



science +
technology
park
at johns hopkins

Request for Proposals

Commissioning Services

Public Health Laboratory

NOTE: The most up-to-date RFP documents and current proposal due date are available from the web site listed herein. Please check website for latest version, updates and amendments concerning this RFP.

Commissioning Services

REQUEST FOR PROPOSAL

I. Introduction

This RFP pertains to the design, construction and activation of a public health laboratory for the Maryland Department of Health & Mental Hygiene (the "Project") in East Baltimore. Forest City – New East Baltimore Partnership (FC-NEBP) is seeking proposals from qualified firms to provide specialized services ("Commissioning Services") described herein. The awardee shall be referred to as the "Commissioning Agent". We are providing information and attachments herein to assist in offerors' proposal preparation and to help ensure such proposals are responsive to the submission requirements. We encourage offerors to thoroughly review and to be particularly responsive to the evaluation factors.

Offerors shall direct their attention to Exhibit 1 "Scope of Work" for information on the responsibilities of the Commissioning Agent on the Project. This SOW is one element that shall form the basis of the contract that will be executed with the awardee under this RFP. The proposal provided by the successful offeror shall obligate the offeror/awardee to provide the work described in Exhibit 1, plus reasonably anticipatable ancillary work necessary to deliver and support implementation of the Project.

The contract shall make use of the attached modified AIA contract forms. After conclusion of negotiations with the selected awardee, the Owner may make Owner-selected portions of awardee's proposal exhibits to a contract that will obligate the Commissioning Agent to perform as promised in its proposal.

The project's business requirements and goals include building the capacity for local (LBE), small, women owned (WBE) and minority owned (MBE) businesses to grow and compete effectively with their mainstream counterparts. Offerors shall submit an Inclusion Plan; this plan should briefly describe how the bidder proposes to meet the stated inclusion goals, and outline roles and responsibilities for the team's MBE/WBE sub-consultant(s) and indicate the proposed MBE and WBE percentage participation for the Work. Contract shall include provisions obligating awardee to fulfill its approved MBE/WBE plan, which shall satisfy the inclusion goals and reporting obligations. Awardee shall coordinate its plan and its implementation with inclusion requirements in attached Exhibit.

II. Background Information

In 2004, East Baltimore Development, Inc. (EBDI) selected Forest City - New East Baltimore Partnership (FC-NEBP) as the master developer of the first phase of an initiative to provide economic development and community revitalization to an 80 acre portion of the East Baltimore Community. EBDI is a non-profit 501(c)(3) organization charged with leading and managing the revitalization effort of East Baltimore. EBDI works with support from a long list of partners including the City of Baltimore, the State of Maryland, and a number of local civic groups and charitable foundations. FC-NEBP has signed a Master Development agreement with EBDI.

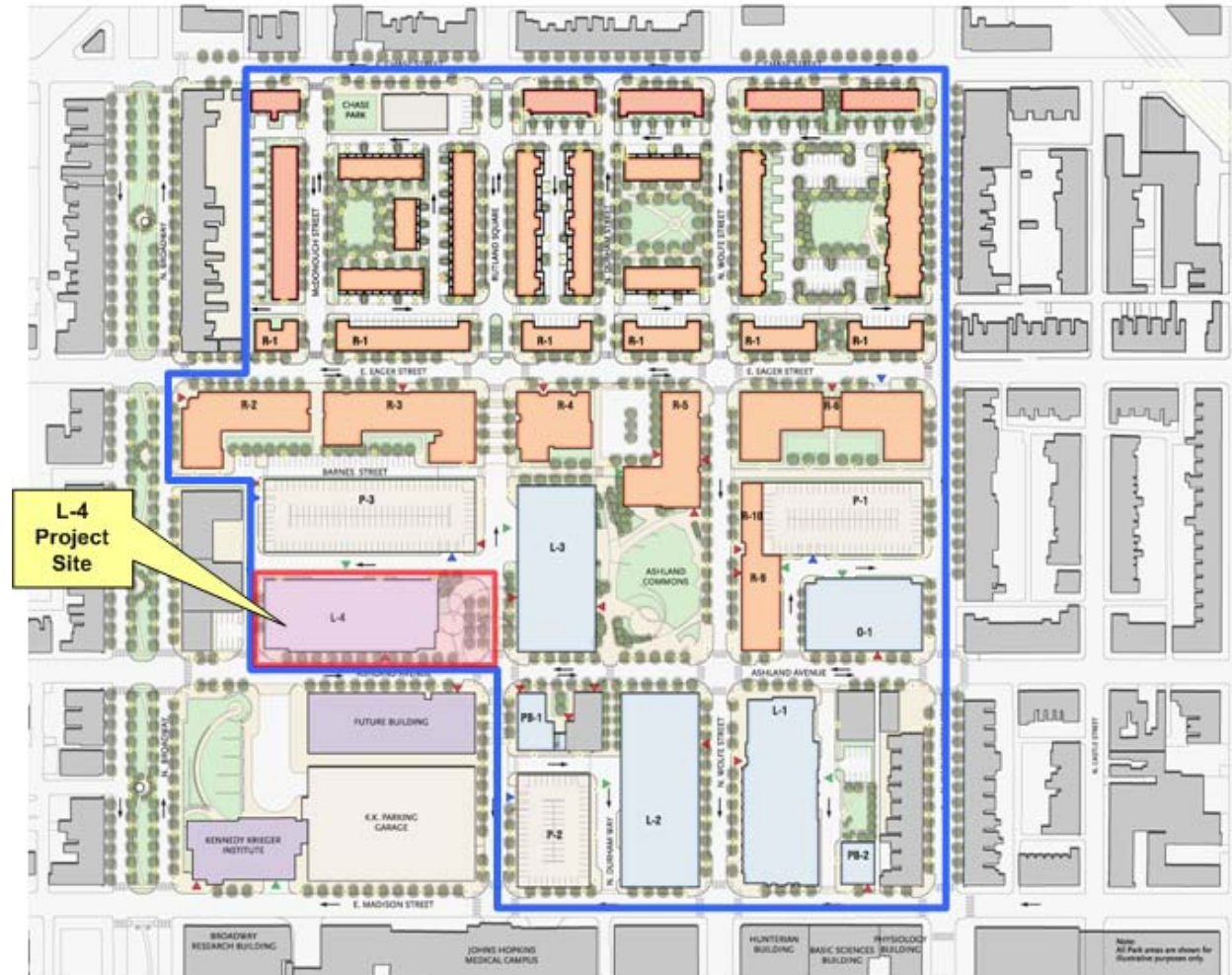
Forest City Science + Technology teamed with Presidential Partners, a group of locally experienced minority-owned developers and contractors, to form Forest City – New East Baltimore Partnership (FC-NEBP). This entity is responsible to develop the first 31 acres (of the 80 acres total), which is currently referred to as the Science + Technology Park at Johns Hopkins. Forest City Enterprises is a NYSE-traded national real estate development company that owns and manages more than \$8.0 billion of commercial, retail, residential and mixed use developments throughout the United States. Forest City's Science + Technology group is a premier developer of bio-parks in the United States with 2 million square feet of existing wet-lab and office facilities and 5 million square feet currently under development. For more information about Forest City, Presidential Partners or FC-NEBP visit www.forestcity.net, www.presidentialpartnersllc.com or www.forestcityscience.net.

Commissioning Services

REQUEST FOR PROPOSAL

I. PROJECT DESCRIPTION

The Maryland Department of Health and Mental Hygiene (DHMH) requires an approximately 225,000 gross square feet (GSF) fit-up laboratory building. Project shall be a 5 story building plus an approximately 36 foot high penthouse, with a floor plate of approximately 40,000 GSF. Summary programmatic information on this project is provided in the attached and includes a significant complement of BSL-3 space, as well as a modest vivarium area. FC-NEBP, as the project developer, shall manage design and construction of the project, and is the agent for "Owner" (MEDCO) identified herein.



The project will be located on the L-4 site within the 31 acre East Baltimore "Area A" development area wherein FC-NEBP is the master developer.

The construction work, which will be the subject of a future separate RFP, shall be bid as one general contract, including fit-up. There shall be several ancillary contracts and supply orders in support of the general contract. It is anticipated that most secondary contracts shall be assigned to the general contractor. The design process, which started in early April 2010, shall be completed in early 2011. The design to construction cost budget amount is \$490/GSF. The construction process, including fit-up, is scheduled at approximately 30 months.

Commissioning Services
REQUEST FOR PROPOSAL

II. Proposal Information/Contents

Offerors satisfying the "Threshold Qualification Criteria" defined below shall provide detailed information on their team including subconsultants, specific MBE/WBE proposal, fixed fee and unit priced cost proposal and other information requested below.

Submit a proposal responding to the items listed below in sufficient detail to provide for meaningful evaluation and assessment. Please limit your proposal response to no more than **35 pages (excluding resumes)**.

Please Note: The awardee of any portion of the contract resulting from this RFP may not be considered as a potential awardee of any work that is a part of the general contract for construction described herein. However, unsuccessful offerors under this RFP may compete on said general contract for construction.

Contents of Proposals:**1. Letter of Introduction / Executive Summary (2 pages)**

Among other items, provide an executive commitment regarding support for the success of the Project and a summary of reasons for selection of prime offeror.

2. Threshold Qualification Criteria and Experience (14 pages)

The "threshold qualification criteria" for this RFP requires **offeror's proposed lead single-point Commissioning Agent/coordinator** to have the following minimum experience:

- Experience in providing commissioning-oriented design, construction and activation services on at least five R&D laboratories, each with a construction value of at least \$30 million.
- Experience in providing commissioning services on at least two laboratories that include at least BSL-3-level laboratories (with biocontainment areas of at least 5,000 SF per project).

Offeror shall provide information in its proposal demonstrating that its team satisfies the above threshold criteria, and that its team has depth of resources to back up the primary team members. Any potential offeror team that does not fully satisfy all the above qualifications requirements is discouraged from submitting a proposal, since it is highly likely that such proposal shall be summarily rejected by the proposal evaluation team.

By means of descriptions of projects and client references indicating relevant experience, demonstrate prime offeror's satisfaction of "threshold qualification criteria" and current capacity to provide the services described herein for projects of similar type, size and scope to the subject state public health project ("Project").

Utilizing presentation structure shown below, provide examples, including photos, of the most relevant (per description of Project herein) projects with construction costs of \$35 million or more. Evaluators shall give particular weight to relatively recent fully-completed projects that are on-point with the Project scope and that align with the evaluation factors listed below. Offerors are encouraged to verify that references are currently available at the listed telephone numbers and email addresses.

Commissioning Services REQUEST FOR PROPOSAL

Project Name		Size (AIA GSF)	
Owner / Client		Estimated Total Constr. Cost	
Contact Person/ Phone No/Email		Construction Cost (\$)/GSF	
Laboratory Type		(Forecast) Completion Date	
For each project listed, provide the names of key personnel proposed for the Project who participated in the listed project and provide information regarding each person's role on the listed project. Describe very specifically offeror's contractual role on each project presented.			

Divide above experience/reference information under two headings:

- **Completed Projects**
- **Projects Currently Under Construction**

Please note: Very little weight will be given by evaluators to projects that were performed by the corporate entities on offerors' teams but that did not meaningfully involve individual key team members proposed by offerors for this project. Evaluators shall give particular weight to relatively recent and fully-completed projects that (a) are on-point with the Project scope and (b) meaningfully involve(d) key team members proposed by Offeror to work on the Project. Therefore, it is mandatory that Offeror clearly demonstrate the involvement and role of each proposed key team member in the projects presented.

3. Team Qualifications (3 pages, excluding resumes)

Describe qualifications of entire proposed team (with emphasis on key personnel), and ability to provide described services for projects of similar type (i.e. laboratory/research facility with biocontainment), size and scope to the Project. Provide resumes of proposed key personnel that are clearly correlated to the most relevant projects that involved such key personnel.

Provide description of offeror's corporate depth of personnel with qualifications relevant to Project, which shall include design review, verification techniques, functional performance testing, system troubleshooting and knowledge of best practices in operations and maintenance of sophisticated laboratory projects.

The proposal evaluation team shall value (a) extensive field experience (including demonstrated experience in TAB), and (b) in addition to general knowledge of building systems, knowledge in specialty areas such as fire protection, egress systems, fire extinguishing systems, fire alarm systems and smoke management.

4. Project Approach (6 pages)

Provide information that demonstrates that offeror has a plan and systems in place to accommodate the attached scope of work.

Provide description of offeror's proposed web-based information management system as described herein.

Commissioning Services

REQUEST FOR PROPOSAL**5. Organization and MBE/WBE Participation Plan (4 pages)**

Provide proposed Inclusion Plan, including an organization chart, indicating proposed project team and primary subcontractors and for corporate overview of major entities on your Team. The services under this RFP are classified as "General Services" and, as indicated in the attached Exhibit, are a minimum of MBE's - 17% and WBE's - 9%.

If a joint venture (or functionally similar organization), indicate what work will be done by each primary-level firm. If offeror proposes a division of responsibility across a discipline between different entities on the proposed team, offeror shall clarify the specific responsibilities assigned to each such entity.

Provide a matrix for all key personnel that shows each individual's primary office location, firm name and the percentage of level of effort participation in the design and construction processes (i.e. 2 hours/day = 25%). For each proposed key individual, please provide an "availability date" for this project, once such personnel sufficiently complete its current workload.

Coordinate this chart with the project MBE/WBE requirements and inclusion requirements described herein by presenting specific information describing the work to be performed by MBE/WBE contractors, the estimated dollar value of each MBE/WBE contract, and the estimated percentage of MBE and WBE participation overall.

6. Scheduling (2 pages)

Provide summary-level description of the quantities of personnel by discipline necessary within each phase to support the project within the time frames described below and describe where such personnel will be located while working on the Project. Provide a proposed level of effort (i.e. hours per week or % of full-time) for each person for each time period that such person is proposed to work on the project. Provide a narrative describing the basis of the schedule including any assumptions.

7. Cost Proposal (2 pages)

Provide a fixed price fee proposal to provide the fixed fee work described below.

Provide a unit price fee proposal to provide the unit price work described below.

Support proposed fixed price and unit price costs with Offeror-proposed levels of effort (e.g. 20% level of effort = 8 hours per week), in coordination with the project schedule. It is understood that periodically, some positions are not full-time; consequently, the level-of-effort shall be adjusted by Offeror in its proposal to the levels Offeror recommends for each phase for each proposed position. The unit priced cost estimate shall also indicate proposed hourly rate(s). Hourly rates shall include the cost of travel and other expenses within the greater Washington-Baltimore area.

Provide an estimated total cost proposal that combines the fixed price and unit priced scopes of work.

In approximate descending order of importance, the evaluation team shall value the following attributes in Offeror's pricing:

- Complete coverage of the scope of work items.
- Coverage of scope of work by experienced and appropriately-qualified individuals, who are reasonably priced.
- Overall value of services provided in proportion to proposed cost of such services.
- Thoughtful application of level-of-effort at each phase, which coordinates with the project goals and other requirements of the detailed scope of work.

Commissioning Services
REQUEST FOR PROPOSAL

Before award, Owner shall discuss and negotiate elements of Offerors' cost proposals, in an effort to equalize them for the purpose of analysis.

a. Fixed Price Elements:

- i. Lead single-point Commissioning Agent/coordinator providing services spanning design, construction and activation.
- ii. Systems, including web-based system for document management and reporting (per scope description herein) and other commissioning purposes.
- iii. Document review at DD and CD pre-bid phases. This shall include commissioning of the biocontainment envelope(s), but not the envelope scope under unit prices below.
- iv. Other pre-construction services. This shall include commissioning of the biocontainment envelope(s), but not the envelope scope under unit prices below.
- v. Construction period services. This shall include commissioning of the biocontainment envelope(s), but not the envelope scope under unit prices below.

b. Unit Price Elements:

- i. Production of SOPs in accordance with the attached scope of work.
- ii. Provision of a Certified Biological Safety Professional (CBSP) providing support in the development of SOPs.
- iii. Commissioning of building envelope.
- iv. Other services recommended by Offeror to be necessary to fully and properly complete the scope of work and fulfill its described goals.

c. Total Estimated Cost of "a" and "b" above.

If Offeror's labor rates are listed in Federal GSA Schedule, federal contract or any other schedule appropriate for use by Commissioning Agent, provide cross-reference to the appropriate Schedule and propose hourly rates no higher than the lowest applicable rates therein.

Include all costs in price proposal, including subcontractors, Washington-Baltimore area travel expenses, reproduction services, shipping, etc.

Coordinate Offeror's price proposal with its proposed plan to incorporate MBE/WBE/Local participation and demonstrate that the value of the MBE/WBE/Local contracts shall satisfy the requirements of attached Exhibit.

8. Miscellaneous Requirements

Offeror's proposal shall state which RFP addenda, if any, are included in its proposal.

Preceding award, the Owner may require offeror to provide information such as evidence of offeror's ability to obtain and maintain adequate insurance.

III. Proposal Evaluation

FC-NEBP will evaluate offerors' qualifications in accordance with pertinent evaluation factors. If the offeror with the best qualifications also offers the lowest fee proposal, that offeror shall be the apparent awardee. If the best qualified offeror does not offer the lowest fee proposal, the evaluation team will analyze whether

Commissioning Services

REQUEST FOR PROPOSAL

the differential in fee is commensurate with the value of the differential in qualifications, and shall make a selection of awardee based on such business analysis.

The RFP evaluation factors, in descending order of importance shall be:

Key Words	Evaluation Factors
Team Lab Experience	All key members of proposed team (including key subconsultants) have been meaningfully active participants in commissioning of directly relevant quantity, size and type of laboratory projects. Offeror teams that have directly relevant experience in public health laboratories and/or BSL-3 laboratories will be given the highest level of preference. Offeror's organization has sufficient capacity to provide highly-qualified replacement personnel should the need arise.
Past Performance	Key team members (including key subconsultant team members) receive positive references from clients on directly relevant projects in which the team members actively participated.
MBE/WBE	MBE/WBE participation that meets goals and shows thoughtful allocation of roles and responsibilities.
Deliverable Personnel	Offeror's most qualified personnel (including key subconsultants) are demonstrated to be available and are proposed to be consistently involved throughout the project.
Local Capacity	Materially significant local office or proposed presence with meaningful capacity to timely execute the Project.
Miscellaneous	Evidence of timely and complete deliverables on projects and any other aspect deemed relevant by the evaluation team.

IV. RFP Contact List

Persons interested in responding to this RFP, or interested in receiving a list of interested firms, shall send their contact information (i.e. firm name, contact name, email address, firm website address, services to be provided (e.g. estimating, construction inspection, CPM scheduling, etc.) to Karen Brice at karenbrice@forestcity.net. Distribution of the contact list information is intended to encourage interaction between various interested entities. From time to time, the updated contact list may be posted to the below web page.

V. Project Information and Outreach Meeting

Offerors shall make themselves familiar with the resources available in the local business community, including women and minority owned business, and take early steps to form business relationships that align with the goals stated in the above evaluation factors. To this end, FC-NEBP will host a "Project Information and Outreach Meeting" wherein the project will be presented and potential respondents will be given an opportunity to make contact with each other and with local MBE/WBE contractors and consultants. We hope that energetic contact between the various companies will result in business relationships that align with the goals of the RFP. FC-NEBP will also gather contact information and make it available to all attendees and interested parties. In particular, we seek inclusion of local, women and minority-owned businesses. The meeting will be held at **2:00 pm on Tuesday September 21, 2010** at 855 N. Wolfe Street, Baltimore, MD 21205. Please be prepared to arrive at least 10-15 minutes early to account for check-in

Commissioning Services

REQUEST FOR PROPOSAL

and security screening. Parties interested in participating in the Project Information and Outreach Meeting must RSVP with Karen Brice at 410-900-1006 or via email at karenbrice@forestcity.net. no later than **2:00 pm on September 20, 2010**.

VI. Web Site RFP Documents

The RFP documents are available on the FC-NEBP web site for this procurement, which is:
http://www.forestcityscience.net/hopkins/business_opportunities.shtml

Offerors shall regularly check the above web site to ensure that they have the most up-to-date documents.

VII. Proposal Submission

Provide your proposal (10 copies and a PDF version) by **11:00 AM on September 30, 2010** to:

John Lecker
FC-NEBP Vice President, Development
Suite 102, 855 North Wolfe Street
Baltimore, MD 21205

Please direct any questions or requests for clarification of this RFP to John Lecker, Vice President Development at johnlecker@forestcity.net or (410) 900-1012.

Note: This RFP does not obligate MEDCO, FC-NEBP or the State of Maryland to award a Contract nor will MEDCO, FC-NEBP or the State of Maryland reimburse firms for any costs to prepare a proposal and/or respond to this RFP.

VIII. Exhibits (attached)

These exhibits shall be made part of Commissioning Agent's contract:

- Exhibit 1 – Scope of Work
- Exhibit 2 – Staff Nomination Form
- Exhibit 3 – MBE/WBE Requirements
- Exhibit 4 – Summary of Project Program.
- Exhibit 5 – Preliminary List of Systems to Be Commissioned.
- Exhibit 6 – Inspection Checklist for BSL-3 Laboratories (7 CFR 331; 9 CFR 121; 42 CFR 73; BMBL 5th Edition)

In addition, the form to be used for the resulting contract ("Commissioning Services Form of Contract") is attached. Relevant information from the successful offeror's proposal shall be transferred to this document preceding its execution.

Reference Material: The Project's SD-level basis of design document and SD-level drawings and specifications are available for review by offerors. Please contact Karen Brice at 410-900-1006 or karenbrice@forestcity.net to review copies in FC-NEBP's offices in Suite 102, 855 North Wolfe Street, Baltimore, MD, or for information on source and cost of purchased copies of the Architect's SD submission. Any and all offerors submitting a proposal shall review subject SD package.

Exhibit 1 - Commissioning Services - SCOPE OF WORK**IX. GENERAL SCOPE OF WORK ITEMS**

[Note: For the sake of brevity, this agreement utilizes the imperative voice. Wherever the imperative is used, read the imperative verbs concerned as being preceded by the words "The Commissioning Agent shall..."]

1. Provide support for the following general objectives of this scope of work:
 - a) LEED Silver certification, with stretch goal of achieving LEED Gold.
 - b) Professionally managed design, construction and activation processes.
 - c) Up to date electronic project documentation readily and continuously available to all authorized members of the project commissioning team.
 - d) Commissioning Agent's timely and complete recommendation of the Project facilities for acceptance by Owner, based on conclusive tests and verifications of systems performance.
 - e) Timely completion of construction and activation of full-functioning Project.
 - f) Well-executed transition to operations.
 - g) Reduced risk of (i) construction period change orders, delays, claims and quality issues, (ii) operational inefficiencies and failures, and (iii) failure of compliance certification (per BMBL and other standards relevant to this scope of work).
2. Provide off-site project management, administrative management and administrative support necessary to support the work hereunder. Such support shall be provided at no cost to Owner, unless Owner specifically pre-approves assignment of personnel dedicated to such tasks.
3. Provide, and obtain approval for, a detailed project plan, that Commissioning Agent will be responsible to follow. The plan will show, item-by-item, how Commissioning Agent proposes to comply with the general and detailed scope of work items identified herein. Submit for approval a timeline schedule for performance of the work. The default format is MS Excel. Provide the baseline and updates of the schedule in electronic form. Continuously communicate status of the work relative to the approved schedule. Provide schedule status information to the Owner when requested.
4. Present an emailed report every month, throughout the performance of Commissioning Agent work, setting out current and upcoming activities, decisions required and issues of concern. Report shall summarize systems that do not perform in accordance with Project requirements and deferred or seasonal tests.
5. Provide Owner timely information regarding possible problems and proposed action required to mitigate such problems.
6. Provide documentation in copies and form requested by Owner.
7. Throughout performance of the above items, coordinate with Owner employees, and other consultants and contractors employed by the Owner on the Project.

X. DETAILED SCOPE OF WORK ITEMS:**General**

1. Provide perspective and expertise of commissioning specialists, including familiarity with NIH-CDC select agent Biosafety in Microbiological and Biomedical Laboratories (BMBL), USDA 242-01M ARS Facilities Design Standards, the NIH Design Policy and Guidelines, and requirements of the World

Exhibit 1 - Commissioning Services - Scope of Work

Health Organization (WHO).

2. Document and report upon commissioning activities required to achieve required LEED certification.
3. Support pre-construction, construction (including site development, core-and-shell and interior/laboratory fit-up), test planning, testing, commissioning, validation and activation processes.
4. Provide a lead single-point Commissioning Agent/coordinator of the services provided hereunder.
5. Participate in meetings and communicate with project team members as required to accomplish this scope of work.
6. Using Commissioning Agent-provided system, provide minutes of pre-construction and construction meetings next business day.
7. Provide contributions to monthly project-wide report.
8. Provide continuous support to FC-NEBP and Owner-employed consultants.

Pre-Construction Phase Services

9. Lead process to develop standard operating procedures (SOPs) that impact upon design, commissioning and biocontainment certification processes. Through interviews during design process with Owner's operational staff (including safety manager, scientists and their managers), develop SOPs that among other items, consider containment goals for fume hoods and bio-safety cabinets, which coordinate with Owner's primary and secondary barrier concepts, and which shall provide a basis for review by third-party certifying agencies. Employ a Certified Biological Safety Professional (CBSP) as necessary to advance this process. Among other necessary items, SOPs shall deal with:
 - a. Requirements of http://www.biosafety.moh.gov.sg/home/uploadedFiles/Common/BSL3_CertificationRequirements_FINAL.pdf, the attached 8-page checklist Exhibit entitled "Inspection Checklist for BSL-3 Laboratories (7 CFR 331; 9 CFR 121; 42 CFR 73; BMBL 5th Edition)" and other relevant industry standards.
 - b. Physical, electrical, biological and chemical control mechanisms for general laboratory safety and security,
 - c. Appropriate site and protocol specific administrative controls and proper engineering controls,
 - d. Appropriate personal protective equipment (PPE) and definition of regular inspections to maintain personal safety for the tasks being performed,
 - e. Adequate consideration of decontamination systems for waste and other potentially infectious materials, including spill management, and
 - f. Consideration of proper procedures to mitigate environmental and personnel contamination.
10. Host¹ web-based commissioning multi-function communication and collaboration tool to be used by entire project team. Commissioning Agent's work includes maintenance of system and management of passwords, etc, for up to 24 team members.

¹ The term "host" shall include provision of off-site equipment, software, licenses and services necessary to efficiently and effectively allow multiple project participants to simultaneously utilize the Internet to access the web-based systems provided by Commissioning Agent. The web server and other infrastructure may be located in Commissioning Agent's facilities or may be located in the facilities of a third-party hosting service, provided that reasonable system availability, performance and data reliability is maintained.

Exhibit 1 - Commissioning Services - Scope of Work

11. Provide, maintain and manage searchable web-based commissioning document management system for relevant industry standards, technical submittals, testing records, manufacturers' instructions, and other commissioning-related documents, utilizing Owner-approved web-based communication and collaboration tool. Provide archiving of project documents for use of operations personnel after activation. Maintain directories.
12. Coordinate action tracking system with the Commissioning Agent's web-based system.
13. COMMISSIONING PLAN - Prepare Commissioning Plan that will describe the commissioning process for the Project, based on the systems to be commissioned, program and schedule. Plan shall include:
 - a. Objectives of the commissioning.
 - b. List of participants and their roles and responsibilities, including an outline of the management structure.
 - c. Description of how the plan is to be implemented, including commissioning schedule.
 - d. A list of systems and components being commissioned.
 - e. Reference guidelines to which the facility has been designed.
 - f. Functional, operational, and performance requirements.
 - g. Intended use of the proposed biocontainment facility.
 - h. Intended types of scientific activities to be performed.
 - i. Quantity and type of animals, including method of care and housing.
 - j. Reporting formats.
14. Prepare a Design Intent Document with information provided by the Owner and the Owner's consultants. The Design Intent Document will describe the performance criteria for the systems to be commissioned. The performance criteria described in the Design Intent Document shall be quantifiable and measurable through objective testing. Among other items, the Design Intent document shall contain:
 - a. Quantitative Parameters:
 - i. Energy efficiency goals.
 - ii. Indoor environmental quality goals.
 - iii. Minimum and maximum room differential pressures.
 - iv. Maximum recovery time following system or equipment failure.
 - v. Maximum recovery time following system intervention.
 - vi. Time limit for loss of pressurization during system or equipment failure.
 - vii. Sequence of operation (control) for each major HVAC system, including setpoints, schedules (including occupancy-driven requirements), energy efficiency features and seasonal changeover procedures.
 - viii. Allowable sensor error.
 - b. Qualitative Parameters:
 - i. ES&H management parameters.

Exhibit 1 - Commissioning Services - Scope of Work

- ii. Space pressure reference points (at known and stable locations).
 - iii. Operational rules pertaining to "hand" operation of equipment.
 - iv. Primary and secondary biocontainment boundaries.
15. Review the design of the systems to be commissioned for the purpose of determining if the systems as designed will achieve the requirements of the Design Intent Document. Also provide design review comments that are designed to coordinate the design and commissioning processes with the Owner-approved SOPs and the project certification goals. Design review shall give emphasis to:
- a. Energy efficiency and other life cycle effects of the design.
 - b. Facilitation of control strategy.
 - c. Facilitation of operations and maintenance.
 - d. Enhanced indoor environmental quality, including review of design against ASHRAE Standard 62 and review of filtration systems and construction practices.
 - e. Facilitation of certification of biocontainment spaces.
 - f. Coordination of design with life safety and stand-by power systems.
 - g. Adequacy of BAS trending and reporting.
 - h. Facilitation of TAB by means of balancing valves, metering and control stations.
16. Review the Contract Documents and recommend modifications necessary for coordination with the commissioning requirements and processes, which may include equipment submittals, operation and maintenance manuals, system readiness tests, personnel training and validation of data gathered against NIST standards and NIST-calibrated devices.
17. Using document review system provided by Owner, advise the A/E of defects, conflicts, ambiguities, discrepancies, inconsistencies, constructability issues, or lack of clarity in construction documents. Provide these services at each formal A/E submission phase (DD and pre-bid CD). Provide additional comments on an ad hoc basis on A/E-produced progress documents throughout the design period, but these occasional ad hoc comments may be communicated to A/E by Commissioning Agent in the form of marked-up documents and/or memoranda.
18. Participate in periodic design meetings and provide, among other items, input on controls integration and upon the above design review subject matter areas.
19. Provide Commissioning Specifications for inclusion in the Contract Documents, which will define the construction contractor's responsibilities related to commissioning. The Commissioning Specifications will identify systems to be commissioned and may include:
- a. Required parties for each test,
 - b. Prerequisites for test performance,
 - c. Sequences of operation, including different operational modes such as startup, shutdown, unoccupied mode, manual mode, staging, alarm modes, power failure, and security and other interlocks,
 - d. Impact of varying setpoints,
 - e. Instrumentation, tools and supplies for test,
 - f. Duration of test to provide sufficient data to pass,

Exhibit 1 - Commissioning Services - Scope of Work

- g. Step-by-step instructions,
 - h. Detailed checklists,
 - i. Test procedures, including description of observations and measurements that shall be taken,
 - j. Required test results and
 - k. Warranty requirements.
20. Coordinate Commissioning Agent services with building information modeling (BIM) system utilized by design team.

Construction Phase Services

21. REVIEW OF DOCUMENTS - Review construction documents, submittals and industry standards as necessary for Commissioning Agent's team to maintain its familiarity with work requirements and manufacturer's recommended installation standards. The Commissioning Agent shall review contractors' submittals, such as Shop Drawings, Product Data and Samples for the systems to be commissioned, for the purpose of evaluating the system's ability to achieve the requirements of the Design Intent Document.
- a. Upon completion of the review, issue written comments for those submittals that deviate from the requirements of the approved Design Intent Document. The Owner may choose to accept the deviations, in which case the Commissioning Agent shall revise the Design Intent Document and the related Commissioning Specifications.
22. COMMISSIONING MEETINGS - Conduct and document commissioning coordination meetings with the Owner, Owner's consultants, contractors and subcontractors, whose systems are included in the Commissioning Specifications. The Commissioning Agent shall coordinate these meetings with the Project schedule. Meetings shall be assumed to be held an average of every two weeks throughout the construction process.
23. REVIEW OF DOCUMENTATION DURING CONSTRUCTION - During construction, review documentation such as meeting minutes, field reports, minor changes in the Work, Construction Change Directives, and Change Orders related to the systems to be commissioned. Report to the Owner changes that will prevent the systems from performing as required by the Design Intent Document. The Owner may choose to accept the changes, in which case the Commissioning Agent shall revise the Design Intent Document and the related Commissioning Specifications.
24. CONSTRUCTION COORDINATION – Request and review contractor's proposed temporary conditions and operation plan.
25. OPERATIONS AND MAINTENANCE MANUAL REVIEW - Prior to the start of operator training, review the operations and maintenance manuals submitted by the contractors for the systems to be commissioned for conformance with the Commissioning Specifications.
26. OPERATOR TRAINING - Review contractors' planning, scheduling, content and documentation for operator training sessions for conformance with the Commissioning Specifications.
- a. Coordinate operator systems training including the requirements of the Design Intent Document, special design features, operating sequences and limitations, Functional Performance Test procedures, and maintenance cycles of the various systems. This training shall be specified to begin before the contractor demonstrates the system performance using the Functional Performance Tests. Also include the following in Owner training specifications:

Exhibit 1 - Commissioning Services - Scope of Work

- i. Procedures for normal operation.
 - ii. Adjustment instructions.
 - iii. Troubleshooting,
 - iv. Maintenance and inspection.
 - v. Repair procedures.
 - vi. Emergency instructions.
 - vii. Life safety requirements, if applicable.
 - viii. Key warranty requirements.
 - ix. Videotaping (of training) requirements.
 - b. During the commissioning of the systems, provide summary-level operator field training by having the operators assist in the verification of the Functional Performance Tests.
 - c. Observe contractors' detailed training and maintain a training log for inclusion in the Final Commissioning Report. The training log will include the attendees' names, training dates, system or equipment on which training was performed, and the name, title and contact information of the trainer.
27. TEST REPORT REVIEW - Before the start of Functional Performance Testing, observe a portion of the system readiness tests and shall review the system readiness test reports required by the Contract Documents for the systems to be commissioned. Report to the Owner any observed deficiencies for correction prior to the start of Functional Performance Testing.
28. MANUFACTURERS' INSTRUCTIONS – Verify that all applicable systems are installed in accordance with manufacturers' recommendations and instructions, and wherever required by the specifications, call for a manufacturer's technical representative to be on site to inspect, report upon (and start up, where appropriate) installed work.
29. FUNCTIONAL PERFORMANCE TESTING AND DOCUMENTATION - Direct, observe and document the Functional Performance Tests for each system to be commissioned. The Functional Performance Tests shall follow the procedures included in the Commissioning Specifications. Submit Functional Performance Test reports for each system to the Owner for review. Work shall include:
- a. Witness key start-ups.
 - b. Witness HVAC piping pressure tests and cleaning/flushing of hydronic systems.
 - c. Witness ductwork testing and cleaning.
 - d. Maintain record of functional performance testing and retesting.
30. DEFICIENCY CORRECTION - Generate a Corrective Action Report for each deficiency identified during Functional Performance Testing. Maintain a log of the Corrective Action Reports. Each deficiency shall be resolved by the appropriate contractor and, after correction of the deficiency, the Commissioning Agent shall direct, observe, and document re-testing to confirm that the deficiency has been corrected.
31. FINAL COMMISSIONING REPORT - Prepare a Final Commissioning Report including the Commissioning Plan, Design Intent Document, Commissioning Specification, blank Functional Performance Test procedure forms, system readiness tests reports, Functional Performance Test reports, Corrective Action Reports and log, and operator training plans and log.

Exhibit 1 - Commissioning Services - Scope of Work

32. When Commissioning Agent personnel are on site, they shall prepare and submit daily observation reports. Content of such reports shall be entered with CPM activity numbers, issue numbers and other cross-references provided by Owner.
33. Coordinate with material testing and inspection firms, and request of special inspections (including code-required inspections) and any resulting corrective work.
34. Provide ongoing construction reviews and contribute to phased punch lists.
35. Coordinate with manufacturers' visits to site to validate that proprietary equipment and systems have been correctly installed and are operating properly.
36. At the end of the project, transfer control to Owner over the commissioning document management system and provide training to Owner on its use.
37. POST-OCCUPANCY REVIEW - Meet with the Owner prior to one year after the date of Substantial Completion to review the operations and performance of the commissioned systems and to make appropriate recommendations to the Owner.

XI. MISCELLANEOUS PROVISIONS:

38. Follow direction of single-point Owner's representative, unless the representative expressly assigns a designee.
39. Promptly implement directives from the Owner's authorized representative to make minor modifications, additions and/or deletions to any portion of this scope of work as directed by Owner. However, immediately advise the Owner in writing of any material cost or schedule impact that may result from such Owner-issued directives. If Commissioning Agent determines that there is additional material cost resulting from the directive, Commissioning Agent shall not act upon the directive, and shall not deviate from the approved plan, until a written order is issued by the Owner. Commissioning Agent shall not act upon any oral directive that materially changes any aspect of this scope of work, irrespective of the source of such directive.
40. Commissioning Agent will follow the procedures that the Owner representative may direct from time-to-time.
41. Assign a senior manager as Commissioning Agent's chief representative for this project. This representative shall have the authority to make binding decisions between its organization and the Owner. Such single-point contact representative will be in charge of all members of the Commissioning Agent team assigned to the project and will be the main contact, although such chief representative does not have to be employed full-time on the project. All correspondence, conferences, meetings and questions concerning the project directed to the Commissioning Agent and its subcontractors will be through this person. Generally speaking, this representative will be personally accessible by phone and email (and on site, per approved work plan) during working hours from the beginning of the Project through its completion.
42. Under time-and-material work (either base contract or by Owner-directed amendments to base contract), (a) before any person on Commissioning Agent's staff may commence charging time to project or incurring reimbursable expenses, submit resume material to Owner and obtain Owner approval for assignment of such personnel. Utilize the attached Exhibit 2 "Staff Nomination" form for this purpose, (b) Commissioning Agent personnel, when working on a part-time or full-time basis, may not invoice for more than 176 hours per month per person, unless express advance authorization is received from Owner, (c) Commissioning Agent shall obtain weekly signature from authorized Owner

Exhibit 1 - Commissioning Services - Scope of Work

representative on person-by-person time sheet for each Commissioning Agent person to be charged by the hour to this contract, in the form requested by Owner, (d) Upon request of Owner, Commissioning Agent shall provide certified accounting records indicating the actual quantity of hours and other costs charged to this contract and its individual subcomponents (e.g. task orders), and (e) provide a report every two weeks, indicating Commissioning Agent's estimated costs to date and Commissioning Agent's estimate of the cost of the work at completion. Normal and necessary local travel and associated expenses are included in the fixed fees and hourly rates herein, however and Commissioning Agent may incur Owner-directed reimbursable expenses under time-and-material work, provided Commissioning Agent follows the procedures set out on attached Exhibit 2 "Staff Nomination" form. Pre-approved expenses under time-and-material work (including subconsultants) are passed through at cost, with no mark-up. Processing costs for invoices and expenses are presumed to be covered by fixed fees and overhead portion of hourly service rates.

43. Neither the Staff Nomination form nor weekly time sheets are required for members of a team that are approved as part of a fixed price proposal.
44. The Owner may direct Commissioning Agent to remove any Commissioning Agent personnel that Owner finds unacceptable, and Commissioning Agent shall immediately remove (and replace with new individual(s) satisfactory to Owner, if requested) such personnel.
45. Prepare detailed agenda and minutes of meeting for all meetings called or chaired by Commissioning Agent. Such agendas shall identify in detail the specific items planned for discussion, and shall be distributed to proposed attendees in advance of affected meetings. Such minutes are to set out responsible parties for action items, particularly decisions required by the Owner, including deadlines therefor, and the minutes shall record decisions made and the basis for each such decision.
46. During performance of work and/or at completion of work, provide orderly hand-over of work products and deliverables to designated Owner representative.
47. Provide space, equipment, storage, personnel and systems in Commissioning Agent's offices as necessary to support the work hereunder. These items are deemed to be covered by the G&A and mark-up portions of hourly labor rates.
48. Any and all Commissioning Agent-produced work products and deliverables, including all documents, graphics and software that are produced by Commissioning Agent in connection with this scope of work become the exclusive property of the Owner. Commissioning Agent, by acceptance of this scope of work, provides an exclusive and indefeasible license and copyright for unlimited use, copy, distribution or other use by the Owner of subject work products and deliverables, in hard copy and/or soft copy (e.g. electronic, magnetic recording, etc.) form. Commissioning Agent shall deliver to the Owner hard copies and soft copies (on CD-ROM or equivalent) of all such work products and deliverables.

XII. ITEMS PROVIDED BY OWNER

1. Not applicable.

Exhibit 1 - Commissioning Services - Scope of Work**XIII. SCHEDULE (TIME OF PERFORMANCE)**

This scope of work will be performed on an expedited basis, in accordance with the following timeline schedule. In addition to periodic activities and deliverables required by the above scope of work, each activity must be completed and approved by Owner within the following number of work days (measured from the initial Notice to Proceed for the work as a whole).

Activities	Estimated Work Days from NTP
Develop and submit initial plan (including level of effort analysis) and schedule, measured from Initial Contract NTP.	3
Develop and submit detailed plan and schedule that takes into account review and comments from Owner, measured from Initial Contract NTP.	8
Pre-Construction Commissioning Services, measured from Initial Contract NTP.	120
Construction Commissioning Services, measured from date of NTP to construction contractor. Construction shall be estimated to last 30 months, including fit-up.	600
Fully Complete all work, except for minor post-contract support, measured from date of NTP to construction contractor.	640

Exhibit 2 - Commissioning Services – Staff Nomination Form

Authorization No.: _____
Rev No.: _____
Date Submitted: ____/____/____

STAFF NOMINATION

PROJECT: _____ CONTRACT No.: _____

FROM: _____
Name Firm

The following individual and associated expenses are proposed for addition to the project team, on an as-needed basis. In accordance with our contract, your review and approval is requested.

NOMINEE'S NAME: _____ TITLE OF POSITION: _____

DESCRIPTION OF NOMINEE'S RESPONSIBILITIES/DELIVERABLES: (Attach additional Sheets as Necessary)

Multiple horizontal lines for describing responsibilities and deliverables.

PLANNED START DATE: _____ PLANNED END DATE: _____

\$ _____/HR (APPLICABLE CONTRACT BILLING RATE) x 1.00 (multiplier) x

ESTIMATED # OF HRS _____ = ESTIMATED LABOR COSTS: \$ _____

+ ESTIM. EXPENSES: \$ _____ X 1.00 (multiplier) = ESTIMATED TOTAL COSTS: \$ _____

TOTAL FACE VALUE OF STAFF NOMINATIONS TO DATE, INCLUDING THIS ONE: \$ _____

ESTIMATE OF REMAINING MONIES UNTIL DELIVERY ORDER CAP IS REACHED: \$ _____

APPROVED:

Authorized Owner Representative

Date

Notes:

- 1. This authorization limits costs to the above estimate. Commissioning Agent is working at his own risk in the event that the above-named individual works beyond either the total number of hours and/or the total amount of expenses authorized above.
2. The actual billing rate will be determined in accordance with the actual provisions of Commissioning Agent's contract. If labor rates are listed in Federal GSA Schedule, federal contract or any other schedule pre-approved by Owner as appropriate for use by Commissioning Agent, provide cross-reference to the appropriate Schedule and utilize rates no higher than the lowest applicable rates therein.
3. Commissioning Agent may request amendments to previous Staff Nominations, by re-submitting them with new Revision numbers, but no Staff Nominations will be considered in excess of the not-to-exceed value of the contract or portion thereof concerned.
4. For all unit priced work, Commissioning Agent shall submit this form for subconsultants as well as members of his own corporate organization. For subconsultants, indicate the name of the firm next to the nominee's name.
5. Commissioning Agent may be required to furnish resumes or other qualifying information, for approval, at the discretion of the Owner.

Exhibit 3 - Commissioning Services – MBE/WBE Requirements

The contractor under this contract shall fulfill the requirements herein ascribed to the "Developer".

This project is subject to the MBE/WBE/Local requirements established by East Baltimore Development Inc. (EBDI). The "Developer" herein is Forest City – New East Baltimore Partnership, Inc. (FC-NEBP), which is the agent of the Owner (MEDCO) on this project. EBDI is committed to provide fair and representative opportunities for Minority-Owned, Women-Owned, and Locally-Based Business Enterprises on its Vending, Professional Services and Construction Projects and, in turn, EBDI expects the Developer to make the same commitment. The Developer shall not, and furthermore, shall ensure that its Contractors and Subcontractors shall not, discriminate on the basis of race, color, religion, sex or natural origin in the award and performance of contracts to be utilized in constructing the Area A Project. Furthermore, affirmative action will be taken, consistent with sound procurement policies and applicable laws, to ensure that MBE/WBE/LBE firms are afforded a fair and representative opportunity to participate in the contracts relating to the Area A Project, which includes the "L-4" site where the DHMH laboratory project shall be located.

Consequently, the successful Development Team shall be contractually required to meet or exceed the City of Baltimore's programmatic goals for creating opportunities for minority-owned (African American, Asian American, Hispanic American, or Native American) and women-owned (51% ownership) businesses in compliance with City Council Ordinance 211 and the Mayor's Executive Order 610, which were incorporated by reference in the Agreement For Minority Inclusion in the East Baltimore Housing/Biotech Park Development Project dated April 15, 2002 (the "Minority Inclusion Agreement"). Those goals, developed in conjunction with an annual disparity study, ensure that appropriate levels of contracting is conducted with minority-owned and women-owned businesses, based on the diversity, depth of talent and entrepreneurial capabilities of the population of the City of Baltimore, the City has adopted the following participation levels for certified minority-owned business enterprises ("MBE's") and women-owned business enterprises ("WBE's") which developers on City-assisted projects are required to meet or exceed in terms of overall contracting dollars:

Construction

MBE's - 27%

WBE's - 8%

Architectural and Engineering

MBE's - 21%

WBE's - 13%

General Services

MBE's - 17%

WBE's - 9%

In addition to complying, at a minimum, with the above-referenced contracting goals, the Developer shall use its best practical efforts to meet or exceed the minimum levels of MBE and/or WBE participation levels for specific segments of the construction industry which are included in the Minority Inclusion Agreement. The individual segments and corresponding goals, divided according to the three general categories listed above, are as follows:

Exhibit 3 - Commissioning Services – MBE/WBE Requirements**Construction**

Project Management 13.5%

Demolition 30.5%

Rehabilitation 30.5%

New Construction 30.5%

Architectural and Engineering

Planning 13.5%

Design and Architecture 17%

Engineering 17%

General Services

Legal 13.5%

Accounting 13.5%

Real estate services 13.5%

Financing 13.5%

Investments/Capital 13.5%

Property and equipment financing 13.5%

Promotion 13.5%

Facilities Management/Maintenance 13.5%

Property Management 13.5%

Laboratory and office supplies 9%

Disposition Services 13.5%

Reprographics 13.5%

Delivery Services 13.5%

Light manufacturing 13.5%

Research and Development 13.5%

These goals are percentages of the total dollar amounts of all contracts let by the Developer for the construction and/or purchase of goods and services for the Area A Project. As such, all change orders shall be included in the final contract amount against which these goals will be measured.

EBDI is further committed to ensuring compliance with the training and employment requirements of Section 3 of the Housing and Urban Development Act of 1968 ("Section 3"), which governs much of the federal funding expected to be used in this project. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment generated by a Section 3 covered contract (i.e., a contract funded with federal funds) be given to public housing and other low income persons residing in the metro area, and that subcontracts be awarded to businesses located in or substantially owned by persons residing in the area of the project (East Baltimore). The Developer will be expected to use its best practical efforts to locate and contract with locally-owned business enterprises ("LBE's"), i.e. businesses based within the Project area, and/or businesses which count as employees a substantial number of local residents.

The Developer shall not be required to engage MBEs, WBEs, or LBEs that are not the lowest responsible and qualified bidder, or that otherwise are not competitive with respect to quality, service, delivery time or price.

Exhibit 3 - Commissioning Services – MBE/WBE Requirements

EBDI requirements relative to monitoring good faith efforts of Developer shall include the following:

The Developer shall submit copies of signed contracts and purchase orders with MBE/WBE/LBE contractors and subcontractors.

At the conclusion of work, the Developer shall provide actual dollar amounts paid to MBE/WBE/LBE contractors and subcontractors.

All on-site contractors and subcontractors selected by the Developer to work on the Area A Project shall submit "certified" payrolls listing the following items for all on-site employees:

1. Full name
2. Social Security number
3. Full address
4. Trade classification (e.g., laborer, carpenter, apprentice, electrician, plumber, foreman)
5. Gender
6. Race
7. Hours worked
8. All withholding (e.g., laborer, local, state, PICA, etc.)
9. Name of Contractor and Indication of Prime for Subcontractors
10. Name of Project

Certified payroll reports shall be signed by an authorized company officer.

The Developer shall ensure that each contractor and subcontractor selected to work on the Area A Project shall send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representative of the contractor's and/or subcontractor's commitments under this subparagraph and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The Developer shall comply with all applicable requirements of any federal, state or local law ordinance or regulation relating to affirmative action equal opportunity and nondiscrimination in employment, and shall use its best efforts to meet all local goals relating thereto.

EXEMPTIONS

Exempted Contracts

EBDI recognizes that in certain limited circumstances, compliance with this Equal Employment Opportunity MBE/WBE/LBE Compliance Program will not be feasible, nor in the best interest of EBDI. With the approval of EBDI, the following contracts may be exempted:

- A. A vending contract, for equipment, materials, services and supplies where the total dollar amount of the contract- is less than Ten Thousand Dollars (\$10,000.00);

Exhibit 3 - Commissioning Services – MBE/WBE Requirements

- B. A construction contract where the total dollar amount of the contract is less than Ten Thousand Dollars (\$10,000.00);
- C. A professional or personal services contract where the total dollar amount of the contract less than Ten Thousand Dollars (\$10,000.00);
- D. Any public exigency or emergency contract for which the nature of the emergency will not allow for a delay which would occur from competitive solicitation.

Every effort will be made to assure that small MBE/WBE/LBE firms in the Project Area and in the Middle East Baltimore Area are included in the soliciting and award of contracts under Ten Thousand Dollars (\$10,000), in the areas referred.

Certification - Legitimate MBE/WBE/LBE

- A. To ensure that only businesses which are owned, managed and controlled in both form and substance by MBE/WBE/LBE's participating in the Area A Project, all MBE/WBE/LBE businesses, including joint ventures and nonprofit organizations, must be certified under the Minority Business Enterprise Program of the Maryland Department of Transportation, pursuant to Title 14, Subtitle 3 of the State Finance and Procurement Article of the Annotated Code of Maryland or by the City of Baltimore's Minority and Women's Business Opportunity Office pursuant to Section 28 of Article 5 of the Baltimore City Code (2000 Edition). LBEs shall be defined as businesses which maintain offices and/or facilities with street addresses in the following zip codes: 21202, 21205, 21206, 21213, 21214, 21218, 21224, 21231, 21251, 21287.
- B. MBE/WBE/LBE certification shall not be determinative of Developer's financial or technical ability to perform specified work. EBDI reserves the right to evaluate the Developer's, and any of its proposed contractors' or subcontractors', ability to satisfy financial, technical, or other criteria separate and apart from certification before or after bid opening
- C. EBDI recognizes that certified MBE/WBE/LBE's may be de-certified by the certifying governmental entity. Any business which has been de-certified shall not be eligible to participate in EBDI's MBE/WBE/LBE inclusion plan.
- D. EBDI reserves the right, if there is cause to do so, to refuse a certification provided by a certifying agency.

Good Faith Non-Compliance

- A. In cases where EBDI has cause to believe that Developer, acting in good faith, has failed to comply with the provisions of the plan, EBDI shall attempt to resolve the noncompliance through conciliation and persuasion.
- B. In conciliation, the Developer must satisfy EBDI that they have made their "Best Efforts" to achieve the agreed upon participation goals by certified MBE/WBE/LBE's. "Best Efforts"

Exhibit 3 - Commissioning Services – MBE/WBE Requirements

on the part of the Developer include:

1. Entering into a contractual relationship with the designated MBE/WBE/LBE in a timely manner, and fulfilling all contractual requirements.
2. Notifying both the certified MBE/WBE/LBE contractor and EBDI of any problem in a timely manner.
3. Requesting assistance from EBDI in resolving any problems with certified MBE/WBE/LBE's.
4. Making every reasonable effort to assist the certified MBE/WBE/LBE in the performance of its contract with the Developer.

Willful Non-Compliance

- A. In cases where EBDI has cause to believe that the Developer, or any contractor or subcontractor hired by the Developer, has failed to comply with the provisions of the plan, they shall be empowered to conduct an investigation.

STANDARD OPERATING PROCEDURES FOR EFFECTIVE COMPLIANCE

In an effort to facilitate communications between the "Project Team" (Developer and/or Sub-Developer, and Contractor and/or Sub-Contractor) and the "EBDI Inclusion Team" (Senior Director of Community and Human Services, Workforce Program Associate, and EBDI's Third Party Monitoring Contractor), the following Standard Operating Procedures for Effective Compliance (SOP) are established. These procedures outline the meetings and information needed to report the inclusion activities as required by the EBDI Economic Inclusion Compliance Plan attached as Schedule E to the [FC-NEBP] Master Development Agreement. The Project Team will inform the EBDI Inclusion Team (via mail, email or fax) of all bid packages /solicitations, prior to their mailing, with inclusion language, due dates and the anticipated list of firms that will receive the solicitation at least one week prior to distribution. The EBDI Inclusion team may provide a list of additional certified M/W/LBE firms which can be included in the bid solicitations.

- 1) The Contractor will inform the EBDI Inclusion Team via mail, email or fax of all bid addenda and or revisions.
- 2) The Contractor shall set up meetings with the EBDI Inclusion Team and prospective first tier subcontractors(s) to discuss the bidders approach to inclusion on the project. At the discretion of the Project Team, this meeting may be dedicated to the topic of inclusion or the EBDI Inclusion Team may attend a portion of a meeting with a broader agenda during the time inclusion would be discussed, In addition, the EBDI Inclusion Team will verify the certification status of any and all M/W/LBE firms that the bidders will use to achieve their inclusion goals
- 3) The Contractor will provide to the EBDI Inclusion Team, within fifteen days of execution, copies of signed subcontracts and purchase orders with M/W/LBE contractors and subcontractors (or such lesser documentation as the EBDI Inclusion Team may deem satisfactory) On a monthly basis, the Contractor will provide reports including all contract changes, revisions and payments to date, and

Exhibit 3 - Commissioning Services – MBE/WBE Requirements

will furnish signed lien waivers and/or relevant affidavits documenting payment to all M/W/LBE firms.

- 4) The Contractor will furnish in a controlled and confidential manner, certified payroll records for all hourly employees working on the project site. These certified payrolls and the contents therein, will be kept confidential and stored in a secured area. Certified payrolls will be submitted on a monthly basis and will include the following
- Full name
 - Social Security number
 - Complete worker address (including city, state and zip code)
 - Trade classification (e.g., laborer, carpenter, apprentice, electrician, plumber, and foreman)
 - Gender
 - Race
 - Hours worked
 - All withholding deductions (e.g., laborer, local, state, FICA, etc.)
 - Name of Contractor and Indication of Prime or Subcontractors
 - Name of Project
 - Rate of pay
 - Gross pay
 - Net pay

Adherence to these Standard Operating Procedures will allow the EBDI Inclusion Team to monitor the good faith efforts of the Project Team and report the East Baltimore Project's Economic Inclusion activities to the project's stakeholders on a monthly basis.

Exhibit 4 - Commissioning Services – Summary of Project Program

NEW MARYLAND PUBLIC HEALTH LABORATORY OCCUPANCY AND AREA SUMMARY				Programmed Room Sizes
<i>Office & Office Support</i>				
<i>Total - Office & Office Support</i>				1,516
<i>Subtotal space Executive Suite</i>				1,516
<i>Regulatory and Administrative Programs</i>				
<i>Office & Office Support</i>				
<i>Total - Office & Office Support</i>				3,207
<i>Subtotal space Regulatory and Administrative Programs</i>				3,207
<i>Fiscal Administration</i>				
<i>Office & Office Support</i>				
<i>Total - Office & Office Support</i>				1,089
<i>Subtotal space Fiscal Administration</i>				1,089
<i>Emergency Preparedness and Response</i>				
<i>Office & Office Support</i>				
<i>Total - Office & Office Support</i>				315
<i>Subtotal space Emergency Preparedness and Response</i>				315
<i>Training Facilities and Library</i>				
<i>Office & Office Support</i>				
<i>Total - Office & Office Support</i>				6,806
<i>Subtotal space Training Facilities and Library</i>				6,806
<i>Total - Offices for Laboratory Divisions</i>				12,933
<i>Division of Newborn and Child Screening</i>				
<i>Office & Office Support</i>				
<i>Total - Office & Office Support</i>				2,542
<i>Total-DNA Laboratories</i>				660
<i>Subtotal - Division of Newborn and Childhood Screening</i>				9,442
<i>Total - Division of Newborn and Child Screening</i>				9,442
<i>Division of Molecular Biology, Virology, and Immunology</i>				

Exhibit 4 - Commissioning Services – Summary of Project Program

NEW MARYLAND PUBLIC HEALTH LABORATORY OCCUPANCY AND AREA SUMMARY			Programmed Room Sizes
Molecular Diagnostics			
<u>Office & Office Support</u>			
Total - Office & Office Support			126
<u>Lab & Lab Support</u>			
Total - Laboratory			4,480
Subtotal space Molecular Diagnostics			4,606
Molecular Disease Assessment			
<u>Office & Office Support</u>			
Total - Office & Office Support			126
<u>Lab & Lab Support</u>			
Total - Laboratory			3,518
Subtotal space Molecular Disease Assessment			3,644
Molecular Epidemiology			
<u>Office & Office Support</u>			
Total - Office & Office Support			126
<u>Lab & Lab Support</u>			
Total - Laboratory			2,830
Subtotal space Molecular Molecular Epidemiology			2,956
Sequencing Core Laboratory			
<u>Lab & Lab Support</u>			
Total - Laboratory			1,540
Subtotal space Molecular Sequencing Core Laboratory			1,540
Serology Laboratory			
<u>Office & Office Support</u>			
Total - Office & Office Support			378
<u>Lab & Lab Support</u>			
Total - Laboratory			5,280
Subtotal space Serology Laboratory			5,658
Virology Laboratory			
<u>Office & Office Support</u>			
Total - Office & Office Support			126
<u>Lab & Lab Support</u>			

Exhibit 4 - Commissioning Services – Summary of Project Program

NEW MARYLAND PUBLIC HEALTH LABORATORY OCCUPANCY AND AREA SUMMARY				Programmed Room Sizes
Total - Laboratory				5,775
Subtotal space Virology Laboratory				5,901
Animal Core Laboratory				
Office & Office Support				
Total - Office & Office Support				165
Lab & Lab Support (including BSL-2 space)				
Total - Laboratory				770
Subtotal space Animal Core Laboratory				935
Rabies Necropsy Laboratory				
Lab & Lab Support				
Total - Laboratory				2,040
Subtotal space Rabies Necropsy Laboratory				2,040
Division Wide Lab Support				
Office & Office Support				
Total - Office & Office Support				1,814
Lab & Lab Support				
Total - Laboratory				935
Subtotal space Division Wide Lab Support				2,749
Molecular Diagnostics/Virology BSL-3 Suite				
Lab & Lab Support				
Total - Laboratory				3,900
Subtotal space Molecular Diagnostics/Virology BSL-3 Suite				3,900
Bio Suite				
Lab & Lab Support				
Total - Laboratory				3,570
Subtotal space Bio Suite				3,570
Biowatch Suite				
Lab & Lab Support				
Total - Laboratory				660
Subtotal space Biowatch Suite				660

Exhibit 4 - Commissioning Services – Summary of Project Program

NEW MARYLAND PUBLIC HEALTH LABORATORY OCCUPANCY AND AREA SUMMARY				Programmed Room Sizes
BSL-3 Animal Testing Suite				
Office & Office Support				
Total - Office & Office Support				165
Lab & Lab Support (including BSL-3 space)				
Total - Laboratory				1,210
Subtotal space BSL-3 Animal Testing Suite				1,375
Total - Division of Molecular Biology, Virology, and Immunology				39,534
Division of Public Health Microbiology				
TB Mycobacteriology and Mycology				
Lab & Lab Support (including BSL-2 and BSL-3 space)				
Total - Laboratory				4,840
Subtotal space TB Mycobacteriology and Mycology				4,840
Public Health Microbiology				
Lab & Lab Support				
Total - Laboratory				5,390
Subtotal space Public Health Microbiology				5,390
Division Wide Support				
Office & Office Support				
Total - Office & Office Support				2,458
Lab & Lab Support				
Total - Laboratory				880
Subtotal space Division Wide Support				3,338
Total - Division of Public Health Microbiology				13,568
Division of Environmental Microbiology				
Water Microbiology				
Lab & Lab Support				
Total - Laboratory				1,210
Subtotal space Water Microbiology				1,210

Exhibit 4 - Commissioning Services – Summary of Project Program

NEW MARYLAND PUBLIC HEALTH LABORATORY OCCUPANCY AND AREA SUMMARY				Programmed Room Sizes
Dairy Chemistry and Microbiology				
<u>Lab & Lab Support</u>				
Total - Laboratory				1,870
Subtotal space Dairy Chemistry and Microbiology				1,870
Food Safety and Security				
<u>Lab & Lab Support</u>				
Total - Laboratory				2,200
Subtotal space Food Safety and Security				2,200
Division Wide Support				
Total- Lab Support				220
<u>Office & Office Support</u>				
Total - Office & Office Support				378
Subtotal space Division Wide Support				598
Total - Division of Environmental Public Health Micro				5,878
Division of Environmental Chemistry				
Inorganics Analytical Laboratory				
<u>Lab & Lab Support</u>				
Total - Laboratory				7,370
Subtotal space Inorganics Analytical Laboratory				7,370
Radiation Laboratory				
<u>Lab & Lab Support</u>				
Total - Laboratory				4,700
Subtotal space Radiation Laboratory				4,700
Air Quality Laboratory				
<u>Lab & Lab Support</u>				
Total - Laboratory				960
Subtotal space Air Quality Laboratory				960
Food Chemistry Laboratory				
<u>Lab & Lab Support</u>				

Exhibit 4 - Commissioning Services – Summary of Project Program

NEW MARYLAND PUBLIC HEALTH LABORATORY OCCUPANCY AND AREA SUMMARY				Programmed Room Sizes
Total - Laboratory				1,980
Subtotal space Food Chemistry Laboratory				1,980
Toxic Metals Laboratory				
Lab & Lab Support				
Total - Laboratory				4,400
Subtotal space Toxic Metals Laboratory				4,400
Semi-volatile Organics Laboratory				
Lab & Lab Support				
Total - Laboratory				4,840
Subtotal space Semi-Volatile Organics Laboratory				4,840
Volatile Organics Laboratory				
Lab & Lab Support				
Total - Laboratory				1,320
Subtotal space Volatile Organics Laboratory				1,320
Analytical Toxicology Laboratory				
Lab & Lab Support				
Total - Laboratory				2,500
Subtotal space Analytical Toxicology Laboratory				2,500
Division Wide Support				
Office & Office Support				
Total - Office & Office Support				1,368
Lab & Lab Support				
Total - Laboratory				2,530
Subtotal space Division Wide Support				3,898
Total - Division of Environmental Chemistry				31,968
Building Support Facilities				
Warehouse				
Office & Office Support				
Total - Office & Office Support				175
Building Support				

Exhibit 4 - Commissioning Services – Summary of Project Program

NEW MARYLAND PUBLIC HEALTH LABORATORY OCCUPANCY AND AREA SUMMARY				Programmed Room Sizes
Total - Laboratory				2,750
Subtotal- Warehouse				2,925
Outfits				
Office & Office Support				
Total - Office & Office Support				126
Lab Support				
Total - Lab Support				550
Subtotal space Outfits				676
Glassware Washing				
Office & Office Support				
Total - Office & Office Support				63
Lab & Lab Support				
Total - Laboratory Support				1,320
Subtotal space Glassware Washing				1,383
Archival Storage				
Building Support				
Total				770
Subtotal space Archival Storage				770
Chemical Storage				
Total - Chemical Storage				220
Subtotal space Chemical Storage				220
Gas Tank Storage/Manifold Area				
Total - Laboratory				190
Subtotal space Gas Tank Storage/Manifold Area				190
Waste Facilities				
Total				330
Subtotal space Waste Facilities				330
Maintenance				
Office & Office Support				

Exhibit 4 - Commissioning Services – Summary of Project Program

NEW MARYLAND PUBLIC HEALTH LABORATORY OCCUPANCY AND AREA SUMMARY				Programmed Room Sizes
Total - Office & Office Support				126
<u>Lab & Lab Support</u>				
Total - Laboratory				550
Subtotal space Maintenance				676
Security				
<u>Office & Office Support</u>				
Total - Office & Office Support				301
Subtotal space Security				301
Housekeeping				
<u>Office & Office Support</u>				
Total - Office & Office Support				126
Total				220
Subtotal space Housekeeping				346
Mailroom				
Total				110
Subtotal space Mailroom				110
Total				110
Subtotal space Shredding Area				110
Total				550
Subtotal space Staff Lockers/Toilet Rooms				550
Freezer Farm Room				
<u>Lab & Lab Support</u>				
Total - Laboratory Support				990
Subtotal space Freezer Farm Room				990
Receipt Facility				
<u>Lab & Lab Support</u>				
Total - Laboratory				1,210
Subtotal space All Hazards Receipt Facility				1,210

Exhibit 4 - Commissioning Services – Summary of Project Program

NEW MARYLAND PUBLIC HEALTH LABORATORY OCCUPANCY AND AREA SUMMARY				Programmed Room Sizes
Loading Dock				
Loading Dock				
<i>Total - Loading Dock</i>				2,200
Total - Building Support Facilities				12,987
Public Access Rooms				
Office & Office Support				
<i>Total - Office & Office Support</i>				204
Total				715
Subtotal space Public Access Rooms				919
Central Registration and Reporting Unit				
Courier Drop-Off				
Total				220
Subtotal space Courier Drop-Off				220
Accessioning				
Lab & Lab Support				
Total - Laboratory				1,100
Subtotal space Accessioning				1,100
Total				674
Subtotal space Data Entry				674
STAT Lab				
Total				110
Subtotal space STAT Lab				110
Storage				
Total				110
Subtotal space Storage				110
Cold Storage				

Exhibit 4 - Commissioning Services – Summary of Project Program

NEW MARYLAND PUBLIC HEALTH LABORATORY OCCUPANCY AND AREA SUMMARY				Programmed Room Sizes
<i>Lab & Lab Support</i>				
<i>Total - Laboratory Support</i>				165
<i>Subtotal space Cold Storage</i>				165
Total - Central Registration and Reporting Unit				2,379
TOTAL - NASF				129,608
TOTAL BUILDING GROSS SQUARE FEET (GSF) 65% Net-to-Gross				199,596

Exhibit 5 – Preliminary List of Systems to Be Commissioned**High-Priority Systems to be Commissioned and Certified:**

In the context of certification (including third-party certification), the most important systems include:

1. Building automation system operation, monitoring and alarming.
2. HEPA filter tests.
3. Primary biocontainment device effectiveness (BSCs, gloveboxes, BSL-3 rooms).
4. Room pressurization control.
5. Decontamination system integration with facility.
6. Decontamination system efficacy.
7. Tissue digester.
8. Autoclave cycles.
9. Waste handling (liquid and solids).
10. Redundancy tests (lead/lag/standby).
11. Failure analysis of primary systems (fans, pumps, etc.).
12. Standby or emergency power tests.

Secondary-Priority Systems to be Commissioned and Certified:

In addition, secondary-priority systems shall be commissioned that are standard in a laboratory building, including the systems and assemblies listed below. Commissioning of such systems shall include end-to-end verification of remote annunciation and alarming through the campus-wide Siemens BAS system, where applicable:

1) Mechanical Systems

- a) Air distribution
- b) Enthalpy wheel systems
- c) Chilled water
- d) Condenser water
- e) Refrigeration Systems
- f) Boiler
- g) Variable frequency drives
- h) Water Treatment
- i) Domestic water
- j) Laboratory/fume hoods
- k) Electric, pneumatic & DDC controls
- l) Vacuum, air & lab gases
- m) Vibration and noise control systems.

2) Electrical Systems

- a) Electrical power
- b) Standby & emergency power, including transfer switches and paralleling gear.
- c) Uninterruptible power systems.
- d) Service switch gear,
- e) Switchboards,
- f) Distribution panel boards,

Exhibit 5 – Preliminary List of Systems to Be Commissioned

- g) Transformers,
 - h) Motor control centers,
 - i) Power monitoring and metering,
 - j) Transient voltage surge suppressors,
 - k) Variable speed drives,
 - l) Grounding and ground fault systems,
 - m) Overcurrent protective devices,
 - n) Low voltage busway,
 - o) Thermographic survey,
 - p) Lighting & lighting controls, including confirmation of correct programming of schedules and occupancy sensor controlled and daylight dimming systems.
 - q) Daylighting
- 3) Building Envelope & Partitioning Systems**
- a) Infiltration
 - b) Exfiltration
 - c) Moisture barriers
 - d) Thermal performance
- 4) Life Safety Systems**
- a) Fire Alarm
 - b) Fire suppression
 - c) Fire detection
 - d) Smoke control and removal
 - e) Emergency lighting.
 - f) Interlocks with security systems.
 - g) Elevator recall.
- 5) Information Technology Systems**
- a) Voice & data
 - b) Structured cabling
- 6) Miscellaneous**
- a) Vertical transportation systems.

Exhibit 6 – Inspection Checklist for BSL-3 Laboratories (7 CFR 331; 9 CFR 121; 42 CFR 73; BMBL 5th Edition)

Revised November 2007

Inspection Checklist for BSL-3 Laboratories (7 CFR 331; 9 CFR 121; 42 CFR 73; BMBL 5th Edition)					
Inspection Date:					
Entity Name:					
Responsible Official:					
SAP Inspector(s):					
Principal Investigator (P.I.):					
Laboratory Location - Street Address:					
Building:					
Room number(s):					
Agent(s)/Toxin(s):					
<i>When Information is entered in this form, the form is to be considered "Sensitive Select Agent Information."</i>					
Reference	Statement	Response			Comments
		Yes	No	N/A	
CFR: Section 12(a)	An individual or entity required to register under this part must develop and implement a written biosafety plan that is commensurate with the risk of the agent or toxin, given its intended use.				
CFR: Section 12(a)	The biosafety plan must contain sufficient information and documentation to describe the biosafety and containment procedures.				
CFR: Section 12(b)	The biosafety and containment procedures must be sufficient to contain the select agent or toxin (e.g., physical structure and features of the entity, and operational and procedural safeguards).				
CFR: Section 12 (c)(1)	In developing a biosafety plan, an individual or entity should consider: The CDC/NIH publication, "Biosafety in Microbiological and Biomedical Laboratories, including all appendices. Copies may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 371954, Pittsburgh, Pennsylvania, 75250-7954 or from the CDC website at http://www.cdc.gov/ . Copies may be inspected at the Centers for Disease Control and Prevention, 1600 Clifton Road, Mail Stop E-79, Atlanta, Georgia.				
CFR: Section 12(d)	The plan must be reviewed annually and revised as necessary.				
CFR: Section 12(d)	Drills or exercises must be conducted at least annually to test and evaluate the effectiveness of the plan.				
CFR: Section 12(d)	The plan must be reviewed and revised, as necessary, after any drill or exercise and after any incident.				
A					
BMBL: A1	The laboratory supervisor must enforce the institutional policies that control access to the laboratory.				
BMBL: A2	Persons must wash their hands after working with potentially hazardous materials and before leaving the laboratory.				
BMBL: A3	Eating, drinking, smoking, handling contact lenses, applying cosmetics, and storing food for human consumption must not be permitted in laboratory areas.				
BMBL: A3	Food must be stored outside the laboratory area in cabinets or refrigerators designated and used for this purpose.				
BMBL: A4	Mouth pipetting is prohibited; mechanical pipetting devices must be used.				

**Exhibit 6 – Inspection Checklist for BSL-3 Laboratories
(7 CFR 331; 9 CFR 121; 42 CFR 73; BMBL 5th Edition)**

Revised November 2007

Reference	Statement	Response			Comments
		Yes	No	N/A	
BMBL: A5	Policies for the safe handling of sharps, such as needles, scalpels, pipettes, and broken glassware must be developed and implemented.				
BMBL: A5	Whenever practical, laboratory supervisors should adopt improved engineering and work practice controls that reduce risk of sharps injuries.				
BMBL: A5	Precautions, including those listed below, must always be taken with sharp items. These include:				
BMBL: A5-a	Careful management of needles and other sharps are of primary importance. Needles must not be bent, sheared, broken, recapped, removed from disposable syringes, or otherwise manipulated by hand before disposal.				
BMBL: A5-b	Used disposable needles and syringes must be carefully placed in conveniently located puncture-resistant containers used for sharps disposal.				
BMBL: A5-c	Non-disposable sharps must be placed in a hard walled container for transport to a processing area for decontamination, preferably by autoclaving.				
BMBL: A5-d	Broken glassware must not be handled directly. Instead, it must be removed using a brush and dustpan, tongs, or forceps.				
BMBL: A5-d	Plasticware should be substituted for glassware whenever possible.				
BMBL: A6	Perform all procedures to minimize the creation of splashes and/or aerosols.				
BMBL: A7	Decontaminate work surfaces after completion of work and after any spill or splash of potentially infectious material with appropriate disinfectant.				
BMBL: A8	Decontaminate all cultures, stocks, and other potentially infectious materials before disposal using an effective method.				
BMBL: A8	A method for decontaminating all laboratory wastes should be available in the facility, preferably within the laboratory (e.g., autoclave, chemical disinfection, incineration, or other validated decontamination method).				
BMBL: A8-a	Depending on where the decontamination will be performed, the following methods should be used prior to transport: Materials to be decontaminated outside of the immediate laboratory must be placed in a durable, leak proof container and secured for transport.				
BMBL: A8-b	Depending on where the decontamination will be performed, the following methods should be used prior to transport: Materials to be removed from the facility for decontamination must be packed in accordance with applicable local, state, and federal regulations.				
BMBL: A9	A sign incorporating the universal biohazard symbol must be posted at the entrance to the laboratory when infectious agents are present.				
BMBL: A9	Posted information must include the laboratory's biosafety level, the supervisor's name (or other responsible personnel), telephone number, and required procedures for entering and exiting the laboratory.				
BMBL: A9	Agent information should be posted in accordance with the institutional policy.				
BMBL: A10	An effective integrated pest management program is required.				

Exhibit 6 – Inspection Checklist for BSL-3 Laboratories (7 CFR 331; 9 CFR 121; 42 CFR 73; BMBL 5th Edition)

Revised November 2007

Reference	Statement	Response			Comments
		Yes	No	N/A	
BMBL: A11	The laboratory supervisor must ensure that laboratory personnel receive appropriate training regarding their duties, the necessary precautions to prevent exposures, and exposure evaluation procedures.				
BMBL: A11	Personnel must receive annual updates or additional training when procedural or policy changes occur.				
BMBL: A11	Personal health status may impact an individual's susceptibility to infection, ability to receive immunizations or prophylactic interventions. Therefore, all laboratory personnel and particularly women of child-bearing age should be provided with information regarding immune competence and conditions that may predispose them to infection.				
BMBL: A11	Individuals having these conditions should be encouraged to self-identify to the institution's healthcare provider for appropriate counseling and guidance.				
B					
BMBL: B1	All persons entering the laboratory must be advised of the potential hazards and meet specific entry/exit requirements.				
BMBL: B2	Laboratory personnel must be provided medical surveillance and offered appropriate immunizations for agents handled or potentially present in the laboratory.				
BMBL: B3	When appropriate and giving consideration to the agent handled based upon the facility's risk assessment, each institution must establish policies and procedures describing the collection and storage of baseline serum samples from at-risk personnel.				
BMBL: B4	A laboratory-specific biosafety manual must be prepared and adopted as policy.				
BMBL: B4	The biosafety manual must be available and accessible.				
BMBL: B5	The laboratory supervisor must ensure that laboratory personnel demonstrate proficiency in standard and special microbiological practices before working with BSL-3 agents.				
BMBL: B6	Potentially infectious materials must be placed in a durable, leak proof container during collection, handling, processing, storage, or transport within a facility.				
BMBL: B7	Laboratory equipment should be routinely decontaminated, as well as, after spills, splashes, or other potential contamination.				
BMBL: B7-a	Spills involving infectious materials must be contained, decontaminated, and cleaned up by staff properly trained and equipped to work with infectious material.				
BMBL: B7-b	Equipment must be decontaminated before repair, maintenance, or removal from the laboratory.				
BMBL: B8	Incidents that may result in exposure to infectious materials must be immediately evaluated and treated according to procedures described in the laboratory biosafety manual.				
BMBL: B8	All such incidents must be reported to the laboratory supervisor.				
BMBL: B8	Medical evaluation, surveillance, and treatment should be provided and appropriate records maintained.				
BMBL: B9	Animals and plants not associated with the work being performed must not be permitted in the laboratory.				
BMBL: B10	All procedures involving the manipulation of infectious materials must be conducted within a BSC, or other physical containment devices.				

Exhibit 6 – Inspection Checklist for BSL-3 Laboratories (7 CFR 331; 9 CFR 121; 42 CFR 73; BMBL 5th Edition)

Revised November 2007

Reference	Statement	Response			Comments
		Yes	No	N/A	
BMBL: B10	No work with open vessels is conducted on the bench.				
BMBL: B10	When a procedure cannot be performed within a BSC, a combination of personal protective equipment and other containment devices, such as a centrifuge safety cup or sealed rotor, must be used.				
C					
BMBL: C1	All procedures involving the manipulation of infectious materials must be conducted within a BSC (preferably Class II or Class III), or other physical containment devices.				
BMBL: C2	Protective laboratory clothing with a solid-front such as tie-back or wraparound gowns, scrub suits, or coveralls are worn by workers when in the laboratory.				
BMBL: C2	Protective clothing is not worn outside of the laboratory.				
BMBL: C2	Reusable clothing is decontaminated with appropriate disinfectant before being laundered.				
BMBL: C2	Clothing is changed when contaminated.				
BMBL: C3	Eye and face protection (goggles, mask, face shield or other splatter guard) is used for anticipated splashes or sprays of infectious or other hazardous materials.				
BMBL: C3	Eye and face protection must be disposed of with other contaminated laboratory waste or decontaminated before reuse.				
BMBL: C3	Persons who wear contact lenses in laboratories must also wear eye protection.				
BMBL: C4	Gloves must be worn to protect hands from exposure to hazardous materials.				
BMBL: C4	Glove selection should be based on an appropriate risk assessment.				
BMBL: C4	Alternatives to latex gloves should be available.				
BMBL: C4	Gloves must not be worn outside the laboratory.				
BMBL: C4-a	In addition, BSL-3 laboratory workers should: Change gloves when contaminated, integrity has been compromised, or when otherwise necessary.				
BMBL: C4-a	In addition, BSL-3 laboratory workers should: Wear two pairs of gloves when appropriate.				
BMBL: C4-b	In addition, BSL-3 laboratory workers should: Remove gloves and wash hands when work with hazardous materials has been completed and before leaving the laboratory.				
BMBL: C4-c	In addition, BSL-3 laboratory workers should: Do not wash or reuse disposable gloves.				
BMBL: C4-c	In addition, BSL-3 laboratory workers should: Dispose of used gloves with other contaminated laboratory waste.				
BMBL: C4-c	Hand washing protocols must be rigorously followed.				
BMBL: C5	Eye, face, and respiratory protection must be used in rooms containing infected animals.				

Exhibit 6 – Inspection Checklist for BSL-3 Laboratories (7 CFR 331; 9 CFR 121; 42 CFR 73; BMBL 5th Edition)

Revised November 2007

Reference	Statement	Response			Comments
		Yes	No	N/A	
D					
BMBL: D1	Laboratory doors must be self closing and have locks in accordance with the institutional policies.				
BMBL: D1	The laboratory must be separated from areas that are open to unrestricted traffic flow within the building.				
BMBL: D1	Access to the laboratory is restricted to entry by a series of two self-closing doors.				
BMBL: D1	A clothing change room (anteroom) may be included in the passageway between the two self-closing doors.				
BMBL: D2	Laboratories must have a sink for hand washing.				
BMBL: D2	The sink must be hands-free or automatically operated.				
BMBL: D2	The sink should be located near the exit door.				
BMBL: D2	If the laboratory is segregated into different laboratories, a sink must also be available for hand washing in each zone.				
BMBL: D3	The laboratory must be designed so that it can be easily cleaned and decontaminated.				
BMBL: D3	Carpets and rugs are not permitted.				
BMBL: D3	Seams, floors, walls, and ceiling surfaces should be sealed.				
BMBL: D3	Spaces around doors and ventilation openings should be capable of being sealed to facilitate space decontamination.				
BMBL: D3-a	Floors must be slip resistant, impervious to liquids, and resistant to chemicals.				
BMBL: D3-a	Consideration should be given to the installation of seamless, sealed, resilient or poured floors, with integral cove bases.				
BMBL: D3-b	Walls should be constructed to produce a sealed smooth finish that can be easily cleaned and decontaminated.				
BMBL: D3-c	Ceilings should be constructed, sealed, and finished in the same general manner as walls.				
BMBL: D3	Decontamination of the entire laboratory should be considered when there has been gross contamination of the space, significant changes in laboratory usage, for major renovations, or maintenance shut downs.				
BMBL: D3	Selection of the appropriate materials and methods used to decontaminate the laboratory must be based on the risk assessment of the biological agents in use.				
BMBL: D4	Laboratory furniture must be capable of supporting anticipated loads and uses.				
BMBL: D4	Spaces between benches, cabinets, and equipment must be accessible for cleaning.				
BMBL: D4-a	Bench tops must be impervious to water and resistant to heat, organic solvents, acids, alkalis, and other chemicals.				
BMBL: D4-b	Chairs used in laboratory work must be covered with a non-porous material that can be easily cleaned and decontaminated with appropriate disinfectant.				
BMBL: D5	All windows in the laboratory must be sealed.				
BMBL: D6	BSCs must be installed so that fluctuations of the room air supply and exhaust do not interfere with proper operations.				

**Exhibit 6 – Inspection Checklist for BSL-3 Laboratories
(7 CFR 331; 9 CFR 121; 42 CFR 73; BMBL 5th Edition)**

Revised November 2007

Reference	Statement	Response			Comments
		Yes	No	N/A	
BMBL: D6	BSCs should be located away from doors, heavily traveled laboratory areas, and other possible airflow disruptions.				
BMBL: D7	Vacuum lines must be protected with HEPA filters, or their equivalent.				
BMBL: D7	Filters must be replaced as needed.				
BMBL: D7	Liquid disinfectant traps may be required.				
BMBL: D8	An eyewash station must be readily available in the laboratory.				
BMBL: D9	A ducted air ventilation system is required.				
BMBL: D9	This system must provide sustained directional airflow by drawing air into the laboratory from "clean" areas toward "potentially contaminated" areas.				
BMBL: D9	The laboratory shall be designed such that under failure conditions the airflow will not be reversed.				
BMBL: D9-a	Laboratory personnel must be able to verify directional air flow.				
BMBL: D9-a	A visual monitoring device which confirms directional air flow must be provided at the laboratory entry.				
BMBL: D9-a	Audible alarms should be considered to notify personnel of air flow disruption.				
BMBL: D9-b	The laboratory exhaust air must not re-circulate to any other area of the building.				
BMBL: D9-c	The laboratory building exhaust air should be dispersed away from occupied areas and from building air intake locations or the exhaust air must be HEPA filtered.				
BMBL: D10	HEPA filtered exhaust air from a Class II BSC can be safely re-circulated into the laboratory environment if the cabinet is tested and certified at least annually and operated according to manufacturer's recommendations. BSCs can also be connected to the laboratory exhaust system by either a thimble (canopy) connection or a direct (hard) connection.				
BMBL: D10	Provisions to assure proper safety cabinet performance and air system operation must be verified.				
BMBL: D10	BSCs should be certified at least annually to assure correct performance.				
BMBL: D10	Class III BSCs must be directly (hard) connected up through the second exhaust HEPA filter of the cabinet. Supply air must be provided in such a manner that prevents positive pressurization of the cabinet.				
BMBL: D11	A method for decontaminating all laboratory wastes should be available in the facility, preferably within the laboratory (e.g., autoclave, chemical disinfection, incineration, or other validated decontamination method).				
BMBL: D12	Equipment that may produce infectious aerosols must be contained in devices that exhaust air through HEPA filtration or other equivalent technology before being discharged into the laboratory. These HEPA filters should be tested and/or replaced at least annually.				
BMBL: D13	Facility design consideration should be given to means of decontaminating large pieces of equipment before removal from the laboratory.				

**Exhibit 6 – Inspection Checklist for BSL-3 Laboratories
(7 CFR 331; 9 CFR 121; 42 CFR 73; BMBL 5th Edition)**

Revised November 2007

Reference	Statement	Response			Comments
		Yes	No	N/A	
BMBL: D14	Enhanced environmental and personal protection may be required by the agent summary statement, risk assessment, or applicable local, state, or federal regulations. These laboratory enhancements may include, for example, one or more of the following; an anteroom for clean storage of equipment and supplies with dress-in, shower-out capabilities; gas tight dampers to facilitate laboratory isolation; final HEPA filtration of the laboratory exhaust air; laboratory effluent decontamination; and advanced access control devices such as biometrics. HEPA filter housings should have gas-tight isolation dampers; decontamination ports; and/or bag-in/bag-out (with appropriate decontamination procedures) capability.				
BMBL: D14	The HEPA filter housing should allow for leak testing of each filter and assembly.				
BMBL: D14	The filters and the housing should be certified at least annually.				
BMBL: D15	The BSL-3 facility design, operational parameters, and procedures must be verified and documented prior to operation.				
BMBL: D15	Facilities must be re-verified and documented at least annually.				

Commissioning Services Form of Contract

AGREEMENT made as of the « » day of « » in the year « »

BETWEEN the Owner:

Maryland Economic Development Corporation (MEDCO), a Maryland corporation and instrumentality
100 N. Charles St, Suite 630
Baltimore, MD 21201« »

and the Commissioning Agent:

« »
« »
« »
« »

for the following Project:

State of Maryland Public Health Laboratory Project

The Architect:

(Name, legal status, address and other information)

HDR Architecture, Inc.
7200 Wisconsin Avenue, Suite 501
Bethesda, MD 20814-3409

The Owner and Commissioning Agent agree as follows.

Commissioning Services Form of Contract

TABLE OF ARTICLES

1	INITIAL INFORMATION
2	COMMISSIONING AGENT'S RESPONSIBILITIES
3	SCOPE OF COMMISSIONING AGENT'S BASIC SERVICES
4	ADDITIONAL SERVICES
5	OWNER'S RESPONSIBILITIES
6	COST OF THE WORK
7	COPYRIGHTS AND LICENSES
8	CLAIMS AND DISPUTES
9	TERMINATION OR SUSPENSION
10	MISCELLANEOUS PROVISIONS
11	COMPENSATION
12	SPECIAL TERMS AND CONDITIONS
13	SCOPE OF THE AGREEMENT

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

(Note the disposition for the following items by inserting the requested information or a statement such as "not applicable," "unknown at time of execution" or "to be determined later by mutual agreement.")

§ 1.1.1 The Owner's program for the Project:

Per documentation provided to CM or made available to CM before execution of this contract.

§ 1.1.2 The Project's physical characteristics:

In accordance with scope of work.

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1:

As directed by Owner.

§ 1.1.4 The Owner's anticipated design and construction schedule:

- .1 Design phase milestone dates, if any:

In accordance with milestone durations in detailed scope of work.

- .2 Commencement of construction:

Approximately March 1, 2011.

- .3 Substantial Completion date or milestone dates:

Approximately 30 months after NTP to construction contractor.

Commissioning Services Form of Contract

.4 Other:

NA.

§ 1.1.5 The Owner intends the following procurement method for the Project:

Single general construction contract (including fit-up), based on 100% CDs.

§ 1.1.6 The Owner’s requirements for accelerated or fast-track scheduling, multiple bid packages, or phased construction are set forth below:

Selected contracts for specialty items shall be procured by Owner and assigned to the GC.

§ 1.1.7 Other Project information:

<< >>

§ 1.1.8 The Owner identifies the following representative in accordance with Section 5.5:

The Owner designates Forest City East Baltimore Partnership, LLC (FC-NEBP) as its Owner's Representative to act on the Owner's behalf with respect to the Project.

§ 1.1.9 The persons or entities, in addition to the Owner’s representative, who are required to review the Commissioning Agent’s submittals to the Owner are as follows:

Not applicable.

§ 1.1.10 Unless provided by the Commissioning Agent, the Owner will retain the other consultants and contractors required for execution of the project.

§ 1.1.11 The Commissioning Agent identifies the following representative in accordance with Section 2.4:

<< >>
<< >>
<< >>
<< >>
<< >>
<< >>
<< >>

§ 1.1.12 The Commissioning Agent’s staffing plan as required under Section 3.3.2 shall include:

<< >>

§ 1.1.13 The Commissioning Agent’s consultants retained under Basic Services, if any:

.1 Certified Biological Safety Professional with relevant experience within a BSL-3 facility.

§ 1.1.14 The Commissioning Agent’s consultants retained under Additional Services:

<< >>

§ 1.1.15 Other Initial Information on which the Agreement is based:

<< >>

§ 1.2 The Owner and Commissioning Agent may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Commissioning Agent shall appropriately adjust the schedules, the Commissioning Agent’s services and the Commissioning Agent’s compensation.

Commissioning Services Form of Contract

ARTICLE 2 COMMISSIONING AGENT'S RESPONSIBILITIES

§ 2.1 The Commissioning Agent shall provide the services as set forth in this Agreement.

§ 2.2 The Commissioning Agent shall perform its services consistent with the skill and care ordinarily provided by Commissioning Agents practicing in the same or similar locality under the same or similar circumstances. The Commissioning Agent shall perform its services as expeditiously as is consistent with such skill and care and the orderly progress of the Project.

§ 2.3 The Commissioning Agent shall provide its services in conjunction with the services of an Architect. The Commissioning Agent shall not be responsible for actions taken by the Architect.

§ 2.4 The Commissioning Agent shall identify a representative authorized to act on behalf of the Commissioning Agent with respect to the Project.

§ 2.5 Except with the Owner's knowledge and consent, the Commissioning Agent shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Commissioning Agent's judgment with respect to this Project.

§ 2.6 The Commissioning Agent shall maintain the following insurance for the duration of this Agreement. If any of the requirements set forth below exceed the types and limits the Commissioning Agent normally maintains, the Owner shall reimburse the Commissioning Agent for any additional cost.

§ 2.6.1- 6 [Insurance provisions TBD]

ARTICLE 3 SCOPE OF COMMISSIONING AGENT'S BASIC SERVICES

§ 3.1 Definition

The Commissioning Agent's Basic Services consist of those described in the attached "scope of work" document and in Sections 3.2 and 3.3 and include usual and customary construction coordination and scheduling, constructability review, cost estimating, and allocation of construction activities among the contractors and vendors selected by Owner.

§ 3.2 Preconstruction Phase

§ 3.2.1 The Commissioning Agent shall review the program furnished by the Owner and any evaluation of the Owner's program provided by the Architect, to ascertain the requirements of the Project and shall arrive at a mutual understanding of such requirements with the Owner and Architect.

§ 3.2.2 The Commissioning Agent shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other.

§ 3.2.3 NOT USED.

§ 3.2.4 In coordination with the estimating scope of work contained in attached "scope of work" document, based on preliminary design and other design criteria prepared by the Architect, the Commissioning Agent shall prepare preliminary estimates of the Cost of the Work or the cost of program requirements using area, volume or similar conceptual estimating techniques for the Architect's review and Owner's approval. If the Architect suggests alternative materials and systems, the Commissioning Agent shall provide cost evaluations of those alternative materials and systems and may also provide its own suggestions.

§ 3.2.5 The Commissioning Agent shall expeditiously review design documents during their development and advise the Owner and Architect on proposed site use and improvements, selection of materials, and building systems and equipment. The Commissioning Agent shall also provide recommendations to the Owner and Architect on constructability, availability of materials and labor, sequencing for phased construction, time requirements for procurement, installation and construction, and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions.

Commissioning Services Form of Contract

§ 3.2.6 The Commissioning Agent shall support preparation and periodic updates of the Project schedule included in the Commissioning Plan for the Owner's review and acceptance. The Project schedule shall coordinate and integrate the Commissioning Agent's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities and highlight items that could affect the Project's timely completion.

§ 3.2.7 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Commissioning Agent shall prepare and update, at appropriate intervals agreed to by the Owner, Commissioning Agent and Architect, estimates of the Cost of the Work of increasing detail and refinement. The Commissioning Agent shall include appropriate contingencies for design, bidding or negotiating, price escalation, and market conditions in the estimates of the Cost of the Work. Such estimates shall be provided for the Architect's review and the Owner's approval. The Commissioning Agent shall advise the Owner and Architect if it appears that the Cost of the Work may exceed the Owner's budget and make recommendations for corrective action.

§ 3.2.8 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Commissioning Agent shall consult with the Owner and Architect and make recommendations whenever the Commissioning Agent determines that design details adversely affect constructability, cost or schedules.

§ 3.2.9 The Commissioning Agent shall provide recommendations and information to the Owner and Architect regarding the assignment of responsibilities for temporary Project facilities and equipment, materials and services for common use of the Contractors. The Commissioning Agent shall verify that such requirements and assignment of responsibilities are included in the proposed Contract Documents.

§ 3.2.10 The Commissioning Agent shall provide recommendations and information to the Owner regarding the allocation of responsibilities for safety programs among the Contractors.

§ 3.2.11 The Commissioning Agent shall provide recommendations to the Owner on the division of the Project into individual Contracts for the construction of various categories of Work, including the method to be used for selecting Contractors and awarding Contracts. If multiple Contracts are to be awarded, the Commissioning Agent shall review the Drawings and Specifications and make recommendations as required to provide that (1) the Work of the Contractors is coordinated, (2) all requirements for the Project are assigned to the appropriate Contract, (3) the likelihood of jurisdictional disputes is minimized, and (4) proper coordination is provided for phased construction.

§ 3.2.12 The Commissioning Agent shall support updating of the Project schedule to include the components of the Work, including phasing of construction, times of commencement and completion required of each Contractor, ordering and delivery of products, including those that must be ordered well in advance of construction, and the occupancy requirements of the Owner.

§ 3.2.13 The Commissioning Agent shall assist Owner to expedite and coordinate the ordering and delivery of materials, including those that must be ordered well in advance of construction.

§ 3.2.14 The Commissioning Agent shall assist the Owner in selecting, retaining and coordinating the professional services of surveyors, special consultants and testing laboratories required for the Project.

§ 3.2.15 The Commissioning Agent shall provide an analysis of the types and quantities of labor required for the Project and review the availability of appropriate categories of labor required for critical phases. The Commissioning Agent shall make recommendations for actions designed to minimize adverse effects of labor shortages.

§ 3.2.16 NOT USED.

Commissioning Services Form of Contract

§ 3.2.17 In coordination with the estimating scope of work contained in the attached ‘scope of work’, following the Owner’s approval of the Drawings and Specifications, the Commissioning Agent shall update and submit the latest estimate of the Cost of the Work and the Project schedule for the Architect’s review and the Owner’s approval.

§ 3.2.18 The Commissioning Agent shall assist Owner in the development of lists of prospective bidders.

§ 3.2.19 The Commissioning Agent shall support development of bidders’ interest in the Project and establish bidding schedules. The Commissioning Agent shall support Owner’s issuance of bidding documents to bidders and the conduct of pre-bid conferences with prospective bidders. The Commissioning Agent shall assist the Architect with regard to questions from bidders and with the issuance of addenda.

§ 3.2.20 The Commissioning Agent shall assist Owner to receive bids, prepare bid analyses and make recommendations for the Owner’s award of Contracts or rejection of bids.

§ 3.2.21 The Commissioning Agent shall assist the Owner in preparing Construction Contracts and advise the Owner on the acceptability of Subcontractors and material suppliers proposed by Contractors.

§ 3.2.22 The Commissioning Agent shall assist the Owner in obtaining building permits and special permits for permanent improvements, except for permits required to be obtained directly by the various Multiple Prime Contractors. The Commissioning Agent shall assist the Owner and Architect in connection with the Owner’s responsibility for filing documents required for the approvals of governmental authorities having jurisdiction over the Project.

§ 3.3 Construction Phase Administration of the Construction Contract

§ 3.3.1 Subject to Section 4.3 and the attached “scope of work”, the Commissioning Agent’s responsibility to provide Construction Phase Services commences with the award of the initial Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

§ 3.3.2 The Commissioning Agent shall provide a staffing plan indicating which representatives shall be in attendance at the Project site during the progress of construction. Such attendance may be full-time for certain periods, but is generally anticipated to be part-time for Commissioning Agent’s personnel.

§ 3.3.3 The Commissioning Agent shall support Owner’s on-site administration of the Contracts for Construction in cooperation with the Architect as set forth below and in AIA Document A232™–2009, General Conditions of the Contract for Construction, Commissioning Agent as Adviser Edition. If the Owner and Contractor modify AIA Document A232–2009, those modifications shall not affect the Commissioning Agent’s services under this Agreement unless the Owner and the Commissioning Agent amend this Agreement.

§ 3.3.4 NOT USED.

§ 3.3.5 Utilizing the construction schedules provided by the Contractors, the Commissioning Agent shall assist the Owner to update the Project schedule, incorporating the activities of the Owner, Architect, and Contractors on the Project, including activity sequences and durations, allocation of labor and materials, processing of Shop Drawings, Product Data and Samples, and delivery and procurement of products, including those that must be ordered well in advance of construction. The Project schedule shall include the Owner’s occupancy requirements showing portions of the Project having occupancy priority. The Commissioning Agent shall assist the Owner to update and reissue the Project schedule as required to show current conditions. If an update indicates that the previously approved Project schedule may not be met, the Commissioning Agent shall recommend corrective action, if any, to the Owner and Architect.

§ 3.3.6 The Commissioning Agent shall schedule and conduct meetings to discuss such matters as procedures, progress, coordination, and scheduling of the Work. The Commissioning Agent shall prepare and promptly distribute minutes to the Owner, Architect and Multiple Prime Contractors.

Commissioning Services Form of Contract

§ 3.3.7 Utilizing information from the Contractors, the Commissioning Agent shall schedule and coordinate the sequence of construction and assignment of space in areas where Contractors are performing Work, in accordance with the Contract Documents and the latest approved Project schedule.

§ 3.3.8 The Commissioning Agent shall schedule all tests and inspections required by the Contract Documents or governmental authorities, and arrange for the delivery of test and inspection reports to the Owner and Architect.

§ 3.3.9 The Commissioning Agent shall endeavor to obtain satisfactory performance from each Contractor. The Commissioning Agent shall recommend courses of action to the Owner when requirements of a Contract are not being fulfilled.

§ 3.3.10 The Commissioning Agent shall monitor and evaluate actual costs for activities in progress and estimates for uncompleted tasks and advise the Owner and Architect as to variances between actual and budgeted or estimated costs. The Commissioning Agent shall promptly notify the Contractor if there are any inconsistencies or inaccuracies in the information presented. The Commissioning Agent shall also report the Contractor's cost control information to the Owner.

§ 3.3.11 The Commissioning Agent shall assist the Owner to develop cash flow reports and forecasts for the Project.

§ 3.3.12 The Commissioning Agent shall maintain accounting records on authorized Work performed under unit costs, additional Work performed on the basis of actual costs of labor and materials, and other Work requiring accounting records.

§ 3.3.12.1 The Commissioning Agent shall develop and implement procedures for the review and processing of Applications for Payment by Contractors for progress and final payments.

§ 3.3.12.2 Not more frequently than monthly, the Commissioning Agent shall review and certify the amounts due the respective Contractors as follows:

- .1 Where there is only one Contractor responsible for performing the Work, the Commissioning Agent shall, within seven days after the Commissioning Agent receives the Contractor's Application for Payment, review the Application, certify the amount the Commissioning Agent determines is due the Contractor, and forward the Contractor's Application and Certificate for Payment to the Architect.
- .2 Where there are Multiple Prime Contractors responsible for performing different portions of the Project, the Commissioning Agent shall, within seven days after the Commissioning Agent receives each Contractor's Application for Payment: (1) review the Applications and certify the amount the Commissioning Agent determines is due each Contractor, (2) prepare a Summary of Contractors' Applications for Payment by summarizing information from each Contractor's Application for Payment, (3) prepare a Project Application and Certificate for Payment, (4) certify the total amount the Commissioning Agent determines is due all Multiple Prime Contractors collectively, and (5) forward the Summary of Contractors' Applications for Payment and Project Application and Certificate for Payment to the Architect.

§ 3.3.12.3 The Commissioning Agent's certification for payment shall constitute a representation to the Owner, based on the Commissioning Agent's evaluations of the Work and on the data comprising the Contractors' Applications for Payment, that, to the best of the Commissioning Agent's knowledge, information and belief, the Work has progressed to the point indicated and the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion and to specific qualifications expressed by the Commissioning Agent. The issuance of a Certificate for Payment shall further constitute a recommendation to the Architect and Owner that the Contractor be paid the amount certified.

Commissioning Services Form of Contract

§ 3.3.12.4 The certification of an Application for Payment or a Project Application for Payment by the Commissioning Agent shall not be a representation that the Commissioning Agent has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences for the Contractor's own Work, or procedures; (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.3.13 The Commissioning Agent shall review the safety programs developed by the Contractors solely and exclusively for purposes of coordinating the safety programs with those of the other Contractors and for making recommendations to the Owner for any safety programs not included in the Work of the Contractors. The Commissioning Agent's responsibilities for coordination of safety programs shall not extend to direct control over or charge of the acts or omissions of the Contractor, Subcontractors, agents or employees of the Contractors or Subcontractors, or any other persons performing portions of the Work and not directly employed by the Commissioning Agent.

§ 3.3.14 The Commissioning Agent shall determine in general that the Work of each Contractor is being performed in accordance with the requirements of the Contract Documents and notify the Owner, Contractor and Architect of defects and deficiencies in the Work. The Commissioning Agent shall have the authority to reject Work that does not conform to the Contract Documents and shall notify the Architect about the rejection. The failure of the Commissioning Agent to reject Work shall not constitute the acceptance of the Work. The Commissioning Agent shall record any rejection of Work in its daily log and include information regarding the rejected Work in its progress reports to the Architect and Owner pursuant to Section 3.3.20.1. The Commissioning Agent may require and make arrangements for additional inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed, and the Commissioning Agent shall give timely notice to the Architect of when and where the tests and inspections are to be made so that the Architect may be present for such procedures.

§ 3.3.15 The Commissioning Agent shall advise and consult with the Owner and Architect during the performance of its Construction Phase Services. The Commissioning Agent shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Commissioning Agent shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work of each of the Contractors, since these are solely the Contractor's rights and responsibilities under the Contract Documents. The Commissioning Agent shall not be responsible for a Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Commissioning Agent shall be responsible for the Commissioning Agent's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor, Subcontractors, or their agents or employees, or any other persons or any other persons or entities performing portions of the Work.

§ 3.3.16 The Commissioning Agent shall transmit to the Architect requests for interpretations and requests for information of the meaning and intent of the Drawings and Specifications with its written recommendation, and assist in the resolution of questions that may arise.

§ 3.3.17 The Commissioning Agent shall review requests for changes, assist in negotiating Contractors' proposals, submit recommendations to the Architect and Owner, and, if they are accepted, prepare Change Orders and Construction Change Directives that incorporate the Architect's modifications to the Contract Documents.

§ 3.3.18 The Commissioning Agent shall assist the Initial Decision Maker in the review, evaluation and documentation of Claims, subject to Section 4.3.1.7.

§ 3.3.19 Utilizing the submittal schedules provided by each Contractor, the Commissioning Agent shall prepare, and revise as necessary, a Project submittal schedule incorporating information from the Owner,

Commissioning Services Form of Contract

Owner's consultants, Owner's separate contractors and vendors, governmental agencies, and all other participants in the Project under the management of the Commissioning Agent. The Project submittal schedule and any revisions shall be submitted to the Architect for approval. The Commissioning Agent shall promptly review all Shop Drawings, Product Data, Samples and other submittals from the Contractors for compliance with the submittal requirements of the Contract, coordinate submittals with information contained in related documents, and transmit to the Architect those that the Commissioning Agent recommends for approval. The Commissioning Agent's actions shall be taken in accordance with the Project submittal schedule approved by the Architect, or in the absence of an approved Project submittal schedule, with such reasonable promptness as to cause no delay in the Work or in the activities of the Contractors, the Owner, or the Architect.

§ 3.3.20 When on site, the Commissioning Agent shall keep a daily log containing a record of weather, each Contractor's Work on the site, number of workers, identification of equipment, Work accomplished, problems encountered, and other similar relevant data as the Owner may require.

§ 3.3.20.1 The Commissioning Agent shall record the progress of the Project. On a monthly basis, or otherwise as agreed to by the Owner, the Commissioning Agent shall submit written progress reports to the Owner and Architect, showing percentages of completion and other information identified below:

- .1 Work completed for the period;
- .2 Project schedule status;
- .3 Submittal schedule and status report, including a summary of remaining and outstanding Submittals;
- .4 Request for information, Change Order, and Construction Change Directive status reports;
- .5 Tests and inspection reports;
- .6 Status report of nonconforming and rejected Work;
- .7 Daily logs;
- .8 Summary of all Multiple Prime Contractors' Applications for Payment;
- .9 Cumulative total of the Cost of the Work to date including the Commissioning Agent's compensation and reimbursable expenses at the job site, if any;
- .10 Cash-flow and forecast reports; and

§ 3.3.20.2 In addition, for Projects or work constructed on the basis of the Cost of the Work, the Commissioning Agent shall include the following additional information in its progress reports:

- .1 Contractor's work force report;
- .2 Equipment utilization report;
- .3 Cost summary, comparing actual costs to updated cost estimates; and

§ 3.3.21 Utilizing the documents provided by the Contractor, Architect and Owner, the Commissioning Agent shall maintain at the site one copy of all Contracts, Drawings, Specifications, addenda, Change Orders and other Modifications, in good order and marked currently to record all changes and selections made during construction, and in addition, approved Shop Drawings, Product Data, Samples and similar required submittals. The Commissioning Agent shall maintain records, in duplicate, of principal building layout lines, elevations of the bottom of footings, floor levels and key site elevations certified by a qualified surveyor or professional engineer. The Commissioning Agent shall make all such records available to the Architect and the Contractor, and upon completion of the Project, shall deliver them to the Owner.

§ 3.3.22 The Commissioning Agent shall arrange for the delivery, storage, protection and security of Owner-purchased materials, systems and equipment that are a part of the Project until such items are incorporated into the Work.

§ 3.3.23 With the Architect and the Owner's maintenance personnel, the Commissioning Agent shall observe the Contractor's final testing and start-up of utilities, operational systems and equipment and observe any commissioning as the Contract Documents may require.

§ 3.3.24 When the Commissioning Agent considers each Contractor's Work or a designated portion thereof is substantially complete, the Commissioning Agent shall, jointly with the Contractor, prepare for the

Commissioning Services Form of Contract

Architect a list of incomplete or unsatisfactory items and a schedule for their completion. The Commissioning Agent shall assist the Architect in conducting inspections to determine whether the Work or designated portion thereof is substantially complete.

§ 3.3.25 When the Work or designated portion thereof is substantially complete, the Commissioning Agent shall prepare, and the Commissioning Agent and Architect shall execute, a Certificate of Substantial Completion. The Commissioning Agent shall submit the executed Certificate to the Owner and Contractor. The Commissioning Agent shall coordinate the correction and completion of the Work. Following issuance of a Certificate of Substantial Completion of the Work or a designated portion thereof, the Commissioning Agent shall evaluate the completion of the Work of the Contractor and make recommendations to the Architect when Work is ready for final inspection. The Commissioning Agent shall assist the Architect in conducting final inspections.

§ 3.3.26 The Commissioning Agent shall forward to the Owner, with a copy to the Architect, the following information received from the Contractor: (1) certificates of insurance received from the Contractor; (2) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (3) affidavits, receipts, releases and waivers of liens or bonds indemnifying the Owner against liens; and (4) any other documentation required of the Contractor under the Contract Documents, including warranties and similar submittals.

§ 3.3.27 The Commissioning Agent shall deliver all keys, manuals, record drawings and maintenance stocks to the Owner. The Commissioning Agent shall forward to the Architect a final Project Application for Payment and Project Certificate for Payment or final Application for Payment and final Certificate for Payment upon the Contractor's compliance with the requirements of the Contract Documents.

§ 3.3.28 Duties, responsibilities and limitations of authority of the Commissioning Agent as set forth in the Contract Documents shall not be restricted, modified or extended without written consent of the Owner, Commissioning Agent, Architect, Contractor and Multiple Prime Contractors. Consent shall not be unreasonably withheld.

§ 3.3.29 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Commissioning Agent shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

ARTICLE 4 ADDITIONAL SERVICES

§ 4.1 NOT USED.

§ 4.2 NOT USED.

§ 4.3 Additional Services may be provided after execution of this Agreement, without invalidating this Agreement. Except for services required due to the fault of the Commissioning Agent, any Additional Services provided in accordance with this Section 4.3 shall entitle the Commissioning Agent to compensation pursuant to Section 11.3.

§ 4.3.1 NOT USED.

§ 4.3.2 NOT USED.

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including the Owner's program, other objectives, schedule, constraints and criteria, special equipment, systems, and site requirements. Within 15 days after receipt of a written request from the Commissioning Agent, the Owner shall furnish the requested information as necessary and relevant for the Commissioning Agent to evaluate, give notice of, or enforce any lien rights, if any.

Commissioning Services Form of Contract

§ 5.2 The Owner shall coordinate the services of its own consultants with those services provided by the Commissioning Agent. Upon the Commissioning Agent's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated in this Agreement, or authorize the Commissioning Agent to furnish them as an Additional Service, when the Commissioning Agent requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants maintain professional liability insurance and other liability insurance as appropriate to the services provided.

§ 5.3 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.4 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.5 The Owner shall provide prompt written notice to the Commissioning Agent and Architect if the Owner becomes aware of any fault or defect in Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service or any fault or defect in the Commissioning Agent's services.

§ 5.6 The Owner reserves the right to perform construction and operations related to the Project with the Owner's own forces, and to award contracts in connection with the Project which are not part of the Commissioning Agent's responsibilities under this Agreement. The Commissioning Agent shall notify the Owner if any such independent action will interfere with the Commissioning Agent's ability to perform the Commissioning Agent's responsibilities under this Agreement. When performing construction or operations related to the Project, the Owner agrees to be subject to the same obligations and to have the same rights as the Contractors.

§ 5.7 Before executing the Contract for Construction, the Owner shall coordinate the Commissioning Agent's duties and responsibilities set forth in the Contract for Construction with the Commissioning Agent's services set forth in this Agreement. Upon Commissioning Agent's request, the Owner shall provide the Commissioning Agent a copy of the executed agreements between the Owner and Contractors, including the General Conditions of the Contracts for Construction.

§ 5.8 The Owner shall provide the Commissioning Agent access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Commissioning Agent access to the Work wherever it is in preparation or progress.

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include the contractors' general conditions costs, overhead and profit. The Cost of the Work includes the compensation of the Commissioning Agent and Commissioning Agent's Consultants, including compensation for reimbursable expenses at the job site, if any. The Cost of the Work does not include the compensation of the Architect, the costs of the land, rights-of-way, financing, contingencies for changes in the Work or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and may be adjusted throughout the Project as required hereunder.

ARTICLE 7 COPYRIGHTS AND LICENSES

The Commissioning Agent and the Commissioning Agent's consultants, if any, shall not own or claim a copyright in the Instruments of Service. The Commissioning Agent, the Commissioning Agent's consultants, if any, and the Owner warrant that in transmitting Instruments of Service, or any other

Commissioning Services Form of Contract

information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project. If the Owner and Commissioning Agent intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Commissioning Agent shall commence all claims and causes of action, whether in contract, tort, or otherwise, against the other arising out of or related to this Agreement in accordance with the requirements of the method of binding dispute resolution selected in this Agreement within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Commissioning Agent waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Commissioning Agent waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A232–2009, General Conditions of the Contract for Construction. The Owner or the Commissioning Agent, as appropriate, shall require of the contractors, consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 Indemnification. To the fullest extent permitted by law, the Commissioning Agent shall indemnify and hold Owner, Owner's Representative, State of Maryland Department of Health and Mental Hygiene (DHMH) and State of Maryland Department of General Services (DGS), their respective consultants, trustees, officers, employees and agents, harmless from any and all loss, lawsuit, liability, damage, cost and expense (including reasonable attorneys' fees) to the extent caused by (i) the negligent acts, errors or omissions and willful misconduct of the Commissioning Agent, its consultants, agents or employees in connection with the Agreement; or (ii) any breach or default in the performance of the obligations of Commissioning Agent hereunder. The provisions of this Section shall survive termination of the Agreement.

§ 8.1.4 The Commissioning Agent and Owner waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

§ 8.1.5 Non-Recourse. Commissioning Agent acknowledges, agrees and accepts that any obligation of Owner hereunder is solely on a limited recourse basis and that Owner has no taxing power. Notwithstanding anything to the contrary contained in this Agreement or in any other agreement or contract executed and delivered by Owner in connection with the Project, neither this Agreement nor any such other contract or agreement shall (a) constitute a debt of the State of Maryland or any political subdivision, agency or instrumentality thereof other than Owner, (b) constitute a debt to which the faith and credit or taxing power of the State of Maryland or any political subdivision, agency or instrumentality thereof is pledged, or (c) obligate the State of Maryland or any political subdivision, agency or instrumentality thereof to make any appropriation for payment. Commissioning Agent agrees that it shall not have any recourse against the officers, directors or employees of Owner, and that the officers, directors and employees of Owner shall not be personally liable for, or have any personal obligation in any respect for, any claim based on or in respect of any liability of Owner for the performance of any covenant, agreement, obligation, term or condition contained in this Agreement. Commissioning Agent further agrees that, for payment hereunder or for the performance of any other covenant, agreement, obligation, term or condition contained in this Agreement, Commissioning Agent shall have recourse solely and exclusively against (i) prior to the issuance of the bonds by the Owner for the Project, funds paid to the Owner by DHMH or DGS and collectively with DHMH, "the "State," pursuant to the Interagency Agreement for payment by Owner to Commissioning Agent, (ii) the proceeds of the bonds issued by Owner for the Project, to the extent that such proceeds remain available for such use, and (iii) Owner's interest in the Project, including revenues

Commissioning Services Form of Contract

from the Project available for such use. Commissioning Agent further agrees that for payment hereunder or for the performance of any other covenant, agreement, obligation, term or condition contained in this Agreement, Commissioning Agent shall have no recourse against any other assets, properties or funds of Owner or the State of Maryland or any political subdivision, agency or instrumentality thereof, and that in no event shall Owner be obligated to use any of its other assets, properties or funds to make any payment or discharge any covenant, agreement, term or condition under this Agreement. Commissioning Agent further agrees that, other than as stated herein, it shall have no recourse against Owner and shall not seek to assert any claim or to enforce any award or judgment against Owner for any liability or other obligation of Owner in connection with this Agreement or the transactions contemplated by this Agreement, whether such claim, award, judgment, liability or obligation be asserted or based in contract or in tort or otherwise. This provision shall survive the termination or expiration of this Agreement.

§ 8.1.6 No Liens. Commissioning Agent acknowledges that no lien of any kind or nature may be filed against the real property owned by MEDCO and/or the improvements constituting the Project, owned by Owner, a public entity.

§ 8.1.7 Books and Records. Commissioning Agent shall maintain, in accordance with such reasonable accounting systems and procedures as may be reasonably requested by Owner, accurate and complete books and records in respect of the Project, including general ledgers and journals reflecting all costs and expenses incurred with respect to the Project, all bills received and paid and any and all other disbursements made by the Commissioning Agent with respect to the Project, including all payments requested on behalf of the Owner during the Construction Phase and all sums disbursed by the Trustee. Commissioning Agent shall retain the originals if available, or photocopies of all material notices, requests or other communications or documents received by Commissioning Agent on behalf of the Owner relating to the Project, the Contractor, the Trustee, any other creditor of the Owner, the issuer of the Owner's insurance policies, and any governmental, regulatory or supervisory entity. Such records shall be maintained on a current basis and shall be available for periodic examination by representatives of the Owner during the Commissioning Agent's normal business hours upon reasonable prior notice. Commissioning Agent shall maintain such records for a minimum period of three (3) years after Final Completion of the Project and shall deliver them to the Owner if the Owner so requires.

§ 8.1.8 Audit Rights. Owner and/or DHMH and DGS may, upon reasonable notice, audit the records of Commissioning Agent and its subconsultants and suppliers during regular business hours, during the term of this Agreement and for a period of three (3) years after Final Completion is made under this Agreement or longer, if required by law. Such audits may be performed by an Owner, DHMH and/or DGS representative or an outside representative engaged by Owner, DHMH and/or DGS.

- .1 For purposes hereof, "records" means any and all information, materials and data of every kind and character, whether hard copy or in electronic form, which may, in Owner, DHMH and/or DGS's judgment have any bearing on or pertain to this Agreement, including, without limitation, books, subscriptions, recordings, agreements, purchase orders, leases, contracts, commitments, arrangements, notes, daily diaries, written policies and procedures, time sheets, payroll registers, payroll records, cancelled payroll checks, subcontract files (e.g., including proposals of successful and unsuccessful bidders, bid recap), original estimates, estimating work sheets, correspondence, change order files (including documentation covering negotiated settlements), back-charge logs and supporting documentation, invoices and related payment documentation, general ledgers, records detailing cash and trade discounts earned, insurance rebates and dividends, superintendent reports, drawings, receipts, vouchers and memoranda.
- .2 Owner, DHMH and/or DGS's authorized representative shall have reasonable access to Commissioning Agent and Commissioning Agent's subconsultants' and suppliers' facilities, shall be allowed to interview all current or former employees to discuss matters pertinent to this Agreement, may count employees at the Project site, may be present for the distribution of payroll and shall have such other rights of access as may be reasonably necessary to carry out an audit.
- .3 If an audit discloses overpricing or overcharges, Commissioning Agent shall refund the overpayment, if an audit discloses overpricing or overcharges in excess of \$200,000 in addition to

Commissioning Services Form of Contract

making adjustments for the overcharges, the reasonable actual cost of DHMH and DGS's audit shall be reimbursed to Owner, DHMH and/or DGS by Commissioning Agent. Any adjustments and/or payments that must be made as a result of any such audit or inspection of Commissioning Agent's invoices and/or records shall be made within ninety {90} calendar days from presentation of Owner, DHMH and/or DGS's findings to Commissioning Agent.

- .4 Commissioning Agent shall ensure notice of Owner, DHMH and/or DGS's audit rights is provided to its subconsultants, suppliers and any other vendor providing services or materials for the Project and shall ensure that each agreement it enters into pursuant hereto includes the provisions of this Section.

§ 8.1.9. No Privity with State Parties. There is no privity of contract created by this Agreement between Commissioning Agent, its subconsultant(s), contractor(s) and/or subcontractor(s) and DGS, DHMH and the State of Maryland, and their respective affiliates, officers, directors, employees, agents, successors and assigns,

§ 8.1.10 No Liability of State Parties. Neither DGS nor DHMH will incur any liability by virtue of any act, omission, negligence, or obligation of the Commissioning Agent, its subconsultant(s), contractor(s) and/or subcontractors pursuant to this Agreement,

§ 8.1.11 Compliance with Agreement. All work performed by Commissioning Agent, its subconsultant(s), contractor(s) and subcontractor(s), its agents and employees under any contract or subcontract shall strictly comply with the provisions of this Agreement.

§ 8.2 Mediation

§ 8.2.1 Dispute Resolution. The parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiations between executives who have authority to settle the controversy. Any party may give the other party written notice of any dispute not resolved in the normal course of business. Within fifteen (15) days after delivery of this notice, executives of both parties shall meet at a mutually acceptable time and place in Baltimore to exchange relevant information and to attempt to resolve the dispute. All negotiations pursuant to this subsection are confidential and shall be treated as compromise and settlement negotiations for purposes of rules of evidence. All claims, disputes or other matters in question between the parties to this Agreement arising out of or relating to this Agreement or reach thereof shall be subject to and decided by litigation. The parties agree that prior to proceeding with litigation, they shall participate in nonbinding mediation pursuant to the Construction Industry Mediation Rules of the American Arbitration Association and shall make reasonable efforts to have all affected parties participate in such mediation. This covenant shall not prevent a party from filing the appropriate litigation as otherwise required by any applicable requirement at law or in equity. However, it is the intention of the parties to attempt to resolve their disputes by mediation as soon as possible without the necessity of engaging in litigation discovery procedures and each party will cooperate with the other in providing information factual or otherwise, which might reasonably be necessary for an effective early mediation of the dispute.

§ 8.2.2 Governing Law/Forum. This Agreement shall be governed by the laws of the State of Maryland, without giving effect to principles of conflicts of law thereof. If the above efforts to resolve the dispute are unsuccessful, either party may then commence litigation as provided in this Section. Each of the parties to this Agreement hereby irrevocably and unconditionally: (i) consents to submit to the exclusive jurisdiction of the courts of Baltimore City, Maryland for any proceeding arising out of or in connection with this Agreement and each such party agrees not to commence any such proceeding except in such courts, and (ii) waives any objection to the laying of venue of any such proceeding in the courts of Baltimore City, Maryland.

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Commissioning Agent in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the

Commissioning Services Form of Contract

Commissioning Agent's option, cause for suspension of performance of services under this Agreement. If the Commissioning Agent elects to suspend services, the Commissioning Agent shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Commissioning Agent shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Commissioning Agent shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Commissioning Agent's services. The Commissioning Agent's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Commissioning Agent shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Commissioning Agent shall be compensated for expenses incurred in the interruption and resumption of the Commissioning Agent's services. The Commissioning Agent's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Commissioning Agent, the Commissioning Agent may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Termination.

§ 9.4.1 This Agreement may be terminated by the Owner for convenience upon thirty (30) days' written notice to Commissioning Agent.

§ 9.4.2 This Agreement may be terminated by either party hereto upon fifteen (15) days' written notice should the other party fail substantially to perform in accordance with the terms hereof through no fault of the other or if the Project in whole or substantial part is stopped for a period of sixty (60) days for any reason.

§ 9.4.3 Owner may immediately terminate Commissioning Agent in the event Commissioning Agent fails to execute necessary documentation, files for bankruptcy or makes an assignment of assets for the benefit of creditors, restructuring such that there is a significant change in ownership, leadership, or Project staff, provides materially incorrect or incomplete information related to the Project, attempts to modify the transaction, or other act or failure to act that jeopardizes the Project.

§ 9.4.4 In the event of termination under Paragraph 9.4.1 not the fault of the Commissioning Agent, Commissioning Agent shall be entitled to payment only that portion of its Fee paid to the date of termination, and those expenses and solely and related to the termination for which Commissioning Agent is not otherwise compensated, without further compensation. In the event that this Agreement is terminated by the Owner under Paragraphs 9.4.1 or 9.4.2 due to the fault of the Commissioning Agent, Commissioning Agent shall not be entitled to receive any further compensation allegedly due for any fee and/or reimbursable expense allegedly incurred to date, until Owner's damages, if any, have been determined. Compensation owed by the Owner to the Commissioning Agent that exceeds the amount of damages incurred by the Owner caused by Commissioning Agent's default shall be reimbursed to the Commissioning Agent without interest. If the funds held by the Owner are insufficient to cover the costs of the damages incurred due to Commissioning Agent's default, the Commissioning Agent shall pay to the Owner the difference.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 NOT USED.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A232-2009, General Conditions of the Contract for Construction (incorporated herein by reference), except for purposes of this Agreement, the term "Work" shall include the work of all Contractors under the administration of the Commissioning Agent.

Commissioning Services Form of Contract

§ 10.3 The Owner and Commissioning Agent, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Commissioning Agent shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement.

§ 10.4 NOT USED.

§ 10.5 Except for third party beneficiaries expressly identified by this Agreement, nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Commissioning Agent.

§ 10.6 Unless otherwise required in this Agreement, the Commissioning Agent shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.7 The Commissioning Agent shall have the right to include photographic or artistic representations of the design of the Project among the Commissioning Agent's promotional and professional materials. The Commissioning Agent shall be given reasonable access to the completed Project to make such representations. However, the Commissioning Agent's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Commissioning Agent in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Commissioning Agent in the Owner's promotional materials for the Project.

§ 10.8 Confidentiality of Information. Commissioning Agent acknowledges that it or its employees may, in the course of performing its responsibilities under this Agreement, be exposed to or acquire information which is proprietary to or confidential to the Owner, DHMH, DGS and/or the State of Maryland. Any and all non-public information of any form so marked by the Owner, DHMH, DGS and/or the State of Maryland and obtained by Commissioning Agent in the performance of this Agreement will be deemed to be confidential and proprietary information. Commissioning Agent agrees to hold such information in strict confidence and not to disclose such information to third parties or to use such information for any purpose whatsoever during the Project and for a period of two (2) years thereafter without the written consent of Owner, DHMH and/or DGS, except as necessary for (a) the performance of its services under this Agreement; (b) to advise each of its employees who may be exposed to such proprietary and confidential information of their obligations to keep such information confidential; (c) compliance with professional standards of conduct for the performance of the services and/or related matters; (d) compliance with any law, regulation, ordinance, court order or governmental directive or other legal mandate; and/or (e) protection of Commissioning Agent against any claims or liabilities arising from performance of services under this Agreement. In the event of any disclosure by Commissioning Agent under subparagraphs (c), (d) or (e), Commissioning Agent will give Owner fourteen (14) days advance courtesy notice of such disclosure. This obligation will not apply to information previously in Commissioning Agent's possession or in the public domain, or information lawfully acquired on a non-confidential basis from others. This provision will survive termination of this Agreement.

§ 10.9 Non-Discrimination. Commissioning Agent may not discriminate on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, or on the basis of disability or other unlawful forms of discrimination in the solicitation, selection, hiring, or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall Commissioning Agent retaliate against any person for reporting instances of such discrimination. Commissioning Agent shall provide equal opportunity for subconsultants, subcontractors, vendors, and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the marketplace. Commissioning Agent understands and agrees that a material violation of this clause shall be considered a material breach of this Agreement and may result in termination of this Agreement or other sanctions. This clause is not enforceable by Commissioning Agent for the benefit of, and creates no obligation to, any third party. As a condition of

Commissioning Services Form of Contract

entering into this Agreement, Commissioning Agent represents and warrants that every contract or subcontract it has entered into or will enter into for the performance of any of the work under this Agreement shall include a clause identical to paragraph above and shall post conspicuously a notice that sets forth this nondiscrimination policy in a place that is available to employees and applicants for employment.

§ 10.10 Time of the Essence. Time is of the essence with respect to Commissioning Agent's performance of services under this Agreement.

§ 10.11 Third-Party Beneficiaries. The State of Maryland Department of Health and Mental Hygiene (DHMH) and Department of General Services (DGS) shall be third-party beneficiaries of this Agreement and, subject to any rights of the Trustee for the bonds issued by the Owner for the Project, shall have the right to enforce the Owner's rights under this Agreement against the Commissioning Agent.

§ 10.12 Owner's Representative. The Owner delegates powers to Forest City – New East Baltimore Partnership (FC-NEBP) that are necessary and appropriate for FC-NEBP's efficient and effective management of Commissioning Agent's Contract with Owner, including powers to modify said Contract, accept or reject performance, and provide initial approval or denial of payments to Commissioning Agent.

§ 10.13 Additional Requirements Due to Trustee. To the extent applicable, Owner may have to comply with Trustee requirements, and the parties acknowledge that Owner's approvals and other actions regarding Commissioning Agent's services may be affected by Trustee requirements. Commissioning Agent shall comply with all reasonable requests by Owner or lender for reports, certificates, statements and further services which are not inconsistent with the terms and conditions of this Agreement. However, in the event any such request requires Commissioning Agent to provide services not already part of the scope of services hereunder, Commissioning Agent shall be entitled to compensation as an Additional Service.

ARTICLE 11 COMPENSATION

§ 11.1 For the Commissioning Agent's Basic Services described under Article 3, the Owner shall compensate the Commissioning Agent as follows:

§ 11.1.1 For Preconstruction Phase Services in Section 3.2:

<< >>

§ 11.1.2 For Construction Phase Services in Section 3.3:

<< >>

§ 11.2 For Additional Services designated in Section 4.1, the Owner shall compensate the Commissioning Agent as follows:

<< >>

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.3, the Owner shall compensate the Commissioning Agent as follows:

<< >>

§ 11.4 NOT USED:

<< >>

§ 11.5 The hourly billing rates for services of the Commissioning Agent and the Commissioning Agent's consultants, if any, are set forth below. The rates shall be adjusted in accordance with the Commissioning Agent's and Commissioning Agent's consultants' normal review practices.

Commissioning Services Form of Contract

<< >>

Employee or Category	Rate (\$0.00)
----------------------	---------------

§ 11.6 Compensation for Reimbursable Expenses

§ 11.6.1 Reimbursable Expenses are in addition to compensation for Basic and Additional Services and include expenses incurred by the Commissioning Agent and the Commissioning Agent’s consultants directly related to the Project, as follows:

- .1 As pre-approved by Owner on Staff Nomination form.

§ 11.6.2 NOT USED.

§ 11.7 Payments to the Commissioning Agent

§ 11.7.1 An initial payment of NA (\$ NA) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner’s account in the final invoice.

§ 11.7.2 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Construction Manager’s invoice. Amounts unpaid 45 days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager.

8% per annum

§ 11.7.3 NOT USED.

§ 11.7.4 NOT USED.

§ 11.7.5 Owner's Right to Dispute Invoices. Promptly upon receipt, Owner shall review Commissioning Agent's invoice. If Owner disputes in good faith all or any portion of any invoice, Owner shall notify Commissioning Agent within fifteen (15) days of receipt of the disputed invoice. Such notification shall clearly indicate that portion of the invoice which Owner disputes or for which Owner claims a setoff and shall include a reasonably detailed explanation of the reasons for disputing such portion or for the setoff, respectively. Any invoice or part of invoice not disputed by Owner in the manner and within the time period set forth above shall be paid by Owner within 30 days of receipt; provided, that such payment shall not act as Owner's waiver of any claims that may be asserted against Commissioning Agent for the performance of defective or deficient services. Owner shall not be required to make payment to Commissioning Agent on account of any amount disputed in good faith by Owner in the manner and within the time period set forth above until the matter in dispute has been resolved by the parties. Any amount so disputed shall not be deemed to be an amount due Commissioning Agent under this Agreement until the matter is so resolved by the parties. If the resolution of the matter indicates that Commissioning Agent is entitled to be paid any portion of such disputed amount, then such amount to be paid to Commissioning Agent shall be due and payable within 20 days after resolution of the matter.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

<< >>

ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Commissioning Agent and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Commissioning Agent.

Commissioning Services Form of Contract

§ 13.2 This Agreement is comprised of the following documents listed below:

- .1 This form of Agreement Between Owner and Commissioning Agent
- .2 Other documents:
 - Exhibit 1 – Scope of Work
 - Exhibit 2 – Staff Nomination Form
 - Exhibit 3 – MBE/WBE Requirements (Comply with “General Services” Requirements)
 - Exhibit 4 – Summary of Project Program.
 - Exhibit 5 – Preliminary List of Systems to Be Commissioned.
 - Exhibit 6 – Inspection Checklist for BSL-3 Laboratories (7 CFR 331; 9 CFR 121; 42 CFR 73; BMBL 5th Edition)

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

OWNER (Signature)

COMMISSIONING AGENT (Signature)

(Printed name and title)

(Printed name and title)