

SAMPLE CONSULTANT AGREEMENT

FOR

ADA SURVEY

ORIOLE PARK AT CAMDEN YARDS

MSA Project No. 20-076

Between the Maryland Stadium Authority and TBD

TABLE OF CONTENTS

Agreement iii

Introductory Statement iv

Terms and Conditions of Agreement Between Owner and Consultant
Article Number & Description

1. Engagement and Relationship A1-5

2. Scope of Consultant's Basic Services A2-8

3. Additional Services A3-9

4. Personnel..... A4-11

5. Owner's Responsibilities..... A5-13

6. Construction Cost..... A6-14

7. Ownership and Use of Consultant's Drawings, Specifications and Other Documents..... A7-15

8. Compliance with Laws and Regulations..... A8-16

9. Dispute Resolution/Arbitration..... A10-17

10. Termination, Postponement or Suspension A10-18

11. Insurance Requirements and Indemnification A11-20

12. Payments and Basis of Compensation A30-32

13. Audits by Owner..... A13-24

14. Miscellaneous Provisions A14-25

Signature Page..... 28

Exhibits 29

AGREEMENT

made as of the _____ day of _____ in the year of 2020.

BETWEEN the Owner:

Maryland Stadium Authority (the "MSA")
The Warehouse at Camden Yards
333 West Camden Street, Suite 500
Baltimore, Maryland 21201 (the "Owner")

and the Consultant:

To Be Determined

for the following project:

ADA Survey Consultant - Oriole Park at Camden Yards (the "Project").

INTRODUCTORY STATEMENT

- A. The Maryland Stadium Authority was established by the State of Maryland, pursuant to Section 13-701 et seq. of the Maryland Financial Institutions Article of the Annotated Code of Maryland (the "Stadium Act"), as amended.

- D. The Owner desires to engage the Consultant to render professional services with respect to the Project, subject to the terms of this Agreement.

- E. The Consultant desires to be retained by the Owner to perform the professional services required herein for the Owner.

NOW, THEREFORE, in consideration of the Recitals, which are deemed a material and substantive part of this Agreement, and in further consideration of the promises and agreements hereinafter set forth, the Owner and the Consultant agree as follows:

TERMS AND CONDITIONS OF AGREEMENT BETWEEN OWNER AND CONSULTANT

ARTICLE 1 ENGAGEMENT AND RELATIONSHIP

1.1 ENGAGEMENT: The Owner engages the Consultant with respect to the furnishing of those professional services set forth in this Agreement, and Consultant accepts such engagement, upon, subject to and in accordance with the terms, conditions and provisions of this Agreement.

1.2 RELATIONSHIP: The Consultant accepts the relationship of trust and confidence established between it and the Owner by this Agreement and shall furnish its professional skill and judgment consistent with the standards of the profession and cooperate with the Owner and the Owner's other consultants and contractors in furthering the interests of the Owner throughout the duration of this Agreement. For clarity, Consultant's status is that of a design professional, not fiduciary. The Consultant shall furnish efficient business administration and management services as required herein and shall use its professional efforts to perform its services in an expeditious and economical manner consistent with the interests of the Owner. The Consultant shall be an agent of the Owner to the extent, and only to the extent, required to properly perform its obligations under this Agreement; and Consultant shall not represent or hold itself out to have any authority to act on behalf of or bind the Owner other than as specifically provided herein.

1.3 INTENTIONALLY OMITTED.

1.4 THE CONSULTANT: It is the intent of the Owner and the Consultant that this Agreement be construed in a manner that requires the Consultant to provide all necessary and customary design and engineering services for the Project, including, without limitation, the specific services set forth in Articles 1, 2 and 3 of this Agreement or which are reasonably inferable from the terms, provisions and conditions thereof.

1.5 STANDARD OF CARE: All services to be performed by the Consultant in respect of this Agreement shall be provided in a manner consistent with the degree of care and skill usually exercised by Consultants experienced in projects of similar scope and in accordance with standards of care and skill expected of Consultants experienced in the design of projects similar to the Project and under the direction of Consultants and engineers licensed and duly qualified in the jurisdiction in which the Project is located.

1.5.1 The approval of any material produced by the Consultant, in connection with the Project by the MSA in no way relieves the Consultant of its responsibility for the accuracy and completeness of such Documents, nor compliance with required Standards, Codes, Ordinances or other applicable regulations, nor compliance with the Agreement and applicable law.

1.6 CONSULTANT'S EMPLOYEES AND SUBCONSULTANTS: The Consultant's services shall consist of those services performed by the Consultant, the Consultant's employees and the

Consultant's subconsultants. The Consultant shall be responsible for the provision of all Services whether provided by the Consultant or its consultants, agents, representatives or employee or others on behalf of the Consultant. Any consultant employed by the Consultant is subject to the approval of MSA, which shall not be unreasonably withheld.

1.7 INTENTIONALLY OMITTED

1.8 PROJECT SCHEDULE: The Consultant's services shall be performed as expeditiously as is consistent with professional skill and care and the orderly progress of the Consultant's services. The Consultant and Owner hereby agree to the Project schedule set forth in the Request for Proposals (RFP), attached as **Exhibit 1** hereto and incorporated by reference. Time limits established by this schedule shall not, except for reasonable cause, be exceeded by the Consultant. Any adjustments to the schedule shall be void and of no force and effect until such adjustments are agreed to in writing by Owner and Consultant.

1.9 OWNER'S CONSULTANTS: The Owner reserves the right to retain other Consultants, consultants, engineers, contractors and others for similar or dissimilar services. It is understood between the parties that, under conditions where the Owner deems it beneficial to the Project, the Consultant may be working in coordination and cooperation with other consultants who will be employed independently by the Owner and totally responsible to the Owner for their work and the performance of their respective agreements with the Owner. The Owner shall inform the Consultant of the specific relationship with other consultants, if any. All coordination fees associated therewith shall be included as part of Basic Services hereunder unless they arise after the date of this Agreement.

1.10 BUILDING CODES AND LAWS: Subject to Section 1.5, all of the Consultant's services shall comply with all applicable building codes, statutes, ordinances, laws, rules and regulations, including but not limited to the IBC/BOCA, Americans with Disabilities Act ("ADA"), Elevator/Escalator, Health, and NFPA/Life Safety codes, Mechanical, and Energy Conservation Codes, National Electrical Code, International Energy Conservation Code and ASHRAE standards

1.11 INTENTIONALLY OMITTED

1.12 DEFECTS: Any defective drawings or materials furnished by the Consultant will be promptly, upon notice or discovery, corrected by the Consultant at no cost to the Owner, and the Consultant will promptly reimburse the Owner for all damages, if any, to the extent caused by such defective drawings or materials. The Owner's approval, acceptance, use of or payment for all or any part of the Consultant's services hereunder or of the Project itself shall in no way alter the Consultant's obligations or the Owner's rights hereunder.

1.13 COPIES: As a part of Basic Services, the Consultant shall furnish the Owner with a electronic version of the documents prepared pursuant to Article 2.

1.14 COMMUNITY RELATIONS: At any time during the duration of this Agreement, upon Owner's request, the Consultant shall assist and support the Owner, at an additional charge, in preparing presentations of the intended design and status of the Project. Meetings and

presentations will be with and to various organizations, including, but not limited to, governmental agencies, legislative bodies, community and civic associations, special interest groups and any other groups deemed necessary by the Owner. The Consultant shall assist the Owner to work out methods for ameliorating community concerns and shall contribute articles to any newsletters to be published by the Owner and distributed to civic associations and key public officials.

1.15 MEETINGS: The Owner and Consultant shall, unless waived by the Owner, conduct meetings and other meetings scheduled by the Owner on at least a bi-weekly (once every two weeks) basis or as mutually agreed upon as a part of Basic Services. The Consultant shall provide at such meetings and at other intervals mutually agreeable to the Owner, appropriate drawings, schedules and other documents which depict the current status of the Project for the Owner's review. The Consultant shall keep minutes of all meetings for the Owner's approval and shall distribute the minutes to the Owner and other attendees.

1.16 INTENTIONALLY OMITTED

1.17 INTENTIONALLY OMITTED

1.18 DUTIES: Duties, responsibilities and limitations of authority of the Consultant shall not be restricted, modified or extended without written agreement of the Owner and Consultant.

1.19 COMMUNICATIONS: Communications by and with the Consultant's subconsultants shall be through the Consultant unless direct communication between Owner and Consultant's subconsultant is deemed necessary by Owner to expedite the Project. The Consultant shall be advised of the substance of the direct communication between Owner and Consultant's subconsultants.

ARTICLE 2
SCOPE OF CONSULTANT'S BASIC SERVICES

2.1 BASIC SERVICES GENERALLY

- 2.1.1** The Consultant's Basic Services consist of those services described in **Exhibit 1** (RFP).

ARTICLE 3

ADDITIONAL SERVICES

3.1 GENERAL: The services described in this Article 3 are not included in Basic Services and shall be paid for by the Owner, as provided in this Agreement, in addition to the compensation for Basic Services. The services described under this Article 3 shall only be provided if authorized or confirmed in writing by the Owner.

3.2 INTENTIONALLY OMITTED

3.3 CONTINGENT ADDITIONAL SERVICES: The services described below, if approved in writing by the Owner, shall be contingent additional services.

3.3.1 Major Revisions: Making major revisions in drawings or other documents when such revisions are:

3.3.1.1 Inconsistent with written approvals or instructions previously given by the Owner;

3.3.1.2 Required by the enactment of new codes, laws or regulations subsequent to the preparation of such documents; or

3.3.1.3 Due to changes required as a result of the Owner's failure to render decisions within a time period reasonably specified by the Consultant.

3.3.2 Significant Changes: Providing services required because of significant changes in the Project including, but not limited to, changes in size, quality, complexity, or the Owner's schedule, or the method of bidding or negotiating and contracting for construction, provided that the changes are not required as result of the Project being over Budget, or as a result of the Consultant not providing complete and accurate documents. Any modifications as a result of the Project being over Budget shall not constitute an additional service unless as stipulated in Section 2.2.2 Construction Costs.

3.3.3 Damage: Providing consultation concerning replacement of work damaged by fire or other cause during construction, and furnishing services required in connection with the replacement of such work.

3.3.4 Defects or Default: Providing services made necessary by the termination or default of a contractor, or by major defects or deficiencies in the work of a contractor.

3.3.5 Claims: Providing services in evaluating an extensive number of claims submitted by a CM or others in connection with the work subject to the limitations set forth in Section 3.3.7(a) below.

3.3.6 Legal Proceedings: Providing services in connection with a public hearing, arbitration proceeding or legal proceeding except where the Consultant is party thereto.

3.3.7 Consultant's Failure to Perform: Notwithstanding anything to the contrary in this Agreement: (a) Owner shall not be responsible to pay and the Consultant shall not be entitled to receive compensation for any Contingent Additional Services if such services were required due to the fault of the Consultant or the Consultant's failure to perform in accordance with the terms of this Agreement; and (b) the services described in this Section 3.3 shall be deemed Additional Services only if the Consultant can demonstrate to Owner that a direct and material increase in the Consultant's costs has been incurred and caused by the Owner, the Owner's consultants, or any of the contractors or subcontractors.

ARTICLE 4 **PERSONNEL**

4.1 PROJECT STAFFING: Except as hereinafter provided, the Consultant shall staff the Project and render its services hereunder in strict accordance with the staffing plan (“Staffing Plan”) set forth in its Technical Proposal, attached as **Exhibit 2**. The Consultant shall not deviate from the Staffing Plan or increase or decrease its staff without first obtaining the prior written consent of the Owner in each instance, except that minor changes in staff which do not involve Key People (as defined in Section 4.2 below), may be made without the prior written consent of the Owner so long as there is no increase in cost to the Owner as a result of such change. Each request for a staff change shall be accompanied by a resume and qualification package with respect to the proposed new staff member. If an increase in staff by Consultant is required as a result of Consultant's negligence or failure to properly perform its services hereunder, then the services of such staff shall be provided by Consultant without cost and with no increase in Consultant's Fee (hereinafter defined). Consultant shall be responsible for all damages and other liabilities to the extent caused by Consultant's failure to properly staff the Project in accordance with the Staffing Plan. If an increase in the staff is required due to circumstances beyond the control of the Consultant, the Consultant shall be compensated for such staff in accordance with Article 12), provided that the Consultant has obtained the Owner's prior written approval for such additional staff.

4.2 KEY PEOPLE: Consultant agrees that it shall assign Key Person(s) to this Project (the “Key People”), as approved by the Owner, as set forth in the Staffing Plan; and that the Key People shall devote their time as necessary to the Project as may be appropriate to and consistent with full and timely performance of this Agreement by the Consultant. Key People are principals and employees of the Consultant that the Owner desires to be and remain assigned to the Project. The Consultant agrees that the Key People shall not be removed from their responsibilities on this Project without the prior written consent of Owner, except in the event of death, disability or departure from the employment of Consultant. All computations and other work performed by the employees of the Consultant shall be adequately supervised by one or more of the Key People. If the Owner determines that any of the Key People are not performing the job satisfactorily, the Owner shall have the right to direct that such individual(s) be replaced. The Consultant shall provide the Owner with resumes of possible replacements and the Owner shall have the opportunity to interview any such replacement candidates.

4.2.1 Consultant's Key People: The Consultant shall include a provision in all agreements with its consultants requiring each consultant to obtain the prior written approval of the Owner before the consultant assigns its Key People to the Project, and to include provisions relating to staffing substantially the same as those set forth in this Article 4.

4.3 REPLACEMENTS: If any of the Key People becomes unavailable to perform services in connection with the Project under this Agreement, the Consultant, subject to the prior written approval of the Owner, shall promptly appoint a replacement, including a current resume and rate of compensation, and the Owner shall have the opportunity to interview each such replacement.

4.4 RE-ASSIGNMENT: The Consultant shall not transfer or re-assign any of the Key People to other matters undertaken by the Consultant without the prior written consent of the Owner. The Owner shall have the right to require that the Consultant re-assign any of the Key People or any of the Consultant's other personnel at the reasonable discretion of the Owner.

ARTICLE 5
OWNER'S RESPONSIBILITIES

5.1 CONSULTATION WITH THE CONSULTANT: The Owner shall consult with the Consultant regarding requirements for the Project, including the Owner's contemplated objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems, and site requirements.

5.2 INTENTIONALLY OMITTED

5.3 OWNER'S REPRESENTATIVE: The Owner shall designate a representative authorized to act on the Owner's behalf with respect to the Project. The Owner's Representative is as detailed in list attached hereto as **Exhibit 3**.

ARTICLE 6

INTENTIONALLY OMITTED

ARTICLE 7
OWNERSHIP AND USE OF CONSULTANT'S DRAWINGS AND OTHER DOCUMENTS

7.1 DOCUMENTS: All drawings, reports, surveys, Computer-Aided Design/Drafting (CADD) System disks/tapes and other documents, including models, photographs and renderings, prepared and/or furnished by the Consultant pursuant to this Agreement, shall be the property of the Owner and may not be copyrighted by the Consultant or its consultants. In the event that the Owner reuses any of the final working drawings for the construction of another project by Owner through another licensed professional, the Consultant's name shall be removed therefrom and another licensed professional shall assume full responsibility for the reuse of such drawings. The Consultant shall have no liability or responsibility arising from such reuse. Nothing contained herein shall prohibit the Consultant from retaining a copy of the above documents. The Consultant shall require all of its consultants and/or sub-consultants to give the Owner copyright protection substantially as set forth in this Article 7.

7.2 OWNERSHIP: The data used in compiling, and the results of, any tests, surveys or inspections at the Site, as well as all photographs, drawings, schedules, data processing output, computations, studies, audits, reports, models and other items of like kind prepared by or with the assistance of the Consultant and its employees and consultants, shall be the property of the Owner.

7.3 RELEASE OF PROJECT INFORMATION; CONFIDENTIALITY: The Consultant shall not issue any press releases or engage in any dialogues or interviews with the media or any other persons or entities for the dissemination to the general public without the prior written consent of the Owner. The contents and substance of all discussions and communications, oral or written, between the Owner and the Consultant shall be kept confidential and shall not be disclosed by the Consultant to any persons or entities unaffiliated with the Project, including, without limitation, governmental authorities and community groups, without the prior written consent of the Owner.

ARTICLE 8

COMPLIANCE WITH LAWS AND REGULATIONS

8.1 EMPLOYMENT LAWS; LICENSING REQUIREMENTS: The Consultant shall comply, at its own expense, with the provisions of all laws and regulations applicable to the Consultant as an employer of labor or otherwise. The Consultant shall further comply, at its own expense, with all laws and regulations, including, but not limited to, licensing requirements, pertaining to its professional status and that of its employees, partners, associates, consultants under subcontracts and others employed to render the services under this Agreement.

8.2 NON-DISCRIMINATION IN EMPLOYMENT: The Consultant 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 subconsultant agreement except a subconsultant agreement for standard commercial supplies or raw materials; and (c) to post and to cause subconsultants to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause.

8.3 INTENTIONALLY OMITTED

8.4 AMERICANS WITH DISABILITIES ACT: The Project shall be completed in accordance with the Americans with Disabilities Act ("ADA"). If applicable, the Consultant shall appoint an ADA task force during the design process. The task force shall meet on a regular basis and provide comments regarding project ADA compliance to the Owner.

ARTICLE 9

DISPUTE RESOLUTION/ARBITRATION

9.1 DISPUTES: In the event of any dispute or controversy of any nature whatsoever, the Consultant shall strictly abide by the Owner's decision for the purpose of the prompt and uninterrupted continuation of the performance of its duties, obligations and services under this Agreement; but the Consultant may submit to Owner a written exception to any decision of the Owner within ten (10) days after receipt of such decision stating the basis of its exception and reserving the right to file a claim against the Owner after completion of the Project for additional compensation or damages. The continued performance by the Consultant of its duties, obligations and services under this Agreement shall not operate as a waiver of any such claim, nor shall it be prejudicial to the Consultant's rights, hereby reserved, to have such exception and claim later adjudicated by a court of competent jurisdiction after completion of the Project.

9.2 CONTINUED PERFORMANCE AND PAYMENT: The Consultant shall continue to perform its obligations under this Agreement pending resolution of any dispute, and the Owner shall continue to make payments of all amounts due the Consultant, which are not in dispute.

9.3 NO ARBITRATION: No dispute or controversy under this Agreement shall be subject to binding arbitration except to the extent that either (a) the Owner and Consultant mutually agree to arbitrate or (b) the Consultant is joined as a party in an arbitration proceeding between the Owner and a contractor.

ARTICLE 10

TERMINATION, POSTPONEMENT OR SUSPENSION

10.1 TERMINATION: At any time during the effectiveness of this Agreement, the Owner shall have the right, with or without cause, upon ten (10) days written notice to the Consultant, to terminate this Agreement in whole or in part. In the event of a termination, the Consultant shall deliver to the Owner all drawings, specifications, reports and other data, records and materials in the Consultant's custody or control pertaining to the Project, and the Owner shall pay to the Consultant all amounts due and earned to the time of the termination, in accordance with the provisions of this Agreement. Except as specifically set forth above, such termination shall not give rise to any cause of action or claim against the Owner for damages, loss of profits, expenses or other remuneration of any kind. Notwithstanding any other provisions of this Agreement if, in the judgment of the Owner, such termination is made necessary or desirable because of the Consultant's failure to fulfill the Consultant's obligations under this Agreement or any other fault of the Consultant, the Owner may withhold payment of all disputed amounts which otherwise may be payable to the Consultant under this Agreement. Such monies may be applied toward any damages or expenses sustained by the Owner as a result of such failure including, without limitation, any reasonable excess costs incurred by the Owner in completing the Project by the use or employment of other licensed professionals or otherwise. Notwithstanding the foregoing, the Consultant shall remain liable to the Owner for all such damages and expenses to the extent caused by the fault of the Consultant without limitation to any such monies being withheld by the Owner. The failure of the Owner to withhold monies from the Consultant shall not be construed as an acknowledgment by the Owner that no such damages or expenses exist and shall not prevent the Owner from thereafter making any claim against the Consultant therefore.

10.2 POSTPONEMENT OR SUSPENSION: At any time during the effectiveness of this Agreement, the Owner shall have the right, with or without cause, upon ten (10) days written notice to the Consultant, to postpone or suspend all or any part of the Project. In the event of any postponement or suspension, the Owner shall have the right, in its discretion, upon written notice to Consultant, to keep this Agreement in effect during the period of such postponement or suspension; provided however, that if the postponement or suspension exceeds a period of ninety (90) days the Consultant shall be reimbursed for the actual costs incurred by the Consultant as a result of such postponement or suspension. Except as specifically set forth above, such postponement or suspension shall not give rise to any cause of action or claim against the Owner for damages, loss of profits, expenses or other remuneration of any kind. Notwithstanding any other provisions of this Agreement if, in the judgment of the Owner, such postponement or suspension is made necessary or desirable because of the Consultant's failure to fulfill the Consultant's obligations under this Agreement or any other fault of the Consultant, the Owner may withhold payment of all disputed amounts which otherwise may be payable to the Consultant under this Agreement. Such monies may be applied toward any damages or expenses sustained by the Owner as a result of such failure including, without limitation,

any reasonable excess costs incurred by the Owner in completing the Project by the use or employment of other licensed professionals or otherwise. Notwithstanding the foregoing, the Consultant shall remain liable to the Owner for all such damages and expenses to the extent caused by the fault of the Consultant without limitation to any such monies being withheld by the Owner. The failure of the Owner to withhold monies from the Consultant shall not be construed as an acknowledgment by the Owner that no such damages or expenses exist and shall not prevent the Owner from thereafter making any claim against the Consultant therefore.

ARTICLE 11
INSURANCE REQUIREMENTS AND INDEMNIFICATION

11.1 INSURANCE REQUIREMENTS: Per the requirements of the RFP, Consultant shall maintain, at its own expense, the following insurance coverages, insuring the Consultant, its employees, agents and designees, and the Indemnitees (as hereinafter defined), which insurance shall be placed with insurance companies rated “A-VIII” or better by A.M. Best & Company and lawfully authorized to do business in the State of Maryland:

- (a) Consultant's Professional Liability Insurance in the amount of One Million Dollars (\$1,000,000).
- (b) Comprehensive General Liability Insurance in the amount of One Million Dollars (\$1,000,000) including coverage for blanket contractual liability, broad form property damage and personal injury, and on-going operations and completed operations.
- (c) Umbrella Liability Insurance in the amount of One Million Dollars (\$1,000,000) following the underlying Comprehensive General Liability Insurance, Commercial Automobile Liability Insurance and Employers' Liability Insurance.
- (d) Commercial Automobile Liability Insurance, including owned, hired and non-owned vehicles, if any, in the amount of One Million Dollars (\$1,000,000) covering bodily injury and property damage.
- (e) Workers Compensation Insurance in the amount required under and in accordance with the State of Maryland's statutory requirements and Employers' Liability Insurance with limits not less than One Million Dollars (\$1,000,000) per accident.

All insurance policies shall provide that they cannot be cancelled, materially changed or non-renewed unless the Owner, Indemnitees and Professional Liability Indemnitees (if available) are given at least thirty (30) days prior written notice. All deductibles on any policy of insurance to be purchased by Consultant hereunder shall be borne by the Consultant.

11.2 ADDITIONAL INSURED: Consultant shall insure specifically the indemnity set forth in Section 11.5 below and shall include the Indemnitees (as defined in Section 11.5.1) as additional insureds by causing amendatory riders or endorsements to be attached to the insurance policies described above in Subsections 11.1(b), 11.1(c), and 11.1(d). The insurance coverage afforded under these policies shall be primary to any insurance (or self-insurance) carried independently by the Indemnitees. Said amendatory

riders or endorsements shall indicate that, as respects the Indemnitees, there shall be severability of interest under said insurance policies for all coverages provided under said insurance policies. The following language shall be specifically included as an endorsement under the Consultant's Comprehensive General Liability policy:

"The coverage afforded to the additional insured under this policy shall be primary insurance. The amount of the Company's liability under this policy shall not be reduced by the existence of any other insurance. It is further agreed that the coverage afforded to the additional insured shall not apply to the sole negligence of the additional insured."

11.3 CONSULTANTS INSURANCE: The Consultant shall require that its consultants maintain, at their own expense, the insurance coverages set forth in Section 11.1, or other amounts as agreed in writing by the Owner.

11.4 CERTIFICATE: Consultant shall submit valid certificates in form and substance satisfactory to Owner evidencing the effectiveness of the foregoing insurance policies along with copies of the amendatory riders to any such policies to Owner for Owner's approval before Consultant commences the rendition of any services hereunder.

11.5 INDEMNIFICATION:

11.5.1 To the extent insured under the insurance policies described in Subsections 11.1(b), 11.1(c), and 11.1(d), the Consultant hereby agrees to indemnify, defend and hold harmless the Owner and the Baltimore Orioles and their respective members, directors, officers, authorized agents, employees and designees (collectively, the "Indemnitees") from and against any and all losses, claims, demands, liabilities, actions, suits, injuries, damages, judgments, costs and expenses, including without limitation attorneys' fees as and when incurred, asserted by any persons (including, but not limited to any one or more of the Indemnitees) that are caused by or arise from any negligent acts, errors or omissions of the Consultant, its authorized agents, licensees, employees and contractors, occurring in connection with the performance or lack of performance by the Consultant of its duties and obligations under or pursuant to this Agreement.

11.5.2 With respect to professional liability for design and construction administration services covered under Consultant's professional liability insurance policy, the Consultant hereby agrees to indemnify and hold harmless the Owner and the Baltimore Orioles and their respective members, directors, officers, authorized agents, employees and designees (collectively the "Professional Liability Indemnitees") from and against all losses, claims, demands, liabilities, actions, suits, injuries, damages, judgments, costs and expenses, including without limitation reasonable attorneys' fees, caused by the negligent performance or lack of performance by the Consultant, or any of the Consultant's consultants, of their duties and obligations under or pursuant to this Agreement.

ARTICLE 12

PAYMENTS AND BASIS OF COMPENSATION

12.1 PAYMENTS: Subject to the provisions of this Article 12, the Owner shall make payments directly to the Consultant within thirty (30) days after the Owner's receipt and approval of (a) the Consultant's detailed monthly statement, lien waivers or releases (b) a certificate duly executed by Consultant covering that portion of the services completed on the Project prior to the date of said certificate.

12.2 INITIAL PAYMENT: There shall be no Initial Payment made upon execution of this Agreement.

12.3 INTENTIONALLY OMITTED.

12.4 BASIC SERVICES: Basic Services shall include all services described in Article 2, and any other services specifically identified in this Agreement as part of Basic Services, and shall not exceed the stipulated sum stated in the Financial Proposal attached as **Exhibit 4** unless approved in advance by Owner in writing.

12.4.2 Change in Project Scope: In the event of a material change in the scope of the Project or the scope of the Consultant's services, the Consultant shall continue to perform in accordance with the terms of this Agreement during the course of any renegotiation of the Consultant's compensation hereunder.

12.5 ADDITIONAL SERVICES: For Additional Service as described in Article 3, compensation shall be based upon a negotiated amount agreed to in writing by the parties.

12.6 INTENTIONALLY OMITTED

12.7 PROJECT COMPLETION: It is the intent of the parties that the Consultant shall continue to perform the services required hereunder through the three (3) months after the Scheduled Completion Date as described in the RFP (**Exhibit 1**). If Basic Services have not been completed within three (3) months after the Consultant's signature on the Final Certificate of Substantial Completion under Subsection 2.7.20, through no fault of the Consultant, the Consultant shall be compensated for its services as an Additional Service under Section 12.5. The Consultant shall have no claim against the Owner, its consultants or contractors, for any loss, cost, expense, claim or liability incurred as a result of the failure to attain project close-out by the Scheduled Completion Date, but shall look to its right to increased compensation as set forth above as its sole remedy for any such failure; all other remedies being hereby expressly waived. The foregoing shall not, however, be deemed to invalidate the indemnification obligations set forth in Section 11.5.

12.8 CONSULTANTS ACCOUNTING RECORDS: Records of Consultant's expenses and hours pertaining to this Project shall be kept in accordance with generally accepted accounting principles, which principles shall be consistently applied. Said records shall be available to the Owner or its authorized representative for inspection and copying during regular business hours during the term of this Agreement and for three (3) years after the date of the final certificate of payment.

ARTICLE 13
AUDITS BY OWNER

13.1 ACCESS TO CONSULTANT'S BOOKS AND RECORDS: The Consultant agrees that the Owner or any of its duly authorized representatives shall, until the expiration of three (3) years after final payment under this Agreement have access to and the right to examine any directly pertinent books, documents, papers, and records of the Consultant involving transactions related to this Agreement.

13.2 ACCESS TO CONSULTANT'S BOOKS AND RECORDS: The Consultant further agrees to include in all its consultant agreements hereunder a provision to the effect that the consultants agree that the Owner or any of its duly authorized representatives shall, until expiration of three (3) years after final payment under the consultant agreements, have access to and the right to examine any directly pertinent books, documents, papers, and records of such consultants, involving transactions related to the Project.

ARTICLE 14

MISCELLANEOUS PROVISIONS

14.1 GOVERNING LAW: This Agreement shall be governed by the laws of the State of Maryland.

14.2 SUCCESSORS AND ASSIGNS: The Owner and the Consultant, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement.

14.3 ASSIGNMENTS: The Consultant shall not assign, encumber, pledge, sublet or transfer any interest in this Agreement without the written consent of the Owner. The Consultant shall notify the Owner immediately in writing of any significant changes in its ownership or organization or in the ownership or organization of any of the joint venturers comprising the Consultant. Except for an assignment by Owner of any of its rights under this Agreement to the State of Maryland, or any agency or department thereof, or an entity supplying funds for the construction of the Project, the Owner shall not assign, encumber, pledge, sublet or transfer any interest in this Agreement without the written consent of the Consultant, which consent shall not be unreasonably withheld or delayed. When requested by an entity supplying funds for the construction of the Project, including any lender, the Consultant shall enter into a reasonable and customary "Agreement to Complete".

14.4 REMEDIES CUMULATIVE: The remedies provided in this Agreement shall be in addition to, and not in substitution for, the rights and remedies which would otherwise be vested in either party hereto, under law or at equity, all of which rights and remedies are specifically reserved by each party; and the failure to exercise any remedy provided for in this Agreement shall not preclude the resort to any such remedy for future breaches by the other party, nor shall the use of any special remedy hereby provided prevent the subsequent or concurrent resort to any other remedy which by law or equity would be vested in either party for the recovery of damages or otherwise in the event of a breach of any of the provisions of this Agreement to be performed by the other party.

14.5 JURISDICTION AND VENUE: If the Owner is a party to any litigation with respect to the Project (whether as plaintiff, defendant or third party defendant) the Consultant consents to being joined in such action and to the jurisdiction of the Court in which the action is instituted (if the Consultant is named as a defendant or impleaded as a third party defendant) and to service of process by that court; and the Consultant waives any right to contest its joinder in such action on the grounds of improper jurisdiction or venue.

14.6 CONTRACT AFFIDAVIT: Simultaneously with the execution of this Agreement, the Consultant shall execute, seal and deliver to the Owner the signed Contract Affidavit attached hereto as **Exhibit 5**.

14.7 EXHIBITS: All exhibits attached hereto are hereby incorporated into this Agreement and are deemed a material part of this Agreement.

14.8 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 Agreement, 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.

14.9 PERSONAL LIABILITY OF PUBLIC OFFICIALS: In carrying out any of the provisions of the Agreement, or in exercising any power or authority granted to them by or within the scope of this Agreement, there shall be no personal liability upon the members of the Maryland Stadium Authority or any employees or representatives of the Owner, either personally or as officials of the State, it being understood that in all such matters they act solely as agents and representatives of the Owner.

14.10 POLITICAL CONTRIBUTION DISCLOSURE: The Consultant shall 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, a county, or an incorporated municipality, or their agencies, during a calendar year in which the person receives in the aggregate \$200,000 or more, shall file with the State Board of Elections a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election. The statement shall be filed with the State Board of Elections: (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.

14.11 MULTI-YEAR CONTRACTS CONTINGENT UPON APPROPRIATION: 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 Agreement succeeding the first fiscal period, this Agreement shall be cancelled 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 Owner's rights or the Consultant's rights under any termination clause in this Agreement. The effect of termination of the Agreement hereunder will be to discharge both the Consultant and the Owner from future performance of the Agreement, but not from their rights and obligations existing at the time of termination. The Consultant shall be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of the Agreement. The Owner shall notify the Consultant as soon as it has knowledge that funds may not be available for the continuation of this Agreement for each succeeding fiscal period beyond the first.

14.12 INTENTIONALLY OMITTED

14.13 NOTICES: All notices required or permitted to be given by one party to the other hereunder shall be in writing and shall be sent by certified U.S. Mail or commercial messenger receipt service, or shall be hand-delivered, as set forth in **Exhibit 6**. Either party may change its address for the purpose of receiving notices under this Agreement by written notice to the other party in the manner set forth above.

14.14 INTENTIONALLY OMITTED

14.15 INTEGRATED AGREEMENT: This Agreement and the RFP_(unless modified by this Agreement) represent the entire and integrated agreement between the Owner and the Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Consultant.

14.16 NO JOINT VENTURE: Consultant acknowledges that Owner is not a partner or joint venturer of Consultant and that Consultant is not an employee or agent of Owner.

14.17 HAZARDOUS MATERIALS: Unless otherwise provided in this Agreement, the Consultant and Consultant's consultants shall have no responsibility for the discovery, presence, handling, removal or disposal of or exposure of persons to hazardous materials in any form at the Project site, including but not limited to asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic substances; provided, however, the Consultant shall report to the Owner the presence and location of any hazardous material that an Consultant of similar skill and expertise should have noticed.

14.18 OWNER APPROVAL: Whenever provision is made herein or in the contract documents for the approval or consent of Owner, or that any matter be to Owner's satisfaction, unless specifically stated to the contrary, such approval or consent shall be made by Owner in its sole discretion and determination.

14.19 HEADINGS: The headings and captions of the Sections in this Agreement are inserted for identification purposes only, and shall not govern the construction, nor alter, vary, or change any of the terms, conditions, or provisions of this Agreement or any Sections hereof.

14.20 TIME OF THE ESSENCE: Time is of the essence in the performance of the obligations of the Consultant under this Agreement.

This Agreement entered into as of the day and year first written above.

WITNESS:

OWNER: Maryland Stadium Authority

(Print Name)

Michael J. Frenz, Executive Director

(Signature)

(Signature)

.....
WITNESS:

CONSULTANT: To Be Determined

(Print Name)

Name, Title

(Signature)

(Signature)

LIST OF EXHIBITS

Exhibit 1.....RFP

Exhibit 2.....Consultant's Technical Proposal

Exhibit 3.....Owner's Representatives

Exhibit 4.....Consultant's Financial Proposal

Exhibit 5..... Contract Affidavit

Exhibit 6.....Notices

EXHIBIT 1

PROJECT PROGRAM

See sections _____ of the RFP (Exhibit 5) and Technical Proposal (Exhibit 6).

EXHIBIT 2

CONTRACTING STRATEGY

The Contracting Strategy will be CM at Risk.

EXHIBIT 3

PROJECT SCHEDULE

To be established.

EXHIBIT 4

BUDGET

The Total project budget is \$.00 (to be established).

EXHIBIT 5

REQUEST FOR PROPOSAL

Refer to attached Maryland Stadium Authority Request for Proposals – , dated
_____.

EXHIBIT 6

PROPOSALS – TECHNICAL & FINANCIAL

Refer to the attached Technical and Financial Proposals dated _____.

EXHIBIT 7

SCHEDULE OF CONSTRUCTION COST

To be established.

EXHIBIT 8

MARYLAND STADIUM AUTHORITY
333 W. Camden Street, Suite 500
Baltimore, Maryland 21201

CERTIFICATE OF SUBSTANTIAL COMPLETION

CONTRACT NO.: _____ CONTRACT DATE: _____
CONTRACT NAME: _____
PROJECT NAME: _____

DEFINITION: The date of Substantial Completion on the Work or designation portion thereof is the Date certified by the Consultant/Engineer when construction is sufficiently complete, in accordance with the Contract Documents, so the Owner can occupy or utilize the Work or designated portion thereof for the use for which it is intended, as expressed in the Contract Documents.

PROJECT OR DESIGNATED PORTION THEREOF, INCLUDED IN THIS CERTIFICATE:

The Work to which this Certificate applies has been reviewed and found to be substantially complete. The date of Substantial Completion of the Project or portion thereof designated above is established as _____, which is also the date of commencement of applicable warranties required by the Contract Documents, except as stated below:

A list of items to be completed or corrected, prepared by the contractor and amended by the Consultant/Engineer and Construction Manager is attached hereto. The failure to include any items on such a list does not alter the responsibilities of the Contractor to complete all work in accordance with the Contract Documents. The list of items shall be completed or corrected by the Contractor within thirty (30) days of the above date of Substantial Completion. The date of commencement of warranties for items on the attached list will be the date of final payment unless otherwise agreed to in writing. The responsibilities of the Owner and Contractor for security, maintenance, heat utilities, damages to the Work and insurance shall be as follows:

OWNER: _____
CONTRACTOR: _____

This Certificate does not constitute an acceptance of Work not in accordance with the Contract Documents, nor is it a Release of Contractors obligations to complete the Work in accordance with the Contract Documents.

CONSULTANT/ENGINEER: _____ **CONSTRUCTION MANAGER:** _____
Date: _____ Date: _____
A/E: _____ CM: _____
By: _____ By: _____

CONTRACTOR agrees to this Certificate of **OWNER** agrees to this Certificate of
Substantial Completion on: _____ Substantial Completion on: _____
Date: _____ Date: _____
Contr.: _____ Owner: _____
By: _____ By: _____

EXHIBIT 8 - continued

MARYLAND STADIUM AUTHORITY
333 W. Camden Street, Suite 500
Baltimore, Maryland 21201

FINAL COMPLETION CERTIFICATE

CONTRACT NO.: _____ **CONTRACT DATE:** _____

CONTRACT NAME: _____

PROJECT NAME: _____

DEFINITION: The date of Final Completion on the Work is the Date certified by the Consultant/Engineer when construction is complete, including all close out documents, claims settled and is, in accordance with the Contract Documents. The Owner took beneficial occupancy of the Work for the use for which it is intended, as expressed in the Contract Documents.

PROJECT OR DESIGNATED PORTION THEREOF, INCLUDED IN THIS CERTIFICATE:

The Work to which this Certificate applies has been reviewed and found to be complete. The date of Completion of the Project or portion thereof designated above (the Contract) is established as _____. The Contractor has no claims or liens against the Project or the Owner.

The responsibilities of the Owner and Contractor for security, maintenance, heat utilities, damages to the Work and insurance shall be as follows:

OWNER: _____

CONTRACTOR: _____

This Certificate does not constitute an acceptance of Work not in accordance with the Contract Documents, nor is it a Release of Contractors' obligations of the Contract Documents.

CONSULTANT/ENGINEER:
Date: _____
A/E: _____
By: _____

CONSTRUCTION MANAGER:
Date: _____
CM: _____
By: _____

CONTRACTOR agrees to this Certificate of Final Completion on:
Date: _____
Contr.: _____
By: _____

OWNER agrees to this Certificate of Final Completion on:
Date: _____
Owner: _____
By: _____

EXHIBIT 9

STAFFING PLAN

See attached Staffing Plan.

Exhibit 10

OWNER ' S REPRESENTATIVES

Exhibit 11

CONSTRUCTION MANAGEMENT AGREEMENT

Exhibit 12

CONFIDENTIALITY/COPYRIGHT AGREEMENT AND ACKNOWLEDGMENT

I, _____ as the (title) _____ and duly authorized representative of (company) _____, which is engaged to do work for the project, understand that certain information regarding the project is or may be sensitive to the Owner and that the timing of its release is of considerable importance to the Owner. I further understand and acknowledge that any materials prepared or furnished by (company) _____ in connection of this project shall be the property of the Owner.

THEREFORE, I hereby acknowledge and agree that (company) _____ shall not issue any press releases or engage in any dialogues or interviews with the media or any other persons or entities for the dissemination to the general public without the prior written consent of the Owner. The Owner reserves the right to release all information as well as to time its release, form and content. The contents and substance of all discussions and communications, oral or written, between this company and the Consultant, Owner, Construction Manager, and/or any other contractors engaged to perform work on the project shall be kept confidential and shall not be disclosed by this company to any persons or entities unaffiliated with the project, including, without limitation, governmental authorities and community groups, without the prior written consent of the Owner.

I further acknowledge and agree that all drawings, specifications, reports, surveys, CADD System disks/tapes and other documents, including models, photographs and renderings, prepared or furnished by (company) _____ shall be the property of the Owner and may not be copyrighted by (company) _____.

This Agreement shall become a substantive part of (company) contract to perform work on the project and the Owner shall be entitled to enforce all provisions hereunder, and shall be entitled to reasonable damages for any breach hereof. This Agreement shall survive the expiration of this company's contract to do work on the project.

IN WITNESS WHEREOF, this Agreement was executed on the

_____ day of _____, 20____.

Signature

Printed

Exhibit 13

INTENTIONALLY OMITTED

Exhibit 14

DESCRIPTION OF CONSULTANT 'S COMPENSATION

Refer to the attached Financial Proposal included in **Exhibit 6**.

Exhibit 15

STATE STANDARD OF TRAVEL REIMBURSEMENT

Travel reimbursement is included in lump sum fee for all work required in the Request for Proposal “RFP”. Authorized travel beyond what is required for the RFP will be approved, in advance, by the Maryland Stadium Authority.

Exhibit 16

CONTRACT AFFIDAVIT

See attached Contract Affidavit.

Exhibit 17

NOTICES

TO OWNER:

TO CONSULTANT:

Name

Address Line 1

City, State Zip code

Phone:

Email: