



AN HONORS UNIVERSITY IN MARYLAND

**REQUEST FOR PROPOSAL
FOR
ON CALL MAINTENANCE CONTRACTOR
FOR THE
OFFICE OF FACILITIES MANAGEMENT
UNIVERSITY OF MARYLAND, BALTIMORE COUNTY**

**SOLICITATION #BC- 21037-K
ISSUED: April 13, 2017**

PRE-PROPOSAL MEETING: **Monday, April 24, 2017 at 2:00 P.M. EDT in Room 729
of the Administration Building**

**TECHNICAL
PROPOSALS DUE DATE:** **Tuesday, May 9, 2017 on or before 2:00 p.m. EDT**
UMBC Office of Procurement
Administration Building #732
1000 Hilltop Circle
Baltimore, Maryland 21250
and UMBC Box: BC_2103.og9v9nsjjc0p5kia@u.box.com

INTERVIEW SESSIONS: **Friday, June 9, 2017, between 9:00 a.m. and 4:00 p.m.**
with shortlisted proposers only in the UMBC
Administration Building, Room # 729

PRICE PROPOSAL DUE DATE: Anticipated to be on or about Tuesday, June 20, 2017 by
2:00 p.m. EDT **from shortlisted proposers only.**

**PROCUREMENT/ISSUING
OFFICE:** UMBC Office of Procurement
Administration Building #732
1000 Hilltop Circle
Baltimore, Maryland 21250

DEADLINE FOR QUESTIONS: Monday, May 1, 2017, by 4:00 p.m. EDT

**ON CALL MAINTENANCE CONTRACTOR
BY THE UNIVERSITY OF MARYLAND, BALTIMORE COUNTY**

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ATTACHMENT A: The following forms are to be submitted by each Proposer in its Technical Proposal as indicated in the RFP documents herein:

- Key Personnel Form
- Firm Experience Form
- Company Profile Form
- Bid/Proposal Affidavit
- Acknowledgement of Receipt of Addenda Form (if applicable)

ATTACHMENT B: Price Proposal Form

ATTACHMENT C: The following forms are to be submitted signed by the successful firm(s):

- UMBC Maintenance Contract
- Contract Affidavit Form

SECTION 00100

I. INSTRUCTIONS TO PROPOSERS

SECTION 00100

I. INSTRUCTIONS TO PROPOSERS FOR THE ON CALL MAINTENANCE CONTRACTORS FOR SMALL MAINTENANCE PROJECTS

A. SUMMARY:

1. The objective of this Request For Proposal (RFP) is for the University of Maryland, Baltimore County (herein referred to as "the University" or "UMBC") to select Maintenance Contractors (firms) to provide all labor, material and supervision for projects as specified by authorized personnel of the University of Maryland, Baltimore County. The University is seeking contractors for maintenance work (see Section 00400, for a more detailed description).
2. The contract term is for an initial two (2) year term beginning July 1, 2017 with seven (8) one-year renewals at UMBC's sole discretion, (for a total potential contract term of 10 years).

For a Multi-Year Contract or any contract where pricing adjustments may be contemplated during the contract term or subsequent renewal options, it will be the responsibility of the Contractor to request a price increase, if any, at least ninety (90) days prior to the end of the then current contract term. Any price increase not received by that time, will *not* be considered and pricing in the renewal term will remain as stated during the just completed contract term. A price increase, if any, will be considered for the quoted hourly rates only, and shall not exceed the consumer price index for "All Urban Consumers" for as published by the U.S. Department of Labor Statistics. For purposes of calculating the potential increase, the Consumer Price Index for the twelve-month period ending on November 30 will be used.

For example, if the contract term ends October 31, 2017, the price index for twelve-month period ending March 31, 2017 will be used. Statistics will be referenced as a *cap* for negotiating purposes only. Contractor is not to assume that any price increase will be applied to yearly renewals, as this is at the sole discretion of the University.

3. All work performed under this contract shall be in accordance with the UMBC Standard Maintenance General Conditions dated 1/4/10 (Section 00700).
4. The University anticipates having a contract in place with the successful Contractor(s) on or about July 1, 2017.

B. INSTRUCTIONS FOR SUBMITTAL OF PROPOSALS:

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

C. ISSUING OFFICE:

1. The Issuing Office is:

University of Maryland, Baltimore County
Office of Procurement
Administration Building #732
1000 Hilltop Circle
Baltimore, Maryland 21250

Attn: John Kenny
(410) 455-3945
Fax: (410) 455-1009
JKenny@umbc.edu

2. The Issuing Office shall be the **sole** point of contact with the University for purposes of the preparation and submittal of the RFP proposal.
3. All questions on this procurement are to be directed to the Issuing Office, via e-mail.

- D. PRE-PROPOSAL CONFERENCE:** There will be a Pre-Proposal meeting held in conjunction with this RFP. Attendance at the Pre-Proposal Conference is not mandatory. The Conference will be held on **Monday, April 24, 2017 at 2:00 p.m. EDT in Room 729 of the Administration Building**. Please refer to the campus website for directions and parking: <http://www.umbc.edu/aboutumbc/campusmap/>. There will be a site visit to view sample jobs that would be completed under this contract.

While attendance at the Pre-Proposal Conference is not mandatory, information presented may be very informative; therefore, all interested vendors are encouraged to attend in order to be able to better prepare acceptable proposals. If your firm plans to send representatives, please call John Kenny (at 410-455-3945) by Friday, April 21, 2017. We ask that a maximum of two (2) representatives from each company attend this meeting.

Appropriate auxiliary aids and services for qualified individuals with disabilities will be provided upon request. Please call John Kenny with specific requests at least five (5) business days prior to the conference.

E. DUE DATE AND TIME:

1. Technical Proposal: **An original, one (1) electronic copy plus three (3) copies (for a total of 5) of the Technical Proposal** must arrive at the Issuing Office by **Tuesday, May 9, 2017 on or before 2:00 p.m. EDT** in order to be considered. The electronic copy is to be submitted to UMBC Box at: BC_2103.og9v9nsjjc0p5kia@u.box.com. Proposers are requested to clearly mark the "original" set of the Technical Proposal.

2. Price Proposal: Those proposers that remains short-listed after the Second Technical Evaluation will be requested to submit a Price Proposal. The Price Proposal Form to be submitted is attached in Appendix B. Those proposers will be notified on or about June 13, 2017. An original, one electronic copy plus and one (1) copy of the Price Proposal (for a total of 3) must arrive at the Issuing Office by the due date which is anticipated to be on or about **Tuesday, June 20, 2017 on or before 2:00 p.m. EDT** in order to be considered.
3. Proposers mailing proposals shall allow sufficient mail delivery time to insure timely receipt by the Issuing Office. All UMBC mail goes through the UMBC mailroom, so please leave sufficient time for the mail distribution. A mailed (via US Post Office) proposal is not considered "received" until the document reaches the above room at UMBC. Proposals delivered to the campus central mail facility or to locations other than Room 732 in the UMBC Administration Building will not be considered "received" by UMBC until they arrive at Room 732 in the Administration Building and are clocked in. The University will not waive delay in delivery resulting from the need to transport a proposal from another campus location to Room 732, or error or delay on the part of the carrier.

Proposals received after the established closing date and time cannot be considered. Proposers are advised that a proposal is not considered "received" until it is delivered to the specific location; that is, a proposal must either be received electronically in the UMBC BOX, or physically in Room 732 by the due date in order to be considered. Proposers must allow sufficient time, therefore, to insure that their proposal is "received" in accordance with this paragraph.

F. MODIFICATIONS AND WITHDRAWAL OF PROPOSALS:

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

G. QUESTIONS AND INQUIRIES:

1. Questions and inquiries shall be directed in writing to the individuals referenced with the Issuing Office above. The Issuing Office will be open from 8:00 a.m. to 4:30 p.m., weekdays. The deadline for questions is Monday, May 1, 2017 by 4:00 p.m. EDT.
2. Items affecting the scope of work or conditions of the contract shall be subject to the conditions of Addenda per Section O below.

H. TERMINOLOGY:

All references in this RFP to the Maintenance Contractor, Proposer, Architect, and other person or persons are made relative to the singular person, male gender (e.g. "he", "him", "his", etc.) These are intended only as generic terms relative to number and gender, and are employed solely to simplify text and to conform with commonly used construction specifications language.

I. SITE INVESTIGATION:

By submitting a proposal the Proposer acknowledges that he has investigated and satisfied himself as to the conditions affecting the work, including but not restricted to those bearing upon transportation, disposal, handling and storage of materials, availability of labor, water, and electric power. Any failure by the Proposer to acquaint himself with the available information will not relieve him from responsibility for estimating properly the cost of successfully performing the work. The University shall not be responsible for any conclusions or interpretations made by the Proposer of the information made available by the University.

J. COMPETITIVE NEGOTIATION:

1. The University reserves the right to make an award with or without negotiations. Only those proposers who are determined "to be reasonably susceptible of being selected for award shall be offered the opportunity to participate in the process."
2. Minor irregularities in proposals, which are immaterial or inconsequential in nature, may be waived wherever it is determined to be in the best interest of the University.

K. PROPOSAL SECURITY:

Due to the "On Call" nature of this procurement, a bid bond is not required with the proposer's price proposal. Performance & Payment Bonds are not required.

L. RIGHT TO REJECT PROPOSALS AND WAIVE INFORMALITIES:

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

M. IRREVOCABILITY OF PROPOSALS:

The Contractor's price proposal for this contract shall be irrevocable for one hundred twenty (120) calendar days from the price proposal due date. This period may be extended by written mutual agreement between the Proposer and the University.

N. LICENSES AND QUALIFICATIONS:

1. Proposers and any subcontractors, if applicable, must be licensed as required by the Construction Firm Law of Maryland (Article 56, Section 180, Annotated Code of Maryland). The Proposer shall provide proof of the Proposer's Contractor's license under Article 56, Section 180, Annotated Code of Maryland by providing a copy of the license in its Technical Proposal.
2. The University reserves the right to require that the Maintenance Contractor demonstrate that it has the skills, equipment and other resources to satisfactorily perform the nature and magnitude of work necessary to complete the project within the proposed contract schedule. (See Section 00300 of this RFP for further information/details.)

O. CLARIFICATIONS AND ADDENDA:

1. Should a Proposer find discrepancies in the RFP documents, or should he be in doubt as to the meaning or intent of any part thereof, he must, not later than seven (7) days (Saturdays and Sundays included), prior to the proposal due date, request clarification in writing from the Issuing Office, who will issue a written Addendum to the RFP. Failure to request such clarification is a waiver to any claim by the Proposer for expense made necessary by reason of later interpretation of the RFP documents by the University. Requests shall include the RFP number and name.
2. Oral explanations or instructions will not be binding; only written Addenda will be binding. Any Addenda resulting from these requests will be sent via e-mail to firms who have advised UMBC of their interest in this procurement and have provided the pertinent contact information. The Proposer shall acknowledge the receipt of all addenda in the space provided on the Proposal Form.
3. Any addendum/amendments to the RFP must be acknowledged by persons and entities known to have been issued, or otherwise to have received the RFP. Addendum Acknowledgement forms (found in Attachment A) are to be completed and signed with Technical Proposal. In addition, space is provided on the Price Proposal form to indicate these.

P. CANCELLATION OF THE RFP:

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

Q. PROPOSAL ACCEPTANCE:

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

R. INTERVIEW SESSIONS: Interview sessions will be conducted with shortlisted firms only based on the initial technical evaluation. See Section 00300, Article 3 for further details.

S. ECONOMY OF PREPARATION:

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

T. CONFIDENTIAL/PROPRIETARY INFORMATION:

Proposers should give specific attention to the identification of those portions of their proposals which they deem to be confidential, proprietary information or trade secrets, and provide any justification of why such materials, upon request, should not be disclosed by the State under the Access to Public Records Act, State Government Article, Title 10, Subtitle 6 of the Annotated Code of Maryland. Proposals are not publicly opened. Proposers must clearly indicate each and every section that is deemed to be confidential, proprietary or a trade secret (it is NOT sufficient to preface your entire proposal with a proprietary statement).

U. MINORITY BUSINESS ENTERPRISE NOTICE:

1. Minority business enterprises are encouraged to respond to this RFP.
2. MBE's must be certified by the Maryland Department of Transportation (MDOT) and not graduated from the applicable NASIC Code

V. FINANCIAL DISCLOSURE BY PERSONS DOING BUSINESS WITH THE STATE

Proposers providing materials, equipment, supplies or services to the University must comply with Section 13-221 of the State Finance & Procurement Article of the Annotated Code of Maryland which requires that every business which enters into contracts, leases or other agreements with the University and receives in the aggregate \$100,000, or more, during a calendar year shall, within 30 days of the time when the \$100,000 is reached, file with the Secretary of State a list containing the names and address of its resident agent, each of its officers, and any individual who has beneficial ownership of the contracting business.

W. ARREARAGES:

By submitting a response to this solicitation, a vendor shall be deemed to represent that it is not in arrears in the payment of any obligation due and owing the State of Maryland, including the payment of taxes and employee benefits and that it shall not become so in arrears during the term of the contract if selected for contract award.

X. BID/PROPOSAL AFFIDAVIT:

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

Y. MULTIPLE/ALTERNATIVE PROPOSALS:

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

Z. ADDENDUM

Any addendum/amendments to the RFP must be acknowledged by persons and entities known to have been issued, or otherwise to have received the RFP. An Acknowledgment of Addendum form is provided in Attachment A and is to be submitted accordingly with the Technical Proposal. Space is provided on the Price Proposal form to also indicate these.

AA. INCURRED EXPENSES:

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

BB. DEBRIEFING OF UNSUCCESSFUL PROPOSERS

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

CC. MARYLAND PUBLIC ETHICS LAW, TITLE 15

The Maryland Public Ethics Law prohibits, among other things: State employees or officials (and in some cases, former employees) and businesses in which such an individual is employed or holds a financial interest from (i) submitting a bid or proposal, (ii) negotiating a contract, and (iii) entering into a contract with the governmental unit with which the individual is affiliated per the Maryland Code, State Government Article, SS 15-502. If the proposer/offeror has any questions concerning application of the State Ethics Law to the proposer/offeror's participation in this procurement, it is incumbent upon the proposer/offeror to seek advice from Executive Director, State Ethics Commission, 9 State Circle, Suite 200, Annapolis, MD 21401, 410 974-2068. The procurement officer may refer any issue raised by a bid or proposal to the State Ethics Commission. The procurement officer may require the proposer/offeror to obtain advice from the State Ethics Commission and may reject a bid or proposal that would result in a violation of the Ethics Law. The resulting contract is cancelable in the event of a violation of the Maryland Public Ethics Law by the vendor or any State of Maryland employee in connection with this procurement.

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

Contractor agrees that it will not reduce its income subject to tax by claiming a deduction for royalty or similar payments for trademarks, trade names, or intangible property that shift income from the contractor to an affiliated entity that does not file Maryland income tax returns. Contractor agrees that any affiliated entity receiving such payments is doing business in Maryland and is required to file Maryland income tax returns. Contractor agrees that during the course of this contract: (1) it shall not make any such royalty or similar payments to any affiliated company; but (2) if any such royalty or similar payments are made, contractor and the affiliated company shall file separate Maryland income tax returns and pay their respective Maryland income taxes in such a manner that contractor may claim a deduction against Maryland income tax for such payments only if the affiliated company receiving the royalty or similar payment files its Maryland income tax return and pays Maryland tax, under a formula that reasonably apportions the income of the affiliated company among the states, including Maryland, in which the contractor does business. Contractor agrees that it is authorized to bind its affiliated entities to the terms hereof.

EE. PAYMENTS TO CONTRACTORS BY ELECTRONIC FUNDS TRANSFER (EFT):

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

END OF SECTION 00100

SECTION 00200

II. INFORMATION AVAILABLE TO PROPOSERS

SECTION 00200

II. INFORMATION AVAILABLE TO PROPOSERS

- A. **CONTRACT DOCUMENTS:** This RFP #BC-21037-K consists of the documents noted below.

All sections are contained **within the RFP document**

00100 Instructions to Proposers;

00200 Information Available to Proposers;

00300 Proposals, Evaluation and Forms (Articles 1 through 4);

00400 Scope of Work (Articles 1 through 4);

00500 [Intentionally Omitted];

00600 [Intentionally Omitted];

00700 University's Standard Maintenance General Conditions dated 1/4/10;

Attachment A University Forms Required with Proposal Submittal(s) (i.e., Bid/Proposal Affidavit, Key Personnel Form, Firm Experience Form, Company Profile Form, and Acknowledgment of Receipt of Addenda Form (if applicable).

Attachment B Price Proposal Form

Attachment C University Forms Required to be signed/ provided by the Selected On Call Firm at time of contract award (i.e., UMBC Maintenance Contract and Contract Affidavit Form)

Any Addenda, which may be issued prior to the Proposal Due Dates are available at <http://procurement.umbc.edu/bid-board/> on the University's eBid Board and at <https://umbc.box.com/v/UMBCONCALLMAINTENANCE>.

All of these materials will be included in the Contract with the University awarded as a result of this solicitation. The Proposer by submitting its proposal agrees that if awarded the Contract that it, as On Call Maintenance Contractor, will be bound under the Contract to all the terms and conditions thereof.

- B. SET OF DOCUMENTS AVAILABLE TO PROPOSERS: The RFP and the UMBC Standard Maintenance General Conditions are available on the UMBC eBid Board at <http://procurement.umbc.edu/bid-board/> and at <https://umbc.box.com/v/UMBCONCALLMAINTENANCE>.
- C. PRE-PROPOSAL CONFERENCE: There will be a Pre-Proposal meeting held in conjunction with this RFP. Attendance at the Pre-Proposal Conference is not mandatory. The date and time of this conference is noted in Section 0100, Item D. Please refer to the campus website for directions and parking information <http://www.umbc.edu/aboutumbc/campusmap/>. There will be a site visit to view sample jobs that would be completed under this contract. (Refer to Section 0100, Item D for additional information)
- D. AVAILABLE RECORD DOCUMENTS:
1. The University's Facilities Management Office upon request will make accessible to the Proposers any available record drawings, utility plans, and other data pertinent to existing conditions to the extent that such material is available. The University, however, can offer no assurances that such drawings, property description, or other data are accurate, current or complete.
 2. Such documents must be used, or copied, at the University's Facilities Management Office. The Proposers shall assume the responsibility for cost of reproduction as well as replacing any damaged documents.

END OF SECTION 00200

SECTION 00300

III. PROPOSALS, EVALUATION AND FORMS

SECTION 00300

PROPOSALS, EVALUATION, AND FORMS
INTRODUCTION/OVERVIEW
ARTICLE 1

A. **INTRODUCTORY SUMMARY OF PROPOSAL SUBMITTALS:** Responses to RFP #BC-21037-K are to consist of the following:

1. **Technical Proposal Submittal** (see Article 2 of this Section 00300 for detailed information): All proposers are required to submit an **original, one (1) electronic copy plus three (3) copies (for a total of 5)** of the Technical Proposal Submittal. The Technical Proposal Submittal is due by **Tuesday, May 9, 2017 on or before 2:00 p.m. EDT to the Issuing Office.**
2. **Price Proposal Submittal** (see Article 3 of this Section 00300 for detailed information): After completion of the Interview Sessions and the Second Phase Technical Evaluation, those Proposers who have maintained the minimum rating will be requested to submit a Price Proposal. Those proposers will be required to submit an **original, an electronic copy plus and one (1) copy of the Price Proposal (for a total of 3)** of the Price Proposal Submittal. The Price Proposal Submittal is anticipated to be due on or about

B. **TRANSMITTAL LETTER:**

A transmittal letter prepared on the Proposer's business stationery must accompany the Technical Proposal Submittal. The purpose of this letter is to transmit the Proposal; therefore, they should be brief, but shall list all items contained within the Technical Proposal. The letter must be signed by an individual who is authorized to bind his firm to all statements, including services and financials, contained in the Proposal.

C. **SIGNING OF FORMS:**

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

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

END OF SECTION 00300, ARTICLE 1

SECTION 00300
PROPOSALS, EVALUATION, AND FORMS
ARTICLE 2
TECHNICAL PROPOSAL SUBMITTAL

A. TECHNICAL PROPOSAL SUBMITTAL

The Technical Proposal must be submitted in a sealed envelope, and also submitted electronically to UMBC Box. Envelopes shall have the Proposer's name, the project name and project number prominently displayed, together with the words, "TECHNICAL PROPOSAL".

Technical Proposals shall be delivered on, or before the due date and time as noted in Section 0100, Item E.

The following items must be included in this Initial RFP Submittal:

1. Detailed responses to Section 0300, Article 2, Item B, Technical Proposal Criteria, Items 1 through 3 (noted in "B" below)
2. Contractor's license (photocopy)
3. Bid/Proposal Affidavit
4. Acknowledgement of Receipt of Addenda (If addenda are issued prior to the Technical Proposal due date, this form acknowledging receipt of all addenda MUST be included with your Technical Proposal).

Note: UMBC Procurement will confirm the Small Business registration for each proposer. Should UMBC find out a proposer is not registered, the proposer will be found non-responsive and will not be considered further in this procurement.

Forms for each of the items required in the Technical Proposal are furnished with this RFP on UMBC's eBid Board at <http://procurement.umbc.edu/bid-board/> and <https://umbc.box.com/v/UMBCONCALLMAINTENANCE>.

B. TECHNICAL PROPOSAL CRITERIA

Per Item A above, the following information must be furnished in the Technical Proposal portion of the RFP. Failure to include any of the items listed below may disqualify your firm's response. The technical criteria is listed in order of importance. Proposers should describe in detail and provide evidence supporting the qualifications requested below. All proposers are to compile their Technical Proposals in the order listed.

1. **KEY PERSONNEL:**

- 1.1 **Key Supervisory Personnel of the On Call Maintenance Contractor:** Within this category, the named positions are defined as indicated below. Please note that per the UMBC Standard Maintenance General Conditions (Section 0700) all supervisory personnel of the On Call Maintenance Contractor must be direct employees of that Contractor.

Project Manager: Person from Maintenance Contractor who will be involved on a continual basis from commencement of the contract until construction completion. This person will be responsible for the overall management of the Contractor's team assigned to a particular project and the completion of the project.

Field Superintendent: Person from the Maintenance Contractor who will be on site 100% once work commences on a project and will be responsible for the direct supervision of the trade contractors, daily coordination of the work on site to maintain the schedule, on site management such as material deliveries, outages, etc. The Field Superintendent may also perform work on the task order in addition to supervising others.

Complete the Key Personnel Form* on the Project Manager and two Field Superintendents (100% site supervisor) only to be assigned under this contract, if awarded. The Key Personnel Form* on each inclusive of the following:

- **Educational background;**
- **Work experience with the proposing firm** inclusive of duration (by dates) of employment and position (s) held;
- **Work experience with prior employers,** durations (by dates) of employment and position (s) held;
- **Specific project experience which is similar to the work to be done under this contract** (preferably some of the projects listed in #2.1 a. below) and the role this person played in each selected project with higher consideration to be given if the role is the same as to be assigned on the UMBC contract. **A minimum of three (3) projects are to be listed for each person.** A brief description of the project should be given (if not provided elsewhere in the technical proposal) inclusive of type of renovation/restoration work performed (i.e., demolition, concrete, painting, masonry, carpentry, etc.), dollar volume of project, and job schedule.

*Note: The Key Personnel Form was developed for use on this procurement to insure that all requested information is provided. Proposers

are **required to utilize this form.**

Evaluation of each person's background and experience will be based on similarity to UMBC's contract. Higher consideration will be given if the Project Manager and/or Field Superintendent (s) have experience in occupied and/or higher education settings.

- 1.2 **Key Personnel References:** In the space provided on the Key Personnel Form, provide **three (3) project references** on **each** of the three (3) proposed key people inclusive of contact person, phone number and name of applicable project.

The University reserves the right to check other sources available including itself if not provided as a reference by the Contractor. Such references will be held in strictest confidence by the University.

Please ensure that the information is accurate and that the **reference named** can speak to the individual's **performance in the role to be assigned on this contract.**

- 1.3. **Note - Personnel Commitment:** By submitting the names for consideration under this Key Personnel Section, the Proposer is committing these people (e.g. Project Manager and Field Superintendents) to UMBC for this contract's duration if awarded the project. No personnel changes will be permitted without written authorization from the University via a contract amendment issued by UMBC's Procurement Office.

2. **FIRM EXPERIENCE:**

- 2.1 **Maintenance Contractor's Experience:** Each Proposer is to **complete the Firm Experience Form** on each project. A total of three (3) similar or relevant projects are to be submitted.** This form is found in Attachment A.

Note: All Proposers are **required to use the Proposer Experience Form format; however, Proposers may elect to reproduce the form.

Of these three (3) projects, each must have been completed by the Proposer and be similar in scope to the maintenance projects anticipated to be done under this contract (see Section 00400).

All proposers are to base their responses on their three (3) most recently completed projects that reflects the size, complexity, and On Call services required under this RFP.

2.2 **Firm References:**

- (a) Provide **three (3) references** for the Maintenance Contractor per the projects submitted under the firm experience category above (#2.1). Provide contact name, address, and telephone number for each reference.
- (b) The University reserves the right to verify all information given if it so chooses, as well as to check any other sources available or to use itself as a reference if not provided by the contractor.
- (c) Please be sure that accurate information is provided and that the contact person is capable of speaking to the firm's capability in performing the services required. References will be held in the strictest of confidence.

3. **COMPANY PROFILE:**

Complete the Company Profile form found in Attachment A. Please note: If the Proposer is a local office of a parent company, the information is to be provided on the **local office only who will be managing this contract** not on the parent organization, unless the parent organization is the Proposer.

END OF SECTION 0300, ARTICLE 2

SECTION 00300

PROPOSALS, EVALUATION, AND FORMS

ARTICLE 3

INTERVIEW SESSION AND PRICE PROPOSAL

- A. **INTERVIEW SESSION PRESENTATION:** Only those Proposers whose Technical Proposals achieve the required minimum or better technical score will be requested to attend an Interview Session at the University.

The date and time of the Interview Session will be set by the University upon completion of the evaluation of the Technical Proposals; however, these sessions are anticipated to be held on the dates noted above in Section 00100. Proposers are advised to set this date aside in its entirety accordingly on all Key Personnel's calendars to avoid conflicts, as this date is not expected to change. The actual date and time will be confirmed in writing and sent to the applicable proposers at the time the session is requested.

The purposes of the Interview Session are as follows:

1. to allow the University to meet the Proposer's key personnel and provide them an opportunity to convey their background and expertise as it applies to the University's project;
2. to discuss selected categories of the Proposer's Technical Proposal;
3. to provide an opportunity to clarify and discuss the scope of services for this On Call Maintenance Contract; and,
4. to review the Price Proposal form.

Each proposer will be required to have the following personnel attend the Presentation Session: Proposed Project Manager and the Field Superintendents.

At the time the Interview Sessions are scheduled, the University will confirm in writing with each Proposer the specifics of these sessions inclusive of the topics and time periods.

Upon completion of the Interview Sessions, the University will conduct the Second Phase Technical Evaluation as described in Section 00300, Article 4.

- B. **PRICE PROPOSAL:** **Only those proposers that maintain the minimum or better technical score in the Second Phase Technical Evaluation (following the interview sessions) will remain shortlisted and will be requested to submit a Price Proposal.** Those proposers must submit a Price Proposal. One (1) original, one (1) electronic and one (1) copy (for a total of 3) of the Price Proposal are to be provided.

The **due date** for submission of the Price Proposal is anticipated as indicated in Section 00100, Item E., 2. Only those proposers that remain shortlisted after completion of the technical evaluation will be requested to provide the following in its Price Proposal:

1. On Call Maintenance Contractor's Quoted Hourly Billing Rates for (a) Field Superintendent, (b) General Trades Mechanic, and (c) Helper.
2. On Call Maintenance Contractor's Material Markup Percentage
3. On Call Maintenance Contractor's Subcontractor Mark-up percentage over the subcontractor's invoice The Price Proposal is to be submitted as follows: (1) in a sealed envelope and (2) as a uploaded file to UMBC Box.

The envelope shall have the Proposer's name, the project name and the project number prominently displayed, together with the words "PRICE PROPOSAL". It should consist of the following:

- **Price Proposal Form** with signature page (form found in Attachment B of the RFP).

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

Price Proposals will be evaluated based on sample job(s).

END OF SECTION 0300, ARTICLE 3

SECTION 00300
PROPOSALS, EVALUATION, AND FORMS
ARTICLE 4

- A. An **Initial Technical Evaluation** of the Technical Proposals will be conducted by a University Evaluation Committee prior to the Interview Sessions.

The order of importance of the technical criteria is as noted in Section 00300, Article 2 with the exception of the reference checking on both the key personnel and the firm; this reference checking will only be conducted as part of the second phase technical evaluation noted below.

A Technical Score of 75% or better of the available technical points must be achieved in order for a proposer to advance to the Interview Session phase of this procurement. Proposals cannot be modified, supplemented, cured, or changed in any way after the due date and time for technical proposals.

Only those proposers whose technical proposals achieve the required, minimum or better technical score in the Initial Technical Evaluation, will then be asked to attend an Interview Session at the University. (See Section 00300, Article 3 for further information regarding the Interview Session.)

- B. Following the Interview Sessions, a **Second Phase Technical Evaluation** will be conducted. The order of importance of the technical criteria will be as noted in Section 00300, Article 2 including the key personnel and firm reference checking.

The Second Phase Technical Evaluation will consist of scoring of the Key Personnel References and Firm References, and the re-scoring of all the other categories based on the Interview Sessions.

A Technical Score of 75% or better of the available technical points must be maintained in the Second Phase Technical Evaluation in order for a proposer to advance to the Price Proposal phase of this procurement.

- C. Price Proposal Phase: Only those firms whose technical proposals maintain the required, minimum or better technical score in the Second Phase Technical Evaluation will then be asked to submit a **Price Proposal** to the University. (See Section 00300, Article 3 for further information regarding the Price Proposals.)

- D. Further information may be requested by the University during the technical evaluation process and a Best & Final Technical and/or Price phase may be conducted.

E. **PRICE PROPOSAL EVALUATION:**

1. Price Proposals will not be opened publicly.
2. Price Proposals will be evaluated based on total cost for the sample job(s).

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

F. **FINAL PROPOSAL RATING:**

1. Ranking of the Price Proposal will be combined with the corresponding total technical score to determine a final rating for each proposal.
2. Technical merit will have a much greater weight than cost.
3. The Evaluation will choose from the highest rated proposals those proposals which will best serve the interests of the University, in accordance with University System of Maryland Procurement Policies and Procedures
4. As stated in Section 0100 Instructions to Proposers, J. Competitive Negotiation, and Q. Proposal Acceptance, the University reserves the right to make an award with or without negotiations.

END OF SECTION 00300, ARTICLE 4

END OF SECTION 00300

SECTION 00400

IV. SCOPE OF WORK

SECTION 00400 – SCOPE OF WORK

ARTICLE 1 GENERAL PROVISIONS

1. **ON CALL CONTRACTORS:** The intent of this procurement is to establish On Call Maintenance Contractors for UMBC's Office of Facilities Management.
2. **CONTRACT TERM:** A two (2) year initial contract with eight (8) one-year renewals at UMBC's sole discretion (for a total potential contract term of 10 years)
3. **AWARD:** It is the University's intent to make multiple awards to a minimum of two (2) Maintenance Contractors.
4. **IMPLEMENTATION:**
 - 4.1 These On Call contracts are to be utilized as maintenance projects develop on the following basis:
 - A. UMBC's Office of Facilities Management (OFM) will (i) prepare a written scope (which may include specifications and/or drawings, as applicable) of work on each project inclusive of time frame/schedule; and (ii) conduct a site visit with all available On Call Maintenance Contractors.
 - B. Non-Incidental Work: Each On Call contractor will provide to the OFM with a lump sum price to do non-incidental work inclusive of the following:
 - Total costs for self-performed work by the On Call Maintenance Contractor with a breakdown of the (a) total material cost with the quoted mark-up percentage per its contract; and (b) the total labor costs with a breakdown of the labor costs by position, hours and quoted hourly rate;
 - For work to be done by a Subcontractor, if any, include the name of the subcontractor, work to be done by this firm, and subcontractor's costs with On Call Maintenance Contractor's quoted mark-up percentage per its contract;
 - The time frame by date in which this work can be done; and,
 - The name of the Field Superintendent (1 of the 2 submitted in the Contractor's Technical Proposal) to be assigned.

UMBC will select from among the On Call maintenance contractors the contractor whose price and time frame best serves the University's interest and meets all University requirements. At that time, a Letter of Acknowledgement or Notice to Proceed will be sent by the University (OFM Business Manager or Procurement Officer, as applicable) to the awarded On Call Maintenance Contractor for his/her signature; this letter will confirm the scope of work, commencement and completion dates, time frame and lump sum price for non-incidental work.

- C. Incidental Work (Projects under \$25,000.00): The University will have incidental work to be performed by an On Call Maintenance Contractor for which a lump sum proposal cannot be quoted. Such work consists of fixing a ceiling tile, hanging shelves, hanging pictures, etc. This work will be performed on a rotation basis; that is, the University will rotate this type of work among the awarded On Call Maintenance Contractors. As such task orders arise, OFM will contact the Procurement Office to obtain the name of the next On Call Maintenance Contractor on the rotation list.

When compiling the scope of work for such “incidental work”, the University representative will designate this work as “incidental work” and include an estimated number of hours. The University will award this work based on the quoted hourly rate for the general trade mechanic and the quoted material mark-up for the On Call contractor with the On Call Maintenance Contractor next on the rotation.

The awarded contractor for incidental work will need to include the following information in spreadsheet form with his invoice to confirm the following information:

- Labor hours worked by date and person (by name) with the quoted general trade mechanic labor rate; and,
- The date, source, description, and price for materials used for this work. The material price will identify the actual cost plus the quoted percentage mark-up,
- Work order number, as applicable.

- D. The On Call Contractor will be required to check in with the university's FM representative on a weekly basis when doing work on site.
5. Estimated dollar volume for this maintenance contracting work is \$600,000 annually. All proposers are advised that such dollar volumes are estimates only and all proposers further understand and agree in providing such estimates, the University make no guarantee that any or all of the estimated work will be assigned to the selected On Call Maintenance Contractor(s).
6. The project size under this contract is anticipated to range from under \$5,000 to \$50,000, with many of the projects under \$20,000.
7. All communications on projects are to be directed to the designated Project Manager and Business Manager of OFM only. No instructions, directions, and information are to be given to the Contractor by any other University personnel. All change order work shall not proceed until a purchase change order has been issued by the University confirming this additional work and the applicable additional cost.

8. If during the term of this contract, the On Call Maintenance Contractors are awarded other projects on campus outside of this contract, it is expected that the Contractor will assign separate work crews and supervisory teams to all concurrent projects to insure that no job schedule is effected by inadequate manpower levels.
9. Any staff changes by the selected On Call Maintenance Contractor (s) in the Project Manager, and/or the possible Field Superintendent must be reviewed and approved by UMBC's Office of Procurement via the issuance of a contract amendment prior to any reassignments being made.

END OF SECTION 00400/ARTICLE 1

SECTION 00400 - SCOPE OF WORK

ARTICLE 2 SPECIFICATIONS

1. SPECIFICATIONS

- a. The Contractor is to furnish all labor and material necessary to comply with scope of work and/or drawings and specifications furnished by authorized personnel of the University for work on the UMBC Campus and University-owned property.
- b. The contractor is to coordinate all trade work with his forces and his subcontractors, if any. The University reserves the right to separately award other work in the same area to other contractor(s). The On Call Maintenance Contractor is expected to coordinate, as needed, with the other contractors separately awarded by the University.
- c. The Contractor shall complete his work in the time required by the University and in accordance with the requirements stated within the Notice to Proceed.
- d. The majority of this maintenance contracting work will be interior repair and renovation work done in occupied buildings and in some cases, with ongoing research, classrooms, offices, conference rooms, and data rooms. The selected On Call Contractors will be required to take special care when working in such environments.

2. MAINTENANCE WORK

The general maintenance work to be included under the On Call Maintenance Contractor Contracts is as described, but not limited to, the following:

- General maintenance repair work;
- General carpentry repairs;
- Demolition work;
- Drywall construction and repair;
- Ceiling tile and ceiling grid repair, replacement and maintenance;
- Vinyl floor, VCT tile installation and repair;
- Ceramic tile floor installation and repair;
- Shower replacement, repairs and renovation;
- Fiberglass tub and shower repairs;
- Cabinet repairs and installation;
- Kitchen repairs;
- Bathroom/partition stall repairs and renovation;
- All types of hand rail installation and repair;
- Minor concrete installs and repair;
- Gutter/downspout repair and installation;
- Roof repair and asphalt shingle work;

- Counter top installation and repair;
- Asphalt roadway patching;
- Painting;
- Caulking;
- Carpet;
- Plumbing;
- Electrical;
- Minor HVAC;
- Minor electrical;
- Minor plumbing;
- Fixed Seating maintenance, repair and replacement; and
- All other general construction, as needed.

3. **PROTECTION OF ADJACENT FACILITIES AND PROPERTY**

- a. The Contractor is advised that the location of projects under this Contract will likely be in a congested area of the campus, subject to heavy vehicular traffic and limited parking. Every precaution shall be exercised to protect people from injury and disruption of traffic from work performed.
- b. See General Conditions, Section 00700 dated 1/4/10.

4. **LIFTING DEVICES FOR EQUIPMENT**

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

5. **PROTECTION OF WORK, STORAGE AND TRANSPORTATION OF MATERIALS**

- a. All equipment must be installed and/or stored indoors immediately upon arrival at the job site. If storage is required, a suitable space will be designated by the OFM at the applicable campus. Under no circumstances shall equipment be stored outdoors.
- b. Transportation: All materials and equipment shall be so crated, packaged, blocked and otherwise protected during transportation and handling to prevent damage of any kind. This shall include the provision of any necessary lifting devices or machines and the skilled personnel to operate such machines.
- c. Protecting Work in Place: Provide all necessary protection of completed work to prevent any and all damage. Walk off mats shall also be required at the entrances and exits of all worksites.

- d. Prior to using any University elevator for transporting materials, the Contractor shall verify applicable load weights and insure proper loading of the elevator with the OFM Project Manager.

6. **TEMPORARY WATER AND ELECTRICAL SERVICE**

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

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

7. **CLEARING AND CLEANING UP**

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

8. **EMPLOYEE IDENTIFICATION**

- a. Due to the nature of routine On Call work and required security, the Contractors shall obtain identification for all of his employees, equipment and Subcontractors that will be utilized at UMBC. **EMPLOYEE IDENTIFICATION OF WORKMEN ASSIGNED TO THE UNIVERSITY PROJECTS SHALL BE VISIBLE AT ALL TIMES in accordance with UMBC Standard Maintenance General Conditions.** Refer to Section 00700 for further campus specific information regarding identification).
- b. All vehicles and mobile equipment shall be identified with the Contractors Name displayed in a highly visible manner.

9. **PARKING REQUIREMENTS**

- a. Valid UMBC parking permit must be displayed on vehicles parked in non-metered parking spaces on campus. Parking permits are enforced year round, between the following hours:
 - i. Monday through Thursday: 7:00 AM to 9:00 PM.
 - ii. Friday: 7:00 AM to 3:30 PM.
- b. Failure to display parking permit or parking in unauthorized locations may result in issuance of a citation. A parking violation issued against a vehicle without a permit will be charged to the registered owner of the vehicle.

- c. Confine parked vehicles to designated parking spaces unless otherwise approved in writing.
- d. When practical for the University, each Contractor and each primary subcontractor will be issued one Service Area parking permit. Other parking shall be confined to a designated campus parking lot.
- e. UMBC Project Manager will advise Parking Services of contractor parking needs. Contractors will not be able to get parking permits unless Parking Services has been notified about the project in advance by UMBC Project Manager.
 - For each vehicle requiring parking permit, complete Contractor Parking Permit application and submit to Parking Services in Facilities Management Building. UMBC Project Manager will provide appropriate application form for use. Refer to Section 00700 for additional information.

10. **TOOLS AND MOVEABLE EQUIPMENT**

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

11. **UNIVERSITY'S RIGHT TO FURNISH MATERIAL AND EQUIPMENT**

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

12. **SUBCONTRACTS**

The Contractor shall be reimbursed for subcontractor work per the quoted mark up. Before any such Subcontracts are awarded, the University reserves the right to review/ approve the submitted subcontractors.

13. **TRUCKING**

Contractor's Name, License Numbers, Telephone Number and Address shall be displayed on trucks in three inch (3") high letters. The Contractor shall apply for a University permit through UMBC Parking Services. Parking at the University is at a premium. The On Call Maintenance Contractor will be required to coordinate with OFM on the loading and unloading of materials.

14. **REMOVAL OF DEBRIS & CLEANING**

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

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

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

15. **SUPERVISION OF THE WORK**

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

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

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

16. **CODES AND STANDARDS**

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

17. **REQUEST FOR TEMPORARY USE OF KEYS BY CONTRACTORS**

No keys shall be issued to Contractor without the proper authorization. The following process will be used to issue keys:

- a. Authorization form shall be issued by Project Manager, Inspector or other person listed on the approved authorization list.
- b. Key shall be issued out by FM Work Control Center to the person presenting the authorization form.
- c. Key (s) shall be returned each day before the end of business except when specifically authorized for night time or weekend work.
- d. The Work Control Center closes at 4:00 p.m. However, the Central Plant Boiler Room is open twenty-four hours, seven days per week and keys must be returned there after the Work Control Center is closed. Keys are not to be taken home.
- e. Keys shall be requested and issued only as required, i.e. master keys shall not be issued when individual keys will suffice.
- f. University keys, in the possession of Contractors and/or Service Personnel, will not be loaned to others, tampered with or duplicated.

END OF SECTION 00400/SECTION 2

SECTION 00400
IV. SCOPE OF WORK

ARTICLE 3
SPECIAL CONDITIONS

1. The contract period is from July 1, 2017 through June 30, 2019 with eight (8) one-year renewals at UMBC's sole discretion (for a total potential contract term of 10 years).
2. The work under this Contract is subject to the UMBC Standard Maintenance General Conditions dated 1/4/10, which are Section 00700 of this RFP document.
3. The University reserves the right to complete particular projects through this On Call Contract, through the use of University employees or to obtain separate Contracts through its normal procurement process according to the best interests of the University.
4. The Contractor must be able to deliver all said labor and standard items of material and equipment within time frame confirmed in the Notice to Proceed for each project. Purchase of equipment and material not usually carried in stock by local distributors shall be accomplished competitively within the shortest time possible while maintaining the job schedule.
5. The Contractor shall maintain a local office with telephone available for receiving and making calls throughout the working day and shall have available locally sufficient storage space for materials and equipment if this office and principal place of business is not located within 50 miles of the University.
6. The Contractor shall provide one (1) person designated as the Project Manager and have one (1) 100% on-site Field Superintendent. The Project Manager shall be the Contractor's agent for reviewing the project in the field when required with the University's representatives and shall be the channel for all inquiries concerning work in progress or work to be started under this Contract. The Field Superintendent shall manage the job on-site and supervise all on-site personnel. All supervisory personnel for the On Call Contractor must be direct employees of said Contractor.
7. The Project Manager should be readily available to review all phases of the project when requested by the University. The Project Manager should have a cell phone/beeper to facilitate accessibility to the University.
8. The timeframe of work hours for the Contractor shall be 6:00 a.m., through 4:00 p.m., Monday through Friday. The work shall be carried forward during normal work hours unless the contractor elects on his own volition to extend operations beyond regular hours and such extensions are approved by the University. If overtime is needed, the associated costs are the responsibility of the On Call Maintenance Contractor.

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

END OF SECTION 00400/ARTICLE 3

SECTION 00400
ARTICLE 4
RATES AND MARK UPS

1. **CONTRACTOR'S LABOR RATES:** It is understood and agreed that the Field Superintendent, General Trade Mechanic and Helper Quoted Hourly Billing Rates are the only rates to be quoted.

Salary cost shall be inclusive of all of the following associated overhead and profit:

- a. Premiums for Workmen's Compensation and Unemployment Insurance, Contractor's share of Social Security Payment, and other such expenses based on payrolls of labor performed in connection with the work under the Contract.
 - b. Premiums for insurance for this Contract as required by the Specification or by the law to carry including Contractor's Liability, Property Damage, Vehicle Insurance on tools and equipment as stipulated in the Specifications.
 - c. Fringe benefits for health and welfare, Workman's Compensation insurance, vacations, holidays and pensions shall be furnished by the Contractor.
 - d. Tools and construction equipment of all types including maintenance, loss and breakage as required to complete the work.
 - e. Incentive pay, if any.
 - f. Travel costs for Contractor's business operation or employee's residence to job site of University of Maryland Baltimore County.
 - g. Welfare funds such as vacation allowance or other fringe benefits which are included in the local prevailing wage rates by written agreement between Contractors and Labor Unions.
2. **"JOB COSTS" WHICH THE CONTRACTOR WILL BE REIMBURSED:** All materials associated with the project (based on the actual costs with the On Call Maintenance Contractor's quoted percentage mark-up and payments made for work performed by subcontractors (with the quoted percentage mark-up by the On Call Maintenance Contractor).
3. **RECORDS OF PROJECT COSTS TO BE PROVIDED BY THE CONTRACTOR**
- a. Records: The Contractor shall retain records in accordance with Section 00700.

- b. Billing Format:
 - i. Contractor is to provide The University Certificate of Payment Form for all billings, with a spreadsheet for incidental work only, that documents hours worked, by whom, by date and time and any material costs.
 - ii. With each Certificate of Payment, the Contractor is to attach the following backup information: Copy of any subcontractor invoices, if applicable, and incidental work spreadsheet, if applicable.

END OF SECTION 00400/ARTICLE 4
END OF SECTION 00400

SECTION 00700

UNIVERSITY OF MARYLAND, BALTIMORE COUNTY

STANDARD GENERAL CONDITIONS OF

MAINTENANCE PROJECTS/CONTRACTS

JANUARY 4, 2010 EDITION
("STANDARD MAINTENANCE GENERAL CONDITIONS")

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SECTION 1: DEFINITIONS AND RESPONSIBILITIES

1.01 DEFINITIONS (these definitions shall apply to the entire contract unless specifically noted):

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

"Any" -- Means 'any and all' whenever more than one item would be applicable or required to complete the Work of the Project in accordance with the Contract Documents.

"Architect/Engineer (A/E)" -- means the Architect as defined below.

"As indicated", "As Shown," "As Specified" -- Means "as indicated", shown or specified in the Contract Documents.

"The Architect" -- A person registered in the State of Maryland to practice Architecture and commissioned by the University to serve as Architect/Engineer on this project. Should no independent Architect/ Engineer have been appointed, then the Office of Facilities Management of the Baltimore County Campus, University of Maryland, is referred to by the term "Architect/ Engineer." Whenever the contract documents are prepared by a registered Engineer in independent practice, and no Architect is employed, each reference to "Architect/Engineer" refers to the Engineer. If Design/Build project, the term "Architect/Engineer" shall refer to the person registered in the State of Maryland to practice and commissioned by the Design/Build Contractor to serve as Architect/Engineer on this project.

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

"Change Order" -- A written order signed by the responsible procurement officer, directing a contractor to make changes in implementation of the project which the contract authorizes the procurement officer to order with or without the consent of the contractor.

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

"The Contractor" -- The person or organization having direct contractual relation with the University for the execution of the "Work." If the Contractor hereunder is comprised of more than one legal entity, each such entity shall be jointly and severally liable hereunder. The Contractor shall indicate its Federal Tax Identification or Social Security Number following its name on the first page of the Contract.

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

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

"Day" -- Means calendar day unless otherwise designated.

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

"Indicated" -- See "As indicated" above.

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

"Or Equal," "Similar To," or similar expressions -- Means the judgment of "equality" or "acceptability" rests with the University.

"Owner" -- means the University as defined below.

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

"Plans" -- The official drawings approved by the University as part of the contract documents, including those incorporated in the contract documents by reference.

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

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

"Related Sections" -- A phrase in the specifications to direct the reader to find provisions on other work which is directly related to the subject section.

"Repair" -- Where used in these contract documents shall be taken to mean to restore after injury, deterioration, or wear; to mend, to renovate by such means as appropriate and to supply such materials and labor as necessary to render the item to be repaired sound, solid, true, plumb, square, even, smooth and fully serviceable. Upon completion of such repair it must be, unless otherwise stated, rendered to such conditions as to present a first class finished work, or in instances where the repaired item serves as a base

for additional finish, the repaired work must be such as to permit a first class finish, to be applied without extra cost to the University. When the word "repair" is used in connection with machinery or mechanical equipment it shall mean, in addition to the above, rendering the equipment completely serviceable and efficient ready for normal use for which it was intended originally.

"Replace," "Restore." "Renew," "Make Good," "Reconstruct" and similar expressions -- Means to "provide", using new materials, as applicable to the type of work involved.

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

"State" -- Refers to the State of Maryland.

"Subcontractor" -- As employed herein includes only those having a direct contract with the contractor. It includes one who furnishes material worked to a special design according to the plans and specifications for the "Work." It excludes one who merely furnishes material not so worked.

"Supplemental Agreement" -- A written agreement covering added or changed work which is beyond the scope of the Contract and the changes clause. A supplemental agreement becomes a part of the Contract when approved and properly executed by all parties to the Contract.

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

"University" -- Refers to the University of Maryland, a body corporate and an agency of the State of Maryland. In particular, the University refers to the University of Maryland, Baltimore County.

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

"Written Notice" -- Shall be deemed to have been duly served if delivered in person to the individual or to the member of the firm or to an office of the corporation to whom it is intended, or if delivered to or sent by registered mail, to the last business address known to him who gives notice.

1.02 UNIVERSITY'S RESPONSIBILITIES:

A. The University shall furnish base surveys describing the physical characteristics, legal limitations, and utility location for the site of the project, and a legal description of the site.

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

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

D. The State shall not assume any obligation to indemnify, hold harmless, or pay attorney's fees that may arise from or in any way be associated with the performance or operation of this agreement [21.07.03.23]

1.03 CONTRACTOR'S RESPONSIBILITIES: Notwithstanding anything in this Contract to the contrary, the following items are in addition to the Contractor's obligation set forth elsewhere in the Contract.

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

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

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

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

E. Cutting and Patching of Work:

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

(2) The Contractor shall not damage or endanger any portion of the work of the University or any separate Contractors by cutting, patching, or otherwise altering any work or by excavation. The Contractor shall not cut or otherwise alter the work of the University and of such separate Contractor. The Contractor shall not unreasonably withhold from the University or any separate Contractor his consent to cutting or otherwise altering the work.

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

G. Indemnification:

(1) To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the University System of Maryland, the University, the State of Maryland, the Architect/Engineer, and their agents and employees from and against all claims, damages, losses, and expenses, including but not limited to attorney's fees, arising out of or resulting from the performance

of the work, provided that any such claim, damage, or loss or expense: (1) is attributable to bodily injury, sickness, disease, or death personal injury or injury to or destruction of tangible property (other than the work itself) including the loss of use resulting there from, and (2) is caused in whole or in part by any negligent or willful act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this paragraph. This obligation is not intended to be or to imply a waiver of the sovereign immunity of the University or the State.

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

(3) The obligations of the Contractor under this paragraph shall not extend to the liability of the Architect/Engineer, his agents or employees, arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs or specifications, for (2) the giving of or the failure to give directions or instructions by the Architect/Engineer, his agent or employees providing such giving or failure to give is the primary cause of the injury or damage.

SECTION 2: AWARD AND EXECUTION OF CONTRACT:

2.01 AWARD:

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

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

2.02 EXECUTION OF CONTRACT

After a Notice of Award has been issued, the University's Office of Procurement shall forward the formal contract form and other applicable contract forms (i.e., Contract Affidavit, Minority Business Participation, Performance and Payment bonds, etc.) to the Contractor for execution. The Contractor shall execute the Contract form or the Contract Amendment, as applicable, and other applicable forms and return it (them) along with required certificate(s) of insurance to the Office of Procurement within ten (10) days after receipt of same.

After receipt of the properly executed Contract form and other applicable contract forms, the Office of Procurement will execute the Contract and forward the Contractor a copy. In the event that the University fails to execute the Contract within the sixty (60) day period, the Contractor will have, as it's only remedies, the option to declare the Contract terminated

without any liability by the University or the State of Maryland or to accept an extended period for execution by the University.

The Contract shall not be in effect until and unless it is executed by all parties.

2.03 FAILURE TO EXECUTE CONTRACT:

Failure of the Contractor to execute the Contract or the Contract Amendment and file acceptable bonds within the time provided in Section 2.02 and Section 2.04D shall be just cause for the payment of liquidated damage guaranteed by the bid bond or other securities at an amount equal to the increased Contract price paid by the University as a result of the failure of the Contractor to execute the Contract.

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

2.04 PERFORMANCE AND PAYMENT BONDS:

(Required when initial contract exceeds \$100,000.00)

A. The University shall provide to the Contractor for execution copies of the Performance and Payment Bond along with the formal contract. The bonds must be executed and returned to the University as provided in the Contract. The premium for the bonds shall be paid by the Contractor.

B. The bonds shall be in the full amount of the contract price.

C. The Contractor shall increase the amount of the bonds from time to time to reflect increases in the contract price. For such additions, the Contractor will be reimbursed by the University in the amount of the actual increased bond cost.

D. The Contractor shall deliver fully executed 100% Performance and Payment bonds to the University's Office of Procurement within ten (10) working days after the Contract document is sent to the Contractor.

2.05 CERTIFICATIONS REQUIRED BY LAW:

A. Cost and Price Certification:

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

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

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

2. The price under this contract and any change order 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.

3. If the parties are negotiating for a change order which is expected to exceed \$100,000, the Contractor shall truthfully execute a cost and price information certificate on a form provided him by the University; said certificate will provide, in relevant part, that the Contractor's price and cost information is accurate, complete and current as of mutually determined date prior to the change order.

B. Contingent Fee Prohibition:

At the time the parties execute the Contract, if not sooner, the Contractor shall truthfully execute a certificate on a form provided him by the University which provides that he has not employed or paid consideration to any person which is contingent upon the making of the Contract.

C. Corporate Registration and Tax Payment Certification:

At the time the parties execute the Contract, if not sooner, the Contractor, if it is a corporation, shall truthfully execute a certificate on a form provided him by the University which provides that it is a properly registered corporation and that it has paid and will pay all appropriate State taxes prior to final settlement.

2.06 CONTRACT DOCUMENTS;

A. The Contract documents are complementary. That which is called for by any one shall be as binding as if called for by all.

(1) Intent of the documents is to include all work necessary for proper completion of the project ready for continual efficient operation. It is not intended, however, to include any work not reasonably inferable.

(2) Clarification - Whenever he has questions, the Contractor should obtain clarification of all questions which may have arisen as to intent of the contract documents or any actual conflict between two or more items in the Contract documents. Should the Contractor have failed to obtain such clarification, then the University may direct that the work proceed by any method indicated, specified, or required by the contract documents in the interest of maintaining the best practice. Such direction by the University shall not constitute the basis for a claim for extra costs by the Contractor. The Contractor acknowledges that he had the opportunity to request clarification prior to submitting his bid to the University and therefore agrees that he is not entitled to claim extra costs as a result of such clarification.

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

(4) Identification -- The Contract documents shall be signed in duplicate by the University and the Contractor.

B. Drawings -- The Contractor shall do no work without proper drawings and instructions. Drawings are in general drawn to scale and symbols, are used to indicate materials and structural and mechanical requirements. When symbols are used those parts of the drawings are of necessity diagrammatic

and it is not possible to indicate all connections, fittings, fastenings, etc., which are required to be furnished for the proper execution of the work. Diagrammatic indications of piping, ductwork and conduit, and similar items in the work are subject to field adjustment in order to obtain proper grading, fitting passage over, under or past obstructions, to avoid exposure in finished rooms and unsightly and obstructing conditions. The Contractor shall make these adjustments at no increased cost to the University.

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

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

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

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

(5) Typographical and spelling errors in the specifications will be interpreted by the A/E for their meaning and intent.

(6) The following order of precedence shall be used when there is a conflict in the Bidding or Contract Documents. When the order of precedence cannot be used to resolve a conflict, then the more expensive labor, material or equipment shall be provided.

(a) RFP Sections 00100 - 00500

(b) Supplementary Conditions (Section 00800)

(c) General Conditions (Section 00700)

(d) Specifications, Divisions 1 through 16

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

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

(ii) Details in order of scale with largest first

(iii) Figured Dimensions

(iv) Scaled Dimensions

C. Intentionally Omitted

D. Dimensions -- The Contractor shall carefully check all dimensions prior to execution of the particular work affected. Whenever inaccuracies or discrepancies are found, the Contractor shall consult the Architect/Engineer prior to any work. Should any dimensions be missing, the Architect/Engineer will be consulted and supply them prior to execution of the work unless, under the specifications, the Contractor is responsible for determining dimensions. Dimensions for items to be fitted into constructed conditions at the job will be taken at the job and will be the responsibility

of the Contractor. The obvious intent of the documents or obvious intent of the documents or obvious requirement dictated by conditions existing or being constructed supersedes dimensions or notes which may be in conflict therewith. Whenever a stock size manufactured item or piece of equipment is specified by its normal size, it is the responsibility of the Contractor to determine the actual space requirements for setting or entrance to the setting space. No extra will be allowed by reason of work requiring adjustments in order to accommodate the particular item of equipment

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

2.07 SHOP DRAWINGS:

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

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

C. Size of Drawings -- All shop drawings and details submitted to the Architect/Engineer for approval shall be printed on sheets of the same size as the Contract drawings prepared by the Architect/Engineer. When a standard of a fabricator is of such size to printed more than one drawing on a sheet of the size of the Architect/Engineer's drawing, this is acceptable. Sheets larger than the Architect/Engineer's drawing will not be accepted except when specifically permitted by the University. Shop detail supplied on a sheet of letter size 8-1/2" x 11" is acceptable for schedules and small details.

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

E. Copies Required -- Contractor shall supply two (2) copies for the Architect/Engineer's file and two (2) for the University's Office of Facilities Management, in addition to such copies as the Contractor may desire for his own use.

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

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

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

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

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

SECTION 3: SCOPE OF THE WORK

3.01 INTENT OF THE CONTRACT DOCUMENTS;

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

3.02 GENERAL CONDITIONS CONTROLLING:

In event of a conflict between these General Conditions and any other provision of the Contract documents, these General Conditions shall prevail unless such other provision expressly provides to the contrary.

3.03 DIFFERING SITE CONDITIONS:

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

B. No claim of the Contractor under this clause shall be allowed unless the Contractor has given the notice required in paragraph A above provided, however, the time prescribed therefore may be extended by the University.

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

3.04 SITE INVESTIGATION: This provision is in addition to any other provision in the Contract relating to Site Investigation.

The Contractor acknowledges that he has investigated and satisfied himself as to the conditions affecting the work, including but not restricted to those bearing upon transportation, disposal, handling and storage of materials, availability of labor, water, electric power, roads and uncertainties of weather, river stages, tides or similar physical conditions at the site, the conformation and conditions of the ground, the character of equipment, and facilities needed preliminary to and during prosecution of the work. The Contractor further acknowledges that he has satisfied himself as to the character, quality and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site, including all exploratory work done by the University, as well as from information presented by the drawings and specifications made a part of the Contract. Any failure by the Contractor to acquaint himself with the available information may not relieve him from responsibility for estimating properly the difficulty or cost of successfully performing this work. The State assumes no responsibility for any conclusions or interpretations made by the Contractor on the basis of the information made available by the University.

3.05 CONDITIONS AFFECTING THE WORK:

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

3.06 CHANGES IN THE WORK:

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

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

B. Any other written order or oral order (which terms as used in this paragraph B shall include direction, instruction, interpretation, or

determination from the procurement officer which causes any such change) shall be treated as a change order under this clause, provided that the Contractor gives the procurement officer written notice stating the date, circumstances, and source of the order, and that the Contractor regards the order as a change order.

C. Except as herein provided, no order, statement, or conduct of the procurement officer shall be treated as a change under this clause or entitle the Contractor to an equitable adjustment hereunder.

D. If any change under this clause causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work under this Contract, whether or not changed by and any order, an equitable adjustment shall be made and the Contract modified in writing accordingly; provided, however, that except for claims based on defective specifications, no claim for any change under paragraph B above shall be allowed for any costs incurred more than 20 days before the Contractor gives written notice as therein required: provided further, that in the case of defective specifications for which the University is responsible, the equitable adjustment shall include any increased cost reasonable incurred by the Contractor in attempting to comply with such defective specifications.

E. If the Contractor intends to assert a claim for an equitable adjustment under this clause, he shall within 30 days after receipt of a written change order under paragraph A above or the furnishing of written notice under paragraph B above, submit to the procurement officer a written statement setting forth the general nature and monetary extent of such claim unless this period is extended by the University. The statement of claim hereunder may be included in the notice under paragraph B above.

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

G. In order to facilitate review of quotations for extras or credits, all proposals (except those so minor that their propriety can be seen by inspection) shall be accomplished by a complete itemization of costs including labor, materials and Subcontracts. Where major cost items are Subcontracts, they shall also be itemized. In no case will a change involving over \$200.00 be approved without such itemization.

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

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

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

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

additional funds are made available or the scope of the project is adjusted to permit its completion within the project budget.

3.07 UNAUTHORIZED WORK:

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

SECTION 4: CONTROL OF THE WORK:

4.01 AUTHORITY OF THE ARCHITECT/ENGINEER:

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

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

4.02 CONFORMITY WITH CONTRACT REQUIREMENTS:

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

B. In the event the University finds the materials or the finished product in which the materials are used or the work performed are not in complete conformity with the Contract requirements and have resulted in an inferior or unsatisfactory product, the work or materials shall be removed and replaced or otherwise corrected by and at the expenses of the Contractor.

C. In the event the University finds the materials or the finished product in which the materials are used are not in complete conformity with the Contract requirements, but have resulted in a satisfactory product, he shall then make a determination if the work shall be accepted. In this event, the University will document the basis of acceptance by a change order which will provide for an appropriate adjustment in the Contract price.

4.03 ADJACENT WORK:

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

B. Intentionally omitted.

4.04 CONTROL BY THE CONTRACTOR:

A. The Contractor shall constantly maintain efficient supervision of the

work, using his best skill and coordinating ability. He shall carefully study and compare all drawings, specifications, and other instructions and check them against conditions existing, or being constructed on the project. He shall at once report to the University and the Architect/Engineer any error, inconsistency, or omission which he may discover.

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

4.05 COOPERATION WITH UTILITIES:

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

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

Contractor's operations shall be the responsibility of the Contractor.

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

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

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

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

4.06 AUTHORITY AND DUTIES OF UNIVERSITY INSPECTORS:

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

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

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

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

4.07 INSPECTION OF THE WORK:

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

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

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

4.08 REMOVAL OF DEFECTIVE WORK:

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

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

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

4.09 MAINTENANCE OF WORK DURING THE PROJECT:

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

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

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

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

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

4.10 FAILURE TO MAINTAIN ENTIRE PROJECT:

If the Contractor shall at any time, fail to comply with the provisions of paragraph 4.09, the University shall immediately notify the Contractor to comply with the required maintenance provisions. In the event that the Contractor fails to remedy unsatisfactory maintenance within 24 hours after

receipt of such notice, the University will immediately proceed with adequate forces and equipment to maintain the project, and the entire cost of this maintenance will be deducted from monies due the Contractor.

4.11 UNIVERSITY'S RIGHT TO DO WORK:

If the Contractor should neglect to prosecute the work properly or fail to perform any provision of this Contract, the University after three (3) days' written notice to the Contractor may make good such deficiencies and may deduct the cost thereof from the monies then or thereafter due the Contractor.

4.12 AUTHORITY OF OFFICE OF ENVIRONMENTAL HEALTH AND SAFETY

A. The University of Maryland, Baltimore County's Office of Environmental Safety & Health ("ESH") is responsible for promoting a safe and healthful work environment for the project and for assuring compliance with Federal and State environmental protection regulations and University safety and health practices. In carrying out these responsibilities, ESH shall be authorized to inspect the project, all work done and being done, and all material to be furnished and being furnished. In the event that EHS uncovers an unsafe condition, ESH is authorized to suspend work (after notice to the Procurement Officer) until the unsafe condition is cured by the Contractor. The "unsafe condition" shall mean any practice that represents a significant risk of injury or health hazard to University employees, a significant adverse environmental impact or a physical hazard which could result in damage to University property and/or the public. The authority of ESH is in addition to any other rights of the University set forth herein.

B. Prior to the Contractor proceeding with the Work, he is to submit proof of a Confined Space Program to The University's Office of Environmental Safety & Health for verification.

4.13 IDENTIFICATION:

A. The Contractor is responsible for issuing ID badges for their own employees and sub-contractors (their company ID—not UMBC) and monitoring their whereabouts and work progress at all times.

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

C. The Contractor shall require all trade contractors' personnel to wear identification badges at all times on campus.

4.14 NOISE CONTROL:

A. The Contractor shall execute the Work in this Contract as quietly as practicable to avoid unnecessary disturbances. Use of portable radios or tape recorders will not be allowed on the premises other than two-way communication radios.

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

4.15 PARKING:

Parking of employees of the Contractor and/or subcontractor(s) is the responsibility of the applicable Contractor and/or subcontractor. The University's Parking Office may be contacted as to designated public parking facilities on campus with any costs thereof to be borne by the Contractor or subcontractor, dependent on whose employees utilize such public parking. (See Section 00400, Article 2, #9 for further details.)

4.16 DRIVING RULES AND REGULATIONS:

A. In addition to requirements stated below, Maryland State Motor Vehicle Laws apply to and are enforceable on UMBC campus.

B. Safety: Drivers shall have their vehicles under control at all times. Vehicles shall not be operated in a manner that endangers the life or safety of the driver, passengers, or pedestrians.

1. Exercise caution and be alert for pedestrians and bicyclists. Yield right-of-way as required by state law and as required to maintain a safe environment for the campus community.

2. Drive responsibly; practice defensive driving by anticipating situations and conditions that could be hazardous. Be alert for vehicles backing out of parking spaces into traffic.

C. Vehicle operators shall obey lawful directions of university police officers.

D. Driving Areas: Vehicles shall be driven only on paved roads and parking areas intended for that purpose. Driving is not permitted on sidewalks, walkways, lawns, vegetated areas, or similar spaces, unless directed to do so by a university police officer, or otherwise approved in writing.

E. In the event that vehicle access beyond Driving Areas is unavoidable, Contractor shall request permission in writing and shall provide details including purpose, proposed route, and duration.

1. Owner will consider Contractor requests for vehicle access beyond Driving Areas on a case-by-case basis.

2. Site construction areas will be handled on a case-by-case basis to comply with the indicated limit of disturbance.

F. Identification and insurance: Operators of motor vehicles shall have in their possession a valid operator's license and proof of Insurance. Vehicles shall display a valid, up-to-date license plate (vehicle tag) in plain view.

SECTION 5: MATERIALS:

5.01 GENERAL:

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

B. Materials include all manufactured products and processed and unprocessed natural substances required for completion of the Contract. The Contractor, in accepting the Contract, is assumed to be thoroughly familiar with the materials required and their limitations as to use, and requirements for connection, setting, maintenance, and operation. Whenever an article, material, or equipment is specified and a fastening, furring, connection (including utility connections), access hole, flashing closure piece, bed, or accessory is normally considered essential to its installation in good

quality construction, such shall be included as if fully specified. Nothing in these specifications shall be interpreted as authorizing any work in any manner contrary to applicable laws, codes, or regulations.

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

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

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

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

G. Proof of Quality -- The Contractor shall, if requested, furnish satisfactory evidence as to the kind and quality of materials either before or after installation. He shall pay for any tests or inspections called for in the specifications and such tests as may be deemed necessary for "substitutions," as set forth in paragraph 5.03 of these General Conditions.

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

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

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

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

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

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

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

5.02 STORAGE AND HANDLING OF MATERIALS:

A. Materials shall be so stored as to assure the preservation of their quality and acceptability for the work. Stored materials, even though approved before storage, may again be inspected prior to their use in the work. Stored materials shall be located so as to facilitate their prompt inspection. Approved portions of the project site may be used for storage purposes and for the placing of the Contractor's plant and equipment. Such storage areas must be restored to their original condition by the Contractor at his expense.

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

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

D. Explosives:

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

(2) Should the Contractor desire to use explosives on any projection University property he shall first receive written approval of the Chancellor. The approval will stipulate time, place, and quantity to be used and manner of use.

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

E. Paints

(1) Oil base paints and inflammable liquids shall not be stored in large quantities on the project. Containers shall be limited to five (5) gallon size. Any liquid with a flash of point of less than one hundred (100) shall be contained in safety cans, UL approved. Liquid with a higher flash point shall be stored in rigid cans. Glass containers shall not be used.

(2) Oily rags, waste, etc., must be removed from the work site at the close of each working day.

5.03 SUBSTITUTION:

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

B. Contractor shall not submit for approval materials other than those specified without a written statement that such a substitution is proposed. Approval of a "substitute material" by Architect/Engineer when the Contractor has not designated such material as a "substitute", shall not be binding on the University, or release Contractor from any obligations of his Contract, unless the University approves such "substitution" in writing.

C. A material which is an approved equal (see #5.04) is not a substitution

under this clause 5.03.

5.04 APPROVED EQUALS:

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

5.05 CONTRACTOR'S OPTIONS:

When several products or manufacturers are named in the specifications for the same purpose of use, then the Contractor may select any of those so named. However, all of the units required for, and used in, the project must be the same in material and manufacture.

5.06 TESTS:

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

B. The University reserves the right to require special inspection, testing or approval which the Contract documents do not include, and instruct the Contractor to order such special inspection, testing, approval, and the Contractor shall give notice as provided in 5.06 A above. If such special inspection or testing reveals a failure of the work to comply with the requirements of the Contract documents, the Contractor shall bear all costs thereof, including compensation for the Architect/Engineer's additional services made necessary by such failure; otherwise the University shall bear such costs and an equitable adjustment will be made.

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

5.07 BUY AMERICAN STEEL:

Only steel products made in the United States shall be used or supplied in the performance of the Contract or may subcontract there under. Steel products include products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated, or otherwise similarly processed from steel made in the United States. This requirement shall not apply if the Chancellor shall have determined that the cost of such steel products is unreasonable or inconsistent with the public interest. The provisions of this paragraph shall not apply where they are in conflict with any Federal grant or regulation affecting this Contract.

5.08 SALES TAX:

Supplies and materials purchased in connection with University Maintenance Project Contracts are not tax exempt.

5.09 HAZARDOUS MATERIALS:

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

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

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

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

SETTING 6: LEGAL RELATIONS AND RESPONSIBILITIES:

6.01 LAWS TO BE OBSERVED:

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

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

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

D. The Contractor shall give all notices and comply with all State and Federal laws, ordinances, rules, and regulations bearing on the conduct of the work as drawn and specified.

E. If the Contractor observes that the drawings and specifications are at variance with any law, he shall promptly notify the Architect/Engineer, and any necessary changes shall be adjusted as provided in the Contract for changes in the work. If the Contractor performs any work knowing it to be contrary to such laws, ordinances, rules, and regulations, and without such notice to the Architect/Engineer, he shall bear all costs arising there from.

6.02 PERMITS AND LICENSES:

A. The University will file with the appropriate local authority drawings and specifications and any pertinent data reasonably proper for their information. No permits are applicable for work on University property with the exception of (i) any permits required in the specifications as noted in 6.02, C. below and (ii) Cutting & Welding permit noted in 6.02, D. below.

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

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

D. Before any welding, burning, pipe sweating or brazing is started a CUTTING & WELDING PERMIT must be obtained from The University's Office of Environmental Safety & Health (ESH). This permit must be requested from ESH at least 48 hours prior to the anticipated hot work. The cardboard portion of the permit shall be secured to either the cutting or welding equipment. At the end of the requested time, the cardboard portion of the permit must be returned to ESH.

6.03 PATENTED DEVICES, MATERIALS, AND PROCESSES:

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

6.04 LAND, AIR, AND WATER POLLUTION:

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

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

C. In case of failure on the part of the Contractor to control erosion, pollution, and/or siltation, the University's Office of Facilities Management reserves the right to employ outside assistance or to use its own forces to provide the necessary corrective measures. All expenses incurred by the University's Office of Facilities Management in the performance of such

duties for the Contractor shall be withheld from monies due to the Contractor.

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

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

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

6.05 CONTRACTOR'S LIABILITY INSURANCE:

A. From and after the execution of the Contract by the Contractor in connection solely with Worker's or Workmen's Compensation Insurance and from and after the execution of the Contract Amendment by the Contractor in connection with all insurance enumerated in this Section 6.05A below, the Contractor shall purchase and maintain insurance required by this paragraph 6.05A. applicable to all claims which may arise out of or result from the Contractor's operations under the Contract, whether such operations be by the Contractor, by any subcontractor, by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. All insurance except Workmen's Compensation shall name the University of Maryland and the State of Maryland as an additional insured.

(1) Worker's or Workmen's Compensation Insurance.

(2) Employer's Liability Insurance.

(3) Comprehensive General Liability Insurance for bodily injury and property damage, including loss of use of property, arising out of any occurrence

This insurance should include the following extensions:

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

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

(c) Contractual liability insurance to cover the Contractor's obligation to

the University and the State of Maryland under paragraph 1.03 H.

(d) Broad form property damage (including completed operations);

(e) Independent contractor's coverage.

(f) "X", "C", and "U" coverage applying to explosion, collapse of other structures and underground foundations;

(g) If the work involves containment or removal of asbestos, pollution liability (environmental protection liability) coverage.

(4) Business automobile liability insurance which will pay for liabilities arising out of accidents involving the ownership, operation, maintenance or use including the loading or unloading of any automobile.

(5) Umbrella excess liability

B. The coverage listed in paragraph 6.05 A shall be written for not less than the following limits of liability.

(1) Worker's Compensation Insurance - - statutory requirements.

(2) Employer's liability insurance - - \$2,000,000 each accidental injury or disease and \$5,000,000 aggregate.

(3) Comprehensive general liability insurance (\$2,000,000) including all extensions - - limit required by umbrella excess liability coverage.

(4) Business automobile liability - - limit required by umbrella excess liability coverage.

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

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

D. Insurance certificates will be accepted only from an insurer having a minimum Best's rating of Class A for the policyholders' rating and Class IX for the financial rating. Insurers must be authorized to do business under the laws of the State of Maryland.

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

6.06 BUILDER'S RISK INSURANCE:

A. From and after the execution by Contractor of the contract, the GMP, the Contractor shall purchase and maintain builder's risk insurance naming as

additional insured the University of Maryland, the State of Maryland, the Contractor, any subcontractor, or anyone directly or indirectly employed by any of them. The University and State shall be loss payees as their interests may appear.

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

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

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

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

F. Satisfactory proof of purchase of required insurance shall be furnished to the University prior to execution of the Contract. The certificate must be amended to indicate that the certificate holder and all insured will receive ninety (90) days prior written notice of cancellation or non-renewal of the policy.

G. Certificates of insurance shall be submitted to the procurement officer for review and approval and shall be held by him for the duration of the Contract. The University shall have the absolute right to terminate the Contract if the policy of insurance is canceled at any time for any reason and a new policy effective immediately thereafter is not obtained by the Contractor and approved by the procurement officer. This paragraph G. applies to insurance required under Section 6.05 and 6.06.

6.07 ASSIGNMENTS:

The Contractor shall not assign the Contract. The Contractor shall not assign monies due or to become due to him hereunder.

6.08 SEPARATE CONTRACTS:

A. The University reserves the right to let other contracts in connection with this work. Contractor shall afford other contractors reasonable opportunity for the introduction and storage of their materials and the

execution of their work, and shall properly connect and coordinate his work with theirs.

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

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

6.09 PAYMENT OF SUBCONTRACTORS:

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

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

C. Prompt **Payment of Subcontractors:** This contract is subject to the provisions of COMAR 21.10.08. The contractor shall promptly pay a subcontractor any undisputed amount to which the subcontractor is entitled for work under a State procurement contract within 10 days of receiving a progress or final payment from the State. In the event the contractor fails to pay promptly, subcontractors may request remedy in accordance with COMAR 21.10.08. In each subcontract under this contract, the contractor shall include a clause that contains substantially the same provisions as this clause.

6.10 RELATIONSHIP OF CONTRACTOR TO PUBLIC OFFICIAL AND EMPLOYEES:

A. In carrying out any of the provisions of the Contract, or in exercising any power or authority granted to them by or within the scope of the Contract, there shall be no liability upon the procurement officer or other authorized representatives of the University, it being understood that in all such matters they act solely as agents and representatives of the University.

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

in any competent court.

C. In the event this Contract is terminated as provided in paragraph B hereof, the University shall be entitled (1) to pursue the same remedies against the Contractor as it could pursue in the event of a breach of the Contract by the Contractor, and (2) in addition to any other damages to which it may be entitled by law, to exemplary damages in an amount (as determined by the procurement officer) which shall be not less than three(3) nor more than ten times the costs incurred by the Contractor in providing any such gratuities to any such officer or employee.

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

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

6.11 NO WAIVER OF LEGAL RIGHTS:

A. The University and the State of Maryland shall not be precluded or estopped by any measurement, estimate, or certificate made either before or after the completion and acceptance of the work and payment therefore, from showing the true amount and character of the work performed and materials furnished by the Contractor, or from showing that any such measurement, estimate or certificate is untrue or is incorrectly made, for from showing that the work or materials do not in fact conform to the requirements of the Contractor. The University and the State of Maryland shall not be precluded or estopped, notwithstanding any such measurement, estimate, or certificate, and payment from recovering from the Contractor or his sureties, or both, such damage as the University may sustain by reason of the Contractor's failure to comply with the terms of the Contract. Neither the acceptance by the University or any representative of the University shall operate as a waiver of any portion of the Contractor or of any power herein or of any right to damages.

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

6.12 COVENANT AGAINST CONTINGENT FEES:

The Contractor warrants that it has not employed or retained any person, partnership, corporation or other entity other than a bona fide employee or agent working for the Contractor to solicit or secure this Contract, and that it has not paid or agreed to pay any person, partnership, corporation, or other entity other than a bona fide employee or agent, any fees or any other consideration contingent on the making of this agreement.

6.13 ASSIGNMENT OF ANTITRUST CLAIMS:

The Contractor sells, transfers, and assigns to the University and the State of Maryland all right, title, and interest of and in to any cause of action arising at any time before the date of this assignment or during the performance of this Contract under the Antitrust Laws of the United States,

including Section 1 of the Sherman Act and the Antitrust Law of Maryland relating to the purchase by him or the University and the State of Maryland of any products from any supplier or source whatever that is incorporated in the structure built under the terms of this agreement. The Contractor hereby certified that the above causes of action are lawfully owned and that no previous assignment of same has been made nor has the same heretofore been attached or pledged in any manner whatsoever.

6.14 FEDERAL PARTICIPATION:

If the United States Government pays all or any portion of the cost of a project, the work under this Contract shall be subject to inspection by the appropriate federal agency. Such inspection shall in no sense make the federal government a party to this Contract and will not interfere in any way with the rights of either party hereunder.

6.15 DISPUTES:

A. This Contract is subject to the provisions of Title 7, Article 21 (Administrative and Civil Remedies) of the Code (the "Act") and COMAR 21.10. As noted therein, that unless a lesser period is provided by applicable statute, regulation, or by this Contract, the Contractor shall file a written notice of a claim relating to the Contract with the procurement officer within thirty (30) days after the basis for the claim is known or should have been known, whichever is earlier. Contemporaneously with, or within thirty (30) days after, the filing of a notice of claim, contractor shall submit the written claim to the procurement officer. If contractor so requests, the procurement officer, on conditions the procurement officer deems satisfactory to the unit, may extend the time in which contractor must submit claim. An example of when a procurement officer may grant an extension includes situations in which the procurement officer finds that contemporaneous or timely cost quantification following the filing of the notice of claim is impossible or impractical.

B. Except as may otherwise be provided in the Act or COMAR, all disputes arising under or as a result of a breach of this Contract which are not disposed of by mutual agreement shall be resolved in accordance with this Section 6.15.

C. As used herein, "claim" means a written demand or assertion by one of the parties seeking, as a legal right, the payment of money, adjustment or interpretation of Contract terms or other relief arising under or relating to this Contract.

(1) A voucher, invoice, or request for payment that is not in dispute when submitted is not a claim under this clause. However, where the submission subsequently is not acted upon in a reasonable time or disputed as to liability or amount, it may be converted to a claim for the purpose of this clause.

(2) A claim by the Contractor shall be made in writing and submitted to the procurement officer for decision. A claim by the State shall be the subject of a decision by the procurement officer in consultation with the Office of the Attorney General.

D. When a controversy cannot be resolved by mutual agreement, the Contractor shall submit a written request for final decision to the procurement officer. The written request shall set forth all the facts surrounding the

controversy.

E. In connection with any claim under this clause, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of his claim to the procurement officer.

F. The procurement officer shall render a written decision on all claims within 180 days of receipt of the Contractor's written claim; unless the procurement officer determines that a longer period is necessary to resolve the claim. This decision shall be furnished to the Contractor, by certified mail, return receipt requested, or by any other method that provided evidence of receipt. The procurement officer's decision shall be deemed the final action of the University. If a decision is not issued within 180 days, the procurement officer shall notify the Contractor of the time within which such a decision shall be rendered and the reasons for such time extension.

G. The procurement officer's decision shall be final and conclusive unless the Contractor files a written appeal with the Maryland State Board of Appeals within thirty (30) days of receipt of said decision.

H. Pending resolution of a claim, the Contractor shall proceed diligently with the performance of the Contract in accordance with the procurement officer's decision.

I. The final decision may award a contract claim only for those expenses incurred not more than thirty (30) days before contractor was initially required to have files the notice of claim or sixty (60) days before contractor was required to have filed the claim initially, even if the procurement officer extends the time in which contractor must submit the claim.

6.16 CLAIMS:

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

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

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

D. No claim for extra costs will be granted which includes cost of delays or work stoppage due to strikes, lockouts, fire, unusually severe weather, avoidable casualties, or damage or delay in transportation for which the University is not responsible; only time extensions in accordance with Section VII. 7.03 will be granted.

E. The Contractor and the University agrees that no prejudgment or

postjudgement interest on any claims asserted by either party will be allowed.

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

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

6.17 VARIATIONS IN ESTIMATED QUANTITIES:

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

6.18 PRE-EXISTING REGULATIONS:

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

6.19 FINANCIAL DISCLOSURE:

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

6.20 POLITICAL CONTRIBUTION DISCLOSURE:

The Contractor shall comply with the provision of Article 33, Section 30-1 through 30-4 of the Annotated Code of Maryland, which requires that every person that enters into contracts, leases or other agreements with the State of Maryland, including its agencies or a political subdivision of the State during a calendar year under which the person receives in the aggregate \$10,000 or more, shall on or before February 1, of the following year, file with the Secretary of State of Maryland certain specified information to

include disclosure of political contribution in excess of \$100 to a candidate for elective office in any primary or general election.

6.21 COMPLIANCE WITH LAWS:

The Contractor hereby represents and warrants that:

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

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

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

6.22 RECIPROCITY:

In accordance with COMAR, State Finance and Procurement regulations 14-401, any bid/proposal from a contractor whose principal office is outside of the State of Maryland is subject to reciprocity. Any form of preference the other state gives to its residents will in turn be applicable to that bidder by the State of Maryland. All nonresident bidders/proposers are required to submit a copy of the current statute, resolution, policy, procedure or executive order of the bidder/proposer's resident state that pertains to that state's treatment of nonresident bidders/proposers. In the event a non-Maryland bidder is the awarded Contractor, prior to the award, the non-resident Contractor must agree, in writing, to meet any and all applicable preferences its state gives to its residents.

SECTION 7: PROSECUTION AND PROGRESS OF THE WORK:

7.01 NOTICE TO PROCEED:

A. After the Contract has been executed, the University will issue to the Contractor a "Notice to Proceed" and this notice will stipulate the date on or before which the Contractor is expected to begin work. The specified Contract time shall begin on the day stipulated in the "Notice to Proceed". Any preliminary work started or materials ordered before receipt of the "Notice to Proceed", shall be at risk of the Contractor.

B. Intentionally omitted.

7.02 **PROJECT SIGNS:** Intentionally omitted.

7.03 PROSECUTION OF THE WORK:

A. Time is an essential element of the Contract and all time limits in the Contract documents are of the essence of the Contract. Contractor shall prosecute the work and its obligations under the contract vigorously until full completion.

B. The date of commencement of work is the date established in a Notice to Proceed authorized by the procurement officer, however time limits shall

commence pursuant to Section 7.01.

C. If the Contractor is delayed at any time in the progress of the work by any act or omission of the University or any of its officers, agents, or employees or by any separate Contractor employed by the University, or by any changes ordered in the work, or by labor disputes, fire, unusual delay in transportation, unavoidable casualties, or by a cause which the procurement officer determines may justify any delay, then the Contract time will be extended for such time as the procurement officer may authorize.

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

7.04 PUBLIC CONVENIENCE AND SAFETY:

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

7.05 BARRICADES AND WARNING SIGNS:

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

B. The Contractor shall erect warning signs in advance of any place on the project where operations may interfere with the use of the facility by vehicular or pedestrian traffic, and at all other points where the new work crosses or coincides with an existing roadway or traffic lane(s). Such warning signs shall be constructed and erected in accordance with the FHWA Manual on Uniform Traffic Control Devices or as directed.

C. In cases where the Contractor's sequence of operations results in grade differentials which would be hazardous to vehicular or pedestrian traffic,

the Contractor will, at the direction of the University's Office of Facilities Management and at no additional cost to the University, provide suitable substantial guardrail to the extent determined by that office.

7.06 PRESERVATION, PROTECTION, AND RESTORATION OF PROPERTY:

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

B. The Contractor shall box all trees along the way of access, also all trees surrounding the work which are liable to injury by the moving, storing, and working up of materials. He shall use no tree for attachment of any ropes or derricks.

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

D. In any emergency affecting the safety of life or the work or of the adjoining property, the Contractor without special instruction or authorization is hereby permitted to act, at his discretion, to prevent such threatened loss or injury. If he is specifically instructed by the University's Office of Facilities Management to do work in an emergency, the Contractor shall do the work and will be paid compensation as outlined in Section 3.06.

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

7.07 PROGRESS SCHEDULE AND TIME:

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

1. Assure adequate planning, scheduling and reporting during execution of the Contract;

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

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

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

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

C. The CPM schedule diagram shall include, but not necessarily be limited to, the following:

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

2. Activities should be linked between major area separations of the project so that the individual areas do not imply complete independence. The critical path should run through all major areas, since the entire project must be completed.

3. Conformance with and identification of the Specific Dates specified in the Contract Documents.

4. The description of work by activity.

5. Delivery of Owner-furnished material and equipment, if any.

6. Shop fabrication and delivery.

7. Critical Path (or Paths).

8. Testing of equipment and materials.

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

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

E. If the Contractor's schedule shows the University or a separate contractor is to complete an activity by a specific date, or within a certain duration, the University or separate contractor under contract with the University shall not be bound to said date or duration unless the University's Project Manager specifically agrees in writing to the same.

F. It is to be expressly understood and agreed by the Contractor that the project schedule is a working document to be revised from time to time as progress proceeds; however, the Contractor is responsible for completing the Work within the time frame noted in the Contract. The Contractor agrees that updating the schedule is a key component and will make every reasonable effort to provide current information to the University. Throughout the

progress of the Work, the Contractor shall prepare and maintain a two week manual bar chart field schedule reflecting the schedule of work activities accomplished for the previous week and the work scheduled for the forthcoming two weeks. This manual field schedule shall be updated weekly and review and the regularly scheduled progress meetings.

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

H. The time frame(s) for this project are as described in Section 00400 Scope of Work and work shall commence as set forth in Section VII 7.01.

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

7.08 PROGRESS PHOTOGRAPHS: This clause is only applicable if the maintenance project exceeds \$500K.

The Contractor shall submit photographs monthly to the University's Office of Facilities Management, taken on or about the first of each month showing the status of the work. Only one print of each negative is necessary but the negatives should be sufficient in number to properly record the work. The Contractor shall photograph all disputed items of the work.

7.09 SUSPENSION OF THE WORK:

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

B. If the performance of all or any part of the work is suspended, delayed, or interrupted for an unreasonable period of time by an act of the procurement officer in the administration of the Contract, or by his failure to act within the time specified in this Contract (or if no time is specified, within a reasonable time), an adjustment shall be made for any increase in the cost of performance of this Contract (excluding profit) necessarily caused by an unreasonable suspension, delay, or interruption, and the Contract modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent (1) that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Contractor or (2) for which an equitable adjustment is provided for or excluded under any other provision of this Contract.

C. No claim under this clause shall be allowed (1) for any costs incurred more than 20 days before the Contractor shall have notified the procurement officer in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from a suspension order), and (2) unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of a suspension, delay, or interruption, but not later than the date of final payment under the Contract.

7.10 CONTRACTOR'S RIGHT TO STOP WORK OR TERMINATE CONTRACT:

If the work should be stopped under an order of any court, or other public

authority, for a period of three (3) months, through no act or fault of the Contractor, or of anyone employed by him, or if the University should fail to issue any certificate for payment within seven (7) days after it is due, then the Contractor may, upon seven (7) days' written notice to the University's Office of Facilities Management, stop work or terminate this Contract and receive from the University payment of all complete work in accordance with Section 7.11 of these General Conditions.

7.11 UNIVERSITY'S RIGHT TO TERMINATE FOR ITS CONVENIENCE:

A. The performance of work under this Contract may be terminated by the University in accordance with this clause in whole or in part from time to time, whenever the procurement officer shall determine that such termination is in the best interest of the University or the State. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which performance of work under the Contract is terminated and the date upon which such termination becomes effective.

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

(1) Stop work under the Contract on the date and to the extent specified in the Notice of Termination;

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

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

(4) Assign to the University in the manner, at the times, and to the extent directed by the procurement officer, all of the right, title, and interest of the Contractor under the orders and subcontractor so terminated, in which case the University shall have the right, in its direction, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;

(5) Settle all outstanding liabilities and all claims arising out of such terminations or orders and subcontracts, with the approval or ratification of the procurement officer to the extent he may require, which approval or ratification shall be final for all the purpose of this clause;

(6) Transfer title and deliver to the University in the manner, at the times, and to the extent, if any directed by the procurement officer, (a) the fabricated or unfabricated parts, work in process, completed work, supplies, and (b) other material produced as a part of, or acquired in connection with the performance of, the work terminated by the Notice of Termination, and other property which, if the Contract had been completed, would have been required to be furnished to the University.

(7) Use its best efforts to sell, in the manner, at the times, to the extent, and at the price or prices directed or authorized by the procurement officer, any property of the types referred to in (6) above; provided, however, that the Contractor (a) shall not be required to extend credit to any purchaser, and (b) may acquire any such property under the conditions prescribed by and at a price or prices approved by the procurement officer; and provided further that the proceeds of any such transfer or disposition

shall be applied in reduction of any payments to be made by the University to the Contractor under this Contract or shall otherwise be credited to the price or cost of the work covered by this Contract or paid in such other manner as the procurement officer may direct;

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

(8) Complete performance of such part of the work as shall not have been terminated by the Notice of Termination; and,

(9) Take any action that may be necessary, or as the procurement officer may direct, for the protection and preservation of the property related to this contract which is in the possession of the Contractor and in which the State has or may acquire an interest.

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

D. Subject to the provisions of paragraph C, the Contractor and the procurement officer may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the total or partial termination of work pursuant to this clause, which amount or amounts may include a reasonable allowance for profit on work done; provided that such agreed amount or amounts, exclusive of settlement costs, shall not exceed the total Contract price as reduced by the amount of payments otherwise made and as further reduced by the Contract price of work not terminated. The Contract shall be amended accordingly and the Contractor shall be paid the agreed amount. Nothing in paragraph E. of this clause, prescribing the amount to be paid to the Contractor in the event of failure of the Contractor and the procurement officer to agree upon the whole amount to be paid to the Contractor by reason of the termination of work pursuant to this clause, shall be deemed to limit, restrict, or otherwise determine or affect the amount or amounts which may be agreed upon to be paid to the Contractor pursuant to this paragraph.

E. In the event of the failure of the Contractor and the procurement officer to agree, as provided in paragraph D., upon the whole amount to be paid to the Contractor by reason of the termination of work pursuant to this clause, the procurement officer shall pay the Contractor the amounts determined by the procurement officer as follows, but without duplication of any amounts agreed upon in accordance with paragraph D:

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

(a) The cost of the work;

(b) The cost of settling and paying claim arising out of the termination of work under subcontracts or orders as provided in paragraph B (5) above, exclusive of the amounts paid or payable on account of supplies or materials delivered or services furnished by the subcontractor before the effective date of the Notice of Termination of work under this Contract, which amounts shall be included in the cost on account of which payment is made under (a) above; and

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

(2) The reasonable cost of the preservation and protection of property incurred pursuant to paragraph B (9) and any other reasonable cost incidental to termination of work under this Contract, including expense incidental to the determination of the amount due to the Contractor as the result of the termination of work under this Contract.

The total sum to be paid to the Contractor under

(1) above shall not exceed the total contract price as reduced by the amount of payments otherwise made and as further reduced by the Contract price of work not terminated.

Except for normal spoilage and except to the extent that the University shall have otherwise expressly assumed the risk of loss, there shall be excluded from the amounts payable to the Contractor under (1) above, the fair value, as determined by the procurement officer, of property which is destroyed, lost, stolen, or damaged so as to be undeliverable to the University, or to a buyer pursuant to paragraph B (7).

F. Costs, claimed, agreed to, or determined pursuant to C, D, E, and I hereof shall be in accordance with COMAR 21.09 as in effect on the date of the Contract.

G. The Contractor shall have the right of appeal, under the clause of this Contract entitled "Disputes," from any determination made by the procurement officer under paragraph C, E, or I hereof, except that if the Contractor has failed to submit his claim within the time provided in paragraph C or I thereof, and has failed to request extension of such time, he shall have no such right of appeal. In any case where the procurement officer has made a determination of the amount due under paragraph C, E, or I hereof, the University shall pay to the Contractor the following: (i) if there is no right of appeal hereunder or if no timely appeal has been taken, the amount

so determined by the procurement officer, or (ii) if an appeal has been taken, the amount finally determined on such appeal.

H. In arriving at the amount due the Contractor under this clause there shall be deducted (i) all unliquidated advances or other payments or account theretofore made to the Contractor, applicable to the terminated portion of the Contract, (ii) any claim which the University may have against the Contractor in connection with this Contract; and (iii) the agreed price for, or the proceeds of sale of any materials, supplies, or other things acquired by the Contractor or sold, pursuant to the provisions of this clause, and not otherwise recovered by or credited to the University.

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

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

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

7.12 TERMINATION FOR DEFAULT -- DAMAGES FOR DELAY --TIME EXTENSIONS:

A. If the Contractor refuses or fails to prosecute the work or any separable part thereof, with such diligence as shall insure its completion within the time specified in this Contract or any extension thereof or fails to complete said work within this time, the University may, by written notice to the Contractor, terminate his right to proceed with the work or the part of the work as to which there has been delay. In this event, the University may take over the work and prosecute the same to completion, by Contract or otherwise, and may take possession of and utilize in completing the work, the materials,

appliances, and plant as may be on the site of the work and necessary therefore. Whether or not the Contractor's right to proceed with the work is terminated, he and his sureties shall be liable for any damage to the University resulting from his refusal or failure to complete the work within the specified time.

B. If fixed and agreed liquidated damages are provided in the Contract and if the University so terminates the Contractor's right to proceed, the resulting damage shall consist of such liquidated damages until a reasonable time as may be required for final completion of the work together with any increased costs occasioned for the University in completing the work.

C. If fixed and agreed liquidated damages are provided in the Contract and if the University so terminates the Contractor's right to proceed, the resulting damage shall consist of these liquidated damages until the work is completed or accepted.

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

(1) The delay in the completion of the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including, but not restricted to, acts of God, acts of the public enemy, acts of the University or State in either their sovereign or contractual capacity, acts of another contractor in the performance of a Contract with the University, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather, or delays of subcontractor or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of both the Contractor and the subcontractor or suppliers; and

(2) The Contractor, within 10 days from the beginning of any such delay (unless the procurement officer grants a further period of time before the date of final payment under the Contract), notifies the procurement officer in writing of the causes of delay. The procurement officer shall ascertain the facts and the extent of the delay and extend the time for completing the work when, in his judgment, the findings of fact justify such an extension, and his findings of fact shall be final and conclusive on the parties, subject only to appeal as provided in the "Disputes" clause of this Contract.

E. If, after notice of termination of the Contractor's right to proceed under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provision of this clause, or that the delay was excusable under the provisions of this clause, the rights and obligations of the parties shall, if the Contract contains a clause providing for termination for convenience of the University, be the same as if the notice of termination had been issued pursuant to that clause. If, in the foregoing circumstances, this Contract does not contain a clause providing for termination for convenience of the State, the Contract shall be equitably adjusted to compensate for the termination and the Contract modified accordingly; failure to agree to any such adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this Contract entitled "Disputes."

F. The rights and remedies of the University provided in this clause are in addition to any other rights and remedies provided by law or under this Contract.

G. As used in paragraph D (1) of this clause, the term subcontractors or suppliers" means subcontractors or suppliers at any tier.

7.13 PARTIAL ACCEPTANCE:

A. If during the construction of work the University desires to occupy any portion of the project, the University shall have the right to occupy and use those portions of the project which in the opinion of the procurement officer can be used for their intended purposes; provided that the conditions of occupancy and use are established and the responsibilities of the Contractor and the University for maintenance, heat, light, utilities, and insurance are mutually agreed to by the Contractor and the University.

B. Partial occupancy shall in no way relieve the Contractor of his responsibilities under the Contract.

7.14 FAILURE TO COMPLETE ON TIME/LIQUIDATED DAMAGES:

A. This Section #7.14 is in addition to provisions concerning liquidated damages set forth elsewhere in the Contract.

B. For each day that any work shall remain uncompleted beyond the time(s) specified elsewhere in the Contract, the Contractor shall be liable for liquidated damages in the amount of \$1,000.00 per day provided, however, that due account shall be taken of any adjustment of specified completion time(s) for completion of work as granted by approved change orders.

C. The University shall have the right to deduct, retain offset and recoup out of the monies due to or become due to the Contractor hereunder the amount of damages, and in case the amounts due the Contractor are less than the amount of such damages, the Contractor shall be liable to the University for the difference.

7.15 SUBSTANTIAL COMPLETION AND FINAL INSPECTION:

A. When the work is substantially completed, the Contractor shall notify the University and the Architect/Engineer that the work will be ready for the final inspection and test on a definite date. Sufficient notice shall be given to permit the Architect/Engineer and the University to schedule the final inspection.

B. On the basis of the inspection, if the Architect/Engineer and the University determine that the work is substantially complete and the project can be occupied or used for its intended purpose, the University shall establish the date of substantial completion and shall state the responsibilities of the University and the Contractor for maintenance, heat, utilities, and insurance, and shall fix the time for which the guarantee will begin.

C. The University shall fix the time within which the Contractor shall complete any remaining items of work which may be indicated on a list prepared by the Architect/Engineer and the University. If the Contractor fails to complete the remaining items so listed in the time stipulated the University shall have the undisputed right to complete the work and deduct any cost incurred from any monies retained under the Contract.

D. Final payment shall not be made until all Contract work is complete to the

satisfaction of the University's Office of Facilities Management.

7.16 CLEANING-UP:

The Contractor shall at all times keep the construction area, including storage areas used by him, free from accumulation of waste materials or rubbish and prior to completion of work, shall remove from the premises any rubbish and all tools, scaffolding, equipment, and materials, not the property of the University. Upon completion of the project, the Contractor shall leave the work and premises in a clean, neat, and workmanlike condition satisfactory to the University's Office of Facilities Management.

7.17 GUARANTEES:

The Contractor guarantees and warranties for a two (2) year period (unless another period is specified which shall not be less than two (2) years), commencing on the date of substantial completion as established by the University.

A. That the work contains no faulty or imperfect material or equipment or any imperfect, careless, or unskilled workmanship.

B. That all mechanical and electrical equipment, machines, devices, etc., shall be adequate for the use to which they are intended, and shall operator, with ordinary care and attention, in a satisfactory and efficient manner.

C. That he will re-execute, correct, repair, or remove and replace with proper work, without cost to the University, any work found not to be as guaranteed by this Section. The Contractor shall also make good all damages caused to other work or materials in the process of complying with this Section.

D. That the entire work shall be water-tight and leak-proof in every particular.

The guarantee set forth herein is in addition to any implicit or explicit guaranty provided by law, if any.

Note: See the solicitation document and specifications for additional information on guarantees, warranties and preventative maintenance requirements.

7.18 NOTICE TO UNIVERSITY OF LABOR DISPUTES:

A. Whenever the Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this Contract, the Contractor shall immediately give notice thereof, including all relevant information with respect thereto, to the procurement officer.

B. The Contractor agrees to insert the substance of this clause, including this paragraph B., in any subcontract hereunder as to which a labor dispute may delay the timely performance of this Contract; except that each such subcontract shall provide that in the event its timely performance is delayed or threatened by delay by any actual or potential labor dispute, the subcontractor shall immediately notify his next higher tier subcontractor, or the prime Contractor, as the case may be, of all relevant information with respect to such dispute.

SECTION 8: PAYMENTS:

8.01 SCOPE OF PAYMENT: Intentionally omitted

8.02 FORCE ACCOUNT WORK: This Section 8.02 applies only to payments of the GMP received or to be received by the Contractor for payment to subcontractors and not to the CM fees.

A. When the Contractor is required to perform or have performed work as a result of additions or changes to the Contract for which there are no applicable unit prices in the Contract, the University's Office of Facilities Management and the Contractor shall make every effort to come to an agreed upon price for the performance of such work. If an agreement cannot be reached, the University's Office of Facilities Management may require the Contractor to do or have done such work on a force account basis to be compensated in accordance with the following:

(1) Labor -- For all labor and for foremen in direct charge of the specific operations, the Contractor shall receive the actual wages for each and every hour that said labor and foremen are actually engaged in such work. The Contractor shall receive the actual costs paid to, or in behalf of, workmen by reason of subsistence and travel allowances, health, welfare benefits, pension fund benefits, or other benefits, when such amounts are required by collective bargaining agreement or other employment Contract generally applicable to the classes of labor employed on the work.

(2) Materials -- For materials accepted by the Architect/Engineer and used, the Contractor shall receive the actual cost of such materials delivered on the work, including transportation charges paid by him (exclusive of machinery rentals as hereinafter set forth).

(3) Equipment -- For any machinery or special equipment rented (other than small tools, whether rented or owned), the Contractor shall receive the rates agreed upon in writing before such work is begun, or the Contractor shall receive those rates which may be specified elsewhere in the Contract. For purposes of definition, equipment with a new cost of \$500 or less will be considered small tools.

(4) Materials and Supplies Not Incorporated in the Work -- For materials and supplies expended in the performance of the work (excluding those required for rented equipment) and approved by the Architect/Engineer, the Contractor shall receive the actual cost of such materials and supplies used.

(5) Bond, Insurance, and Tax -- For bond premiums, property damage, liability, and workmen's compensation insurance premiums, unemployment insurance contributions, and social security taxes on the force of account work, the Contractor and University shall determine an equitable percent to be applied.

(6) Subcontractors -- The Contractors shall receive the actual cost of work performed by a subcontractor. Subcontractor's cost is to be determined as in A (1-5) above. An allowance will be made to the Contractor for subcontractor's overhead and profit in an amount to be determined in accordance with Section VII. 8.02 A (8).

(7) Superintendence -- No additional allowance shall be made for general superintendence, the use of small tools, or other costs for which no specific

allowance is herein provided.

(8) Subcontractor's Overhead and Profit -- The allowance to the subcontractor for his overhead and profit will be at the following scale:

Value of Work	Combined Overhead and Profit
0 - \$ 1,000	25%
\$ 1,001 - \$ 5,000	20%
\$ 5,001 - \$10,000	17%
\$10,001 - \$25,000	15%
over - \$25,000	negotiated, but not more than 15%

B. Compensation -- The compensation as set forth above shall be received by the Subcontractor as payment in full for the work done on a force account basis. At the end of each day, the Subcontractor's representative and the Architect/Engineer shall compare records of the cost of work as ordered on a force account basis.

C. Statements -- No payment will be made for work performed on a force account basis until the Subcontractor furnishes the University duplicate itemized statements of the cost of such force account work detailed as to the following:

- (1) Name, classification, date, daily hours, total hours, rate, and extension for laborers and foremen.
- (2) Designation dates, daily hours, total hours, rental rate, and extension for each unit of machinery and equipment rented (other than small equipment).
- (3) Quantities and prices of materials.
- (4) Changes for transportation of materials paid by the Contractor.
- (5) Cost of property damage, liability, and workmen's compensation insurance premiums, unemployment insurance contributions, and social security tax.
- (6) Statements for payments of items under paragraphs (3) and (4) shall be accompanied by original receipted invoices for materials used and transportation charges. If, however, the materials used in the force account work are not specifically purchases for such work but are taken from the Contractor's stock, then in lieu of the original invoices the statements shall contain or be accompanied by an affidavit of the Subcontractor which shall certify that such materials were taken from his stock, that the quantity claimed was actually used and that the price and transportation of the materials as are claimed represent actual cost.

8.03 CASH ALLOWANCES:

Whenever an allowance is mentioned in the specifications, then the Contractor shall include in his price proposal the entire amount of such specified allowances. The expenditure of these allowances is at the University's direction. However, the allowance expenditure is limited to items properly inferable from the title of the allowance. Unexpended balances are to revert to the University. The cost of installation of materials purchased are not included in the allowance but shall be included in the Contractor's price proposal. The Contractor shall have installed (through subcontractors) all material purchased under allowances and shall include in the Contract sum a

sufficient amount, in addition to the allowance, to cover the installation, other costs, and profit.

8.04 CERTIFICATES OF PAYMENT:

A. If the Contractor has made application as above, the University shall, not later than the date when such payment falls due; issue to the Contractor a certificate for such amount as it decides to be properly due. In approving such partial payments, there shall be an amount retained pursuant to Section 00400 of the Request for Proposal document until completion and acceptance of all work covered by the Contract.

B. No certificate issued nor payment made to the Contractor nor partial or entire use or occupancy of the work by the University shall be an acceptance of any work or materials not in accordance with this Contract.

C. Amount of Retainage: Intentionally Omitted.

D. Parameters of retainage: Intentionally Omitted.

E. Escrow Account: Intentionally Omitted.

8.05 DEDUCTIONS FOR UNCORRECTED WORK:

If the University deems it inexpedient to correct work injured or done in accordance with the Contract, an equitable deduction from the Contract price shall be made therefore.

8.06 PAYMENTS WITHHELD:

A. The University may withhold or, on account of subsequently discovered evidence, nullify the whole or part of any certificate to such extent as may be necessary to protect the University from loss on account of:

- (1) Defective work not remedied;
- (2) Claims filed or reasonable evidence indicating probable filling of claims;
- (3) Failure of the Contractor to make payments properly to subcontractor for material or labor;
- (4) A reasonable doubt that the Contract can be completed for the balance then unpaid; or
- (5) Damage to another contractor.

B. When the above grounds are removed, payment shall be made for amount withheld because of them.

8.07 CORRECTION OF WORK BEFORE FINAL PAYMENT:

A. The Contractor shall have promptly remove from the premises all materials condemned by the Architect/Engineer or the University as failing to conform to the Contract, whether incorporated in the work or not. The Contractor shall have promptly replace and re-execute his own work in accordance with the Contract and without expense to the University and

shall bear the expense of making good all work of other Contractors destroyed or damaged by such removal or replacement.

B. If the Contractor does not have such condemned work and materials removed within a reasonable time, fixed by written notice, the University may remove them and may store the materials at the expense of the Contractor. If the Contractor does not pay the expense of such removal within ten (10) days time thereafter, the University may, upon ten (10) days notice, sell such materials and shall account for the net proceeds thereof, after deducting all the costs and expenses that should have been borne by the Contractor.

8.08 ACCEPTANCE AND FINAL PAYMENT:

A. When the Contractor has completed the work and it has been finally accepted, the University shall promptly proceed to make any necessary final surveys and complete any necessary computation of quantities. This tabulation shall be accompanied by a statement setting forth (1) the additional work performed under change orders and/or supplemental agreements, (2) any authorized extension of time, (3) the number of days which have been charged against the Contractor as having been used to complete the Contract and (4) any deductions, charges, or liquidated damages which have been made or imposed. Payment for the full apparent value of the Contract thus determined shall become due and payable to the Contractor within 45 days after acceptance of the project by the University for maintenance, as hereinafter provided. As a condition precedent to final payment, the Contractor shall be required to execute a general release of all claims against the University's Office of Facilities Management and its employees arising out of or in any way connected with this Contract.

B. The Contractor shall then have a period of ten (10) calendar days dating from the date upon which he received the aforementioned tabulation from the University, in which (1) to decide whether or not he will accept final payment upon such a basis, and (2) to notify the University's Office of Facilities Management, in writing, of his decision. The Contractor may request an additional period up to ten (10) calendar days in which to notify the procurement officer of his decision. In the event the Contractor notifies the procurement officer that he protests final payment on such a basis, that notification shall outline the reason(s) for said protest.

C. Upon receipt of a notification of acceptance as provided for in paragraph B above, the University shall prepare for Final Payment forms and submit them to the Contractor. These forms shall show all data noted in paragraph A above, together with deductions for all prior payments. The Contractor shall execute these forms and return them to the University within ten (10) calendar days from the date they are received, whereupon the University will make payment. If such signed forms are not received by the University within the specified time, the University will prepare duplicate forms and submit them to the procurement officer for execution and payment. Such action by the procurement officer shall be deemed to constitute Acceptance and Final Payment.

D. If, under the provisions of paragraph B above, the Contractor notifies the procurement officer of his protest and non-acceptance of the data submitted to him, the University shall pay the Contractor a Semi-Final Estimate, or an Additional Semi-Final Estimate in the event a Semi-Final Estimate has already been paid based upon the data noted in paragraph A above, with deductions for all prior payments. The acceptance of such Semi-Final Estimate, or additional Semi-Final Estimate, shall be considered as a waiver on the part of the

Contractor of his right to pursue his protest and press for Acceptance and Final Payment.

E. In the event the Contractor does not accept the date submitted to him as described in paragraph A above and /or has outstanding a claim filed with the University, the Architect/Engineer and the Contractor shall confer at mutually convenient times and endeavor to reconcile all points of disagreement expeditiously. If such reconciliation is accomplished, the University will promptly process with Acceptance and Final Payment on the reconciled basis and in accordance with the provisions of paragraph C above.

F. All prior partial estimates and payments shall be subject to correction at the time of Acceptance and Final Payment and if the Contractor has been previously overpaid, the amount of such overpayment shall be set forth in the Final Payments forms and the Contractor hereby agrees that he will reimburse the University for such overpayment within six (6) months of receipt of such advice, and his surety will not be granted release from obligations under the terms of the Contract until reimbursement has been made in full.

8.09 INTEREST:

A. Contractor and the University such agree that neither is entitled to any interest on any payment or judgment due it from the other.

8.10 AUDITS BY THE UNIVERSITY:

A. The Contractor agrees that the University or any part of its duly authorized representatives shall, until expiration of three (3) years after final payment under this Contract or after any applicable statute of limitations, whichever is longer, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Contractor involving transactions to this Contract.

B. The Contractor further agrees to include in all his subcontracts hereunder a provision to the effect that the subcontractor agrees that the University or any of its duly authorized representatives shall, until the expiration of three (3) years after final payment under the subcontract or after any applicable statute of limitations, whichever is longer, have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor, involving transactions related to the subcontract.

C. The Contractor shall retain and maintain all records and documents relating to this Contract for the period specified in paragraph A and shall make them available for inspection and audit by authorized representatives of the State of Maryland, including the University or designee at all reasonable times.

8.11 MULTI-YEAR CONTRACTS:

If the General Assembly fails to appropriate funds or if funds are not otherwise made available for continued performance for any fiscal period of this Contract succeeding the first fiscal period, this Contract shall be canceled automatically as of the beginning of the fiscal year for which funds were not appropriated or otherwise made available; provided, however, that this will not affect either the University's rights or the Contractor's rights under any termination clause in this Contract. The effect of termination of this Contract hereunder will be to discharge both the

Contractor and the University from future performance of this Contract, but not from their rights and obligations existing at the time of termination. The Contractor shall be reimbursed for the reasonable value of any non-recurring costs incurred but not authorized in the price of the contract. The University shall notify the Contractor as soon as it has knowledge that funds may not be available for the continuation of this contract for each succeeding fiscal period beyond the first.

8.12 PAYMENT OF STATE OBLIGATIONS:

Electronic funds transfer will be used by the State to pay Contractor for this Contract and any other State payments due Contractor unless the State Comptroller's Office grants Contractor an exemption.

SECTION 9: EMPLOYEES, SUBCONTRACTORS, AND WORK CONDITIONS:

9.01 EMPLOYEES AND WORKMANSHIP: The following provisions in Section 9.01 are in addition to provisions relating to these matters set forth elsewhere in the Contract.

A. Qualification of Employees -- Only personnel thoroughly trained and skilled in the task assigned they may be employed on any portion of the work. Any employee found by the Contractor, the Architect/Engineer, or the University's Office of Facilities Management to be unskilled or untrained in his work shall be removed from the work.

B. Licensed Employees -- When Municipal, County, State, or Federal laws require that certain personnel (electricians, plumbers, etc.) be licensed, then all such personnel employed on the Work shall be so licensed.

C. Quantity of Labor -- The Contractor shall employ on the Work, at all times sufficient personnel to complete the work within the time stated in the Contract.

D. Work Areas -- The Contractor shall confine the operations of his employees to the limits as provided by law, ordinance, permits, or directions of the University's Office of Facilities Management. Generally, the work area will be the same as the "Limited of Contract" line indicated in the 100% project documents.

E. Methods and Quality:

(1) All workmanship shall be of good quality. Whenever the method of the work or manner of procedure is not specifically stated in the Contract documents, then it is intended that the best standard practice shall be followed. Recommendations of the manufacturers of approved materials shall be considered as a part of these specifications and all materials shall be applied, installed, connected, erected, used, cleaned, and conditioned as called for thereby. This, however, does not remove any requirement in these specifications to add to the manufacturer's recommendations.

(2) All materials shall be accurately assembled, set, etc., and when so required in good construction, shall be true to line, even, square, plumb, level, and regularly spaced, coursed, etc. Under no circumstances, either in new or cold work, shall any material be applied over another which has not been thoroughly cleaned, sanded, or otherwise treated so as not to impair the finish, adhesion, or efficiency of the next applied item.

(3) All methods and procedures and results are subject to the University's and Architect/Engineer's approval as to finished result to be obtained. However, this is not to be interpreted as placing upon the University and the Architect/Engineer any responsibility for the "Work" management which is solely the responsibility of the Contractor.

F. Scheduling: The obligations in this Section 9.01 F shall be in addition to the scheduling provision set forth elsewhere in the Contract.

(1) The Contractor shall so schedule the work as to ensure efficient and uninterrupted progress and to hold to an absolute minimum the cutting and patching of new work. All cutting, patching and digging necessary to the execution of the work is included.

(2) The Contractor shall schedule the work performed by each group or trade so that each installation or portion of the work shall member with and join with every other new or old work required for a complete installation, all according to accepted good construction practice.

G. Project Manager and Superintendent -- The Contractor shall keep the work at all times during its progress a competent Project Manager and Superintendent and any necessary assistants. The Project Manager and Field Superintendent are to be those named in the Contractor's Technical Proposal to the University and as approved by the University's Offices of Procurement and Facilities Management. Persons who have previously proved unsatisfactory on work executed for the University or the State of Maryland or who are without proper qualifications will not be approved. Should it be necessary to change the superintendent, the procedure outlined in the solicitation documents under the Technical Proposal will be repeated. A single Superintendent will be permitted to superintend two or more jobs located at the same institution or close to each other only when approved by the University's Office of Facilities Management in writing. The Superintendent shall represent the Contractor. All directions given to the Superintendent shall be as binding as if given to the Contractor. Other directions shall be so confirmed on written request in each case. Should the Superintendent be complained of by the University's Office of Facilities Management for cause, he shall be removed from the work and a new Superintendent obtained and approved as described above at no additional cost to the University.

H. Discipline -- The Contractor shall at all times enforce strict discipline and good order among his employees and shall not employ or permit to remain on the work any unfit person. He shall enforce all instructions relative to use of water, heat, power, no smoking, and control and use of fires as required by law and by the University. Employees must not be allowed to loiter on the premises before or after working hours.

I. Employee Safety -- The Contractor shall designate a responsible member of his organization, on the work, whose duty it shall be, in addition to his other duties, to prevent accidents and to enforce the standards of Section VII. 9.07. The name and position of the person so designated shall be reported to the University's Office of Facilities Management with a copy to the Architect/Engineer, by the Contractor at the commencement of the work.

J. Supervisory Personnel: All supervisory personnel of the Contractor must be direct employees of the Contractor.

9.02 NON-DISCRIMINATION-EMPLOYMENT POLICIES:

A. Acceptance of a Contract based on the University's specifications constitutes agreement by the Contractor to comply with State policy as established by Joint Resolution No. 16 of the General Assembly of 1958, which is:

That on all public works being paid for in whole or in part with State or other public funds, preference shall be given to available persons who have been residents of Maryland for a period of at least six (6) months immediately prior to availability of positions for employment of laborers, mechanics, and others not including supervisory personnel, not to exceed ten percent (10%) of the total working force.

B. The contents of Section 13-219 of the State Finance and Procurement Article, which provides as follows, is called to the attention of the Contractor and each subcontractor.

a. A contract subject to this article may not be awarded to any Contractor unless the Contract contains provisions obligating the Contractor not to discriminate in any manner against any employee or applicant for employment because of sex, race, creed, color, or national origin and obligating the Contractor to include a similar clause in all subcontracts, except subcontracts for standard commercial supplies or raw materials. In addition, the Contractor and sub contractor shall agree to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of the nondiscrimination clause.

b. Failure to include such a contract provision renders any contract void of initiation at the election of the election of the State, but any party shall be entitled to the reasonable value of services performed and materials supplied.

c. Where the Contractor willfully fails to comply with the non-discrimination provisions the State may, where the contract is still executory in part, compel continued performances of the contract, but it shall be liable only for the reasonable value of services performed and materials supplied from the date that the breach of contract was discovered or should have been discovered, and any sums previously paid by the State under the Contract, shall be set off against the sums to become due as the contract is performed.

d. If the subcontractor willfully fails to comply with the non-discrimination provisions the Contractor may avoid the contract note and shall be liable only for the reasonable value of the services performed and materials supplied.

e. Any person, whether an employee, prospective employee or not with information concerning violations of the requirements of this section may inform the Board of Public Works which shall cause an immediate investigation of the charges. If the Board concludes that the charges are true it shall invoke the remedies set out in this section.

C. The Governor's Executive Order pertaining to the Code of Fair Practices, dated July 9, 1976 bars discrimination by State Contractors on account of political or religious opinion or affiliation in addition to the discrimination listed above.

D. It is understood that the provisions of the Civil Rights Act of 1964 are hereby included in this Contract to the end that no person in the United States shall, on the ground of race, color, or natural origin, be excluded

from participation in, be denied the benefits of, or otherwise be subjected to discrimination under this Agreement.

E. The Contractor, subcontractor(s), or their agents, insofar as possible, shall secure labor through the Maryland State Employment Service of the Maryland Department of Human Resources. Where the Contractor has entered into a collective bargaining agreement under which labor is to be provided by a union, the Contractor is not required to conform to these provisions unless the Contractor and the union arrange with the Maryland State Employment Service for referral of such labor as they may mutually agree shall be referred. The Contractor shall be the sole judge of the competency or fitness for satisfactory service of any labor referred to him by the Maryland State Employment Service.

F. Each Contractor with the University will submit to the Board of Public Works, at the Board's request, information as to the composition of the Contractor's work force. This information will be furnished on a form to be prescribed by the Board of Public Works, if requested.

G. The Contractor and all subcontractors will develop and maintain an Affirmative Action Plan directed at increasing the utilization of women and members of minority groups on State Public Works projects. Approval of the plan by the Board of Public Works shall be a prerequisite to the award of any Contract for Public Works by the State or any agency of the State. The Affirmative Action Plan referred to in the preceding sentence shall contain written provisions and procedures for each of the following:

(1) Notification of established community organizations of employment opportunities, and the maintenance of records on responses by such organizations and their disposition.

(2) Maintenance of records, including names and address, of woman and members of minority groups applying or referred for employment. The records shall indicate what disposition was made of the application. If such an applicant was not sent to a union hiring hall for referral or if such an applicant was not employed by the Contractor, the records shall indicate the reasons therefore.

(3) Notification by the Contractor to the University if any union or unions with whom the Contractor has a collective bargaining agreement has not referred to the Contractor a woman or member of a minority group sent by the Contractor, or if the Contractor has other information that the union referral process is impeding efforts for the utilization of women and members of minority groups.

(4) Participation in training programs, including those funded by the United States Government.

(5) Procedures for disseminating notice of the Contractor's equal employment opportunity policy by publicizing it through company newspapers and annual reports, conducting staff, employee and union representatives' meetings, posting, and by specific review with employees who are women or members of minority groups.

(6) Procedures for disseminating notice of the Contractor's equal employment opportunity policy externally through review with all recruitment sources, advertising in news media, and discussion with subcontractors and suppliers.

(7) Recruitment efforts directed at minority organizations, schools with minority students, and minority recruitment and training organizations.

(8) Validation of all specifications, selection requirements, and tests relating to employment.

(9) Procedures for promoting after-school, summer, and vacation employment to minority youth.

(10) Programs for the development of on-the-job training opportunities and participation and assistance in any association or employer group training programs.

(11) Programs for evaluating women and minority personnel for promotion opportunities and encouragement of such employees to seek those opportunities.

(12) Review of seniority practices and job classifications to insure that they do not have an improper discriminatory effect.

(13) Monitoring of personnel activities to insure that the Contractor's equal employment opportunity policy is being carried out.

(14) Proposals for soliciting bids for subcontracts for available minority subcontractors engaged in the trades covered by the bid conditions.

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

9.03 SUBCONTRACTS:

A. The Contractor shall, as soon as practicable and before the execution of the Contract, notify the Architect/Engineer and the University's Office of Facilities Management in writing of the names of subcontractors proposed for the principal parts of the work and for such others as the Architect/Engineer may direct and shall not employ any that the Architect/Engineer or the University's Office of Facilities Management may object to as incompetent, unfit, or irresponsible.

B. The Contractor agrees that he is as fully responsible to the University for the acts and omissions of his subcontractor and of persons directly employed by them as he is for the acts and omissions of persons directly employed by him.

C. Nothing contained in the Contract documents shall create any contractual relation between any subcontractor and the University and nothing in the contract documents is intended to make the subcontractor a beneficiary of the Contract between the University and the Contractor.

9.04 RELATION OF CONTRACTOR AND SUBCONTRACTOR:

A. The Contractor agrees to bind every subcontractor and will see that every subcontractor agrees to be bound by the terms of the Contract and Contract Documents and each of these as far as applicable to his work, unless specifically noted to the contrary in a subcontract approved in writing as adequate by the University's Office of Facilities Management.

B. The Contractor agrees to include the following provisions in all subcontracts and supply contract, applicable to the work:

(1) Subcontractor agrees to be bound to the Contractor by the terms of the Contract and the Contract Documents and each of these, and to assume toward the Contractor all obligations and responsibilities that the Contractor, by those documents, assumes toward the University.

(2) The subcontractor agrees to submit to the Contractor applications for payment from the GMP in such reasonable time as to enable the Contractor to apply for payment under Section 8 of the Standard Conditions.

(3) The subcontractor agrees to make all claims for extras, for extensions of time, and for damages for delays or otherwise, to the Contractor in the manner provided in the Standard Conditions for like claims by the Contractor upon the University except that the time for making claims for extra cost is five (5) days.

(4) The subcontractor agrees, upon completion of his work to promptly pay all labor, material suppliers, vendors, subcontractors, and others, and to permit simultaneous final payment by the Contractor and execution of the "Waiver of Liens" by the subcontractor.

C. The Contractor agrees to be bound to the subcontractor by all the obligations that the University assumes to the Contractor under the Contract, the Contract Documents and each of these, and all the provisions thereof affording remedies and redress to the Contractor from the University. The Contractor also agrees:

(1) To pay the subcontractor, upon the presentation of certificates, if issued under the schedule of values prescribed in Section 8 of these Standard Conditions, the amount allowed to the Contractor on account of the subcontractor's work to the extent of the subcontractor's interest herein.

(2) To pay the subcontractor, upon the presentation of certificates, so that at all times his total payments shall be as large in proportion to the value of the work done by him as the total amount certified to the Contractor is to the value of the work done by him.

(3) To pay the subcontractor to such extent as may be provided by the Contract documents or the subcontract, if either of these provides for earlier or larger payments than the above.

(4) To pay the subcontractor on demand for his work or materials as far as executed and fixed in place, less the retained percentage, at the time to certificate should be issued, even though the Architect/Engineer fails to issue it for any cause not the fault of subcontractor.

(5) To pay the subcontractor a just share of any fire insurance money received by the Contractor.

(6) To make no demand for liquidated damages or penalty for delay in any sum in excess of such amount as may be specifically named in the subcontract.

(7) To give the subcontractor an opportunity to be present and to submit evidence in any matter involving his rights.

D. No claim for services rendered or materials furnished by the Contractor to the subcontractor shall be valid unless written notice thereof is given by the Contractor to the subcontractor during the first ten (10) days of the calendar month following that in which the claims originated.

E. The Contractor and the subcontractor agree that nothing in this section shall create any obligation on the part of the University to pay to or to see to the payment of any sums to any subcontractor.

9.05 MINORITY BUSINESS ENTERPRISE UTILIZATION: Intentionally Omitted

9.06 PREVAILING WAGE RATES: Intentionally Omitted

9.07 PROJECT SAFETY AND HEALTH STANDARDS:

It is a condition of this Contract and shall be made a condition of each subcontract entered into pursuant to this Contract, that the Contractor and any subcontractor shall not require any laborer or mechanical employed in performance of the Contract to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health or safety, as determined under construction safety and health standards, laws and regulations of the locality in which the work is done, the State, and the Federal government.

END OF MAINTENANCE PROJECT GENERAL CONDITIONS SECTION

ATTACHMENT A

TECHNICAL PROPOSAL FORMS

- Key Personnel Form
- Firm Experience Form
- Company Profile
- Bid/Proposal Affidavit
- Acknowledgement of Receipt of Addenda Form (if applicable)

**UMBC On Call Maintenance Contractor
KEY PERSONNEL FORM**

Page 1 of 5

Proposing Firm: _____

Person's Name: _____

1. POSITION TO BE ASSIGNED:

_____ Project Manager _____ Field Superintendent (Two to be provided on separate forms)

2. EDUCATIONAL BACKGROUND:

Institution	Degree/Diploma/Certificates	Major (if any) and Date of Degree

3. EMPLOYMENT HISTORY*: (*NOTE: If a person has more than three (3) employers in his/her employment history, please provide complete employment history via supplemental page(s) attached to this form.)

3.1 CURRENT EMPLOYER'S NAME: _____

DATES OF EMPLOYMENT: _____

POSITION HELD

DURATION BY DATE

**UMBC On Call Maintenance Contractor
KEY PERSONNEL FORM**

Page 2 of 5

Proposing Firm: _____

Person's Name: _____

3.2 **PRIOR EMPLOYER'S NAME:** _____

DATES OF EMPLOYMENT: _____

POSITION HELD

DURATION BY DATE

3.3 **PRIOR EMPLOYER'S NAME:** _____

DATES OF EMPLOYMENT: _____

POSITION HELD

DURATION BY DATE

4. **SIMILAR RELEVANT PROJECT EXPERIENCE/REFERENCES:** Provide a **full** description of Key Person's project experience, including their role on the project. (Note: As indicated in the solicitation document, references are to be **project/ contract references not employment references**; that is, UMBC is interested in speaking to a Client regarding the person's performance on a particular project.) Per the solicitation documents, the UMBC will contact the references provided below during the evaluation.

**UMBC On Call Maintenance Contractor
KEY PERSONNEL FORM**

Page 3 of 5

Proposing Firm: _____

Person's Name: _____

4.1 PROJECT REFERENCE CONTACT PERSON NAME & TITLE:

TELEPHONE #: _____

COMPANY NAME: _____

KEY PERSON'S ROLE: _____

DESCRIPTION OF PROJECT: _____

FINAL AMOUNT OF PROJECT: \$ _____

START DATE: _____ **COMPLETION DATE:** _____

DURATION KEY PERSON WAS ON THE PROJECT: _____

Note: If key person not assigned for the full duration of the contract, please explain

How is this project similar/relevant to the work to be done under this UMBC contract?

**UMBC On Call Maintenance Contractor
KEY PERSONNEL FORM**

Page 4 of 5

Proposing Firm: _____

Person's Name: _____

4.2 PROJECT REFERENCE CONTACT PERSON NAME & TITLE:

TELEPHONE #: _____

COMPANY NAME: _____

KEY PERSON'S ROLE: _____

DESCRIPTION OF PROJECT: _____

FINAL AMOUNT OF PROJECT: \$ _____

START DATE: _____ **COMPLETION DATE:** _____

DURATION KEY PERSON WAS ON THE PROJECT: _____

Note: If key person not assigned for the full duration of the contract, please explain

How is this project similar/relevant to the work to be done under this UMBC contract?

**UMBC On Call Maintenance Contractor
KEY PERSONNEL FORM**

Page 5 of 5

Proposing Firm: _____

Person's Name: _____

4.3 PROJECT REFERENCE CONTACT PERSON NAME & TITLE:

TELEPHONE #: _____

COMPANY NAME: _____

KEY PERSON'S ROLE: _____

DESCRIPTION OF PROJECT: _____

FINAL AMOUNT OF PROJECT: \$ _____

START DATE: _____ **COMPLETION DATE:** _____

DURATION KEY PERSON WAS ON THE PROJECT: _____

Note: If key person not assigned for the full duration of the contract, please explain

How is this project similar/relevant to the work to be done under this UMBC contract?

NOTE: If a Proposer finds the space provided to be insufficient, he can attach additional pages to this form as he finds appropriate and just indicate on this form to see attached pages.

UMBC ON CALL MAINTENANCE CONTRACTOR – RFP #BC-21037-K
Firm Experience Form (three projects to be provided)
 Page 1 of 1

PROPOSER:	PROJECT OWNER'S NAME:
PROJECT NAME:	ADDRESS:
CONTRACTOR'S CONTRACT AMOUNT:	OWNER CONTACT PERSON:
START DATE: COMPLETION DATE:	TELEPHONE NUMBER:
PROPOSER'S PROJECT MANAGER	PROPOSER'S FIELD SUPERINTENDENT

IDENTIFICATION OF THE REPAIR AND/OR REPLACEMENT WORK FOR THE APPLICABLE TRADES ON THE PROJECT (check all that apply)	
<input type="checkbox"/> Asphalt roadway patching	<input type="checkbox"/> Fiberglass tub and shower
<input type="checkbox"/> Bathroom/partition stalls	<input type="checkbox"/> Fixed Seating
<input type="checkbox"/> Carpentry	<input type="checkbox"/> General maintenance work
<input type="checkbox"/> Carpet	<input type="checkbox"/> Gutter/downspouts
<input type="checkbox"/> Cabinets	<input type="checkbox"/> Kitchen areas
<input type="checkbox"/> Ceiling tile	<input type="checkbox"/> Roofs
<input type="checkbox"/> Ceiling grid	<input type="checkbox"/> Solid Showers
<input type="checkbox"/> Ceramic tile	<input type="checkbox"/> Vinyl floor tile replacement or repair
<input type="checkbox"/> Counter tops	<input type="checkbox"/> Minor HVAC
<input type="checkbox"/> Demolition	<input type="checkbox"/> Minor Electrical
<input type="checkbox"/> Drywall	<input type="checkbox"/> Minor Plumbing
	<input type="checkbox"/> Other: _____

PROJECT SCHEDULE: Identify the number of weeks/months for this project: _____

**UMBC ON CALL MAINTENANCE CONTRACTOR
COMPANY PROFILE FORM**

Page 1 of 2

COMPANY NAME: _____

DATE OF INCORPORATION: _____ STATE OF INCORPORATION: _____

OF YEARS IN BUSINESS: _____ NUMBER OF EMPLOYEES: _____

OTHER OR FORMER NAMES UNDER WHICH YOUR ORGANIZATION HAS OPERATED: _____

NAMES OF PRINCIPAL(S) AND TITLE(S): _____

Location of Office That Will Provide Services to UMBC: _____

STATE OF MD REGISTERED SMALL BUSINESS REGISTRATION #: _____

TYPE(S) OF WORK SELF PERFORMED:

<input type="checkbox"/> Asphalt Roadway Patching	<input type="checkbox"/> Fiberglass tub and shower
<input type="checkbox"/> Bathroom/partition stalls	<input type="checkbox"/> Fixed Seating
<input type="checkbox"/> Carpentry	<input type="checkbox"/> General maintenance work
<input type="checkbox"/> Carpet	<input type="checkbox"/> Gutters/downspouts
<input type="checkbox"/> Cabinets	<input type="checkbox"/> HVAC (minor))
<input type="checkbox"/> Ceiling tile	<input type="checkbox"/> Kitchen areas
<input type="checkbox"/> Ceiling grid	<input type="checkbox"/> Plumbing (minor)
<input type="checkbox"/> Ceramic tile	<input type="checkbox"/> Roofs
<input type="checkbox"/> Counter tops	<input type="checkbox"/> Solid Showers
<input type="checkbox"/> Demolition	<input type="checkbox"/> Vinyl floor tile replacement or repair
<input type="checkbox"/> Drywall	<input type="checkbox"/> Other: _____
<input type="checkbox"/> Electrical (minor)	

**UMBC ON CALL MAINTENANCE CONTRACTOR
COMPANY PROFILE FORM**

Page 2 of 2

COMPANY NAME: _____

BRIEF HISTORY OF THE COMPANY (if preferred, an attachment to this form can be provided):

OTHER COMMENTS/ADDITIONAL INFORMATION: _____

ANNUAL SALES VOLUME

YEAR	ANNUAL SALES VOLUME	# OF PROJECTS
2016		
2015		
2014		

BONDING CAPACITY (Please provide letter from carrier in your Technical Proposal)

Per Project: \$ _____ Aggregate: \$ _____

APPENDIX A

BID/PROPOSAL AFFIDAVIT

A. AUTHORIZED REPRESENTATIVE

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

B. NOT USED

B-1. CERTIFICATION REGARDING MINORITY BUSINESS ENTERPRISES (applicable if an MBE goal is set)

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

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

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

B-2. CERTIFICATION REGARDING VETERAN-OWNED SMALL BUSINESS ENTERPRISES (if applicable to the solicitation)

The undersigned bidder or offeror hereby certifies and agrees that it has fully complied with the State veteran-owned small business enterprise law, State Finance and Procurement Article, §14-605, Annotated Code of Maryland, which provides that a person may not:

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

C. AFFIRMATION REGARDING BRIBERY CONVICTIONS

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

D. AFFIRMATION REGARDING OTHER CONVICTIONS

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

- (1) Been convicted under state or federal statute of a criminal offense incident to obtaining or attempting to obtain, or performing a public or private contract, 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 Organizations Act, 18 U.S.C. §1961, et seq., or the Mail Fraud Act, 18 U.S.C. §1341 et seq., for acts arising out of 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, Section 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 subsection (1), (2), (3), (4) or (5), above;
- (7) Been found civilly liable under a state or federal antitrust statutes for acts or omissions in connection with the submission of bids or proposals for a public or private contract;
- (8) 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 above, except as follows (indicate reasons why the affirmations cannot be given, and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of the person(s) involved and their current positions and responsibilities with the business, and the status of any debarment):

E. AFFIRMATION REGARDING DEBARMENT

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

F. AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES

I FURTHER AFFIRM THAT:

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

G. SUB-CONTRACT AFFIRMATION

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

H. AFFIRMATION REGARDING COLLUSION

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

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

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

I. FINANCIAL DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT: I am aware of, and the above business will comply with the provisions of Section 13-221 of the State Finance and Procurement Article of the Annotated Code of Maryland, which require that every business that enters into contracts, leases, or other agreements with the State of Maryland or its agencies during a calendar year under which the business is to receive in the aggregate \$100,000 or more shall, within 30 days of the time when the aggregate value of 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.

J. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT: I am aware of and that the above business will comply with, Election Law Article, §§14-101 – 14-108, Annotated Code of Maryland, which requires that every person that enters into contracts, leases, or other agreements with the State of Maryland, including its agencies or a political subdivision of the State, during a calendar year in which the person receives in the aggregate \$100,000 or more shall file with the State Board of Elections a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election.

K. DRUG AND ALCOHOL-FREE WORKPLACE

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

I CERTIFY THAT:

(1) Terms defined in COMAR 21.11.08 shall have the same meaning 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 and alcohol;

(d) Not hire or assign to work on the contract anyone whom the business knows, or in the exercise of due diligence should know, currently abuses drugs or alcohol and is not actively engaged in a bona fide drug or alcohol abuse assistance or rehabilitation program;

(e) Promptly inform the appropriate law enforcement agency of every drug-related crime that occurs in its workplace if the business has observed the violation or otherwise has reliable information that a violation has occurred;

(f) Establish drug and alcohol abuse awareness programs to inform its employees about:

(i) The dangers of drug and alcohol abuse in the workplace,

(ii) The business' policy of maintaining a drug and alcohol-free workplace,

- (iii) Any available drug and alcohol counseling, rehabilitation, and employee assistance programs; and
- (iv) The penalties that may be imposed upon employees who abuse drugs and alcohol in the workplace;
- (g) Provide all employees engaged in the performance of the contract with a copy of the statement required by K(2)(b), above;
- (h) Notify its employees in the statement required by §K(2)(b) above, that as a condition of continued employment on the contract, the employee shall:
 - (i) Abide by the terms of the statement, and
 - (ii) Notify the employer of any criminal drug or alcohol abuse conviction for an offense occurring in the workplace not later than five (5) days after a conviction;
- (i) Notify the procurement officer within 10 days after receiving notice under §K(2)(h)(ii), above, or otherwise receiving actual notice of a conviction;
- (j) Within 30 days after receiving notice under §K(2)(h)(ii), above, or otherwise receiving actual notice of a conviction, impose either of the following sanctions or remedial measures on any employee who is convicted of a drug or alcohol abuse offense occurring in the workplace:
 - (i) Take appropriate personnel action against an employee, up to and including termination, or
 - (ii) Require an employee to satisfactorily participate in a *bona fide* drug or alcohol abuse assistance or rehabilitation program; and,
- (k) Make a good faith effort to maintain a drug and alcohol-free workplace through implementation of §K(2)(a)-(j), above.

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

(4) I acknowledge and agree that:

- (a) The award of contract is conditional upon compliance with COMAR 21.11.08 and this certification;
- (b) The violation of the provisions of COMAR 21.11.08 or this certification shall be cause to suspend payments under, or terminate the contract for default under COMAR 21.07.01.11 or 21.07.03.15, as applicable; and
- (c) The violation of the provisions of COMAR 21.11.08 or this certification in connection with the contract may, in the exercise of the discretion of the Board of Public Works, result in suspension and debarment of the business under COMAR 21.08.03.

L. CERTIFICATION OF CORPORATION REGISTRATION AND TAX PAYMENT

I FURTHER AFFIRM THAT:

(1) The business named above is a (domestic____)(foreign____) [check one] corporation registered in accordance with the Corporations and Associations Article, Annotated Code of Maryland, and that it is in good standing and has filed all of its annual reports, together with filing fees, with the Maryland State Department of Assessments and Taxation, and that the name and address of its resident agent filed with the State Department of Assessments and Taxation is:

Name: _____

Address: _____

(If not applicable, so state.)

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

M. CONTINGENT FEES

I FURTHER AFFIRM THAT: The business has not employed or retained any person, partnership, corporation, or other entity, other than a *bona fide* employee or agent 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 or agent, any fee or any other consideration contingent on the making of the Contract.

N. CONFLICT OF INTEREST AFFIDAVIT AND DISCLOSURE

(1) "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.

(2) "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.

(3) The bidder or offeror warrants that, except as disclosed in §(4), below, there are no relevant facts or circumstances now giving rise or which could, in the future, give rise to a conflict of interest.

(4) The following facts or circumstances give rise or could in the future give rise to a conflict of interest (explain detail—attach additional sheets if necessary):

(5) The bidder or offeror agrees that if an actual or potential conflict of interest arises after the date of this affidavit, the bidder or offeror shall immediately make a full disclosure in writing to the procurement officer of all relevant facts and circumstances. This disclosure shall include a description of actions which the bidder or offeror has taken and proposes to take to avoid, mitigate, or neutralize the actual 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.

O. CERTIFICATION REGARDING INVESTMENTS IN IRAN

(1) The undersigned bidder or offeror certifies that, in accordance with State Finance & Procurement Article, §17-705:

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

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

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

P. ACKNOWLEDGMENT

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 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 right or remedy conferred by the Constitution and the laws of Maryland in respect to any misrepresentation made or any violation of the obligations, terms and covenants undertaken by the above business in respect to (1) this Affidavit, (2) the contract, and (3) other Affidavits comprising part of the contract.

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

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

Company Name: _____

FEIN No: _____

END OF FORM

RFP NO.: **BC-21037-K**

TECHNICAL PROPOSAL DUE DATE: **Tuesday, May 9, 2017 by 2:00 P.M., EDT**

RFP FOR: **ON CALL MAINTENANCE CONTRACTOR**

NAME OF PROPOSER: _____

ACKNOWLEDGEMENT OF RECEIPT OF ADDENDA

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

Addendum No.: _____ dated _____

Addendum No.: _____ dated _____

Addendum No.: _____ dated _____

Addendum No.: _____ dated _____

Addendum No.: _____ dated _____

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

Signature

Print Name

Title

Date

END OF FORM

ATTACHMENT B

PRICE PROPOSAL FORM

**UNIVERSITY OF MARYLAND, BALTIMORE COUNTY (UMBC)
ON CALL MAINTENANCE CONTRACTOR**

**RFP #BC-21037-K
Page 1 of 4**

PRICE PROPOSAL ANTICIPATED DUE DATE: Tuesday, June 20, 2017, on or before 2:00 P.M. EDT. The actual due date and time will be confirmed with those firms that remain shortlisted.

PROPOSER'S NAME: _____

FID NUMBER/SSN: _____

PRICE PROPOSAL

DATE _____

Ms. John Kenny
Procurement Office
University of Maryland, Baltimore County
Room #732, Administration Building
1000 Hilltop Circle
Baltimore, MD 21250

Dear Mr. Kenny:

The undersigned, hereby submits a price proposal for the On Call Maintenance Contractor procurement as set forth in RFP #BC-21037-K documents dated April 13, 2017 and Addenda as follows:

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

We understand that by submitting this price proposal, we are agreeing to all of the terms and conditions of UMBC's RFP. Below please find our quoted pricing under this RFP.

**UNIVERSITY OF MARYLAND, BALTIMORE COUNTY (UMBC)
ON CALL MAINTENANCE CONTRACTOR
RFP #BC-21037-K**

Page 2 of 4

PROPOSER'S NAME: _____

1. Quotes for Work to be self-performed by On Call Maintenance Contractor:

A. Quotes for Work to be self-performed by On Call Maintenance Contractor:

1. Year One: Labor Rates (per Section 00400, Article 4, Rates & Markups)

POSITIONS	REGULAR RATE (\$/HR)	SECOND SHIFT RATE (\$/HR)
Field Superintendent	\$	\$
General Traded Mechanic	\$	\$
Helper	\$	\$
Apprentice	\$	\$

1.1 Material Mark-up Percentage: _____%

1.2 Equipment Mark-up Percentage: _____%

Trade Work to be performed by a subcontractor to the On Call Maintenance Contractor: Provide a quoted percentage mark-up that will apply to any quoted subcontractor costs. **Percentage cannot be greater than 10%.**

Subcontractor's Mark-up/Percentage: _____%

**UNIVERSITY OF MARYLAND, BALTIMORE COUNTY (UMBC)
ON CALL MAINTENANCE CONTRACTOR
RFP #BC-21037-K**

Page 3 of 4

PROPOSER'S NAME: _____

2. Year Two: Labor Rates (per Section 00400, Article 4, Rates & Markups)

POSITIONS	REGULAR RATE (\$/HR)	SECOND SHIFT RATE (\$/HR)
Field Superintendent	\$	\$
General Traded Mechanic	\$	\$
Helper	\$	\$
Apprentice	\$	\$

2.1 Material Mark-up Percentage: _____%

2.2 Equipment Mark-up Percentage: _____%

Trade Work to be performed by a subcontractor to the On Call Maintenance Contractor: Provide a quoted percentage mark-up that will apply to any quoted subcontractor costs. **Percentage cannot be greater than 10%.**

Subcontractor's Mark-up/Percentage: _____%

We also understand that the Bid/Proposal Affidavit, , and proof of the Proposer's Contractor's license under Article 56, Section 180, Annotated Code of Maryland provided with our Technical Proposal remain in force under this Price Proposal phase.

We understand that the University reserves the right to award a contract (or contracts) for all items, or any parts thereof, as set forth in detail under the information furnished in the RFP document.

**UNIVERSITY OF MARYLAND, BALTIMORE COUNTY (UMBC)
ON CALL MAINTENANCE CONTRACTOR
RFP #BC-21037-K**

Page 4 of 4

PROPOSER'S NAME: _____

The Proposer represents, and it is a condition precedent to acceptance of this proposal, that the Proposer has not been a party to any agreement to submit a fixed or uniform price and that the signatory is authorized to financially obligate the Proposer. Sign where applicable below.

SIGNED: _____

PRINTED NAME: _____

TITLE: _____

DATE: _____

ATTACHMENT C

- UMBC Standard Contract
- Contract Affidavit

CONTRACT
BETWEEN
THE UNIVERSITY OF MARYLAND, BALTIMORE COUNTY
AND

By this Contract, made as of the ___ day of _____, 2017, by and between The University of Maryland, Baltimore County, a constituent institution of the University System of Maryland, agency of the State of Maryland (“University”), 1000 Hilltop Circle, Baltimore, Maryland 21250, and _____ (“Contractor”), for _____, the parties hereby agree as follows:

1. **TERM OF CONTRACT:** The term of this Contract shall begin on _____, 2017 and terminate on _____. There are eight (8) additional one-year renewal terms at the sole option of the University.
2. **SCOPE OF CONTRACT:** The Contractor's obligations and duties under this Contract shall include, but are not limited to, the terms, conditions and specifications contained in RFP No. and any amendments or changes thereto as well as the Contractor's proposal submitted in response to the aforementioned RFP (collectively referred to hereinafter as the “Contract Documents”). These obligations and duties are subject to the unilateral right of the University to order, in writing, changes in the work within the scope of the Contract.
3. **COMPENSATION AND METHOD OF PAYMENT:**
 - A. As compensation for satisfactory performance of the work described in Paragraph 2, above, the University will pay the Contractor \$_____.
 - B. The Contractor's Federal Tax Identification Number or, where applicable, Social Security Number is _____.
 - C. The Contractor shall be paid only for items or services that are specifically named in this Contract. No additional costs for items or services will be paid by the University without its prior express written consent.
4. **DELIVERY:** Delivery shall be made in accordance with bid/RFP specifications. 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 specifications shall be delivered FOB the point or points specified prior to or on the date specified in the solicitation. Any material that is defective or fails to meet the terms of the specifications shall be rejected. Rejected materials shall be promptly replaced. The University reserves the right to purchase replacement materials in the open market. Contractors failing to promptly replace materials lawfully rejects shall be liable for any excess price paid for the replacement plus applicable expenses, if any.
5. **NON-HIRING OF EMPLOYEES:** No employee of the State of Maryland or any unit thereof, whose duties as such employee include matters relating to or affecting the subject matter of this Contract, shall, while so employed, become or be an employee of the party or parties hereby contracting with the State of Maryland or any unit thereof.
6. **RESPONSIBILITY OF CONTRACTOR:**
 - A. The Contractor shall perform the services with that standard of care, skill and diligence normally provided by a Contractor in the performance of services similar to the services hereunder.
 - B. Notwithstanding any review, approval, acceptance or payment for the services by the University, the Contractor shall be responsible for professional and technical accuracy of its work, design drawings, specifications and other materials furnished by the Contractor under this Contract.

7. **DISSEMINATION OF INFORMATION:**
- A. During the term of this Contract, the Contractor shall not release any information related to the services or performance of the services under this Contract nor publish any final reports or documents without the prior written approval of the University.
 - B. The Contractor shall indemnify and hold harmless the University, its officers, agents and employees, from all liability which may be incurred by reason of dissemination, publication, distribution or circulation, in any manner whatsoever, of any information, data, documents, or materials pertaining in any way to this Contract by the Contractor, its agents or employees.
8. **OWNERSHIP OF DOCUMENTS AND MATERIALS:** The Contractor agrees that all documents and materials, including but not limited to, reports, drawings, studies, specifications, estimates, maps, photographs, designs graphics, mechanical, artwork, and computations prepared by or for it under the terms of this Contract shall at any time during the performance of the services be made available to the University upon request by the University and shall become and remain the exclusive property of the University upon termination or completion of the services. The University shall have the right to use same without restriction or limitation and without compensation to the Contractor other than that provided by this Contract. The University shall be the owner for purposes of copyright, patent or trademark registration.
9. **PATENTS, COPYRIGHTS AND TRADE SECRETS:**
- A. If the Contractor furnishes any design, device, material, process or other item which is covered by a patent or copyright or which is deemed proprietary to or a trade secret of another, Contractor shall obtain the necessary permission or license to use such item.
 - B. Contractor will defend or settle, at its own expense, any claim or suit against the University alleging that any such item furnished by Contractor infringes any patent, trademark, copyright, or trade secret. Contractor also will pay all damages and costs that by final judgment may be assessed against the University due to such infringement and all attorneys' fees and litigation expenses reasonably incurred by the University to defend against such a claim or suit. The obligations of this paragraph are in addition to those stated in paragraph 16 below.
 - C. If any products furnished by Contractor become, or in Contractor's opinion, are likely to become, the subject of a claim of infringement, Contractor will, at its option: (1) procure for the University the right to continue using the applicable item; (2) replace the product with a non-infringing product substantially complying with the item's specifications; or (3) modify the item so it becomes non-infringing and performs in a substantially similar manner to the original item.
10. **DISPUTES:** This Contract shall be subject to the provisions of University System of Maryland Procurement Policies and Procedures. Pending resolution of a claim, the Contractor shall proceed diligently with the performance of the Contract in accordance with the Procurement Officer's decision. Any dispute that is not subject to the jurisdiction of the Maryland State Board of Contract Appeals, as provided in the University System Procurement Policies and Procedures, shall be brought in and heard by the courts of the State of Maryland, and the parties voluntarily consent to the exclusive jurisdiction of the courts of this State for any such proceeding.
11. **NON-DISCRIMINATION IN EMPLOYMENT:** During the performance of this contract, the Contractor agrees as follows: (a) The Contractor will not discriminate against any employee, applicant for employment, or individual because of race, color, religion, creed, age, sex, sexual orientation, gender identity or expression, marital status, national origin, veteran's status, genetic information, and/or physical or mental handicap. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, creed, age, sex, sexual orientation, gender identity or expression, marital status, national origin, veteran's status, genetic information, and/or physical or mental handicap; (b) The Contractor shall establish and maintain a written sexual harassment policy and shall inform their employees of the policy. The policy must, at minimum, contain a notice that sexual harassment will not be tolerated and employees who practice it will be disciplined; (c) The Contractor will post in conspicuous places, available to employees, applicants for employment, and representatives of each labor union with which the covered Contractor has a collective bargaining agreement, notices setting forth the provisions of the nondiscrimination clause in subsection (a);

(d) In the event of the Contractor's noncompliance with the nondiscrimination clause, this contract may be cancelled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further contracts with the University of Maryland Baltimore County (UMBC); and (e) The Contractor will include the provisions of paragraphs (a) through (d) in every subcontract so that such provisions will be binding upon each subcontractor or vendor.

12. **CIVIL RIGHTS ACT 1964:** Vendors and Contractors providing materials, equipment, supplies or services to the State under this Contract herewith assure the State that they are conforming to the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1988, and the Civil Rights Act of 1991, and Section 202 of Executive Order 11246 of the President of the United States of America as amended by Executive Order 11375, as applicable.
13. **AFFIRMATIVE ACTION:** The Contractor and all subcontractors shall develop and maintain affirmative action plans directed at increasing the utilization of women and members of minority groups on State public works projects, pursuant to the Executive Order 11246 of the President of the United States of America and guidelines on Affirmative Action issued by the Equal Employment Opportunities Commission (EEOC) 29 C.F.R. part 1608 and the Governor of Maryland's Executive Order 01.01.1993.16.
14. **CONFLICT OF INTEREST LAW:** It is unlawful for any University officer, employee, or agent to participate personally in his official capacity through decision, approval, disapproval, recommendation, advice, or investigation in any contract or other matter in which he, his spouse, parent, child, brother, or sister, has a financial interest or to which any firm, corporation, association, or other organization in which he has a financial interest or in which he is serving as an officer, director, trustee, partner, or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, is a party, unless such officer, employee, or agent has previously complied with the provisions of Article 40A, §3-101 et seq of the Annotated Code of Maryland.
15. **CONTINGENT FEE PROHIBITION:** The Contractor, Architect, or Engineer (as applicable) warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee or agent working for the Contractor, Architect, or Engineer, to solicit or secure this agreement, and that it has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee or agent, any fee or any other consideration contingent on the making of this agreement.
16. **INTELLECTUAL PROPERTY:** Contractor agrees to indemnify and save harmless the State, its officers, agents and employees with respect to any claim, action, cost or judgment for patent infringement, or trademark or copyright violation arising out of purchase or use of materials, supplies, equipment or services covered by this Contract.
17. **SOFTWARE CONTRACTS:** N/A
18. **EPA COMPLIANCE:** Materials, supplies, equipment and services shall comply in all respects with the federal Noise Control Act of 1972, where applicable. Power equipment, to the greatest extent possible, shall be the quietest available. Equipment certified by the US EPA as a Low Noise Emission Product pursuant to the Federal Noise Control Act of 1972 shall be considered to meet the intent of the regulation. The Contractor must supply and have immediately available to their employees spill containment equipment/supplies necessary to contain any hazards they may introduce to the job site. The Contractor is responsible for any and all costs incurred by the University in remediating spills or releases of materials he/she introduced onto the job site.
19. **TERMINATION OF MULTI-YEAR CONTRACTS DUE TO LACK OF 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 State's rights or the Contractor's rights under any termination clause in this Contract. The effect of termination of the Contract hereunder will be to discharge both the Contractor and the State of Maryland from future performance of

the Contract, but not from their rights and obligations existing at the time of termination. The Contractor shall be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of the Contract. The State shall notify the Contractor as soon as it has knowledge that funds may not be available for the continuation of this Contract for each succeeding fiscal period beyond the first.

20. **TERMINATION FOR DEFAULT:** If the Contractor fails to fulfill its obligation under this contract properly and on time, or otherwise violates any provision of the contract, the University may terminate the contract by written notice to the Contractor. The notice shall specify the acts or omissions relied upon as cause for termination. All finished or unfinished work provided by the Contractor shall, at the University's option, become the University's property. The University shall pay the Contractor fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by Contractor's breach. If damages are more than the compensation payable to the Contractor, the Contractor will remain liable after termination and the University can affirmatively collect damages. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of USM Procurement Policies and Procedures.
21. **TERMINATION FOR CONVENIENCE:** The performance of work under this Contract may be terminated by the University in accordance with this clause in whole, or from time to time in part, whenever the University shall determine that such termination is in the best interest of the University. The University will pay all reasonable costs associated with this Contract that the Contractor has incurred up to the date of termination and all reasonable costs associated with termination of the Contract. However, the Contractor shall not be reimbursed for any anticipatory profits that have not been earned up to the date of termination. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of USM Procurement Policies and Procedures.
22. **DELAYS AND EXTENSIONS OF TIME:** The Contractor agrees to perform this agreement continuously and diligently. No charges or claims for damages shall be made by the Contractor for any delays or hindrances, regardless of cause, in the performance of services under this Contract. 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 State Contract, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or the delay of a sub-contractor or supplier arising from unforeseeable causes beyond the control and without the fault or negligence of either the Contractor or the subcontractors or suppliers.
23. **VARIATIONS IN ESTIMATED QUANTITIES:** N/A
24. **LIQUIDATED DAMAGES:** N/A.
25. **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 the Procurement Officer may determine to be appropriate for the convenience of the University.
26. **PRE-EXISTING REGULATIONS:** In accordance with the provisions of Section 11-206 of the State Finance and Procurement Article, Annotated Code of Maryland, the regulations set forth in USM Procurement Policies and Procedures in effect on the date of execution of this Contract are applicable to this Contract.
27. **FINANCIAL DISCLOSURE:** The Contractor shall comply with the provisions of Section 13-221 of the State Finance and Procurement Article of the Annotated Code of Maryland, as from time to time amended, 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.

28. **POLITICAL CONTRIBUTION DISCLOSURE:** The Contractor shall comply with Article 33, Sections 14-101 through 14-104, of the Annotated Code of Maryland, which requires that every person that enters into contracts, leases, or other agreements with the State, a county, or an incorporated municipality, or their agencies, during a calendar year under which the person receives in the aggregate \$100,000 or more shall file with the State Administrative Board of Election Laws a statement disclosing contributions in excess of \$500 to a candidate for elective office in any primary or general election. The statement shall be filed with the State Administrative Board of Election Laws: (1) before a purchase or execution of a lease or contract by the State, a county, an incorporated municipality, or their agencies, and shall cover the preceding two calendar years; and (2) if the contribution is made after the execution of a lease or contract, then twice a year, throughout the contract term, on: (a) February 5, to cover the 6-month period ending January 31; and (b) August 5, to cover the 6-month period ending July 31.
29. **RETENTION OF RECORDS:** The Contractor shall retain and maintain all records and documents relating to this Contract for three (3) years after final payment by the University hereunder or any applicable statute of limitations, whichever is longer, and shall make them available for inspection and audit by authorized representatives of the University, including the Procurement Officer or the Procurement Officer's designee, at all reasonable times.
30. **AUDIT:** The University reserves the right to request an independent review of the Contractor's financial operations and overall contract compliance ("Review"). The Review would be at the Contractor's expense and comprised of an agreed upon procedures engagement by an independent certified public accountant with a protocol acceptable to both parties at the time of the request.
31. **COMPLIANCE WITH LAWS:** The Contractor hereby represents and warrants that:
- A. It is qualified to do business in the State of Maryland and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified;
 - B. It is not in arrears with respect to the payment of any monies due and owing the State of Maryland, or any department or unit thereof, including but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Contract;
 - C. It shall comply with all federal, State and local laws, regulations, and ordinances applicable to its activities and obligations under this Contract; and
 - D. It shall obtain at its expense, all licenses, permits, insurance, and governmental approval, if any, necessary to the performance of its obligations under this Contract.
32. **COST AND PRICE CERTIFICATION:** By submitting cost or price information, the Contractor certifies to the best of its knowledge that 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.
 - C. 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.
33. **TRUTH-IN NEGOTIATION CERTIFICATION:** [Mandatory provision for architectural services or engineering services contracts exceeding \$100,000. It shall be in substantially the same form as follows: or insert "N/A" if not applicable.] The Contractor by submitting cost or price information, including wage rates or other actual unit costs, certifies to the best of its knowledge, information and belief, that:
- A. the wage rates and other factual unit costs supporting the firm's compensation, as set forth in the proposal, are accurate, complete and current as of the contract date;

- B. if any items of compensation were increased due to the furnishing of inaccurate, incomplete or noncurrent wage rates or other units of costs, the State is entitled to an adjustment in all appropriate items of compensation, including profit or fee, to exclude any significant sum by which the price was increased because of the defective data. The University's right to adjustment includes the right to a price adjustment for defects in costs or pricing data submitted by a prospective or actual subcontractor; and
 - C. If additions are made to the original price of the contract, such additions may be adjusted to exclude any significant sums where it is determined the price has been increased due to inaccurate, incomplete or noncurrent wage rates and other factual costs.
34. **PAYMENT OF UNIVERSITY OBLIGATIONS:** Payments to the Contractor pursuant to this Contract shall be made no later than 30 days after the University's receipt of a proper invoice from the Contractor. Each such invoice must reflect the Contractor's federal tax identification number. 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, as from time to time amended, are prohibited.
35. **SET-OFF:** The University may deduct from and set-off any amounts due and payable to the Contractor any back-charges or damages sustained by the University by virtue of any breach of this Contract by the Contractor or by virtue of the failure or refusal of the Contractor to perform the services or any part of the services in a satisfactory manner. Nothing herein shall be construed to relieve the Contractor of liability for additional costs resulting from a failure to satisfactorily perform the services.
36. **INDEMNIFICATION:** The University shall not assume any obligations 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 Contract.
37. **PROHIBITION AGAINST SHIFTING MARYLAND INCOME TO OUT-OF-STATE AFFILIATES:** Contractor may not, for any period during the Contract term, seek to reduce the amount of Contractor's income subject to Maryland income tax by payments made to an affiliated entity or an affiliate's agent for the right to use trademarks, trade names, or other tangible property associated with Contractor. Contractor agrees that during the course of this Contract it shall not make any such royalty or similar payments to any affiliated company; and if any such royalty or similar payments are made, Contractor and the affiliated company shall file separate Maryland income tax, under a formula that reasonably apportions the income of the affiliated company among the states, including Maryland, in which the Contractor does business. Contractor agrees that it is authorized to bind its affiliated entities to the terms hereof.
38. **USE OF CONTRACTOR'S FORMS NOT BINDING ON STATE:**
- A. The use or execution by the University of any forms, orders, agreements, or other documents of any kind, other than the Contract documents, used pursuant to or in the administration of any contract awarded by the University to the Contractor, shall not bind the University to any of the terms and conditions contained therein except those provisions:
 - (1) Generally describing for the purposes of ordering: equipment or services to be provided, locations, quantities, delivery or installation dates, and, to the extent consistent with the Contract Documents, prices; and
 - (2) not otherwise inconsistent with the Contract Documents.
 - B. Any such form, order, or others document shall not vary, modify, or amend the terms and provisions of the Contract Documents, notwithstanding any provision to the contrary in such document, unless all of the following conditions are met:
 - (1) the document expressly refers to the particular document and provision of the Contract Documents being modified and plainly and conspicuously identifies any modifications thereto as a modification; and
 - (2) the document is executed on behalf of the University by the procurement officer; and
 - (3) execution of the document is approved by the procurement authority whose approval is required by law.

39. **ASSIGNMENT**: This Contract and the rights, duties, and obligations hereunder may not be assigned or subcontracted by Contractor without the prior written consent of the University.
40. **WAIVER OF JURY**: UNIVERSITY AND CONTRACTOR, HEREBY WAIVE TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO WHICH THEY ARE PARTIES ARISING OUT OF OR IN ANY WAY PERTAINING TO THIS CONTRACT. IT IS AGREED AND UNDERSTOOD THAT THIS WAIVER CONSTITUTES A WAIVER OF TRIAL BY JURY OF ALL CLAIMS AGAINST ALL PARTIES WHO ARE NOT PARTIES TO THIS CONTRACT. THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY MADE BY UNIVERSITY AND CONTRACTOR, WHO HEREBY REPRESENT AND WARRANT THAT NO REPRESENTATIONS OF FACT OR OPINION HAVE BEEN MADE BY AN INDIVIDUAL TO INDUCE THIS WAIVER OF TRIAL BY JURY OR TO IN ANY WAY MODIFY OR NULLIFY ITS EFFECT.
41. **MARYLAND LAW**: This Agreement shall be governed by and construed in accordance with the laws of the State of Maryland, without regard to its conflicts of law or choice of law principles.
42. **FORCE MAJEURE**: If either party's performance(s) hereunder is rendered impossible, hazardous or is otherwise prevented or impaired due to sickness, inability to perform, accident, interruption or failure of means of transportation, Act(s) of God, riots, strikes, labor difficulties, epidemics, earthquakes, any act or order of any public authority, and/or any other cause or event, similar or dissimilar, beyond that party's control, then each party's obligations with respect to the affected performance(s) shall be excused and neither party will have any liability in connection therewith.
43. **SUCCESSORS AND ASSIGNS**. This Agreement will bind upon and inure to the benefit of the parties hereto and their respective personal representatives/successors and assigns. Successors and assigns shall agree to assume in writing the obligations under this Contract.
44. **COMPLIANCE WITH FERPA**: Intentionally omitted.
45. **SMOKE-FREE CAMPUS**: In an effort to provide a healthy, smoke-free environment for everyone on campus, and in accordance with USM policy, effective, July 1, 2013, UMBC has become smoke-free campus. The campus has provided two designated areas removed from major pedestrian traffic. All existing smoking urns have been removed, and new urns have been placed at each designated smoking area. Permanent smoking shelters will be installed during the fall semester. The two locations will be the Park Road Smoking Area, adjacent to Lots 1 and 3; and the Fine Arts Service Smoking Area, near the Fine Arts Building service area. To ensure that this policy is adhered to, individuals found in violation will be directed to review the smoking policy online at smokefree.umbc.edu. Those violating the policy after that will be subject to a fine. This new policy reflects a national movement to provide healthy, smoke-free environments on college campuses and brings UMBC in line with more than 800 colleges in the United States that are already smoke free.
46. **RESPONSIBILITY FOR TECHNOLOGY EXPORT CONTROL**: Intentionally omitted.
47. **CONTRACT CONTROLS**: It is mutually agreed that any attached contract, or addenda thereto, by and between the University and the Contractor pertaining to this Contract is supplemental and subordinate to this University of Maryland, Baltimore County Contract. The terms and conditions of this University of Maryland, Baltimore County Contract shall, at all times and in all events and situations, be controlling.
48. **CONTRACT AFFIDAVIT**: The Contract Affidavit required by the USM Procurement Policies and Procedures, consisting of Authorized Representative statement, Certification of Corporate Registration and Tax Payment, and Certain Affirmations Valid is attached and is a part of this Contract that must be executed by an authorized representative of the Contractor.

49. **ENTIRE AGREEMENT:**

- A. This Contract constitutes the entire agreement of the parties and supersedes all prior written or oral and all contemporaneous oral agreements, understandings, and negotiations between the parties with respect to the subject matter hereof. This Contract is intended by the parties as the final expression of their agreement and may not be contradicted by evidence of any prior or contemporaneous agreement.
- B. Headings: All headings are for reference purposes only and must not affect the interpretation of this Contract. All references to days in this Agreement mean calendar days, unless otherwise expressly stated. All references to including mean including without limitation.
- C. Partial Invalidity. Any provision of this Contract which is found to be invalid or unenforceable shall be ineffective to the extent of such invalidity or unenforceability, and the invalidity or unenforceability of such provision shall not affect the validity or enforceability of the remaining provisions hereof.
- D. Notices. Any notice required to be given hereunder shall be deemed to have been given either when served personally, by facsimile, or when sent by first class mail addressed to the parties at the addresses set forth in this Agreement.
- E. Counterparts. This Contract may be executed simultaneously, in two (2) or more counterparts, each of which shall be deemed an original and all of which, when taken together, shall constitute one and the same document. The signature of any party to any counterpart shall be deemed a signature to, and may be appended to any other counterpart.

Signatures on next page

IN WITNESS WHEREOF, the parties have caused this Contract to be executed on their behalf by the undersigned as of the date first shown above.

Contractor: _____

Witness

BY: _____
Signature

Typed/Printed Name

Title

Date

Telephone Number

University of Maryland Baltimore County

Witness

BY: _____
Signature

Terry Cook

Senior Associate Vice President for
Administrative Services

Date

410-455-2939

(Revised 05/29/14)

CONTRACT AFFIDAVIT

(This affidavit is a mandatory contract addendum in accordance with USM Procurement Policies and Procedures, but it is only required from the successful Contractor.)

A. AUTHORIZED REPRESENTATIVE

I HEREBY AFFIRM THAT:

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

B. CERTIFICATION OF CORPORATION REGISTRATION AND TAX PAYMENT

I FURTHER AFFIRM THAT:

(1) The business named above is a (domestic____) (foreign____) [check one] corporation registered in accordance with the Corporations and Associations Article, Annotated Code of Maryland, and that it is in good standing and has filed all its annual reports, together with filing fees, with the Maryland State Department of Assessments and Taxation, and that the name and address of its resident agent filed with the State Department of Assessments and Taxation is:

Name: _____

Address: _____

(2) Except as validly contested, the Contractor 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 Employment Security Administration, as applicable, and will have paid all withholding taxes due to the State of Maryland prior to final settlement.

C. CERTIFICATION REGARDING INVESTMENTS IN IRAN

(1) The undersigned bidder or offeror certifies that, in accordance with State Finance & Procurement Article, §17-705:

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

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

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

D. CERTAIN AFFIRMATIONS VALID

I FURTHER AFFIRM THAT:

To the best of my knowledge, information, and belief, each of the affirmations, certifications, or acknowledgments contained in that certain Proposal Affidavit dated _____, 20__, and executed by me for the purpose of obtaining the contract to which this Exhibit is attached remains true and correct in all respects as if made as of the date of this Contract Affidavit and as if fully set forth herein.

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

Date: _____ By: _____

Revised January 2013

END OF FORMS

END OF ATTACHMENT C

END OF RFP DOCUMENT