



**Request for Proposals CP-15-06
for a Bikeshare System**

Issued by the

City of College Park, Maryland

on behalf of the

City of College Park, Maryland

Department of Planning, Community and Economic Development

and the

University of Maryland College Park

Department of Transportation Services

Release Date: April 10, 2015

Proposal Due Date: May 28, 2015 at 2:00 p.m.

**CITY OF COLLEGE PARK, MARYLAND
REQUEST FOR PROPOSALS CP-15-06
BIKESHARE SYSTEM**

The City of College Park and the University of Maryland College Park Department of Transportation Services are seeking proposals from interested and qualified firms or teams to provide a **bikeshare system** for the University of Maryland College Park campus and the surrounding areas of the City of College Park. The goals are to provide a balanced system, with minimal bicycle redistribution needed, with capability for regional interoperability, potential for efficient expansion, and that will offer a viable alternative transportation option to the campus and community with 24 hour customer service. The System will be available for members of the City and University community including residents, students, staff and visitors, with a targeted program launch date in the fall semester of 2015.

Proposals are requested for a system that will be jointly owned by the City and University, and operated by the vendor or the University. Submissions may include proposals for one or both operation models. Proposals should explore the option for sponsorships from external organizations as a funding source in addition to membership and usage fees. The System should provide a comprehensive back-end operation to allow the City and University to monitor membership, bicycle distribution, bicycle usage, and track bicycle maintenance needs. The primary coverage area should include the College Park Metro station, downtown College Park, on and off-campus student residences, and key campus facilities. The system should also be capable of expansion to additional areas in the future.

Copies of the RFP package, including complete description, submission requirements and affidavits, may be downloaded from the City's website at www.collegeparkmd.gov. Click on the "Government" tab and then click "Bids & RFPs".

Firms will send one (1) electronic copy of the bid proposal in Word or PDF format to tschum@collegeparkmd.gov. Two (2) printed copies of the bid proposal plus required attachments must be submitted on the specified forms in full compliance with the specific requirements stated in the bid documents in a sealed envelope or box containing the name and address of the Bidder, marked **Bikeshare System Proposal, RFP CP-15-06**, and delivered to the Finance Department, City of College Park, 4500 Knox Road, College Park, Maryland 20740, no later than **Thursday, May 28, 2015 at 2:00 p.m. EDT**. Award of the contract will be made by the Mayor and Council during a regular meeting. The City reserves the right to reject any and all proposals in the best interest of the City.

The City of College Park is an Equal Opportunity Employer. The City does not discriminate on the basis of age, race, color, creed, pregnancy, religion, national origin, ancestry, disability, marital status, sex, sexual orientation, gender identity, physical characteristic or other unlawful basis of discrimination.

The Contact person for this solicitation is Terry Schum, Director of Planning Community and Economic Development, e-mail: tschum@collegeparkmd.gov.

**CITY OF COLLEGE PARK, MARYLAND
REQUEST FOR PROPOSALS CP-15-06
BIKESHARE SYSTEM**

A. GENERAL INFORMATION

1. Brief Description

The City of College Park ("City") and the University of Maryland's Department of Transportation Services ("DOTS") seek a qualified firm (or firms) to provide a public bicycle sharing system ("bikeshare") on and off campus. For more general information about the City and University go to: www.collegeparkmd.gov and www.umd.edu

2. Important Dates

- a. All questions about the meanings or intent, discrepancies or omissions of the RFP shall be submitted by e-mail no later than **Thursday, May 14, 2015 at 2:00 p.m. EDT** to Terry Schum, Director of Planning, e-mail: tschum@collegeparkmd.gov. The written responses, including any changes to the RFP, become part of the RFP and will be posted on the City website as addenda by **Monday, May 18, 2015 at 5:00 p.m. EDT**. It is the responsibility of each Bidder to visit the City's website at www.collegeparkmd.gov under Government, Bids & RFPs, to obtain any addenda or other information regarding this RFP.
- b. Proposals are due by **Thursday, May 28, 2015 at 2:00 p.m. EDT** to the contact listed below in Section 7.

3. Submission Information

Firms will send one electronic copy of their proposal(s), formatted in Microsoft ("MS") Word or as a Portable Document Format ("PDF") file, to the e-mail address listed in the contact information box below. Additionally, firms will also send two complete hard-copy versions of their proposal(s) to the physical address listed in the contact information box below. One copy will be held by the City and one by the University. The City and University reserve the right to reject any proposals in the best interest of the City and University as well as proposals received after the stated due date and time.

Any trade secrets or proprietary information submitted with a proposal (original or copy) for which the firm seeks protection from public disclosure must be clearly identified by the specific page and section number in the proposal and accompanied by a suitable justification requesting non-disclosure.

4. Expected Award

The award is expected to occur by summer, 2015. The program launch date is to be determined.

5. Term of Agreement

The term of a resulting Agreement will be for one year, with the ability to renew for three additional one-year periods at the option of the City and the University. One year extensions thereafter may be mutually agreed upon by the City, University and the Selected Firm. Note that the City and University will issue separate contracts to the Selected Firm.

6. Announcement

This RFP has been posted on eMaryland Marketplace and the City of College Park web site at <http://www.collegeparkmd.gov> for your convenience. It is the firm's responsibility to ensure that the latest version of the entire RFP, any amendments and related links are reviewed prior to submission of a proposal. We encourage you to check the web site frequently for any changes prior to the due date.

7. Contact Information

E-mail questions and electronic proposals to:

Terry Schum
Director of Planning, Community and Economic
Development
E-mail: tschum@collegeparkmd.gov

E-mail subject line should state: "RFP CP-15-06
QUESTION" or "RFP CP-15-06 PROPOSAL" as
appropriate.

Mail proposals and signed attachments to:

City of College Park Finance Department
Bikeshare System Proposal, RFP CP-15-06
4500 Knox Road
College Park, MD 20740-3390

B. SCOPE OF GOODS AND SERVICES

1. Overview

The City and University seek a qualified firm (or firms) to provide a bikeshare system to include all applicable hardware, software, and bicycles (collectively, the "System") that meets the requirements stated in this RFP.

2. System Operations

The goals are to provide a balanced System, with minimal bicycle redistribution needed, with capability for regional interoperability, potential for efficient expansion, and that will offer a viable alternative transportation option with 24 hour customer service. The System will be available for members of the City and University community, including residents, students, staff, and visitors, with a targeted program launch date to be determined. The total budget for the initial year of operation is \$469,000.

The City and University request proposals for a bikeshare system that will be owned by the City and University, and operated by 1) the vendor or 2) the University. Submissions may include proposals for one or both operation models. Sponsorships from external organizations may be explored as a funding source but shall not be relied on as a primary funding source. The envisioned plan relies partially on membership and usage fees.

The System should allow bicycles to be accessed both by annual members and visitors via a one-day or longer subscription. Users should be able to register online, through smartphone applications, and/or by some type of physical user interface such as a kiosk. To provide for frequent turnover of bikes, the system should provide for an escalating pricing system based on duration of usage. The System should provide a comprehensive back-end operation to allow the City and University to monitor membership, bicycle distribution, bicycle usage, and track bicycle maintenance needs. The primary coverage area should include the College Park Metro station, downtown College Park, on and off-campus student residences, and key campus facilities. The system shall be capable of expansion to additional areas in the future.

3. System Information

Firms are encouraged to submit proposals for a system (or systems) that meet the following highly preferred requirements:

a. Bicycles

1. Bicycles should be durable and be able to be kept outside 365 days per year with minimal wear.
2. Bicycles should be rust resistant.
3. Bicycles should have fenders to protect users from tire spray.
4. Bicycles should have a white light mounted on the front of the bike, and a red light mounted on the rear of the bike. Lights whose energy is generated from the bike are preferred. Lights shall remain on during short stops.
5. Bicycles should have a minimum of three (3) gears.
6. Bicycles should have reliable and intuitive braking systems.
7. Bicycles should have a bell or other warning system.
8. Bicycles should be tamper resistant and have puncture resistant tires.
9. Bicycles should be uniform in nature and consistently branded.
10. Bicycles should be new.
11. Bicycles should be one-size-fits all design with an adjustable seat. Seat post should be marked for various heights as a guide for the user. The user should not be able to remove the seat from the frame.
12. Bicycles with a secondary lock are preferred to enable a user to secure the bike while making stops during their reservation.
13. Bicycles should have minimum warranty of two years on parts and manufacturing defects beginning upon system commissioning and acceptance by the City and University. Five year warranty is preferred.
14. Bicycles should have a tracking system, i.e. global positioning system ("GPS"), radio-frequency identification ("RFID"), etc.
15. Bicycles should be equipped with a basket or rack to carry personal items.

b. Docking Station/Kiosk – For systems proposing docking stations and / or kiosks

1. Stations or kiosks should be resistant to corrosion.
2. Stations or kiosks should be of the smallest feasible footprint and should not be permanent in nature.
3. Stations or kiosks should be solar (or otherwise independently) powered.

4. Stations or kiosks should have a user interface that allows for reservations, payments and membership options. The user interface should also allow users to report maintenance issues.
5. Stations or kiosks should be new and uniform in nature and branded consistently.
6. Stations or kiosks should have wireless connectivity.
7. Stations or kiosks should be American's with Disabilities Act (ADA) compliant.

c. Technology and Reporting Capabilities

1. System shall have the ability to provide "corporate accounts" where a company or organization can pay for part or all of their employee's membership. System should allow companies to access reports on membership and usage.
2. General system data (restricted to ride data and not personal member data) should be open to the public and available via API or XML feeds or similar.
3. The System must be able to provide detailed monthly reports to the City and University that may include, but are not limited to the following:
 - a. Report(s) showing utilization of bikes (overall usage, daily usage, usage by bike).
 - b. Report(s) or interface showing current distribution of bikes.
 - c. Report(s) showing total number of members with the ability to differentiate between daily/visitor users and annual users. Report(s) should be able to show growth over a set period of time defined by the City and University.
 - d. Maintenance reporting feature.
 - e. Financial report(s) detailing membership and usage fees.
 - f. City and University staff shall have access to system data to be able to easily and quickly run customizable reports as needed.

C. SUBMISSION REQUIREMENTS

Proposals should be prepared simply and economically, providing a straightforward, concise description of capabilities to satisfy the requirements of the RFP. Emphasis will be on completeness and clarity of content, and the response should be organized in the order in which the requirements are presented below. It is required that firms provide the following information regarding each proposed System. The firm will indicate in its proposal their ability to achieve/comply with each specification. In the event that the firm wishes to propose an equivalent alternate specification, the firm will detail the proposed alternate and how it is equivalent to the listed specification.

1. Infrastructure and Technology of the System

- a. Describe the scope of initial implementation including number of bicycles and recommended placement and number of stations or kiosks (if applicable).
- b. Provide a detailed description of the bicycles and any equipment to be used, including manufacturing origin. Include information on any related hardware needed to operate and/or maintain the bicycles. Description should include all mechanical specifications, including information regarding the gearing, suspension, seat, branding, any onboard technology, and all other amenities (i.e. basket, bell, locks).
- c. Describe the system modularity and expansion capability for stations or kiosks (if applicable), bicycles, and technology.

- d. Describe any safety features that would be included in this System.
- e. Describe all reporting features available to the City and University (i.e. system utilization, bike distribution, customer feedback, membership levels).
- f. Describe all power requirements including any proposed use of solar power, if applicable.
- g. Describe how the system will be compliant with the Americans with Disabilities Act.
- h. Describe any information (i.e. safety, way finding) to be placed on bicycle and equipment (if applicable). Describe all mobile applications available for the system, on what platforms they are available, and who is responsible for maintenance and upgrades.
- i. Information on the warranty associated with the product the firm is proposing and any extended warranty (include the price) that might be available.

2. Operations and Maintenance

- a. Provide recommendations on what equipment and level of staffing would be required to sustain the System.
- b. Provide maintenance manual/protocol for the bicycles and any other needed infrastructure or equipment including but not limited to any batteries used by bicycles or station/kiosks. Provide a timeline for replacement.
- c. Describe software maintenance protocols and procedures for implementing software upgrades at the request of the City and University.
- d. Describe any bicycle redistribution protocols.
- e. Describe any established troubleshooting protocol for system outages.

3. Membership

- a. Provide a description of membership categories and payment options. Include recommended membership pricing based on the size of the system and the population of the City and University.
- b. Provide a detailed description (including photos/illustrations) of how the System will function from a user's perspective. This should include both annual and short term memberships.
- c. Detail how your firm's proposed System can be integrated into existing forms of identification and financial accounts (i.e. the use of the existing University identification card and potentially the University's existing declining balance accounts).

4. Marketing and Customer Service

- a. Describe the marketing assistance that will be provided, if any.
- b. Describe the potential for advertising, including a list of locations on bicycles and equipment that can accommodate customized messaging provided by the City and University.
- c. Describe the type of customer service support that will be provided to users as well as to the City and University. A system that provides 24/7 customer service is preferred.
- d. Describe the website that will be provided, if any. Include the services and information that will be provided on the website (i.e. membership sign-ups, safety recommendations, system map, etc.).

5. Bidder Information

- a. Provide a brief history of the firm and its experience, qualifications and success in providing the type of product requested.
- b. Provide at least three references where similar goods and/or services have been provided. Include the name of the firm / organization, the complete mailing address, and the name of the contact person, email address and telephone number.
- c. Provide a list of jurisdictions and institutions of higher education with which the firm has signed a term contract
- d. Provide the firm's small and/or MBE businesses status. Note that the State of Maryland encourages small firms to self-certify at the eMaryland Marketplace, see Attachment 8 for details. Information about the State's MBE program can be found at the State website: www.mdot.maryland.gov/Office%20of%20Minority%20Business%20Enterprise/HomePage.html
- e. Provide the amount of annual sales the firm has with each University System of Maryland institution.
- f. Describe the firm's approach to station/kiosk permitting and installation on public right-of-way and private property (if applicable).

6. Price Proposal

- a. The City and the University require unit pricing for all equipment and operations (if applicable).
- b. The price proposal shall include shipping charges on a per-unit basis and total to include shipping charges FOB destination.
- c. Firms are encouraged to submit pricing that includes separate options that detail a University-operated system and a vendor-operated system. The pricing should include the following for both options:
 1. Pricing for a delivered system to include all products and services needed for the initial phase of System implementation. Pricing should be itemized for each component of the System.
 2. Pricing (and/or a discount structure) for future potential expansion of the System. This pricing should be made available to either City government and/or City/University identified partners willing to invest into future expansion of the System.
 3. Pricing (and/or a discount structure) for required replacement parts including the acquisition of additional bicycles.
 4. Pricing (and/or a discount structure) for any maintenance plans available for the System, including any additional software licensing costs.
 5. Pricing for any other products/services needed for seamless continued operation of the System including redistribution services.
 6. Cost after system launch, including initial turnover logistics, maintenance, technical support and new features.

7. Implementation Schedule

Provide an estimated implementation schedule from date of contract award, including date of product shipment, system launch date and any other relevant milestones. Also, provide typical delivery time for new and replacement materials. Provide documentation affirming compliance with all Payment Card Industry Data Security Standards ("PCI-DSS").

8. Affidavits and Certificates

The following affidavits and certificates (see Section F, "Attachments") are required to be signed and submitted with the proposal:

- a. Bid/Proposal Affidavit
- b. Conflict of Interest Affidavit and Disclosure
- c. Social Responsibility Affidavit and Disclosure
- d. Certification Regarding Investment Activities in Iran
- e. Grant / Cooperative Agreement-Funded Affidavit for Anti-Lobbying Certification and Debarment Certification
- f. Non –Collusion Affidavit
- g. False Pretenses Affidavit
- h. Certificate of Non-Suspension
- i. Affidavit of Non-Conviction

D. BASIS OF SELECTION

1. Proposal Evaluation

Proposals will be evaluated based upon the overall merits/value of the proposal including, but not limited to, price. The City and University will evaluate proposals, and if a firm is to be selected, select the firm on the basis of:

- a. Responsiveness to the RFP.
- b. The firm's plan to provide the University and City with the products as described in the Scope of Goods and Services section.
- c. The firm's experience in providing goods and services similar to those described in this RFP, to include the firm's references from clients.
- d. The firm's price proposal.

2. Formation of the Agreement with the Selected Firm

All proposals received will be carefully evaluated by the City and University, and it is the intent to conduct negotiations with two or more firms. After negotiations have been conducted, if the City and University choose to make an award, they will select the firm that, in their opinion, best meets the needs of the City and University. Alternately, if the City and University determine at their sole discretion that only one firm is fully qualified, or that one firm is clearly more highly qualified than the others under consideration, they may decide to negotiate and award an agreement to that single firm. In either event, the City and University intend to each execute a mutually satisfactory written agreement which will reflect and largely incorporate this RFP as reconciled with any pertinent documents, such as the proposal submitted and relevant negotiation correspondence. Each respective agreement shall include those contractual provisions required for the University and the City.

Because the City and University may choose to negotiate with and award to a single firm, as discussed above, each firm must include in its written proposal all requirements, terms or conditions it may

have, and should not assume that an opportunity will exist to add such matters after the proposal is submitted.

E. OTHER INFORMATION

This solicitation and any subsequent award are subject to the University's Mandatory Contractual Provisions and City contract provisions and additional preferred contractual provisions:

1. Notice of Federal Funding and Grant Requirements

This RFP is utilizing Federal Surface Transportation Act funds, administered through the Transportation Enhancement Program at the state level by the Maryland Department of Transportation and at the Federal level by the United States Department of Transportation - Federal Highway Administration ("FHWA"). Applicable grant requirements are included as attachment 9. Grant mandated record keeping and pre-approval requirements are part of the RFP and contract.

2. Insurance

See Attachment 5 for insurance that the University of Maryland requires the Selected Firm to maintain under any Agreement resulting from this RFP.

3. Maryland Public Information Act

Except as provided, once an award is announced, all proposals submitted in response to this RFP will be open to inspection by any person or entity, in accordance with the Maryland Public Information Act. Trade secrets or proprietary information submitted by a firm prior to or as part of its proposal is subject to public disclosure under the Maryland Freedom of Information Act unless exempted in the law and only under the following circumstances: (1) the appropriate information is clearly identified by some distinct method such as highlighting or underlining; (2) only the specific words, figures, or paragraphs that constitute trade secrets or proprietary information are identified; and (3) a summary page is supplied immediately following the proposal title page that includes (a) the information to be protected, (b) the section(s)/page number(s) where this information is found in the proposal, and (c) a statement why protection is necessary for each section listed. The firm must also provide a separate electronic copy of the proposal (CD, etc.) with the trade secrets and/or proprietary information redacted. If all of these requirements are not met, then the firm's entire proposal will be available for public inspection.

4. Account Manager

The Selected Firm agrees to provide a named individual ("Account Manager") to implement, perform, and manage provision of the Goods and Services. The City and University must approve the appointment of the Account Manager prior to execution of any Agreement with the Selected Firm. The Account Manager will be the City and University's primary contact, although the Account Manager will be assisted by other members of the Selected Firm's staff in completing key activities.

In the event that the Account Manager (or any other individual responsible for the account) is no longer employed by the Selected Firm, is unavailable for any reason, or is performing in an unsatisfactory manner (as solely determined by the City and University); the Selected Firm will propose a replacement for that individual within a reasonable time frame, so as not to significantly delay the provision of the Goods and Services. The City and University reserve the right to approve

the replacement, or to cancel any resulting Agreement. If the City and University accept a proposed replacement, the replacement will provide the goods and services at rates no higher than previously agreed and in accordance with all terms and conditions specified in the resulting agreement.

5. System Acceptance

“System Acceptance” will encompass testing and observation of the fully functional and operational product. The City and University will determine if the product specifications have been met, shortly after installation and integration of the product. Warranty will begin as of the date of Product Acceptance. In the event that the City and University do not accept the product, they may elect to require the Selected Firm to provide a replacement product or terminate the Agreement. The City and University’s Contract Administrators will be the sole representatives of the City and University and will have sole authority to act on the City and University’s behalf with regard to Product Acceptance.

6. Data and Intellectual Property Protection

a. Definitions

1. “Brand Features” means the trade names, trademarks, service marks, logos, domain names, and other distinctive brand features of each party, respectively, as secured by such party from time to time.
2. “End User” means the individuals authorized by the City and University to access and use the Services provided by the Selected Firm under this Agreement.
3. “Personally Identifiable Information” includes but is not limited to: personal identifiers such as name, address, phone number, date of birth, Social Security number, and student or personnel identification number; personal information as defined in §14-3501 of the Commercial Law Article, Annotated Code of Maryland,; personally identifiable information contained in student education records as that term is defined in the Family Educational Rights and Privacy Act, 20 USC 1232g; “protected health information” as that term is defined in the Health Insurance Portability and Accountability Act, 45 CFR Part 160.103; nonpublic personal information as that term is defined in the Gramm-Leach-Bliley Financial Modernization Act of 1999, 15 USC 6809; credit and debit card numbers and/or access codes and other cardholder data and sensitive authentication data as those terms are defined in the Payment Card Industry Data Security Standards; other financial account numbers, access codes, driver’s license numbers; and state- or federal- identification numbers such as passport, visa or state identity card numbers.
4. “Securely Destroy” means taking actions that render data written on media unrecoverable by both ordinary and extraordinary means. These actions must meet or exceed those sections of the National Institute of Standards and Technology (NIST) SP 800-88 guidelines relevant to data categorized as high security.
5. “Security Breach” means a security-relevant event in which the security of a system or procedure used to create, obtain, transmit, maintain, use, process, store or dispose of data is breached, and in which University Data is exposed to unauthorized disclosure, access, alteration, or use.

6. "Services" means any goods or services acquired by the City or University from the Selected Firm.
7. "City or University Data" includes all Personally Identifiable Information and other information that is not intentionally made generally available by the City or University on public websites, including but not limited to business, administrative and financial data, intellectual property, and student and personnel data.

b. Rights and License in and to City and University Data

The parties agree that as between them, all rights including all intellectual property rights in and to City and University Data will remain the exclusive property of the City and University, and the Selected Firm has a limited, nonexclusive license to use these data as provided in this Agreement solely for the purpose of performing its obligations hereunder. This Agreement does not give a party any rights, implied or otherwise, to the other's data, content, or intellectual property, except as expressly stated in this Agreement.

c. Intellectual Property Rights/Disclosure

1. Unless expressly agreed to the contrary in writing, all goods, products, materials, documents, reports, writings, video images, photographs or papers of any nature including software or computer images prepared or provided by the Selected Firm (or its subcontractors) for the City or University will not be disclosed to any other person or entity without the written permission of the City or University.
2. The Selected Firm warrants that the City and University will own all rights, title and interest in any and all intellectual property rights created in the performance or otherwise arising from this Agreement and will have full ownership and beneficial use thereof, free and clear of claims of any nature by any third party including, without limitation, copyright or patent infringement claims. The Selected Firm agrees to assign and hereby assigns all rights, title, and interest in any and all intellectual property created in the performance or otherwise arising from this Agreement, and will execute any future assignments or other documents needed to document, register, or otherwise perfect such rights.

d. Data Privacy

1. The Selected Firm will use City and University Data only for the purpose of fulfilling its duties under this Agreement and will not share such data with or disclose it to any third party without the prior written consent of the City and University, except as required by this Agreement or as otherwise required by law.
2. The Selected Firm will provide access to City and University Data only to its employees and subcontractors who need to access the data to fulfill the Selected Firm's obligations under this Agreement. The Selected Firm will ensure that employees who perform work under this Agreement have read, understood, and received appropriate instruction as to how to comply with the data protection provisions of this Agreement.

3. If the Selected Firm will have access to the University's Education records as defined under the Family Educational Rights and Privacy Act (FERPA), the Selected Firm acknowledges that for the purposes of this Agreement it will be designated as a "school official" with "legitimate educational interests" in the University Education records, as those terms have been defined under FERPA and its implementing regulations, and the Selected Firm agrees to abide by the limitations and requirements imposed on school officials. The Selected Firm will use the Education records only for the purpose of fulfilling its duties under this Agreement for University's and its End User's benefit, and will not share such data with or disclose it to any third party except as provided for in this Agreement, required by law, or authorized in writing by the University.

e. Data Security

1. The Selected Firm will store and process City and University Data in accordance with commercial best practices, including appropriate administrative, physical, and technical safeguards, to secure such data from unauthorized access, disclosure, alteration, and use. The Selected Firm shall implement and maintain reasonable security procedures and practices that are appropriate to the nature of the personal information disclosed to the Selected Firm and are reasonably designed to help protect the personal information from unauthorized access, use, modification, disclosure, or destruction. Such measures will be no less protective than those used to secure the Selected Firm's own data of a similar type, and in no event less than reasonable in view of the type and nature of the data involved. Without limiting the foregoing, the Selected Firm warrants that all electronic City and University Data will be encrypted in transmission (including via web interface) and stored at no less than 128-bit level encryption and in any event, will use no less than industry best practices.
2. The Selected Firm will use industry-standard and up-to-date security tools and technologies such as anti-virus protections and intrusion detection methods in providing Services under this Agreement.

f. Employee Background Checks and Qualifications

1. The Selected Firm will ensure that its employees have undergone appropriate background screening and possess all needed qualifications to comply with the terms of this Agreement including but not limited to all terms relating to data and intellectual property protection.
2. If the Selected Firm must under this Agreement create, obtain, transmit, use, maintain, process, or dispose of the subset of City and University Data known as Personally Identifiable Information or financial or business data which has been identified to the Selected Firm as having the potential to affect the accuracy of the City or University's financial statements, the Selected Firm will perform the following background checks on all employees who have potential to access such data in accordance with the Fair Credit Reporting Act: Social Security Number trace; seven (7) year felony and misdemeanor criminal records check of federal, state, or local records (as applicable) for job related

crimes; Office of Foreign Assets Control List (OFAC) check; Bureau of Industry and Security List (BIS) check; and Office of Defense Trade Controls Debarred Persons List (DDTC).

g. Data Authenticity and Integrity

The Selected Firm will take reasonable measures, including audit trails, to protect City and University Data against deterioration or degradation of data quality and authenticity. The Selected Firm will be responsible for ensuring that City and University Data, is preserved, maintained, and accessible throughout its lifecycle, including converting and migrating electronic data as often as necessary so that information is not lost due to hardware, software, or media obsolescence or deterioration.

h. Security Breach

1. **Response.** Immediately upon becoming aware of a Security Breach, or of circumstances that could have resulted in unauthorized access to or disclosure or use of City or University Data, the Selected Firm will notify the City and University, fully investigate the incident, and cooperate fully with the investigation of and response to the incident. Except as otherwise required by law, the Selected Firm will not provide notice of the incident directly to individuals whose Personally Identifiable Information was involved, regulatory agencies, or other entities, without prior written permission from the City and University.
2. **Liability.** In addition to any other remedies available to the City and University under law or equity, the Selected Firm will reimburse the City and University in full for all costs incurred in investigation and remediation of such Security Breach, including but not limited to providing notification to individuals whose Personally Identifiable Information was compromised and to regulatory agencies or other entities as required by law or contract; providing one year's credit monitoring to the affected individuals if the Personally Identifiable Information exposed during the breach could be used to commit financial identity theft; and the payment of legal fees, audit costs, fines, and other fees imposed by regulatory agencies or contracting partners as a result of the Security Breach.

i. Response to Legal Orders, Demands or Requests for Data

1. Except as otherwise expressly prohibited by law, the Selected Firm will:
 - a. Immediately notify the City and University of any subpoenas, warrants, or other legal orders, demands or requests received by the Selected Firm seeking City or University Data;
 - b. Consult with the City and University regarding their response;
 - c. Cooperate with the City and University's reasonable requests in connection with efforts to intervene and quash or modify the legal order, demand or request; and
 - d. Upon the City and University's request, provide a copy of its response.
2. If the City and University receive a subpoena, warrant, or other legal order, demand (including request pursuant to the Maryland Public Information Act) or request seeking

City or University Data maintained by the Selected Firm, the City or University will promptly provide a copy to the Selected Firm. The Selected Firm will promptly supply the City and University with copies of data required to respond, and will cooperate with the City and University's reasonable requests in connection with its response.

j. Data Transfer Upon Termination or Expiration

1. Upon termination or expiration of this Agreement, the Selected Firm will ensure that all City and University Data is securely returned or destroyed as directed by the City or University. Transfer to the City, University, or a third party designee will occur within a reasonable period of time, and without significant interruption in service. The Selected Firm will ensure that such transfer/migration uses facilities and methods that are compatible with the relevant systems of the City or University or its transferee, and to the extent technologically feasible, that the City and University will have reasonable access to data during the transition. In the event that the City or University request destruction of their data, the Selected Firm agrees to Securely Destroy all data in its possession and in the possession of any subcontractors or agents to which the Selected Firm might have transferred data. The Selected Firm agrees to provide documentation of data destruction to the City and University.
2. The Selected Firm will notify the City and University of impending cessation of its business and any contingency plans. This includes immediate transfer/return to the City and University of any previously escrowed assets and data and provision to the City and University of access to the Selected Firm's facilities to remove and destroy City and University-owned assets and data. The Selected Firm will implement its exit plan and take all necessary actions to ensure a smooth transition of service with minimal disruption to the City and University. The Selected Firm will also provide a full inventory and configuration of servers, routers, other hardware, and software involved in service delivery along with supporting documentation, indicating which if any of these are owned by or dedicated to the City or University. The Selected Firm will work closely with its successor to ensure a successful transition to the new equipment, with minimal downtime and effect on the City or University, all such work to be coordinated and performed in advance of the formal, final transition date.

The Selected Firm's obligations under this section will survive termination of any Agreement resulting from this RFP until all City or University Data has been returned or securely destroyed.

7. Audits

- a. The City and University reserve the right in their sole discretion to perform audits of the Selected Firm at the City or University's expense to ensure compliance with the terms of this Agreement. The Selected Firm will reasonably cooperate in the performance of such audits. This provision applies to all agreements under which the Selected Firm must create, obtain, transmit, use, maintain, process, or dispose of City and University Data.
- b. If the Selected Firm must under this Agreement create, obtain, transmit, use, maintain, process, or dispose of the subset of City or University Data known as Personally Identifiable

Information or financial or business data which has been identified to the Selected Firm as having the potential to affect the accuracy of the City or University's financial statements, the Selected Firm will at its expense conduct or have conducted at least annually:

1. American Institute of CPAs Service Organization Controls (SOC) Type II audit or other security audit with audit objectives deemed sufficient by the City and University, which attests the Selected Firm's security policies, procedures and controls;
 2. Vulnerability scan, performed by a scanner approved by the City and University, of the Selected Firm's electronic systems and facilities that are used in any way to deliver electronic services under this Agreement; and
 3. Formal penetration test, performed by a process and qualified personnel approved by the City and University, of the Selected Firm's electronic systems and facilities that are used in any way to deliver electronic services under this Agreement.
- c. Additionally, the Selected Firm will provide the City and University upon request the results of the above audits, scans and tests, and will promptly modify its security measures as needed based on those results in order to meet its obligations under this Agreement. The City or University may require, the Selected Firm to perform additional audits and tests, the results of which will be provided promptly to the City and University.

8. Institutional Branding

Each party will have the right to use the other party's Brand Features only in connection with performing the functions provided in this Agreement. Any use of a party's Brand Features will inure to the benefit of the party holding intellectual property rights in and to those features.

9. Compliance

- a. The Selected Firm will comply with all applicable laws and industry standards in performing services under this Agreement. Any Selected Firm personnel visiting the City or University's facilities will comply with all applicable policies regarding access to, use of, and conduct within such facilities. The City and University will provide copies of such policies to the Selected Firm upon request.
- b. The Selected Firm warrants that the service it will provide to the City and University is fully compliant with relevant requirements of all laws, regulation, and guidance applicable to the Selected Firm, the City and the University, including but not limited to: the Family Educational Rights and Privacy Act (FERPA), Health Insurance Portability and Accountability Act (HIPAA) and Health Information Technology for Economic and Clinical Health Act (HITECH), Gramm-Leach-Bliley Financial Modernization Act (GLB), Payment Card Industry Data Security Standards (PCI-DSS), Americans with Disabilities Act (ADA), and Federal Export Administration Regulations.

10. No End User Agreements

The Agreement that results from this RFP will be the entire agreement between the City, University and the Selected Firm. In the event that the Selected Firm enters into terms of use agreements or other agreements or understandings, whether electronic, click-through, verbal or in writing, with City or University employees or other End Users, such agreements will be null, void and without effect, and the terms of this Agreement will apply.

F. Attachments

Attachments below are incorporated by reference in this RFP and resulting contracts:

1. University of Maryland (UMCP) Contract Clauses
2. City Contract Clauses and Bid Requirements
3. University System of Maryland (USM) Affidavits and Certifications
4. City Affidavits
5. UMCP and City Insurance Requirements
6. UMCP General Administrative Clauses
7. Proposed Docking Station Locations
8. State of Maryland Small Business Flyer
9. Federal Requirements: 49 U.S.C. § 18.36

ATTACHMENT 1: UMCP Contract Clauses

1. University Work Rules

Employees and agents of Contractor shall, while on the premises of the University, comply with all University rules and regulations. Contractor shall acquaint itself with conditions governing the delivery, receiving and storage of materials at the work site if applicable to this work, as not to interfere with University operations. Contractor shall not stop, delay, or interfere with University work schedule without the prior approval of the University's specified representative.

2. Harmony

Contractor shall be entirely responsible for working in harmony with all others on the work site when Contractor is working on University premises.

3. Clean Up

Contractor agrees to clean up on a daily basis and shall at all times keep the building and premises clean of dirt, trash and debris arising out of the operation of the contract. If Contractor fails to clean up and remove such dirt, trash and debris from the job site, the University may arrange for same at Contractor's expense. Upon the completion of the work, Contractor agrees to remove promptly all implements, surplus materials and debris if applicable when it is working on the University premises.

4. Independent Contractor

It is understood and agreed that the Contractor is an independent contractor of the University and not an employee. The University shall not withhold income taxes, social security, or any other sums from the payments made to the Contractor hereafter. If the Contractor employs additional persons in the performance of this contract, those persons shall in no way be considered employees of the University, but rather they shall be employees or contractors of the Contractor, and the Contractor bears full responsibility for compensating those persons.

5. Multi-Year Contracts Contingent Upon Appropriations

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

6. Specifications

All materials, equipment, supplies or services shall conform to Federal and State laws and regulations, and to the specifications contained herein.

7. Cost and Price Certification

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

- a. A negotiated contract, if the total contract price is expected to exceed \$100,000 or a smaller amount set by the Procurement Officer; or
- b. A change order or contract modification, expected to exceed \$100,000, or a smaller amount set by the Procurement Officer.

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

8. Delays and Extensions of Time

- (1) The Contractor agrees to perform the work continuously and diligently and 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 the work specified in this contract.
- (2) Time extensions will be granted only for excusable delays that arise from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to, acts of God, acts of the public enemy, acts of the State in either its sovereign or contractual capacity, acts of another contractor in the performance of a contract with the State, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of either the Contractor or the subcontractors or suppliers.

9. Suspension of Work

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

10. Payment of University Obligations

Payments to the Contractor pursuant to this contract shall be made no later than thirty (30) days after the University's receipt of a proper invoice from the Contractor. Charges for late payment of invoices, other than as prescribed by Title 15, Subtitle 1, of the State Finance and Procurement Article, Annotated Code of Maryland, are prohibited. Electronic funds transfer (EFT) will be used by the State to pay Contractor(s) for Contracts with a value over \$200,000 and any other State payments due Contractor(s) unless the State Comptroller's Office grants Contractor(s) an exemption.

11. Delivery and Acceptance

Delivery shall be made in accordance with the solicitation specifications. The University, in its sole discretion, may extend the time of performance for excusable delays due to unforeseeable causes beyond the Contractor's control. The University unilaterally may order in writing the suspension, delay, or interruption of performance hereunder. The University reserves the right to test any materials, equipment, supplies or services delivered to determine if the specifications have been met. The materials listed in the bid or proposal shall be delivered FOB the point or points specified prior to, or on the date specified in the bid or proposal. Any material or service that is defective or fails to meet the terms of the solicitation specifications will be rejected. Rejected materials or services shall be promptly replaced or re-performed, at the direction of the University. The University reserves the right to purchase replacement materials or services in the open market.

Contractors failing to promptly replace materials or re-perform services lawfully rejected shall be liable for any excess price paid for the replacement, plus applicable expenses, if any.

12. Non-Hiring of Officials and Employees

No official or employee of the State of Maryland whose duties as such official or employee include matters relating to or affecting the subject matter of this contract, shall, during the pendency and term of this contract and while serving as an official or employee of the State become or be an employee of the contractor or any entity that is a subcontractor on this contract.

13. Nondiscrimination in Employment

The Contractor agrees: (a) not to discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, marital status, national origin, ancestry, sexual orientation (added effective October 1, 2001) or physical or mental handicap unrelated in nature and extent so as reasonably to preclude the performance of such employment; (b) to include a provision similar to that contained in subsection (a), above, in any subcontract except a subcontract for standard commercial supplies or raw material; and (c) to post in conspicuous places accessible to employees and applicants for employment, notices setting forth the substance of this section.

14. Financial Disclosure

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

NOTE: The financial disclosure form is available under "Public Disclosures" on the following web site: www.sos.state.md.us

15. Disputes

(1) This contract is subject to the University System of Maryland (USM) Procurement Policies and Procedures, and the University of Maryland Procurement Policies and Procedures.

(2) Except as otherwise provided by law, all disputes arising under or as a result of a breach of this contract that are not disposed of by mutual agreement shall be resolved in accordance with this section.

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

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

(5) When a claim cannot be resolved by mutual agreement, the Contractor shall submit a written request for final decision to the Procurement Officer. The written request shall set forth all the facts surrounding the controversy.

(6) The Contractor, at the discretion of the Procurement Officer, may be afforded an opportunity to be heard and to offer evidence in support of his claim.

(7) The Procurement Officer shall render a written decision on all claims within 180 days of receipt of the Contractor's written claim, unless the Procurement Officer determines that a longer period is necessary to resolve the claim. If a decision is not issued within 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.

(8) The Procurement Officer's decision shall be final and conclusive unless the Contractor mails or otherwise files a written appeal with the Maryland State Board of Contract Appeals within 30 days of receipt of the decision.

(9) Pending resolution of a claim, the Contractor shall proceed diligently with the performance of the contract in accordance with the Procurement Officer's decision.

16. Termination for Convenience

(1) The performance of work under this contract may be terminated by the University in whole or in part, in accordance with this section, whenever the University shall determine that such termination is in the best interest of the University or the State. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which performance of work is terminated and the time when such termination becomes effective.

(2) After receipt of a Notice of Termination, and except as otherwise directed by the Procurement Officer, the Contractor shall:

(a) stop work as specified in the Notice of Termination;

(b) place no further orders or subcontracts for materials, services or facilities, except as may be necessary for completion of the portion of the work under the contract as is not terminated;

(c) terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination;

(d) assign to the University, in the manner, at times, and to the extent directed by the Procurement Officer, all of the right, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case the University shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;

(e) settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Procurement Officer, to the extent he may require, which approval or ratification shall be final for all the purposes of this section;

(f) transfer title and deliver to the University, in the manner, at the times, and to the extent, if any, directed by the Procurement Officer,

(i) the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced as a part of, or acquired in connection with the performance of, the work terminated by the Notice of Termination, and

(ii) the completed or partially completed plans, drawings, information, and other property which, if the contract had been completed, would have been required to be furnished to the University;

(g) use its best efforts to sell, in the manner, at the times, to the extent, and at the price or prices directed or authorized by the Procurement Officer, any property of the types referred to in (f) above; provided, however, that the Contractor

(i) may not be required to extend credit to any purchaser, and

(ii) may acquire any such property under the conditions prescribed by and at a price or prices approved by the Procurement Officer; and provided further that the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the University to the Contractor under this contract or shall otherwise be credited to the price or cost of the work covered by this contract or paid in such other manner as the Procurement Officer may direct;

(h) complete performance of such part of the work as shall not have been terminated by the Notice of Termination; and

(i) take any action that may be necessary, or as the Procurement Officer may direct, for the protection and preservation of the property related to this contract which is in the possession of the Contractor and in which the University has or may acquire an interest. The Contractor shall submit to the Procurement Officer a list, certified as to quantity and quality, of any or all items of termination inventory not previously disposed of, exclusive of items the disposition of which has been directed or authorized by the Procurement Officer, and may request the University to remove them or enter into a storage agreement covering them. Not later than fifteen (15) days thereafter, the University shall accept title to these items and remove them or enter into a storage agreement covering the same; provided, that the list submitted shall be subject to verification by the Procurement Officer upon removal of the items, or if the items are stored, within forty-five (45) days from the date of submission of the list, and any necessary adjustment to correct the list as submitted shall be made before final settlement.

(3) After receipt of a Notice of Termination, the Contractor shall submit to the Procurement Officer his termination claim, in the form and with certification prescribed by the Procurement Officer. This claim shall be submitted promptly but in no event later than one (1) year from the effective date of termination, unless one or more extensions in writing are granted by the Procurement Officer, upon request of the Contractor made in writing within the one-year period or authorized extension thereof. However, if the Procurement Officer determines that the facts justify such action, he may receive and act upon any such termination claim at any time after the one-year period or any extension thereof. Upon failure of the Contractor to submit his termination claim within the time allowed, the Procurement Officer may determine the claim at any time after the one-year period or any extension thereof. Upon failure of the Contractor to submit his termination claim within the time allowed, the Procurement Officer may determine, on the basis of information available to him, the amount, if any, due to the Contractor by reason of the termination and shall thereupon pay to the Contractor the amount so determined.

(4) Subject to the provisions of paragraph (3), the Contractor and the Procurement Officer may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the total or partial termination of work pursuant to this section, which amount or amounts may include a reasonable allowance for profit on work done; provided, that such agreed amount or amounts, exclusive of settlement costs, shall not exceed the total contract price as reduced by the amount of payments otherwise made and as further reduced by the contract price of work not terminated. The contract shall be amended accordingly, and the Contractor shall be paid the agreed amount. Nothing in paragraph (5) of this section, prescribing the amount to be paid to the Contractor in the event of failure of the Contractor and the Procurement Officer to agree upon the whole amount to be paid to the Contractor by reason of the termination of work pursuant to this section, shall be

deemed to limit, restrict, or otherwise determine or affect the amount or amounts that may be agreed upon to be paid to the Contractor pursuant to this paragraph.

(5) In the event of the failure of the Contractor and the Procurement Officer to agree as provided in paragraph (4) upon the whole amount to be paid to the Contractor by reason of the termination of work pursuant to this section, the Procurement Officer shall pay to the Contractor the amounts determined by the Procurement Officer as follows, but without duplication of any amounts agreed upon in accordance with paragraph (4):

(a) for completed supplies or services accepted by the University (or sold or acquired as provided in paragraph (2) (g) above) and for which payment has not theretofore been made, a sum equivalent to the aggregate price for the supplies or services computed in accordance with the price or prices specified in the contract, appropriately adjusted for any saving of freight or other charges;

(b) the total of-

(i) the costs incurred in the performance of the work terminated, including initial costs and preparatory expense allocable thereto, but exclusive of any costs attributable to supplies or services paid or to be paid for under paragraph (5)(a) hereof;

(ii) the cost of settling and paying claims arising out of the termination of work under subcontracts or orders, as provided in paragraph (2) (e) above, which are properly chargeable to the terminated portion of the contract (exclusive of amounts paid or payable on account of supplies or materials delivered or services furnished by subcontractors or Contractors before the effective date of the Notice of Termination, which amounts shall be included in the costs payable under (g) above); and

(iii) a sum, as profit on (i) above, determined by the Procurement Officer to be fair and reasonable; provided, however, that if it appears that the Contractor would have sustained a loss on the entire contract had it been completed, no profit shall be included or allowed under this subdivision (iii) and an appropriate adjustment shall be made reducing the amount of the settlement to reflect the indicated rate of loss; and

(c) the reasonable cost of settlement accounting, legal, clerical, and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the contract and for the termination and settlement of subcontracts thereunder, together with reasonable storage, transportation, and other costs incurred in connection with the protection or disposition of property allocable to this contract.

The total sum to be paid to the Contractor under (a) and (b) of this paragraph shall not exceed the total contract price as reduced by the amount of payments otherwise made and as further reduced by the contract price of work not terminated. Except for normal spoilage, and except to the extent that the University shall have otherwise expressly assumed the risk of loss, there shall be excluded from the amounts payable to the Contractor as provided in (5) (a) and (b) (i) above, the fair value, as determined by the Procurement Officer, of property that is destroyed, lost, stolen, or damaged so as to become undeliverable to the University or to a buyer pursuant to paragraph (2) (g).

(6) Costs claimed, agreed to, or determined pursuant to (3), (4), (5) and (11) hereof shall be in accordance with USM Procurement Policies and Procedures in effect on the date of this contract.

(7) The Contractor shall have the right of appeal, under the section of this contract entitled "Disputes," from any determination made by the Procurement Officer under paragraph (3), (5), or (9) hereof, except that if the Contractor has failed to submit his claim within the time provided in paragraph (3) or (9) hereof, and has failed to request extension of the time, he shall have no right of appeal. In any case where the Procurement Officer

has made a determination of the amount due under paragraph (3), (5), or (9) hereof, the University shall pay to the Contractor the following: (a) if there is no right of appeal hereunder or if no timely appeal has been taken, the amount so determined by the Procurement Officer, or (b) if an appeal has been taken, the amount finally determined on such appeal.

(8) In arriving at the amount due the Contractor under this section there shall be deducted (a) all unliquidated advance or other payments on account theretofore made to the Contractor, applicable to the terminated portion of this contract, (b) any claim which the University may have against the Contractor in connection with this contract, and (c) the agreed price for, or the proceeds of sale of, any materials, supplies, or other things acquired by the Contractor or sold, pursuant to the provisions of this section, and not otherwise recovered by or credited to the University.

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

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

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

17. Termination for Default

(1) The University may, subject to the provisions of paragraph (3) below, by written notice of default to the Contractor, terminate the contract in whole or in part in any one of the following circumstances: (a) If the Contractor fails to perform within the time specified herein or any extension thereof, or (b) If the Contractor fails to perform any of the other provisions of this contract, or so fails to make progress as to endanger performance of this contract in accordance with its terms, and in either of these two circumstances does not cure such failure within a period of 10 days (or such longer period as the Procurement Officer may authorize in writing) after receipt of notice from the Procurement Officer specifying such failure.

(2) In the event the University terminates this contract in whole or in part as provided in paragraph (1) of this section, the University may procure substitute performance upon terms and in whatever manner the Procurement Officer may deem appropriate, and the Contractor shall be liable to the University for any excess

costs for substitute performance; provided, that the Contractor shall continue the performance of this contract to the extent not terminated under the provisions of this section.

(3) Except with respect to defaults of subcontractors, the Contractor shall not be liable for any excess costs if the failure to perform the contract arises out of causes beyond the control and without the fault or negligence of the Contractor. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the University in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the failure to perform shall be beyond the control and without the fault or negligence of the Contractor. If the failure to perform is caused by the default of a subcontractor, and if the default arises out of causes beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for any excess costs for failure to perform unless substitute performance for the subcontractor was obtainable from another source in sufficient time to permit the Contractor to meet the performance schedule.

(4) If, after notice of termination of this contract under the provisions of this section, it is determined for any reason that the Contractor was not in default under the provisions of this section, or that the default was excusable under the provisions of this section, the rights and obligations of the parties shall, if the contract contains a section providing for termination for convenience of the University, be the same as if the notice of termination had been issued pursuant to such section. If, after notice of termination of this contract under the provisions of this section, it is determined for any reason that the Contractor was not in default under the provisions of this section, and if this contract does not contain a section providing for termination for convenience of the University, the contract shall be equitably adjusted to compensate for such termination and the contract modified accordingly; failure to agree to any such adjustment shall be a claim as defined in the section of this contract entitled "Disputes".

(5) If this contract is terminated as provided in paragraph (1) of this section, the University, in addition to any other rights provided in this section, may require the Contractor to transfer title and deliver to the University, in the manner, at the times, and to the extent, if any, directed by the Procurement Officer, (a) the fabricated or unfabricated parts, work in progress, completed work, supplies, and other material produced as a part of, or acquired in connection with the performance of, the work terminated by the Notice of Termination, and (b) the completed or partially completed plans, drawings, information, and other property which, if the contract had been completed, would have been required to be furnished to the University; and the Contractor shall, upon direction of the Procurement Officer, protect and preserve property in the possession of the Contractor in which the University has an interest. Payment for completed supplies delivered to and accepted by the University shall be at the contract price. Payment for manufacturing materials delivered to and accepted by the University and for the protection and preservation of property shall be in an amount agreed upon by the Contractor and Procurement Officer; failure to agree to such amount shall be a claim as defined in the section of this contract entitled "Disputes". The University may withhold from amounts otherwise due the Contractor hereunder such sum as the Procurement Officer determines to be necessary to protect the University against loss because of outstanding liens or claims of former lien holders.

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

(7) As used in paragraph (3) of this section, the terms, "subcontractor" and "subcontractors" mean subcontractor(s) at any tier.

18. Arrearages

By submitting a response to this solicitation, the proposer represents 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.

The proposer is also informed that the Comptroller (per State Finance and Procurement Article §7-222) may not, except under the conditions specified therein, issue a warrant for payment to a person if the person owes \$50 or more to the State, a unit of the State government, or any governmental entity under the control of the State. Therefore, applications for payment submitted by a contractor and approved by the University for payment may not be processed by the Comptroller for payment to the contractor if an arrearage in excess of \$50 exists.

19. Compliance with Laws

The Contractor hereby represents and warrants that: **A.** It is qualified to do business in the state of Maryland and that it will take such actions as, from time to time hereafter, may be necessary to remain so qualified; **B.** It shall comply with all federal, State and local laws, regulations, and ordinances applicable to its activities and obligations under this contract: and **C.** it shall obtain, at its expense, all licenses, permits, insurance and governmental approvals, if any, necessary to the performance of its obligations under this contract.

20. Retention of Records

The Contractor shall retain and maintain all records and documents relating to this contract for Six (6) years and three (3) Months after final payment by the University hereunder or any applicable statute of limitation, whichever is longer, and shall make them available for inspection and audit by authorized representatives of the University, including the Procurement Officer or designee at all reasonable times

21. Tax Exemption

The State is generally exempt from Federal Excise Taxes, Maryland Sales and Use Taxes, District of Columbia Sales Taxes and Transportation Taxes. Exemption certificates shall be completed upon request. Where a Contractor is required to furnish and install material in the construction or improvement of real property in performance of a contract, the Contractor shall pay the Maryland Sales Tax and the exemption does not apply.

22. Registration

Pursuant to §7-201 et seq. of the Corporation and Associations Article of the Annotated Code of Maryland, corporations not incorporated in the State of Maryland shall be registered with the State Department of Assessments and Taxation, 301 West Preston Street, Baltimore, Maryland 21201 before doing any interstate or foreign business in this State. Before doing any intrastate business in this State, a foreign corporation shall register with the Department of Assessments and Taxation.

Questions about this requirement may be sent to the Department of Assessment and Taxation at Charterhelp@dat.state.md.us and a response should be forthcoming within 24 hours.

23. EPA Compliance

Materials, supplies, equipment or services shall comply in all respects with the Federal Noise Control Act of 1972, where applicable.

24. Occupational Safety and Health Act

All materials, supplies, equipment, or services supplied as a result of this contract shall comply with the applicable U.S. and Maryland Occupational Safety and Health Act standards.

25. Maryland Law Prevails

The provisions of this contract shall be governed by the laws of Maryland without reference to its Conflicts of Laws rules.

26. Software Licensing

Licensor represents and warrants that the software, as delivered to the University, does not contain any program code, virus, worm, trap door, back door, timer, or clock that would erase data or programming or otherwise cause the software to become inoperable, inaccessible, or incapable of being used in accordance with its user manuals, either automatically, upon the occurrence of Licensor-selected conditions, or manually on the command of Licensor.

27. MUCITA

The Maryland Uniform Computer Information Transactions Act (MUCITA), Maryland Code Annotated [Commercial Law] 22-101 through 22-816, does not govern this Agreement, except to the extent that section 22-104(2) of the Act applies. The parties further agree that this Agreement shall be governed by the common law of Maryland relating to written agreements and Maryland statutes other than MUCITA which may apply.

28. Applicability of Federal Laws

If Federal contract and/or grant funds are utilized in any manner in the performance of this contract, then the University reserves the right to bind Contractor to all applicable clauses of the Federal Acquisition Regulation (FAR) and other FAR supplements, as well as all applicable provisions of the Office of Management and Budget (OMB) Circular A-110. Contractor agrees to promptly complete and return to the University any related forms and/or affidavits as may be required.

29. Protests and Claims

Any protest regarding the award of this contract or claim arising out of this contract shall be administered in accordance with the University System of Maryland Procurement Policies and Procedures, Section X - Protests and Claims. Detail is available by accessing the following web site: www.purchase.umd.edu Click on this web site, then select the category "Policies and Procedures", followed by "USM Procurement Policies and Procedures".

30. Intellectual Property Warranty and Indemnification.

The Contractor represents and warrants that any materials or deliverables, including all Works, provided under this contract are either original, not encumbered and do not infringe upon the copyright, trademark, patent or other intellectual property rights of any third party, or are in the public domain. If deliverables, materials or Works provided hereunder become the subject of a claim, suit or allegation of copyright, trademark or patent infringement, University shall have the right, in its sole discretion, to require Contractor to produce, at Contractor's own expense, new non-infringing materials, deliverables or Works as a means of remedying any claim of infringement in addition to any other remedy available to the University under law or equity. Contractor further agrees to indemnify and hold harmless the University, its officers, employees and agents from and against any and all claims, actions, costs, judgments or damages of any type alleging or threatening that any materials, deliverables, supplies, equipment, services or Works provided under this contract infringe the copyright, trademark, patent or other intellectual property or proprietary rights of any third party (Third Party Claims of Infringement). If a Third Party Claim of Infringement is threatened or made before Contractor receives payment under this contract, University shall be entitled, upon written notice to Contractor, to withhold some or all of such payment.

31. Eligibility to Purchase

By submitting a proposal, Contractor agrees to extend the proposed price structure and discounts to all University System of Maryland campuses and facilities, any public body/Agency, public or private health or educational institution or any University related foundation with the understanding that such utilization is in accord with the public body/Agency, public or private health or educational institution's policies and procedures.

32. Use of Agreement by Third Parties

It is the intent of this Agreement to allow for cooperative procurement. Accordingly, any public body/Agency, public or private health or educational institution, or any University related foundation may access the Agreement if authorized by the Selected Firm.

Participation in this cooperative procurement is strictly voluntary. If authorized by the Selected Firm, the Agreement will be extended to the entities above to purchase at fees in accordance with the terms of the Agreement. The Selected Firm will notify the University in writing of any such entities accessing the Agreement. No modification of the Agreement or execution of a separate agreement is required to participate. The Selected Firm will provide semi-annual usage reports for all entities accessing the Agreement. Participating entities will place their own orders directly with the Selected Firm and will fully and independently administer use of the Agreement to include contractual disputes, invoicing and payments without direct administration from the University. The University will not be held liable for any costs or damages incurred by any other participating entity as a result of any authorization by the Selected Firm to extend the Agreement. It is understood and agreed that the University is not responsible for the acts or omissions of any entity accessing the Agreement under this section, and will not be considered in default of the Agreement no matter the circumstances.

Use of this Agreement does not preclude any participating entity from using other agreements or competitive procurement processes as the need may be.

33. Proposal Affidavit

The enclosed Proposal Affidavit shall be completed and submitted to the Procurement Officer as part of Contractor's proposal.

34. Changes

The Procurement Officer may at any time, by written order, make unilateral changes within the general scope of this contract 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 of the services.
- (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.

The section entitled "Delays and Extensions of Time" prohibits the Contractor 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 Contract. 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 contract price and shall modify the contract. The Contractor must assert its right to an adjustment under this section within 30 days from the date of receipt of the written order. Any request for an adjustment must be submitted in writing to the Procurement Officer.

Failure to agree to any adjustment shall be a dispute under the Disputes section. However, nothing in this section shall excuse the Contractor from proceeding with the contract as changed.

35. Pre-Existing Regulations

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

36. Indemnification

The Contractor shall defend, indemnify and save harmless the University System of Maryland, its officers, employees and agents, from any and all claims, liability, losses and causes of actions which may arise out of the errors, omissions and performance or non-performance by the Contractor, employees or agents, of the work covered by this contract. The University shall not assume any obligation to indemnify, hold harmless or pay attorneys' fees that may arise from or in any way be associated with the performance or operation of this agreement.

37. Commercial Nondiscrimination Clause

A. "As a condition of entering into this Agreement, Contractor represents and warrants that it will comply with the State's Commercial Nondiscrimination Policy, as described under State Finance and Procurement Article, Title 19, Annotated Code of Maryland. As part of this compliance, Contractor may not discriminate on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, or disability or other unlawful forms of discrimination in the solicitation, selection, hiring, or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall Contractor retaliate against any person for reporting instances of such discrimination. Contractor shall provide equal opportunity for subcontractors, vendors, and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that this clause does not prohibit or limit lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the marketplace. Contractor understands that a material violation of this clause shall be considered a material breach of this Agreement and may result in termination of this Agreement, disqualification of Contractor from participating in State contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.

B. The Contractor shall include the provision in §A of this regulation in all subcontracts to the State contract.

C. The following provision is mandatory for all State contracts: As a condition of entering into this Agreement, upon the request of the Maryland Commission on Human Relations, and only after the filing of a complaint against Contractor under State Finance and Procurement Article, Title 19, Annotated Code of Maryland, as amended from time to time, Contractor agrees to provide within 60 days after the request a complete list of the names of all subcontractors, vendors, and suppliers that Contractor has used in the past 4 years on any of its contracts that were undertaken within the State of Maryland, including the total dollar amount paid by Contractor on each subcontract or supply contract. Contractor further agrees to cooperate in any investigation conducted by the State pursuant to the State's Commercial Nondiscrimination Policy as set forth under State Finance and Procurement Article, Title 19, Annotated Code of Maryland, and to provide any documents relevant to any investigation that is requested by the State. Contractor understands that violation of this clause is a material breach of this Agreement and may result in contract termination, disqualification by the State from participating in State contracts, and other sanctions."

38. Contractor Reporting of Suspected Child Abuse and Neglect

A. Maryland Law requires persons who suspect child abuse or neglect to report it. Contractors must comply with the University System of Maryland Board of Regents VI.1.50 Policy on the Reporting of Suspected Child Abuse and Neglect. This Policy, available at <http://president.umd.edu/policies/vi-150.html>, is incorporated into the contract.

B. The University reserves the right to terminate the Contract if the Contractor fails to comply with this policy or, if the University judges Contract Termination to be necessary to protect a child's safety or welfare.

39. Federal Grant Flowdown Clauses

For all orders exceeding \$100,000 and funded by a federal grant/cooperative agreement, the following OMB Circular A110 provisions apply:

Contract Work Hours and Safety Standard Act (40 U.S.C. 327-333) – Where applicable, if order involves the employment of mechanics or laborers, the contractor shall comply with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR part 5).

Equal Employment Opportunity- Contractor shall comply with E.O. 11246, Equal Employment Opportunity, as amended by E.O. 11375, and as supplemented by regulations at 41 CFR part 60, Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor

Rights to Inventions Made Under a Contract or Agreement – Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the University of Maryland in any resulting invention in accordance with 37 CFR part 401, Rights to Inventions Made by Nonprofit Organizations and Small Business Firms under Government Grant/Cooperative Agreements, Contracts and Cooperative Agreements, and any implementing regulations issued by the awarding agency.

Access to records – The University of Maryland, the Federal awarding agency, the Comptroller General of the United States or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the contractor which are directly pertinent to a specific program for the purpose of making audits, examinations, excerpts and transcriptions.

The University reserves all administrative, contractual and legal remedies in instances in which the contractor violates or breaches any of the contract terms.

ATTACHMENT 2: City Contract Clauses and Bid Requirements

CITY CONTRACT REQUIREMENTS:

EQUAL BENEFITS REQUIREMENTS.

- (1) ALL BIDS FOR COVERED CONTRACTS WHICH ARE ADVERTISED/ISSUED SHALL INCLUDE THE REQUIREMENT TO PROVIDE EQUAL BENEFITS IN THE PROCUREMENT SPECIFICATIONS FOR SUCH BIDS.
- (2) **AS PART OF THE BID RESPONSE, THE CONTRACTOR SHALL CERTIFY THAT THE CONTRACTOR:**
 - A. **CURRENTLY COMPLIES WITH THE CONDITIONS OF § 69-6 “EQUAL BENEFITS” OF THE CITY CODE ; OR**
 - B. **WILL COMPLY WITH THE CONDITIONS OF § 69-6 AT TIME OF CONTRACT AWARD; OR**
 - D. **IS NOT REQUIRED TO COMPLY WITH THE CONDITIONS OF § 69-6 BECAUSE OF ALLOWABLE EXEMPTION.**
 - E. **DOES NOT DISCRIMINATE ON THE BASIS OF AGE, RACE, COLOR, CREED, PREGNANCY, RELIGION, NATIONAL ORIGIN, ANCESTRY, DISABILITY, MARITAL STATUS, SEX, SEXUAL ORIENTATION, GENDER IDENTITY, PHYSICAL CHARACTERISTIC OR OTHER UNLAWFUL BASIS OF DISCRIMINATION**

THE CERTIFICATION SHALL BE IN WRITING AND SIGNED BY AN AUTHORIZED OFFICER OF THE CONTRACTOR. FAILURE TO PROVIDE SUCH CERTIFICATION SHALL RESULT IN THE CONTRACTOR BEING DEEMED NON-RESPONSIVE.

- (3) THE CONTRACTOR MAY NOT SET UP OR USE IT’S CONTRACTING ENTITY FOR THE PURPOSE OF EVADING THE REQUIREMENTS IMPOSED BY THIS SECTION.
- (4) IF AFTER MAKING A REASONABLE EFFORT TO PROVIDE AN EQUAL BENEFIT FOR A DOMESTIC PARTNER OF AN EMPLOYEE THE CONTRACTOR IS UNABLE TO PROVIDE THE BENEFIT, THE CONTRACTOR SHALL PROVIDE THE EMPLOYEE WITH THE CASH EQUIVALENT OF THE BENEFIT.

MANDATORY CONTRACT PROVISIONS PERTAINING TO EQUAL BENEFITS. UNLESS OTHERWISE EXEMPT, EVERY COVERED CONTRACT SHALL CONTAIN LANGUAGE THAT STATES:

1. CONTRACTOR MUST COMPLY WITH THE APPLICABLE PROVISIONS OF §69-6 OF THE CITY CODE. THE CONTRACTOR SHALL PROVIDE THE CITY AND/OR THE CITY MANAGER OR HIS/HER DESIGNEE, ACCESS TO ITS RECORDS FOR THE PURPOSE OF AUDITS AND/OR INVESTIGATIONS TO ASCERTAIN COMPLIANCE WITH THE PROVISIONS OF THIS SECTION.
2. UPON REQUEST, THE CONTRACTOR SHALL PROVIDE EVIDENCE THAT THE CONTRACTOR IS IN COMPLIANCE WITH THE PROVISIONS OF §69-6 OF THE CITY CODE UPON EACH NEW BID, CONTRACT RENEWAL, OR WHEN THE CITY MANAGER HAS RECEIVED A COMPLAINT OR HAS REASON TO BELIEVE THE CONTRACTOR MAY NOT BE IN COMPLIANCE WITH THE PROVISIONS OF THIS SECTION, AND
3. THE FAILURE OF THE CONTRACTOR TO COMPLY WITH §69-6 OF THE CITY CODE WILL BE DEEMED TO BE A MATERIAL BREACH OF THE COVERED CONTRACT.

ATTACHMENT 3: USM Affidavits

BID/PROPOSAL AFFIDAVIT

A. AUTHORITY

I HEREBY AFFIRM THAT:

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

B. CERTIFICATION REGARDING COMMERCIAL NONDISCRIMINATION

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

B-1. CERTIFICATION REGARDING MINORITY BUSINESS ENTERPRISES.

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

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

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

C. AFFIRMATION REGARDING BRIBERY CONVICTIONS

I FURTHER AFFIRM THAT:

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

D. AFFIRMATION REGARDING OTHER CONVICTIONS

I FURTHER AFFIRM THAT:

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

- (1) Been convicted under state or federal statute of:
 - (a) A criminal offense incident to obtaining, attempting to obtain, or performing a public or private contract; or
 - (b) Fraud, embezzlement, theft, forgery, falsification or destruction of records or receiving stolen property;
- (2) Been convicted of any criminal violation of a state or federal antitrust statute;
- (3) Been convicted under the provisions of Title 18 of the United States Code for violation of the Racketeer Influenced and Corrupt Organization Act, 18 U.S.C. §1961 et seq., or the Mail Fraud Act, 18 U.S.C. §1341 et seq., for acts in connection with the submission of bids or proposals for a public or private contract;
- (4) Been convicted of a violation of the State Minority Business Enterprise Law, §14-308 of the State Finance and Procurement Article of the Annotated Code of Maryland;
- (5) Been convicted of a violation of §11-205.1 of the State Finance and Procurement Article of the Annotated Code of Maryland;
- (6) Been convicted of conspiracy to commit any act or omission that would constitute grounds for conviction or liability under any law or statute described in subsections (1)—(5) above;
- (7) Been found civilly liable under a state or federal antitrust statute for acts or omissions in connection with the submission of bids or proposals for a public or private contract;

(8) Been found in a final adjudicated decision to have violated the Commercial Nondiscrimination Policy under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland with regard to a public or private contract; or

(9) Admitted in writing or under oath, during the course of an official investigation or other proceedings, acts or omissions that would constitute grounds for conviction or liability under any law or statute described in §§B and C and subsections D(1)—(8) above, except as follows (indicate reasons why the affirmations cannot be given, and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of the person(s) involved and their current positions and responsibilities with the business, and the status of any debarment):

E. AFFIRMATION REGARDING DEBARMENT

I FURTHER AFFIRM THAT:

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

F. AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES

I FURTHER AFFIRM THAT:

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

G. SUB-CONTRACT AFFIRMATION

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, has knowingly entered into a contract with a public body under which a person debarred or suspended under Title 16 of the State Finance and Procurement Article of the Annotated Code of Maryland will provide, directly or indirectly, supplies, services, architectural services, construction related services, leases of real property, or construction.

H. AFFIRMATION REGARDING COLLUSION

I FURTHER AFFIRM THAT:

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

(1) Agreed, conspired, connived, or colluded to produce a deceptive show of competition in the compilation of the accompanying bid or offer that is being submitted;

(2) In any manner, directly or indirectly, entered into any agreement of any kind to fix the bid price or price proposal of the bidder or offeror or of any competitor, or otherwise taken any action in restraint of free competitive bidding in connection with the contract for which the accompanying bid or offer is submitted.

I. CERTIFICATION OF TAX PAYMENT

I FURTHER AFFIRM THAT:

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

J. CONTINGENT FEES

I FURTHER AFFIRM THAT:

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

K. ACKNOWLEDGEMENT

I ACKNOWLEDGE THAT this Affidavit is to be furnished to the Procurement Officer and may be distributed to units of: (1) the State of Maryland; (2) counties or other subdivisions of the State of Maryland; (3) other states; and (4) the federal government. I further acknowledge that this Affidavit is subject to applicable laws of the United States and the State of Maryland, both criminal and civil, and that nothing in this Affidavit or any contract resulting from the submission of this bid or proposal shall be construed to supersede, amend, modify or waive, on behalf of the State of Maryland, or any unit of the State of Maryland having jurisdiction, the exercise of any statutory right or remedy conferred by the Constitution and the laws of Maryland with respect to any misrepresentation made or any violation of the obligations, terms and covenants undertaken by the above business with respect to (1) this Affidavit, (2) the contract, and (3) other Affidavits comprising part of the contract. I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date: _____

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

_____ (signature of Authorized Representative and Affiant)

CONTRACT AFFIDAVIT

NOTE THIS AFFIDAVIT IS ONLY REQUIRED FROM THE SUCCESSFUL VENDOR, ONCE NOTIFIED OF THE AWARD.

A. AUTHORITY

I HEREBY AFFIRM THAT:

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

B. CERTIFICATION OF REGISTRATION OR QUALIFICATION WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION

I FURTHER AFFIRM THAT:

The business named above is a (check applicable box):

Note: For the purposes of this Certification, Domestic means incorporated or with a strong legal presence within the State of Maryland, Foreign means incorporated outside of or without a strong legal presence in Maryland

- (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: _____.

Pursuant to §7-201 et seq. of the Corporation and Associations Article of the Annotated Code of Maryland, corporations not incorporated in the State of Maryland shall be registered with the State Department of Assessments and Taxation, 301 West Preston Street, Baltimore, Maryland 21201 before doing any interstate or foreign business in this State. ***NOTE: "Foreign" contractors are required to register with the Maryland Department of Assessments and Taxation at the time of proposal submission. The forms for registration are available from the website***

<http://www.dat.state.md.us/sdatweb/sdatforms.html> For further help call (410) 767-1340 or

email: charterhelp@dat.state.md.us.

C. FINANCIAL DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, the provisions of State Finance and Procurement Article, §13-221, Annotated Code of Maryland, which require that every business that enters into contracts, leases, or other

agreements with the State of Maryland or its agencies during a calendar year under which the business is to receive in the aggregate \$100,000 or more shall, within 30 days of the time when the aggregate value of the contracts, leases, or other agreements reaches \$100,000, file with the Secretary of State of Maryland certain specified information to include disclosure of beneficial ownership of the business.

NOTE: The financial disclosure form is available under on the following web site:

<http://www.sos.state.md.us/PublicDisclosure.aspx>. For further information, go to www.sos.state.md.us

D. DRUG AND ALCOHOL FREE WORKPLACE

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

I CERTIFY THAT:

- (1) Terms defined in COMAR 21.11.08 shall have the same meanings when used in this certification.
- (2) By submission of its bid or offer, the business, if other than an individual, certifies and agrees that, with respect to its employees to be employed under a contract resulting from this solicitation, the business shall:
 - (a) Maintain a workplace free of drug and alcohol abuse during the term of the contract;
 - (b) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of drugs, and the abuse of drugs or alcohol is prohibited in the business' workplace and specifying the actions that will be taken against employees for violation of these prohibitions;
 - (c) Prohibit its employees from working under the influence of drugs or alcohol;
 - (d) Not hire or assign to work on the contract anyone who the business knows, or in the exercise of due diligence should know, currently abuses drugs or alcohol and is not actively engaged in a bona fide drug or alcohol abuse assistance or rehabilitation program;
 - (e) Promptly inform the appropriate law enforcement agency of every drug-related crime that occurs in its workplace if the business has observed the violation or otherwise has reliable information that a violation has occurred;
 - (f) Establish drug and alcohol abuse awareness programs to inform its employees about:
 - (i) The dangers of drug and alcohol abuse in the workplace;
 - (ii) The business's policy of maintaining a drug and alcohol free workplace;
 - (iii) Any available drug and alcohol counseling, rehabilitation, and employee assistance programs; and
 - (iv) The penalties that may be imposed upon employees who abuse drugs and alcohol in the workplace;
 - (g) Provide all employees engaged in the performance of the contract with a copy of the statement required by §E(2)(b), above;
 - (h) Notify its employees in the statement required by §E(2)(b), above, that as a condition of continued employment on the contract, the employee shall:

- (i) Abide by the terms of the statement; and
- (ii) Notify the employer of any criminal drug or alcohol abuse conviction for an offense occurring in the workplace not later than 5 days after a conviction;

(i) Notify the procurement officer within 10 days after receiving notice under §E(2)(h)(ii), above, or otherwise receiving actual notice of a conviction;

(j) Within 30 days after receiving notice under §E(2)(h)(ii), above, or otherwise receiving actual notice of a conviction, impose either of the following sanctions or remedial measures on any employee who is convicted of a drug or alcohol abuse offense occurring in the workplace:

- (i) Take appropriate personnel action against an employee, up to and including termination; or
- (ii) Require an employee to satisfactorily participate in a bona fide drug or alcohol abuse assistance or rehabilitation program; and

(k) Make a good faith effort to maintain a drug and alcohol free workplace through implementation of §E(2)(a)—(j), above.

(3) If the business is an individual, the individual shall certify and agree as set forth in §E(4), below, that the individual shall not engage in the unlawful manufacture, distribution, dispensing, possession, or use of drugs or the abuse of drugs or alcohol in the performance of the contract.

(4) I acknowledge and agree that:

(a) The award of the contract is conditional upon compliance with COMAR 21.11.08 and this certification;

(b) The violation of the provisions of COMAR 21.11.08 or this certification shall be cause to suspend payments under, or terminate the contract for default under COMAR 21.07.01.11 or 21.07.03.15, as applicable; and

(c) The violation of the provisions of COMAR 21.11.08 or this certification in connection with the contract may, in the exercise of the discretion of the Board of Public Works, result in suspension and debarment of the business under COMAR 21.08.03.

E. 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 _____, 2015, 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)

CONFLICT OF INTEREST INFORMATION

- A. Each solicitation that will result in the selection of a Contractor who will assist a unit in the formation, evaluation, selection, award, or execution of a State contract shall provide notice of the requirement of this regulation.
- B. "Conflict of interest" means that, because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to the State, or the person's objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage.
- C. "Person" has the meaning stated in COMAR 21.01.02.01B (64) and includes a bidder, offeror, Contractor, consultant or subcontractor or subconsultant at any tier, and also includes an employee or agent of any of them if the employee or agent has or will have the authority to control or supervise all or a portion of the work for which a bid or offer is made.
- D. If the Procurement Officer makes a determination prior to award that facts or circumstances exist giving rise or which could in the future give rise to a conflict in interest, the procurement officer may reject a bid or offer under COMAR 21.06.02.03B.
- E. After award the State may terminate the contract, in whole or in part, if it deems such termination necessary to avoid an actual or potential conflict of interest. If the Contractor knew or reasonably could have been expected to know of an actual or potential conflict of interest prior to or after award and did not disclose it or misrepresented relevant information to the Procurement Officer, the State may terminate the contract for default, institute proceedings to debar the Contractor from further State contracts, or pursue such other remedies as may be permitted by law or the contract.
- F. A conflict of interest may be waived if the Procurement Officer, with approval of the agency head or designee, determines that waiver is in the best interest of the State. The determination shall state the reasons for the waiver and any controls that avoid, mitigate, or neutralize the conflict of interest.
- G. Each bidder or offeror responding to a solicitation that will result in the selection of a Contractor who will assist a unit in the formation, evaluation, selection, award, or execution of another State contract shall provide the affidavit and disclosures set forth in Subsection H of this regulation to the Procurement Officer with the bid or offer and such other times as may be required by the Procurement Officer.
- H. The affidavits and disclosures required by Subsection G of this regulation shall be in substantially the same form as follows:

CONFLICT OF INTEREST AFFIDAVIT AND DISCLOSURE

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

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

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

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

E. The bidder or offeror agrees that if an actual or potential conflict of interest arises after the date of this affidavit, the bidder or offeror will immediately make a full disclosure in writing to the Procurement Officer of all relevant facts and circumstances. This disclosure shall include a description of actions which the bidder or offeror has taken and proposes to take to avoid, mitigate, or neutralize the actual or potential conflict of interest. If the contract has been awarded and performance of the contract has begun, the Contractor shall continue performance until notified by the Procurement Officer of any contrary action to be taken.

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

Date: _____ **By:** _____

(Signature of Authorized Representative and Affiant)

Printed Name: _____

Title: _____

Federal Employer Identification Number (FEIN): _____

PRINCIPLES OF SOCIAL RESPONSIBILITY
and
SOCIAL RESPONSIBILITY AFFIDAVIT INFORMATION

I. Principles of Social Responsibility

A. As provided for in Section VIII. C. of the University System of Maryland Procurement Policies and Procedures, the University is required to make purchases from and award contracts to “responsible” contractors. The Procurement Officer may use certain factors, including but not limited to a satisfactory record of integrity and business ethics to determine if a bidder or offeror is responsible. The University has determined that a bidder or offeror’s record of integrity and business ethics includes a demonstrated commitment to providing goods and services in an ethical, and socially and environmentally responsible manner by compliance with all applicable:

- (1) Federal and state labor relations and employment laws;
- (2) Federal and state non-discrimination in employment laws;
- (3) State of Maryland Commercial Nondiscrimination laws;
- (4) State of Maryland, Minority Business Enterprise (“MBE”) laws; and,
- (5) Federal and state health, safety and environmental laws.

The above laws are referred to as “Social Responsibility Laws.” The bidder or offeror’s compliance with the above laws is referred to as “Social Responsibility.”

B. Each bidder or offeror shall complete a Social Responsibility Affidavit, in the form that follows, as part of a bid or proposal submitted to the Procurement Officer in response to any solicitation to furnish goods or services of any kind including, but not limited to architectural or engineering services; construction; construction related services; maintenance; consulting; information technology (hardware, software and services); equipment or other commodities.

C. The Procurement Officer shall consider information provided in the Social Responsibility Affidavit to determine if a bidder or offeror is responsible. A determination that a bidder or offeror is not responsible may be considered as the basis for eliminating that bidder or offeror from further consideration for a contract award.

D. After award, the University may terminate a contract for default if the bidder or offeror did not disclose the requested information; misrepresented relevant information to the Procurement Officer; or was subject to a final judgment of non-compliance with applicable Social Responsibility Laws post-award. In such cases, the University may also institute proceedings to debar the vendor from further State contracts, or pursue such other remedies as may be permitted by law or the contract.

SOCIAL RESPONSIBILITY AFFIDAVIT AND DISCLOSURE

A. The bidder or offeror agrees that if it is the subject of a final, non-appealable judgment with respect to compliance with applicable Social Responsibility Laws after the date of this affidavit, the bidder or offeror will immediately make a full disclosure in writing to the Procurement Officer of all relevant facts and circumstances. This disclosure shall include a description of actions which the bidder or offeror has taken or proposes to take to correct the violation. If the contract has been awarded and performance has begun, the vendor shall continue performance until notified by the Procurement Officer of any contrary action to be taken.

B. CERTIFICATION OF COMPLIANCE WITH SOCIAL RESPONSIBILITY LAWS

I HEREBY AFFIRM THAT:

(1) There has been no final, non-appealable judgment made during the last five years against the bidder or offeror for noncompliance with federal or state labor relations and other employment laws or regulations, including but not limited to the National Labor Relations Act, as amended; the Davis-Bacon Act, as amended; the Fair Labor Standards Act, as amended; the Maryland Living Wage law, State Finance and Procurement Article, §18-101 et seq., Annotated Code of Maryland; the Maryland Prevailing Wage law, State Finance and Procurement Article, §17-201 et seq., Annotated Code of Maryland; federal and state child labor laws; federal minimum wage laws and; the Family Medical Leave Act, except as follows (explain below or add additional sheets):

(2) There has been no final, non-appealable judgment made during the last five years against the bidder or offeror for violation of federal or state non-discrimination in employment laws or regulations, including but not limited to laws prohibiting discrimination on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, or disability unrelated in nature and except so as to reasonably preclude the performance of the employment, except as follows (explain below or add additional sheets):

(3) There has been no final, non-appealable judgment made during the last five years against the bidder or offeror for violation of the State of Maryland Commercial Non-Discrimination Policy, State Finance and Procurement Article, §19-101 et seq., Annotated Code of Maryland, except as follows (explain below or add additional sheets):

(4) There have been no instances during the last five years of failure by the bidder or offeror to meet mutually agreed upon goals for minority business participation (MBE) on projects performed for the University or any other State of Maryland agency, or any other sanctions for MBE program non-compliance; or any final, non-appealable judgment of noncompliance with the State of Maryland Minority Business Participation law, State Finance and Procurement Article, § 14-308 et seq., Annotated Code of Maryland, except as follows (explain below or add additional sheets):

(5) There has been no final, non-appealable judgment made during the last five years against the bidder or offeror for violation of federal or state health, safety or environmental laws or regulations , including but not limited to the U.S. Occupational Safety and Health Act standards; Maryland Occupational Health and Safety laws, State Labor and

Employment Article, § 5-101 et seq., Annotated Code of Maryland, or the Federal Noise Control Act of 1972, except as follows (explain below or add additional sheets):

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

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

CERTIFICATION REGARDING INVESTMENT ACTIVITIES IN IRAN

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

1. The undersigned of _____ (Contractor) certifies that, in accordance with State Finance & Procurement Article, §17-705:

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

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

Or;

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

Signature:

Date Signed:

Name of Authorized Representative:

Title:

NOTE: Information and List is available at:

www.bpw.state.md.us
Click On "Advisories"
Scroll Down to "2013-1"
Click On "IAI LIST"

GRANT/COOPERATIVE AGREEMENT-FUNDED
AFFIDAVIT FOR ANTI-LOBBYING CERTIFICATION and
DEBARMENT CERTIFICATION

Contractors should review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under Circular OMB A110, Appendix A. The certifications shall be treated as a material representation of fact upon which reliance will be placed when the University of Maryland determines to award the order.

1. LOBBYING

The undersigned certified, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal Grant/Cooperative Agreement, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, Grant/Cooperative Agreement, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, Grant/Cooperative Agreement, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instruction.

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-Grant/Cooperative Agreements, and contracts under Grant/Cooperative Agreements, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

(1) The undersigned certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

I understand that a false statement on this certification may be grounds for rejection of this bid or proposal or termination of the award. In addition, under 18 USC Sec. 1001, a false statement may result in a fine of up to \$10,000 or imprisonment for up to 5 years, or both.

Name of Contractor

Signature of Authorized Representative

Date

Printed Name and Title of Authorized Representative

I am unable to certify to the above statements. My explanation is attached.

ATTACHMENT 4: City Affidavits

TO BE SUBMITTED WITH BID

Non-Collusion Affidavit

_____, being duly sworn on oath, deposes and says:

That he/she is the _____

(Owner, Partner, Title if on behalf of a Corporation)

of _____,

(Name of Business, Corporation or Partnership)

the party submitting the foregoing Bid; that (he has not) (no officer of the said Corporation has) (no partner of the said Partnership has) nor has any person, firm or corporation acting on (his/her) (its) (their) behalf; agreed, conspired, connived or colluded to produce a deceptive show of competition in the compilation of the Bid being submitted herewith; and that (he/she) (the said Corporation) (the said Partnership) has not in any manner, directly or indirectly, entered into any agreement, participated in any collusion to fix the Bid Price of the Bidder herein or any competitor, or otherwise taken any action in restraint of free competitive bidding in connection with the contract for which the within Bid is submitted; that in making this Affidavit, the affiant represents that he/she has personal knowledge of the matters and facts herein stated. The Affiant hereby declares and affirms under the penalties of perjury that the foregoing is true to the best of his/her knowledge and information.

_____(SEAL)

To be signed by Bidder, if the Bidder is an Individual; or by a Partner, if the Bidder is a Partnership; or by a duly authorized Officer, if the Bidder is a Corporation.

TO BE SUBMITTED WITH BID

False Pretenses Affidavit

I, _____, the undersigned _____
(Office Held)

of _____, being first duly sworn on oath,
(Name of Business Entity)

affirms and says this _____ day of _____, 2015 that I hold the aforementioned office in

(Name of Business Entity)

I FURTHER DECLARE AND AFFIRM, under the penalties of perjury, that neither I nor, to the best of my knowledge, information and belief, the above Business Entity nor any officer, director, partner, member or associate thereof; nor any of its employees directly involved in obtaining contracts with the City, has been convicted of false pretenses, attempted false pretenses or conspiracy to commit false pretenses under the laws of any state or federal government, based upon acts committed after July 1, 1981.

_____(SEAL)

To be signed by Bidder, if the Bidder is an Individual; or by a Partner, if the Bidder is a Partnership; or by a duly authorized Officer, if the Bidder is a Corporation.

TO BE SUBMITTED WITH BID

CERTIFICATE OF NON-SUSPENSION

I, _____, do hereby certify

that _____ has not been suspended or

(Name of Bidder)

barred from participation in contract activities with any government.

Signature

Title

Date

Affidavit of Non-Conviction

I hereby affirm that:

- (1) I am the _____ (Title) and duly authorized representative of _____ (Name of Business Entity) whose address is _____ and that I possess the legal authority to make this affidavit on behalf of myself and the firm for which I am acting.
- (2) Except as described in Paragraph 6 below, neither I nor the above firm nor, to the best of my knowledge, any of its officers, directors, or partners or any of its employees directly involved in obtaining contracts with the State, or any county, bi-county or multi-county agency or subdivision of the State have been convicted, or in an official investigation or other proceeding admitted in writing or under oath, acts or omissions which constitute bribery, attempted bribery or conspiracy to bribe under the provisions of Criminal Law Article of the Annotated Code of Maryland or under the laws of any state or the federal government (conduct prior to July 1, 1977 is not required to be reported); and
- (3) Except as described in Paragraph 6 below, neither I nor the above firm nor, to the best of my knowledge, any of its officers, directors, or partners or any of its employees directly involved in obtaining contracts with the State, or any county, bi-county or multi-county agency or subdivision of the State have been convicted under a State or federal law or statute of any offense enumerated in §16-203 of the State Finance and Procurement Article; and
- (4) Except as described in Paragraph 6 below, neither I nor the above firm nor, to the best of my knowledge, any of its officers, directors, or partners or any of its employees directly involved in obtaining contracts with the State, or any county, bi-county or multi-county agency or subdivision of the State have been found civilly liable under a State or federal antitrust statute as provided in §16-203 of the State Finance and Procurement Article.
- (5) Except as described in Paragraph 6 below, neither I nor the above firm nor, to the best of my knowledge, any of its officers, directors, or partners or any of its employees who will provide, directly or indirectly, supplies, services, architectural services, construction related services, leases of real property, or construction have debarred or suspended under this subtitle
- (6) State "none" or, as appropriate, list any conviction, plea or admission described in Paragraph 2 above, with the date, court, official or administrative body, the individuals involved and their position with the firm, and the sentence or disposition, if any.

I acknowledge that this affidavit is to be furnished, where appropriate, to the City of College Park, Maryland, under Section 16-311 of the State of Maryland Finance and Procurement Article of the Annotated Code of Maryland. I acknowledge that, if the representations set forth in this affidavit are not true and correct, the City may terminate any contract awarded and take any other appropriate actions. I further acknowledge that I am executing this affidavit in compliance with Section 16-309 of the State Finance and Procurement Article of the Annotated Code of Maryland, which ordains that any person convicted of bribery (upon acts committed after July 1, 1977) in furtherance of obtaining a contract from the State or any subdivision of the State of Maryland shall be disqualified from entering into a contract with the City.

I do solemnly declare and affirm under the penalties of perjury that the contents of the affidavit are true and correct.

Date
Signature
Printed Name

ATTACHMENT 5: City and UMCP Insurance Requirements

A. General Requirements:

1. All insurance required to protect the Contractor, the City and University from liability and all insurance required in accordance with applicable laws and regulations is addressed herein.
2. The amount(s) of insurance coverage specified herein shall be the minimum amount(s) of insurance available to satisfy claims. The Contractor and his subcontractors (as applicable) shall purchase and maintain such insurance with limits of liability as specified herein; or as specified by the Procurement Officer for the project; or as required by law; whichever is greater.
3. A policy which allows the costs associated with investigating, management or defense of any claim, or any other cost incurred by the insured or the insurance carrier, to be deducted from the policy limits is not acceptable.
4. All insurance required shall be purchased and maintained with a company or companies lawfully authorized to do business in the State of Maryland and shall name the City of College Park and the University of Maryland, College Park as "Additional Insureds". Insurance companies providing coverage herein shall have an AM Best rating of not less than A-VII or better.
5. The Contractor shall be responsible for the maintenance of this insurance, whether the work is performed directly by the Contractor; by any subcontractor; by any person employed by the Contractor or any subcontractor; or by anyone for whose acts the Contractor may be liable.
6. All required insurance policies shall be endorsed to provide sixty (60) days (ten (10) days if cancelled due to non-payment) prior written notice by certified mail of any material change, cancellation or non-renewal to:

University of Maryland Department of Procurement and Supply 2113-R Chesapeake Building College Park, MD 20742	City of College Park Finance Department 4500 Knox Rd College Park, MD 20740
--	--
7. Proof of the required insurance and endorsements shall be made by submission to the City and University, prior to commencement of the work, certificates of insurance and endorsements satisfactory to the City and University, The Contractor shall promptly furnish copies of required policies upon receipt of a request from the Procurement Officer.
8. All required coverage shall be maintained until final completion and closeout of the project as evidenced by final payment to the Contractor.
9. The Contractor shall defend, indemnify and save harmless the City of College Park, the University System of Maryland and the University of Maryland College Park and their respective officers, employees and agents from any and all claims, liability, losses and causes of action which may arise out of the performance by the Contractor, its' employees or agents, of the work covered by this contract.

B. Coverage Required:

1. Insurance coverage shall include:

a. General Liability: Coverage for general liability claims arising from operations of the Contractor, subcontractors and suppliers with such coverage, including, but not limited to: personal injury, completed operations ISO CG 20 10 and CG 20 37 or its equivalents. Waiver of Subrogation in favor of the University is required. The minimum limits of such coverage shall be:

- a) \$2,000,000 Per Occurrence Limit
- b) \$4,000,000 General Aggregate Limit
- c) \$4,000,000 Products/Completed Operations Limit
- d) See Excess/Umbrella Liability for additional requirements

No exclusion for third party action over claims.
No exclusion for punitive damages.

b. Automobile Liability: Coverage for third party legal liability claims arising from bodily injury and/or damage to the property of others from the ownership, maintenance or use of any motor vehicle, both on-site and off-site. Coverage shall include all owned, hired and non-owned vehicles for claims arising out of their use or operation. Waiver of Subrogation in favor of the City and University is required. The minimum limits of such coverage be:

- a) \$1,000,000 Combined Single Limit
- b) See Excess/Umbrella Liability for additional requirements

c. Excess Liability / Umbrella Liability: Coverage for third party legal liability claims against the Contractor that exceed the per occurrence or general aggregate of these underlying policies: General Liability, Employers Liability and Automobile Liability. Should any claim exceed the specified limits for the underlying policies, this coverage is intended to cover the balance of the claim, up to the limit of the Excess/Umbrella policy. The minimum limits for such coverage are assigned below, based on the range of value of the agreement under which the Contractor is employed by the City and University:

<u>Contract Volume</u>	<u>Excess / Umbrella Limit</u>
Less than \$10,000,000	\$ 5,000,000
\$10,000,001 to \$25,000,000	\$10,000,000

d. Workers' Compensation: Coverage for claims arising from Workers' Compensation statutes or other Employers Liability or third party legal liability claims arising from bodily injury, disease, or death of Contractor's employees. Contractor shall provide Workers' Compensation coverage for all employees and require their subcontractors to provide Workers' Compensation in accordance with statutory requirements of the jurisdiction in which the work is being performed. Waiver of Subrogation in favor of the City and University is required for Part B: Employers Liability. The minimum limits of such coverage shall be:

- a) Part A: Statutory
- b) Part B: Employers Liability
 - * \$1,000,000 Each Accident
 - * \$1,000,000 Disease, Each Employee
 - * \$1,000,000 Disease, Policy Limit
- c) See Excess/Umbrella Liability for additional requirements

ATTACHMENT 6: UMCP General Administrative Clauses

Section G - Contract Administration Data

1.0 Roles of the University of Maryland Program Manager and Procurement Officer

The Procurement Officer is the University of Maryland's authorized representative for all pre-contract matters related to this contract. Additionally, throughout the duration of the contract, the Procurement Officer shall be the only individual with authority to modify any provisions of this contract including, without limitation, the statement of work, pricing or any other sections.

The University of Maryland Program Manager Michael Levengood and designated staff shall be the principal interface on behalf of the University of Maryland for post-award technical matters, and shall have the authority to explain and provide further details regarding the University of Maryland's expectations concerning the work to be performed hereunder and/or the items to be provided herein. The Program Manager and designated staff shall have no authority to modify any provisions of this contract.

2.0 Invoicing

The Contractor shall provide the following invoicing services. Invoices shall reflect the price structure spelled out in Section B.

Throughout the duration of any resultant contract, the Contractor shall provide one paper copy of each invoice. The paper invoice must contain the following minimum information:

- a. Invoice Number
- b. Invoice Date
- c. The word ORIGINAL printed on the original copy of the document.
- d. The full company or corporate name and address; payment address if it differs from corporate address.
- e. The full nine (9) digit Federal Tax Identification number (for U.S. Contractors only) or Social Security Number.
- f. Purchase order number and/or contract number.

Direct invoices to the following address:

University of Maryland
Attn.: Accounts Payable Department
Chesapeake Building – Room 3101
College Park, MD 20742

Any invoice that is unclear, illegible or does not conform to these specific requirements shall be returned to the Contractor for re-issuance.

4.0 Assignment

No part of the work specified herein may be assigned or transferred to another Contractor without the prior written authorization of the Procurement Officer.

5.0 Notices

Notices under this contract shall be in writing and shall be considered effective upon personal delivery to the individual listed below or five calendar days after deposit in any U.S. mailbox, first class and addressed to the other party as follows:

For the University of Maryland:

Mary Ann Zimmerman
Procurement and Supply
University of Maryland
2113R Chesapeake Building
College Park, MD 20742-3111
Telephone: 301-405-5819
Facsimile: 301-314-9565
Email: mzimmer3@umd.edu

For Contractor: (please complete the following)

Telephone: _____
Facsimile: _____
Email: _____

6.0 Parking

If at any time Contractor shall be on the premises of the University of Maryland, then Contractor is responsible for acquiring a valid University of Maryland parking permit, obeying all parking regulations, and paying all fines assessed for violations of parking regulations. Contractor is responsible for ensuring this clause is included in Contractor's agreements with subcontractors.

ATTACHMENT 7: Proposed Docking Station Locations

City of College Park Stations

College Park Metro Station

Downtown Station

Quality Inn Station

Domain Apartments Station

The Varsity Apartments Station

Ritchie Coliseum Station

Approximate Location

Calvert Road and Bowdoin Avenue

Baltimore Avenue and Knox Road

7200 Baltimore Avenue

3711 Campus Drive

8150 Baltimore Avenue

4533 Rossborough Lane

University of Maryland Stations

Epply Recreation Center Station

Regents Drive Station

Stamp Student Union Station

South Dining Hall Station

Near Farm Drive and Valley Drive

Near Regents Drive and Stadium Drive

Near Campus Drive and Union Lane

Near Lehigh Road and Preinkert Drive

ATTACHMENT 8: State of Maryland Small Business Flyer

University of Maryland College Park

Small and Minority Business Programs

Phone: (301) 405-5813

Fax: (301) 314-9565

The State of Maryland's Small Business Reserve Program requires Maryland State Agencies, including the University of Maryland, to reserve at least 10 percent of their total procurements each year for competition exclusively among Maryland-certified Small Business Enterprises. The overall goal is to increase economic opportunities for small businesses.

MARYLAND SMALL BUSINESS RESERVE PROGRAM

Beginning October 1, 2012 many businesses which previously did not pre-qualify for the Maryland Small Business Reserve certification may now be eligible. A Small Business is now defined as a business, other than a broker, that meets the following criteria:

Is independently owned and operated; the business is not a subsidiary of another business; and the business is not dominant in its field of operation;

AND

The **wholesale** operations of the business did not employ more than **50 persons**, or the gross sale of the business did not exceed an average of **\$4,000,000** in its most recently completed three (3) fiscal years*;

The **retail** operations of the business did not employ more than **25 persons**, or the gross sale of the business did not exceed an average of **\$3,000,000** in its most recently completed three (3) fiscal years*;

The **manufacturing** operations of the business did not employ no more than **100 persons**, or the gross sale of the business did not exceed an average of **\$2,000,000** in its most recently completed three (3) fiscal years*;

The **service** operations of the business did not employ no more than **100 persons**, or the gross sale of the business did not exceed an average of **\$10,000,000** in its most recently completed three (3) fiscal years*;

The **construction** operations of the business did not employ more than **50 persons**, or the gross sales of the business did not exceed an average of \$7,000,000 in its most recently completed 3 fiscal years*.

The **architectural and engineering services** of the business did not employ more than **100 persons**, or the gross sales of the business did not exceed an average of **\$4,500,000** in its most recently completed 3 fiscal years*.

*If a business has not existed for three years, the gross sales average is computed for the period of the business's existence. For newly formed businesses the determination will be based upon employment levels and projected gross sales.

To register in the SBR program, vendors register in eMaryland Marketplace and complete the optional SBR screens:

eMaryland Marketplace: <https://emaryland.buyspeed.com/bsol>

For Vendor Instructions, Quick Reference Guides and FAQs: scroll down and click on "New eMaryland Marketplace Instructions"

To Register: scroll down to the bottom and click "Register" button.

For website technical support, call Maryland Department of General Services at 410-767-4270 or sbadmin@dgs.state.md.us