

**REQUEST FOR PROPOSAL
FOR
ON CALL STRUCTURAL/CIVIL ENGINEERING SERVICES**

**AT
UNIVERSITY OF MARYLAND, BALTIMORE**

RFP 91101-MC

ISSUE DATE: January 18, 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:	January 18, 2024
PRE-PROPOSAL CONFERENCE DATE:	Thursday, January 25, 2024 at 10:00 AM
PRE-PROPOSAL CONFERENCE LOCATION:	<p>Join on your computer, mobile app or room device:</p> <p>Microsoft Teams meeting</p> <p>Join on your computer, mobile app or room device</p> <p>Click here to join the meeting</p> <p>Meeting ID: 266 536 934 363</p> <p>Passcode: PsFHMK</p> <p>Download Teams Join on the web</p> <p>Or call in (audio only)</p> <p>+1 443-409-5274, 129571530# United States, Baltimore</p> <p>Phone Conference ID: 129 571 530#</p>
QUESTIONS REGARDING SOLICITATION DUE:	Thursday, February 1, 2024 on or before 2:00 PM
PHASE 1 TECHNICAL PROPOSAL DUE:	Tuesday, February 13, 2024 or before 2:00 pm (to be submitted electronically)
Anticipated Date of Notification following the Phase 1 Technical Evaluation regarding shortlist:	Wednesday, March 6, 2024
PHASE 2 TECHNICAL PROPOSAL DUE:	<p>These are optional and may be held at the University's sole discretion</p> <p>Wednesday, March 13, 2024 on or before 2:00 pm</p> <p>(to be submitted electronically)</p>
INTERVIEW ORAL PRESENTATION SESSIONS FOR SHORT LISTED FIRMS	<p>These are optional and may be held at the University's sole discretion</p> <p>March 20, 2024</p>
Anticipated Date of Notification following the Phase 2 Technical Evaluation regarding shortlist:	Friday, March 22, 2024
Price Proposal Due Date:	Tuesday, April 2, 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 S/Cs:	Anticipated by April 9, 2024
Master Contract executed by selected S/Cs:	April 15, 2024 (Projected)
Board of Public Works Approval:	May 15, 2024 (Projected)
Contract Commencement:	May 16, 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 full-service Engineering services for projects for the University of Maryland, Baltimore.

The firm will be required to provide complete design services as requested (i.e., Schematic Design, Design Development, Construction Documents, Bidding, Construction Administration and Post Construction) as well as any other identified special services on individual projects on a task order basis. The On Call S/C 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 S/C team is to include, at a minimum, the following:

- Structural Engineering Services
- Civil Engineering Services

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 design work performed by the awarded firms. A copy of the University's Standard Form of Agreement with Architects and Engineers can be found in Attachment C of this solicitation; this document will be the contract form to be signed by the successful S/C firms.

1.3. Response to this RFP will consist of:

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

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

1.4 Upon selection of the Master S/Cs, a UMB non-exclusive contract (See Attachment C for the Master Contract) will be issued to and executed by the successful firms. 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 S/C services.

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

In accordance with Attachment D, 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 D. **Technical Proposals**

are to be submitted electronically. Proposals are to be emailed to: proc-oncalls@umaryland.edu The subject line of your email: 01/18/2024 RFP 91101-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 S/C and UMB in the form of a Master Contract and shall contain the mandatory provisions included herein in Attachment C as well as any additional terms required by USM or the State of Maryland. By submitting an Offer (i.e. the firm’s Technical and/or Price Proposal, either individually or collectively, is/are considered an Offer), the S/C 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 S/Cs 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 S/Cs 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 S/C Services engagement services to be provided by the S/C. 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 S/C 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 S/C 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 S/C, may elect to discontinue the Master Contract at any time during the Term of the Master Contract with no further obligations to the S/C 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 S/C 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, an S/C 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', masters 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 (UB):

The University of Baltimore dates to 1925 when a private institution was established to offer part-time, evening courses in business and law. During the mid-twentieth century, the mergers of several private school created the institution now known as University of Baltimore and became part of the University of Maryland System in 1988.

The University of Baltimore (UB) serves undergraduate, graduate, 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 S/C FIRMS

The intent of this procurement is to establish on-call Design Services Contracts for Architectural/Engineering 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.

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:

It is UMB's intent that all awarded S/C Firm receive a reasonable level of the available design work, however, there is no guarantee of a minimum dollar amount or number of projects to any S/C Firm. There will be no limit on the scope of each contract, however, UMB's CFSA will monitor the spend associated with each S/C Firm.

It is the University's intent to award to up to five (5) On Call S/C contracts.

E. USE OF MASTER CONTRACTS BY UMB

- 1. Rotational Basis:** Due to the nature of on call design services, the University will be rotating among the awarded On Call S/C firms as follows:
 - a. Rotation will commence with the awarded S/C firm who achieved the highest total score in this procurement with rotation continuing in order with the other awarded firms based on technical score.
 - b. The University reserves the right to award a specific project task order out of the rotation should there be special circumstances which the University deems appropriate
 - c. The On Call S/C firm agrees to provide written documentation to CFSA if declining a project.
 - d. The University reserves the right to review/approve submitted subcontractors and/or submitted personnel on a task order basis. It is expected that proposed personnel comply with the requirements provided in the labor category definitions as provided in this solicitation.
 - e. The University reserves the right to review and approve specialty subconsultants where individual labor categories and labor rates have not been set. It is expected that the labor rates for specialty subconsultants will be reasonable.
 - f. The University reserves the right to request information from an On Call S/C firm for review and evaluation for specialized projects to determine the appropriateness of the particular S/C firm for such work (i.e., fitness center, etc.)
- 1.1 The University's representative will contact the On Call S/C firm, schedule a meeting and site visit and provide the firm with a written scope of work.
- 1.2 The On Call S/C firm is to provide the University representative with a fee proposal for the specific task order based on the S/C scope of work and this contract. This proposal shall be in accordance with the University's format and presented within fourteen (14) calendar days from the proposal meeting. If the revised and or final proposal is requested by the University, it is due within seven (7) calendar days after the University's request.

- 1.3 The University will review the S/C's fee proposal based on the quoted hourly billing rates, position, and estimated hours and tasks. The University will negotiate accordingly with the On Call S/C firm. The S/C firm may have the maximum of three (3) submittals on any on call negotiation, base, revised and final offer. Should the University find that fee negotiations will not be successful or the S/C fails to submit proposal(s) in a timely manner, the University may elect to terminate said fee negotiations and contact the next On Call S/C firm in the rotation.
- 1.4 Upon completion of successful fee negotiations, the S/C fee proposal will be the lump sum compensation to be provided to the S/C by the University, excepting any items for which a not-to-exceed allowance may have been established in the S/C fee proposal.
- 1.5 The University will issue a Purchase Order to the On Call S/C firm.
- 1.6 At any time the University may elect to not award a rotation.
2. It is anticipated that projects issued off of this On Call Contract will not have fees that exceed \$1,000,000.00. A typical project is anticipated to have architectural fees between \$10,000 and \$200,000. Please refer to RFP Section II.2.C for information on typical projects.
3. All communications on awarded task orders by the On Call S/C firm are to be directed to the designated University's Project Manager only. All instructions, directions, and information will be by the designated University's Project Manager **only**.
5. All change order work shall **not** proceed until an additional Change Order Notice has been issued by CFSA confirming this additional work and the applicable additional cost.
6. Any staff changes by the selected On Call S/C firms in the submitted S/C key personnel must be reviewed and approved by UMB's CFSA via the issuance of a contract amendment prior to any reassignments being made.
7. **The MBE participation for this procurement will be set per task order. An overall MBE subcontractor participation goal may be set for any task order over \$50,000 and subgoals may be set for any task order over \$200,000.**

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

A. GENERAL PROVISIONS:

1. Purpose and Definition of On Call S/C Design Services Contract

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

- a. Engage licensed professional S/C design firm per the On Call S/C contract and provide all required S/C services in accordance with (i) the S/C Scope of Work for specific projects done under this On Call Contract and (ii) RFP 91101-MC, and (iii) all applicable codes and regulations;
- b. Provide all design and construction administration services necessary to implement the goals of each project done under this On Call Contract inclusive of, but not limited to, the following: architectural, mechanical, electrical, plumbing design services, civil, structural and any required specialty design S/Cs as required for a specific Project;
- c. Develop design and construction schedules;
- d. Coordinate/communicate the activities of the S/C Team throughout the design and construction processes; and,
- e. Design and provide construction administration services for each project awarded under this On Call Contract.

2. Payments:

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

3. Insurance Coverage Requirements:

The S/C shall obtain and maintain from and after the date of the On Call S/C Contract the following insurance:

- a. Professional Liability insurance in an amount not less than \$1,000,000 from the date of the On Call S/C Contract and through ten (10) years after final acceptance by UMB of the Projects done under this On Call Contract.
- b. General Liability insurance in an amount not less than \$1,000,000 from and after the date of the On Call S/C Contract and through two (2) years after

final acceptance by the UMB of the projects done under this On Call Contract. Such insurance is to include a contractual liability endorsement.

- c. Workmen's Compensation insurance per statutory requirements.

As a condition to the S/C Agreement, the On Call S/C firm shall have the S/C deliver to UMB, not later than the date of execution of the On Call S/C Contract, a certificate of insurance verifying compliance with the above insurance requirements. Such Certificates/Memoranda shall also provide for notice to UMB not later than thirty (30) days prior to the expiration or cancellation of the referenced policy.

Any and all insurance obtained and maintained by the S/C under this Agreement shall indicate, in form satisfactory to UMB, that UMB may make a claim against such insurance. Failure to do so shall be a material breach of the On Call S/C Contract. In the event that the S/C terminates, as a business entity, for any reason whatsoever, or in any manner whatsoever, the S/C shall obtain and provide for the maintenance of professional liability insurance, specifically covering the S/C's obligations performed or to be performed under this Agreement, in the amount set forth herein for the remainder of the time set forth herein.

4. Ownership of Project Documents

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

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

B. ON CALL S/C FIRM'S OBLIGATIONS

Overview: The On Call S/C firm's services consist of the two main parts described as follows, or as identified in the scope of services:

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

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

The On Call S/C firm's obligations are defined in this RFP under Design Phase Services (Part A) and Construction Phase Services (Part B). The On Call S/C firm will be **solely responsible** for all aspects of the design of the project done under this On Call Contract and will be responsible for insuring that the projects are designed and constructed in accordance with the Project Documents issued for each project done under this On Call Contract and RFP 91101 MC.

1. Part A: Design Phase Services- To provide professional design services as required on projects done under this On Call Contract.

- a. Overview: The On Call S/C firm shall procure the services of all the required design S/Cs in accordance with its Technical Proposal in response to this RFP.
- b. Complete professional S/C services as necessary for completion of projects done under this On Call Contract shall be in accordance with the (i) specific Project Programs provided, (ii) the Contract Documents listed in this RFP and (iii) standards of the design and construction industry for public institutional projects.
- c. Major work which may be subcontracted for construction such as architectural, mechanical and electrical systems shall be furnished as designed by the S/C rather than by a trade/ subcontractor under a design-build subcontract (including selection and review of proprietary or franchised systems).
- d. All Contract Documents (drawings, specifications, etc.) for specific projects shall bear the seal and signature of the primary S/C and the seal and signature of each S/C to the primary S/C on drawings and specifications within his area of responsibility.
- e. Project Review: The Architect, Mechanical Engineer, Electrical Engineer, other design team members and UMB shall meet to fully understand the Program requirements, the project scope and all other pertinent aspects of the project
- f. Design Submittal: S/C deliverables, per the Project Task Order S/C Scope of Work, shall be submitted to the University for review and approval as required.

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

- g. Bidding: The S/C is to attend all pre-bid meetings and is to interpret the contract documents during the bidding period. Interpretations shall be given by written instruction only.

2. Part B: Construction Phase Services-To provide Construction and Post Construction Phase S/C services as required on projects done under this On Call Contract.

- a. Overview: S/C services for Construction and Post Construction to be provided per the S/C Scope of Work for specific Project Task Orders done under this contract and the Contract Documents noted in this RFP.
- b. Construction Progress Meetings: The S/C shall attend all construction progress meetings which include the Contractor, University's Project Manager and other University representatives, if any.
- c. Shop Drawing/Review and Approval:
 - i. The S/C shall furnish all shop drawing review/approval for compliance with design documents, in accordance with the Contract Documents of this RFP listed in Section I, and in accordance with good design and engineering practice.
 - ii. The S/C shall review and approve upon the Trade/ Subcontractors' submittals such as Shop Drawings, Product Data and Samples, for checking for conformance with information given and the design concept expressed in the Construction Documents. The S/C's action shall be taken within the required time frame for the project so as to cause no delay in the work, while allowing sufficient time in the S/C's professional judgment to permit adequate review. The S/C's action on all shop drawings/submittals shall be reviewed by UMB prior to the transmission to the Contractor.

d. Document Interpretation:

The S/C shall interpret Construction Documents as necessary and issue the applicable documents as may be necessary to explain construction details.

e. Quality Assurance/Inspection:

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

f. Punch List:

The S/C shall be responsible for the preparation and review of punch lists. Such punch lists will only be performed once a written statement from the Project Contractor is received by the University stating that the Project is complete and in accordance with the Contract Documents.

g. Record Drawings:

The A/E shall be responsible for the provision of record documents. The record documents shall be submitted with the contents and format as outlined in the UMB A/E Procedure Manual. All project documentation is to be submitted through eBuilder as instructed by UMB.

h. Post Construction Services:

The S/C shall participate in one (1) site visit within the two (2) year project warranty period. It is anticipated that this site visit will be incorporated with other visits to the campus.

C. PROJECT TYPE/SPECIFICATIONS

1. SCOPE

- a. The On Call S/C firm is to furnish all services necessary to design and construct the project in accordance with the program/scope of work furnished by authorized personnel of the University.
- b. The On Call S/C firm is to coordinate all design work with their consultants.
- c. The On Call S/C firm shall complete his work in the time required by the University and in accordance with the requirements stated within the Notice to Proceed.
- d. Some of the design services will be provided on interior renovation work done in occupied buildings and, in some cases, with ongoing classes and/or research. The selected On-Call S/C firms will be required to take special consideration when designing in such environments.

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

- a. Structural Study, Analysis & Design including evaluation and analysis of existing structural condition of the building and facilities.
- b. Civil Projects including boundary surveys, land surveys, meets and bounds, as well as property descriptions, and utilities location.
- c. Streetscape Design including design of University Center and other sidewalk streetscape and plazas including brick and concrete paving, new curbs, handicap ramps, street trees, landscaping, street furniture, pedestrian lighting, telecommunications conduit or duct banks and traffic control. City approval process as required.
- d. Parking Lot Design including design of surface parking lots including paving, drainage, striping, landscaping, fences or walls, lighting, curb cuts, signage, and access control. City approval process for curb cuts as required.

- e. OTHER DESIGN SERVICES- The Prime S/C Firm may be required to provide other design services on a project my project basis.
3. All work shall be designed in accordance with applicable codes and standards. See UMB Design Procedure Manual as found here: [UMB Design A/E Procedure Manual - Current Edition - Design and Construction \(umaryland.edu\)](http://umaryland.edu)
4. **Examples of Task Orders that have been issued to Structural/Civil On Call Firms:**
- Garage Assessment/Repair
 - Building Feasibility Study
 - Pavement Condition Assessment
 - Exterior Steps
 - Safety Railing Upgrades
 - Storm Water Infiltration Repairs
 - Entrance Modifications
 - Repairs to Storm Damage
 - Exterior promenade assessment and design
 - Design for hydro works pools
 - Plaza Design
 - Pond Study
 - Culvert Repair
 - Design for Failure in underground storm drain
 - Courtyard Improvement
 - Light mounting and installation study
 - Parking Lot Assessment
 - Landscape Improvements
 - Fuel Tank Containment
 - Roof Analysis and Corrective Action Recommendation
 - Road Sidewalk
 - Tunnel Structural Review
 - Stadium Lighting
 - Stream Restoration
 - Sidewalk Replacement

3. FIRM PERFORMANCE

The University reserves the right to evaluate a firm (Prime S/C 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.

Designers 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 S/C'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)

I. 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).

II. Firm History

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

III. Current workload and Project Type

Identify all active projects with a *design* fee over \$50,000 currently underway, indicating the *project* size in dollars and the status of each. This may be on a separate table from the A3.

IV. Professional Staff

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

Discipline	Total	Licensed/Registered
Civil Engineers		
Structural Engineers		
Landscape Architects		

V. Partnering: If submittal is by association with more than one firm, please outline for each firm, specific professional services responsibilities.

VI. Certification

a. 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

I. 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, multiple team members in a given role are permitted, excluding principal in charge.* Include the following:
 - i. Principal-in-Charge,
 - ii. S/C Project Manager,
 - iii. Lead Structural Design Engineer, and
 - iv. Lead Civil Design Engineer.
- 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.

II. Key Team Member Resumes

- a. Provide a one-page resume for each candidate identified above. Include as a separate file in PDF format entitled RFP#91101 MC On Call SC [Firm Name]. Note team members licensing or registration by state, with Maryland listed first. (Preference will be given to design professionals with Maryland credentials.)

- b. Definitions and Qualification Requirements for Key Personnel:

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

S/C Project Manager: Professional from the prime/proposing S/C firm who is responsible for the management of the design professions (i.e., Structural Engineer, Civil, Engineer, Mechanical Engineer, Electrical Engineer, etc) and the completion of the awarded “task orders.” Minimum 6 years desired in the industry.

Lead Structural Design Engineer Licensed, professional structural engineer who is directly responsible for the structural design of the project. Note: this is the person who will be directly preparing the designs, not only overseeing and directing from an executive level. Minimum 10 years desired in industry.

Lead Civil Design Engineer Licensed, professional civil engineer who is directly responsible for the civil design of the project. Note: this is the person who will be directly preparing the designs, not only overseeing and directing from an executive level, Minimum 10 years desired in industry.

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) 10 PAGES TOTAL / 1 PROJECT PER PAGE

Please Identify ten (10) engagements your team has completed or is in construction from the past 5 years. Each project should be on one page, including images and identified as projects **numbered 1-10**. Also complete a single table on an A3 with the same information. *Projects should be representative of the anticipated task orders, not the largest or most complex within your firm. Higher preference will be given to firms who submit projects where the proposed Key Personnel were involved in the roles for which they are proposed.*

- Project Name and Location;
- Project Owner, Contact Person and Telephone Number (Note that the University reserves the right to check these references or others with experience working with team members and firm);
- Design Start Date, Construction Start and Project Completion Date;
- Construction Cost*;
- Indicate whether project was solicited as a stand-alone request or was it issued as a task order off of an On Call Contract.
- Indicate whether firm acted as the Prime or as a subconstituting firm

- Brief Description including similarities of the submitted project to the University's proposed task orders as described in Section II Scope of Work.
- Names of Proposed Key Personnel who were involved in the project and the assigned role for each key person. The University prefers key people who were involved in the submitted projects and, particularly in the proposed role;
- Project Setting (i.e., university, urban setting, open or constrained site, addition, occupied, etc.);
- Other Subconsultants who participated on the Design Team for the proposed project.

- (1) **Prime S/C Firm Experience:** The Prime S/C is either a Structural Engineer, a Civil Engineer, or both. Ten (10) projects are to be submitted by the prime S/C firm, of those ten, four must meet the following requirements:

Two (2) projects for which the Structural Engineer was the Engineer of Record; One (1) project for which the Civil Engineer was Engineer of Record; One (1) landscape/streetscape project for which the prime firm was the Civil Engineer of record. Such projects must meet the criteria noted below as well as the following items in order to be considered:

All projects must be complete and/or occupied for at least six (6) months;

1. One project must be a Structural Condition Assessment and Evaluation that required non-destructive testing and report in which the prime firm is the Structural Engineer of Record. Firms should demonstrate ability in assessment and evaluation of variety of structures and materials;
2. One project must be a structural design project in an (i.) institutional setting (university, government, hospital) (ii.) in excess of \$200K for construction costs (iii.) in which the prime/proposing firm is the Structural Engineer of Record.
3. One (1) project submitted must be Civil Engineering design project, institutional (i) in an urban setting (ii) in excess of \$200K for construction costs (iii) in which the prime firm is the Civil Engineer of Record. Provide projects if within an urban project where a Site Grading, Sediment and Erosion Control Plans, Developer's Agreement, Franchise Agreement, Minor Privileges, Right of Entry, or similar documentation was required, preferably with Baltimore City
4. One (1) project must be a landscape/streetscape design project (i) in excess of \$200K for construction costs, and (ii) in which the prime Firm is the Civil Engineer of the record. Provide projects if done in an urban and/or higher education campus setting;
5. One (1) project must be a stream/storm drain repair project which incorporates hydrology calculations in which the prime Firm is the Civil/Structural Engineer of record.

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. Only one (1) reference may be from the University of Maryland, Baltimore.

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: Success with task order assignments (Submitted on One A3)

Provide examples where your team has succeeded in delivering projects of this scale and in this manner. What are the key issues to make this successful? Include examples from the projects listed and proposed team members where applicable.

3.1.5: Alignment with UMB Core Values (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 organization's commitment and demonstrated experience in supporting Equity and Justice, one of UMB's Core Values.

- I. PROFESSIONAL LIABILITY COVERAGE:** Complete the Professional Liability Coverage Form (found in Attachment A) to confirm the required professional liability insurance coverage \$1M including current and/or proposed additional coverage to be guaranteed if awarded the contract. Please include in this statement the dollar value of such coverage, expiration date and name of the insurance company.

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

- J. BID/PROPOSAL AFFIDAVIT:** Complete and submit form (found in Attachment A). State and USM Procurement Regulations require that each proposal submitted by a firm include a signed Proposal Affidavit.

- K. 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.

- L. **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.**
- M. **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 Firm.

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 S/C firms 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 firm's Technical Proposal response.

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 S/C'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 S/C team, which make it uniquely capable to provide S/C services on the University's project. Special firm 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 University representatives . 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 I TECHNICAL EVALUATION:

A. Shortlist:

An evaluation of the Phase 1 Technical Proposals will be conducted by the University's Qualification Committee. Firms will be reviewed and shortlisted based on the evaluation. Only shortlisted S/C firms will advance in the procurement process. The Procurement Officer will review, upon approval, notify all proposing firms of the names of all proposers indicating those who have been short-listed.

Technical criteria for evaluation include (listed in order of importance):

- Key Team Member Resumes
- Sample Projects
- Success with task order assignments
- Alignment with UMB Core Values

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 firm 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. If there is a Phase 2 Technical phase, 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 firms 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 as well as any information brought forward during the Interview/Oral Presentations that impresses on the initial or Phase 2 Technical evaluation criteria. Phase 1 Technical criteria are listed in Section 3, Article 1 in order of importance. Phase 2 Technical criteria are listed in Section 3, Article 2.
- D. The Qualification Committee will submit to the Procurement Officer the proposed shortlisted S/C firms.
- E. The Procurement Officer will review these proposed shortlisted firms accordingly.
- F. The Qualification Committee will submit to the Procurement Officer the final list of the shortlisted S/C firms.
- G. The Procurement Officer will review the shortlist accordingly and all firms will be notified upon approval.
- H. Upon approval of the Qualification Committee's shortlisted firms, the procurement officer shall request price proposals from all shortlisted S/C firms.

3.4.4 At the sole discretion of UMB, S/Cs 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 S/C's technical qualifications. UMB also reserves the right, at its sole discretion, to hold discussions with any or all of the shortlisted firms. If additional information and/or discussion sessions are requested of one or more S/Cs, the Procurement Officer will so advise.

3.4.5 Those S/Cs 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 S/Cs will be notified as to the results of the technical evaluation of his/her firm'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 firms. Price Proposals will be submitted in accordance with written instructions provided by the procurement officer via addendum to the final shortlisted firms.

It is the intent of the UMB that the Price Proposal will consist of fully loaded maximum billing rates. All costs and expenses are to be included in the quoted hourly rates as there are no reimbursables associated with this Contract. Hourly rates will be requested for each of the initial 12-months of the three (3) year initial Term. *UMB may negotiate a lower hourly rate, or a Master S/C may quote a lower hourly rate, for a specific Task Order.*

***Note regarding reimbursable for S/C:**

Please refer to the agreement for direct reimbursable expenses. All other expenses are part of the cost of doing business and, therefore, included in a firm's overhead rate.

3.4.1.2 Discussions may be held, at the discretion of UMB, with each of the applicable Firms and the Qualifications Committee if deemed in UMB's best interest.

3.4.2. Price Proposal Evaluation:

Price Proposals will be evaluated based on the quote hourly rates. To assist in the evaluation, UMB may apply the hourly rates to sample projects indicative of the types of projects that may be procured under the resulting Master Contracts.

The UMB may elect to request Best & Final Price Proposal(s).

3.4.3. Contract Renewals:

For the Renewal Term available to UMB, and if UMB so elects to exercise its right to renew, Consultant may request an annual rate adjustment, if any, no later than ninety (90) days in advance of the contract anniversary. Any rate adjustment request not received by that time, may not be considered by UMB and pricing in the subsequent period will remain as stated during the just completed Master Contract term.

A price increase, if any, shall not exceed the Consumer Price Index ("CPI") for "All Urban Consumers" as published by the US Department of Labor Statistics. For purposes of calculating the potential increase, the CPI to be used will be the index for twelve-month period ending June 30th in the calendar year. For example, if the contract year ends November 30, 2021, the price index for twelve-month period ending June 2021 will be used.

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

- **The following example illustrates the computation of percentage change:**
- **CPI for current period: 150.252**
- **Less CPI for previous period: 147.362**
- **Equals index point change: 2.89**

- **Divided by previous period CPI: 147.362**
- **Equals: .0196**
- **Results multiplied by 100: .0196 x 100**
- **Equals Percentage change: 1.96%**

Statistics will be referenced for negotiation purposes as S/C Firm is not to assume that any price increase will be applied to any subsequent contract year of the Term. As well, increases are not cumulative for prior years; if an S/C fails to request a price increase in one year and then requests an increase for the subsequent year, the Consultant cannot include a cumulative amount which includes the prior annual term. Any increase approved by UMB will take effect at the commencement of each Renewal Term(s) and be effective for a minimum of twelve (12) months.

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 S/C(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 S/Cs that provide the best overall value to the UMB.

The UMB may select one or more S/Cs 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

- Professional Liability Insurance Form
- 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

PROFESSIONAL LIABILITY INSURANCE FORM – PHASE 1 TECHNICAL PROPOSAL
RFP# 91101-MC
ON CALL S/C DESIGN SERVICES
FOR UNIVERSITY OF BALTIMORE, MARYLAND

Proposer: _____

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

Dollar Value: \$ _____

Expiration Date: _____

Insurance
Company: _____

Comments (if any):

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

BID/PROPOSAL AFFIDAVIT – July, 2020

A. Authority

I HEREBY AFFIRM THAT:

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

B. CERTIFICATION REGARDING COMMERCIAL NONDISCRIMINATION

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

“Discrimination” means any disadvantage, difference, distinction, or preference in the solicitation, selection, hiring, or commercial treatment of a vendor, subcontractor, or commercial customer on the basis of race, color, religion, ancestry, or national origin, sex, age, marital status, sexual orientation, 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. AFFIRMATION REGARDING BRIBERY CONVICTIONS

I FURTHER AFFIRM THAT:

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

D. AFFIRMATION REGARDING OTHER CONVICTIONS

I FURTHER AFFIRM THAT:

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

- (1) Been convicted under state or federal statute of:
 - (a) A criminal offense incident to obtaining, attempting to obtain, or performing a public or private contract; or
 - (b) Fraud, embezzlement, theft, forgery, falsification or destruction of records or receiving stolen property;
- (2) Been convicted of any criminal violation of a state or federal antitrust statute;
- (3) Been convicted under the provisions of Title 18 of the United States Code for violation of the Racketeer Influenced and Corrupt Organization Act, 18 U.S.C. §1961 et seq., or the Mail Fraud Act, 18 U.S.C. §1341 et seq., for acts in connection with the submission of bids or proposals for a public or private contract;
- (4) Been convicted of a violation of the State Minority Business Enterprise Law, §14-308 of the State Finance and Procurement Article of the Annotated Code of Maryland;

- (5) Been convicted of a violation of §11-205.1 of the State Finance and Procurement Article of the Annotated Code of Maryland;
- (6) Been convicted of conspiracy to commit any act or omission that would constitute grounds for conviction or liability under any law or statute described in subsections (1)-(5) above;
- (7) Been found civilly liable under a state or federal antitrust statute for acts or omissions in connection with the submission of bids or proposals for a public or private contract;
- (8) Been found in a final adjudicated decision to have violated the Commercial Nondiscrimination Policy under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland with regard to a public or private contract;
- (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. AFFIRMATION REGARDING DEBARMENT

I FURTHER AFFIRM THAT:

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

F. AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES

I FURTHER AFFIRM THAT:

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

G. SUB-CONTRACT AFFIRMATION

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, has knowingly entered into a contract with a public body under which a person debarred or suspended under Title 16 of the State Finance and Procurement Article of the Annotated Code of Maryland

will provide, directly or indirectly, supplies, services, architectural services, construction related services, leases of real property, or construction.

H. AFFIRMATION REGARDING COLLUSION

I FURTHER AFFIRM THAT:

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

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

I. CERTIFICATION OF TAX PAYMENT

I FURTHER AFFIRM THAT: Except as validly contested, the business has paid, or has arranged for payment of, all taxes due the State of Maryland and has filed all required returns and reports with the Comptroller of the Treasury, the State Department of Assessments and Taxation, and the 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 AFFIRM THAT:

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

K. CERTIFICATION REGARDING INVESTMENTS IN IRAN

(1) The undersigned certifies that, in accordance with State Finance and Procurement Article, §17-705, Annotated Code of Maryland:

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

(b) It is not engaging in investment activities in Iran as described in State Finance and Procurement Article, §17-702, Annotated Code of Maryland.

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

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

I FURTHER AFFIRM THAT:

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

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

Date: _____

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

_____ (signature of Authorized Representative and Affiant)

ACKNOWLEDGEMENT OF RECEIPT OF ADDENDA FORM

RFP NO.: RFP #91101-MC

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

RFP FOR: ON CALL S/C DESIGN SERVICES FOR PROJECTS 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 91101- 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. 91101-MC, I affirm the following:

1. **MBE Participation**

– I understand that UMB may establish an MBE Goal and/or subgoals for those projects over \$50,000 and reserves the right to set an MBE goal for any design projects \$200,000 or less under the resulting Master Consulting Agreements. If I am awarded a Master Consulting 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 2 TECHNICAL PROPOSAL FOR ON
CALL S/C DESIGN SERVICES FOR ACADEMIC PROJECTS 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 :PRICE PROPOSAL FORM (DRAFT)
This form is subject to change as the procurement progresses.

PROPOSAL NO.: RFP 91101-MC
PRICE PROPOSAL DUE DATE: _____, 2024, AT _____ P.M.
PROPOSAL FOR: ON CALL S/C DESIGN SERVICES FOR ACADEMIC PROJECTS
PROPOSER: _____
Federal Identification Number/Social Security Number: _____

SAMPLE FEE PROPOSAL

Ms. Michelle Compton
Construction & Facilities Strategic Acquisition
University of Maryland, Baltimore
220 Arch Street, Room 02-100
Baltimore, MD 21201-1041

Dear Ms. Compton,

The undersigned, hereby submits a fee proposal for the On Call S/C Design Services for Academic Projects for the University of Maryland, Baltimore as set forth in the University's S/C Solicitation #91101-MC dated 01/18/2024 and Addenda as follows:

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

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

We understand that by submitting a proposal, we are agreeing to all of the terms and conditions of S/C Solicitation #91101-MC.

(Signatures to be placed on the following page.)

_____ Signer's Initials

PROPOSAL NO.: RFP 91101-MC

PRICE PROPOSAL DUE DATE: _____, 2024, AT _____ P.M.

PROPOSAL FOR: ON CALL S/C DESIGN SERVICES FOR STRUCTURAL/CIVIL PROJECTS

PROPOSER: _____

Federal Identification Number/Social Security Number: _____

Each Fee Proposal shall be based on the follow format of personnel and your proposed billing rates. The billing rates shall be inclusive of direct salary costs, fringe benefits, overhead, profit, materials and all other billing indirect costs. Mileage, within a 75 mile radius of the S/Cs' office, will not be compensated and the costs, therefore, must be reflected in the multiplier

SAMPLE FEE PROPOSAL – ATTACHMENT B

Provide Full On Call AE Academic Services for University of Maryland, Regional Center

Billing RATES

* Key Personnel

NOTE: Definitions for non Key-Personnel labor categories are located in Attachment D.

CATEGORY	BILLING RATE
Principal In Charge *	
S/C Project Manager *	
Lead Structural Design Engineer*	
Lead Civil Design Engineer*	
Civil Design Engineer	
Structural Design Engineer	
Geotechnical Engineer	
Clerical	
Cost Estimate	
Landscape Architect	
Landscape Designer	

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

A. INDIVIDUAL PRINCIPAL

In Presence of Witness: _____

FIRM NAME
ADDRESS

TELEPHONE NO.
SIGNED

Printed Name
Title:

B. CO-PARTNERSHIP PRINCIPAL

(Name of Co - Partnership)

ADDRESS

In Presence of Witness:
TELEPHONE NO.

_____ as to

BY

(Partner)

Printed Name:

_____ 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: CONTRACT FORMS

- Sample Master Contract
- Contract Affidavit

Contract No. C-_____



UNIVERSITY of MARYLAND
THE FOUNDING CAMPUS

UNIVERSITY OF MARYLAND, BALTIMORE

CONSTRUCTION SERVICE CENTER
DEPARTMENT OF PROCUREMENT SERVICES

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

Revised 2011

Project No.

91101 MC

Contract No.

C-_____

Client University

University of
Maryland,
Baltimore

SECTION 1 STANDARD FORM OF AGREEMENT WITH ARCHITECTS & ENGINEERS

THIS AGREEMENT is made effective as of the date set forth on the signature page between University System of Maryland, a public corporation and an instrumentality of the State of Maryland (“**USM**”), acting through University of Maryland, Baltimore, one of its constituent institutions (“**University**”), and [REDACTED], a corporation organized under the laws of the State of [REDACTED] (the “**S/C**”), EIN # [REDACTED].

RECITALS

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

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

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

ARTICLE I DEFINITIONS

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

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

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

“**S/C Commencement Date**” means that date indicated in the NTP.

“**S/C Construction Commencement Date**” means that date indicated in the Construction NTP.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Project Construction Costs" is the amount that shall be determined at issuance of individual task orders. These are the maximum hard construction costs for construction of the Project for the Phases designated, exclusive only of S/C fees, CM's (if applicable) pre-construction fees, hazardous material abatement, and University's construction contingency. The Project Construction Costs include all CM construction costs (i.e., CM construction fee, on-site staff reimbursables, non-personnel General Conditions, and CM/GMP contingency).

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

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

“Proposal” means the Price Proposal and the Technical Proposal submitted by the S/C dated [REDACTED], inclusive of the organizational chart which denotes the key team firms and the key personnel to be assigned for the duration of the Project.

“RFP” means the University’s Request for Proposal # 91101 MC dated September 19, 2022, titled On Call S/C Design Services for Academic Projects together with all addenda and responses to questions from bidders.

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

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

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

“State” means the State of Maryland.

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

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

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

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

ARTICLE II GENERAL OBLIGATIONS OF S/C SCOPE OF ENGAGEMENT

2.1 Engagement.

a. S/C is engaged generally to provide professional services in accordance with and subject to the provisions of the Agreement. It is the intent of the parties to set forth in the Agreement the terms and conditions in effect for: (i) the Design Phase from and after the date hereof; and (ii) the Construction Phase from and after the effective date of the Project Amendment with respect to the Construction Phase.

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

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

Design Phase, which includes the following:

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

Construction Phase, which includes the following:

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

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

2.2 Standard of Performance

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

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

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

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

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

2.3 Timeliness of Performance

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

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

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

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

2.5 Meetings.

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

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

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

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

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

2.6 Design Criteria

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

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

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

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

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

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

2.7 Project Coordination

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

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

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

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

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

2.8 Documents

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

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

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

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

e. All Contract Documents shall bear the seal and signature of S/C and of each of S/C's consultants.

f. S/C is responsible to care for, protect, and know the whereabouts of the documents until they are finally delivered to University, fully corrected as "as built" drawings.

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

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

2.11 Construction Cost Estimates.

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

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

c. If the project is CM, notwithstanding anything herein to the contrary, the construction cost estimate prepared by S/C shall be reconciled with CM's construction cost estimate at the designated intervals noted above with the exception of the 50% Construction Document estimate. The cost estimate format must be developed between S/C and CM and approved by University prior to the 100% SD submittal. The provisions of Section 6.4 shall govern the content of S/C's review.

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

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

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

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

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

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

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

a. Sub-Surface Investigation and Evaluation

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

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

2.15 Professional Liability Insurance. S/C shall obtain and maintain professional liability insurance specifically covering S/C’s obligations performed or to be performed under the Agreement, in the amounts, for the time(s), and under the conditions set forth in the RFP. Failure to do so shall be a material breach of S/C’s obligations under the Agreement. If S/C terminates as a business entity for any reason whatsoever or in any manner whatsoever, S/C shall obtain and provide for the maintenance of professional liability insurance specifically covering S/C’s obligations performed or to be performed under the Agreement, in the amount set forth in the RFP, for the remainder of the time set forth in the RFP. S/C shall have delivered to University, prior to the S/C Commencement Date and as a condition of the Agreement, a copy of any and all policies obtained in accordance with the Agreement and a certificate of insurance setting forth that the stated insurance is then in effect thirty (30) days prior to the expiration or termination of any insurance policy obtained by S/C pursuant to the Agreement, S/C shall deliver to University an insurance binder evidencing continued insurance coverage as required hereunder and a certificate of insurance on the effective date of the replacement policy. The insurance policy and any certificate shall be endorsed to provide that the insurance obtained shall not be terminated and shall not expire unless the Procurement Officer has received not less than thirty (30) days prior written notice.

2.16 Change in Personnel. S/C must notify University immediately of any major changes in its organization or personnel. A major change includes a change of the personnel identified in the Program or in any or all of those persons being unavailable to perform the services as indicated in the Program. A change in personnel identified in the Program requires the written approval by University via the issuance of an amendment to this Agreement.

ARTICLE III AVAILABILITY OF FUNDS, FEES, AND PAYMENT

3.1 Funds are available to be used for the Services during the Concept Phase (if any) and Schematic Design Phase in an amount equal to the fees and reimbursable amounts, if any, set forth in Exhibit A attached hereto and made part hereof. The fees and reimbursable amounts, if any, to be paid to S/C in connection with future Phases of the design (Design Development, Construction Documents, Bidding, Construction Administration, and Post-Construction) shall be subject to the availability of funds. S/C understands that the funds available under

the Agreement (and if amended by a Project Amendment with respect to a Phase) are to include all fees and expenses payable to and incurred by S/C under the Agreement.

3.2 **Intentionally Omitted**

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

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

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

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

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

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

3.9 Requests for Payment.

a. Upon all applications for periodic payments of compensation (except the first such application), S/C shall certify in writing to University that all consultants whose work comprised a portion of the prior applications for periodic payment were paid in full to the extent paid by University to S/C within ten (10) days from receipt. All S/C invoices to University shall set forth S/C's Federal Employer Identification Number.

- b. S/C shall submit each request for payment on the form provided by University.
- c. S/C request for payment shall include one copy of the current monthly progress schedule.
- d. All Services set forth in connection with a Phase and each prior Phase must be completed prior to payment in full for the fees allocated to each Phase (except for rendering(s) and 3-D model which are typically part of the Design Development Documents and shall be delivered during the Construction Document Phase as contemplated in Article VI).
- e. University has the right to request substantiation to its satisfaction for all requests for payment.

3.10 Changes in the Work; Change Orders.

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

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

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

3.11 Delays and Extensions; Liquidated Damages.

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

b. Time extensions will be granted by the Procurement Officer only for excusable delays that arise from unforeseeable causes beyond the control and without the fault or negligence of S/C, including without limitation acts of God, acts of the public enemy, acts of the State in either its sovereign or contractual capacity, acts of another contractor in the performance of a contract with University, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or delays of subcontractors, consultants, or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of S/C or its subcontractors, consultants, or suppliers.

c. For each day that the Services or any portion thereof remain uncompleted beyond the times specified in the Agreement, S/C shall be liable for liquidated damages of **\$750.00** per day (which shall apply with respect to each Phase), or any other amount if stated elsewhere in the Agreement; *provided, however*, that due account shall be taken of any adjustment of specified completion time(s) for completion of the Services or any portion

thereof as provided by University-approved Change Orders or Project Amendments. Time is of the essence in the Agreement.

ARTICLE IV CONCEPT PHASE

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

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

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

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

ARTICLE V SCHEMATIC DESIGN PHASE

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

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

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

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

5.5 As part of the Schematic Design Documents, S/C shall provide to University a construction cost estimate, wherein the Probable Construction Cost shall not exceed the Project Construction Cost. If it does, S/C, without additional compensation, in conjunction

with GC/CM and University, shall re-design the Project as necessary to maintain the Project Construction Cost.

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

ARTICLE VI DESIGN DEVELOPMENT PHASE

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

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

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

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

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

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

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

ARTICLE VII CONSTRUCTION DOCUMENTS PHASE

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

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

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

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

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

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

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

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

ARTICLE VIII BIDDING PHASE

CM

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

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

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

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

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

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

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

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

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

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

OR

**ARTICLE VIII
BIDDING PHASE**

GC

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

b. Commencement of the Bidding Phase as contemplated in this Section, if authorized by University, shall not relieve S/C in any manner whatsoever from its obligations to comply with Section 7.4 and 'L2 at the times designated, determined in reference to all Construction Documents.

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

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

**ARTICLE IX
CONSTRUCTION ADMINISTRATION PHASE**

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

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

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

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

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

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

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

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

9.9 S/C shall review and take other appropriate action upon GC/CM's submittals such as shop drawings, product data, and samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Construction Documents. S/C's action shall be taken promptly (within two (2) weeks of receipt) so as to cause no delay in the work, while allowing sufficient time in S/C's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining accuracy and completeness or other details such as dimensions and quantities or for substantiating instructions for installation or performance of equipment or systems designed by the Contractors, all of which remain the responsibility of the GC/CM to the extent required by the Construction Documents except as may be grossly different from the Construction Documents. S/C's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by S/C, of construction means, methods, techniques, sequences or procedures. S/C's acceptance of a specific item shall not indicate acceptance of an assembly of which the item is a component. When professional certification of performance characteristics of materials, systems or equipment is required by the Construction Documents, S/C shall be entitled to rely upon such certification to establish that the materials, systems or equipment will meet the performance criteria required by the Construction Documents.

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

9.11 S/C shall provide drawings as may be necessary to explain construction details.

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

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

ARTICLE X POST-CONSTRUCTION PHASE

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

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

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

10.4 S/C shall provide the insurance required in Section 2.15 throughout the Post-Construction Phase.

ARTICLE XI ASSISTANCE BY UNIVERSITY

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

- a. A complete and comprehensive written Project Program.
- b. All necessary survey and topographic information, including pertinent data concerning all applicable rights of way, easements, restrictions, etc.

c. Laboratory or other tests required by University to obtain basic data.

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

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

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

ARTICLE XII OWNERSHIP OF DOCUMENTS; COPYRIGHTS

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

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

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

12.4 a. S/C hereby waives for the benefit of UMB and hereby transfers fully to UMB free and clear of any and all restrictions, liens and limitations whatsoever, any and all ownership rights and copyright rights and rights appurtenant thereto in any architectural works (as defined in the Architectural Works Copyright Protection Act, as amended from time to time) produced within the scope of the Agreement ("**Architectural Rights**"). S/C shall cause the Architect of Record, each and every person employed by it, each of its officers, each and every consultant engaged by it, and each and every contractor engaged by it, all in connection to the Agreement who respectfully may have enjoyed or may in the future enjoy

Architectural Rights to waive in writing for the benefit of UMB and to transfer fully to UMB free and clear of any and all restrictions, liens and limitations whatsoever any and all Architectural Rights that they, their employees, consultants, officers and agents may enjoy. S/C, as a condition of payment from time to time, shall deliver to UMB the waivers and transfers executed as contemplated herein and a representation of S/C that such writings have been obtained from each Architectural Rights Person. S/C shall include a provision substantially like this Section in its agreement with each consultant and contractor engaged by it in connection with the Agreement.

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

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

ARTICLE XIII DISPUTES

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

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

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

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

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

13.6 The Procurement Officer shall render a written decision on all claims within one hundred eighty (180) days of receipt of the S/C's written claim, unless the Procurement Officer determines that a longer period is necessary to resolve the claim. If a decision is not issued within one hundred eighty (180) days, the Procurement Officer shall notify the contractor of the time within which a decision shall be rendered and the reasons for such time

extension. The decision shall be furnished to the contractor, by certified mail, return receipt requested, or by any other method that provides evidence of receipt. The Procurement Officer's decision shall be deemed the final action of the University.

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

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

ARTICLE XIV SUSPENSION; TERMINATION

14.1 Suspension of the Services.

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

14.2 Termination by University.

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

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

14.3 Termination for Default.

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

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

14.4 Multiyear Contracts Contingent Upon Appropriations

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

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

ARTICLE XV MISCELLANEOUS

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

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

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

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

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

15.6 Crimes Related to Procurement of the Work. If S/C, or any of its officers, partners, principals or employees, is convicted of a crime arising out of or in connection with the procurement of work to be done or payment to be made under the Agreement, the Agreement, in the discretion of University, may be terminated. Upon such termination S/C shall be paid only the earned value of work performed to the date of termination and shall refund any and all profits, or fixed fee, realized under the Agreement, and S/C shall be liable to University for any costs incurred by it over and above the maximum amount payable to S/C as set forth in the Agreement, in completing the work undertaken by S/C in the Agreement. The sanctions provided hereunder shall be applicable, as appropriate in the discretion of University, to any such conviction after the expiration of the term of the Agreement as well. The rights and remedies set forth herein shall be in addition to, and the exercise thereof shall

in no way be considered or construed as a waiver of, any other rights or remedies granted or available to University.

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

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

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

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

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

15.12 Reports of Political Contributions. S/C shall comply with, and shall require its officers, directors, and employees to comply with, § 14-101 *et seq.* of the Election Law Article, Ann. Code of Maryland, which requires that every person doing public business (as there defined), and every individual whose contributions are attributable to the person entering into such an agreement, during a calendar year in which the person receives cumulative consideration of \$100,000 or more from public business, shall file with the State Administrative Board of Election Laws a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election.

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

15.14 Avoidance of Labor Disputes. In performance of the Agreement, S/C shall not knowingly employ any person or persons, or use any equipment or materials, or allow any

condition to exist, if any such, in the opinion of University, may cause or be conducive to any labor complaints, trouble, dispute or controversy at University or in any other respect may be objectionable to University. University's determination shall be conclusive on S/C and upon notice from University S/C shall immediately withdraw from University property as required in the notice all persons, equipment or materials specified in the notice, shall replace them with unobjectionable persons, equipment and materials, and shall immediately rectify whatever condition or conditions may be specified in the notice.

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

15.16 S/C Representations and Warranties. S/C hereby represents and warrants that:

a. It is qualified to do business in the State of Maryland and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified;

b. It is not in arrears with respect to the payment of any monies due and owing the State of Maryland, or any department or unit thereof, including but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of the Agreement;

c. It shall comply with all documented federal, State and local laws, regulations, and ordinances applicable to its activities and obligations under the Agreement; and,

d. It shall obtain, at its expense, all licenses, permits, insurance and governmental approvals, if any, necessary to the performance of its obligations under the Agreement.

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

a. The wage rates and other factual unit costs supporting the firm's compensation, as set forth in the Proposal, are accurate, complete and current as of the date of execution of the Agreement.

b. If any of the items of compensation were increased due to the furnishing of inaccurate, incomplete, or noncurrent wage rates or other units of costs, University is entitled to an adjustment in all appropriate items of compensation, including profit or fee, to exclude any significant sum by which the price was increased because of the defective data. University's right to adjustment includes the right to a price adjustment for defects in costs or pricing data submitted by a prospective or actual consultant or subcontractor.

c. If additions are made to the original price of the Agreement, such additions may be adjusted to exclude any significant sums where it is determined the price has been increased due to inaccurate, incomplete, or noncurrent wage rates and other factual costs.

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

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

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

a. The partnership or joint venture agreement shall not be terminated or amended in any material aspect prior to the final acceptance of the Project;

b. There shall be no additions or withdrawals of partners or joint venturer in S/C except for individuals who are admitted to partnership in the ordinary course of business;

c. The insurance required under the Agreement shall be a joint and several obligation of all joint venturers and partners in S/C.

15.21 Indemnification.

a. To the fullest extent permitted by law, S/C shall indemnify and hold harmless USM, University, any Client University, the State of Maryland, and their agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of or resulting from the performance of the work, provided that any such claim, damage, or loss or expense: (1) is attributable to bodily injury, sickness, disease, or death personal injury or injury to or destruction of tangible property (other than the work itself) including the loss of use resulting therefrom, and (2) is caused in whole or in part by any negligent or willful act or omission of S/C, or its consultants, subcontractors, their employees, or anyone directly or indirectly employed by any of them, including without limitation (1) the preparation or approval of maps, drawings, opinions, reports, surveys, Change Orders, designs or specifications, or (2) the giving of or the failure to give directions or instructions by any of them if such giving or failure to give is the primary cause of the injury or damage. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party of person described in this paragraph

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

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

{Signatures on following page}

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

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

WITNESS:
BALTIMORE

UNIVERSITY OF MARYLAND,

By:

(SEAL)

Name:

Title:

Date:

WITNESS/ATTEST:

By:

(SEAL)

Name:

Title:

Date:

Budgetary Data:

Requisition No. _____
Title _____

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

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

EXHIBIT A
AVAILABILITY OF FUNDS

NOT APPLICABLE

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

EXHIBIT B

Approved Contract Rates

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

EXHIBIT C

MINORITY BUSINESS ENTERPRISE PARTICIPATION

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

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 the business to file with the Secretary of State of Maryland certain specified information, including disclosure of beneficial ownership of the business, within 30 days of the date the aggregate value of any contracts, leases, or other agreements that the business enters into with the State of Maryland or its agencies during a calendar year reaches \$200,000.

D. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, Election Law Article, Title 14, Annotated Code of Maryland, which requires that every person that enters into a procurement contract with the State, a county, a municipal corporation, or other political subdivision of the State, during a calendar year in which the person receives a contract with a governmental entity in the amount of \$200,000 or more shall file with the State Board of Elections statements disclosing: (a) any contributions made during the reporting period to a candidate for elective office in any primary or general election; and (b) the name of each candidate to whom one or more contributions in a cumulative amount of \$500 or more were made during the reporting period. The statement shall be filed with the State Board of Elections: (a) before execution of a contract by the State, a county, a municipal corporation, or other political subdivision of the State, and shall cover the 24 months prior to when a contract was awarded; and (b) if the contribution is made after the execution of a contract, then twice a year, throughout the contract term, on: (i) May 31, to cover the six (6) month period ending April 30; and (ii) November 30, to cover the six (6) month period ending October 31.

E. DRUG AND ALCOHOL FREE WORKPLACE

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

I CERTIFY THAT:

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

(2) By submission of its 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)

ATTACHMENT D: SOLICITATION TERMS AND CONDITIONS & ADDITIONAL LABOR CATEGORY DEFINITIONS

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 S/Cs 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 2 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

The S/C shall obtain and maintain from and after the date of the On Call S/C Contract the following insurance:

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

As a condition to the S/C Agreement, the On Call S/C firm shall have the S/C deliver to UMB, not later than the date of execution of the On Call S/C Contract, a certificate of insurance verifying compliance with the above insurance requirements. Such Certificates/ Memoranda shall also provide for notice to UMB not later than thirty (30) days prior to the expiration or cancellation of the referenced policy.

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

Failure to do so shall be a material breach of the On Call S/C Contract. In the event that the S/C terminates, as a business entity, for any reason whatsoever, or in any manner whatsoever, the S/C shall obtain and provide for the maintenance of professional liability insurance, specifically covering

the S/C's obligations performed or to be performed under this Agreement, in the amount set forth herein for the remainder of the time set forth herein.

At the time the contract is made, the Contractor shall provide the University with evidence of payment in full of the above insurance coverage throughout the entire term of this contract. Any renewal term under the contract shall also include evidence of payment in full of the above insurance coverage through the entire term of the renewal.

The Contractor shall furnish the University with a certificate of insurance as evidence of the required coverage. For all insurance, except for worker's compensation and professional liability insurance, the insurance certificates shall specifically identify the materials and equipment, and shall name the University of Maryland, Baltimore (UMB), University of Baltimore (UBalt), Towson University (TU), Coppin State University(CSU), University of Maryland, Baltimore County (UMBC), University System of Maryland (USM) and the State of Maryland (including their elected or appointed officials, agents and employees) as an additional insured.

The Contractor shall not start work under the awarded contract until the Contractor has obtained at its own expense all of the required insurance and the insurance coverage has been approved by the procurement officer; nor shall the Contractor allow any subcontractor to start work on any subcontract until all insurance required by the subcontract has been obtained and approved by the Contractor and University of Maryland. Approval of insurance required of the Contractor and subcontractors for the University will be granted only after submission to the University of original certificates of insurance signed by an authorized representative of the insurers or, alternately, at the University's request, certified copies of the required insurance policies.

The Contractor shall require all subcontractors to maintain during the term of this agreement, Commercial General Liability insurance, Business Automobile Liability insurance, and Workers Compensation, in the same manner, including the additional insured requirements as specified for the Contractor. The Contractor shall furnish subcontractors' certificates of insurance to the University immediately upon request.

Contractor shall be as fully responsible to University of Maryland for the acts and omissions of the subcontractors and of persons employed by them as it is for acts and omissions of persons directly employed by Contractor.

All required insurance policies shall be endorsed to include the following provision; "It is agreed that this policy is not subject to cancellation, non-renewal, material change, or reduction in coverage until thirty(30) days prior written notice has been given to the University of Maryland, Baltimore County".

No acceptance or approval of any insurance by the University of Maryland shall be construed as relieving or excusing the Contractor, or the surety or bond, if any, from any liability or obligation imposed upon either or both of them by the provision of the Contract Documents.

The required insurance coverage shall be in force throughout the Contract Term. Should the Contractor fail to provide acceptable evidence of current insurance within ten (10) days of receipt of written notice at any time during the contract term, the University shall have the absolute right to terminate the Contract without any further obligation to the Contractor, and the Contractor shall be

liable to the University for the entire additional cost of procuring substitute performance and the cost of performing the incomplete portion of the Contract at time of termination.

All required insurance coverages must be acquired from insurers allowed to do business in the State of Maryland and acceptable to the University. The insurers must have a policy holders' rating of "A-" or better, and a financial size of "Class VII" or better in the latest edition of Best's Insurance Reports.

24. Payment and Performance Bonds - Not applicable to this procurement.

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 S/C, 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.

31. Additional Labor Category Definitions

The following definitions provide descriptions and requirements for Labor Categories that may be assigned on a task order basis over the term of the contract:

Lead Civil Design Engineer	Licensed, professional civil engineer who is directly responsible for the civil design of the project. Note: this is the person who will be directly preparing the designs, not only overseeing and directing from an executive level, though may have a dual role as the Principal Engineer. Minimum 10 years desired in industry.
Civil Design Engineer	Professional person responsible to assist in the preparation of civil plans, drawings, and specifications. Minimum 5 years desired in industry.
Lead Structural Design Engineer	Licensed, professional structural engineer who is directly responsible for the structural design of the project. Note: this is the person who will be directly preparing the designs, not only overseeing and directing from an executive level, though may have a dual role as the Principal Engineer. Minimum 10 years desired in industry.
Structural Design Engineer	Professional person responsible to assist in the preparation of structural plans, drawings, and specifications. Minimum 5 years desired in industry.
Geotechnical Engineer	Licensed professional who is directly responsible for geotechnical engineering of the project. Note: this is the person who will be directly preparing the designs, not only overseeing and directing from an executive level. Minimum 10 years required in industry.
Clerical	Professional person responsible to assist with correspondence, keep records, make appointments, and carry out similar tasks.
Cost Estimator	Professional person who is directly responsible for the cost estimating of the design. Note: This position is to be the person who will be directly preparing the estimate, not the head of the estimating department who will be overseeing and managing the process. Minimum 10 years required in industry.
Landscape Architect	Licensed professional landscape architect who is directly responsible for the landscape design of the project. Note: this is the person who will be directly preparing the designs, not only overseeing and directing from an executive level. Minimum 10 years required in industry.
Landscape Designer	Professional person responsible to assist in the preparation of landscape plans, drawings, and specifications. Minimum 5 years required in industry.

END OF ATTACHMENT D

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 2 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

H-1A

MBE UTILIZATION AND FAIR SOLICITATION
AFFIDAVIT & MBE PARTICIPATION SCHEDULE**PART 1 - INSTRUCTIONS**

PLEASE READ BEFORE COMPLETING THIS DOCUMENT

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

1. Contractor shall structure its procedures for the performance of the work required in this Contract to attempt to achieve the minority business enterprise (MBE) subcontractor participation goal stated in the Invitation for Bids or Request for Proposals. Contractor agrees to exercise good faith efforts to carry out the requirements set forth in these Instructions, as authorized by the Code of Maryland Regulations (COMAR) 21.11.03.
2. MBE Goals and Subgoals: Please review the solicitation for information regarding the Contract's MBE overall participation goals and subgoals. After satisfying the requirements for any established subgoals, the Contractor is encouraged to use a diverse group of subcontractors and suppliers from the various MBE classifications to meet the remainder of the overall MBE participation goal.
3. MBE means a minority business enterprise that is certified by the Maryland Department of Transportation ("MDOT"). Only MBEs certified by MDOT may be counted for purposes of achieving the MBE participation goals. In order to be counted for purposes of achieving the MBE participation goals, the MBE firm, including a MBE prime, must be MDOT-certified for the services, materials or supplies that it is committed to perform on the MBE Participation Schedule. A firm whose MBE certification application is pending may not be counted.
4. Please refer to the MDOT MBE Directory at <https://marylandmdbe.mdbecert.com/> to determine if a firm is certified with the appropriate North American Industry Classification System ("NAICS") Code **and** the product/services description (specific product that a firm is certified to provide or specific areas of work that a firm is certified to perform). For more general information about NAICS codes,

please visit <https://www.census.gov/eos/www/naics/>. Only those specific products and/or services for which a firm is certified in the MDOT Directory can be used for purposes of achieving the MBE participation goals. **CAUTION:** If the firm's NAICS Code is in graduated status, such services/products may not be counted for purposes of achieving the MBE participation goals. A NAICS Code is in the graduated status if the term "Graduated" follows the Code in the MDOT MBE Directory.

5. **Guidelines Regarding MBE Prime Self-Performance.** Please note that when a certified MBE firm participates as a prime contractor on a Contract, a procurement agency may count the distinct, clearly defined portion of the work of the Contract that the certified MBE firm performs with its own workforce toward fulfilling up to, but no more than, fifty-percent (50%) of the overall MBE participation goal, including up to one hundred percent (100%) of not more than one of the MBE participation subgoals, if any, established for the Contract.
- ✓ In order to receive credit for self-performance, an MBE prime must be certified in the appropriate NAICS code to do the work and must list its firm in the MBE Participation Schedule, including the certification category under which the MBE prime is self-performing and include information regarding the work it will self-perform.
 - ✓ For the remaining portion of the overall goal and the remaining subgoals, the MBE prime must also identify on the MBE Participation Schedule the other certified MBE subcontractors used to meet those goals or request a waiver.
 - ✓ These guidelines apply to the work performed by the MBE Prime that can be counted for purposes of meeting the MBE participation goals. These requirements do not affect the MBE Prime's ability to self-perform a greater portion of the work in excess of what is counted for purposes of meeting the MBE participation goals.
 - ✓ Please note that the requirements to meet the MBE participation overall goal and subgoals are distinct and separate. If the contract has subgoals, regardless of MBE Prime's ability to self-perform up to 50% of the overall goal (including up to 100% of any subgoal), the MBE Prime must either commit to use other MBEs for each of any remaining subgoals or request a waiver. As set forth in Attachment 1-B Waiver Guidance, the MBE Prime's ability to self-perform certain portions of the work of the Contract will not be deemed a substitute for the good faith efforts to meet any remaining subgoal or the balance of the overall goal.
 - ✓ In certain instances where the percentages allocated to MBE participation subgoals add up to more than 50% of the overall goal, the portion of self-performed work that an MBE Prime may

count toward the overall goal may be limited to less than 50%. Please refer to the Governor's Office of Small Minority & Women Business Affairs' website for the MBE Prime Regulations Q&A for illustrative examples.

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

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

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

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

Example for illustrative purposes of applying

the 60% rule: Overall contract value:

\$2,000,000

Total value of supplies: \$100,000

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

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

3% would be counted towards achieving the MBE Participation Goal and

Subgoal, if any, for the MBE supplier in this example.

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

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

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

10. CAUTION: The percentage of MBE participation, computed using the percentage amounts determined for all of the MBE firms listed in PART 3, MUST meet or exceed the MBE participation goal and subgoals (if applicable) as set forth in PART 2- for this solicitation. If a bidder/offeror is unable to meet the MBE participation goal or any subgoals (if applicable), then the bidder/offeror must request a waiver in PART 2 or the bid will be deemed not responsive, or the proposal not reasonably susceptible of being selected for award. You may wish to use the attached Goal/Subgoal Worksheet to assist in calculating the percentages and confirming that your commitment meets or exceeds the applicable MBE participation goal and subgoals (if any).
11. If you have any questions as to whether a firm is certified to perform the specific services or provide specific products, please contact MDOT's Office of Minority Business Enterprise at 1-800-544-6056 or via email to mbe@mdot.state.md.us sufficiently

prior to the submission due date.

Subgoals (if applicable)

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

Overall Goal

Total MBE Participation (include all categories):	_____%
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