



**MINNESOTA
SPORTS FACILITIES
AUTHORITY**

**MINNESOTA SPORTS FACILITIES AUTHORITY
1005 Fourth Street South
MINNEAPOLIS, MN 55415**

**REQUEST FOR PROPOSALS (RFP)
INSURANCE BROKERAGE SERVICES
FOR
PROPERTY AND CASUALTY PROGRAMS**

February 11, 2021

**MINNESOTA SPORTS FACILITIES AUTHORITY
REQUEST FOR PROPOSALS (RFP)
INSURANCE BROKERAGE SERVICES FOR PROPERTY AND CASUALTY PROGRAMS**

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**REQUEST FOR PROPOSALS
INSURANCE BROKERAGE SERVICES – PROPERTY AND CASUALTY PROGRAMS**

I. INTRODUCTION AND PROCUREMENT PROCESS

The Minnesota Sports Facilities Authority (the “MSFA”) is soliciting proposals for an insurance agent/broker who will handle the placement and servicing of its property and casualty programs. This includes: garage keepers liability, crime, property, terrorism, general and excess liability, public officials’ and employee liability, cyber/privacy liability, and worker’s compensation coverage. The MSFA is a public body; a political subdivision of the state of Minnesota.

The issuance of this Request for Proposals ("RFP") constitutes only an invitation to submit proposals to the MSFA. It is not to be construed as an official and customary request for bids, but as a means by which the MSFA can facilitate the acquisition of information related to the purchase of services. Any proposal submitted as provided herein constitutes a suggestion to supply information and not a bid.

The MSFA reserves the right to determine, in its sole and absolute discretion, whether any aspect of the proposal satisfactorily meets the criteria established in this RFP, the right to seek clarification from any Proposer(s), the right to negotiate with any Proposer(s) whether or not they submitted a proposal, the right to reject any or all proposals with or without cause, and the right to cancel and/or amend, in part or entirely, the RFP.

The RFP does not commit the MSFA either to award a contract or to pay for any costs incurred in the preparation of a proposal. Submission of a proposal as provided herein shall neither obligate nor entitle a prospective Proposer to enter into an Agreement with the MSFA.

It is understood that any proposal received and evaluated by the MSFA can be used as a basis for direct negotiation of the cost and terms of a contract between the MSFA and the particular firm submitting such a proposal. The MSFA reserves the right to negotiate pertinent contract terms concurrently with any number of firms as it deems in its best interest, whether or not such firm has submitted a proposal. In submitting this proposal, it is understood by the Proposer that the MSFA reserves the right to accept any proposal, to reject any and all proposals and to waive any irregularities or informalities that the MSFA deems is in its best interest.

Evaluation of proposals by staff or by any other group are advisory only; the MSFA may consider or reject such evaluation(s) for any or all proposals, such evaluations are for the sole benefit of the MSFA, and as such, they are not binding upon the MSFA nor may they be relied upon in any way by a Proposer.

In the event that this RFP is withdrawn by the MSFA for any reason, including but not limited to, the failure of any of those things or events set forth herein to occur, the MSFA shall have no liability to Proposer for any costs or expenses incurred in connection with this RFP or otherwise. Accordingly, each proposal should be submitted in the most favorable terms of costs and programmatic considerations and in a complete and understandable form. The MSFA reserves the right to request additional data, oral discussion, or a presentation in support of the written proposal. The MSFA is

not obligated to respond to any proposal submitted nor is it legally bound in any manner whatsoever by the submission of a proposal. It is the intention of the MSFA to enter into a contract with the firm(s) with which the MSFA can make the most satisfactory arrangements for its needs.

The MSFA has broad rights with respect to the procurement and contracting processes as detailed in this proposal.

II. SCOPE OF SERVICES

The MSFA is soliciting information from insurance agents/brokers for its property and casualty insurance programs. The MSFA may retain more than one firm. Service capabilities and support are key aspects of the agent/broker relationship with the MSFA. An agent/broker responding to this request should demonstrate substantial, high-level knowledge, expertise, and success in at least the following areas:

- A. Evaluation of the existing MSFA property and casualty insurance program and suggestions for recommendations for additions or changes to coverages and limits of insurance.
- B. Marketing the MSFA property and casualty insurance program, obtaining competitive quotes, and negotiating the best value for the MSFA in terms of pricing and coverages.
- C. Presenting a written report to document the quotes received from the various carriers. The report should include the policy type, carrier, coverage terms and limits, deductibles, and premiums.
- D. Reviewing the individual policies for accuracy and completeness prior to delivery to MSFA.
- E. Advising, reporting, handling all claims and monitoring the claims.
- F. Performing a semi-annual loss review and presenting a semi-annual loss report.
- G. Advising on the insurance requirements for the stadium operator, stadium concessionaire, and certain other contractors.

On the following page there is a summary of major insurance coverages for both the casualty insurance program and the property insurance program.

SUMMARY OF MAJOR COVERAGES

The casualty insurance policies expire on June 17, 2021 and the property policy expires on September 18, 2021.

Casualty Insurance Program

Policy Period: 6/17/2020-6/17/2021

| <u>Policy</u> | <u>Carrier</u> | <u>Policy Limit</u> | <u>Net Premium</u> |
|---|-------------------------|-------------------------------------|----------------------|
| Commercial General Liability | American Specialty/Arch | \$1 million per occ/\$5 million agg | \$ 37,917.70 |
| Excess Liability | American Specialty/Arch | Layer 1-Lead \$10 million | \$ 21,086.80 |
| | | Layer 2-Quota share \$15 million | \$ 38,640.00 |
| | | Layer 2-Quota share \$15 million | \$ 38,640.00 |
| | | Layer 3-\$25 million | \$ 45,000.00 |
| Automobile/Garage Keepers Liability | American Specialty/Arch | \$1 million bi/pd/per location | \$ 11,384.90 |
| Crime | Travelers | \$1 million | \$ 1,347.00 |
| Public Officials Liability | Chubb | \$5 million per occ/agg | \$ 22,446.80 |
| Cyber/Privacy Liability | Houston Casualty/NAS | \$5 million | \$ 7,941.29 |
| Workers Compensation | SFM | \$1 million bodily injury | \$ 2,487.96 |
| Terrorism | Lloyds of London | \$50 million each occ/agg | \$ 37,576.64 |
| Total Casualty Insurance Premium | | | \$ 264,469.09 |

Property Insurance Program

Policy Period: 9/18/2020 - 9/18/2021

| <u>Policy</u> | <u>Carrier</u> | <u>Policy Limit</u> | <u>Net Premium</u> |
|---------------------|-----------------------------|--|--------------------|
| Property | American Home Assurance/AIG | Layer 1-\$1 billion, primary | \$ 588,143.09 |
| Property | Travelers | Layer 2-\$200 million, excess of \$1 billion | \$ 129,362.03 |
| Deductible Buy-down | Lloyds of London* | \$500,000 excess of \$500,000 | \$ 124,374.43 |

* Policy term 10/2/2020-9/18/2021

Total Property Insurance Premium \$ 841,879.55

III. SUBMISSION OF PROPOSALS

Each proposer must submit their proposal via email. Please send one (1) copy of the proposal in electronic format to: mary.fox-stroman@msfa.com.

The MSFA must receive the proposals no later than February 26, 2021, 4:00 p.m., Central Time (CT).

Please address the proposals to:
James Farstad, Executive Director
Mary Fox-Stroman, Director of Finance
Minnesota Sports Facilities Authority
1005 Fourth Street South
Minneapolis, MN 55415

RE: INSURANCE BROKERAGE SERVICES PROPOSAL –
PROPERTY AND CASUALTY PROGRAM

The MSFA reserves the right to accept proposals after the date specified above.

IV. RFP TIMELINE

- A. Advertisement of Request for Proposals – February 11, 2021.
- B. Closing Date/Time for Written Questions – February 19, 2021, 12:00 p.m. (Noon - Central Time).
- C. Submittal of Proposals Due – February 26, 2021- 4:00 p.m. (Central Time).
- D. Interview(s) of Short-listed Candidates - Week of March 1 – March 5, 2021.
- E. For the Casualty Insurance Program the broker should anticipate going to market on or before April 1, 2021 and providing the final written report of quotes to the MSFA on or before May 24, 2021. For the Property Insurance Program. The broker should anticipate going to market on or before May 3, 2021 and providing the final written report of quotes to the MSFA on or before July 19, 2021.

MSFA reserves the right to modify this Proposal Timeline.

V. RULES GOVERNING RFP PROCESS

A. INSTRUCTIONS FOR PREPARING AND SUBMITTING PROPOSALS

- 1. Proposal Status** - The issuance of this RFP constitutes only an invitation to submit proposals to the MSFA. It is to be distinguished from a bidding situation and is not to be construed as an official and customary request for bids, but as a means by which the MSFA can facilitate the acquisition of information related to the purchase of Consultant services. Any proposal submitted, as provided herein, constitutes a desire to negotiate and recognition that the proposal is not a bid and is not being submitted as part of a bid process.
- 2. Economy of Preparation** - Proposals should be prepared as simply and economically as possible while providing straight-forward and concise delineation of the Proposer's capabilities to satisfy the requirements of the RFP. Fancy binding, colored displays, promotional material, etc., are neither necessary nor desired. Technical literature about the Proposer's experience and qualifications may be included. However, the emphasis should be on completeness and clarity of content. In order to expedite the evaluations, it is essential that

specifications and instructions contained in this document be followed as closely as possible.

3. **Proposal Signature** - Each proposal shall be signed by a principal of the Proposer firm, or another person, who is fully authorized to act on behalf of the Proposer.
4. **Modification or Withdrawal of Proposal** - Unauthorized conditions, limitations, or provisions attached to a proposal may cause its rejection.

A Proposal may not be modified, withdrawn, or canceled by the Proposer for a period of three (3) months following the time and date designated for receipt of Proposals. Each Proposer so agrees in submitting a Proposal. Any such modification, withdrawal or cancellation shall be submitted in writing to the Contact Person at the address contained in Section V (D) (1) herein.

Before the time and date designated for receipt of Proposals, no Proposal may be released or physically withdrawn, but any Proposal submitted may be modified, canceled, or withdrawn by written notice to said Contact Person at the place designated in Section V (D)(1), Contact Between Proposer and the MSFA - Questions. Written withdrawal or cancellation by Proposer of a Proposal prior to the Proposal opening will nullify the Proposal. However, the original Proposal shall not be physically returned to the Proposer until after the time for receipt of the Proposals.

Withdrawn or canceled Proposals may be resubmitted up to the time designated for the receipt of Proposals, provided that the resubmitted proposal is in conformance with this RFP.

5. **Extension of Time** - The MSFA reserves the right to extend the proposal due date. If a Proposer needs an extension of time to prepare the proposal a written request should be forwarded no later than two (2) business days prior to the due date of this RFP. The request should be directed to the address noted in Section V (D) (1), Contact between Proposer and the MSFA - Questions. The granting of an extension will be based on the number of such requests, and the reason(s) for each request. The MSFA reserves the right to extend the submission deadline only at the discretion of the MSFA and not at the mere request of the Proposer(s). In the event of an extension, prospective Proposer(s) will be notified immediately and appropriate addenda will be issued.
6. **Addenda** - The MSFA reserves the right to add, change, or delete any provision or statement in the RFP at any time prior to the proposal due date. If it becomes necessary to revise any part of the RFP, addenda to the RFP will be provided to all Proposers via the MSFA's website, www.MSFA.com. It is the responsibility of each prospective Proposer to frequently review the MSFA website for addenda.
7. **Right to Withdraw RFP** - The MSFA reserves the right to withdraw, cancel, and/or amend, in part or entirely, this RFP for any reason and at any time with no liability to any prospective Proposer for any costs or expenses incurred in connection with the RFP or otherwise.

B. PROPOSAL CONDITIONS

1. **Public Record** - Proposals submitted become a matter of public record. For additional information regarding those portions of a proposal that the Proposer might regard as a trade secret or confidential, Proposer should review the pertinent provisions of section VIII. General Provisions.
2. **Service Method Variations** - It is recognized that each Proposer may have unique or typical methods of service delivery. It is not the intention of the RFP to disqualify a Proposer due to variations in service delivery that do not affect quality and performance. Any proposal offering professional services of quality and performance equivalent to or better than requested, which provides the necessary service, will receive full consideration for award.
3. **Award** - The MSFA reserves the right not to award a contract to any Proposer. If the MSFA decides to award a contract(s), the MSFA will award a contract(s) to the qualified Proposer(s) whose proposal the MSFA determines best meets the needs of the MSFA. The MSFA reserves the right to award a contract(s) other than to the lowest priced proposal. The MSFA reserves the right to award a contract(s) to a non-Proposer(s).
4. **Ownership of Materials Submitted** - All material submitted becomes the property of the MSFA and will not be returned.
5. **Proposers' Costs** - The MSFA shall not be responsible for any costs incurred by Proposers in connection with this RFP. Proposers shall bear all costs associated with proposal preparation, submission and attendance at presentation interviews, or any other activity associated with this RFP or otherwise.
6. **Use of Proposal Ideas** - The MSFA reserves the right to use any or all Proposer service ideas presented. Selection or rejection of the proposal does not affect this right.
7. **Sub consultants** - If the proposal represents offerings to be provided by different firms or other organizations, the contract will be solely with the Proposer (Consultant/Contractor), who will be required to assume responsibility for the total project. Any proposed sub consultant(s) will be subject to the MSFA's approval and should be identified in the Proposal. The MSFA is soliciting and seeks RFP's from full-service firms but recognizes that respondents may wish to supplement services from skilled specialty sub consultants, including brokers who are licensed in the London insurance markets.
8. **Performance Standards** - If awarded the contract, the Proposer warrants and agrees to use its best efforts to perform all services in accordance with the contract terms and in accordance with generally accepted professional standards. The prospective Contractor further warrants and agrees that it shall employ whatever resources are necessary to meet the requirements specified in such contract.
9. **Licenses and Permits** - The Consultant shall be required to obtain any necessary licenses and permits and shall comply with all federal, state, and local laws, codes, and ordinances without cost to the MSFA.

- 10. Insurance** - The Consultant or anyone providing services herein shall be required to comply with insurance provisions contained in the contract.

C. CONTRACT AWARD AND CONTRACT

- 1. Award Discretion** - While the MSFA may ultimately decide to contract with that person or firm with which the MSFA can make the most satisfactory arrangement for meeting its needs, the MSFA is not obligated to award any contract or respond to proposals submitted, nor is it legally bound in any manner whatsoever by the submission of a proposal.
- 2. Multiple Firms** - The MSFA may retain more than one (1) firm. If a Proposal is limited to certain responsibilities, the Proposal must clearly state the work proposed to be performed, and the items not included in the Proposal.
- 3. Submission of Contract Documents** - Within ten (10) business days after receipt of contract award and receipt of the contract forms, the successful Proposer(s) shall execute an original and return it to the MSFA. Such contract shall be prepared by the MSFA and the contract terms shall consist of this RFP (and any and all addenda thereto and all material attached to and made a part of the RFP), the terms of the Proposal as such terms are finally accepted by the MSFA, as well as all other provisions which the MSFA agrees may be included in the contract.
- 4. Changes** - The MSFA shall have the right at all times to require changes in, additions to, or deletions from the work contemplated by the contract documents, and the same shall in no way make void the contract. Changes and additions resulting in increased costs shall be made only pursuant to a written contract amendment issued by the MSFA and bearing the acceptance endorsement of the Consultant. Deletions from the scope of work required may be made at the sole discretion of the MSFA.
- 5. Failure to Execute Contract** - The MSFA reserves the right to award to another Proposer(s) if the successful Proposer fails to execute and return the contract within ten (10) days after receipt of said award notification and a receipt of contract forms. The re-award to another Proposer shall be in addition to any other right or remedy available to the MSFA under this RFP, contract law, statute, and/or in equity.
- 6. General Provisions** - The General Provisions, which include the General Insurance Provisions for Consultant contracts, are included in the Professional Services Agreement, Exhibit A, and are herein incorporated by reference. If a Proposer has a concern or objection to any of these provisions, it should so indicate in its proposal. The MSFA reserves the right to require compliance with these provisions and to negotiate final terms, conditions, and requirements with the successful Proposer, at the MSFA's discretion.
- 7. Non-Waiver of Defaults** - Any failure by the MSFA to enforce or require the strict keeping and performance of any of the terms and conditions of the contract shall not constitute a waiver of such terms and conditions, nor shall it affect or impair the right of the MSFA to avail itself of such remedies as may be available for any breach of the contract terms and conditions.

D. CONTACT BETWEEN PROPOSER AND THE MSFA

- 1. Questions** - Inquiries concerning any aspect of this RFP and contract award should be submitted in writing and emailed to:
Address: Minnesota Sports Facilities Authority (MSFA)
1005 Fourth Street South
Minneapolis, MN 55415
Contact Person: Mary Fox-Stroman
Director of Finance
E-mail: mary.fox-stroman@msfa.com

The MSFA will accept written inquiries only by electronic mail. The closing date for receipt of written questions will be on February 19, 2021, by noon, 12:00p.m., Central Time.

- 2. Interpretation of Documents** - If any Proposer contemplating submission of a proposal is in doubt as to the true meaning of any part of the RFP or other proposed Contract Documents; the Proposer may submit to the MSFA, at the address noted in Section V (D)(1) above, a written request for an interpretation thereof. Replies to inquiries will be published in the form of addenda to the RFP. Proposers shall rely only on the RFP and addenda in preparing and submitting a Proposal.
- 3. Errors** - Should the Proposer believe that an error appears in the RFP documents, Proposer shall notify the MSFA immediately, at the address noted in Section V (D)(1) above, in writing.

VI. SELECTION OF PROPOSAL

A. PROPOSAL RECOMMENDATION

- 1. Selection Committee** - The Commissioners of the MSFA shall have final decision-making regarding the MSFA award of any and all contract(s) resulting from this RFP. The Chair may designate a Selection Committee to make a recommendation to the Commissioners.
- 2. Evaluation of Proposals** - Evaluation of proposals by the Selection Committee, MSFA staff, or by any other group, individual or entity, are advisory only. Such evaluations are for the sole benefit of the Commissioners of the MSFA and may not be relied upon by any Proposer.

B. SELECTION PROCESS

- 1. Evaluation Factors** - Evaluation factors shall include, but are not limited to, the following:
 - Proposer's expertise, experience, and service capabilities.
 - Proposer's key staff proposed to be assigned to perform work for the MSFA
 - Proposer's past performance with large venues/stadiums
 - Proposer's access to specialized insurance markets
 - Proposer's telephone or in-person interview, if requested.

- Acceptance of the terms in the Professional Services Agreement – Exhibit A that are proposed to govern the relationship with the Proposer.
 - Cost (fees and/or commissions)
2. **Criteria Compliance** - The MSFA reserves the right to determine, in its sole and absolute discretion, whether any aspect of a Proposal satisfactorily meets the criteria established in this RFP.
 3. **Submission of Alternatives** - Although this RFP specifies minimum requirements for insurance brokerage representation and should be responded to in all respects, Proposers are invited and encouraged to submit alternatives that may be of interest to the MSFA.
 4. **Additional Information Requests** - The MSFA reserves the right to request additional information from Proposers during any phase of the proposal evaluation process. During the evaluation and selection process, the MSFA may require the presence of Proposer's representatives to make presentations and answer specific questions. Notification of any such requirements will be given as necessary.
 5. **Conditions of Award** - The MSFA may elect not to award a contract solely on the basis of this RFP and will not pay for the information solicited or obtained. The information obtained will be used in determining the alternative that best meets the needs of the MSFA.

VII. CONTENT OF PROPOSAL

Proposals must include the following information, preferably in the following order:

A. QUALIFICATIONS (KNOWLEDGE, EXPERTISE, CAPABILITIES)

1. **Proposer Name** – Proposer's business name and address of office that would have central responsibility for the brokerage services. Identify the business form of Proposer and list the principal shareholders or other business owners.
2. **Proposer History** - A statement giving a brief history of the Proposer's organization; how it is organized, and how its resources will be utilized for the MSFA.
3. **Proposer Qualifications** - Information which highlights Proposer's particular expertise and experience to provide insurance agent/broker services as outlined in the Scope of Services section. Provide examples of similar clients in size and scope with the appropriate references.
4. **Assignment of Professional Staff** - The Proposer must identify the specific staff who will be responsible for the contemplated services and the staff's office address.

B. MARKETING

Marketing the insurance program is an important role of the broker/agent. U.S. Bank Stadium presents a challenging risk to insure. Any marketing strategies or program designs that you develop should be conceptual.

DO NOT APPROACH ANY INSURERS ON OUR BEHALF AND PROPOSERS ARE NOT TO RESPOND TO THIS RFP BY PROVIDING INSURANCE QUOTATIONS. CONTACT WITH CARRIERS FOR THE PURPOSE OF PREPARING PROPOSALS IS NOT TO BE MADE BY PROPOSERS.

1. Identify insurers your firm would suggest for the MSFA insurance program. It is acceptable to suggest continuing with the incumbent insurers. The suggestion should include supporting rationale.
2. Identify if your firm is able to directly access the incumbent insurers and other suggested insurance markets or if your firm would access these insurers through a wholesale broker or other source.
3. Design a strategy for the MSFA to secure a competitive insurance program with broad coverage. The strategy should include supporting rationale.
4. It is appropriate to periodically improve or validate the MSFA's insurance program and pricing offered by insurers. All ideas and recommendations are to be conceptual. Provide recommendations for program improvements and include supporting rationale.

C. BUDGET INFORMATION

1. **Fees** – Each proposal should include a broker service fee or commission for the identified services and a separate fee or rate for additional services that are recommended. If commissions are proposed, the percentage should be specified for each line of coverage. The premiums in the Summary of Major Coverages in section II. Scope of Services should be used as the basis for the commission percentages. Any additional fees, commissions or contingencies that would be earned should be clearly identified.
2. **Cost Terms** - Each proposal should be submitted in the most favorable terms with respect to costs and in a complete and understandable form. The MSFA anticipates a contractual term of three years.

D. ADDITIONAL PROPOSAL CONTENTS

1. **Insurance** – Proposer's ability to ensure it has the required insurance coverages as stated in the Professional Services Agreement – Exhibit A.
2. **Diversity** - Commitment to diversity as evidenced by such factors as the actual diversity among its existing or proposed staff/employees or the existence of an affirmative action plan addressing the diversity issues in recruitment, retention, and promotion of staff/employees.
3. **Conflict of Interest** - Any current relationships of the Proposer or its staff/employees with the MSFA, ASM Global, Aramark, Minnesota Vikings, Minnesota Vikings' consultants, National Football League or its consultants, the City of Minneapolis, or other parties having an interest in the stadium that may be construed to be a conflict of interest.
4. **Exceptions to the General Provisions** - Proposer should identify any concern or objection to the General Provisions. The MSFA reserves the right to require compliance with these

provisions and to negotiate final terms, conditions, and requirements with the successful Proposer, at the MSFA's discretion.

5. **Supplemental Information** - Any supplemental information which the Proposer thinks will be valuable to the MSFA in evaluating the qualifications of the Proposer and its individual personnel to provide services as described herein.
6. **Minnesota Department of Human Rights, State of Minnesota/Metropolitan Agencies – MDHR Certificate of Compliance** - Exhibit B – include this form with proposal.
7. **Confidentiality Agreement** – Exhibit C – include this form with proposal.

VIII. GENERAL PROVISIONS

A. CONFIDENTIALITY

Information supplied by the Proposer to the MSFA is subject to the Minnesota Government Data Practices Act, Minnesota Statutes, Sections 13.01 et seq. Such information shall become public unless it falls within one of the exceptions in the Act, such as security information, trade secret information, or labor relations' information pursuant to Minnesota Statute Section 13.37. If the Proposer believes any non-public information will be supplied in response to the RFP, the Proposer shall take reasonable steps to identify and provide reasonable justification to the MSFA regarding which data, if any, falls within the Minnesota Government Data Practices Act exceptions. However, the Proposer agrees as a condition of submitting a proposal that the MSFA will not be held liable or accountable for any loss or damage which may result from a breach of confidentiality as may be related to the responses submitted.

B. OTHER

The MSFA will not consider any cost information and references submitted by the Proposer to be non-public, confidential or trade secret material. Simply stating that the document is confidential or making a blanket claim of confidentiality without proper supporting justification is also not a valid reason to declare the document confidential.

Proposer must complete and submit a fully executed confidentiality agreement, Exhibit C.

The language contained in the Professional Services Agreement - Exhibit A, attached and incorporated herein by this reference, is mandatory language which will be included in any contract entered into between the MSFA and the successful Proposer(s).

EXHIBIT A

Professional Services Agreement

PROFESSIONAL SERVICES AGREEMENT

DATE: _____, 2020

BETWEEN: **MINNESOTA SPORTS FACILITIES AUTHORITY,**
a public body and political subdivision of the State of Minnesota
1005 Fourth Street S.
Minneapolis, MN 55415-1752
("Authority")

AND: _____

("Contractor")

WITNESSETH:

WHEREAS, the Authority was established pursuant to 2012 Minnesota Laws, Chapter 299 (codified at Minnesota Statutes, Chapter 473J) ("Act") to perform the functions described in the Act; and

WHEREAS, Contractor provides professional services, and is uniquely qualified to perform the Scope of Services specified in this Agreement; and

WHEREAS, the Authority and Contractor desire to enter into this *Professional Services Agreement* ("Agreement").

NOW, THEREFORE, in consideration of the foregoing recitals, which are an integral part of this Agreement, the following terms and conditions, and other and further valuable consideration, receipt of which is hereby acknowledged, it is agreed as follows:

1. **Defined Terms.** As used in this Agreement, the following terms have the following meanings:

 "Applicable Laws" means all applicable federal, state and local laws, ordinances, rules and regulations that apply to any and all services provided by Contractor pursuant to this Agreement.

 "Application for Payment" means the submittal of a request for payment on the Authority's form and in conformance with the guidelines for receiving payment under this Agreement.

 "Authority" means the Minnesota Sports Facilities Authority established pursuant to 2012 Minnesota Laws, Chapter 299.

 "Contractor" means _____

 "Executive Director" means the Executive Director of the Authority.

“Required Services” means all of the obligations undertaken by Contractor in this Agreement and its Exhibits, including but not limited to, the services set forth in Section 2, *Scope of Services*, and Section 4 *Contractor’s Duties*.

“Stadium” means U.S. Bank Stadium, a multi-purpose stadium facility located in Minneapolis, MN owned by the Authority.

“Standard of Care” means that standard of professional care, skill, diligence and quality that prevails among professionals in the United States engaged in providing services of a similar scope, nature, and complexity as those provided for in this Agreement, including performance in accordance with all Applicable Laws.

“Team” means Minnesota Vikings Football, LLC, a Delaware limited liability company authorized and doing business in the State of Minnesota.

2. **Scope of Services.** The Required Services shall include, but not be limited to those services specified in Exhibit A.

3. **Term of the Agreement**

3.1 Effective Date. The date listed at the top of page 1 of this Agreement.

3.2 Expiration Date. This Agreement shall expire **[insert]**, unless terminated earlier by either party as provided in section 19 of this Agreement

3.3 Survival of Terms. The following Sections survive the expiration or termination of this Agreement: 9. *Indemnification*; 10. *Insurance*; 12. *Audits*; 13. *Intellectual Property and Government Data Practices*; 15. *Publicity and Endorsement*; 17. *Records and Data Safeguarding*; and 18. *Governing Law and Dispute Resolution*.

4. **Contractor’s Duties**

4.1 Contractor, which is not an employee of the Authority, Team or Indemnitees (as defined in Section 9.1), shall perform all aspects of this Agreement in a timely manner in full accordance with its Standard of Care and to the satisfaction of the Authority.

4.2 Consistent and in full compliance with its Standard of Care, Contractor shall use its expertise to perform under this Agreement in an expeditious and economical manner and in furtherance of the interests of the Authority.

4.3 Contractor shall only allow competent, trained employees or sub-contractors to perform the Required Services, and Contractor shall adequately supervise its employees and sub-contractors to perform the Required Services on its behalf. All such employees and sub-contractors shall be properly licensed and/or certified, as required by applicable law, for the work they perform.

4.4 Contractor warrants that it now has all personnel required to perform under this Agreement. Contractor's principal-in-charge for this Agreement shall be [insert], who shall materially participate in the performance of the Required Services.

5. **Time**

5.1 In the performance of this Agreement, time is of the essence.

6. **Consideration and Payment**

6.1 Beginning [insert], the Authority will pay for all services performed by Contractor under this Agreement as follows:

6.1.1 Compensation. The Authority shall pay Contractor the hourly fees set forth below, plus approved reimbursable costs and expenses not to exceed [insert]. Reimbursable costs and expenses shall be reimbursed with no mark-up by Contractor.

6.1.2 Total Obligation. Notwithstanding any term in this Agreement to the contrary, the total obligation of the Authority for all compensation, expenses, and reimbursements to Contractor under this Agreement shall not exceed \$[insert] without prior written approval by the Authority.

| Position | Name | Hourly Fee |
|----------|------|------------|
| | | |
| | | |
| | | |

6.2 Prior to being entitled to receive payments, Contractor shall submit to the Authority or its designee itemized *Applications for Payment* in a format to be approved by the Authority in its sole discretion, supported by such data as the Authority may deem reasonably necessary to substantiate Contractor's right to payment. Contractor shall submit an *Application for Payment* by the 15th of the month.

6.3 Such amounts as the Authority may approve, consistent with the terms hereof, shall be payable to Contractor not later than forty-five (45) days from the date upon which the *Application for Payment* is approved by the Authority and payment is made to any applicable disbursing agent by the Authority.

6.4 Contractor shall maintain an accounting system which accounts for costs in accordance with generally-accepted accounting principles.

7. **Conditions of Payment**

7.1 All services provided by Contractor under this Agreement must be performed to the Authority's reasonable satisfaction and in accordance with the Standard of Care and all Applicable Laws. Contractor will not receive payment for work reasonably found by the Authority to be unsatisfactory or performed in violation of Applicable Laws.

8. **Assignment, Amendments, Waiver; Complete and Integrated Agreement**

8.1 Assignment. Contractor may neither assign, subcontract, nor transfer any rights or obligations under this Agreement without the prior consent of the Authority and a fully-executed assignment or subcontract agreement, executed and approved by the same parties who executed and approved this Agreement, or their successors in office. Any attempted assignment or subcontracting without said consent shall be void and of no effect.

8.2 Amendments. Any amendment to this Agreement must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original Agreement, or their successors in office.

8.3 Waiver. If either party fails to enforce any provision of this Agreement, that failure does not waive the provision or the right to enforce it. No waiver shall be effective unless in writing specifically expressing such waiver, signed by a person duly authorized by the party in advance to sign such waiver.

8.4 Complete and Integrated Agreement. This Agreement contains all negotiations and agreements between the Authority and Contractor. No other understanding regarding this Agreement, whether written or oral, may be used to bind either party.

9. **Indemnification**

9.1 Each party to this Agreement shall defend, indemnify, save, and hold harmless the other party, the Team, and their respective officials, board members, directors, officers, shareholders, members, owners, agents, affiliates, subsidiaries, lenders, assigns, heirs, estates, attorneys, and employees of any of them, and others acting on behalf of the parties or Team (each an "Indemnitee" and collectively the "Indemnitees") from and against any claims, damages, liabilities, losses, causes of action, judgments, costs and expenses (specifically including attorneys' fees and costs, court fees and costs, and arbitration fees and costs incurred to defend an Indemnitee) arising from or alleged to have arisen from the negligent or wrongful acts, errors or omissions of the other party or its agents, employees, subcontractors or delegates, or from the other party's breach of this Agreement.

9.2 Contractor acknowledges and agrees that it has an independent obligation under this Agreement to procure and maintain such insurance as will insure Contractor's

obligations in this Agreement, including **Section 9.1**, and further agrees that such insurance is commercially available.

- 9.3 The parties' obligation to defend as set forth in **Section 9.1** includes the obligation to provide and pay for attorneys to defend any Indemnitee entitled to indemnification under **Section 9.1**, which attorneys shall be selected by the Indemnitee entitled to indemnification.
- 9.4 Notwithstanding anything in this **Article 9** or other provisions of this Agreement to the contrary, the Authority agrees to the extent permitted by law to limit the liability of Contractor to the Authority or anyone claiming by or through the Authority for any and all claims, losses, costs or damages so that the total aggregate liability of Contractor to the Authority and anyone claiming by or through the Authority shall not exceed Contractor's total fee received for services under this Agreement and the available insurance proceeds of the insurance provided by Contractor under **Article 10**. It is intended that this limitation will apply to any and all liability and causes of action, however alleged or arising, unless otherwise specifically prohibited by law. The provisions of this **Section 9.4**, shall survive the expiration or termination of this Agreement

10. Insurance

- 10.1 Without limiting any liabilities or any other obligations, Contractor, at its own expense, shall provide and maintain for all Required Services performed pursuant to this Agreement or for the Authority and Indemnitees the minimum insurance coverage of the types and amounts listed below. Not later than one (1) week following execution of this Agreement, Contractor shall provide a *Certificate of Insurance* to the Authority evidencing such insurance coverage.
- 10.2 Commercial General Liability (CGL) and Excess Liability Insurance
- 10.2.1 Contractor shall maintain CGL and, if necessary, commercial excess liability insurance with a limit of not less than \$500,000 aggregate. The Authority and Indemnitees shall be included as additional insureds under the CGL policy and under the commercial excess coverage, if any, for all matters arising out of Contractor's services provided under this Agreement.
- 10.2.2 CGL insurance shall be written on Insurance Services Office, Inc. (ISO) occurrence form CG 00 01 12 04 (or a substitute form providing equivalent coverage). The Authority and Indemnitees shall be included as additional insureds under the CGL policy. The additional insured endorsement shall include both "ongoing operations" and liability arising from "your work/completed operations" (the equivalent of using ISO additional insured endorsement CG 20 10 10 01 and CG 20 37 10 01 (both are required) or a substitute providing equivalent coverage). Such insurance shall include, but not be limited to, coverages for bodily injury, property damage, personal and advertising injury, contractual liability (applying to

this Agreement), independent contracts, and products-completed operations liability, and under any excess liability policy an endorsement CG 2037 or equivalent

10.2.3 Contractor's insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded to the Authority and/or Indemnitees. There shall be no endorsement or modification of the CGL policy to make it excess over other available insurance; alternatively, if the CGL policy states it is excess or *pro rata*, the policy shall be endorsed to be primary with respect to the additional insureds.

10.2.4 There shall be no endorsement or modification of the CGL policy limiting the scope of coverage for liability assumed under this Agreement.

10.3 Commercial or Business Automobile Liability and Excess Liability Insurance

10.3.1 Contractor shall maintain business/commercial automobile liability and, if necessary, commercial umbrella liability insurance with a limit of not less than \$500,000 for each accident. Such insurance shall cover liability arising out of any auto (including owned, hired, and non-owned vehicles).

10.3.2 Coverage as required by this section shall be written on a standard ISO business auto, garage, truckers, or motor carrier policy form. Insurance coverage as required by this section shall be written on ISO form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing equivalent liability coverage. Contractor shall effect additional insured status for the Authority and Indemnitees under coverage required by this section using ISO endorsement CA 20 48 or an equivalent form.

10.3.3 Contractor waives all rights against the Authority and Indemnitees, their agents, directors, officers, members, employees, owners, and volunteers for recovery of damages to the extent such damages are covered by the business automobile liability or commercial excess liability insurance obtained by Contractor pursuant to this Agreement.

10.4 Workers' Compensation and Employer's Liability Insurance

10.4.1 Contractor shall maintain workers' compensation and employer's liability insurance for its own employees, if any.

10.4.2 The workers compensation coverage shall be in an amount no less than Minnesota's statutory requirements.

10.4.3 The commercial umbrella/or employer's liability limits shall not be less than \$500,000 each accident for bodily injury by accident, or \$1,000,000 each employee for bodily injury by disease.

10.4.4 Contractor waives all rights against the Authority and the Indemnitees, and their respective employees, officers, directors and agents for recovery of damages to the extent these damages are covered by the workers' compensation and employer's liability or commercial umbrella liability insurance obtained by Contractor pursuant to this section 10.4. Contractor shall obtain an endorsement equivalent to WC 00 03 13 to affect this waiver.

10.4.5 Contractor certifies that it is in compliance with Minn. Stat. § 176.181, subd. 2, pertaining to workers' compensation insurance coverage. Contractor's employees and agents will not be considered employees of the Authority or Indemnitees. Any claims that may arise under the *Minnesota Workers' Compensation Act* on behalf of Contractor's employees, and any claims made by any third party as a consequence of any act or omission on the part of Contractor's employees, are in no way the Authority's or the Indemnitees' obligation or responsibility.

10.5 Professional Liability Insurance (Errors and Omissions Coverage)

10.5.1 Contractor shall maintain Professional Liability (Errors and Omissions Coverage) and, if necessary, commercial excess liability insurance in the amount of at least \$500,000 per claim covering Contractor's liability for negligent acts, errors or omissions in the performance of professional services under this Agreement. Contractor further agrees that it will, throughout the entire period of required coverage and for an additional period of one (1) year following its last act of performance under this Agreement (a) provide the Authority with all pertinent information that the Authority may reasonably request to determine compliance with this section, and (b) continuously maintain the coverage.

10.6 Insurers and Policies. All policies of insurance required hereunder shall be issued by financially responsible insurers, and all such insurers must be acceptable to the Authority. Such acceptance by the Authority shall not be unreasonably withheld or delayed. An insurer with a current A.M. Best Company rating of at least A:X shall be conclusively deemed to be acceptable. In all other instances, the Authority shall have fifteen (15) business days from the date of receipt of Contractor's evidence of insurance to advise Contractor in writing of any insurer that is not acceptable to the Authority. If the Authority does not respond in writing within such fifteen (15) day period, Contractor's insurer(s) shall be deemed to be acceptable to the Authority.

10.7 Release and Waiver. Contractor agrees to rely entirely upon its own property insurance for recovery with respect to any damage, loss or injury to its property interests. Contractor hereby releases the Authority and the Indemnitees from all claims, and all liability or responsibility to Contractor, and to anyone claiming through or under Contractor, by way of subrogation or otherwise, for any loss of or damage to Contractor's business or property caused by fire or other peril or

event, even if such fire or other peril or event was caused in whole or in part by the negligence or other act or omission of the Authority, an Indemnitee, or other party who is to be released by the terms hereof, or by anyone for whom such party may be responsible.

10.8 Evidence of Insurance

10.8.1 Contractor shall, prior to commencement of any services related to this Agreement, furnish the Authority with Certificate(s) of Insurance executed by a duly authorized representative of respective insurer(s) showing compliance with the requirements set forth above. Such Certificate(s) of Insurance shall be presented not later than one (1) week following the execution of this Agreement. Contractor shall also provide copies of its insurance policies as requested by the Authority.

10.8.2 All Certificates of Insurance shall provide for thirty (30) days' written notice to Authority prior to cancellation or material change of any insurance referred to therein.

10.8.3 The Description of Operations section of all Certificates of Insurance shall reference the individual(s) from Contractor who will be in charge of administration of this Agreement.

11. **Independent Contractors**

11.1 All of Contractor's employees and agents furnishing services under this Agreement shall be deemed employees solely of Contractor and shall not be deemed for any purposes whatsoever employees or agents of, acting for or on behalf of the Authority or any Indemnitee. Contractor shall perform all services as an independent contractor and shall assume all its liabilities as such. No acts performed or representations, whether oral or written, made by Contractor with respect to third parties shall be binding on the Authority or any Indemnitee. Contractor shall make all purchases in its own name and shall not attempt in any way to bind the Authority or any Indemnitee in its contractual agreements, whether written or oral. The relationship between the Authority and Contractor or any Indemnitee is that of independent contracting entities. Neither shall be construed to be the employee of any other.

11.2 Contractor and its agents and employees shall at all times be independent contractors and shall not, under any circumstances, be considered or hold themselves out to be agents or employees of the Authority or any Indemnitee. Contractor further agrees that no tax assessment or legal liability of Contractor or of its agents or employees shall become an obligation of the Authority or any Indemnitees by reason of this Agreement.

11.3 Contractor shall be fully responsible for the acts of its employees and agents and shall take all reasonable precautions to prevent injury, harm or loss and shall be

responsible for all damage caused by Contractor or its employees or agents. Further, Contractor assumes all liability arising out of proven dishonesty of its employees or agents.

- 11.4 Contractor shall strictly observe and comply with all Applicable Laws concerning hours of work, age, compensation, working conditions, payroll taxes and other conditions of employment.

12. Audits and Record-Keeping

- 12.1 Audits During this Agreement's Term. Contractor agrees that the Authority, or any of its duly-authorized representatives, at any time during the term of this Agreement, shall have access to, and the right to audit and examine, with reasonable notice, any pertinent books, documents, papers and records of Contractor related to Contractor's charges and performance under this Agreement. Contractor agrees to make such books, documents, papers and records available to the Authority during normal business hours upon request. Contractor agrees to refund to the Authority any overpayment disclosed by such audit within thirty (30) days of notice by the Authority and, in the event any such audit shall disclose an overpayment by the Authority of greater than 10% of the amount properly owed, Contractor shall pay the cost of such audit.
- 12.2 Contractor's Duty to Maintain Records After this Agreement's Term. Contractor's books, records, documents, and accounting procedures and practices relevant to this Agreement are subject to examination by the Authority as appropriate, for a minimum of ten (10) years from the date this Agreement is fully paid and audited. Contractor agrees to make such books, records, documents, procedures and practices available to the Authority during normal business hours upon request.

13. Intellectual Property; Government Data Practices

- 13.1 The Authority and Contractor shall jointly own all rights, title, and interest in all intellectual property, including copyrights, created during the course of this Agreement.
- 13.2 Government Data Practices. The Authority hereby provides notice and Contractor acknowledges that any records received, maintained or controlled by Contractor in performing a government function are subject to the *Minnesota Government Data Practices Act*, Minnesota Statutes, Chapter 13. Contractor shall cooperate with the Authority to respond to valid requests pursuant to the *Data Practices Act*. Contractor shall clearly and conspicuously label any confidential trade secret information as such prior to delivering it to the Authority.

14. Equal Opportunity

- 14.1 With respect to its own employees, Contractor shall comply with all Applicable Laws and any special requirements regarding equal employment opportunity.

14.2 If Contractor has had more than forty (40) full-time employees within the State of Minnesota on a single working day during the previous twelve (12) months, Contractor must comply with the following Affirmative Action requirements for disabled workers:

14.2.1 Contractor must not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled persons without discrimination based upon their physical or mental disability in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

14.2.2 Contractor will post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the commissioner of the Minnesota Department of Human Rights. Such notices must state Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled employees and applicants for employment, and the rights of applicants and employees.

15. **Publicity and Endorsement**

15.1 Publicity. Any publicity regarding the subject matter of this Agreement must identify the Authority as the sponsoring agency and must not be released without prior written approval by the Authority. For purposes of this provision, publicity includes notices, informational pamphlets, press releases, public meetings, research, reports, signs, and similar public notices prepared by or for Contractor individually or jointly with others, with respect to the program, publications, or services provided resulting from this Agreement. No publicity shall reference the Team or include or display the Team's name, trademarks or logo, or the NFL name or logo.

15.2 Endorsement. Contractor shall not claim that the Authority, in any way, endorses its products or services.

16. **Compliance with Laws**

16.1 Contractor shall comply with all Applicable Laws and shall obtain and maintain all necessary licenses, registrations, certifications, and permits at its sole cost and expense. The Authority and Indemnitees shall have no responsibility for fines, penalties or sanctions incurred due to acts or omissions of Contractor, its employees or agents.

17. **Contractor's Records and Data Safeguarding**

- 17.1 The Authority shall be permitted access to all of Contractor's records, books, vouchers, correspondence, instructions, drawings, receipts, memoranda and similar materials relating to this Agreement. Contractor shall preserve all such material for a period of two (2) years after final payment under this Agreement. The reports, data, information, documents, plans, computer models and specifications prepared by Contractor pursuant to this Agreement shall become and remain the property of the Authority. The Authority may, at the discretion of the Executive Director, give Contractor access to Authority-owned data and files necessary for Contractor's delivery of the services required by this Agreement. All such data and files will remain the property of the Authority and are subject to the Confidential Information requirements of Section 17.2, below, and all other provisions of this Agreement.
- 17.2 Contractor (including its officers, trustees, employees, agents, and assigns) shall keep confidential any and all information which is marked "Confidential" and obtained from the Authority or any Indemnitee concerning the assets, properties, business, services, clients, trade secrets, organizational structure, philosophy, objectives, financial plans and results, and other information relating to the other party (the "Confidential Information") and shall not use such information (including without limitation this Agreement) for any purpose other than the purposes contemplated under this Agreement. However, any such information may be disclosed to employees and agents of Contractor to the extent that such person(s), in Contractor's considered judgment, need access to such information to enable Contractor to perform its obligations under this Agreement. This covenant shall survive the termination of this Agreement.
- 17.3 Contractor shall take all steps necessary to safeguard any data, files, reports, or other information from loss, destruction, erasure, or release to outside parties, including but not limited to any and all Confidential Information. All costs, expenses, or damages resulting from the loss of such data shall be borne by Contractor when such loss or damage occurred through the negligence of Contractor. Any personally identifiable information including personal contact information may not be used for any purpose other than servicing this Agreement. Contractor may not make any disclosures of it to anyone other than the Authority without providing notice to the Authority and complying with Applicable Laws.

18. **Governing Law and Dispute Resolution**

- 18.1 Minnesota law, without regard to its choice-of-law provisions, governs this Agreement. Notwithstanding anything in this Agreement to the contrary, the Authority does not waive any statutory limited immunity from municipal tort liability available to it under Minnesota Statutes, Chapter 466, or otherwise. Such statutory limited immunity shall apply whether an action, claim, demand or lawsuit is initiated by Contractor or any third party.

18.2 The Authority and Contractor agree that if a dispute of any nature arises out of this Agreement, the dispute shall be litigated in the Minnesota State Courts in Hennepin County, Minnesota. To the extent a dispute involves common questions of fact or law that involve third parties whose presence is necessary for complete relief, the Authority and Contractor consent to the joinder of such third parties.

19. Termination

19.1 Either party may terminate this Agreement at any time, with or without cause, upon not less than thirty (30) business days' written notice to the other. Upon termination, Contractor will be entitled to payment, determined on an hourly basis, for services properly performed through the date of termination as Contractor's sole and exclusive remedy. In no event shall the Authority or Contractor be liable for lost anticipated profits or consequential damages.

20. Notices

20.1 All notices, demands, consents or approvals required or permitted under this Agreement shall be in writing and shall be deemed effective (a) when personally delivered, (b) when sent by facsimile with receipt acknowledged, (c) one (1) business day after being deposited with any nationally recognized overnight courier which routinely issues receipts, addressed to the party at the address stated below, or (d) three (3) business days after being placed in the United States mail by certified mail, return-receipt requested, postage-prepaid, addressed to the party at the address stated below:

Authority at: Minnesota Sports Facilities Authority
Attention: Executive Director
1005 Fourth Street S.
Minneapolis, MN 55415-1752
Facsimile: (612) 332-8334

Contractor at: _____

or at such other place or places as either party may hereafter designate in writing.

21. Independence of Contractor and the Authority

21.1 Contractor represents and warrants that no trustee, officer, employee, student or agent of the Authority has been or will be employed, retained or paid a fee, or otherwise receive any personal compensation or consideration of any kind by or from Contractor's directors, officers, employees or agents in connection with obtaining, arranging, negotiating, or performing this Agreement.

- 21.2 The Authority may provide Contractor with a statement of the Authority's rules and regulations to be followed by Contractor and its employees and agents in the Stadium. Such rules and regulations may be amended from time-to-time by the Authority.
- 21.3 No person or persons other than those employed by Contractor shall have any financial or personal interest in Contractor's performance hereunder.
- 21.4 No person acting for or employed by the Authority is now or will hereafter be directly or indirectly involved on behalf of Contractor in this Agreement, or in the service and work to which it relates, or in any portion of the profits thereof in any manner.

22. **Miscellaneous**

- 22.1 The persons executing this Agreement on behalf of each party hereto warrant and represent that they have full power and authority to do so.
- 22.2 Section headings herein are inserted only for convenience of reference, and shall in no way define, limit or prescribe the scope or extent of any provisions of this Agreement.
- 22.3 In the event of any conflict between this Agreement and anything contained in the Exhibit(s) hereto, the provisions of this Agreement shall govern.
- 22.4 All covenants, agreements, indemnities, guarantees and warranties made by Contractor shall survive the expiration or termination of this Agreement.
- 22.5 If any term or provisions of this Agreement shall be held to be invalid or unenforceable, the remaining terms and provisions of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
- 22.6 The failure of either party to enforce at any time or for any period of time any of the provisions of this Agreement shall not be construed as a waiver of such provisions or of the right of the party thereafter to enforce each and every such provision.
- 22.7 Obligations pursuant to this Agreement shall survive the completion of the services to be performed and the date of termination hereof.
- 22.8 The rights and remedies provided for in this Agreement are in addition to any other rights and remedies provided by law.
- 22.9 In the execution of this Agreement, Contractor agrees, consistent with the policies of the Authority, not to discriminate on the grounds of race, color, sex, national origin or citizenship status, age, disability, or veteran status, and to provide reasonable accommodations to qualified individuals with disabilities upon request.

- 22.10 This is a non-exclusive Agreement. The Authority may contract with more than one contractor for similar services provided during the term of this Agreement.
- 22.11 Contractor hereby acknowledges and agrees that the Authority, Team and the Indemnitees are intended third-party beneficiaries of the provisions of this Agreement that reference same. Nothing contained in this Agreement shall be deemed to create any other third-party rights or obligations hereunder.
- 22.12 This Agreement may be executed in counterparts and each shall be considered an original and together they shall constitute one Agreement.

[Remainder of page intentionally left blank. Signature page follows.]

IN WITNESS WHEREOF, the Authority and Contractor have executed this Agreement effective as of the date first written above.

Contractor

By: _____
Title

MINNESOTA SPORTS FACILITIES AUTHORITY

By: _____
Michael Vekich, Chair

By: _____
James Farstad, Executive Director

Exhibit A

SCOPE OF SERVICES

A. Base Scope of Service

B. Additional Services

A-1

EXHIBIT B

MN Department of Human Rights
State of Minnesota/Metropolitan Agencies – MDHR Certificate of Compliance



State of Minnesota/Metropolitan Agencies – MDHR Certificate of Compliance

The Request for Proposals or Request for Bids solicitation you responded to may require you to have or to obtain a Certificate of Compliance from the Minnesota of Department of Human Rights (MDHR). Please fill out and submit this form with supporting documentation. The bid-award agency will not review your proposal or bid until MDHR and the bid-award agency review this form and/or supporting documentation.

Option A – We have employed more than 40 full-time employees on any single day in any state during the previous 12 months. Please check the applicable box below.

We have a MDHR Certificate of Compliance. Attached is the Certificate.

We don't have a MDHR Certificate of Compliance. Attached is our application for a MDHR Certificate of Compliance.

Option B – We have an affirmative action plan approved by the Federal Government but no MDHR Certificate of Compliance. Please check the box below.

Attached is a copy of the affirmative action plan approved by the Federal government in the last 12 months, the Federal government's approval letter, and our application for a MDHR Certificate of Compliance.

Option C – We are exempt because we employed fewer than 40 full-time employees on any single day in any state during the previous 12 months. Please check the box below.

____ We are exempt. Attached is a list of all of our employees and their state of employment during the past 12 months.

Option D – The current bid is exempt. The bid award agency doesn't expect the goods or services provided will exceed \$100,000.

____ The bid proposal is exempt. The bid project number is:_____.

Signature
In signing this document, you certify that the information is accurate and that you are authorized to sign on behalf of the company.

| | |
|-----------------|----------------------|
| Name of Company | Authorized Signature |
|-----------------|----------------------|

| | |
|------|--------------|
| Date | Printed Name |
|------|--------------|

| | |
|--------------|-------|
| Phone Number | Title |
|--------------|-------|

AN EQUAL OPPORTUNITY EMPLOYER
Freeman Building • 625 Robert Street North • Saint Paul, MN 55155 • Tel 651.539.1095
MN Relay 711 or 1.800.627.3529 • Toll Free 1.800.657.3704 • Fax 651.296.9042 • mn.gov/MD

EXHIBIT C

Confidentiality Agreement

CONFIDENTIALITY AGREEMENT

(To Be Included Submitted with Indication of Interest and Qualifications)

This Confidentiality Agreement (the "Agreement") made and entered to as of the day of _____ 201_, by and between the Minnesota Sports Facilities Authority ("Authority") and _____ ("Proposer") relating to the design, construction and financing of the new Minnesota Multi-Purpose Stadium (the "Project"). For purposes of this Agreement, Minnesota Vikings Football, LLC are hereinafter referred to as the "Team". The Authority and Team and each of their respective subsidiaries and affiliates are hereafter referred to individually or collectively as "Project Participants".

1. For purposes of this Agreement, "Confidential Information" means "any and all" information accessed, received, obtained or otherwise learned about the Project Participants as a result of the Project, and/or any other information whether or not designated as Confidential Information by the Project Participants. Notwithstanding the above, Confidential Information will not include any information that

(a) is or becomes public knowledge other than by the Construction Manager's act or omission or

(b) is or becomes available to without obligation of confidence from a source (other than the Project Participants) having the legal right to disclose that information.

1. Without the prior written consent of the Project Participants, which may be given or withheld in their sole and absolute discretion, the Proposer will (a) not disclose any Confidential Information to any third party nor give any third party access thereto, and (b) only disclose the Confidential Information to those of its employees or agents who need to know such information for purposes of completing the Project and who are bound by confidentiality obligations no less restrictive than this Agreement. For the avoidance of doubt, any disclosure by the Project Participants of work product received from the Proposer shall not be considered a breach of this Agreement.

2. The Proposer will use at least the same degree of care to avoid the publication, disclosure, reproduction or other dissemination of the Confidential Information as employed with respect to its own valuable, proprietary information which it protects from unauthorized publication, disclosure, reproduction or other dissemination and in no event, shall the Construction Manager use less than reasonable care.

4. If the Proposer receives notice that it may be required or ordered to disclose any Confidential Information in connection with legal proceedings or pursuant to a subpoena, order or a requirement or an official request issued by a court of competent jurisdiction or by a judicial, administrative, legislative, regulatory or self-regulating authority or body, the Proposer shall (a) first give written notice of the intended disclosure to the Project Participants as far in advance of disclosure as is practicable and in any case within a reasonable time prior to the time when disclosure is to be made, (b) consult with the Project Participants on the advisability of taking steps to resist or narrow such request and (c) if disclosure is required or deemed advisable, cooperate with the Project Participants in any attempt made to obtain an order or other reliable assurance that confidential treatment will be accorded to designated portions of the Confidential Information or that the Confidential Information will otherwise be held in the strictest confidence to the fullest extent permitted under the laws, rules or regulations of any other applicable governing body.

5. The Proposer acknowledges that the unauthorized disclosure or use of Confidential Information could cause irreparable harm and significant injury, the precise measure of which maybe difficult to ascertain. Accordingly, the Proposer agrees that the Project Participants will be entitled to specific performance and injunctive or other equitable relief, without bond, as a remedy for any such breach or threatened breach, in addition to all other rights and remedies to which the Project Participants may have. The Proposer will, except to the extent inconsistent with (a) its use in connection with legal

proceedings or (b) applicable law, regulations, rules or official requests, at the Authority's election, destroy or return to the Project Participants any tangible copies of the Confidential Information and permanently delete all electronic copies of the Confidential Information in its possession or control, if any, at the earlier of the request of the Project Participants or the completion of the Project and will certify in writing to the Project Participants that it has completed the forgoing.

1. In the event of any litigation between the Project Participants and the Proposer in connection with this Confidentiality Agreement, the unsuccessful party to such litigation will pay to the successful party therein all costs and expenses, including but not limited to actual attorneys' fees incurred therein by such successful party, which costs, expenses and attorneys' fees shall be included as a part of any judgment rendered in such action in addition to any other relief to which the successful party may be entitled.

2. All references to the Proposer herein also include any of its officers, directors, employees, attorneys, agents, professional advisors and independent contractors and any person, corporation, partnership or other entity which, directly or indirectly, controls, is controlled by, or is under common control with, the undersigned. This Agreement supersedes all previous agreements, written or oral, relating to the above subject matter, and may be modified only by a written instrument duly executed by the parties hereto. All clauses and covenants contained in this Agreement are severable and, in the event, any of them is held to be invalid by any court, this Agreement will be interpreted as if such invalid clauses and covenants were not contained herein. The Proposer represents and warrants that it has the right and authority to enter into and perform this Agreement. This Agreement may not be assigned without the Project Participants' prior written consent (in their sole discretion). This Agreement shall be construed in accordance with the internal laws of the State of Minnesota, USA, without regard to its principles of conflicts of laws. None of the provisions of this Agreement can be waived or modified except expressly in writing by the parties hereto.

Dated and effective this _____ day of _____, 201_

("Authority")

("Proposer")

{SEAL

WITNESS:

(If Proposer is a Corporation, complete below)

By: _____

Title: _____

Attest: _____

Title: _____