



Friends of Patapsco Valley State Park
Invitation For Bids (IFB)
Old Ellicott City Connector
IFB number: RT2207

Issue date: 2/24/23

NOTICE

A Prospective Bidder that has received this document from a source other than eMarylandMarketplace (eMMA) <https://procurement.maryland.gov> should register on eMMA.
See **Section 4.2**.

NO BID NOTICE/VENDOR FEEDBACK FORM

To help us improve the quality of solicitations, and to make our procurement process more responsive and business-friendly, please provide comments and suggestions regarding this solicitation. Please return your comments with your response. If you have chosen not to respond to this solicitation, please email this completed form to the attention of the Procurement Officer (see Key Information Summary Sheet below for contact information).

Title: Old Ellicott City (OEC) Connector

Solicitation No: RT2207

1. If you have chosen not to respond to this solicitation, please indicate the reason(s) below:

- Other commitments preclude our participation at this time
- The subject of the solicitation is not something we ordinarily provide
- We are inexperienced in the work/commodities required
- Specifications are unclear, too restrictive, etc. (Explain in REMARKS section)
- The scope of work is beyond our present capacity
- Doing business with the FPVSP is simply too complicated. (Explain in REMARKS section)
- We cannot be competitive. (Explain in REMARKS section)
- Time allotted for completion of the Bid is insufficient
- Start-up time is insufficient
- Bonding/Insurance requirements are restrictive (Explain in REMARKS section)
- Bid requirements (other than specifications) are unreasonable or too risky (Explain in REMARKS section)
- DBE or VSBE requirements (Explain in REMARKS section)
- Prior State of Maryland contract experience was unprofitable or otherwise unsatisfactory. (Explain in REMARKS section)
- Payment schedule too slow
- Other:

2. If you have submitted a response to this solicitation, but wish to offer suggestions or express concerns, please use the REMARKS section below. (Attach additional pages as needed.)

REMARKS:

Vendor Name: _____ Date: _____

Contact Person: _____ Phone (____) ____ -

Address:

E-mail Address:

KEY INFORMATION SUMMARY SHEET

| | |
|---|---|
| Invitation for Bids | OEC Connector |
| Solicitation number: | RT2207 |
| IFB Issue Date: | 2/24/23 |
| IFB Issuing Office: | Friends of Patapsco Valley State Park (FPVSP) |
| Procurement Officer: e-mail: Office Phone: | David Ferraro director@fpvsp.org 410.463.1301 |
| Bids are to be sent to: | Friends of Patapsco Valley State Park (FPVSP) director@fpvsp.org |
| Pre-Bid Conference and Site Visit: | 3/20/23 See Attachment A for directions and instructions. |
| Questions Due Date and Time | 3/27/23 12:00 pm |
| Bid Due Date and Time: | 4/10/23 12:00 pm |
| Bid Opening | 4/10/23 12:00 pm 8020 Baltimore National Pike, EC MD 21043 |
| DBE/DBE Subcontracting Goal: | 3% |
| Contract Type: | Firm fixed price |
| Contract Duration: | 6 months |
| Primary Place of Performance: | OEC Connector Trail Ellicott City Md 21043 |
| Federal Funding: | Yes |

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1 Minimum Qualifications

1. Bidder Minimum Qualifications

As part of the determination to be considered responsive, the Bidder must document in its Bid that it satisfies the following Minimum Qualifications:

1.1.1 Trail Building Enterprise

The Bidder shall be a viable ongoing trail building enterprise - a member of the Professional Trail Builders Association or able to demonstrate skills and experience that would qualify for such membership (e.g. documentation of expertise in sustainable natural surface trail design and construction, a significant amount of paid work is related to trail development). As proof of meeting this requirement, the Bidder shall provide a description of the company including

- A. Age of firm and number of years working in the trail building trade;
- B. number of full-time employees;
- C. Areas of specialty/concentration related to the trail building trade;
- D. Forecast workload over the next 12 months, making note of trail-related work.

1.1.2 Related Experience

The Bidder shall demonstrate experience constructing similar natural surface singletrack recreation trails (e.g. across varying side slopes, in mature forested terrain, utilizing bench cut and lift/tilt techniques). Provide at least three (3) references including the following details:

- Project title;
- Project location;
- Dates worked;
- List of staff on the project;
- Services rendered;
- Length of trail constructed;
- Contract amount;
- Representative photos of the finished product.

For each reference, provide the name, title, address, phone number, and email of the direct project manager. Also, note if Bidder was the primary builder or subcontractor. If subcontractor, provide contact details for the primary builder and the name of the general contractor lead. On items shown in photos, if not the sole work of the Bidder, identify which elements are the products of the Bidder's efforts. The State reserves the right to contact, and visit provided references to confirm completed work.

1.1.3 Equipment Portfolio

Construction of natural surface singletrack recreation trail is usually performed with a specialized collection of smaller mechanized equipment. Provide a list of major equipment (e.g., excavator, trail dozer, tracked hauler) proposed for use on the project, including manufacturer and model number. Denote whether the equipment is owned or will be rented/leased. Do not list small equipment (e.g., chainsaws) or hand tools.

Mechanized equipment with an operable width of fewer than 50 inches is strongly encouraged. Equipment with a gross vehicle weight greater than 500 pounds must be equipped with tracks. If Bidder intends to use the equipment outside of these parameters, they must be listed here and include a justification of why their use will enhance the project.

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2 Contractor Requirements: Scope of Work

2.1 Summary Statement

2.1.1 Construction of the OEC Connector, a natural surface trail, generally extending from the Hollofield Campground to Sylvan Lane.

2.1.2 It is the Organization's intention to obtain goods and services, as specified in this IFB, from a Contract between the selected Bidder and the Organization.

2.1.3 The organization intends to make a single award for the work under this IFB. See IFB **Section 4.9 Award Basis** for more Contract award information.

2.1.4 A Bidder, either directly or through its subcontractor(s), must be able to provide all goods and services and meet all the requirements requested in this solicitation and the successful Bidder (the Contractor) shall remain responsible for Contract performance regardless of the subcontractor participation in the work.

2.2 Background and Purpose

The purpose of this IFB is to secure a contractor to perform the construction of the Old Ellicott City (OEC) Connector.

2.2.1 Project Goals

- a) Construct Approximately 8,600 linear feet of natural surface trail with an approximate width of 24" - 36", consistent with the character of existing hand built trails at Patapsco Valley State Park.
- b) Construct, to Maryland Park Service (MPS) a natural surface trail, (the OEC Connector) using the Maryland Park Service Best Management Practices (BMP's) (see attached document)
- c) Construct two bridges to specifications outlined in plans(see attached document)

2.2.2 Organization Staff and Roles

This project will be managed by the FPVSP, with David Ferraro, Executive Director as the primary point of contact. Technical questions and field approvals will be managed by Joe Vogelpohl, Assistant Manager of Patapsco Valley State park.

2.2.3 Other Organization Responsibilities

- a) The Organization is responsible for providing the required information, data, documentation, and test data to facilitate the Contractor's performance of the work, and will provide such additional assistance and services as is specifically set forth.

2.3 Responsibilities and Tasks

2.3.1 This contract covers the construction of a natural surface trail, the OEC Connector, generally connecting the Hollofield Camground to Sylvan Lane. The Contractor shall construct natural-surface singletrack shared-use recreation trail as shown on the accompanying maps totaling approximately 8,600 linear feet. Contractor is required to completely construct all items in awarded scope regardless of length of final layout; estimated quantities are provided for reference only. Work is being performed under the terms of an Erosion and Sedimentation Control Permit granted by the Maryland Department of the Environment. As this project results in greater than 5,000 square feet of disturbance, an Erosion Control Plan is provided and must be followed at all times. Trail Construction activities and finished products will comply with the guidelines and techniques defined in the accompanying "Maryland Park Service Best Practices for Natural Surface Trail Construction". If the Contractor discovers any discrepancies in these specifications, supporting materials, or reference documents, they should be brought to the Department's attention immediately. Such discrepancies do not relieve the Contractor from their responsibility to complete the work to the agreed terms. The trail alignment, engineered bridge drawings, and the Maryland Park Service Best Management Practices are included in this IFB.

2.3.2 The Contractor is required to provide completely constructed trail, including but not limited to the following tasks:

A. DETAILED LAYOUT. Flagging shows the approximate centerline of the trail corridor. The Contractor shall install stakes and markers to define final alignment of the trails as required for construction. This detailed layout will demonstrate compliance with sustainability guidelines for natural surface trails, show frequency and location of grade reversals, etc. FPVSP reserves the right to inspect and approve the detailed layout prior to corridor clearing and construction.

B. CORRIDOR CLEARING Contractor will preserve the local landscape and not remove or impact trees/shrubs/plants except as necessary to construct the trail and other infrastructure detailed in the scope. Any impacts or damage outside the typical limits of disturbance for natural surface singletrack trails will be repaired at the Contractors expense.

C. CONSTRUCTION Trails will be constructed in a rolling contour configuration and finished to the dimensions and specifications defined in the details on the provided maps and related materials. Trail will be constructed in a manner consistent with the character of existing hand built single track trail that is prevalent throughout PVSP. Contractor is responsible for meeting trail specifications regardless of the terrain crossed; flat, steep, rocky, etc. In flatter terrain, this may dictate modification of local terrain via lift/tilt or related approach. Maryland Park Service specifications for this project. At all times during construction the Contractor will abide by the terms and conditions of any provided Erosion Control Plan and permits, a key condition of which is finishing the trail and stabilizing the local area as work progresses. If sufficient forest duff is not available to stabilize the disturbed area, seed-free straw and an approved seed mix may be substituted at the Contractor's expense. As with trail specifications, Contractor is responsible for meeting these terms, including purchase and installation of active control measures (e.g., filter log) when conditions warrant, regardless of terrain challenges.

D. FINISHING AND CLEAN UP Upon completion of project or any standalone segment, Contractor will clean up/recover any approved access routes. All marking and survey materials

(e.g., flagging, stakes) will be completely removed from the project area. If included in scope, blazing and wayfinding aides will be installed to satisfy provided Maryland Park Service standards.

E. EQUIPMENT The Contractor shall submit a project equipment list as part of their proposal. Only mechanized equipment with an operable width less-than 50 inches are permitted. Larger equipment may only be substituted with prior permission of FPVSP and requests must be detailed in equipment list declarations. Equipment with a gross vehicle weight greater-than 500 pounds must be equipped with tracks. All equipment must be in good condition and clean and free of debris before entering job site. Equipment is subject to inspection at start and anytime during the project. Equipment not satisfying these terms shall be removed from the site immediately at the Contractor's expense. Use and travel of equipment is restricted to the working corridor and existing roads/trails. Contractor should consult with the Department to confirm the capacity of any structure (e.g., bridge, culvert, etc.) before using. Damage to any road/trail or structure caused by the Contractor's use will be repaired at their expense.

F. PROJECT APPROACH AND TIMELINE The Contractor shall submit a project approach including timeline as part of their proposal. If accepted, the Contractor will be expected to follow this timeline. However, should there be delays incurred by any act, fault, or neglect of the Department or by any damage cause by fire, flood or other event over which the Contractor has no control, the time to complete the work may be amended by mutual agreement of both parties.

G. BEST PRACTICES FOR NATURAL SURFACE TRAIL CONSTRUCTION The current version of the Maryland Park Service "Best Practices for Natural Surface Trail Construction" is provided along with the bid package and referenced by the project plan set. The Contractor and any subcontractors are required at all times to comply with the procedures and policies outlined in the document. At all times trail should constructed in a manner consistent with the character of existing hand built single track trail that is prevalent throughout PVSP.

2.3.3. Bridge Construction Scope includes two trail bridge. Bridges will be constructed to specifications in provided plans to support pedestrians, bicyclists, and equestrians. Task includes construction of abutments and span as well as procurement of materials and their mobilization to the job site. Contractor must also abide by the conditions spelled out in any permits and related plans, Wetlands/Waterways or Sediment Control-related (e.g., restrictions on in-stream work, maintenance of buffers, installation of active measures such as filter logs.)

3 Contractor Requirements: General

3.1 Contract Initiation Requirements

3.1.1 Contractor shall schedule and hold a kickoff meeting within 10 Business Days of NTP Date. At the kickoff, the Contractor shall furnish an updated Project Schedule describing the activities for the Contractor, the FPVSP, and any third parties for fully transitioning to the Contractor's solution.

3.1.2 As the contract initiates, the contractor shall schedule/attend a pre-construction meeting, where the contractor and representatives from FPVSP and MPS will set the construction schedule, coordinate trail closures, arrange for the posting of closure and construction signs, and in general overview of the project for the best results and public safety.

3.2 End of Contract Transition

3.2.1 A final walk through inspection shall be performed by all parties involved at the project completion. The Contractor shall inform the representatives from FPVSP, in writing, the substantial completion date of the project. The contractor will be notified by representatives from FPVSP within (10) working days of any incomplete and/or defective work. The contractor shall immediately take measures to remedy and deficiencies and will provide notification upon completion. A second inspection shall be performed as required.

3.3 Invoicing

3.3.1 General

- a) The Contractor shall e-mail the original of each invoice to the Project Manager at the e-mail address: director@fpvsp.org

All invoices for services shall be verified by the Contractor as accurate at the time of submission.

An invoice not satisfying the requirements of a Proper Invoice (as defined in COMAR 21.06.09) cannot be processed for payment. To be considered a Proper Invoice, invoices must include the following information, without error:

- 1) Contractor name and address;
- 2) Remittance address;
- 3) Federal taxpayer identification (FEIN) number, social security number, as appropriate;
- 4) Invoice period (i.e. time period during which services covered by invoice were performed);
- 5) Invoice date;
- 6) Invoice number;
- 7) Organization assigned Contract number;
- 8) Itemized list of goods or services provided;

- 9) Amount due; and
- 10) Any additional documentation required by regulation or the Contract.

The Organization reserves the right to reduce or withhold Contract payment in the event the Contractor does not provide the Organization with all required deliverables within the time frame specified in the Contract or otherwise breaches the terms and conditions of the Contract until such time as the Contractor brings itself into full compliance with the Contract.

Any action on the part of the Organization, or dispute of action by the Contractor, shall be in accordance with the provisions of Md. Code Ann., State Finance and Procurement Article §§ 15-215 through 15-223 and with COMAR 21.10.04.

Invoices for final payment shall be clearly marked as "FINAL" and submitted when all work requirements have been completed and no further charges are to be incurred under the Contract. In no event shall any invoice be submitted later than 60 calendar days from the Contract termination date.

3.3.2 Invoice Submission Schedule

The Contractor shall submit invoices in accordance with the following schedule:

- a) For items of work for which there is one-time pricing (see **Attachment B** –Bid Form) those items shall be billed in the month following the acceptance of the work by the Organization.
- b) For items of work for which there are multiple submissions, see **Attachment B**–Bid Form, those items shall be billed in monthly installments for the applicable Contract term in the month following the performance of the services.

3.3.3 For the purposes of the Contract an amount will not be deemed due and payable if:

- a) The amount invoiced is inconsistent with the Contract;
- b) The proper invoice has not been received by the party or office specified in the Contract;
- c) The invoice or performance is in dispute or the Contractor has failed to otherwise comply with the provisions of the Contract;
- d) The item or services have not been accepted;
- e) The quantity of items delivered is less than the quantity ordered;
- f) The items or services do not meet the quality requirements of the Contract;
- g) If the Contract provides for progress payments, the proper invoice for the progress payment has not been submitted pursuant to the schedule;
- h) If the Contract provides for withholding a retainage and the invoice is for the retainage, all stipulated conditions for release of the retainage have not been met; or
- i) The Contractor has not submitted satisfactory documentation or other evidence reasonably required by the Procurement Officer or by the Contract concerning performance under the Contract and compliance with its provisions.

3.3.4 Travel Reimbursement

Travel will not be reimbursed under this IFB.

3.4 Liquidated Damages

3.4.1 The Contractor shall submit a project timeline as part of their bid submission. If accepted, the Contractor will be expected to follow this timeline. All work must be completed by November 30, 2023, and this deadline will be incorporated in the mutually agreed project timeline with delay penalties totaling approximately 5% of the contract value established in the Construction Contract. However, should there be delays incurred by any act, fault, or neglect of FPVSP or by any damage cause by fire, flood or other event over which the Contractor has no control, (but excluding normal rainfall) the time to complete the work may be amended by mutual agreement of both parties.

3.5 Disaster Recovery and Data

This section is inapplicable to this IFB

3.6 Insurance Requirements

The Contractor shall maintain, at a minimum, the insurance coverages outlined below, or any minimum requirements established by law if higher, for the duration of the Contract, including option periods, if exercised:

3.6.1 The following type(s) of insurance and minimum amount(s) of coverage are required:

- a) Commercial General Liability - of \$1,000,000 combined single limit per occurrence for bodily injury, property damage, and personal and advertising injury and \$3,000,000 annual aggregate. The minimum limits required herein may be satisfied through any combination of primary and umbrella/excess liability policies.
- b) Errors and Omissions/Professional Liability - \$1,000,000 per combined single limit per claim and \$3,000,000 annual aggregate.
- c) Crime Insurance/Employee Theft Insurance - to cover employee theft with a minimum single loss limit of \$1,000,000 per loss, and a minimum single loss retention not to exceed \$10,000. the FPVSP of Maryland and the FPVSP should be added as a "loss payee."
- d) Worker's Compensation - The Contractor shall maintain such insurance as necessary or as required under Workers' Compensation Acts, the Longshore and Harbor Workers' Compensation Act, and the Federal Employers' Liability Act, to not be less than one million dollars (\$1,000,000) per occurrence (unless a state's law requires a greater amount of coverage). Coverage must be valid in all states where work is performed.
- e) Automobile or Commercial Truck Insurance - The Contractor shall maintain Automobile or Commercial Truck Insurance (including owned, leased, hired, and non-owned vehicles) as appropriate with Liability, Collision, and PIP limits no less than those required by the FPVSP where the vehicle(s) is registered but in no case less than those required by the FPVSP of Maryland.

3.6.2 The FPVSP, the Maryland Park Service, and the Department of Natural Resources shall be listed as additional insured on the faces of the certificates associated with the

coverages listed above, including umbrella policies, excluding Workers' Compensation Insurance and professional liability.

3.6.3 All insurance policies shall be endorsed to include a clause requiring the insurance carrier to provide the Procurement Officer, by certified mail, not less than 30 days advance notice of any non-renewal, cancellation, or expiration. The Contractor shall notify the Procurement Officer in writing if policies are canceled or not renewed within five (5) days of learning of such cancellation or nonrenewal. The Contractor shall provide evidence of replacement insurance coverage to the Procurement Officer at least 15 days prior to the expiration of the insurance policy then in effect.

3.6.4 Any insurance furnished as a condition of the Contract shall be issued by a company authorized to do business in Maryland.

3.6.5 The recommended awardee must provide current certificate(s) of insurance with the prescribed coverages, limits, and requirements set forth in this section within five (5) Business Days from notice of recommended award. The Contractor shall require any subcontractors to obtain and maintain comparable levels of coverage and shall provide the Contract Monitor with the same documentation as is required of the Contractor.

3.7 Safety Requirements

The following requirements are applicable to the Contract:

3.7.1 High Visibility and Safety

- a) Non-MDOT SHA workers' garments shall be approved ANSI/ISEA 107/2015 Class 3 for wear on the upper torso that is either fluorescent orange-red or fluorescent yellow-green background material color and must be the outermost garment worn.
- b) Non-MDOT SHA workers' garments' retro-reflective material color shall be orange, yellow, white, silver, yellow-green, or fluorescent version of these colors, and be visible at a minimum distance of 1,000 feet. The retro-reflective safety apparel shall be designed to clearly recognize and differentiate the wearer as a person from the surrounding work environment.
- c) The contractor shall at all times display signage stating that there is an active work area, and shall "close" any informal access to the worksite with caution tape.

3.7.2 Security Clearance / Criminal Background Check

A security clearance is not required for Contractor Personnel assigned to the Contract.

3.7.3 On-Site Security Requirement(s)

This section is inapplicable to this IFB.

3.8 Problem Escalation Procedure

3.8.1 The Contractor must provide and maintain a Problem Escalation Procedure (PEP) for both routine and emergency situations. The PEP must state how the Contractor will address problem situations as they occur during the performance of the Contract, especially problems that are not resolved to the satisfaction of the FPVSP within appropriate timeframes.

3.8.2 The Contractor shall provide contact information to the Contract Monitor, as well as to other State personnel as directed should the Contract Monitor not be available.

3.8.3 The Contractor shall provide the PEP no later than ten (10) Business Days after notice of recommended award or after the date of the Notice to Proceed, whichever is earlier. The PEP, including any revisions thereto, must also be provided within ten (10) Business Days after the start of each Contract year and within ten (10) Business Days after any change in circumstance which changes the PEP. The PEP shall detail how problems with work under the Contract will be escalated in order to resolve any issues in a timely manner. The PEP shall include:

- a) The process for establishing the existence of a problem;
- b) Names, titles, and contact information for progressively higher levels of personnel in the Contractor's organization who would become involved in resolving a problem;
- c) For each individual listed in the Contractor's PEP, the maximum amount of time a problem will remain unresolved with that individual before the problem escalates to the next contact person listed in the Contractor's PEP;
- d) Expedited escalation procedures and any circumstances that would trigger expediting them;
- e) The method of providing feedback on resolution progress, including the frequency of feedback to be provided to the FPVSP;
- f) Contact information for persons responsible for resolving issues after normal business hours (e.g., evenings, weekends, holidays) and on an emergency basis; and
- g) A process for updating and notifying the Contract Monitor of any changes to the PEP.

3.8.4 Nothing in this section shall be construed to limit any rights of the Contract Monitor or the FPVSP which may be allowed by the Contract or applicable law.

3.9 Work Orders

This section is inapplicable to this IFB

3.10 Minority Business Enterprise (DBE) Reports

If this solicitation includes a DBE Goal (see **Section 4.26**), the Contractor shall:

- a) Submit the following reports by the 10th of each month to the Contract Monitor and the MDOT SHA DBE Liaison Officer:

A Prime Contractor Paid/Unpaid DBE Invoice Report (Attachment D-4A)
listing any unpaid invoices, over 45 days old, received from any certified DBE subcontractor, the amount of each invoice and the reason payment has not been made; and

(If Applicable) An DBE Prime Contractor Report (Attachment D-4B)
identifying an DBE prime's self-performing work to be counted towards the DBE participation goals.

- b) Include in its agreements with its certified DBE subcontractors a requirement that those subcontractors submit a DBE Subcontractor Paid/Unpaid Invoice Report (**Attachment D-5**) by the 10th of each month to the Contract Monitor and the <<typeofAgency>>'s DBE Liaison Officer that identifies the Contract and lists all payments to the DBE subcontractor received from the Contractor in the preceding reporting period month, as well as any outstanding invoices, and the amounts of those invoices.

c) Maintain such records as are necessary to confirm compliance with its DBE participation obligations. These records must indicate the identity of certified minority and non-minority subcontractors employed on the Contract, the type of work performed by each, and the actual dollar value of work performed. Subcontract agreements documenting the work performed by all DBE participants must be retained by the Contractor and furnished to the Procurement Officer on request.

d) Consent to provide such documentation as reasonably requested and to provide right-of-entry at reasonable times for purposes of the State's representatives verifying compliance with the DBE participation obligations. The contractor must retain all records concerning DBE participation and make them available for State inspection for three years after final completion of the Contract.

e) Upon completion of the Contract and before final payment and release of retainage, submit a final report in affidavit form and under penalty of perjury, of all payments made to, or withheld from DBE subcontractors.

3.11 Additional Clauses

3.11.1 Substitution of Personnel

All key Personnel listed in response to the IFB shall not be changed, except with prior written approval of the Organization. The contractor must submit to the Project Manager a list of all proposed additional personnel and may not retain any without the prior written approval of the organization. All personnel shall be and remain satisfactory to the organization and shall not be changed without the prior written consent of the organization unless personnel cease to be in Contractor's employ in which case substitutes must be provided and must be acceptable to the Sponsor's identification referenced above.

The contractor represents that all necessary personnel required to perform the services under this Agreement are not employees of and do not have any contractual relationship with agencies providing funds for the project.

3.11.2 No-Cost Extensions

In accordance with BPW Advisory 1995-1 item 7.b, in the event there are unspent funds remaining on the Contract, prior to the Contract's expiration date the Procurement Officer may modify the Contract to extend the Contract beyond its expiration date for a period up to, but not exceeding, one-third of the base term of the Contract (e.g., eight-month extension on a two-year contract) for the performance of work within the Contract's scope of work. Notwithstanding anything to the contrary, no funds may be added to the Contract in connection with any such extension.

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4 Procurement Instructions

4.1 Pre-Bid Conference and Site Visit

4.1.1 A pre-Bid conference and site visit (conference) will be held at the date, time, and location indicated on the Key Information Summary Sheet.

4.1.2 Attendance at the conference is not mandatory, but all interested parties are encouraged to attend to facilitate better preparation of their Bids.

4.1.3 It is highly recommended that all prime contractors bring their intended subcontractors to the conference/site visit to ensure that all parties understand the requirements of the contract.

4.1.4 Following the conference, the attendance record and summary of the conference will be distributed via the same mechanism described for amendments and questions (see Section 4.2.1 eMMA).

4.1.5 Attendees should bring a copy of the solicitation and a business card to help facilitate the sign-in process.

4.1.6 In order to assure adequate seating and other accommodations at the Conference, please e-mail the Pre-Bid Conference Response Form (**Attachment A**) no later than the time and date indicated on the form. In addition, if there is a need for sign language interpretation or other special accommodations due to a disability, please notify the Procurement Officer at least five (5) Business Days prior to the Conference date. The Organization will make a reasonable effort to provide such special accommodation.

4.1.7 Bidders may request a follow-up site visit.

4.2 eMaryland Marketplace Advantage (eMMA)

4.2.1 eMMA is the electronic commerce system for the FPVSP of Maryland. The IFB, Conference summary and attendance sheet, Bidders' questions, and the Procurement Officer's responses, addenda, and other solicitation-related information will be made available via eMMA.

4.2.2 To receive a contract award, a vendor must be registered on eMMA. Registration is free. Go to emma.maryland.gov, click on "New Vendor? Register Now" to begin the process, and then follow the prompts.

4.3 Questions

4.3.1 All questions, shall identify in the subject line the OEC Connector RT2207 and shall be submitted in writing via e-mail to the Procurement Officer at least five (5) days prior to the Bid due date no later than the date and time specified the Key Information Summary Sheet. The Procurement Officer, based on the availability of time to research and communicate an answer, shall decide whether an answer can be given before the Bid due date.

4.3.2 Answers to all questions that are not clearly specific only to the requestor will be distributed via the same mechanism as for IFB amendments and posted on eMMA.

4.3.3 The FPVSP comments and interpretations contained in responses to any questions, whether responded to verbally or in writing, are not binding on the Organization unless it issues an amendment in writing.

4.4 Procurement Method

A Contract will be awarded in accordance with the Competitive Sealed Bidding method under COMAR 21.05.02.

4.5 Bid Due (Closing) Date and Time

4.5.1 Bids, in the number and form set forth in **Section 5 Bid Format**, must be received by the Procurement Officer no later than the Bid due date and time indicated on the Key Information Summary Sheet in order to be considered.

4.5.2 Requests for an extension of this date or time shall not be granted.

4.5.3 Bidders submitting Bids should allow sufficient delivery time to ensure timely receipt by the Procurement Officer. Except as provided in COMAR 21.05.02.10, Bids received after the due date and time listed in the Key Information Summary Sheet will not be considered.

4.5.4 The date and time of an e-mail submission are determined by the date and time of arrival in the e-mail address indicated on the Key Information Summary Sheet.

4.5.5 Bids may be modified or withdrawn by written notice received by the Procurement Officer before the time and date set forth in the Key Information Summary Sheet for receipt of Bids..

4.5.6 Potential Bidders not responding to this solicitation are requested to submit the "No Bid Notice/Vendor Feedback" form, which includes company information and the reason for not responding (e.g., too busy, cannot meet mandatory requirements).

4.6 Multiple or Alternate Bids

Multiple or alternate Bids will not be accepted.

4.7 Receipt, Opening, and Recording of Bids

4.7.1 Upon receipt, each Bid and any timely modification(s) to a Bid shall not be opened until the time and date set for bid opening. Before the Bid opening, the Organization may not disclose the identity of any Bidder.

4.7.2 Bids shall be opened in the presence of FPVSP and the Maryland Park Service, and representatives of the Recreational Trail Program at the time, date, and place designated in the IFB Key Information Summary Sheet (near the beginning of the solicitation, after the Title Page and Notice to Vendors). The name of each Bidder, the Total Bid Price, and such other information as is deemed appropriate will be made available and recorded at the time of bid opening.

4.8 Confidentiality of Bids / Public Information Act Notice

4.8.1 The Bidder should give specific attention to the clear identification of those portions of its Bid that it considers confidential and/or proprietary commercial information or trade secrets, and provide justification why such materials, upon request, should not be disclosed under the Public Information Act, Md. Code Ann., General Provisions Article, Title 4. This information should be identified by page number and placed in the Transmittal Letter with the Bid.

4.8.2 The Bids shall be tabulated or a Bid abstract made. The opened Bids shall be available for public inspection at a reasonable time after Bid opening, but in any case before contract award.

4.9 Award Basis

4.9.1 A Contract shall be awarded to the responsible Bidder(s) submitting a responsive Bid with the most favorable bid price or most favorable evaluated bid price (as referenced in COMAR 21.05.02.13) for providing the goods and services as specified in this IFB. Bidders must bid on all line items. Partial or incomplete bids will be rejected unless otherwise stated in the solicitation. See IFB Section 6 for Bid evaluation and award information.

4.9.2 Award of this contract will not be final and complete until after: (1) the Contractor submits complete and satisfactory documentation required under the Contract and/or documentation required by the Procurement Officer; and (2) the Contract is signed by the Department following any required approvals of the Contract.

4.10 Tie Bids

Tie Bids will be decided pursuant to COMAR 21.05.02.14.

4.11 Duration of Bids

Bids submitted in response to this IFB are irrevocable for the latest of the following: 120 days following the Bid due date and time or the date any protest concerning this IFB is finally resolved. This period may be extended at the Procurement Officer's request only with the Bidder's written agreement.

4.12 Revisions to the IFB

4.12.1 If the IFB is revised before the due date for Bids, the Organization shall post any addenda to the IFB on eMMA and shall endeavor to provide such addenda to all prospective Bidders that were sent this IFB or are otherwise known by the Procurement Officer to have obtained this IFB. It remains the responsibility of all prospective Bidders to check eMMA for any addenda issued prior to the submission of Bids.

4.12.2 Bidders shall acknowledge the receipt of all addenda to this IFB issued before the Bid due date.

4.12.3 Failure to acknowledge receipt of an addendum does not relieve the Bidder from complying with the terms, additions, deletions, or corrections set forth in the addendum, and may cause the Bid to be deemed not responsive.

4.13 Cancellations

4.13.1 The Organization reserves the right to cancel this IFB, accept or reject any and all Bids, in whole or in part, received in response to this IFB, and waive or permit the cure of minor irregularities.

4.13.2 In the event a government entity proposes and receives the recommendation for an award, the procurement may be canceled and the award processed in accordance with COMAR 21.01.03.01.A(4).

4.13.3 If the services that are the subject of the IFB are currently being provided under an interagency agreement with a public institution of higher education and the FPVSP determines

that the services can be provided more cost-effectively by the public institution of higher education, then the IFB may be canceled in accordance with Md. Code Ann., State Finance and Procurement Art., § 3-207(b)(2).

4.14 Incurred Expenses

The FPVSP will not be responsible for any costs incurred by any Bidder in preparing and submitting a Bid or performing any other activities related to submitting a Bid in response to this solicitation.

4.15 Protest/Disputes

Any protest or dispute related to this solicitation or the Contract award shall be subject to the provisions of COMAR 21.10 (Administrative and Civil Remedies).

4.16 Bidder Responsibilities

4.16.1 Bidders must be able to provide all goods and services and meet all the requirements requested in this solicitation and the successful Bidder shall be responsible for Contract performance including any subcontractor participation.

4.16.2 If the Bidder is the subsidiary of another entity, all information submitted by the Bidder, including but not limited to references, financial reports, or experience and documentation (e.g. insurance policies, bonds, letters of credit) used to meet minimum qualifications, if any, shall pertain exclusively to the Bidder, unless the parent organization will guarantee the performance of the subsidiary. If applicable, the Bidder's Bid shall contain an explicit statement, signed by an authorized representative of the parent organization, stating that the parent organization will guarantee the performance of the subsidiary.

4.16.3 A parental guarantee of the performance of the Bidder under this Section will not automatically result in crediting the Bidder with the experience or qualifications of the parent under any evaluation criteria pertaining to the actual Bidder's experience and qualifications. Instead, the Bidder's responsibility will be assessed to the extent to which the FPVSP determines that the experience and qualifications of the parent are applicable to and shared with the Bidder, any stated intent by the parent to be directly involved in the performance of the Contract, and the value of the parent's participation as determined by the FPVSP.

4.17 Acceptance of Terms and Conditions

By submitting a Bid in response to this IFB, the Bidder, if selected for the award, shall be deemed to have accepted the terms and conditions of this IFB and the Contract, attached hereto as Attachment M. Any exceptions to this IFB or the Contract must be raised prior to Bid submission. Changes to the solicitation, including the Bid Form or Contract, made by the Bidder may result in Bid rejection.

4.18 Bid/Proposal Affidavit

A Bid submitted by the Bidder must be accompanied by a completed Bid/Proposal Affidavit. A copy of this Affidavit is included as **Attachment C** of this IFB.

4.19 Contract Affidavit

All Bidders are advised that if a Contract is awarded because of this solicitation, the successful Bidder will be required to complete a Contract Affidavit. A copy of this Affidavit is included for

informational purposes as **Attachment N** of this IFB. This Affidavit must be provided within five (5) Business Days of notification of recommended award. For purposes of completing Section “B” of this Affidavit (Certification of Registration or Qualification with the FPVSP Department of Assessments and Taxation), a business entity that is organized outside of the FPVSP of Maryland is considered a “foreign” business.

4.20 Compliance with Laws/Arrearages

By submitting a Bid in response to this IFB, the Bidder, if selected for award, agrees that it will comply with all federal, State, and local laws applicable to its activities and obligations under the Contract.

By submitting a response to this solicitation, each Bidder represents that it is not in arrears in the payment of any obligations due and owing the FPVSP, including the payment of taxes and employee benefits, and shall not become so in arrears during the term of the Contract if selected for Contract award.

4.21 Verification of Registration and Tax Payment

Before a business entity can do business with FPVSP, it must be registered with the Department of Assessments and Taxation (SDAT). SDAT is located at State Office Building, Room 803, 301 West Preston Street, Baltimore, Maryland 21201. For registration information, visit <https://www.egov.maryland.gov/businessexpress>.

It is strongly recommended that any potential Bidder complete registration prior to the Bid due date and time. The Bidder’s failure to complete registration with SDAT may disqualify an otherwise successful Bidder from final consideration and recommendation for Contract award.

4.22 False Statements

Bidders are advised that Md. Code Ann., State Finance and Procurement Article, § 11-205.1 provides as follows:

4.22.1 In connection with a procurement contract a person may not willfully:

- a) Falsify, conceal, or suppress a material fact by any scheme or device.
- b) Make a false or fraudulent statement or representation of a material fact.
- c) Use a false writing or document that contains a false or fraudulent statement or entry of a material fact.

4.22.2 A person may not aid or conspire with another person to commit an act under **Section 4.22.1**.

4.22.3 A person who violates any provision of this section is guilty of a felony and on conviction is subject to a fine not exceeding \$20,000 or imprisonment not exceeding five (5) years or both.

4.23 Payments by Electronic Funds Transfer

By submitting a Bid in response to this solicitation, the Bidder, if selected for the award:

4.23.1 Agrees to accept payments by electronic funds transfer (EFT) unless the FPVSP Comptroller’s Office grants an exemption. Payment by EFT is mandatory for contracts exceeding \$200,000.

4.24 Prompt Payment Policy

This procurement and the Contract(s) to be awarded pursuant to this solicitation are subject to the Prompt Payment Policy Directive issued by the Governor's Office of Small, Minority & Women Business Affairs (GOSBA) and dated August 1, 2008. Promulgated pursuant to Md. Code Ann., State Finance and Procurement Article, §§ 11-201, 13-205(a), and Title 14, Subtitle 3, and COMAR 21.01.01.03 and 21.11.03.01, the Directive seeks to ensure the prompt payment of all subcontractors on non-construction procurement contracts. The Contractor shall comply with the prompt payment requirements outlined in the Contract, Section 31 "Prompt Pay Requirements" (see **Attachment M**). Additional information is available on GOSBA's website at: <http://www.gomdsmallbiz.maryland.gov/documents/legislation/promptpaymentfaqs.pdf>.

4.25 Electronic Procurements Authorized

4.25.1 Under COMAR 21.03.05, unless otherwise prohibited by law, the Organization may conduct procurement transactions by electronic means, including the solicitation, proposing, award, execution, and administration of a contract, as provided in Md. Code Ann., Maryland Uniform Electronic Transactions Act, Commercial Law Article, Title 21.

4.25.2 Participation in the solicitation process on a procurement contract for which electronic means has been authorized shall constitute consent by the Bidder to conduct by electronic means all elements of the procurement of that Contract which are specifically authorized under the solicitation or Contract. In the case of electronic transactions authorized by this IFB, electronic records and signatures by an authorized representative satisfy a requirement for written submission and signatures.

4.25.3 Electronic means" refers to exchanges or communications using electronic, digital, magnetic, wireless, optical, electromagnetic, or other means of electronically conducting transactions. Electronic means include e-mail, internet-based communications, electronic funds transfer, specific electronic bidding platforms (e.g., <https://procurement.maryland.gov>), and electronic data interchange.

4.25.4 In addition to specific electronic transactions specifically authorized in other sections of this solicitation (e.g., IFB § 4.23 describing payments by Electronic Funds Transfer), the following transactions are authorized to be conducted by electronic means on the terms as authorized in COMAR 21.03.05:

The Procurement Officer may conduct the procurement using eMMA or e-mail to issue:

- 1) The IFB;
- 2) Any amendments;
- 3) Pre-Bid conference documents;
- 4) Questions and responses;
- 5) Communications regarding the solicitation or Bid to any Bidder or potential Bidder;
- 6) Notices of award selection or non-selection; and
- 7) The Procurement Officer's decision on any Bid protest or Contract claim.

The Bidder or potential Bidder may use eMMA or e-mail to:

- 8) Submit Bids;
- 9) Ask questions regarding the solicitation;
- 10) Reply to any material received from the Procurement Officer by electronic means that includes a Procurement Officer's request or direction to reply by e-mail or through eMMA, but only on the terms specifically approved and directed by the Procurement Officer and;
- 11) Submit a "No Bid Notice/Vendor Feedback Form" to the IFB.

The Procurement Officer, the Contract Monitor, and the Contractor may conduct day-to-day Contract administration, except as outlined in **Section 4.25.3** of this subsection, utilizing e-mail, or other electronic means if authorized by the Procurement Officer or Contract Monitor.

4.25.5 The following transactions related to this procurement and any Contract awarded pursuant to it are **not authorized** to be conducted by electronic means:

- A. Filing of bid protests;
- B. Filing of Contract claims;
- C. Submission of documents determined by the Organization to require original signatures (e.g., Contract execution, Contract modifications); or
- D. Any transaction, submission, or communication where the Procurement Officer has specifically directed that a response from the Contractor or Bidder be provided in writing or hard copy.

4.25.6 Any e-mail transmission is only authorized to the e-mail addresses of the identified person as provided in the solicitation, the Contract, or in the direction of the Procurement Officer or Contract Monitor.

4.26 DBE Participation Goal

4.26.1 Establishment of Goal and Subgoals

The Maryland Department of Transportation is committed to providing the maximum amount of contracting opportunities to certified Disadvantaged Business Enterprises (DBEs). The previously established policy excluded consideration of the cost of supplying structural steel for DBE participation since there were no structural steel manufacturers certified by MDOT. This exemption is no longer applicable since DBE firms have been certified under this category. The Administration reserves the right to verify the accuracy of the dollar value included on the Contractor's Affirmative Action Plan, including the value associated with the manufacture, supply, and installation of structural steel.

A Bidder that does not commit to meeting the entire DBE participation goal outlined in this Section 4.26 must submit a request for waiver with its bid submission that is supported by good faith efforts documentation to meet the DBE goal made prior to submission of its Bid as outlined in Attachment D-1B, Waiver Guidance. Failure of a Bidder to properly complete, sign, and submit Attachment D-1A at the time it submits its

Bid(s) to the IFB will result in the State's rejection of the Bidder's Bid for the applicable Service Category. This failure is not curable.

4.26.2 Attachments.

- a) D-1 to D-5 – The following Disadvantaged Business Enterprise participation instructions and forms are provided to assist Bidders:
1. Attachment D-1A DBE Utilization and Fair Solicitation Affidavit & DBE Participation Schedule (must be submitted with Bid)
 2. Attachment D-1B Waiver Guidance
 3. Attachment D-1C Good Faith Efforts Documentation to Support Waiver Request
 4. Attachment D-2 Outreach Efforts Compliance Statement
 5. Attachment D-3A DBE Subcontractor Project Participation Certification
 6. Attachment D-3B DBE Prime Project Participation Certification
 7. Attachment D-4A Prime Contractor Paid/Unpaid DBE Invoice Report
 8. Attachment D-4B DBE Prime Contractor Report
 9. Attachment D-5 Subcontractor Paid/Unpaid DBE Invoice Report

The Bidder shall include with its Bid a completed DBE Utilization and Fair Solicitation Affidavit (**Attachment D-1A**) whereby:

1. The Bidder acknowledges the certified DBE participation goal and commits to make a good faith effort to achieve the goal and any applicable subgoals, or requests a waiver, and affirms that DBE subcontractors were treated fairly in the solicitation process; and
2. The Bidder responds to the expected degree of DBE participation, as stated in the solicitation, by identifying the specific commitment of certified DBEs at the time of Bid submission. The Bidder shall specify the percentage of total contract value associated with each DBE subcontractor identified on the DBE participation schedule, including any work performed by the DBE prime (including a prime participating as a joint venture) to be counted towards meeting the DBE participation goals.
3. The Bidder requesting a waiver should review **Attachment D-1B** (Waiver Guidance) and **D-1C** (Good Faith Efforts Documentation to Support Waiver Request) prior to submitting its request.

A Bidder must properly complete and submit a separate Attachment D-1A, DBE Utilization, and Fair Solicitation Affidavit & DBE Participation Schedule, for EACH Functional Area (I and II) for which it is submitting a Bid. If a Bidder is submitting a Bid for each of Functional Areas I and II, the Bidder must submit two separate Attachment D-1As, one for each of the two Functional Areas.

If the Bidder fails to submit a completed Attachment D-1A with the Bid as required, the Procurement Officer shall determine that the Bid is not responsive, unless the inaccuracy is determined to be the result of a minor irregularity that is waived or cured in accordance with COMAR 21.06.02.04.

Bidders are responsible for verifying that each DBE (including any DBE prime and DBE prime participating in a joint venture) selected to meet the goal and any subgoals and subsequently identified in **Attachment D-1A** is appropriately certified and has the correct NAICS codes allowing it to perform the committed work.

Within ten (10) Business Days from notification that it is the recommended awardee or from the date of the actual award, whichever is earlier, the Bidder must provide the following documentation to the Procurement Officer.

a) Outreach Efforts Compliance Statement (**Attachment D-2**);

DBE Subcontractor/Prime Project Participation Certification (**Attachment D-3A/3B**); and

Any other documentation required by the Procurement Officer to ascertain Bidder responsibility in connection with the certified DBE subcontractor participation goal or any applicable subgoals.

Further, if the recommended awardee believes a waiver (in whole or in part) of the overall DBE goal or of any applicable subgoal is necessary, the recommended awardee must submit a fully-documented waiver request that complies with COMAR 21.11.03.11.

If the recommended awardee fails to return each completed document within the required time, the Procurement Officer may determine that the recommended awardee is not responsible and, therefore, not eligible for Contract award. If the Contract has already been awarded, the award is voidable.

A current directory of certified DBEs is available through the Maryland State Department of Transportation (MDOT), Office of Disadvantaged Business Enterprise, 7201 Corporate Center Drive, Hanover, Maryland 21076. The phone numbers are (410) 865-1269, 1-800-544-6056, or TTY (410) 865-1342. The directory is also available on the MDOT website at <http://DBE.mdot.maryland.gov/directory/>. The most current and up-to-date information on DBEs is available via this website. **Only MDOT-certified DBEs may be used to meet the DBE subcontracting goals.**

The Bidder that requested a waiver of the goal or any of the applicable sub-goals will be responsible for submitting the Good Faith Efforts Documentation to Support Waiver Request (**Attachment D-1C**) and all documentation within ten (10) Business Days from notification that it is the recommended awardee or from the date of the actual award, whichever is earlier, as required in COMAR 21.11.03.11.

All documents, including the DBE Utilization and Fair Solicitation Affidavit & DBE Participation Schedule (**Attachment D-1A**), completed and submitted by the Bidder in connection with its certified DBE participation commitment shall be considered a part of the Contract and are hereby expressly incorporated into the Contract by reference thereto. All of the referenced documents will be considered a part of the Bid for order of precedence purposes (see Contract – **Attachment M, Section 2.1**).

The Bidder is advised that liquidated damages will apply in the event the Contractor fails to comply in good faith with the requirements of the DBE program and pertinent Contract provisions. (See Contract – **Attachment M, Liquidated Damages for DBE, section 39**)

As set forth in COMAR 21.11.03.12-1(D), when a certified DBE firm participates in a contract as a prime contractor (including a joint venture where the DBE firm is a partner), a procurement agency may count the distinct, clearly defined portion of the work of the contract that the certified DBE firm performs with its own workforce towards fulfilling up to fifty-percent (50%) of the DBE participation goal (overall) and up to one hundred percent (100%) of not more than one of the DBE participation subgoals, if any, established for the contract.

In order to receive credit for self-performance, a DBE prime must list its firm in Section 4A of the DBE Participation Schedule (**Attachment D-1A**) and include information regarding the work it will self-perform. For the remaining portion of the overall goal and the subgoals, the DBE prime must also identify other certified DBE subcontractors [see Section 4B of the DBE Participation Schedule (**Attachment D-1A**)] used to meet those goals. If dually certified, the DBE prime can be designated as only one of the DBE subgoal classifications but can self-perform up to 100% of the stated subgoal.

As set forth in COMAR 21.11.03.12-1, once the Contract work begins, the work performed by a certified DBE firm, including a DBE prime, can only be counted towards the DBE participation goal(s) if the DBE firm is performing a commercially useful function on the Contract. Refer to the DBE forms (**Attachment D**) for additional information.

4.27 Federal Funding Acknowledgement

This Contract contains federal funds.

4.27.1 There are programmatic conditions that apply to the Contract due to federal funding (see **Attachment G**).

4.28 Conflict of Interest Affidavit and Disclosure

4.28.1 The Bidder shall complete and sign the Conflict of Interest Affidavit and Disclosure (**Attachment H**) and submit it with its Bid.

4.28.2 By submitting a Conflict of Interest Affidavit and Disclosure, the Contractor shall be construed as certifying all Contractor Personnel and subcontractors are also without a conflict of interest as defined in COMAR 21.05.08.08A.

4.28.3 Additionally, a Contractor has an ongoing obligation to ensure that all Contractor Personnel is without conflicts of interest prior to providing services << under OR individual Task Orders issued under >> the Contract. For policies and procedures applying specifically to Conflict of Interests, the Contract is governed by COMAR 21.05.08.08.

4.28.4 Participation in Drafting of Specifications: Disqualifying Event: Bidders are advised that Md. Code Ann. State Finance and Procurement Article §13-212.1(a) provides generally that “an individual who assists an executive unit in the drafting of specifications, an invitation for bids, a request for proposals for a procurement, or the selection or award made in response to an invitation for bids or a request for proposals, or a person that employs the individual, may

not: (1) submit a bid or proposal for that procurement; or (2) assist or represent another person, directly or indirectly, who is submitting a bid or proposal for that procurement.” Any Bidder submitting a Bid in violation of this provision shall be classified as “not responsible.”

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5 Bid Format

5.1 Two Part Submission

5.1.1 Each Bidder shall submit its Bid with all Required Bid Submissions via email in two separate emails, one email outlining qualifications and the second email containing the bid.

The Bid shall contain all price information in the format specified on the Bid Form. The Bidder shall complete the Bid Form only as provided in the Bid Pricing Instructions and the Bid Form. Do not amend, alter, or leave blank any items on the Bid Form or include additional clarifying or contingent language on or attached to the Bid Form. Failure to adhere to any of these instructions may result in the Bid being determined to be non-responsive and rejected by the Organization.

5.2 Required Bid Submission

A Bidder shall include the following with its Bid:

5.2.1 **Bidder Information Sheet** (see **Appendix 2**)

5.2.2 **Acknowledgement** of all addenda to this IFB.

5.2.3 **Minimum Qualifications Documentation.** The Bidder shall submit any Minimum Qualifications documentation that may be required, as set forth in IFB **Section 1**. If references are required in **IFB Section 1**, those references shall be submitted in this section and shall contain the information described in both **Section 1**.

5.2.4 **Completed Required Attachments.** Submit three (3) copies of each with original signatures, these may be signed electronically.

- 1) Completed Bid Form (**Attachment B**).
- 2) Completed Bid Affidavit (**Attachment C**).
- 3) Completed Maryland Living Wage Requirements Affidavit of Agreement (**Attachment F-1**).

References. At least three (3) references are requested from customers who are capable of documenting the Bidder's ability to provide the goods and services specified in this IFB. References used to meet any Minimum Qualifications (see IFB **Section 1**) may be used to meet this request. Each reference shall be from a client for whom the Bidder has provided goods and services within the past five (5) years and shall include the following information:

- 4) Name of client organization;
- 5) Name, title, telephone number, and e-mail address, if available, of point of contact for client organization; and
- 6) Value, type, duration, and description of goods and services provided.

The Organization reserves the right to request additional references or utilize references not provided by the Bidder. Points of contact must be accessible and knowledgeable regarding Bidder performance.

List of Current or Prior State Contracts. Provide a list of all contracts with any entity of the FPVSP of Maryland for which the Bidder is currently performing goods and services or for which services have been completed within the last five (5) years. For each identified contract, the Bidder is to provide:

- 1) the FPVSP contracting entity;
- 2) A brief description of the goods and services provided;
- 3) The dollar value of the contract;
- 4) The term of the contract;
- 5) the FPVSP employee contact person (name, title, telephone number, and, if possible, e-mail address); and
- 6) Whether the contract was terminated before the end of the term specified in the original contract, including whether any available renewal option was not exercised.

Information obtained regarding the Bidder's level of performance on State contracts will be used by the Procurement Officer to determine the responsibility of the Bidder and considered as part of the experience and past performance evaluation criteria of the IFB.

Certificate of Insurance. The Bidder shall provide a copy of its current certificate of insurance showing the types and limits of insurance in effect as of the Bid submission date. The current insurance types and limits do not have to be the same as described in **Section 3.6**. See **Section 3.6** for the required insurance certificate submission for the apparent awardee.

Subcontractors. The Bidder shall provide a complete list of all subcontractors that will work on the Contract if the Bidder receives an award, including those utilized in meeting the DBE and VSBE subcontracting goal(s), if applicable. This list shall include a full description of the duties each subcontractor will perform and why/how each subcontractor was deemed the most qualified for this project. If applicable, subcontractors utilized in meeting the established DBE or VSBE participation goal(s) for this solicitation shall be identified as provided in the appropriate attachment(s) of this IFB.

Legal Action Summary. This summary shall include:

- 1) A statement as to whether there are any outstanding legal actions or potential claims against the Bidder and a brief description of any action;
- 2) A brief description of any settled or closed legal actions or claims against the Bidder over the past five (5) years;
- 3) A description of any judgments against the Bidder within the past five (5) years, including the court, case name, complaint number, and a brief description of the final ruling or determination; and
- 4) In instances where litigation is ongoing and the Bidder has been directed not to disclose information by the court, provide the name of the judge and location of the court.

5.3 Delivery

5.3.1 Bidders may either mail or hand-deliver Bids.

5.3.2 For U.S. Postal Service deliveries, any bid that has been received at the appropriate mail room, or typical place of mail receipt for the respective procuring unit by the time and date listed in the IFB will be deemed to be timely. If a Bidder chooses to use the U.S. Postal Service for delivery, the Department recommends that it use Express Mail, Priority Mail, Certified Mail, or another form for which both the date and time of receipt can be independently verified by the Department. It could take several days for an item sent by first class mail to make its way by normal internal mail to the procuring unit and a Bidder using first class mail will not be able to prove a timely delivery at the mailroom.

5.3.3 Hand-delivery includes delivery by a commercial carrier acting for the Bidder. For any type of direct (non-mail) delivery, a Bidder is advised to secure a dated, signed, and time-stamped (or otherwise indicated) receipt of delivery.

Documents Required upon Notice of Recommendation for Contract Award

Upon receipt of notification of recommendation for contract award, the following documents shall be completed and submitted by the recommended awardee within five (5) business days, unless noted otherwise. Submit one (1) electronic copy of each of the following documents:

- A. Signed contract (Attachment M),
- B. Completed Contract Affidavit (Attachment N)
- C. Copy of a current certificate of insurance with the prescribed limits set forth in IFB Section 3.1 "Insurance Requirements," listing the FPVSP as an Additional Insured, if applicable; see IFB Section 3.1.

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6 Bid Evaluation and Award

6.1 Bid Evaluation Criteria

The Bids will be evaluated based on the Total Bid Price, as per COMAR 21.02.13. All responsible Bidders will be ranked from the lowest (most advantageous) to the highest (least advantageous) price based on the Total Bid Price as submitted in **Attachment B** - Bid Form.

6.2 Reciprocal Preference

6.1.1 Although Maryland law does not authorize procuring agencies to favor resident Bidders in awarding procurement contracts, many other states do grant their resident businesses preferences over Maryland contractors. COMAR 21.05.01.04 permits procuring agencies to apply a reciprocal preference under the following conditions:

- a) The Maryland resident business is a responsible Bidder;
- b) The lowest responsive Bid is from a responsible Bidder whose principal office, or principal base of operations is in another state;
- c) The other state gives a preference to its resident businesses through law, policy, or practice; and
- d) The preference does not conflict with federal law or grant affecting the procurement Contract.

6.1.2 The preference given shall be identical to the preference that the other state, through the law, policy, or practice gives to its resident businesses.

6.3 Award Determination

Award will be made to the responsible Bidder who submits to the Organization the responsive Bid that has the lowest Total Bid Price.

The Organization reserves the right to make the award by item, or groups of items, or Total Bid Price if it is in the best interest of the FPVSP to do so unless the Bidder specifies in its bid that a partial or progressive award is not acceptable.

6.4 Documents Required upon Notice of Recommendation for Contract Award

Upon receipt of a Notification of Recommendation for Contract award, the apparent awardee shall complete and furnish the documents and attestations as directed in Table 1 of **Section 7 – IFB Attachments and Appendices**.

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7 IFB ATTACHMENTS AND APPENDICES

Instructions Page

A Bid submitted by the Bidder must be accompanied by the completed forms and/or affidavits identified as “with Bid” in the “When to Submit” column in Table 1 below. All forms and affidavits applicable to this IFB, including any applicable instructions and/or terms, are identified in the below table.

For documents required as part of the Bid:

1. For e-mail submissions, submit one (1) copy of each with signatures.
2. For paper submissions, submit two (2) copies of each with original signatures. All signatures must be clearly visible.

All Bidders are advised that if a Contract is awarded as a result of this solicitation, the successful Bidder will be required to complete certain forms and affidavits after notification of recommended award. The list of forms and affidavits that must be provided is described in Table 1 below in the “When to Submit” column.

For documents required after the award, submit three (3) copies of each document within the appropriate number of days after notification of recommended award, as listed in Table 1 below in the “When to Submit” column.

Table 1: IFB ATTACHMENTS AND APPENDICES

| When to Submit | Attachment Name |
|---|--|
| 10 Business Days after recommended award | PEP; 1 copy |
| 5 Business Days after recommended award | Sample Contract (included in this IFB) |
| 5 Business Days after recommended award | Contract Affidavit (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-N-ContractAffidavit.pdf) |
| 5 Business Days after recommended award | Evidence of meeting insurance requirements (see Section 3.6); 1 copy |
| 5 Business Days after recommended award – However, suggested with Bid | Non-Disclosure Agreement (Contractor) (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-I-Non-DisclosureAgreementContractor.pdf) |
| With Bid | Bid Instructions and Form |
| With Bid | Bid/Proposal Affidavit (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentC-Bid_Proposal-Affidavit.pdf) |

| | When to Submit | Attachment Name |
|--|-----------------------|--|
| | With Bid | Conflict of Interest Affidavit and Disclosure (see link at https://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentH-Conflict-of-InterestAffidavit.pdf) |
| | With Bid | Bidder Information Sheet (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Appendix2-Bidder_OfferorInformationSheet.pdf) |

Attachment A. Pre-Bid Conference Response Form

Solicitation number RT2208

OEC Connector

A Pre-Bid conference will be held on 3/20/23, 12 noon, at the Hollofield Area of Patapsco Valley State Park, 8020 Baltimore National Pike, Ellicott City, MD 21043

Please return this form by 3/27/23, advising whether or not your firm plans to attend. The completed form should be returned via e-mail or fax to the Procurement Officer at the contact information below:

David Ferraro
FPVSP
E-mail: director@fpvsp.org
Fax #: N/A

Please indicate:

| | |
|--------------------------|---|
| <input type="checkbox"/> | Yes, the following representatives will be in attendance. |
| <input type="checkbox"/> | No, we will not be in attendance. |

Attendees (Check the IFB for limits to the number of attendees allowed):

- 1.
- 2.
- 3.

Please specify whether any reasonable accommodations are requested

Bidder: _____

Bidder Name (please print or type)

By: _____

Signature/Seal

Printed Name: _____

Printed Name

Title: _____

Title

Date: _____

Date

Directions to the Pre-Bid Conference

The prebid conference will take place at the Hollofield Campground. We will meet at the entrance gate to the Hollofield Area of Patapsco Valley State Park, 8020 Baltimore National Pike, Ellicott City MD, 21043.

Attachment B. Bid Instructions & Form

B-1 Bid Instructions

In order to assist each Bidder in the preparation of its Bid and to comply with the requirements of this solicitation, Bid Instructions, and a Bid Form have been prepared. Each Bidder shall submit its Bid on the Bid Form in accordance with the instructions on the Bid Form and as specified herein. Do not alter the Bid Form or the Bid may be determined to be not responsive. The Bid Form is to be signed and dated, where requested, by an individual who is authorized to bind the Bidder to the prices entered on the Bid Form.

The Bid Form is used to calculate the Bidder's TOTAL BID PRICE. Follow these instructions carefully when completing your Bid Form:

- A) All Unit and Extended Prices must be clearly entered in dollars and cents, e.g., \$24.15. Make your decimal points clear and distinct.
- B) All Unit Prices must be the actual price per unit the FPVSP will pay for the specific item or service identified in this IFB and may not be contingent on any other factor or condition in any manner.
- C) All calculations shall be rounded to the nearest cent, e.g., .344 shall be .34, and .345 shall be .35.
- D) Any goods or services required through this IFB and proposed by the vendor at no cost must be clearly entered in the Unit Price, if appropriate, and Extended Price with **\$0.00**.
- E) Every blank in every Bid Form shall be filled in. Any changes or corrections made to the Bid Form by the Bidder prior to submission shall be initialed and dated.
- F) Except as instructed on the Bid Form, nothing shall be entered on or attached to the Bid Form that alters or proposes conditions or contingencies on the prices. Alterations and/or conditions may render the Bid not responsive.
- G) It is imperative that the prices included on the Bid Form have been entered correctly and calculated accurately by the Bidder and that the respective total prices agree with the entries on the Bid Form. Any incorrect entries or inaccurate calculations by the Bidder will be treated as provided in COMAR 21.05.02.12 and may cause the Bid to be rejected.
- H) If option years are included, Bidders must submit pricing for each option year. Any option to renew will be exercised at the sole discretion of the FPVSP and comply with all terms and conditions in force at the time the option is exercised. If exercised, the option period shall be for a period identified in the IFB at the prices entered in the Bid Form.
- I) All Bid prices entered below are to be fully loaded prices that include all costs/expenses associated with the provision of services as required by the IFB. The Bid price shall include, but is not limited to, all: labor, profit/overhead, general operating, administrative, and all other expenses and costs necessary to perform the work set forth in the solicitation. No other amounts will be paid to the Contractor. If labor rates are requested, those amounts shall be fully-loaded rates; no overtime amounts will be paid.
- J) Unless indicated elsewhere in the IFB, sample amounts used for calculations on the Bid Form are typically estimates for evaluation purposes only. Unless stated otherwise in the IFB, the FPVSP does not guarantee a minimum or a maximum number of units or usage in the performance of the Contract.

K) Failure to adhere to any of these instructions may result in the Bid being determined not responsive.

B-1 Bid Form

The Bid Form shall contain all price information in the format specified on these pages. Complete the Bid Form only as provided in the Bid Instructions. Do not amend, alter or leave blank any items on the Bid Form. Failure to adhere to any of these instructions may result in the Bid being determined not responsive.

Bid Form.

Total Cost _____

Submitted by:

| | |
|--|------|
| | |
| Signature of Authorized Representative | Date |
| Printed Name and Title: | |
| Telephone: | |
| Email address: | |
| Bidder Company Name: | |
| Bidder Company Address: | |
| Location(s) from which goods/services will be provided/performed (City/State): | |
| FEIN: | |
| eMMA #: | |

Attachment C. Bid/Proposal Affidavit

See link at

http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentC-Bid_Proposal-Affidavit.pdf.

| |
|--|
| Attachment D. Disadvantaged Business Enterprise (DBE) Forms |
|--|

See link at

<https://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentDDBE-Forms-1.pdf>.

This solicitation includes a 3% Disadvantaged Business Enterprise (DBE) subcontractor participation goal.

**Attachment E. Veteran-Owned Small Business Enterprise
(VSBE) Forms**

This solicitation does not include a Veteran-Owned Small Business Enterprise goal.

**Attachment F. Maryland Living Wage Affidavit of Agreement
for Service Contracts**

This solicitation does not require a Living Wage Affidavit of Agreement.

Attachment G. Federal Funds Attachments

See link at

<http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentG-FederalFundsAttachment.pdf>.

Attachment H. Conflict of Interest Affidavit and Disclosure

This solicitation does not require a Conflict of Interest Affidavit and Disclosure.

Attachment I. Non-Disclosure Agreement (Contractor)

This solicitation does not require a Non-Disclosure Agreement.

Attachment J. HIPAA Business Associate Agreement

This solicitation does not require a HIPAA Business Associate Agreement.

Attachment K. Mercury Affidavit

This solicitation does not include the procurement of products known to likely include mercury as a component.

Attachment L. Location of the Performance of Services

This solicitation does not require a Location of the Performance of Services Disclosure.

Attachment M. Contract

**Friends of Patapsco Valley State Park
OEC Connector - RT2207**

THIS CONTRACT (the "Contract") is made this ____ day of _____, 2023 by and between _____ (the "Contractor") and the FPVSP.

In consideration of the promises and the covenants herein contained, the adequacy and sufficiency of which are hereby acknowledged by the parties, the parties agree as follows:

1. Definitions

In this Contract, the following words have the meanings indicated:

- 1.1 "Bid" means the Contractor's Bid dated _____
- 1.2 "COMAR" means Code of Maryland Regulations.
- 1.3 "Contractor" means the entity first named above whose principal business address is _____ and whose principal office in Maryland is _____, whose Federal Employer Identification number or Social Security number is _____, and whose eMaryland Marketplace Advantage vendor ID number is _____.
- 1.4 "IFB" means the Invitation for Bids for the OEC Connector, Solicitation # RT2207, and any amendments, addenda, and attachments thereto issued in writing by the FPVSP.
- 1.5 Capitalized terms not defined herein shall be ascribed to the meaning given to them in the IFB.

2. Scope of Contract

- 2.1 The Contractor shall perform in accordance with this Contract and Exhibits A-D, which are listed below and incorporated herein by reference. If there is any conflict between this Contract and the Exhibits, the terms of the Contract shall control. If there is any conflict among the Exhibits, the following order of precedence shall determine the prevailing provision:

Exhibit A – The IFB

Exhibit B – The Contract Affidavit, executed by the Contractor and dated _____.

Exhibit C – The Bid

- 2.2 The Procurement Officer may, at any time, by written order, make unilateral changes in the work within the general scope of the Contract. No other order, statement, or conduct of the Procurement Officer or any other person shall be treated as a change or entitle the Contractor to an equitable adjustment under this section. Except as otherwise provided in this Contract, if any change under this section causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work, whether or not changed by the order, an equitable adjustment in the Contract price shall

be made and the Contract modified in writing accordingly. The Contractor must assert in writing its right to an adjustment under this section within thirty (30) days of receipt of the written change order and shall include a written statement setting forth the nature and cost of such claim. No claim by the Contractor shall be allowed if asserted after final payment under this Contract. Failure to agree to an adjustment under this section shall be a dispute under the Disputes clause. Nothing in this section shall excuse the Contractor from proceeding with the Contract as changed.

- 2.3 Without limiting the rights of the Procurement Officer under Section 2.2 above, the Contract may be modified by mutual agreement of the parties, provided: (a) the modification is made in writing; (b) all parties sign the modification; and (c) all approvals by the required agencies as described in COMAR Title 21, are obtained.

3. Period of Performance

- 3.1 The term of this Contract begins on the date the Contract is signed by the FPVSP following any required prior approvals.
- 3.2 The Contractor's performance under the Contract shall commence as of the date provided in a written NTP.
- 3.3 The Contractor's obligation to pay invoices to subcontractors providing products/services in connection with this Contract, as well as the audit; confidentiality; document retention; patents, copyrights & intellectual property; warranty; indemnification obligations; and limitations of liability under this Contract; and any other obligations specifically identified, shall survive expiration or termination of the Contract.

4. Consideration and Payment

- 4.1 In consideration of the satisfactory performance of the work set forth in this Contract, the FPVSP shall pay the Contractor in accordance with the terms of this Contract and at the prices quoted in the Bid. Unless properly modified (see above Section 2), payment to the Contractor pursuant to this Contract, including the Initial Term and any Renewal Term, shall not exceed the Contracted amount.

The total payment under a fixed price Contract or the fixed price element of a combined fixed price – time and materials Contract shall be the firm fixed price submitted by the Contractor in its Bid.

- 4.2 Unless payment is unauthorized, deferred, delayed, or set off under COMAR 21.02.07, payments to the Contractor pursuant to this Contract shall be made no later than 30 days after the FPVSP's receipt of a proper invoice from the Contractor as required by IFB section 3.3.
- 4.3 In addition to any other available remedies, if, in the opinion of the Procurement Officer, the Contractor fails to perform in a satisfactory and timely manner, the Procurement Officer may refuse or limit approval of any invoice for payment, and may cause payments to the Contractor to be reduced or withheld until such time as the Contractor meets performance standards as established by the Procurement Officer.
- 4.4 Payment of an invoice by the FPVSP is not evidence that services were rendered as required under this Contract.

5. Rights to Records

- 5.1 The Contractor agrees that all documents and materials including, but not limited to, software, reports, drawings, studies, specifications, estimates, tests, maps, photographs, designs, graphics, mechanical, artwork, computations, and data prepared by the

Contractor for purposes of this Contract shall be the sole property of the FPVSP and shall be available to the FPVSP at any time. The FPVSP shall have the right to use the same without restriction and without compensation to the Contractor other than that specifically provided by this Contract.

- 5.2 The Contractor agrees that at all times during the term of this Contract and thereafter, works created as a Deliverable under this Contract (as defined in **Section 7.2**), and services performed under this Contract shall be “works made for hire” as that term is interpreted under U.S. copyright law. To the extent that any products created as a Deliverable under this Contract are not works made for hire for the FPVSP, the Contractor hereby relinquishes, transfers, and assigns to the FPVSP all of its rights, title, and interest (including all intellectual property rights) to all such products created under this Contract, and will cooperate reasonably with the FPVSP in effectuating and registering any necessary assignments.

6. Exclusive Use

- 6.1 The FPVSP shall have the exclusive right to use, duplicate, and disclose any data, information, documents, records, or results, in whole or in part, in any manner for any purpose whatsoever, that may be created or generated by the Contractor in connection with this Contract. If any material, including software, is capable of being copyrighted, the FPVSP shall be the copyright owner and Contractor may copyright material connected with this project only with the express written approval of the FPVSP.
- 6.2 Except as may otherwise be set forth in this Contract, Contractor shall not use, sell, sub-lease, assign, give, or otherwise transfer to any third party any other information or material provided to Contractor by the FPVSP or developed by Contractor relating to the Contract, except as provided for in

7. Indemnification and Notification of Legal Requests

- 7.1 At its sole cost and expense, Contractor shall (i) indemnify and hold the FPVSP, its employees, and agents harmless from and against any and all claims, demands, actions, suits, damages, liabilities, losses, settlements, judgments, costs and expenses (including but not limited to attorneys’ fees and costs), whether or not involving a third party claim, which arises out of or relates to the Contractor’s, or any of its subcontractors, the performance of this Contract and (ii) cooperate, assist, and consult with the FPVSP in the defense or investigation of any such claim, demand, action or suit. The contractor shall not enter into any settlement involving third-party claims that contain any admission of or stipulation to any guilt, fault, liability, or wrongdoing by the FPVSP or that adversely affects the FPVSP’s rights or interests, without the FPVSP’s prior written consent.
- 7.2 the FPVSP has no obligation: (i) to provide legal counsel or defense to the Contractor or its subcontractors in the event that a suit, claim or action of any character is brought against the Contractor or its subcontractors as a result of or relating to the Contractor’s obligations or performance under this Contract, or (ii) to pay any judgment or settlement of any such suit, claim or action. Notwithstanding the foregoing, the Contractor shall promptly notify the Procurement Officer of any such claims, demands, actions, or suits.
- 7.3 Notification of Legal Requests. In the event the Contractor receives a subpoena or other validly issued administrative or judicial process, or any discovery request in connection with any litigation, requesting State Pre-Existing Intellectual Property, of other information considered to be the property of the FPVSP, including but not limited to State data stored

with or otherwise accessible by the Contractor, the Contractor shall not respond to such subpoena, process or other legal requests without first notifying the FPVSP, unless prohibited by law from providing such notice. The Contractor shall promptly notify the FPVSP of such receipt providing the FPVSP with a reasonable opportunity to intervene in the proceeding before the time that Contractor is required to comply with such subpoena, other process or discovery request. .

8. Non-Hiring of Employees

No official or employee of the FPVSP, as defined under Md. Code Ann., General Provisions Article, § 5-101, 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 FPVSP, become or be an employee of the Contractor or any entity that is a subcontractor on this Contract.

9. Disputes

This Contract shall be subject to the provisions of Md. Code Ann., State Finance and Procurement Article, Title 15, Subtitle 2, and COMAR 21.10 (Administrative and Civil Remedies). Pending resolution of a claim, the Contractor shall proceed diligently with the performance of the Contract in accordance with the Procurement Officer's decision. Unless a lesser period is provided by applicable statute, regulation, or the Contract, the Contractor must file a written notice of claim 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 of the filing of a notice of claim, but no later than the date of final payment under the Contract, the Contractor must submit to the Procurement Officer its written claim containing the information specified in COMAR 21.10.04.02.

10. Maryland Law Prevails

- 10.1 This Contract shall be construed, interpreted, and enforced according to the laws of the FPVSP of Maryland.
- 10.2 The Maryland Uniform Computer Information Transactions Act (Commercial Law Article, Title 22 of the Annotated Code of Maryland) does not apply to this Contract or any purchase order, task order, or Notice to Proceed issued thereunder, or any software, or any software license acquired hereunder.
- 10.3 Any and all references to the Maryland Code, annotated and contained in this Contract shall be construed to refer to such Code sections as are from time to time amended.

11. Nondiscrimination in Employment

The Contractor agrees: (a) not to discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, sexual orientation, gender identification, marital status, national origin, ancestry, genetic information, or any otherwise unlawful use of characteristics, or disability of a qualified individual with a disability unrelated in nature and extent so as to reasonably preclude the performance of the employment, or the individual's refusal to submit to a genetic test or make available the results of a genetic test; (b) to include a provision similar to that contained in subsection (a), above, in any underlying subcontract except a 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.

12. Contingent Fee Prohibition

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 the Contract, and that the Contractor has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee or agent, any fee or any other consideration contingent on the making of this Contract.

13. Termination for Default

If the Contractor fails to fulfill its obligations under this Contract properly and on time, fails to provide any required annual and renewable bond 30 days prior to the expiration of the current bond then in effect, or otherwise violates any provision of the Contract, the FPVSP 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 FPVSP's option, become the FPVSP's property. the FPVSP 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 the Contractor's breach. If the damages are more than the compensation payable to the Contractor, the Contractor will remain liable after termination and the FPVSP can affirmatively collect damages. Termination hereunder, including the termination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.11B.

13. Termination for Convenience

The performance of work under this Contract may be terminated by the FPVSP in accordance with this clause in whole, or from time to time in part, whenever the FPVSP shall determine that such termination is in the best interest of the FPVSP. the FPVSP 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 COMAR 21.07.01.12A (2).

14. Delays and Extensions of Time

- 14.1 The Contractor agrees to prosecute the work continuously and diligently and no charges or claims for damages shall be made by it for any delays or hindrances from any cause whatsoever during the progress of any portion of the work specified in this Contract.
- 14.2 Time extensions will be granted only for excusable delays that arise from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to, acts of God, acts of the public enemy, acts of the FPVSP in either its sovereign or contractual capacity, acts of another Contractor in the performance of a contract with the FPVSP, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of either the Contractor or the subcontractors or suppliers.

15. Suspension of Work

the FPVSP unilaterally may order the Contractor in writing to suspend, delay, or interrupt all or any part of its performance for such period of time as the Procurement Officer may determine to be appropriate for the convenience of the FPVSP.

16. Pre-Existing Regulations

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

17. Political Contribution Disclosure

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

18. Retention of Records

The Contractor and subcontractors shall retain and maintain all records and documents in any way relating to this Contract for (i) three (3) years after final payment by the FPVSP hereunder, or (ii) any applicable federal or State retention requirements (such as HIPAA) or condition of award, whichever is longer, and shall make them available for inspection and audit by authorized representatives of the FPVSP, as designated by the Procurement Officer, at all reasonable times. The Contractor shall provide copies of all documents requested by the FPVSP, including, but not limited to itemized billing documentation containing the dates, hours spent, and work performed by the Contractor and its subcontractors under the Contract. All records related in any way to the Contract are to be retained for the entire time provided under this section.

19. Right to Audit

- 19.1 the FPVSP reserves the right, at its sole discretion and at any time, to perform an audit of the Contractor's performance under this Contract. An audit is defined as a planned and documented independent activity performed by qualified personnel, including but not limited to State and federal auditors, to determine by investigation, examination, or evaluation of objective evidence from data, statements, records, operations, and performance practices (financial or otherwise) the Contractor's compliance with the Contract, including but not limited to adequacy and compliance with established procedures and internal controls over the services performed pursuant to the Contract.

- 19.2 Upon three (3) Business Days' notice, the FPVSP shall be provided reasonable access to Contractor's records to perform any such audits. The FPVSP may conduct these audits with any or all of its own internal resources or by securing the services of a third-party accounting or audit firm, solely at the FPVSP's election. The FPVSP may copy any record related to the services performed pursuant to the Contract. The Contractor agrees to fully cooperate and assist in any audit conducted by or on behalf of the FPVSP, including, by way of example only, making records and employees available as, where, and to the extent requested by the FPVSP and by assisting the auditors in reconciling any audit variances. The contractor shall not be compensated for providing any such cooperation and assistance.
- 19.3 The right to audit shall include any of the Contractor's subcontractors including but not limited to any lower-tier subcontractor(s). The Contractor shall ensure the FPVSP has the right to audit such subcontractor(s).

20. 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 FPVSP, 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;
- c. It shall comply with all federal, State, and local laws, regulations, and ordinances applicable to its activities and obligations under this Contract; and
- d. It shall obtain, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Contract.

21. Cost and Price Certification

- 21.1 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 of the date of its Bid.
- 21.2 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 of its Bid, was inaccurate, incomplete, or not current.

22. Subcontracting; Assignment

The Contractor may not subcontract any of its obligations under this Contract without obtaining the prior written approval of the Procurement Officer, nor may the Contractor assign this Contract or any of its rights or obligations hereunder, without the prior written approval of the Procurement Officer, each at the FPVSP's sole and absolute discretion; provided, however, that a Contractor may assign monies receivable under a contract after written notice to the FPVSP. Any subcontracts shall include such language as may be required in various clauses contained within this Contract, exhibits, and attachments. The Contract shall not be assigned until all approvals, documents, and affidavits are completed and properly registered. the FPVSP shall not be responsible for fulfillment of the Contractor's obligations to its subcontractors.

23. Limitations of Liability

- 23.1 Contractor shall be liable for any loss or damage to Patapsco Valley State Park occasioned by the acts or omissions of Contractor, its subcontractors, agents, or employees as follows:
- (q) Without limitation for damages for bodily injury (including death) and damage to real property and tangible personal property; and
 - (b) For all other claims, damages, loss, costs, expenses, suits or actions in any way related to this Contract and regardless of the basis on which the claim is made, Contractor's liability shall be unlimited.29.2 Contractor's indemnification obligations for Third party claims arising under Section 10 ("Indemnification") of this Contract are included in this limitation of liability only if the FPVSP is immune from liability. The contractor's indemnification liability for third-party claims arising under Section 10 of this Contract shall be unlimited if the FPVSP is not immune from liability for claims arising under Section 10.
- 23.3. In no event shall the existence of a subcontract operate to release or reduce the liability of the Contractor hereunder. For purposes of this Contract, Contractor agrees that all subcontractors are agents of the Contractor and the Contractor is responsible for the performance of the services and compliance with the relevant obligations hereunder by its subcontractors.

24. Prompt Pay Requirements

- 24.1 If the Contractor withholds payment of an undisputed amount to its subcontractor, the FPVSP, at its option and in its sole discretion, may take one or more of the following actions:
- (a) Not process further payments to the Contractor until payment to the subcontractor is verified;
 - (b) Suspend all or some of the Contract work without affecting the completion date(s) for the Contract work;
 - (c) Pay or cause payment of the undisputed amount to the subcontractor from monies otherwise due or that may become due to the Contractor;
 - (d) Place a payment for an undisputed amount in an interest-bearing escrow account; or
 - (e) Take other or further actions as appropriate to resolve the withheld payment.
- 24.2 An "undisputed amount" means an amount owed by the Contractor to a subcontractor for which there is no good faith dispute. Such "undisputed amounts" include, without limitation: (a) retainage which had been withheld and is, by the terms of the agreement between the Contractor and subcontractor, due to be distributed to the subcontractor; and (b) an amount withheld because of issues arising out of an agreement or occurrence unrelated to the agreement under which the amount is withheld.
- 24.3 An act, failure to act, or decision of a Procurement Officer or a representative of the FPVSP concerning a withheld payment between the Contractor and a subcontractor under this **section 31**, may not:
- (a) Affect the rights of the contracting parties under any other provision of law;

- (b) Be used as evidence on the merits of a dispute between the FPVSP and the Contractor in any other proceeding; or
- (c) Result in liability against or prejudice the rights of the FPVSP.

24.4 The remedies enumerated above are in addition to those provided under COMAR 21.11.03.13 with respect to subcontractors that have contracted pursuant to the DBE program.

25. Effect of Contractor Bankruptcy

All rights and licenses granted by the Contractor under this Contract are and shall be deemed to be rights and licenses to “intellectual property,” and the subject matter of this Contract, including services, is and shall be deemed to be “embodiments of intellectual property” for purposes of and as such terms are used and interpreted under § 365(n) of the United States Bankruptcy Code (“Code”) (11 U.S.C. § 365(n) (2010)). the FPVSP has the right to exercise all rights and elections under the Code and all other applicable bankruptcy, insolvency, and similar laws with respect to this Contract (including all executory statements of works). Without limiting the generality of the foregoing, if the Contractor or its estate becomes subject to any bankruptcy or similar proceeding: (a) subject to the FPVSP’s rights of election, all rights and licenses granted to the FPVSP under this Contract shall continue subject to the respective terms and conditions of this Contract; and (b) the FPVSP shall be entitled to a complete duplicate of (or complete access to, as appropriate) all such intellectual property and embodiments of intellectual property, and the same, if not already in the FPVSP’s possession, shall be promptly delivered to the FPVSP, unless the Contractor elects to and does in fact continue to perform all of its obligations under this Contract.

26. Miscellaneous

- 26.1 Any provision of this Contract which contemplates performance or observance subsequent to any termination or expiration of this Contract shall survive termination or expiration of this Contract and continue in full force and effect.
- 26.2 If any term contained in this Contract is held or finally determined to be invalid, illegal, or unenforceable in any respect, in whole or in part, such term shall be severed from this Contract, and the remaining terms contained herein shall continue in full force and effect, and shall in no way be affected, prejudiced, or disturbed thereby.
- 26.3 The headings of the sections contained in this Contract are for convenience only and shall not be deemed to control or affect the meaning or construction of any provision of this Contract.
- 26.4 This Contract may be executed in any number of counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. Signatures provided by facsimile or other electronic means, e.g, and not by way of limitation, in Adobe .PDF sent by electronic mail, shall be deemed to be original signatures.

27. Contract Monitor and Procurement Officer

- 27.1 The FPVSP representative for this Contract who is primarily responsible for Contract administration functions, including issuing written direction, invoice approval, monitoring this Contract to ensure compliance with the terms and conditions of the Contract, monitoring DBE and VSBE compliance, and achieving completion of the Contract on budget, on time, and within scope. The Contract Monitor may authorize in writing one or more State representatives to act on behalf of the Contract Monitor in the performance of

the Contract Monitor's responsibilities. The FPVSP may change the Contract Monitor at any time by written notice to the Contractor.

27.2 The Procurement Officer has responsibilities as detailed in the Contract and is the only State representative who can authorize changes to the Contract. The FPVSP may change the Procurement Officer at any time by written notice to the Contractor.

28. Notices

All notices hereunder shall be in writing and either delivered personally or sent by certified or registered mail, postage prepaid, as follows:

If to the FPVSP:

Dave Ferraro

8020 Baltimore National Pike, Ellicott City, MD 21043

Phone number: 410 463 1301

E-Mail: director@fpvsp.org

IN WITNESS THEREOF, the parties have executed this Contract as of the date hereinabove set forth.

| | |
|-----------------|---------------------------------------|
| Contractor: | Friends of Patapsco Valley State Park |
| | |
| By: | By: |
| Date: | Date: |
| Witness/Attest: | Witness/Attest: |
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Attachment N. Contract Affidavit

See link at

<http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-N-ContractAffidavit.pdf>.

Attachment O. DHS Hiring Agreement

This solicitation does not require a DHS Hiring Agreement.

Attachment P. Contract Provision Buy America

See link at

<https://www.roads.maryland.gov/mdotsha/pages/index.aspx?PageId=284>

Appendix 1. – Abbreviations and Definitions

- A. Bid – The Bidder’s Bid.
- B. FPVSP - Friends of Patapsco Valley State Park.
- C. Bid Price Form or Bid Form - The Attachment B Bid Form.
- D. Business Day(s) – The official working days of the week including Monday through Friday. Official working days excluding State Holidays (see definition of “Normal State Business Hours” below).
- E. COMAR – Code of Maryland Regulations available online at <http://www.dsd.state.md.us/COMAR/ComarHome.html>.
- F. Contract – The Contract awarded to the successful Bidder pursuant to this IFB. The Contract will be in the form of **Attachment M**.
- G. Contract Monitor – the FPVSP representative for this Contract who is primarily responsible for Contract administration functions, including issuing the written direction, invoice approval, monitoring this Contract to ensure compliance with the terms and conditions of the Contract, and achieving completion of the Contract on budget, on time, and within scope. The Contract Monitor may authorize in writing one or more representatives to act on behalf of the Contract Monitor in the performance of the Contract Monitor’s responsibilities. The FPVSP may change the Contract Monitor at any time by written notice to the Contractor.
- H. Contractor – The selected Bidder that is awarded a Contract by the FPVSP.
- I. Contractor Personnel – Employees and agents and subcontractor employees and agents performing work at the direction of the Contractor under the terms of the Contract awarded from this IFB.
- J. eMMA – eMaryland Marketplace Advantage (see IFB **Section 4.2**).
- K. Invitation for Bids (IFB) – This Invitation for Bids is issued by the FPVSP, with the Solicitation number and date of issuance indicated in the Key Information Summary Sheet, including any amendments thereto.
- L. Key Personnel – All Contractor Personnel identified in the solicitation as such that are essential to the work being performed under the Contract. See IFB **Sections 3.10**.
- M. Local Time – Time in the Eastern Time Zone as observed by the FPVSP of Maryland. Unless otherwise specified, all stated times shall be Local Time, even if not expressly designated as such.
- N. Notice to Proceed (NTP) – A written notice from the Procurement Officer that work under the Contract, project, is to begin as of a specified date. The NTP Date is the start date of work under the Contract, project. Additional NTPs may be issued by either the Procurement Officer or the Contract Monitor regarding the start date for any service included within this solicitation with a delayed or non-specified implementation date.
- O. NTP Date – The date specified in an NTP for work on Contract, project, to begin.

- P. Bidder – An entity that submits a Bid in response to this IFB.
- Q. Procurement Officer – Prior to the award of any Contract, the sole point of contact in the FPVSP for purposes of this solicitation. After the Contract award, the Procurement Officer has responsibilities as detailed in the Contract (**Attachment M**) and is the only State representative who can authorize changes to the Contract. The FPVSP may change the Procurement Officer at any time by written notice to the Contractor.
- R. Protected Health Information (PHI) – Information that relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and (i) that identifies the individual; or (ii) with respect to which there is a reasonable basis to believe the information can be used to identify the individual.
- S. Security Incident – A violation or imminent threat of violation of computer security policies, Security Measures, acceptable use policies, or standard security practices. “Imminent threat of violation” is a situation in which the organization has a factual basis for believing that a specific incident is about to occur.
- T. Total Bid Price - The Bidder’s bid price or evaluated bid price for goods and services in response to this solicitation, included in **Attachment B** – Bid Form.

Appendix 2. Bidder Information Sheet

Appendix 2. Bidder Information Sheet

See link at

http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Appendix2-Bidder_OfferorInformationSheet.pdf.

Appendix 3. OEC Connector Planset

Appendix 3. OEC Connector Planset

[DNR Planset - PVSP OEC Connector Trail 221018.pdf](#)

Appendix 4. Maryland Park Service BMP's

Appendix 4. Maryland Park Service Best Management Practices

[MPS Trail Construction BMPs \(190821\).pdf](#)