



FULLY EXECUTED
Contract Number: 4400006069
Contract Effective Date: 12/01/2009
Valid From: 10/23/2009 To: 10/23/2012

All using Agencies of the Commonwealth, Participating Political Subdivision, Authorities, Private Colleges and Universities

Purchasing Agent
Name: Poepperling Hilary
Phone: 717-346-3273
Fax: 717-214-9505

Your SAP Vendor Number with us: 328477

Supplier Name/Address:
Market Street Sports Group
447 N Mulberry St
Lancaster PA 17603-7976 US

Please Deliver To:

To be determined at the time of the Purchase Order unless specified below.

Supplier Phone Number: 717-509-2803
Supplier Fax Number: 717-509-0334

Contract Name:
8210 - Farm Show Naming Rights

Payment Terms
NET 30

Solicitation No.: _____ Issuance Date: _____
Supplier Bid or Proposal No. (if applicable): _____ Solicitation Submission Date: _____

This contract is comprised of: The above referenced Solicitation, the Supplier's Bid or Proposal, and any documents attached to this Contract or incorporated by reference.

Item	Material/Service Desc	Qty	UOM	Price	Per Unit	Total
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General Requirements for all Items:

Header Text

Pennsylvania Farm Show Complex & Expo Center will generate an additional revenue stream by selling Venue Naming Rights, Sponsorships and Advertising.

It is anticipated that the selected Offeror will be responsible for managing all aspects of the program, including all revenues, expenses and and will be paid a commission on sales revenues.

Please note that the naming rights opportunity will not be awarded to any alcohol, tobacco, or firearms brand.

No further information for this Contract

Information:

Supplier's Signature _____

Title _____

Printed Name _____

Date _____

PA FARM SHOW COMPLEX & EXPO CENTER
NAMING RIGHTS, SPONSORSHIP AND ADVERTISING
SALES VENDOR AGREEMENT

THIS AGREEMENT ("Agreement") made effective the _____ day of _____, 2009, by and between MARKET STREET SPORTS GROUP, LLC ("MSSG"), a limited liability company, with offices at 447 N Mulberry Street, Lancaster, PA 17603, and the COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF GENERAL SERVICES ("DGS") acting on behalf of the DEPARTMENT OF AGRICULTURE, which operates the PENNSYLVANIA FARM SHOW COMPLEX AND EXPO CENTER through the Bureau of Farm Show (referenced hereinafter "Farm Show").

WHEREAS, the Pennsylvania Farm Show Complex & Expo Center is a one million square foot exposition/convention facility located in Harrisburg, Pennsylvania owned by the Commonwealth of Pennsylvania and operated by the Pennsylvania Department of Agriculture, Bureau of Farm Show;

WHEREAS, the Pennsylvania Farm Show Complex & Expo Center is a multi-function facility hosting approximately 80 major events annually and hundreds of other events including entertainment and sporting events, business meetings, banquets, weddings, proms and other social events attracting both national and international visitors to the complex, estimated at over one million annually;

WHEREAS, it is the objective of Farm Show to generate revenue by contracting with an experienced organization to sell venue naming rights, sponsorships and advertising at the Complex;

WHEREAS, the contractor shall be responsible for managing all aspects of a program to generate income to Farm Show by selling venue naming rights, sponsorships and advertising and in exchange will be paid solely through a percentage commission on revenues generated;

WHEREAS, it is required that the contractor establish and negotiate contracts with potential sponsors and advertisers, obtain the pre-approval from Farm Show of all sponsors, advertisers and signage, be responsible for the production, installation, maintenance and improvements of any and all signage, manage all costs associated with design, fabrication, production of signage such that it is paid from and included in the pricing structure of such venue naming rights, sponsorships and advertising and that there shall be no cost to Farm Show in generating this revenue.

NOW, THEREFORE, WITH THE INTENT TO BE LEGALLY BOUND, the parties hereto agree as follows:

1. **Purpose:** Farm Show engages MSSG as its exclusive marketing agent to solicit and manage "Sponsorship Agreements," in which commercial sponsors ("Sponsors") agree to provide financial payments in exchange for advertising and promotional opportunities within the Complex and/or recognition as a Sponsor. Sponsorship Agreements may include the sale of "naming" or "sponsored by" rights for Complex venues, halls and spaces and Commonwealth-conducted events, or parts of such events, held at the Complex, as well as commercial advertising, signage, announcements and other promotional opportunities at the Complex. The goal of such Sponsorship Agreements is to benefit taxpayers by generating private financial support for Farm Show.

2. Excluded from Scope of Agreement: Sponsorship of events conducted pursuant to agreements between Farm Show and show promoters, staging companies, or any other organization or individual renting the Complex, or a portion thereof, for an event shall not be covered by this Agreement.
3. Term of Agreement: The term of this Agreement shall commence on the Effective Date (as defined below) and shall continue for a period of three (3) years. The Effective Date shall be: a) the Effective Date printed on the Agreement after the Agreement has been fully executed by MSSG and the Commonwealth (signed and approved as required by Commonwealth contracting procedures) or b) the "Valid from" date printed on the Agreement, whichever is later.
4. Renewal of Agreement Term: The Agreement may be renewed for a maximum of two (2) additional one (1) year term(s), so long as Commonwealth provides written notice to MSSG of its intention to extend the Agreement by letter prior to the expiration of the term of the agreement, or any extension thereof. The Commonwealth may exercise the renewal as individual year or multiple year term(s). Any renewal will be under the same terms, covenants and conditions. No further document is required to be executed to renew the term of the Agreement.
5. Extension of Agreement Term: The Commonwealth reserves the right, upon notice to MSSG, to extend any single term of the Agreement for up to three (3) months upon the same terms and conditions.
6. Standard Contract Terms and Conditions: The Standard Contract Terms and Conditions which are attached hereto as Exhibit A and made a part hereof are supplemental to the terms and conditions of the Agreement. To the extent that there is a conflict between the terms and conditions of the Agreement and the Standard Contract Terms and Conditions, the terms and conditions of the Agreement take precedence.
7. Commonwealth Roles and Responsibilities: For purposes of the Agreement, the following roles and responsibilities apply:
 - a. Contracting Officer: DGS will administer the Agreement for the Commonwealth and will be the main point of contact with regard to processing contract modifications and amendments. The Contracting Officer for this Agreement is Hilary Poepperling, Commodity Specialist, Department of General Services, Bureau of Procurement.
 - b. Project Oversight: Farm Show will provide project oversight of the Agreement. Specifically, Farm Show will be the main point of contact on all issues concerning the performance of the services under the Agreement. The Project Manager and point of contact for the Farm Show will be the Director of the Farm Show.
8. General Duties and Responsibilities: The MSSG and Farm Show shall have the following general duties and responsibilities under this Agreement:
 - a. Absent written consent by MSSG, Farm Show shall not contract with any other entity to perform any of MSSG's duties hereunder for any period that this Agreement remains in effect.
 - b. This Agreement creates a fiduciary duty on the part of MSSG toward Farm Show. In addition, MSSG shall use its best efforts to protect Farm Show's interests and to fulfill all

of MSSG's obligations under this Agreement. Further, MSSG shall perform its duties pursuant to this Agreement with the skill and care ordinarily used by members of MSSG's profession.

- c. MSSG shall use its expertise to identify potential Sponsors and to market Sponsorship Agreements between Sponsors, MSSG and Farm Show.
- d. MSSG shall not solicit or propose any Sponsorship Agreement, or engage in or otherwise authorize the performance of an activity as part of a Sponsorship Agreement, which does not comply with the terms of this Agreement and all other applicable policies, procedures, rules or guidelines issued by Farm Show.
- e. MSSG shall use the "form" Sponsorship Agreement, which is attached hereto as Exhibit B and made a part hereof, approved by Farm Show when proposing all sponsorship opportunities. The parties may agree to update the "form" Sponsorship Agreement from time to time. MSSG shall expressly identify to Farm Show any proposed deviation from the "form" Sponsorship Agreement for a specific sponsorship proposal, however no such deviation shall be permitted without approval by Farm Show. Any deviation from the "form" Sponsorship Agreement that violates Farm Show policy shall be a nullity and shall not be deemed to alter Farm Show policy.
- f. Farm Show may establish a review team or designate one principal contact person at Farm Show to preliminarily review all Sponsorship Agreements or activities proposed by MSSG before the Sponsorship Agreement is executed by the Sponsor and MSSG, to determine whether the proposed Sponsorship Agreement or activity will be acceptable to Farm Show and any changes that should be made to the proposal prior to execution by MSSG and the Sponsor.
- g. No Sponsorship Agreement shall become a binding contract unless and until it is fully executed by all Commonwealth parties as required by Commonwealth contracting procedures. Nothing in this Agreement imposes any duty on Farm Show to approve any Sponsorship Agreement.
- h. Unless stated otherwise in an approved Sponsorship Agreement, beyond having the right to review and approve advertising of Sponsors pursuant to the process and standards identified in the Sponsorship Agreement, Farm Show shall have no responsibility regarding the design, production, procurement, installation or maintenance of advertising materials associated with Sponsorship Agreements. All affixed signage shall become a fixture and shall become the property of Farm Show, unless noted otherwise in the Sponsorship Agreement. MSSG shall be responsible for the design, production, procurement, installation, maintenance and removal of all displays, signs, advertisements and other materials and equipment that is required as part of any Sponsorship Agreement. MSSG shall be responsible for directing Sponsors to comply with the foregoing requirements.
- i. For each Sponsorship Agreement, MSSG shall seek to achieve the maximum net financial benefit for Farm Show.

- j. To the extent applicable, MSSG shall disclose the amount of any payments or benefits that MSSG will receive (directly or indirectly) from a Sponsor for the design, production, installation, maintenance or removal of advertising associated with a proposed Sponsorship Agreement. Written approval by Farm Show, which shall not be unreasonably withheld so long as MSSG has fulfilled its fiduciary duty to Farm Show, shall be required for MSSG to receive any direct or indirect payment or any other benefit associated with costs for advertising design, production, installation, maintenance or removal that is not identified in an approved Sponsorship Agreement.
 - k. On at least a monthly basis, MSSG shall communicate with Farm Show's review team or principal contact to report on the following: (i) prospects for new sponsorship opportunities; (ii) the status of contract negotiations with prospective Sponsors; and (iii) any developments with respect to existing Sponsorship Agreements. This reporting will be conducted between MSSG and Farm Show at a minimum of a monthly face to face meeting or on a more frequent basis than once a month if deemed necessary by the Farm Show. Quarterly proof of performance reporting will be provided to the Farm Show in writing showing the status of all work performed to date on this agreement plus a written report showing all companies contacted, companies contracted, any problems and recommendations.
 - l. MSSG shall be responsible to facilitate the process for Farm Show's review and approval of Sponsors' advertising as reflected in Sponsorship Agreements. As part of such process, MSSG shall timely forward proposed advertising to Farm Show's review team or principal contact.
 - m. MSSG agrees to take all reasonable steps that are necessary and appropriate to safeguard Farm Show's premises and property that may be used or accessed while fulfilling the terms of this Agreement.
 - n. MSSG must coordinate with the DGS Bureau of Construction for the furnishing or installation of any fixtures or electrical systems in the Pennsylvania Farm Show Complex & Expo Center
 - o. MSSG will be responsible to provide the following:
 - i. Monthly and year-end financial reports that outline revenues earned/collected and expenses incurred.
 - ii. A monthly report detailing the revenue paid to the Pennsylvania Farm Show Complex & Expo Center.
 - iii. Quarterly report comparing actual revenue versus projected revenue.
 - iv. Escrow Account. This account shall be maintained for the deposit of all revenues from Sponsors, and the holding of all replacement fund balances as set forth below.
9. Sponsorship Fees; Anticipated Costs/Expenses; Net Payments/Commissions: For each Sponsorship Agreement proposed to Farm Show, MSSG shall identify the following financial information on standardized forms in a manner and form agreed by Farm Show:
- a. Sponsorship Fees

- i. the total amount of the sponsorship fees to be paid by the Sponsor;
- ii. the amount and timing of payments to be made by Sponsor; and
- iii. any in-kind contributions to be made by the Sponsor (and the value thereof).

b. Anticipated Costs and Expenses

- i. the estimated production costs associated with the design, production, installation, maintenance (and/or removal, if applicable) of Sponsor advertising to be paid out of sponsorship fees;
- ii. an amount allocated for a replacement fund in the event that any Sponsor signage must be repaired or replaced during the term of the Sponsorship Agreement. Said fund shall exist for each individual Sponsorship Agreement and, to the extent that funds remain at the conclusion of the Sponsorship Agreement, such funds shall be distributed as part of the net proceeds at that time;
- iii. the cost to obtain any municipal permits or approvals required for promotional activities or the installation of signage contemplated by the Sponsorship Agreement. Should it prove necessary to retain counsel to obtain such permits or approvals, Farm Show shall provide counsel to accomplish the task and the cost of that counsel shall not be included in costs and expenses ;
- iv. any other costs or expenses to be paid out of sponsorship fee payments, where each such cost or expense is itemized and references the authority for its exclusion from Net Proceeds; and
- v. the amount and timing when the foregoing anticipated costs and expenses will be paid under the Sponsorship Agreement.

c. Net Proceeds to Farm Show and MSSG

- i. the net amount of sponsorship payments to be received by Farm Show after the payment of production costs and expenses; and
- ii. MSSG's sales commission from the Sponsorship Agreement.

However, to the extent actual costs and expenses associated with a Sponsorship Agreement are more or less than the Anticipated Costs and Expenses identified by MSSG with the proposed Sponsorship Agreement approved by the Farm Show, Farm Show and MSSG shall share in such difference with Farm Show receiving or paying 70% of the difference and MSSG receiving or paying 30% of the difference.

10. Commission: MSSG shall receive a sales commission of thirty (30) percent of the net sponsorship payments received by Farm Show from Sponsorship Agreements entered pursuant to this Agreement. This commission shall apply only to net sponsorship payments, which shall be the total amount of sponsorship fees paid by the Sponsor less any costs associated with design, production, installation, maintenance or removal of sponsor advertising, and also less the amount

set aside in the replacement fund and all other expenses contemplated under Section 9(b). Any fees paid directly by the Sponsor to MSSG for the design of advertising copy or any other services not expressly enumerated as reducing the net sponsorship payments shall not do so. Farm Show intends generally to receive monetary payments from sponsors, but will consider proposals that include in-kind contributions by Sponsors, the identified value of which shall be subject to MSSG's sales commission, so long as the Sponsorship Agreement includes adequate monetary payments to satisfy MSSG's 30% sales commission.

- a. Upon termination of this agreement for any reason except cause, or upon expiration of its term, MSSG shall be considered to have earned commission on: (1) all Sponsorship Fees paid to date by a sponsor to MSSG, as well as; (2) all Sponsorship Fees not yet paid by a sponsor to MSSG but due to Farm Show pursuant to fully executed Sponsorship Agreement secured by MSSG during the term of this agreement, provided the Sponsorship Agreement is not terminated before its stated term and all contractual obligations are fulfilled by the sponsor (hereinafter "anticipated Sponsorship Fees").
- b. If this agreement is terminated by Farm Show for cause, MSSG shall not be considered to have earned any commissions on anticipated Sponsorship Fees. If this agreement is terminated by Farm Show for cause, and if any sponsor has pre-paid fees for a period of time or activities that have not yet occurred, commissions earned on those fees shall be pro-rated to the date when cause shall have arisen or the date of termination, whichever is sooner in time. The balance of commissions already taken by MSSG shall be immediately due and owing to Farm Show and, in addition to any and all other remedies available to Farm Show, will be taken as an offset against any sums owing to MSSG as earned commissions or otherwise for any reason.
- c. As a condition of its right to receive payment of commissions on any Sponsorship Fees, anticipated, paid or otherwise, upon any termination or expiration of this agreement, in addition to any and all other obligations of MSSG, MSSG shall provide Farm Show a full accounting of all Sponsorship Fees paid under this agreement as well as all anticipated Sponsorship Fees.
- d. Commissions on anticipated Sponsorship Fees shall be paid only upon the receipt of the Sponsorship Fees from a sponsor by Farm Show or its designee. Before calculation of the commission to MSSG, any costs and expenses as set forth in Section 9 shall be deducted, if applicable, reasonably incurred and not yet deducted with regard to this particular Sponsorship Agreement.
- e. Upon termination or expiration of this agreement, all Sponsorship Fees under Sponsorship Agreements shall be paid directly to Farm Show or its designee. Farm Show shall notify all sponsors that all Sponsorship Fees shall be henceforth payable directly to Farm Show or its designee. The form Sponsorship Agreement shall include terms requiring such notification and requiring sponsors to immediately commence making any and all payments due under a Sponsorship Agreement directly to Farm Show. Farm Show or its designee will make distributions to MSSG of commissions on anticipated Sponsorship Fees within 60 days of receipt.

- f. Upon expiration or termination of this agreement for any reason except for cause, any replacement fund monies shall immediately become the property of Farm Show. However they shall be subject to the same 70% / 30% disbursement that would occur normally at the completion of any sponsorship contracts.

11. Invoices and Payments: MSSG shall timely prepare and submit invoices to Sponsors on a form to be approved by Farm Show, and make them available for inspection by Farm Show upon request. MSSG shall receive all sponsor payments and deposit them into the Escrow Account and ensure that all Sponsors are making timely payments in compliance with their respective Sponsorship Agreements, and immediately notify Farm Show when a Sponsor has not complied with the agreed upon payment schedule. MSSG shall submit any requests to compromise accounts where the Sponsor has not complied with the payment schedule to Farm Show for Farm Show consideration. For each Sponsorship Agreement, MSSG shall be responsible for paying all production costs and expenses contemplated in Section 9(b) above using that Sponsor's sponsorship payments deposited into the Escrow Account. After the payment of production and expenses, MSSG shall remit to Farm Show, Farm Show's share of each such sponsorship payment less MSSG's sales commission within thirty (30) calendar days of their receipt. Once MSSG has notified Farm Show of a Sponsor's failure to abide by the agreed payment schedule, Farm Show may find such a Sponsor in default, and MSSG shall then be responsible for the removal of Sponsor's advertising within fifteen (15) calendar days of notice of the same. Checks payable to the Commonwealth of Pennsylvania, Department of Agriculture Attn: Farm Show Director 2300 North Cameron Street Harrisburg PA 17110

12. Certain Advertising Prohibited: MSSG shall be responsible to ensure that all advertising by Sponsors is commercial in nature, is in keeping with standards of good taste, is appropriate and does not seek to promote, encourage or engage in any of the following:

- a. support any non-commercial message or position, unless messages or advertising by an agency of the Commonwealth of Pennsylvania;
- b. make false, misleading, deceptive or unwarranted statements or claims;
- c. infringe upon another persons' rights through plagiarism, unfair imitation of another person's program idea or copy, or any other unfair competition;
- d. disparage a competitor or a competitor's products or services;
- e. contain slanderous, obscene, sexual, profane, vulgar, repulsive, or offensive matters, either in theme or in treatment;
- f. declare or imply an endorsement by Farm Show of any service, product or point of view;
- g. Sponsorship will not be accepted from any alcohol, tobacco, or firearms brands.
- h. promote unlawful or illegal goods, services or activities.

13. Conditions Applicable to Advertising: MSSG shall be responsible to ensure that all advertising associated with Sponsorship Agreements complies with the following conditions:

- a. Advertisements or promotional activities for a sponsor shall not be disruptive or jeopardize the safety of visitors to the Complex by their content or physical properties.
 - b. No information that would not otherwise be a public record available to a sponsor through Pennsylvania's Right-To-Know Law shall be made available to sponsors for any purposes.
 - c. Advertising must comply with all laws, regulations and administrative agency rules of the federal, state and local governments, including all laws, regulations and administrative agency rules applicable to copyrights, trademarks, trade names and patents.
 - d. No Sponsor shall be permitted to use Farm Show's intellectual property (e.g. logos or designs constituting trademark or services marks whether or not registered) unless such use is identified in an approved Sponsorship Agreement or approved in writing by Farm Show.
14. Compliance with Zoning and Land Use Ordinances: MSSG understands and agrees that it has sole responsibility to ensure that any advertising materials temporarily or permanently installed on Farm Show property will comply with all local zoning and land use ordinances. MSSG shall be responsible to identify and arrange for any necessary approvals, waivers, variances or permits required for the installation of advertising materials. All costs associated with the foregoing shall be identified as costs associated with the installation of advertising; MSSG shall bear any such costs to the extent that such costs are not identified and itemized at the time a Sponsorship Agreement is executed.
15. Disadvantaged Business Participation: Market Street Sports Group, LLC (MSSG) commits to contract with small disadvantaged businesses for at least 70% of the total dollar value of costs for all "out production work" that is required as part of a Sponsorship Agreement.
- a. "Out production work" is considered all production work that is being outsourced to subcontractors including but not limited to electronic or non-electronic signage, banners, displays, and advertisements via internal closed circuit televisions.
 - b. If the Commonwealth determines that MSSG has made reasonable and good faith efforts to meet the 70% commitment, but MSSG is unable to meet that commitment for a Sponsorship Agreement because there are no certified small disadvantaged businesses available and/or capable of performing the required work within required time constraints, then the Commonwealth shall release MSSG from its 70% commitment for that Sponsorship Agreement only.
 - c. Within ten (10) days after execution of each Sponsorship Agreement, MSSG shall provide the Department of General Services' Bureau of Minority and Women Business Opportunities (BMWBO) with information identifying actual contractual commitments made with small disadvantaged businesses including the dollar amount of the commitment and the name of the small disadvantaged businesses.
 - d. MSSG shall complete a Quarterly Utilization Report and submit it to the DGS Bureau of Minority and Women Business Opportunities within ten (10) workdays at the end of each calendar quarter identifying contractual commitments made with small disadvantaged businesses including the dollar amount of the commitment, the name of the small

disadvantaged businesses, and the amounts paid to small disadvantaged businesses during the quarter and to date.

- e. Small Disadvantaged Businesses are small businesses that are owned or controlled by a majority of persons, not limited to members of minority groups, who have been deprived of the opportunity to develop and maintain a competitive position in the economy because of social disadvantages. The term includes: (a) Department of General Services Bureau of Minority and Women Business Opportunities (BMWBO) – certified minority business enterprises (MBEs) and women business enterprises (WBEs) that qualify as small businesses; and (b) United States Small Business Administration – certified small disadvantaged businesses or 8(a) small disadvantaged business concerns. Small businesses are businesses in the United States that are independently owned, are not dominant in their field of operation, employ no more than 100 persons and earn less than \$20 million in gross annual revenues (\$25 million in gross annual revenues for those businesses in the information technology sales or service business).
- f. All contracts and subcontracts containing Disadvantaged Business participation must require that Small Disadvantaged Business subcontractors perform at least 50% of the subcontract.

16. Fidelity Bond: MSSG is required to have in place during the entire term of the Agreement and any renewals or extensions thereof, Fidelity (dishonesty) Bond Coverage for a minimum of \$1,000,000, or a substantial equivalent in a form acceptable to DGS and Farm Show providing indemnity for losses by dishonesty, theft or other intentional unauthorized disposition of any and all funds of the Commonwealth of Pennsylvania in the possession of MSSG during the term of this agreement and any renewals or extensions thereof. Coverage shall apply whether a dishonest employee, partner or member of the LLC acts alone or in collusion with others, whether any financial gain inures to the employee, partner or member of the LLC, or to a third party, and even if it is impossible to specify a perpetrator. The Commonwealth of Pennsylvania, Department of Agriculture and the Farm Show Complex and Expo Center shall be specifically named as a loss payee and/or an additional insured on all such fidelity bond coverage, or an accepted equivalent, and the insurer must include the additional insured/loss payee entities on any and all cancellation notifications. A certificate of insurance reflecting the bond and coverage and the additional insured/loss payee endorsement shall be provided to Farm Show at least 10 days before the commencement of the term of this agreement and shall be provided for each policy term renewal until the term(s) of this agreement expire.

17. Prevailing Minimum Wages: In the event the total estimated cost of an installation project hereunder is greater than \$25,000, the Prevailing Minimum Wage provision set forth below shall apply to the contract between the Commonwealth and MSSG; and MSSG shall include this provision in its subcontracts with entities performing work on any such installation at the Complex:

- a. The contract with the MSSG is subject to and shall comply with the provisions, duties, obligations, remedies and penalties of the Pennsylvania Prevailing Wage Act, 43 P.S. Sections 165-1 through 165-17 and its regulations 34 Pa. Code §§ 9.101 through 9.112, which are incorporated herein by reference as if fully set forth herein. MSSG shall pay no less than the wage rates including contributions for employee benefits as determined by the Secretary of Labor and Industry (hereinafter referred to in this paragraph as

"Secretary") for each craft or classification of all workers needed to perform this contract during the term hereof for the county in which the work is to be performed. In compliance with said Pennsylvania Prevailing Wage Act, the Prevailing Minimum Wage Predetermination, as approved by the Secretary, is attached hereto and made a part hereof.

- b. The provisions of this paragraph shall apply to all work performed on the contract by MSSG and to all work performed on the contract by all subcontractors. MSSG shall insert in each of its subcontracts all of these required contract provisions and stipulations contained in this paragraph and such other stipulations as may be required.
- c. No worker may be employed on the public work except in accordance with the classifications set forth in the decisions of the Secretary. In the event that additional or different classifications are necessary, the procedure set forth in section 8 of the Act (43 P.S. § 165-8) and § 9.107 of the Act's Regulations (relating to petition for review of rates and hearings) shall be followed.
- d. Workers employed or working on the public work shall be paid unconditionally, regardless of whether any contractual relationship exists or the nature of a contractually relationship which may be alleged to exist between a contractor, subcontractor and workers, at least once a week without deduction or rebate, on any account, either directly or indirectly, except authorized deductions, the full amounts due at the time of payment, computed at the rates applicable to the time worked in the appropriate classification. Nothing in the contract, the Prevailing Wage Act or its Regulations prohibits the payment of more than the general prevailing minimum wage rates as determined by the Secretary to any worker or public work.
- e. MSSG and each subcontractor shall post for the entire period of construction the wage determination decisions of the Secretary, including the effective date of changes thereof, in a prominent and easily accessible place or places at the site of the work and at the place or places used by them to pay workmen their wages. The posted notice of wage rates shall contain the following information:
 - i. The name of project.
 - ii. The name of public body of which it is being constructed.
 - iii. The crafts and classifications of workmen listed in the Secretary's general prevailing minimum wage rate determination for the particular project.
 - iv. The general prevailing minimum wage rates determined for each craft and classification and the effective date of changes.
 - v. A statement advising workers that if they have been paid less than the general prevailing minimum wage rate for their job classification or that MSSG or subcontractor are not complying with the act or the regulations in any manner whatsoever, the worker may file a protest in writing with the Secretary of Labor and Industry within 3 months of the date of the occurrence, objecting to the payment to a contractor to the extent of the amount due or to become due to them as wages for work performed on the public work project.. A worker paid less than the rate specified in the contract shall have a civil right of action for the difference between the wage paid and the wages stipulated in the contract, which right of

action must be exercised within 6 months from the occurrence of the event creating the right.

- f. MSSG and subcontractors shall keep an accurate record showing the name, craft or classification, number of hours worked per day, and the actual hourly rate of wage paid including employee benefits, to each worker employed by MSSG or subcontractor in connection with the public work. The record shall include deductions from each worker. The record shall be preserved for 2 years from the date of payment and shall be open at reasonable hours to the inspection of the public body awarding the contract and to the Secretary or the Secretary's authorized representatives.
- g. Apprentices shall be limited to numbers in accordance with a bona fide apprenticeship program registered with and approved by the Pennsylvania Apprenticeship and Training Council and only apprentices whose training and employment are in full compliance with The Apprenticeship and Training Act (43 P.S. §§ 90.1 – 90.10), approved July 14, 1961 and the regulations issued thereto shall be employed on the public work project. A worker using the tools of a craft who does not qualify as an apprentice within the provisions of this subsection shall be paid the rate predetermined for journeymen in that particular craft or classification.
- h. Wages shall be paid without deductions except authorized deductions. Employers not parties to a contract requiring contributions for employee benefits which the Secretary of Labor & Industry has determined to be included in the general prevailing minimum wage rate shall pay the monetary equivalent thereof directly to the workers.
- i. Payment of compensation to workers for work performed on public work on a lump sum basis, or a piece work system, or a price certain for the completion of a certain amount of work, or the production of a certain result shall be deemed a violation of the Act, regardless of the average hourly earnings resulting therefrom.
- j. Each contractor and each subcontractor shall file a statement each week and a final statement at the conclusion of the work on the contract with the contracting agency, under oath, and in form satisfactory to the Secretary, certifying that workers have been paid wages in strict conformity with the provisions of the contract. If wages remain unpaid, MSSG or subcontractor shall set forth the amount of wages due and owing to each worker respectively. A copy of the form entitled "Contractor's or Subcontractor's Weekly Payroll Certification for Public Works Projects" is attached hereto.
- k. Before final payment is made, a final wage certification must be submitted by all contractors and subcontractors.

18. Steel Products Procurement Act: The Steel Products Procurement Act provision set forth below shall apply to the contract between the Commonwealth and MSSG; and MSSG shall include this provision in its subcontracts with entities performing work on any such installation at the Complex:

- a. In the performance of any contract entered into for the fabrication, installation and maintenance of signage or fixtures, MSSG and all subcontractors, materialmen, and suppliers shall use only "steel products" as defined in the Steel Products Procurement Act, Act of March 3, 1978, P.L. 6, No. 3, 73 P.S. §§ 1881-1887 ("SPPA"), including products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated or otherwise similarly

processed, or processed by a combination of two or more of such operations, from steel made in the United States by the open hearth, basic oxygen, electric furnace, Bessemer or other steel making process. The definition of steel products also includes cast iron products, as well as machinery and equipment listed in United States Department of Commerce Standard Industrial Classification 25 (furniture and fixture), 35 (machinery, except electrical) and 37 (transportation equipment) and made of, fabricated from, or containing steel components. If a product contains both foreign and United States steel, such products shall be determined to be a United States Steel product only if at least 75% of the cost of the articles, materials and supplies have been mined, produced or manufactured, as the case may be, in the United States. Transportation equipment shall be determined to be a United States steel product only if it complies with Section 165 of Public Law 97-424 (96 Stat. 2136).

19. Assignment: Neither Farm Show nor MSSG shall assign this Agreement, either in whole or in part. Any attempted assignment does not relieve either party from its duties or obligations under this Agreement.
20. Licensing and Accreditation Standards: MSSG shall comply with all applicable local, state and federal licensing, accreditation and registration requirements or standards necessary to the performance of this Agreement.
21. Insurance: MSSG shall at all times during the term of this Agreement, at its cost and expense, carry and maintain liability insurance in the amount of at least \$1,000,000.00, which includes coverage for errors and omissions, professional negligence, fraud and dishonesty, bodily injury, personal injury or property damage occurring or arising from any and all work and activities conducted as a result of this Agreement. The coverages shall be written on an occurrence basis and shall be in effect for the full duration of any and all term(s) of this agreement. The Commonwealth of Pennsylvania, Department of Agriculture and the Farm Show Complex and Expo Center shall be specifically named as an additional insured on all such liability coverage and the insurer must include the additional insured entities on any and all cancellation notifications. A certificate of insurance reflecting the coverages and the additional insured endorsement shall be provided to Farm Show at least 10 days before the commencement of the term of this agreement and shall be provided for each policy term renewal until the term(s) of this agreement expire.
22. Records, Documentation and Reports: MSSG shall maintain complete financial records relating to this Agreement, and complete records documenting services rendered under this Agreement, including all Sponsorship Agreements, books, records, documents, receipts, invoices and all other evidence of accounting procedures and practices which sufficiently and properly reflect all costs expended and revenues generated as a result of this Agreement. These records shall be subject at all reasonable times to inspection, review or audit by personnel duly authorized by Farm Show and state and federal officials so authorized by law, rule or regulation.
23. Termination Provisions: The Commonwealth has the right to terminate this Contract or any Purchase Order for any of the following reasons. Termination shall be effective upon written notice to the Contractor.
 - a. **TERMINATION FOR CONVENIENCE**: The Commonwealth shall have the right to terminate the Agreement for its convenience if the Commonwealth determines termination to be in its best

interest. MSSG shall be paid for work satisfactorily completed prior to the effective date of the termination, but in no event shall the MSSG be entitled to recover loss of profits.

- b. **NON-APPROPRIATION:** The Commonwealth's obligation to make payments during any Commonwealth fiscal year succeeding the current fiscal year shall be subject to availability and appropriation of funds for the continued operation of the Farm Show Complex. When funds (state and/or federal) are not appropriated or otherwise made available to support continuation of performance by Farm Show in a subsequent fiscal year period, the Commonwealth shall have the right to terminate the Agreement.
 - c. **TERMINATION FOR CAUSE:** The Commonwealth shall have the right to terminate the Agreement for Contractor default under Default Clause upon written notice to the MSSG. The Commonwealth shall also have the right, upon written notice to the MSSG, to terminate the Agreement for other cause as specified in the Agreement or by law. If it is later determined that the Commonwealth erred in terminating the Agreement for cause, then, at the Commonwealth's discretion, the Agreement shall be deemed to have been terminated for convenience under the Subparagraph a.
24. **Indemnification:** To the fullest extent permitted by law, MSSG shall indemnify, defend and hold harmless Farm Show and all its officers, agents and employees from any and all claims, actions, damages or costs (including reasonable attorneys' and experts' fees) arising out of or relating to this Agreement, regardless of whether such claims are alleged to arise in whole or in part from actions or omissions of Farm Show or its employees. MSSG's obligation to indemnify, defend and hold harmless includes, by way of example and without limitation, any claims by sponsors or by MSSG's agents, employees, directors, representatives, subcontractors or subcontractor employees. For purposes of this paragraph, claims shall include, but shall not be limited to, assertions that the use or transfer of any software, book, document, report, film, tape or sound reproduction or material of any kind, used pursuant to this Agreement, constitutes an infringement of any copyright, patent, trademark, trade name, or otherwise results in an unfair trade practice or in unlawful restraint of competition.
25. **Force Majeure:** Neither party will incur any liability to the other if its performance of any obligation under this Contract is prevented or delayed by causes beyond its control and without the fault or negligence of either party. Causes beyond a party's control may include, but aren't limited to, acts of God or war, changes in controlling law, regulations, orders or the requirements of any governmental entity, severe weather conditions, civil disorders, natural disasters, fire, epidemics and quarantines, general strikes throughout the trade, and freight embargoes. The Contractor shall notify the Commonwealth orally within five (5) days and in writing within ten (10) days of the date on which the Contractor becomes aware, or should have reasonably become aware, that such cause would prevent or delay its performance. Such notification shall (i) describe fully such cause(s) and its effect on performance, (ii) state whether performance under the contract is prevented or delayed and (iii) if performance is delayed, state a reasonable estimate of the duration of the delay. The Contractor shall have the burden of proving that such cause(s) delayed or prevented its performance despite its diligent efforts to perform and shall produce such supporting documentation as the Commonwealth may reasonably request. After receipt of such notification, the Commonwealth may elect to cancel the Contract, cancel the Purchase Order, or to extend the time for performance as reasonably necessary to compensate for the Contractor's delay. In the event of a declared emergency by competent governmental authorities, the Commonwealth by notice to the Contractor, may suspend all or a portion of the Contract or Purchase Order.

26. Right to Know Law:

- a. The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, applies to this Contract.
- b. Unless the Contractor provides the Commonwealth, in writing, with the name and contact information of another person, the agency shall notify the Contractor using the Contractor information provided by the Contractor in SRM, or the legal contact information provided in this Contract, if the agency needs the Contractor's assistance in any matter arising out of the Right to Know Law ("RTKL"). The Contractor shall notify the agency in writing of any change in the name or the contact information within a reasonable time prior to the change.
- c. Upon notification from the Commonwealth that the Commonwealth requires the Contractor's assistance in responding to a RTKL request for records in the Contractor's possession, the Contractor shall provide the Commonwealth, within fourteen (14) calendar days after receipt of such notification, access to, and copies of, any document or information in the Contractor's possession which arises out of the Contract that the Commonwealth requests ("Requested Information") and provide such other assistance as the Commonwealth may request in order to comply with the RTKL. If the Contractor fails to provide the Requested Information within fourteen (14) calendar days after receipt of such request, the Contractor shall indemnify and hold the Commonwealth harmless for any damages, penalties, detriment or harm that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth.
- d. The Commonwealth's determination as to whether the Requested Information is a public record is dispositive of the question as between the parties. Contractor agrees not to challenge the Commonwealth's decision to deem the Requested Information a Public Record. If the Contractor considers the Requested Information to include a request for a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, the Contractor will immediately notify the Commonwealth, and will provide a written statement signed by a representative of the Contractor explaining why the requested material is exempt from public disclosure under the RTKL within seven (7) calendar days of receiving the request. If, upon review of the Contractor's written statement, the Commonwealth still decides to provide the Requested Information, Contractor will not challenge or in any way hold the Commonwealth liable for such a decision.
- e. The Commonwealth will reimburse the Contractor for any costs associated with complying with this provision only to the extent allowed under the fee schedule established by the Office of Open Records or as otherwise provided by the RTKL if the fee schedule is inapplicable.
- f. Contractor agrees to abide by any decision to release a record to the public made by the Office of Open Records, or by the Pennsylvania Courts. The Contractor agrees to waive all rights or remedies that may be available to it as a result of the Commonwealth's disclosure of Requested Information pursuant to the RTKL. Contractor's duties relating to the RTKL are continuing duties that survive the expiration of this Contract and shall continue as long as the Contractor has Requested Information in its possession.

27. Independent Capacity: Farm Show and MSSG intend that an independent contractor relationship will be created by this agreement. MSSG and its employee or agents performing under this agreement are not employees or agents of Farm Show. MSSG will not hold itself out as, nor claim to be, an officer or employee of Farm Show as a result of this agreement, nor will MSSG make any claim of right, privilege or benefit which would accrue to such employee under law.

28. Notices: Any written notice to any party under this Agreement shall be deemed sufficient if delivered personally, or by facsimile, telecopy, electronic or digital transmission (provided such delivery is confirmed), or by a recognized overnight courier service (e.g., DHL, Federal Express, etc.) with confirmed receipt, or by certified or registered United States mail, postage prepaid, return receipt requested, and sent to following:

a. If to MSSG: MSSG'S address as recorded in the Commonwealth's Supplier Registration system.

b. If to the Commonwealth:

1) Relating to Project Oversight to:

Department of Agriculture
Bureau of Farm Show
Director of Farm Show
3200 North Cameron Street
Harrisburg, PA 17110

2) Relating to Contract Administration to:

Department of General Services
Bureau of Procurement
Hilary Poepperling
555 Walnut Street, 6th Floor
Harrisburg, PA 17101-1914

29. Governing Law: The laws of the Commonwealth of Pennsylvania shall govern this Agreement.

30. Entire Agreement: This Agreement and all referenced Exhibits represent the entire agreement between the parties hereto with regard to the subject matter hereof and shall not be modified in any manner except by written instrument executed by the parties hereto.

31. Binding Agreement: This Agreement shall be binding upon and inure to the benefit of each of the parties hereto and each party's successors and assigns.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first above written. Execution by the Commonwealth will be as described in the Standard Contract Terms and Conditions, paragraph 003.1b Signatures- Contract (March 2007).

MARKET STREET SPORTS GROUP, LLC

By: *Jeffrey M. Bertoni*
Name: Jeffrey M. Bertoni
Title: President of Sales

Date: 8/25/09
FED ID# 26-0612342

COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF GENERAL SERVICES

By : To be affixed electronically Date: _____
Deputy Secretary for Procurement

APPROVED AS TO FORM AND LEGALITY

To be affixed electronically
CHIEF COUNSEL
DEPARTMENT OF GENERAL SERVICES

To be affixed electronically
OFFICE OF ATTORNEY GENERAL

To be affixed electronically
OFFICE OF GENERAL COUNSEL

APPROVED FOR FISCAL RESPONSIBILITY,
BUDGETARY APPROPRIATENESS AND
AVAILABILITY OF FUNDS:

To be affixed electronically
Comptroller Date

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PART I - GENERAL INFORMATION

PART I - GENERAL INFORMATION

I.1 RFP-001.1 Purpose (Oct 2006)

This request for proposals (RFP) provides to those interested in submitting proposals for the subject procurement ("Offerors") sufficient information to enable them to prepare and submit proposals for the DEPARTMENT OF GENERAL SERVICES consideration on behalf of the Commonwealth of Pennsylvania ("Commonwealth") to satisfy a need for PA Farm Show, Naming Rights & Sponsorship ("Project").

I.2 RFP-002.1 Issuing Office (Oct 2006)

The DEPARTMENT OF GENERAL SERVICES (Issuing Office) has issued this RFP on behalf of the Commonwealth. The sole point of contact in the Commonwealth for this RFP shall be HILARY POEPPERLING 555 WALNUT STREET HARRISBURG PA 17101 HPOEPPERLI@STATE.PA.US, the Issuing Officer for this RFP. Please refer all inquiries to the Issuing Officer.

I.3 RFP-003.1 Scope (Oct 2006)

This RFP contains instructions governing the requested proposals, including the requirements for the information and material to be included; a description of the service to be provided; requirements which Offerors must meet to be eligible for consideration; general evaluation criteria; and other requirements specific to this RFP.

I.4 RFP-004.1 Problem Statement (Oct 2006)

Insert text of general statement of the purpose and scope of the work to be done, and time constraints under which the work must be done. The problem statement should be brief since the offeror is provided a detailed work statement in Part IV.

Additional detail is provided in **Part IV** of this RFP.

I.5 RFP-005.1 Type of Contract (Oct 2006)

It is proposed that if the Issuing Office enters into a contract as a result of this RFP, it will be a No Fee Contract containing the Contract Terms and Conditions as shown in Part V of this RFP. The Issuing Office, in its sole discretion, may undertake negotiations with Offerors whose proposals, in the judgment of the Issuing Office, show them to be qualified, responsible and capable of performing the Project.

I.6 RFP-005.2b No Fee Contract Clause (Oct 2006)

Since the Contract is a no fee contract, services/supplies will be provided at no cost to the Commonwealth.

I.7 RFP-006.1 Rejection of Proposals (Oct 2006)

The Issuing Office reserves the right, in its sole and complete discretion, to reject any and all proposals received as a result of this RFP.

I.8 RFP-007.1 Incurring Costs (Oct 2006)

The Issuing Office is not liable for any costs the Offeror incurs in preparation and submission of its proposal, in participating in the RFP process or in anticipation of award of the contract.

I.9 RFP-008.1b Mandatory Preproposal Conference (Oct 2006)

The Issuing Office will hold a preproposal conference. The purpose of this conference is to provide opportunity for

clarification of the RFP. Offerors should forward all questions to the Issuing Office in accordance with the instructions in this RFP to ensure adequate time for analysis before the Issuing Office provides an answer. Offerors may also ask questions at the conference. In view of the limited facilities available for the conference, Offerors should limit their representation to two individuals per Offeror. The preproposal conference is for information only.

Any answers furnished during the conference will not be official until they have been verified, in writing, by the Issuing Office. **Failure to attend the preproposal conference shall disqualify an Offeror from consideration for the contract to be awarded from this RFP, and its proposal will be returned unopened.**

The preproposal conference will be held on 09/10/2008 , at PA FARM SHOW COMPLEX BANQUET ROOM 2300 NORTH CAMERON STREET HARRISBURG PA AT 1:30 PM .

I.10 RFP-009.1 Questions and Answers (March 2008)

If an Offeror has any questions regarding this RFP, the Offeror must submit the questions by email (**with the subject line ' 6100005629 Question'**) to the Issuing Officer.If the Offeror has questions, they must be submitted via email **no later than 09/19/2008** . The Issuing Officer shall post the answers to the questions on the following website at [HTTP://WWW.EMARKETPLACE.STATE.PA.US/](http://WWW.EMARKETPLACE.STATE.PA.US/) .

All questions and responses as posted on the Issuing Office website are considered as an addendum to, and part of, this RFP. Each Offeror shall be responsible to monitor the Issuing Office website for new or revised RFP information. The Issuing Office shall not be bound by any verbal information nor shall it be bound by any written information that is not either contained within the RFP or formally issued as an addendum by the Issuing Office. The Issuing Office does not consider questions to be a protest of the specifications or of the solicitation.

I.11 RFP-010.1 Addenda to the RFP (March 2008)

If the Issuing Office deems it necessary to revise any part of this RFP before the proposal response date, the Issuing Office will post an addendum the following website at [HTTP://WWW.EMARKETPLACE.STATE.PA.US/](http://WWW.EMARKETPLACE.STATE.PA.US/) . It is the Offeror's responsibility to periodically check the website for any new information or addenda to the RFP. Answers to the questions asked during the Questions & Answers period also will be posted to the website as an addendum to the RFP.

I.12 RFP-011.1b Proposal Response Date (Oct 2006)

To be considered for selection, all three submittals of the proposal must arrive at the Issuing Office on or before 10/08/2008 by 15:30 . The Technical Submittal and the Disadvantaged Business Submittal must be submitted in hard copy form, while the Cost Submittal must be submitted electronically through SRM. The Issuing Office will **not** accept proposals via email or facsimile transmission. Offerors who send their Technical and Disadvantaged Business Submittals by mail or other delivery service should allow sufficient delivery time to ensure timely receipt of their proposals. If, due to inclement weather, natural disaster, or any other cause, the Issuing Office location to which the Technical and Disadvantaged Business Submittals are to be submitted is closed on the Proposal Response Date, the deadline for submission will be automatically extended until the next Commonwealth business day on which the office is open, unless the Issuing Office otherwise notifies Offerors. The hour for submission of proposals shall remain the same. The Issuing Office will reject, unopened, any late Technical and Disadvantaged Business Submittals. The SRM system will not permit Offerors to submit Cost Submittals after the Proposal Response Date and Time.

I.13 RFP-012.1B Proposal Contracts (Oct 2006)

To be considered, Offerors should submit a complete response to this RFP using the format provided in Part II. Offerors shall provide 08 **paper** copies of the Technical Submittal and the Disadvantaged Business Submittal to the Issuing Office. In addition to the paper copies of these Submittals, Offerors shall submit one **complete and exact** copy of the Technical Submittal on CD-ROM in Microsoft Office or Microsoft Office-compatible format. The Cost Submittal shall **not** be submitted in hard copy form, but the Offeror shall enter the price(s) through the Supplier Portal and submit to the Issuing Office through the SRM system.

The Offeror shall make no other distribution of its proposal to any other Offeror or Commonwealth official or Commonwealth consultant. Each page of the Technical Submittal and the Disadvantaged Business Submittal should be numbered for ease of reference. An official authorized to bind the Offeror to its provisions must sign the proposal. For this RFP, the proposal must remain valid for 180days or until a contract is fully executed, whichever occurs first. If the Issuing Office selects the Offeror's proposal for award, the contents of the selected Offeror's proposal will become, except to the extent the contents are changed through Best and Final Offers or negotiations,

contractual obligations. The information in the proposal will become a public record upon contract execution, except as limited by Section 106 (b)(1) of the *Commonwealth Procurement Code*, 62 Pa. C.S. Section 106 (b)(1).

For this RFP, the proposal must remain valid for 180 days or until a contract is fully executed, whichever occurs first. If the Issuing Office selects the Offeror's proposal for award, the contents of the selected Offeror's proposal will become, except to the extent the contents are changed through Best and Final Offers or negotiations, contractual obligations. The information in the proposal will become a public record upon contract execution, except as limited by Section 106 (b)(1) of the *Commonwealth Procurement Code*, 62 Pa. C.S. Section 106 (b)(1).

Each Offeror submitting a proposal specifically waives any right to withdraw or modify it, except that the Offeror may withdraw its proposal by written notice received at the Issuing Office's address for proposal delivery prior to the exact hour and date specified for proposal receipt. An Offeror or its authorized representative may withdraw its proposal in person prior to the exact hour and date set for proposal receipt, provided the withdrawing person provides appropriate identification and signs a receipt for the proposal. An Offeror may modify its submitted Technical Submittal and the Disadvantaged Business Submittal prior to the exact hour and date set for proposal receipt only by submitting a new sealed proposal or sealed modification which complies with the RFP requirements.

An Offeror may modify its Cost Submittal prior to the exact hour and date set for proposal receipt only by entering new price(s) through the Supplier Portal and submitting them to the Issuing Office through the SRM system

I.14 RFP-013.1a Disadvantaged Business Information (Oct 2006)

The Issuing Office encourages participation by small disadvantaged businesses as prime contractors, joint ventures and subcontractors/suppliers and by socially disadvantaged businesses as prime contractors.

Small Disadvantaged Businesses are small businesses that are owned or controlled by a majority of persons, not limited to members of minority groups, who have been deprived of the opportunity to develop and maintain a competitive position in the economy because of social disadvantages. The term includes:

- a. Department of General Services Bureau of Minority and Women Business Opportunities (BMWBO)-certified minority business enterprises (MBEs) and women business enterprises (WBEs) that qualify as small businesses; and
- b. United States Small Business Administration-certified small disadvantaged businesses or 8(a) small disadvantaged business concerns.

Small businesses are businesses in the United States that are independently owned, are not dominant in their field of operation, employ no more than 100 persons and earn less than \$20 million in gross annual revenues (\$25 million in gross annual revenues for those businesses in the information technology sales or service business).

Socially disadvantaged businesses are businesses in the United States that BMWBO determines are owned or controlled by a majority of persons, not limited to members of minority groups, who are subject to racial or ethnic prejudice or cultural bias, but which do not qualify as small businesses. In order for a business to qualify as "socially disadvantaged," the offeror must include in its proposal clear and convincing evidence to establish that the business has personally suffered racial or ethnic prejudice or cultural bias stemming from the business person's color, ethnic origin or gender.

Questions regarding this Program can be directed to:

Department of General Services
Bureau of Minority and Women Business Opportunities
Room 611, North Office Building
Harrisburg , PA 17125

Phone: (717) 787-6708
Fax: (717) 772-0021
Email: gs-bmwbo@state.pa.us

Program information and a database of BMWBO-certified minority- and women-owned businesses can be accessed at www.dgs.state.pa.us, DGS Keyword: BMWBO. The federal vendor database can be accessed at <http://www.ccr.gov> by clicking on *Dynamic Small Business Search* (certified companies are so indicated).

I.15 RFP-013.1b Information Concerning Small Businesses in Enterprise Zones (Oct 2006)

The Issuing Office encourages participation by small businesses, whose primary or headquarters facility is physically located in areas the Commonwealth has identified as *Designated Enterprise Zones*, as prime contractors, joint ventures and subcontractors/suppliers.

The definition of headquarters includes, but is not limited to, an office or location that is the administrative center of a business or enterprise where most of the important functions of the business are conducted or concentrated and location where employees are conducting the business of the company on a regular and routine basis so as to contribute to the economic development of the geographical area in which the office or business is geographically located.

Small businesses are businesses in the United States that are independently owned, are not dominant in their field of operation, employ no more than 100 persons and earn less than \$20 million in gross annual revenues (\$25 million in gross annual revenues for those businesses in the information technology sales or service business).

There is no database or directory of small businesses located in Designated Enterprise Zones. Information on the location of *Designated Enterprise Zones* can be obtained by contacting:

Aldona M. Kartorie
Center for Community Building
PA Department of Community and Economic Development
4th Floor, Commonwealth Keystone Building
400 North Street
Harrisburg , PA 17120-0225
Phone: (717) 720-7409
Fax: (717) 214-5416
Email: akartorie@state.pa.us

I.16 RFP-014.1 Economy of Preparation (Oct 2006)

Offerors should prepare proposals simply and economically, providing a straightforward, concise description of the Offeror's ability to meet the requirements of the RFP.

I.17 RFP-015.1 Alternate Proposals (Oct 2006)

The Issuing Office has identified the basic approach to meeting its requirements, allowing Offerors to be creative and propose their best solution to meeting these requirements. The Issuing Office will not accept alternate proposals.

I.18 RFP-016.1 Discussions for Clarification (Oct 2006)

Offerors may be required to make an oral or written clarification of their proposals to the Issuing Office to ensure thorough mutual understanding and Offeror responsiveness to the solicitation requirements. The Issuing Office will initiate requests for clarification.

I.19 RFP-017.1 Prime Contractor Responsibilities (Oct 2006)

The contract will require the selected Offeror to assume responsibility for all services offered in its proposal whether it produces them itself or by subcontract. The Issuing Office will consider the selected Offeror to be the sole point of contact with regard to contractual matters.

I.20 RFP-018.1 Proposal Contents (Oct 2006)

Offerors should not label proposal submissions as confidential or proprietary. The Issuing Office will hold all proposals in confidence and will not reveal or discuss any proposal with competitors for the contract, unless disclosure is required:

- a. Under the provisions of any Commonwealth or United States statute or regulation; or
- b. By rule or order of any court of competent jurisdiction.

After a contract is executed, however, the successful proposal is considered a public record under the *Right-to-Know Law*, 65 P.S. Sections 66.1- 66.9, and therefore subject to disclosure. The financial capability information submitted under **Part II** shall not be disclosed in the final contract. All material submitted with the proposal becomes the property of the Commonwealth of Pennsylvania and may be returned only at the Issuing Office's option. The Issuing Office, in its sole discretion, may include any person other than competing Offerors on its proposal evaluation committee. The Issuing Office has the right to use any or all ideas presented in any proposal regardless of whether the proposal becomes part of a contract.

I.21 RFP-019.1 Best and Final Offers (Oct 2006)

The Issuing Office reserves the right to conduct discussions with Offerors for the purpose of obtaining "best and final offers." To obtain best and final offers from Offerors, the Issuing Office may do one or more of the following:

- a) Enter into pre-selection negotiations, including the use of an online auction;
- b) Schedule oral presentations; and
- c) Request revised proposals.

The Issuing Office will limit any discussions to responsible Offerors (those that have submitted responsive proposals and possess the capability to fully perform the contract requirements in all respects and the integrity and reliability to assure good faith performance) whose proposals the Issuing Office has determined to be reasonably susceptible of being selected for award. The Criteria for Selection found in **Part III** shall also be used to evaluate the best and final offers. Price reductions offered through any reverse online auction shall have no effect upon the Offeror's Technical Submittal. Dollar commitments to Disadvantaged Businesses and Enterprise Zone Small Businesses can be reduced only in the same percentage as the percent reduction in the total price offered through negotiations, including the online auction.

I.22 RFP-020.1 News Releases (Oct 2006)

Offerors shall not issue news releases, Internet postings, advertisements or any other public communications pertaining to this Project without prior written approval of the Issuing Office, and then only in coordination with the

Issuing Office.

I.23 RFP-021.1 Restriction of Contact (Oct 2006)

From the issue date of this RFP until the Issuing Office selects a proposal for award, the Issuing Officer is the sole point of contact concerning this RFP. Any violation of this condition may be cause for the Issuing Office to reject the offending Offeror's proposal. If the Issuing Office later discovers that the Offeror has engaged in any violations of this condition, the Issuing Office may reject the offending Offeror's proposal or rescind its contract award. Offerors must agree not to distribute any part of their proposals beyond the Issuing Office. An Offeror who shares information contained in its proposal with other Commonwealth personnel and/or competing Offeror personnel may be disqualified.

I.24 RFP-022.1 Debriefing Conferences (Oct 2006)

Offerors whose proposals are not selected will be notified of the name of the selected Offeror and given the opportunity to be debriefed. The Issuing Office will schedule the time and location of the debriefing. The debriefing will not compare the Offeror with other Offerors, other than the position of the Offeror's proposal in relation to all other Offeror proposals. An Offeror's exercise of the opportunity to be debriefed does not constitute the filing of a protest.

I.25 RFP-023.1 Issuing Office Participation (Oct 2006)

Offerors shall provide all services, supplies, facilities, and other support necessary to complete the identified work, except as otherwise provided in **Part IV**.

I.26 RFP-024.1a Department of General Services RFP Protest Procedure (Oct 2006)

The RFP Protest Procedure is on the DGS website at <http://www.dgs.state.pa.us>. A protest by a party not submitting a proposal must be filed within **seven** days after the protesting party knew or should have known of the facts giving rise to the protest, but no later than the Proposal Responsive Date. Offerors may file a protest within **seven** days after the protesting Offeror knew or should have known of the facts giving rise to the protest, but in no event may an Offeror file a protest later than **seven** days after the date the notice of award of the contract is posted on the DGS website. The date of filing is the date of receipt of the protest. A protest must be filed in writing with the Issuing Office.

I.27 RFP-025.1 Electronic Version of this RFP (Oct 2006)

This RFP is being made available by electronic means. If an Offeror electronically accepts the RFP, the Offeror acknowledges and accepts full responsibility to insure that no changes are made to the RFP. In the event of a conflict between a version of the RFP in the Offeror's possession and the Issuing Office's version of the RFP, the Issuing Office's version shall govern.

PART II - PROPOSAL REQUIREMENTS

PART II - PROPOSAL REQUIREMENTS

II.1 RFP-001.1c General Requirements (Oct 2006) - Cost Submittal Electronic

Offerors must submit their proposals in the format, including heading descriptions, outlined below. To be considered, the proposal must respond to all requirements in this part of the RFP. Offerors should provide any other information thought to be relevant, but not applicable to the enumerated categories, as an appendix to the Technical Submittal. **The Technical Submittal and the Disadvantaged Business Submittal should not contain any cost data related to the Offeror's Proposal.** Each Proposal shall consist of the following:

Two separately sealed submittals, which are to be submitted in *hard copy*:

- a. Technical Submittal
- b. Disadvantaged Business Submittal

AND

The Cost Submittal that consists of the Offeror's completion and *submission of the pricing through the Supplier Portal in the SRM system.*

The Issuing Office reserves the right to request additional information which, in the Issuing Office's opinion, is necessary to assure that the Offeror's competence, number of qualified employees, business organization, and financial resources are adequate to perform according to the RFP.

The Issuing Office may make investigations as deemed necessary to determine the ability of the Offeror to perform the Project, and the Offeror shall furnish to the Issuing Office all requested information and data. The Issuing Office reserves the right to reject any proposal if the evidence submitted by, or investigation of, such Offeror fails to satisfy the Issuing Office that such Offeror is properly qualified to carry out the obligations of the RFP and to complete the Project as specified.

II.2 RFP-002.1 Technical Submittal Requirements - Standard (May 2008)

Offerors must include in their Technical Submittal, their responses to the following:

- a. Statement of the Problem: State in succinct terms your understanding of the problem presented or the service required by this RFP.
- b. Management Summary: Include a narrative description of the proposed effort and a list of the items to be delivered or services to be provided.
- c. Work Plan : Describe in narrative form your technical plan for accomplishing the work. Use the task descriptions in Part IV of this RFP as your reference point. Modifications of the task descriptions are permitted; however, reasons for changes should be fully explained. Indicate the number of person hours allocated to each task. Include a Program Evaluation and Review Technique (PERT) or similar type display, time related, showing each event. If more than one approach is apparent, comment on why you chose this approach.
- d. Prior Experience: Experience shown should be work done by individuals who will be assigned to this project as well as that of your company. Studies or projects referred to must be identified and the name of the customer shown, including the name, address, and telephone number of the responsible official of the customer, company, or agency who may be contacted.
- e. Personnel: Include the number of executive and professional personnel, analysts, auditors, researchers, programmers, consultants, etc., who will be engaged in the work. Show where these personnel will be physically located during the time they are engaged in the Project. For key personnel , include the employee's name and, through a resume or similar document, the Project personnel's education and experience. Indicate the responsibilities each individual will have in this Project and how long each has been with your company. Identify by name any subcontractors you intend to use and the services they will perform.
- f. Training: If appropriate, indicate recommended training of agency personnel. Include the agency personnel to be trained, the number to be trained, duration of the program, place of training, curricula, training materials to be used, number and frequency of sessions, and number and level of instructors.
- g. Financial Capability: Describe your company's financial stability and economic capability to perform the contract requirements. Financial documents such as audited financial statements or recent tax returns will be acceptable to the Commonwealth.

h. Objections and Additions to Standard Contract Terms and Conditions: The Offeror will identify which, if any, of the terms and conditions (contained in Part V) it would like to renegotiate and what additional terms and conditions the Offeror would like to add to the standard contract terms and conditions. The Offeror's failure to make a submission under this paragraph will result in its waiving its right to do so later, but the Issuing Office may consider late objections and requests for additions if to do so, in the Issuing Office's sole discretion, would be in the best interest of the Commonwealth. The Issuing Office may, in its sole discretion, accept or reject any requested changes to the standard contract terms and conditions. The Offeror shall not request changes to the other provisions of the RFP, nor shall the Offeror request to completely substitute its own terms and conditions for Part V. All terms and conditions must appear in one integrated contract. The Issuing Office will not accept references to the Offeror's, or any other, online guides or online terms and conditions contained in any proposal.

Regardless of any objections set out in its proposal, the Offeror must submit its proposal, including the cost proposal, on the basis of the terms and conditions set out in Part V. The Issuing Office will reject any proposal that is conditioned on the negotiation of terms and conditions other than those set out in Part V.

II.3 RFP-003.1a Disadvantaged Business Submittal (Oct 2006)

a. To receive credit for being a Small Disadvantaged Business or a Socially Disadvantaged Business or for entering into a joint venture agreement with a Small Disadvantaged Business or for subcontracting with a Small Disadvantaged Business (including purchasing supplies and/or services through a purchase agreement), an Offeror must include proof of Disadvantaged Business qualification in the Disadvantaged Business Submittal of the proposal, as indicated below:

1. Small Disadvantaged Businesses certified by BMWBO as an MBE/WBE must provide a photocopy of their BMWBO certificate.
2. Small Disadvantaged Businesses certified by the U.S. Small Business Administration pursuant to Section 8(a) of the Small Business Act (15 U.S.C. Section 636(a)) as an 8(a) or small disadvantaged business must submit proof of U.S. Small Business Administration certification. The owners of such businesses must also submit proof of United States citizenship.
3. All businesses claiming Small Disadvantaged Business status, whether as a result of BMWBO certification or U.S. Small Business Administration certification as an 8(a) or small disadvantaged business, must attest to the fact that the business has 100 or fewer employees.
4. All businesses claiming Small Disadvantaged Business status, whether as a result of BMWBO certification or U.S. Small Business Administration certification as an 8(a) or small disadvantaged business, must submit proof that their gross annual revenues are less than \$20,000,000 (\$25,000,000 for those businesses in the information technology sales or service business). This can be accomplished by including a recent tax return or audited financial statement.

b. All businesses claiming status as a Socially Disadvantaged Business must include in the Disadvantaged Business Submittal of the proposal clear and convincing evidence to establish that the business has personally suffered racial or ethnic prejudice or cultural bias stemming from the business person's color, ethnic origin or gender. The submitted evidence of prejudice or bias must:

1. Be rooted in treatment that the business person has experienced in American society, not in other countries.
2. Show prejudice or bias that is chronic and substantial, not fleeting or insignificant.
3. Indicate that the business person's experience with the racial or ethnic prejudice or cultural bias has negatively impacted his or her entry into and/or advancement in the business world.

BMWBO shall determine whether the Offeror has established that a business is socially disadvantaged by clear

and convincing evidence.

- c. In addition to the above verifications, the Offeror must include in the Disadvantaged Business Submittal of the proposal the following information:
1. The name and telephone number of the Offeror's project (contact) person for the Small Disadvantaged Business.
 2. The business name, address, name and telephone number of the primary contact person for each Small Disadvantaged Business included in the proposal. The Offeror must specify each Small Disadvantaged Business to which it is making commitments. The Offeror will not receive credit for stating that it will find a Small Disadvantaged Business after the contract is awarded or for listing several businesses and stating that one will be selected later.
 3. The specific work, goods or services each Small Disadvantaged Business will perform or provide.
 4. The estimated dollar value of the contract to each Small Disadvantaged Business.
 5. Of the estimated dollar value of the contract to each Small Disadvantaged Business, the percent of the total value of services or products purchased or subcontracted that will be provided by the Small Disadvantaged Business directly.
 6. The location where each Small Disadvantaged Business will perform these services.
 7. The timeframe for each Small Disadvantaged Business to provide or deliver the goods or services.
 8. The amount of capital, if any, each Small Disadvantaged Business will be expected to provide.
 9. The form and amount of compensation each Small Disadvantaged Business will receive.
 10. For a joint venture agreement, a copy of the agreement, signed by all parties.
 11. For a subcontract, a signed subcontract or letter of intent.
- d. The Offeror is required to submit only **one** copy of its Disadvantaged Business Submittal. The submittal shall be clearly identified as Disadvantaged Business information and sealed in its own envelope, separate from the remainder of the proposal.
- e. The Offeror must include the dollar value of the commitment to each Small Disadvantaged Business in the same sealed envelope with its Disadvantaged Business Submittal. The following will become a contractual obligation once the contract is fully executed:
1. The amount of the selected Offeror's Disadvantaged Business commitment;
 2. The name of each Small Disadvantaged Business; and

3. The services each Small Disadvantaged Business will provide, including the timeframe for performing the services.
- f. A Small Disadvantaged Business can be included as a subcontractor with as many prime contractors as it chooses in separate proposals.
- g. An Offeror that qualifies as a Small Disadvantaged Business and submits a proposal as a prime contractor is not prohibited from being included as a subcontractor in separate proposals submitted by other Offerors.

II.4 RFP-003.1b. Enterprise Zone Small Business Participation (Oct 2006)

- a. To receive credit for being an enterprise zone small business or entering into a joint venture agreement with an enterprise zone small business or subcontracting with an enterprise zone small business, an Offeror must include the following information in the Disadvantaged Business Submittal of the proposal:
 1. Proof of the location of the business' headquarters (such as a lease or deed or Department of State corporate registration), including a description of those activities that occur at the site to support the other businesses in the enterprise zone.
 2. Confirmation of the enterprise zone in which it is located (obtained from the local enterprise zone office).
 3. Proof of United States citizenship of the owners of the business.
 4. Certification that the business employs 100 or fewer employees.
 5. Proof that the business' gross annual revenues are less than \$20,000,000 (\$25,000,000 for those businesses in the information technology sales or service business). This can be accomplished by including a recent tax return or audited financial statement.
 6. Documentation of business organization, if applicable, such as articles of incorporation, partnership agreement or other documents of organization.
- b. In addition to the above verifications, the Offeror must include in the Disadvantaged Business Submittal of the proposal the following information:
 1. The name and telephone number of the Offeror's project (contact) person for the Enterprise Zone Small Business.
 2. The business name, address, name and telephone number of the primary contact person for each Enterprise Zone Small Business included in the proposal. The Offeror must specify each Enterprise Zone Small Business to which it is making commitments. The Offeror will not receive credit for stating that it will find an Enterprise Zone Small Business after the contract is awarded or for listing several businesses and stating that one will be selected later.
 3. The specific work, goods or services each Enterprise Zone Small Business will perform or provide.

4. The estimated dollar value of the contract to each Enterprise Zone Small Business.
 5. Of the estimated dollar value of the contract to each Enterprise Zone Small Business, the percent of the total value of services or products purchased or subcontracted that each Enterprise Zone Small Business will provide.
 6. The location where each Enterprise Zone Small Business will perform these services.
 7. The timeframe for each Enterprise Zone Small Business to provide or deliver the goods or services.
 8. The amount of capital, if any, each Enterprise Zone Small Business will be expected to provide.
 9. The form and amount of compensation each Enterprise Zone Small Business will receive.
 10. For a joint venture agreement, a copy of the agreement, signed by all parties.
 11. For a subcontract, a signed subcontract or letter of intent.
- c. The dollar value of the commitment to each Enterprise Zone Small Business must be included in the same sealed envelope with the Disadvantaged Business Submittal of the proposal. The following will become a contractual obligation once the contract is fully executed:
1. The amount of the selected Offeror's Enterprise Zone Small Business commitment;
 2. The name of each Enterprise Zone Small Business; and
 3. The services each Enterprise Zone Small Business will provide, including the timeframe for performing the services.

II.5 RFP-004.1B Cost Submittal Requirements - Electronic Submission (Jan 2008)

The Cost Submittal consists of the Offeror's completion and submission of its pricing through the Supplier Portal in the SRM system. Offerors should **not** include any assumptions in their cost submittals. If the Offeror include assumptions in its cost submittal, the Issuing Office may reject the proposal. Offerors should direct in writing to the Issuing Office any questions about whether a cost or other component is included or applies. All Offerors will then have the benefit of the Issuing Office's written answer so that all proposals are submitted on the same basis.

The Issuing Office will reimburse the selected Offeror for work satisfactorily performed after execution of a written contract and the start of the contract term, in accordance with contract requirements, and only after the Issuing Office has issued a notice to proceed.

II.6 RFP-005.1 Domestic Workforce Utilization Certification (Oct 2006)

Offerors who seek consideration for the Domestic Workforce Utilization Certification criterion must complete, sign and submit the Domestic Workforce Utilization Certification Form, which is attached to and made a part of this RFP. The completed and signed Domestic Workforce Utilization Certification Form must be submitted in the same sealed envelope with the Technical Submittal.

PART III - CRITERIA FOR SELECTION

PART III - CRITERIA FOR SELECTION

III.1 RFP-001.1a Mandatory Responsiveness Requirements (Oct 2006)

To be eligible for selection, a proposal must be:

- a. Timely received from an Offeror;
- b. Properly signed by the Offeror.

III.2 RFP-002.1 Technical Nonconforming Proposals (Oct 2006)

The Issuing Office reserves the right, in its sole discretion, to waive technical or immaterial nonconformities in an Offeror's proposal.

III.3 RFP-004.1a Criteria for Selection (March 2008)

The following criteria will be used, in order of relative importance from the highest to the lowest weighted factors, in evaluating each proposal:

- a. **Technical:** Evaluation will be based upon the following in order of importance:

- Understanding the Problem
- Offeror Qualification
- Soundness of Approach
- Personnel Qualifications

- b. **Cost.**

- c. **Disadvantaged Business Participation:** Evaluation will be based upon the following in order of priority:

Priority Rank 1 Proposals submitted by Small Disadvantaged Businesses.

Priority Rank 2 Proposals submitted from a joint venture with a Small Disadvantaged Business as a joint venture partner.

Priority Rank 3 Proposals submitted with subcontracting commitments to Small Disadvantaged Businesses.

Priority Rank 4 Proposals submitted by Socially Disadvantaged Businesses.

Each proposal will be rated for its approach to enhancing the utilization of Small Disadvantaged Businesses and/or Socially Disadvantaged Businesses. Each approach will be evaluated, with Priority Rank 1 receiving the highest score and the succeeding options receiving scores in accordance with the above-listed priority ranking

To the extent that an Offeror qualifies as a Small Disadvantaged Business or a Socially Disadvantaged Business, the Small Disadvantaged Business or Socially Disadvantaged Business cannot enter into subcontract arrangements for more than **40%** of the total estimated dollar amount of the contract. If a Small Disadvantaged Business or a Socially Disadvantaged Business subcontracts more than **40%** of the total estimated dollar amount of the contract to other contractors, the Disadvantaged Business Participation scoring shall be proportionally lower for that proposal.

- d. **Enterprise Zone Small Business Participation Evaluation:** The following options will be considered as part of the final criteria for selection:

Priority Rank 1 Proposals submitted by an Enterprise Zone Small Business will receive the highest score.

Priority Rank 2 Proposals submitted by a joint venture with an Enterprise Zone Small Business as a joint venture partner will receive the next highest score for this criterion.

Priority Rank 3 Proposals submitted with a subcontracting commitment to an Enterprise Zone Small Business will receive the lowest score for this criterion.

Priority Rank 4 Proposals with no Enterprise Zone Small Business Utilization shall receive no points under this criterion.

To the extent that an Offeror is an Enterprise Zone Small Business, the Offeror cannot enter into contract or subcontract arrangements for more than **40%** of the total estimated dollar amount of the contract in order to qualify as an Enterprise Zone Small Business for purposes of this RFP.

III.4 RFP-005.1 Domestic Workforce Utilization Criterion (March 2008)

Each proposal will be scored for its commitment to use domestic workforce in the fulfillment of the contract. Maximum consideration will be given to those Offerors who will perform the contracted direct labor exclusively within the geographical boundaries of the United States. Those who propose to perform a portion of the direct labor outside of the United States will receive a correspondingly smaller score for this criterion. Offerors who seek consideration for this criterion must submit in hardcopy the signed Domestic Workforce Utilization Certification Form in the same sealed envelope with the Technical Submittal. The certification will be included as a contractual obligation when the contract is executed.

III.5 RFP-006.1a Notification of Selection (Oct 2006)

The Issuing Office will notify the selected Offeror in writing of its selection for negotiation after the Issuing Office has determined, taking into consideration all of the evaluation factors, the proposal that is the most advantageous to the Issuing Office.

PART IV - STATEMENT OF WORK

PART IV - STATEMENT OF WORK

IV.1 WORK STATEMENT

Part IV, Statement of Work, is attached and made part of this RFP.

PART V - CONTRACT TERMS and CONDITIONS

PART V - CONTRACT TERMS and CONDITIONS

V.1 CONTRACT-001.1a Contract Terms and Conditions (Nov 30 2006)

The Contract with the selected offeror (who shall become the "Contractor") shall include the following terms and conditions:

V.2 CONTRACT-002.1d Term of Contract – Contract (May 2008)

The initial term of the Contract shall be 3 years.

The term of the Contract shall commence on the Effective Date (as defined below) and shall end on the Expiration Date identified in the Contract, subject to the other provisions of the Contract.

The Effective Date shall be: a) the Effective Date printed on the Contract after the Contract has been fully executed by the Contractor and the Commonwealth (signed and approved as required by Commonwealth contracting procedures) or b) the "Valid from" date printed on the Contract, whichever is later.

V.3 CONTRACT-002.2a Renewal of Contract Term (Nov 30 2006)

The Contract may be renewed for a maximum of 2 additional 1 year term(s), so long as Commonwealth provides written notice to Contractor of its intention to extend the Contract by letter prior to the expiration of the term of the agreement, or any extension thereof. The Commonwealth may exercise the renewal as individual year or multiple year term(s). Any renewal will be under the same terms, covenants and conditions. No further document is required to be executed to renew the term of the contract.

V.4 CONTRACT-002.3 Extension of Contract Term (Nov 30 2006)

The Commonwealth reserves the right, upon notice to the Contractor, to extend any single term of the Contract for up to three (3) months upon the same terms and conditions.

V.5 CONTRACT-003.1b Signatures – Contract (March 2007)

The Contract shall not be a legally binding contract until the fully-executed Contract has been sent to the Contractor.

No Commonwealth employee has the authority to verbally direct the commencement of any work or delivery of any supply under this Contract prior to the Effective Date. The Contractor hereby waives any claim or cause of action for any service or work performed prior to the Effective Date.

The Contract will be signed in counterparts. The Contractor shall sign the Contract "in ink" and return it to the Commonwealth. After the Contract is signed by the Contractor and returned to the Commonwealth, it will be processed for Commonwealth signatures and approvals. When the Contract has been signed and approved by the Commonwealth as required by Commonwealth contracting procedures, the Commonwealth shall create a second Contract output form which shall: 1) clearly indicate "Fully executed" at the top of the form; 2) include a printed Effective Date and 3) include the printed name of the Purchasing Agent indicating that the document has been electronically signed and approved by the Commonwealth. Until the Contractor receives the Contract output form with this information on the Contract output form, there is no legally binding contract between the parties.

The fully-executed Contract may be sent to the Contractor electronically or through facsimile equipment. The electronic transmission of the Contract shall require acknowledgement of receipt of the transmission by the Contractor. Receipt of the electronic or facsimile transmission of the Contract shall constitute receipt of the fully-executed Contract.

The Commonwealth and the Contractor specifically agree as follows:

- a. No handwritten signature shall be required in order for the Contract to be legally enforceable.
- b. The parties agree that no writing shall be required in order to make the Contract legally binding, notwithstanding contrary requirements in any law. The parties hereby agree not to contest the validity or enforceability of a genuine Contract or acknowledgement issued electronically under the provisions of a statute of frauds or any other applicable law relating to whether certain agreements be in writing and signed by the party bound thereby. Any genuine Contract or acknowledgement issued electronically, if introduced as evidence on paper in any judicial, arbitration, mediation, or administrative proceedings, will be admissible as between the parties to the same extent and under the same conditions as other business records originated and maintained in documentary form. Neither party shall contest the admissibility of copies of a genuine Contract or acknowledgements under either the business records exception to the hearsay rule or the best evidence rule on the basis that the Contract or acknowledgement were not in writing or signed by the parties. A Contract or acknowledgment shall be deemed to be genuine for all purposes if it is transmitted to the location designated for such documents.
- c. Each party will immediately take steps to verify any document that appears to be obviously garbled in transmission or improperly formatted to include re-transmission of any such document if necessary.

V.6 CONTRACT-004.1a Definitions (Dec 12 2006)

As used in this Contract, these words shall have the following meanings:

- a. Agency The department, board, commission or other agency of the Commonwealth of Pennsylvania listed as the Purchasing Agency. If a COSTARS entity or external procurement activity has issued an order against this contract, that entity shall also be identified as "Agency".
- b. Contracting Officer The person authorized to administer this Contract for the Commonwealth and to make written determinations with respect to the Contract.
- c. Days Unless specifically indicated otherwise, days mean calendar days.
- d. Developed Works or Developed Materials All documents, sketches, drawings, designs, works, papers, files, reports, computer programs, computer documentation, data, records, software, samples or any other tangible material without limitation authored or prepared by Contractor as the work product covered in the scope of work for the Project.
- e. Documentation All materials required to support and convey information about the services required by this Contract. It includes, but is not necessarily restricted to, written reports and analyses, diagrams, maps, logical and physical designs, system designs, computer programs, flow charts, disks, and/or other machine-readable storage media.
- f. Services All Contractor activity necessary to satisfy the Contract.

V.7 CONTRACT-005.1a Purchase Orders (Feb 2007)

Commonwealth agencies may issue Purchase Orders against the Contract. These orders constitute the Contractor's authority to make delivery. All Purchase Orders received by the Contractor up to and including the expiration date of the Contract are acceptable and must be performed in accordance with the Contract. Each Purchase Order will be deemed to incorporate the terms and conditions set forth in the Contract.

Purchase Orders will not include an "ink" signature by the Agency. The electronically-printed name of the purchaser represents the signature of that individual who has the authority, on behalf of the Commonwealth, to authorize the Contractor to proceed.

Purchase Orders may be issued electronically or through facsimile equipment. The electronic

transmission of a purchase order shall require acknowledgement of receipt of the transmission by the Contractor. Receipt of the electronic or facsimile transmission of the Purchase Order shall constitute receipt of an order. Orders received by the Contractor after 4:00 p.m. will be considered received the following business day.

a. No handwritten signature shall be required in order for the Contract or Purchase Order to be legally enforceable.

b. The parties agree that no writing shall be required in order to make the order legally binding. The parties hereby agree not to contest the validity or enforceability of a Purchase Order or acknowledgement issued electronically under the provisions of a statute of frauds or any other applicable law relating to whether certain agreements be in writing and signed by the party bound thereby. Any Purchase Order or acknowledgement issued electronically, if introduced as evidence on paper in any judicial, arbitration, mediation, or administrative proceedings, will be admissible as between the parties to the same extent and under the same conditions as other business records originated and maintained in documentary form. Neither party shall contest the admissibility of copies of Purchase Orders or acknowledgements under either the business records exception to the hearsay rule or the best evidence rule on the basis that the order or acknowledgement were not in writing or signed by the parties. A purchase order or acknowledgment shall be deemed to be genuine for all purposes if it is transmitted to the location designated for such documents.

c. Each party will immediately take steps to verify any document that appears to be obviously garbled in transmission or improperly formatted to include re-transmission of any such document if necessary.

Purchase Orders under five thousand dollars (\$5,000) in total amount may also be made in person or by telephone using a Commonwealth Purchasing Card. When an order is placed by telephone, the Commonwealth agency shall provide the agency name, employee name, credit card number, and expiration date of the card. Contractors agree to accept payment through the use of the Commonwealth Purchasing Card.

V.8 CONTRACT-006.1 Independent Prime Contractor (Oct 2006)

In performing its obligations under the Contract, the Contractor will act as an independent contractor and not as an employee or agent of the Commonwealth. The Contractor will be responsible for all services in this Contract whether or not Contractor provides them directly. Further, the Contractor is the sole point of contact with regard to all contractual matters, including payment of any and all charges resulting from the Contract.

V.9 CONTRACT-007.01b Delivery of Services (Nov 30 2006)

The Contractor shall proceed with all due diligence in the performance of the services with qualified personnel, in accordance with the completion criteria set forth in the Contract.

V.10 CONTRACT-007.02 Estimated Quantities (Nov 30 2006)

It shall be understood and agreed that any quantities listed in the Contract are estimated only and may be increased or decreased in accordance with the actual requirements of the Commonwealth and that the Commonwealth in accepting any bid or portion thereof, contracts only and agrees to purchase only the materials and services in such quantities as represent the actual requirements of the Commonwealth. The Commonwealth reserves the right to

purchase materials and services covered under the Contract through a separate competitive procurement procedure, whenever Commonwealth deems it to be in its best interest.

V.11 CONTRACT-008.1a Warranty (Oct 2006)

The Contractor warrants that all items furnished and all services performed by the Contractor, its agents and subcontractors shall be free and clear of any defects in workmanship or materials. Unless otherwise stated in the Contract, all items are warranted for a period of one year following delivery by the Contractor and acceptance by the Commonwealth. The Contractor shall repair, replace or otherwise correct any problem with the delivered item. When an item is replaced, it shall be replaced with an item of equivalent or superior quality without any additional cost to the Commonwealth.

V.12 CONTRACT-009.1c Patent, Copyright, and Trademark Indemnity (Oct 2006)

The Contractor warrants that it is the sole owner or author of, or has entered into a suitable legal agreement concerning either: a) the design of any product or process provided or used in the performance of the Contract which is covered by a patent, copyright, or trademark registration or other right duly authorized by state or federal law or b) any copyrighted matter in any report document or other material provided to the Commonwealth under the contract.

The Contractor shall defend any suit or proceeding brought against the Commonwealth on account of any alleged patent, copyright or trademark infringement in the United States of any of the products provided or used in the performance of the Contract.

This is upon condition that the Commonwealth shall provide prompt notification in writing of such suit or proceeding; full right, authorization and opportunity to conduct the defense thereof; and full information and all reasonable cooperation for the defense of same.

As principles of governmental or public law are involved, the Commonwealth may participate in or choose to conduct, in its sole discretion, the defense of any such action.

If information and assistance are furnished by the Commonwealth at the Contractor's written request, it shall be at the Contractor's expense, but the responsibility for such expense shall be only that within the Contractor's written authorization.

The Contractor shall indemnify and hold the Commonwealth harmless from all damages, costs, and expenses, including attorney's fees that the Contractor or the Commonwealth may pay or incur by reason of any infringement or violation of the rights occurring to any holder of copyright, trademark, or patent interests and rights in any products provided or used in the performance of the Contract.

If any of the products provided by the Contractor in such suit or proceeding are held to constitute infringement and the use is enjoined, the Contractor shall, at its own expense and at its option, either procure the right to continue use of such infringement products, replace them with non-infringement equal performance products or modify them so that they are no longer infringing.

If the Contractor is unable to do any of the preceding, the Contractor agrees to remove all the equipment or software which are obtained contemporaneously with the infringing product, or, at the option of the Commonwealth, only

those items of equipment or software which are held to be infringing, and to pay the Commonwealth: 1) any amounts paid by the Commonwealth towards the purchase of the product, less straight line depreciation; 2) any license fee paid by the Commonwealth for the use of any software, less an amount for the period of usage; and 3) the pro rata portion of any maintenance fee representing the time remaining in any period of maintenance paid for. The obligations of the Contractor under this paragraph continue without time limit. No costs or expenses shall be incurred for the account of the Contractor without its written consent.

V.13 CONTRACT-009.1d Ownership Rights (Oct 2006)

The Commonwealth shall have unrestricted authority to reproduce, distribute, and use any submitted report, data, or material, and any software or modifications and any associated documentation that is designed or developed and delivered to the Commonwealth as part of the performance of the Contract.

V.14 CONTRACT-010.1a Acceptance (Oct 2006)

No item(s) received by the Commonwealth shall be deemed accepted until the Commonwealth has had a reasonable opportunity to inspect the item(s). Any item(s) which is discovered to be defective or fails to conform to the specifications may be rejected upon initial inspection or at any later time if the defects contained in the item(s) or the noncompliance with the specifications were not reasonably ascertainable upon the initial inspection. It shall thereupon become the duty of the Contractor to remove rejected item(s) from the premises without expense to the Commonwealth within fifteen (15) days after notification. Rejected item(s) left longer than fifteen (15) days will be regarded as abandoned, and the Commonwealth shall have the right to dispose of them as its own property and shall retain that portion of the proceeds of any sale which represents the Commonwealth's costs and expenses in regard to the storage and sale of the item(s). Upon notice of rejection, the Contractor shall immediately replace all such rejected item(s) with others conforming to the specifications and which are not defective. If the Contractor fails, neglects or refuses to do so, the Commonwealth shall then have the right to procure a corresponding quantity of such item(s), and deduct from any monies due or that may thereafter become due to the Contractor, the difference between the price stated in the Contract and the cost thereof to the Commonwealth.

V.15 CONTRACT-010.2 Product Conformance (Oct 2006)

The Commonwealth reserves the right to require any and all Contractors to:

1. Provide certified data from laboratory testing performed by the Contractor, or performed by an independent laboratory, as specified by the Commonwealth.
2. Supply published manufacturer product documentation.
3. Permit a Commonwealth representative to witness testing at the Contractor's location or at an independent laboratory.
4. Complete a survey/questionnaire relating to the bid requirements and specifications.
5. Provide customer references.

6. Provide a product demonstration at a location near Harrisburg or the using agency location.

V.16 CONTRACT-010.3 Rejected material not considered abandoned (Oct 2006)

The Commonwealth will have the right to not regard any rejected material as abandoned and to demand that the Contractor remove the rejected material from the premises within thirty (30) days of notification. The Commonwealth shall have the right to demand, and upon demand, the Contractor shall be responsible for proper clean-up at all locations upon demand by the Commonwealth, the Commonwealth may set-off the costs for removal and clean-up from any payments due to the Contractor under this or any other Contract with the Commonwealth. This is in addition to all other rights to recover costs incurred by the Commonwealth.

V.17 CONTRACT-011.1a Compliance With Law (Oct 2006)

The Contractor shall comply with all applicable federal and state laws and regulations and local ordinances in the performance of the Contract.

V.18 CONTRACT-013.1 Environmental Provisions (Oct 2006)

In the performance of the Contract, the Contractor shall minimize pollution and shall strictly comply with all applicable environmental laws and regulations, including, but not limited to: the Clean Streams Law Act of June 22, 1937 (P.L. 1987, No. 394), as amended 35 P.S. Section 691.601 et seq.; the Pennsylvania Solid Waste Management Act, Act of July 7, 1980 (P.L. 380, No. 97), as amended, 35 P.S. Section 6018.101 et seq. ; and the Dam Safety and Encroachment Act, Act of November 26, 1978 (P.L. 1375, No. 325), as amended , 32 P.S. Section 693.1.

V.19 CONTRACT-014.1 Post-Consumer Recycled Content (Dec 5 2006)

Except as specifically waived by the Department of General Services in writing, any products which are provided to the Commonwealth as a part of the performance of the Contract must meet the minimum percentage levels for total recycled content as specified on the Department of General Services website at www.dgs.state.pa.us on the date of submission of the bid, proposal or contract offer.

V.20 CONTRACT-014.3 Enforcement (Oct 2006)

The Contractor may be required, after delivery of the Contract item(s), to provide the Commonwealth with documentary evidence that the item(s) was in fact produced with the required minimum percentage of post-consumer and recovered material content.

V.21 CONTRACT-015.1A Compensation/Expenses (May 2008)

The Contractor shall be required to perform the specified services at the price(s) quoted in the Contract. All services shall be performed within the time period(s) specified in the Contract. The Contractor shall be compensated only for work performed to the satisfaction of the Commonwealth. The Contractor shall not be allowed or paid travel or per diem expenses except as specifically set forth in the Contract.

V.22 CONTRACT-015.2 Billing Requirements (Dec 5 2006)

The Contractor shall include in all of its invoices the following minimum information:

- Vendor name and "Remit to" address, including SAP Vendor number;
- Bank routing information, if ACH;
- SAP Purchase Order number;
- Delivery Address, including name of Commonwealth agency;
- Description of the supplies/services delivered in accordance with SAP Purchase Order (include purchase order line number if possible);
- Quantity provided;
- Unit price;
- Price extension;
- Total price; and
- Delivery date of supplies or services.

If an invoice does not contain the minimum information set forth in this paragraph, the Commonwealth may return the invoice as improper. If the Commonwealth returns an invoice as improper, the time for processing a payment will be suspended until the Commonwealth receives a correct invoice. The Contractor may not receive payment until the Commonwealth has received a correct invoice.

Contractors are required to establish separate billing accounts with each using agency and invoice them directly. Each invoice shall be itemized with adequate detail and match the line item on the Purchase Order. In no instance shall any payment be made for services to the Contractor that are not in accordance with the prices on the Purchase Order, the Contract, updated price lists or any discounts negotiated by the purchasing agency.

V.23 CONTRACT-016.1 Payment (Oct 2006)

- a. The Commonwealth shall put forth reasonable efforts to make payment by the required payment date. The required payment date is: (a) the date on which payment is due under the terms of the Contract; (b) thirty (30) days after a proper invoice actually is received at the "Bill To" address if a date on which payment is due is not specified in the Contract (a "proper" invoice is not received until the Commonwealth accepts the service as satisfactorily performed); or (c) the payment date specified on the invoice if later than the dates established by (a) and (b) above. Payment may be delayed if the payment amount on an invoice is not based upon the price(s) as stated in the Contract. If any payment is not made within fifteen (15) days after the required payment date, the Commonwealth may pay interest as determined by the Secretary of Budget in accordance with Act No. 266 of 1982 and regulations promulgated pursuant thereto. Payment should not be construed by the Contractor as acceptance of the service performed by the Contractor. The Commonwealth reserves the right to conduct further testing and inspection after payment, but within a reasonable time after performance, and to reject the service if such post payment testing or inspection discloses a defect or a failure to meet specifications. The Contractor agrees that the Commonwealth may set off the amount of any state tax liability or other obligation of the Contractor or its subsidiaries to the Commonwealth against any payments due the Contractor under any contract with the Commonwealth.
- b. The Commonwealth shall have the option of using the Commonwealth purchasing card to make purchases under the Contract or Purchase Order. The Commonwealth's purchasing card is similar to a credit card in that there will be a small fee which the Contractor will be required to pay and the Contractor will receive payment directly from the card issuer rather than the Commonwealth. Any and all fees related to this type of payment are the responsibility of the Contractor. In no case will the Commonwealth allow increases in prices to offset credit card fees paid by the Contractor or any other charges incurred by the Contractor, unless specifically stated in the terms of the Contract or Purchase Order.

V.24 CONTRACT-016.2 ACH Payments (Aug 2007)

- a. The Commonwealth will make contract payments through the Automated Clearing House (ACH). Within 10 days of award of the contract or purchase order, the contractor must submit or must have already submitted their ACH information within their user profile in the Commonwealth's procurement system (SRM).
- b. The contractor must submit a unique invoice number with each invoice submitted. The unique invoice number will be listed on the Commonwealth of Pennsylvania's ACH remittance advice to enable the contractor to properly apply the state agency's payment to the invoice submitted.
- c. It is the responsibility of the contractor to ensure that the ACH information contained in SRM is accurate and complete. Failure to maintain accurate and complete information may result in delays in payments.

V.25 CONTRACT-017.1 Taxes (Dec 5 2006)

The Commonwealth is exempt from all excise taxes imposed by the Internal Revenue Service and has accordingly registered with the Internal Revenue Service to make tax free purchases under Registration No. 23-23740001-K. With the exception of purchases of the following items, no exemption certificates are required and none will be issued: undyed diesel fuel, tires, trucks, gas guzzler emergency vehicles, and sports fishing equipment. The Commonwealth is also exempt from Pennsylvania state sales tax, local sales tax, public transportation assistance taxes and fees and vehicle rental tax. The Department of Revenue regulations provide that exemption certificates are not required for sales made to governmental entities and none will be issued. Nothing in this paragraph is meant to exempt a construction contractor from the payment of any of these taxes or fees which are required to be paid with respect to the purchase, use, rental, or lease of tangible personal property or taxable services used or transferred in connection with the performance of a construction contract.

V.26 CONTRACT-018.1 Assignment of Antitrust Claims (Oct 2006)

The Contractor and the Commonwealth recognize that in actual economic practice, overcharges by the Contractor's suppliers resulting from violations of state or federal antitrust laws are in fact borne by the Commonwealth. As part of the consideration for the award of the Contract, and intending to be legally bound, the Contractor assigns to the Commonwealth all right, title and interest in and to any claims the Contractor now has, or may acquire, under state or federal antitrust laws relating to the products and services which are the subject of this Contract.

V.27 CONTRACT-019.1 Hold Harmless Provision (Nov 30 2006)

- a. The Contractor shall hold the Commonwealth harmless from and indemnify the Commonwealth against any and all third party claims, demands and actions based upon or arising out of any activities performed by the Contractor and its employees and agents under this Contract, provided the Commonwealth gives Contractor prompt notice of any such claim of which it learns. Pursuant to the Commonwealth Attorneys Act (71 P.S. Section 732-101, et seq.), the Office of Attorney General (OAG) has the sole authority to represent the Commonwealth in actions brought against the Commonwealth. The OAG may, however, in its sole discretion and under such terms as it deems appropriate, delegate its right of defense. If OAG delegates the defense to the Contractor, the Commonwealth will cooperate with all reasonable requests of Contractor made in the defense of such suits.
- b. Notwithstanding the above, neither party shall enter into any settlement without the other party's written consent, which shall not be unreasonably withheld. The Commonwealth may, in its sole discretion, allow the Contractor to control the defense and any related settlement negotiations.

V.28 CONTRACT-020.1 Audit Provisions (Oct 2006)

The Commonwealth shall have the right, at reasonable times and at a site designated by the Commonwealth, to audit the books, documents and records of the Contractor to the extent that the books, documents and records relate to costs or pricing data for the Contract. The Contractor agrees to maintain records which will support the prices charged and costs incurred for the Contract. The Contractor shall preserve books, documents, and records that relate to costs or pricing data for the Contract for a period of three (3) years from date of final payment. The Contractor shall give full and free access to all records to the Commonwealth and/or their authorized representatives.

V.29 CONTRACT-021.1 Default (Dec 12 2006)

- a. The Commonwealth may, subject to the Force Majeure provisions of this Contract, and in addition to its other rights under the Contract, declare the Contractor in default by written notice thereof to the Contractor, and terminate (as provided in the Termination Provisions of this Contract) the whole or any part of this Contract or any Purchase Order for any of the following reasons:
- 1) Failure to begin work within the time specified in the Contract or Purchase Order or as otherwise specified;
 - 2) Failure to perform the work with sufficient labor, equipment, or material to insure the completion of the specified work in accordance with the Contract or Purchase Order terms;
 - 3) Unsatisfactory performance of the work;
 - 4) Failure to deliver the awarded item(s) within the time specified in the Contract or Purchase Order or as otherwise specified;
 - 5) Improper delivery;
 - 6) Failure to provide an item(s) which is in conformance with the specifications referenced in the Contract or Purchase Order;
 - 7) Delivery of a defective item;
 - 8) Failure or refusal to remove material, or remove and replace any work rejected as defective or unsatisfactory;
 - 9) Discontinuance of work without approval;
 - 10) Failure to resume work, which has been discontinued, within a reasonable time after notice to do so;
 - 11) Insolvency or bankruptcy;
 - 12) Assignment made for the benefit of creditors;
 - 13) Failure or refusal within 10 days after written notice by the Contracting Officer, to make payment or show cause why payment should not be made, of any amounts due for materials furnished, labor supplied or performed, for equipment rentals, or for utility services rendered;
 - 14) Failure to protect, to repair, or to make good any damage or injury to property;

- 15) Breach of any provision of the Contract;
 - 16) Failure to comply with representations made in the Contractor's bid/proposal; or
 - 17) Failure to comply with applicable industry standards, customs, and practice.
- b. In the event that the Commonwealth terminates this Contract or any Purchase Order in whole or in part as provided in Subparagraph a. above, the Commonwealth may procure, upon such terms and in such manner as it determines, items similar or identical to those so terminated, and the Contractor shall be liable to the Commonwealth for any reasonable excess costs for such similar or identical items included within the terminated part of the Contract or Purchase Order.
 - c. If the Contract or a Purchase Order is terminated as provided in Subparagraph a. above, the Commonwealth, in addition to any other rights provided in this paragraph, may require the Contractor to transfer title and deliver immediately to the Commonwealth in the manner and to the extent directed by the Contracting Officer, such partially completed items, including, where applicable, reports, working papers and other documentation, as the Contractor has specifically produced or specifically acquired for the performance of such part of the Contract or Purchase Order as has been terminated. Except as provided below, payment for completed work accepted by the Commonwealth shall be at the Contract price. Except as provided below, payment for partially completed items including, where applicable, reports and working papers, delivered to and accepted by the Commonwealth shall be in an amount agreed upon by the Contractor and Contracting Officer. The Commonwealth may withhold from amounts otherwise due the Contractor for such completed or partially completed works, such sum as the Contracting Officer determines to be necessary to protect the Commonwealth against loss.
 - d. The rights and remedies of the Commonwealth provided in this paragraph shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.
 - e. The Commonwealth's failure to exercise any rights or remedies provided in this paragraph shall not be construed to be a waiver by the Commonwealth of its rights and remedies in regard to the event of default or any succeeding event of default.
 - f. Following exhaustion of the Contractor's administrative remedies as set forth in the Contract Controversies Provision of the Contract, the Contractor's exclusive remedy shall be to seek damages in the Board of Claims.

V.30 CONTRACT-022.1 Force Majeure (Oct 2006)

In the event of a declared emergency by competent governmental authorities, the Commonwealth by notice to the Contractor, may suspend all or a portion of the Contract or Purchase Order.

V.31 CONTRACT-023.1a Termination Provisions (Oct 2006)

The Commonwealth has the right to terminate this Contract or any Purchase Order for any of the following reasons. Termination shall be effective upon written notice to the Contractor.

- a. **TERMINATION FOR CONVENIENCE:** The Commonwealth shall have the right to terminate the Contract or a Purchase Order for its convenience if the Commonwealth determines termination to be in its best interest. The Contractor shall be paid for work satisfactorily completed prior to the effective date of the termination, but in no event shall the Contractor be entitled to recover loss of profits.
- b. **NON-APPROPRIATION:** The Commonwealth's obligation to make payments during any Commonwealth fiscal year succeeding the current fiscal year shall be subject to availability and appropriation of funds. When funds (state and/or federal) are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year period, the Commonwealth shall have the right to terminate the Contract or a Purchase Order. The Contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the supplies or services delivered under the Contract. Such reimbursement shall not include loss of profit, loss of use of money, or administrative or overhead costs. The reimbursement amount may be paid for any appropriations available for that purpose
- c. **TERMINATION FOR CAUSE:** The Commonwealth shall have the right to terminate the Contract or a Purchase Order for Contractor default under Default Clause upon written notice to the Contractor. The Commonwealth shall also have the right, upon written notice to the Contractor, to terminate the Contract or a Purchase Order for other cause as specified in the Contract or by law. If it is later determined that the Commonwealth erred in terminating the Contract or a Purchase Order for cause, then, at the Commonwealth's discretion, the Contract or Purchase Order shall be deemed to have been terminated for convenience under the Subparagraph a.

V.32 CONTRACT-024.1 Contract Controversies (Oct 2006)

- a. In the event of a controversy or claim arising from the Contract, the Contractor must, within six months after the cause of action accrues, file a written claim with the contracting officer for a determination. The claim shall state all grounds upon which the Contractor asserts a controversy exists. If the Contractor fails to file a claim or files an untimely claim, the Contractor is deemed to have waived its right to assert a claim in any forum.
- b. The contracting officer shall review timely-filed claims and issue a final determination, in writing, regarding the claim. The final determination shall be issued within 120 days of the receipt of the claim, unless extended by consent of the contracting officer and the Contractor. The contracting officer shall send his/her written determination to the Contractor. If the contracting officer fails to issue a final determination within the 120 days (unless extended by consent of the parties), the claim shall be deemed denied. The contracting officer's determination shall be the final order of the purchasing agency.
- c. Within fifteen (15) days of the mailing date of the determination denying a claim or within 135 days of filing a claim if, no extension is agreed to by the parties, whichever occurs first, the Contractor may file a statement of claim with the Commonwealth Board of Claims. Pending a final judicial resolution of a controversy or claim, the Contractor shall proceed diligently with the performance of the Contract in a manner consistent with the determination of the contracting officer and the Commonwealth shall compensate the Contractor pursuant to the

terms of the Contract.

V.33 CONTRACT-025.1 Assignability and Subcontracting (Oct 2006)

- a. Subject to the terms and conditions of this paragraph, this Contract shall be binding upon the parties and their respective successors and assigns.
- b. The Contractor shall not subcontract with any person or entity to perform all or any part of the work to be performed under this Contract without the prior written consent of the Contracting Officer, which consent may be withheld at the sole and absolute discretion of the Contracting Officer.
- c. The Contractor may not assign, in whole or in part, this Contract or its rights, duties, obligations, or responsibilities hereunder without the prior written consent of the Contracting Officer, which consent may be withheld at the sole and absolute discretion of the Contracting Officer.
- d. Notwithstanding the foregoing, the Contractor may, without the consent of the Contracting Officer, assign its rights to payment to be received under the Contract, provided that the Contractor provides written notice of such assignment to the Contracting Officer together with a written acknowledgement from the assignee that any such payments are subject to all of the terms and conditions of this Contract.
- e. For the purposes of this Contract, the term "assign" shall include, but shall not be limited to, the sale, gift, assignment, pledge, or other transfer of any ownership interest in the Contractor provided, however, that the term shall not apply to the sale or other transfer of stock of a publicly traded company.
- f. Any assignment consented to by the Contracting Officer shall be evidenced by a written assignment agreement executed by the Contractor and its assignee in which the assignee agrees to be legally bound by all of the terms and conditions of the Contract and to assume the duties, obligations, and responsibilities being assigned.
- g. A change of name by the Contractor, following which the Contractor's federal identification number remains unchanged, shall not be considered to be an assignment hereunder. The Contractor shall give the Contracting Officer written notice of any such change of name.

V.34 CONTRACT-026.1 Other Contractors (Oct 2006)

The Commonwealth may undertake or award other contracts for additional or related work, and the Contractor shall fully cooperate with other contractors and Commonwealth employees, and coordinate its work with such additional work as may be required. The Contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or by Commonwealth employees. This paragraph shall be included in the Contracts of all contractors with which this Contractor will be required to cooperate. The Commonwealth shall equitably enforce this paragraph as to all contractors to prevent the imposition of unreasonable burdens on any contractor.

V.35 CONTRACT-027.1 Nondiscrimination/Sexual Harassment Clause (Oct 2006)

During the term of the Contract, the Contractor agrees as follows:

- a. In the hiring of any employees for the manufacture of supplies, performance of work, or any other activity required under the Contract or any subcontract, the Contractor, subcontractor or any person acting on behalf of the Contractor or subcontractor shall not by reason of gender, race, creed, or color discriminate against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.
- b. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate against or intimidate any employee involved in the manufacture of supplies, the performance of work or any other activity required under the Contract on account of gender, race, creed, or color.
- c. The Contractor and any subcontractors shall establish and maintain a written sexual harassment policy and shall inform their employees of the policy. The policy must contain a notice that sexual harassment will not be tolerated and employees who practice it will be disciplined.
- d. The Contractor shall not discriminate by reason of gender, race, creed, or color against any subcontractor or supplier who is qualified to perform the work to which the contract relates.
- e. The Contractor and each subcontractor shall furnish all necessary employment documents and records to and permit access to its books, records, and accounts by the contracting officer and the Department of General Services' Bureau of Contract Administration and Business Development for purposes of investigation to ascertain compliance with the provisions of this Nondiscrimination/Sexual Harassment Clause. If the Contractor or any subcontractor does not possess documents or records reflecting the necessary information requested, it shall furnish such information on reporting forms supplied by the contracting officer or the Bureau of Contract Administration and Business Development.
- f. The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that such provisions will be binding upon each subcontractor.
- g. The Commonwealth may cancel or terminate the Contract, and all money due or to become due under the Contract may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, the agency may proceed with debarment or suspension and may place the Contractor in the Contractor Responsibility File.

V.36 CONTRACT-028.1 Contractor Integrity Provisions (Oct 2006)

- a. For purposes of this clause only, the words "confidential information," "consent," "contractor," "financial interest," and "gratuity" shall have the following definitions.
 - 1) **Confidential information** means information that is not public knowledge, or available to the public on request, disclosure of which would give an unfair, unethical, or illegal advantage to another desiring to contract with the Commonwealth.
 - 2) **Consent** means written permission signed by a duly authorized officer or employee of the Commonwealth, provided that where the material facts have been disclosed, in writing, by prequalification, bid, proposal, or contractual terms, the Commonwealth shall be deemed to have consented by virtue of execution of this agreement.
 - 3) **Contractor** means the individual or entity that has entered into the Contract with the Commonwealth,

including directors, officers, partners, managers, key employees and owners of more than a five percent interest.

4) **Financial interest** means:

a) Ownership of more than a five percent interest in any business; or

b) Holding a position as an officer, director, trustee, partner, employee, or the like, or holding any position of management.

5) **Gratuity** means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind.

- b. The Contractor shall maintain the highest standards of integrity in the performance of the Contract and shall take no action in violation of state or federal laws, regulations, or other requirements that govern contracting with the Commonwealth.
- c. The Contractor shall not disclose to others any confidential information gained by virtue of the Contract.
- d. The Contractor shall not, in connection with this or any other agreement with the Commonwealth, directly, or indirectly, offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for the decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty by any officer or employee of the Commonwealth.
- e. The Contractor shall not, in connection with this or any other agreement with the Commonwealth, directly or indirectly, offer, give, or agree or promise to give to anyone any gratuity for the benefit of or at the direction or request of any officer or employee of the Commonwealth.
- f. Except with the consent of the Commonwealth, neither the Contractor nor anyone in privity with him or her shall accept or agree to accept from, or give or agree to give to, any person, any gratuity from any person in connection with the performance of work under the Contract except as provided therein.
- g. Except with the consent of the Commonwealth, the Contractor shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material on this project.
- h. The Contractor, upon being informed that any violation of these provisions has occurred or may occur, shall immediately notify the Commonwealth in writing.
- i. The Contractor, by execution of the Contract and by the submission of any bills or invoices for payment pursuant thereto, certifies, and represents that he or she has not violated any of these provisions.
- j. The Contractor, upon the inquiry or request of the Inspector General of the Commonwealth or any of that official's agents or representatives, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Inspector General to the Contractor's integrity or responsibility, as those terms are defined by the Commonwealth's statutes, regulations, or management directives. Such information may include, but shall not be limited to, the Contractor's business or financial records, documents or files of any type or form which refers to or concern the Contract. Such information shall be retained by the Contractor for a period of three years beyond the termination of the Contract

unless otherwise provided by law.

- k. For violation of any of the above provisions, the Commonwealth may terminate this and any other agreement with the Contractor, claim liquidated damages in an amount equal to the value of anything received in breach of these provisions, claim damages for all expenses incurred in obtaining another Contractor to complete performance hereunder, and debar and suspend the Contractor from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or nonuse of any one shall not preclude the use of all or any other. These rights and remedies are in addition to those the Commonwealth may have under law, statute, regulation, or otherwise.

V.37 CONTRACT-029.1 Contractor Responsibility Provisions (Oct 2006)

- a. The Contractor certifies, for itself and all its subcontractors, that as of the date of its execution of this Bid/Contract, that neither the Contractor, nor any subcontractors, nor any suppliers are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Contractor cannot so certify, then it agrees to submit, along with its Bid, a written explanation of why such certification cannot be made.
- b. The Contractor also certifies, that as of the date of its execution of this Bid/Contract, it has no tax liabilities or other Commonwealth obligations.
- c. The Contractor's obligations pursuant to these provisions are ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to inform the Commonwealth if, at any time during the term of the Contract, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. Such notification shall be made within 15 days of the date of suspension or debarment.
- d. The failure of the Contractor to notify the Commonwealth of its suspension or debarment by the Commonwealth, any other state, or the federal government shall constitute an event of default of the Contract with the Commonwealth.
- e. The Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of State Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth, which results in the suspension or debarment of the Contractor. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.
- f. The Contractor may obtain a current list of suspended and debarred Commonwealth contractors by either searching the internet at <http://www.dgs.state.pa.us/> or contacting the:

Department of General Services
Office of Chief Counsel
603 North Office Building
Harrisburg , PA 17125
Telephone No. (717) 783-6472

V.38 CONTRACT-030.1 Americans with Disabilities Act (Oct 2006)

- a. Pursuant to federal regulations promulgated under the authority of The Americans With Disabilities Act, 28 C.F.R. Section 35.101 et seq., the Contractor understands and agrees that it shall not cause any individual with a disability to be excluded from participation in this Contract or from activities provided for under this Contract on the basis of the disability. As a condition of accepting this contract, the Contractor agrees to comply with the "General Prohibitions Against Discrimination," 28 C.F.R. Section 35.130, and all other regulations promulgated under Title II of The Americans With Disabilities Act which are applicable to all benefits, services, programs, and activities provided by the Commonwealth of Pennsylvania through contracts with outside contractors.
- b. The Contractor shall be responsible for and agrees to indemnify and hold harmless the Commonwealth of Pennsylvania from all losses, damages, expenses, claims, demands, suits, and actions brought by any party against the Commonwealth of Pennsylvania as a result of the Contractor's failure to comply with the provisions of Subparagraph a. above.

V.39 CONTRACT-032.1 Covenant Against Contingent Fees (Oct 2006)

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the Commonwealth shall have the right to terminate the Contract without liability or in its discretion to deduct from the Contract price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

V.40 CONTRACT-033.1 Applicable Law (Oct 2006)

This Contract shall be governed by and interpreted and enforced in accordance with the laws of the Commonwealth of Pennsylvania (without regard to any conflict of laws provisions) and the decisions of the Pennsylvania courts. The Contractor consents to the jurisdiction of any court of the Commonwealth of Pennsylvania and any federal courts in Pennsylvania, waiving any claim or defense that such forum is not convenient or proper. The Contractor agrees that any such court shall have in personam jurisdiction over it, and consents to service of process in any manner authorized by Pennsylvania law.

V.41 CONTRACT-034.1a Integration – RFP (Dec 12 2006)

This Contract, including the Request for Proposals, Contractor's Proposal, Contractor's Best and Final Offer, if any, all referenced documents, and any Purchase Order constitutes the entire agreement between the parties. No agent, representative, employee or officer of either the Commonwealth or the Contractor has authority to make, or has made, any statement, agreement or representation, oral or written, in connection with the Contract, which in any way can be deemed to modify, add to or detract from, or otherwise change or alter its terms and conditions. No negotiations between the parties, nor any custom or usage, shall be permitted to modify or contradict any of the terms and conditions of the Contract. No modifications, alterations, changes, or waiver to the Contract or any of its terms shall be valid or binding unless accomplished by a written amendment signed by both parties.

V.42 CONTRACT-034.2a Order of Precedence - RFP (Dec 12 2006)

In the event there is a conflict among the documents comprising this Contract, the Commonwealth and the Contractor agree on the following order of precedence: the Contract; the RFP, the Best and Final Offer, if any; the Contractor's Proposal in Response to the RFP.

V.43 CONTRACT-036.1 Background Checks (Feb 2008)

a. The Contractor must, at its expense, arrange for a background check for each of its employees, as well as the employees of any of its subcontractors, who will have access to Commonwealth facilities, either through on-site access or through remote access. Background checks are to be conducted via the Request for Criminal Record Check form and procedure found at <http://www.psp.state.pa.us/psp/lib/psp/sp4-164.pdf> . The background check must be conducted prior to initial access and on an annual basis thereafter.

b. Before the Commonwealth will permit access to the Contractor, the Contractor must provide written confirmation that the background checks have been conducted. If, at any time, it is discovered that a Contractor employee has a criminal record that includes a felony or misdemeanor involving terroristic behavior, violence, use of a lethal weapon, or breach of trust/fiduciary responsibility or which raises concerns about building, system or personal security or is otherwise job-related, the Contractor shall not assign that employee to any Commonwealth facilities, shall remove any access privileges already given to the employee and shall not permit that employee remote access unless the Commonwealth consents to the access, in writing, prior to the access. The Commonwealth may withhold its consent in its sole discretion. Failure of the Contractor to comply with the terms of this Section on more than one occasion or Contractor's failure to appropriately address any single failure to the satisfaction of the Commonwealth may result in the Contractor being deemed in default of its Contract.

c. The Commonwealth specifically reserves the right of the Commonwealth to conduct background checks over and above that described herein.

d. Access to certain Capitol Complex buildings and other state office buildings is controlled by means of card readers and secured visitors' entrances. Commonwealth contracted personnel who have regular and routine business in Commonwealth worksites may be issued a photo identification or access badge subject to the requirements of the contracting agency and DGS set forth in Enclosure 3 of Commonwealth Management Directive 625.10 Amended (January 30, 2008) Card Reader and Emergency Response Access to Certain Capitol Complex Buildings and Other State Office Buildings. The requirements, policy and procedures include a processing fee payable by the Contractor for contracted personnel photo identification or access badges.

V.44 CONTRACT-041.1 Disadvantaged Business Participation and Enterprise Zone Small Business Participation (March 5, 2007)

The Contractor's commitments to Disadvantaged Businesses and/or Enterprise Zone Small Businesses made at the time of proposal submittal or contract negotiation shall be maintained throughout the term of the contract. Any proposed change must be submitted to BMWBO, which will make a recommendation to the Contracting Officer regarding a course of action.

Small Disadvantaged Business subcontractors, Enterprise Zone Small Business subcontractors and Small Disadvantaged Businesses or Enterprise Zone Small Businesses in a joint venture must perform at least 50% of the subcontract or Small Disadvantaged Business/Enterprise Zone Small Business participation portion of the joint venture.

If a contract is assigned to another contractor, the new contractor must maintain the Disadvantaged Business participation and/or Enterprise Zone Small Business participation of the original contract.

The Contractor shall complete the Prime Contractor's Quarterly Utilization Report (or similar type document containing the same information) and submit it to the contracting officer of the Issuing Office and BMWBO within 10 workdays at the end of each quarter the contract is in force. This information will be used to determine the actual dollar amount paid to Small Disadvantaged Business and/or Enterprise Zone Small Business subcontractors and suppliers, and Small Disadvantaged Business and/or Enterprise Zone Small Business participants involved in joint ventures. Also, this information will serve as a record of fulfillment of the commitment the selected contractor made and for which it received Disadvantaged Business and Enterprise Zone Small Business points. If there was no activity during the quarter then the form must be completed by stating "No activity in this quarter."

NOTE: EQUAL EMPLOYMENT OPPORTUNITY AND CONTRACT COMPLIANCE STATEMENTS REFERRING TO COMPANY EQUAL EMPLOYMENT OPPORTUNITY POLICIES OR PAST CONTRACT COMPLIANCE PRACTICES DO NOT CONSTITUTE PROOF OF DISADVANTAGED BUSINESSES STATUS OR ENTITLE AN OFFEROR TO RECEIVE CREDIT FOR DISADVANTAGED BUSINESSES UTILIZATION.

V.45 CONTRACT-045.1 Insurance - General (Dec 12 2006)

The Contractor is required to have in place during the term of the Contract and any renewals or extensions thereof, the following types of insurance, issued by companies acceptable to the Commonwealth and authorized to conduct such business under the laws of the Commonwealth of Pennsylvania:

- A. **Worker's Compensation Insurance** for all of the Contractor's employees and those of any subcontractor, engaged in work at the site of the project as required by law.

- B. **Public Liability and Property Damage Insurance** to protect the Commonwealth, the Contractor, and any and all subcontractors from claims for damages for personal injury (including bodily injury), sickness or disease, accidental death and damage to property including the loss of use resulting from any property damage, which may arise from the activities performed under the Contract or the failure to perform under the Contract, whether such performance or non-performance be by the Contractor, by any subcontractor, or by anyone directly or indirectly employed by either. The minimum amounts of coverage shall be \$250,000 per person and \$1,000,000 per occurrence for bodily injury, including death, and \$250,000 per person and \$1,000,000 per occurrence for property damage. Such policies shall be occurrence rather than claims-made policies and shall not contain any endorsements or any other form designated to limit and restrict any action by the Commonwealth, as an additional insured, against the insurance coverage in regard to work performed for the Commonwealth.

Prior to commencement of the work under the Contract and at each insurance renewal date during the term of the Contract, the Contractor shall provide the Commonwealth with current certificates of insurance. These certificates or policies shall name the Commonwealth as an additional insured and shall contain a provision that the coverage's afforded under the policies will not be cancelled or changed until at least thirty (30) days written notice has been given to the Commonwealth.

The Commonwealth shall be under no obligation to obtain such certificates from the Contractor(s). Failure by the Commonwealth to obtain the certificates shall not be deemed a waiver of the Contractor's obligation to obtain and furnish certificates. The Commonwealth shall have the right to inspect the original insurance policies.

V.46 CONTRACT-051.1 Notice (Dec 2006)

Any written notice to any party under this Contract shall be deemed sufficient if delivered personally, or by facsimile, telecopy, electronic or digital transmission (provided such delivery is confirmed), or by a recognized overnight courier service (e.g., DHL, Federal Express, etc.) with confirmed receipt, or by certified or registered

United States mail, postage prepaid, return receipt requested, and sent to following:

- a. If to the Contractor: the Contractor's address as recorded in the Commonwealth's Supplier Registration system.
- b. If to the Commonwealth: the address of the Issuing Office as set forth on the Contract.

SPONSORSHIP AGREEMENT

THIS SPONSORSHIP AGREEMENT (the “Sponsorship Agreement”) is made and entered into by and between The Pennsylvania Farm Show Complex & Expo Center (the “Farm Show”), a one million square foot exposition/convention facility located in Harrisburg, Pennsylvania, their exclusive marketing agent, Market Street Sports Group LLC (“MSSG”) a limited liability company with principal offices at 447 N. Mulberry Street, Lancaster, PA 17603 and _____, (“Sponsor”) with an address of _____.

Background

The Farm Show has adopted a policy that seeks to generate an additional revenue stream by selling Venue Naming Rights, Sponsorships and Advertising.

The Farm Show’s policy does not create a forum for all types of advertising or provide a general public forum for purposes of communication. Rather, the intent is to make use of a limited portion of the Farm Show’s property in order to generate financial support from commercial sponsors.

Noncommercial advertising is not permitted under this policy in order to ensure a professional advertising atmosphere that is conducive to maximizing revenues from the Farm Show’s sponsorship program and to maintain the Farm Show’s position of neutrality on political, religious and other public issues.

The Farm Show has engaged MSSG as their marketing agent to solicit and manage Sponsorship Agreements.

Wherefore, intending to be legally bound, the foregoing parties hereby agree as follows:

1. Promotional Rights, Sponsorship Fees and Time Frame. Subject to the terms and conditions of this Sponsorship Agreement, the Farm Show hereby grants and sells to Sponsor, and Sponsor hereby purchases and accepts from the Farm Show, certain commercial sponsorship rights for a specified period of time in exchange for the payment of sponsorship fees by Sponsor, as described in Exhibit A attached hereto.

2. Responsibility for Advertising. The parties have the following responsibilities regarding advertising materials under this Sponsorship Agreement:

a. Sponsor. Sponsor is responsible for the design of all advertising materials contemplated by this Sponsorship Agreement and for submitting all such materials to MSSG for approval as required by Section 8 below.

b. MSSG. MSSG is responsible to produce, install, maintain and remove all displays, signs, advertisements and other such equipment that is required as part of this Sponsorship Agreement. All advertising materials that are damaged must be replaced, repaired or removed in a timely fashion by MSSG. MSSG shall ensure the removal of Sponsor’s advertising materials from Farm Show property upon expiration of this Sponsorship Agreement.

c. **Farm Show.** Unless expressly stated otherwise in Exhibit A to this Sponsorship Agreement, beyond having the right to review and approve advertising copy of Sponsor as described in Section 8 below, the Farm Show shall have no responsibility regarding the design, production, installation, maintenance or removal of advertising materials associated with this Sponsorship Agreement.

3. **Sponsorship Fees.** Exhibit A to this Sponsorship Agreement shall identify the following with respect to sponsorship fees paid by Sponsor: (i) the total amount of the sponsorship fees to be paid by the Sponsor; (ii) the amount and timing of payments to be made by Sponsor; and (iii) only if applicable, a description of any in-kind contributions to be made by the Sponsor.

4. **Payments Made by Sponsor to MSSG.** All payments of sponsorship fees due under this Sponsorship Agreement shall be made by check payable to MSSG at Market Street Sports Group LLC, 447 N. Mulberry Street, Lancaster, PA 17603, unless otherwise specified. MSSG is responsible to submit timely invoices to Sponsor, ensure that Sponsor complies with the payment schedule established in Exhibit A and to remit sponsorship fees to the Farm Show as required by the contract between MSSG and the Farm Show. If the contract between MSSG and the Farm Show is terminated or its term expires, Sponsor will be so notified and Sponsor shall immediately commence making payments due under this agreement directly to Farm Show, as per the instructions and in the manner specified by Farm Show. Any such termination or expiration shall not otherwise effect the terms of this agreement and it shall remain in full force and effect.

5. **Mandatory Conditions Applicable to Advertising.** All advertising associated with this Sponsorship Agreement shall comply with the following conditions:

- a. Advertisements shall not be disruptive or jeopardize the safety of staff and/or the public by their content or physical properties.
- b. No staff information (e.g., names, addresses, telephone numbers or e-mail addresses) shall be made available to sponsors for purposes of distribution or dissemination of advertising.
- c. Advertising must comply with all laws, regulations and administrative agency rules of the federal, state and local governments, including those applicable to intellectual property rights (such as copyrights, trademarks, trade names and patents). Unless otherwise provided in Exhibit A, Sponsor shall be responsible for compliance with all laws, regulations and administrative agency rules concerning the protection of intellectual property rights, and MSSG shall be responsible to identify and arrange for any necessary approvals, waivers, variances or permits required under local zoning and land use ordinances for the installation of advertising materials.
- d. No Sponsor shall be permitted to use the Farm Show's intellectual property (e.g. team names, slogans, logos, or designs constituting trademark or services marks whether or not registered) unless such use is identified in an approved Sponsorship Agreement or approved in writing by the Farm Show.
- e. Advertising must be in compliance with all Farm Show policies, procedures, rules and guidelines, including those specifically applicable to Sponsorship Agreements

and non-discrimination, and Sponsor agrees it has had opportunity to request and review such policies, procedures, rules and guidelines.

7. Provisions Regarding Advertising Copy and Signage

a. Preparation. Unless otherwise provided in Exhibit A, Sponsor shall be responsible, at its sole cost and expense, for the design of all advertising copy to be used pursuant to this Sponsorship Agreement. MSSG shall provide Sponsor in advance with any required technical specifications for signage and with the Farm Show's style preferences for the advertising copy, in order to enable Sponsor to design appropriate advertising copy for signage. Sponsor shall provide MSSG with samples of the anticipated design and copy of its advertising copy in accordance with deadlines established by MSSG for the Farm Show's review and approval as described in Section 8 below.

b. Installation and Removal of Advertising Signage. MSSG shall be responsible to install and remove all advertising signage. MSSG shall confirm with the Farm Show that such schedule will not interfere with Farm Show operations.

c. Maintenance. Following initial installation of advertising signage, MSSG shall be responsible for maintaining the signage in good and attractive order, repair, and condition throughout the term identified in Exhibit A hereto. MSSG shall coordinate the scheduling of such maintenance work so that it does not interfere with Farm Show operations.

d. Display. All advertising signage provided for in this Sponsorship Agreement shall be displayed during all events open to the general public held at the locations specified in Exhibit A during the term of this Sponsorship Agreement, unless such advertising is prohibited for a specific event by federal, state or local laws or regulations. Except as otherwise provided in the immediately preceding sentence, no advertising signage shall be removed, covered, or intentionally obstructed for any purpose during any event (other than an obstruction caused solely by the erection of facilities or equipment necessary for the conduct or performance of an event) without the prior written consent of Sponsor.

e. Installation of Replacement Advertising Signage. Sponsor shall have the right to replace advertising signage during the term of this Sponsorship Agreement, at its sole cost and expense, subject to the replacement signage being of the same size and character as the original signage and the Farm Show's right of approval pursuant to Section 8 below. Sponsor shall schedule any such installation work through MSSG so that it does not interfere with Farm Show operations.

8. Approval of Advertising Copy. The design, layout, elevation, configuration, and content of all advertising copy displayed pursuant to this Sponsorship Agreement shall be subject to the Farm Show's approval based on the following process: Sponsor shall deliver submittals of advertising copy to MSSG based on a schedule established by MSSG. MSSG shall deliver advertising copy submitted by Sponsor within two (2) business days to the Farm Show. The Farm Show shall notify MSSG within two (2) business days after its receipt of each submission, if any proposed advertising copy is unacceptable to the Farm Show, otherwise such submission shall be deemed to be approved by the Farm Show. Sponsor shall have ten (10) days following its receipt of any Farm Show's notice that advertising copy is unacceptable within which to submit advertising copy to MSSG that is acceptable to the Farm Show based on the foregoing process. If Sponsor fails

to submit acceptable advertising copy within the foregoing time limitation, the Farm Show shall not be liable for the refusal or failure to display the proposed advertising copy on signage.

The Farm Show may find advertising copy to be unacceptable if in good faith it determines that the advertising copy (i) violates any requirements of this Sponsorship Agreement, (ii) is of substandard technical quality; (iii) does not conform to Farm Show's previously stated design preferences, (iv) is not commercial in nature, (v) is not in keeping with standards of good taste, (vi) seeks to promote, encourage or engage in any of the following:

- a. support any non-commercial message or position;
- a. make false, misleading, deceptive or unwarranted statements or claims;
- b. infringe upon another persons' rights through plagiarism, unfair imitation of another person's program idea or copy, or any other unfair competition;
- c. disparage a competitor or a competitor's products or services;
- d. contain slanderous, obscene, sexual, profane, vulgar, repulsive, or offensive matters, either in theme or in treatment;
- e. appeal for funds;
- f. contain testimonials that cannot be authenticated;
- g. promote the sale or use of alcohol or tobacco products; or
- h. promote unlawful or illegal goods, services or activities.

Sponsor shall have the right to modify advertising copy throughout the term of this Sponsorship Agreement, subject to the Farm Show's right of approval pursuant to the foregoing process and standards.

9. Retained Rights to Intellectual Property. Sponsor's intellectual property displayed on its advertising copy, and all trademark rights or copyrights in such advertising copy, shall be and remain the sole and exclusive property of Sponsor. Throughout the term of this Sponsorship Agreement, Sponsor grants the Farm Show a non-exclusive limited license to publish, distribute and display Sponsor's intellectual property on advertising copy or on any other items or materials consistent with the terms and purposes of this Sponsorship Agreement.

Any and all advertising or promotional materials displayed or distributed by Sponsor pursuant to this Sponsorship Agreement in conjunction with the Farm Show intellectual property (e.g., displaying Farm Show's name, logos, trademarks, or service marks) shall be subject to the prior written approval of Farm Show, and, if approved, shall be subject to the grant of a non-exclusive limited license that automatically expires upon the expiration or termination of this Sponsorship Agreement. The Farm Show's intellectual property (including without limitation any such intellectual property that is displayed on Sponsor's advertising copy with the permission of the Farm Show) shall be and remain the sole and exclusive property of the Farm Show.

No party shall have the right to use in any way or reproduce for any purpose the corporate or trade names, trademarks, service marks, logos, or other proprietary symbols of another party to this Sponsorship Agreement without that party's prior written consent.

10. Farm Show Approval Required for any On-Site Promotional Activity. Any promotional activity (including presentations or programs) on Farm Show property requested by Sponsor should be identified in Exhibit A, so that it may be approved as part of this Sponsorship Agreement. Sponsor shall not engage in promotional activity on Farm Show property that is not expressly identified in Exhibit A without written consent by the Farm Show, which shall have sole discretion on whether to approve such activity.

11. "Make Good" Activity. If an advertising or promotional activity identified in Exhibit A does not occur as contemplated due to unforeseen circumstances or events beyond the control of the Farm Show, MSSG and/or the Sponsor, the parties may mutually agree upon a "make good" advertising or promotional activity to compensate for the non-occurrence of the scheduled activity. A "make good" activity must be scheduled to occur during the term of this Agreement.

12. Termination. If any party breaches its obligations hereunder for reasons other than a "Force Majeure" as defined below, any non-breaching party shall have the option to immediately cease all performance under this Sponsorship Agreement and (without prejudice to any other legal rights) may terminate this Sponsorship Agreement if such breach is not cured within fourteen (14) days receipt of notice by the breaching party. A Force Majeure shall mean and include any event or cause beyond a party's reasonable control (including, but not limited to fire, flood, explosions, damage by third parties, whether negligently or intentionally caused, strikes, work stoppages, picketing, lockouts and/or any other concerted action by any employees or any labor organization, acts of God or other casualties, the laws or actions of any governmental authority, or any other event or cause that is beyond a party's reasonable control), which renders a party unable to fulfill its obligations pursuant to this Sponsorship Agreement.

Further, the Farm Show reserves the right to terminate this Sponsorship Agreement without cause if its Board of Directors determines, in its sole discretion, that terminating the contract is in the best interest of the Farm Show. Should the Farm Show terminate the contract without cause, the Farm Show shall return to Sponsor a prorated amount of sponsorship fees paid for the current contract year.

13. Release, Indemnification, No Representations

a. **By Sponsor.** Sponsor hereby assumes full and complete responsibility and liability for the content of all its advertising copy and for all other work performed or required to be performed by Sponsor under this Sponsorship Agreement, and agrees that all of the foregoing shall be at Sponsor's sole risk. Sponsor agrees to defend, indemnify, and hold harmless the Farm Show and MSSG (including their present and future board members, officers, administrators, employees, stakeholders, other representatives, successors and assigns and their respective subsidiaries, affiliates, partners, officers, directors, employees, stakeholders, shareholders, agents, other representatives, successors and assigns) from and against any and all losses, liabilities, damages, claims, demands, suits, and judgments (including, without limitation, attorneys' fees and the costs of any legal action) arising out of (i) the use of any trademark, service mark, logo, design, and other intellectual property right materials provided by Sponsor; (ii) the character, content, and subject matter of any advertising copy displayed by Sponsor; (iii) the design of Sponsor's advertising or

signage; and (iv) any breach of this Sponsorship Agreement by Sponsor. Sponsor fully and forever waives, discharges, and releases the Farm Show and MSSG from any and all losses, liabilities, damages, claims, demands, suits, and judgments (including, without limitation, attorneys' fees and the costs of any legal action) arising out of or related to any matter described in clauses (i) through (iv) above.

b. No Oral or Implied Representations. Sponsor acknowledges that all terms and conditions of this Sponsorship Agreement are in writing as fully set forth in this document and Exhibit A attached hereto. The Farm Show and MSSG shall not be bound by any oral or implied agreements, warranties or representations purportedly made to Sponsor by the Farm Show, MSSG or their employees.

14. Assignment. Sponsor and MSSG shall not have the right or power to assign any of their rights or obligations under this Sponsorship Agreement to any other party without the prior written consent of the Farm Show in its sole discretion. The Farm Show shall not assign any of its rights or obligations under this Sponsorship Agreement to any other party without the prior written consent of Sponsor. Subject to the foregoing, this Sponsorship Agreement shall be binding upon and shall inure to the benefit of the parties and their permitted successors and assigns.

15. Governing Law. The validity, interpretation and performance of this Sponsorship Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania, without regard to conflict-of-law principles. The parties agree the exclusive venue for any legal proceedings that may be instituted by the parties in connection with this Sponsorship Agreement shall be in the Lancaster County Court of Common Pleas.

16. Notices. All notices or other communications that are required or contemplated by this Sponsorship Agreement shall be in writing and delivered at the addresses identified in the opening paragraph hereof unless otherwise directed by a party. All notices concerning termination of this Sponsorship Agreement shall be sent by United States certified or registered mail, return receipt requested, or by other means of delivery that generates a signed receipt.

17. Merger Clause. This Sponsorship Agreement (including any attached exhibits) is the final, complete, and exclusive statement and expression of the agreement among the parties hereto with relation to the subject matter hereof, it being understood that there are no oral representations, understandings, or agreements covering the same subject matter as this Sponsorship Agreement. This Sponsorship Agreement supersedes and cannot be varied, contradicted, or supplemented by evidence of any prior or contemporaneous discussions, correspondence, or oral or written agreement of any kind.

18. Representations and Warranties of Sponsor. Sponsor does hereby represent and warrant that it owns or has the right to use all trademarks, brand logos, label designs, product identification, decals, and artwork displayed in its advertising copy and on signage to be displayed pursuant to this Sponsorship Agreement.

19. No Waiver. No delay of or omission in the exercise of any right, power, or remedy accruing to any party under this Sponsorship Agreement shall impair any such right, power, or remedy, nor shall it be construed as a waiver of any future exercise of any right, power, or remedy.

20. Severability. In case any provision of this Sponsorship Agreement shall be invalid, illegal, or unenforceable, such provision shall be severed from this Sponsorship Agreement. The validity, legality, and enforceability of the remaining provisions of this Sponsorship Agreement shall not in any way be affected or impaired thereby.

21. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original, and all of which shall be deemed to be one and the same instrument.

IN WITNESS WHEREOF, the parties have caused this Sponsorship Agreement to be duly executed by an authorized representative as of the day and year first written above.

SPONSOR: _____

By _____

Date: _____

Title _____

THE PENNSYLVANIA FARM SHOW COMPLEX & EXPO CENTER

By _____

Date: _____

Title _____

MARKET STREET SPORTS GROUP LLP

By _____

Date: _____

Title _____

APPROVED AS TO FORM AND LEGALITY

**CHIEF COUNSEL
DEPARTMENT OF AGRICULTURE**

OFFICE OF ATTORNEY GENERAL

OFFICE OF GENERAL COUNSEL

SECTION IV---STATEMENT OF WORK

PA FARM SHOW COMPLEX & EXPO CENTER VENUE NAMING RIGHTS, SPONSORSHIP AND ADVERTISING PROGRAM

RFP # 6100006261

The Pennsylvania Farm Show Complex & Expo Center is a one million square foot exposition/convention facility located in Harrisburg, Pennsylvania. The Complex is owned by the Commonwealth of Pennsylvania and operated by the PA Department of Agriculture, Bureau of Farm Show. The Complex is a multi-function facility hosting approximately 80 major events annually such as the Pennsylvania Farm Show, Eastern Sports & Outdoor Show, PA Auto/Boat Show, PA National Quilt Extravaganza and the Pennsylvania National Horse Show. The Complex also hosts hundreds of other events including entertainment and sporting events, business meetings, banquets, weddings, proms and other social events (see the attached 2008 Farm Show Event Schedule Exhibit A). The Complex has 11 major venues under one continuous roof, and is easily accessible to all major highways. Attracting both national and international visitors, the Complex is a major economic engine for Pennsylvania, having a significant financial impact on area hotels, restaurants, attractions and shopping malls. It is estimated that over one million people visit the Complex annually. **Please note that the naming rights opportunity will not be awarded to any alcohol, tobacco, or firearms brand.**

The Pennsylvania Farm Show Complex & Expo Center is seeking proposals from qualified sales organizations to sell Venue Naming Rights, Sponsorships and Advertising as defined in this RFP.

IV-1. Objectives.

- a. **General.** For the Pennsylvania Farm Show Complex & Expo Center to generate an additional revenue stream by selling Venue Naming Rights, Sponsorships and Advertising.
- b. **Specific.**
 - Seeking to contract with an experienced organization to sell Venue Naming Rights, Sponsorships and Advertising at the Complex.
 - Soliciting financial proposals and conceptual sales/marketing plans to accomplish the above objective.
 - It is anticipated that the selected Offeror will be responsible for managing all aspects of the program, including all revenues and expenses, and will be paid a commission on sales revenues.

IV-2. Nature and Scope of the Project. In 2006, Harmelin Media conducted a study to evaluate the financial impact of Venue Naming Rights, Sponsorships and Advertising at the Complex. The potential value was estimated at \$1.7 million (Exhibit B as example only). The successful Offeror will be responsible for generating income to the Complex by selling Venue Naming Rights, Sponsorships and Advertising. For the purpose of this submittal, Sponsorship is defined as associating in organizations name with a particular aspect of the Pennsylvania Farm Show complex & Expo Center as a means of enhancing sponsoring organizations image. For example: Company "X" is the official provider of pick-up trucks to the Pennsylvania Farm Show Complex & Expo Center, or Corporation "X" is the official feed supplier to the Annual Farm Show.

It is the responsibility of the successful Offeror to establish and negotiate contracts with potential sponsors and advertisers. The successful Offeror will also be responsible for the production, installation, maintenance, and improvements of signage. All naming rights proposals, sponsorships, advertisers,

advertisements and signage must be pre-approved by the management of the Pennsylvania Farm Show Complex & Expo Center. All costs associated with design, fabrication, production of signage must be included in the selling price structure such that there shall be no cost to the Commonwealth in implementing this project. Potential advertising areas have been identified in Exhibit B as examples only.

IV-3. Task.

1. Describe in detail how you would identify prospects for Naming Rights, Advertising and Sponsorship.
2. Describe in detail your plan to:
 - Promote and display Naming Rights by venue at the PA Farm Show Complex & Expo Center.
 - Utilize the space at the PA Farm Show Complex & Expo Center to include specific methods of advertising and proposed locations.
 - Publicize Sponsorships at the PA Farm Show Complex & Expo Center.

As you develop your plan you may take into consideration that the Pennsylvania Farm Show Complex & Expo Center has the availability of offering event/meeting space as an additional benefit to those purchasing Venue Naming Rights, Sponsorships and Advertising. For example, the Complex could offer to the purchasers the use of one of the eleven major venues to be used for product sales & demonstrations, customer appreciation events and receptions, parties & special functions.

3. Describe in detail how you would negotiate Naming Rights, Advertising and Sponsorship.
4. Describe in detail your plan and how you would implement and administer Naming Rights, Advertising and Sponsorship contracts.
5. Describe in detail your plan for managing the fabrication, installation and maintenance of signage. No costs associated with the fabrication, installation and maintenance of signage will be borne by the Commonwealth.
6. Describe in detail your plan for managing all the financial aspects of the program.
7. Describe your proposed schedule to remit payment to the Farm Show Complex & Expo Center (quarterly, yearly).
8. Describe your proposed implementation plan for the services to be provided to the Commonwealth. Include a timeline.
9. Provide a list of venues that you are currently working with in any advertising related capacity.
10. Describe your experience working in a venue which is the home team facility for an independent sports franchise which has its own exclusive rights to advertising and promotions during scheduled league events.
11. Provide list of advertisers and/or companies that buy advertising in the form of venue signage, naming rights or sponsorships that you have worked with past or present, that you feel will be suited for marketing within the Farm Show Complex & Expo Center. Please also describe

why you feel those listed would be suited for marketing within the Farm Show Complex & Expo Center.

12. How long has your company been in the advertising business.
13. Describe in detail your experience in selling naming rights , venue signage, billboards and sponsorships.
14. Provide a list of companies and/or clients that are currently hiring your firm for promotions, sponsorships, naming rights, venue signage, print advertising, radio advertising and television or internet advertising.

IV-4. Reports and Project Control. The successful Offeror will be responsible to provide the following:

- A. A monthly progress report showing companies contacted, companies contracted, and any problems and recommendations.
- B. Monthly and year-end financial reports that outline revenues earned/collected and expenses incurred.
- C. A monthly report detailing the revenue paid to the Pennsylvania Farm Show Complex & Expo Center.
- D. Quarterly report comparing actual revenue versus projected revenue.

IV-5 Coordination with the Department of General Services (DGS), Bureau of Construction: The selected Offeror must coordinate with the DGS Bureau of Construction for the furnishing or installation of any fixtures or electrical systems in the Pennsylvania Farm Show Complex & Expo Center.

IV-6. Prevailing Minimum Wages: In the event the total estimated cost of an installation project is greater than \$25,000, the Prevailing Minimum Wage provision set forth below shall apply to the contract between the Commonwealth and the selected Offeror; and the selected Offeror shall include this provision in its contracts with entities purchasing naming rights, sponsorships or advertising at the Farm Show Complex and Expo Center:

The contract with the awarded vendor is subject to and shall comply with the provisions, duties, obligations, remedies and penalties of the Pennsylvania Prevailing Wage Act, 43 P.S. Sections 165-1 through 165-17 and its regulations 34 Pa. Code §§ 9.101 through 9.112, which are incorporated herein by reference as if fully set forth herein. The contractor shall pay no less than the wage rates including contributions for employee benefits as determined by the Secretary of Labor and Industry (hereinafter referred to in this paragraph as "Secretary") for each craft or classification of all workers needed to perform this contract during the term hereof for the county in which the work is to be performed. In compliance with said Pennsylvania Prevailing Wage Act, the Prevailing Minimum Wage Predetermination, as approved by the Secretary, is attached hereto and made a part hereof.

(A) The provisions of this paragraph shall apply to all work performed on the contract by the contractor and to all work performed on the contract by all subcontractors. The contractor shall insert in each of its subcontracts all of these required contract provisions and stipulations contained in this paragraph and such other stipulations as may be required.

(B) No worker may be employed on the public work except in accordance with the classifications set forth in the decisions of the Secretary. In the event that additional or different classifications are necessary, the procedure set forth in section 8 of the Act (43 P.S. § 165-8) and § 9.107 of the Act's Regulations (relating to petition for review of rates and hearings) shall be followed.

(C) Workers employed or working on the public work shall be paid unconditionally, regardless of whether any contractual relationship exists or the nature of a contractually relationship which may be alleged to exist between a contractor, subcontractor and workers, at least once a week without deduction or rebate, on any account, either directly or indirectly, except authorized deductions, the full amounts due at the time of payment, computed at the rates applicable to the time worked in the appropriate classification. Nothing in the contract, the Prevailing Wage Act or its Regulations prohibits the payment of more than the general prevailing minimum wage rates as determined by the Secretary to any worker or public work.

(D) The contractor and each subcontractor shall post for the entire period of construction the wage determination decisions of the Secretary, including the effective date of changes thereof, in a prominent and easily accessible place or places at the site of the work and at the place or places used by them to pay workmen their wages. The posted notice of wage rates shall contain the following information:

(1) The name of project.

(2) The name of public body of which it is being constructed.

(3) The crafts and classifications of workmen listed in the Secretary's general prevailing minimum wage rate determination for the particular project.

(4) The general prevailing minimum wage rates determined for each craft and classification and the effective date of changes.

(5) A statement advising workers that if they have been paid less than the general prevailing minimum wage rate for their job classification or that the contractor or subcontractor are not complying with the act or the regulations in any manner whatsoever, the worker may file a protest in writing with the Secretary of Labor and Industry within 3 months of the date of the occurrence, objecting to the payment to a contractor to the extent of the amount due or to become due to them as wages for work performed on the public work project.. A worker paid less than the rate specified in the contract shall have a civil right of action for the difference between the wage paid and the wages stipulated in the contract, which right of action must be exercised within 6 months from the occurrence of the event creating the right.

(E) The contractor and subcontractors shall keep an accurate record showing the name, craft or classification, number of hours worked per day, and the actual hourly rate of wage paid including employee benefits, to each worker employed by the contractor or subcontractor in connection with the public work. The record shall include deductions from each worker. The record shall be preserved for 2 years from the date of payment and shall be open at reasonable hours to the inspection of the public body awarding the contract and to the Secretary or the Secretary's authorized representatives.

(F) Apprentices shall be limited to numbers in accordance with a bona fide apprenticeship program registered with and approved by the Pennsylvania Apprenticeship and Training Council and only apprentices whose training and employment are in full compliance with The Apprenticeship and Training Act (43 P.S. §§ 90.1 – 90.10), approved July 14, 1961 and the regulations issued thereto shall be employed on the public work project. A worker using the tools of a craft who does not qualify as an apprentice within the provisions of this subsection shall be paid the rate predetermined for journeymen in that particular craft or classification.

(G) Wages shall be paid without deductions except authorized deductions. Employers not parties to a contract requiring contributions for employee benefits which the Secretary of Labor & Industry has determined to be included in the general prevailing minimum wage rate shall pay the monetary equivalent thereof directly to the workers.

(H) Payment of compensation to workers for work performed on public work on a lump sum basis, or a piece work system, or a price certain for the completion of a certain amount of work, or the production of

a certain result shall be deemed a violation of the Act, regardless of the average hourly earnings resulting therefrom.

(I) Each contractor and each subcontractor shall file a statement each week and a final statement at the conclusion of the work on the contract with the contracting agency, under oath, and in form satisfactory to the Secretary, certifying that workers have been paid wages in strict conformity with the provisions of paragraph. If wages remain unpaid, to the contractor or subcontractor shall set forth the amount of wages due and owing to each worker respectively. A copy of the form entitled "Contractor's or Subcontractor's Weekly Payroll Certification for Public Works Projects" is attached hereto.

(J) Before final payment is made, a final wage certification must be submitted by all contractors and subcontractors.

IV-7. Steel Products Procurement Act: The Steel Products Procurement Act provision set forth below shall apply to the contract between the Commonwealth and the selected Offeror; and the selected Offeror shall include this provision in its contracts with entities purchasing naming rights, sponsorships or advertising at the Farm Show Complex and Expo Center:

In the performance of any contract entered into for the fabrication, installation and maintenance of signage or fixtures, the contractor and all subcontractors, materialmen, and suppliers shall use only "steel products" as defined in the Steel Products Procurement Act, Act of March 3, 1978, P.L. 6, No. 3, 73 P.S. §§ 1881-1887 ("SPPA"), including products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated or otherwise similarly processed, or processed by a combination of two or more of such operations, from steel made in the United States by the open hearth, basic oxygen, electric furnace, Bessemer or other steel making process. Cast iron products, as well as machinery and equipment listed in United States Department of Commerce Standard Industrial Classification 25 (furniture and fixture), 35 (machinery, except electrical) and 37 (transportation equipment) and made of, fabricated from, or containing steel components. If a product contains both foreign and United States steel, such products shall be determined to be a United States Steel product only if at least 75% of the cost of the articles, materials and supplies have been mined, produced or manufactured, as the case may be, in the United States. Transportation equipment shall be determined to be a United States steel product only if it complies with Section 165 of Public Law 97-424 (96 Stat. 2136).

IV-8. Misc. In section I-14 RFP- 013.1a Disadvantaged Business Information (Oct 2006), the website for accessing the database for BMWBO-certified minority- and women-owned business has been changed to <http://www.dgsweb.state.pa.us/mbewbe/VendorSearch.aspx>.

IV-9. Other. Under Exhibit B (as example only) on page 32 of the Hamelin Proposal, the total cost for four units should be \$106,420 and not \$26,605.

IV-10. Optional Site Visit. Offerors, prior to submitting a proposal, have the option to visit the Farm Show Complex & Expo Center to familiarize themselves with the site. Offerors should contact Peggy Lucas at (717) 787-5373 to schedule an appointment to visit the site. Site visit appointments will be held September 11-15, 2008.

REVENUE SUBMITTAL WORKSHEET
RFP # 610006261

Revenue to the Commonwealth--Percentage of the Gross Sales.

Please note the only required input is for the yearly percentage columns

Market Street Sports Group	Assumed Annual Gross Sales	YEAR #1 (enter %)	Assumed Commission	YEAR #2 (enter %)	Assumed Commission	YEAR #3 (enter %)	Assumed Commission	Total Assumed Commission
Venue Naming Rights	\$ 1,500,000.00	30%	\$ 450,000.00	30%	\$ 450,000.00	30%	\$ 450,000.00	\$ 1,350,000.00
Sponsorship	\$ 1,000,000.00	30%	\$ 300,000.00	30%	\$ 300,000.00	30%	\$ 300,000.00	\$ 900,000.00
Advertising	\$ 500,000.00	30%	\$ 150,000.00	30%	\$ 150,000.00	30%	\$ 150,000.00	\$ 450,000.00
	\$ 3,000,000.00		\$ 900,000.00		\$ 900,000.00		\$ 900,000.00	\$ 2,700,000.00

The Commission percentages are binding and will be the basis for the awarded contract.

The assumed annual gross sales is for evaluation purposes only, and has no relevance to the potential dollar value(s) of the project. All offerors are to complete this worksheet on the basis of the assumed annual gross sales listed for each year.

**DOMESTIC WORKFORCE UTILIZATION CERTIFICATION FOR MULTIPLE
AWARD CONTRACTS**

This certification will be used by the Agency in making a best value selection for each particular assignment. Each quote will be evaluated for its commitment to use the domestic workforce in the fulfillment of the contract. Maximum consideration will be given to those suppliers who will perform the contracted direct labor exclusively within the geographical boundaries of the United States. Those who propose to perform a portion of the direct labor outside of the United States will receive correspondingly less consideration.

In order to be eligible for any consideration for this criterion, suppliers must complete and sign the following certification. This certification will be included as a contractual obligation when the purchase order is issued. Failure to complete and sign this certification will result in no consideration being given to the supplier for this criterion.

I, Jeffrey M. Bertoni
President of Sales [title] of Market Street Sports Group LLC [name of
Contractor] a Pennsylvania [place of incorporation] corporation or other legal entity,
("Contractor") located at
447 N. Mulberry Street, Lancaster, PA 17603
[address], having a
Social Security or Federal Identification Number of 26-0612342, do hereby
certify and represent to the Commonwealth of Pennsylvania ("Commonwealth") (Check one of
the boxes below):

All of the direct labor performed within the scope of services under the contract will be performed exclusively within the geographical boundaries of the United States.

OR

One hundred percent (100 %) [Contractor must specify the
percentage] of the direct labor performed within the scope of services under the contract will be performed within the geographical boundaries of the United States. Please identify the direct labor performed under the contract that will be performed outside the United States:

[Use additional sheets if necessary]

The Department of General Services [or other purchasing agency] shall treat any misstatement as fraudulent concealment of the true facts punishable under Section 4904 of the *Pennsylvania Crimes Code*, Title 18, of Pa. Consolidated Statutes.

Attest or Witness:

Jason A. Jesberger / 11/3/08
Signature/Date
JASON A. JESBERGER / PRESIDENT OF MARKETING
Printed Name/Title

Market Street Sports Group LLC
Corporate or Legal Entity's Name
Jeff M. Bertoni / 11/3/08
Signature/Date
Jeffrey M. Bertoni / President of Sales
Printed Name/Title