall be effective upon A/E's receipt of University's written approval.

5.3 In rendering professional Services for preparation and furnishing of the Schematic Design Phase requirements, in addition to any other matters A/E deems appropriate or necessary, A/E shall (i) visit the site of the Project, (ii) become familiar with the use, operational conditions, and limitations of the site, and (iii) obtain measurements and other information relative to existing improvements as required in the Program.

5.4 In accordance with the Schedule, A/E shall prepare and submit documents ("Schematic Design Documents") per the Procedure Manual for Professional A/E Services for University's approval.

5.5 As part of the Schematic Design Documents, A/E shall provide to University a construction cost estimate, wherein the Probable Construction Cost shall not exceed the Project Construction Cost. If it does, A/E, without additional compensation, in conjunction with CM and University, shall re-design the Project as necessary to maintain the Project Construction Cost.

5.6 When directed by University, the data generated by A/E in this Phase shall be reviewed by the State Board of Architectural Review prior to acceptance by University.

ARTICLE VI DESIGN DEVELOPMENT PHASE

6.1 This Article VI applies specifically to the Design Development Phase, but is in addition to and not instead of any and all provisions in the Agreement applicable to the Design Development Phase or all Phases.

6.2 The Design Development Phase will commence with the acceptance of the Schematic Design Documents, and will terminate upon acceptance by University of the Design Development documents (saving and excepting the rendering and model), but no later than the applicable date indicated on the Schedule. Acceptance of the Design Development Documents shall be effective upon A/E's receipt of University's written approval.

6.3 Upon commencement of the Design Development Phase, A/E shall prepare and submit documents ("Design Development Documents") per the Procedure Manual for Professional A/E Services for University's approval

a. Professionally prepared color perspective rendering(s) per the final Fee Proposal in a suitable medium when required by the Program. The rendering shall include related existing improvements which may have an aesthetic bearing on the project. This rendering, approved by University, shall be delivered to University not later than completion of 50% of the Construction Documents Phase.

b. A professionally prepared computer model to be used as a public relations tool by University, as required by the Program. This computer model, approved by University, shall be delivered to University not later than completion of 50% of the Construction Documents Phase.

6.4 As part of the Design Development Documents, A/E shall prepare a construction cost estimate based upon a labor and material take-off. A/E shall make this take-off from the other Design Development Documents, applying costs currently prevailing in the jurisdiction where the Project is located. The Probable Construction Cost shall not exceed the Project Construction Cost for each Phase of a multi-phase project. If it does, A/E, without additional compensation, in conjunction with GC/CM and University, shall re-design as necessary to maintain the Project Construction Cost.

6.5 When directed by University, the materials generated by A/E in this Phase shall be reviewed by the State Board of Architectural Review prior to acceptance by University.

ARTICLE VII **CONSTRUCTION DOCUMENTS PHASE**

7.1 This Article VII applies specifically to the Construction Documents Phase, but is in addition to and not instead of any and all provisions in the Agreement applicable to the Construction Documents Phase or all Phases.

7.2 The Construction Documents Phase will commence with the acceptance of the Design Development Documents (except for the professional rendering(s) and professional computer model, each of which shall be delivered as required in Section 6.3) and will terminate upon acceptance by University of 100% Construction Documents (but not later than the applicable date indicated on the Schedule). Acceptance of 100% Construction Documents shall be effective upon A/E's receipt of University's written approval.

7.3 Upon commencement of the Construction Documents Phase, A/E shall prepare the required set of drawings and specifications ("Construction Documents"), per the Procedure Manual for Professional A/E Services for University's approval, including without limitation to architectural, site, structural, mechanical, and electrical.

7.4 **If the project is CM**, as part of the Construction Documents, A/E shall prepare for University's approval a statement of review of CM's construction cost estimate updates as required in Section 2.11 of this Agreement. A professional cost estimator shall be retained by A/E for this purpose and shall use costs and area/volume calculations prevailing where the Project is located. A/E shall prepare a detailed written review which will state if A/E accepts or rejects CM's cost model updates under review and shall include in detail: (i) the reasons that CM's cost model update was rejected or accepted; (ii) a summary of the significant differences between CM's current cost model and the next previous CM's cost model and A/E's construction cost estimates provided in the Design Development Phase; and (iii) such other matters as A/E deems appropriate. A/E must reject CM's cost model update if it exceeds the Project Construction Cost. The statement of review and supporting documentation shall be provided to University.

7.4 If, in the exercise of A/E's professional judgment, A/E finds that such Probable Construction Costs set forth in the cost model update prepared by CM will exceed the Project Construction Costs, and if A/E is unable to effect cost reduction revisions in the Construction Documents without deviating from the design and intent of the previously approved documents, A/E: (1) shall advise University in writing; and (2) shall await instructions which University shall issue to A/E concerning future action to be taken under the Agreement. The instructions issued by University at its sole discretion shall include redesign of the Project as necessary in conjunction with GC/CM and University to meet the Project Construction Cost without additional compensation.

7.5 A/E will utilize the standard Construction Specifications Institute (CSI) specification layout and numbering system. The specification must be consistent with University General Conditions for Construction (or GMP) as applicable, which University will provide to the A/E.

7.6 Upon completion of Construction Documents for each bid package in multi-phase or fast track projects, A/E will submit one (1) electronic copy (and paper copies as required) of the documents to University for review and approval. The Construction Documents will be provided in one package.

7.7 When directed by University, the data generated by A/E in this Phase shall be presented and reviewed by the State Board of Architectural Review, State Fire Marshall, and any other agencies as required by the Program, prior to acceptance by University.

ARTICLE VIII BIDDING PHASE

CM

8.1 This Article VII applies specifically to the Bidding Phase, which at University's discretion may be broken into separate sub-phases (or "packages"), but is in addition to and not instead of any and all provisions in the Agreement applicable to the Bidding Phase or all Phases.

8.2 a. If the project is CM, the Bidding Phase will commence with University's acceptance of the Construction Documents and will terminate upon acceptance of the Guaranteed Maximum Price (as defined below) by University, but no later than the applicable date as indicated on the Schedule.

b. If the project is CM, notwithstanding anything herein to the contrary, at University's sole discretion, the Bidding Phase shall commence (i) solely in connection with the work referred to in the "first project phase package" (separated by building and utilities), upon University's acceptance of the "first project phase package," and (ii) in connection with the work referred to in the "second project phase package" (separated by building and utilities) upon University's acceptance of the "second project phase package."

c. Commencement of the Bidding Phase as contemplated in this Section, if authorized by University, shall not relieve A/E in any manner whatsoever from its obligations to comply with Section 7.4 and 7.5 at the times designated, determined in reference to all Construction Documents.

8.3 At the commencement of the Bidding Phase, A/E shall provide University, for bidding and construction purposes, one electronic copy of the 100% Construction Documents.

8.4 **If the project is CM**, the CM will request bids for the Construction of the Project in those bidding packages identified in the scope of work.

8.5 **If the project is CM**, A/E shall interpret documents during the Bidding Phase and shall attend a pre-bid conference for each bidding package.

8.6 **If the project is CM**, at University's request, A/E shall attend the opening of the bids received by CM in connection with the Project. A/E shall attend the Scope Reviews of all major trade work.

8.7 **If the project is CM**, if the Guaranteed Maximum Price ("GMP") proposed by CM exceeds either (i) the Project Construction Costs or (ii) either the funds appropriated by the State Legislature or allocated by the Client University or USM for the construction of the Project, A/E shall analyze the bids or proposals and make recommendations to University as to ways and methods to reduce the costs of constructing the Project to a sum which does not exceed said appropriation or allocation, except as agreed to or directed in writing by University. Such recommendations shall not include any deletions which render the Project incomplete (except to the extent contemplated by the scope of work) except as agreed to or directed by University. In addition, A/E, after consultation with University, shall alter or redraft the Construction Documents as necessary to accomplish the necessary reduction in cost and shall repeat as necessary or appropriate the services provided in this or other Phases.

8.8 If the project is CM, if the GMP exceeds the funds appropriated by the State Legislature or allocated by the Client University or USM, University, for the construction of the Project due to a delay in the bidding of the project, the services A/E is required to perform as contemplated in Section 8.7 may be submitted by A/E for consideration in a Change Order. However, if CM's GMP Amount exceeds the funds appropriated or allocated for construction of the Project, no adjustment shall be made to A/E's compensation to perform its obligations under this Agreement.

OR

ARTICLE VIII BIDDING PHASE

GC

8.9 a. The Bidding Phase will commence with University's acceptance of the Construction Documents and will terminate upon acceptance of the GC's bid price.

b. Commencement of the Bidding Phase as contemplated in this Section, if authorized by University, shall not relieve A/E in any manner whatsoever from its obligations to comply with Section 7.4 and 7.5 at the times designated, determined in reference to all Construction Documents.

8.10 At the commencement of the Bidding Phase, A/E shall provide University, for bidding and construction purposes, one electronic copy of the 100% Construction Documents.

8.11 A/E shall interpret documents during the Bidding Phase and shall attend a pre-bid conference for the GC bid and provide a response to all questions received during the Bidding Phase.

ARTICLE IX CONSTRUCTION ADMINISTRATION PHASE

9.1 This Article IX applies specifically to the Construction Administration Phase, but is in addition to and not instead of any and all provisions in the Agreement applicable to the Construction Administration Phase or all Phases.

9.2 The Construction Administration Phase will commence on the Construction Commencement Date, and terminate on the date of final acceptance by University of the construction of the Project (but no later than the applicable date indicated on the Schedule).

9.3 Upon commencement of the Construction Administration Phase, A/E shall undertake the Services as set forth in the Program and the Procedure Manual for Professional A/E Services required during the Construction Administration Phase.

9.4 A/E shall consult with University as the construction of the Project progresses. All of University's and A/E's instructions to GC/CM shall be issued by University, through the Project Manager, or by another designated representative of University.

9.5 A/E shall make periodic visits to the Project as required by the progress of the construction work or as requested by University and shall attend progress meetings to attain familiarity with the progress and quality of the construction and to determine in general if the construction of the Project is proceeding in accordance with the Construction Documents. In making such periodic visits to the site and on the basis of such on-site observations, A/E shall guard University against defects and deficiencies in the construction work and shall report to University any observed defect or observed deficiency.

9.6 A/E shall not be responsible for: (i) construction means, methods, techniques, sequences and procedures, or for safety precautions and programs in connection with the construction; (ii) GC's/CM's failure to carry out the construction in accordance with the Construction Documents; or (iii) and the acts or omissions of GC/CM or any subcontractors, or any of GC's/CM's or subcontractors' agents or employees, or any persons performing any of the construction; saving and excepting to the extent A/E has approved the same or has knowledge of the same and has not made a report thereof to University.

9.7 A/E shall assist University, as it may request, in interpreting the requirements of the Construction Documents, in making decisions on all claims of University or GC/CM relating to the execution and progress of the construction, and on all other matters or questions related thereto.

9.8 A/E shall recommend to University rejection of construction which, in A/E's reasonable opinion, does not conform to the Construction Documents. A/E shall recommend that University require GC/CM to stop the construction whenever, in A/E's reasonable opinion, it may be necessary for the proper performance of the construction. In discharging the foregoing responsibility, A/E shall act through University and issue such recommendations to University.

9.9 A/E shall review and take other appropriate action upon GC's/CM's submittals such as shop drawings, product data, and samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Construction Documents. A/E's action shall be taken promptly (within two (2) weeks of receipt) so as to cause no delay in the work, while allowing sufficient time in A/E's professional judgment to permit adequate review.

Review of such submittals is not conducted for the purpose of determining accuracy and completeness or other details such as dimensions and quantities or for substantiating instructions for installation or performance of equipment or systems designed by the Contractors, all of which remain the responsibility of the GC/CM to the extent required by the Construction Documents except as may be grossly different from the Construction Documents. A/E's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by A/E, of construction means, methods, techniques, sequences or procedures. A/E's acceptance of a specific item shall not indicate acceptance of an assembly of which the item is a component. When professional certification of performance characteristics of materials, systems or equipment is required by the Construction Documents, A/E shall be entitled to rely upon such certification to establish that the materials, systems or equipment will meet the performance criteria required by the Construction Documents.

9.10 A/E shall assist University in reviewing requests for Change Order for the construction of the Project with regard to scope only.

9.11 A/E shall provide drawings as may be necessary to explain construction details.

9.12 A/E shall be responsible for the preparation (including University comments for review), review, and resolution of punch list items. Upon completion of the punch list, A/E shall verify work completed.

9.13 A/E shall prepare a full set of record drawings showing the "as-built" condition of the Project (including without limitation the locations of all utilities) based on A/E's own records of Change Orders and upon as-built information supplied by GC/CM. University will require GC/CM to keep up-to-date marked prints of the as-built conditions upon GC's/CM's copy of the Construction Documents, with all notations necessary to form the basis of the record drawings prepared by A/E. A/E will notify University in writing not later than four (4) weeks after substantial completion of the Project of any information required to prepare the record drawings that has not been supplied by GC/CM. Record drawings shall be turned over to University within four (4) months of substantial completion of the Project or, if A/E has given University the notice contemplated above, within four (4) months after receipt of all information from GC/CM. In addition to the reproducible manual record drawings, A/E shall supply record drawings in accordance with the Procedure Manual.

ARTICLE X POST-CONSTRUCTION PHASE

10.1 This Article X applies specifically to the Post-Construction Phase, but is in addition to and not instead of any and all provisions in the Agreement applicable to the Post-Construction Phase or all Phases.

10.2 The Post Construction Phase shall commence upon the termination of the Construction Administration Phase, and shall terminate upon complete performance of all obligations on the part of A/E under this Agreement.

10.3 During the prescribed warranty period applicable to GC's/CM's work, A/E's representative shall make visits to Project for as required in the scope of work and the Procedure Manual for Professional A/E Services on a date or dates specified by University. The purpose and intent of such visits is to aid University in resolution of warranty claims. University at its sole discretion may request A/E's advice concerning corrective any actions to be taken by University and by GC/CM or both, and A/E shall provide University with a written report of any visits.

10.4 A/E shall provide the insurance required in Section 2.16 throughout the Post-Construction Phase.

ARTICLE XI ASSISTANCE BY UNIVERSITY

11.1 Unless otherwise specifically stated in the Program or the Agreement, University will furnish to A/E in a timely fashion, or at University's sole discretion reimburse A/E for the cost of furnishing:

- a. A complete and comprehensive written scope of work.
- b. All necessary survey and topographic information, including pertinent data concerning all applicable rights of way, easements, restrictions, etc.
- c. Laboratory or other tests required by University to obtain basic data.

d. All standard forms (including without limitation payment request contract, bond, and Change Order) to be used by A/E in performing the Services. Notwithstanding anything herein to the contrary, University shall provide A/E with a sample of those standardized forms and A/E shall make copies for its use from time to time as necessary. In the event a standard form is not provided, A/E shall use its own forms, provided the same are reasonably satisfactory to University.

e. All necessary approvals for the orderly progress of Services in accordance with the Schedule.

11.2 University will prepare for execution and transmit to A/E, GC/CM, and other parties concerned all contract forms and Change Order forms, when approved.

ARTICLE XII **OWNERSHIP OF DOCUMENTS; COPYRIGHTS**

12.1 All drawings, models, specifications and other documents (including electronic versions) prepared by A/E pursuant to the Agreement are the property of University, and shall be delivered to University at the required intervals and upon completion of the Project. In addition, all drawings, models, specifications and other documents (including electronic versions) in progress are the property of University and shall be delivered to University promptly in the event of termination of the Agreement prior to completion of the Project. A/E shall be responsible for the protection and/or replacement of any Construction Documents or other drawings, models, specifications and other documents (including electronic versions) in its possession, as described in the various Phases. University shall receive all original drawings, models, specifications and other documents (including electronic versions) per University's CAD and other standards, and A/E shall retain a reproducible copy.

12.2 The drawings, models, specifications and other documents (including electronic versions) prepared by A/E pursuant to the Agreement shall not be used by University or others on other projects, for additions to the Project or for completion of the Project by others, unless A/E is adjudged to be in default under the Agreement, except by agreement in writing and with appropriate compensation to A/E.

12.3 If the Agreement is in connection with one or more Phases but less than the entire Project, and notwithstanding anything herein to the contrary, the drawings, models, specifications and other documents (including electronic versions) shall be used in University's sole discretion without the consent of and without additional compensation to A/E, for design and/or construction of the portion of the Project not covered by the Agreement.

12.4 a. A/E hereby waives for the benefit of UMB and hereby transfers fully to UMB free and clear of any and all restrictions, liens and limitations whatsoever, any and all ownership rights and copyright rights and rights appurtenant thereto in any architectural works (as defined in the Architectural Works Copyright Protection Act, as amended from time to time) produced within the scope of the Agreement ("**Architectural Rights**"). A/E shall cause the Architect of Record, each and every person employed by it, each of its officers, each and every consultant engaged by it, and each and every contractor engaged by it, all in connection to the Agreement who respectfully may have enjoyed or may in the future enjoy Architectural Rights to waive in writing for the benefit of UMB and to transfer fully to UMB free and clear of any and all restrictions, liens and limitations whatsoever any and all Architectural Rights that they, their employees, consultants, officers and agents may enjoy. A/E, as a condition of payment from time to time, shall deliver to UMB the waivers and transfers executed as contemplated herein and a representation of A/E that such writings have been obtained from each Architectural Rights Person. A/E shall include a provision substantially like this Section in its agreement with each consultant and contractor engaged by it in connection with the Agreement.

b. In addition, A/E hereby waives its rights under the Architectural Works Copyright Protection Act or other sections of the United States copyright laws, as now in effect or as amended from time to time, with respect to UMB's use of the architectural works produced pursuant to the Agreement. This waiver shall be effective if it is determined that the transfer of ownership of copyright is invalid or limited in scope so as to apply only to a portion of the architectural works.

c. To the extent permitted by law, the work product required by the Agreement shall be considered a "work made for hire" under the copyright laws of the United States and applicable common law. UMB shall have sole right and authority to seek statutory copyright protection and to enjoy the benefits of ownership of the title and interest in and to the Work.

ARTICLE XIII DISPUTES

13.1 Except as may otherwise be provided by law, all disputes arising under or as a result of a breach of the Agreement which are not resolved by mutual agreement shall be resolved in accordance with the USM Procurement Policies & Procedures and this Article XIII.

13.2 As used herein, “claim” means a written demand or assertion by one of the parties seeking, as a legal right, the payment of money, adjustment or interpretation of contract terms, or other relief, arising under or relating to the Agreement. A voucher, invoice, or request for payment that is not in dispute when submitted is not a claim under this clause. However, where the submission is subsequently not acted upon in a reasonable time, or disputed as to either liability or amount, it may be converted to a claim for the purpose of this clause.

13.3 A claim shall be made in writing and submitted to the Procurement Officer for decision in consultation with the Office of the Attorney General within thirty (30) days of when the basis of the claim was known or should have been known, whichever is earlier.

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

13.5 At the direction of the Procurement Officer, A/E may be afforded an opportunity to be heard and to offer further evidence in support of its claim.

13.6 The Procurement Officer shall render a written decision on all claims within one hundred eighty (180) days of receipt of the A/E's written claim, unless the Procurement Officer determines that a longer period is necessary to resolve the claim. If a decision is not issued within one hundred eighty (180) days, the Procurement Officer shall notify the contractor of the time within which a decision shall be rendered and the reasons for such time extension. The decision shall be furnished to the contractor, by certified mail, return receipt requested, or by any other method that provides evidence of receipt. The Procurement Officer's decision shall be deemed the final action of the University.

13.7 The Procurement Officer's decision shall be final and conclusive, unless A/E files a written appeal with the Maryland State Board of Contract Appeals within thirty (30) days of receipt of the decision.

13.8 Pending resolution of a claim, A/E shall proceed diligently with the performance of the Agreement in accordance with the Procurement Officer's decision.

ARTICLE XIV SUSPENSION; TERMINATION

14.1 Suspension of the Services.

The Procurement Officer may suspend, delay, or interrupt all or any part of the Services for such period of time as the Procurement Officer determines to be appropriate for the convenience of the University.

14.2 Termination by University.

a. The performance of the Services may be terminated by University in accordance with this Section in whole or in part from time to time, whenever the Procurement Officer shall determine that such termination is in the best interest of the University, a Client University, or the State. Any such termination shall be effected by delivery to the A/E of a Notice of Termination issued by the Procurement Officer specifying the extent to which performance of work under the Agreement is terminated and the date upon which such termination becomes effective.

b. University will pay all reasonable costs associated with the Agreement that A/E has incurred up to the date of termination and all reasonable costs associated with termination of the Agreement. However, A/E shall not be reimbursed for any anticipatory profits or fees which have not been earned up to the date of termination.

14.3 Termination for Default.

a. If A/E fails to fulfill its obligations under the Agreement properly and on time, or otherwise violates any provision of the Agreement, University may terminate the Agreement by written notice to A/E. The notice shall specify the acts or omissions relied on as cause for termination. In this event, the University may take over the Services and prosecute it to completion, by contract or otherwise, and all finished or unfinished documents, supplies and services prepared or provided by A/E shall be University's property.

b. University shall pay A/E fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by A/E's breach. However, A/E shall not be reimbursed for any anticipatory profits or fees which have not been earned up to the date of termination. If the damages are more than the compensation payable to A/E, A/E will remain liable after termination and University can affirmatively collect damages. Termination of the Agreement as contemplated in this Section shall not be deemed to be a waiver by A/E of any rights and remedies it may have.

14.4 Multiyear Contracts Contingent Upon Appropriations.

a. If the General Assembly fails to appropriate funds or if funds are not otherwise made available by University for continued performance for any fiscal period of the Agreement (including any extensions hereof) succeeding the first fiscal period, the Agreement shall be canceled automatically as of the beginning of the fiscal year for which funds were not appropriated or otherwise made available; *provided, however,* that this will not affect either University's rights or A/E's rights under any termination clause in the Agreement.

b. The effect of termination of the Agreement hereunder will be to discharge both A/E and University from future performance of the Agreement, but not from their rights and obligations existing at the time of termination. A/E shall be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of the Agreement. University shall notify A/E as soon as it has knowledge that funds may not be available for the continuation of the Agreement for each succeeding fiscal period beyond the first.

ARTICLE XV MISCELLANEOUS

15.1 Governing Law; Jurisdiction; Waiver of Trial by Jury. The provisions of the Agreement shall be governed by the laws of the State of Maryland (without regard to the principles of conflicts of laws that would require the application of any other law).

15.2 USM Procurement Policies & Procedures. The regulations set forth in USM Procurement Policies and Procedures in effect on the date of execution of the Agreement are applicable to the Agreement.

15.3 Transfer of A/E's Responsibilities. A/E may not assign the Agreement or transfer any interest in the Agreement except with the written approval of University.

15.4 Substitution. If any cause or reason whatsoever necessitates substitution by University of another person or firm in place of A/E hereto in order to complete the Services, University in its sole discretion shall determine the division of the fee between the substitute and A/E.

15.5 Waiver. University in its sole discretion may but is not obligated to waive specific minor provisions of this Agreement on specific request by A/E, in the interest of expediting the Project. Any such waiver shall be in writing and shall not constitute justification for A/E preparing an incomplete design or constitute a waiver of any liability ensuing therefrom. A/E shall not be entitled to any waiver granted in any individual instance as evidence that a waiver is available or has been granted in any other instance, or all instances.

15.6 Crimes Related to Procurement of the Work. If A/E, 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 to be done or payment to be made under the Agreement, the Agreement, in the discretion of University, may be terminated. Upon such termination A/E shall be paid only the earned value of work performed to the date of termination and shall refund any and all profits, or fixed fee, realized under the Agreement, and A/E shall be liable to University for any costs incurred by it over and above the maximum amount

payable to A/E as set forth in the Agreement, in completing the work undertaken by A/E in the Agreement. The sanctions provided hereunder shall be applicable, as appropriate in the discretion of University, to any such conviction after the expiration of the term of the Agreement as well. The rights and remedies set forth herein shall be in addition to, and the exercise thereof shall in no way be considered or construed as a waiver of, any other rights or remedies granted or available to University.

15.7 Covenant Against Employment of State Personnel. No employee of University or any department, commission, agency or branch of the State of Maryland, whose duties as such employee include matters relating to or affecting the subject matter of the Agreement, shall, while so employed, become or be an employee of the party or parties hereby contracting with University.

15.8 Non-Discrimination. A/E agrees not to discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, marital status, sexual orientation, national origin, ancestry, or physical or mental disability unrelated in nature and extent so as not reasonably to preclude the performance of such employment. A/E shall include a similar provision in any subcontract. A/E shall post, and shall cause subcontractors to post, notices setting forth the substance of this paragraph in conspicuous places available to employees and applicants for employment.

15.9 Audit and Retention of Records. A/E shall retain and maintain all records and documents relating to this Agreement for three (3) years after final payment by University hereunder or any applicable statute of limitations, whichever is longer, and shall make them available for inspection and audit by authorized representatives of University, including the procurement officer or designee, at all reasonable times.

15.10 Contract Affidavit. A/E shall execute University's standard form of Contract Affidavit as part of the Agreement, prior to the award of the contract.

15.11 Financial Disclosure. A/E shall comply with §13-221 of the State Finance and Procurement Article, Ann. Code of Maryland, which requires that every business that enters into contracts, leases, or other agreements with the State of Maryland or its units or both, under which it receives a total of \$100,000 or more during a calendar year shall file with the Maryland Secretary of State a list containing the names and addresses of its resident agent, each of its officers, and any individual who is a beneficial owner of 5% or more of A/E.

15.12 Reports of Political Contributions. A/E shall comply with, and shall require its officers, directors, and employees to comply with, § 14-101 *et seq.* of the Election Law Article, Ann. Code of Maryland, which requires that every person doing public business (as there defined), and every individual whose contributions are attributable to the person entering into such an agreement, during a calendar year in which the person receives cumulative consideration of \$100,000 or more from public business, shall file with the State Administrative Board of Election Laws 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.

15.13 Observance of Rules. Employees and agents of A/E shall comply with all rules and regulations of University or the Client University while on the premises of University or the Client University respectively. A/E shall not interfere with University, or the Client University's operations or stop, delay or interfere with use of any of University's facilities without prior approval.

15.14 Avoidance of Labor Disputes. In performance of the Agreement, A/E shall not knowingly employ any person or persons, or use any equipment or materials, or allow any condition to exist, if any such, in the opinion of University, may cause or be conducive to any labor complaints, trouble, dispute or controversy at University or in any other respect may be objectionable to University. University's determination shall be conclusive on A/E and upon notice from University A/E shall immediately withdraw from University property as required in the notice all persons, equipment or materials specified in the notice, shall replace them with unobjectionable persons, equipment and materials, and shall immediately rectify whatever condition or conditions may be specified in the notice.

15.15 Payments. Payments to A/E pursuant to the Agreement shall be made no later than thirty (30) days after University's receipt of a proper invoice from A/E. Charges for late payment of invoices are prohibited, other than as prescribed by Title 15, Subtitle 1, of the State Finance Article and Procurement Article, Ann. Code of Maryland.

15.16 A/E Representations and Warranties. A/E 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 the Agreement;
- c. It shall comply with all documented federal, State and local laws, regulations, and ordinances applicable to its activities and obligations under the Agreement; and,
- d. It shall obtain, at its expense, all licenses, permits, insurance and governmental approvals, if any, necessary to the performance of its obligations under the Agreement.

15.17 Truth in Negotiation Certification. A/E, by submitting cost or price information (including without limitation wage rates or other factual unit costs), certifies to the best of its knowledge, information, and belief, that:

- a. The wage rates and other factual unit costs supporting the firm's compensation, as set forth in the Proposal, are accurate, complete and current as of the date of execution of the Agreement.
- b. If any of the items of compensation were increased due to the furnishing of inaccurate, incomplete, or noncurrent wage rates or other units of costs, University is entitled to an adjustment in all appropriate items of compensation, including profit or fee, to exclude any significant sum by which the price was increased because of the defective data. University's right to adjustment includes the right to a price adjustment for defects in costs or pricing data submitted by a prospective or actual consultant or subcontractor.
- c. If additions are made to the original price of the Agreement, such additions may be adjusted to exclude any significant sums where it is determined the price has been increased due to inaccurate, incomplete, or noncurrent wage rates and other factual costs.

15.18 Contractual Relationship. Nothing contained herein shall be deemed to create any contractual relationship between A/E and GC/CM or any of its Contractors, Subcontractors, or material suppliers on the Project; nor shall anything contained in the Agreement be deemed to give any third party any claim or right of action against University or A/E which does not otherwise exist without regard to the Agreement.

15.19 Amendments. The Agreement may be amended by agreement of the authorized representatives of the parties. All amendments must be in writing and signed by the parties to the agreement.

15.20 Partnership as Joint Venture If A/E is a joint venture or a partnership, the following provisions shall apply:

- a. The partnership or joint venture agreement shall not be terminated or amended in any material aspect prior to the final acceptance of the Project;
- b. There shall be no additions or withdrawals of partners or joint venturer in A/E except for individuals who are admitted to partnership in the ordinary course of business;
- c. The insurance required under the Agreement shall be a joint and several obligation of all joint venturers and partners in A/E.

15.21 Indemnification.

- a. To the fullest extent permitted by law, A/E shall indemnify and hold harmless USM, University, any Client University, the State of Maryland, and their agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of or resulting from the performance of the work, provided that any such claim, damage, or loss or expense: (1) is attributable to bodily injury, sickness, disease, or death personal injury or injury to or destruction of tangible property (other than the work itself) including the loss of use resulting therefrom, and (2) is caused in whole or in part by any negligent or willful act or omission of A/E, or its consultants, subcontractors, their

employees, or anyone directly or indirectly employed by any of them, including without limitation (1) the preparation or approval of maps, drawings, opinions, reports, surveys, Change Orders, designs or specifications, or (2) the giving of or the failure to give directions or instructions by any of them if such giving or failure to give is the primary cause of the injury or damage. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this paragraph

b. The State, USM, University, and any Client University shall not assume any obligation to indemnify, hold harmless, or pay attorney's fees that may arise from or in any way be associated with the performance or operation of this Agreement.

15.22 Minority Business Enterprise (MBE) Participation. A/E hereby agrees to enter into contract(s) with the minority consultants for performance of work under this Agreement set forth on Exhibit C.

{Signatures on following page}

**SIGNATURE PAGE TO
STANDARD FORM OF AGREEMENT WITH ARCHITECTS & ENGINEERS**

IN WITNESS WHEREOF, the Agreement is executed for the parties by their authorized representatives or officers as of _____ 20____.

WITNESS:

UNIVERSITY OF MARYLAND, BALTIMORE

By: _____ (SEAL)

Name: _____

Title: _____

Date: _____

WITNESS/ATTEST:

Firm Name By: _____ (SEAL)

Name: _____

Title: _____

Date: _____

Budgetary Data:

Requisition No. _____

Title _____

Approved by Board of Public Works:

Item No. _____ *Date:* _____

**STANDARD FORM OF AGREEMENT WITH
ARCHITECTS & ENGINEERS**

EXHIBIT A
APPROVED CONTRACT RATES

The approved billing rates are inclusive of direct salary costs, fringe benefits, overhead, profit, materials and all other billing indirect costs and must be used for each task order:

**STANDARD FORM OF AGREEMENT WITH
ARCHITECTS & ENGINEERS**

EXHIBIT B
NOT APPLICABLE

**STANDARD FORM OF AGREEMENT WITH
ARCHITECTS & ENGINEERS**

EXHIBIT C

MINORITY BUSINESS ENTERPRISE PARTICIPATION

Name of Consultant	MDOT Certif. #	Type of Work(NAICS)	Contract %
TOTAL OF MBE CONSULTANTS:			

ATTACHMENT C

CAMPUS MAPS DIRECTORY

Can be found on the following websites:

<http://www.umaryland.edu/maps/>
<http://about.umbc.edu/visitors-guide/campus-map/>
<https://www.towson.edu/maps/>
<http://www.ubalt.edu/map/>
<https://www.coppin.edu/directions>

ATTACHMENT D

INTENTIONALLY OMITTED

ATTACHMENT E

UMB SHOP DRAWINGS/SUBMITTAL FLOW CHART

Refer to the UMB A/E Procedure Manual for specific instructions regarding the Shop Drawing and Submittal review process and timelines.

ATTACHMENT F

INTENTIONALLY OMITTED

ATTACHMENT G
FEE PROPOSAL FORM

PROPOSAL NO. 88838 CB

FEE PROPOSAL DUE: **Thursday February 27, 2020 AT 2:00 P.M.**

FEE PROPOSAL FOR: ON CALL M/E DESIGN SERVICES FOR ACADEMIC PROJECTS

NAME OF PROPOSER: _____

FID #: _____

February 10, 2020

SAMPLE FEE PROPOSAL

Ms. Christina Blair
Procurement Services
University of Maryland, Baltimore
220 Arch Street, Room 02-100
Baltimore, MD 21201-1041

Dear Ms. Blair:

The undersigned, hereby submits a fee proposal for the On Call M/E design services for the University of Maryland, Baltimore as set forth in the University's A/E Solicitation #88838 CB dated **January 2, 2020** and Addenda as follows:

Addendum No. Dated _____
Addendum No. Dated _____
Addendum No. Dated _____
Addendum No. Dated _____

Having received clarification on all matters upon which any doubt arose, the undersigned proposes the hourly billing rates per the Fee Proposal Attachment A provided herein.

We understand that by submitting a proposal, we are agreeing to all of the terms and conditions of A/E Solicitation #88838 CB.

(Signatures to be placed on the following page.)

_____ Signer's Initials

Page 1 of 4

PROPOSAL NO. 88838 CB

FEE PROPOSAL DUE: **Thursday February 27, 2020 AT 2:00 P.M.**

FEE PROPOSAL FOR: ON CALL M/E DESIGN SERVICES FOR ACADEMIC PROJECTS

NAME OF PROPOSER: _____

FID #: _____

SAMPLE FEE PROPOSAL - ATTACHMENT A

Provide Full Mechanical Electrical Design
On Call Services for Multiple Design Projects
University of Maryland, Baltimore Regional Center

Each Fee Proposal shall be based on the following format of personnel and your proposed billing rates. The billing rates shall be inclusive of direct salary costs, fringe benefits, overhead, profit, materials and all other billing indirect costs. Mileage, within a 75 mile radius of the consultants' office, will not be compensated and the costs, therefore, must be reflected in the multiplier. Rates shall remain in effect for the duration of the contract.

MANPOWER RATES

<u>Category</u>	<u>Proposed Hourly Rates</u>	<u>X</u>	<u>Multiplier</u>	<u>=</u>	<u>Billing Rate</u>
Principal	_____	_____	_____	_____	_____
Project Manager	_____	_____	_____	_____	_____
Mechanical Engineer	_____	_____	_____	_____	_____
Mechanical Designer	_____	_____	_____	_____	_____
Mechanical CADD	_____	_____	_____	_____	_____
Electrical Engineer	_____	_____	_____	_____	_____
Electrical Designer	_____	_____	_____	_____	_____
Electrical CADD	_____	_____	_____	_____	_____
Project Architect	_____	_____	_____	_____	_____
Architectural Designer	_____	_____	_____	_____	_____
Architectural CADD	_____	_____	_____	_____	_____
Structural Engineer	_____	_____	_____	_____	_____
Structural Designer	_____	_____	_____	_____	_____
Structural CADD	_____	_____	_____	_____	_____
Telecom Engineer	_____	_____	_____	_____	_____

PROPOSAL NO. 88838 CB

FEE PROPOSAL DUE: **Thursday February 27, 2020 AT 2:00 P.M.**

FEE PROPOSAL FOR: **ON CALL M/E DESIGN SERVICES FOR ACADEMIC
PROJECTS**

NAME OF PROPOSER: _____

FID #: _____

SAMPLE FEE PROPOSAL - ATTACHMENT A

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On Call Services for Multiple Design Projects
University of Maryland, Baltimore Regional Center

Each Fee Proposal shall be based on the following format of personnel and your proposed billing rates. The billing rates shall be inclusive of direct salary costs, fringe benefits, overhead, profit, materials and all other billing indirect costs. Mileage, within a 75 mile radius of the consultants' office, will not be compensated and the costs, therefore, must be reflected in the multiplier. Rates shall remain in effect for the duration of the contract.

MANPOWER RATES

<u>Category</u>	<u>Proposed Hourly Rates</u>	<u>X</u>	<u>Multiplier</u>	<u>=</u>	<u>Billing Rate</u>
CAD/CADD Operator	_____	_____	_____	_____	_____
Civil Engineer	_____	_____	_____	_____	_____
Civil Designer	_____	_____	_____	_____	_____
Civil CADD	_____	_____	_____	_____	_____
Construction Cost Estimator	_____	_____	_____	_____	_____
Specifications Writer	_____	_____	_____	_____	_____
Clerical	_____	_____	_____	_____	_____

The proposing M/E firm represents, and it is a condition precedent to acceptance of this proposal, that the proposer has not been a party to any agreement to submit a fixed or uniform price. Sign where applicable below.

A. INDIVIDUAL PRINCIPAL

In Presence of Witness: _____

FIRM NAME

ADDRESS

TELEPHONE NO.
SIGNED

Printed Name
Title:

B. CO-PARTNERSHIP PRINCIPAL

(Name of Co - Partnership)
ADDRESS

In Presence of Witness:
TELEPHONE NO.

_____ as to

BY

(Partner)

Printed Name:

BY

(Partner)

Printed Name:

BY

(Partner)

Printed Name:

C. CORPORATE PRINCIPAL

(Name of Corporation)
ADDRESS

TELEPHONE NO.

Attest:

_____ [Printed Name of Corporate (or Assistant Corporate)Secretary]

_____ [Corporate (or Assistant Corporate) Secretary Signature for Identification]

BY: _____

_____ Signature of Officer and Title

Printed Name

Title _____

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ATTACHMENT H

MBE FORMS AND INSTRUCTIONS (H-1A through H-6)

MBE ATTACHMENT H-1A: MBE UTILIZATION AND FAIR SOLICITATION AFFIDAVIT & MBE PARTICIPATION SCHEDULE

PART 1 - INSTRUCTIONS

PLEASE READ BEFORE COMPLETING THIS DOCUMENT

This form includes Instructions and the MBE Utilization and Fair Solicitation Affidavit & MBE Participation Schedule which must be submitted with the bid/proposal. If the bidder/offeror fails to accurately complete and submit this Affidavit and Schedule with the bid or proposal, the Procurement Officer shall deem the bid non-responsive or shall determine that the proposal is not reasonably susceptible of being selected for award.

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

(100%) of not more than one of the MBE participation subgoals, if any, established for the Contract.

- ✓ In order to receive credit for self-performance, an MBE prime must be certified in the appropriate NAICS code to do the work and must list its firm in the MBE Participation Schedule, including the certification category under which the MBE prime is self-performing and include information regarding the work it will self-perform.
- ✓ For the remaining portion of the overall goal and the remaining subgoals, the MBE prime must also identify on the MBE Participation Schedule the other certified MBE subcontractors used to meet those goals or request a waiver.
- ✓ These guidelines apply to the work performed by the MBE Prime that can be counted for purposes of meeting the MBE participation goals. These requirements do not affect the MBE Prime's ability to self-perform a greater portion of the work in excess of what is counted for purposes of meeting the MBE participation goals.
- ✓ Please note that the requirements to meet the MBE participation overall goal and subgoals are distinct and separate. If the contract has subgoals, regardless of MBE Prime's ability to self-perform up to 50% of the overall goal (including up to 100% of any subgoal), the MBE Prime must either commit to use other MBEs for each of any remaining subgoals or request a waiver. As set forth in Attachment 1-B Waiver Guidance, the MBE Prime's ability to self-perform certain portions of the work of the Contract will not be deemed a substitute for the good faith efforts to meet any remaining subgoal or the balance of the overall goal.
- ✓ In certain instances where the percentages allocated to MBE participation subgoals add up to more than 50% of the overall goal, the portion of self-performed work that an MBE Prime may count toward the overall goal may be limited to less than 50%. Please refer to the Governor's Office of Small Minority & Women Business Affairs' website for the MBE Prime Regulations Q&A for illustrative examples.

http://www.goMDsmallbiz.maryland.gov/Documents/MBE_Toolkit/MBEPrimeRegulation_QA.pdf

6. Subject to items 1 through 5 above, when a certified MBE performs as a participant in a joint venture, a procurement agency may count a portion of the total dollar value of the Contract equal to the distinct, clearly-defined portion of the work of the Contract that the certified MBE performs with its own forces toward fulfilling the Contract goal, and not more than one of the Contract subgoals, if any.
7. The work performed by a certified MBE firm, including an MBE prime, can only be counted towards the MBE participation goal(s) if the MBE firm is performing a commercially useful function on the Contract. Please refer to COMAR 21.11.03.12-1 for more information regarding these requirements.

8. **Materials and Supplies: New Guidelines Regarding MBE Participation.**

- ✓ Regular Dealer (generally identified as a wholesaler or supplier in the MDOT Directory): Up to 60% of the costs of materials and supplies provided by a certified MBE may be counted towards the MBE participation goal(s) if such MBE is a Regular Dealer of such materials and supplies. Regular Dealer is defined as a firm that owns, operates, or maintains a store, a warehouse, or any other establishment in which the materials, supplies, articles, or equipment are of the general character described by the specifications required under the contract and are bought, kept in stock, or regularly sold or leased to the public in the usual course of business; and does not include a packager, a broker, a manufacturer's representative, or any other person that arranges or expedites transactions.

Example for illustrative purposes of applying the 60% rule

Overall contract value: \$2,000,000

Total value of supplies: \$100,000

Calculate Percentage of Supplies to overall contract value:

\$100,000 divided by \$2,000,000 = 5%

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

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

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

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

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

10. CAUTION: The percentage of MBE participation, computed using the percentage amounts determined for all of the MBE firms listed in Part 3, MUST meet or exceed the MBE participation goal and subgoals (if applicable) as set forth in Part 2- for this

solicitation. If a bidder/offeror is unable to meet the MBE participation goal or any subgoals (if applicable), then the bidder/offeror must request a waiver in Part 2 or the bid will be deemed not responsive, or the proposal not reasonably susceptible of being selected for award. You may wish to use the attached Goal/Subgoal Worksheet to assist in calculating the percentages and confirming that your commitment meets or exceeds the applicable MBE participation goal and subgoals (if any).

11. If you have any questions as to whether a firm is certified to perform the specific services or provide specific products, please contact MDOT's Office of Minority Business Enterprise at 1-800-544-6056 or via email to mbe@mdot.state.md.us sufficiently prior to the submission due date.

Subgoals (if applicable)

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

Overall Goal

Total MBE Participation (include all categories): _____ %

PART 2 - MBE UTILIZATION AND FAIR SOLICITATION AFFIDAVIT & MBE PARTICIPATION SCHEDULE

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

In connection with the bid/proposal submitted in response to Solicitation No. **88838 CB**, I affirm the following:

1. MBE Participation (PLEASE CHECK ONLY ONE)

I acknowledge and intend to meet the overall certified Minority Business Enterprise (MBE) participation goal.

**The MBE participation for this procurement will be set per task order.
An overall MBE subcontractor participation goal will be set for any task order over \$50,000 and subgoals will be set for any task order over \$200,000.**

Therefore, I am not seeking a waiver pursuant to COMAR 21.11.03.11.

OR

I conclude that I am unable to achieve the MBE participation goal and/or subgoals. I hereby request a waiver, in whole or in part, of the overall goal and/or subgoals. Within 10 Working days of receiving notice that our firm is the apparent awardee or as requested by the Procurement Officer, I will submit the completed Good Faith Efforts Documentation to Support Waiver Request (Attachment H-1C) and all required waiver documentation in accordance with COMAR 21.11.03.

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 notice of the potential award or from the date of conditional award (per COMAR 21.11.03.10), whichever is earlier:

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

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

[CONTINUED ON NEXT PAGE]

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 I have reviewed the instructions for the MBE Utilization & Fair Solicitation Affidavit and that the information included is true to the best of my knowledge, information and belief.

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

Signature of Authorized Representative

Address

Printed Name and Title

City, State and Zip Code

Date

SUBMIT THIS AFFIDAVIT WITH TECHNICAL PROPOSAL

PART 3 - MBE PARTICIPATION SCHEDULE

Set forth below are the (i) certified MBEs I intend to use, (ii) the percentage of the total Contract value allocated to each MBE for this project and, (iii) the items of work each MBE will provide under the Contract. I have confirmed with the MDOT database that the MBE firms identified below (including any self-performing MBE prime firms) are performing work activities for which they are MDOT-certified.

Prime Contractor	Project Description	Project/Contract Number
	On Call M/E Services For Academic Projects	88838 CB

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

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

<p>MBE Prime Firm Name: _____</p> <p>MBE Certification Number: _____</p> <p>(If dually certified, check only one box.)</p> <p><input type="checkbox"/> African American-Owned <input type="checkbox"/> Hispanic American- Owned <input type="checkbox"/> Asian American-Owned <input type="checkbox"/> Women-Owned <input type="checkbox"/> Other MBE Classification</p> <p>NAICS code: _____</p>	<p>Percentage of total Contract Value to be performed with own forces and counted towards the MBE overall participation goal (up to 50% of the overall goal): _____ % Please refer to Item #8 in Part 1- Instructions of this document for new MBE participation guidelines regarding materials and supplies.</p> <p>Percentage of total Contract Value to be performed with own forces and counted towards the subgoal, if any, for my MBE classification (up to 100% of not more than one subgoal): _____ %</p> <p><input type="checkbox"/> Supplier, wholesaler and/or regular dealer (count 60%) <input type="checkbox"/> Manufacturer (count 100%) <input type="checkbox"/> Broker (count reasonable fee/commission only) <input type="checkbox"/> Furnish and Install and other Services (count 100%)</p> <p>Complete the applicable prompt (select only one) from prompts A-C below that applies to the type of work your firm is self-performing to calculate amount to be counted towards achieving the MBE Participation Goal and Subgoal, if any.</p> <ol style="list-style-type: none">1. Percentage amount of subcontract where the MBE Prime firm is being used for manufacturer, furnish and install, and/or services (excluding products / services from suppliers, wholesalers, regular dealers and brokers) _____ %2. Percentage amount for items of work where the MBE Prime firm is being used as supplier, wholesaler, and/or regular dealer (60% Rule). Total percentage of Supplies/Products _____ % x 60% = _____ %3. Percentage amount of fee where the MBE Prime firm is being used as broker (count reasonable fee/commission only) _____ % <p>Description of the Work to be performed with MBE prime's own forces: _____</p>
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SECTION B: For all Contractors (including MBE Primes and MBE Primes in a Joint Venture)

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

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

Continue on separate page if needed

PART 4 – SIGNATURE PAGE

**To complete Affidavit committing to MBE(s) or requesting waiver,
bidder/offeror must sign below**

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

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

Signature of Authorized Representative

Address

Printed Name and Title

City, State and Zip Code

Date

SUBMIT THIS AFFIDAVIT WITH TASK ORDER PROPOSAL

MBE ATTACHMENT H-1B

WAIVER GUIDANCE

GUIDANCE FOR DOCUMENTING GOOD FAITH EFFORTS TO MEET MBE PARTICIPATION GOALS

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

4. Definitions

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

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

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

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

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

II. Types of Actions Agency will Consider

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

5. Identify Bid Items as Work for MBE Firms

6. Identified Items of Work in Procurements

7. Certain procurements will include a list of bid items identified during the goal setting process as possible work for performance by MBE Firms. If the procurement provides a list of Identified Items of Work, the bidder/offeror shall make all reasonable efforts to solicit quotes from MBE Firms to perform that work.

(b) Bidders/Offerors may, and are encouraged to, select additional items of work to be performed by MBE Firms to increase the likelihood that the MBE Goal(s) will be achieved.

8. Identified Items of Work by Bidders/Offerors

9. When the procurement does not include a list of Identified Items of Work or for additional Identified Items of Work, bidders/offerors should reasonably identify sufficient items of work to be performed by MBE Firms.

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

10. Identify MBE Firms to Solicit

11. MBE Firms Identified in Procurements

12. Certain procurements will include a list of the MBE Firms identified during the goal setting process as available to perform the items of work. If the procurement provides a list of Identified MBE Firms, the bidder/offeror shall make all reasonable efforts to solicit those MBE firms.

(b) Bidders/offerors may, and are encouraged to, search the MBE Directory to identify additional MBEs who may be available to perform the items of work, such as MBEs certified or granted an expansion of services after the solicitation was issued.

13. MBE Firms Identified by Bidders/Offerors

14. When the procurement does not include a list of Identified MBE Firms, bidders/offerors should reasonably identify the MBE Firms that are available to perform the Identified Items of Work.

(b) Any MBE Firms identified as available by the bidder/offeror should be certified to perform the Identified Items of Work.

15. **Solicit MBEs**

16. Solicit all Identified Firms for all Identified Items of Work by providing written notice. The bidder/offeror should:

17. provide the written solicitation at least 10 days prior to bid opening to allow sufficient time for the MBE Firms to respond;

(b) send the written solicitation by first-class mail, facsimile, or email using contact information in the MBE Directory, unless the bidder/offeror has a valid basis for using different contact information; and

€ provide adequate information about the plans, specifications, anticipated time schedule for portions of the work to be performed by the MBE, and other requirements of the contract to assist MBE Firms in responding. (This information may be provided by including hard copies in the written solicitation or by electronic means as described in C.3 below.)

18. All Identified Firms includes the MBEs listed in the procurement and any MBE Firms you identify as potentially available to perform the Identified Items of Work, but it does not include MBE Firms who are no longer certified to perform the work as of the date the bidder/offeror provides written solicitations.

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

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

21. by telephone using the contact information in the MBE Directory, unless the bidder/offeror has a valid basis for using different contact information; or

(b) in writing *via* a method that differs from the method used for the initial written solicitation.

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

23. attending any pre-bid meetings at which MBE Firms could be informed of contracting and subcontracting opportunities; and

(b) if recommended by the procurement, advertising with or effectively using the services of at least two minority focused entities or media, including trade associations, minority/women community organizations, minority/women contractors' groups, and local, state, and federal minority/women business assistance offices listed on the MDOT Office of Minority Business Enterprise website.

24. **Negotiate With Interested MBE Firms**

Bidders/Offerors must negotiate in good faith with interested MBE Firms.

25. Evidence of negotiation includes, without limitation, the following:

26. the names, addresses, and telephone numbers of MBE Firms that were considered;

(b) a description of the information provided regarding the plans and specifications for the work selected for subcontracting and the means used to provide that information; and

€ evidence as to why additional agreements could not be reached for MBE Firms to perform the work.

27. A bidder/offeror using good business judgment would consider a number of factors in negotiating with subcontractors, including MBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration.

3. The fact that there may be some additional costs involved in finding and using MBE Firms is not in itself sufficient reason for a bidder's/offeror's failure to meet the contract MBE goal(s), as long as such costs are reasonable. Factors to take into consideration when determining whether a MBE Firm's quote is excessive or unreasonable include, without limitation, the following:

(a) the dollar difference between the MBE subcontractor's quote and the average of the other subcontractors' quotes received by the bidder/offeror;

(b) the percentage difference between the MBE subcontractor's quote and the average of the other subcontractors' quotes received by the bidder/offeror;

€ the percentage that the MBE subcontractor's quote represents of the overall contract amount;

(d) the number of MBE firms that the bidder/offeror solicited for that portion of the work;

€ whether the work described in the MBE and Non-MBE subcontractor quotes (or portions thereof) submitted for review is the same or comparable; and

(f) the number of quotes received by the bidder/offeror for that portion of the work.

4. The above factors are not intended to be mandatory, exclusive, or exhaustive, and other evidence of an excessive or unreasonable price may be relevant.

5. The bidder/offeror may not use its price for self-performing work as a basis for rejecting a MBE Firm's quote as excessive or unreasonable.

6. The "average of the other subcontractors' quotes received" by the bidder/offeror refers to the average of the quotes received from all subcontractors. Bidder/offeror should attempt to receive quotes from at least three subcontractors, including one quote from a MBE and one quote from a Non-MBE.

7. A bidder/offeror shall not reject a MBE Firm as unqualified without sound reasons based on a thorough investigation of the firm's capabilities. For each certified MBE that is rejected as unqualified or that placed a subcontract quotation or offer that the bidder/offeror concludes is not acceptable, the bidder/offeror must provide a written detailed statement listing the reasons for this conclusion. The bidder/offeror also must document the steps taken to verify the capabilities of the MBE and Non-MBE Firms quoting similar work.

(a) The factors to take into consideration when assessing the capabilities of a MBE Firm, include, but are not limited to the following: financial capability, physical capacity to perform, available personnel and equipment, existing workload, experience performing the type of work, conduct and performance in previous contracts, and ability to meet reasonable contract requirements.

(b) The MBE Firm's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the efforts to meet the project goal.

E. Assisting Interested MBE Firms

When appropriate under the circumstances, the decision-maker will consider whether the bidder/offeror:

- 28. made reasonable efforts to assist interested MBE Firms in obtaining the bonding, lines of credit, or insurance required by the procuring agency or the bidder/offeror; and
- 29. made reasonable efforts to assist interested MBE Firms in obtaining necessary equipment, supplies, materials, or related assistance or services.

III. Other Considerations

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

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

IV. Documenting Good Faith Efforts

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

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

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

31. Outreach/Solicitation/Negotiation

32. The record of the bidder's/offeror's compliance with the outreach efforts prescribed by COMAR 21.11.03.09C(2)(a). **(Complete Outreach Efforts Compliance Statement – Attachment 2).**

33. A detailed statement of the efforts made to contact and negotiate with MBE Firms including:

34. the names, addresses, and telephone numbers of the MBE Firms who were contacted, with the dates and manner of contacts (letter, fax, email, telephone, etc.) **(Complete Good Faith Efforts Attachment 1-C- Part 2, and submit letters, fax cover sheets, emails, etc. documenting solicitations); and**

(b) a description of the information provided to MBE Firms regarding the plans, specifications, and anticipated time schedule for portions of the work to be performed and the means used to provide that information.

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

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

36. Other Documentation

37. Submit any other documentation requested by the Procurement Officer to ascertain the bidder's/offeror's Good Faith Efforts.
38. Submit any other documentation the bidder/offeror believes will help the Procurement Officer ascertain its Good Faith Efforts.

Exhibit A**MBE Subcontractor Unavailability Certificate**

39. It is hereby certified that the firm of _____
 located at _____
 (Name of Minority firm)
 (Number) (Street)

 (City) (State) (Zip)
 was offered an opportunity to bid on Solicitation No. _____
 in _____ County by _____
 (Name of Prime
 Contractor's Firm)

.....

**40. (Minority Firm), is either unavailable for the
 work/service or unable to prepare a bid for this project for the following reason(s):**

Signature of Minority Firm's MBE Representative
 Date

Title

MDOT Certification #

Telephone #

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

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

Signature of Prime Contractor

Title

Date

MBE ATTACHMENT H-1C**GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST****PAGE OF**

Prime Contractor	Project Description	Solicitation Number
	On Call M/E Services For Academic Projects	88838 CB

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

I affirm that I have reviewed Attachment H-1B, Waiver Guidance. I further affirm under penalties of perjury that the contents of Parts 1, 2, and 3 of this Attachment H-1C Good Faith Efforts Documentation Form 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

GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST

PART 1 – IDENTIFIED ITEMS OF WORK BIDDER/OFFEROR MADE AVAILABLE TO MBE FIRMS

PAGE OF

Prime Contractor	Project Description	Solicitation Number
	On Call M/E Services For Academic Projects	88838 CB

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

Identified Items of Work	Was this work listed in the procurement?	Does bidder/offeror normally self-perform this work?	Was this work made available to MBE Firms? If no, explain why?
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

Please check if Additional Sheets are attached.

**GOOD FAITH EFFORTS DOCUMENTATION
TO SUPPORT WAIVER REQUEST**
PART 2 – IDENTIFIED MBE FIRMS AND RECORD OF SOLICITATIONS

PAGE OF

Prime Contractor	Project Description	Solicitation Number
	On Call M/E Services For Academic Projects	88838 CB

Identify the MBE Firms solicited to provide quotes for the Identified Items of Work made available for MBE participation. Include the name of the MBE Firm solicited, items of work for which bids/quotes were solicited, date and manner of initial and follow-up solicitations, whether the MBE provided a quote, and whether the MBE is being used to meet the MBE participation goal. MBE Firms used to meet the participation goal must be included on the MBE Participation Schedule. Note: If the procurement includes a list of the MBE Firms identified during the goal setting process as potentially available to perform the items of work, the bidder/offeror should solicit all of those MBE Firms or explain why a specific MBE was not solicited. If the bidder/offeror identifies additional MBE Firms who may be available to perform Identified Items of Work, those additional MBE Firms should also be included below. Copies of all written solicitations and documentation of follow-up calls to MBE Firms must be attached to this form. This list should be accompanied by a Minority Contractor Unavailability Certificate signed by the MBE contractor or a statement from the bidder/offeror that the MBE contractor refused to sign the Minority Contractor Unavailability Certificate (see Exhibit A to MBE Attachment 1-B). If the bidder/offeror used a Non-MBE or is self-performing the identified items of work, Part 3 must be completed.

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

Please check if Additional Sheets are attached.

GOOD FAITH EFFORTS DOCUMENTATION

TO SUPPORT WAIVER REQUEST

PART 3 – ADDITIONAL INFORMATION REGARDING REJECTED MBE QUOTES

PAGE OF

Prime Contractor	Project Description	Solicitation Number
	On Call M/E Services For Academic Projects	88838 CB

This form must be completed if Part 2 indicates that a MBE quote was rejected because the bidder/offeror is using a Non-MBE or is self-performing the Identified Items of Work. Provide the Identified Items Work, indicate whether the work will be self-performed or performed by a Non-MBE, and if applicable, state the name of the Non-MBE. Also include the names of all MBE and Non-MBE Firms that provided a quote and the amount of each quote.

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

Please check if Additional Sheets are attached.

MBE Attachment H - 2

OUTREACH EFFORTS COMPLIANCE STATEMENT

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

In conjunction with the bid/proposal submitted in response to Solicitation No. 88838 CB, I state the following:

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

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

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

4. Please Check One:

This project does not involve bonding requirements.

Bidder/Offeror assisted MDOT-certified MBE firms to fulfill or seek waiver of bonding requirements. (DESCRIBE EFFORTS): _____

5. Please Check One:

Bidder/Offeror did attend the pre-bid/pre-proposal conference.

No pre-bid/pre-proposal meeting/conference was held.

Bidder/Offeror did not attend the pre-bid/pre-proposal conference.

Company Name

Signature of Representative

Address

Printed Name and Title

City, State and Zip Code

Date

MBE Attachment H-3A
MBE SUBCONTRACTOR PROJECT PARTICIPATION CERTIFICATION

PLEASE COMPLETE AND SUBMIT ONE FORM FOR EACH CERTIFIED MBE FIRM LISTED ON THE MBE PARTICIPATION SCHEDULE (ATTACHMENT H-1A) WITHIN 10 WORKING DAYS OF NOTIFICATION OF APPARENT AWARD. IF THE BIDDER/OFFEROR FAILS TO RETURN THIS AFFIDAVIT WITHIN THE REQUIRED TIME, THE PROCUREMENT OFFICER MAY DETERMINE THAT THE BIDDER/OFFEROR IS NOT RESPONSIBLE AND THEREFORE NOT ELIGIBLE FOR CONTRACT AWARD.

Provided that _____ (Prime Contractor's Name) is awarded the State contract in conjunction with Solicitation No. 88838 CB _____, such Prime Contractor intends to enter into a subcontract with _____ (Subcontractor's Name) committing to participation by the MBE firm _____ (MBE Name) with MDOT Certification Number _____ which will receive at least \$ _____ which equals to _____ % of the Total Contract 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

Each of the Contractor and Subcontractor acknowledges 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. Each of the Contractor and Subcontractor solemnly affirms under the penalties of perjury that: (i) the information provided in this MBE Subcontractor Project Participation Affidavit is true to the best of its knowledge, information and belief, and (ii) has fully complied with the State Minority Business Enterprise law, State Finance and Procurement Article §14-308(a)(2), Annotated Code of Maryland which provides that, except as otherwise provided by law, a contractor may not identify a certified minority business enterprise in a Bid/Proposal and:

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

<p>PRIME CONTRACTOR</p> <p>Signature of Representative: _____ _____ _____</p> <p>Printed Name and Title: _____ _____ _____</p> <p>Firm's Name: _____</p> <p>Federal Identification Number: _____</p> <p>Address: _____ _____ _____</p> <p>Telephone: _____</p> <p>Date: _____</p>	<p>SUBCONTRACTOR</p> <p>Signature of Representative: _____ _____ _____</p> <p>Printed Name and Title: _____ _____ _____</p> <p>Firm's Name: _____</p> <p>Federal Identification Number: _____</p> <p>Address: _____ _____ _____</p> <p>Telephone: _____</p> <p>Date: _____</p>
--	---

MBE Attachment H-3B
MBE PRIME - PROJECT PARTICIPATION CERTIFICATION

PLEASE COMPLETE AND SUBMIT THIS FORM TO ATTEST EACH SPECIFIC ITEM OF WORK THAT YOUR MBE FIRM HAS LISTED ON THE MBE PARTICIPATION SCHEDULE (ATTACHMENT __-1A) FOR PURPOSES OF MEETING THE MBE PARTICIPATION GOALS. THIS FORM MUST BE SUBMITTED WITHIN 10 WORKING DAYS OF NOTIFICATION OF APPARENT AWARD. IF THE BIDDER/OFFEROR FAILS TO RETURN THIS AFFIDAVIT WITHIN THE REQUIRED TIME, THE PROCUREMENT OFFICER MAY DETERMINE THAT THE BIDDER/OFFEROR IS NOT RESPONSIBLE AND THEREFORE NOT ELIGIBLE FOR CONTRACT AWARD.

Provided that _____ (Prime Contractor's Name) with Certification Number _____ is awarded the State contract in conjunction with Solicitation No. 88838 CB_____, such MBE Prime Contractor intends to perform with its own forces at least \$_____ which equals to ___% of the Total Contract Amount for performing the following products/services for the Contract:

NAICS CODE	WORK ITEM, SPECIFICATION NUMBER, LINE ITEMS OR WORK CATEGORIES (IF APPLICABLE). FOR CONSTRUCTION PROJECTS, GENERAL CONDITIONS MUST BE LISTED SEPARATELY.	DESCRIPTION OF SPECIFIC PRODUCTS AND/OR SERVICES	VALUE OF THE WORK

MBE PRIME CONTRACTOR

Signature of Representative:

Printed Name and Title: _____

Firm's Name: _____

Federal Identification Number: _____

Address: _____

Telephone: _____

Date: _____

MBE Attachment H-4A
Procurement Services
Minority Business Enterprise Participation
Prime Contractor Paid/Unpaid MBE Invoice Report

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

Prime Contractor:	Contact Person:																					
Address:																						
City:	State:	ZIP:																				
Phone:	Fax:	E-mail:																				
MBE Subcontractor Name:	Contact Person:																					
Phone:	Fax:																					
Subcontractor Services Provided:																						
List all payments made to MBE subcontractor named above during this reporting period:		List dates and amounts of any outstanding invoices:																				
<table border="1" style="width: 100%;"> <thead> <tr> <th><u>Invoice#</u></th> <th><u>Amount</u></th> </tr> </thead> <tbody> <tr><td>1.</td><td></td></tr> <tr><td>2.</td><td></td></tr> <tr><td>3.</td><td></td></tr> <tr><td>4.</td><td></td></tr> </tbody> </table>		<u>Invoice#</u>	<u>Amount</u>	1.		2.		3.		4.		<table border="1" style="width: 100%;"> <thead> <tr> <th><u>Invoice #</u></th> <th><u>Amount</u></th> </tr> </thead> <tbody> <tr><td>1.</td><td></td></tr> <tr><td>2.</td><td></td></tr> <tr><td>3.</td><td></td></tr> <tr><td>4.</td><td></td></tr> </tbody> </table>	<u>Invoice #</u>	<u>Amount</u>	1.		2.		3.		4.	
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<u>Invoice #</u>	<u>Amount</u>																					
1.																						
2.																						
3.																						
4.																						
Total Dollars Paid: \$ _____		Total Dollars Unpaid: \$ _____																				

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

Signature: _____ Date: _____
 (Required)

Print Name: _____ Title: _____

Regina Spencer University of Maryland, Baltimore Strategic Sourcing and Acquisition Services 220 Arch Street, Rm. 02-100 Baltimore, MD 21201 Phone: 410.706.5122 Fax: 410.706.8577 eMail: rspencer@umaryland.edu
--

This form must be completed monthly by all MBE subcontractors.

Sample MBE ATTACHMENT H-5

Minority Business Enterprise Participation Subcontractor Paid/Unpaid MBE Invoice Report

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

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

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

Signature: _____ Date: _____
(Required)

Print Name: _____ Title: _____

Regina Spencer University of Maryland, Baltimore Strategic Sourcing and Acquisition Services 220 Arch Street, Rm. 02-100 Baltimore, MD 21201 Phone: 410.706.5122 Fax: 410.706.8577 eMail: rspencer@umaryland.edu
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MBE Attachment H-4B
Procurement Services
Minority Business Enterprise Participation
MBE Prime Contractor Report

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

Contact Person: _____		
Address: _____		
City: _____	State: _____	ZIP: _____
Phone: _____	Fax: _____	E-mail: _____

Invoice Number	Value of the Work	NAICS Code	Description of the Work

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

Signature: _____ Date: _____
 (Required)

Print Name: _____ Title: _____

Regina Spencer University of Maryland, Baltimore Strategic Sourcing and Acquisition Services 220 Arch Street, Rm. 02-100 Baltimore, MD 21201 Phone: 410.706.5122 Fax: 410.706.8577 eMail: rspencer@umaryland.edu
--

MBE ATTACHMENT H-5
Minority Business Enterprise Participation
Subcontractor Paid/Unpaid MBE Invoice Report

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

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

Prime Contractor: _____	Contact Person: _____
-------------------------	-----------------------

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

Signature: _____ Date: _____
(Required)

Print Name: _____ Title: _____

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MBE Attachment H-6

Liquidated Damages Provisions for Construction Contracts Containing MBE Participation Goals

This contract requires the contractor to make good faith efforts to comply with the Minority Business Enterprise (“MBE”) Program and contract provisions. The State and the Contractor acknowledge and agree that the State will incur damages, including but not limited to loss of goodwill, detrimental impact on economic development, and diversion of internal staff resources, if the Contractor does not make good faith efforts to comply with the requirements of the MBE Program and MBE contract provisions. The parties further acknowledge and agree that the damages the State might reasonably be anticipated to accrue as a result of such lack of compliance are difficult to ascertain with precision.

Therefore, upon a determination by the State that the Contractor failed to make good faith efforts to comply with one or more of the specified MBE Program requirements or contract provisions, the Contractor agrees to pay liquidated damages to the State at the rates set forth below. The Contractor expressly agrees that the State may withhold payment on any invoices as a set-off against liquidated damages owed. The Contractor further agrees that for each specified violation, the agreed upon liquidated damages are reasonably proximate to the loss the State is anticipated to incur as a result of such violation.

- a. Failure to submit each monthly payment report in full compliance with COMAR 21.11.03.13B (3): **\$30.59** per day until the monthly report is submitted as required.
- b. Failure to include in its agreements with MBE subcontractors a provision requiring submission of payment reports in full compliance with COMAR 21.11.03.13B (4): **\$107.07** per MBE subcontractor.
- c. Failure to comply with COMAR 21.11.03.12 in terminating, canceling, or changing the scope of work/value of a contract with an MBE subcontractor and/or amendment of the MBE participation schedule: the difference between the dollar value of the MBE participation commitment on the MBE participation schedule for that specific MBE firm and the dollar value of the work performed by that MBE firm for the contract.
- d. Failure to meet the Contractor’s total MBE participation goal and subgoal commitments: the difference between the dollar value of the total MBE participation commitment on the MBE participation schedule and the MBE participation actually achieved.

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

ATTACHMENT I
INTENTIONALLY OMITTED