

## AMENDMENT #3 – August 19, 2011

### REQUEST FOR PROPOSALS (RFP)

#### VIDEO LOTTERY OPERATION LICENSE IN BALTIMORE CITY (#2012-0101)

This Amendment #3 is being issued to amend and clarify certain information contained in the above referenced RFP. All information contained herein is binding on all Applicants who respond to this RFP. Specific parts of the RFP have been amended. The following changes/additions are listed below; new language has been double underlined and marked in bold (i.e., **word**), and language deleted has been marked with a strikeout (i.e., ~~word~~).

#### 9. REVISE: KEY INFORMATION SUMMARY SHEET.

**MBE Ownership and Participation Goals:** See Sections 2.21 and 5.3 of this RFP for further information. ~~As part of its required evaluation criteria for business and market factors, the Location Commission will consider the percent of Applicant ownership by entities meeting the MBE definition under State law. In addition, a MBE subcontracting goal of a minimum of 35% has been established for the License resulting from this RFP (see Section 2.21).~~

#### 10. ADD: SECTION 1.3 GLOSSARY OF TERMS USED IN THIS REQUEST FOR PROPOSALS (RFP).

**MOU – Memorandum of Understanding between an Applicant and Baltimore City for control of the Video Lottery Facility Site and any ancillary properties, which includes all Amendments to the Memorandum of Understanding approved by the Baltimore City Board of Estimates. (See Appendix I)**

#### 11. REVISE: SECTION 2.2 PROCEDURE FOR CONDUCTING THE REQUEST FOR PROPOSALS, sub-paragraph 2.2.2.

For the construction and procurement related to the operation of the VLT's **Facilities**, the Applicant or Licensee shall ~~at a minimum~~ meet the same requirements of a designated unit **goals (including any sub-goals) to be established by the Lottery Commission** for Minority Business **Enterprise (MBE)** Participation (MBE) as described under Title 14,

Subtitle 3 of the State Finance and Procurement Article, unless a waiver is granted. See Section 2.21 for further details.

~~Under the VLT Law, if Baltimore City sets higher minority business participation requirements than the State, the Applicant shall meet the City's minority business participation requirements to the extent possible.~~

## **12. REVISE: SECTION 2.21 MINORITY BUSINESS ENTERPRISE (MBE) SUBCONTRACT PARTICIPATION GOAL.**

~~Minority Business Enterprises~~ **MBEs** are encouraged to respond to this RFP. In this section, Awardee and Licensee are used interchangeably.

**2.21.1** The Awardee/Licensee will be closely scrutinized and monitored for Minority Business Enterprise (MBE) compliance. The Governor's Office of Minority Affairs ("GOMA") shall monitor compliance with all MBE requirements and the Lottery Commission shall ensure that an Operation Licensee complies with the requirements of this Section as a condition of holding the Operation License.

**2.21.2** For the construction and other procurements related to the development, management and operation of ~~VLTs~~ **Video Lottery Facilities**, the Licensee shall ~~at a minimum meet the requirements~~ **goals (including sub-goals where the Lottery Commission determines that they are appropriate)** for MBE participation as described under Title 14, Subtitle 3 of the State Finance and Procurement Article.

~~A minimum certified MBE participation goal of 35% has been established by the State for the expenditures related to the Operation License issued as a result of this RFP, including but not limited to design, construction, development and operational expenditures. Senate Bill 120/House Bill 456 of 2011, passed by the General Assembly and pending signature by the Governor, repeal provisions of law related to minimum sub-goals for African American-owned MBEs and Women-owned MBEs and instead require GOMA to establish guidelines to determine whether sub-goals for minority groups should be set.~~

**The Lottery Commission will set goals for each Awardee/Licensee based on the actual work proposed and the availability of MBEs to perform the work. Waivers will be available for instances in which the Awardee/Licensee is unable to meet the goals after making good faith efforts. The waiver process is described in Section 6.27.2.**

By submitting a Proposal in response to this RFP, the Applicant/Licensee agrees to meet ~~or exceed the overall goal and any sub-goals~~ **goals** established in the License with the participation of Maryland Department of Transportation ("MDOT") certified MBEs **or seek and obtain a waiver after demonstrating good faith efforts to meet the goals.**

**2.21.3** Under the VLT Law (**SG § 9-1A-10**), if Baltimore City sets a higher minority business participation requirement than the State, the Licensee shall meet Baltimore City's minority business participation requirements to the extent possible. Baltimore City has its own Minority and Women's Business Enterprises Law (Article 5, Subtitle 28 of the Baltimore City Code 2007 Edition). ~~The Baltimore City Board of Estimates sets the participation goals annually and the Minority and Women's Business Opportunity Office sets contract goals. The participation goals are currently 27% for Minority Business Enterprises and 10% for Women's Business Enterprises. Additional information on the City's program may be \_\_\_\_\_ found \_\_\_\_\_ at:~~ <http://www.baltimorecity.gov/Government/AgenciesDepartments/Law/MinorityandWomensBusinessOpportunityOffice.aspx>. **The Lottery Commission will work with Baltimore City, GOMA, and other State agencies, as appropriate, in establishing the Awardee/Licensee goals based on scope of work and availability of MBEs, as described in Section 2.21.2.**

**2.21.4** Any collective bargaining agreement or agreements, including a project labor agreement or a neutrality agreement, entered into by an Applicant/Licensee may not negate these requirements.

**2.21.5** MBE forms are contained in Appendix D: Minority Business Enterprise (MBE) Instructions/Forms.

Each Applicant shall complete, sign and include with its Proposal submitted to the Location Commission in response to this RFP **Revised** Appendix D-1 – Applicant's Acknowledgement of MBE Requirements. (Note: If the Applicant fails to submit Appendix D-1 at the time of submittal of its Proposal as required, the Location Commission may determine that the Proposal is not acceptable)

Submission of **Revised** Appendix D-1 is the only MBE requirement at the time of submission of a Proposal in response to this RFP. All other forms are included herein for informational purposes, shall be submitted by the Awardee/Licensee directly to GOMA at a later date as directed by GOMA, and are subject to revision by GOMA.

**13. REVISE: SECTION 3.1.1 Required Submissions with Proposal, sub-paragraphs D and F.**

Applicants must submit the following items #A through #H with the Proposal.

- D. A completed Applicant's Acknowledgment of MBE Requirements **as revised by Amendment #3 to this RFP (Revised)** Appendix D-1).
- F. Signed Memorandum of Understanding, **signed First Amendment to Memorandum of Understanding**, and **any Executed** Supplement to Memorandum of Understanding, if applicable (Appendix I).

**14. REVISE: SECTION 3.1.6.2 Gaming Proposal, sub-paragraph D.**

D. Proposed hours of operation – facility may operate from 8 a.m. to 2 a.m. - under ~~Senate Bill 512 of 2011, pending signature by the governor~~ **Chapter 240 of 2011**, a facility may stay open until 4 a.m. on weekends; and

**15. REVISE: SECTION 3.1.6.4 Business Plan and Economic Impact, sub-paragraph B.**

B. Plan for securing MBE participation: Provide a plan to ~~meet or exceed the minimum MBE subcontracting goal of 35%~~ **include MBE participation in contracting.**

**16. REVISE: SECTION 4.2.3 Special Conditions, sub-paragraph 4.2.3.3, first paragraph.**

Appendix I contains a standard Memorandum of Understanding (MOU), **which includes the First Amendment to MOU approved by the Board of Estimates on August 10, 2011**, that has been approved by the Baltimore City Board of Estimates for signature by any Applicant. The standard MOU represents the minimum terms acceptable to Baltimore City for an agreement for use and control of the Facility site, including the site lot(s) to be leased for the VLT Facility and additional site lot(s) to be purchased for a parking garage and ancillary uses. An Applicant must submit a signed MOU **and a signed First Amendment to MOU** with the Applicant's Proposal. An Applicant **must** indicate on **Revised** Exhibit A of the **First Amendment to** MOU, the desired lot(s) to be ground leased and purchased and the purchase prices proposed for those lots, as well as any parking revenue bonds requested, if available. If an Applicant wishes to negotiate more favorable terms, the Applicant must negotiate those terms with Baltimore City and submit an executed Supplement to the MOU with the Applicant's Proposal.

**17. REVISE: SECTION 4.3.1 Financial Terms, third paragraph.**

The Site lots not used for the VLT Facility may be purchased from the City for use as a parking garage, retail space, restaurants, surface parking and other ancillary uses to the VLT Facility. The Applicant should propose a purchase price for one or more of the Site lots **for a parking garage**, which must be a minimum of \$1,000,000 per acre, on **Revised** Exhibit A of the MOU. **The parking garage lot(s) must be purchased at the time the ground lease for the VLT Facility takes effect. The Applicant may also propose to purchase one or more lots for ancillary uses. At the option of the Applicant, any ancillary lots may be purchased at the same time as the parking garage lot(s) or within two years of the Facility's opening, for a price equal to the**

**greater of: (1) the price paid for the parking garage lot(s); or (2) the fair market value of the ancillary lots at the time of purchase.**

#### **18. REVISE: SECTION 4.3.2 Parking Revenue Bonds.**

Baltimore City has the legal authority to issue taxable parking revenue bonds, which could be used to provide a portion of the permanent financing for the cost of a garage, but any such issuance would be subject to availability, credit review, and negotiation of specific terms. Under the legal structure used when the City issues parking revenue bonds, the garage would be owned by the City and, upon repayment of the bonds through payments by the Awardee/Licensee, the parking structure would be transferred to the Awardee/Licensee. Any parking revenue bonds being requested by an Applicant should be indicated on **Revised** Exhibit A of the MOU.

#### **19. REVISE: SECTION 4.3.4 Environmental Remediation.**

Some of the Site lots may require remediation by the Awardee/Licensee prior to development. The City of Baltimore Development Corporation (“BDC”), can make available to an Applicant, for copying, the existing environmental studies that cover all of the Site lots except 701 Ostend St. BDC has engaged an environmental consultant to prepare a Remediation Action Plan (RAP) for the sites (excluding 701 Ostend St). The draft RAP is available to an Applicant for review at [http://cdn.mdlottery.com.s3.amazonaws.com/Slots/Environmental Remediation Action Plan.pdf](http://cdn.mdlottery.com.s3.amazonaws.com/Slots/Environmental%20Remediation%20Action%20Plan.pdf) and provides an understanding of the environmental responses that must be incorporated into the construction plans in order to obtain a Certificate of Completion through the Voluntary Cleanup Program (VCP). The **draft** RAP, as approved by **submitted to** the Maryland Department of the Environment (MDE), **has been** ~~will be~~ made available to Applicants **and the final RAP will be made available** once it is approved, which is estimated to be in July **the Summer** 2011.

#### **20. REVISE: SECTION 4.3.6 Legal Actions and Control of Site Lots.**

**4.3.6.1** The Baltimore City Entertainment Group (“BCEG”) appealed the Location Commission’s December 17, 2009 decision to reject BCEG’s Proposal submitted in response to RFP #2009-0101. The Maryland State Board of Contract Appeals (**MSBCA**) dismissed BCEG’s appeal on December 7, 2010. ~~While BCEG has appealed that decision to the Circuit Court for Baltimore City (hearing scheduled for May 25, 2011),~~ **which affirmed the MSBCA’s decision. While BCEG has appealed that decision to the Court of Special Appeals,** the Attorney General’s Office, as counsel to the Location Commission, has advised that BCEG’s appeal is without merit and that the Location Commission has the authority to proceed with this RFP and to award an Operation License **despite the pendency of BCEG’s appeal.**

**4.3.6.2** BCEG also filed suit against Baltimore City. The February 2011 decision of the Circuit Court for Baltimore City denies BCEG any control over the Sites available for a VLT facility and limits any potential award to monetary damages. While **BCEG has appealed** this decision ~~may be appealed~~, as of the time of the issuance of this RFP, Baltimore City is the fee owner of all available sites identified in this RFP and has legal control over their use and disposition, subject only to limitations imposed by the applicable laws of the State and City, none of which prevent use of the Sites for the purposes intended under this RFP.

~~**4.3.6.3** The submission of a Proposal in response to this RFP by any Applicant shall constitute a waiver of any and all rights the Applicant has, claims to have, or may have in the future with regard to the litigation noted in Sections 4.3.6.1 and 4.3.6.2, and submission of a Proposal may be conclusively construed to be an abandonment of any and all rights in such litigation. **BCEG also filed a lawsuit requesting the federal District Court to order the Location Commission to amend or cancel this RFP, claiming that the “RFP discriminates in favor of bidders and subcontractors owned by racial minorities and women, and against bidders and subcontractors owned by Caucasian males.” The Location Commission recently received an analysis confirming the applicability of a 2011 Disparity Study to the VLT program, which was requested in May 2011. In light of that analysis, the Office of the Attorney General has advised that there is sufficient justification to implement the MBE program in connection with this RFP. Amendments to this RFP are being made consistent with that advice.**~~

**21. REVISE: SECTION 6.27 MINORITY BUSINESS ENTERPRISE (MBE)  
SUBCONTRACT PARTICIPATION, sub-paragraphs 6.27.1, 6.27.2 and  
6.27.3.**

In this section Awardee and Licensee are used interchangeably.

**6.27.1 General Requirements**

A. All MBE firms proposed must be certified by MDOT in order to be counted, ~~except as set forth in Section 2.21.3 of the RFP.~~ The spirit and intent of the State of Maryland is to afford MBEs the opportunity to perform viable and meaningful services in a teaming effort ~~on its contracts.~~ It is the desire of the State to maximize notice, and the opportunity to participate in the procurement process, to a diverse and broad range of MBEs.

*A Contractor — including an MBE prime Contractor or a prime Contractor comprising a joint venture that includes MBE partner(s) — must accomplish an amount of work not less than the MBE subcontract participation goal with MDOT certified MBE subcontractors, unless it has requested and been granted a waiver. An MBE prime cannot subcontract to itself; a prime joint venture with MBE partners cannot subcontract to its MBE partners.*

B. Assistance in locating certified MBEs may be obtained by contacting:  
The Governor's Office of Minority Affairs  
6 Saint Paul Center, #1502  
William Donald Schaefer Tower  
Baltimore, Maryland 21202  
410-767-8232

A Maryland certified MBE Directory is published by:  
Maryland Department of Transportation  
Office of Minority Business Enterprise and Equal Opportunity  
P.O. Box 8755  
Baltimore-Washington International Airport  
Linthicum, Maryland 21240-0753  
800-544-6056 or 410-865-1269  
and is available on the MDOT website at [www.mdot.state.md.us](http://www.mdot.state.md.us).

C. ~~To achieve the result specified in Sections 2.21.2 and 2.21.3 of the RFP, the~~ **The** Awardee/Licensee shall conduct the contractor/subcontractor solicitation process in such a manner as to not place MBE contractors or subcontractors at a disadvantage. In this process, the Awardee/Licensee shall:

1. Identify specific and meaningful work categories within the solicitation's scope of work that are appropriate for contracting and subcontracting;
2. Solicit diverse certified MBEs through **timely** written notice, describing the identified work categories under item (1) above and providing detailed instructions on how to submit a bid for the contracts or subcontracts (Make sure the MBEs are certified in the work category for which they are being solicited – carefully check the NAICS code);
3. Attempt to make personal contact with the certified MBEs solicited in item (2) above and document these attempts;
4. Assist certified MBEs to fulfill bonding requirements or to obtain a waiver of those requirements; and,
5. In order to publicize subcontracting opportunities to certified MBEs, conduct **timely** pre-Proposal conferences. Notify and encourage those MBEs solicited to attend the pre-Proposal conference.

#### **6.27.2 Waiver**

A. If the Awardee believes a waiver of some or all of ~~the~~ **an** MBE goal is necessary, including any sub-goal, then the Awardee must request a waiver by ~~completing~~ **submitting** all documentation as directed by GOMA **the Lottery Commission**. The waiver request must clearly indicate what portion of the established goal the Awardee intends to meet. Documentation supporting any waiver request shall include, at minimum:

1. A detailed statement of the efforts made to select portions of the work proposed to be performed by certified MBEs in order to increase the likelihood of achieving the stated goal;
  2. A detailed statement of the efforts made to contact and negotiate with certified MBEs including the names, addresses, dates, and telephone numbers of the certified MBEs contacted and a description of the information provided to the certified MBEs regarding plans, specifications, and anticipated time schedule for portions of the work to be performed;
  3. As to each certified MBE that placed a quotation or offer that the Awardee considered not to be acceptable, a detailed statement of the reasons for this conclusion; and,
  4. In the event certified minority subcontractors are found to be unavailable, a signed and notarized MBE Statement of Unavailability must be prepared by the Awardee, to include the names, addresses, dates, times, and telephone numbers of the certified MBEs contacted and the reason each MBE is unavailable.
- B. An Awardee requesting a waiver must demonstrate reasonable good faith efforts to meet the goal, and a waiver of any portion of the MBE goal shall be granted only upon reasonable demonstration by the Awardee that (1) certified MBE participation was unable to be obtained or was unable to be obtained at a reasonable price, and or (2) if ~~GOMA, in consultation with~~ the Lottery Commission, determines that the public interest is served by a waiver.
- C. The documentation shall be furnished within the time specified by the GOMA Lottery Commission. If GOMA the Lottery Commission determines that the Awardee has not complied with the certified MBE subcontract participation contract goal, has not obtained a waiver as required, fails to submit the documentation required by the solicitation, or fails to comply in good faith with outreach efforts, the Lottery Commission, in consultation with GOMA and upon review by the Office of the Attorney General, may determine not to issue the Operation License.

### **6.27.3 Amendment for Unforeseen Circumstances**

If, at any time after award of the Operation License, the Awardee, or Licensee determines that a certified MBE listed on the MBE Participation Schedule (Appendix D-2) has become or will become unavailable or is ineligible to perform the work, then the Awardee or Licensee shall notify ~~GOMA~~ the Lottery Commission within 72 hours of making the determination, as required by ~~SB 558 Chapter 254~~ of 2011, ~~which was passed by the General Assembly and is awaiting the Governor's approval.~~ The notification shall indicate the



Awardee's/Licensee's efforts to substitute another certified MBE subcontractor to perform the work. Within ~~ten (10)~~ **five (5)** working days from notification to ~~GOMA~~ **the Lottery Commission**, the Awardee/Licensee may request and submit an amendment to the MBE Participation Schedule (Appendix D-2) if applicable, and new Subcontractor Project Participation Statement (Appendix D-4) signed by both the Awardee/Licensee and the newly proposed certified MBE(s), which must be approved by ~~GOMA~~ **the Lottery Commission**. In the event that the Awardee/Licensee is unable to find one or more MBE replacements, the Awardee/Licensee shall document and submit in writing all **good faith** efforts to ~~find such replacements~~ **substitute another MBE to perform the work that the unavailable or ineligible MBE would have performed**, including but not limited to seeking assistance from GOMA.

## **22. REVISE: SECTION 6.35 NONINTERFERENCE.**

~~Senate Bill 373/House Bill 868~~ **Chapters 232 and 233** of 2011, ~~as passed by the General Assembly and pending approval by the Governor,~~ provide that a Licensee may not directly or indirectly interfere with, hinder, obstruct, impede, or take any action to delay the implementation or establishment of a Video Lottery Facility by any other Licensee or Applicant. To the fullest extent allowed by the First Amendment of the Constitution of the United States, regulations to be adopted by the Lottery Commission must include provisions that expressly prohibit (1) taking any of the actions previously described related to required State or local government approvals for the establishment of a Video Lottery Facility or providing funds or material support to any of these actions; and (2) as unlawful indirect conduct, activity by an entity in which the Licensee, or an affiliate of the Licensee, owns a beneficial or proprietary interest.

## **23. REVISE: SECTION 7 APPENDICES**

See attached revised Section 7 including revised Appendices D-1 and I.

## SECTION 7. APPENDICES

**APPENDIX A** – Proposal Affidavit *This form must be completed and submitted with the Applicant's Proposal.*

**APPENDIX B** – Confirmatory Affidavit *This form is not required to be submitted with the Proposal, but must be completed by the successful Applicant and submitted to the Lottery Commission within five (5) days after notification of proposed License award.*

**APPENDIX C** – Pre-Proposal Conference Response Form

**APPENDIX D** – Minority Business Enterprise (MBE) Instructions/Forms

**APPENDIX D-1** – **Revised** - Applicant's Acknowledgement of MBE Requirements Affidavit *This is the only form in Appendix D that must be completed and submitted with the Applicant's Proposal.*

**APPENDIX D-2** – MBE Participation Schedule

**APPENDIX D-3** – Outreach Efforts Compliance Statement

**APPENDIX D-4** – Subcontractor Project Participation Statement

**APPENDIX D-5** – Contractor's MBE Monthly Payment Progress Report

**APPENDIX D-5a** – Prime Contractor Unpaid MBE Invoice Report

**APPENDIX D-6** – Subcontractor Payment Report

**APPENDIX E** – Conflict of Interest Affidavit and Disclosure *This form must be completed and submitted with the Applicant's Proposal.*

**APPENDIX F** – Authorization for Release of Information *This form must be completed and submitted with the Applicant's Proposal.*

**APPENDIX G** – Litigation/Protest Bond *This form must be completed and submitted with the Applicant's Proposal.*

**APPENDIX H** – Index of VLT-Related Lottery Commission Regulations

The regulations can be downloaded at:

<http://slots.mdlottery.com/about-us/>

**APPENDIX I** – Standard Memorandum of Understanding **(MOU) and First Amendment to MOU** with Baltimore City. ~~These~~*This must be completed and submitted with the Applicant's Proposal.*

## **REVISED APPENDIX D**

### **MINORITY BUSINESS ENTERPRISE (MBE) INSTRUCTIONS/FORMS**

#### **PURPOSE**

**Awardee**/Licensee shall structure its procedures for the performance of the work required by this License to attempt to achieve the Minority Business Enterprise (MBE) goals **established by the Lottery Commission** stated in the Request for Proposals. MBE performance must be in accordance with this Appendix, as authorized by Code of Maryland Regulations (COMAR) 21.11.03. **Awardee**/Licensee agrees to exercise all good faith efforts to carry out the requirements set forth in this Appendix.

#### **FORMS AND SUBMISSION REQUIREMENTS DURING RFP PROCESS**

- ◆ An Applicant must include with its Proposal:
  - (1) A completed Applicant's Acknowledgement of MBE Requirements (**Revised Appendix Attachment D-1**) whereby the Applicant acknowledges **that the Lottery Commission will establish the certified MBE participation goals (including any sub-goals) based on the work to be performed and the availability of MBEs to perform the work**, commits to make a good faith effort to achieve the goals, and affirms that MBE contractors and subcontractors will be treated fairly in the solicitation process.

**If an Applicant fails to submit Revised Appendix D-1 at the time of submittal of the Proposal as required, the Location Commission may deem the Proposal to be unacceptable.**

- ◆ Within ten (10) working days from the date of the License award, or other date specified by GOMA, the Awardee must provide the following documentation to GOMA:
  - (1) completed MBE Participation Schedule (Appendix D-2) whereby the Awardee responds to the expected degree of Minority Business Enterprise participation as **established by the Lottery Commission** stated in the RFP, by identifying the specific commitment of certified Minority Business Enterprises. The Awardee shall specify the price and/or the percentage of License value associated with each MBE subcontractor identified on the MBE Participation Schedule.
  - (2) Outreach Efforts Compliance Statement (Appendix D-3)
  - (3) Subcontractor Project Participation Certification (Appendix D-4)
  - (4) If the Awardee has requested a waiver (in whole or in part) of any the overall MBE goal or of any subgoal, it must submit documentation supporting the waiver request that complies with COMAR 21.11.03.11 **and this RFP**.
  - (5) Any other documentation required by GOMA to ascertain the Awardee's responsibility in connection with the certified MBE participation goals.

**If the Awardee fails to return each completed document within the required time, the Lottery Commission GOMA in consultation with GOMA the Lottery Commission, may determine that the Awardee is not eligible for issuance of a License.**

- Forms D-5, D-5a & D-6 are used for monthly reporting to GOMA after License award and will not be completed or submitted by the Applicant at this time. GOMA will notify Awardee/Licensee when to begin submitting these monthly reports.

### **LICENSE ADMINISTRATION REQUIREMENTS**

The Awardee/Licensee shall:

1. Submit monthly to GOMA a report listing any unpaid invoices, over 30 days old, received from any certified MBE contractor or subcontractor, the amount of each invoice and the reason payment has not been made.
2. Include in its agreements with its certified MBE contractors and subcontractors a requirement that those contractors submit monthly to GOMA a report that identifies the prime contract and lists all payments received from Licensee in the preceding 30 days, as well as any outstanding invoices, and the amount of those invoices.
3. Maintain such records as are necessary to confirm compliance with its MBE participation obligations. These records must indicate the identity of certified minority and non-minority contractors and subcontractors employed under the License, the type of work performed by each, and the actual dollar value of work performed. Agreements documenting the work performed by all MBE participants must be retained by the Licensee and furnished to GOMA on request.
4. Consent to provide such documentation as reasonably requested and to provide right-of-entry at reasonable times for purposes of the State's representatives verifying compliance with the MBE participation obligations. Licensee must retain all records concerning MBE participation and make them available for State inspection for three (3) years after final completion of the License.
5. At the option of GOMA, upon completion of the License and before final payment and/or release of retainage, submit a final report in affidavit form and under penalty of perjury, of all payments made to, or withheld from MBE contractors and subcontractors.

## REVISED APPENDIX D-1

### APPLICANT'S ACKNOWLEDGEMENT OF MBE REQUIREMENTS

This document shall be completed and included with the submittal of the Proposal. If the Applicant fails to submit this form with the Proposal as required, the Location Commission may deem the Proposal to be unacceptable.

In conjunction with the Proposal submitted in response to RFP No. 2012-0101, I affirm the following:

1. I acknowledge that the Lottery Commission will establish the overall certified Minority Business Enterprise (MBE) participation goals, which may include sub-goals, based on the work to be performed and the availability of MBEs to perform the work of 35% percent established for the Operation License to be awarded as a result of this RFP.
2. If I am awarded a License, I commit to making a good faith effort to achieve the established MBE goals.
3. I understand that if I am notified that I am the apparent Awardee, I must submit all additional documentation as required by GOMA within ten (10) working days, or other time period specified by GOMA, of receiving notice of the potential award.
4. I acknowledge that if I fail to return each completed document within the required time, the Lottery Commission in consultation with GOMA may determine that I am not eligible for issuance of a License.
5. In the solicitation of contract/subcontract quotations or offers, MBE contractors/subcontractors shall be provided not less than the same information and amount of time to respond as are non-MBE contractors/subcontractors.
6. The solicitation process shall be conducted in such a manner so as to otherwise not place MBE contractors/subcontractors at a competitive disadvantage to non-MBE contractors/subcontractors.

I solemnly affirm under the penalties of perjury that the contents of this Affidavit are true to the best of my knowledge, information, and belief.

\_\_\_\_\_  
Applicant Name

\_\_\_\_\_  
Signature of Affiant

\_\_\_\_\_  
Address

\_\_\_\_\_  
Printed Name, Title

\_\_\_\_\_  
Date

**APPENDIX I  
STANDARD MEMORANDUM OF UNDERSTANDING (MOU) WITH  
BALTIMORE CITY**

**(SIGNED COPIES ~~COPY~~ MUST BE SUBMITTED WITH PROPOSAL,  
INCLUDING FIRST AMENDMENT TO THE MOU AND REVISED EXHIBIT A  
TO THE MOU, AND AN EXECUTED ORIGINAL OF ANY SUPPLEMENTAL  
TO THE MOU APPROVED BY THE BALTIMORE CITY BOARD OF  
ESTIMATES)**

**Except as expressly amended herein, all other terms, provisions and  
conditions in the RFP remain unchanged and in full effect.**