

**REQUEST FOR PROPOSAL
FOR
ON CALL GENERAL CONTRACTING SERVICES**

**AT
UNIVERSITY OF MARYLAND, BALTIMORE**

RFP 91105-MC

ISSUE DATE: April 25, 2024

**PROCUREMENT/
ISSUING OFFICE**

UMB OFFICE OF CONSTRUCTION & FACILITIES STRATEGIC
ACQUISITIONS (“CFSA”)
220 Arch Street, Room 02-100
Baltimore, MD 21201-1531

PROJECT MANAGEMENT:

UMB Office for Facilities and Operations
University of Maryland, Baltimore
620 West Lexington Street, Office Level 06
Baltimore, Maryland 21201-1531

IMPORTANT NOTE: Prospective proposers who have received this document from a source other than the Issuing Office should immediately contact the Issuing Office and provide their name and mailing address in order that amendments to the Request for Proposal or other communications can be sent to them. Any Prospective Proposer who fails to notify the Issuing Office with this information assumes complete responsibility in the event that they do not receive communications from the Issuing Office prior to the closing date.

NOTE: All Addenda to this solicitation will be posted on the UMB website at <https://www.umaryland.edu/procurement/ebid-board/>

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SOLICITATION SCHEDULE

Issue Date:	Thursday, April 25, 2024
PRE-PROPOSAL CONFERENCE DATE:	Wednesday, May 1, 2024 at 11:00 AM
PRE-PROPOSAL CONFERENCE LOCATION:	<p>Microsoft Teams Need help? Join the meeting now Meeting ID: 262 105 621 253 Passcode: EdRT8Z</p> <p>Dial-in by phone +1 443-409-5274,,708326357# United States, Baltimore Find a local number Phone conference ID: 708 326 357# For organizers: Meeting options Reset dial-in PIN</p>
Questions Regarding Solicitation Due:	May 8, 2024 on or before 2:00 PM
Phase 1 Technical Proposal Due:	May 14, 2024 or before 2:00 pm (to be submitted electronically)
Anticipated Date of Notification following the Phase 1 Technical Evaluation regarding shortlist:	May 28, 2024
Phase 2 Technical Proposal Due:	June 11, 2024 on or before 2:00 pm (to be submitted electronically) <ul style="list-style-type: none"> • These are optional and may be held at the University’s sole discretion.
Interview oral presentation sessions for short listed Contractors	June 17-18, 2024 These are optional and may be held at the University’s sole discretion.
Anticipated Date of Notification following the Phase 2 Technical Evaluation regarding shortlist:	June 20, 2024
Price Proposal Due Date:	July 3, 2024 on or before 2:00 pm (to be submitted electronically by only the final shortlisted Proposers; Refer to Section III, Article 5)
UMB Notifies Selected GCs:	Anticipated by July 17, 2024
Master Contract executed by selected GCs:	July 31, 2024 (Projected)
Board of Public Works Approval:	August 28, 2024 (Projected)
Contract Commencement:	September 1, 2024 (Projected)

END OF SOLICITATION SCHEDULE

SECTION I: GENERAL INFORMATION

1. Summary

1.1 The University of Maryland, Baltimore (herein referred to as the University or UMB) is seeking proposals for on call General Contracting (“GC”) services for projects for the University of Maryland, Baltimore and associated client institutions.

The Contractor will be required to provide all labor, material and supervision for projects. The On Call GC 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 resulting contracts will be primarily utilized by UMB and the other USM institutions within the Baltimore Region, however, any USM institution may utilize the resulting contracts. UMB’s Office of Construction & Facilities Strategic Acquisitions (“CFSA”) will manage the resulting master contracts and, in most cases, the resulting task orders will be managed by the appropriate USM institution. For a profile of the UMB see <https://www.umaryland.edu/>. For a campus map go to <http://www.umaryland.edu/maps/>.

USM institutions served by the University of Maryland, Baltimore in the Baltimore Region include the University of Maryland, Baltimore County (UMBC), Coppin State University (CSU), Towson University (TU), and the University of Baltimore (UB).

The University System of Maryland (USM) is the state’s public higher education system. USM’s 12 institutions, 3 regional higher education centers, and system office work closely together to leverage their collective expertise and resources, share best practices, increase the system’s effectiveness and efficiency, and advance USM’s mission to improve the quality of life in Maryland. For information regarding the other USM institutions, see www.USMD.edu and <https://www.usmd.edu/institutions/>

Note: For purposes of this Solicitation, in the instances where another USM institution is managing a task order, all references to “UMB”, with the exception of the management of the Master Contract, shall mean the applicable USM institution.

Refer to Section II for further information regarding the scope of services.

1.2 Multiple Master Contract awards are anticipated. The Contract term is for three (3) years with one two (2) year renewal option.

The Contract will govern all work performed by the awarded Contractors. A copy of the University’s UMB Construction Contract can be found in Attachment C of this solicitation and a copy of the Standard General Conditions for GC can be found in Section VII; this document will be the contract form to be signed by the successful GC Contractors.

1.3. Response to this RFP will consist of:

- a. Technical Proposal (inclusive of potential Oral Presentation for shortlisted Contractors only), and,
- b. Price Proposal (finalist Contractors only)

See Section III for further details regarding the proposal requirements and procurement phases.

1.4 Upon selection of the Master GCs, a UMB non-exclusive contract (See Attachment C for the Master Contract and Section VII for Standard General Conditions for GC) will be issued to and executed by the

successful Contractors. Upon receipt of applicable approvals, the Master Contract will be fully executed by UMB. All Proposers are advised that UMB makes **no guarantee** that any task orders will be issued, or any minimal dollar amount will be spent under the resulting Master Contract.

1.5 UMB anticipates the recommendation of the award to external approving bodies and Master Contracts to be in place with the successful Proposers per the Solicitation Schedule. Shortly thereafter, UMB may begin procuring GC services.

2. Solicitation Terms and Conditions: In addition to this Section I, refer to Attachment I for the governing terms and conditions of this Solicitation.

In accordance with Attachment I, the Issuing Office shall be the **sole** point of contact with the UMB for purposes of questions from potential Proposers as well as the preparation and submittal of proposals in response to this solicitation. For ease of reference, below find the Issuing Office contact information:

University of Maryland, Baltimore
Construction & Facilities Strategic Acquisitions

All questions on this procurement are to be directed in writing via email to the following individuals:

Point of Contact: Michelle Compton (mcompton@umaryland.edu)

The UMB Procurement Officer is:

Jack Mumma
Executive Director, Procurement Officer
Construction & Facilities Strategic Acquisitions
University of Maryland, Baltimore
jmumma@umaryland.edu

3. Proposal Closing Date/Due Date and Time:

3.1 **Technical Proposal:** The Technical Proposal is to be provided to the Issuing Office in accordance with this paragraph, the Solicitation Schedule, and Attachment I. **Technical Proposals are to be submitted electronically.**

Proposals are to be emailed to: proc-oncallbids@umaryland.edu **The subject line of your email:** **05/14/2024 RFP 91105-MC [Your Company Name]** The University prefers electronic PDF format that are organized with bookmarks.

There shall not be any ‘acceptance terms and conditions’ included in the Technical Proposal By providing to UMB the Technical Proposal electronically, the Proposer grants UMB the unlimited right to generate additional electronic and/or paper copies for distribution solely for the purpose of evaluation and review.

3.2 Technical Proposals must be received by the issuing office per the solicitation schedule in order to be considered. The time that the email is sent by the proposer will be considered the time. **Due to electronic file size constraints, (25 MB), Proposers may need to submit multiple files.** Proposers should allow for extra time to ensure email delivery.

3.3 Refer to the Solicitation Schedule and Section III of the RFP for information regarding subsequent submittals during the procurement process.

Note: No pricing is to be provided in the Technical Proposal submittal. Price Proposals will be requested only of the shortlisted Proposers upon completion of the evaluation of Technical Proposals.

4. Contractual Agreement.

The Master Contract to be entered into as a result of this RFP (the “Master Contract” or “Contract”) shall be by and between the proposer as GC and UMB in the form of a Master Contract and shall contain the mandatory provisions included herein in Attachment C, Section VII as well as any additional terms required by USM or the State of Maryland. By submitting an Offer (i.e. the Contractor’s Technical and/or Price Proposal, either individually or collectively, is/are considered an Offer), the GC warrants that they have reviewed Attachment C and will execute a contract a) in substantially the same form and b) with these mandatory terms and conditions upon request by UMB. The awarded Master GCs should not assume that any term and condition of the Master Contract is negotiable.

The terms and conditions of the Master Contract shall apply to all subsequent task orders. UMB’s Procurement Officer, at his/her sole discretion, may allow negotiation of terms and conditions in the Master Contract related to a specific task order. The awarded Master GCs should not assume however that any term and condition of the Master Contract is negotiable at the task order level.

Subsequent to the signing of the Master Contract, the UMB may also require the signing of a Task Order Contract or Agreement (TOC or TOA) that is specific to the GC Services engagement services to be provided by the GC. The TOC or TOA may contain specific mandatory terms and conditions applicable to the specific task order scope of work.

For accounting purposes only, UMB may also issue a purchase order to the awarded Master GC for each TOC.

5. Terms of the Contract:

Any contract arising from this RFP action shall commence on the date the Master Contract is executed on behalf of UMB, or such other date as UMB and the GC shall agree. The Master Contract will be for the Scope of Work as defined in Section II of the solicitation documents. The Master Contract is anticipated to commence per the Solicitation Schedule for three (3) years. (The “Term”). Thereafter, UMB, at its sole discretion, may elect to renew the Master Contract for up to two (2) additional years. (the “Renewal Term”).

The UMB, at its sole option and with thirty (30) days’ notice to the GC, may elect to discontinue the Master Contract at any time during the Term of the Master Contract with no further obligations to the GC and with no penalty. As well, UMB may elect, at its sole option, and with thirty (30) days’ notice, discontinue any task order done under a Master Contract with no further obligations to the GC and with no penalty. If the UMB elects to discontinue the Master Contract or a Task Order Contract, a summation of work in progress will be made and a mutual agreement as to how to finalize this work in progress will be made.

Any task order that commences during the Term of the Master Contract may be completed under the Master Contract terms and conditions and/or the Task Order Contract terms and conditions, even if the completion date of the Task Order is subsequent to the termination and/or expiration of the Master Contract.

6. Acceptance of Terms and Conditions.

By submitting a Proposal in response to this RFP, a GC shall be deemed to have accepted the terms, conditions, and requirements set forth in this RFP. The RFP including all addenda in total shall be incorporated into the contract by reference. Refer to the Master Contract in Attachment C for the order of precedence of documents.

END OF SECTION I

SECTION II: SCOPE OF WORK/REQUIREMENTS

SECTION II
SCOPE OF WORK/REQUIREMENTS

1. GENERAL INFORMATION:

A. INSTITUTIONAL PROFILES

University of Maryland, Baltimore

Founded in 1807 as the Medical College of Maryland, the University of Maryland, Baltimore campus, is the oldest of the eleven collegiate institutions which comprise, along with several specialized centers, the statewide University System of Maryland. Within the context of the USM at large, UMB is the State of Maryland's principal professional schools' campus and medical center. Within the campus precinct in Baltimore, the university component is comprised of the seven University of Maryland Schools of Medicine, Pharmacy, Nursing, Law, Social Work, the Dental School, and the Baltimore Graduate School; the Thurgood Marshall Law Library; and the Health Sciences and Human Services Library.

In addition to the University, the campus also incorporates the related but independent University of Maryland Medical System Corporation (UMMS, which includes a 746-bed tertiary care hospital, the Shock Trauma and Cancer Centers, and the Maryland Institute for Emergency Medical Services Systems), and a 324-bed Department of Veterans' Affairs Medical Center.

Located on the western edge of Baltimore's central business district, a daily campus population of over 20,000 persons engage in professional education, advanced research and health care services of a statewide, regional and national scope with an annual economic impact over \$1 billion.

Within the general campus of 16 city blocks, the physical plant particular to the University, only, occupies 1,410,975 nasf. (net assignable program square feet) within a total of 4,117,710 gsf. (gross building square feet).

Coppin State University (CSU):

Founded in 1900, Coppin State University, an urban, comprehensive, Historically Black Institution (HBI) located in Baltimore, Maryland, offers quality undergraduate and graduate programs in teacher education, the liberal arts, mathematics, sciences, technology, and professional disciplines. The University provides educational access and diverse opportunities for students through excellence in teaching, research, and community engagement thus preparing analytical, socially responsible, lifelong learners. Coppin State University builds on a rich legacy of empowering students, promoting community revitalization, and strengthening relationships with local, national, and global partners.

Towson University (TU):

Founded in 1866, Towson University is recognized among the nation's best regional public universities, offering more than 100 bachelors', master's and doctoral degree programs in the liberal arts and sciences, and applied professional fields. With more than 20,800 students, Towson University is the second-largest public university in Maryland. As a metropolitan university, Towson combines research-based learning with practical application. Our many interdisciplinary partnerships with public and private organizations throughout Maryland provide opportunities for research, internships, and jobs. Located in suburban Towson, eight miles north of Baltimore, the campus is comprised of

329 acres, 55 buildings, over 6 million square feet of space, 5,910 on campus beds, and approximately 7,600 parking spaces.

University of Baltimore (UBalt):

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, and professional students at the freshman, sophomore, junior, and senior year levels. 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.

University of Maryland, Baltimore County (UMBC):

Founded in 1966, the present research university offers 60 undergraduate majors, 70 minors and 36 certificate programs in the physical and biological sciences, arts and humanities, sciences and engineering, and mathematics. The Graduate School offers 38 master's, 25 doctoral programs and 29 graduate certificate programs in education, engineering, emergency health services, imaging and digital arts, information technology, aging services, life sciences, psychology and public policy. The current enrollment is approximately 13,600 students. The facilities on its suburban Catonsville campus consist of over four million gross square feet of space on 512 acres.

B. ON-CALL GC CONTRACTORS

The intent of this procurement is to establish on-call General Contracting Contracts for construction and maintenance services for the Office of Facilities Management at the University of Maryland, Baltimore, (herein referred to as UMB-FM) 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. The procurement departments at the applicable institution shall determine whether a project is "construction" or "maintenance" utilizing the definitions located in the USM Procurement Policies and Procedures. Please refer to "Appendix A" for additional information about the different requirements required for "construction" and "maintenance" projects.

C. CONTRACT TERM:

The initial contract term is for three (3) years with the University retaining the sole option to renew these contracts for one (1) additional two-year (2) renewal option.

D. CONTRACT AMOUNT:

Estimated dollar volume for this general contracting work is \$45,000,000 annually. All proposers are advised that such dollar volumes are **estimates only** and all proposers further understand and agree in providing such estimates, the University make **no guarantee** that any or all of the estimated work will be assigned to the selected On-Call General Contractor(s).

It is anticipated that no task order shall exceed \$10,000,000. For construction projects that exceed \$1,000,000 Board of Public Works approval must be obtained prior to start of any work. Projects are typically under \$1,000,000; however, it is expected that successful firms will be able to submit a proposal for all requested task orders.

It is the University's intent to award to up to six (6) On Call GC contracts.

E. USE OF MASTER CONTRACTS BY UMB

1.1 Projects over \$200K:

1.1.1 The University reserves the right to issue specific project task orders either on a Time and Materials Basis or on a Lump Sum Basis. The scope of work provided by the University would indicate how the on call general contractors are to bid the work – that is either as 1) Not-to-exceed time and material basis; or 2) a lump sum bid.

1.1.1.1 The Department of Facilities and Operations of the applicable USM institution will prepare a written scope (specifications and/or drawings on which specifications noted) of work on each project inclusive of time frame/schedule. Construction & Facilities Strategic Acquisitions may issue a Task Order Request for Quote to all awarded On Call General Contractors. During the solicitation process, a site visit may be scheduled which all available on-call General Contractors are invited to attend.

1.1.1.2 Each on-call contractor will provide within the response to the request a not-to-exceed price or lump sum price and a statement as to proposed time frame to complete the work. In addition, the On-Call General Contractors will provide the name of the Project Manager (who has been approved and added to the current Contract, or the Principal Coordinator) and the Field Superintendent to be assigned (who has been approved and added to the current Contract).

1.1.1.3 For any construction project over \$500,000, prevailing wage rates will be applicable. These wages will be provided in the scope of work used for pricing. UMB's Construction Facilities Strategic Acquisition will be responsible for obtaining these wages. If an on-call contractor upon receipt of a scope of work estimates the project to be greater than \$500,000 and prevailing wage rates are **not** included in the scope of work, they are to contact UMB's Strategic Sourcing and Acquisition Services prior to submitting a bid price.

1.1.1.4 When prevailing wage rates apply, the University will be requesting that the on-call contractors provide a breakout of their unit rate pricing for validation. The breakout will include requesting the wages paid, the burden percentage, the components of the burden percentage (examples include but are not limited to, FICA, Medicare, State unemployment tax, federal unemployment tax, retirement, vacation/sick/holiday leave, health insurance, workers compensation insurance), and the overhead profit percentage.

1.1.1.5 Provide a proposed list of intended subcontractors within ten (10) days from notice of award. In addition, provide the name of the Project Manager and the Field Superintendent to be assigned to project. Note: any changes to MBE subcontractors must follow MBE guidelines established in RFP. By submitting a Bid for each separate project, Contractor(s) agree that all bid prices are valid for 120 days from the date of university receipt of the Bid.

- 1.1.1.6 The University PM of the applicable institution will select from among the on-call contractors, the contractor whose not-to-exceed price or lump sum price and time frame best serves the University's interest and meets all University requirements. At that time, a Purchase Order will be issued by the university's procurement office. The university reserves the right to issue a Notice to Proceed which will be sent by University PM to the General Contractor for his/her signature; this letter will confirm the scope of work, commencement and completion dates, time frame and not to exceed, or lump sum price.
- 1.1.1.7 **Lump Sum Bid:**
- 1.1.1.7.1 At the sole discretion of the University, projects done under this contract may be competitively bid amongst all available On Call General Contractors for a firm fixed lump sum price. If a project is done under this method, the successful on call general contractor would provide a schedule of values on which its progress payments will be based.
- 1.1.1.8 **Time and Material**
- 1.1.1.8.1 The Time & Material (T&M) not-to-exceed (NTE) price is to include a breakdown of General Conditions Items with a corresponding allowance figure as well as all material, labor, and subcontractor costs (with breakout of material and labor costs) with quoted mark up and/or rate (s).
- 1.1.1.8.2 The University reserves the right to request a complete breakdown of material (by item, price and quoted mark-up) and labor costs (by position, hours and quoted rate) if any Contractor's not to exceed T&M price is at 15% variance with the University's estimate for this work.
- 1.1.1.8.3 The On-Call Contractor will be required to provide the university's representative with Daily Field Superintendent reports on a weekly basis. Reports for the previous week are to be submitted to University PM by 5:00 p.m. on the Monday following the applicable work week. Such reports must be on the University's Daily Field Superintendent Report form (see Attachment F). Such reports are to include a detailed description of work performed inclusive of statistical data such as, units, square feet, linear feet, tons, pounds, feet of wire, number of fixtures, etc. by each craftsman. Reports with insufficient information shall be returned to the Contractors.
- 1.1.1.8.4 The selected On-Call General Contractor will complete work for a particular project under the not-to-exceed price and will bill for actual costs for materials, equipment rental and subcontractors plus the quoted mark-up and actual hours worked per the quoted rates. In no instance will a project cost the University more than the not-to-exceed price (unless additional scope has been added by the University, however, the not-to-exceed price is to be revised by the Contractor and approved by the University to incorporate such changes); if a project does exceed the not-to-exceed, the Contractor will be solely responsible for costs in excess; for costs less than the not-to-exceed price, the University will pay for actual completed costs only.

- 1.2 Projects under \$200K:** The University may elect to rotate among the selected On-Call Contractors on projects that are under \$200K each. Such projects will require a time & material, not-to-exceed price from the applicable contractor to the University PM, with the procedure as noted in 1.1 above.
- i. Rotation will commence with the awarded contractor who achieved the highest total score in this procurement with rotation continuing in order with the other awarded contractors based on total score.
 - ii. 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. Special circumstances include, but are not limited to, (1) contractor unable to meet University project schedule, (2) project requires contractor uniquely qualified to perform specialty services, and (3) warranty considerations. A contractor's turn in rotation is lost if a project is cancelled.
 - iii. The On Call Contractor agrees to provide written documentation to Strategic Sourcing and Acquisition Services if declining a project.
 - iv. The University reserves the right to request information from an On Call General Contractor for review and evaluation for specialized projects to determine the appropriateness of the particular contractor for such work.
 - v. Should the On Call General Contractor fail to submit bid(s) in a timely manner, the University may elect to terminate said request for bid and contact the next On Call General Contractor in the rotation.
2. The University reserves the right to award a Task Order on the basis of price, or ability to meet a desired schedule, or special circumstance which may include but is not limited to the project requires a contractor uniquely qualified to perform specialty services. The University reserves the right to award a specific project task order without soliciting competition should there be special circumstances which the University deems appropriate.
 3. All communications on projects are to be directed to the designated Project Manager of the University PM only. No instructions, directions, and information are to be given to the Contractor by any other University personnel. All change order work shall not proceed until a purchase change order has been issued by the University PM confirming this additional work and the applicable additional cost.
 4. If during the term of this contract, the On-Call General Contractor(s) is (are) awarded other bid construction projects (i.e., General Contracting work, Construction Manager work or Design/Build work) at any of the institutions noted in Section 1, it is expected that the Contractor will assign separate work crews and supervisory teams to all concurrent projects to insure that no job schedule is effected by inadequate manpower levels.
 5. Any staff changes by the selected On-Call General Contractor (s) in the Principal Coordinator, the Project Managers, and/or the possible Field Superintendent must be reviewed and approved by UMB's Office of Construction Facilities Strategic Acquisition via the issuance of a contract amendment prior to any reassignments being made.
 6. In the event the On-Call General Contractor 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. The University shall not unreasonably withhold approval of staff changes.

7. Performance and Payment Bonds: As indicated elsewhere in the RFP document, the On-Call General Contractor will be required to provide a 100% Performance and Payment bond on any project which exceeds \$100,000.00. These bonds must be submitted on the University forms found in Attachment F of this solicitation document. These bonds are to be submitted to UMB's Office of Strategic Sourcing and Acquisition Services at the time of issuance of the letter of acknowledgement, Notice to Proceed, and/or purchase order. No work is to proceed until these bonds are received. The costs for these bonds are to be included in the Contractor's not-to-exceed price under the General Conditions category.
8. **The MBE participation for this procurement will be set per task order. An overall MBE subcontractor participation goal and applicable subgoals may be set for any task order over \$200,000. The University reserves the right to set MBE participation goals for projects under \$200,000.** The Contractor is encouraged to use a diverse group of subcontractors and suppliers from any/all of the various MBE classifications to meet any potential goals that may be set at the task order level.

2. SCOPE OF WORK

2.1 SCOPE

- a. The Contractor is to furnish all labor and material necessary to comply with drawings and specifications to be furnished by authorized personnel of the University for work on the applicable Baltimore Regional Campus and University-owned property.
- b. The contractor is to coordinate all trade work with his forces and the other trade Contractors as well as any contractors separately assigned by the University.
- c. The Contractor shall complete his work in the time required by the University and in accordance with the requirements stated within the notice to proceed, or purchase order.
- d. The majority of this general contracting work will be interior renovation done in occupied buildings and in some cases, with ongoing medical research, classrooms, offices, conference rooms, and data rooms. The selected On-Call Contractor (s) will be required to take special care when working in such environments.

- 2.2 The work to be included under the General Contracting On-Call Contracts is as described, but not limited to, the following:

a. GENERAL WORK

- Carpentry, rough concrete, finish masonry, 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.

b. ELECTRICAL WORK

- High voltage feeders-power poles & transformer installing-up grading existing electrical services-wiring of all type of machinery-complete wiring for new construction-conduit installation up to 4" in diameter-installation of interior and exterior lighting-extension of existing circuits- control wiring -fire alarm, fiber optics electronics cabling and installation, and telecommunications.

c. PLUMBING

- Installation of underground storm and sanitary sewers waste and vent piping-installation of all - plumbing fixtures -including water closets, lavatories, sinks, etc., - installation of all - piping for hot and cold water, gases and vacuum using copper and steel pipe.
- Insulation of plumbing piping.
- Installation of Fire Protection piping and devices. Distilled water piping, chemical waste piping and backflow preventors.

d. AIR-CONDITIONING AND HEATING

- The installation of all types of HVAC systems - piping-pipe insulation - temperature control work. All steam and hot water heating piping including insulation.

e. SHEET METAL WORK

- Fabrication and installation of ductwork, fire dampers diffusers and including stainless steel ductwork to hood exhausts.
- Insulation of ductwork.

f. PATCHING AND PAINTING WORK

- Interior and exterior painting- surface preparation to include scraping, burning, and caulking.
- Minor plaster repair
- Hanging of all types of wall covering.

g. SPECIAL FLOORING AND WALL FINISHES

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

2.3 PROTECTION OF ADJACENT FACILITIES AND PROPERTY

a. The Contractor is advised that the location of projects under this Contract will likely be in a congested area of the campus, subject to heavy vehicular traffic and limited parking. Every precaution shall be exercised to protect people from injury and disruption of traffic from work performed.

b. See General Conditions, Section 00700 dated 10/31/17, as amended.

2.4. LIFTING DEVICES FOR EQUIPMENT

Supply all cranes, lifts, hoists, etc., for the proper and efficient movement of all materials. All shall be provided with proper guides, bracing, safety devices, etc., as required by law and good practice.

2.5. PROTECTION OF WORK, STORAGE AND TRANSPORTATION OF MATERIALS

- a. All equipment must be installed and/or stored indoors immediately upon arrival at the job site. If storage is required, a suitable space will be designated by the University PM at the applicable campus. Under no circumstances shall equipment be stored outdoors.
- b. Transportation: All materials and equipment shall be so crated, packaged, blocked and otherwise protected during transportation and handling to prevent damage of any kind. This shall include the provision of any necessary lifting devices or machines and the skilled personnel to operate such machines.
- c. Protecting Work in Place: Provide all necessary protection of completed work to prevent any and all damage. Walk off mats shall also be required at the entrances and exits of all work sites.
- d. Prior to using any University elevator for transporting materials, the Contractor shall verify applicable load weights and insure proper loading of the elevator with the University PM Project Manager.

2.6. TEMPORARY WATER AND ELECTRICAL SERVICE

Unless otherwise specified in writing, the water, electricity or other utilities required to complete work assigned under this Contract will be provided by the University at no extra cost to the Contractor.

No utility interruptions shall be initiated without the prior authorization of the University PM Project Manager. The University PM Project Manager is the only authorized person to arrange for utility shut down. The Contractor shall not proceed with any outage without two (2) weeks' prior notification to him/her unless otherwise agreed by the University.

2.7. CLEARING AND CLEANING UP

The Contractor shall at all times keep the premises free from the accumulation of waste materials and rubbish. At the completion of the work the Contractor shall as a "Job Cost" remove all rubbish from and about the building and remove from and about the building all tools, scaffolding and surplus materials and shall leave the work site completely clean.

2.8. EMPLOYEE IDENTIFICATION

- a. Due to the nature of routine on-call work and required security, the Contractors shall obtain identification for all of his employees, equipment and Subcontractors that will be utilized at UMB. EMPLOYEE IDENTIFICATION OF WORKMEN ASSIGNED TO THE UNIVERSITY PROJECTS SHALL BE VISIBLE AT ALL TIMES in accordance with UMB General Conditions and amendments thereto. Refer to Section 00800 for further campus specific information regarding identification).
- b. All vehicles and mobile equipment shall be identified with the Contractors Name displayed in a highly visible manner.

2.9. TOOLS AND MOVEABLE EQUIPMENT

The Contractor shall furnish as part of his overhead cost included in the material markup percentage, all necessary protective equipment, concrete mixing boxes, water barrels, wheelbarrows, hoes, shovels, tools, mortar boards, ladders, hoes, shovels, tools, shop equipment and fabricating items customary to the trade, etc., and all other moveable equipment necessary to completing the work performed under this contract. The furnishing of tools shall include all maintenance, loss and breakage. Any equipment rental must be approved by the University PM prior to its use.

2.10. MATERIAL COSTS

Material costs which will be reimbursed to the Contractor shall be based on the cost of materials to the Contractor from his usual sources of supply with all usual trade practice discounts deducted. All cost discounts shall be deducted in determining materials costs. The Contractor shall provide equipment and material as specified by the University from sources at least cost to the University. Competitive quotations shall be secured wherever feasible and, in all instances, when requested by the University. The contractor will be required to provide copies of invoices and proof of payment when requested by the University. The contractor is responsible for receiving own materials, including unloading of delivery trucks, checking deliveries, and transportation to the work area. University employees are not responsible for receipt of deliveries. The quoted mark-up for materials is if a) delivered directly to job site by supplier; b) picked up by the On Call Contractor representative, or c) drawn from Contractor's warehouse stock. Material Mark-up is to cover GC's overhead and profit only. GC may not add any charge for handling materials. Time & labor of GC's employees assigned university work related to ordering, picking up, or handling materials are included in the GC's labor charge for the job.

2.11. UNIVERSITY'S RIGHT TO FURNISH MATERIAL AND EQUIPMENT

The University reserves the right to purchase material or job required merchandise. The Contractor will be reimbursed only for his labor cost used on the materials furnished. Materials not used on the job shall be returned to University's stock for credit to job.

2.12. SUBCONTRACTS

The Contractor shall be reimbursed for subcontractor work per the quoted mark up.

Before any such Subcontracts are awarded, the University PM shall be furnished with complete information in writing as to the fees which would be paid to the Subcontractor. The University reserves the right to review/approve the submitted subcontractors. The subcontractor shall furnish to the contractor the complete records as to labor and material cost and his fees. The Contractor shall submit such records to the University PM with all requests for payment which include payment on such Subcontractors, when requested.

2.13. TRUCKING

Contractor's Name, License Numbers, Telephone Number and Address shall be displayed on trucks. The Contractor shall apply for a University permit through the University parking office. Parking at the University is at a premium. The On-Call General Contractor will be required to coordinate with the Office of Design and Construction on the loading and unloading of materials.

2.14. REMOVAL OF DEBRIS & CLEANING

Waste and debris shall not be allowed to accumulate in the building or work area. All debris shall be removed by the Contractor as the work progresses in occupied spaces. The Contractor shall remove debris on a daily basis. Salvageable material shall be piled separately for reuse or salvage by the University. Contractors are not permitted to use University owned dumpsters.

The Contractor shall be responsible for removing debris and cleaning work areas as the work progresses. Woodwork, painted or decorated surfaces, finished floors, etc., shall be sponged or washed as necessary to remove plastering materials and prevent damage to finished surfaces. On completion of the work, areas shall be left clean, free from abrasive or set materials liable to cause damage. The Contractor shall patch and refinish to match all existing areas damaged to accommodate the work.

Contractors shall be responsible for the removal of excess material and debris associated with their division of work.

2.15. SUPERVISION OF THE WORK

Materials, workmanship and finishes for new work in permanent buildings shall be similar and equal, as determined by the University's Project Manager, to those in the existing building.

The Project Manager for the University PM shall have general supervision and direction of the work which shall include, but not be limited to, the following:

- a. Determination of a work schedule for coordination of crafts.
- b. Project starting and completion dates.
- c. Inspect all work for compliance with University Standards & Project scope.
- d. Issuance of the Purchase Order which shall authorize the Contractor to proceed with the work as defined. The Contractor shall be advised in writing to close out a project at which time he shall stop all work and submit a request for final project payment.

See Section 2.1.1.1.8.3, regarding Daily Field Superintendent Report to be provided to the University PM by the Contractor.

2.16. CODES AND STANDARDS

All work performed under this Contract shall be in compliance with all applicable codes, standards and regulations. Each campus will issue its standards, if any, to the selected On-Call Contractor (s).

2.17. REQUEST FOR TEMPORARY USE OF KEYS BY CONTRACTORS

No keys shall be issued to Contractor without the proper authorization. Keys shall be issued in one of two ways unless otherwise agreed by the University.

- a. For Use Under 7 Days
 1. Authorization form shall be issued by Project Manager, Inspector or other person listed on the approved authorization list.
 2. Keys shall be charged out by Work Control Center to the person presenting the authorization form.

3. Keys shall be returned each day before end of business except when specifically authorized for nighttime or weekend work.
- b. For Use for 7 Days or More
 1. Fully completed key request card shall be issued by the proper authority.
 2. The key request card(s) shall be presented to the lock shop for issuance of the proper key(s).
 3. A \$10.00 deposit per key shall be made by all non-University personnel. Said deposit to be returned upon return of the key(s).
 - c. All keys shall be returned before final payment on a project.
 - d. Keys shall be requested and issued only as required, i.e. master keys shall not be issued when individual keys will suffice.
 - e. University keys, in the possession of Contractors and/or Service Personnel, will not be loaned to others, tampered with or duplicated.
 - f. The \$10.00 deposit required for each key issued will be forfeited when the key is purported to be lost and cannot be accounted for.

3. SPECIAL CONDITIONS

1. The initial contract term is for the period of three (3) years, with the anticipated dates being September 1, 2024 to August 31, 2027.
2. The University, solely at its option, may subsequently renew this contract for one additional 2-year option.

Rates shall be firm during each contract period. Request for Rate increases shall be made in writing to the Department of Procurement Services at least ninety (90) days prior to the Contract renewal date. All other terms and conditions shall remain the same. It will be the University's sole option to approve, or not, any such price adjustment.

The University will use the U.S. Bureau of Labor Statistics, Producer Price Index (PPI) to monitor any such price adjustment request for reasonableness. Rate adjustments will be made in accordance with the month-to-month period for the preceding year in accordance with the percentage change of the U.S. Bureau of Labor Statistics PPI Industry Data, Industry Group for nonresidential building construction, Series ID: PCU2364002364001, issued for Product type: General Contractors. UMB will use the March 2024 index of 157.356 as the benchmark.

All such price adjustments request will be calculated using a simple percentage method.

The following example illustrates the computation of percentage change:

PPI for current period:	150.252
Less PPI for previous period:	147.362
Equals index point change:	2.89
Divided by previous period PPI:	147.362
Equals:	.0196

Results multiplied by 100:	.0196 x 100
Equals Percentage change:	1.96%

Requested increases above a 10% cap will not be considered. As well, increases are not cumulative for prior years; for example, if a contractor does not request an increase for the first renewal year and then requests an increase for the second renewal year, the Contractor cannot include a cumulative amount which includes the first renewal year.

Upon approval by the University, any such modified hourly rate will constitute the labor cost figure for the contract renewal period. The University reserves the right to terminate this Contract at any time upon giving thirty (30) days written notice.

3. The Contractor understands and agrees that additional work, beyond that estimated, may be assigned to him and in that event, he agrees to perform such work in accordance with the terms herein.

4. The work under this Contract is subject to the Standard General Conditions of Construction Contract dated 10/31/17 or the Standard General Conditions of Maintenance Contracts dated December 2020, which are Section VII of this RFP document and any Amendments thereto in Section VIII.

5. The University reserves the right to complete particular projects through this On-Call Contract, through the use of university employees or to obtain separate Contracts through its normal procurement process according to the best interests of the University.

6. The University reserves the right to assign University personnel employed in various trades to projects under this Contract and/or to perform a portion of the work under a particular project.

7. The Contractor must be able to deliver all said labor and standard items of material and equipment within time frame confirmed in the Purchase Order for each scope of work. Purchase of equipment and material not usually carried in stock by local distributors shall be accomplished competitively within the shortest time possible while maintaining the job schedule.

8. The Contractor shall maintain a local office with telephone available for receiving and making calls throughout the working day and shall have available locally sufficient storage space for materials and equipment if his office and principal place of business is not located within 50 miles of the University.

9. The Contractor shall provide one (1) person designated as the Project Manager and have one (1) 100% on-site Field Superintendent. The Project Manager shall be the Contractor's agent for reviewing the project in the field when required with the University's representatives and shall be the channel for all inquiries concerning work in progress or work to be started under this Contract. The Field Superintendent shall manage the job on-site and supervise all on-site personnel. All supervisory personnel for the On-Call Contractor must be direct employees of said Contractor.

10. The Project Manager should be readily available to review all phases of the project when requested by the University. The Project Manager should have a cell phone to facilitate accessibility to the University.

11. The timeframe of work hours for the Contractor shall be 6:00 a.m., through 4:00 p.m., Monday through Friday unless otherwise indicated by the University. The work shall be carried forward during normal work hours unless the contractor elects on his own volition to extend operations beyond regular hours and such extensions are approved by the University. Overtime work will require approval in

writing by the University PM. Overtime and shift differential percentages shall be as shown in the proposal for change order work.

12. The Contractor shall perform the work under this Contract on the job site in the presence of University employees, other University Contractors and/or Subcontractors, whether union or non-union and shall complete the work assigned in the time required. If off-site work such as shop fabrication, the price is provided by the Contractor. The University reserves the right to inspect such off-site work at any time.

4. RATES AND MARKUPS

1. CONTRACTOR'S LABOR RATES

A. It is understood and agreed that the cost of all of the following items shall be included in the Contractor's Labor Rates. These are not intended to be a complete listing.

1. Salaries of the Contractor's executive officers, the Project Coordinator, and office employees in whatever capacity employed, including such time as is spent at the job site or elsewhere in connection with the work, or time spent in consultation with University's representatives.
2. Expenses incurred in conducting the Contractor's business and his offices wherever located.
3. The Contractor's legal expense in connection with any work under the Contract.
4. Premiums for Workmen's Compensation and Unemployment Insurance, Contractor's share of Social Security Payment, and other such expenses based on payrolls of labor performed in connection with the work under the Contract.
5. Premiums for insurance for this Contract as required by the Specification or by the law to carry including Contractor's Liability, Property Damage, Vehicle Insurance on tools and equipment as stipulated in the Specifications.
6. Fringe benefits for health and welfare, Workmen's Compensation insurance, vacations, holidays and pensions shall be furnished by the Contractor.
7. Tools and construction equipment of all types including maintenance, loss and breakage as required to complete the work.
8. Cost associated with handling materials pulled from company stock* or purchased specifically for University work.
9. Cost associated with handling rental equipment specifically for University work.
10. Overtime or incentive pay.
11. Accounting records.
12. All costs incurred by the Contractor in connection with the Guarantee as specified.

13. Overhead of general expenses of any kind not expressly indicated in the Specifications.
14. All overhead and profit associated with labor.
15. Trucking, including use of truck and all fuel, depreciating, maintenance, and repair costs (whether company owned vehicle or personal vehicle).
16. Expense incurred in complying with the labor and equal opportunity provisions of the Contract.
17. Travel costs for Contractor's business operation or employees residence to job site of University of Maryland, Baltimore (or applicable campus).
18. Welfare funds such as vacation allowance or other fringe benefits which are included in the local prevailing wage rates by written agreement between Contractors and Labor Unions.

B. The University will reimburse the Contractor as "labor cost" as follows:

1. Only for apprentices, journeymen, and trade or craft foreman at the scale or hourly cash wages as designated in the Contractor's Bid Price. Labor cost shall include all workmen directly employed for the project and shall include all items noted in A above. For construction projects over \$500,000, prevailing wage rate may apply to those positions.
2. Contractor's Field Superintendent, when required, at the scale or hourly cash wages as designated in the Contractor's Bid Price. Labor cost shall include all workmen directly employed for the project and shall include all items noted in A above.
3. Contractor's Project Managers, when required, at the scale or hourly cash wages as designated in the Contractor's Bid Price. Labor cost shall include all workmen directly employed for the project and shall include all items noted in A above.

C. The University will not recognize any premium or incentive pay and no work shall be performed on an overtime basis or shift differential and no overtime pay or shift differential shall be included as a "job cost" unless the performance of such overtime or shift differential has been authorized by the issuance of a change order amendment to the letter of acknowledgement, notice to proceed, or purchase change order as agreed to in the submitted not-to-exceed price by the Contractor or as required in the scope of work issued by the University on a particular project.

D. In the event an emergency exists which would require immediate overtime work, an authorized representative of the University PM shall be verbally notified by the Contractor immediately and if permission to perform this work is granted verbally, it shall be confirmed in writing by the University PM within twenty-four (24) hours of such work with a change order amendment, or purchase order to be issued within one (1) week of such work.

E. In the event that overtime work is required by the University PM it will be recognized as a "job cost" only if a change order amendment to the letter of acknowledgement, notice to proceed, or purchase change order has been issued to the Contractor's not-to-exceed price. The overtime work shall be limited to work and time approved in advance of its performance and paid at the recognized premium rate.

F. Incentive payment or premium payments made to any employees by the Contractor either as permanent employee pay, subsistence or other pay in excess of the wage shall be at the expense of the Contractor and must be included as part of the quoted Labor Rates note in A above.

2. "JOB COSTS" WHICH THE CONTRACTOR WILL BE REIMBURSED (Material, Subcontractor & Equipment Rental on a cost plus fixed percentage mark-up per the Contractor's Price Proposal).

A. The net cost of all materials including applicable federal or state sales taxes and delivery/handling/freight costs plus the fixed percentage mark-up will be applicable for payment. (No Contractor delivery charges or handling charges are allowed.) Copies of actual invoices will be provided by the Contractor upon the request of the University PM however, the Contractor will be required to provide to the University PM with its Certificate of Payment and Application for Payment copies of applicable Purchase Orders for material costs.

B. All payments made for subcontractors cost plus fixed percentage mark-up.

C. Equipment rental will be handled same as "A" above. (Note: Company owned specialty equipment excluding tools/equipment defined in Section 2, Tools and Moveable Equipment may be eligible for rental cost charges upon prior approval by the University.)

D. Performance and Payment Bonds: As indicated elsewhere in the RFP document, the On-Call General Contractor will be required to provide a 100% Performance and Payment Bonds on any project which exceeds \$100,000.00. These bonds must be submitted on the University forms found in Attachment C of this RFP document. These bonds are to be submitted UMB's Construction Facilities Strategic Acquisitions the time of issuance of the letter of acknowledgement, notice to proceed, and/or purchase order. No work is to proceed until these bonds have been submitted by the Contractor. The cost of these bonds is to be included in the Contractor's not-to-exceed price under the General Conditions category.

3. RECORDS OF PROJECT COSTS TO BE PROVIDED BY THE CONTRACTOR

A. Records: All the below listed items, records and reports shall be furnished to the University as required by the Contractor's office staff (the cost of which is included in the Contractor's quoted labor rates). See paragraph B. below as to documentation to be provided by the Contractor Certificates of Payment. When requested by the University, the Contractor is required to furnish any records within ten (10) days of the request. The following records shall be retained by the Contractor for three (3) years after completion of a project.

- Purchase Orders and invoices for materials inclusive of tool rentals as well as proofs of payments (cancelled checks);
- Subcontract agreements as well as proofs of payments (cancelled checks); and,
- Payroll records for all of the General Contractor's personnel inclusive of Project Managers, Field Superintendents, and trade people. Note that payroll records for task orders which required prevailing wage rates are to be filed by the on call contractor as required directly with the Maryland Department of Labor, Licensing, and Regulation. The University is not responsible for submitting these records to DLLR.

- Final billings on an assigned project must be submitted with a Final Release of Lien Affidavit Form (See Attachment F) to the University for processing. Failure to submit this required release form will result in the final invoice returned to the Contractor for compliance.

B. Billing Format:

1. Contractor is to provide a schedule of values to the University for approval prior to the submission of the first progress billing. The University Certificate of Payment and Application of Payment forms (see Attachment F) are to be utilized for all billings.

2. When applicable, with each Certificate of Payment and Application for Payment, the Contractor is to attach the following backup information:

a. Copies of purchase orders (PO's) for material costs billed inclusive of transportation charges; if, however the materials used are not specifically purchased for such work but are taken from the Contractor's stock*, then in lieu of the P.O. the Contractor shall provide a written statement as to what these materials are, accompanied by an affidavit of the Contractor which shall certify that such materials were taken from the stock, that the quantity claimed was actually used, and that the price and transportation of the materials as are claimed represent actual cost.

*Note: Contractor's/Company Stock is defined as bulk purchases made by the GC for its own stock to be used to provide material for numerous unspecified projects/customers. Examples include, but are not limited to, skid of plywood; truckload of drywall; cases of caulk/sealant, pallets of metal studs, etc. Items purchased specifically for University work are NOT considered company stock.

b. Statement of labor costs inclusive of name, classification, total hours for each, rate and extension total for work performed by the Contractor's own forces.;

c. Copy of any subcontractor's invoices which are applicable.

5. CONTRACTOR PERFORMANCE

The University reserves the right to evaluate a Contractor (Prime GC and all subcontractors/subconsultants) on their performance on individual task orders, and/or wholistically against the Master Contract for performance issues.

END OF SECTION II

SECTION III
PROCUREMENT PHASES AND EVALUATION PROCESS

SECTION III: PROCUREMENT PHASES AND EVALUATION PROCESS

ARTICLE 1: PHASE 1 TECHNICAL PROPOSAL REQUIREMENTS

Technical Proposal:

The Technical Proposal, including any clarifications, amendments, modifications, etc. to the Technical Proposal will be considered by the University as an Offer from the Proposing Firm.

Proposers will submit a Technical Proposal in an A3 format. Submit a single A3 for each section, except as noted. Required information is listed below.

The University is using single A3 formats for succinct decision making and project updates. The document allows faster input and feedback. Respondents have discretion to organize the information in the best manner to demonstrate their qualifications, provided it responds to all data requested.

For more information on the A3 approach, see the following resource:

<https://www.enr.com/blogs/22-marketropolis/post/47409-will-lean-thinking-revolutionize-the-proposal-process>

Refer to the Solicitation Schedule for the **due date and time for questions** regarding this phase of the procurement. Questions are to be provided in writing solely to the Issuing Office. The Issuing Office shall be the sole point of contact with the University for the purpose of the preparation and submittal of Technical Proposals in response to this solicitation.

The Technical Proposal submitted in response to this Solicitation must demonstrate that the S/C has sufficient expertise and experience as well as an understanding of the contract scope and objectives. It is the GC's responsibility to tailor its response to demonstrate this specifically for the University rather than providing a 'cookie cutter/template' response.

3.1.1 GENERAL INFORMATION: (Provide on ONE A3)

1. Contact Information

- a. Firm Name and Address (if multiple offices, list office that will develop the project)
- b. Company Structure (e.g., partnership, publicly held corporation, etc.)
- c. Is the firm a minority-owned, women-owned, or other disadvantaged business? (If yes, please specify, and include Maryland Department of Transportation certification number.)
- d. Point of contact for communications related to this solicitation. (Include Name, Title, phone, and email).

2. Firm History

Provide an overview of your firm. Identify any relevant specialty studios within your firm.

3. Annual Billings and Completed Projects:

Provide information on your company's billings and completed projects on a per year basis for the last three (3) years [2020 to 2023] and indicate what percentage of such work is CM, GC, D/B, or other (name). (This information is to be about the responsible branch office **only**, not the parent organization). This may be on a separate table from the A3.

4. Bonding Capacity

Provide verification of the Proposing firm's aggregate and single project bonding capacity. Such verification can either be from the proposer's producer or surety, however, it is preferred if such information is provided by the surety.

5. Professional Staff

Current personnel by discipline. Provide separate columns for each firm with a material role on your team.

Title	Total
Principal	
Project Managers	
Field Superintendents	
Estimators	

6. Certification

Provide a signed statement from an officer of the firm that the information provided is, to the best of their knowledge, current and accurate.

3.1.2 Project Team: Complete on a single A3 except as noted.

1. Single A3 Format

- a. Provide an organizational chart.
- b. Identify Key Team Members by Role and Firm. The intent is to communicate the strength and depth of your proposed project team. *Since this engagement will be on multiple task orders, proposers may include up to 2 Project Managers and up to 3 Field Superintendents (100% on site supervisor).*
Include the following:
 - 1. Principal Coordinator
 - 2. Project Manager
 - 3. Field Superintendent
- c. Identify how the proposed team was engaged in each of the projects identified in Section III. (Provide a matrix or graphic). If they have not contributed to these projects, identify their experience on similar projects.

2. Key Team Member Resumes

- i. Provide a one-page resume for each candidate identified above. Include as a separate file in PDF format entitled RFP#91105 MC On Call GC [Firm Name].
- ii. Definitions and Qualification Requirements for Key Personnel:
 - Principal Coordinator: Person from General Contractor who will be involved on a continual basis on all "on call" projects under this contract. This person will be responsible for the overall management of the GC team and the completion of each project. This person is the primary point of contact for the University personnel regarding submittals of bid prices, assignment of appropriate GC personnel, and contract issues during the contract.

- Project Manager: Person from General Contractor who will be involved on a continual basis from commencement of the contract until construction completion. This person will be responsible for the overall management of the GC team assigned to a particular project and the completion of the project. Note: The Principal Coordinator and/or the assigned Field Superintendent(s) may act in this role for any project. If this is the case, then this should be indicated on the basis for selection chart as well as on the Key Personnel form provided for the person; project experience in both roles should be demonstrated.
- Field Superintendent: Person from the General Contractor who will be on site 100% once construction commences on a project and will be responsible for the direct supervision of the trade contractors, daily coordination of the work on site to maintain the schedule, on site management such as material deliveries, outages, etc.. Note: The Field Superintendent may not act as the Principal Coordinator on the GC team.

Personnel Commitment: By submitting the names of these key personnel for consideration, the Proposer is committing these people to the University for each assigned task order's duration.

3.1.3 FIRM EXPERIENCE (ONE summary A3, along with a single page summary for each project) 4 PAGES TOTAL / 1 PROJECT PER PAGE

General Contractor's Experience: Each Proposer is to submit information on a total of four (4) similar or relevant projects. Of these four (4) projects, the following criteria must be met in order for a project to be considered as experience:

- All projects must be:
 - Construction completed in last five (5) years or at least substantially complete for construction; and,
 - Done by the Proposing Firm.
- Project Type:
 - At least one project should be a medical or scientific research project preferably in medical research setting and/or in the higher education setting;
 - At least one project should be an academic project (with classrooms, auditorium, seminar rooms, etc.) preferably in an education setting.

Note: If joint venture, 2 of 4 projects should be from the majority joint venture party. Of these two (2) projects, one (1) project should be the medical/scientific facility.

- General Information
 - Proposers should indicate the role that any of the Key Personnel played in the submitted projects. Higher preference will be given to projects where proposed Key Personnel were involved in their proposed roles.
 - Project Photographs may be submitted but are not required.
 - The projects submitted under the Firm Experience category are to be similar in (1) size [i.e., construction cost] and (2) complexity [facility type/use such as medical/scientific research, teaching facility in a higher education setting, urban site constraints, medical-related setting

with emphasis on research versus clinics, occupied setting, on call/time and material contracting method, etc.] to projects to be done under this contract.

- Note: For the purpose of this RFP, higher education is defined as four-year degree granting institution. Urban is defined as a construction site in an area such as Baltimore City requiring coordination with city utilities, which has minimal laydown space, and/or storage space for materials.
- The projects submitted under the Firm Experience category should include at least 1 project above \$3,000,000 for construction costs and at least 1 project between \$200,000 and \$1,000,000.
- The University may also consider the performance of the proposer on any/all projects performed for the University prior to submittal of this proposal, including ongoing/active projects, whether identified by the proposer or not.

Reference Notes (applicable to Firm References and Key Personnel References above):

Such references are to be from different projects; that is, only one reference per project is allowed.

The University reserves the right to verify all information given if it so chooses, as well as to check any other sources available (including itself if not provided as such.)

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.

3.1.4: Statement of Approach (Submitted on One A3)

Provide a detailed but concise, overall description (developed in response to this RFP) of **how** the General Contracting Team (GC) (defined as the Principal Coordinator, assigned Project Managers, and the assigned Field Superintendent] will be organized and managed and **how** work will be performed per the scope of services /work contained in the RFP documents.

The information to be provided under this category is to include, but not be limited to, the following:

- a. A description of **how** your firm will respond quickly to the University for on call work under this contract, from the quotation phase through the completion of the project;
- b. A discussion of your GC Team's approach to coordinating all work including how your firm plans to provide project management of the task orders in order to minimize disruption to students, staff, and faculty in providing services under this On Call General Contract; preparation of the project schedule and measures taken to maintain the schedule; and,
- c. Particular challenges which these Projects present and how the Proposer's team would address these.

3.1.5: MBE & DEI (Submitted on One A3)

Task orders under this contract may have MBE participation goals. Describe your past success engaging MBE firms. Include MBE firms you regularly partner with, work scopes that provide opportunities, and innovative approaches.

Also describe your commitment and demonstrated experience in supporting Diversity, Equity and Inclusion principals in your own organization.

- L. **BID/PROPOSAL AFFIDAVIT:** Complete and submit form (found in Attachment A). State and USM Procurement Regulations require that each proposal submitted by a Contractor include a signed Proposal Affidavit.
- M. **ACKNOWLEDGEMENT OF RECEIPT OF ADDENDA FORM:** If any addenda to the solicitation documents are issued prior to the due date and time for Technical Proposal, this form (found in Attachment A) is to be completed, signed, and included in the Technical Proposal.
- N. **MBE ATTACHMENT H-1A PART 2, MBE UTILIZATION AND FAIR SOLICITATION AFFIDAVIT:** This form (found in Attachment A) MUST be submitted with the Technical Proposal. If it is not, the Procurement Officer **shall** classify the Proposal as not susceptible of the award. **BY LAW, THIS IS NON-CURABLE.**
- O. **CORPORATE DIVERSITY ADDENDUM:** Complete and submit form (found in Attachment A).

END OF SECTION III, ARTICLE 1

ARTICLE 2: PHASE 2 TECHNICAL PROPOSAL REQUIREMENTS & ORAL PRESENTATIONS

Phase 2 Technical Proposal: Refer to the Solicitation Schedule for due date for the Phase 2 Technical Proposals. The Technical Proposal, including any clarifications, amendments, modifications, etc. to the Technical Proposal will be considered by the University as an Offer from the Proposing Contractor.

At the sole discretion of the University, Proposers that are short-listed as a result of the evaluation of the Phase 1 Technical Proposals may be required to submit additional materials for evaluation by the Qualification Committee. The University reserves the right to waive the Phase 2 Technical Proposal. Should the University elect to require such a submittal, only those GC Contractors who are shortlisted based on the Phase 1 Technical evaluation will be requested to submit a Phase 2 Technical Proposal.

The Technical Proposal should be prepared in a clear and concise manner and should have page numbers for ease of reference by the University Evaluation Committee. The contents of the Technical Proposal must address the following items, and additionally must include the appropriate completed forms as indicated. Failure to include any of the items listed may result in the Technical Proposal being found non-responsive and/or will affect the evaluation of your Contractor's Technical Proposal response.

The Technical Proposal submitted in response to this Solicitation must demonstrate that the GC has sufficient expertise and experience as well as an understanding of the contract scope and objectives. It is the GC's responsibility to tailor its response to demonstrate this specifically for the University rather than providing a 'cookie cutter/template' response.

3.2.1 PHASE 2 TECHNICAL QUALIFICATION CRITERIA:

The following items must be included in this Phase 2 Technical Proposal are as follows:

- A. Special/Unique Qualifications: Provide a narrative to elaborate on the special/unique qualifications and/or experiences of the proposed GC team, which make it uniquely capable to provide GC services on the University's project. Special Contractor and/or individual expertise is to be included. Note: The statement should be objective and limited to not more than three (3) single-spaced, typewritten pages using 12-point font

3.2.2 ORAL PRESENTATION:

If required at the sole discretion of the University of Maryland Proposers who submit proposals and are shortlisted as a result of the initial technical evaluation may be required to make individual presentations to

1. University representatives
2. The University also reserves the right to visit Proposer's place of business during the evaluation process.

END OF SECTION III, ARTICLE 2

ARTICLE 3: TECHNICAL EVALUATION

3.3.1 PHASE 1 TECHNICAL EVALUATION:

- A. Shortlist:

An evaluation of the Phase 1 Technical Proposals will be conducted by the University's Qualification Committee. Technical criteria are listed in the following order of importance:

- Team Qualifications
- Firm's Experience
- Statement of Approach
- Firm's MBE & DEI Commitment

Contractors will be reviewed and shortlisted based on the evaluation. Only shortlisted GC Contractors will advance in the procurement process. The Procurement Officer will review, upon approval, notify all proposing Contractors with the results of the evaluation.

- B. Implementation of a Phase 2 Technical Proposal:

At the sole discretion of the University, Proposers that are short-listed as a result of the evaluation of the Phase 1 Technical Proposals may be required to submit a Phase 2 Technical Proposal by the Qualification Committee.

The University reserves the right to waive the Phase 2 Technical Proposal and/or Oral Presentations. Selection of the candidate Contractor may be based on the Phase 1 Technical Proposal alone. Proposers are therefore encouraged to submit the best possible proposal at each opportunity for submittal.

3.3.2 PHASE 2 TECHNICAL EVALUATION:

- A. The University reserves the right to waive the Phase 2 Technical Proposal and Oral Presentations.
- B. The assessments from the Phase 1 Technical Proposal evaluation will be brought forward. These assessments will be combined with the Phase 2 Technical Evaluation for a final ranking. Selection of the shortlisted Contractors may be based on the Phase 1 Technical Proposal alone, or any written materials provided in the Phase 1 and 2 Technical Proposals combined. The University reserves the right to waive the Interview/Oral Presentations. Proposers are therefore encouraged to submit the best possible proposal at each opportunity for submittal.
- C. Another evaluation will be conducted by the University's Qualification Committee, utilizing Phase 2 Technical Proposals and Interview/Oral Presentations.
- D. The Qualification Committee will submit to the Procurement Officer the proposed shortlisted GC Contractors.
- E. The Procurement Officer will review these proposed shortlisted Contractors accordingly.
- F. The Qualification Committee will submit to the Procurement Officer the final list of the shortlisted GC Contractors.
- G. The Procurement Officer will review the shortlist accordingly and all Contractors will be notified upon approval.
- H. Upon approval of the Qualification Committee's shortlisted Contractors, the procurement officer shall request price proposals from all shortlisted GC Contractors.

3.4.4 At the sole discretion of UMB, GCs who have submitted Technical Proposals evaluated by UMB to be viable and of further interest (i.e. "shortlisted") may be requested to provide UMB additional technical information to further clarify the GC's technical qualifications. UMB also reserves the right, at its sole discretion, to hold discussions with any or all of the shortlisted Contractors. If additional information and/or discussion sessions are requested of one or more GCs, the Procurement Officer will so advise.

3.4.5 Those GCs that are not shortlisted will not progress in the procurement. Multiple shortlists may result as the procurement progresses. As the procurement progresses and as results of the technical evaluation are determined by UMB, all GCs will be notified as to the results of the technical evaluation of his/her Contractor's technical proposal.

3.4.6 UMB will establish a final shortlist of technically qualified proposals to advance in the procurement.

END OF SECTION III, ARTICLE 3

ARTICLE 4: PRICE PROPOSAL REQUIREMENTS/PRICE EVALUATION

3.4.1. Price Proposal

3.4.1.1 Per the Solicitation Schedule, **Price Proposals** will be requested **only** of the final shortlisted Contractors. Price Proposals will be submitted in accordance with written instructions provided by the procurement officer via addendum to the final shortlisted Contractors.

3.4.1.2 Proposers will be requested to provide the following in its Price Proposal:

1. **Hourly Billing Rates:**
 - a. **Regular Hourly Billing Rates:** Proposer is also to quote hourly billing rates (*to include all costs associated with the work inclusive of any and all reimbursable costs, overhead costs and profit) for all positions on the GC Team as indicated on the Price Proposal form.
 - b. **Construction Shift Differential Rates:** Proposer is also to quote shift differential percentages for second and third shifts for applicable construction positions as noted on Price Proposal Form.
2. **Material, Equipment, Rental, and Subcontractor Mark-ups by the General Contractor:**
 - a. **Subcontractor Mark-up:** _____% over invoice
 - b. **Material Mark-up:** _____% over invoice price for materials. Invoice price includes any sales tax and supplier freight/handling/delivery charges. (Material Mark-up is to cover GC's overhead and profit only. GC may not add any charge for handling materials. Time & labor of GC's employees assigned to University work related to ordering, picking up, or handling materials are included in the GC's labor charges for the job.) Note: Material Mark-up applies for material a) delivered directly from a supplier, b) picked up by the GC personnel from a supplier and delivered to the job site, and/or c) pulled from a GC's company stock.)
 - c. **Equipment Rental Mark-up:** _____% over invoice price. Invoice price includes any sales tax and supplier freight/handling/delivery charges. (Equipment Rental Mark-Up is to cover GC's overhead and profit only. GC may not add any charge for handling rental equipment. Time & labor of GC's employees assigned to University work related to ordering, picking up, or handling rental equipment are included in the GC's labor charges for the job.) In some cases, with prior University approval, rental costs may be applicable to On Call GC owned equipment.

The Price Proposal should consist of the following:

Price Proposal Form with signature page (a sample form found in Attachment B of the

RFP, with the official form to be formally released by addendum to the firms maintaining the minimum technical score after the second phase technical evaluation).

The Price Proposal shall be filled out **completely** in ink or typed on the Price Proposal Form (sample found in Attachment B of this RFP). Any erasures and/or alterations to the Proposer's pricing shall be initialed in ink by the signer. Please note, however, that no changes, alterations or additions to the Price Proposal Form are permitted.

Price Proposals will be evaluated based on the total of the not-to-exceed (NTE) prices for sample job(s).

END OF SECTION III, ARTICLE 4

ARTICLE 5: FINAL EVALUATION AND SELECTION

3.5.1 Discussions.

The UMB reserves the right to recommend an Offeror(s) for contract award based upon the Offeror's(s') technical proposal and price proposal without further discussion. However, should the Committee find that further discussion would benefit the UMB, the Committee shall recommend such discussions to the Procurement Officer. Should the Procurement Officer determine that further discussion would be in the best interest of the UMB, the Procurement Officer shall establish procedures and schedules for conducting discussions and will notify responsible Offerors.

3.5.2 Best and Final Offers.

When in the best interest of the UMB, the Committee may recommend, and the Procurement Officer may permit qualified Offerors to revise their proposals by submitting "Best and Final" offers.

3.5.3 Final Evaluation and Selection

Following evaluation of the technical proposals and the price proposals, the Committee will recommend to the Procurement Officer the award of the master contract(s) to the responsible GC(s) whose proposal(s) is (are) determined to be the most advantageous to the UMB based on the results of the final technical and financial evaluation in accordance with the University System of Maryland Procurement Policies and Procedures. Technical merit will have a greater weight than financial in the final evaluation.

Multiple awards are anticipated to be made. The decision of the award of the contracts will be made at the discretion of the Procurement Officer and will depend on the facts and circumstances of the procurement. The Procurement Officer retains the discretion to examine all factors to determine the award of the contract(s). The goal is to contract with the GCs that provide the best overall value to the UMB.

The UMB may select one or more GCs to further engage in negotiations, including terms of a contract and other issues to be incorporated into the contract. The UMB reserves the right to make an award with or without negotiations.

END OF SECTION III, ARTICLE 5

END OF SECTION III

FORMS AND ATTACHMENTS

ATTACHMENT A: TECHNICAL PROPOSAL FORMS

- Bid/Proposal Affidavit
- Acknowledgement of Receipt of Addenda (if applicable)
- MBE Attachment H-1A Part 2 for Master Agreement, MBE Utilization and Fair Solicitation Affidavit for the Master Contract
- Corporate Diversity Addendum

BID/PROPOSAL AFFIDAVIT – July, 2020

A. Authority

I HEREBY AFCONTRACTOR THAT:

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

B. CERTIFICATION REGARDING COMMERCIAL NONDISCRIMINATION

The undersigned bidder hereby certifies and agrees that the following information is correct: In preparing its bid on this project, the bidder has considered all proposals submitted from qualified, potential subcontractors and suppliers, and has not engaged in “discrimination” as defined in §19-103 of the State Finance and Procurement Article of the Annotated Code of Maryland.

“Discrimination” means any disadvantage, difference, distinction, or preference in the solicitation, selection, hiring, or commercial treatment of a vendor, subcontractor, or commercial customer on the basis of race, color, religion, ancestry, or national origin, sex, age, marital status, sexual orientation, sexual identity, genetic information or an individual’s refusal to submit to a genetic test or make available the results of a genetic test, disability, or any otherwise unlawful use of characteristics regarding the vendor’s, supplier’s, or commercial customer’s employees or owners.

“Discrimination” also includes retaliating against any person or other entity for reporting any incident of “discrimination”. Without limiting any other provision of the solicitation on this project, it is understood that, if the certification is false, such false certification constitutes grounds for the State to reject the bid submitted by the bidder on this project, and terminate any contract awarded based on the bid. As part of its bid or proposal, the bidder herewith submits a list of all instances within the past 4 years where there has been a final adjudicated determination in a legal or administrative proceeding in the State of Maryland that the bidder discriminated against subcontractors, vendors, suppliers, or commercial customers, and a description of the status or resolution of that determination, including any remedial action taken. Bidder agrees to comply in all respects with the State’s Commercial Nondiscrimination Policy as described under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland.

B-1. Certification Regarding Minority Business Enterprises.

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

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

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

B-2. Certification Regarding Veteran-Owned Small Business Enterprises. The undersigned bidder hereby certifies and agrees that it has fully complied with the State veteran-owned small business enterprise law, State Finance and Procurement Article, §14-605, Annotated Code of Maryland, which provides that a person may not:

- (1) Knowingly and with intent to defraud, fraudulently obtain, attempt to obtain, or aid another person in fraudulently obtaining or attempting to obtain public money, procurement contracts, or funds expended under a procurement contract to which the person is not entitled under this title;
- (2) Knowingly and with intent to defraud, fraudulently represent participation of a veteran-owned small business enterprise in order to obtain or retain a bid preference or a procurement contract;
- (3) Willfully and knowingly make or subscribe to any statement, declaration, or other document that is fraudulent or false as to any material matter, whether or not that falsity or fraud is committed with the knowledge or consent of the person authorized or required to present the declaration, statement, or document;
- (4) Willfully and knowingly aid, assist in, procure, counsel, or advise the preparation or presentation of a declaration, statement, or other document that is fraudulent or false as to any material matter, regardless of whether that falsity or fraud is committed with the knowledge or consent of the person authorized or required to present the declaration, statement, or document;
- (5) Willfully and knowingly fail to file any declaration or notice with the unit that is required by COMAR 21.11.12; or
- (6) Establish, knowingly aid in the establishment of, or exercise control over a business found to have violated a provision of §B-2(1)-(5) of this regulation.

C. AFCONTRACTORATION REGARDING BRIBERY CONVICTIONS

I FURTHER AFCONTRACTOR 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. AFCONTRACTORATION REGARDING OTHER CONVICTIONS

I FURTHER AFCONTRACTOR 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;
- (9) Been convicted of a violation of one or more of the following provisions of the Internal Revenue Code:
 - (a) §7201, Attempt to Evade or Defeat Tax;
 - (b) §7203, Willful Failure to File Return, Supply Information, or Pay Tax,
 - (c) §7205, Fraudulent Withholding Exemption Certificate or Failure to Supply Information,
 - (d) §7206, Fraud and False Statements, or
 - (e) §7207 Fraudulent Returns, Statements, or Other Documents;

(10) Been convicted of a violation of 18 U.S.C. §286 Conspiracy to Defraud the Government with Respect to Claims, 18 U.S.C. §287, False, Fictitious, or Fraudulent Claims, or 18 U.S.C. §371, Conspiracy to Defraud the United States;

(11) Been convicted of a violation of the Tax-General Article, Title 13, Subtitle 7 or Subtitle 10, Annotated Code of Maryland;

(12) Been found to have willfully or knowingly violated State Prevailing Wage Laws as provided in the State Finance and Procurement Article, Title 17, Subtitle 2, Annotated Code of Maryland, if:

(a) A court:

(i) Made the finding; and

(ii) Decision became final; or

(b) The finding was:

(i) Made in a contested case under the Maryland Administrative Procedure Act; and

(ii) Not overturned on judicial review;

(13) Been found to have willfully or knowingly violated State Living Wage Laws as provided in the State Finance and Procurement Article, Title 18, Annotated Code of Maryland, if:

(a) A court:

(i) Made the finding; and

(ii) Decision became final; or

(b) The finding was:

(i) Made in a contested case under the Maryland Administrative Procedure Act; and

(ii) Not overturned on judicial review;

(14) Been found to have willfully or knowingly violated the Labor and Employment Article, Title 3, Subtitles 3, 4, or 5, or Title 5, Annotated Code of Maryland, if:

(a) A court:

(i) Made the finding; and

(ii) Decision became final; or

(b) The finding was:

(i) Made in a contested case under the Maryland Administrative Procedure Act; and

(ii) Not overturned on judicial review; or

(15) Admitted in writing or under oath, during the course of an official investigation or other proceedings, acts or omissions that would constitute grounds for conviction or liability under any law or statute described in §§B and C and subsections D(1)-(14) of this regulation, 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. AFCONTRACTORATION REGARDING DEBARMENT

I FURTHER AFCONTRACTOR 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. AFCONTRACTORATION REGARDING DEBARMENT OF RELATED ENTITIES

I FURTHER AFCONTRACTOR 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 affirmation cannot be given without qualification):

G. SUB-CONTRACT AFCONTRACTORATION

I FURTHER AFCONTRACTOR 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. AFCONTRACTORATION REGARDING COLLUSION

I FURTHER AFCONTRACTOR THAT:

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

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

I. CERTIFICATION OF TAX PAYMENT

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

J. CONTINGENT FEES

I FURTHER AFCONTRACTOR THAT:

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

K. CERTIFICATION REGARDING INVESTMENTS IN IRAN

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

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

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

I FURTHER AFCONTRACTOR THAT:

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

M. I FURTHER AFCONTRACTOR THAT:

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

N. 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 AFCONTRACTOR UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date: _____

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

_____ (signature of Authorized Representative and Affiant)

ACKNOWLEDGEMENT OF RECEIPT OF ADDENDA FORM

RFP NO.: RFP #91105-MC

DUE DATE: PHASE 1 DUE DATE AT <<PHASE1DUETIME>>

RFP FOR: ON CALL GENERAL CONTRACTING SERVICES FOR UNIVERSITY OF MARYLAND, BALTIMORE

NAME OF PROPOSER: _____

ACKNOWLEDGEMENT OF RECEIPT OF ADDENDA

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

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

As stated in the RFP documents, this form is included in our Technical Proposal.

Signature: _____
Name Printed: _____
Title: _____
Date: _____

END OF ADDENDA FORM

H-1A PART 2 – for Master Agreement
MBE UTILIZATION AND FAIR SOLICITATION AFFIDAVIT FOR THE
MASTER CONTRACT 91105- MC

This MBE Utilization and Fair Solicitation Affidavit must be completed and included with the bid/proposal. If the bidder/offeror fails to accurately complete and submit this Affidavit with the Technical 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 unless the inaccuracy is determined to be the result of a minor irregularity that is waived or cured in accordance with COMAR 21.06.02.04.

In connection with the bid/proposal submitted in response to Solicitation No. 91105-MC, I affirm the following:

1. **MBE Participation**

– I understand that UMB may establish an MBE Goal and/or subgoals for those projects over \$200,000 and reserves the right to set an MBE goal for any design projects \$200,000 or less under the resulting Master Contracting Agreements. If I am awarded a Master Contracting Agreement I acknowledge and intend to meet IN FULL both the overall certified Minority Business Enterprise (MBE) participation goal and all of the subgoals that may be established.

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 understand that these will apply to any task order under the resulting Master Consulting Contract, when a MBE goal and/or subgoals are established by UMB, and (ii) the information contained in the MBE Utilization & Fair Solicitation Affidavit 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 PHASE 1 TECHNICAL PROPOSAL FOR ON
CALL GENERAL CONTRACTING SERVICES FOR UMB**

CORPORATE DIVERSITY ADDENDUM

Effective August 18, 2022

Instructions: Pursuant to § 11-101 of the Tax-Property Article, certain entities must provide a Corporate Diversity Addendum, which contains certain diversity data specified by Code of Maryland Regulation (“COMAR”) 24.01.07. To determine whether you must provide the Corporate Diversity Addendum, please complete Worksheet A.

Failure to complete the Addendum or failure to meet the criteria therein, may prohibit you from receiving certain State benefits. For more information, refer to COMAR 24.01.07.

Please be aware, the information you include in the Corporate Diversity Addendum may be shared with other Maryland State agencies.

Worksheet A

1. Are you an entity that is required to be in good standing with the State Department of Assessments and Taxation (“SDAT”), and meets the following definition:

(1) A commercial enterprise or business that is formed in the State or registered with SDAT to do business in the State; or (2) a corporation, foundation, school, hospital, or other legal entity for which none of the net earnings inure to the benefit of any private shareholder or individual holding an interest in the entity?

Yes – Proceed to Question 2

No – STOP. You are not required to complete the Corporate Diversity Addendum. Complete Affidavit (I) on Page 2 and submit with the application for a State benefit.

2. Check the appropriate box if you are any of the following types of entities:

Sole Proprietor

Limited liability company (LLC) owned by a single member

Privately held company if at least 75% of the company’s shareholders are family members

Entity that (1) has an annual operating budget or annual sales less than \$5,000,000; and (2) has not qualified for or applied for, and does not intend to apply for, a State benefit, as defined below

Did you check at least one box?

Yes – STOP. You are not required to complete the Corporate Diversity Addendum. Complete Affidavit (I) on Page 2 and submit with the application for a State benefit.

No – Proceed to the Corporate Diversity Addendum on Page 3.

“State benefit” means (1) a State capital grant funding totaling \$1.0 million or more in a single fiscal year (July 1 – June 30); (2) State tax credits totaling \$1.0 million or more in a single fiscal year (July 1 – June 30); or (3) the receipt of a State contract with a total value of \$1.0 million or more. “State contract” means a contract that (a) resulted from a competitive procurement process and (b) is not federally funded in any way.

AFFIDAVIT (I)

UNDER PENALTIES OF PERJURY, I hereby swear that the entity submitting this report is not required to submit the Corporate Diversity Addendum.

Entity/Business Name:

Federal Employer Identification Number (FEIN):

SDAT Identification Number:

Name of Entity's representative completing this Affidavit (print clearly):

Title: _____

Signature: _____

Date: _____

CORPORATE DIVERSITY ADDENDUM

Instructions: If you are required to provide the Corporate Diversity Addendum, completing Affidavit (II) on Page 4 is mandatory. A response to both items is required. Failure to provide a complete response to either of the two items may render the entity ineligible for certain state benefits. For more information, refer to COMAR 24.01.07.

I. A response to Item I is required. However, the content of your response has no bearing on eligibility for State benefits. Select below the underrepresented communities which are represented on this entity's board or in executive leadership. Select all that apply.

- Alaska Native
- Asian-Pacific Islander
- Black or African-American
- Hispanic or Latino
- Native American
- Native Hawaiian
- One or more of the racial or ethnic groups listed above
- None of the above

II. Check the box next to the following Corporate Diversity indicators that pertain to this entity. *Note that references to underrepresented communities refers to communities listed in Item I above. The examples provided are intended to be representative, not exclusive.* Select all that apply.

1. Entity maintains written workforce diversity, equity, and inclusion ("DEI") policies.
2. Entity offers DEI training to its workforce.
3. Entity assigns a senior-level employee as responsible for oversight and direction of the entity's DEI efforts.
4. Entity reports performance of its workforce DEI programs on its website.
5. Entity includes DEI objectives in performance plans of its managers.
6. Entity publishes information on its website about its DEI commitments and efforts.
7. Entity provides career advancement training/opportunities for employees, including members of underrepresented communities.
8. Entity collaborates with educational institutions, or is an educational institution, serving significant or predominant student populations or affinity groups from underrepresented communities (e.g., career fairs, scholarships, internships, apprenticeships).
9. Entity has a supplier diversity policy that provides business opportunities to diverse suppliers, including businesses owned by members of underrepresented communities, such as State-certified Minority Business Enterprises ("MBEs").
10. Entity publicizes its procurement opportunities to encourage participation from businesses owned by members of underrepresented communities.
11. Entity measures percentage of contract dollars awarded to businesses owned by members of underrepresented communities, including MBEs.
12. Entity provides support and outreach to underrepresented communities and/or organizations that represent underrepresented communities.

Only entities that meet at least 33% (4) of the Corporate Diversity Indicators above, by checking all the applicable boxes, qualify to receive a State benefit.

AFFIDAVIT (II)

UNDER PENALTIES OF PERJURY, I declare that I have examined this Corporate Diversity Addendum, and to the best of my knowledge and belief, it is true, correct, and complete.

Entity/Business Name:

Federal Employer Identification Number (FEIN):

SDAT Identification Number:

Name of Entity's representative completing this Affidavit (print clearly):

Title:

Signature

Date

Penalties for Submitting False Information. If information provided by the entity in this form or by other means is materially false, the entity and the individual providing the false information may be subject to criminal prosecution for perjury, procurement fraud, and other crimes and may be subject to debarment, and all State benefits or contracts to the entity made in reliance upon the inaccurate form or other information may be void or subject to termination for default. See COMAR 24.01.07.

ATTACHMENT B- SAMPLE PRICE PROPOSAL FORM

PROPOSAL NO. RFP 91105 MC
PRICE PROPOSAL DUE:
PRICE PROPOSAL FOR: ON CALL GENERAL CONTRACTING SERVICES

NAME OF PROPOSER: _____
FID NUMBER: _____

SAMPLE PRICE PROPOSAL

DATE _____

Ms. Michelle Compton
UMB Construction Facilities Strategic Acquisition
220 Arch Street, Room 02-100
Baltimore, MD 21201

Dear Ms. Compton:

The undersigned, hereby submits a Price Proposal to provide all labor, material, equipment, and supervision for the On Call General Contracting Services for the University of Maryland, Baltimore as set forth in **RFP 91105 MC dated 4/25/2024** and Addenda as follows:

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

Having received clarification on all matters upon which any doubt arose, the undersigned proposes to perform the services as described in the bid documents. By signing and submitting this response, undersigned hereby agrees to all the terms and conditions of the RFP documents.

We understand that the University reserves the right to make the award of the proposal for all items, or any parts, thereof, to one or more proposers as set forth in detail under the information furnished in the specified documents.

We confirm that we understand that per the solicitation documents the Field Superintendent is required on site 100% of the time for the duration of the project.

We understand that the University is requesting prices in two sections. The first section is for fixed hourly labor rates as well as material, subcontractor, and equipment rental on a cost plus fixed percentage mark-up. The second section requires that each contractor apply these rates on three sample jobs.

ALL BLANKS ARE TO BE COMPLETED. NO ALTERATIONS, ADDITIONS, OR DELETIONS ARE TO BE MADE TO THIS FORM:

SECTION I
Hourly Rates - Material, Subcontractor and Equipment Rental Mark-Ups

1. Material Mark-up: % over invoice price for materials. Invoice price includes any sales tax and supplier freight/handling/delivery charges. (Material Mark-up is to cover GC's overhead and profit only. GC may not add any charge for handling materials. Time & labor of GC's employees assigned to University work related to ordering, picking up, or handling materials are included in the GC's labor charges for the job.) Note: Material Mark-up applies for material a) delivered directly from a supplier, b) picked up by the GC personnel from a supplier and delivered to the job site, and/or c) pulled from a GC's company stock.

2. Equipment Rental Mark-up: % over invoice price. Invoice price includes any sales tax and supplier freight/handling/delivery charges. (Equipment Rental Mark-Up is to cover GC's overhead and profit only. GC may not add any charge for handling rental equipment. Time & labor of GC's employees assigned to University work related to ordering, picking up, or handling rental equipment are included in the GC's labor charges for the job.) In some cases, with prior University approval, rental costs may be applicable to On Call GC owned equipment.

3. Subcontractor Mark-up (Maximum 10%) : % over invoice (Subcontractor costs to include all coordination time, set up, etc.)

4. Labor Rates (in accordance with Section 2.4 Rates and Mark-ups) Reg. Rate* Overtime Rate

Labor Category	Regular Hourly Rate	Overtime Hourly Rate
Principal Coordinator	\$	\$
Project Manager	\$	\$
Superintendent	\$	\$
Carpenter	\$	\$
Laborer	\$	\$
Other trade people for work performed by own forces		

*NOTE: REGULAR RATES WILL BE UTILIZED FOR PLANNED, SCHEDULED WORK ACTIVITIES. REGULAR TIME IS DEFINED AS MONDAY THROUGH FRIDAY, AT EIGHT HOURS OR LESS HOURS WORKED PER DAY/EVENING.

** OVERTIME WILL BE PAID FOR ANY HOURS WORKED BEYOND EIGHT HOURS PER DAY/EVENING MONDAY THROUGH FRIDAY. OVERTIME WILL ALSO BE PAID FOR WORK ON SATURDAY, SUNDAY AND HOLIDAYS. HOLIDAYS ARE NEW YEAR'S DAY, MARTIN LUTHER KING JR. BIRTHDAY, MEMORIAL DAY, INDEPENDENCE DAY, LABOR DAY, VETERAN'S DAY, THANKSGIVING DAY, AND CHRISTMAS DAY. All OVERTIME HOURS MUST BE APPROVED BY THE UNIVERSITY IN WRITING PRIOR TO WORKING SUCH HOURS.

5.0 EQUIPMENT List of large equipment owned or rented by the firm which USM institutions would be charged if used on this contract.

Name of Equipment	Rate Per Day or Hour

NOTE: All pricing must be based on initial contract term which is September 1, 2024 – August 31, 2027. There is one additional two year option term on this contract at the sole option of the University.

The Proposer shall state all contract pricing in dollars and cents, in both words and figures. If there is any question or difference between the written words and figures, the written words shall govern.

All previously submitted forms with our Technical Proposal, including the Technical Proposal itself, Bid/Proposal Affidavit, Minority Business Enterprise Forms, and Acknowledgement of Receipt of Addenda form remain in full force and effect.

As well, all terms and conditions as set forth in the RFP documents, including those of the April 25, 2024 documents issued to solicit Technical Proposals, all addenda since that issuance, our Technical Proposal submitted in response to the original solicitation, and our Price Proposal are a part of any resulting contract.

SECTION II
Sample Project Quotations – Job 1-3

6.0 ON-CALL GENERAL CONTRACTING LABOR QUOTATION

The hourly rates + % mark-ups must match the rates quoted on lines 1 through 5.0 (Self performed work is not being utilized)

JOB #1

	Labor Category	Hourly Rate		# of Hours	Total
6.1	Principal Coordinator	\$	X	6	
6.2	Project Manager	\$	X	15	
6.3	Superintendent	\$	X	60	
6.4	Carpenter	\$	X	60	
6.5	Laborer	\$	X	60	

6.6. Material Mark-up Percent % + \$11,000.00 = \$ _____

6.7. Sub-Contractor % + \$17,831.00 = \$ _____
 Mark-up Percent (10% Maximum)

(6.1 – 6.7) Subtotal \$ _____

JOB #2

	Labor Category	Hourly Rate		# of Hours	Total
6.8	Principal Coordinator	\$	X	95	
6.9	Project Manager	\$	X	300	
7.0	Superintendent	\$	X	1120	
7.1	Carpenter	\$	X	400	
7.2	Laborer	\$	X	600	

7.3 Material Mark-up Percent % + \$95,431.00 = \$ _____

7.4 Sub-Contractor % + \$49,120.00 = \$ _____
 Mark-up Percent (10% max)

(6.8 – 7.4) Subtotal \$ _____

JOB #3 (Prevailing Wage applies to Laborer position)

	Labor Category	Hourly Rate		# of Hours	Total
7.5	Principal Coordinator	\$	X	40	
7.6	Project Manager	\$	X	120	
7.7	Superintendent	\$	X	2100	
7.8	Laborer	\$	X	2100	

7.9 Material Mark-up Percent % + \$710,000.00 = \$ _____

8.0 Sub-Contractor % + \$265,787.00 = \$ _____
Mark-up Percent (10% max)

(7.5 - 8.0) Subtotal \$ _____

GRAND TOTAL IN WORDS AND NUMBERS (SUM OF LINES 6.1 - 8.0 above)

Words

Numbers

(Signatures should be placed on following signature page.)

NOTE: Sample laborer wage rate is \$17.21/Hr

The bidder represents, and it is a condition precedent to acceptance of this bid, that the bidder 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 _____
TELEPHONE NO. _____
In Presence of Witness: _____ as to BY _____

(Partner)
Printed Name: _____
_____ as to BY _____

(Partner)
Printed Name: _____
_____ as to 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

ATTACHMENT C

- UMB Construction Contract
- Contract Affidavit

CONTRACT # C _____

This Standard Form of Construction Contract (SFCC) is made as of the ____ day of _____ 2024, by and between the University of Maryland at Baltimore ("University") and _____, Maryland _____, FID # _____ ("Contractor").

WITNESSETH:

1. The University has issued a procurement solicitation in connection with a certain project known as _____ at _____.

2. The Contractor has responded to that solicitation and has been awarded the contract to perform work in connection with that project.

Now therefore for good and valuable consideration the parties agree as follows:

1. The Contract consists of the following documents:

- RFP/ # _____ Document dated / / ;
- RFP/ # _____ Addendum #1 dated
- _____'s Technical Proposal dated / / ; and,
- _____'s Bid Price or Price Proposal dated / / .

all of which are collectively referred to as the Contract Documents all of which are incorporated into this SFCC as it is fully set forth.

2. The Contractor shall completely perform its obligations under the Contract in a timely manner.

3. The Contractor shall diligently prosecute the Work from and after the issuance of the Purchase Order and shall substantially complete the work not later than ____ () months for the completion of the project.

4. Total monetary compensation to the Contractor under the Contract is \$ _____.

(Signatures on following page)

CONTRACT #C _____

IN WITNESS WHEREOF the parties hereto have executed this Contract the day and year first above written

Contractor

(Witness) By: _____ (Seal)

Print Name: _____

Title: _____

University of Maryland, Baltimore

(Witness) By: _____

Print Name: _____

Title: _____

BUDGETARY DATA:

Requisition No. _____

Fund: _____

Budget: _____

Approved by Board of Public Works: Item No. _____ Date: _____

Revised 9/18/96

Approved for legal form and sufficiency on 9/25/96 by Rachel E. Zelkind, Assistant Attorney General

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 \$200,000 or more shall, within 30 days of the time when the aggregate value of the contracts, leases, or other agreements reaches \$200,000, file with the Secretary of State of Maryland certain specified information to include disclosure of beneficial ownership of the business.

D. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, Election Law Article, 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)

ATTACHMENT D

- General Conditions Listing of Non-Personnel Items

GENERAL CONDITIONS ITEMS TO BE HANDLED BY THE SELECTED ON CALL GENERAL CONTRACTING FIRM DURING CONSTRUCTION ARE TO INCLUDE THE FOLLOWING ITEMS DEPENDENT ON THE SIZE OF THE PROJECT (THAT IS, NOT ALL ITEMS WILL BE APPLICABLE TO ALL PROJECTS):

MOBILIZATION

- Move on site and establish appropriate field offices.

TEMPORARY FACILITIES

- Provide Field office trailer(s).
- Provide Field office furniture.
- Provide Field office telephones.
- Provide Field office electrical power connections.
- Include Field office heating costs other than University supplied electricity.
- Include temporary sanitary facilities costs.

TOOLS/EQUIPMENT

- Provide small power/hand tools and equipment as may be required by the GC's field staff only.
- Establish and maintain an appropriate shipping/ receiving system.
- Provide miscellaneous materials.

SAFETY/CLEAN-UP

- Establish and maintain an onsite safety program throughout construction phases.
- Install and maintain temporary facilities as required:
 - safety barricades, partitions, ladders, stairs, site fencing, signage, and traffic control devices.
- Provide daily site clean-up, trash collection and
- Removal as well as final clean-up.
- Provide and maintain site security throughout project construction phases.
- Provide site snow removal as may be required throughout project construction phases.

GENERAL

- Provide temporary Weather and Dust protection (That which must practically remain outside of sub-contracts) as may be required during construction phases.
- Provide progress photos throughout project construction Phases and as may be required to document special conditions.
- Provide field personnel pagers and two-way radios throughout construction phases, as applicable.
- Include travel expenses for field personnel related to offsite equipment/materials surveys and inspections.
- Provide 100% performance and payment bonds for the project (if applicable)
- Provide Builder's Risk Insurance as applicable (all other insurance coverage as required by the UMB Standard General Conditions to be included in the contractor's labor rates.)

CLOSE-OUT/DE-MOBILIZATION

- Provide final site/facility clean-up.
- Provide final release of liens for all contracts.
- Provide record set drawings to the University for use by the A/E in record drawing preparation.

ATTACHMENT E

Directory of Campus Maps for UMB, UMBC, TU, UB, AND Coppin State

Campus Maps can be found on the following web sites:

- **University of Maryland, Baltimore:** <http://www.umaryland.edu/maps/>
- **UMBC:** <http://about.umbc.edu/visitors-guide/campus-map/>
- **Towson University:** <https://www.towson.edu/maps/>
- **University of Baltimore:** <http://www.ubalt.edu/map/>
- **Coppin State University:** <https://www.coppin.edu/directions>

ATTACHMENT F
(ISSUED AS A SPERATE ATTACHMENT)

ON CALL FORMS

- Field Superintendent's Report
- Application and Certificate for Payment
- Contractor's Final Release of Lien Affidavit
- Performance and Payment Bonds (if the project is over \$100,000)
- Apprenticeship Training Fund Verification Contractor Affidavit
- Apprenticeship Training Fund Verification Subcontractor Affidavit

ATTACHMENT G

**GENERAL CONTRACTING SERVICES
DAILY FIELD SUPERINTENDENT REPORT**

PROJECT NAME: _____ PROJECT #: _____

CONTRACTOR: _____

PROJECT MANAGER: _____

SUPERINTENDENT: _____ CELL / PAGER #: _____

REPORT NUMBER: _____ DATE: _____ HRS WORKED: _____

WEATHER: _____ TEMP AM: _____ PM: _____

O/T APPLICABLE? _____ IF SO, O/T HOURS WORKED: _____

SITE CONDITIONS: _____

GENERAL CONTRACTOR AND / OR SUBCONTRACTORS:

MECHANICAL: _____ TOTAL NO. OF PERSONNEL _____

DAILY PROGRESS: _____

PAINTING: _____ TOTAL NO. OF PERSONNEL _____

DAILY PROGRESS: _____

DRYWALL: _____ TOTAL NO. OF PERSONNEL _____

DAILY PROGRESS: _____

ELECTRICAL: _____ TOTAL NO. OF PERSONNEL _____

DAILY PROGRESS: _____

CARPENTRY: _____ TOTAL NO. OF PERSONNEL _____

DAILY PROGRESS: _____

ATC CONTROLS: _____ TOTAL NO. OF PERSONNEL _____

DAILY PROGRESS: _____

OTHER: _____ TOTAL NO. OF PERSONNEL _____

DAILY PROGRESS: _____

MATERIALS DELIVERED TO SITE: _____

WORK PERFORMED: _____

REMARKS / ACTION: _____

COMPLETED BY: _____ TITLE: _____

SIGNATURE: _____ DATE: _____

FROM (Contractor):

TO (Owner):
 University Of Maryland, Baltimore
 Design and Construction
 620 W. Lexington St. - 6th Floor
 Baltimore, MD 21201

PROJECT:
 UMB PROJECT #:
 APPLICATION NUMBER:
 APPLICATION DATE:
 PERIOD TO:

CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for payment, as shown below, in connection with the Contract
 Continuation Sheet is attached

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates of Payments were issued and payments received from the Owner, and the current payment herein is now due.

1 ORIGINAL CONTRACT SUM		\$	-
2 Net change by Change Orders		\$	-
3 CONTRACT SUM TO DATE (Line 1 + 2)		\$	-
4 TOTAL COMPLETED & STORED TO DATE	(Column I on Continuation Sheet)	\$	-
5 RETAINAGE:			
a 5 % of Completed Work		\$	-
(Column F + G on Continuation Sheet)			
b 5 % of Stored Material		\$	-
(Column H on Continuation Sheet)			
Total Retainage	(Lines 5a + 5b or Total in Column K of Continuation Sheet)	\$	-
6 TOTAL EARNED LESS RETAINAGE (Line 4 less Line 5 Total)		\$	-
7 LESS PREVIOUS CERTIFICATES FOR PAYMENT		\$	-
(Line 6 from prior Certificate)			
8 CURRENT PAYMENT DUE		\$	-
9 BALANCE TO FINISH, INCLUDING RETAINAGE		\$	-
(Line 3 less Line 6)			

CONTRACTOR:

By: _____ Date: _____
 Signature

Printed Name & Title: _____

State of: _____ County of: _____

Subscribed and sworn to before me this ____ day of _____, 2011.

Notary Public:

My Commission expires:

CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on the on-site observations and the data comprising the application, the Owner certifies to the best of their knowledge, information and beliefs, the Work has progressed as indicated, the quality of Work is in accordance with the Contract Documents, and the Contractor is entitled to payment in the AMOUNT CERTIFIED

AMOUNT CERTIFIED \$ _____

(Attached explanation if amount certified differs from the amount applied. Initial all figures on this Application and on the Continuation Sheet that are changed to conform with the amount certified.)

OWNER:

By: _____ Date: _____

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein, issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Owner	\$ -	\$ -
Total approved this Month	\$ -	\$ -
TOTALS	\$ -	\$ -
NET CHANGES by Change Order	\$ -	\$ -

FROM (Contractor):

TO (Owner):
 University Of Maryland, Baltimore
 Design and Construction
 620 W. Lexington St. - 6th Floor
 Baltimore, MD 21201

PROJECT:
 UMB PROJECT #:
 APPLICATION NUMBER:
 APPLICATION DATE:
 PERIOD TO:

A ITEM NO	B Description Of Work	C SCHEDULED VALUE	D Contract Amendment Value	E Current Value	F COMPLETED WORK		H STORED MATERIALS (NOT IN F or G)	I TOTAL COMPLETE & STORED TO DATE (F+G+H)	J % (I/E)	K BALANCE TO FINISH (E-I)	L RETAINAGE
					PREVIOUS APPL.	THIS PERIOD					
	SCHEDULE OF VALUES DETAIL SHEET										
1		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -	\$ -
2		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -	\$ -
3		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -	\$ -
4		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -	\$ -
5		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -	\$ -
6		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -	\$ -
7		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -	\$ -
8		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -	\$ -
9		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -	\$ -
10		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -	\$ -
11		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -	\$ -
12		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -	\$ -
13		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -	\$ -
14		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -	\$ -
15		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -	\$ -
16		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -	\$ -
17		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -	\$ -
18		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -	\$ -
19		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -	\$ -
20		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -	\$ -
	TOTAL	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -	\$ -

CONTRACTOR'S FINAL RELEASE AND AFFIDAVIT

TO: UNIVERSITY OF MARYLAND, BALTIMORE
CONSTRUCTION FACILITIES STRATEGIC
ACQUISITIONS
220 ARCH STREET, ROOM 02-100
BALTIMORE, MARYLAND 21201

DATE: _____

RE: PURCHASE ORDER DATE: _____

PROJECT: _____

The undersigned Contractor, in consideration of final payment as set forth herein, hereby waives all mechanic's liens and rights to file mechanic's liens and generally releases, and agrees to indemnify and save harmless, the University of Maryland, Baltimore and The State of Maryland, their successors and assigns, from all causes of action, suits, debts, contracts, damages, judgments, decrees, claims, demands, liens, rights to assert liens, awards and expenses, including attorney's fees, in law, equity or otherwise, which Contractor, its subcontractors and suppliers, their successors and assigns and any persons claiming through them or based upon their acts or omissions ever had, now have or hereafter may have against the University of Maryland, Baltimore and The State of Maryland, and any real property or improvements of the University of Maryland, Baltimore and The State of Maryland, from the beginning of the work to the date of this release, in any manner relating to or arising in connection with the above referenced contract or project.

Contractor represents that the amounts set forth below are correct and that the amount of the current payment due will promptly be applied to full payment of all outstanding amounts due from Contractor to others in connection with the Project.

Final Contract Amount	\$ _____
Less Previous Payments	\$ _____
Final Payment Due	\$ _____

I hereby certify, under penalties of perjury, that the information and representations set forth above are true and accurate to the best of my knowledge, information and belief.

By: _____ Address _____
(Name of Contractor)

By: _____
(Signature, Printed Name and Title), Duly Authorized Agent of Contractor

STATE OF _____)
CITY OF _____) to wit:

On this ____ day of _____, 20____, appeared before me _____
and he/she made oath in due form of law that the facts, information and representations set forth in the foregoing Contractor's Final Release and Affidavit, are true and accurate to the best of his/her knowledge,

Notary Public

My Commission expires: _____

PERFORMANCE BOND

<i>Principal</i>	<i>Business Address of Principal</i>
<i>Surety</i>	<i>Obligee</i>
<i>a corporation of the State of</i>	STATE OF MARYLAND
<i>and authorized to do business in the State of Maryland</i>	<i>By and through the following</i>
<i>Penal Sum of Bond (express in words and figures)</i>	<i>Administration</i>
	<i>Date of Contract</i>
	, 20.
<i>Description of Contract</i>	<i>Date Bond Executed</i>
	, 20.
<i>Contract Number:</i>	

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

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

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

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

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

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

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

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

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

In Presence of Witness

Individual Principal

as to

(SEAL)

In Presence of Witness

Co-Partnership Principal

.....
(Name of Co-Partnership)

(SEAL)

as to By:

(SEAL)

as to

(SEAL)

as to

(SEAL)

Corporate Principal

Attest:

.....
(Name of Corporation)

.....
Corporate Secretary

By:
President

AFFIX
CORPORATE
SEAL

(Surety)

Attest:

(SEAL) By:

AFFIX
CORPORATE
SEAL

Title:

Signature

Bonding Agent's Name:
(Business Address of Surety)

Agent's Address:

(Contractor shall fill in all blank spaces above this line)

Approved as to legal form and sufficiency

this . . . day of 20

.....
Asst. Attorney General

PAYMENT BOND

Principal	Business Address of Principal
Surety	Obligee
a corporation of the State of and authorized to do business in the State of Maryland	STATE OF MARYLAND By and through the following Administration
Penal Sum of Bond (express in words and figures)	Date of Contract
	, 20.
Description of Contract	Date Bond Executed
Contract Number:	20.

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

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

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

NOW, THEREFORE, the condition of this obligation is such that if the Principal shall promptly make payment to all claimants as hereinafter defined, for all labor and materials furnished, supplied and reasonably required for use in the performance of the Contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect, subject to the following conditions:

1. A claimant is defined to be any and all of those persons supplying labor and materials (including lessors of the equipment to the extent of the fair market value thereof) to the Principal or its subcontractors and sub-contractors in the prosecution of the work provided for in the Contract, entitled to the protection provided by Section 9-113 of the Real Property Article of the Annotated Code of Maryland, as from time to time amended.

2. The above named Principal and Surety hereby jointly and severally agree with the Obligee that every claimant as herein defined, who has not been paid in full may, pursuant to and when in compliance with the provisions of the aforesaid Section 9-113, sue on this Bond for the use of such claimant, prosecute the suit to final judgement for such sum or sums as may be justly due claimant and have execution thereon. The Obligee shall not be liable for the payment of any costs or expenses of any such suit.

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

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

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

In Presence of Witness *Individual Principal*

as to *(SEAL)*

In Presence of Witness *Co-Partnership Principal*

..... *(SEAL)*

(Name of Co-Partnership)

..... *as to* *By:*..... *(SEAL)*

. *as to* *(SEAL)*

..... *as to* *(SEAL)*

Corporate Principal

Attest: *(Name of Corporation)*

..... *as to* *By:* *AFFIX*
CORPORATE
SEAL

Corporate Secretary *President*

(Surety)

Attest: *(SEAL)* *By:* . *AFFIX*
CORPORATE
SEAL

Title: . .

Signature

Bonding Agent's Name: *(Business Address of Surety)*

Agent's Address

(Contractor shall fill in all blank spaces above this line) *Approved as to legal form and sufficiency*

this *day of.* *20*

.....
Asst. Attorney General

**APPRENTICESHIP TRAINING FUND VERIFICATION CONTRACTOR
AFFIDAVIT**

Submit this document to the Procurement Officer within 10 Working Days of Notification of Apparent Awardee.

In conjunction with the bid or offer submitted in response to Project Name: On-Call General Contracting Services, Solicitation No. 91105 MC I I affirm one of the following with regards to apprenticeship contributions:

- Participates in an apprenticeship training program for each covered craft in which I will employ persons for the covered project.
- Will make payments to the Fund.
- Will make payments in amounts determined under §17-605 of the State Finance and Procurement Annotate Code of Maryland, to a registered apprenticeship program or to an organization that has registered apprenticeship programs for the purpose of supporting these programs.

I understand that if I fail to return this 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.

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.

Firm Name

Signature of Affiant

Address

Printed Name, Title

City, State, Zip

Phone

Fax

E-Mail

Date

**APPRENTICESHIP TRAINING FUND VERIFICATION SUBCONTRACTOR
AFFIDAVIT**

Submit this document to the Procurement Officer within 10 Working Days of Notification of Apparent Awardee by Contractor.

In conjunction with the bid or offer submitted in response to Project Name: On-Call General Contracting Services, Solicitation No. 91105 MC, I affirm one of the following with regards to apprenticeship contributions:

- Participates in an apprenticeship training program for each covered craft in which I will employ persons for the covered project.
- Will make payments to the Fund.
- Will make payments in amounts determined under §17-605 of the State Finance and Procurement Annotate Code of Maryland, to a registered apprenticeship program or to an organization that has registered apprenticeship programs for the purpose of supporting these programs.

I understand that if I fail to return this 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.

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.

Firm Name

Signature of Affiant

Address

Printed Name, Title

City, State, Zip

Phone

Fax

E-Mail

Date

INTENTIONALLY OMITTED

ATTACHMENT H: MBE INSTRUCTIONS AND FORMS
(issued as a separate file)

For any task order where an MBE goal or subgoal established, the following forms shall be completed.

Contents:

MBE H-1A PART 1 - Instructions

MBE H-1A PART 2 - MBE Utilization and Fair Solicitation Affidavit

To be included with Phase 1 Technical Submission- located in Attachment A

MBE H-1A PART 3 - MBE Participation Schedule

(issued as a separate file upon Task Order award)

MBE H-1A PART 4 - Signature Page

(issued as a separate file upon Task Order award)

MBE H-1B – Waiver Guidance

N/A

MBE H-1C - Good Faith Efforts Documentation to Support Waiver Request

N/A

MBE H-2 - Outreach Efforts Compliance Statement

N/A

MBE H-3 - MBE Subcontractor/MBE Prime Project Participation Statement

(issued as a separate file upon Task Order award)

MBE H-4 - Prime Contractor Paid/Unpaid Invoice Report / MBE Prime Contractor Report

(issued as a separate file upon Task Order award)

MBE H-5 – MBE Subcontractor Contractor Paid/Unpaid Invoice Report

(issued as a separate file upon Task order award)

MBE H-6 - Liquidated Damages Provisions for Construction Contracts Containing MBE Participation Goals

ATTACHMENT I: SOLICITATION TERMS AND CONDITIONS

1. Submission Format

Submittal of the RFP proposal(s) should be prepared in a clear and concise manner and should be compiled in the order listed in Section 3 Articles for each submission with page numbers for ease of reference by the Evaluation Committee. It is preferable that tabs separating each section/aspect of the response be utilized. The University prefers electronic PDF format that is organized with bookmarks. The contents of each submission must address the requested items in Section 3 Articles, and additionally must include the appropriate completed forms as indicated. Failure to include any of the items listed may result in the submission being found non-responsive and/or will affect the evaluation of your firm's submission.

By submitting electronically, the proposing firm is granting the UMB permission to provide the submission to appropriate staff for evaluation purposes.

2. Due Date and Time

The Phase 1 Submittal shall be submitted via email to the address(es) provided in the Section 1 Solicitation schedule with the 'sent' email time to be no later than the date and time indicated in the Section 1 Solicitation Schedule. Terms of the Bid/Proposal Affidavit included in this package (see Attachment A for this form) apply, which must be executed by each responding proposer and submitted with the proposer's technical proposal.

Phase 2 Technical Proposals are at the University's sole discretion and will only be requested from those proposers who are shortlisted following the Phase 2 technical evaluation per the RFP. Interviews/Oral Presentations are also at the University's sole discretion only for those proposers who are shortlisted following the Phase 2 technical evaluation per the RFP.

Price Proposals will only be requested from the short-listed firms following the Phase 2 Technical evaluation per the RFP. The due date for Price Proposals will be set upon completion of the technical evaluation(s), however, the University anticipates the fee proposal due date to be as provided in the Section 1 Solicitation Schedule.

Proposers shall allow sufficient time in submitting responses to the RFP to ensure timely receipt by the Issuing Office via the email site (proc-oncallbids@umaryland.edu). **Due to file size constraints (25 MB), multiple files may need to be submitted by the Proposer.** Proposals or unsolicited amendments to proposals arriving after the due date and time will not be considered.

3. Late Proposals

Any proposal, request for modification, or request for withdrawal that is not received at the designated location, time, and date set forth in the Solicitation Schedule will be deemed late and will not be considered. Delivery of the proposal to the specified location at the prescribed time and date is the sole responsibility of the proposer.

4. Multiple/Alternative Proposals

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

5. Modifications and Withdrawals of Proposals

Withdrawal of, or modifications to, proposals are effective only if written notice 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.

No withdrawal or modifications will be accepted after the time proposals are due.

6. Pre-Proposal Conference

A Pre-Proposal Conference will be held at the date, time, and location indicated on the Solicitation Schedule. Attendance is not mandatory, but it is strongly recommended as clarifications may be provided.

7. Issuing Office

The Issuing Office shall be the **sole** point of contact with the University for purposes of the preparation and submittal of the RFP proposal. The Issuing Office is:

University of Maryland, Baltimore
Construction & Facilities Strategic Acquisitions

All questions on this procurement are to be directed via email to the following individuals:

Primary Point of Contact: Michelle Compton: mcompton@umaryland.edu

The UMB Procurement Officer is:

Jack Mumma
Executive Director, Procurement Officer
Construction & Facilities Strategic Acquisitions
University of Maryland, Baltimore
jmumma@umaryland.edu

8. Questions, Inquiries, Clarifications, and Addenda

Questions and inquiries shall be submitted to the Issuing Office in writing no later than the date and time indicated in the Solicitation Schedule.

Should a Proposer find discrepancies in the RFP documents or be in doubt as to the meaning or intent of any part thereof, the Proposer must, prior to the question deadline listed in the Solicitation Schedule, request clarification in writing from the Issuing Office, who will issue a written Addendum to the Contract. 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; only written Addenda will be binding. Any Addenda resulting from these requests will be posted on the University's bid board. The Proposer shall acknowledge the receipt of all addenda in the Acknowledgement of Receipt of Addenda Form.

9. Signing Of Forms

The Transmittal letter(s) must be signed by an individual who is authorized to bind his firm to all statements, including services and financials, contained in the Proposal.

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.

10. Site Investigation – Not applicable to this procurement. Site Investigations may be required on a task order basis.

11. Right to Reject Proposals and Waive Irregularities

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 State of Maryland. For the same reason, the University reserves the right to waive any minor irregularity in a proposal.

12. Cancellation of the RFP

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

13. 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. Further, the University reserves the right to make a whole award, multiple awards, a partial award, or no award at all.

14. 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 Public Information Act, General Provisions Article, Title 4 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 the entire proposal with a proprietary statement.

15. Financial Disclosure by Persons Doing Business with the State

Proposers providing materials, equipment, supplies or services to the University must comply with Section 13-221 of the State Finance & Procurement Article of the Annotated Code of Maryland which requires that every business which enters into contracts, leases or other agreements with the University and receives in the aggregate \$200,000, or more, during a calendar year shall, within 30 days of the time when the \$200,000 is reached, file with the Secretary of State a list containing the names and address of its resident agent, each of its officers, and any individual who has beneficial ownership of the contracting business.

16. Arrearages

By submitting a response to this solicitation, a firm 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.

17. Economy of Preparation and Incurred Expenses

Proposals should be prepared simply and economically, providing a straightforward, concise description of the proposer's offer to meet the requirements of the solicitation. The University will not be responsible for any costs incurred by any firm in preparation and submittal of a proposal.

18. 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 proposer's proposal only and shall not include a discussion of a competing proposer'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.

19. Maryland Public Ethics Law

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, General Provisions Article, Title 5, Subtitle 5.

If the proposer has any questions concerning application of the State Ethics Law to the proposer's participation in this procurement, it is incumbent upon the proposer to seek advice from the State Ethics Commission: Executive Director, State Ethics Commission, 45 Calvert Street, 3rd Floor, Annapolis, Maryland 21401, 410-260-7770, 877-669-6085.

The procurement officer may refer any issue raised by a bid or proposal to the State Ethics Commission. The procurement officer may require the proposer 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.

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.

20. Use of Affiliates to Avoid Taxation on Income from State Contracts

Contractor agrees that it will not reduce its income subject to tax by claiming a deduction for royalty or similar payments for trademarks, trade names, or intangible property that shift income from the contractor to an affiliated entity that does not file Maryland income tax returns. Contractor agrees that any affiliated entity receiving such payments is doing business in Maryland and is required to file Maryland income tax returns. Contractor agrees that during the course of this contract: (1) it shall not make any such royalty or similar payments to any affiliated company; but (2) 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 may claim a deduction against Maryland income tax for such payments only if the

affiliated company receiving the royalty or similar payment files its Maryland income tax return 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.

21. Payments to Contractors by Electronic Funds Transfer

If the annual dollar value of this contract will exceed \$200,000.00, the Proposer 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 Proposer agrees to accept payments by EFT. The selected Proposer 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:

[https://marylandtaxes.gov/statepayroll/Static_Files/Payroll_Officers_Vendor_Deductions/2018%20GADX10Form20150615%20\(2\).pdf](https://marylandtaxes.gov/statepayroll/Static_Files/Payroll_Officers_Vendor_Deductions/2018%20GADX10Form20150615%20(2).pdf)

22. Minority Business Enterprise Notice

Minority Business Enterprises are encouraged to respond to this solicitation. For more information on the State's MBE program or questions related to certification, please contact MDOT's Office of Minority Business Enterprise/Equal Opportunity, telephone 410-865-1269 or view the MDOT website <http://www.mdot.state.md.us/mbe/index.html>. **UMB intends to set a MBE goal and/or subgoals for those projects over \$200,000 and reserves the right to set an MBE goal for any commissioning projects \$200,000 or less). Refer to Attachment H of the Solicitation for information and required forms regarding the MBE Program.**

1. Establishment of Goal and Subgoals.

All GCs who are awarded a Master Contract acknowledge that they understand that on a task order by task order basis, the University will establish MBE goals for Task Orders over \$50,000 and/or subgoals for Task Orders over \$200,000 in accordance with the State of Maryland MBE Program. Refer to Attachment H of the Solicitation for information and required forms regarding the MBE Program.

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 (H-1A Part 2 must submit with Phase 1 Technical Proposal) & MBE Participation Schedule
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 H-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 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 retainage, submit a final report in affidavit form and under penalty of perjury, of all payments made to, or withheld from MBE subcontractors.

23. Insurance Requirements

See insurance requirements in Section VII Standard General Conditions for GC dated 10/31/17 and Section VII Standard General Conditions for Maintenance Contracts dated 12/2020.

24. Payment and Performance Bonds - See insurance requirements in Section VII Standard General Conditions for GC dated 10/31/17

25. 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 Phase 1 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.

26. 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.

27. 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, if any, in accordance with guidelines issued by the Maryland Department of General Services. These guidelines can be found on the eMaryland Marketplace Advantage website at <https://emma.maryland.gov/>.

28. Contract Documents

All of the materials listed in the RFP table of contents 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 GC, 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.

29. Available Record Documents:

The University's Facilities Management, upon request, will make accessible to the Proposers any available record drawings, utility plans, and other data pertinent to existing conditions to the extent that such material is available. The University, however, can offer no assurances that such drawings, property description, or other data are accurate, current or complete.

Such documents must be used, or copied, at the University Office of Facilities Management. The Proposers shall assume the responsibility for cost of reproduction as well as replacing any damaged documents.

30. 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.

APPENDIX A

The following definitions will be utilized when determine whether a project is “Construction” or “Maintenance” pursuant to UMB Procurement Policies and Procedures, Rev. 7/1/2016, SECTION XI - DEFINITIONS:

- CONSTRUCTION:
 1. Construction means the process of building, altering, improving, or demolishing any structure, building, or other improvement to real property.
 2. Construction DOES NOT include the maintenance or routine operation of an existing improvement to real property, or activities related to an energy performance contract.
- MAINTENANCE: Any work necessary for the continued operation or upkeep of a facility, structure, building, grounds, or building system, including built-in equipment or an in-ground system, that is not included within the definition of construction. Maintenance includes, but is not limited to, painting; re-roofing; hazardous material removal; building envelope repairs; small renovations; landscaping/grounds keeping; renovations to elevators; carpeting; building system renovations, replacements and/or repairs and equipment, such as HVAC (e.g. chillers, boilers, air handlers, etc.); electrical, telecommunications, etc.; security guard; janitorial/housekeeping; staffing for facilities and equipment maintenance contracts; etc.

	MAINTENANCE	CONSTRUCTION
BPW Approval for Contract Awards under \$1M	May need to bring to BPW if the fund source requires	May need to bring to BPW if the fund source requires
BPW Approval for Contract Awards over \$1M	May need to bring to BPW if the fund source requires	X
Prevailing Wage for Contracts over \$500k		X
Apprenticeship Affidavit		X
Payment/Performance Bonds for contracts over \$100k	X	X
Builders Risk Insurance for contracts over \$100k	X	X
MBE Subgoals (when Subgoals are applicable)	9% - African American 3%- Hispanic American 2% - Asian American	8%- African American 11% - Women Owned

****PLEASE NOTE THESE DEFINITIONS AND REQUIREMENTS ARE SUBJECT TO CHANGE DUE TO UPDATES TO THE UMB PROCUREMENT POLICIES & PROCEDURES, CODE OF MARYLAND REGULATIONS, STATE FINANCE AND PROCUREMENT ARTICLE, OR ANY OTHER CHANGE TO POLICY, STATUTE OR CODE THAT MAY IMPACT THIS GUIDANCE**

SECTION 00800

**UNIVERSITY OF MARYLAND, BALTIMORE COUNTY
AMENDMENTS TO THE UNIVERSITY OF MARYLAND, BALTIMORE
STANDARD GENERAL CONDITIONS OF CONSTRUCTION CONTRACT DATED OCTOBER 12, 2020
FOR CONTRACTS WITH GENERAL CONTRACTORS
03/28/2022 REVISION**

1. Table of Contents: Revise Section titles as follows:
 - a. "2.07 SHOP DRAWINGS" to read "**2.07 SHOP DRAWINGS AND SUBMITTALS**".
 - b. "4.12 AUTHORITY OF OFFICE OF ENVIRONMENTAL HEALTH AND SAFETY" to read "**4.12 AUTHORITY OF OFFICE OF ENVIRONMENTAL SAFETY AND HEALTH**".
2. General: Replace personal pronouns in the locations indicated below:
 - a. Revise "his" to read "**its**":
 1. Section 1.01 Definitions, Paragraph defining "Payment Bond and Performance Bond", Line 2 and line 3.
 2. Paragraph 1.03 C, Line 1.
 3. Paragraph 2.01 B, Line 2.
 4. Paragraph 4.05 A, Line 1.
 5. Paragraph 5.02 A, Line 6; and 5.02 C, Line 1.
 6. Paragraph 6.15 E, Line 2.
 7. Paragraph 7.06 A, Line 1; and 7.06 D, Line 2.
 8. Paragraph 7.11 C, Line 7; and 7.11 G, Line 3.
 9. Paragraph 7.12 A, Line 9.
 10. Paragraph 7.13 B, Line 1.
 11. Paragraph 7.18 B, Line 5.
 12. Subparagraph 8.02 A (8), Line 1; and 8.02 C (6), Line 7.
 13. Section 8.03, Line 1.
 14. Paragraph 8.10 B, Line 1.
 15. Paragraph 9.01 D, Line 1; and 9.01 I, Line 1 ("**its**" organization).
 16. Paragraph 9.03 B, Line 2.
 17. Paragraph 9.04 A, Line 3.
 18. Subparagraphs 9.04 B (4), Line 1; and 9.04 C (2), Line 2; and 9.04 C (4), Line 1; and 9.04 C (7), Line 2.
 19. Paragraph 9.05 A, Line 2.
 20. Subparagraph 9.05 C (6), Line 3.

- b. Revise “his” to read **“the Contractor’s”**:
 - 1. Paragraph 1.03 A, Line 1; and 1.03 B, Line 1 and 2.
 - 2. Subparagraph 1.03 E (3), Line 2.
 - 3. Paragraph 4.03 A, Line 4.
 - 4. Paragraph 6.08 A, Line 4.
 - 5. Paragraph 7.11 C, Line 2; and 7.11 K, Line 5.
 - 6. Paragraph 7.12 A, Line 4 and Line 10.
 - 7. Paragraph 8.01 E, Line 7.
- c. Revise “his” to read **“the Procurement Officer’s”**:
 - 1. Section 6.17, Line 11.
 - 2. Paragraph 7.09 B, Line 3.
 - 3. Subparagraph 7.12 D (2), Line 5 and Line 6.
- d. Revise “his” to read **“their”**:
 - 1. Paragraph 9.01 A, Line 4.
 - 2. Paragraph 9.01 I, Line 2 (“**their**” other duties).
 - 3. Section 9.08, Line 4.
- e. Revise “he” to read **“the Contractor”**:
 - 1. Section 1.01 Definitions, Paragraph defining “Notice to Proceed”, Line 1.
 - 2. Section 1.01 Definitions, Paragraph defining “Payment Bond and Performance Bond”, Line 3.
 - 3. Paragraph 1.03 A, Line 1.
 - 4. Paragraph 2.05 B, Line 2.
 - 5. Subparagraph 2.06 A (2), Line 10.
 - 6. Section 3.04, Line 1 and line 6.
 - 7. Paragraph 4.04 A, Line 2, Line 4, and Line 5.
 - 8. Paragraph 5.01 A, Line 3; and 5.01 G, Line 2.
 - 9. Subparagraph 5.02 D (2), Line 1.
 - 10. Paragraph 5.03 A, Line 2.
 - 11. Paragraph 6.01 E, Line 2.
 - 12. Section 6.03, Line 1 and Line 7.
 - 13. Paragraph 6.16 A, Line 2.
 - 14. Paragraph 7.11 G, Line 4.
 - 15. Paragraph 7.12 A, Line 9.
 - 16. Paragraph 7.17 C, Line 1.
 - 17. Subparagraph 8.01 E (1), Line 2.
 - 18. Paragraph 9.01 H, Line 3.
 - 19. Paragraph 9.03 B, Line 1 and Line 2.

- f. Revise “he” to read “**it**” in Paragraph 2.01 B, Line 2.
- g. Revise “he” to read “**the Procurement Officer**”:
 - 1. Paragraph 3.03 A, Line 6.
 - 2. Paragraph 7.09 A, Line 2.
 - 3. Subparagraph 7.11 B (5), Line 3.
- h. Revise “he” to read “**the Architect**” in Paragraph 4.01 A, Line 2, Line 3, Line 4, and Line 6 (twice).
- i. Revise “he” to read “**the Inspector**” in Paragraph 4.06 A, Line 4, Line 5, and Line 7.
- j. Revise “he” to read “**the Superintendent**” in Paragraph 9.01 G, Line 29.
- k. Revise “himself” to read “**itself**” in Section 3.04, Line 1, Line 7, and Line 11.
- l. Revise “him” to read “**the Contractor**”:
 - 1. Section 1.01 Definitions; Paragraph defining “Contract”, Line 3.
 - 2. Section 3.04, Line 11.
 - 3. Section 3.05, Line 3.
 - 4. Paragraph 4.03 B, Line 5.
 - 5. Paragraph 4.05 A, Line 4.
 - 6. Paragraph 5.06 C, Line 2.
 - 7. Section 7.10, Line 2.
 - 8. Section 7.16, Line 1.
 - 9. Subparagraph 8.02 A (2), Line 4.
 - 10. Section 9.02 E, Line 8.
 - 11. Section 9.03 B, Line 3.
 - 12. Subparagraph 9.04 C.2, Line 4.
- m. Revise “him” to read “**the entity**” in Section 1.01 Definitions, Paragraph defining “Written Notice”, Line 3.
- n. Revise “him” to read “**the Procurement Officer**” in Paragraph 7.11 C, Line 8.
- o. Revise “him” to read “**the subcontractor**” in Subparagraph 9.04 C.2, Line 3.
- 3. Section 1.01 Definitions: Add the following defined term and definition:
 - b. **UMBC: University of Maryland, Baltimore County.**
- 4. Section 1.01 Definitions: Revise “Related Sections” and its definition to read:

“Related Requirements” – A phrase used in the specifications to identify documents or other specification sections with specific information that the reader might expect to find in this Section, but is specified elsewhere. The purpose of this cross referencing is for information only. Coordination of the Work is the duty of the Contractor.
- 5. Paragraph 1.03 D: Delete second sentence regarding Contractor’s Confined Space Program. Safety requirements are included elsewhere in the Contract Documents.

6. Subparagraph 1.03 E (2): Revise second sentence to read:

The Contractor shall not cut or otherwise alter the work of the University and of such separate contractor **unless so directed and authorized in writing by the University.**
7. Subparagraph 1.03 G (1):
 - a. In line 3, revise “University and any Client University” to read:

University of Maryland, Baltimore and the University of Maryland, Baltimore County
 - b. In line 23, revise “University, the State, and the Client University,” to read:

University of Maryland, Baltimore; the University of Maryland, Baltimore County; and the State;
8. Section 2.02:
 - a. Revise the title of this Section to “Execution of Contract”
 - b. Delete the first paragraph in its entirety and replace with the following:

The University’s Department of Procurement and Strategic Sourcing shall forward the formal contract and other applicable contract forms (including, but not limited to, Contract Affidavit, Minority Business Enterprise forms per the solicitation, and Performance and Payment Bond forms) to the Contractor for signature. The signed Contract and applicable forms and required insurance certificates/ documents are to be provided to the Procurement Officer within ten (10) days after receipt of the Contract.
 - c. Delete the second paragraph in its entirety and replace with the following:

After receipt of the properly executed contract forms, and other applicable forms, the Department of Procurement & Strategic Sourcing will execute the Contract and forward the Contractor a copy.
 - d. Delete the following from the third paragraph: “**and/or Contract Amendment**”.
9. Paragraph 2.04 D: In line 2, revise “UMB’s Department of Procurement Services” to read:

University’s Department of Procurement and Strategic Sourcing
10. Subparagraph 2.06 A (1): In line 4, revise “Document” to read “**Documents**”.
11. Subparagraph 2.06 A (4): Starting in line 2, add the following sentence:

Portions of the Contract Documents may be distributed by the University in electronic format. Such electronic distribution shall identify the applicable portions of the Contract Documents.
12. Subparagraph 2.06 A (7)(d): Revise “Divisions 1 through 16” to read “**Divisions 01 through 48**”.
13. Subparagraph 2.06 B (1): Revise subparagraph to read:

Copies Furnished: The University will furnish the Contractor with electronic copies of the drawings and specifications in PDF format. Refer to Division 01 General Requirements of individual projects for terms, conditions, and availability of construction documents in other formats.
14. Section 2.07 SHOP DRAWINGS: Revise title of Section to read:

SHOP DRAWINGS AND SUBMITTALS

15. Paragraph 2.07 A: Revise paragraph to read:
- After checking and verifying field measurements and after complying with applicable procedures specified in the Contract Documents, Contractor shall submit shop drawings and other submittals to the Architect for review and approval. Submit in accordance with Contractor's schedule. Shop drawings and other submittals shall bear a stamp or specific written indication that Contractor has satisfied their responsibility under the Contract Documents with respect to the review of such submissions. The data on shop drawings or other submittals must be complete with respect to quantities, dimensions, specified performance and/or design criteria, materials and similar data to enable the Architect to review the information as required. These documents shall be prepared in conformity with the best practice and standards for the trade concerned. Due regard shall be given to speed and economy of fabrication and erection.**
16. Paragraph 2.07 B: Revise paragraph to read:
- Shop drawings and other submittals must show the name of the project and the University project number.**
17. Paragraph 2.07 C: Revise paragraph to read:
- Size of Drawings: Shop drawings and details submitted to the Architect for approval shall be provided on sheets that are of a size comparable to the size provided by the Architect. Drawings shall be of a logical order and legible. Shop detail provided on a letter-size sheet (8-1/2 by 11-inches) is acceptable for small schedules and details.**
18. Paragraph 2.07 E: Delete paragraph regarding number of copies required.
19. Paragraph 2.07 F: In line 1, revise "shop drawings" to read "**shop drawings and other submittals**".
20. Paragraph 2.07 H: In line 2 and line 3, revise "drawings" to read "**shop drawings or other submittals**".
21. Paragraph 2.07 I: In line 3, revise "drawings" to read "**shop drawings and other submittals**".
22. Paragraph 2.07 J: In line 2 and line 3, revise "shop drawings" to read "**shop drawings or other submittals**".
23. Paragraph 2.07 J: In line 5 and 6, revise "within five (5) days of the additional or less cost involved" to read:
- "within 5-days of receiving the rejection or notation on the shop drawing or submittal."**
24. Section 3.01 INTENT OF THE CONTRACT DOCUMENTS: Beginning on line 2, add the following sentence:
- The intent of the Contract Documents includes provisions of Section 2.06 CONTRACT DOCUMENTS.**
25. **Paragraph 3.06 (Changes in the Work) (G): In line 5, change \$2,000.00 to \$5,000.00**
26. Paragraph 4.01 A:
- a. In line 2, revise "drawings" to read "**drawings or specifications**".
- b. In line 8, revise "insure" to read "**ensure**".
27. Paragraph 4.04 A: In line 5, add the following after "discover":
- and request an interpretation.**
28. Paragraph 4.04 B: In line 1, Revise "every other week" to read "**as indicated**".

29. Paragraph 4.06 D: Delete the last sentence regarding “any work performed during the inspector’s absence”.
30. Paragraph 4.09 B: Starting in line 1, revise the second sentence to read:
The Contractor shall use all reasonable precautionary measures to avoid damage or loss that might result from accumulations of water. Concentrations of drainage shall be diverted or dispensed when necessary to prevent damage to excavation, embankments, surfaces, structures, or property.
31. Section 4.12 Authority of Office of Environmental Health and Safety: Revise section to read:
4.12 AUTHORITY OF UNIVERSITY OFFICE OF ENVIRONMENTAL SAFETY AND HEALTH
A. The University Office of Environmental Safety and Health (ESH) provides various services and tools to support a healthy and safe environment for the university community. ESH is authorized to inspect the work being performed and materials being furnished. In the event ESH learns of an unsafe condition, ESH is authorized to suspend the work (after notice to the Procurement Officer) until the unsafe condition is cured by the Contractor. Unsafe condition shall mean any practice or physical condition that represents a significant risk of injury or property damage.
B. When confined space work is required, Contractor shall submit proof of a Confined Space Program to the University Office of Environmental Safety and Health.
C. Contractor shall submit a Fall Protection and Prevention Plan to the University Office of Environmental Safety and Health not less than 10-days before commencing work involving fall hazards. The Fall Protection and Prevention Plan shall be site specific and address fall hazards in the work place during different phases of construction. Contractor shall provide a Fall Protection and Prevention Plan prepared and signed by a qualified person who, by possession of a recognized degree, certificate or professional standing, or who by extensive knowledge, training and experience, has successfully demonstrated their ability to solve or resolve problems relating to fall prevention and protection. Plan shall include fall protection and prevention systems, equipment and methods employed for each phase of work, roles and responsibilities, assisted rescue, self-rescue and evacuation procedures, training requirements, and monitoring methods. Keep and maintain the accepted Fall Protection and Prevention Plan documentation at the job site for the duration of the project.
32. Paragraph 4.13 A: Revise paragraph to read:
Provide identification badges or other means acceptable to the University to visibly identify employees and subcontractors at the project site.
33. Paragraph 4.13 B: Revise paragraph to read:
Commercial vehicles and mobile equipment shall be clearly identified on both sides of the vehicle or equipment with the name of its owner or operator.
34. Paragraph 4.13 C: Add this paragraph as follows: (as UMB GCs do not have a 4.13C any longer)
The Contractor shall require its personnel and trade contractors’ personnel to wear identification badges at all times on campus.
35. Section 4.15 Parking: Revise section to read:
Parking of employees of the Contractor and their subcontractors shall be the responsibility of the Contractor and their subcontractors. Follow parking rules of the University for Contractor parking.

35. Section 4.16 Keys: Revise Section to read:
For temporary use of University keys, Contractor shall follow University procedures for key control and temporary usage. University keys are required to be signed-out and returned on a daily basis.
36. Section 4.17 Press Releases: In line 2, revise “UMB” to read “**University**” (twice).
37. Paragraph 5.01 H: Revise paragraph to read:
When no specification is cited and the quality, processing, composition, or method of installation of an element of work is only generally referred to, the Contractor shall notify the Architect and request a clarification as necessary for the proper execution of the Work.
38. Paragraph 5.01 I: Revise paragraph to read:
Safety Data Sheets: The Contractor shall provide the University Office of ESH with Safety Data Sheets (SDSs) for products and materials which contain hazardous chemicals subject to OSHA Hazard Communication Standard (HCS) (29 CFR 1910.1200(g)). Contractor shall submit a binder of applicable SDSs within 45-days of issuance of the Notice-to-Proceed. Contractor shall ensure that the SDSs are readily accessible to workers and University representatives for all hazardous chemicals in the workplace. In the event that the University Office of ESH has questions arising from any SDS, the University Office of ESH has the right to contact the Contractor, vendor, or manufacturer of the product or material in question.
39. Paragraph 5.02 C: In line 1, revise “confirm” to read “**confine**”.
40. Paragraph 5.09 C: In line 2, revise “EHS” to read “**University Office of ESH**”.
41. Paragraph 5.09 D: Revise first sentence to read:
Contractor is advised to remain alert to the possibility of encountering hazardous materials during the course of the Work.
42. Paragraph 6.01 A: In line 6, revise “University, and any Client University” to read “**University of Maryland, Baltimore and the University of Maryland, Baltimore County**”.
43. Paragraph 6.02 A: In line 4, revise “Cutting and Welding permit” to read “**Hot Work Permit**”.
44. Paragraph 6.02 C: In lines 1 and 2, delete “(i.e., Air and Radiation Management Administration boiler permits, etc.)”.
45. Paragraph 6.02 D: Revise paragraph to read:
Before starting work involving welding, burning, brazing, open flames, or similar activities producing heat or sparks, obtain a Hot Work Permit from University Office of Environmental Safety and Health. Hot Work Permit must be requested not less than two full working days prior to the requested work. Post a copy of the Hot Work Permit near the location of the work involved. Notify the University Office of Environmental Safety and Health when work under the permit is completed.
46. Section 6.03:
a. In line 2, revise “University, and any Client University” to read “**University of Maryland, Baltimore and the University of Maryland, Baltimore County**”.
b. In line 3 and 4, delete “or Client University” and replace with University of Maryland, Baltimore and the University of Maryland, Baltimore County.
47. Paragraph 6.04 C:
a. In line 2, revise “the reserves” to read “**the University reserves**”.

- b. In line 3, revise “by the in” to read “**by the University in**”.
- 48. Paragraph 6.04 E: In line 5, revise “University’s” to read “**University**”.
- 49. Paragraph 6.05 A:
 - a. In lines 1, 2, 3, and 4, delete “by the Contractor in connection solely with Worker’s or Workmen’s Compensation Insurance and from and after the execution of the Contract Amendment by the Contractor in connection with all insurance enumerated in this Section 6.05A”
 - b. In line 10, revise “any Client University” to read “**the University of Maryland, Baltimore County**”.
 - c. In line 11, revise “insured’s” to read “**insureds**”.
 - d. Beginning in line 14, delete sentence starting with “all insurance except . . .”.
- 50. Paragraph 6.06 A:
 - a. In line 2, revise “any Client University” to read “**the University of Maryland, Baltimore County**”.
 - b. In line 5, revise “the Client University” to read “the University of Maryland, Baltimore County.”.
- 51. Paragraph 6.08 C: In line 1, revise “insure” to read “**ensure**”.
- 52. (Delete as Section 6.22 (Reciprocity) has been “intentionally omitted.”)
- 53. Section 7.02 A: In line 1, add “**Where indicated in the specifications,**” to the beginning of the first sentence and delete “For all University construction contracts over \$50,000.”.
- 54. Paragraph 7.05 C: In line 3, revise “will” to read “**shall**”.
- 55. Deleted as there is no line with “if is” in it.
- 56. Paragraph 7.07 A: Starting in line 3, revise “unless otherwise agreed to in writing by the Procurement Officer in consultation with the University’s Project Manager” to read: **unless otherwise stated in the specifications**
- 57. Paragraph 7.07 F:
 - a. In line 9, revise “review and the” to read “**reviewed at the**”.
 - b. In line 11, revise “to be in attendance” to read “**to be notified**”.
- 58. Paragraph 7.11 A: In line 4, delete “, a Client University,”.
- 59. Paragraph 7.11 K: Starting in line 6, revise “word terminate” to read “**work terminated**”.
- 60. Paragraph 7.17 B: In line 2, revise “operator” to read “**operate**”.
- 61. Paragraph 8.01 A: In line 6, revise “will” to read “**shall**”.
- 62. Paragraph 8.02 B:
 - a. In line 2, revise “Subcontractor” to read “**Contractor**”.
 - b. Beginning in line 3, revise “Subcontractor’s representative and the Architect” to read “**Contractor’s representative and the University**”.
- 63. Paragraph 8.02 C: In line 2, revise “Subcontractor” to read “**Contractor**”.
- 64. Subparagraph 8.02 C (6): In line 6, revise “Subcontractor” to read “**Contractor**”.
- 65. Section 8.03: In line 6, delete “(through subcontractors)”.

66. Paragraph 8.04 A: Starting in line 3, revise second sentence to read:
In approving such partial payments, there shall be retained five percent (5%) of the estimated amount due until completion and acceptance of all work covered by the contract.
67. Paragraph 8.04 B: Revise paragraph to read:
The Contractor shall use application for payment forms acceptable to the University.
68. Section 8.05: In line 1, revise “injured or done” to read **“injured or not done”**.
69. Subparagraph 8.06 A (7): In line 2, revise “University of the State or claim by” to read:
“University or the State or claimed by”.
70. Subparagraph 8.06 A (10): Delete “and Section 400 of the RFP”.
71. Paragraph 8.07 A: Starting in line 3, revise “The Contractor shall have promptly replaced and re-executed his own work” to read:
“The Contractor shall promptly replace and re-execute condemned materials and work.”
72. Subparagraph 9.01 E (2): In line 3, revise “new or cold” to read **“new or old”**.
73. Subparagraph 9.01 E (3): in Line 4, revise ““Work” management” to read:
““Work” or management”.
74. Language revised and no long includes “or the at State”.
75. Paragraph 9.02 E: In line 1, delete “insofar as possible,” which is repeated from line 1.
76. Subparagraph 9.02 G (12): In Line 1, revise “insure” to read **“ensure”**.
77. Paragraph 9.03 C: In line 2, revise “ant tier,” to read **“any tier”**.
78. Paragraph 9.06 B: Revise to read as follows:
The Contractor shall electronically submit completed copies of certified payroll records to the Commissioner of Labor & Industry, Prevailing Wage Unit in accordance with current instructions from the Prevailing Wage Unit. The Contractor shall be responsible for certifying and submitting to the Commissioner of Labor and Industry, Prevailing Wage Unit all their subcontractors' payroll records covering work performed directly at the work site. By certifying the payroll records, the Contractor is attesting to the fact that the wage rates contained in the payroll records are not less than those established by the Commissioner as set forth in the contract, the classification set forth for each worker or apprentice conforms with the work performed, and the contractor or subcontractor has complied with the provisions of the law.
79. Paragraph 9.06 C: Revise to read as follows:
Payroll records must be electronically submitted and received by the Prevailing Wage Unit within 14 calendar days after the end of each payroll period. If the Contractor is delinquent in submitting payroll records, processing of partial payment estimates may be held in abeyance pending receipt of the records by the Commissioner of Labor and Industry, Prevailing Wage Unit. In addition, if the Contractor is delinquent in submitting the payroll records, the Contractor shall be liable to the University for liquidated damages. Liquidated damages are \$10.00 for each calendar day the records are late.

END OF DOCUMENT

UNIVERSITY OF MARYLAND, BALTIMORE

STANDARD GENERAL CONDITIONS OF
CONTRACTS FOR MAINTENANCE PROJECTS

DECEMBER 2020 EDITION
("STANDARD MAINTENANCE GENERAL CONDITIONS")

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SECTION 1: DEFINITIONS AND RESPONSIBILITIES

1.01 DEFINITIONS

Addendum -- a revision or clarification to the original forms, conditions, Specifications, and Drawings, made prior to execution of the Contract. Addendums are part of the Solicitation Documents.

The Architect/Engineer (A/E) -- A person registered in the State of Maryland to practice Architecture or Engineering and commissioned by the University to serve as Architect/Engineer on the project. If the University has not contracted with an independent Architect/ Engineer for a project, then the UMB Office of Facilities and Operations and Operations may be referred to by the term "Architect/Engineer." Whenever the contract documents are prepared by a registered Engineer in independent practice, and a separate Architect is not employed, each reference to "Architect/Engineer" refers to the Engineer. For a Design/Build project, the term "Architect/Engineer" refers to the person registered in the State of Maryland to practice and commissioned by the Design/Build Contractor to serve as Architect/Engineer on the project.

Change Order -- A written order signed by the responsible procurement officer, directing a Contractor to make changes in implementation of the project.

Contract -- The written agreement executed between the University and the Contractor, covering the performance of the work and furnishing of labor, services, equipment, and materials, and by which the University is obligated to compensate the Contractor at the mutually established and accepted rate or price. The Contract shall include the RFP, the Contractor's proposal, contract forms and bonds, these Standard Conditions, and special conditions pertaining to work on the campus involved, specifications, addenda, supplemental specifications, all special provisions, all technical provisions, all plans and notices to proceed, any written change orders that are required to complete the work in an acceptable manner, including authorized extensions, and any other matter agreed to as being part of the contract.

Contract Time and Completion Date -- The number of calendar days shown in the specifications indicating the time allowed for the completion of the Work contemplated in the Contract. In case a calendar date of completion is shown, instead of the number of calendar days, such work shall be completed on or before that date.

Contractor -- The person or organization having direct contractual relation with the University for the execution of the "Work." If the Contractor is comprised of more than one legal entity, each entity shall be jointly and severally liable.

Contractor's Project Manager -- The Project Manager is a Contractor employee who will be involved from Notice to Proceed to Construction Close-Out (Completion of the Punch List work included with the Substantial Completion Certificate). This person will be responsible for the overall management, administration, communication, and completion of the project.

Critical Path Method (CPM) - A scheduling/management tool showing a network of work elements or activities for a maintenance project.

Drawings -- The Drawings are the graphic and pictorial portions of the Contract Documents, wherever located and whenever issued, showing the design, location and dimensions of the work, generally including plans, elevations, sections, details, schedules, and diagrams.

Notice to Proceed -- A written notice to the Contractor of the date on which the Contractor shall begin the prosecution of the work to be done under the Contract.

Owner -- means the University as defined below.

Performance Bond and Payment Bond -- The security in the form approved by the University and executed by the Contractor and Contractor's surety, and paid for by the Contractor, as a guarantee that Contractor will pay in full all bills and accounts for materials and labor used in the project, as provided by law.

Plans -- The official drawings approved by the University for the project.

The President -- Shall be understood to mean the President of the University of Maryland, Baltimore or his or her designee.

Procurement Officer -- The person designated by the President and authorized by the University in accordance with law or regulations to formulate, enter into, or administer contracts or make written determinations and findings with respect to the contracts.

Project -- The Project is the total work performed under the Contract Documents, which may be the whole or a part and which may include work by the University or by separate contractors.

Repair -- Where used in these contract documents shall be taken to mean to restore after injury, deterioration, or wear; to mend, to renovate by such means as appropriate and to supply such materials and labor as necessary to render the item to be repaired sound, solid, true, plumb, square, even, smooth, and fully serviceable. Upon completion of such repair it must be, unless otherwise stated, rendered to such conditions as to present a first class finished work, or in instances where the repaired item serves as a base for additional finish, the repaired work must be such as to permit a first class finish to be applied without extra cost to the University. When the word "repair" is used in connection with machinery or mechanical equipment it shall mean, in addition to the above, rendering the equipment completely serviceable and efficient ready for normal use for which it was intended originally.

Specifications -- The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, building systems, standards, and workmanship for the work, and performances of related services.

State -- Refers to the State of Maryland.

Solicitation – Refers to the solicitation issued by UMB to procure the Contractor.

Subcontractor -- As used under the Contract Documents includes only those having a direct contract with the Contractor. This term includes one who furnishes material worked to a special design according to the plans and specifications for the "Work." The term excludes one who merely furnishes material not so worked.

Superintendent— The Superintendent is a Contractor employee who will be involved as required by the Project from Notice to Proceed to Construction Close-Out. This person will be responsible for the overall direct supervision of the subcontractors, daily coordination of the work on site, maintenance of the schedule, on site management such as material delivery, outages, etc. The Superintendent should have knowledge of safety hazards and MOSHA requirements and the ability to interpret contract plans and specifications for the subcontractors.

Surety -- The corporate body bound with and for the Contractor, for the full and complete performance of the Contract and for the payment of all debts pertaining to the work.

University -- Refers to the University of Maryland, Baltimore, a body corporate and an agency and instrumentality of the State of Maryland.

University's Project Manager – The University's representative, generally, but not always, from the Office of Facilities and Operations,, who is involved from Notice to Proceed to Project Close-Out (Completion of the Punch List work included with the Substantial Completion Certificate). This person will be responsible for the University for the overall management, administration, communication and completion of this Project.

Work -- Work shall be understood to mean the furnishing of all labor, materials, equipment, services, utilities, and other incidentals necessary to the successful completion of the project and the carrying out of all the duties and obligations imposed by the Contract.

1.02 UNIVERSITY'S RESPONSIBILITIES

A. The University shall furnish, upon request, any available record drawings, utility plans and locations, and other data pertinent to existing conditions to the extent that such material is available. However, the University does not provide any assurances that such drawings, property description, or other data are accurate, current or complete.

B. Information or services under the University's control shall be furnished by the University with reasonable promptness to avoid delay in the orderly progress of the work.

C. The foregoing are in addition to other duties and responsibilities of the University enumerated in the Contract.

D. The University and State 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 Contract.

1.03 CONTRACTOR'S RESPONSIBILITIES

Notwithstanding anything in the Contract to the contrary, the following items are in addition to the Contractor's obligations set forth elsewhere in the Contract.

A. The Contractor shall supervise and direct the work, using Contractor's best skill and attention. Contractor shall be solely responsible for all means, methods, techniques, sequences, and procedures and for coordinating all portions of the work under the Contract.

B. The Contractor shall be responsible to the University for acts and omissions of Contractor's employees, subcontractors and their agents and employees, and other persons performing any of the work under a Contract with the Contractor.

C. The Contractor shall not be relieved from Contractor's obligation to perform the work in accordance with the Contract documents either by the Contract or by inspections, tests, or approvals required or performed by persons other than the Contractor.

D. The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits, and the Contract documents, and shall not unreasonably encumber the site with any materials or equipment. The Contractor shall submit proof of a Confined Space Program to the University's Office of Environmental Safety & Health (ESH), 1000 Hilltop Circle, Baltimore, MD 21250.

E. Cutting and Patching of Work:

(1) The Contractor shall be responsible for all cutting, fitting, or patching that may be required to complete the Work or to make its several parts fit together properly in accordance with the Contract Documents.

(2) The Contractor shall not alter, damage or endanger any portion of the work of the University or any separate contractors by cutting, patching, or otherwise altering any work or by excavation. The Contractor shall not cut or otherwise alter the work of the University and of such separate Contractor.

(3) The Contractor shall not unreasonably withhold consent to cutting or otherwise altering the work from the University or any separate contractor.

F. The Contractor shall perform all work in accordance with the lines, grades, typical cross sections, dimensions, and other data required by the Contract documents or as modified by written orders, including the furnishing of all materials, services, implements, machinery, equipment, tools, supplies, transportation, labor, and all other items necessary for the satisfactory prosecution and completion of the project in full compliance with the requirements of the Contract documents.

G. Indemnification:

(1) To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the University System of Maryland, the University, the State of Maryland, the

Architect/Engineer, 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:

(a) 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 there from; and

(b) is caused in whole or in part by any negligent or willful act or omission of the Contractor, any Subcontractor or sub-subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder.

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. This obligation is not intended to be or to imply a waiver of the sovereign immunity of the University or the State, or any local jurisdiction where the Project is located.

(2) In any and all claims against the University or the State of Maryland or the Architect/Engineer or any of their agents or employees by any employee of the Contractor, any Subcontractor or sub-subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Contractor or any Subcontractor of sub-subcontractor under worker's or workmen's compensation acts, disability benefit acts or other employee benefit acts.

(3) The obligations of the Contractor under this paragraph shall not extend to the liability of the Architect/Engineer arising out of:

(a) the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs, or specifications; or

(b) the giving of or the failure to give directions or instructions by the Architect or the Engineer, or their agents or employees providing such giving or failure to give is the primary cause of the injury or damage.

SECTION 2: AWARD AND EXECUTION OF CONTRACT

2.01 AWARD OF CONTRACT

A. The University reserves the right to cancel the award of any Contract before the execution of the Contract by all parties without any liability on its part.

B. When a Contract is jointly bid, all Contractors bidding will be held jointly and severally responsible for the duties of the Contractor.

2.02 EXECUTION OF CONTRACT

After a Notice of Award has been issued for a project, the University's Construction and Facilities Procurement shall forward the formal contract form and any other applicable forms (i.e., Contract Affidavit, Minority Business Participation Exhibits, Performance and Payment bonds, etc.) to the Contractor for execution, and from time to time shall forward to Contractor the forms required in connection with any contract amendment. The Contractor shall execute the contract form or the contract amendment, as applicable, and other applicable forms and return the forms, along with required certificates of insurance to the Procurement Department within ten (10) days after receipt.

After receipt of the properly executed contract form and other applicable contract forms, the Construction and Facilities Procurement will execute the contract or the contract amendment, as applicable, and forward the Contractor a copy.

The contract or the contract amendment shall not be in effect until and unless the document is executed by all parties and, if applicable, approved by appropriate external parties as may be required by the University and the State.

2.03 PERFORMANCE AND PAYMENT BONDS

This section is applicable when the initial cost for a project exceeds \$100,000, or when otherwise expressly provided in the solicitation document or contract form.

- A. The Contractor shall provide executed performance and payment bonds in the format required by COMAR 21.07.02.10. The premium for the bonds shall be paid by the Contractor.
- B. The bonds shall be in the full amount of the contract price.
- C. The Contractor shall increase the amount of the bonds from time to time to reflect increases in the contract price. For such additions, the Contractor will be reimbursed by the University for the amount of the actual increased bond cost.
- D. The Contractor shall deliver fully executed 100% Performance and Payment bonds to the University's Procurement Department within ten (10) working days after the contract document is sent to the Contractor.

2.04 FAILURE TO EXECUTE CONTRACT

As applicable, failure of the Contractor to execute the contract or the contract amendment and file acceptable bonds in a timely manner shall be just cause for the payment of liquidated damages guaranteed by the bid bond or other securities at an amount equal to the increased contract price paid by the University as a result of the failure of the Contractor to execute the contract, or the contract amendment.

In the event that the damages sustained by the University exceed the amount of the bid security, the University reserves the right to proceed against the Contractor for the balance of the University's damages.

2.05 CERTIFICATIONS REQUIRED BY LAW

A. Cost and Price Certification:

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

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

(b) a change order or contract modification expected to exceed \$100,000, or a smaller amount set by the University.

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

B. Contingent Fee Prohibition:

At the time the parties execute the contract, if not sooner, the Contractor shall truthfully execute a certificate on a form provided by the University which provides that Contractor has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee or agent or paid consideration to any person which is contingent upon the making of the contract.

C. Corporate Registration and Tax Payment Certification:

The Contractor, represents and warrants, and shall truthfully execute a certificate on a form provided by the University during the solicitation process: (1) that Contractor is qualified to do business in the State of Maryland and that Contractor will take such action as, from time to time may be necessary, to remain qualified; and (2) that Contractor is not in arrears with respect to the payment of any monies due and owing the University or the State of Maryland, or any department or unit, including but not limited to the payment of taxes and employee benefits, and Contractor shall not become so in arrears during the term of this Contract.

2.06 CONTRACT DOCUMENTS

A. The contract documents are complementary; that which is called for by any document shall be as binding as if called for by all.

(1) The intent of the documents is to include all work necessary for proper completion of the project, excluding any part that is excluded from the contract, ready for continual efficient operation. The documents are not intended, however, to include any work not reasonably inferable that is not explicitly described in the contract document.

(2) Whenever the Contractor has questions, the Contractor should obtain clarification of all

questions which may have arisen as to intent of the contract documents or any actual conflict between two or more items in the contract documents. Should the Contractor fail to obtain clarification, then the University may direct that the Work proceed by any method indicated, specified, or required by the contract documents in the interest of maintaining the best practice. Direction by the University shall not constitute the basis for a claim for extra costs by the Contractor. The Contractor acknowledges that the Contractor has the opportunity to request clarification prior to submitting a price to the University, and therefore agrees that Contractor is not entitled to claim extra costs as a result of failure to obtain clarification.

(3) Work described in words that have a well-known technical or trade meaning shall be held to refer to such recognized standard use.

(4) Singular or plural references shall mean one or more like terms of work as necessary to complete the Work, unless specifically directed otherwise.

(6) Typographical and spelling errors in the specifications will be interpreted by the A/E for the meaning and intent, if the specification is unclear as a result of the error.

(7) The following order of precedence shall be used when there is a conflict in the bidding or contract documents. When the order of precedence cannot be used to resolve a conflict, then the more expensive labor, material or equipment shall be provided.

(a) The written agreement between the University and the Contractor

(b) Supplementary Conditions

(c) General Conditions

(d) Project Specifications

(e) Drawings, in the following order of precedence:

(i) Notes on Drawings in order of scale with largest first

(ii) Details in order of scale with largest first

(iii) Figured Dimensions

(iv) Scaled Dimensions

B. Drawings -- The Contractor shall do no Work without proper drawings and instructions. Drawings are in general drawn to scale, and symbols are used to indicate materials and structural and mechanical requirements. When symbols are used, those parts of the drawings are of necessity diagrammatic and it is not possible to indicate all connections, fittings, fastenings, etc., which are required to be furnished for the proper execution of the work. Diagrammatic indications of piping, ductwork and conduit, and similar items in the work are subject to field adjustment in order to obtain proper grading, fitting passage over, under, or past obstructions, to avoid exposure in finished rooms and unsightly and

obstructing conditions. The Contractor shall make these adjustments at no increased cost to the University.

(1) Copies Furnished -- The University will electronically furnish the Contractor, without cost, one (1) set of reproducible drawings and one (1) set of specifications at 100% Documents.

(2) Copies At The Site -- The Contractor shall keep in the job site office a complete set of all drawings, specifications, shop drawings, schedules, etc., in good order and available to the Architect/Engineer and the University.

(3) Ownership -- All documents remain the property of the University. Documents may not be used on other work and shall be returned to the University upon completion of the work.

C. Large Scale Detail Drawings -- At the University's direction, the Architect/Engineer shall furnish additional instructions in the form of large scale developments of the drawings used for bidding or to amplify the specifications for the proper execution of the Work. These large scale drawings shall be true developments of the bidding documents and the Work shall be executed in conformity to the drawings.

D. Dimensions -- The Contractor shall carefully check all dimensions prior to execution of the particular work affected. Whenever inaccuracies or discrepancies are found, the Contractor shall consult the Architect/Engineer prior to any Work. Should any dimensions be missing, the Architect/Engineer will be consulted and supply the dimensions prior to execution of the work unless, under the specifications, the Contractor is responsible for determining dimensions. Dimensions for items to be fitted into constructed conditions at the job will be taken at the job and will be the responsibility of the Contractor. The obvious intent of the documents, or obvious requirement dictated by conditions existing or being constructed, supersedes dimensions or notes which may be in conflict. Whenever a stock size manufactured item or place of equipment is specified by its normal size, it is the responsibility of the Contractor to determine the actual space requirements for setting or entrance to the setting space. No extra cost will be allowed by reason of work requiring adjustments in order to accommodate the particular item of equipment

E. Whenever new work, building, addition, or portions are not accurately located by plan dimensions, the Architect/Engineer will supply exact position to execution of the work.

2.07 SHOP DRAWINGS

The Specifications for a particular project shall determine if shop drawings are required for a project. This section applies to projects that require shop drawings.

A. As required by the University or the Architect/Engineer for the work of the various trades, the Contractor shall submit shop drawings, including setting drawings, and schedules for the Architect/Engineer's approval at such time as agreed in the Contractor's schedule. These drawings shall be prepared in conformity with the best practice and standards for the trade concerned. Due regard shall be given to speed and economy of fabrication and erection.

B. All shop drawings must show the name of the project and the University Contract number.

C. Submittal of Drawings -- All shop drawings and details submitted to the University and the Architect/Engineer for approval shall be submitted in a manner as directed by the University. (Refer to Paragraph 2.08 regarding use of eBuilder.)

D. Items for which Shop Drawings will be Required -- Shop drawings will be required for all items which are specifically fabricated for the work or when the assembly of several items is required for a working unit. Shop drawings are required for all reinforcing and structural steel, specially made or cut masonry units, miscellaneous metal work, specially made millwork, plaster molds, or moldings, marble and slate, special rough hardware, and all heating, ventilating, plumbing, and electrical items requiring special fabrication, or detail connections including refrigeration, elevators, dumb waiters, laboratory equipment, ducts, etc. Shop drawings are also required for any items listed in the submittal section of the specifications.

E. Examination And Approval -- The Architect/Engineer will examine shop drawings with reasonable promptness, noting desired corrections or granting approval or rejecting them.

F. Field Dimensions And Conditions -- The Architect/Engineer is not responsible for the check of dimensions or existing conditions in the field. This is the sole responsibility of the Contractor.

G. Resubmission -- When the Architect/Engineer notes desired corrections or rejects the drawings, the Contractor shall resubmit the drawings promptly with corrective changes, without additional compensation.

H. Contractor's Responsibility -- Unless the Contractor has, in writing, notified the Architect/Engineer to the contrary, at the time of submission, the University and the Architect/Engineer may and will assume that the drawings are in conformity with the contract documents and do not involve any change in the Contract price or any change which will alter the space within the structure or alter the nature of the building from the contemplated in the Contract documents.

I. University's and Architect/Engineer's Notations -- Should the Contractor consider any rejection of the University's and Architect/Engineer's notation on the shop drawings to require an increase in the cost of the work from that contemplated in the Contract documents, then the Contractor shall desist from further action relative to the item the Contractor questions and shall notify the University and Architect/Engineer, in writing, within five (5) days of the additional or less cost involved. No work relative to the item shall be executed until the entire matter is clarified and the Contractor is ordered by the University to proceed. Failure of the Contractor to serve written notice as above required shall constitute a waiver of any claim. Similarly, should the University's and Architect/Engineer's notation or change involve less work than is covered by the contract drawings, the Contractor shall allow the University an equitable credit resulting from the change in the work.

2.08 eBUILDER 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, invoices 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 project team (A/E and Contractor) 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 Project Manager under this contract. This is ONLY for projects specifically at or managed by UMB.

SECTION 3: SCOPE OF THE WORK

3.01 INTENT OF THE CONTRACT DOCUMENTS

It is the intent of the Contract documents to show all the work necessary to complete the project.

3.02 DIFFERING SITE CONDITIONS

A. The Contractor shall promptly, and before such conditions are disturbed, notify the Procurement Officer in writing of: (1) subsurface or latent physical conditions at the site differing materially from those indicated in the Contract; or (2) unknown physical conditions at the site, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract. The Procurement Officer shall promptly investigate the conditions, and if the Procurement Officer finds that conditions do materially differ and cause an increase or decrease in the Contractor's cost of, or the time required for, performance of any part of the work under the Contract, whether or not changed as a result of such conditions, an equitable adjustment shall be made and the Contract modified in writing accordingly.

B. No claim of the Contractor under this clause shall be allowed unless the Contractor has provided prompt notice, as required; however, the time prescribed for the project may be extended by the University.

C. No claim by the Contractor for an equitable adjustment shall be allowed if asserted after final payment under this Contract.

3.03 SITE INVESTIGATION

This provision is in addition to any other provision in the Contract relating to Site Investigation.

The Contractor acknowledges that the Contractor has investigated and been satisfied as to the conditions affecting the work, including but not restricted to those bearing upon transportation, disposal, handling and storage of materials, availability of labor, water, electric power, roads and uncertainties of weather, river stages, tides or similar physical conditions at the site, the conformation

and conditions of the ground, the character of equipment, and facilities needed preliminary to and during prosecution of the work. The Contractor further acknowledges that the Contractor is satisfied as to the character, quality and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site, including all exploratory work done by the University, as well as from information presented by the drawings and specifications made a part of the Contract. Any failure by the Contractor to become acquainted with the available information may not relieve the Contractor from responsibility for estimating properly the difficulty or cost of successfully performing this work. The State assumes no responsibility for any conclusions or interpretations made by the Contractor on the basis of the information made available by the University.

3.04 CONDITIONS AFFECTING THE WORK

The Contractor shall be responsible for having taken steps reasonably necessary to ascertain the nature and location of the work and the general and local conditions which affect the work or the cost. Any failure by the Contractor to do so will not relieve the Contractor from responsibility for successfully performing the work without additional expense to the University. The Contractor agrees not to place any credence in any understanding or representation concerning conditions made by any University employee or agents prior to the execution of the Contract unless such understanding or representation is expressly stated in the Contract.

3.05 CHANGES IN THE WORK

A. A procurement officer in the University's Department of Procurement & Strategic Sourcing may, at any time, without notice to the sureties, if any, by written order designated or indicated to be a change order, make any change in the work within the general scope of the Contract, including but not limited to changes:

- (1) In the specifications (including drawings and designs);
- (2) In the method or manner of performance of the Work;
- (3) In the University-furnished facilities, equipment, materials, services, or site; and
- (4) Directing acceleration in the performance of the Work.

B. If any change under this clause causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work under the Contract, whether or not changed by and any order, an equitable adjustment shall be made and the Contract modified in writing accordingly.

C. No claim by the Contractor for an equitable adjustment shall be allowed or asserted after final payment under the Contract.

D. In order to facilitate review of quotations for extras or credits, all proposals (except those so minor that their propriety can be seen by inspection) shall be accomplished by a complete itemization of costs including labor, materials and Subcontracts. Where major cost items are subcontracts, they shall

also be itemized. A change involving over \$2000.00 will not be approved without itemization.

E. The Contractor and subcontractor shall furnish labor and materials for any additional work ordered by the University (and for which no pre-agreed price has been fixed) for the net cost of all labor and materials furnished plus the following percentage for overhead and profit:

Not to exceed 10% mark up for additional work performed by a subcontractor;

Not to exceed 5% mark up for materials; and,

Not to exceed 15% mark up on work performed by the Contractor's own forces.

F. Each contract modification or Change Order that affects contract price shall be subject to the prior written approval of the Procurement Officer and other appropriate authorities and to prior certification of the appropriate fiscal authority of fund availability and the effect of the modification or Change Order on the project budget or the total cost. If, according to the certification of the fiscal authority, the contract modification or Change Order will cause an increase in cost that will exceed budgeted and available funds, the modification or change order may not be made unless sufficient additional funds are made available or the scope of the project is adjusted to permit its completion within the project budget.

3.06 UNAUTHORIZED WORK

Contractor shall not be paid for any work not authorized in writing by the University.

SECTION 4: CONTROL OF THE WORK

4.01 AUTHORITY OF THE ARCHITECT/ENGINEER

A. Under the direction of the University, the Architect/Engineer shall be the initial interpreter of any drawings included among the Contract documents. The A/E will furnish with reasonable promptness such clarifications as the A/E may deem necessary for the proper execution of the Work; such clarifications to be consistent with the intent of the Contract documents. The A/E is the agent of the University only to the extent provided in the Contract documents. The A/E may be authorized in special circumstances to recommend to the University to stop work whenever such stoppage may be necessary to insure the proper execution of the Contract.

B. Except as otherwise provided in the Contract documents, all the Architect/Engineer's decisions are subject to review by the University.

4.02 CONFORMITY WITH CONTRACT REQUIREMENTS

A. All work performed and all materials furnished by the Contractor shall be in conformity with the Contract requirements.

B. In the event the University finds the materials or the finished product in which the materials are used or the work performed are not in complete conformity with the Contract requirements and have

resulted in an inferior or unsatisfactory product, the work or materials shall be removed and replaced or otherwise corrected by and at the expenses of the Contractor.

C. In the event the University finds the materials or the finished product in which the materials are used are not in complete conformity with the Contract requirements, but have resulted in a satisfactory product, the University shall then determine if the work shall be accepted. In this event, the University will document the basis of acceptance by a Change Order, which will provide for an appropriate adjustment in the Contract price. Acceptance of the Work will be contingent upon the Contractor's acceptance of a Contract Amendment incorporating the Change Order.

4.03 ADJACENT WORK

A. The University shall have the right, at any time, to contract for and perform other work on, near, over, or under the work covered by the Contract. In addition, other work may be performed under the jurisdiction of another State agency. The Contractor shall cooperate fully with other contractors and carefully fit Contractor's own work to such other as may be directed by the University.

B. The Contractor agrees that in event of dispute as to cooperation or coordination with adjacent contractors, the University will act as referee and decisions made by the University will be binding. The Contractor agrees to make no claims against the University or the State of Maryland for any inconvenience, delay, or loss experienced by Contractor because of the presence and operations of other contractors.

4.04 CONTROL BY THE CONTRACTOR

A. The Contractor shall constantly maintain efficient supervision of the work, using best skill and coordinating ability. Contractor shall carefully study and compare all drawings, specifications, and other instructions and check them against conditions existing, or being constructed, on the project. Contractor shall at once report to the University and the Architect/Engineer any error, inconsistency, or omission which is discovered.

B. On applicable projects, the Contractor shall schedule and conduct regular progress meetings every other week, and as directed by the University, at which Subcontractors, University, Architect/Engineer, and other designated representatives, and the Contractor can discuss such matters as progress, scheduling, and work-related issues. The Contractor is responsible for taking meeting notes and distributing the notes to all invited parties within three (3) working days after such meetings. The meeting notes are the product of the Contractor. Failure of the University to respond to the notes is not deemed to be acceptance as to accuracy.

4.05 COOPERATION WITH UTILITIES

A. It is understood and agreed that the Contractor has considered in Contractor's bid all of the permanent and temporary utility appurtenances in their present or relocated positions and that no additional compensation will be allowed for normal delays, inconvenience, or damage sustained by Contractor due to any interference from utility appurtenances, the operation of moving them, or the making of new connections, if required by the Contract documents.

B. The Contractor shall have responsibility for notifying all affected utility companies prior to the necessity of performing any work on their utilities and shall cooperate with the utility companies in achieving the desired results. All damage to utility facilities caused by the Contractor's operations shall be the responsibility of the Contractor.

C. At points where the Contractor's operations are adjacent to properties of railway, telegraph, telephone, water, and power companies, or are adjacent to other property, damage to which might result in expense, loss, or inconvenience, work shall not be commenced until all arrangements for necessary protection have been made by the Contractor.

D. The Contractor shall cooperate with the owners of any underground or overhead utility lines in their removal and rearrangement operations in order that these operations may be reduced to a minimum and that services rendered by those parties will not be unnecessarily interrupted.

E. The Contractor shall promptly notify the proper authority in the event of interruption to utility services as a result of accidental breakage, or as a result of being exposed or unsupported, and shall cooperate with the authority in the restoration of service. No work shall be undertaken around fire hydrants until provisions for continued service have been approved by the local fire authority.

F. Utility outages shall be kept to a minimum and will be permitted only with the written approval of the University's Office of Facilities and Operations. All requests for outages shall be made a minimum of ten (10) working days in advance of their need. Requests for outages will not be considered unless the request includes an identification of all areas which will be affected by the proposed outage.

4.06 AUTHORITY AND DUTIES OF UNIVERSITY INSPECTORS

A. University inspectors shall be authorized to inspect all Work done and all material furnished. Such inspection may extend to all or any part of the Work and to the preparation, fabrication, or manufacture of the materials to be used. The inspector is not authorized to revoke, alter, or waive any requirements of the Contract, nor is the inspector authorized to approve or accept any portion of the complete Project. The inspector is authorized to call the attention of the Contractor to any failure of the work or materials to conform to the contract, and authorized to reject materials or suspend the Work until any questions at issue can be referred to and decided by the University. Inspectors shall perform their duties at such times and in such manner as will not unnecessarily impede progress on the Contract.

B. The inspector shall in no case act as foremen or perform other duties for the Contractor, nor interfere with the management of the work by the latter.

C. Any advice which the inspector may give the Contractor shall not be construed as binding the University in any way or releasing the Contractor from fulfilling all the terms of the Contract. The duty of the inspector on the project is to observe the progress of the Work and to report any deviations from the requirements of the Contract documents; however, should the inspector fail to report any such deviation from the Contract requirements, this does not release the Contractor from fulfilling all

of the terms of the Contract.

D. Where there is disagreement between the Contractor and the inspector, the inspector will immediately direct the University's and the Architect/Engineer's attention to the issues of disagreement, and if the Contractor still refuses to make corrections, comply or suspend work, the University will prepare and deliver in writing to the Contractor, by mail or otherwise, a written order suspending the Work and explaining the reason for such shutdown. as soon as the inspector shall immediately leave the site of the Work and any Work performed during the inspector's absence will not be accepted or paid for and may be required to be removed and disposed of at Contractor's expense.

4.07 INSPECTION OF THE WORK

A. Work, including the fabrication and source of supply, is subject to observation by the Architect/Engineer and to the University's Office of Facilities and Operations 's right to inspect specific items.

B. The Contractor shall provide facilities for access and inspection as required by the University.

C. If the specifications, the Office of Facilities and Operations' instructions, law, ordinances, or any public authority require any work to be specially tested or approved, the Contractor shall give the Office of Facilities and Operations timely notice of its readiness for inspection, and if inspection is by another authority, the date fixed for such inspection. Inspections by the Office of Facilities and Operations shall be made promptly and where practicable at the source of supply. Any work covered without approval of the University must, if required by the Architect/Engineer or the Office of Facilities and Operations, be uncovered, and then recovered, for examination at the Contractor's expense.

4.08 REMOVAL OF DEFECTIVE WORK

A. All work and materials which do not conform to the requirements of the Contract will be considered unacceptable.

B. Any unacceptable or defective work, whether the result of poor workmanship, use of defective materials, damage through carelessness, or any other cause, found to exist shall be removed and replaced by work and materials which shall conform to the Contract requirements or shall be remedied otherwise in an acceptable manner authorized by the University.

C. Upon failure on the part of the Contractor to comply promptly with any order of the University, made under the provisions of this section, the University shall have authority to cause defective or unacceptable work to be remedied or removed and replaced and unauthorized work to be removed and to deduct the costs from any monies due or to become due the Contractor under this Contract.

4.09 MAINTENANCE OF WORK DURING THE PROJECT

A. The Contractor shall maintain the Work during the Project and until acceptance. This maintenance shall be continuous and effective, prosecuted with adequate equipment and forces to the end that all parts of the work be kept in satisfactory condition at all times and protected from damage of any kind from external sources.

B. Particular attention shall be given to drainage, both permanent and temporary. The Contractor shall use all reasonable precautionary measures to avoid damage or loss that might result from accumulations and concentrations of drainage shall be diverted or dispensed when necessary to prevent damage to excavation, embankments, surfaces, structures, or property. Suitable measures shall be taken by the Contractor to prevent the erosion of soil in all construction areas where the existing ground cover has been removed. Such measures shall be in compliance with the requirements of any governmental entity having jurisdiction.

C. All cost of maintenance work during the project and before final acceptance shall be included in the base bid and the Contractor will not be paid any additional amount for such work.

D. In the event that the Contractor's work is halted by the University for failure to comply with the provisions of the Contract, the Contractor shall maintain the entire project as provided herein, and provide such ingress and egress for local residents or tenants adjacent to the project site, for tenants of the project site, and for the general public as may be necessary during the period of suspended work or until the Contractor has been declared in default.

E. On projects where pedestrian or vehicular traffic flow is maintained, the Contractor shall be responsible for repair and restoration of all traffic damage to the work, either partially or totally completed, until such time as the work is accepted by the University.

F. If the Contractor shall at any time, fail to comply with these provisions, the University shall immediately notify the Contractor. In the event that the Contractor fails to remedy unsatisfactory maintenance within 24 hours after receipt of such notice, the University will immediately proceed with adequate forces and equipment to maintain the project, and the entire cost of this maintenance will be deducted from monies due the Contractor, without in anyway limiting the right of the University to enforce any and all other remedies to which it is entitled by law or under the Contract.

4.10 UNIVERSITY'S RIGHT TO DO WORK

If the Contractor should neglect to prosecute the work properly or fail to perform any provision of the Contract, the University, after three (3) days' written notice to the Contractor, may make good such deficiencies and may deduct the cost thereof from the monies then or thereafter due the Contractor, without in anyway limiting the right of the University to enforce any and all other remedies to which the University is entitled by law or under the Contract.

4.11 AUTHORITY OF OFFICE OF ENVIRONMENTAL HEALTH AND SAFETY

A. The University of Maryland, Baltimore's Office of Environmental Health & Safety (EHS) is responsible for promoting a safe and healthful work environment and for assuring compliance with

Federal and State environmental protection regulations and University safety and health practices. To carry out these responsibilities, EHS shall be authorized to inspect the project, all work done and being done, and all material to be furnished and being furnished. In the event that EHS uncovers an unsafe condition, EHS is authorized to suspend work, after notice to the Procurement Officer and the Office of Facilities and Operations, until the unsafe condition is cured by the Contractor. The "unsafe condition" shall mean any practice that represents a significant risk of injury or health hazard to University or Contractor employees or subcontractors, a significant adverse environmental impact, or a physical hazard which could result in damage to University property or the public. The authority of EHS is in addition to any other rights of the University.

B. If the Work will require entry into a confined space as defined by OSHA, the Contractor shall submit proof of a Confined Space Program to The University's Office of Environmental Health & Safety for verification at least ten (10) days prior to the start of the project.

C. Contractor must provide UMB Environmental Health and Safety (EHS) with their Fall Protection Plan. Plan must include your employees training procedures and rescue procedures. Work may not be permitted until Fall Protection Plan has been signed off by UMB Environmental Health and Safety (EHS).

4.12 IDENTIFICATION

A. The Contractor shall obtain identification for employees and subcontractor employees from the University. Applicable costs for identification are the Contractor's responsibility. The University Project Manager shall approve all applications for campus identification. Employee identification shall be visible at all times while on campus.

B. All vehicles and mobile equipment shall be identified with the Contractor's name displayed in a highly visible manner.

4.13 NOISE CONTROL

A. The Contractor shall execute the Work as quietly as practicable to avoid unnecessary disturbances. Use of audio devices will not be allowed on the project site other than two-way communication radios.

B. Any complaints duly registered by the University of unacceptable noise levels shall be cause for the use of special precautions and methods of operation by the Contractor to reduce noise to acceptable levels. The University shall be the sole judge of the tolerability of noise levels.

4.14 PARKING:

Parking of employees of the Contractor and/or subcontractor(s) is the responsibility of the applicable Contractor and/or subcontractor. UMB's Parking and Transportation Services may be contacted as to designated public parking facilities on campus with any costs thereof to be borne by the Contractor or subcontractor, dependent on whose employees utilize such public parking.

4.15 Temporary use of Keys by Contractors:

1. No keys shall be issued to Contractor without the proper authorization by University Project Manager. Keys shall be requested and issued only as required, i.e. master keys shall not be issued when individual keys will suffice. Once authorized, Contractor(s) will be programmed access to the key box located in the work control area of UMB's Facilities Operations and Maintenance
2. Key(s) shall be returned each day before end of business except when specifically authorized for night time or weekend work. All keys shall be returned before final payment on a project.
3. University keys, in the possession of Contractors and/or Service personnel, will not be loaned to others, tampered with or duplicated.

4.16 PRESS RELEASES

The Contractor may not issue any press release for any printed or digital publication, including newspaper or media, without obtaining the prior written approval of the issuance and the text of the release from University in each instance.

SECTION 5: MATERIALS

5.01 GENERAL

A. All materials shall meet all quality requirements of the Contract. In order to expedite the inspection and testing of materials, the Contractor shall notify the University and the Architect/Engineer in writing of the sources from which the Contractor proposes to obtain all materials requiring approval, testing, inspection, or certification prior to incorporation into the work as soon as possible after receipt of notification of award of the Contract.

B. Materials include all manufactured products and processed and unprocessed natural substances required for completion of the Contract. The Contractor, in accepting the Contract, is assumed to be thoroughly familiar with the materials required and their limitations as to use, and requirements for connection, setting, maintenance, and operation. Whenever an article, material, or equipment is specified and a fastening, furring, connection (including utility connections), access hole, flashing closure piece, bed, or accessory is normally considered essential to its installation in good quality construction, such shall be included as if fully specified. Nothing in these specifications shall be interpreted as authorizing any work in any manner contrary to applicable laws, codes, or regulations.

C. Approval -- All materials are subject to the University's approval as to conformity with the specifications, quality, design, color, etc. No work for which approval is necessary shall be used until written approval is given by the University and Architect/Engineer. Approval of a subcontractor or supplier as such does not constitute approval of a material which is other than that included in the specifications.

D. New Materials -- Unless otherwise specified, all materials shall be new. Old materials may not be used as substitutes for new, regardless of condition or repair, unless approved in writing by the University.

E. Quality -- Unless otherwise specified, all materials shall be of the best quality of the respective kinds.

F. Samples -- The Contractor shall furnish for approval all samples as directed. The materials used shall be the same as the approved samples.

G. Proof of Quality -- The Contractor shall, if requested, furnish satisfactory evidence as to the kind and quality of materials either before or after installation. Contractor shall pay for any tests or inspections called for in the specifications and any tests as may be deemed necessary for "substitutions".

H. Standard Specifications -- When no specification is cited and the quality, processing, composition, or method of installation of a thing is only generally referred to, then:

(1) For items not otherwise specified below, the latest edition of the applicable American Society for Testing Materials specification is the applicable specification.

(2) For items generally considered as plumbing and those items requiring plumbing connections, the applicable portions of the latest edition of the B.O.C.A. Code are the applicable specifications.

(3) For items generally considered as heating, refrigerating, air-conditioning, or ventilating, the applicable portions of the latest edition of the A.S.H.R.A.E. Handbook published by the American Society of Heating, Refrigerating, and Air- Conditioning Engineers, Inc., are the applicable specifications.

(4) For items generally considered as site work, the applicable portions of the Maryland S.H.A. Standard Specifications are the applicable specifications.

(5) For items generally considered as electrical, the applicable provisions of the latest edition of the National Electric Code are the applicable specifications.

(6) For items generally considered as fire protection, the applicable portion of the latest edition of the National Fire Protection Association Code are the applicable specifications.

I. Upon request, the Contractor shall provide the University with Safety Data Sheets for any products or materials being used on University premises.

5.02 STORAGE AND HANDLING OF MATERIALS

A. Materials shall be stored in a manner to assure the preservation of their quality and acceptability for the work. Stored materials, even though approved before storage, may again be inspected prior to their use in the work. Stored materials shall be located so as to facilitate their prompt inspection. Approved portions of the project site may be used for storage purposes and for the placing of the Contractor's plant and equipment. Such storage areas must be restored to their original condition by the Contractor at Contractor's expense. If off-site storage is used, Contractor shall provide the necessary copy of the insurance policy with the University as the certificate holder.

B. Materials shall be handled in such a manner as to preserve their quality and acceptability for the work.

C. Contractor shall confirm the apparatus and the storage of materials to the area delineated in the Contract documents as the "Limit of Contract."

D. Explosives --

(1) Explosives may not be stored upon any property belonging to the University.

(2) Should the Contractor desire to use explosives on any projection University property, the Contractor shall first receive written approval of the President. The approval will be coordinated through the University's Project Manager and stipulate time, place, and quantity to be used and manner of use.

(3) The Contractor shall assume all responsibility for injury to persons or property damage which may result from the use or transportation of explosives, as well as comply with any and all ordinances, regulations, and restrictions in relation to the use of explosives.

E. Oil base paints and inflammable liquids may not be stored in large quantities on the project. Containers shall be limited to five (5) gallon size. Any liquid with a flash of point of less than one hundred (100) shall be contained in safety cans, UL approved. Liquid with a higher flash point shall be stored in rigid cans. Glass containers may not be used. Oily rags, waste, etc., shall be removed from the work site at the close of each working day.

5.03 SUBSTITUTIONS

A. Should the Contractor desire to substitute another material for one or more specified by name, the Contractor shall apply to the University, in writing, for permission and state the credit or extra cost involved by the use of the substituted material. The University will not consider the substitution of any material different in type or construction methods unless the substitution affects a benefit to the University.

B. The Contractor may not submit for approval materials other than those specified without a written statement that such a substitution is proposed. Approval of a "substitute material" by Architect/Engineer when the Contractor has not designated such material as a "substitute", shall not be binding on the University, and will not release Contractor from any obligations of this Contract, unless the University approves such "substitution" in writing. The University, at its discretion, may approve a "substitute material" as a Substitution after the fact. Such approval, if given, shall be set out in writing.

C. A material which is an approved equal is not defined as a substitution under this clause.

5.04 APPROVED EQUALS

The terms "Or Equal", "Equal", and "Approved Equal" are used as synonyms throughout the specifications and are implied in reference to all named manufacturers in the specifications unless otherwise stated. Only materials fully functionally equal or superior in all details and characteristics will be considered to be approved equals. The Contractor shall apply to the University in writing for confirmation that a material is an approved equal. The University's Office of Facilities and Operations is the final judge as to equality.

5.05 CONTRACTOR'S OPTIONS

When several products or manufacturers are named in the specifications for the same purpose of use, then the Contractor may select between of the named products or manufacturers. However, after a selection is made for a project, the same material or manufacturer shall then be used for all of the required units.

5.06 TESTS

A. If the Contract documents, laws, ordinances, rules, regulations, or orders of any public authority having jurisdiction require any portion of the work to be inspected, tested, or approved, the Contractor shall provide the University and the Architect/Engineer timely notice of the work's readiness so the Architect/Engineer may observe such inspection, testing, or approval. The Contractor shall bear all costs of such inspections, tests, or approvals conducted by public authorities.

B. The University reserves the right to require special inspection, testing or approval which the Contract documents do not include, and instruct the Contractor to order such special inspection, testing, approval, and the Contractor shall provide timely notice of readiness. If such special inspection or testing reveals a failure of the work to comply with the requirements of the Contract documents, the Contractor shall be responsible for all costs to correct the failure, including compensation for the Architect/Engineer's additional services made necessary by such failure or for any costs paid by the University.

C. Required certificate of inspection, testing, or approval shall be secured by the Contractor and promptly delivered by the Contractor to the University and the Architect/Engineer.

5.07 BUY AMERICAN STEEL

Only steel products made in the United States shall be used or supplied in the performance of the Contract or any subcontract. Steel products include products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated, or otherwise similarly processed from steel made in the United States. This

requirement shall not apply if the University shall have determined that the cost of such steel products is unreasonable or inconsistent with the public interest. The provisions of this Section shall not apply where the provisions are in conflict with any Federal grant or regulation affecting the project.

5.08 SALES TAX

Supplies and materials purchased by a Contractor or subcontractor in connection with University Maintenance Projects are not tax exempt.

5.09 HAZARDOUS MATERIALS

A. The use or handling of regulated materials, including asbestos or PCB, shall be strictly governed by Federal, State, and Local regulations.

B. No Contractor furnished material or product containing any asbestos in any form may be used on a project.

C. Contractor shall remove any and all materials covered under the hazardous waste regulations upon completion of the project.

D. It is assumed that hazardous materials are not present within the areas of work in the existing buildings unless expressly indicated by the University in the scope or work or specifications for a particular project, but the Contractor is advised to remain alert to the possibility of encountering hazardous materials during the course of the Work. In the event that hazardous materials are encountered and must be handled, the Contractor shall immediately stop all work within the affected area and notify the University's Project Manager for instructions. The Contractor shall coordinate and cooperate with the hazardous material removal contractor in the removal of hazardous materials within the areas of work under the project.

SECTION 6: LEGAL RELATIONS AND RESPONSIBILITIES

6.01 LAWS TO BE OBSERVED

A. The Contractor shall keep fully informed of all Federal, State, and Local laws, ordinances, and regulations and all orders and decrees of bodies or tribunals having any jurisdiction or authority, which in any manner affect those engaged or employed on the work or which in any way affect the conduct of the work. Contractor shall at all times observe and comply with all such laws, ordinances, regulations, orders, and decrees. Contractor shall protect and indemnify the University and the State of Maryland and its representatives against such claim or liability arising from or based on the violation of any law, ordinance, regulation, order, or decree, whether by the Contractor, Contractor's employees, or subcontractors.

B. The Contractor shall comply with the provisions of the Workmen's Compensation Act and Federal, State, and County laws relating to hours of labor.

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

D. The Contractor shall give all notices and comply with all State and Federal laws, ordinances, rules,

and regulations bearing on the conduct of the work as drawn and specified.

E. If the Contractor observes that the drawings and specifications are at variance with any law, Contractor shall promptly notify the Architect/Engineer, and any necessary changes shall be adjusted as provided in the Contract for changes in the work. If the Contractor performs any work knowing the performance to be contrary to such laws, ordinances, rules, and regulations, and without such notice to the Architect/Engineer, Contractor shall bear all costs arising as a result of the performance, including without limitation fines, penalties, and correction or replacement of work and materials.

6.02 PERMITS AND LICENSES

A. The University shall file with the appropriate local authority drawings and specifications and any pertinent data reasonably proper for their information. No permits are applicable for work on University property with the exception of (1) any permits required in the specifications and (2) Cutting & Welding permit.

B. Any permits required for work on non-University property are the responsibility of the Contractor in terms of the permit acquisition, associated cost, and all obligations and liability under the permit.

C. Any permits required by the specifications (i.e., Air and Radiation Management Administration boiler permits, etc.) are the responsibility of the Contractor in terms of the permit acquisition, associated cost, and all obligations and liability under the permit.

D. Before any welding, burning, pipe sweating or brazing is started a CUTTING & WELDING PERMIT must be obtained from The University's EHS, 714 W. Lombard Street, Baltimore, MD 21201-1041. This permit must be requested from EHS at least two (2) days prior to the anticipated hot work. The cardboard portion of the permit shall be secured to either the cutting or welding equipment. At the end of the requested time, the cardboard portion of the permit must be returned to EHS.

6.03 PATENTED DEVICES, MATERIALS, AND PROCESSES

The Contractor shall pay for all royalties and license fees. Contractor shall defend all suits or claims for infringement of any patent rights and shall save the University and the State of Maryland harmless from loss on account thereof, except that the University shall be responsible for any such loss when a particular process or the product of a particular manufacturer or manufacturers is specified by the Contractor as the University's responsibility; however, if the Contractor has information that the process or articles specified is an infringement of a patent, Contractor shall be responsible for such loss unless Contractor promptly provides such information to the Procurement Officer.

6.04 LAND, AIR, AND WATER POLLUTION

A. The Contractor shall incorporate all permanent erosion control features into the work at the earliest practicable time. Temporary pollution control measures will be used to correct conditions that develop during the project that were not foreseen during design, that are needed prior to installation of permanent pollution control features, or that are needed temporarily to control erosion that develops during normal construction practices, but are not associated with permanent control features on the project.

B. The Contractor's attention is directed to the fact that temporary pollution control may include measures outside the project site where such work is necessary as a direct result of the project. The University's Office of Facilities and Operations shall be kept advised of all such off-site control measures taken by the Contractor. This advise shall not relieve the Contractor of the basic responsibilities for such work.

C. In case of failure on the part of the Contractor to control erosion, pollution, and siltation, the University's Office of Facilities and Operations reserves the right to employ outside assistance or to use its own forces to provide the necessary corrective measures. All expenses incurred by the University's Office of Facilities and Operations in the performance of such duties for the Contractor shall be withheld from monies due to the Contractor.

D. The Contractor shall submit evidence to the University's Office of Facilities and Operations that the governing Federal, State, and Local Air Pollution criteria will be, and were, met. This evidence and related documents will be retained by the University's Office of Facilities and Operations for onsite examination.

E. If the performance of all or any part of the Work is suspended, delayed, or interrupted due to an order of a court of competent jurisdiction as a result of environmental litigation, as defined below, the Procurement Officer, at the request of the Contractor, shall determine whether the order is due in any part to the acts or omissions of the Contractor required by the University as one of the terms of this Contract. If it is determined that the order is due in any part to acts or omissions of the Contractor required by the terms of the Contract, such suspension, delay, or interruption shall be considered as if ordered by the Procurement Officer in the administration of this Contract under the terms of the "Suspension of Work" clause of this Contract. The period of such suspension, delay, or interruption shall be considered reasonable, and an adjustment shall be made for any increase in the cost of performance of this Contract (excluding profit) as provided in the suspension of work clause.

F. The term "environmental litigation", as used herein, means a lawsuit alleging that the Work will have an adverse effect on the environment or that the University has not duly considered, either substantively or procedurally, the effect of the Work on the environment.

6.05 CONTRACTOR'S LIABILITY INSURANCE

A. Upon Contract execution, the Contractor shall purchase and maintain at Contractor's own expense insurance applicable to all claims which may arise out of or result from the Contractor's operations under the Contract, whether such operations be by the Contractor, by any subcontractor or sub-subcontractor, by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. All insurance except Workmen's Compensation shall name the University of Maryland, Baltimore, the University System of Maryland, and the State of Maryland as an additional insured.

B. The insurance coverage shall be written for not less than the following limits of liability unless authorized by the Procurement Officer based on the specifics of a particular project.

(1) Worker's Compensation Insurance and Unemployment as required by the laws of the State of Maryland.

(2) Employer's liability insurance - - \$1,000,000 each accidental injury or disease, and \$2,000,000 aggregate.

(3) Comprehensive general liability insurance including all extensions
\$2,000,000 each occurrence
\$2,000,000 personal injury
\$2,000,000 products/completed operations
\$2,000,000 general aggregated

(4) Property damage liability insurance with a limit of not less than \$2,000,000 for each accident

(5) Business automobile

(a) bodily injury liability with limits of not less than \$1,000,000 for each person and \$2,000,000 for each accident

(b) property damage liability insurance, with a limit of not less than \$2,000,000 for each accident

(6) Umbrella excess liability - - \$5,000,000 limit.

Limits of insurance may be achieved either singularly, or by combination of applicable coverage, as long as limits are met without reducing another insurance's required limits.

The Comprehensive General Liability Insurance for bodily injury and property damage, including loss of use of property, arising out of any occurrence shall include the following extensions:

(1) Products and completed operations coverage for a period of at least two years;

(2) Personal injury liability coverage (including contractual coverage);

- (3) Contractual liability insurance to cover the Contractor's obligation to the University, USM, and the State of Maryland;
- (4) Broad form property damage (including completed operations);
- (5) Independent contractor's coverage;
- (6) "X", "C", and "U" coverage applying to explosion, collapse of other structures and underground foundations; and
- (7) If the work involves containment or removal of asbestos, pollution liability (environmental protection liability) coverage.

The business automobile liability insurance shall pay for liabilities arising out of accidents involving the ownership, operation, maintenance or use including the loading or unloading of any automobile.

C. Satisfactory proof of purchase of required insurance shall be furnished on the Accord format for certificates prior to execution of the Contract, upon execution of the Contract Amendment, and upon renewal of any policy, and upon obtaining any new insurance policy. Certificates shall also be provided prior to commencement of a particular project upon request of the procurement officer. Certificates shall be amended to indicate: "Should any of the described policies be canceled before the expiration date thereof, or non-renewed, the issuing company will provide thirty (30) days prior written notice to the certificate holder," each Certificate should indicate the insurer, the appropriate policy number, the policy expiration date, the limits of liability in effect, and the Best's rating and financial rating of the insurer. A certificate shall be accepted only if signed by an authorized representative of the insurer.

D. Insurance certificates will be accepted only from an insurer having a minimum Best's rating of Class A for the policyholders' rating and Class IX for the financial rating. Insurers must be authorized to do business under the laws of the State of Maryland. The University reserves the right to request in writing a complete copy of any Contractor's insurance policy inclusive of declarations and riders, and if so requested, the Contractor shall comply within ten (10) days of the request.

E. No work shall be started at the site until appropriate certificates of insurance are filed with and approved by the procurement officer.

F. Certificates of insurance shall be submitted to the Procurement Officer for review and approval and shall be held by the Procurement Officer for the duration of the Contract. The University shall have the absolute right to terminate the Contract if the policy of insurance is canceled at any time for any reason and a new policy effective immediately thereafter is not obtained by the Contractor and approved by the procurement officer.

6.06 BUILDER'S RISK INSURANCE

A. For projects with a value greater than \$500,000 or otherwise required by the Solicitation, the Contractor shall purchase and maintain builder's risk insurance naming as additional insured the University of Maryland, Baltimore, the University System of Maryland, the State of Maryland, the Contractor, any subcontractor, or anyone directly or indirectly employed by any of them. The University and State shall be loss payees as their interests may appear.

B. The builder's risk policy shall cover any and all materials, equipment, machinery, and supplies of any nature whatsoever, intended to be used in or incidental to the completion of a project under the Contract, but coverage shall apply to property on the project site, property in transit, and property in temporary storage at locations other than the project site which property is designated to become a permanent part of the insured project.

C. The limits of insurance (without any coinsurance conditions applying) shall be the full value of the project when completed. Deductibles are allowed only if reported to the University, which shall not unreasonably withhold consent. The Contractor shall be responsible for paying the amount of the deductible to the University or State in the event of a claim by either or both of them which is within the coverage of the builder's risk policy. Coverage shall be on a full replacement cost basis with no deductions for actual physical depreciation.

D. Insurance shall be against all risks of direct physical loss of or damage to the insured property including theft; earthquake; flood; and settling, shrinkage or expansion of buildings or foundations other than normal settling shrinkage or expansion. Any fault, defect, error or omission exclusion shall not apply to damage resulting from such fault, defect, error or omission in the design plans or specifications. Any faulty or defective workmanship or internal exclusion clause shall not apply to damage resulting there from.

E. The term of the builder's risk insurance shall continue until issuance of the substantial completion certificate on the project by the University.

F. Satisfactory proof of purchase of required insurance shall be furnished to the University prior to commencement of the project, upon renewal of any policy, and upon obtaining any new insurance policy. All policies of insurance shall provide that the policy shall not be subject to cancellation termination, or reduction in coverage, except after thirty (30) days prior written notice to the University. At the Procurement Officer's sole discretion, upon written request, Contractor shall deliver to the University a copy of any policy of the required insurance.

G. The Contractor shall adjust the amount of the builders risk insurance from time to time to reflect any increase or decrease in the Project over the amount of \$100,000 or 10% of the original Contract value, whichever is greater. For any such additions, the Contractor will be reimbursed by the University in the amount of the actual amount of the increased insurance cost. For any decrease, the Contractor will credit the University the actual amount of the decreased insurance cost. The Contractor shall provide updated certificates that reflect the increase or decrease within ten (10) working days of the request of the Procurement Officer.

6.07 ASSIGNMENTS

The Contractor shall not assign the Contract or any monies due or to become due without the prior consent of the University.

6.08 SEPARATE CONTRACTS

A. The University reserves the right to let other contracts in connection with this work. Contractor shall afford other contractors reasonable opportunity for the introduction and storage of their materials and the execution of their work, and shall properly connect and coordinate Contractor's work with theirs.

B. If any part of the Contractor's work depends for proper execution or results upon the work of any other contractor, the Contractor shall inspect and promptly report to the University any defects in such work that render it unsuitable for such proper execution and results. Contractor's failure to inspect and report shall constitute an acceptance of the other contractor's work as fit and proper for the reception of Contractor's work, except as to the defects which may develop in the other contractor's work after the execution of Contractor's work.

C. To insure the proper execution of Contractor's subsequent work, the Contractor shall measure work already in place and shall immediately report to the University any discrepancy between the executed work and the drawings.

6.09 PAYMENT OF SUBCONTRACTORS

A. Neither the final payment or any part of the retained percentage shall become due until the Contractor shall deliver to the University receipt for full payment to all subcontractors and any principal suppliers identified by the University.

B. If any subcontractor or supplier refuses to provide a receipt for payment, the Contractor may obtain final payment by providing the University with a bond satisfactory to the University for payment to subcontractors or suppliers as a condition of fulfilling any contractual obligation (including warranties) or losses resulting from subcontractors' or suppliers' failure to fulfill such obligations. Under the bond the Contractor shall refund the University all monies paid to subcontractors or losses incurred, including all costs and reasonable attorney's fees.

C. The Contractor shall promptly pay a subcontractor (and shall cause subcontractors to pay sub-subcontractors) any undisputed to which the subcontractor (or sub-subcontractor) is entitled for work under this Contract within 10 days of receiving a progress or final payment from the University. In the event the Contractor fails to pay promptly, subcontractors may request remedy in accordance with COMAR 21.10.08. In each subcontract under this contract, the Contractor shall include a clause that contains substantially the same provisions as this clause.

6.10 RELATIONSHIP OF CONTRACTOR TO PUBLIC OFFICIALS AND EMPLOYEES

A. In carrying out any of the provisions of the Contract, or in exercising any power or authority granted to them by or within the scope of the Contract, there shall be no liability upon the Procurement Officer or other authorized representatives of the University, it being understood that in

all such matters they act solely as agents and representatives of the University.

B. Prohibition Against Gratuities -- The University may terminate the right of the Contractor to proceed under the Contract if it is found by the Procurement Officer that gratuities, in the form of entertainment, gifts, or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the University with a view toward securing a Contract or securing a favorable treatment with respect to the awarding or amending or the making of any determination with respect to the performing of the Contract. The facts upon which the Procurement Officer makes such findings may be reviewed in any competent court.

C. In the event this Contract is terminated for cause under this section, the University shall be entitled to pursue the same remedies against the Contractor as the University could pursue in the event of a breach of the Contract by the Contractor. In addition to any other damages to which it may be entitled by law, the University may pursue exemplary damages in an amount as determined by the Procurement Officer which shall be not less than three (3) nor more than ten (10) times the costs incurred by the Contractor in providing any gratuities to any officer or employee.

D. The rights and remedies of the University provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract.

E. Conflict of Interest -- An official or employee of the State of Maryland whose duties include matters relating to or affecting the subject matter of the Contract, may not during the pendency and term of this contract and while serving as an official or employee of the State become or be an employee of the Contractor or any entity that is a subcontractor for a project under the Contract.

6.11 NO WAIVER OF LEGAL RIGHTS

A. The University and the State of Maryland may not be precluded or estopped by any measurement, estimate, or certificate made either before or after the completion and acceptance of the work and payment, from showing the true amount and character of the work performed and materials furnished by the Contractor, or from showing that any such measurement, estimate, or certificate is untrue or is incorrectly made, or from showing that the work or materials do not in fact conform to the requirements of the Project. The University and the State of Maryland may not be precluded or estopped, notwithstanding any such measurement, estimate, or certificate, and payment from recovering from the Contractor or Contractor's sureties, or both, any damage as the University may sustain by reason of the Contractor's failure to comply with the terms of the Contract. The acceptance by the University or any representative of the University may not operate as a waiver of any portion of the Contractor's responsibilities or of any power of the University or of any right to damages.

B. The waiver by the University of any breach of the Contractor may not be held to be a waiver of any other or subsequent breach.

6.12 COVENANT AGAINST CONTINGENT FEES

The Contractor warrants that the Contractor has not employed or retained any person, partnership, corporation, or other entity other than a bona fide employee or agent working for the Contractor to solicit or secure the Contract, and that the Contractor has not paid or agreed to pay any person,

partnership, corporation, or other entity other than a bona fide employee or agent, any fees or any other consideration contingent on the making of the Contract.

6.13 ASSIGNMENT OF ANTITRUST CLAIMS

The Contractor sells, transfers, and assigns to the University and the State of Maryland all right, title, and interest of and in to any cause of action arising at any time before the date of this assignment or during the performance of the Contract under the Antitrust Laws of the United States, including Section 1 of the Sherman Act and the Antitrust Law of Maryland relating to the purchase by Contractor, or the University and the State of Maryland, of any products from any supplier or source whatever that is incorporated in the structure built under the terms of the Contract. The Contractor certifies that the causes of action are lawfully owned and that no previous assignment has been made nor has been attached or pledged in any manner whatsoever.

6.14 FEDERAL PARTICIPATION

If the United States Government pays all or any portion of the cost of a project, the applicable work under the Contract shall be subject to inspection by the appropriate federal agency. Such inspection will not make the Federal government a party to the Contract and will not interfere in any way with the rights of either party.

6.15 DISPUTES

A. The Contract is subject to the USM Procurement Policies and Procedures in effect on the date of execution of the Contract.

B. Except as otherwise provided in the Contract or by law, all disputes arising under or as a result of a breach of the Contract which are not disposed of by mutual agreement shall be resolved in accordance with this section.

C. 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 Contract. An invoice, or request for payment that is not in dispute when submitted is not a claim under this section. However, if the submission subsequently is not acted upon in a reasonable time or is disputed as to liability or amount, the submission may be converted to a claim for the purpose of this section.

D. Within 30 days after the Contractor knows or should have known of the basis for a claim relating to the Contract, the Contractor shall file a written notice of claim with the Procurement Officer.

E. Contemporaneously with, or within 30 days after, the filing of a notice of claim, the Contractor shall submit the written claim to the Procurement Officer. Upon request, the Procurement Officer may extend the time in which the Contractor may submit the claim on conditions the Procurement Officer deems satisfactory to the University.

F. The claim shall set forth all the facts surrounding the controversy. At the discretion of the Procurement Officer, the Contractor may be afforded an opportunity to be heard and to offer evidence in support of the claim.

G. The Procurement Officer shall provide a written decision within:

- (1) 90 days after the Procurement Officer receives the claim if the claim is an amount for which the Appeals Board accelerated procedure, as set forth in COMAR 21.10.06.12, may be used;
- (2) 180 days after the Procurement Officer receives the claim for a claim not covered under the accelerated procedure; or
- (3) a longer period of time agreed upon in writing by the Procurement Officer and the Contractor.

H. The final decision may award a contract claim only for those expenses incurred not more than thirty (30) days before the Contractor was initially required to have filed the notice of claim.

I. The Procurement Officer's decision is the final action of the University. If the Procurement Officer fails to render a final decision within the time required, the Contractor may deem the failure to be a final decision not to pay the claim.

J. If the final decision grants the claim in part and denies the claim in part, the University shall pay the Contractor the undisputed amount. Payment of a partial claim is not an admission of liability by the University and does not preclude the University from recovering the amount paid if a subsequent determination modifies the final decision.

K. The Contractor may file a written appeal with the Maryland State Board of Appeals within thirty (30) days of receipt of notice of the final decision.

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

6.16 CLAIMS

A. If the Contractor claims that any instructions by drawings or otherwise involve or may involve extra cost under this Contract, Contractor shall provide the University written notice within fifteen (15) calendar days after receipt of such instructions or after the occurrence of an emergency. No claim shall be valid unless notice is provided within the required time frame.

B. Under no circumstances will overhead or profit be permitted as items of a claim, if permitted at all under the Contract, when such overhead or profit is for periods during which a "Stop Work" order is in effect due to an act, error, or omission for which the Contractor is responsible.

C. No profit or overhead which includes rental of equipment and the salaries of supervisory personnel, if permitted at all under the Contract, will be allowed the Contractor for stoppage of work when written notice of such stoppage or impending stoppage is not given reasonable in advance by the Contractor so that the University can take action to prevent such stoppage.

D. No claim for extra costs will be granted which includes cost of delays or work stoppage due to strikes, lockouts, fire, unusually severe weather, avoidable casualties, or damage or delay in transportation for which the University is not responsible; only time extensions will be granted.

E. The Contractor and the University agrees that no prejudgment or post judgement interest on any claims asserted by either party will be allowed.

F. No claim for damage caused by a delay, if permitted at all under the Contract, will be allowed unless the Contractor notifies the University of the existence of the delay within five (5) days of the act or omission causing the delay.

G. No payment will be made for increased payment or performance bond premiums as a result of any act or omission by the University which results in a claim.

6.17 VARIATIONS IN ESTIMATED QUANTITIES

Where any quantity of major pay item as defined in this Contract is an estimated quantity, and where the actual quantity of such pay item varies more than twenty-five percent (25%) above or below the estimated quantity in the Contract, an equitable adjustment of the stated price shall be made upon demand of either party. The equitable adjustment shall be based upon any increase or decrease in costs due solely to the variation above one hundred twenty-five percent (125%) or below seventy-five percent (75%) of the estimated quantity. If the quantity variation is such as to cause an increase in the time necessary for completion, the Procurement Officer shall, upon receipt of a written request for an extension of time within ten (10) days from the beginning of the delay, or within a further period of time which may be granted by the Procurement Officer before the date of final settlement of the Contract, ascertain the facts and make the adjustment for extending the completion date as the findings justify in the Procurement Officer's judgment.

6.18 PRE-EXISTING REGULATIONS

In accordance with the provisions of Section 11-206 of the State Finance and Procurement Article of the Annotated Code of Maryland, any pertinent regulations in Title 21 of the Code of Maryland Regulations (COMAR) that are in effect on the date of the execution of the Contract are applicable to the Contract.

6.19 FINANCIAL DISCLOSURE

The Contractor shall comply with the provisions of Section 13-221 of the State Finance and Procurement Article, Annotated Code of Maryland, which requires that every business that enters into contracts, leases, or other agreements with the State of Maryland or its agencies during the calendar year under which the business is to receive in the aggregate \$200,000 or more, shall, within thirty (30) days of the time when the aggregate value of these contracts, leases or other agreement reaches \$200,000 file with the Maryland Secretary of State certain specified information to include disclosure of beneficial ownership of the business.

6.20 POLITICAL CONTRIBUTION DISCLOSURE

The Contractor shall comply with, and require its officers, director, and partners to comply with Title

14 of the Election Law Article, Annotated Code of Maryland, which requires that every person doing public business, 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 \$200,000 or more from public business, 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.

6.21 COMPLIANCE WITH LAWS

The Contractor hereby represents and warrants that:

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

6.22 DEWATERING

The Contractor shall obtain all necessary Water Appropriations and Water Discharge permits prior to activation of dewatering systems.

SECTION 7: PROSECUTION AND PROGRESS OF THE WORK

7.01 NOTICE TO PROCEED

For each project performed under this contract, the University will issue a "Notice to Proceed". This notice to proceed may be provided in a variety of formats, including a task order contract, a formal letter, or some other document. The notice will stipulate the date on or before which the Contractor is expected to begin work, and shall start the specified time for the project. Any preliminary work started or materials ordered before receipt of the notice to proceed, shall be at the Contractor's risk.

7.02 PROSECUTION OF THE WORK

- A. Time is an essential element of the Contract and all time limits in the Contract documents are of the essence of the Contract. Contractor shall prosecute the Work and its obligations under the contract vigorously until full completion.
- B. The date of commencement of Work is the date established in a Notice to Proceed.
- C. If the Contractor is delayed at any time in the progress of the work by any act or omission of the University or any of its officers, agents, or employees or by any separate Contractor employed by the

University, or by any changes ordered in the work, or by labor disputes, fire, unusual delay in transportation, unavoidable casualties, or by a cause which the Procurement Officer determines may justify any delay, then the Contract time will be extended for such time as the Procurement Officer may authorize.

D. It is expressly understood and agreed by and between the Contractor and the University that the time for the completion of the work is a reasonable time for completion of the same, taking into consideration the average climatic range and the usual business conditions prevailing in the locality of the project.

E. No extension shall be made for delay occurring more than five (5) days before a claim is made in writing to the University. In the case of continuing cause of delay, only one claim is necessary.

F. Total Float belongs to the project and shall not be for the exclusive benefit of either party. "Total Float" is the number of days an activity may be delayed before commencement or from the project's early dates without extending the Contract period. Total Float shall be available to University or Contractor and is intended to accommodate changes in the Work or to mitigate the effect of events which otherwise may delay Substantial Completion. Use of Total Float shall be monitored by the University's Project Manager. Use of Total Float is available to either party on a first come, first serve basis.

7.03 PUBLIC CONVENIENCE AND SAFETY

At all times, the Contractor shall conduct the work in such a manner as to create the least practicable obstruction to all forms of traffic. The convenience of the general public, tenants, and of the residents along or adjacent to the improvement shall be respected. Material stored upon the project shall be placed so as to cause a minimum of obstruction to the public. The Contractor shall, unless otherwise specified, provide and maintain in passable condition such temporary access, roads, and bridges as may be necessary to accommodate traffic diverted from the project under construction or using the project under construction, and shall provide and maintain in a safe condition temporary approaches to, and crossing of, the project. Existing facilities planned to be removed, but which might be of service to the public during construction, are not to be disturbed until other and adequate provisions are made. Fire hydrants on, or adjacent to, the project shall be kept accessible to fire apparatus at all times, and no materials or obstruction shall be placed within fifteen (15) feet of any such hydrant. Work closed down for the winter, or at any other time, shall be left entirely accessible at all points to fire apparatus. All footways, gutters, sewer inlets, and portions of the project including the work under construction shall not be obstructed more than is absolutely necessary.

7.04 BARRICADES AND WARNING SIGNS

A. The Contractor shall provide, erect, and maintain all necessary barricades, suitable and sufficient lights, danger signals, signs, and other control devices, and shall take all necessary precautions for the protection of the work and safety of the public. All highways and other facilities closed to traffic shall be protected by effective barricades, and obstructions shall be illuminated during hours of darkness with electric lights.

B. The Contractor shall erect warning signs in advance of any place on the project where operations

may interfere with the use of the facility by vehicular or pedestrian traffic, and at all other points where the new work crosses or coincides with an existing roadway or traffic lane. Such warning signs shall be constructed and erected in accordance with the FHWA Manual on Uniform Traffic Control Devices or as directed.

C. In cases where the Contractor's sequence of operations results in grade differentials which would be hazardous to vehicular or pedestrian traffic, the Contractor will, at the direction of the University's Office of Facilities and Operations and at no additional cost to the University, provide suitable substantial guardrail to the extent determined by that office.

7.05 PRESERVATION, PROTECTION, AND RESTORATION OF PROPERTY

A. The Contractor shall continuously maintain adequate protection of all Contractor's work from damage and shall protect University property from injury or loss arising in connection with a project. Contractor shall repair and indemnify against any such damage, injury, or loss, except such as may be directly due to errors in the Contract documents or caused by agents or employees of the University. Contractor shall adequately protect adjacent property as provided by law and the Contract documents.

B. The Contractor shall box all trees along the way of access, as well as all trees surrounding the work which are liable to injury by the moving, storing, and working up of materials. A tree may not be used by the Contractor for attachment of any ropes or derricks.

C. The Contractor shall erect and properly maintain at all times, as required by the conditions and progress of the work, all necessary safeguards for the protection of workmen and the hazards created by such features of construction as protruding nails, hoists, well holes, elevator hatchways, scaffolding, window openings, stairways, and falling materials.

D. In any emergency affecting the safety of life or the work or of the adjoining property, the Contractor without special instruction or authorization is hereby permitted to act, at Contractor's discretion, to prevent such threatened loss or injury. If Contractor is specifically instructed by the University's Office of Facilities and Operations to do work in an emergency, the Contractor shall do the work and will be paid compensation as a change order.

7.06 PROGRESS SCHEDULE AND TIME

A. The Work under the Contract shall be planned, scheduled, executed, and reported by the Contractor in accordance with the Contract Documents for the University's review and approval using the Critical Path Method (CPM) Schedule unless otherwise agreed to in writing by the Procurement Officer in consultation with the University's Project Manager. The University's review and approval of the Contractor's schedule does not constitute an agreement to specific dates, durations, or sequences for activities. The purpose of the project schedule shall be to:

- (1) Assure adequate planning, scheduling, and reporting during execution of the Work;

(2) Assure coordination of the Work of the Contractor and the various subcontractors and suppliers;

(3) Assist the Contractor in monitoring the progress of the Work and evaluating proposed changes to the project and the project schedule; and,

(4) Assist the Contractor in the preparation and evaluation of the subcontractors' monthly progress payment requests.

B. When multiple subcontractors are involved, the Contractor will incorporate the schedules of all subcontractors in Contractor's schedule to produce a unified project schedule. The Contractor shall make all submissions required in the Contract Documents.

C. Activities within the schedule should be linked between major area separations of the project so that the individual areas do not imply complete independence. The critical path should run through all major areas, since the entire project must be completed. The CPM schedule diagram shall include, but not necessarily be limited to, the following:

(1) The order and interdependencies of the Contractor's and subcontractors' activities and the major points of the interface or interrelation with the activities of others, including specific dates for completion;

(2) Conformance with and identification of the specific dates specified in the project documents;

(3) The description of work by activity;

(4) Delivery of Owner-furnished material and equipment, if any;

(5) Shop fabrication and delivery;

(6) Any Critical Paths; and

(7) Testing of equipment and materials.

Seasonal weather conditions, utility coordination, no-work periods (if any), expected job learning curves, and other such circumstances to activities shall be considered and included in the planning and scheduling of all work. Seasonal weather conditions shall be based upon the preceding ten (10) years records published for the locality by the National Ocean and Atmospheric Administration (NOAA) and entitled "Local Climatological Data."

D. The level of detail of the CPM schedule shall be such that activity durations over fifteen (15) working days shall be kept to a minimum except for non-construction activities such as shop drawings and sample submittals, fabrication and delivery of materials and equipment, concrete curing, and General Conditions activities.

E. If the Contractor's schedule shows the University or a separate contractor is to complete an activity

by a specific date, or within a certain duration, the University or separate contractor under contract with the University may not be bound to the specific date or duration unless the University's Project Manager specifically agrees in writing to the same.

F. It is expressly understood and agreed by the Contractor that the project schedule is a working document to be revised from time to time as progress proceeds; however, the Contractor is responsible for completing the Work within the time frame noted for the project. The Contractor agrees that updating the schedule is a key component and will make every reasonable effort to provide current information to the University. Throughout the progress of the Work, the Contractor shall prepare and maintain a two week manual bar chart field schedule reflecting the schedule of work activities accomplished for the previous week and the work scheduled for the forthcoming two weeks. This manual field schedule shall be updated weekly and review and the regularly scheduled progress meetings. The University's Project Manager is to be in attendance at all scheduling meetings.

G. If the Contractor fails to prepare and submit to the University's Office of Facilities and Operations a schedule before the existence of a delay, then no claim for extra costs due to delay in the work shall be recognized or asserted.

H. Materials Purchased Under Allowances -- The Contractor with approval of the University will provide schedules for all materials to be purchased from specified allowances.

7.07 PROGRESS PHOTOGRAPHS

If the project value exceeds \$500,000, the Contractor shall take photographs on or about the first of each month showing the status of the work and submit the photographs every month to the University's Office of Facilities and Operations. The University shall determine if the photographs shall be in print or digital format. Photographs shall be sufficient in number to properly record the work and shall be digitally date stamped. The Contractor shall also photograph all disputed items of the work. The University reserves the right to waive this requirement or to apply it to certain projects less than \$500,000 as specified in the project documents.

7.08 SUSPENSION OF THE WORK

A. The Procurement Officer may order the Contractor in writing to suspend, delay, or interrupt all or any part of the work for a period of time as the Procurement Officer may determine to be appropriate for the convenience of the University.

B. If the performance of all or any part of the Work is suspended, delayed, or interrupted for an unreasonable period of time due to a failure to act by the University, an adjustment may be made for any increase in the cost of performance of the Work, excluding profit, necessarily caused by an unreasonable suspension, delay, or interruption, and the Contract modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Contractor, or for which an equitable adjustment is provided for or excluded under any other provision of the Contract.

C. A claim may not be made under this section for any costs incurred more than 20 days prior to the

Contractor's written notification to the Procurement Officer of the unreasonable delay or interruption. A written notification is not required for a claim resulting from a suspension order. The amount of the claim shall be asserted in writing as soon as practicable after the end of a suspension, delay, or interruption, but not later than the date of final payment for the project.

7.09 CONTRACTOR'S RIGHT TO STOP WORK OR TERMINATE CONTRACT

If the work should be stopped under an order of any court or other public authority for a period of three (3) months, through no act or fault of the Contractor or anyone employed by Contractor, then the Contractor may, upon seven (7) days' written notice to the University's Office of Facilities and Operations, stop work or terminate the Contract and receive payment from the University for all complete work.

7.10 UNIVERSITY'S RIGHT TO TERMINATE FOR ITS CONVENIENCE

A. The performance of work under this Contract may be terminated by the University in accordance with this clause 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 or the State. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which performance of work under the Contract is terminated and the date upon which such termination becomes effective.

B. After receipt of a Notice of Termination and except as otherwise directed by the Procurement Officer, the Contractor shall:

- (1) Stop work under the Contract on the date and to the extent specified in the Notice of Termination;
- (2) Place no further orders or enter into subcontracts for materials, services, or facilities except as may be necessary for completion of the portion of the work under the Contract that is not terminated;
- (3) Terminate all orders and subcontracts to the extent that the orders and subcontracts relate to the performance of work terminated by the Notice of Termination;
- (4) Assign to the University in the manner, at the times, and to the extent directed by the Procurement Officer, all of the right, title, and interest of the Contractor under the orders and subcontracts that have been terminated;
- (5) Settle all outstanding liabilities and all claims arising out of such terminations of orders and subcontracts, with the approval or ratification of the Procurement Officer to the extent the Procurement Officer may require, which approval or ratification shall be final for all the purpose of this clause;
- (6) Transfer title and deliver to the University in the manner, at the times, and to the extent, if any directed by the Procurement Officer, the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced as a part of, or acquired in connection with the performance of, the work terminated by the Notice of Termination, and other property

which, if the project had been completed, would have been required to be furnished to the University.

(7) Use Contractor's best efforts to sell any parts, supplies, or other material, in the manner, at the times, to the extent, and at the price or prices directed or authorized by the Procurement Officer, and apply the proceeds of the disposition to reduce any payments to be made by the University to the Contractor for the project;

(8) Determine if the Contractor would like to acquire any parts, supplies, or other material at a price agreed upon by the Procurement Officer and provide a credit to the University or otherwise reduce payments to be made to the Contractor; and

(9) Take any action as may be necessary or as the Procurement Officer may direct, for the protection and preservation of the property related to the Contract which is in the possession of the Contractor and in which the University has or may acquire an interest.

The Contractor may submit to the Procurement Officer a list, certified as to quantity and quality, of any or all items of termination inventory not previously disposed of, exclusive of items the disposition of which has been directed or authorized by the Procurement Officer and may request the University to remove such items or enter into a storage agreement covering the same; provided, that the list submitted shall be subject to verification by the Procurement Officer upon removal of the items or, if the items are stored, within 45 days from the date of submission of the list. Any necessary adjustment to correct the list as submitted shall be made prior to final settlement.

The Contractor shall also complete performance of such part of the work as shall not have been terminated by the Notice of Termination.

C. After receipt of a Notice of Termination, the Contractor shall submit to the Procurement Officer a termination claim. The Procurement Officer may determine the nature of the form and documentation necessary for the claim, as applicable, as well as any necessary certification to be made by the Contractor. Such claim shall be submitted promptly but in no event later than one year from the effective date of termination, unless one or more extensions in writing are granted by the Procurement Officer, upon request of the Contractor made in writing within such one year period or authorized extension thereof. Upon failure of the Contractor to submit a termination claim within the time allowed, the Procurement Officer may determine on the basis of information available to the Procurement Officer, the amount, if any, due to the Contractor by reason of the termination and shall thereupon pay to the Contractor the amount so determined.

D. The Contractor and the Procurement Officer may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the total or partial termination of work pursuant to this clause, which amount or amounts may include a reasonable allowance for profit on work done; provided that such agreed amount or amounts, exclusive of settlement costs, shall not exceed the total Contract price as reduced by the amount of payments otherwise made and as further reduced by the Contract price of work not terminated. The Contract shall be amended accordingly and the Contractor shall be paid the agreed amount.

E. For any work that the Procurement Officer and the Contractor are unable to agree on the amount to

be paid, the Procurement Officer shall pay as follows:

(1) With respect to all Contract work performed prior to the effective date of the Notice of Termination, the total (without duplication of any items) of:

(a) The cost of the Work, which includes the amounts paid or payable on account of supplies or materials delivered or furnished by subcontractors before the effective date of the Notice of Termination of work under the Contract;

(b) The cost of settling and paying claims arising out of the termination of work under subcontracts or orders; and

(c) A sum, as profit for work performed before the effective date of the Notice of Termination, determined by the Procurement Officer to be fair and reasonable provided, however, that if it appears that the Contractor would have sustained a loss on the entire project had it been completed, no profit shall be included or allowed under and an appropriate adjustment shall be made reducing the amount of the settlement to reflect the indicated rate of loss.

(2) The reasonable cost of the preservation and protection of property incurred by the Contractor and any other reasonable cost incidental to termination of work under the Contract, including expense incidental to the determination of the amount due to the Contractor as the result of the termination of work under the Contract.

The total sum to be paid to the Contractor may not exceed the total contract price as reduced by the amount of payments otherwise made and as further reduced by the Contract price of work not terminated. Except for normal spoilage and except to the extent that the University shall have otherwise expressly assumed the risk of loss, the fair value, as determined by the Procurement Officer, of property which is destroyed, lost, stolen, or damaged so as to be undeliverable to the University, or to a buyer, shall be excluded from the amounts payable to the Contractor.

F. Costs, claimed, agreed to, or determined shall be in accordance with COMAR 21.09 as in effect on the date of the Contract.

G. The Contractor shall have the right of appeal, under the disputes clause, from any determination made by the Procurement Officer, except that if the Contractor has failed to submit Contractor's claim within the required time period, and has failed to request extension of such time, Contractor shall have no such right of appeal. In any case where the Procurement Officer has made a determination of the amount due, the University shall pay to the Contractor the following: (i) if there is no right of appeal hereunder or if no timely appeal has been taken, the amount so determined by the Procurement Officer; or (ii) if an appeal has been taken, the amount finally determined on such appeal.

H. In arriving at the amount due the Contractor under this clause there shall be deducted (i) all unliquidated advances or other payments or account theretofore made to the Contractor, applicable to the terminated portion of the Contract; (ii) any claim which the University may have against the Contractor in connection with this Contract; and (iii) the agreed price for, or the proceeds of sale of

any materials, supplies, or other things acquired by the Contractor or sold, pursuant to the provisions of this clause, and not otherwise recovered by or credited to the University.

I. If the termination of work is only partial in nature, the Contractor may file with the Procurement Officer a claim for or an equitable adjustment of the price or prices specified in the Contract relating to the continued portion of the work (the portion not terminated by the Notice of Termination), and such equitable adjustment as may be agreed upon shall be made in such price or prices. Any claim by the Contractor for an equitable adjustment under this clause shall be asserted within ninety (90) days from the effective date of the termination notice, unless an extension is granted in writing by the Procurement Officer.

J. The University, may from time to time, under such terms and conditions as the University may prescribe, make partial payments and payments on account against costs incurred by the Contractor whenever in the opinion of the Procurement Officer the aggregate of such payments shall be within the amount to which the Contractor is entitled. If the total of such payments is in excess of the amount finally agreed or determined to be due under this clause, such excess shall be payable by the Contractor to the University upon demand together with interest computed at the legal rate for the period from the date such excess payment is received by the Contractor to the date on which the excess is repaid to the University; provided, however, that no interest shall be charged with respect to any such excess payment attributable to a reduction in the Contractor's claim by reason of retention or other disposition of termination inventory until ten days after the date of the retention or disposition, or a later date as determined by the Procurement Officer by reason of circumstances.

K. Unless otherwise provided for in the Contract or by applicable statute, the Contractor shall, from the effective date of termination until the expiration of three (3) years after the final settlement under the Contract, preserve and make available to the University at all reasonable times at the office of the Contractor but without direct charge to the University, all of Contractor's books, records, documents, and other evidence bearing on the costs and expenses of the Contractor under the Contract and relating to the terminated work, or to the extent approved by the Procurement Officer, photographs, or other authentic reproductions.

7.11 TERMINATION FOR DEFAULT

A. If the Contractor refuses or fails to prosecute the work, or any separable part, with such diligence as shall insure the work's completion within the time specified for the project or any extension, or fails to complete said work within this time, the University may terminate the Contractor's right to proceed with the work or the part of the work as to which there has been delay by providing written notice to the Contractor. In this event, the University may take over the work and prosecute the work to completion, by contract or otherwise, and may take possession of, and utilize in completing the work, the materials, appliances, and plant as may be on the site of the work and necessary for completion. Whether or not the Contractor's right to proceed with the work is terminated, the Contractor and Contractor's sureties shall be liable for any damage to the University resulting from the Contractor's refusal or failure to complete the work within the specified time.

B. If fixed and agreed liquidated damages are provided in the Contract and if the University terminates the Contractor's right to proceed, the resulting damage shall consist of such liquidated damages until a

reasonable time as may be required for final completion of the work together with any increased costs occasioned for the University in completing the work. These liquidated damages shall apply until the work is completed or accepted.

C. The Contractor's right to proceed may not be terminated nor the Contractor charged with resulting damages if:

(1) The delay in the completion of the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including, but not restricted to, acts of God, acts of the public enemy, acts of the University or State in either their sovereign or contractual capacity, acts of another contractor in the performance of a contract with the University, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather, or delays of subcontractor or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of both the Contractor and the subcontractor or suppliers; and

(2) The Contractor, within 10 days from the beginning of any such delay, notifies the Procurement Officer in writing of the causes of delay, unless the Procurement Officer grants a further period of time before the date of final payment under the Contract. The Procurement Officer shall ascertain the facts and the extent of the delay and extend the time for completing the work when, in the Procurement Officer's judgment, the findings of fact justify such an extension, and the Procurement Officer's findings of fact shall be final and conclusive on the parties, subject only to appeal as provided under the disputes clause.

D. If, after notice of termination of the Contractor's right to proceed under the provisions of this clause, it is determined for any reason that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties shall be the same as if the notice of termination had been issued for the University's convenience.

7.12 PARTIAL ACCEPTANCE

A. If during the construction of work the University desires to occupy any portion of the project, the University shall have the right to occupy and use those portions of the project which in the opinion of the procurement officer can be used for their intended purposes. University occupancy may only occur if the conditions of occupancy and use are established, and the responsibilities of the Contractor and the University for maintenance, heat, light, utilities, and insurance are mutually agreed to by the Contractor and the University.

B. Partial occupancy shall in no way relieve the Contractor of responsibilities under the Contract.

7.13 FAILURE TO COMPLETE ON TIME/LIQUIDATED DAMAGES

A. For each day that any work shall remain uncompleted beyond the time specified for the project, the Contractor shall be liable for liquidated damages in the amount of \$1,000 per day provided, however, that due account shall be taken of any adjustment of specified completion time for completion of work as granted by approved change orders.

B. The University may collect liquidated damages through deduction or through offset from any amount due or to be become due to the Contractor. If the amount of damages is greater than the amount due to the Contractor, the Contractor shall pay the University for the difference.

7.14 SUBSTANTIAL COMPLETION AND FINAL INSPECTION

A. The University's Project Manager shall establish the date of Substantial Completion. When the Contractor reasonably believes the Work satisfies the Substantial Completion requirements, the Contractor shall notify the University's Project Manager and the Architect/Engineer that the work will be ready for the final inspection and test on a definite date. Reasonable notice shall be provided prior to the date to permit the Architect/Engineer and the University to schedule the final inspection. The Contractor shall not request a Substantial Completion inspection until the Work is in fact substantially complete.

B. On the scheduled Substantial Completion Inspection date, the Contractor shall deliver to the University's Project Manager a complete, comprehensive set of field mark-up drawings accurately documenting the As-Built Project and all of the Operation and Maintenance (O&M) Manuals required under the Contract. All required training and demonstration of equipment as required by the Contract Documents shall have also been completed.

C. The date of Substantial Completion that is established by the University's Project Manager shall be used as the time at which the warranties begin if the University determines, on the basis of the Substantial Completion Inspection, the following minimum requirements have been met and are in accordance with the Contract Documents:

- (1) all electrical, mechanical, and life safety systems have been completed and successfully tested and successfully inspected for conformity to all requirements of the Contract Documents and all applicable codes and standards;
- (2) complete, comprehensive field mark-up drawings of the As-built Project, and all of the O&M Manuals required under the Contract, have been delivered to the University's Project Manager;
- (3) all other requirements for Substantial Completion, including the completion of required training and demonstration of equipment, have been met; and,
- (4) the Project is able to be occupied and usable for its intended purpose.

D. The Work shall not be deemed substantially complete if, in the absolute discretion of the University's Project Manager, completion of unfinished works, whether called punch list work or otherwise, would cause inconvenience to or interfere with the use of the Premises by University personnel or others using the Premises.

E. If the University's Project Manager determines that Substantial Completion has been achieved, the University's Project Manager shall fix the time within which the Contractor shall complete any remaining items of work which may be indicated on a list (the 'punch list') prepared by the

Architect/Engineer and the University. All punch list work shall be completed within thirty (30) days after the date of Substantial Completion determined by the University, unless the University establishes a different period for completion of the punch list work. If the Contractor fails to complete the remaining items in the time stipulated, the University shall have the undisputed right to complete the Work at the Contractor's expense by deducting any cost incurred from any monies retained under the Contract. The Contractor may be required to complete multiple punch lists, which may be prepared by the University or by the Architect/Engineer, until the Contract is performed in its entirety. Failure to complete punch list work in a timely manner shall constitute grounds for termination of the Contract for default.

F. Prior to the determination of Substantial Completion by the University, the Architect/Engineer or the University may prepare lists of work requiring completion as a prerequisite to the determination of Substantial Completion. These 'work lists' shall not constitute punch lists and shall not be construed as indicating that the Work has been completed to the extent that it is substantially complete.

G. Final payment shall not be made until all Contract work is complete to the satisfaction of the University.

H. Acceptance of the Work as substantially complete shall not excuse or waive any failure of the Contractor to complete the Contract as required by the Contract Documents.

7.15 CLEANING-UP

The Contractor shall at all times keep the project area, including storage areas used by Contractor, free from accumulation of waste materials or rubbish and prior to completion of work, shall remove from the premises any rubbish and all tools, scaffolding, equipment, and materials, not the property of the University. Upon completion of the project, the Contractor shall leave the work and premises in a clean, neat, and workmanlike condition satisfactory to the University's Office of Facilities and Operations.

7.16 GUARANTEES

The Contractor guarantees and warranties the following:

A. That the work contains no faulty or imperfect material or equipment or any imperfect, careless, or unskilled workmanship;

B. That all mechanical and electrical equipment, machines, devices, etc., shall be adequate for the use to which they are intended, and shall operate, with ordinary care and attention, in a satisfactory and efficient manner;

C. That Contractor will re-execute, correct, repair, or remove and replace with proper work, without cost to the University, any work found not to be as guaranteed, and shall make good all damage caused to other work or materials in the process of complying; and

D. That the entire work shall be water-tight and leak-proof in every particular.

These guarantees and warranties shall be in place for a two (2) year period commencing on the date of

substantial completion as established by the University, unless another period is specified in the project documents, which shall not be less than two (2) years. These guarantees are in addition to any implicit or explicit guaranty provided by law, if any.

7.17 NOTICE TO UNIVERSITY OF LABOR DISPUTES

A. Whenever the Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of a project, the Contractor shall immediately provide notice to the Procurement Officer, to include all relevant information.

B. The Contractor agrees to insert the substance of this clause in any subcontract as to which a labor dispute may delay the timely performance of the Work; except that each subcontract shall provide that in the event its timely performance is delayed or threatened by delay by any actual or potential labor dispute, the subcontractor shall immediately notify the next higher tier subcontractor, or the prime Contractor, as the case may be, of all relevant information with respect to such dispute.

SECTION 8: PAYMENTS

8.01 SCOPE OF PAYMENT

For projects \$200,000 or less, the University's Project Manager will direct the Contractor on the application for payment process. For projects greater than \$200,000 the following applies if the project documents do not provide an alternative payment process:

A. Payments are made on the valuation of work accomplishment and on account of materials delivered on the site for incorporation in the work, which are suitably stored and protected. Prior to application for first payment, the Contractor shall submit to the University a schedule of values of the various parts of the work, including quantities, aggregating the total sum of the Contract. This schedule shall be divided in such a manner to facilitate payments to subcontractors. The form of this submission shall be as the Contractor and the University have agreed upon and shall be supported by such evidence as to its correctness as the University may direct. Unless at a later date found to be in error, this schedule shall be used as a basis for certificates of payments.

B. If materials are stored at an off-site location agreed upon by the University, the Contractor is required to correlate the documentation for payment of stored materials requested in the application for payment against the agreed upon breakdown of the SOV and provide the necessary certificate of insurance for offsite storage with the University as the certificate holder. The Contractor shall also provide bills of sale or other documentation satisfactory to the University's Office of Facilities and Operations to establish the University's title to the materials or equipment or otherwise protect the University's interest, including any applicable aspects regarding transportation to site.

C. Application for payment shall be submitted on or about the 25th day of each month.

D. In applying for payments the Contractor shall submit a statement, based upon the schedule of values, itemized in such form and supported by such evidence as the University may require, showing the Contractor's right to the payment claimed. Payment will be for work in place by the 25th of the billing month; no projection to the month's end is to be included. Each invoice shall prominently

display the Contractor's Federal Employers Tax Identification Number.

E. To the extent the University requires for a particular project, in applying for all payments, excluding the first payment and final payment, the Contractor shall submit a certificate that the Contractor has paid:

- (1) All labor to date;
- (2) All vendors and material suppliers in full for all items received; and
- (3) All subcontractors in full, less the retained amount.

F. In applying for the final payment, the University may also require the Contractor to submit the following:

- (1) Any evidence that the University may demand as will establish the University's title to materials and give reasonable assurance that claims against materials and claims for labor and other items by others do not exist;
- (2) An electric certificate from an independent (non-governmental) electrical inspection agency approved by the State of Maryland Fire Marshal. The Contractor must make application for the inspection, coordinate same, and pay the required inspection fees. The independent electrical inspection agencies are not considered local authorities;
- (3) All other guarantees as required by the project; and
- (4) All equipment manuals and parts lists.

8.02 FORCE ACCOUNT WORK

A. When the Contractor is required to perform or have performed work as a result of additions or changes to the project for which there are no applicable unit prices in the Contract, the University's Office of Facilities and Operations and the Contractor shall make every effort to come to an agreed upon price for the performance of such work. If an agreement cannot be reached, the University's Office of Facilities and Operations may require the Contractor to do or have done such work on a force account basis to be compensated in accordance with the following:

- (1) Labor -- For all labor and for foremen in direct charge of the specific operations, the Contractor shall receive the actual wages for each and every hour that said labor and foremen are actually engaged in such work. The Contractor shall receive the actual costs paid to, or in behalf of, workmen by reason of subsistence and travel allowances, health, welfare benefits, pension fund benefits, or other benefits, when such amounts are required by collective bargaining agreement or other employment Contract generally applicable to the classes of labor employed on the work.
- (2) Materials -- For materials accepted by the Architect/Engineer and used, the Contractor shall

receive the actual cost of such materials delivered on the work, including transportation charges paid by Contractor.

(3) Equipment -- For any machinery or special equipment rented, the Contractor shall receive the rates agreed upon in writing before such work is begun, or the Contractor shall receive those rates which may be specified elsewhere in the Contract. Equipment with a new cost of \$500 or less will be considered small tools and are excluded from this provision, whether rented or owned.

(4) Materials and Supplies Not Incorporated in the Work -- For materials and supplies expended in the performance of the work, excluding those required for rented equipment, and approved by the Architect/Engineer, the Contractor shall receive the actual cost of such materials and supplies used.

(5) Bond, Insurance, and Tax -- For bond premiums, property damage, liability, and workmen's compensation insurance premiums, unemployment insurance contributions, and social security taxes on the force of account work, the Contractor and University shall determine an equitable percent to be applied.

(6) Subcontractors -- The Contractors shall receive the actual cost of work performed by a subcontractor. Subcontractor's cost is to be determined in the same manner as Contractor's costs. An allowance will be made to the Contractor for subcontractor's overhead and profit.

(7) Superintendence -- No additional allowance shall be made for general superintendence, the use of small tools, or other costs for which no specific allowance is provided.

(8) Subcontractor's Overhead and Profit -- The allowance to the subcontractor for subcontractor's overhead and profit will be at the following scale:

Value of Work	Combined Overhead and Profit
\$ 0 - \$ 1,000	25%
\$ 1,001 - \$ 5,000	20%
\$ 5,001 - \$10,000	17%
\$10,001 - \$25,000	15%
over - \$25,000	negotiated, but not more than 15%

B. Compensation -- The compensation shall be received by the Contractor as payment in full for the work done on a force account basis. At the end of each day, Contractor's representative and the Architect/Engineer shall compare records of the cost of work as ordered on a force account basis.

C. Statements -- No payment will be made for work performed on a force account basis until the Contractor furnishes the University duplicate itemized statements of the cost of such force account work detailed as to the following:

(1) Name, classification, date, daily hours, total hours, rate, and extension for laborers and

foremen;

(2) Designation dates, daily hours, total hours, rental rate, and extension for each unit of machinery and equipment rented;

(3) Quantities and prices of materials;

(4) Changes for transportation of materials paid by the Contractor; and

(5) Cost of property damage, liability, and workmen's compensation insurance premiums, unemployment insurance contributions, and social security tax.

Statements for payments for materials shall be accompanied by original receipted invoices for materials used and transportation charges. If, however, the materials used in the force account work are not specifically purchases for such work but are taken from the Contractor's stock, then in lieu of the original invoices the statements shall contain or be accompanied by an affidavit of the Contractor which shall certify that such materials were taken from Contractor's stock, that the quantity claimed was actually used, and that the price and transportation of the materials as are claimed represent actual cost. These requirements shall apply to any applicable cost of work for a subcontractor.

8.03 CASH ALLOWANCES

Whenever an allowance is mentioned in the specifications, then the Contractor shall include in Contractor's price proposal the entire amount of specified allowances. The expenditure of these allowances is at the University's direction. However, the allowance expenditure is limited to items properly inferable from the title of the allowance. Unexpended balances are to revert to the University. The cost of installation of materials purchased are not included in the allowance but shall be included in the Contractor's price proposal. The Contractor shall have installed, as applicable through subcontractors, all material purchased under allowances and shall include in the project sum a sufficient amount, in addition to the allowance, to cover the installation, other costs, and profit.

8.04 CERTIFICATES OF PAYMENT

A. If the Contractor has made application for payment, the University shall issue to the Contractor a certificate for such amount as the University determines to be properly due. The certificate may not be issued later than the date when such payment falls due. At the University's discretion, and if notice is provided to the Contractor in writing, in approving partial payments, there may be an amount retained until completion and acceptance of all work covered by the Contract.

B. As applicable, the University may provide the Contractor with the payment form to be used by the Contractor.

C. No certificate issued nor payment made to the Contractor nor partial or entire use or occupancy of the work by the University shall be an acceptance of any work or materials not in accordance with the Contract.

D. If retainage is held for a project, retainage may not exceed 5% of the contract amount.

(1) A contractor may not retain from a payment due a subcontractor a percentage of the payment greater than the percent for retainage retained by the University.

(2) A subcontractor may not retain from a payment due a lower-tier subcontractor a percentage of the payment greater than the percent for retainage retained by the University.

(3) A contractor and a subcontractor are not, however, prohibited from withholding an amount in addition to retainage if the contractor or subcontractor determines that a subcontractor's performance provides reasonable grounds for withholding the additional amount.

E. In addition to retainage, the Procurement Officer may withhold an amount that the Procurement Officer reasonably believes is necessary to protect the University's interest.

F. A Contractor may elect to have retainage placed in an escrow account. In this instance, an escrow agreement would be signed by the Contractor, the escrow agent and, if applicable, the surety, and a fully executed copy of the agreement provided to the University. The escrow agent shall be selected from among the banks approved by the State Treasurer's office. The Contractor is solely liable to the escrow agent for the payment of fees and charges associated with the escrow account. Retained funds may only be released from the escrow account as directed by the University. At the time of final payment, the University shall direct the escrow agent to settle the escrow account by paying funds as directed. Until payment is made, escrow accounts are State funds and are not subject to any liens.

8.05 DEDUCTIONS FOR UNCORRECTED WORK

If the University deems it inexpedient to correct work injured or not completed in accordance with the Contract, an equitable deduction from the Contract price may be made.

8.06 PAYMENTS WITHHELD

A. The University may withhold or, on account of subsequently discovered evidence, nullify the whole or part of any payment certificate to such extent as may be necessary to protect the University from loss on account of:

(1) Defective work not remedied;

(2) Claims filed or reasonable evidence indicating probable filing of claims;

(3) Failure of the Contractor to make payments properly to subcontractor for material or labor;

(4) A reasonable doubt that the Contract can be completed for the balance then unpaid;

(5) Damage to another contractor;

(6) Liquidated Damages or other damages or compensation due the University for claims of the University against the Contractor;

(7) Any claim of the University or State against the Contractor on a debt or obligation owed

the University or the State or claim by the University or the State to be owed by the Contractor to the University or State arising from any other cause of contract;

(8) Retainage;

(9) Failure to maintain as-built drawings;

(10) Failure to update schedules properly; or

(11) The cost of completing unfinished warranty work.

B. Payment shall be made for the withheld amount when the applicable situation has been corrected or resolved.

8.07 CORRECTION OF WORK BEFORE FINAL PAYMENT

A. The Contractor shall promptly remove from the premises all materials condemned by the Architect/Engineer or the University as failing to conform to the Contract, whether incorporated in the work or not. The Contractor shall promptly replace and re-execute Contractor's own work in accordance with the Contract and without expense to the University and shall bear the expense of making good all work of other Contractors destroyed or damaged by such removal or replacement.

B. If the Contractor does not have such condemned work and materials removed within a reasonable time, fixed by written notice, the University may remove them and may store the materials at the expense of the Contractor. If the Contractor does not pay the expense of such removal within ten (10) days time, the University may sell such materials and shall account for the net proceeds thereof, after deducting all the costs and expenses that should have been borne by the Contractor.

8.08 ACCEPTANCE AND FINAL PAYMENT

A. Upon completion of the Work, the Contractor shall prepare final payment forms and submit the forms to the University. The University shall promptly proceed to make any necessary final surveys and complete any necessary activities, including computation of quantities, to determine the Contractor's right to final payment. The University's Project Manager will then reply in writing to the Contractor's request for final payment informing the Contractor of all deductions, damages, costs, back charges, and other charges assessed against the Contractor by the University and the associated reasons.

B. Prior to or in the absence of a request from Contractor for final payment, the Procurement Officer may determine the amount of the final payment to the Contractor.

C. If the Contractor disputes the amount determined by the Procurement Officer to be due the Contractor, then the Contractor shall initiate a claim under the Disputes procedures.

D. Acceptance by the Contractor of any payment identified by the Procurement Officer as being final

payment shall operate as an accord and satisfaction and a general release of all claims of the Contractor against the University arising out of or connected with the project, except as may be expressly agreed otherwise in writing between the Contractor and the Procurement Officer.

E. After final payment is made by the University, the Contractor may not assert a claim for the first time.

8.09 INTEREST

Contractor and the University agree that neither party is entitled to any interest on any payment due from the other.

8.10 AUDITS BY THE UNIVERSITY

A. The Contractor agrees that the University or any part of the University's duly authorized representatives shall, until expiration of three (3) years after final payment under this Contract or after any applicable statute of limitations, whichever is longer, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Contractor involving transactions under this Contract.

B. The Contractor further agrees to include a provision in all of Contractor's subcontracts to the effect that the subcontractor agrees that the University or any of the University's duly authorized representatives shall, until the expiration of three (3) years after final payment under the subcontract or after any applicable statute of limitations, whichever is longer, have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor, involving transactions related to the subcontract.

C. The Contractor shall retain and maintain all records and documents relating to this Contract for three (3) years or any applicable statute of limitations and shall make them available for inspection and audit by authorized representatives of the State of Maryland, including the University or designee at all reasonable times.

8.11 MULTI-YEAR CONTRACTS

If the General Assembly fails to appropriate funds or if funds are not otherwise made available for continued performance for any fiscal period of the Contract succeeding the first fiscal period, the Contract or an applicable project 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 the University's rights or the Contractor's rights under any termination clause in the Contract. The effect of termination of the Contract or project will be to discharge both the Contractor and the University from future performance of the Contract or project, but not from their rights and obligations existing at the time of termination. The Contractor shall be reimbursed for the reasonable value of any non-recurring costs incurred for the project. The University shall notify the Contractor as soon as the University has knowledge that funds may not be available for the continuation of the Contract or project for each succeeding fiscal period beyond the first.

8.12 PAYMENT OF STATE OBLIGATIONS

A. Payments to the Contractor pursuant to the Contract shall be made no later than thirty (30) days after the University's receipt of a proper invoice from the Contractor. Charges for late payment of invoices, other than as prescribed by Title 15, Subtitle 1, of the State Finance and Procurement Article, Annotated Code of Maryland, or by the Public Service Commission of Maryland with respect to regulated public utilities as applicable, are prohibited.

B. Electronic funds transfer will be used by the State to pay Contractor for projects performed under the Contract and any other University payments due Contractor unless the State Comptroller's Office grants Contractor an exemption.

SECTION 9: EMPLOYEES, SUBCONTRACTORS, AND WORK CONDITIONS

9.01 EMPLOYEES AND WORKMANSHIP

A. Qualification of Employees -- Only personnel thoroughly trained and skilled in the task assigned may be employed on any portion of the work. Any employee found by the Contractor, the Architect/Engineer, or the University's Office of Facilities and Operations to be unskilled or untrained for the assigned task shall be removed from the work.

B. Licensed Employees – Personnel shall be licensed as required by municipal, county, State, or Federal law.

C. Quantity of Labor -- The Contractor shall employ sufficient personnel for the project at all times to complete the work within the time stated in the Contract.

D. Work Areas -- The Contractor shall confine the operations of Contractor's employees to the limited area directed by the University's Office of Facilities and Operations, or as provided by law, ordinance, or permits. Generally, the work area will be the same as the "Limits of Contract" line indicated in the 100% project documents.

E. Methods and Quality --

(1) All workmanship shall be of good quality. Whenever the method of the work or manner of procedure is not specifically stated in the Contract documents, then it is intended that the best standard practice shall be followed. Recommendations of the manufacturers of approved materials shall be considered as a part of the specifications and all materials shall be applied, installed, connected, erected, used, cleaned, and conditioned as recommended. This inclusion of the manufacturers recommendations does not remove any requirement in the specifications to add to the manufacturer's recommendations, when applicable.

(2) All materials shall be accurately assembled, set, etc., and when so required in good construction, shall be true to line, even, square, plumb, level, and regularly spaced, coursed, etc. Under no circumstances, either in new or old work, shall any material be applied over another which has not been thoroughly cleaned, sanded, or otherwise treated so as not to impair the finish, adhesion, or efficiency of the next applied item.

(3) All methods and procedures and results are subject to the University's and Architect/Engineer's approval as to finished result to be obtained. However, the requirement for approval is not to be interpreted as placing upon the University and the Architect/Engineer any responsibility for the "Work" management, which is solely the responsibility of the Contractor.

F. Scheduling -- The Contractor shall schedule the work to ensure efficient and uninterrupted progress and to hold to an absolute minimum the cutting and patching of new work. The Contractor shall schedule the work performed by each group or trade so that each installation or portion of the work shall member with and join with every other new or old work required for a complete installation, all according to accepted good construction practice.

G. Project Manager and Superintendent – As applicable, the Project Manager and Field Superintendent are to be those named in the Contractor's Technical Proposal submitted in response to the University's Solicitation and as approved by the University's Department of Procurement & Strategic Sourcing. Persons who have previously proved unsatisfactory on work executed for the University or the State of Maryland or who are without proper qualifications will not be approved.

Unless specified otherwise in the University's Solicitation or in the project's specifications, the Project Manager may work off-site.

The Contractor shall keep on site at all times when any of the Work is being performed, a competent Superintendent (fluent in English) and any necessary assistants. A single Superintendent will be permitted to superintend two or more jobs located close to each other only when approved by the University's Office of Facilities and Operations in writing.

The Project Manager and the Superintendent shall represent the Contractor. All directions given to the Project Manager or the Superintendent shall be as binding as if given to the Contractor. If the Project Manager or the Superintendent is removed from the work, a new Project Manager or new Superintendent shall be obtained and approved by the University at no additional cost to the University.

H. Discipline -- The Contractor shall at all times enforce strict discipline and good order among Contractor's employees and shall not employ or permit to remain on the work any unfit person. The Contractor shall enforce all instructions relative to use of water, heat, power, no smoking, and control and use of fires as required by law and by the University. Employees may not be allowed to loiter on the premises before or after working hours.

I. Employee Safety -- The Contractor shall designate a responsible member of Contractor's organization, on the work, whose duty it shall be, in addition to the member's other duties, to prevent accidents and to enforce the standards required by the Contract. The name and position of the person designated as responsible shall be reported to the University's Office of Facilities and Operations, with a copy to the Architect/Engineer, by the Contractor at the commencement of the work.

J. Supervisory Personnel -- All supervisory personnel of the Contractor must be direct employees of

the Contractor, unless otherwise approved in writing, in advance, by the University.

9.02 NON-DISCRIMINATION POLICIES

A. Contractors shall comply with all pertinent State and Federal laws and regulations prohibiting discrimination against any employee or applicant for employee, including the provisions of Title 19 of the State Finance and Procurement Article. Contractors shall also require all subcontractors to comply with these mandates.

B. If the Contractor fails to comply with non-discrimination employee laws or regulations, the University may declare the Contract void. In that event, the Contractor is entitled to the reasonable value of work that has been performed and materials that have been provided.

C. As provided in Title 19 of the State and Finance Procurement Article, as a condition of entering into the Contract, upon the request of the Commission on Civil Rights, and only after the filing of a complaint against the Contractor under Title 19 of the State Finance and Procurement Article, as amended from time to time, the Contractor agrees to: provide to the State within 60 days after the request a truthful and complete list of the names of all subcontractors, vendors, and suppliers that the Contractor has used in the past 4 years on any of its contracts that were undertaken within the State of Maryland, including the total dollar amount paid by the Contractor on each subcontract or supply contract. The Contractor further agrees to cooperate in any investigation conducted by the State pursuant to the State's Commercial Nondiscrimination Policy as set forth under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland, to provide any documents relevant to any investigation that is requested by the State. The Contractor understands and agrees that violation of this clause shall be considered a material breach of the Contract and may result in contract termination, disqualification by the State from participating in State contracts, and other sanctions.

9.03 SUBCONTRACTS

A. The Contractor shall, as soon as practicable and before the issuance of a notice to proceed, notify the Architect/Engineer and the University's Office of Facilities and Operations in writing of the names of subcontractors proposed for the principal parts of the work and for such others as the Architect/Engineer may direct and shall not employ any that the Architect/Engineer or the University's Office of Facilities and Operations may object to as incompetent, unfit, or irresponsible.

B. The Contractor agrees that Contractor is as fully responsible to the University for the acts and omissions of subcontractors and of persons directly employed by subcontractors as Contractor is for the acts and omissions of persons directly employed by the Contractor.

C. Nothing contained in the contract documents shall create any contractual relation between any subcontractor and the University and nothing in the contract documents is intended to make the subcontractor a beneficiary of the Contract between the University and the Contractor.

9.04 RELATION OF CONTRACTOR AND SUBCONTRACTOR

A. The Contractor agrees to bind every subcontractor and ensure that every subcontractor agrees to be bound by the terms of the Contract and Contract Documents and each of these as far as applicable to the subcontractor's work, unless specifically noted to the contrary in a subcontract approved in writing as adequate by the University's Office of Facilities and Operations.

B. The Contractor agrees to include the following provisions in all subcontracts and supply contracts, applicable to the work:

(1) Subcontractor agrees to be bound to the Contractor by the terms of the Contract and the Contract Documents and each of these, and to assume toward the Contractor all obligations and responsibilities that the Contractor, by those documents, assumes toward the University.

(2) The subcontractor agrees to submit to the Contractor applications for payment in such reasonable time as to enable the Contractor to apply for payment.

(3) The subcontractor agrees to make all claims for extras, for extensions of time, and for damages for delays or otherwise, to the Contractor in the manner provided for like claims by the Contractor upon the University except that the time for making claims for extra cost is five (5) days.

(4) The subcontractor agrees, upon completion of subcontractors work to promptly pay all labor, material suppliers, vendors, subcontractors, and others, and to permit simultaneous final payment by the Contractor and execution of the "Waiver of Liens" by the subcontractor.

C. The Contractor agrees to be bound to the subcontractor by all the obligations that the University assumes to the Contractor under the Contract, the Contract Documents and each of these, and all the provisions affording remedies and redress to the Contractor from the University. The Contractor also agrees:

(1) To pay the subcontractor, upon the presentation of certificates, if issued under the schedule of values, the amount allowed to the Contractor on account of the subcontractor's work to the extent of the subcontractor's interest.

(2) To pay the subcontractor, upon the presentation of certificates, so that at all times the subcontractors total payments shall be as large in proportion to the value of the work done by the subcontractor as the total amount certified to the Contractor is to the value of the work done by the subcontractor.

(3) To pay the subcontractor to such extent as may be provided by the Contract documents or the subcontract, if either of these provides for earlier or larger payments than the above.

(4) To pay the subcontractor on demand for subcontractors work or materials as far as executed and fixed in place, less the retained percentage, at the time to certificate should be issued, even though the Architect/Engineer fails to issue it for any cause not the fault of

subcontractor.

(5) To pay the subcontractor a just share of any fire insurance money received by the Contractor.

(6) To make no demand for liquidated damages or penalty for delay in any sum in excess of such amount as may be specifically named in the subcontract.

(7) To give the subcontractor an opportunity to be present and to submit evidence in any matter involving subcontractors rights.

D. Contractor may not withhold from subcontractor or supplier, wholly or in part, any payment otherwise due and owing to the subcontractor or supplier for labor or material furnished for a project, on account of (1) any claim of the Contractor against the subcontractor or supplier, or (2) any debt owed or claimed to be owed by the subcontractor or supplier to the Contractor to the extent the claim or debt arose out of contracts, disputes, or other transactions between the Contractor and the subcontractor or supplier which did not arise out of the project.

E. When the University withholds money from the Contractor for delays or other causes, the Contractor may withhold payment from a subcontractor or supplier, on account of the amount withheld by the University from the Contractor, only to the extent that the subcontractor or supplier contributed to the delay or other cause for which the University withheld payment from the Contractor. For example, if the University withholds from the Contractor liquidated damages for delay; all other subcontractors or suppliers shall be paid promptly by the Contractor notwithstanding the University's withholding from the Contractor.

F. No claim for services rendered or materials furnished by the Contractor to the Subcontractor shall be valid unless written notice thereof is given by the Contractor to the subcontractor during the first ten (10) days of the calendar month following that in which the claims originated.

G. The Contractor and the Subcontractor agree that nothing in this section shall create any obligation on the part of the University to pay to or to see to the payment of any sums to any subcontractor.

9.05 MINORITY BUSINESS ENTERPRISE UTILIZATION

The University shall establish Minority Business Enterprise (MBE) requirements as applicable to each project. The Contractor shall comply with all established requirements for the project and promptly submit prescribed forms to the University.

9.06 PROJECT SAFETY AND HEALTH STANDARDS

It is a condition of the Contract and shall be made a condition of each subcontract entered into pursuant to the Contract, that the Contractor and any subcontractor may not require any laborer or mechanical employed in performance of the Contract to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to the individual's health or safety, as determined under construction safety and health standards, laws, and regulations of the locality in which the work is done, the State, and the Federal government.

9.07 MANDATED CONTRACTOR REPORTING OF SUSPECTED CHILD ABUSE & NEGLECT

The University of Maryland, Baltimore (UMB) and the University System of Maryland (USM) are committed to protecting the safety and welfare of children who come into contact with the UMB community. Maryland law contains mandatory reporting requirements for all individuals who suspect child abuse or neglect, as provided in Title 5, Subtitle 7 of the Family Law Article of the Annotated Code of Maryland.

Contractors performing work on campus shall comply with USM Board of Regents (BOR) VI-1.50 – *Policy on the Reporting of Suspected Child Abuse and Neglect*. Specifically, contractors performing work on campus must report suspected child abuse or neglect to the local department of social services or law enforcement agency and the UMB President’s Designee, if the suspected child abuse or neglect: (i) took place in UMB facilities or on UMB property; (ii) was committed by a current or former employee or volunteer of the USM; (iii) occurred in connection with a UMB sponsored, recognized, or approved program, visit, activity, or camp, regardless of location; or (iv) took place while the victim was a registered student at UMB.

UMB reserves the right to terminate the Contract if Contractor fails to comply with reporting requirements, 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.

END OF UMB MAINTENANCE PROJECT GENERAL CONDITIONS

SECTION 00800
TOWSON UNIVERSITY AMENDMENTS TO
UMB STANDARD GENERAL CONDITIONS FOR CONSTRUCTION
DATED 9/12/2012

00700/7 #1.03, CONTRACTOR RESPONSIBILITIES, H.: Add the following paragraph to this section:

"H.. Security:

- (1) When work is in, or not in, progress, doors to the work areas and/or buildings shall be kept locked.
- (2) The Contractor will provide when necessary, temporary closures at door, window, and louver openings to secure the area and building from theft, damage and weather.
- (3) The Contractor shall be responsible for the security of the building as it relates to the work area. If required by the University, any security deficiencies in the work area shall be immediately corrected.
- (4) Keys will be issued to the Contractor by the UMB Project Manager for the duration of the job. At the closing of the job, the Contractor must return the key(s) to the UMB Project Manager. Should the Contractor require access to other areas, the Contractor must request access through the UMB Project Manager. Should the Contractor or his agent lose a key(s), they will be held responsible for all and any expenses related to the replacement of the key(s) and all lock cylinders that can be opened with the lost key(s) on the Towson University system, with no recourse of action against the University or its agents."

00700/16 #2.07, SHOP DRAWINGS, E: This paragraph is deleted and replaced with the following:

"Copies Required -- Contractor shall supply two (2) copies for the Architect's file, and four (4) copies for the University's Office of Facilities Management, in addition to such copies as the Contractor may desire for his own use."

00700/24 #4.05, COOPERATION WITH UTILITIES, G: Add the following paragraph to this section:

"G. The Contractor will be allowed to use the existing sanitary facilities located near the project site, if available. Should a nuisance in or an abuse of these facilities occur, and continue after a notice from the University, then these facilities shall no longer be used by the Contractor, and he shall provide his own. The Contractor shall keep all facilities which he uses in clean, sanitary condition throughout the period of use and repaint such facilities, if required by the University, at the completion of the work at no cost to the University."

#4.12, AUTHORITY OF THE OFFICE OF ENVIRONMENTAL HEALTH AND SAFETY

A. The following change is made in this paragraph: The University of Maryland at Baltimore's Office of Environmental Health and Safety is changed to Towson University's Department of Environmental Health and Safety.

B. The following new sections are added:

Materials, supplies, equipment and services shall comply in all respects with the Federal Noise Control Act of 1972, where applicable. Power equipment, to the greatest extent possible, shall be the quietest available. Equipment certified by the US EPA as a "Low Noise Emission Product" pursuant to the Federal Noise Control Act of 1972 shall be considered to meet the intent of the regulation.

The Contractor must supply and have immediately available to their employees spill containment equipment/supplies necessary to contain any hazards they may introduce to the job site. The Contractor is responsible for any and all costs incurred by the University in remediating spills or releases of materials he introduced onto the job site.

The Contractor must contact the TU Department of Environmental Health & Safety (704-2949) immediately following any spill of a hazardous material in excess of one (1) quart.

C. OCCUPATIONAL SAFETY AND HEALTH ACT (O.S.H.A.)

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

D. HAZARD COMMUNICATION STANDARD

The vendor will be responsible for advising all of its employees of their rights under the University's Hazard Communication or more commonly referred to as the Right to Know (RTK) Program. The University will supply the vendor with sufficient copies of its Employee Safety program (ESP) booklet which outlines this program. Each and every vendor who physically works on campus shall be required to sign a form acknowledging the receipt of the ESP booklet and their rights/responsibilities pursuant to this program. The University's Department of Environment Health and Safety is responsible for administering the RTK program and will handle all information regarding this program. Failure to adhere to the requirements of the RTK Program may result in implementation of punitive action such as the cancellation of the contract(s).

Pursuant to the provisions of the RTK Program, the vendor will be responsible for the following:

1. Submission to the Department of Environmental Health and Safety of a complete list of all chemicals or chemical products to be used on the University's property. This listing shall include the chemical name, common name, manufacturer's name, quantity, and location (building and room number) for each product. This listing shall be given to the University's Department of Environmental Health and Safety by no later than (5) five days prior to the start of any work under this contract. Changes, additions, or deletions must be submitted in writing by the University's Department of Environmental Health and Safety, prior to the actual use of the new product on campus.
2. Submission to the University's Department of Environmental Health and Safety of the manufacturer's Material Safety Data Sheet (MSDS) for all chemicals or chemical products to be used or in use at the University. These MSDS's must be delivered to the University's Department of Environmental Health and Safety no later than (5) days prior to the start of any work under this contract. There must be MSDS for every product in use or present on the campus unless exempted in writing by the University's Department of Environmental Health and Safety, reserves the right to order a change in the use, storage, or method of handling of any chemical/chemical product that it feels poses an unreasonable hazard to the University community.
3. The vendor must warrant in writing to the University's Contract Administrator in the Procurement Department that all employees have been trained and will continue to be trained in the proper and safe storage, handling, use and disposal of all chemicals/chemical products.
4. The vendor agrees to obey and follow all local, state, and federal regulations regarding the storage, handling, use and disposal of all chemicals/chemical products. The vendor agrees to properly dispose of all regulated waste in accordance with all applicable regulations and to make available to the University's Contract Administrator all records necessary to support such activity.

E. ASBESTOS

The Contractor is responsible for training and equipping all personnel concerning work in asbestos environments as applicable. They must be trained as prescribed by July 1989. All new employees must be trained within 30 days after they are hired by the Contractor. This is to be accomplished at no additional cost to this contract or the University. An initial report on all employees as to their asbestos training will be presented to the Contract Administrator within the first 90 days of the Contract and

updated on a monthly basis. Thereafter, failure to comply with this requirement would place the Contractor in a default status.

F. FIRE SAFETY

The contractor agrees to comply with and follow all local, state, federal, and University regulations regarding fire safety. It is the contractor's sole responsibility to become familiar with all of the applicable regulations and policies. Copies of the University's policies and procedures are available from the University's Department of Environmental Health and Safety.

The contractor will be responsible for the following:

1. To provide all of its employees with sufficient training to ensure that they are fully aware of all pertinent regulation and policies in effect regarding fire safety.
2. To ensure that all of its employees are aware of and react to University Emergency Procedures including, but not limited to, fire drills and evacuations. All employees must be instructed on the proper personnel to call to report an emergency.
3. All portable electrical devices including extension cords should be disconnected at the completion of work assigned. All electrical equipment must be approved by Underwriters Laboratory and maintained in good working order. Under no circumstances should damaged electrical equipment be utilized on this campus.
4. After pulling the fire alarm, evacuate the building to a safe location and contact the University Policy by dialing extension 2133 immediately. If using a pay phone, dial 911 direct.
5. SMOKING IS NOT ALLOWED IN ANY OF THE BUILDINGS. Any employee of the contractor who wishes to smoke during a designated break, must do so outside.

The Contractor is responsible for fully complying with TU's Hot Works Permitting Program. A Hot Works permit is required any time a Contractor is doing any work on campus involving an actual or potential source of ignition (e.g., arc or gas welding, torch cutting, brazing, open flame soldering, grinding, fired space heaters, etc.); or may potentially cause the activation of a building fire alarm system; or may cause building occupants to notify emergency response agencies about the smell of smoke, heat, etc.

Hot Work Permits are issued prior to the start of work by the TSU Department of Environmental Health & Safety at 704-2949.

The Contractor assumes all responsibility for any work

delays associated with noncompliance with the Hot Works Permit Program.

G. BLOODBORNE PATHOGENS

The contractor will be responsible for providing the required training dealing with occupational exposure to bloodborne pathogens. Employees who have received this training may be required to perform services in area where they may be at risk of exposure to blood or other potentially infectious materials. Some responsibilities will include collection of domestic trash in areas that generate special medical waste, regular cleaning in these areas and spill response for accidents that occur on campus that involve blood. Employee must be informed on the potential hazards present in these areas and the proper protective measures that can be taken to prevent exposure. EH&S is available to provide more information concerning the areas on campus where personnel are at risk of exposure.

H. CONFINED SPACE ENTRY

The vendor/contractor agrees to comply with all local, state and federal regulations pertaining to the entry into confined spaces. The contractor is responsible for contacting the TU Contract Services Manager in the Facilities Management for the location of all campus confined spaces and for responsible for ensuring his workers and any subcontractors are adequately trained in confined space entry procedures in accordance with OSHA 1910.146, Permit Required Confined Spaces for General Industry.

The contractor will provide the TU Contract Administrator a written copy of their Confined Space Entry Plan (CSEP) for review and approval at least 5 working days in advance of the planned entry. Prior to work commencements, the contractor will also certify in writing that all of his workers and subcontractors have been trained in accordance with OSHA 1910.146, Permit Required Confined Spaced for General Industry. The certification will list all employees working on campus by name and social security number.

If the contractors CSEP is approved, the contractor/vendor may utilize his CSEP for entering into campus confined spaces. If disapproved, or if the contractor does not have a written CSEP, the contractor will comply with the TSU CSEP. Until such time as the contractor provides written certification that all of his employees and subcontractor employees working on campus have been adequately trained in confined space entry procedures, entry in TU confined spaces is strictly forbidden. Questions concerning TU's CSEP should be directed to the TU Department of Environmental Health & Safety.

The contractor assumes all responsibility for any work

delays associated with noncompliance with confined space regulations.

I. RESPIRATORY PROTECTION

The vendor/contractor agrees to comply with all local, state and federal regulations pertaining to the use of respiratory protection equipment. It is the contractors responsibility to ensure their workers are provided and wearing the appropriate respiratory protection device suitable to the hazard.

The contractor will provide the TU Contract Administrator a written copy of their Respiratory Protection Plan (RPP) for review and approval at least 5 work days in advance of the planned entry. If approved, the contractor/vendor may utilize his RPP while on campus. If disapproved, or if the contractor does not have a written RPP, the contractor will comply with the TSU RPP. Questions concerning TU's RPP should be directed to the TU Department of Environmental Health & Safety.

J. WASTE DISPOSAL

The Contractor is responsible for the removal and disposal of all non-hazardous solid/liquid waste products generated from his/her work on campus. Non-hazardous solid waste may be disposed of in dumpsters located throughout the campus. All liquid non-hazardous waste materials generated by the Contractor shall be removed from the campus and disposed of in accordance with all applicable Federal, State, and County laws and regulations. The University reserves the right to require the use of a TU Non-Hazardous Waste Manifest for transport off campus of any University non-hazardous liquid waste. The University also reserves the right to approve or disapprove the facility(ies) the Contractor utilizes for disposal of any University non-hazardous solid/liquid wastes. Any questions concerning the disposal of hazardous or non-hazardous waste should be directed to the TU Department of Environmental Health and Safety at 704-2949.

Under no circumstances is any Contractor's generated hazardous waste to be disposed of on campus. The Contractor is responsible for the removal and proper disposal of all his/her hazardous waste, in accordance with all applicable Federal, State and County laws and regulations. Contractor's generated hazardous waste is waste resulting from their operations/equipment on campus when using contractor owned/supplied materials/chemicals. Disposal costs for this will be borne solely by the Contractor. The University is responsible for the hazardous waste generated from University operations or equipment.

K. THE CONTROL OF HAZARDOUS ENERGY SOURCES (LOCK OUT/TAG OUT)

The Contractor agrees to comply with all local, state and federal regulations pertaining to the control of hazardous

energy sources. The Contractor is responsible for insuring his workers and any subcontractors are adequately trained in lockout/tryout procedures in accordance with OSHA 1910.147, The Control is responsible for the hazardous Energy Sources (Lock Out/Tag Out).

The Contractor will provide the TU Contract Administrator a written copy of their Lock Out/Tag Out policy (LO/TO) and/or procedures for review and approval at least five working days in advance of the commencement date of the contract. Prior to work commencement, the Contractor will also certify in writing that all of his workers and subcontractors have been trained in accordance with OSHA 1910.147. The certification will list all employees working on campus by name and social security number.

If the Contractor's LO/TO is approved, the Contractor may utilize their LO/TO for work on hazardous energy sources. If disapproved, or if the Contractor does not have a written LO/TO, the Contractor will comply with TU's LO/TO Policy/Procedures. Until such time as the Contractor provides written certification that all their employees and subcontractors working on campus have been adequately trained in LO/TO procedures, work on hazardous energy sources is strictly forbidden. Questions concerning TU's LO/TO Policy/Procedures shall be directed to the TU Department of Environmental Health and Safety.

The Contractor assumes all responsibility for any work delays associated with non-compliance with the control of Hazardous Energy Sources regulations.

00700/29 #4.15 - PARKING: This section is deleted and replaced by the following:

- A. Parking will be allowed in only designated areas.
- B. Parking of any contract related vehicles on sidewalks or unpaved areas will not be permitted at any time.
- C. Payment of fines for parking or other violations will be the responsibility of the Contractor.
- D. Campus parking tags to be displayed in the car windows will be available for the Contractor and his subcontractors from Dennis Bohlayer with TU's Facilities Management Department.

00700/31 #5.01 - MATERIALS - GENERAL, I: This paragraph is intentionally omitted. Contractors are to refer to Item #4.12, B.

00700/31 #5.01, MATERIALS - GENERAL, J: Add the following paragraph to this section:

- "J. The Contractor is responsible for his tools, materials, and equipment at the work site and anywhere else they may be on

campus. It shall be the sole responsibility of the contractor performing work for the contract to safeguard his own materials, tools, and equipment. The University shall not assume responsibility for vandalism and/or theft of materials, tools and/or equipment."

00700/31 #5.01, MATERIALS - GENERAL, K: Add the following paragraph to this section:

"K. Existing equipment and materials once removed from the project shall become the property of the Contractor, and it shall become his responsibility to remove from the campus unless previous arrangements have been made with the University in writing."

"L" All materials removed by the contractor for the purpose of recycling or salvage shall be the responsibility of the contractor to properly remove from campus for the purpose of salvage and shall not be released to university staff unless written approval is provided by the Towson University Associate Vice President for Facilities Management. Under no circumstances shall the contractor provide salvage service for the benefit of Towson University employees.

00700/32 #5.02, STORAGE AND HANDLING OF MATERIALS, F: Add the following paragraph to this section:

"F. In general, there will be no on site storage available except within the project work area. "

00700/39 #6.05 - CONTRACTOR'S LIABILITY INSURANCE, A: The last sentence of this paragraph is deleted and replaced with the following:

"All insurance except Workmen's Compensation shall name the University of Maryland at Baltimore, Towson University and the State of Maryland as additional insured."

00700/70 #8.01 - PAYMENTS, E.: The following is added to this paragraph:

"The Contractor shall submit to the University an updated schedule indicating work completed with each certificate of payment request."

.....END OF TU AMENDMENTS TO UMB GENERAL CONDITIONS

VII. SECTION 00700

UNIVERSITY OF MARYLAND, BALTIMORE

STANDARD GENERAL CONDITIONS OF CONSTRUCTION CONTRACT

Revised: 12/14/81 - UMAB
03/04/82 - UMAB
01/03/85 - UMAB
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01/14/94 - UMAB
12/10/96 – UMAB
08/12/13 - UMAB
02/05/14 – UMB
12/02/16 – UMB
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SECTION 1: DEFINITIONS AND RESPONSIBILITIES

1.01 DEFINITIONS (these definitions shall apply to the entire Contract unless specifically noted):

"Addendum" -- Means a revision or clarification to the original forms, conditions, Specifications and Drawings, made prior to execution of the Contract. Addendums are part of the Bid Documents.

"Any" -- Means 'any and all' whenever more than one item would be applicable or required to complete the Work of the Project in accordance with the Contract Documents.

"The Architect" -- A person registered in the State of Maryland to practice architecture and commissioned by the University to serve as architect on this project. If no person is appointed to serve as Architect, from time to time, then the term "Architect" shall refer to the Office of Facilities Management of the University. Whenever the contract documents are prepared by a registered Engineer in independent practice, and no Architect is employed, each reference to "Architect" refers to the Engineer. If Design/Build project, the term "Architect" shall refer to the person registered in the State of Maryland to practice architecture and commissioned by the Design/Build Contractor to serve as Architect on this project.

"Architect/Engineer (A/E)" -- Means the Architect as defined above.

"As indicated", "As Shown," "As Specified" -- Means "as indicated", shown or specified in the Contract Documents.

"Chancellor" -- Refer to definition of The President noted below.

"Change Order" -- A written order signed by the responsible procurement officer, directing a Contractor to make changes in implementation of the construction phase of the project which the Contract authorizes the procurement officer to order with or without the consent of the Contractor.

"Contract" -- The written agreement executed between the University and the Contractor, covering the performance of the work and furnishing of labor, services, equipment, and materials, and by which the University is obligated to compensate him at the mutually established and accepted rate or price. The Contract shall include the Procurement Request, the Procurement Response, contract forms and bonds, these Standard Conditions, and special conditions pertaining to work on the campus involved, drawings, specifications, addenda, supplemental specifications, all special provisions, all technical provisions, all plans and notices to proceed, any Change Orders and Supplemental Agreements (and any amendments or modifications of any of these from time to time) that are required to complete the construction of the work in an acceptable manner, including authorized extensions thereof, and any other matter agreed to as being part of the contract in a component of the contract. In the event that, the Procurement Request requires an amendment of the Contract as a condition to the performance of or payment for any portions of the work such amendment shall be a part of the Contract. ("Construction Amendment") (Said documents are sometimes referred to as the "contract documents.")

"The Contractor" -- The person or entity having direct contractual relation with the University for the execution of the Work. If the Contractor hereunder is comprised of more than one legal entity, each such entity shall be jointly and severally liable hereunder. The Contractor shall indicate its Federal Tax Identification or Social Security Number following its name on the first page of the Contract. Sometimes the successful Procurement Responder shall be referred to as the Contractor in connection with the period prior to effectiveness of the Contract but after the Contract has been awarded, as the context may require.

"Contract Time and Completion Date" -- The number of calendar days shown in the specifications indicating the time allowed for the completion of the Work. In case a calendar date of completion is shown, instead of the number of calendar days, such work shall be completed on or before that date.

Critical Path Method (CPM) - A scheduling/management tool showing a network of work elements or activities for a construction project.

"Day" -- Means calendar day unless otherwise designated.

"Drawings" -- The Drawings are the graphic and pictorial portions of the Contract Documents, wherever located and whenever issued, showing the design, location and dimensions of the work, generally including plans, elevations, sections, details, schedules and diagrams.

"Or Equal," "Similar To," or similar expressions -- Means the judgment of "equality" or "acceptability" rests with the University.

"Indicated" -- See "As indicated" above.

"Notice to Proceed" -- A written notice to the Contractor of the date on or before which he shall begin the prosecution of the Work.

"Owner" -- Means the University as defined below.

"Performance Bond and Payment Bond" -- The security in the form approved by the University and executed by the Contractor and his surety, and paid for by the Contractor, as a guarantee that he will pay in full all his bills and accounts for materials and labor used in the construction of the work, as provided by law, and completely perform the Work.

"Plans" -- The official drawings approved by the University as part of the contract documents, including those incorporated in the contract documents by reference.

"The President" -- Shall be understood to mean the President of the University of Maryland at Baltimore or his or her designee.

"Procurement Officer" -- The person designated by the President and authorized by the University in accordance with law or regulations to formulate, enter into, or administer contracts or make written determinations and findings with respect to them.

"Procurement Request" -- Refers to the Invitation to Bid, or Request for Proposal or other procurement solicitation in connection with the Work.

"Procurement Responder" -- Refers to the person or entity submitting a Procurement Response. The "Successful Procurement Responder" refers to the Procurement Responder to whom the Contract is awarded.

"Procurement Response" -- Refers to the response submitted to a Procurement Request.

"Project" -- The Project is the total construction of which the work performed under the Contract Documents may be the whole or a part and which may include construction by the University or by separate contractors.

"Related Sections" -- A phrase in the specifications to direct the reader to find provisions on other work which is directly related to the subject section."

"Repair" -- Where used in the contract documents shall be taken to mean to restore after injury, deterioration, or wear; to mend, to renovate by such means as appropriate and to supply such materials and labor as necessary to render the item to be repaired sound, solid, true, plumb, square, even, smooth and fully serviceable. Upon completion of such repair the items must be, unless otherwise stated, rendered to such conditions as to present a first class finished work, or in instances where the repaired item serves as a base for additional finish, the repaired work must be such as to permit a first class finish, to be applied without extra cost to the University. When the word "repair" is used in connection with machinery or mechanical equipment it shall mean, in addition to the above, rendering the equipment completely serviceable and efficient ready for normal use for which it was intended originally.

"Replace," "Restore," "Renew," "Make Good," "Reconstruct" and similar expressions -- Means to "provide", using new materials, as applicable to the type of work involved.

"Specifications" -- The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, construction systems, standards and workmanship for the work, and performances of related services.

"State" -- Refers to the State of Maryland.

"Subcontractor" -- As employed herein includes only those having a direct contract with the Contractor. It includes one who furnishes material worked to a special design according to the plans and specifications for the Work. It excludes one who merely furnishes material not so worked.

"Supplemental Agreement" -- A written agreement covering added or changed work which is beyond the scope of the Contract and Change Orders. A Supplemental Agreement becomes a part of the Contract when approved and properly executed by all parties to the Contract.

"Surety" -- The corporate body bound with and for the Contractor, for the full and complete performance of the Contract and for the payment of all debts pertaining to the Work.

"University" -- Refers to the University of Maryland, a body corporate and an agency of the State of Maryland. In particular, the University refers to the University of Maryland at Baltimore or another campus of the University as specified in the Contract, or the authorized representative that issues the Procurement Request.

"Work" -- Work shall be understood to mean the furnishing of all labor, materials, equipment, services, utilities, and other incidentals necessary to the successful completion of the project and the carrying out of all the duties and obligations imposed by the Contract.

"Written Notice" -- Shall be deemed to have been duly served if delivered in person to the individual or to the member of the firm or to an office of the corporation to whom it is intended, or if delivered to or sent by registered mail, to the last business address known to him who gives notice.

1.02 UNIVERSITY'S RESPONSIBILITIES:

- A. The University shall furnish, upon request, any available record drawings, utility plans, and other data pertinent to existing conditions to the extent that such material is available. The University, however, can offer no assurances that such drawings, property description, or other data are accurate, current or complete.
- B. Information under the University's control shall be furnished by the University with reasonable promptness to avoid delay in the orderly progress of the work.
- C. The foregoing are in addition to other duties and responsibilities of the University enumerated in the Contract.
- D. The State 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 [21.07.03.23]

1.03 CONTRACTOR'S RESPONSIBILITIES: Notwithstanding anything in this Contract to the contrary, the following items are in addition to the Contractor's obligation set forth elsewhere in the Contract.

- A. The Contractor shall supervise and direct the Work, using his best skill and attention. He solely shall be responsible for all construction means, methods, techniques, sequences, and procedures and for coordinating all portions of the Work under the Contract.
- B. The Contractor shall be responsible to the University for acts and omissions of his employees, his agents or subcontractors and their agents and employees, and other persons performing any of the Work under a contract with the Contractor.

- C. The Contractor shall not be relieved from his obligation to perform the Work in accordance with the contract documents, either by the Contract, or by inspections, tests, or approvals required or performed any person in connection with the Work.
- D. The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits, and the contract documents, and shall not encumber the site unreasonably with any materials or equipment. The Contractor shall submit proof of a Confined Space Program to UMB's Office of Environmental Health & Safety (EHS), 714 W. Lombard Street, Baltimore, MD 21201-1041.
- E. Cutting and Patching of Work:
 - (1) The Contractor shall be responsible for all cutting, fitting, or patching that may be required to complete the Work or to make its several parts fit together properly.
 - (2) The Contractor shall not alter damage or endanger any portion of the Work of the University or any separate contractors by cutting, patching, otherwise altering any work or excavation. The Contractor shall not cut or otherwise alter the work of the University and of such separate contractor.
 - (3) The Contractor shall not unreasonably withhold from the University or any separate contractor his consent to cutting or otherwise altering the Work.
- F. The Contractor shall perform the Work in accordance with the lines, grades, typical cross sections, dimensions, and other data required by the contract documents as modified from time to time, including the furnishing of all materials, services, implements, machinery, equipment, tools, supplies, transportation, labor, and all other items necessary for the satisfactory prosecution and completion of the project in full compliance with the requirements of the contract documents.

G. Indemnification:

- (1) To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the University System of Maryland, the University and any Client University, the State of Maryland, the Architect, the Engineer, and the local government of the city or county where the Project is located (if requested by the University), 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, death, or 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 the Contractor, any Subcontractor or Sub-subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, regardless of whether or not the claim, damage, loss or expense is caused in part by a party indemnified hereunder. 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 Section. This obligation is not intended to be or to imply a waiver of the sovereign or governmental immunity of the University, the State, the Client University, or any local jurisdiction where the Project is located.
- (2) In any and all claims against the University or the State of Maryland or the Architect or any of their agents or employees by any employee of the Contractor, any Subcontractor or Sub-subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this Section shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Contractor or any Subcontractor or Sub-subcontractor under worker's or workmen's compensation acts, disability benefit acts or other employee benefit acts.

- (3) The obligations of the Contractor under this Section shall not extend to the liability of the Architect, Engineer, or their agents or employees, arising out of (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 the Architect or Engineer, or their agents or employees provided such giving or failure to give directions or instructions, is the primary cause of the injury or damage.

END OF SECTION 1

SECTION 2: AWARD AND EXECUTION OF CONTRACT

2.01 AWARD

- A. The University reserves the right to cancel the award of any Contract before the execution of the Contract by all parties without any liability on its part.
- B. The successful Procurement Responder will be given written notice of award stating that his Procurement Response has been accepted and that he has been awarded the Contract.
- C. When the Procurement Responder consists of more than one person or entity, each such person or entity participating in the Procurement Response will be held jointly and severally responsible as a Procurement Responder for the duties of the Contractor.

2.02 EXECUTION OF CONTRACT AND AMENDMENT

The University's Department of Procurement Services, after a Notice of Award has been issued, shall forward the formal contract form, and other applicable contract forms (including but not limited to, Contract Affidavit, Minority Business Participation Exhibit II, Performance and Payment Bonds,) to the Contractor for execution and from time to time shall forward to Contractor the forms required in connection with any Construction Amendment. The Contractor shall execute the contract form and other applicable forms and return them along with required certificate(s) of insurance to the Department of Procurement Services within ten (10) days after receipt of same.

After receipt of the properly executed contract forms, and other applicable forms, the Department of Procurement Services will execute the Contract or the Construction Amendment, as applicable, within sixty (60) days and forward the Contractor a copy. In the event that the University fails to execute the Contract, or the Construction Amendment within the sixty (60) day period, the Contractor will have, as it's only remedy, the option to declare the Contract terminated without any liability by the University or the State of Maryland or to accept an extended period for execution by the University.

The Contract or the Construction Amendment shall not be in effect until and unless it is executed by all parties and approved by the Board of Public Works (if required).

2.03 FAILURE TO EXECUTE CONTRACT:

Failure of the Contractor to execute the Contract or the Construction Amendment and file acceptable bonds within the time provided in Section 2.02 and Section 2.04D shall be just cause for the payment of damages guaranteed by the bid bond or other securities at an amount equal to the increased contract price paid by the University as a result of the failure of the Contractor to execute the Contract, or the Construction Amendment, or the amount set forth in The Procurement Response as liquidated damages, whichever is higher.

In the event that the damages sustained by the University exceed the amount of the bid security, the University reserves the right to proceed against the Contractor for the balance of its damages.

2.04 PERFORMANCE AND PAYMENT BONDS:

(Required when initial contract exceeds \$100,000.00) [21.07.02.10]

- A. The University shall provide to the Contractor for execution copies of the Performance and Payment Bonds along with the contract form. The bonds must be executed and returned to the University as provided in the Contract. The premium for the bonds shall be paid by the Contractor.
- B. The bonds shall be in the full amount of the contract price.
- C. The Contractor shall adjust the amount of the bonds from time to time to reflect any increase or decrease in the contract price over the amount of \$100,000. For any such additions, the Contractor will be reimbursed by the University in the amount of the actual amount of the increased bond cost. For any such decrease, the Contractor will credit the University the actual amount of the decreased bond cost. The Contractor shall provide updated bonds that reflect the increase or decrease within ten (10) working days of the fully executed contract modification.
- D. The Contractor shall deliver fully executed 100% Performance and Payment Bonds to UMB's Department of Procurement Services within ten (10) working days after the fully the fully executed Contract is sent to the Contractor.

2.05 **CERTIFICATIONS REQUIRED BY LAW:**

A. **Cost and Price Certification:** [21.07.01.23]

1. The Contractor, by submitting cost or price information certifies that, to the best of its knowledge, the information submitted is accurate, complete and current as to a mutually determined specified date prior to the conclusion of any price discussions or negotiations for:
 - (a) a negotiated contract, if the total contract price is expected to exceed \$100,000 or a smaller amount set by the Procurement Officer; or
 - (b) a change order or contract modification expected to exceed \$100,000, or a smaller amount set by the Procurement Officer.
2. The price under the contract and any change order, including profit or fee, shall be adjusted to exclude any significant price increases occurring because the Contractor furnished cost or price information which, as of the date agreed upon between the parties, was inaccurate, incomplete or not current.
3. If the parties are negotiating for a change order which is expected to exceed \$100,000, the Contractor shall truthfully execute a cost and price information certificate on a form provided by the University. The certificate will provide, in relevant part that the Contractor's price and cost information is accurate, complete and current as of mutually determined date prior to the change order.

B. **Contingent Fee Prohibition:**

At the time the parties execute the Contract, if not sooner, the Contractor shall truthfully execute a certificate on a form provided by the University which provides that he has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee or agent, or paid any fee or any other consideration contingent on the making of the Contract.

C. **Corporation Registration and Tax Payment Certification:**

The Contractor represents and warrants, and shall truthfully execute a certificate on a form provided by the University so stating, (1) that 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, and (2) that it is not in arrears with respect to the payment of any monies due and owing the University or the State of Maryland, or any department or unit thereof, including but not limited to the payment of taxes and employee benefits, and it shall not become so in arrears during the term of this Contract.

2.06 CONTRACT DOCUMENTS:

- A. The contract documents are complementary. That which is called for by any one shall be as binding as if called for by all.
- (1) Intent of the documents is to include all work necessary for proper completion of the Project (excluding any part that is excluded from the Contract) ready for continual efficient operation. It is not intended, however, to include any work not reasonably inferable that is not explicitly described in the Contract Document.
 - (2) Clarification - Whenever the Contractor has questions, the Contractor should obtain clarification of all questions which may have arisen as to intent of the contract documents or any actual conflict between two or more items in the contract documents. Should the Contractor have failed to obtain such clarification, then the University may direct that the Work proceed by any method indicated, specified, or required by the contract documents in the interest of maintaining the best construction practice. Such direction by the University shall not constitute the basis for a claim for extra costs by the Contractor. The Contractor acknowledges that it has had the opportunity to request clarification prior to submitting its bid to the University and therefore agrees that he is not entitled to claim extra costs as a result of such clarification.
 - (3) Jargon -- Work described in words that have a well-known technical or trade meaning shall be held to refer to such recognized standard use.
 - (4) Identification -- The Contract documents shall be signed in triplicate by the University and the Contractor.

- (5) Singular or plural references shall mean one or more like terms of work as necessary to complete the Work, unless specifically directed otherwise.
- (6) Typographical and spelling errors in the specifications will be interpreted by the A/E for their meaning and intent.
- (7) The following order of precedence shall be used when there is a conflict in the Contract Documents. When the order of precedence cannot be used to resolve a conflict, then the more expensive labor, material or equipment shall be provided.
 - (a) The written agreement between the University and the Contractor
 - (b) Supplementary Conditions (Section 00800)
 - (c) General Conditions (Section 00700)
 - (d) Specifications, Divisions 1 through 16
 - (e) Drawings, in the following order of precedence:
 - (i) Notes on Drawings in order of scale with largest first
 - (ii) Details in order of scale with largest first
 - (iii) Figured Dimensions
 - (iv) Scaled Dimensions

B. Drawings -- The Contractor shall do no Work without proper drawings and instructions. Drawings are in general drawn to scale and symbols are used to indicate materials and structural and mechanical requirements. When symbols are used those parts of the drawings are of necessity diagrammatic and it is not possible to indicate all connections, fittings, fastenings, etc., which are required to be furnished for the proper execution of the work. Diagrammatic indications of piping, ductwork and conduit, and similar items in the work are subject to field adjustment in order to obtain proper grading, fitting passage over, under or past obstructions, to avoid exposure in finished rooms and unsightly and obstructing conditions. The Contractor shall make these adjustments at no increased cost to the University.

- (1) Copies Furnished -- The University will furnish the Contractor without cost, five (5) sets of drawings and five (5) sets of specifications. Additional copies may be obtained by the Contractor upon payment of the cost of reproduction of documents.

- (2) Copies At The Site -- The Contractor shall keep in the job site office a complete set of all drawings, specifications, shop drawings, schedules, etc., in good order and available to the Architect and the University.
 - (3) Ownership -- All contract documents remain the property of the University. The Contractor shall not use any of them on other work and shall return to the University upon completion of the work.
- C. Large Scale Detail Drawings -- When the University directs, the Architect shall furnish additional instructions, in the form of large scale developments of the drawings used for bidding, or to amplify the specifications for the proper execution of the Work. These shall be true developments of the bidding documents and reasonably inferable therefrom. The Work shall be executed in conformity therewith.
- D. Dimensions -- The Contractor shall carefully check all dimensions prior to execution of the particular portion of the Work affected. Whenever inaccuracies or discrepancies are found, the Contractor shall consult the Architect prior to any construction or demolition. Should any dimensions be missing, the Architect will be consulted and supply them prior to execution of the Work unless, under the specifications, the Contractor is responsible for determining dimensions. Dimensions for items to be fitted into constructed conditions at the job will be taken at the job and will be the responsibility of the Contractor. The obvious intent of the documents or obvious requirement dictated by conditions existing or being constructed supersedes dimensions or notes which may be in conflict therewith. Whenever a stock size manufactured item or piece of equipment is specified by its normal size, it is the responsibility of the Contractor to determine the actual space requirements for setting or entrance to the setting space. No extra cost will be allowed by reason of work requiring adjustments in order to accommodate the particular item of equipment
- E. Whenever new work, building, addition, or portions thereof are not accurately located by plan dimensions, the Architect will supply exact position for execution of the Work.

2.07 SHOP DRAWINGS:

- A. The Contractor shall submit, for the Architect's approval at such time as agreed in the Contractor's schedule, shop drawings, including setting drawings, and schedules as required by the University or the Architect for the work of the various subcontractors. These drawings shall be prepared in conformity with the best practice and standards for the trade concerned. Due regard shall be given to speed and economy of fabrication and erection.
- B. All shop drawings must show the name of the project and the University Contract number.
- C. Size of Drawings -- All shop drawings and details submitted to the Architect for approval shall be printed on sheets of the same size as the contract drawings prepared by the Architect. When a standard of a fabricator is of such size to be printed more than one drawing on a sheet of the size of the Architect's drawing, this is acceptable. Sheets larger than the Architect's drawing will not be accepted except when specifically permitted by the University. Shop detail supplied on a sheet of letter size 8-1/2" x 11" is acceptable for schedules and small details.
- D. Items For Which Shop Drawings Will Be Required -- Shop drawings will be required for all items which are specifically fabricated for the work or when the assembly of several items is required for a working unit. Shop drawings are required for all items designated in the contract specifications, for all reinforcing and structural steel, specially made or cut masonry units, miscellaneous metal work, specially made millwork, plaster molds, or moldings, marble and slate, special rough hardware, and all heating, ventilating, plumbing, and electrical items requiring special fabrication, or detail connections including refrigeration, elevators, dumb waiters, laboratory equipment, ducts, etc. Refer to submittal section(s) of the specifications.
- E. Copies Required -- Contractor shall supply two (2) copies for the Architect's file and eight (8) copies for the University's Office of Facilities Management, in addition to such copies as the Contractor may desire for his own use.
- F. Examination and Approval -- The Architect will examine shop drawings with reasonable promptness, noting desired corrections or granting approval or rejecting them.
- G. Field Dimensions and Conditions -- The Architect is not responsible for the check of dimensions or existing conditions in the field. This is the sole responsibility of the Contractor.

- H. Resubmission -- When the Architect or the University notes desired corrections or rejects the drawings, the Contractor shall resubmit the drawings promptly with corrective changes, without additional compensation.
- I. Contractor's Responsibility -- Unless the Contractor has, in writing, notified the Architect to the contrary, at the time of submission, the University and the Architect may and will assume that the drawings are in conformity with the existing contract documents and do not involve any change in the contract price or any change which will alter the space within the structure or alter the nature of the building from the contemplated in the contract documents.
- J. University's and Architect's Notations -- Should the Contractor consider any rejection of the University's and Architect's notation on the shop drawings to require an increase in the cost of the work from that contemplated in the Contract documents, then the Contractor shall desist from further action relative to the item it questions and shall notify the Project Manager, Procurement Officer and Architect, in writing, within five (5) days of the additional or less cost involved. No work relative to the item shall be executed until the entire matter is clarified and the Contractor is ordered by the University to proceed. Failure of the Contractor to serve written notice as above required shall constitute a waiver of any claim in relation thereto. Similarly, should the University's and Architect's notation or change involve less work than is covered by the contract drawings, the Contractor shall allow the University an equitable credit resulting from the change in the work.

END OF SECTION 2

SECTION 3: SCOPE OF THE WORK

3.01 INTENT OF THE CONTRACT DOCUMENTS:

It is the intent of the contract documents to show all the work necessary to complete the project.

3.02 GENERAL CONDITIONS CONTROLLING:

Subject to Section 2.06 A (7), in event of a conflict between these General Conditions and any other provision of the contract documents, these General Conditions shall prevail unless such other provision expressly provides to the contrary.

3.03 DIFFERING SITE CONDITIONS: [21.07.02.05]

- A. The Contractor shall promptly, and before such conditions are disturbed, notify the Procurement Officer in writing of: (1) Subsurface or latent physical conditions at the site differing materially from those indicated in this Contract, or (2) unknown physical conditions at the site, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inhering in work of the character provided for in this Contract. The Procurement Officer shall promptly investigate the conditions, and if he finds that such conditions do materially so differ and cause an increase or decrease in the Contractor's cost of, or the time required for, performance of any part of the work under this Contract, whether or not changed as a result of such conditions, an equitable adjustment shall be made and the Contract modified in writing accordingly.
- B. No claim of the Contractor under this clause shall be allowed unless the Contractor has given the notice required in paragraph A above provided, however, the time prescribed therefore may be extended by the University.
- C. No claim by the Contractor for an equitable adjustment shall be allowed if asserted after final payment under this Contract.

3.04 SITE INVESTIGATION: This provision is in addition to any other provision in the Contract relating to Site Investigation. [21.07.02.06]

The Contractor acknowledges that he has investigated and satisfied himself as to the conditions affecting the work, including but not restricted to those bearing upon transportation, disposal, handling and storage of materials, availability of labor, water, electric power, roads and uncertainties of weather, river stages, tides or similar physical conditions at the site, the conformation and conditions of the ground, the character of equipment, and facilities needed preliminary to and during prosecution of the work. The Contractor further acknowledges that he has satisfied himself as to the character, quality and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site, including all exploratory work done by the University, as well as from information presented by the drawings and specifications made a part of the Contract. Any failure by the Contractor to acquaint himself with the available information may not relieve him from responsibility for estimating properly the difficulty or cost of successfully performing this work. The State assumes no responsibility for any conclusions or interpretations made by the Contractor on the basis of the information made available by the University.

3.05 CONDITIONS AFFECTING THE WORK:

The Contractor shall be responsible for having taken steps reasonably necessary to ascertain the nature and location of the Work and the general and local conditions which affect the Work or the cost thereof. Any failure by the Contractor to do so will not relieve him from responsibility for successfully performing the Work without additional expense to the University. The Contractor agrees not to place any credence in any understanding or representation concerning conditions made by any University employee or agents prior to the execution of this Contract unless such understanding or representation is expressly stated in the Contract.

3.06 CHANGES IN THE WORK: [21.07.02.02]

- A. A procurement officer of the University's Office of Procurement and Supply may, at any time, without notice to the sureties, if any, by written order designated or indicated to be a Change Order, make any change in the Work within the general scope of the Contract, including but not limited to changes:
- (1) In the specifications (including drawings and designs);
 - (2) In the method or manner of performance of the Work;
 - (3) In the University-furnished facilities, equipment, materials, services, or site; and/or,
 - (4) Directing acceleration in the performance of the Work.
- B. Any other written order or oral order (which terms as used in this paragraph B shall include direction, instruction, interpretation, or determination from the Procurement Officer which causes any such change) shall be treated as a Change Order under this clause, provided that the Contractor gives the procurement officer written notice stating the date, circumstances, and source of the order, and that the Contractor regards the order as a Change Order.
- C. Except as herein provided, no order, statement, or conduct of the Procurement Officer or other University personnel shall be treated as a change under this clause or entitle the Contractor to an equitable adjustment hereunder.
- D. If any change under this Section causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work under this Contract, whether or not changed by any order, an equitable adjustment shall be made and the Contract modified in writing accordingly; provided, that except for claims based on defective specifications, no claim for any change under paragraph B above shall be allowed for any costs incurred more than twenty (20) days before the Contractor gives written notice as therein required: provided further, that in the case of defective specifications for which the University is responsible, the equitable adjustment shall include any increased cost reasonable incurred by the Contractor in attempting to comply with such defective specifications.

- E. If the Contractor intends to assert a claim for an equitable adjustment under this Section, it shall within thirty (30) days after receipt of a written Change Order under paragraph A above or the furnishing of written notice under paragraph B above, submit to the procurement officer a written statement setting forth the general nature and monetary extent of such claim unless this period is extended by the University. The statement of claim hereunder may be included in the notice under paragraph B above.
- F. No claim by the Contractor for an equitable adjustment hereunder shall be allowed or asserted after final payment under this Contract.
- G. In order to facilitate review of quotations for extras or credits, all proposals (except those so minor that their propriety can be seen by inspection) shall be accomplished by a complete itemization of costs including labor, materials and Subcontracts. Where major cost items are Subcontracts, they shall also be itemized. In no case will a change involving over \$200.00 be approved without such itemization.
- H. Each Contractor and subcontractor shall furnish labor and materials for any additional work ordered by the University (and for which no pre-agreed price has been fixed) for the net cost of all labor and materials furnished, plus an overhead and profit amount not to exceed 15% on work performed by its own forces. In addition each Contractor and each subcontractor shall be entitled to mark up by an amount not to exceed 10% any invoice received from another subcontractor for work performed by the other subcontractor's forces.
- I. Each contract modification or change order that affects contract price shall be subject to the prior written approval of the Procurement Officer and other appropriate University authorities and to prior certification of the appropriate fiscal authority of fund availability and the effect of the modification or change order on the project budget or the total construction cost. If, according to the certification of the fiscal authority, the contract modification or change order will cause an increase in cost that will exceed budgeted and available funds, the modification or change order may not be made unless sufficient additional funds are made available or the scope of the project is adjusted to permit its completion within the project budget.

3.07 UNAUTHORIZED WORK:

Contractor shall not be paid for any work not authorized in writing by the Procurement Officer.

END OF SECTION 3

SECTION 4: CONTROL OF THE WORK

4.01 AUTHORITY OF THE ARCHITECT:

- A. Under the direction of the University, the Architect shall be the initial interpreter of any drawings included among the contract documents. He will furnish with reasonable promptness such clarifications as he may deem necessary for the proper execution of the Work; such clarifications to be consistent with the intent of the contract documents. He is the agent of the University only to the extent provided in the contract documents. When in special instances he is authorized by the University so to act, he has authority to recommend to the University to stop work whenever such stoppage may be necessary to insure the proper execution of the Contract.
- B. Except as otherwise provided in the contract documents, all the Architect's decisions are subject to review by the University.

4.02 CONFORMITY WITH CONTRACT REQUIREMENTS:

- A. All work performed and all materials furnished by the Contractor shall be in conformity with the Contract requirements.
- B. In the event the University finds the materials or the finished product in which the materials are used or the work performed are not in complete conformity with the Contract requirements and have resulted in an inferior or unsatisfactory product, the work or materials shall be removed and replaced or otherwise corrected by and at the expenses of the Contractor.
- C. In the event the University finds the materials or the finished product in which the materials are used are not in complete conformity with the Contract requirements, but have resulted in a satisfactory product, the University shall then make a determination if the work shall be accepted. In this event, the University will document the basis of acceptance by a change order which will provide for an appropriate adjustment in the Contract price. Acceptance of the work will be contingent upon the Contractor's acceptance of a Contract Amendment incorporating the Change Order.

4.03 ADJACENT WORK:

- A. The University shall have the right, at any time, to contract for and perform other work on, near, over, or under the work covered by the Contract. In addition, other work may be performed under the jurisdiction of another State agency. The Contractor shall cooperate fully with such other contractors and carefully fit his own work to such other as may be directed by the Architect.
- B. The Contractor agrees that in event of dispute as to cooperation or coordination with adjacent contractors, the University will act as referee and decisions made by the University will be binding. The Contractor agrees to make no claims against the University or the State of Maryland for any inconvenience, delay, or loss experienced by him because of the presence and operations of other contractors.

4.04 CONTROL BY THE CONTRACTOR:

- A. The Contractor shall constantly maintain efficient supervision of the work, using the best skill and coordinating ability. He shall carefully study and compare all drawings, specifications, and other instructions and check them against conditions existing, or being constructed on the project. He shall at once report to the University and the Architect any error, inconsistency, or omission which he may discover.
- B. The Contractor shall schedule and conduct regular progress meetings every other week, and as directed by the University, at which Subcontractors (Sub-subcontractors if necessary), University, Architect, and other designated representatives, and the Contractor can discuss such matters as progress, scheduling, and construction-related issues. The Contractor is responsible for taking meeting notes and distributing these to all invited parties within three (3) working days after such meetings. The meeting notes are the product of the Contractor. Failure of the University to respond to such notes is not deemed to be acceptance.

4.05 COOPERATION WITH UTILITIES:

- A. It is understood and agreed that the Contractor has considered in his bid all of the permanent and temporary utility appurtenances in their present or relocated positions and that no additional compensation will be allowed for normal delays, inconvenience, or damage sustained by him due to any interference from the said utility appurtenances, the operation of moving them, or the making of new connections thereto if required by the Contract documents.
- B. The Contractor shall have responsibility for notifying all affected utility companies prior to the necessity of performing any work on their utilities and shall cooperate with them in achieving the desired results. All damage to utility facilities caused by the Contractor's operations shall be the responsibility of the Contractor.
- C. At points where the Contractor's operations are adjacent to properties of railway, communication, water, and power companies, or are adjacent to other property, damage to which might result in expense, loss, or inconvenience, work shall not be commenced until all arrangements necessary for the protection thereof have been made by the Contractor.
- D. The Contractor shall cooperate with the owners of any underground or overhead utility lines in their removal and rearrangement operations in order that these operations may be reduced to a minimum and that services rendered by those parties will not be unnecessarily interrupted.
- E. In the event of interruption to utility services as a result of accidental breakage or as a result of being exposed or unsupported the Contractor shall promptly notify the proper authority and shall cooperate with the said authority in the restoration of service. No work shall be undertaken around fire hydrants until provisions for continued service have been approved by the local fire authority.
- F. Utility outages shall be kept to a minimum and will be permitted only with the written approval of the University's Office of Facilities Management. All requests for outages shall be made a minimum of ten (10) working days in advance of their need. Requests for outages will not be considered unless they include an identification of all areas which will be affected by the proposed outage.

4.06 AUTHORITY AND DUTIES OF UNIVERSITY INSPECTORS:

- A. University inspectors shall be authorized to inspect all work done and all material furnished. Such inspection may extend to all or any part of the work and to the preparation, fabrication, or manufacture of the materials to be used. The inspector is not authorized to revoke, alter, or waive any requirements of the Contract, nor is he authorized to approve or accept any portion of the complete project. He is authorized to call the attention of the Contractor to any failure of the work or materials to conform to the contract. He is authorized to reject materials or suspend the work (after review with the procurement officer) until any questions at issue can be referred to and decided by the University. Inspectors shall perform their duties at such times and in such manner as will not unnecessarily impede progress on the Contract.
- B. The inspector shall in no case act as foremen or perform other duties for the Contractor, nor interfere with the management of the work by the latter.
- C. Any advice which the inspector may give the Contractor shall not be construed as binding the University in any way or releasing the Contractor from fulfilling all the terms of the Contract. The duty of the inspector on the project is to observe the progress of the work and to report any deviations from the requirements of the Contract documents; however, should the inspector fail to report any such deviation from the Contract requirements, this does not release the Contractor from fulfilling all of the terms of the Contract.
- D. Where there is disagreement between the Contractor and the inspector, the inspector will immediately direct the University's and the Architect's attention to the issues of disagreement, and if the Contractor still refuses to make corrections, comply or suspend work, the Procurement Officer will prepare and deliver in writing to the Contractor, by mail or otherwise, a written order suspending the work and explaining the reason for such shutdown. Any work performed during the inspector's absence will not be accepted or paid for and may be required to be removed and disposed of at Contractor's expense.

4.07 INSPECTION OF THE WORK:

- A. Work, including the fabrication and source of supply, is subject to observation by the Architect and to the University's Office of Facilities Management's right to inspect specific items.

- B. The Contractor shall provide facilities for access and inspection as required by the University.
- C. If the specifications, the Office of Facilities Management's instructions, law, ordinances, or any public authority require any work to be specially tested or approved, the Contractor shall give the Office of Facilities Management timely notice of its readiness for inspection, and if inspection is by another authority, the date fixed for such inspection. Inspections by the Office of Facilities Management shall be made promptly and where practicable at the source of supply. Any work covered without approval of the University must, if required by the Architect or the Office of Facilities Management, be uncovered for examination, and then recovered, both at the Contractor's expense.

4.08 REMOVAL OF DEFECTIVE WORK:

- A. All work and materials which do not conform to the requirements of the Contract will be considered unacceptable.
- B. Any unacceptable or defective work, whether the result of poor workmanship, use of defective materials, damage through carelessness or any other cause, found to exist shall be removed and replaced by work and materials which shall conform to the Contract requirements or shall be remedied otherwise in an acceptable manner authorized by the University.
- C. Upon failure on the part of the Contractor to comply promptly with any order of the University, made under the provisions of this section, the University shall have authority to cause defective or unacceptable work to be remedied or removed and replaced and unauthorized work to be removed and to deduct the costs from any monies due or to become due the Contractor under this Contract.

4.09 MAINTENANCE OF WORK DURING CONSTRUCTION:

- A. The Contractor shall maintain the Work during construction and until acceptance. This maintenance shall be continuous and effective, prosecuted with adequate equipment and forces to the end that all parts of the work be kept in satisfactory condition at all times and protected from damage of any kind from external sources.

- B. Particular attention shall be given to drainage, both permanent and temporary. The Contractor shall use all reasonable precautionary measures to avoid damage or loss that might result from accumulations and concentrations of drainage shall be diverted or dispensed when necessary to prevent damage to excavation, embankments, surfaces, structures, or property. Suitable measures shall be taken by the Contractor to prevent the erosion of soil in all construction areas where the existing ground cover has been removed. Such measures shall be in compliance with the requirements of any governmental entity having jurisdiction.
- C. All cost of maintenance work during construction and before final acceptance shall be included in the base bid and the Contractor will not be paid any additional amount for such work.
- D. In the event that the Contractor's Work is halted by the University for failure to comply with the provisions of the Contract, the Contractor shall maintain the entire project as provided herein, and provide such ingress and egress for local residents or tenants adjacent to the project site, for tenants of the project site, and for the general public as may be necessary during the period of suspended work or until the Contractor has been declared in default.
- E. On projects where pedestrian or vehicular traffic flow is maintained, the Contractor shall be responsible for repair and restoration of all traffic damage to the work, either partially or totally completed, until such time as the work is accepted by the University.

4.10 FAILURE TO MAINTAIN ENTIRE PROJECT:

If the Contractor shall at any time, fail to comply with the provisions of paragraph 4.09, the University shall immediately notify the Contractor to comply with the required maintenance provisions. In the event that the Contractor fails to remedy unsatisfactory maintenance within 24 hours after receipt of such notice, the University will immediately proceed with adequate forces and equipment to maintain the project, and the entire cost of this maintenance may be deducted from monies due the Contractor, without in anyway limiting the right of the University to enforce any and all other remedies to which it is entitled by law or under the Contract.

4.11 UNIVERSITY'S RIGHT TO DO WORK:

If the Contractor should neglect to prosecute the work properly or fail to perform any provision of this Contract, the University after three (3) days' written notice to the Contractor may make good such deficiencies and may deduct the cost thereof from the monies then or thereafter due the Contractor, without in anyway limiting the right of the University to enforce any and all other remedies to which it is entitled by law or under the Contract.

4.12 AUTHORITY OF OFFICE OF ENVIRONMENTAL HEALTH AND SAFETY

- A. The University of Maryland, Baltimore's Office of Environmental Health and Safety ("EHS") is responsible for promoting a safe and healthful work environment for the project and for verifying the Contractor's compliance with Federal and State environmental protection regulations and University safety and health practices. To carry out these responsibilities, EHS is authorized to inspect the project, all work done and being done, and all material to be furnished and being furnished. In the event that EHS learns of an unsafe condition, EHS is authorized to suspend work (after notice to the Procurement Officer and the Office of Facilities Management) until the unsafe condition is cured by the Contractor. "Unsafe condition" shall mean any practice that represents a significant risk of injury or health hazard to University employees, a significant adverse environmental impact or a physical hazard which could result in damage to University property and/or the public. The authority of EHS is in addition to any other rights of the University set forth herein.
- B. Prior to the Contractor proceeding with the Work, he is to submit proof of a Confined Space Program to UMB's Office of Environmental Health and Safety for verification.

4.13 IDENTIFICATION:

- A. The Contractor shall obtain identification for its employees from the University or the Client University where the Project is located. The rules and changes of the institution apply; costs are the Contractor's responsibility. The University Project Manager must approve all applications for campus identification. Employee identification of work persons assigned to the University Project shall be visible at all times.
- B. All vehicles and mobile equipment shall be identified with the Contractor's name displayed in a highly visible manner.

- C. The Contractor shall require all trade contractors' personnel to wear identification badges at all times on campus.

4.14 NOISE CONTROL:

- A. The Contractor shall execute the Work in this Contract as quietly as practicable to avoid unnecessary disturbances. Use of audio devices is not allowed on the Project site. Two-way communication radios are allowed.
- B. Any complaints duly registered by the University of Unacceptable Noise Levels shall be cause for the use of special precautions and methods of operation by the Contractor to reduce noise to acceptable levels. The University shall be the sole judge of the tolerability of noise levels.

4.15 PARKING: Parking of employees of the Contractor and/or subcontractor(s) is the responsibility of the applicable Contractor and/or subcontractor. UMB's Parking Office may be contacted as to designated public parking facilities on campus with any costs thereof to be borne by the Contractor or subcontractor, dependent on whose employees utilize such public parking.

4.16 KEYS:

- A. Keys needed by Contractor for 7 days or less:

The Contractor must sign out a key from Work Control and return the key each day to Work Control.

- B. Keys needed by Contractor for more than 7 days:

A \$10.00 deposit (amount subject to change without notice) shall be paid to UMAB by the Contractor for each key. The deposit is refundable when the key is returned to Work Control after the project is completed. The deposit is forfeited if the key is lost and cannot be returned.

4.17 PRESS RELEASES: The Contractor shall not issue any press release for any publication, including newspaper or media, without first clearing the text with UMB and obtaining the prior written approval of UMB in each instance.

END OF SECTION 4

SECTION 5: MATERIALS

5.01 GENERAL:

- A. All materials shall meet all quality requirements of the Contract. In order to expedite the inspection and testing of materials, the Contractor shall notify the University and the Architect in writing of the sources from which he proposes to obtain all materials requiring approval, testing, inspection, or certification prior to incorporation into the work as soon as possible after receipt of notification of award of the Contract.
- B. Materials include all manufactured products and processed and unprocessed natural substances required for completion of the Contract. The Contractor, in accepting the Contract, is assumed to be thoroughly familiar with the materials required and their limitations as to use, and requirements for connection, setting, maintenance, and operation. Whenever an article, material, or equipment is specified and a fastening, furring, connection (including utility connections), access hole, flashing closure piece, bed, or accessory is normally considered essential to its installation in good quality construction, such shall be included as if fully specified. Nothing in these specifications shall be interpreted as authorizing any work in any manner contrary to applicable laws, codes, or regulations.
- C. Approval -- All materials are subject to the University's approval as to conformity with the specifications, quality, design, color, etc. No material for which approval is necessary shall be used until written approval is given by the University and Architect. Approval of a subcontractor or supplier as such does not constitute approval of a material which is other than that included in the specifications.
- D. New Materials -- Unless otherwise specified, all materials shall be new. Old materials must not be used as substitutes for new, regardless of condition or repair, unless approved in writing by the University.
- E. Quality -- Unless other specified, all materials shall be of the best quality of the respective kinds.
- F. Samples -- The Contractor shall furnish for approval all samples as directed. The materials used shall be the same as the approved samples.
- G. Proof of Quality -- The Contractor shall, if requested, furnish satisfactory evidence as to the kind and quality of materials either before or after installation. He shall pay for any tests or inspections called for in the specifications and such tests as may be deemed necessary for "substitutions," as set forth in paragraph 5.03 of these General Conditions.

- H. Standard Specifications -- When no specification is cited and the quality, processing, composition, or method of installation of a thing is only generally referred to, then:
- (1) For items not otherwise specified below, the latest edition of the applicable American Society for Testing Materials specification is the applicable specification.
 - (2) For items generally considered as plumbing and those items requiring plumbing connections, the applicable portions of the latest edition of the B.O.C.A. Code are the applicable specifications.
 - (3) For items generally considered as heating, refrigerating, air-conditioning, or ventilating, the applicable portions of the latest edition of the A.S.H.R.A.E. Handbook published by the American Society of Heating, Refrigerating, and Air- Conditioning Engineers, Inc., are the applicable specifications.
 - (4) For items generally considered as site work, the applicable portions of the Maryland S.H.A. Standard Specifications are the applicable specifications.
 - (5) For items generally considered as electrical, the applicable provisions of the latest edition of the National Electric Code are the applicable specifications.
 - (6) For items generally considered as fire protection, the applicable portions of the latest edition of the National Fire Protection Association Code are the applicable specifications.
- I. The Contractor shall provide the University with Material Safety Data Sheets (MSDS) as required by law. The Contractor shall provide EHS with a material safety data sheet ("MSDS") for all products and materials which (i) contain hazardous chemical and (ii) to which OSHA Regulations (29 CFR, 1910.1200) apply. The Contractor must submit a binder of all applicable MSDS's to EHS within forty-five (45) days of issuance of the Notice to Proceed. EHS will review this binder and return it to the Contractor accordingly. The Contractor shall maintain in its possession on the project site, at all times, a copy of each MSDS required to be submitted in connection with the chemicals, compounds, or materials used in the project. In the event EHS has questions arising from any MSDS, in each instance, notwithstanding anything herein to the contrary, EHS shall have the right to contact the Contractor and the vendor of the chemical, compound or material in question.

5.02 STORAGE AND HANDLING OF MATERIALS:

- A. Materials shall be so stored as to assure the preservation of their quality and acceptability for the Work. Stored materials, even though approved before storage, may again be inspected prior to their use in the Work. Stored materials shall be located so as to facilitate their prompt inspection. Approved portions of the project site may be used for storage purposes and for the placing of the Contractor's plant and equipment. Such storage areas must be restored to their original condition by the Contractor at his expense. If off-site storage is used, Contractor shall provide the necessary copy of the insurance policy with the University as the certificate holder. See Section 6.05 and Section 6.06 for further details.
- B. Materials shall be handled in such a manner as to preserve their quality and acceptability for the Work.
- C. Contractor shall confirm his apparatus and the storage of materials to the area delineated in the Contract documents as the "Limit of Contract."
- D. Explosives:
 - (1) Explosives shall not be stored upon any property belonging to the University.
 - (2) Should the Contractor desire to use explosives on any University property he shall first receive written approval of the University. The approval will stipulate time, place, and quantity to be used and manner of use.
 - (3) The Contractor shall assume all responsibility for injury to persons or property damage which may result from the use and/or transportation of explosives. The Contractor must comply with any and all ordinances, regulations, and restrictions in relation to the use of explosives.
- E. Paints
 - (1) Oil base paints and liquids shall not be stored in large quantities on the project site. Containers shall be limited to five (5) gallon size. Any liquid with a flash point of less than one hundred (100) shall be contained in safety cans, UL approved. Liquid with a higher flash point shall be stored in rigid cans. Glass containers shall not be used.
 - (2) Oily rags, waste, etc., must be removed from the work site at the close of each working day.

5.03 SUBSTITUTION:

- A. Should the Contractor desire to substitute another material for one or more specified by name he shall apply to the University, in writing, for permission, stating the credit or extra cost that will result from the use of such material and explaining all potential benefits to the University from the substitution. The University will not consider the substitution of any material different in type or construction methods unless such substitution affects a benefit to the University.
- B. The Contractor shall not submit requests for approval of materials other than those specified without a written statement that a substitution is proposed. Approval of a "substitute material" by Architect when the Contractor has not designated such material as a "substitute", shall not be binding on the University, and will not release Contractor from any obligations of the Contract. The University, at its discretion, may approve a "substitute material" as a Substitution after the fact. Such approval, if given, must be set out in writing.
- C. A material which is an approved equal (see #5.04) is not a substitution under this Section 5.03.

5.04 APPROVED EQUALS:

The terms "Or Equal", "Equal", "Approved Equal" are used as synonyms throughout the specifications. They are implied in reference to all named manufacturers in the specifications unless otherwise stated. Only materials fully functionally equal or superior in all details and characteristics will be considered to be approved equals. The Contractor shall apply to the University in writing for confirmation that a material is an approved equal. The University's Office of Facilities Management is the final judge as to equality.

5.05 CONTRACTOR'S OPTIONS:

When several products or manufacturers are named in the specifications for the same purpose of use, then the Contractor may select any of those so named. However, all of the units required for, and used in, the project must be the same in material and manufacture.

5.06 TESTS:

- A. If the contract documents, laws, ordinances, rules, regulations, or orders of any public authority having justification require any portion of the work to be inspected, tested, or approved, the Contractor shall give the University and the Architect timely notice of its readiness so the Architect may observe such inspection, testing, or approval. The Contractor shall bear all costs of such inspections, tests, or approvals conducted by public authorities.
- B. The University reserves the right to require special inspection, testing or approval which the contract documents do not include, and instruct the Contractor to order such special inspection, testing, approval, and the Contractor shall give notice as provided in 5.06 A above. If such special inspection or testing reveals a failure of the Work to comply with the requirements of the contract documents, the Contractor shall bear all costs of testing, inspection, and replacement or remediation, including compensation for the Architect's additional services made necessary by such failure; otherwise the University shall bear such costs and an equitable adjustment will be made.
- C. Required certificate of inspection, testing, or approval shall be secured by the Contractor and promptly delivered by him to the University and the Architect.

5.07 BUY AMERICAN STEEL:

Only steel products made in the United States shall be used or supplied in the performance of the Contract or any subcontract. Steel products include products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated, or otherwise similarly processed from steel made in the United States. This requirement shall not apply if the University has determined that the cost of such steel products is unreasonable or inconsistent with the public interest and has communicated this determination in writing to the Contractor. The provisions of this Section shall not apply where they are in conflict with any Federal grant or regulation affecting this Contract.

5.08 SALES TAX:

Supplies and materials purchased in connection with the Contracts will not be tax exempt.

5.09 HAZARDOUS MATERIALS:

- A. The use or handling of regulated materials, including asbestos or PCB, shall be strictly governed by Federal, State and Local regulations.
- B. No Contractor furnished material or product containing any asbestos in any form may be used on this project.
- C. Contractor must remove any and all materials covered under the hazardous waste regulations upon completion of the project or more often as directed by EHS or required by law or regulation.
- D. It is assumed that hazardous materials are not present within the areas of work in the existing buildings but the Contractor is advised to remain alert to the possibility of encountering hazardous materials during the course of the Work. In the event that hazardous materials are encountered and must be handled, the Contractor shall immediately stop all work within the affected area and notify the University's Project Manager for instructions. The Contractor shall coordinate and cooperate with the hazardous material removal contractor in the removal of hazardous materials within the areas of work under the Contract.

END OF SECTION 5

SETTING 6: LEGAL RELATIONS AND RESPONSIBILITIES

6.01 LAWS TO BE OBSERVED:

- A. The Contractor shall keep fully informed of all Federal, State, and Local laws, ordinances, and regulations and all orders and decrees of bodies or tribunals having any jurisdiction or authority, which in any manner affect those engaged or employed on the work or which in any way affect the conduct of the work. The Contractor shall at all times observe and comply with all such laws, ordinances, regulations, orders, and decrees, and shall protect and indemnify the University, any Client University, and the State of Maryland and its representatives against such claim or liability arising from or based on the violation of any law, ordinance, regulation, order, or decree, whether by the Contractor, its employees or subcontractors.
- B. The Contractor must comply with the provisions of the Workmen's Compensation Act and Federal, State, and City laws relating to hours of labor.
- C. The provisions of this Contract shall be governed by the Laws of Maryland. [21.07.01.07]
- D. The Contractor shall give all notices and comply with all applicable State, Federal and local laws, ordinances, rules, and regulations bearing on the conduct of the work as drawn and specified.
- E. If the Contractor observes that the drawings and specifications are at variance with any law, he shall promptly notify the University, and any necessary changes shall be adjusted as provided in the Contract for changes in the work. If the Contractor performs any work knowing it to be contrary to such laws, ordinances, rules, and regulations, and without such notice to the University, the Contractor shall bear all costs arising therefrom, including without limitation fines, penalties and correction or replacement of work and materials.

6.02 PERMITS AND LICENSES:

- A. The University will file with the appropriate local authority drawings and specifications and any pertinent data reasonably proper for their information. No permits are applicable for work on University property with the exception of (i) any permits required in the specifications as noted in 6.02, C. below and (ii) Cutting & Welding permit noted in 6.02, D. below.

- B. Any permits required for work on non-University property are the responsibility of the Contractor in terms of the permit acquisition, cost thereof and all obligations and liability under the permit.
- C. Any permits required by the specifications (i.e., Air and Radiation Management Administration boiler permits, etc.) are the responsibility of the Contractor in terms of the permit acquisition, cost thereof and all obligations and liability under the permit.
- D. Before any welding, burning, pipe sweating or brazing is started at the University of Maryland, Baltimore, a "CUTTING & WELDING PERMIT" must be obtained from EHS, 714 W. Lombard Street, Baltimore, MD 21201-1041, or for a Project at a Client University from the appropriate office there. This permit must be requested from EHS at least two days prior to the anticipated hot work. The cardboard portion of the permit shall be secured to either the cutting or welding equipment. At the end of the requested time, the cardboard portion of the permit must be returned to EHS.
- E. The Contractor must be licensed as required by the Laws of the State of Maryland (Art. 56, Sec. 180, Annotated Code of Maryland) and must be qualified by submission and approval of a qualification Questionnaire when requested.

6.03 PATENTED DEVICES, MATERIALS, AND PROCESSES:

The Contractor shall pay for all royalties and license fees. He shall defend all suits or claims for infringement of any patent rights and shall save the University, and Client University, and the State of Maryland harmless from loss on account thereof, except that the University or Client University shall be responsible for any such loss when a particular process or the product of a particular manufacturer or manufacturers is specified by the Contract as the University's responsibility; however, if the Contractor has information that the process or articles specified is an infringement of a patent, then the Contractor shall be responsible for such loss unless he promptly gives such information to the Procurement Officer.

6.04 LAND, AIR, AND WATER POLLUTION:

- A. The Contractor shall incorporate all permanent erosion control features into the work at the earliest practicable time. Temporary pollution control measures will be used to correct conditions that develop during construction that were not foreseen during design, that are needed prior to installation of permanent pollution control features, or that are needed temporarily to control erosion that develops during normal construction practices, but are not associated with permanent control features on the project.
- B. Temporary pollution control may include measures outside the project site where such work is necessary as a direct result of project construction. The University's Office of Facilities Management shall be notified of all such off-site control measures taken by the Contractor. This notice shall not relieve the Contractor of responsibility for such work.
- C. In case of failure on the part of the Contractor to control erosion, pollution, and/or siltation, the reserves the right to employ outside assistance or to use its own forces to provide the necessary corrective measures. All expenses incurred by the in the performance of such duties for the Contractor shall be withheld from monies due to the Contractor.
- D. The Contractor must submit evidence to the University's Office of Facilities Management that the governing Federal, State, and local air pollution criteria will be, and were, met. This evidence and related documents will be retained by the University's Office of Facilities Management for onsite examination.
- E. If the performance of all or any part of the Work is suspended, delayed, or interrupted due to an order of a court of competent jurisdiction as a result of environmental litigation, as defined below, the Procurement Officer, at the request of the Contractor, shall determine whether the order is due in any part to the acts or omissions of the Contractor required by the University's as one of the terms of this Contract. If it is determined that the order is due in any part to acts or omissions of the Contractor required by the terms of the Contract, such suspension, delay, or interruption shall be considered as if ordered by the Procurement Officer in the administration of this Contract under the terms of the "Suspension of Work" Section of this Contract. The period of such suspension, delay, or interruption shall be considered reasonable, and an adjustment shall be made for any increase in the cost of performance of this Contract (excluding profit) as provided in that Section, subject to all the provisions thereof.

- F. The term "environmental litigation", as used herein, means a lawsuit alleging that the work will have an adverse effect on the environment or that the University has not duly considered, either substantively or procedurally, the effect of the Work on the environment, or that the University and/or Contractor has not complied with applicable environmental laws and regulations.

6.05 CONTRACTOR'S LIABILITY INSURANCE:

- A. From and after the execution of the Contract by the Contractor in connection solely with Worker's or Workmen's Compensation Insurance and from and after the execution of the Contract Amendment by the Contractor in connection with all insurance enumerated in this Section 6.05.A, the Contractor shall purchase and maintain under the General Conditions allowance for this Project (see Attachment C) insurance required by this Section 6.05.A, applicable to all claims which may arise out of or result from the Contractor's operations under the Contract, whether such operations be by the Contractor, by any Subcontractor or Sub-subcontractor, by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. All insurance except Workmen's Compensation shall name the University of Maryland, Baltimore, any Client University, the University System of Maryland, and the State of Maryland as additional insured's, The Contractor shall purchase and maintain at its own expense insurance required by this 6.05A. applicable to all claims which may arise out of or result from the Contractor's operations under the Contract, whether such operations be by the Contractor, by any agent or subcontractor, by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. All insurance except Workmen's Compensation shall name the University of Maryland and the State of Maryland as an additional insured.

- (1) Worker's or Workmen's Compensation Insurance.
- (2) Employer's Liability Insurance.
- (3) Comprehensive General Liability Insurance for bodily injury and property damage, including loss of use of property, arising out of any occurrence. This insurance should include the following extensions:
 - (a) Products and completed operations coverage for a period of at least two years (see Section 00700, #7.17 Guarantees for further information and/or details regarding the guarantee period).

- (b) Personal injury liability coverage (including contractual coverage);
 - (c) Contractual liability insurance to cover the Contractor's obligation to the University and the State of Maryland under Section 1.03 G.
 - (d) Broad form property damage (including completed operations);
 - (e) Independent contractor's coverage.
 - (f) "X", "C", and "U" coverage applying to explosion, collapse of other structures and underground foundations;
 - (g) If the work involves containment or removal of asbestos, pollution liability (environmental protection liability) coverage.
- (4) Business automobile liability insurance which will pay for liabilities arising out of accidents involving the ownership, operation, maintenance or use including the loading or unloading of any automobile.
- (5) Umbrella liability
- B. The coverage listed in paragraph 6.05 A shall be written for not less than the following limits of liability.
- (a) Comprehensive general liability insurance including all extensions –
 \$2,000,000 each occurrence;
 \$2,000,000 personal injury;
 \$2,000,000 products/completed operations;
 \$2,000,000 general aggregated
 - (b) Worker's Compensation Insurance and Unemployment Insurance as required by the laws of the State of Maryland.
 - (c) Employer's liability insurance - - \$1,000,000 each accidental injury or disease and \$2,000,000 aggregate.
 - (d) Property damage liability insurance with a limit of not less than \$2,000,000 for each accident.
 - (e) Business automobile bodily injury liability insurance with limits of not less than \$1,000,000 for each person and \$2,000,000 for each accident, and property damage liability insurance, with a limit of not less than \$2,000,000 for each accident.

- (f) Umbrella liability - - \$5,000,000 limit.
- C. 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. Certificates must be amended to indicate: "Should any of the described policies be canceled before the expiration date thereof, or non-renewed, the issuing company will give forty-five (45) days prior written notice to the certificate holder," each Certificate should indicate the insurer, the appropriate policy number(s), the policy expiration date(s), the limits of liability in effect, and the Best's rating and financial rating of the insurer. A certificate will be accepted only if signed by an authorized representative of the insurer.
- D. Insurance certificates will be accepted only from an insurer having a minimum Best's rating of Class A for the policy holders' rating and Class IX for the financial rating. Insurers must be authorized to do business under the laws of the State of Maryland.
- E. No work shall be started at the site until appropriate certificates of insurance are filed with and approved by the procurement officer.

6.06 BUILDER'S RISK INSURANCE:

- A. The Contractor shall purchase and maintain at its own expense builder's risk insurance naming as additional insured the University of Maryland, Baltimore, any Client University, the University System of Maryland, the State of Maryland, the Contractor, any subcontractor, or anyone directly or indirectly employed by any of them. The University, the Client University and the State shall be loss payees as their interests may appear.
- B. The builder's risk policy shall cover any and all materials, equipment, machinery, and supplies of any nature whatsoever, intended to be used in or incidental to the completion of the Contract, but coverage shall apply to property on the Project site, property in transit, and property in temporary storage at locations other than the Project site which property is designated to become a permanent part of the insured project.
- C. The limits of insurance (without any coinsurance conditions applying) shall be the full value of the project when completed. Deductibles are allowed only if reported to the University, which shall not unreasonably withhold consent. The Contractor shall be responsible for paying the amount of the deductible to the University or State in the event of a claim by either or both of them which are within the coverage of the builder's risk policy. Coverage shall be on a full replacement cost basis with no deductions for actual physical depreciation.

- D. Insurance should be against all risks of direct physical loss of or damage to the insured property including theft; earthquake; flood; and settling, shrinkage or expansion of buildings or foundations other than normal settling shrinkage or expansion. Any fault, defect, error or omission exclusion should not apply to damage resulting from such fault, defect, error or omission in the design plans or specifications. Any faulty or defective workmanship or internal exclusion clause should not apply to damage resulting therefrom.
- E. The term of the builder's risk insurance shall continue until issuance of the substantial completion certificate on the project by the University.
- F. Contractor shall deliver to University a copy of each policy of the required insurance prior to execution of the Contract, upon execution of the Contract amendment and upon renewal of any policy, and upon obtaining any new insurance policy. All policies of insurance shall provide that the policy shall not be subject to cancellation, termination, or reduction in coverage, except after forty-five (45) days' prior written notice to University.
- G. Upon request, Contractor shall also furnish a certificate(s) of the required insurance. Certificates must be amended to indicate: Should any of the described policies be canceled before the expiration date thereof, or non-renewal, the issuing company will give thirty (30) days prior written notice to certificate holder." Each certificate should indicate the insurer, the appropriate policy number(s), the policy expiration date(s), limits of liability in effect, and the Best's rating and financial rating of the insurer. A certificate will be accepted only if signed by an authorized representative of the insurer.
- H. Insurance will be accepted only from an insurer having a minimum best's rating of Class A for the policy holders' rating and Class IX for the financial rating. Insurers must be authorized to do business under the laws of the State of Maryland.
- I. No work shall be started at the site until appropriate policies of insurance are filed with and approved by the Procurement Officer. Policies and certificates of insurance shall be submitted to the Procurement Officer for review and approval and shall be held by the Procurement Officer for the duration of the Contract. The University shall have the absolute right to terminate the Contract if a required policy of insurance is canceled at any time for any reason and a new policy effective immediately thereafter is not obtained by the Contractor and approved by the Procurement Officer.

- J. The Contractor shall adjust the amount of the builders risk insurance from time to time to reflect any increase or decrease in the Project over the amount of \$100,000.00. For any such additions, the Contractor will be reimbursed by the University in the amount of the actual amount of the increased insurance cost. For any decrease, the Contractor will credit the University the actual amount of the decreased insurance cost. The Contractor shall provide updated certificate that reflect the increase or decrease within ten (10) working days of the fully executed contract modification.

6.07 ASSIGNMENTS:

The Contractor shall not assign its rights or responsibilities under this Contract. The Contractor shall not assign monies due or to become due to it hereunder.

6.08 SEPARATE CONTRACTS:

- A. The University reserves the right to let other contracts in connection with this work. Contractor shall afford other contractors reasonable opportunity for the introduction and storage of their materials and the execution of their work, and shall properly connect and coordinate his work with theirs.
- B. If any part of the Contractor's Work depends for proper execution or results upon the work of any other contractor, the contractor shall inspect and promptly report to the University any defects in such work that render it unsuitable for such proper execution and results. The Contractor's failure to so inspect and report shall constitute an acceptance of the other contractor's work as fit and proper for the reception of the Contractor's Work, except as to the defects which may develop in the other contractor's work after the execution of the Contractor's Work.
- C. To insure the proper execution of its subsequent Work, the Contractor shall measure work of others already in place and shall at once report to the University any discrepancy between the executed work and the drawings.

6.09 PAYMENT OF SUBCONTRACTORS:

- A. Neither the final payment or any part of the retained percentage shall become due until the Contractor shall deliver to the University receipt for full payment to all subcontractors and any principal suppliers identified by the University.

- B. If any subcontractor or supplier refuses to provide a receipt for payment, the Contractor may obtain final payment by providing the University with a bond satisfactory to the University for payment to subcontractors or suppliers as a condition of fulfilling any contractual obligation (including warranties) or losses resulting from subcontractors' or suppliers' failure to fulfill such obligations. Under the bond the Contractor shall refund the University all monies paid to subcontractors or losses incurred, including all costs and reasonable attorney's fees.
- C. The contractor shall promptly pay a subcontractor (and shall cause Subcontractors to pay Sub-subcontractors) any undisputed amount to which the subcontractor (or Sub-subcontractor) is entitled for work under this contract within 10 days of receiving a progress or final payment from the University. In the event the contractor (or Subcontractor) fails to pay promptly, a subcontractor (or Sub-subcontractor) may request remedy in accordance with COMAR 21.10.08. In each subcontract under this contract, the contractor shall include a clause that contains substantially the same provisions as this Section.

6.10 RELATIONSHIP OF CONTRACTOR TO PUBLIC OFFICIAL AND EMPLOYEES:

- A. In carrying out any of the provisions of the Contract, or in exercising any power or authority granted to them by or within the scope of the Contract, there shall be no liability upon the Procurement Officer or other authorized representatives of the University, it being understood that in all such matters they act solely as agents and representatives of the University.
- B. The University may terminate the right of the Contractor to proceed under this Contract if it is found by the Procurement Officer that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the University with a view toward securing a contract or securing a favorable treatment with respect to the awarding or amending or the making of any determination with respect to the performing of such contract. The facts upon which the Procurement Officer makes such findings may be reviewed in any competent court.
- C. In the event this Contract is terminated as provided in paragraph B hereof, the University shall be entitled (1) to pursue the same remedies against the Contractor as it could pursue in the event of a breach of the Contract by the Contractor, and (2) in addition to any other damages to which it may be entitled by law, to exemplary damages in an amount (as determined by the Procurement Officer) which shall be not less than three(3) nor more than ten times the costs incurred by the Contractor in providing any such gratuities to any such officer or employee.

- D. The rights and remedies of the University provided in this Section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.
- E. Conflict of Interest - No official or employee of the State of Maryland whose duties as such official or employee include matters relating to or affecting the subject matter of this contract, shall during the pendency and term of this contract and while serving as an official or employee of the State become or be an employee of the contractor or any entity that is a subcontractor on this contract.

6.11 NO WAIVER OF LEGAL RIGHTS:

- A. The University and the State of Maryland shall not be precluded or estopped by any measurement, estimate, or certificate made either before or after the completion and acceptance of the work and payment therefore, from showing the true amount and character of the work performed and materials furnished by the Contractor, or from showing that any such measurement, estimate or certificate is untrue or is incorrectly made, for from showing that the work or materials do not in fact conform to the requirements of the Contractor. The University and the State of Maryland shall not be precluded or estopped, notwithstanding any such measurement, estimate, or certificate, and payment from recovering from the Contractor or its sureties, or both, such damage as the University may sustain by reason of the Contractor's failure to comply with the terms of the Contract. Neither the acceptance by the University nor acceptance by any representative of the University shall operate as a waiver of any portion of the Contract or of any power herein or of any right to damages.
- B. The waiver by the University of any breach of the Contract shall not be held to be a waiver of any other or subsequent breach.

6.12 COVENANT AGAINST CONTINGENT FEES: [21.07.01.09]

The Contractor warrants that it has not employed or retained any person, partnership, corporation or other entity other than a bona fide employee or agent working for the Contractor to solicit or secure this Contract, and that it has not paid or agreed to pay any person, partnership, corporation, or other entity other than a bona fide employee or agent, any fees or any other consideration contingent on the making of this Contract.

6.13 ASSIGNMENT OF ANTITRUST CLAIMS:

The Contractor sells, transfers, and assigns to the University and the State of Maryland all right, title, and interest in any cause of action arising at any time before the date of this assignment or during the performance of this Contract under the Antitrust Laws of the United States, including Section 1 of the Sherman Act and the Antitrust Law of Maryland relating to the purchase by the Contractor or the University and the State of Maryland of any products from any supplier or source whatever that is incorporated in the structure built under the terms of this Contract. The Contractor certifies that the above causes of action are lawfully owned, that no previous assignment of the causes of action has been made, and that the causes of action have not been attached or pledged in any manner whatsoever.

6.14 FEDERAL PARTICIPATION:

If the United States Government pays all or any portion of the cost of a project, the work under this Contract shall be subject to inspection by the appropriate federal agency. Such inspection shall in no sense make the federal government a party to this Contract and will not interfere in any way with the rights of either party hereunder.

6.15 DISPUTES: [21.07.01.06]

- A. This Contract is subject to the provisions of Title 7, Article 21 (Administrative and Civil Remedies) of the Code (the "Act") and COMAR 21.10. As noted therein, unless a lesser period is provided by applicable statute, regulation, or by this Contract, the Contractor shall file a written notice of a claim relating to the Contract with the Procurement Officer within thirty (30) days after the basis for the claim is known or should have been known, whichever is earlier. Contemporaneously with or within thirty (30) days after, the filing of a notice of a claim, Contractor shall submit the written claim to the Procurement Officer. If Contractor requests, the Procurement Officer, on conditions the Procurement Officer deems satisfactory to the University, may extend the time in which Contractor must submit a claim. An example of when a Procurement Officer may grant an extension includes a situation in which the Procurement Officer finds that contemporaneous or timely cost quantification following the filing of the notice of claim is impossible or impractical.
- B. Except as may otherwise be provided in the Act or COMAR, all disputes arising under or as a result of a breach of this Contract which are not disposed of by mutual agreement shall be resolved in accordance with this Section 6.15.

- C. As used herein, "claim" means a written demand or assertion by one of the parties seeking, as a legal right, the payment of money, adjustment or interpretation of Contract terms or other relief arising under or relating to this Contract.
- (1) A voucher, invoice, or request for payment that is not in dispute when submitted is not a claim under this Section. However, where the submission subsequently is not acted upon in a reasonable time or disputed as to liability or amount, it may be converted to a claim for the purpose of this Section.
 - (2) A claim by the Contractor shall be made in writing and submitted to the Procurement Officer for decision. A claim by the University shall be the subject of a decision by the Procurement Officer in consultation with the Office of the Attorney General.
- D. When a controversy cannot be resolved by mutual agreement, the Contractor shall submit a written request for final decision to the Procurement Officer. The written request shall set forth all the facts surrounding the controversy.
- E. In connection with any claim under this Section, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of his claim to the Procurement Officer.
- F. The procurement officer shall render a written decision on all claims within 180 days of receipt of the Contractor's written claim; unless the procurement officer determines that a longer period is necessary to resolve the claim. This decision shall be furnished to the Contractor, by certified mail, return receipt requested, or by any other method that provided evidence of receipt. The Procurement Officer's decision shall be deemed the final action of the University. If a decision is not issued within 180 days, the Procurement Officer shall notify the Contractor of the time within which such a decision shall be rendered and the reasons for such time extension.
- G. The procurement officer's decision shall be final and conclusive unless the Contractor files a written appeal with the Maryland State Board of Appeals within thirty (30) days of receipt of said decision.
- H. Pending resolution of a claim, the Contractor shall proceed diligently with the performance of the Contract in accordance with the Procurement Officer's decision.

- I. The final decision may award a contract claim only for those expenses incurred not more than thirty (30) days before Contractor was initially required to have filed the notice of claim or sixty (60) days before Contractor was required to have filed the claim initially, even if the Procurement Officer extends the time in which Contractor must submit the claim.

6.16 CLAIMS:

- A. If the Contractor claims that any instructions by drawings or otherwise involve or may involve extra cost under this Contract, he shall give the University written notice thereof within fifteen (15) calendar days after receipt of such instructions or after the occurrence of an emergency. No claim shall be valid unless so made.
- B. Under no circumstances will overhead or profit be permitted as items of a claim (if permitted at all under this Contract) if such overhead or profit is for periods during which a "Stop Work" order is in effect due to an act, error, omission for which the Contractor is responsible.
- C. No profit or overhead which includes rental of equipment and the salaries of supervisory personnel (if permitted at all under this Contract) will be allowed the Contractor for stoppage of work when written notice of such stoppage or impending stoppage is not given reasonably in advance by the Contractor so that the University can take action to prevent such stoppage.
- D. No claim for extra costs will be granted which includes cost of delays or work stoppage due to strikes, lockouts, fire, unusually severe weather, avoidable casualties, or damage or delay in transportation for which the University is not responsible; only time extensions in accordance with Section 7.03 will be granted.
- E. The Contractor and the University agrees that no prejudgment or post judgment interest on any claims asserted by either party will be allowed.
- F. No claim for damage caused by a delay (if permitted at all under the Contract) will be allowed unless the Contractor notifies the University of the existence of the delay within five (5) days of the act or omission causing the delay.
- G. No payment will be made for increased payment or performance bond premiums as a result of any act or omission by the University which results in a claim.

6.17 VARIATIONS IN ESTIMATED QUANTITIES: [21.07.02.03]

Where any quantity of major pay item as defined in this Contract is an estimated quantity and where the actual quantity of such pay item varies more than twenty-five percent (25%) above or below the estimated quantity in the Contract an equitable adjustment of the stated price shall be made upon demand of either party. The equitable adjustment shall be based upon any increase or decrease in costs due solely to the variation above one hundred twenty-five percent (125%) or below seventy-five percent (75%) of the estimated quantity. If the quantity variation is such as to cause an increase in the time necessary for completion, the procurement officer shall, upon receipt of a written request for an extension of time within ten (10) days from the beginning of the delay, or within a further period of time which may be granted by the procurement officer before the date of final settlement of the Contract, ascertain the facts and make the adjustment for extending the completion date as in his judgment the findings justify.

6.18 PRE-EXISTING REGULATIONS: [21.07.01.17]

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

6.19 FINANCIAL DISCLOSURE: [21.07.01.19]

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

6.20 POLITICAL CONTRIBUTION DISCLOSURE: [21.07.01.20]

The Contractor shall comply with, and require its officers, director, and partners to comply with Sections 14-101 through 14-108 of the Election Law Article, Annotated 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. The statement shall be filed with the State Administrative Board of Election Laws: (1) before a purchase or execution of a lease or contract by the State, a county, an incorporated municipality, or their agencies, and shall cover the preceding two calendar years; and (2) if the contribution is made after the execution of a lease or contract, then twice a year, throughout the lease or contract term on (a) February 5, to cover the 6-month period ending January 31; and (b) August 5, to cover the 6-month period ending July 31.

6.21 COMPLIANCE WITH LAWS: [21.07.01.22]

The Contractor hereby represents and warrants that:

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

6.22 **RECIPROCITY**: As set out in the Specifications, if the Contractor is an out-of – state firm from a state which gives a preference to in-state firms when evaluating their price proposals, the University has applied a corresponding preference to price proposals from Maryland firms that competed with the Contractor. Contractor warrants that it fully and accurately described price preferences of its home state during the procurement process.

6.23 **DEWATERING**

The Contractor shall obtain all necessary Water Appropriations and Water Discharge permits prior to activation of dewatering systems.

END OF SECTION 6

SECTION 7: PROSECUTION AND PROGRESS OF THE WORK

7.01 NOTICE TO PROCEED:

- A. After the Contract has been executed, the University will issue to the Contractor a "Notice to proceed" and this notice will stipulate the date on or before which the Contractor is expected to begin the Work. The specified Contract time shall begin on the day work actually starts (other than the erection of the inspector's office, construction stakeout and mobilization) or on the day stipulated in the "Notice to Proceed" whichever is earlier. Any preliminary work started or materials ordered before receipt of the "Notice to Proceed", shall be at risk of the Contractor.

7.02 PROJECT SIGNS:

- A. General -- For all University construction contracts over \$50,000, provide, erect, maintain, and remove upon final acceptance of work, two (2) project signs. Sign locations and mounting systems (ground-supported posts or attached to existing structure) will be established at the Work Initiation Conference by the University's Project Manager. The University-mandated logo, graphic dimensions, state prescribed text (Board of Public Works, Governor; and State Legislature), colors, letter fonts, and size of basic sign panel are either shown on Contract Documents or will be provided at the Work Initiation Conference. Wording of project-specific text shall be a directed by the University's Project Manager.
- B. Products --
1. Sign Panel--Provide panel five (5) feet high by ten (10) feet long by 3/4" thick, exterior grade, MDO surface on sign face.
 2. Posts (if used -- Provide 4"x 4" construction grade lumber, pressure-preservative treated, of sufficient length for minimum 3'- 6" burial into ground and for minimum of 3'- 0" clearance from bottom of sign panel to grade.
 3. Fasteners--Provide non-corrosive bolts, nails, screws and other fasteners throughout.
 4. Paint--Provide one (1) coat of white primer-sealer and two (2) coats of white semi-gloss for sign background. Paint back and edges of sign panel also.

C. Execution --

1. Submit, for review and approval, shop drawing indicating size, materials, construction, details, color graphics and text.
2. Provide signs by skilled, established sign manufacturer having a minimum of five (5) years' experience in the production of quality signs.

7.03 PROSECUTION OF THE WORK:

- A. Time is an essential element of the Contract and all time limits in the contract documents are of the essence of the Contract. Contractor shall prosecute the Work and its obligations under the contract vigorously until full completion. It is expressly understood and agreed by and between the Contractor and the University that the time for the completion of the work is a reasonable time for completion of the same, taking into consideration the average climatic range and the usual business conditions prevailing in the locality of the project.
- B. The date of commencement of the Work is the date established in a Notice to Proceed authorized by the Procurement Officer, however time limits shall commence pursuant to Section 7.01.
- C. If the Contractor is delayed at any time in the progress of the work by any act or omission of the University or any of its officers, agents, or employees or by any separate Contractor employed by the University, or by any changes ordered in the work, or by labor disputes, fire, unusual delay in transportation, unavoidable casualties, or by a cause which the Procurement Officer determines may justify any delay, then the Contract time will be extended for such time as the Procurement Officer may authorize.
- D. No such extension shall be made for delay occurring more than five (5) days before claim therefore is made in writing to the Procurement Officer. In the case of continuing cause of delay, only one claim is necessary.
- E. Total Float belongs to the Project and shall not be for the exclusive benefit of either party. "Total Float" is the number of days an activity may be delayed before commencement or from its early dates without extending the Contract period. Total Float shall be available to owner or Contractor and is intended to accommodate changes in the Work or to mitigate the effect of events which otherwise may delay Substantial Completion. Use of Total Float shall be monitored by the Project Manager. Use of Total Float is available to either party on a first come, first serve basis.

7.04 PUBLIC CONVENIENCE AND SAFETY:

The Contractor at all times shall conduct the Work in such a manner as to create the least practicable obstruction to all forms of traffic. The convenience of the general public, tenants, and of the residents along and/or adjacent to the improvement shall be respected. Material stored upon the project site shall be placed so as to cause a minimum of obstruction to the public. The Contractor shall, unless otherwise specified, provide and maintain in passable condition such temporary access, roads and bridges as may be necessary to accommodate traffic diverted from the project site under construction or using the project under construction and shall provide and maintain in a safe condition temporary approaches to, and crossing of, the project. Existing facilities planned to be removed, but which might be of service to the public during construction are not to be disturbed until other and adequate provisions are made. Fire hydrants on or adjacent to the project shall be kept accessible to fire apparatus at all times, and no materials or obstruction shall be placed within fifteen (15) feet of any such fire hydrant. Work closed down for the winter or at any other times shall be left entirely accessible at all points to fire apparatus. All footways, gutters, sewer inlets, and portions of the project including the work under construction shall not be obstructed more than is absolutely necessary.

7.05 BARRICADES AND WARNING SIGNS:

- A. The Contractor shall provide, erect, and maintain all necessary barricades, suitable and sufficient lights, danger signals, signs, and other control devices, and shall take all necessary precautions for the protection of the work and safety of the public. All highways and other facilities closed to traffic shall be protected by effective barricades, and obstructions shall be illuminated during hours of darkness with electric lights.
- B. The Contractor shall erect warning signs in advance of any place on the project where operations may interfere with the use of the facility by vehicular or pedestrian traffic, and at all other points where the new work crosses or coincides with an existing roadway or traffic lane(s). Such warning signs shall be constructed and erected in accordance with the FHWA Manual on Uniform Traffic Control Devices or as directed.
- C. In cases where the Contractor's sequence of operations results in grade differentials which would be hazardous to vehicular or pedestrian traffic, the Contractor will, at the direction of the University's Office of Facilities Management and at no additional cost to the University, provide suitable substantial guardrail to the extent determined by that office.

7.06 PRESERVATION, PROTECTION, AND RESTORATION OF PROPERTY:

- A. The Contractor shall continuously maintain adequate protection of all his work from damage and shall protect University property from injury or loss arising in connection with this Contract. The Contractor shall repair and indemnify against any such damage, injury, or loss, except such as may be directly due to errors in the Contract documents or caused by agents or employees of the University. The Contractor shall adequately protect adjacent property as provided by law and the Contract documents.
- B. The Contractor shall box all trees along the way of access, also all trees surrounding the Project site which are liable to injury by the moving, storing, and working up of materials. The Contractor shall use no tree for attachment of any ropes or derricks.
- C. The Contractor shall erect and properly maintain at all times, as required by the conditions and progress of the work, all necessary safeguards for the protection of workmen and the hazards created by such features of construction as protruding nails, hod hoists, well holes, elevator hatchways, scaffolding, window openings, stairways, and falling materials.
- D. In any emergency affecting the safety of life or the work or of the adjoining property, the Contractor without special instruction or authorization is hereby permitted to act, at his discretion, to prevent such threatened loss or injury. If is specifically instructed by the University's Office of Facilities Management to do work in an emergency, the Contractor shall do the work and will be paid compensation as outlined in Section 3.06.

7.07 PROGRESS SCHEDULE AND TIME:

- A. The Work under the Contract shall be planned, scheduled, executed and reported by the Contractor in accordance with the Contract Documents for the University's review and approval using the Critical Path Method (CPM) Schedule unless otherwise agreed to in writing by the Procurement Officer in consultation with the University's Project Manager. The University's review and approval of the Contractor's schedule does not constitute an agreement to specific dates, durations or sequences for activities. The purpose of the project schedule shall be to:
 - 1. Assure adequate planning, scheduling and reporting during execution of the Contract;

2. Assure coordination of the Work of the Contractor and the various subcontractors and suppliers;
 3. Assist the Contractor in monitoring the progress of the Work and evaluating proposed changes to the Contract and the project schedule; and,
 4. Assist the Contractor in the preparation and evaluation of the subcontractors' monthly progress payment requests.
- B. When multiple subcontractors are involved, the Contractor will incorporate the schedules of all subcontractors in its schedule to produce a unified project schedule. The Contractor shall make all submissions required in the Contract Documents.
- C. The CPM schedule diagram shall include, but not necessarily be limited to, the following:
1. The order and interdependencies of the Contractor's and subcontractors' activities and the major points of the interface or interrelation with the activities of others, including specific dates for completion.
 2. Activities should be linked between major area separations of the project so that the individual areas do not imply complete independence. The critical path should run through all major areas, since the entire project must be completed.
 3. Conformance with and identification of the Specific Dates specified in the Contract Documents.
 4. The description of work by activity.
 5. Delivery of Owner-furnished material and equipment, if any.
 6. Shop fabrication and delivery.
 7. Critical Path (or Paths).
 8. Testing of equipment and materials.

9. Seasonal weather conditions, utility coordination, no-work periods (if any), expected job learning curves, and other such circumstances to activities of Contractor shall be considered and included in the planning and scheduling of all work. Seasonal weather conditions shall be based upon the preceding ten (10) years records published for the locality by the National Ocean and Atmospheric Administration (NOAA) and entitled "Local Climatological Data."
- D. The level of detail of the CPM schedule shall be such that activity durations over fifteen (15) working days shall be kept to a minimum except for non-construction activities such as shop drawings and sample submittals, fabrication and delivery of materials and equipment, concrete curing and General Conditions activities.
- E. If the Contractor's schedule shows the University or a separate contractor is to complete an activity by a specific date, or within certain duration, the University or separate contractor under contract with the University shall not be bound to said date or duration unless the University's Project Manager specifically agrees in writing to the same.
- F. It is to be expressly understood and agreed by the Contractor that the project schedule is a working document to be revised from time to time as Project work proceeds. However, the Contractor is responsible for completing the Work within the time frame noted in the Contract. The Contractor agrees that updating the schedule is a key component and will make every reasonable effort to provide current information to the University. Throughout the progress of the Work, the Contractor shall prepare and maintain a two week manual bar chart field schedule reflecting the schedule of work activities accomplished for the previous week and the work scheduled for the forthcoming two weeks. This manual field schedule shall be updated weekly and review and the regularly scheduled progress meetings. The University Project Manager is to be in attendance of all scheduling meetings.
- G. If the Contractor fails to prepare and submit to the University's Office of Facilities Management a schedule before the existence of a delay, then no claim for extra costs due to delay in the work shall be recognized or asserted.
- H. Materials Purchased Under Allowances -- The Contractor with approval of the University will provide schedules for all materials to be purchased from specified allowances. Any unexpended funds shall revert back to the University.

7.08 PROGRESS PHOTOGRAPHS:

The Contractor shall submit photographs monthly to the University's Office of Facilities Management, taken on or about the first of each month showing the status of the Work. Photographs should be sufficient in number to properly record the work. The Contractor shall photograph all disputed items of the Work. Photographs shall be digital date stamped.

7.09 SUSPENSION OF THE WORK: [21.07.02.04]

- A. The procurement officer may order the Contractor in writing to suspend, delay, or interrupt all or any part of the work for a period of time as he may determine to be appropriate for the convenience of the University.
- B. If the performance of all or any part of the work is for an unreasonable period of time, suspended, delayed, or interrupted by an act of the procurement officer in the administration of the Contract, or by his failure to act within the time specified in this Contract (or if no time is specified, within a reasonable time), an adjustment shall be made for any increase in the cost of performance of this Contract (excluding profit) necessarily caused by an unreasonable suspension, delay, or interruption, and the Contract modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent (1) that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Contractor or (2) for which an equitable adjustment is provided for excluded under any provision of this Contract.
- C. No claim under this clause shall be allowed (1) for any costs incurred more than 20 days before the Contractor shall have notified the procurement officer in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from a suspension order), and (2) unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of a suspension, delay, or interruption, but not later than the date of final payment under the Contract.

7.10 CONTRACTOR'S RIGHT TO STOP WORK OR TERMINATE CONTRACT:

If the work should be stopped under an order of any court, or other public authority, for a period of three (3) months, through no act or fault of the Contractor, or of anyone employed by him, or if the University should fail to issue any certificate for payment within seven (7) days after it is due, then the Contractor may, upon seven (7) days' written notice to the University's Office of Facilities Management and Office of Procurement & Supply (attention to the Procurement Officer), stop work or terminate this Contract and receive from the University payment of all complete work in accordance with Section 7.11 of these General Conditions.

7.11 UNIVERSITY'S RIGHT TO TERMINATE FOR ITS CONVENIENCE:

[21.07.02.09]

- A. The performance of work under this Contract may be terminated by the University in accordance with this clause 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 Contractor of a Notice of Termination issued by the Procurement Officer specifying the extent to which performance of work under the Contract is terminated and the date upon which such termination becomes effective.
- B. After receipt of a Notice of Termination and except as otherwise directed by the procurement officer, the Contractor shall:
 - (1) Stop work under the Contract on the date and to the extent specified in the Notice of Termination;
 - (2) Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of the portion of the work under the Contract as is not terminated;
 - (3) Terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination;

- (4) Assign to the University in the manner, at the times, and to the extent directed by the procurement officer, all of the right, title, and interest of the Contractor under the orders and subcontractor so terminated, in which case the University shall have the right, in its direction, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
- (5) Settle all outstanding liabilities and all claims arising out of such terminations or orders and subcontracts, with the approval or ratification of the procurement officer to the extent he may require, which approval or ratification shall be final for all the purpose of this clause;
- (6) Transfer title and deliver to the University in the manner, at the times, and to the extent, if any directed by the procurement officer, (a) the fabricated or unfabricated parts, work in process, completed work, supplies, and (b) other material produced as a part of, or acquired in connection with the performance of, the work terminated by the Notice of Termination, and other property which, if the Contract had been completed, would have been required to be furnished to the University.
- (7) Use its best efforts to sell, in the manner, at the times, to the extent, and at the price or prices directed or authorized by the procurement officer, any property of the types referred to in (6) above; provided, however, that the Contractor (a) shall not be required to extend credit to any purchaser, and (b) may acquire any such property under the conditions prescribed by and at a price or prices approved by the procurement officer; and provided further that the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the University to the Contractor under this Contract or shall otherwise be credited to the price or cost of the work covered by this Contract or paid in such other manner as the procurement officer may direct;
- (8) Complete performance of such part of the work as shall not have been terminated by the Notice of Termination; and,

(9) Take any action that may be necessary, or as the procurement officer may direct, for the protection and preservation of the property related to this contract which is in the possession of the Contractor and in which the State has or may acquire an interest. The Contractor may submit to the procurement officer a list, certified as to quantity and quality, of any or all items of termination inventory not previously disposed of, exclusive of items the disposition of which has been directed or authorized by the procurement officer and may request the University to remove such items or enter into a storage agreement covering the same; provided, that the list submitted shall be subject to verification by the procurement officer upon removal of the items or, if the items are stored, within 45 days from the date of submission of the list. Any necessary adjustment to correct the list as submitted shall be made prior to final settlement;

- C. After receipt of a Notice of Termination, the Contractor shall submit to the procurement officer his termination claim, in the form and with certification prescribed by the procurement officer. Such claim shall be submitted promptly but in no event later than one year from the effective date of termination, unless one or more extensions in writing are granted by the procurement officer, upon request of the Contractor made in writing within such one year period or authorized extension thereof. Upon failure of the Contractor to submit his termination claim within the time allowed, the procurement officer may determine on the basis of information available to him, the amount, if any, due to the Contractor by reason of the termination and shall thereupon pay to the Contractor the amount so determined.

- D. Subject to the provisions of paragraph C, the Contractor and the procurement officer may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the total or partial termination of work pursuant to this clause, which amount or amounts may include a reasonable allowance for profit on work done; provided that such agreed amount or amounts, exclusive of settlement costs, shall not exceed the total Contract price as reduced by the amount of payments otherwise made and as further reduced by the Contract price of work not terminated. The Contract shall be amended accordingly and the Contractor shall be paid the agreed amount. Nothing in paragraph E. of this clause, prescribing the amount to be paid to the Contractor in the event of failure of the Contractor and the procurement officer to agree upon the whole amount to be paid to the Contractor by reason of the termination of work pursuant to this clause, shall be deemed to limit, restrict, or otherwise determine or affect the amount or amounts which may be agreed upon to be paid to the Contractor pursuant to this paragraph.
- E. In the event of the failure of the Contractor and the procurement officer to agree, as provided in paragraph D., upon the whole amount to be paid to the Contractor by reason of the termination of work pursuant to this clause, the procurement officer shall pay the Contractor the amounts determined by the procurement officer as follows, but without duplication of any amounts agreed upon in accordance with paragraph D:

- (1) With respect to all Contract work performed prior to the effective date of the Notice of Termination, the total (without duplication of any items) of:
 - (a) The cost of the work;
 - (b) The cost of settling and paying claim arising out of the termination of work under subcontracts or orders as provided in paragraph B (5) above, exclusive of the amounts paid or payable on account of supplies or materials delivered or services furnished by the subcontractor before the effective date of the Notice of Termination of work under this Contract, which amounts shall be included in the cost on account of which payment is made under (a) above; and
 - (c) A sum, as profit on (a) above, determined by the procurement officer to be fair and reasonable provided, however, that if it appears that the Contractor would have sustained a loss on the entire Contract had it been completed, no profit shall be included or allowed under this subdivision (c) and an appropriate adjustment shall be made reducing the amount of the settlement to reflect the indicated rate of loss.
- (2) The reasonable cost of the preservation and protection of property incurred pursuant to paragraph B (9) and any other reasonable cost incidental to termination of work under this Contract, including expense incidental to the determination of the amount due to the Contractor as the result of the termination of work under this Contract.

The total sum to be paid to the Contractor under (1) above shall not exceed the total contract price as reduced by the amount of payments otherwise made and as further reduced by the Contract price of work not terminated. Except for normal spoilage and except to the extent that the University shall have otherwise expressly assumed the risk of loss, there shall be excluded from the amounts payable to the Contractor under (1) above, the fair value, as determined by the procurement officer, of property which is destroyed, lost, stolen, or damaged so as to be undeliverable to the University, or to a buyer pursuant to paragraph B (7).

- F. Costs, claimed, agreed to, or determined pursuant to C, D, E, and I hereof shall be in accordance with COMAR 21.09 as in effect on the date of the Contract.

- G. The Contractor shall have the right of appeal, under the clause of this Contract entitled "Disputes," from any determination made by the procurement officer under paragraph C, E, or I hereof, except that if the Contractor has failed to submit his claim within the time provided in paragraph C or I thereof, and has failed to request extension of such time, he shall have no such right of appeal. In any case where the procurement officer has made a determination of the amount due under paragraph C, E, or I hereof, the University shall pay to the Contractor the following: (i) if there is no right of appeal hereunder or if no timely appeal has been taken, the amount so determined by the procurement officer, or (ii) if an appeal has been taken, the amount finally determined on such appeal.
- H. In arriving at the amount due the Contractor under this clause there shall be deducted (i) all unliquidated advances or other payments or account theretofore made to the Contractor, applicable to the terminated portion of the Contract, (ii) any claim which the University may have against the Contractor in connection with this Contract; and (iii) the agreed price for, or the proceeds of sale of any materials, supplies, or other things acquired by the Contractor or sold, pursuant to the provisions of this clause, and not otherwise recovered by or credited to the University.
- I. If the termination hereunder be partial, the Contractor may file with the procurement officer a claim for or an equitable adjustment of the price or prices specified in the Contract relating to the continued portion of the Contract (the portion not terminated by the Notice of Termination), and such equitable adjustment as may be agreed upon shall be made in such price or prices. Any claim by the Contractor for an equitable adjustment under this clause shall be asserted within ninety (90) days from the effective date of the termination notice, unless an extension is granted in writing by the procurement officer.
- J. The University, may from time to time, under such terms and conditions as it may prescribe, make partial payments and payments on account against costs incurred by the Contractor whenever in the opinion of the procurement officer the aggregate of such payments shall be within the amount to which the Contractor shall be entitled hereunder. If the total of such payments is in excess of the amount finally agreed or determined to be due under this clause, such excess shall be payable by the Contractor to the University upon demand together with interest computed at the legal rate for the period from the date such excess payment is received by the Contractor to the date on which the excess is repaid to the University; provided, however, that no interest shall be charged with respect to any such excess payment attributable to a reduction in the Contractor's claim by reason of retention or other disposition of termination inventory until ten days after the date of the retention or disposition, or a later date as determined by the procurement officer by reason of circumstances.

- K. Unless otherwise provided for in this Contract or by applicable statute, the Contractor shall, from the effective date of termination until the expiration of three (3) years after the final settlement under this Contract, preserve and make available to the University at all reasonable times at the office of the Contractor but without direct charge to the University, all his books, records, documents, and other evidence bearing on the costs and expenses of the Contractor under this Contract and relating to the work terminate hereunder, or to the extent approved by the procurement officer, photographs, or other authentic reproductions thereof.

7.12 TERMINATION FOR DEFAULT -- DAMAGES FOR DELAY -- TIME

EXTENSIONS: [21.07.02.07]

- A. If the Contractor refuses or fails to prosecute the work or any separable part thereof, with such diligence as shall insure its completion within the time specified in this Contract or any extension thereof or fails to complete said work within this time, the University may, by written notice to the Contractor, terminate his right to proceed with the work or the part of the work as to which there has been delay. In this event, the University may take over the work and prosecute the same to completion, by Contract or otherwise, and may take possession of and utilize in completing the work, the materials, appliances, and plant as may be on the site of the work and necessary therefore. Whether or not the Contractor's right to proceed with the work is terminated, he and his sureties shall be liable for any damage to the University resulting from his refusal or failure to complete the work within the specified time.
- B. If fixed and agreed liquidated damages are provided in the Contract and if the University so terminates the Contractor's right to proceed, the resulting damage shall consist of such liquidated damages until a reasonable time as may be required for final completion of the work together with any increased costs occasioned for the University in completing the work.
- C. If fixed and agreed liquidated damages are provided in the Contract and if the University does not so terminate the Contractor's right to proceed, the resulting damage shall consist of these liquidated damages until the work is completed or accepted.

- D. The Contractor's right to proceed may not be so terminated nor the Contractor charged with resulting damages if:
- (1) The delay in the completion of the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including, but not restricted to, acts of God, acts of the public enemy, acts of the University or State in either their sovereign or contractual capacity, acts of another contractor in the performance of a Contract with the University, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather, or delays of subcontractor or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of both the Contractor and the subcontractor or suppliers; and
 - (2) The Contractor, within 10 days from the beginning of any such delay (unless the procurement officer grants a further period of time before the date of final payment under the Contract), notifies the procurement officer in writing of the causes of delay. The procurement officer shall ascertain the facts and the extent of the delay and extend the time for completing the work when, in his judgment, the findings of fact justify such an extension, and his findings of fact shall be final and conclusive on the parties, subject only to appeal as provided in the "Disputes" clause of this Contract.
- E. If, after notice of termination of the Contractor's right to proceed under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provision of this clause, or that the delay was excusable under the provisions of this clause, the rights and obligations of the parties shall, if the Contract contains a clause providing for termination for convenience of the University, be the same as if the notice of termination had been issued pursuant to that clause. If, in the foregoing circumstances, this Contract does not contain a clause providing for termination for convenience of the State, the Contract shall be equitably adjusted to compensate for the termination and the Contract modified accordingly; failure to agree to any such adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this Contract entitled "Disputes."
- F. The rights and remedies of the University provided in this clause are in addition to any other rights and remedies provided by law or under this Contract.
- G. As used in paragraph D (1) of this clause, the term "subcontractors or suppliers" means subcontractors or suppliers at any tier.

7.13 PARTIAL ACCEPTANCE:

- A. If during the construction of work the University desires to occupy any portion of the project, the University shall have the right to occupy and use those portions of the project which in the opinion of the procurement officer can be used for their intended purposes; provided that the conditions of occupancy and use are established and the responsibilities of the Contractor and the University for maintenance, heat, light, utilities, and insurance are mutually agreed to by the Contractor and the University.
- B. Partial occupancy shall in no way relieve the Contractor of his responsibilities under the Contract.

7.14 FAILURE TO COMPLETE ON TIME/LIQUIDATED DAMAGES:

- A. This Section #7.14 is in addition to provisions concerning liquidated damages set forth elsewhere in the Contract.
- B. For each day that any work shall remain uncompleted beyond the time(s) specified elsewhere in the Contract, the Contractor shall be liable for liquidated damages in the amount of \$750.00 per day or, if an amount is stated in the solicitation documents, that amount provided, however, that due account shall be taken of any adjustment of specified completion time(s) for completion of work as granted by approved change orders or contract amendments..
- D. The University shall have the right to deduct/retain offset and recoup out of the monies due to or become due to the Contractor hereunder the amount of damages, and in case the amounts due the Contractor are less than the amount of such damages, the Contractor shall be liable to the University for the difference.

7.15 SUBSTANTIAL COMPLETION AND FINAL INSPECTION:

- A. When the Contractor reasonably believes the Work satisfies the requirements of 7.15B, the Contractor shall notify the Project Manager in writing that the Work will be ready for Substantial Completion Inspection and testing on a definite date. Reasonable notice shall be given by the Contractor to schedule the Substantial Completion Inspection. The Contractor shall not request Substantial Completion Inspection until the Work is in fact substantially complete. The Contractor shall deliver to the Project Manager, on the scheduled Substantial Completion Inspection date, a complete, comprehensive set of field mark-up drawings accurately documenting the As-Built Project and all of the Operation and Maintenance (O&M) Manuals required under the Contract and shall have completed all required training and demonstration of equipment as required by the Contract Documents.
- B. The Project Manager shall establish the date of Substantial Completion and shall fix the time(s) at which the warranties will begin if, on the basis of the Substantial Completion Inspection, the University determines that, at a minimum and in accordance with the Contract Documents:
- (1) all electrical, mechanical, and life safety systems have been completed and successfully tested and successfully inspected for conformity to all requirements of the Contract Documents and all applicable codes and standards;
 - (2) complete, comprehensive field mark-up drawings of the As-Built Project, and all of the O&M Manuals required under the contract, have been delivered to the Project Manager;
 - (3) all other requirements for substantial completion, including the completion of required training and demonstration of equipment, have been met; and
 - (4) the Project is able to be occupied and usable for its intended purpose.
- C. The Work shall not be deemed substantially complete if, in the absolute discretion of the Project Manager, completion of unfinished works, whether called punch list work or otherwise, would cause inconvenience to or interfere with the use of the Premises by University personnel or others using the Premises.

- D. If the Project Manager determines that Substantial Completion has been achieved, the Project Manager shall fix the time within which the Contractor shall complete any remaining items of work which will be indicated on a list (the "punch list"). All punch list work shall be completed within thirty (30) days after the date of Substantial Completion determined by the University, unless the University establishes a different period for completion of the punch list work. If the Contractor fails to complete the remaining items so listed in the time stipulated the University shall have the undisputed right to complete the Work at the Contractor's expense. The Contractor may be required to complete multiple punch lists, which may be prepared by the University or by the architect, until the Contract is performed in its entirety. Failure to complete punch list work in a timely manner shall constitute grounds for termination of the Contract for default.
- E. Prior to the determination of Substantial Completion by the University, the Architect and/or the University may prepare lists of work requiring completion as a prerequisite to the determination of Substantial Completion. These "work lists" shall not constitute punch lists and shall not be construed as indicating that the Work has been completed to the extent that it is substantially complete.
- F. Final payment shall not be made until all Contract work including all punch list work is complete to the satisfaction of the University.
- G. Acceptance of the Work as substantially complete shall not excuse or waive any failure of the Contractor to complete the Contract as required by the Contract Documents.

7.16 CLEANING-UP:

The Contractor shall at all times keep the construction area, including storage areas used by him, free from accumulation of waste materials or rubbish and prior to completion of work, shall remove from the premises any rubbish and all tools, scaffolding, equipment, and materials, not the property of the University. Upon completion of the construction, the Contractor shall leave the work and premises in a clean, neat, and workmanlike condition satisfactory to the University's Office of Facilities Management.

7.17 GUARANTEES:

The Contractor guarantees and warranties for a two (2) year period (unless another period is specified which shall not be less than two (2) years), commencing on the date of substantial completion as established by the University:

- A. That the work contains no faulty or imperfect material or equipment or any imperfect, careless, or unskilled workmanship.
- B. That all mechanical and electrical equipment, machines, devices, etc., shall be adequate for the use to which they are intended, and shall operator, with ordinary care and attention, in a satisfactory and efficient manner.
- C. That he will re-execute, correct, repair, or remove and replace with proper work, without cost to the University, any work found not to be as guaranteed by this Section. The Contractor shall also make good all damages caused to other work or materials in the process of complying with this Section.
- D. That the entire work shall be water-tight and leak-proof in every particular.

The guarantee and warranty set forth herein is in addition to any implicit or explicit guaranty and warranty provided by law, if any.

7.18 NOTICE TO UNIVERSITY OF LABOR DISPUTES:

- A. Whenever the Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this Contract, the Contractor shall immediately give notice thereof, including all relevant information with respect thereto, to the procurement officer.
- B. The Contractor agrees to insert the substance of this clause, including this paragraph B., in any subcontract hereunder, at any tier, as to which a labor dispute may delay the timely performance of this Contract; except that each such subcontract shall provide that in the event its timely performance is delayed or threatened by delay by any actual or potential labor dispute, the subcontractor shall immediately notify his next higher tier subcontractor, or the prime Contractor, as the case may be, of all relevant information with respect to such dispute.

END OF SECTION 7

SECTION 8: PAYMENTS

8.01 SCOPE OF PAYMENT: [21.07.01.03]

- A. Payments are made on the valuation of work accomplishment and on account of materials delivered on the site, for incorporation in the work which are suitably stored and protected. The Contractor is to submit a Schedule of Values (SOV) for the University's approval within ten (10) working days of the issuance of the Notice to Proceed. The SOV must be approved by the University prior to the Contractor's use in applying for payment. The SOV will be submitted in a format as prescribed by and to the level of detail specified by the University inclusive of the following:
1. The sum of the parts of the SOV shall total to the Contract amount.
 - a. Labor will be separate from material/equipment.
 - b. Round amounts off to the nearest whole dollar.
 2. The minimum level of breakdown and order on the application for payment include, but are not limited to, the following:
 - a. Bond costs, if applicable.
 - b. General Conditions:
 1. Mobilization/Demobilization
 2. Submittals/Shop Drawings
 3. Schedule/Schedule Updates
 4. On site staff reimbursable costs
 5. Safety
 6. Clean-up
 7. Hoisting
 8. Punch List
 9. As-built Drawings
 10. Warranties and Operations & Maintenance Manuals
 11. Close out Documentation
 - c. Division 1 cost breakdown as requested/required.
 - d. Major trade work shall be broken down into labor and material line items.
 - e. A listing of approved/fully executed change orders/contract amendments, if any, in sequential order.

3. SOV items shall have a direct and understandable relation to the Project construction schedule.
 4. Overhead and profit shall be distributed into each item of work.
 5. Once approved, the SOV shall be the basis for the Contractor's application for payment except as noted below in #6.
 6. The University shall have the right to require the Contractor to alter the value or add/delete categories on the SOV at any time for the following reasons:
 - a. The SOV appears to be incorrect or unbalanced.
 - b. A revision of the segregation of values is required due to the Contractor revising the sequence of construction or assembly of building components.
 - c. Change orders/contract amendments are issued to the Contractor and shall be incorporated into the SOV as a separate line item at the bottom of the SOV.
 7. The Contractor is required to correlate the documentation for payment of stored materials requested in the application for payment against the agreed upon breakdown of the SOV and provide the necessary certificate of insurance for offsite storage with the University as the certificate holder.
- B. Payments shall also be made on account of materials or equipment or incorporation in the work delivered by the Contractor but stored at some off-site location agreed upon by the University; such payment to be conditioned upon submission by the Contractor of bills of sale or other procedures satisfactory to the University's Office of Facilities Management to establish the University's title to such materials or equipment or otherwise protect the University's interest, including applicable insurance certificate(s) and transportation to site.
- C. Prior to application for first payment, the Contractor shall submit to the University a schedule of values of the various parts of the work, including quantities, aggregating the total sum of the Contract. This schedule shall be so divided as to facilitate payments to subcontractors. The form of this submission shall be as the Contractor and the University have agreed upon and shall be supported by such evidence as to its correctness as the University may direct. Unless at a later date found to be in error, this schedule shall be used as a basis for certificates of payments.

- D. Application for payment shall be submitted on or about the 25th day of each month but not less than thirty (30) days after the "Work Initiation Conference" nor before ten (10) days of job operation (job shut-down days excluded).
- E. In applying for payments the Contractor shall submit a statement, based upon the schedule of values prepared under subparagraph C above, itemized in such form and supported by such evidence as the University may require, showing the Contractor's right to the payment claimed. Payment will be for work in place by the 25th of the billing month; no projection to the month's end is to be included. Each invoice shall prominently display the Contractor's Federal Employers Tax Identification Number or (if no such number) his social security number.
- (1) In applying for all payments, excluding the first payment and final payment, the Contractor shall submit in addition to the above a certificate he has paid:
- (a) All labor to date;
 - (b) All vendors and material suppliers in full for all items received; and
 - (c) All subcontractors in full, less the retained amount.
- (2) In applying for the final payment, the Contractor shall submit in addition to the statement required in E (1), the following:
- (a) Such evidence as the University may demand as will establish the University's title to materials and give reasonable assurance that claims against materials and claims for labor and other items by others do not exist;
 - (b) An electric certificate from an independent (non-governmental) electrical inspection agency approved by the State of Maryland Fire Marshal. The Contractor must make application for the inspection, coordinate same, and pay the required inspection fees. The independent electrical inspection agencies are not considered local authorities;
 - (c) All other guarantees are called for by the Contract;
 - (d) All equipment manuals and parts lists.

8.02 FORCE ACCOUNT WORK:

- A. When the Contractor is required to perform or have performed work as a result of additions or changes to the Contract for which there are no applicable unit prices in the Contract, the University's Office of Facilities Management and the Contractor shall make every effort to come to an agreed upon price for the performance of such work. If an agreement cannot be reached, the University's Office of Facilities Management may require the Contractor to do or have done such work on a force account basis to be compensated in accordance with the following:
- (1) Labor -- For all labor and for foremen in direct charge of the specific operations, the Contractor shall receive the actual wages for each and every hour that said labor and foremen are actually engaged in such work. The Contractor shall receive the actual costs paid to, or in behalf of, workmen by reason of subsistence and travel allowances, health, welfare benefits, pension fund benefits, or other benefits, when such amounts are required by collective bargaining agreement or other employment Contract generally applicable to the classes of labor employed on the work.
 - (2) Materials -- For materials accepted by the Architect and used, the Contractor shall receive the cost paid by it (net any available special or trade discounts, whether or not taken and whether or not shown on "pick tickets" or invoices) for materials delivered on the work, including transportation charges paid by him (exclusive of machinery rentals as hereinafter set forth).
 - (3) Equipment -- For any machinery or special equipment rented (other than small tools, whether rented or owned), the Contractor shall receive the rates agreed upon in writing before such work is begun, or the Contractor shall receive those rates which may be specified elsewhere in the Contract. For purposes of definition, equipment with a new cost of \$1,000 or less will be considered small tools.
 - (4) Materials and Supplies Not Incorporated in the Work -- For materials and supplies expended in the performance of the work (excluding those required for rented equipment) and approved by the Architect, the Contractor shall receive the actual cost of such materials and supplies used (net any available special or trade discounts, whether or not taken and whether or not shown on "pick tickets" or invoices).

- (5) Bond, Insurance, and Tax -- For bond premiums, property damage, liability, and workmen's compensation insurance premiums, unemployment insurance contributions, and social security taxes on the force of account work, the Contractor and University shall determine an equitable percent to be applied against the labor cost (premium pay and fringes excluded).
- (6) Subcontractors -- The Contractors shall receive the actual cost of work performed by a subcontractor. Subcontractor's cost is to be determined as in A (1-5) above. An allowance will be made to the Contractor for subcontractor's overhead and profit in an amount to be determined in accordance with Section VII. 8.02 A (8).
- (7) Superintendence -- No additional allowance shall be made for general superintendence, the use of small tools, or other costs for which no specific allowance is herein provided. The cost of Supervisory Personnel may be added only when the procurement officer finds that the modification makes necessary the hiring of additional supervisory personnel or makes necessary their employment for additional time to that required by the Contract.
- (8) Subcontractor's Overhead and Profit -- The allowance to the subcontractor for his overhead and profit will be at the following scale:

Value of Work Combined Overhead and Profit

\$ 0 - \$1,000	25%
\$ 1,001 - \$ 5,000	20%
\$ 5,001 - \$10,000	17%
\$10,001 - \$25,000	15%
over - \$25,000	negotiated, but not more than 15%

- B. Compensation -- The compensation as set forth above shall be received by the Subcontractor as payment in full for the work done on a force account basis. At the end of each day, the Subcontractor's representative and the Architect shall compare records of the cost of work as ordered on a force account basis.
- C. Statements -- No payment will be made for work performed on a force account basis until the Subcontractor furnishes the University duplicate itemized statements of the cost of such force account work detailed as to the following:
 - (1) Name, classification, date, daily hours, total hours, rate, and extension for laborers and foremen.

- (2) Designation dates, daily hours, total hours, rental rate, and extension for each unit of machinery and equipment rented (other than small equipment).
- (3) Quantities and prices of materials.
- (4) Changes for transportation of materials paid by the Contractor.
- (5) Cost of property damage, liability, and workmen's compensation insurance premiums, unemployment insurance contributions, and social security tax.
- (6) Statements for payments of items under paragraphs (3) and (4) shall be accompanied by original receipted invoices for materials used and transportation charges. If, however, the materials used in the force account work are not specifically purchases for such work but are taken from the Contractor's stock, then in lieu of the original invoices the statements shall contain or be accompanied by an affidavit of the Subcontractor which shall certify that such materials were taken from his stock, that the quantity claimed was actually used and that the price and transportation of the materials as are claimed represent actual cost, not all discounts. Proof of cost of items in stock will be furnished upon the procurement officer's request.

8.03 CASH ALLOWANCES:

Whenever an allowance is mentioned in the specifications, then the Contractor shall include in his Contract Sum the entire amount of such specified allowances. The expenditure of these allowances is at the University's direction. However, the allowance expenditure is limited to items properly inferable from the title of the allowance. Unexpended balances are to revert to the University. The costs of installation of materials purchased are not included in the allowance. The Contractor shall have installed (through subcontractors) all material purchased under allowances and shall include in the Contract sum a sufficient amount, in addition to the allowance, to cover the installation, other costs, and profit.

8.04 CERTIFICATES OF PAYMENT:

- A. If the Contractor has made application as above, the University shall, not later than the date when such payment falls due; issue to the Contractor a certificate for such amount as it decides to be properly due. In approving such partial payments, there shall be an amount retained pursuant to Section 00400 of the Request for Proposal document until completion and acceptance of all work covered by the Contract.

- B. The University shall provide the Contractor with the payment forms to be used by the Contractor.
- C. No certificate issued nor payment made to the Contractor nor partial or entire use or occupancy of the work by the University shall be an acceptance of any work or materials not in accordance with this Contract.
- E. Retainage cannot exceed 5% of the contract amount.
- E. (1) In addition to retainage, a primary procurement unit may withhold from payments otherwise due a contract an amount that the unit reasonably believes is necessary to protect the State's interest.
- (2) A contractor may not retain from a payment due a subcontractor a percentage of the payment greater than the percent for retainage retained by the University.
- (3) A subcontractor may not retain from a payment due a lower-tier subcontractor a percentage of the payment greater than the percent for retainage retained by the University.
- (4) A contractor and a subcontractor are not, however, prohibited from withholding an amount in addition to retainage if the contractor or subcontractor determines that a subcontractor's performance provides reasonable grounds for withholding the additional amount.
- F. (1) A contractor may elect to have retainage placed in an escrow account.
- (2) An escrow agreement would be applicable signed by the contractor, the escrow agent and, if applicable, the surety.
- (3) The escrow agent shall be selected from among the banks approved by the State Treasurer's office.
- (4) The Contractor is solely liable to the escrow agent for the payment of fees and charges associated with the escrow account.
- (5) Retained funds may only be released as directed by the University.
- (6) At the time of final payment, the University shall direct the escrow agent to settle the escrow account by paying funds as directed.
- (7) Until payment is made, escrow accounts are State funds and are not subject to any liens.

8.05 DEDUCTIONS FOR UNCORRECTED WORK:

If the University deems it inexpedient to correct work injured or done in accordance with the Contract, an equitable deduction from the contract price shall be made therefore.

8.06 PAYMENTS WITHHELD:

A. The University may withhold or, on account of subsequently discovered evidence, nullify the whole or part of any certificate to such extent as may be necessary to protect the University from loss on account of:

- (1) Defective work not remedied;
- (2) Claims filed or reasonable evidence indicating probable filing of claims;
- (3) Failure of the Contractor to make payments properly to subcontractor for material or labor;
- (4) A reasonable doubt that the Contract can be completed for the balance then unpaid; or
- (5) Damage to another contractor.
- (6) Liquidated Damages or other damages or compensation due the University for claims of the University against the Contractor.
- (7) Any claim of the University or State against the Contractor on a debt or obligation owed the University of the State or claim by the University or the State to be owed by the Contractor to the University or State arising from any other cause or contract;
- (8) Retainage as provided in Section 8.04;
- (9) Failure to maintain as-built drawings as required by Section 7.15
- (10) Failure to update schedules properly as required by Section 7.07 and Section 400 of the RFP; or
- (11) The cost of completing unfinished warranty work.

B. When the above grounds are removed, payment shall be made for amount withheld because of them.

8.07 CORRECTION OF WORK BEFORE FINAL PAYMENT:

- A. The Contractor shall have promptly removed from the premises all materials condemned by the Architect or the University as failing to conform to the Contract, whether incorporated in the work or not. The Contractor shall have promptly replaced and re-executed his own work in accordance with the Contract and without expense to the University and shall bear the expense of making good all work of other Contractors destroyed or damaged by such removal or replacement.
- B. If the Contractor does not have such condemned work and materials removed within a reasonable time, fixed by written notice, the University may remove them and may store the materials at the expense of the Contractor. If the Contractor does not pay the expense of such removal within ten (10) days time thereafter, the University may, upon ten (10) days notice, sell such materials and shall account for the net proceeds thereof, after deducting all the costs and expenses that should have been borne by the Contractor.

8.08 ACCEPTANCE AND FINAL PAYMENT:

- A. Upon completion of the Work, the Contractor shall prepare final payment forms and submit them. The University will promptly proceed to make any necessary final surveys, to complete any necessary computations of quantities, and to complete other activities necessary to determine the Contractor's right to final payment. The Project Manager will then reply to the Contractor's request for final payment, informing the Contractor of all deductions, damages, costs, back charges, and other charges assessed against the Contractor by the University and the reasons therefor.
- B. Notwithstanding Section 8.08 A, prior to or in the absence of a request from Contractor for final payment, the Procurement Officer may determine under Section 8.08 A(2) the amount of the final payment to the Contractor.
- C. If the Contractor disputes the amount determined by the Procurement Officer to be due the Contractor, then the Contractor shall initiate a claim under the Disputes procedures.

- D. Acceptance by the Contractor of any payment identified by the Procurement Officer as being final payment shall operate as an accord and satisfaction and a general release of all claims of the Contractor against the University arising out of or connected with the Contract, except as may be expressly agreed otherwise in writing between the Contractor and the Procurement Officer.

- F. No claims by the Contractor may be asserted for the first time after final payment is made by the University.

8.09 INTEREST:

- A. Contractor and the University such agree that neither is entitled to any interest on any payment or judgment due it from the other.

8.10 AUDITS BY THE UNIVERSITY:

- A. The Contractor agrees that the University or any part of its duly authorized representatives shall, until expiration of three (3) years after final payment under this Contract or after any applicable statute of limitations, whichever is longer, have access to and the right to examine any directly pertinent books, documents, papers, and records (including all records in electronic media) of the Contractor involving transactions to this Contract.

- B. The Contractor further agrees to include in all his subcontracts hereunder a provision to the effect that the subcontractor agrees that the University or any of its duly authorized representatives shall, until the expiration of three (3) years after final payment under the subcontract or after any applicable statute of limitations, whichever is longer, have access to and the right to examine any directly pertinent books, documents, papers, and records (including all records in electronic media) of such subcontractor, involving transactions related to the subcontract.

- C. The Contractor shall retain and maintain all records and documents relating to this Contract for the period specified in paragraph A and shall make them available for inspection and audit by authorized representatives of the State of Maryland, including the University or designee at all reasonable times. [21.07.01.21]

8.11 MULTI-YEAR CONTRACTS: [21.07.01.10]

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

8.12 PAYMENT OF STATE OBLIGATIONS:

- A. Payments to the Contractor pursuant to the Contract shall be made no later than thirty (30) days after the State's receipt of a proper invoice from the Contractor. Charges for late payment of invoices, other than as prescribed by Title 15, Subtitle 1, of the State Finance and Procurement Article, Annotated Code of Maryland, or by the Public Service Commission of Maryland with respect to regulated public utilities, as applicable are prohibited. [21.07.01.18]
- B. Electronic funds transfer will be used by the State to pay Contractor for this Contract and any other University payments due Contractor unless the State Comptroller's Office grants Contractor an exemption.

END OF SECTION 8

SECTION 9: EMPLOYEES, SUBCONTRACTORS, AND WORK CONDITIONS

9.01 EMPLOYEES AND WORKMANSHIP: The following provisions in Section 9.01 are in addition to provisions relating to these matters set forth elsewhere in the Contract.

- A. Qualification of Employees -- Only personnel thoroughly trained and skilled in the task assigned them may be employed on any portion of the Work. Any employee found by the Contractor, the Architect, or the University's Office of Facilities Management to be unskilled or untrained in his work shall be removed from the Work.
- B. Licensed Employees -- When Municipal, County, State, or Federal laws require that certain personnel (electricians, plumbers, etc.) be licensed, then all such personnel employed on the Work shall be so licensed.
- C. Quantity of Labor -- The Contractor shall employ on the Work, at all times sufficient personnel to complete the Work within the time stated in the Contract.
- D. Work Areas -- The Contractor shall confine the operations of his employees to the limits as provided by law, ordinance, permits, or directions of the University's Office of Facilities Management. Generally, the work area will be the same as indicated in the contract documents.
- E. Methods and Quality:
 - (1) All workmanship shall be of good quality. Whenever the method of the Work or manner of procedure is not specifically stated in the contract documents, then it is intended that the best standard practice shall be followed. Recommendations of the manufacturers of approved materials shall be considered as a part of these specifications and all materials shall be applied, installed, connected, erected, used, cleaned, and conditioned as called for thereby. This, however, does not remove any requirement in these specifications to add to the manufacturer's recommendations.
 - (2) All materials shall be accurately assembled, set, etc., and when so required in good construction, shall be true to line, even, square, plumb, level, and regularly spaced, coursed, etc. Under no circumstances, either in new or cold work, shall any material be applied over another which has not been thoroughly cleaned, sanded, or otherwise treated so as not to impair the finish, adhesion, or efficiency of the next applied item.

- (3) All methods and procedures and results are subject to the University's and Architect's approval as to finished result to be obtained. However, this is not to be interpreted as placing upon the University or the Architect any responsibility for the "Work" management of the Work which is solely the responsibility of the Contractor.
- (4) Whenever the method of work or manner of procedure is not specifically stated in the Contract Documents, the best practice shall be followed. Unless the Contract Documents expressly require stricter standards for application, installation, connection, erection, use, cleaning or conditioning, recommendations of the manufacturers of approved materials shall be considered as a part of the specifications and all materials shall be applied, installed, connected, erected, used, cleaned and conditioned as called for by the recommendations. If any such manufacturer's recommendations are defective, faulty, inaccurate, or negligently made, Contractor shall be responsible for all loss resulting therefrom, including liability for loss incurred by the University.

F. Scheduling: The obligations in this Section 9.01 F shall be in addition to the scheduling provision set forth elsewhere in the Contract.

- (1) The Contractor shall so schedule the Work as to ensure efficient and uninterrupted progress and to hold to an absolute minimum the cutting and patching of new work. All cutting, patching and digging necessary to the execution of the work is included.
- (2) The Contractor shall schedule the construction performed by each group or trade so that each installation or portion of the construction shall member with and join with every other new or old work required for a complete installation, all according to accepted good construction practice.

- G. Superintendent -- The Contractor shall keep on site at all times when any of the Work is being performed, a competent Superintendent (fluent in English) and any necessary assistants, all approved by the University's Office of Facilities Management prior to the commencement of the Work and from time to time prior to the assignment of any person to that position. The contractor shall submit in writing to the Office of Facilities Management, from time to time, the name of the person it intends to employ as superintendent for the execution of this Contract with a statement of the proposed superintendent's qualifications. This data will be reviewed by the University's Office of Facilities Management and an approval or rejection will be given in writing. Persons who have previously proved unsatisfactory on work executed for the University or the at State of Maryland or who are without proper qualifications will not be approved. Should it be necessary to change the superintendent, this procedure will be repeated. A single Superintendent will be permitted to superintend two or more jobs located at the same institution or close to each other only when approved by the University's Office of Facilities Management in writing. The Superintendent shall represent the Contractor. All directions given to the Superintendent shall be as binding as if given to the Contractor. Other directions shall be so confirmed on written request in each case. Should the Superintendent be complained of by the University's Office of Facilities Management for cause, he shall be removed from the work and a new Superintendent obtained and approved as described above.
- H. Discipline -- The Contractor shall at all times enforce strict discipline and good order among its employees and its subcontractors' employees and shall not employ or permit to remain on the work any unfit person. He shall enforce all instructions relative to use of water, heat, power, no smoking, and control and use of fires as required by law and by the University. Employees must not be allowed to loiter on the premises before or after working hours.
- I. Employee Safety -- The Contractor shall designate a responsible member of his organization, on the work, whose duty it shall be, in addition to his other duties, to prevent accidents and to enforce the standards of Section 9.07. The name and position of the person so designated shall be reported to the University's Office of Facilities Management with a copy to the Architect, by the Contractor at the commencement of the work.
- J. Supervisory Personnel: All supervisory personnel of the Contractor must be direct employees of the Contractor, unless otherwise approved in writing, in advance, by the University.

9.02 NON-DISCRIMINATION-EMPLOYMENT POLICIES:

- A. Acceptance of a Contract based on the University's specifications constitutes agreement by the Contractor to comply with State policy as established by Joint Resolution No. 16 of the General Assembly of 1958, which is:

That on all public works being paid for in whole or in part with State or other public funds, preference shall be given to available persons who have been residents of Maryland for a period of at least six (6) months immediately prior to availability of positions for employment of laborers, mechanics, and others not including supervisory personnel, not to exceed ten percent (10%) of the total working force.

- B. As required by Section 13-219 of the State Finance and Procurement Article, the Contractor:
- a. Shall not discriminate in any manner against any employee or applicant for employment because of sex, race, age, creed, color, or national origin and shall include a similar clause in every subcontract, except a subcontract for standard commercial supplies or raw materials. In addition, the Contractor and subcontractor shall post conspicuously a notice that sets forth the provisions of this Section in a place that is available to employees and applicants for employment.
 - b. If the Contractor fails to include the required clause in a subcontract, the University may declare the Contract void. In that event, the Contractor is entitled to the reasonable value of work that has been performed and materials that have been provided.
 - c. If the Contractor willfully fails to comply with the above non-discrimination provisions the University may, if the contract is partly executory, compel continued performances of the contract, but the University shall be liable only for the reasonable value of services performed and materials supplied from the date that the breach of contract was discovered or should have been discovered, and any sums previously paid by the State under the Contract, shall be set off against the sums to become due as the contract is performed.

- d. If a subcontractor willfully fails to comply with the non-discrimination provisions above, the Contractor may void the subcontract and shall be liable only for the reasonable value of the services performed and materials supplied.
 - e. Any person, including an employee, prospective employee with information concerning violations of the requirements of this section may inform the Board of Public Works which shall cause an immediate investigation of the charges. If the Board concludes that the charges are true it may invoke any remedy available by law.
- C. The Governor's Executive Order pertaining to the Code of Fair Practices, dated July 9, 1976 bars discrimination by State Contractors on account of political or religious opinion or affiliation in addition to the discrimination listed above.
- D. The provisions of the Civil Rights Act of 1964 are hereby included in this Contract to the end that no person in the United States shall, on the ground of race, color, or natural origin, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under this Agreement.
- E. The Contractor, subcontractor(s), or their agents, insofar as possible, insofar as possible, shall secure labor through the Maryland State Employment Service of the Maryland Department of Human Resources. Where the Contractor has entered into a collective bargaining agreement under which labor is to be provided by a union, the Contractor is not required to conform to these provisions unless the Contractor and the union arrange with the Maryland State Employment Service for referral of such labor as they may mutually agree shall be referred. The Contractor shall be the sole judge of the competency or fitness for satisfactory service of any labor referred to him by the Maryland State Employment Service.
- F. Each Contractor with the University will submit to the Board of Public Works, at the Board's request, information as to the composition of the Contractor's work force. This information will be furnished on a form to be prescribed by the Board of Public Works.
- G. The Contractor and all subcontractors will develop and maintain an Affirmative Action Plan directed at increasing the utilization of women and members of minority groups on State Public Works projects. Approval of the plan by the Board of Public Works shall be a prerequisite to the award of any Contract for Public Works by the State or any agency of the State. The Affirmative Action Plan referred to in the preceding sentence shall contain written provisions and procedures for each of the following:

- (1) Notification of established community organizations of employment opportunities, and the maintenance of records on responses by such organizations and their disposition.
- (2) Maintenance of records, including names and address, of woman and members of minority groups applying or referred for employment. The records shall indicate what disposition was made of the application. If such an applicant was not sent to a union hiring hall for referral or if such an applicant was not employed by the Contractor, the records shall indicate the reasons therefore.
- (3) Notification by the Contractor to the University if any union or unions with whom the Contractor has a collective bargaining agreement has not referred to the Contractor a woman or member of a minority group sent by the Contractor, or if the Contractor has other information that the union referral process is impeding efforts for the utilization of women and members of minority groups.
- (4) Participation in training programs, including those funded by the United States Government.
- (5) Procedures for disseminating notice of the Contractor's equal employment opportunity policy by publicizing it through company newspapers and annual reports, conducting staff, employee and union representatives' meetings, posting, and by specific review with employees who are women or members of minority groups.
- (6) Procedures for disseminating notice of the Contractor's equal employment opportunity policy externally through review with all recruitment sources, advertising in news media, and discussion with subcontractors and suppliers.
- (7) Recruitment efforts directed at minority organizations, schools with minority students, and minority recruitment and training organizations.
- (8) Validation of all specifications, selection requirements, and tests relating to employment.
- (9) Procedures for promoting after-school, summer, and vacation employment to minority youth.
- (10) Programs for the development of on-the-job training opportunities and participation and assistance in any association or employer group training programs.

- (11) Programs for evaluating women and minority personnel for promotion opportunities and encouragement of such employees to seek those opportunities.
 - (12) Review of seniority practices and job classifications to insure that they do not have an improper discriminatory effect.
 - (13) Monitoring of personnel activities to insure that the Contractor's equal employment opportunity policy is being carried out.
 - (14) Proposals for soliciting bids for subcontracts for available minority subcontractors engaged in the trades covered by the bid conditions.
- H. The Contractor agrees: (a) not to discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, marital status, national origin, ancestry, or physical or mental handicap unrelated in nature and extent so as reasonably to preclude the performance of such employment; (b) to include a provision similar to that contained in subsection (a), above, in any subcontract for standard commercial supplies or raw materials; and, (c) to post and to cause subcontractors to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause.

9.03 SUBCONTRACTS:

- A. The Contractor shall, as soon as practicable and before the execution of the Contract, notify the Architect and the University's Office of Facilities Management in writing of the names of subcontractors proposed for the principal parts of the work and for such others as the Architect may direct and shall not employ any that the Architect or the University's Office of Facilities Management may object to as incompetent, unfit, or irresponsible.
- B. The Contractor agrees that he is as fully responsible to the University for the acts and omissions of his subcontractor and of persons directly employed by them as he is for the acts and omissions of persons directly employed by him.
- C. Nothing contained in the Contract documents shall create any contractual relation between any subcontractor at any tier, and the University and nothing in the contract documents is intended to make the subcontractor a beneficiary of the Contract between the University and the Contractor.

9.04 RELATION OF CONTRACTOR AND SUBCONTRACTOR:

- A. The Contractor agrees to bind every subcontractor and will see that every subcontractor agrees to be bound by the terms of the Contract and Contract Documents and each of these as far as applicable to his work, unless specifically noted to the contrary in a subcontract approved in writing as adequate by the University's Office of Facilities Management.
- B. The Contractor agrees to include the following provisions in all subcontracts and supply contract, applicable to the work:
 - (1) Subcontractor agrees to be bound to the Contractor by the terms of the Contract and the Contract Documents and each of these, and to assume toward the Contractor all obligations and responsibilities that the Contractor, by those documents, assumes toward the University.
 - (2) The subcontractor agrees to submit to the Contractor applications for payment in such reasonable time as to enable the Contractor to apply for payment under Section 8 of the Standard Conditions.
 - (3) The subcontractor agrees to make all claims for extras, for extensions of time, and for damages for delays or otherwise, to the Contractor in the manner provided in the Standard Conditions for like claims by the Contractor upon the University except that the time for making claims for extra cost is five (5) days.
 - (4) The subcontractor agrees, upon completion of his work to promptly pay all labor, material suppliers, vendors, subcontractors, and others, and to permit simultaneous final payment by the Contractor and execution of the "Waiver of Liens" by the subcontractor.
- C. The Contractor agrees to be bound to the subcontractor by all the obligations that the University assumes to the Contractor under the Contract, the Contract Documents and each of these, and all the provisions thereof affording remedies and redress to the Contractor from the University. The Contractor also agrees:
 - (1) To pay the subcontractor, upon the presentation of certificates, if issued under the schedule of values prescribed in Section 8 of these Standard Conditions, the amount allowed to the Contractor on account of the subcontractor's work to the extent of the subcontractor's interest herein.
 - (2) To pay the subcontractor, upon the presentation of certificates, so that at all times his total payments shall be as large in proportion to the value of the work done by him as the total amount certified to the Contractor is to the value of the work done by him.
 - (3) To pay the subcontractor to such extent as may be provided by the Contract documents or the subcontract, if either of these provides for earlier or larger payments than the above.

- (4) To pay the subcontractor on demand for his work or materials as far as executed and fixed in place, less the retained percentage, at the time a certificate should be issued, even though the Architect fails to issue it for any cause not the fault of subcontractor.
 - (5) To pay the subcontractor a just share of any fire insurance money received by the Contractor.
 - (6) To make no demand for liquidated damages or penalty for delay in any sum in excess of such amount as may be specifically named in the subcontract.
 - (7) To give the subcontractor an opportunity to be present and to submit evidence in any matter involving his rights.
- D. Contractor may not withhold from subcontractor or supplier, wholly or in part, any payment otherwise due and owing to the subcontractor or supplier for labor or material furnished for this Contract, on account of (1) any claim of the Contractor against the subcontractor, or supplier or (2) any debt owed or claimed to be owed by the subcontractor, or supplier to the Contractor to the extent the claim or debt arose out of contracts, disputes, or other transactions between the Contractor and subcontractor or supplier which did not arise out of this Contract.
- E. When the University withholds money from the Contractor under Section 8.06 for delays or other causes, the Contractor may withhold payment from a Subcontractor or supplier, on account of the amount withheld by the University from the Contractor, only to the extent that the Subcontractor or supplier contributed to the delay or other cause for which the University withheld payment from the Contractor. For example, if the University withholds from the Contractor liquidated damages for delay, the Contractor may withhold payment only from the Subcontractor, or suppliers that caused or contributed to the delay; all other Subcontractor, or suppliers shall be paid promptly by the Contractor notwithstanding the University's withholding from the Contractor.
- F. No claim for services rendered or materials furnished by the Contractor to the subcontractor shall be valid unless written notice thereof is given by the Contractor to the subcontractor during the first ten (10) days of the calendar month following that in which the claims originated.
- G. The Contractor and the subcontractor agree that nothing in this section shall create any obligation on the part of the University to pay to or to see to the payment of any sums to any subcontractor.

9.05 MINORITY BUSINESS ENTERPRISE UTILIZATION:

- A. The provisions of this Section are applicable to Contracts with a value of \$50,000 or more. The Contractor shall structure his procedures for the performance of the construction services required by this Contract to achieve the result that a minimum of 30 percent (30%) minority business enterprise (MBE) participation of the total contract award is achieved. Such performance by MBE's shall be in accordance with this Section.
- B. Definitions:
- (1) "Socially or Economically Disadvantaged Individual" - A member of a socially or economically disadvantaged group, which for purposes of this Section includes African-Americans, Hispanics, American Indians, Native Americans, Asians, women, and the physically or mentally disabled.
 - (2) "Minority Business Enterprise" (MBE) -- Any legal entity, except a joint venture, (a) organized to engage in commercial transactions, (b) at least 51 percent (51%) owned and controlled by one or more individuals who are socially or economically disadvantaged; and (c) managed by, and the daily operations of which are controlled by, one or more of the socially or economically disadvantaged individuals who own it. Also, a nonprofit entity organized to promote the interests of physically or mentally disabled individuals. All MBEs must be certified by the State of Maryland or the State of Maryland's Department of Transportation with applicable certification numbers provided for each MBE firm applicable on this project by the Contractor.
 - (3) Ownership:
 - (a) For a sole proprietorship to be deemed an MBE, the sole proprietor must be a socially or economically disadvantaged individual. For a partnership to be deemed an MBE at least 51 percent (51%) of the partnership's assets or interests must be owned by a socially or economically disadvantaged individual or persons who are socially or economically disadvantaged. For a corporation to be deemed an MBE, legal and equitable ownership of at least 51 percent (51%) of each class of stock, bonds, and other securities issued by the corporation must be owned by a person or persons who are socially or economically disadvantaged.
 - (b) For purposes of this definition, any interest held by a person who is socially or economically disadvantaged, but subject to an option in that interest held by a person not socially or economically disadvantaged, or a business entity not an MBE, affecting the incidents of ownership, operation and control, shall not qualify as being an interest held by any person who is a socially or economically disadvantaged individual.

- (4) Control -- Control means that the primary power, direct, or indirect, to influence the management of an MBE shall rest with persons who are socially or economically disadvantaged. In addition, this term shall be construed to mean that the business enterprise is not subject to any formal or informal restrictions which would limit the customary discretion of the proprietor, partners, or the stockholders, as the case may be. In addition, the term "control" shall be construed to mean that there are no restrictions through bylaw provisions, partnership agreements, or charter requirements for cumulative voting rights, or otherwise, which would prevent the proprietor, partners, or stockholders, without the cooperation or vote of any co-owner, partner, or stockholders who are not socially or economically disadvantaged individuals, from abrogating a business decision of the enterprise which otherwise favors the proprietor's, partner's, or stockholder's share of said enterprise.

C. Contractor Responsibilities:

- (1) The Contractor must submit the Certified MBE Utilization and Fair Solicitation Affidavit and MBE Participation Schedule (MBE Attachment H-1A) with its technical proposal/offer.
- (2) The Contractor must assure that MBEs shall have the maximum practical opportunity to compete for subcontractor work under the Contract.
- (3) The Contractor shall comply with all requirements set forth in Schedule MBE Minority Business Enterprise Requirements regarding the MBE requirements.
- (4) The Contractor must enter into an agreement or award subcontracts or procure supplies and services with MBEs, or take other appropriate action, to achieve the result that a minimum of 30 percent (30%), or other amount stipulated by the solicitation, of the total dollar value of the Contract is performed by MBEs.
- (5) The Contractor must submit an MBE subcontractor project participation statement signed by both the bidder or offeror and each MBE listed in the schedule of participation which shall include the following:
 - (a) A statement of intent to enter into a contract between the prime contractor and each subcontractor or supplier if a contract is executed between the procurement agency and the prime contractor, or if the prime contract has been awarded, copies of the subcontractor agreement or agreements; and,
 - (b) The amount and type of bonds required of MBE subcontractors or suppliers, if any.
- (6) If the Contractor will be unable to enter into an agreement or subcontract with, or procure supplies and materials from MBEs as required by paragraph 5, above, the Contractor must submit with his Procurement Response a request for a waiver to the 30 percent (30%) requirement or part thereof, using the Certified MBE Utilization and Fair Solicitation Affidavit.

- (7) A request for waiver of the goal or part thereof, by the apparent successful bidder or offerer, shall be processed in accordance 21.11.03.11 of the State Procurement Regulations.
- (8) The Contractor shall cooperate with the University in any reviews of the Contractor's procedures and practices with respect to minority business enterprises which the University may from time to time conduct.

D. Records and Reports:

- (1) The Contractor shall maintain such records as are necessary to confirm compliance with its MBE utilization obligations. These records shall indicate the identity of minority and non-minority subcontractors employed on the Contract, the type of work performed by each, and the actual dollar value of work, services, and/or supplies and materials secured by the Contractor from each MBE subcontract and/or supplier.
- (2) The Contractor shall submit information with its monthly cost breakdown for progress payments which indicates dollar value of Contracts awarded to minority business enterprises as a supplement to the Cost Breakdown for Progress Payments. Failure of the Contractor to submit the required supplementary MBE participation information may result in delays in processing progress payments.
- (3) All records concerning MBE participation must be retained by the Contractor for a period of three (3) years after final completion of the Contract, or termination of the Contract, whichever is later, and will be available for inspection by the University or its representatives.

E. Enforcement:

- (1) The University is responsible for conducting inspections to confirm compliance with the terms of this Section. If the University determines that the Contractor is not in compliance with this Section, the University will notify the Contractor of those measures which cure default. If the Contractor or subcontractor fails to take corrective action, the University may report the noncompliance to the Board of Public Works for appropriate action.
- (2) If the documentary material submitted by the Contractor to determine MBE status contains false, misleading information, or other misrepresentations, the matter will be referred to the Attorney General of the State for appropriate action.
- (3) Attachment H -6, Liquidated Damages Provisions for Construction Contracts Containing MBE Participation Goals, shall apply to the Contract.

F. Contractor Assistance -- Contractors requiring assistance in locating minority business enterprises are encouraged to contact the following offices:

Minority Business Officer
Maryland State Department of Transportation
P. O. Box 8755, 10 Elm Road
BWI Airport, Maryland 21240-0755
410-859-7328
www.maryland.mdot.gov

9.06 PREVAILING WAGE RATES:

- A. All Contracts in the base bid amount of \$500,000 or more shall be subject to the provisions of Sections 17-201 to 17-226, State Finance & Procurement Article, Annotated Code of Maryland. If the original Contract is in an amount less than \$500,000, the cited terms shall not apply even where subsequent change orders shall increase the total Contract in excess of \$500,000. Wage rates applicable to projects of \$500,000 or more are bound into the specifications under Section entitled "Prevailing Wage Rates." Federal Wage Rates shall be in effect where applicable.
- B. The Contractor shall submit two (2) complete copies of its payroll records and the payroll records of each of his subcontractors - one (1) copy to the University's Office of Facilities Management and the second to the Commissioner of Labor and Industry, 1100 N. Eutaw Street, Room 607, Baltimore, Maryland 21201, where they will be available for inspection during regular business hours. These payroll records must be submitted within two weeks after each payroll period, and shall contain the following employee information: Name, address, and social security number, work classification, hours straight time and overtime worked each day, total hours worked, rate of pay, and gross amount earned. The Contractor shall be responsible for the submission of all subcontractors' payroll records covering work performed directly at the work site. Each copy of the payroll records shall be accompanied by a statement signed by the Contractor or the subcontractor, as the case may be, indicating that the payroll records are correct, that the wage rates contained therein are not less than those established by the Commissioner as set forth in the Contract; that the classification set forth for each employee conforms with the work performed by that employee; and that the Contractor or the subcontractor, as in the case may be, has complied with the provisions of this section and the requirements of section 17-220, State Finance and Procurement Article, Annotated Code of Maryland.
- C. If the Contractor is delinquent in submitting his or any of his subcontractor's payroll records, processing of partial payment estimates may be held in abeyance pending receipt of the payroll records. In addition, if the Contractor is delinquent in submitting his or any subcontractor's payroll records, the Contractor shall be liable to the University for Liquidated Damages. The liquidated damages shall constitute the sum of ten dollars (\$10.00) for each calendar day that the payroll records are late.
- D. The Contractor shall follow any guidelines of the State Department of Labor, Licensing and Regulation in effect at the time of the Contract.

9.07 APPRENTICESHIP REQUIREMENTS FOR PUBLIC WORKS CONTRACTS

- A. Effective July 1, 2013, the State Apprenticeship and Training Fund law requires that contractors performing work on public work contracts \$500,000 or more and subcontractors performing work \$100,000 or more for a covered project are required to make contributions toward apprenticeship.
- B. The contractor and subcontractor shall individually provide written verification to the Procurement Officer of one of the below three options of contribution prior to commencement of performance under the procurement contract. (1) Participates in an apprenticeship training program for each covered craft in which it will employ persons for the covered project.
- (2) Will make payments to the Fund.
- (3) Will make payments in amounts determined under §17-605 of the State Finance and Procurement Annotate Code, to a registered apprenticeship program or to an organization that has registered apprenticeship programs for the purpose of supporting these programs.
- C. Contractors shall include this requirement for written verification by the subcontractor in all of its contracts \$100,000 or more with subcontractors under a covered project.
- D. It is the responsibility of the contractor and its subcontractors to review Title 17, Subtitle 6, Annotate Code of Maryland, State Finance and Procurement, as well as Code of Maryland Regulations 21.11.12 for implementation and compliance with the law.
- E. Contractors and subcontractors who hire subcontractors performing work valued at \$100,000 or more on a covered project subject to the Maryland Prevailing Wage Law shall provide the subcontractors written notice of the following:
- (1) Subcontractors shall complete the registration process at the Division of Labor and Industry's website at <https://www.dlir.state.md.us/PrevWage/ERegistration.aspx?Type=ContractorReg/> .
- (2) Prior to commencement of the work, a subcontractor shall log onto the Division of Labor and Industry's website at <https://www.dlir.state.md.us/prevwage> and complete the required project log information.
- (3) Subcontractors performing work on a covered project are required to make payments to approved apprenticeship programs or to the Fund for each employee employed in classifications listed on the prevailing wage determination.
- F. The contractor shall use the affidavit prescribed in Attachment F entitled "**Apprenticeship Training Fund Verification Contractor Affidavit**" and the subcontractor shall use the affidavit prescribed in Attachment F entitled "**-Apprenticeship Training Fund Verification Contractor Affidavit**" to provide written verification to the Procurement Officer.

9.08 CONSTRUCTION SAFETY AND HEALTH STANDARDS:

It is a condition of this Contract and shall be made a condition of each subcontract and lower tier subcontract entered into pursuant to this Contract, that the Contractor and any subcontractor shall not require any laborer or mechanical employed in performance of the Contract to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health or safety, as determined under construction safety and health standards, laws and regulations of the locality in which the work is done, the State, and the Federal government. Further, the Contractor and each Subcontractor at any tier consent to inspection of work conditions at any time by the University and the State.

END OF SECTION 9

END OF UMB STANDARD GENERAL CONDITIONS FOR CONSTRUCTION