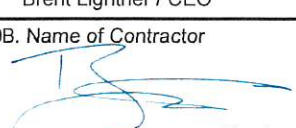
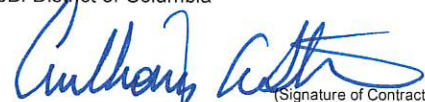


AWARD/CONTRACT		1. Solicitation Number CFOPD-19-R-046		Page of Pages 1 74 + attachments			
2. Contract Number CFOPD-20-C-021		3. Effective Date See 20C		4. Requisition/Purchase Request/Project No.			
5. Issued By Office of the Chief Financial Officer Office of Contracts 1100 - 4th Street, SW., Suite E620E Washington, DC 20024		Code		6. Administered By (If other than line 5)			
7. Name and Address of Contractor (No. Street, city, country, state and ZIP Code) Taoti Creative 530 8th Ste SE Washington, DC 20003 Becca Sanders & Sam Harper bsanders@taoti.com / sharper@taoti.com		8. Delivery <input type="checkbox"/> FOB Destination <input checked="" type="checkbox"/> Other (See Schedule Section F)		9. Discount for prompt payment			
Code		Facility		10. Submit Invoices to the Address shown in Line 12 Item (2 copies unless otherwise specified)			
11. Ship to/Mark For Office of Lottery and Charitable Games 2235 Shannon Place, SE Washington, DC 20020 Attn: Nicole Jordan - Director of Marketing and Communication Email: nicole.jordan@dc.gov Office Phone: 202-645-8968		Code		12. Payment will be made by Office of Lottery and Charitable Games 2235 Shannon Place, SE Washington, DC 20020			
13. Contract Type Requirements with Firm Fixed Unit Pricing and NTE Ceiling		14. Accounting and Appropriation Data					
15A. Item	15B. Supplies/Services	15C. Qty	15D. Unit	15E. Unit Price	15F. Amount		
1	Lottery Website Design and Hosting Services			NTE \$458,904.00	NTE \$458,904.00		
Total Amount of Contract					NTE \$458,904.00		
16. Table of Contents							
(X)	Section	Description	Pages	(X)	Section	Description	Pages
	PART I - THE SCHEDULE				PART II - CONTRACT CLAUSES		
	A	Solicitation/Contract Form	1		I	Contract Clauses	48
	B	Supplies or Services and Price/Cost	2		PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACHMENTS		
	C	Description/Specifications/Work Statement	10		J	List of Attachments	73
	D	Packaging and Marking	29		PART IV - REPRESENTATIONS AND INSTRUCTIONS		
	E	Inspection and Acceptance	30		K	Representations, Certifications and Other Statements of Offerors	74
	F	Deliveries or Performance	34				
	G	Contract Administration Data	35				
	H	Special Contract Requirements	40				
Contracting Officer will Complete Item 17 or 18 as Applicable							
17 <input checked="" type="checkbox"/> CONTRACTOR'S NEGOTIATED AGREEMENT (Contractor is required to sign this document and return <u>1 pdf</u> copies to issuing office.) Contractor agrees to furnish and deliver all items or perform all the services set forth or otherwise identified above and on any continuation sheets for the consideration stated herein. The rights and obligations of the parties to this contract shall be subject to and governed by the following documents: (a) this award/contract, (b) the solicitation, if any, and (c) such provisions, representations, certifications, and specifications, as are attached or incorporated by reference herein. (Attachments are listed herein.)				18 <input type="checkbox"/> AWARD (Contractor is not required to sign this document.) Your offer on Solicitation Number _____, including the additions or changes made by you which additions or changes are set forth in full above, is hereby accepted as to the items listed above and on any continuation sheets. This award consummates the contract which consists of the following documents: (a) the Government's solicitation and your offer, and (b) this award/contract. No further contractual document is necessary.			
19A. Name and Title of Signer (Type or print) Brent Lightner / CEO				20A. Name of Contracting Officer Anthony A. Stover, CPPO			
19B. Name of Contractor  (Signature of person authorized to sign)		19C. Date Signed 12/30/2019		20B. District of Columbia  (Signature of Contracting Officer)		20C. Date Signed 1-28-2020	

SECTION B**CONTRACT TYPE, SUPPLIES OR SERVICES AND PRICE****B.1 GENERAL INFORMATION**

The District of Columbia Office of the Chief Financial Officer, Office of Contracts (the “District”), on behalf of The Office of Lottery and Games (“DC Lottery”) requires the Contractor to provide full range of digital services including website development, design, execution, hosting, and maintenance for the DC Lottery’s websites as well as strategy and development of its social media platforms.

B.2 CONTRACT TYPE

Requirements Contract.

B.3 DESIGNATION OF SOLICITATION FOR THE D.C. SMALL BUSINESS (SBE) SET-ASIDE MARKET ONLY

This contract is designated only for certified small business enterprise (SBE) under the provisions of the “Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005”, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.01 et seq.), as amended. Offerors must be certified at the time of submittal. Contact the DC Department of Small and Local Business Development (DSLBD) at (202) 727-3900 for information on the certification process.

B.4 ALL-INCLUSIVE PRICING

The stated Price Per Unit for each Contract Line Item Number (CLIN) shall be fixed, inclusive of all of the Contractor’s direct cost, indirect cost, and profit; including travel, material, and delivery costs. The price shall include all cost associated with the services described in and required by the Contract. The Total Estimated Price shall represent the price ceiling, fixed fee, or not to exceed amount of the Contract.

B.5 REQUIREMENTS CONTRACT

The District will purchase its requirements of the articles or services included herein from the Contractor. The estimated quantities stated herein reflect the best estimates available. The estimate shall not be construed as a representation that the estimated quantity will be required or ordered, or that conditions affecting requirements will be stable. The estimated quantities shall not be construed to limit the quantities which may be ordered from the Contractor by the District or to relieve the Contractor of its obligation to fill all such orders.

B.5 PRICE SCHEDULE – FIRM FIXED PRICE**B.5.1 BASE YEAR**

Contract Line Item No (CLIN)	Labor Category	Unit	Unit Price	Estimated Quantity	Estimated Price (Unit Price X Estimated Quantity)
001	Planning & Strategy	hours	\$157.61	240 (20 hours monthly)	\$37,826.00
002	Content Management System Development	hours	\$137.27	250	\$34,318.00
003	E-mail Management System Development	hours	\$137.27	50	\$6,864.00
004	Integration Development	hours	\$177.94	80	\$14,235.00
005	Site Production Development	hours	\$137.27	200	\$27,454.00
006	Content Development	hours	\$116.93	250	\$29,233.00
007	Testing	hours	\$116.93	75	\$8,770.00
008	Troubleshooting	hours	\$116.93	204	\$23,874.00
009	Maintenance	monthly	\$2,860	12	\$34,320.00

010	Hosting	monthly	\$5,000.00	12	\$60,000.00
011	Launch and Migration	each	\$3558.80	1	\$3,559.00
012	Project Manager	hours	\$137.27	1,300 (25 hours weekly)	\$178,451.00
Base Year Not to Exceed Total					\$458,904.00

B.5.2 Option Year One

Contract Line Item No (CLIN)	Labor Category	Unit	Unit Price	Estimated Hours/Quantity	Estimated Price (Unit Price X Estimated Quantity)
101	Planning & Strategy	hours	\$157.61	240 (20 hours monthly)	\$37,826.00
102	Content Management System Development	hours	\$137.27	250	\$34,318.00
103	E-mail Management System Development	hours	\$137.27	50	\$6,864.00
104	Integration Development	hours	\$177.94	80	\$14,235.00
105	Site Production Development	hours	\$137.27	200	\$27,454.00

106	Content Development	hours	\$116.93	250	\$29,233.00
107	Testing	hours	\$116.93	75	\$8,770.00
108	Troubleshooting	hours	\$116.93	204	\$23,874.00
109	Maintenance	monthly	\$2,860	12	\$34,320.00
110	Hosting	monthly	\$5,000	12	\$60,000.00
111	Project Manager	hourly	\$137.27	1,300 (25 hours weekly)	\$178,451.00
Option Year One Not to Exceed Total					\$455,345.00

B.5.3 Option Year Two

Contract Line Item No (CLIN)	Labor Category	Unit	Unit Price	Estimated Hours/Quantity	Estimated Price (Unit Price X Estimated Quantity)
201	Planning & Strategy	hours	\$157.61	240 (20 hours monthly)	\$37,826.00
202	Content Management System Development	hours	\$137.27	250	\$34,318.00
203	E-mail Management System Development	hours	\$137.27	50	\$6,864.00

204	Integration Development	hours	\$177.94	80	\$14,235.00
205	Site Production Development	hours	\$137.27	200	\$27,454.00
206	Content Development	hours	\$116.93	250	\$29,233.00
207	Testing	hours	\$116.93	75	\$8,770.00
208	Troubleshooting	hours	\$116.93	204	\$23,874.00
209	Maintenance	monthly	\$2,860	12	\$34,320.00
210	Hosting	monthly	\$5,000	12	\$60,000.00
211	Project Manager	hourly	\$137.27	1300 (25 hours weekly)	\$178,451.00
Option Year Two Not to Exceed Total					\$455,345.00

B.5.4 Option Year Three

Contract Line Item No (CLIN)	Labor Category	Unit	Unit Price	Estimated Hours/Quantity	Estimated Price (Unit Price X Estimated Quantity)
301	Planning & Strategy	hours	\$157.61	240 (20 hours monthly)	\$37,826.00

302	Content Management System Development	hours	\$137.27	250	\$34,318.00
303	E-mail Management System Development	hours	\$137.27	50	\$6,864.00
304	Integration Development	hours	\$177.94	80	\$14,235.00
305	Site Production Development	hours	\$137.27	200	\$27,454.00
306	Content Development	hours	\$116.93	250	\$29,233.00
307	Testing	hours	\$116.93	75	\$8,770.00
308	Troubleshooting	hours	\$116.93	204	\$23,874.00
309	Maintenance	monthly	\$2,860	12	\$34,320.00
310	Hosting	monthly	\$5,000	12	\$60,000.00
311	Project Manager	hourly	\$137.27	1300 (25 hours weekly)	\$178,451.00
Option Year Three Not to Exceed Total					\$455,345.00

B.5.5 Option Year Four

Contract Line Item No (CLIN)	Labor Category	Unit	Unit Price	Estimated Hours/Quantity	Estimated Price (Unit Price X Estimated Quantity)
401	Planning & Strategy	hours	\$157.61	240 (20 hours Monthly)	\$37,826.00
402	Content Management System Development	hours	\$137.27	250	\$34,318.00
403	E-mail Management System Development	hours	\$137.27	50	\$6,864.00
404	Integration Development	hours	\$177.94	80	\$14,235.00
405	Site Production Development	hours	\$137.27	200	\$27,454.00
406	Content Development	hours	\$116.93	250	\$29,233.00
407	Testing	hours	\$116.93	75	\$8,770.00
408	Troubleshooting	hours	\$116.93	204	\$23,874.00
409	Maintenance	monthly	\$2,860	12	\$34,320.00
410	Hosting	monthly	\$5,000	12	\$60,000.00

411	Project Manager	hourly	\$137.27	1300 (25 hours weekly)	\$178,451.00
Option Year Four Not to Exceed Total					\$455,345.00

Optional Pricing

Contract Line Item No (CLIN)	Labor Category	Unit	Unit Price	Estimated Quantity	Estimated Price (Unit Price X Estimated Quantity)
501	Game Simulator	Each	\$10,000.00	5	\$50,000.00
502	Newsletter	Monthly	\$2,000.00	12	\$24,000.00
Optional Pricing Not to Exceed Total					\$74,000.00

SECTION C

DESCRIPTION/SPECIFICATIONS/WORK STATEMENT

C.1 **SCOPE**

- C.1.1 The Office of the Chief Financial Officer (“OCFO”) for the District of Columbia (“District”) and the Office of Contracts on behalf the Office of Lottery and Charitable Games (“DC Lottery”) requires the Contractor to provide the full range of digital services including website development, design, execution, hosting, and maintenance for the DC Lottery’s websites as well as strategy and development of its social media platforms.
- C.1.2 The DC Lottery’s objective is to have a web platform that provides all stakeholders (Players, Retailers, Media, Public) with a seamless digital experience. This branded platform will include all external websites and will ensure that DC Lottery’s digital footprint is easy to use, reliable and accessible to all audiences, on all devices. This will not only enhance the brand and extend the influence, to core, infrequent, and prospective lottery players, but it will create persuasive value so that DC Lottery’s products stand out in this evolving era, thereby positively maintaining and impacting the financial bottom line.

C.2 **RESERVED**

C.3 **BACKGROUND**

- C.3.1 The DC Lottery’s mission is to provide revenue-generating entertainment through the sale of innovative lottery products and promotions that directly benefit the residents and the economic vitality of the District of Columbia. Since its inception, the DC Lottery’s has contributed more than \$2.1 billion to the District's General Fund. The Lottery's annual transfer to the General Fund remains a vital component in aiding the city's economy, thereby benefiting all residents of the District of Columbia, as well as suburban commuters and tourists. The General Fund supports services such as education, recreation and parks, public safety, housing, and senior and child services.
- C.3.2 The DC Lottery directly benefits its players by paying out more than 50 percent of annual sales in prize money, which totals more than \$3.7 billion to date. The Lottery also directly benefits local businesses by providing commissions to retailers licensed to sell DC Lottery games and offering contracting opportunities. Over the past 37 years, the Charitable Games Division of the DC Lottery has helped local nonprofits raise more than \$131 million for social causes benefiting the residents of the District of Columbia through the licensing of Bingo, Monte Carlo Night, Raffle, and other charitable gaming activities.
- C.3.3 DC Lottery has three (3) websites that it maintains---www.dclottery.com (public marketing), www.secondchance.dclottery.com (contest/promotion site) and www.retailers.dclottery.com (retailer portal). The public marketing site ([ww.dclottery.com](http://www.dclottery.com)) consists of approximately 808 pages. The website’s primary use is to promote and monitor DC Lottery scratch-off and draw games, to publicize the accomplishments and initiatives of the DC Lottery to various audiences, and to serve as an information resource for our players. Our contest and promotion site

(www.secondchance.dclottery.com) consists of approximately 10 pages. The website's primary use is to promote and execute our second chance promotions.

C.3.4 Our retailer portal site (www.retailers.dclottery.com) consists of approximately 18 pages, of which 13 are active. The website is primarily used by interested businesses to find important information about becoming a DC lottery retailer or to renew their current operating licenses.

C.4 REQUIREMENTS

C.4.1 The Contractor shall provide website development, design, execution, hosting, and maintenance for the DC Lottery's websites. The Contractor shall:

- A. Provide maintenance service to the existing websites to keep it in good operational condition while a new site is developed. Support and enhance the current websites with the new technologies to better attract current and new players to DC Lottery products and services. If required, the Contractor shall enhance the website to integrate with third-party technology systems and be modified to support future gaming products.
- B. Provide design of new websites that will replace the existing website for the same purpose of attracting new and current players to DC Lottery products and services. If required, the Contractor shall enhance the website to integrate with third-party technology systems and be modified to support future gaming products.

C.4.2 The Contractor shall use and stay abreast of state-of-the-art technology and offer suggestions to improve the website image and technical capability on a continuous basis. The success of the website shall be determined by the impact of its content and the resulting end-user response. This will be measured by Google Analytics, social media analytics services like Nuvi, Facebook Insights, or other similar tools. These services will provide quantitative data about the growth and progress of the DC Lottery websites and social media platforms for definitive measurable success.

C.4.3 The Contractor shall be responsible for the successful implementation of all elements of the website. The Contractor's duties shall include the following;

- a. Evaluating the site's current front-end and back-end infrastructure and architecture.
- b. Recommending and implementing site structural changes and enhancements based on the evaluations to help DC LOTTERY better achieve its goals.
- c. Incorporating new games and marketing promotions.
- d. Gathering and documenting website requirements.

C.4.4 The Contractor shall provide analytics reports (as needed) for the Website, Social Media Outlets and Advertising.

C.4.5 The Contractor shall participate in and attend scheduled meetings to provide an overview of the current status and design of the active site, provide documentation detailing status between review sessions, and participate in planning for future modifications to the website.

C.5. MIGRATION AND TRANSITION OF ACCOUNT

- C.5.1 The new Contractor shall work directly with the current Contractor and/or DC Lottery staff for the knowledge transfer and transition of the existing DC Lottery websites and its environment.
- C.5.2 The Contractor shall migrate the websites, databases and domains to the new hosting environment and bring all assets under their control. The Contractor shall be responsible for the ongoing maintenance and development on the existing site while simultaneously working to create the new website. DC Lottery websites currently runs on Microsoft IIS, SQL Server and ASP.Net. The user interface is built with Bootstrap 4 and JQuery.

C.6. NEW FULLY RESPONSIVE WEBSITE & CONTENT MANAGEMENT SYSTEM (CMS)

- C.6.1 The Contractor shall be responsible for the creation of the new websites for the DC Lottery. With the increase in mobile usage, it is essential that the Lottery's website is made available to users on all platforms including on a desktop, a tablet or a mobile phone. The site shall leverage the existing database architecture as much as possible. The Contractor will be provided with brand standards prior to the design phase and it should be noted that the DC Lottery does like the current look and feel and desires to leverage as much of that existing look as possible with the understanding that it will need to be modified to account for its responsive nature. The Contractor shall guide DC Lottery through a full website redesign and redevelopment project cycle which will include steps for information architecture, UX, design and development.
- C.6.2 The new site shall contain, at a minimum, the existing functionality (listed in C.4.22). However, it is expected that the Contractor shall make recommendations regarding additional functionality that will be useful for the DC Lottery. Additionally, the new website shall be able to interact with third-party vendor technology platforms and expand for new DC Lottery products. The DC Lottery currently makes use of a proprietary CMS platform and desires to move the site onto an off-the-shelf platform that is more widely accepted across the development spectrum.

C.7. NON-FUNCTIONAL REQUIREMENTS**C.7.1 Upload and download function:**

- C.7.1.1 The website shall be able to upload contents of any format (text, graphic, images and video etc.) from designated sources and download similar contents to designated destinations at any time by an authorized user.
- C.7.1.2 The upload/download function shall enable multiple search criteria where applicable.

C.7.2 Integrated with Gaming system data source

- C.7.2.1 The website shall fully integrate with the DC Lottery's central gaming system for direct data source feeds of winning numbers and jackpot amounts of all relevant lottery games.

C.7.2.2 The website shall also fully integrate with a database management system (DBMS) to maintain all data collected from data sources for future publication, analytics and reporting purposes.

C.7.3 Support Membership Websites

The website must be able to spawn multiple separate websites that required secured ID and password authentications for authorized users to perform specific DC Lottery business.

C.7.4 Support full content and user Administration

The website shall provide administration functions to be maintain by authorized DC Lottery staff. It shall include:

- a. Website content management administration that controls where and what contents are being displayed by the website.
- b. User administration that controls the privilege of user access to the website and that sets permissions/roles for each user who can update and modify the website. Website shall provide user interface to allow authorized user to maintain user parameters that configure the various access privileges of all users under the website.

C.7.5 Geolocation positioning support

Web site shall have instant geolocating function to identify the browser location to support:

- a. Providing location of the nearest retailer to the web site visitor.
- b. Providing location of retailers in map searched by web site visitor using various search criteria.
- c. Verifying geolocation of visitor for geolocation compliance for future online lottery product purchase.

C.7.6 E-commerce

Web site shall be able to support online E-commerce operation for commercial transactions with following features:

- a. E-wallet to enable visitor to store credits for payment of online transactions.
- b. E- Shopping Cart to allow visitor to store products for check out process. This feature shall allow both guest as well as register user to checkout.
- c. Secured Payment Gateway Integration to allow web site to integrate with multiple gateways for payment choices.

C.7.7 Web site performance matrices

The Contractor shall develop the website adhering to the industrial acceptable performance matrices. The Contractor shall provide their expected performance matrices of the proposed web site. The Contractor shall also provide a performance matric measurement tool which will measure the proposed web site performance metrics for future measurement and monitoring to

ensure that they meet or exceed their proposed performance matrices. The performance metric tool shall measure the following:

- a. Page Load time - The time it takes to download and display the entire content of a web page in the browser window (measured in seconds).
- b. Time to Title- The amount of time between the instant a visitor requests your website and the moment your site's title shows up in their browser tab.
- c. Time to Start Render - The time elapsed between a user's request and the moment when content appears in their browser is called time to start render.
- d. Time to Interact (TTI) - The time between a request and the moment when a user can click on links, type in text fields or scroll the page.
- e. DNS Lookup Time - The amount of time it takes for your DNS provider to translate a domain name into an IP address.
- f. Connection Time - The time between a request and when a connection is established between the user's browser and your origin server is called the connection time.
- g. Time to first byte - The time it takes for the very first byte of information to reach a user's browser after a connection to the server has been established
- h. Time to last byte - When the user's browser finally receives each and every byte of the website, the last byte time is recorded.

C.8 FUNCTIONAL REQUIREMENTS

C.8.1 Dynamic winning numbers and jackpot display

The website shall be securely integrated with the DC Lottery's central gaming system to receive and store winning numbers and jackpot amounts within five (5) minutes of the event for display on the site and as data sources for other marketing, sales, security and licensing activities. This information is used across many of the DC Lottery's advertising platforms including out-of-home signage, display advertising, banner ads, the homepage of the site, pushed into emails that are blasted to Player's Club members, published to the DC Lottery's social media platforms.

C.8.2 Gaming information and historic data

The website shall provide informational content of each game in DC Lottery's portfolio with functionality that allows user to review past draws, check current number and check jackpot amounts (if applicable). The web site shall also be expandable to include future games. DC Lottery's current game portfolio includes the following:

- a. Multi State games: Mega Millions, Power Ball, Lucky For Life
- b. Online Daily games: DC2, DC3, DC4, DC5
- c. Monitor games: KENO, Races to Riches, (R2R) The Lucky One

- d. Fast Play games
- e. Tap and Play games
- f. Instant Ticket games

C.8.3 Emergency Response system

The website shall be able to support the Broadcasting of Emergency Response system at a level chosen by the DC Lottery management team and be configurable over time to adjust on the need for public services.

C.8.4 ADA Compliant

The website shall meet Americans with Disabilities Act and Bobby compliance standards.

C.8.5 Events calendar and information

The website shall provide DC Lottery event information including images, dates and descriptions. All content shall:

- a. Be searchable by keywords.
- b. Be filtered by date and distance from browsing location.
- c. Be able to push event data to interested player's club members matched by zip code location.

C.8.6 Media Room

The website shall provide designated administrators the ability to add, edit and delete press releases, brand assets, etc.

C.8.7 Blog and Chat:

The proposed solution shall include functionality allowing administrators to activate a blog module for future marketing efforts.

C.8.8 Social Media platform integration:

C.8.8.1 The website shall be fully integrated with multiple social mediate with their available API in such a way that content for marketing purposes can be easily pushed to and pull from those social media platforms with a standardized trackable approval process. The current social media platforms listed are:

- a. Facebook
- b. Instagram
- c. Twitter
- d. Pinterest
- e. Snapchat
- f. YouTube
- g. Tumblr
- h. Reddit

C.8.8.2 The website shall be expandable for future social media platforms.

C.8.9 Winners

The website shall have a winner area for all past winner information where users can view images and data with sort functionality.

C.8.10 Frequently Asked Questions (FAQs)

The website shall provide designated administrators the ability to manage the frequently asked questions (FAQ) area of the site and sort FAQs by categories. Under the direction of the COTR, the Contractor shall create, maintain, or enhance the area of website which displays frequently asked questions (FAQs) about DC Lottery. This information contained within, as well as outside the website. The Contractor shall have links for sending feedback via electronic mail to various representatives within DC Lottery.

C.8.11 Instant Ticket Games

DC Lottery produces over 35 Instant Ticket “scratch” games each fiscal year. The website shall have the following functions and capabilities:

- a. An archived scratch game area where users can view and search contents for closed scratch games.
- b. Uploading of new scratch games and ability to revise the contents during life cycle of the game.
- c. Allow for the searching of scratch games by price point, and remaining top prizes and life cycle etc.
- d. Provide all current information of each scratch games as decided by DC Lottery during the design of the web site. Examples of such information are:
 1. prize remaining,
 2. claim date,
 3. prize amount, etc.

C.8.12 Player's Club Loyalty program:

The website shall be able to enable qualified site visitors to register for membership in Lottery's Player's Club with ability to enter and/or update their profile data. All Player's Club data shall be stored and extractable by means of a Database Management System (DBMS) system designated by Lottery for reporting and other business purposes. The Contractor shall help lead the charge in transitioning the Player's Club into a customer loyalty platform.

C.8.13 Email Management

The Contractor shall be responsible for implementation of a mass email delivery system for expedient delivery of a high volume of emails to all DC Lottery club members, DC Lottery staff and the public for various occasions of communication and marketing purposes. The email system shall support generation of emails based on templates or custom HTML codes. The website shall facilitate email being distributed thru a third-party platform. Estimated volume of email communication is about one million per year.

C.8.14 Retailer Locator:

Users must have the ability to search for and locate a DC Lottery retailer near them. In addition, future functionality shall include integration with the various data sources (i.e. mobile technologies and our gaming system), allowing us to show winningest retailers, retailers with certain tickets, etc.

C.8.15 Player resources

The website shall provide gaming and research services for visitors who want to explore their odds of winning. Following are examples of such information that the visitor shall have access to:

- a. Search of the winningest retailer at the time of browsing.
- b. Search for retailer who offer certain lottery game such as Tap & Play etc.
- c. Prize status of a given scratch game.
- d. The frequency of a number set being draw as winning number.

C.8.16 Multi-language:

The website shall able to support multi-language translation with content management being driven by English. Currently, it is required that the content be viewable in both English and Spanish. The translated Spanish version of the site will follow the same sitemap. Contractor is required to implement two-way translation between English and Spanish at this time, not to exclude future translation to other languages. The Contractor shall translate content according compliance requirements provided by DC Lottery.

C.8.17 Second-Chance Drawings and Contests

- C.8.17.1 Currently, the DC Lottery maintains a separate and secured web portal for its Second Chance Contest. The Contractor shall integrate this portal within the new website and shall be able to operate Second Chance Contests and promotions. The website shall include the following:

- A. A secured Second Chance administrative access page where only authorized DC Lottery staff or designated Contractors will have access to the site for the single purpose of setting up and conducting second chance draw function in compliance with necessary business rules. It shall:
1. Require login credential from the authorized user.
 2. Allow create, modify, activate and de-activate second chance promotion and contest.
 3. Be able to receive and load hash data file for Instant Ticket “scratch” games.
 4. Provide reporting functionality as defined by the DC Lottery.
 5. Provide following filtering criteria for extraction of entry data:
 - a) Entry ID
 - b) Last name (of the participant)
 - c) Email (of the participant)
 - d) Start date (Date range begin to seconds)
 - e) End Date (Date range ended to seconds)
- B. A publicly-accessible Second Chance website that enables qualified players to enter second chance draw promotion whenever such promotion is advertised and activated. Qualified users who wish to enter a second chance contest must be a registered user in DC Lottery’s player’s club member. Therefore, the second chance website shall:
1. Be accessible publicly for anyone to view all information about a second chance contest.
 2. Contain all necessary information for user to learn about a second chance contest.
 3. Allow qualified user to register to become a Player’s Club member.
 4. Allow Player’s Club members to view draw, prize and winners and rule information on specific second chance contest.
 5. Allow qualified Player’s Club member to the enter a second chance contest according to the specific second chance business rules.
 6. Allow for single sign on access from Player’s Club.

C.8.18 RETAILER PORTAL MIGRATION AND REVISION:

Currently, the DC Lottery maintains a separate and secured web portal for licensing lottery retailers. The Contractor shall migrate all sites under this portal to integrate with the new website and re-skinned for the responsive design. This site shall allow for an administrator with different content management privileges to manage this section. Potential visitors to this website are individuals or corporations who are either a licensed lottery retailer or are interested in applying for a retailer license with DC Lottery. Access to this section requires the visitor to login with a secured password, unless the visitor intended to create a new account by applying for a license. The retailer portal shall have the following capabilities:

- a. Enable applicants to apply for a DC Lottery retailer license.
- b. Enable the DC Lottery to process retailer license applicants.

- c. Enable users to update retailer profile information including contact information, business information and personal information (i.e. home addresses, DOB, social security numbers, etc.)
- d. Provide the ability for two-way communication between DC Lottery and retailers. This shall include at a minimum emails, newsletters, and surveys.
- e. Provide content area for retailer education. This shall include training documents and/or videos.
- f. Provide account financial information to retailers.
- g. Provide alert messages to retailers on their licensing obligations such as renewal, etc.
- h. Provide alert message to DC Lottery staff on retailer violations on any lottery licensing rules or regulations.

C.8.19 CMS

While we understand that many off-the-shelf CMS systems will come with native features, below, we have listed a series of features that the DC Lottery requires as part of the management interface in the CMS:

- a. **META INFORMATION:** The administrator requires the ability to assign page title, page headline (h1) and page meta description.
- b. **ALT TAGS:** For all images uploaded into the system, the administrator requires the ability to assign an alt tag to that image.
- c. **REDIRECTS:** Administrator requires the ability to install a redirect from one page to another page.
- d. **LOGS:** The CMS shall include a view that allows an administrator to see all actions in the CMS by user.
- e. **REVISIONS:** Administrator shall have the ability to revert to previously saved content for pages, content types, etc.
- f. **SECURITY:** User groups are assigned access to manage specific areas of the website. Users are required to have a password of 8 or more characters, include upper- and lower-case letters, numbers and special characters; are not to be reused or have any portion reused for a minimum of 10 iterations and will expire every 30 days. Daily security log files are required.

C.9 OPTIONAL FUNCTIONAL REQUIREMENTS

C.9.1 Game Simulators

The website shall provide lottery game learning center where qualified website visitors may learn about any games currently offered on the web site by playing the simulated game at the web site before making actual wagering at point of sale. The simulated games can be loaded or unloaded to the web site in a synchronized manner to the offering of games on the web site.

C.9.2 Newsletter

The newsletter area is designed so that DC Lottery staff can provide content in newsletter format that is broadcasted internally to staff.

C.10 CONTENT CREATION AND MANAGEMENT

- C.10.1 The Contractor shall use existing and future DC Lottery marketing material, layouts, logos, ideas and media in addition to suggesting and developing new material that take advantage of the internet as a medium. The Contracting Officer's Technical Representative (COTR) will coordinate interaction between the Contractor and the appropriate DC Lottery personnel.
- C.10.2 The Contactor upon request from DC Lottery shall create digital assets for use for web and social media platforms for the DC Lottery. As a part of this process, components of the material such as images, fonts, and other specifications will be provided to DC Lottery and will be exclusively owned by DC Lottery.
- C.10.3 The Contractor shall be responsible for writing the page of text based upon information provided by DC Lottery. All writing is to be produced by a professional copywriter and approved by the COTR.
- C.10.4 The Contractor shall ensure the website is optimized for viewing in ALL browsers, graphical, text and mobile phone browsers.
- C.10.5 Under the direction of the COTR the Contractor shall create, maintain, or enhance the area of the website that provides instructions describing the procedures for playing the DC Lottery's current online (draw) and instant ticket games. Additionally, the Contractor shall create interactive training demonstrations for specific games as identified by DC Lottery as well as incorporate new games as they are released.
- C.10.6 Under the direction of the COTR, the Contractor shall create, maintain, or enhance the area of the website providing information for the licensing and charitable gaming aspects of DC Lottery. This area shall incorporate online forms to facilitate completion of applicable applications and regulations for agent and charitable game event licensing, calendars (with the ability to auto-archive and auto-expire events), internet links to additional resources as defined by DC Lottery, and other associated materials and functionality.
- C.10.7 Under the direction of the COTR the Contractor shall create, maintain, or enhance the area of the website to publish DC Lottery's corporate information based on material provided by the lottery. This area shall include annual reports, mission statement, strategic plan, milestones, letter from the Executive Director, management profiles, employment opportunities, procurement solicitations, highlights of citywide benefits provided by DC Lottery's contribution to the District's General Fund, contact information for departments and personnel, and other information DC Lottery deems necessary. The Contractor shall provide the user the option to download this information in Adobe Acrobat format.
- C.10.8 Under the direction of the COTR, the Contractor shall create, maintain, or enhance the area of the website to publish press releases and other public information. This area shall contain interviews, photos, audio/video samples, information released to the press concerning DC Lottery activities and other noteworthy events (with the ability to auto-archive and auto-expire information) and any other information DC Lottery deems necessary. The Contractor shall provide the user the option to download this information in Adobe Acrobat format.

- C.10.9 The Contractor shall incorporate DC Lottery’s “Play Responsibly” campaign at strategic locations throughout the website as determined by DC Lottery Internet links will be provided for additional information and appropriate resources.
- C.10.10 The Contractor shall evaluate the structure and integrity of the consumer database consisting of “opt-in” user email addresses and other user-supplied information. The Contractor shall provide recommendations for improvement based on data that is collected through various online forms and user surveys and implement such recommendations after approval from DC Lottery. Under the direction of DC Lottery the Contractor shall be responsible for implementing ad-hoc database structural updates and enhancements where necessary.
- C.10.11 Under the direction of the COTR the Contractor shall develop content, evaluate, make recommendations for improvement and implement approved recommendations to the Players Club area of the website. The Players Club is a marketing tool used to build customer loyalty, promote new products and promotions, interact with players and generate excitement about DC Lottery. Players Club members will have the option to receive various types of information including winning numbers, jackpot amounts, promotions, incentives, personalized birthday and anniversary notices, players’ forums/chats, winner widgets and general DC Lottery updates via email. DC Lottery will outline maintenance rules of the service governing issues such as undeliverable messages. DC Lottery staff or an approved representative will be responsible for keeping a list of users and associated information secure. The Contract will:
- a. Develop a distribution platform where messages, such as winning number alerts, birthday and anniversary alerts and jackpot information will be automatically distributed to the appropriate users.
 - b. Create a Player’s Club dashboard that provides information such as promotions, new game announcements and players will be created and/or maintained by the Contractor for distribution to the appropriate users.
- C.10.12 The Contractor shall update/redesign the area of the website that publishes copyright and legal notices for all information on DC Lottery’s website. This information shall be linked to and from appropriate locations within the website.
- C.10.13 The Contractor shall update/redesign, the area of the website containing internet links to other resources including, but not limited to, District of Columbia Government agencies, lottery industry sites, and problem gaming sites. All links must be approved by DC Lottery.
- C.10.14 The Contractor shall create and incorporate advertisement banners for information including, but not limited to, current games, jackpot amounts, promotions, retail agents, locations of winning ticket sales, social media campaigns, social media contest winners, Players Club announcements, contest winners, and any other information deemed necessary by DC Lottery. The display of the banners shall have the ability to rotate based on a preset auto-schedule. The auto-schedule shall rotate banners based on the date, provide new information each time the page is visited, and have a fixed time and duration of rotation of the banner.

- C.10.15 Under the direction of the COTR the Contractor shall evaluate, recommend and make improvement to the website map, and create maintain, enhance and implement a keyword search tool for users to easily find information on the website.
- C.10.16 The Contractor shall work with DC Lottery staff to provide expertise and suggestions for proper site promotion utilizing key indexing, site registration with major search engines, Meta tag use, and other methods of driving traffic to the site. The Contractor shall ensure that dclottery.com is built for search engine optimization. The Contractor shall also provide documentation that details their plan of action for approval by DC Lottery prior to implementation and provide documentation that reports progress and performance.
- C.10.17 The Contractor shall enable the implementation of online surveys. The data collected from these surveys shall be kept secure and only used by DC Lottery, or a DC Lottery approved representative. The tool shall include, but is not limited to, the ability to:
- a. Display graphical images within the survey
 - b. Support a full range of standardized question types and branching methodologies
 - c. Run reports based on responses submitted and other merged profile data contained in the consumer database.
- C.10.18 The Contractor shall ensure that the website complies with Section 508 of the American Disabilities Act and provide access to reports indicating the status quarterly, and on an as needed basis.
- C.10.19 The Contractor shall utilize an automated version control system to track website updates and release dates.

C.11 TESTING REQUIREMENTS

Upon request from DC Lottery, the Contractor shall draft, submit and implement a website functionality load/stress and browser compatibility test plan to the COTR and implement only upon approval. Testing shall include an automated link testing site functionality (online forms, search features, etc.). Test case scenarios shall be established to test server and website response times at varied loads and stress levels to test website display in various environments (i.e. Windows XP, Windows 7, Windows 10, Chrome OS, Mac OS, and Linux) and various web browsers (i.e. Internet Explorer, Microsoft Edge, Chrome, Safari and Mozilla) at various screen resolutions from 640x 480 to 1280 x 1024. Documentation indicating successful results shall be submitted to the COTR, upon request.

C.12 HOSTING REQUIREMENTS

- C.12.1 The Contractor shall provide the hosting services for this contract. The Contractor shall establish and maintain a “Development/Staging and a Production/Live” environment throughout the life of the contract and follow change management industry best-practices.
- C.12.2 The Contactor shall be responsible for guaranteeing site availability, performance levels of the services, use of the industry standard server operating system, database management and tools for the site and online application development. Maintenance of the server shall include the

Contractor's monitoring of the operation, which is to continue without interruption 24 hours a day, seven days a week, and to repair and restart the server in the event of power or other failure. In order to meet the requirement for uninterrupted continuation of service, the Contractor shall utilize a system architecture that incorporates redundancy with automatic fallback to the backup system.

- C.12.3 The Contractor shall provide documentation and access to such documentation, to include diagrams presenting the Site Server Architecture and outlining hardware and software specifications. The Contractor shall track and document the application of software and hardware patches and updates. A report of these activities shall be submitted and made available on an as needed basis and submitted to the COTR on a monthly basis. The report shall include a report of hard disk capacity.
- C.12.4 Please note that 99% uptime is a requirement for the website even during heavy traffic times such as when a large jackpot is about to be drawn. For reference, after a drawing with a large jackpot, the www.dclottery.com can receive up to .328 simultaneous hits per second

C.13 HARDWARE/SOFTWARE

- C.13.1 The server (s) hosting the DC Lottery website will utilize industry standard software that will provide acceptable performance based on the number of 'user sessions' and type of application/data available on the site. The Contractor shall be able to support www.dclottery.com and mobile websites on asp.net 4.5, vb.net, iis 7.0, windows server 2008 and sql server 2008. The Contractor shall also support web services being used on DCNumbers and SMS Data.
- C.13.2 The Contractor shall possess the equipment specifications and selection based on performance requirements and end-user metrics set forth by DC Lottery.
- C.13.3 Additionally, the web server software shall support server-side processing technologies including, but not limited to the following windows services that were developed in order for the site to function: Filewatcher, Filechecker and Drawings Alerts. In addition, the website requires use of free shd server for ssh transfers, filezilla server for ftp transfers, hmail server for email server. This is needed for functions on the current DC Lottery website.

C.14 INTERNET CONNECTIVITY

- C.14.1 The Contractor shall be responsible for providing internet connectivity for the DC Lottery website that will sufficiently sustain graphic-intensive pages, file transfers and streaming audio and video clips. Typical traffic levels are approximately 250,000 – 350,000 visits per month, with continuous and potential growth. Significant increases in bandwidth and server resources may be required in the event of high activity periods (ex. large jackpot amounts for Powerball or Mega Millions drawings) and shall be available from the Contractor upon demand by DC Lottery.
- C.14.2 The Contractor shall provide notification to the COTR and Content Administrator(s) via phone and email, within one hour of learning of any network or server outage; or any other occurrence that results in a failure of the functionality or inaccessibility of any area of the website. A

written incident report detailing: the specific characteristics and causes of each occurrence; the effect the occurrence had on service; and the steps taken to remedy the situation and prevent future occurrence, shall be prepared and provided to DC Lottery. The Contractor shall deliver this report within 24 hours of service restoration. The Contractor shall also submit a written description of their internal systems monitoring and failure notification procedures to DC Lottery.

C.14.3 Service outages resulting in client-side message indicating that the service or website is unavailable is considered a service in failure and shall be reported as such. In the event that such unavailability of service occurs, DC Lottery reserves the right to assess financial penalties of half of the billed hourly rate against the Contractor based on the duration of the outage DC Lottery will maintain external verification of service availability from various points on the internet and use this data to verify conformity with service availability requirements.

C.15 MAINTENANCE & CONTINUED SUPPORT

C.15.1 The Contractor shall work with advertising agency of record and the Lottery in an ongoing capacity to implement new online campaigns and promotions that meet the Lottery's marketing & advertising goals. Please include scope for how you will handle these hours.

C.15.2 24/7 support is required for this account; after-hours support is required for site outages, during periods when the Jackpot amount is high, when new Jackpot games are introduced, when Lottery IT operators experience errors uploading files, and when modifications to system functions require that the after-hour automatic functions (like email delivery) need to be monitored.

C.15.3 The Contractor shall maintain a staging and development environment for all DC Lottery websites. In addition, the following shall be required:

- a. Log files: The Lottery must have the ability to review log files at its own discretion.
- b. Secure VPN: The Contractor must have the capability of providing a secure VPN with the ability for encryption to transfer files associated with, for example, the second-chance drawing information.
- c. ADA Compliance: The website must meet Americans with Disabilities Act and Bobby compliance standards.

C.15.4 The Lottery recently released iOS and Android native applications for both the Scratch and Jackpot games. The Contractor shall be responsible for the maintenance of these applications, as well as all future apps and added functionality.

C.16 SERVICE LEVEL REQUIREMENTS

C.16.1 The Contractor shall ensure that the website meets the following requirements:

- a. Updated or modified information for existing web pages (excluding winning numbers information) will be published within 24 hours of receipt of the approved information.

Such information may include corrections and clarification to existing information, additions to text-based sections of the site (i.e. press releases, job openings calendar/scheduled events, etc.) New or updated pages that encompass a new design, new game or new advertising campaign shall be published within a predetermined date and time upon DC Lottery's approval of the proposed changes.

- b. The remote content management functionality shall allow DC Lottery COTR and other internal staff to add, delete and modify text and graphical information and downloadable files within specific areas of the site. These areas include but are not limited to, press releases, procurement solicitations, employment opportunities, events, banners and promotions.
- c. Reporting tools shall include, but are not limited to:
 1. The ability to track website content update activity and create reports based on such activity.
 2. The ability to quickly and easily query the database.
 3. The ability to quickly and easily make content change without making changes directly to HTML code.
 4. The ability to monitor and track user activity on the system at any given time.
 5. An internal help feature.
- d. The Contractor shall provide a logical diagram of the website and of the remote content management tool to the Content Administrator DC Lottery. The diagrams shall be updated and submitted, upon request following the completion of the addition or significant modification of any pages or sections to the website and/or remote content management tool. The diagram shall indicate all internet links and relationships to other locations both within and external to the website.
- e. The Contractor shall provide a detailed and intuitive user's manual with step-by-step instructions on how to use the tool. The Contractor shall also provide on-site user training to instruct internal users on the using of the content management system.
- f. The Contractor shall be responsible for maintaining daily backups of DC Lottery's website, database, blog, and social platforms and all associated data (historical numbers, winner information, calendar events, mailing subscriptions, etc.) Weekly tape backups shall be stored at an off-site facility. The facility must have 24/7 access, use secured bonded couriers, and utilize state-of-the-art fireproof storage areas.
- g. The Contractor shall evaluate and recommend improvements to the functionality to accept and publish lottery draw winning numbers that are transmitted electronically to the website host. The transmitted data will be accepted only if originating from the

appropriate host. Once the origin of the data has been verified, the data will be added to the winning numbers history data and published on the proper web pages. In addition to this automated process, controls shall be developed to allow DC Lottery's COTR to modify the numbers using a secure connection to the website. All entries, either automated file transfer or manual, will be logged.

- h. The Contractor shall establish auto-alerts to notify certain DC Lottery staff of the successful receipt of the numbers, as well as the failure and/or delay of the receipt of the numbers. The COTR will specify the timing of the auto-alerts. Reports providing both high level and detailed views of activity on DC Lottery's website shall be provided on a monthly basis. Monthly reports shall be sent electronically to the COTR. Online access to current and historical statistics and raw server logs shall also be made available to the COTR. Additional reports may be added as well as the ability to extract log data to a database format for transfer to DC LOTTERY for further analysis. The use of an application such as Google Analytics is acceptable.

C.18 REPORTING

C.18.1 High Level Report shall contain the following:

- a. Number of user sessions and average number of pages visited per session.
- b. Number of hits each individual page has and the percentage of the total number of hits for the website that this value represents.
- c. Server failures or service outages with explanations of downtime during the reporting period.

C.18.2 Detail Report shall include the following:

- a. List of top 10 traffic sources the site and the number of unique visits originating from each top medium
- b. Top 10 referring pages/domains
- c. Browsers and operating systems being used to access the site
- d. Separation log data for sessions originating from dclottery.com and the Contractor's domain.

C.18.3 The Contractor shall outline and submit for review to the COTR a Privacy Assessment Report that identifies any Personally Identifiable Information that will be maintained on the site.

C.18.4 The Contractor shall develop and submit for review to the COTR a Systems Security Plan describing what needs to be secured and how it will be secured.

C.18.5 The Contractor shall outline and submit for review to the COTR a high-level security policies plan that will be employed to prevent attacks and lessen the vulnerability of the website. The website security measures shall include, but are not limited to:

- a. Implementation of a comprehensive firewall that will be the combination of content-based blocking and filtering mechanisms to provide access control and screening of inappropriate materials and malicious internet content.
- b. Utilization of the most advanced and up-to-date software encryption standards (Contractor will outline encryption algorithms (s) used in protecting and securing website contents and internet materials).

C.19 PROJECT MANAGEMENT

- C.19.1 The Contractor shall employ a dedicated resource that is skilled and experienced project manager with no less than five years' experience directly managing website development projects from beginning to end. The project manager shall be dedicated to DC Lottery account for a minimum of 25 hours per week. This role may not be filled by a developer, programmer or principal of the agency. The project manager shall act as the primary point of contact with DC Lottery throughout the life of the contract. The project manager will act as the liaison between developer resources within the agency, advertising agency of record and the Lottery. The project manager shall provide ongoing project consulting and management including scoping meetings, participate in planning and status meetings, prepare and deliver reports, provide accurate proposal and estimate generation, monthly hours reports and provide other miscellaneous support as requested by DC Lottery.
- C.19.2 The project manager must be accessible via email, telephone, and mobile phone (with texting functionality). There will be occasions when the project manager will be required to be available beyond the normal 9 a.m. – 5 p.m. workday hours.
- C.19.3 The Project Manager shall interface with the COTR as required and shall be responsible for:
- a. Producing, maintaining and submitting project plans.
 - b. Participating in regularly scheduled weekly status and certain ad-hoc meetings with the COTR and/or other DC Lottery staff.
 - c. On-time submission of required reports and other deliverable as outlined in the State of Work.
 - d. Ensuring that all contact requirements are met.
- C.19.4 The Project Manager, through coordination with the COTR shall assess the project scope and requirements to develop and present a detailed project plan. The project plan shall have:
- a. Realistic project summaries and agreed upon timelines and project requirements
 - b. Deliverables
 - c. Estimated budget and required hours (if applicable)
 - d. Approval by DC Lottery
- C.19.5 The Project Manager shall incorporate and update any project plans submitted by the COTR and re-submit the updated plan to the COTR within 48 hours or an agreed upon date and time.

- C.19.6 The COTR shall approve a project plan before its implementation. Any work done on a plan that is implemented before approval has been granted, will not be billable or eligible for final payment.
- C.19.7 DC Lottery will not pay the Contractor for time spent by the Contractor fixing errors or issues that surface because of a failure on the part of the Contractor (i.e. failure to implement or integrate a specification of the Statement of Work).
- C.19.8 The Project Manager shall adhere to the following response time guidelines when contacted by the COTR:
- a. General Inquiries: The Project Manager shall respond to general inquiries from the COTR and/or other DC LOTTERY staff, with at least an acknowledgement of receipt within 2 hours of the inquiry.
 - b. Emergencies: The Project Manager shall respond to emergencies within one hour. An emergency is defined as any situation, event or occurrence that impacts the functionality of the website and any of its components, such as the Site Administration tool; and/or the presentation and accuracy of any information on the website. DC Lottery has the right to assess financial penalties. The penalties will begin to accrue from the time that the Contractor is made aware of the issue to the time that it is solved.
 - c. In the event the project manager will be unavailable due to any pre-planned event (i.e. vacation, training etc.) The Contractor shall notify the COTR in writing at least five (5) days in advance and shall provide the COTR with a qualified alternate point of contact.
 - d. In the event of an unplanned circumstance, the Contractor shall notify the COTR as soon as possible and at that time provide the Project Manager's estimated time of return and shall provide the COTR with a qualified alternate point of contact.
 - e. Any extensions to the response/notification times outlined herein shall be preapproved by the COTR.

SECTION D

PACKAGING AND MARKING

D.1 PACKAGING

All reports and deliverables that are in “hard copy” and physically transported through the U.S. mail or private courier services are to be securely packaged using the Contractor’s best practices.

D.2 MARKING

- D.2.1 Unless otherwise specified herein, all reports and deliverables delivered under this contract must be plainly marked, stating the Contractor’s name, contract number and addressed to the recipient, including the name of the office or floor, and the recipient’s office telephone number as noted in the contract.
- D.2.2 In case of carload lots, the Contractor shall tag the car, stating Contractor’s name and contract number. Any failure to comply with these instructions will place the material at the Contractor’s risk.
- D.2.3 Deliveries by rail, water, truck or otherwise, must be within the working hours and in ample time to allow for unloading and if necessary, the storing of the materials or supplies before closing time. Deliveries at any other time will not be accepted unless specific arrangements have been previously made with the contact person identified in the contract at the delivery point.

SECTION E**INSPECTION, ACCEPTANCE AND WARRANTY OF SERVICES****E.1 INSPECTION**

E.1.1 All supplies and services provided by the Contractor under this contract shall be subject to inspection by the Contracting Officer's Technical Representative ("COTR") identified in Section G.1 (b).

E.1.2 Inspection of Supplies

- (a) Definition. "Supplies," as used in this clause, includes, but is not limited to raw materials, components, intermediate assemblies, end products, and lots of supplies.
- (b) The Contractor shall be responsible for the materials or supplies covered by this contract until they are delivered at the designated point, but the Contractor shall bear all risk on rejected materials or supplies after notification of rejection. Upon the Contractor's failure to cure within ten (10) days after date of notification, the District may return the rejected materials or supplies to the Contractor at the Contractor's risk and expense.
- (c) The Contractor shall provide and maintain an inspection system acceptable to the District covering supplies under this contract and shall tender to the District for acceptance only supplies that have been inspected in accordance with the inspection system and have been found by the Contractor to be in conformity with contract requirements. As part of the system, the Contractor shall prepare records evidencing all inspections made under the system and the outcome. These records shall be kept complete and made available to the District during contract performance and for as long afterwards as the contract requires. The District may perform reviews and evaluations as reasonably necessary to ascertain compliance with this paragraph. These reviews and evaluations shall be conducted in a manner that will not unduly delay the contract work. The right of review, whether exercised or not, does not relieve the Contractor of the obligations under this contract.
- (d) The District has the right to inspect and test all supplies called for by the contract, to the extent practicable, at all places and times, including the period of manufacture, and in any event before acceptance. The District will perform inspections and tests in a manner that will not unduly delay the work. The District assumes no contractual obligation to perform any inspection and test for the benefit of the Contractor unless specifically set forth elsewhere in the contract.
- (e) If the District performs inspection or test on the premises of the Contractor or subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, without additional charge, all reasonable facilities and assistance for the safe and convenient performance of these duties. Except as otherwise provided in the contract, the District will bear the expense of District inspections or tests made at other than Contractor's or subcontractor's premises; provided, that in case of rejection, the District will not be liable for any reduction in the value of inspection or test samples.
 - (1) When supplies are not ready at the time specified by the Contractor for inspection or test, the Contracting Officer may charge to the Contractor the

additional cost of inspection or test.

- (2) Contracting Officer may also charge the Contractor for any additional cost of inspection or test when prior rejection makes re-inspection or retest.
- (f) The District has the right either to reject or to require correction of nonconforming supplies. Supplies are nonconforming when they are defective in material or workmanship or otherwise not in conformity with contract requirements. The District may reject nonconforming supplies with or without disposition instructions.
- (g) The Contractor shall remove supplies rejected or required to be corrected. However, the Contracting Officer may require or permit correction in place, promptly after notice, by and at the expense of the Contractor. The Contractor shall not tender for acceptance corrected or rejected supplies without disclosing the former rejection or requirement for correction, and when required, shall disclose the corrective action taken.
- (h) If the Contractor fails to remove, replace, or correct rejected supplies that are required to be replaced or corrected within ten (10) days, the District may either (1) by contract or otherwise, remove, replace or correct the supplies and charge the cost to the Contractor or (2) terminate the contract for default. Unless the Contractor corrects or replaces the supplies within the delivery schedule, the Contracting Officer may require their delivery and make an equitable price reduction. Failure to agree to a price reduction shall be a dispute.
- (i) If this contract provides for the performance of District quality assurance at source, and if requested by the District, the Contractor shall furnish advance notification of the time (i) when Contractor inspection or tests will be performed in accordance with the terms and conditions of the contract, and (ii) when the supplies will be ready for District inspection.
- (j) The District request shall specify the period and method of the advance notification and the District representative to whom it shall be furnished. Requests shall not require more than 2 business days of advance notification if the District representative is in residence in the Contractor's plant, nor more than 7 business days in other instances.
- (k) The District will accept or reject supplies as promptly as practicable after delivery, unless otherwise provided in the contract. District failure to inspect and accept or reject the supplies shall not relieve the Contractor from responsibility, nor impose liability upon the District, for non-conforming supplies.
- (l) Inspections and tests by the District do not relieve the Contractor of responsibility for defects or other failures to meet contract requirements discovered before acceptance. Acceptance shall be conclusive, except for latent defects, fraud, gross mistakes amounting to fraud, or as otherwise provided in the contract.
- (m) If acceptance is not conclusive for any of the reasons in subparagraph (l) hereof, the District, in addition to any other rights and remedies provided by law, or under provisions of this contract, shall have the right to require the Contractor (1) at no increase in contract price, to correct or replace the defective or nonconforming supplies at the original point of delivery or at the Contractor's plant at the Contracting Officer's election, and in accordance with a reasonable delivery schedule as may be agreed upon between the Contractor and the Contracting Officer; provided, that the Contracting Officer may require a reduction in contract price if the Contractor fails to meet such delivery schedule, or (2) within a reasonable time after receipt by the Contractor of notice of defects or noncompliance, to repay such portion of the contract as is equitable under the circumstances if the Contracting Officer elects not to require correction or replacement. When supplies are returned to the Contractor, the Contractor shall bear the

transportation cost from the original point of delivery to the Contractor's plant and return to the original point when that point is not the Contractor's plant. If the Contractor fails to perform or act as required in (1) or (2) above and does not cure such failure within a period of 10 days (or such longer period as the Contracting Officer may authorize in writing) after receipt of notice from the Contracting Officer specifying such failure, the District will have the right to return the rejected materials at Contractor's risk and expense or contract or otherwise to replace or correct such supplies and charge to the Contractor the cost occasioned the District thereby.

E.1.3 Inspection of Services

- (a) Definition. "Services" as used in this clause includes services performed, workmanship, and material furnished or utilized in the performance of services.
- (b) The Contractor shall provide and maintain an inspection system acceptable to the District covering the services under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the District during contract performance and for as long afterwards as the contract requires.
- (c) The District has the right to inspect and test all services called for by the contract, to the extent practicable at all times and places during the term of the contract. The District will perform inspections and tests in a manner that will not unduly delay the work.
- (d) If the District performs inspections or tests on the premises of the Contractor or subcontractor, the Contractor shall furnish, without additional charge, all reasonable facilities and assistance for the safety and convenient performance of these duties.
- (e) If any of the services do not conform to the contract requirements, the District may require the Contractor to perform these services again in conformity with contract requirements, at no increase in contract amount. When the defects in services cannot be corrected by performance, the District may require the Contractor to take necessary action to ensure that future performance conforms to contract requirements and reduce the contract price to reflect value of services performed. If the Contractor fails to promptly perform the services again or take the necessary action to ensure future performance in conformity to contract requirements, the District may (1) by contract or otherwise, perform the services and charge the Contractor any cost incurred by the District that is directly related to the performance of such services, or (2) terminate the contract for default.

E.2 ACCEPTANCE

Acceptance of all products and services provided under this contract shall be performed by the COTR. Acceptance means approval by the COTR of specific services as partial or complete performance of the contract.

E.3 WARRANTY OF SERVICES

E.3.1 The time period for this warranty provision is the life of the contract plus all active options and extensions.

E.3.2 Warranty Provision:

- (a) Notwithstanding inspection and acceptance by the District or any provision concerning the conclusiveness thereof, the Contractor warrants that all services performed under this contract will, at the time of acceptance, be free from defects in workmanship and conform to the requirements of this contract. The Contracting Officer shall give written notice of any defect or nonconformance to the Contractor within 30 days from the date of discovery. This notice shall state either:
 - (1) That the Contractor shall correct or re-perform any defective or nonconforming services; or
 - (2) That the District does not require correction or reperformance.
- (b) If the Contractor is required to correct or reperform, it shall be at no cost to the District, and any services corrected or reperformed by the Contractor shall be subject to this clause to the same extent as work initially performed. If the Contractor fails or refuses to correct or reperform, the Contracting Officer may, by contract or otherwise, correct or replace with similar services and charge to the Contractor the cost occasioned to the District thereby, or make an equitable adjustment in the contract price.
- (c) If the District does not require correction or reperformance, the Contracting Officer shall make an equitable adjustment in the contract price.

SECTION F**PERIOD OF PERFORMANCE AND DELIVERABLES****F.1 TERM OF CONTRACT**

The term of the contract shall be for a period of one year from the Contract Effective Date.

F.2 OPTION TO EXTEND THE TERM OF THE CONTRACT

F.2.1 The District may extend the term of this contract for a period of four (4) one (1) year option periods, or successive fractions thereof, by written notice to the Contractor before the expiration of the contract; provided that the District will give the Contractor preliminary written notice of its intent to extend before the contract expires. The preliminary notice does not commit the District to an extension. The exercise of this option is subject to the availability of funds at the time of the exercise of this option.

F.2.2 If the District exercises this option, the extended contract shall be considered to include this option provision.

F.2.3 The price for the option period shall be as specified in the Section B of the contract.

F.3 DELIVERABLES

F.3.1 The Contractor shall perform the activities required to successfully complete the District's requirements and submit each deliverable to the COTR identified in Section G in accordance with Section C.

F.3.2 The Contractor shall submit to the District, as a deliverable, the report described in Section I.31 that is required by the 51% District Residents New Hires Requirements and First Source Employment Agreement. If the Contractor does not submit the report as part of the deliverables, final payment to the Contractor shall not be paid pursuant to Section G.6.

SECTION G**CONTRACT ADMINISTRATION****G.1 CONTRACT ADMINISTRATORS****(a) Contracting Officer**

- i. The Contracting Officer (or “CO”) for this contract is:
Anthony A. Stover, CPPO
Contracting Officer
1100 4th St. SW Suite E620
Washington, DC 20024
Telephone: (202) 442-7122
Fax: 202-442-6454
E-mail address: Anthony.stover@dc.gov
- ii. The Contracting Officer is the only official authorized to legally bind the District and make changes to the requirements, terms and conditions of this contract. Only the Contracting Officer can increase, decrease, extend or terminate this contract. All other changes are unauthorized.
- iii. The Contractor shall not comply with any order, directive or request that changes or modifies the requirements of this contract, unless issued in writing and signed by the Contracting Officer.
- iv. In the event the Contractor effects any change at the instruction or request of any person other than the Contracting Officer, the change will be considered to have been made without authority and no adjustment will be made in the contract price to cover any cost increase incurred as a result thereof.

(b) Contracting Officer Technical Representative (COTR)

- i. The COTR for this contract is:

Nicole Jordan
Marketing Director
2235 Shannon Place, SE, 5th Floor Washington, DC 20020
2026458031
Nicole.Jordan@dc.gov
- ii. The COTR is responsible for general administration of the contract and advising the Contracting Officer as to the Contractor’s compliance or noncompliance with the contract. The COTR has the responsibility of ensuring the work conforms to the requirements of the contract and such other responsibilities and authorities as may be specified in the contract. These include:

- a. Keeping the Contracting Officer fully informed of any technical or contractual difficulties encountered during the performance period and advising the Contracting Officer of any potential problem areas under the contract;
 - b. Coordinating site entry for Contractor personnel, if applicable;
 - c. Reviewing invoices for completed work and recommending approval by the Contracting Officer if the Contractor's costs are consistent with the negotiated amounts and progress is satisfactory and commensurate with the rate of expenditure;
 - d. Reviewing and approving invoices for deliverables to ensure receipt of goods and services.
 - e. Timely processing of invoices and vouchers in accordance with the District's payment provisions; and
 - f. Maintaining a file that includes all contract correspondence, modifications, records of inspections and invoice or vouchers.
- iii. The COTR does NOT have the authority to:
- a. Award, agree to, or sign any contract, delivery order or task order. Only the Contracting Officer shall make contractual agreements, commitments or modifications;
 - b. Grant deviations from or waive any of the terms and conditions of the contract;
 - c. Increase the dollar limit of the contract or authorize work beyond the dollar limit of the contract,
 - d. Authorize the expenditure of funds by the Contractor;
 - e. Change the period of performance; or
 - f. Authorize the use of District property, except as specified under the contract.
- iv. The Contractor will be fully responsible for any changes not authorized in advance, in writing, by the Contracting Officer; may be denied compensation or other relief for any additional work performed that is not so authorized; and may also be required, at no additional cost to the District, to take all corrective action necessitated by reason of the unauthorized changes.

G.2 INVOICE PAYMENT

- G.2.1 The District will make payments to the Contractor, upon the submission of proper invoices, at the prices stipulated in this contract, for supplies delivered and accepted or services performed and accepted, less any discounts, allowances or adjustments provided for in this contract.
- G.2.2 The District will pay the Contractor on or before the 30th day after receiving a proper invoice from the Contractor. The District reserves the right to conduct post payment reviews or audits.
- G.2.3 Unless otherwise specified in this contract, and with presentation of a properly executed invoice:

- a) Payment will be made on completion and acceptance of each item for which the price is stated in the Pricing Schedule in Section B,
- b) Payment will be made on completion and acceptance of each percentage or milestone of work in accordance with the prices stated in the Pricing Schedule in Section B, or
- c) Payment may be made on partial deliveries of goods and services accepted by the District if the Contractor requests it and the amount due on the deliveries warrants it as determined by the District.

G.3 INVOICE SUBMITTAL

G.3.1 The Contractor shall create and submit payment requests in an electronic format through the DC Vendor Portal, <https://vendorportal.dc.gov>

G.3.2 The Contractor shall submit proper invoices on a monthly basis or as otherwise specified in Section G.4.

G.3.3 To constitute a proper invoice, the Contractor shall enter all required information into the Portal after selecting the applicable purchase order number which is listed on the Contractor's profile.

G.4 THE QUICK PAYMENT ACT

G.4.1 Interest Penalties to Contractors

G.4.1.1 The District will pay interest penalties on amounts due to the Contractor under the Quick Payment Act, D.C. Official Code § 2-221.01 *et seq.*, as amended, for the period beginning on the day after the required payment date and ending on the date on which payment of the amount is made. Interest shall be calculated at the rate of at least 1% per month. No interest penalty shall be paid if payment for the completed delivery of the item of property or service is made on or before the required payment date. The required payment date shall be:

G.4.1.1.1 The date on which payment is due under the terms of this contract;

G.4.1.1.2 Not later than 7 calendar days, excluding legal holidays, after the date of delivery of meat or meat food products;

G.4.1.1.3 Not later than 10 calendar days, excluding legal holidays, after the date of delivery of a perishable agricultural commodity; or

G.4.1.1.4 30 calendar days, excluding legal holidays, after receipt of a proper invoice for the amount of the payment due.

G.4.1.2 No interest penalty shall be due to the Contractor if payment for the completed delivery of goods or services is made on or before:

G.4.1.2.1 3rd day after the required payment date for meat or a meat product;

G.4.1.2.2 5th day after the required payment date for an agricultural commodity; or

G.4.1.2.3 15th day after any other required payment date.

G.4.1.3 Any amount of an interest penalty which remains unpaid at the end of any 30-day period shall be added to the principal amount of the debt and thereafter interest penalties shall accrue on the added amount.

G.4.2 Payments to Subcontractors

G.4.2.1 The Contractor shall take one of the following actions within seven (7) days of receipt of any amount paid to the Contractor by the District for work performed by any subcontractor under the contract:

G.4.2.1.1 Pay the subcontractor(s) for the proportionate share of the total payment received from the District that is attributable to the subcontractor(s) for work performed under the contract; or

G.4.2.1.2 Notify the CO and the subcontractor(s), in writing, of the Contractor's intention to withhold all or part of the subcontractor's payment and state the reason for the nonpayment.

G.4.2.2 The Contractor shall pay subcontractors or suppliers interest penalties on amounts due to the subcontractor or supplier beginning on the day after the payment is due and ending on the date on which the payment is made. Interest shall be calculated at the rate of at least 1% per month. No interest penalty shall be paid on the following if payment for the completed delivery of the item of property or service is made on or before the:

G.4.2.2.1 3rd day after the required payment date for meat or a meat product;

G.4.2.2.2 5th day after the required payment date for an agricultural commodity; or

G.4.2.2.3 15th day after any other required payment date.

G.4.2.3 Any amount of an interest penalty which remains unpaid by the Contractor at the end of any 30-day period shall be added to the principal amount of the debt to the subcontractor and thereafter interest penalties shall accrue on the added amount.

G.4.2.4 A dispute between the Contractor and subcontractor relating to the amounts or entitlement of a subcontractor to a payment or a late payment interest penalty under the Quick Payment Act does not constitute a dispute to which the District is a party. The District may not be interpleaded in any judicial or administrative proceeding involving such a dispute.

G.4.3 Subcontract requirements

G.4.3.1 The Contractor shall include in each subcontract under this contract a provision requiring the subcontractor to include in its contract with any lower-tier subcontractor or supplier the

payment and interest clauses required under paragraphs (1) and (2) of D.C. Official Code § 2-221.02(d).

- G.4.3.2 The Contractor shall include in each subcontract under this contract a provision that obligates the Contractor, at the election of the subcontractor, to participate in negotiation or mediation as an alternative to administrative or judicial resolution of a dispute between them.

G.5 ASSIGNMENT OF CONTRACT PAYMENTS

- G. 5.1 The Contractor may assign funds due or to become due as a result of the performance of this contract to a bank, trust company, or other financing institution.

- G.5.2 Any assignment shall cover all unpaid amounts payable under this contract, and shall not be made to more than one party.

- G.5.3 Notwithstanding an assignment of contract payments, the Contractor, not the assignee, is required to prepare invoices. Where such an assignment has been made, the original copy of the invoice must refer to the assignment and must show that payment of the invoice is to be made directly to the assignee as follows:

“Pursuant to the instrument of assignment dated _____, make payment of this invoice to (name and address of assignee).”

G.6 FIRST SOURCE AGREEMENT REQUEST FOR FINAL PAYMENT

- G.6.1 For contracts subject to the 51% District Residents New Hires Requirement and First Source Employment Agreement, final requests for payment shall be accompanied by the report or a waiver of compliance pursuant to Section I.31.

- G.6.2 No final payment shall be made to the Contractor until the CFO has received the Contracting Officer’s final determination or approval of waiver of the Contractor’s compliance with 51% District Residents New Hires Requirement and First Source Employment Agreement requirements.

SECTION H**SPECIAL CONTRACT REQUIREMENTS****H.1 STAFFING**

The Contractor shall not employ or permit the employment of any unfit or unqualified person or persons not skilled in the tasks assigned to them by the contractor. The Contractor shall at all times employ sufficient labor to carry out functions and services in the manner and time prescribed by the Contract. The Contractor shall be responsible to the District for all acts and omissions of the Contractor's employees, agents and subcontractors and the Contractor shall enforce strict discipline among the Contractor's employees, agents and subcontractors performing the services under the Contract. Any person employed by the Contractor shall, at the written request of the District, and within the District's sole discretion, be removed immediately by the Contractor from work relating to the Contract.

H.2 SUBCONTRACTS

The Contractor hereunder shall not subcontract any of the Contractor's work or services to any subcontractor without the prior, written consent of the Contracting Officer in consultation with the COTR. Any such subcontract shall specify that the Contractor and the subcontractor shall be subject to every provision of this Contract. Notwithstanding any such subcontract approved by the District, the Contractor shall remain liable to the District for all Contractor's work and services required hereunder, including any work conducted by a subcontractor.

H.3 CERTIFIED BUSINESS ENTERPRISE SUBCONTRACTING REQUIREMENTS

H.3.1 Beneficiaries of all non-construction contracts for government-assisted projects in excess of \$250,000, unless a waiver has been approved by the Director of the Department of Small and Local Business Development in accordance with D.C. Code §2-218.51, are required to:

- (a) Subcontract at least 35% of the dollar volume to small business enterprises, as defined in D.C. Code §2-218.32; or
- (b) If there are insufficient qualified small business enterprises to completely fulfill the requirement set forth in H.3.1(a), then the subcontracting requirement may be satisfied by subcontracting 35% of the dollar volume to any qualified certified business enterprises, as defined in D.C. Code §§2-218.31-39a; provided, that all reasonable efforts shall be made to ensure that qualified small business enterprises are significant participants in the overall subcontracting work.
- (c) For each government-assisted project for which a certified business enterprise is utilized to meet the subcontracting requirements set forth above in H.3.1(a) or H.3.1(b), the certified business enterprise shall perform at least 35% of the contracting effort with its own organization and resources.
- (d) Beneficiaries certified as a small business enterprise, local business enterprise, or disadvantaged business enterprise shall not have to comply with Sections H.3.1(a) or H.3.1(b).

H.3.2

- (a) For each government-assisted project for which a certified business enterprise is selected as a Beneficiary and is granted points or a price reduction pursuant to D.C. Code §2-218.43 or is selected through a set-aside program, the certified business enterprise shall perform at least 35% of the contracting effort with its own organization and resources and, if it subcontracts, 35% of the subcontracted effort shall be with certified business enterprises.
- (b) For each government-assisted project for which a certified joint venture is selected as a Beneficiary and is granted points or a price reduction pursuant to D.C. Code §2-218.43 or is selected through a set-aside program, the certified business enterprise shall perform at least 50% of the contracting effort with its own organization and resources and, if it subcontracts, 35% of the subcontracted effort shall be with certified business enterprises.
- (c) For each government-assisted project of \$1 million or less for which a certified business enterprise is selected as a Beneficiary and is granted points or a price reduction pursuant to D.C. Code §2-218.43 or is selected through a set-aside program, the certified business enterprise shall perform at least 50% of the on-site work with its own workforce.

H.3.3 Bids or proposals responding to a solicitation, including an open market solicitation, shall be deemed nonresponsive and shall be rejected if a subcontracting plan is required by law and the Beneficiary fails to submit a subcontracting plan as part of its bid or proposal. The subcontracting plan required shall be provided before the District accepts the submission of the bid or proposal.

H.3.4 A Beneficiary's subcontracting plan shall specify all of the following:

- (a) The name and address of the subcontractor;
- (b) A current certification number of the small or certified business enterprise;
- (c) The scope of work to be performed by the subcontractor; and
- (d) The price to be paid by the Beneficiary to the subcontractor.

H.3.5 No Beneficiary shall be allowed to amend the subcontracting plan filed as part of its bid or proposal except with the consent of the Director of the Department of Small and Local Business Development. Any reduction in the dollar volume of the subcontracted portion resulting from such amendment of the plan shall inure to the benefit of the District.

H.3.6 No multiyear contracts or extended contracts, which are not in compliance with D.C. Code §2-218.46 or this Section H.3 at the time of the contemplated exercise of the option or extension, shall be renewed or extended, and any such option or extension shall be void.

H.3.7 A Beneficiary shall submit within 15 days of contract award, to the Contracting Officer, project manager, District of Columbia Auditor and the Director of the Department of Small and Local Business Development (at compliance.enforcement@dc.gov) copies of the executed contracts with the subcontracts identified in the subcontracting plan. Failure to submit copies of the executed contracts shall render the underlying contract voidable by the District.

- H.3.8 The Beneficiary shall provide written notice to the Department of Small and Local Business Development and District of Columbia Auditor upon the initiation and completion of a project.
- H.3.9 Within 15 days after the end of each quarter, the Beneficiary shall provide a quarterly report to the Department of Small and Local Business Development (at compliance.enforcement@dc.gov), the Contracting Officer, project manager and the District of Columbia Auditor which shall include a list of each subcontractor identified in the subcontracting plan and for each subcontract:
- (a) The price to be paid by the contractor to the subcontractor;
 - (b) A description of the goods procured or the services contracted for;
 - (c) The amount paid by the contractor to the subcontractor under the subcontract; and
 - (d) A copy of the fully executed subcontract, if it was not provided in a prior quarterly report. If not included, the Beneficiary shall not receive credit toward the subcontracting requirements of this section for that subcontract.

The Beneficiary shall go to <https://dslbd.dc.gov> □ Scroll down to SBE Forms under the section 'Stay in Compliance' □ Click on that link & select 'District Agency Compliance' in order to access the DSLBD forms for beneficiaries to use for reporting requirements. The Beneficiary may further contact DSLBD at (202) 727-3900 for instructions on SBE Forms.

- H.3.10 The Beneficiary shall meet on an annual basis with the Department of Small and Local Business Development, the Contracting Officer, project manager and the District of Columbia Auditor to provide an update of the subcontracting plan for utilization of small business enterprises and certified business enterprises. The Department of Small and Local Business development shall provide the Beneficiary with a 30-day written notice of the meeting.
- H.3.11 A Beneficiary and/or certified business enterprise subject to this section, that fails to meet the requirements of this section shall be subject to penalties set forth in D.C. Code §2-218.63.

H.3.12 Waiver of Subcontracting Requirements

- (a) The Director of the Department of Small and Local Business Development may waive the subcontracting requirements only if there is insufficient market capacity for the goods and services that comprise the project and such lack of capacity leaves the contractor commercially incapable of achieving the subcontracting requirements.
- (b) Prior to submission of bids or proposals, the Beneficiary may request a waiver of the subcontracting requirements by timely filing a written request with to the point of contact on Page 1 of this solicitation, to the attention of the Contracting Officer detailing the reasons justifying a waiver, including the Beneficiary's efforts to secure involvement by Certified Business Enterprises. The Contracting Officer will, in turn, use the Beneficiary's information to submit a waiver request to the Director of the Department of Small and Local Business Development.
- (c) The Contracting Officer will provide written notice of the waiver determination to the Beneficiary prior to the acceptance of bids or proposals and upon a decision of the waiver by the Director of the Department of Small and Local Business Development.

- (d) The Beneficiary should provide the following information in its waiver request to the Contracting Officer to demonstrate the Beneficiary's good faith efforts to secure involvement by a Certified Business Enterprise:
- i. Whether the Beneficiary advertised in general circulation, trade association, or other media outlets concerning the subcontracting opportunity;
 - ii. Whether the Beneficiary provided written notice to a reasonable number of certified business enterprises that their interest in the subcontracting opportunity was being solicited;
 - iii. Whether the Beneficiary conducted any pre-solicitation or pre-bid conferences to inform certified business enterprises of the subcontracting opportunity;
 - iv. Whether the Beneficiary provided sufficient time to allow certified business enterprises to participate effectively in its efforts to secure involvement by a certified business enterprise;
 - v. Whether the Beneficiary followed up responses of interest by conducting negotiations with certified business enterprises;
 - vi. Whether rejections by the Beneficiary of certified business enterprises as being unqualified were based on sound reasoning and thorough investigation of their capabilities;
 - vii. Whether the Beneficiary made efforts to assist interested certified business enterprises in obtaining bonding, lines of credit, or insurance required by the Beneficiary;
 - viii. Whether the Beneficiary effectively used the services of the Department of Small and Local Business Development, (202) 727-3900 and <http://dslbd.dc.gov>, in recruiting qualified certified business enterprises; and
 - ix. Whether bids submitted by certified business enterprises were excessive or noncompetitive based upon a review of prevailing market conditions.
- (e) While the information described in (d) above will assist the Director of the Department of Small and Local Business Development in reviewing the waiver request, it does not guarantee that a waiver will, in fact, be approved. Additional factors may be considered and additional information may be requested from the Beneficiary to support the waiver request.

H.3.13 In addition to the information provided by the Beneficiary, the Contracting Officer will include the following information in its written request for a waiver:

- (a) The number of certified business enterprises, if any, qualified to perform the elements of the work that comprise the project;
- (b) A summary of the market research or outreach conducted to analyze the relevant market; and
- (c) The consideration given to alternate methods for acquiring the work to be subcontracted in order to make the work more amenable to being performed by certified business enterprises.

H.3.14 For purposes of this Section H.3, the term:

- (a) “Beneficiary” means a business enterprise that is the prime contractor or developer on a government-assisted project.
- (b) “Government-assisted project” means:
 - i. A contract executed by an agency on behalf of the District or pursuant to statutory authority that involves District funds or, to the extent not prohibited by federal law, funds that the District administers in accordance with a federal grant or otherwise;
 - ii. A project funded in whole or in part by District funds;
 - iii. A project that receives a loan or grant from a District agency;
 - iv. A project that receives bonds or notes or the proceeds thereof issued by a District agency, including tax increment financing or payment in lieu of tax bonds and notes, or industrial revenue bonds;
 - v. A project that receives District tax exemptions or abatements that are specific to the project and not to the nature of the entity undertaking the project, such as a religious institution or nonprofit corporation; or
 - vi. A development project conducted pursuant to a disposition under section 1 of An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939 (53 Stat. 1211; D.C. Official Code § 10-801).

H.3.15 Notwithstanding the requirements set forth in this Section H.3, a Beneficiary, and any other certified business enterprise subject to this section, shall fully comply with the requirements set forth in D.C. Code §§ 2-218.46, 2-218.51. If there is a conflict between the requirements set forth in this Section H.3 and D.C. Code §§ 2-218.46, 2-218.51, the requirements set forth in D.C. Code §§ 2-218.46, 2-218.51 shall govern.

H.4 WARRANTIES

- H.4.1 The Contractor warrants and agrees that it is lawfully organized and constituted under all federal, state and local laws, ordinances and other authorities of its domicile and is otherwise in full compliance with all legal requirements of its domicile.
- H.4.2 The Contractor warrants and agrees that it is of legal authority and capacity to enter into and perform under the Contract, and that it has the financial ability to perform its obligations under such Contract.
- H.4.3 The Contractor warrants and agrees that it has been duly authorized to operate and do business in all places where it will be required to do business under the Contract that it has obtained or will obtain all necessary licenses and permits required in connection with such Contract; and

that it will fully comply with all laws, decrees, labor standards and regulations of its domicile and wherever performance occurs during the term of such Contract.

- H.4.4 The Contractor warrants and agrees that it has no present interest and shall not acquire any interest which would conflict in any manner with its duties and obligations under the Contract.
- H.4.5 The Contractor warrants and agrees that all systems analysis, systems design and programming pursuant to the Contract or for use in its performance there under has been and shall be prepared or done in a high quality, professional and competent manner using only qualified personnel.
- H.4.6 The Contractor further represents and warrants that all programs implemented in its performance under the contract shall meet the performance standards required there under and shall correctly and accurately perform their intended functions on the equipment supplied by the District or Contractor.
- H.4.7 The Contractor warrants and agrees that all services provided by it under the Contract shall be performed in a prompt, high quality, professional and competent manner using only qualified personnel.
- H.4.8 The Contractor warrants and agrees that it will not take any action inconsistent with any of the terms, conditions, agreements, or covenants set forth in this Contract without the express written consent of the District.
- H.4.9 The Contractor warrants and agrees that it shall keep all equipment in good condition and repair, and shall not permit anything to be done that may materially impair the value thereof. The Contractor shall use such equipment only in the ordinary course of its performance under the Contract and shall not permit such equipment to be used in violation of any applicable law, regulation or policy of insurance. The Contractor agrees to develop a maintenance and replacement schedule subject to approval by the District and agrees to comply with that schedule.
- H.4.10 The Contractor warrants and agrees that it shall not sell, assign, lease, transfer, pledge, hypothecate, or otherwise dispose of any component of any goods, system proposed in the Contract or any interest therein, or permit any of it to become a fixture or accession to other goods or property without the prior written consent of the District.

H.5 DISCLOSURE OF LITIGATION

The Contractor shall provide complete disclosure of any material civil or criminal litigation or indictment either threatened or pending involving the Contractor. The Contractor shall also disclose any material litigation threatened or pending for subcontractors, consultants, and/or lobbyists. For purposes of this section, material refers to any action or pending action that a reasonable person knowledgeable in the industry would consider relevant or any development such a person would want to be aware of in order to stay fully apprised of the total mix of information relevant to the industry and its operations. This is a continuing disclosure requirement; any litigation commencing after submission of a response to a solicitation or execution of a contract shall be disclosed in a written statement within fifteen (15) days of its

occurrence. The Contractor shall be required to file with the District comprehensive monthly reports regarding all threatened or pending litigation involving the Contractor's District of Columbia operations and all threatened or pending litigation that may be considered material to the overall operations of the Contractor.

H.6 CONTINUITY OF SERVICES

The Contractor recognizes that the services provided under this contract are vital to the District of Columbia and must be continued without interruption and that, upon contract expiration or termination, a successor, either the District Government or another Contractor, at the District's option, may continue to provide these services. If another Contractor is awarded a future contract for performance of the required services, the original Contractor shall cooperate fully with the District and the new Contractor in any transition activities that the Contracting Officer deems necessary during the term of the contract. To that end, the Contractor agrees to exercise its best efforts and cooperation to affect an orderly and efficient transition to a successor.

H.7 BACKGROUND INVESTIGATIONS AND OTHER INTEGRITY REQUIREMENTS

- H.7.1 The District may initiate investigations into the backgrounds of any of the Contractor's officers, principals, investors, owners, employees, vendors, subcontractors, or subcontractors' officers, principals, owners, employees or vendors, or any other associates of the Contractor(s) it deems appropriate. Such background investigations may include the completion of certain documents, and fingerprint identification by appropriate law enforcement agencies.
- H.7.2 The Contractor agrees that, during the term of the Contract and any renewal thereof, it shall be obligated to provide such information about its officers, directors, employees and owners, as well as all information about its subcontractors' officers, directors, employees and owners, as the District may prescribe. The Contractor also agrees that the District may conduct background investigations of such persons.
- H.7.3 The District may also require that contractors (1) fully cooperate with official inquiries by responding to questions truthfully and under oath when required, whether orally or in writing, (2) provide documents and other information of official interest, and (3) attend integrity training.

H.8 DIVERSION, REASSIGNMENT AND REPLACEMENT OF KEY PERSONNEL

The key personnel specified in the contract are considered to be essential to the work being performed hereunder. Prior to diverting any of the specified key personnel for any reason, the Contractor shall notify the CO at least thirty (30) calendar days in advance and shall submit justification, including proposed substitutions, in sufficient detail to permit evaluation of the impact upon the contract. The Contractor shall obtain written approval of the CO for any proposed substitution of key personnel.

H.9 ADVISORY AND ASSISTANCE SERVICES

This contract is a “non-personal services contract”. The Contractor and the Contractor’s employees: (1) shall perform the services specified herein as independent contractors, not as employees of the government; (2) shall be responsible for their own management and administration of the work required and bear sole responsibility for complying with any and all technical, schedule, financial requirements or constraints attendant to the performance of this contract; (3) shall be free from supervision or control by any government employee with respect to the manner or method of performance of the service specified; but (4) shall, pursuant to the government’s right and obligation to inspect, accept or reject work, comply with such general direction of the CO, or the duly authorized representative of the CO as is necessary to ensure accomplishment of the contract objectives.

SECTION I**CONTRACT CLAUSES****I.1 LAWS AND REGULATIONS INCORPORATED BY REFERENCE**

To the extent applicable, the provisions of the following acts, together with the provisions of applicable regulations made pursuant to said acts are hereby incorporated by reference into this contract; together with the laws and regulations of the District of Columbia:

- A. Contract Work Standards Act of August 13, 1962, also known as the Contract Work Hours and Safety Standards Act of 1962, 76 Stat. 357-360.
- B. Buy American Act, Act of March 3, 1983, c.212, Title III, 47 Stat. 1520, as amended.
- C. Walsh-Healy Public Contracts Act, Act of June 30, 1936, c.881, 49 Stat. 2036, as amended. (Applies only when contract is \$10,000 or more).
- D. Mayor's Order 85-85, dated June 10, 1985, as amended, entitled: "Compliance with Equal Opportunity Obligations in Contracts."
- E. Public Law 93-112, Rehabilitation Act of 1973, Section 504, as amended.
- F. Mayor's Order 83-265, dated November 9, 1983 entitled: Employment Agreement Goals and Objectives for all District of Columbia Projects."
- G. D.C. Law 5-93, dated May 9, 1984, the First Source Employment Agreement Act of 1984.
- H. Protecting Pregnant Workers Fairness Act of 2016, D.C. Official Code § 32-1231.01 et seq. (PPWF Act)
- I. Unemployed Anti-Discrimination Act of 2012, D.C. Official Code § 32-1361 et seq.
- J. Fair Criminal Record Screening Amendment Act of 2014, effective December 17, 2014 (D.C. Law 20-152)
- K. Title I of the Way to Work Amendment Act of 2006, effective June 8, 2006 (D.C. Law 16-118, D.C. Official Code §2-220.01 et seq.), as amended, ("Living Wage Act of 2006") which applies to all contracts for services in the amount \$100,000 or more in a 12-month period. The current living wage rate, the Living Wage Act Fact Sheet which includes exemption information, and the Living Wage Act Poster may be found at <http://does.dc.gov/service/wage-and-hour-compliance> or contact the Department of Employment Services at (202) 724-7000.

I.2 WAIVER

The waiver of any breach of the contract will not constitute a waiver of any subsequent breach thereof, or a waiver of the contract.

I.3 INDEMNIFICATION

I.3.1 The Contractor agrees to defend, indemnify and hold harmless the District, its officers, agencies, departments, agents, and employees (collectively the “District”) from and against any and all claims, losses, liabilities, penalties, fines, forfeitures, demands, causes of action, suits, costs and expenses incidental thereto (including cost of defense and attorneys’ fees), resulting from, arising out of, or in any way connected to activities or work performed by the Contractor, Contractor’s officers, employees, agents, servants, subcontractors, or any other person acting for or by permission of the Contractor in performance of this Contract. The Contractor assumes all risks for direct and indirect damage or injury to the property or persons used or employed in performance of this Contract. The Contractor shall also repair or replace any District property that is damaged by the Contractor, Contractor’s officers, employees, agents, servants, subcontractors, or any other person acting for or by permission of the Contractor while performing work hereunder.

I.3.2 The indemnification obligation under this section shall not be limited by the existence of any insurance policy or by any limitation on the amount or type of damages, compensation or benefits payable by or for Contractor or any subcontractor, and shall survive the termination of this Contract. The District agrees to give Contractor written notice of any claim of indemnity under this section. Additionally, Contractor shall have the right and sole authority to control the defense or settlement of such claim, provided that no contribution or action by the District is required in connection with the settlement. Monies due or to become due the Contractor under the contract may be retained by the District as necessary to satisfy any outstanding claim which the District may have against the Contractor.

I.4 TRANSFER

No contract or any interest therein shall be transferred by the parties to whom the award is made; such transfer will be null and void and will be cause to annul the contract.

I.5 TAXES

- (a) The Government of the District of Columbia is exempt from and will not pay Federal Excise Tax, Transportation Tax, and the District of Columbia Sales and Use Taxes.
- (b) Tax exemption certificates are no longer issued by the District for Federal Excise Tax. The following statement may be used by the supplier when claiming tax deductions for Federal Excise Tax exempt items sold to the District.

“The District of Columbia Government is Exempt from Federal Excise Tax –
Registration No. 52-73-0206-K, Internal Revenue Service, Baltimore, Maryland.”

Exempt from Maryland Sales Tax, Registered with The Comptroller of The Treasury – Exemption No. 09339

“The District of Columbia Government is Exempt from Sales and Use Tax – Registration No. 53-600, The District of Columbia Office of Tax and Revenue.”

I.6 OFFICIALS NOT TO BENEFIT

- I.6.1 Unless a determination is made as provided herein, no officer or employee of the District will be admitted to any share or part of this contract or to any benefit that may arise therefrom, and any contract made by the Contracting Officer or any District employee authorized to execute contracts in which they or an employee of the District will be personally interested shall be void, and no payment shall be made thereon by the District or any officer thereof, but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit. A District employee shall not be a party to a contract with the District and will not knowingly cause or allow a business concern or other organization owned or substantially owned or controlled by the employee to be a party to such a contract, unless a written determination has been made by the head of the procuring agency that there is a compelling reason for contracting with the employee, such as when the District’s needs cannot reasonably otherwise be met. (Procurement Practices Reform Act of 2010, D.C. Law 18-0371, D.C. Official Code, section 2-359.10, and Chapter 18 of the DC Personnel Regulations)
- I.6.2 The Contractor represents and covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. The Contractor further covenants not to employ any person having such known interests in the performance of the contract.

I.7 DISPUTES

All disputes arising under or relating to this contract shall be resolved as provided herein.

- (a) **Claims by a Contractor against the District:** Claim, as used in paragraph (a) of this clause, means a written assertion by the Contractor seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant.
- (1) All claims by a Contractor against the District arising under or relating to a contract shall be in writing and shall be submitted to the Contracting Officer for a decision. The Contractor’s claim shall contain at least the following:
- (i) A description of the claim and the amount in dispute;
 - (ii) Data or other information in support of the claim;
 - (iii) A brief description of the Contractor’s efforts to resolve the dispute prior to filing the claim; and
 - (iv) The Contractor’s request for relief or other action by the Contracting Officer.

- (2) The Contracting Officer may meet with the Contractor in a further attempt to resolve the claim by agreement.
 - (3) The Contracting Officer shall issue a decision on any claim within 120 calendar days after receipt of the claim. Whenever possible, the CO shall take into account factors such as the size and complexity of the claim and the adequacy of the information in support of the claim provided by the Contractor.
 - (4) The Contracting Officer's written decision shall do the following:
 - (i) Provide a description of the claim or dispute;
 - (ii) Refer to the pertinent contract terms;
 - (iii) State the factual areas of agreement and disagreement;
 - (iv) State the reasons for the decision, including any specific findings of fact, although specific findings of fact are not required and, if made, shall not be binding in any subsequent proceeding;
 - (v) If all or any part of the claim is determined to be valid, determine the amount of monetary settlement, the contract adjustment to be made, or other relief to be granted;
 - (vi) Indicate that the written document is the contracting officer's final decision; and
 - (vii) Inform the Contractor of the right to seek further redress by appealing the decision to the Contract Appeals Board.
 - (5) Failure by the Contracting Officer to issue a decision on a contract claim within 120 days of receipt of the claim will be deemed to be a denial of the claim, and will authorize the commencement of an appeal to the Contract Appeals Board as authorized by D.C. Official Code § 2-360.04.
 - (6) If a Contractor is unable to support any part of his or her claim and it is determined that the inability is attributable to a material misrepresentation of fact or fraud on the part of the Contractor, the Contractor shall be liable to the District for an amount equal to the unsupported part of the claim in addition to all costs to the District attributable to the cost of reviewing that part of the Contractor's claim. Liability this paragraph (a)(6) shall be determined within six (6) years of the commission of the misrepresentation of fact or fraud.
 - (7) Pending final decision of an appeal, action, or final settlement, a Contractor shall proceed diligently with performance of the contract in accordance with the decision of the Contracting Officer.
- (b) **Claims by the District against a Contractor:** Claim as used in paragraph (b) of this clause, means a written demand or written assertion by the District seeking, as a matter of right, the payment of money in a sum certain, the adjustment of contract terms, or other relief arising under or relating to this contract. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant.

- (1) The Contracting Officer shall decide all claims by the District against a Contractor arising under or relating to a contract.
 - (2) The Contracting Officer shall send written notice of the claim to the Contractor. The Contracting Officer's written decision shall do the following:
 - (i) Provide a description of the claim or dispute;
 - (ii) Refer to the pertinent contract terms;
 - (iii) State the factual areas of agreement and disagreement;
 - (iv) State the reasons for the decision, including any specific findings of fact, although specific findings of fact are not required and, if made, shall not be binding in any subsequent proceeding;
 - (v) If all or any part of the claim is determined to be valid, determine the amount of monetary settlement, the contract adjustment to be made, or other relief to be granted;
 - (vi) Indicate that the written document is the Contracting Officer's final decision; and
 - (vii) Inform the Contractor of the right to seek further redress by appealing the decision to the Contract Appeals Board.
 - (3) The Contracting Officer shall support the decision by reasons and shall inform the Contractor of its rights as provided herein.
 - (4) Before or after issuing the decision, the CO may meet with the Contractor to attempt to resolve the claim by agreement.
 - (5) The authority contained in this paragraph (b) shall not apply to a claim or dispute for penalties or forfeitures prescribed by statute or regulation which another District agency is specifically authorized to administer, settle, or determine.
 - (6) This paragraph shall not authorize the Contracting Officer to settle, compromise, pay, or otherwise adjust any claim involving fraud.
- (c) Decisions of the Contracting Officer shall be final and not subject to review unless an administrative appeal or action for judicial review is timely commenced by the Contractor as authorized by D.C. Official Code §2-360.04.
 - (d) Pending final decision of an appeal, action, or final settlement, the Contractor shall proceed diligently with performance of the contract in accordance with the decision of the Contracting Officer.

I.8 CHANGES

- (a) The CO may, at any time, by written order, and without notice to the surety, if any, make changes in the contract within the general scope hereof. If such change causes an increase or decrease in the cost of performance of the contract, or in the time required for

performance, an equitable adjustment shall be made. Any claim for adjustment for a change within the general scope must be asserted within ten (10) days from the date the change is ordered; provided, however, that the CO, if he or she determines that the facts justify such action, may receive, consider, and adjust any such claim asserted at any time prior to the date of final settlement of the contract. If the parties fail to agree upon the adjustment to be made, the dispute shall be determined as provided in **Section I.7 Disputes**.

- (b) The District shall not require the Contractor, and the Contractor shall not require a subcontractor, to undertake any work that is beyond the original scope of the contract or subcontract, including work under a District-issued change order, when the additional work increases the contract price beyond the not-to-exceed price or negotiated maximum price of the contract, unless the CO:
 - (1) Agrees with the Contractor, and if applicable the subcontractor, on a price for the additional work;
 - (2) Obtains a certification of funding to pay for the additional work;
 - (3) Makes a written, binding commitment with the Contractor to pay for the additional work within thirty (30) days after the Contractor submits a proper invoice; and
 - (4) Provides the Contractor with written notice of the funding certification.
- (c) The Contractor shall include in its subcontracts a clause that requires the Contractor to:
 - (1) Within five (5) business days of its receipt of notice of the approved additional funding, provide the subcontractor with notice of the amount to be paid to the subcontractor for the additional work to be performed by the subcontractor;
 - (2) Pay the subcontractor any undisputed amount to which the subcontractor is entitled for the additional work within ten (10) days of receipt of payment from the District; and
 - (3) Notify the subcontractor and CO in writing of the reason(s) the Contractor withholds any payment from a subcontractor for the additional work.
- (d) Neither the District, Contractor, nor any subcontractor may declare another party to be in default, or assess, claim, or pursue damages for delays until the parties agree on a price for the additional work.

I.9 TERMINATION FOR DEFAULT

- A. The District may, subject to the provisions of paragraph C., below, by written notice of default to the Contractor, terminate the whole or any part of this contract in any one of the following circumstances: (i) If the Contractor fails to make delivery of the supplies or to perform the services within the time specified within the project work plan or any extension thereof; or (ii) If the Contractor fails to perform any of the other provisions of this contract, or so fails to make progress as to endanger performance of this contract in accordance with its terms and in either of these two circumstances does not cure such failure within a period of ten (10) days (or such longer period as the Contracting Officer may authorize in writing) after receipt of notice from the Contracting Officer specifying such failure.

- B. In the event the District terminates this contract in whole or part as provided in paragraph A. above, the District may procure, upon such terms and in such manner as the Contracting Officer may deem appropriate, supplies or service similar to those so terminated; and the Contractor shall be liable to the District for any excess costs for similar supplies or services. Provided, that the Contractor shall continue the performance of this contract to the extent not terminated under provisions of this clause. The Contractor shall work with any subsequent contractor to ensure a smooth transfer of information for a period of sixty (60) days.
- C. Except with respect to defaults of subcontractors, the Contractor shall not be liable for any excess costs if the failure to perform the contract arises out of causes beyond the control and without the fault or negligence of the contractor. Such causes may include, but are not restricted to, acts of God or of public enemy, acts of the District or Federal Government in either their sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the failure to perform must be beyond the control and without the fault or negligence of the Contractor. If the failure to perform is caused by the default of the subcontractor, and if such default arises out of causes beyond the control of both the Contractor and the subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for any excess cost for failure to perform, unless the supplies or services to be furnished by the contractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery schedule.
- D. If this contract is terminated as provided in paragraph A., above, the District in addition to any other rights provided in this clause, may require the Contractor to transfer title and deliver to the District, in the manner and to the extent directed by the Contracting Officer, (i) completed supplies, (ii) such partially completed supplies and materials, information, and contract rights (herein after called “manufacturing materials”) as the Contractor has specifically produced or specifically produced or specifically acquired for the performance being terminated; and the Contractor, shall, upon direction of the Contracting Officer, protect and preserve property in possession of the Contractor in which the District has an interest. Payment for completed supplies delivered to and accepted by the District shall be at the contract price. Payment for manufacturing materials delivered to and agreed upon by the Contractor and Contracting Officer; failure to agree to such amount shall be a dispute concerning a question of fact. The District may withhold from amounts otherwise due the Contractor for such completed supplies or manufacturing materials such sums as the Contracting Office determines to be necessary to protect the District against loss because of outstanding liens or claims of former lien holders.
- E. If, after notice of termination of this contract under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provision of this clause, or that the default was excusable under the provisions of this clause, the rights and obligations of the parties shall, if the contract contains a clause providing for a termination for convenience be the same as if the notice of termination had been issued pursuant to such clause. Section I.10 “Termination for Convenience.”
- F. The rights and remedies of the District provided in this clause shall not be exclusive and are in addition to any rights and remedies provided by law or under this contract.

G. As used in paragraph C., above, the terms “subcontractor” and “subcontractors” means subcontractor(s) at any tier.

I.10 TERMINATION FOR CONVENIENCE

(a) The District may terminate performance of work under this contract in whole or, from time to time, in part if the Contracting Officer determines that a termination is in the District’s interest. The Contracting Officer shall terminate by delivering to the Contractor a Notice of Termination specifying the extent of termination and effective date.

(b) After receipt of a Notice of Termination, and except as directed by the Contracting Officer, the Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this clause:

(1) Stop work as specified in the notice.

(2) Place no further subcontracts or orders (referred to as subcontracts in this clause) for materials, services, or facilities, except as necessary to complete the continued portion of the contract.

(3) Terminate all contracts to the extent they relate to the work terminated.

(4) Assign to the District, as directed by the Contracting Officer, all rights, title and interest of the Contractor under the subcontracts terminated, in which case the District will have the right to settle or pay any termination settlement proposal arising out of those terminations.

(5) With approval or ratification to the extent required by the Contracting Officer, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts. The approval or ratification will be final for purposes of this clause.

(6) As directed by the Contracting Officer, transfer title and deliver to the District (i) the fabricated or unfabricated parts, work in process, completed work, supplies, and other materials produced or acquired for the work terminated, and (ii) the completed or partially completed plans, drawings, information, and other property that, if the contract has been completed, would be required to be furnished to the District.

(7) Complete performance of the work not terminated.

(8) Take any action that may be necessary, or that the Contracting Officer may direct, for the protection and preservation of the property related to this contract that is in the possession of the Contractor and in which the District has or may acquire an interest.

(9) Use its best efforts to sell, as directed or authorized by the Contracting Officer, any property of the types referred to in subparagraph (6) above; provided, however, that the Contractor (i) is not required to extend credit to any purchaser and (ii) may acquire the

property under the conditions prescribed by, and at prices approved by, the Contracting Officer. The proceeds of any transfer or disposition will be applied to reduce any payments to be made by the District under this contract, credited to the price or cost of the work, or paid in any other manner directed by the Contracting Officer.

(c) After the expiration of ninety (90) days (or such longer period as may be agreed to) after receipt by the Contracting Officer of acceptable inventory schedules, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality of termination inventory not previously disposed of excluding items authorized for disposition by the Contracting Officer. The Contractor may request the District to remove those items or enter into an agreement for their storage. Within fifteen (15) days, the District will accept title to those items and remove them or enter into a storage agreement. The Contracting Officer may verify the list upon removal of the items, or if stored, within forty-five (45) days from submission of the list, and shall correct the list, as necessary, before final settlement.

(d) After termination, the Contractor shall submit a final termination settlement proposal to the Contracting Officer in the form and with the certification prescribed by the Contracting Officer. The Contractor shall submit the proposal promptly, but no later than one year from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this one-year period. However, if the Contracting Officer determines that the facts justify it, a termination settlement proposal may be received and acted on after one year or any extension. If the Contractor fails to submit the proposal within the time allowed, the Contracting Officer may determine, on the basis of information available, the amount, if any, due to the Contractor because of the termination and shall pay the amount determined.

(e) Subject to paragraph (d) above, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount to be paid because of the termination. The amount may include a reasonable allowance for profit on work done. However, the agreed amount, whether under this paragraph (e) or paragraph (f) below, exclusive of costs shown in subparagraph (f)(3) below, may not exceed the total contract price as reduced by (1) the amount of payment previously made and (2) the contract price of work not terminated. The contract shall be amended, and the Contractor paid the agreed amount. Paragraph (f) below shall not limit, restrict, or affect the amount that may be agreed upon to be paid under this paragraph.

(f) If the Contractor and the Contracting Officer fail to agree on the whole amount to be paid because of the termination work, the Contracting Officer shall pay the Contractor the amounts determined by the Contracting Officer as follows, but without duplication of any amounts agreed on under paragraph (e) above:

(1) The contract price for completed supplies or services accepted by the District (or sold or acquired under subparagraph (b)(9) above) not previously paid for, adjusted for any saving of freight and other charges.

(2) The total of :

(i) The costs incurred in the performance of the work terminated, including initial costs and preparatory expense allocable thereto, but excluding any costs

attributable to supplies or services paid or to be paid under subparagraph (f)(1) above;

(ii) The cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the contract if not included in subparagraph (f)(1) above; and

(iii) A sum, as profit on subparagraph f(1) above, determined by the Contracting Officer to be fair and reasonable; however, if it appears that the Contractor would have sustained a loss on the entire contract had it been completed, the Contracting Officer shall allow no profit under this subparagraph (iii) and shall reduce the settlement to reflect the indicated rate of loss.

(3) The reasonable cost of settlement of the work terminated, including-

(i) Accounting, legal, clerical, and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data;

(ii) The termination and settlement of subcontractors (excluding the amounts of such settlements); and

(iii) Storage, transportation, and other costs incurred, reasonably necessary for the preservation, protection, or disposition of the termination inventory.

(g) Except for normal spoilage, and except to the extent that the District expressly assumed the risk of loss, the Contracting Officer shall exclude from the amounts payable to the Contractor under paragraph (f) above, the fair value as determined by the Contracting Officer, of property that is destroyed, lost, stolen, or damaged so as to become undeliverable to the District or to a buyer.

(h) The Contractor shall have the right of appeal, under the Disputes clause, from any determination made by the Contracting Officer under paragraphs (d), (f) or (j), except that if the Contractor failed to submit the termination settlement proposal within the time provided in paragraph (d) or (j), and failed to request a time extension, there is no right of appeal. If the Contracting Officer has made a determination of the amount due under paragraph (d), (f) or (j), the District will pay the Contractor (1) the amount determined by the Contracting Officer if there is no right of appeal or if no timely appeal has been taken, or (2) the amount finally determined on an appeal.

(i) In arriving at the amount due the Contractor under this clause, there shall be deducted:

(1) All unliquidated advances or other payments to the Contractor under the termination portion of the contract;

(2) Any claim which the District has against the Contractor under this contract; and

(3) The agreed price for, or the proceeds of sale of, materials, supplies, or other things acquired by the Contractor or sold under the provisions of this clause and not recovered by or credited to the District.

(j) If the termination is partial, the Contractor may file a proposal with the Contracting Officer for an equitable adjustment of the price(s) of the continued portion of the contract. The Contracting Officer shall make any equitable adjustment agreed upon. Any proposal by the Contractor for an equitable adjustment under this clause shall be requested within ninety (90) days from the effective date of termination unless extended in writing by the Contracting Officer.

(k) (1) The District may, under the terms and conditions it prescribes, make partial payments and payments against costs incurred by the Contractor for the terminated portion of the contract, if the Contracting Officer believes the total of these payments will not exceed the amount to which the Contractor shall be entitled.

(2) If the total payments exceed the amount finally determined to be due, the Contractor shall repay the excess to the District upon demand together with interest computed at the rate of 10 percent (10%) per year. Interest shall be computed for the period from the date the excess payment is received by the Contractor to the date the excess payment is repaid. Interest shall not be charged on any excess payment due to a reduction in the Contractor's termination settlement proposal because of retention or other disposition of termination inventory until 10 days after the date of the retention or disposition, or a later date determined by the Contracting Officer because of the circumstances.

(l) Unless otherwise provided in this contract or by statute, the Contractor shall maintain all records and documents relating to the terminated portion of this contract for 3 years after final settlement. This includes all books and other evidence bearing on the Contractor's costs and expenses under this contract. The Contractor shall make these records and documents available to the District, at the Contractor's office, at all reasonable times, without any direct charge. If approved by the Contracting Officer, photographs, micrographs, or other authentic reproductions may be maintained instead of original records and documents.

I.11 TERMINATION OF CONTRACTS FOR CERTAIN CRIMES AND VIOLATIONS

A. The District may terminate without liability any contract and may deduct from the contract price or otherwise recover the full amount of any fee, commission, percentage, gift, or consideration paid in violation of this title if:

(1) the Contractor has been convicted of a crime arising out of or in connection with the procurement of any work to be done or any payment made under this contract.

(2) There has been any breach or violation of:

(A) Any provision of the District of Columbia Procurement Practices Reform Act of 2010, (D.C. Law 18-371; D.C. Official Code §§ 2-351.01, et seq., or

(B) The contract provision against contingent fees.

- B. If a contract is terminated pursuant to this section, the Contractor: (i) May be paid only the actual costs of the work performed to the date of termination, plus termination costs, if any; and (ii) shall refund all profits or fixed fees realized under the contract.
- C. The rights and remedies contained in this Clause are in addition to any other rights or remedies provided by law, and the exercise of any of them is not a waiver of any other right or remedy provided by law.

I.12 EXAMINATION OF THE BOOKS

- I.12.1 The Contractor shall establish and maintain books, records, and documents (including electronic storage media) in accordance with generally accepted accounting principles and practices which sufficiently and properly reflect all revenues and expenditures of funds provided by the District under the contract that results from this solicitation. The Contractor shall retain all records, financial records, supporting documents, statistical records, and any other documents (including electronic storage media) pertinent to the contract for a period of three (3) years after termination of the contract, or if an audit has been initiated and audit findings have not been resolved at the end of three (3) years, the records shall be retained until resolution of the audit findings or any litigation which may be based on the terms of the contract. The Contractor shall assure that these records shall be subject at all reasonable times to inspection, review, or audit by Federal, District, or other personnel duly authorized by the Contracting Officer.
- I.12.2 The Contracting Officer, the DC Inspector General, OCFO, and the District of Columbia Auditor, and/or any of their duly authorized representatives shall, until three years after final payment, have the right to examine any directly pertinent books, documents, papers, and records of the Contractor involving transactions related to the contract.

I.13 NON-DISCRIMINATION CLAUSE

- (a) The Contractor shall not discriminate in any manner against any employee or applicant for employment that would constitute a violation of the District of Columbia Human Rights Act, approved December 13, 1977, as amended (D.C. Law 2-38; D.C. Official Code §2-1402.11) (2001 Ed.) (“Act” as used in this Section). The Contractor shall include a similar clause in all subcontracts, except subcontracts for standard commercial supplies or raw materials. In addition, Contractor agrees and any subcontractor shall agree to post in conspicuous places, available to employees and applicants for employment, notice setting forth the provisions of this non-discrimination clause as provided in Section 251 of the Act.
- (b) Pursuant to rules of the Office of Human Rights, published on August 15, 1986 in the D.C. Register, Mayor’s Order 2002-175 (10/23/02), 49 DCR 9883 and Mayor’s Order 2006-151 (11/17/06), 52 DCR 9351, the following clauses apply to this contract:
 - (1) The Contractor shall not discriminate against any employee or applicant for employment because of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity

or expression, familial status, family responsibilities, disability, matriculation, political affiliation, genetic information, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination which is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act.

- (2) The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, disability, matriculation, political affiliation, genetic information, source of income, or place of residence or business.

The affirmative action shall include, but not be limited to the following:

- (a) employment, upgrading or transfer;
 - (b) recruitment or recruitment advertising;
 - (c) demotion, layoff, or termination;
 - (d) rates of pay, or other forms of compensation; and
 - (e) selection for training and apprenticeship.
- (3) The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Agency, setting forth the provisions in subsections (b)(1) and (b)(2) concerning non-discrimination and affirmative action.
 - (4) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment pursuant to the non-discrimination requirements set forth in subsection (b)(2).
 - (5) The Contractor agrees to send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the contracting agency, advising the said labor union or workers' representative of that contractor's commitments under this nondiscrimination clause and the Act, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
 - (6) The Contractor agrees to permit access to his books, records and accounts pertaining to its employment practices, by the Chief Procurement Officer or designee, or the Director of Human Rights or designee, for purposes of investigation to ascertain compliance with this chapter, and to require under the

terms of any subcontractor agreement each subcontractor to permit access of such subcontractor's books, records, and accounts for such purposes.

- (7) The Contractor agrees to comply with the provisions of this chapter and with all guidelines for equal employment opportunity applicable in the District of Columbia adopted by the Director of the Office of Human Rights, or any authorized official.
- (8) The Contractor shall include in every subcontract the equal opportunity clauses, subsections (b)(1) through (b)(9) of this section, so that such provisions shall be binding upon each subcontractor or vendor.
- (9) The Contractor shall take such action with respect to any subcontract as the Contracting Officer may direct as a means of enforcing these provisions, including sanctions for noncompliance; provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or Contractor as a result of such direction by the Contracting Officer, the Contractor may request the District to enter into such litigation to protect the interest of the District.

I.14 SERVICE CONTRACT ACT OF 1965

Definitions:

“Act”, as used in this clause, means the Service Contract Act of 1965, as amended (41 U.S.C. 351- 358). “Contractor” as used in this clause, means the prime Contractor or any subcontractor at any tier. “Service employee” as used in this clause, means any person (other than a person employed in a bona fide executive, administrative, or professional capacity as defined in 29 CFR 541) engaged in performing a Government contract nor exempted under 41 U.S.C. 356, the principal purpose of which is to furnish services in the United States as defined in section 22.1001 of the Federal Acquisition Regulation. It includes all such persons regardless of the actual or alleged contractual relationship between them and a contractor.

- A. **Applicability.** To the extent that the Act applies, this contract is subject to the following provisions and to all other applicable provisions of the Act and regulations of the Secretary of Labor (29CFR 4). All interpretations of the Act in Subpart C of 29 CFR 4 are incorporated in this contract by reference. This clause does not apply to contracts or subcontracts administratively exempted by the Secretary of Labor or exempted by 41 U.S.C. 356, as interpreted in Subpart C, 29 CFR 4.
- B. **Compensation:** (i) The Contractor shall pay not less than the minimum wage and shall furnish fringe benefits to each service employee under this contract in accordance with wages and benefits determined by the Secretary of Labor or the Secretary's authorized representative, as specified in any attachments to this contract; (ii) If there is an attachment, the Contractor shall classify any class of service employees not listed in it, but to be employed under this contract. The classification shall provide a reasonable relationship to those listed in the attachment. The Contractor shall pay that class wages and fringe benefits determined by agreement of the interested parties: The contracting

agency, the Contractor, and the employees who will perform the contract or their representatives. If the interested parties do not agree, the Contracting Officer shall submit the question, with a recommendation for final determination to the Office of Government Contract Wage Standards, Wage and Hour Division Employment Standards Administration (ESA), and the Department of Labor. Failure to pay such employees the compensation agreed upon by the interested parties or finally determined by ESA is a contract violation. (iii) If the term of this contract is more than one (1) year, the minimum wages and fringe benefits required for service employees under this contract shall be subject to adjustment after 1 year and not less often than once every two (2) years under wage determinations issued by ESA.

- C. **Minimum Wage.** In the absence of a minimum wage attachment for this contract, the Contractor shall not pay any service or other employees performing this contract less than the minimum wage specified by section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 206). Nothing in this clause shall relieve the Contractor of any other legal or contractual obligations to pay a higher wage to any employee.
- D. **Successor Contracts.** If this contract succeeds a contract subject to the Act under which substantially the same services were furnished and service employees were paid wages and fringe benefits provided for in a collective bargaining agreement, then, in the absence of a minimum wage attachment to this contract, the Contractor may not pay any service employee performing this contract less than the wages and benefits, including those accrued and any prospective increases, provided for under that agreement. No Contractor may be relieved of this obligation unless the limitations of 29 CFR 4.1c (b) apply or unless the Secretary of Labor or the Secretary's authorized representative - (i) Determines that the agreement under the predecessor was not the result of arms-length negotiations, or (ii) Finds, after a hearing under 29 CFR 4.10, that the wages and benefits provided for by that agreement vary substantially from those prevailing for similar services in the locality.
- E. **Notification to Employees.** The Contractor shall notify each service employee commencing work on this contract of the minimum wage and any fringe benefits required to be paid, or shall post a notice of these wages and benefits in a prominent and accessible place at the work site, using such poster as may be provided by the Department of Labor.
- F. **Safe and sanitary working conditions.** The Contractor shall not permit services called for by this contract to be performed in building or surroundings or under working conditions provided by or under the control or supervision of the Contractor that are unsanitary, hazardous, or dangerous to the health or safety of service employees. The Contractor shall comply with the health standards applied under 29 CFR Part 1925.
- G. **Records.** The Contractor shall maintain for three (3) years from the completion of the work, and make available for inspection and transcription by authorized ESA representatives, a record of the following:
- (i) For each employee subject to the Act –

- (a) Name and address;
 - (b) Work classification or classifications, rate or rates of wages and fringe benefits provided;
 - (c) Rate or rates of payments in lieu of fringe benefits, and total daily and weekly compensation;
 - (d) Daily and weekly hours worked; and
 - (e) Any deductions, rebates, or refunds from total daily and weekly compensation.
- (ii) For those classes of service employees not included in any wage determination attached to this contract, wage rates or fringe benefits determined by the interested parties or by ESA under the terms of paragraph (B)(iii) of this clause. A copy of the report required by paragraph (D) of this clause will fulfill this requirement.
- H. **Withholding of Payments and Termination of Contract:** The Contracting Officer shall withhold from the prime contractor under this or any other government contract with the prime contractor any sums the Contracting Officer, or an appropriate officer of the Labor Department, decides may be necessary to pay underpaid employees. Additionally, any failure to comply with the requirements of this clause may be grounds for termination for default.
- I. **Contractor's Report:** (i) If there is a wage determination attachment to this contract and any classes of service employees not listed on it are to be employed under the contract, the Contractor shall report promptly to the Contracting Officer the wages to be paid and the fringe benefits to be provided each of these classes, when determined under paragraph C. of this clause. (ii) If wages to be paid or fringe benefits to be furnished any service employee(s) under the contract are covered in collective bargaining agreement effective at any time when the contract is being performed, the prime Contractor shall provide to the Contracting Officer a copy of the agreement and full information on the application and accrual of wages and benefits (including any prospective increases) to service employees working on the contract. The prime Contractor shall report when contract performance begins, in the case of agreements then in effect, and shall report subsequently effective agreements, provisions, or amendments promptly after they are negotiated.
- J. **Variations, tolerances, and exemptions involving employment:** Notwithstanding any of the provisions in this clause, the following employees may be employed in accordance with the following variations, tolerances, and exemptions authorized by the Secretary of Labor: (i) In accordance with regulations issued under Section 14, of the Fair Labor Standards Act of 1938 by the Administrator of the Wage and Hour Division, ESA(29 CFR 520, 521, 524 and 525), apprentices, student learners, and workers whose earning capacity is impaired by age or by physical or mental deficiency or injury, may be employed at wages lower than the minimum wages otherwise required by section

2(a)(1) or 2(b)(1) of the Service Contract Act, without diminishing any fringe benefits or payments in lieu of these benefits required under section 2(a)(2) of the Act. (ii) The Administrator will issue certificates under the Act for employing apprentices, and student learners, disabled persons, or disabled clients of sheltered workshops not subject to the Fair Labor Standards Act of 1938, or subject to different minimum rates of minimum wages, but without changing requirements concerning fringe benefits for supplementary cash payments in lieu of these benefits; (iii) The Administrator may also withdraw, annul, or cancel such certificates under 29 CFR 525 and 528; and (iv) an employee engaged in an occupation in which the employee customarily and regularly receives more than \$30 a month in tips credited by the employer against the minimum wage required by section 2(a)(1) of the Act or section 2(b)(1) of the Act, in accordance with regulations in 29 CFR 531. However, the amount of credit shall not exceed 40 percent of the minimum rate specified in section 6(a) (1) of the Fair Labor Standards Act of 1938, as amended.

I.15 RECOVERY OF DEBTS OWED THE DISTRICT

The Contractor hereby agrees that the District may use all or any portion of any consideration or refund due the Contractor under the present contract to satisfy in whole or part, any debt due the District.

I.16 NON-DISCLOSURE AGREEMENT

- A. The Contractor shall maintain as confidential, and shall not disclose to third parties without the District's prior written consent, any District information including, but not limited to, the District's business activities, practices, systems, conditions, products, services, public information and education plans and related materials, and game and marketing plans.
- B. The Contractor shall at all times obtain the prior written approval from the Contracting Officer before it, any of its officers, agents, employees or subcontractors, either during or after expiration or termination of the contract, make any statement, or issue any material, for publication through any medium of communication, bearing on the work performed or data collected under this contract.
- C. No information regarding the Contractor's performance of the contract shall be disclosed by the Contractor to anyone other than District Government officials unless written approval is obtained in advance from the Contracting Officer.
- D. The District shall ensure that its personnel do not disclose to any non-District person or organization information concerning the process the Contractor uses to provide services under the awarded contract.

I.17 GOVERNMENT PROPERTY

Contractor use of Government property shall be governed by Chapter 41 of Title 27 of the D.C. Municipal Regulations.

I.18 RIGHTS IN DATA**A. Definitions**

1. “Products” - A deliverable under any contract that may include commodities, services and/or technology furnished by or through Contractor, including existing and custom Products, such as, but not limited to: a) recorded information, regardless of form or the media on which it may be recorded; b) document research; c) experimental, developmental, or engineering work; d) licensed software; e) components of the hardware environment; f) printed materials (including but not limited to training manuals, system and user documentation, reports, drawings); g) third party software; h) modifications, customizations, custom programs, program listings, programming tools, data, modules, components; and i) any intellectual property embodied therein, whether in tangible or intangible form, including but not limited to utilities, interfaces, templates, subroutines, algorithms, formulas, source code, and object code.
2. “Existing Products” - Tangible Products and intangible licensed Products that exist prior to the commencement of work under the contract. Existing Products must be identified on the Product prior to commencement of work or else will be presumed to be Custom Products.
3. “Custom Products” - Products, preliminary, final or otherwise, which are created or developed by Contractor, its subcontractors, partners, employees, resellers or agents for the District under the contract.
4. “District” – The District of Columbia and its agencies.

B. Title to Project Deliverables

The Contractor acknowledges that it is commissioned by the District to perform services detailed in the contract. The District shall have ownership and rights for the duration set forth in the contract to use, copy, modify, distribute, or adapt Products as follows:

1. Existing Products: Title to all Existing Licensed Product(s), whether or not embedded in, delivered or operating in conjunction with hardware or Custom Products, shall: (1) remain with Contractor or third party proprietary owner, who retains all rights, title and interest (including patent, trademark or copyrights). Effective upon payment, the District is granted an irrevocable, non-exclusive, worldwide, paid-up license to use, execute, reproduce, display, perform, adapt (unless Contractor advises the District as part of Contractor’s proposal that adaptation will violate existing agreements or statutes and Contractor demonstrates such to the District’s satisfaction) and distribute Existing Product to District users up to the license capacity stated in the contract with all license rights necessary to fully effect the general business purpose(s) of the project or work plan or contract; and (2) be licensed in the name of the District. The District agrees to reproduce the copyright notice and any other legend of ownership on any copies authorized under this paragraph.

2. Custom Products: Effective upon Product creation, Contractor hereby conveys, assigns, and transfers to the District the sole and exclusive rights, title and interest in Custom Product(s), whether preliminary, final or otherwise, including all patent, trademark and copyrights. Contractor hereby agrees to take all necessary and appropriate steps to ensure that the Custom Products are protected against unauthorized copying, reproduction and marketing by or through Contractor.

C. Transfers or Assignments of Existing or Custom Products by the District

The District may transfer or assign Existing or Custom Products and the licenses thereunder to another District agency. Nothing herein shall preclude the Contractor from otherwise using the related or underlying general knowledge, skills, ideas, concepts, techniques and experience developed under a project or work plan in the course of Contractor's business.

D. Subcontractor Rights

Whenever any data, including computer software, are to be obtained from a subcontractor under the contract, the Contractor shall use this clause, **Rights in Data**, in the subcontract, without alteration, and no other clause shall be used to enlarge or diminish the District's or the Contractor's rights in that subcontractor data or computer software which is required for the District.

E. Source Code Escrow

1. For all computer software furnished to the District with the rights specified in section B.2, the Contractor shall furnish to the District, a copy of the source code with such rights of the scope as specified in section B.2 of this clause. For all computer software furnished to the District with the restricted rights specified in section B.1 of this clause, the District, if the Contractor either directly or through a successor or affiliate shall cease to provide the maintenance or warranty services provided the District under the contract or any paid-up maintenance agreement, or if the Contractor should be declared insolvent by a court of competent jurisdiction, shall have the right to obtain, for its own and sole use only, a single copy of the current version of the source code supplied under the contract, and a single copy of the documentation associated therewith, upon payment to the person in control of the source code the reasonable cost of making each copy.

2. If the Contractor or Product manufacturer/developer of software furnished to the District with the rights specified in section B.1 of this clause offers the source code or source code escrow to any other commercial customers, the Contractor shall either: (1) provide the District with the source code for the Product; (2) place the source code in a third party escrow arrangement with a designated escrow agent who shall be named and identified to the District, and who shall be directed to release the deposited source code in accordance with a standard escrow arrangement acceptable to the District; or (3) will certify to the District that the Product manufacturer/ developer has named the District as a named beneficiary of an established escrow arrangement with its designated escrow agent who shall be named and identified to the District, and who shall be directed to release the deposited source code in accordance with the terms of escrow.

3. The Contractor shall update the source code, as well as any corrections or enhancements to the source code, for each new release of the Product in the same manner as provided above, and certify such updating of escrow to the District in writing.

F. Indemnification and Limitation of Liability

The Contractor shall indemnify and save and hold harmless the District, its officers, agents and employees acting within the scope of their official duties against any liability, including costs and expenses, (i) for violation of proprietary rights, copyrights, or rights of privacy, arising out of the publication, translation, reproduction, delivery, performance, use or disposition of any data furnished under this contract, or (ii) based upon any data furnished under this contract, or based upon libelous or other unlawful matter contained in such data.

I.19 PATENTS

The Contractor shall hold and save the District, its officers, agents, servants and employees harmless from liability of any nature or kind, including costs, expenses, for or on account of any patented or unpatented invention, article, process, or appliance, manufactured or use in the performance of this contract, including their use by the District, unless otherwise specifically stipulated in this contract.

I.20 RESEVED

I.21 APPROPRIATION OF FUNDS

The District's liability under this contract is contingent upon the future availability of appropriated monies with which to make payment for the contract purposes. The legal liability on the part of the District for payment of any money shall not arise unless and until such monies shall have been provided. The District's obligation to pay under this contract is subject to the provisions of (i) the federal Anti-Deficiency Act, 31 U.S.C. §§1341, 1342, 1349, 1351; (ii) the District of Columbia Anti-Deficiency Act, D.C. Official Code §§ 47-355.01 – 355.08 (2001); (iii) D.C. Official Code § 47-105 (2001); and (iv) D.C. Official Code § 1-204.46 (2001), as the foregoing statutes may be amended from time to time. Any expenditures under the contract in excess of the encumbered budget authority are subject to appropriation or additional budget authority.

I.22 MULTIYEAR CONTRACT

If funds are not appropriated or otherwise made available for the continued performance in a subsequent year of a multiyear contract, the contract for the subsequent year shall be terminated, either automatically or in accordance with the termination clause of this contract. Unless otherwise provided for in this contract, the effect of termination is to discharge both the District and the Contractor from future performance of the Contract, but not from their existing obligations. The Contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred, but not amortized in the price of the supplies or services delivered under the Contract.

I.23 RESERVED**I.24 CONTRACTS IN EXCESS OF \$1 MILLION DOLLARS**

Any contract in excess of one million dollars (\$1,000,000) within a 12-month period shall not be binding or give rise to any claim or demand against the District unless first approved by the Council of the District of Columbia and signed by the Contracting Officer.

I.25 CONTRACTS THAT CROSS FISCAL YEARS

Continuation of this contract beyond the current fiscal year is contingent upon future fiscal appropriations.

I.26 RESERVED**I.27 AMERICANS WITH DISABILITIES ACT OF 1990 (“ADA”)**

During the performance of the contract, the Contractor and any of its subcontractors shall comply with the ADA. The ADA makes it unlawful to discriminate in employment against a qualified individual with a disability. See 42 U.S.C. § 12101 et seq.

I.28 FREEDOM OF INFORMATION ACT (“FOIA”)

The District of Columbia’s Freedom of Information Act, at D.C. Official Code § 2-532 (a)(3), requires the District to make available for inspection and copying any record produced or collected pursuant to a District contract with a private contractor to perform a public function, to the same extent as if the record were maintained by the agency on whose behalf the contract is made. If the Contractor receives a request for such information, the Contractor shall immediately send the request to the COTR designated in subsection G.1 who will provide the request to the FOIA Officer for the agency with programmatic responsibility in accordance with the D.C. Freedom of Information Act. If the agency with programmatic responsibility receives a request for a record maintained by the Contractor pursuant to the contract, the COTR will forward a copy to the Contractor. In either event, the Contractor is required by law to provide all responsive records to the COTR within the timeframe designated by the COTR. The FOIA Officer for the agency with programmatic responsibility will determine the releasability of the records. The District will reimburse the Contractor for the costs of searching and copying the records in accordance with D.C. Official Code § 2-532 and Chapter 4 of Title 1 of the *D.C. Municipal Regulations*.

I.29 RESERVED**I.30 INSURANCE**

- A. **GENERAL REQUIREMENTS.** The Contractor shall procure and maintain, during the entire period of performance under this contract, the types of insurance specified below. The Contractor shall have its insurance broker or insurance company submit a Certificate of Insurance to the CO giving evidence of the required coverage prior to commencing

performance under this contract. In no event shall any work be performed until the required Certificates of Insurance signed by an authorized representative of the insurer(s) have been provided to, and accepted by, the CO. All insurance shall be written with financially responsible companies authorized to do business in the District of Columbia or in the jurisdiction where the work is to be performed and have an A.M. Best Company rating of A-VIII or higher. The Contractor shall require all of its subcontractors to carry the same insurance required herein.

All required liability policies shall include the Government of the District of Columbia as an additional insured and shall contain a waiver of subrogation.

If the Contractor and/or its subcontractors maintain broader coverage and/or higher limits than the minimums shown below, the District requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Grantee and subcontractors. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the District.

1. Commercial General Liability Insurance. The Contractor shall provide evidence satisfactory to the CO with respect to the services performed that it carries \$1,000,000 per occurrence limits; \$2,000,000 aggregate; Bodily Injury and Property Damage including, but not limited to: premises-operations; broad form property damage; Products and Completed Operations; Personal and Advertising Injury; contractual liability and independent contractors. The policy coverage shall include the District of Columbia as an additional insured, shall be primary and non-contributory with any other insurance maintained by the District of Columbia.
2. Automobile Liability Insurance. The Contractor shall provide automobile liability insurance to cover all owned, hired or non-owned motor vehicles used in conjunction with the performance of this contract. The policy shall provide a \$1,000,000 per occurrence combined single limit for bodily injury and property damage.
3. Workers' Compensation Insurance. The Contractor shall provide Workers' Compensation insurance in accordance with the statutory mandates of the District of Columbia or the jurisdiction in which the contract is performed.
4. Employer's Liability Insurance. The Contractor shall provide employer's liability insurance as follows: \$500,000 per accident for injury; \$500,000 per employee for disease; and \$500,000 for policy disease limit.

B. PRIMARY AND NONCONTRIBUTORY INSURANCE

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that:

1. The additional insured is a Named Insured under such other insurance; and
2. You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

C. DURATION. The Contractor shall carry all required insurance until all contract work is accepted by the District of Columbia, and shall carry listed coverages for five (5) years following final acceptance of the work performed under this contract.

D. LIABILITY. These are the required minimum insurance requirements established by the District of Columbia. **HOWEVER, THE REQUIRED MINIMUM INSURANCE REQUIREMENTS PROVIDED ABOVE WILL NOT IN ANY WAY LIMIT THE CONTRACTOR'S LIABILITY UNDER THIS CONTRACT.**

E. CONTRACTOR'S PROPERTY. Contractor and subcontractors are solely responsible for any loss or damage to their personal property, including but not limited to tools and equipment, scaffolding and temporary structures, rented machinery, or owned and leased equipment. A waiver of subrogation shall apply in favor of the District of Columbia.

F. MEASURE OF PAYMENT. The District shall not make any separate measure or payment for the cost of insurance and bonds. The Contractor shall include all of the costs of insurance and bonds in the contract price

G. NOTIFICATION. The Contractor shall ensure that all policies provide that the CO shall be given thirty (30) days prior written notice in the event of coverage and / or limit changes or if the policy is canceled prior to the expiration date shown on the certificate. The Contractor shall provide the CO with ten (10) days prior written notice in the event of non-payment of premium. The Contractor will also provide the CO with an updated Certificate of Insurance should his insurance coverages renew during the contract.

H. CERTIFICATES OF INSURANCE. The Contractor shall submit certificates of insurance giving evidence of the required coverage as specified in this section prior to commencing work. Evidence of insurance shall be submitted to:

The Government of the District of Columbia

**And mailed to the attention of:
(See G.1.a)**

I. DISCLOSURE OF INFORMATION. The Contractor agrees that the District may disclose the name and contact information of its insurers to any third party which presents a claim against the District for any damages or claims resulting from or arising out of work performed by the

Contractor, its agents, employees, servants or subcontractors in the performance of this contract.

I.31 51% DISTRICT RESIDENTS NEW HIRES REQUIREMENTS AND FIRST SOURCE EMPLOYMENT AGREEMENT

- I.31.1** For contracts for services in the amount of \$300,000 or more, the Contractor shall comply with the First Source Employment Agreement Act of 1984, as amended, D.C. Official Code § 2-219.01 et seq. (First Source Act).
- I.31.2** The Contractor shall enter into and maintain during the term of the contract, a First Source Employment Agreement (Employment Agreement) with the District of Columbia Department of Employment Service's (DOES), in which the Contractor shall agree that:
- (a) The first source for finding employees to fill all jobs created in order to perform the contract shall be the First Source Register; and
 - (b) The first source for finding employees to fill any vacancy occurring in all jobs covered by the Employment Agreement shall be the First Source Register.
- I.31.3** The Contractor shall not begin performance of the contract until its Employment Agreement has been accepted by DOES. Once approved, the Employment Agreement shall not be amended except with the approval of DOES.
- I.31.4** The Contractor agrees that at least 51% of the new employees hired to perform the contract shall be District residents.
- I.31.5** The Contractor's hiring and reporting requirements under the First Source Act and any rules promulgated thereunder shall continue for the term of the contract.
- I.31.6** The CO may impose penalties, including monetary fines of 5% of the total amount of the direct and indirect labor costs of the contract, for a willful breach of the Employment Agreement, failure to submit the required hiring compliance reports, or deliberate submission of falsified data.
- I.31.7** If the Contractor does not receive a good faith waiver, the CO may also impose an additional penalty equal to 1/8 of 1% of the total amount of the direct and indirect labor costs of the contract for each percentage by which the Contractor fails to meet its hiring requirements.
- I.31.8** Any contractor which violates, more than once within a 10-year timeframe, the hiring or reporting requirements of the First Source Act shall be referred for debarment for not more than five (5) years.
- I.30.9** The contractor may appeal any decision of the CO pursuant to this clause to the D.C. Contract Appeals Board as provided in Section I.7.
- I.31.10** The provisions of the First Source Act do not apply to nonprofit organizations which employ 50 employees or less.

I.32 COVENANT AGAINST CONTINGENT FEES

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

I.33 HEALTH AND SAFETY STANDARDS

Items delivered under this contract shall conform to all requirements of the Occupational Safety and Health Act of 1970, as amended (“OSHA”), and Department of Labor Regulations under OSHA, and all Federal requirements in effect at time of bid opening/proposal submission.

I.34 FORCE MAJEURE

Neither the Contractor nor the District shall be deemed in default or otherwise liable hereunder due to either party’s inability to perform by reason of any fire, earthquake, flood, epidemic, accident, explosion, casualty, strike, lockout, labor controversy, riot, civil disturbance, act of public enemy, embargo, war, act of God, or any municipal, county, state or national ordinance or law, or any executive, administrative or judicial orders (which judicial orders are not the result of any act or omission to act which would constitute a default hereunder), or any failure or delay of any transportation, power or other essential thing required, or similar causes beyond the parties control.

I.35 GOVERNING LAW

This contract shall be governed by, and construed in accordance with, the laws of the District of Columbia, including, but not limited to, the District of Columbia Procurement Practices Reform Act of 2010, (D.C. Law 18-371; D.C. Official Code §§ 2-351.01, et seq. and D.C. MUN. REGS. tit. 27.

I.36 ORDER OF PRECEDENCE

A conflict in language shall be resolved by giving precedence to the document in the highest order of priority that contains language addressing the issue in question. The following documents are incorporated into the contract by reference and made a part of the contract in the following order of precedence:

- (1) Contract
- (2) Contract Attachments
- (3) BAFO (in order of the most recent to earliest)
- (4) Contractor Proposal dated Wednesday, 28 August 2019 2:00 PM EST

SECTION J
ATTACHMENTS

The following Attachments are hereby incorporated:

Attachment Number	Document
J.1	Bidder/Offeror Certification Form available at www.ocp.dc.gov click on "Solicitation Attachments"
J.2	Doing Business with Integrity

SECTION K

REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS

K.1 AUTHORIZED OFFICERS

The Contractor shall list the names of persons authorized to negotiate on the Contractor's behalf in connection with this solicitation (list names, titles, and telephone numbers of the authorized negotiators):

Sam Harper / VP of Delivery / 202 546 8946 x 741
Brent Lightner / CEO / 202 516 5200

K.2 PENDING LEGAL CLAIMS AGAINST THE DISTRICT

The Offeror must disclose any pending legal claims against the District. Pending legal claims includes, but is not limited to, Federal and District court litigation, administrative actions such as contract appeals or protests, claims for money damages from the District, and any other type of action (court or administrative) against the District. Offerors with pending legal claims against the District are not automatically precluded from contract award. If Offerors does not have any pending legal claims against the District, please indicate this below.

The Contractor hereby certifies that the information provided above is true, correct and complete.

[Signature] 1/3/2020 CEO
Signature Date Title

K.3 TERMS AND CONDITIONS CERTIFICATION

The Contractor hereby certifies that it has read, understands, acknowledges and agrees to comply with the terms and conditions as set forth in this solicitation/contract/resultant contract, *without exception*.

[Signature] 1/3/2020 CEO
Signature Date Title