

2. Contract Number CFOPD-25-C-005	3. Effective Date See 20C	4. Requisition/Purchase Request/Project No.
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5. Issued By Office of the Chief Financial Officer Office of Contracts 1100 - 4th Street, SW., Suite E610 Washington, DC 20024	Code	6. Administered By (If other than line 5)
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7. Name and Address of Contractor (No. Street, city, country, state and ZIP Code) Ascensus Government Savings 95 Wells Avenue Newton, MA 02459-3216 Attn: Margaret Creonte, President peg.creonte@ascensus.com	8. Delivery <input checked="" type="checkbox"/> FOB Destination <input type="checkbox"/> Other (See Schedule Section F)
9. Discount for prompt payment	
10. Submit Invoices to the Address shown in Line 12 Item (2 copies unless otherwise specified)	

11. Ship to/Mark For Office of the Chief Financial Officer Office of Finance and Treasury Suite W850 1101 4th Street, S.W. Washington, DC 20024 202-503-6221	Code	Facility	12. Payment will be made by Office of the Chief Financial Officer Office of Management and Administration Financial Operations/Accounts Payable https://vendorportal.dc.gov 1100 4th Street, SW Suite E600 Washington, DC 20024
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13. Contract Type Requirements with NTE Ceiling	14. Accounting and Appropriation Data
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15A. Item	15B. Supplies/Services	15C. Qty	15D. Unit	15E. Unit Price	15F. Amount
1	Five Year Base Period Investment Management Fees + Non Investment Service Fees	1	each	NTE \$26,070,920	NTE \$26,070,920
Total Amount of Contract					NTE\$26,070,920.31

16. Table of Contents							
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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.
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19A. Name and Title of Signer (Type or print) Margaret Creonte, President	20A. Name of Contracting Officer Anthony A. Stover, CPPO
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19B. Ascensus College Savings Recordkeeping Services, LLC	19C. Date Signed January 29, 2025	20B. District of Columbia	20C. Date Signed Jan 31, 2025
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Margaret Creonte
(Signature of person authorized to sign)

Anthony A. Stover
(Signature of Contracting Officer)

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

- B.1.1 The District of Columbia Office of the Chief Financial Officer, Office of Contracts, on behalf of Office of Finance & Treasury (OFT) (the "District") requires the Contractor to provide bundled services for the D.C College Savings Plan (the Plan or the Program): record keeping, administration, and custodial services, investment management, marketing, and customer services.
- B.1.2 The procurement rules under CFO Order Number 15-14, Benefit Plans shall govern this request for proposals ("Solicitation"). The services solicited are exempt from: (i) District of Columbia Procurement Practices Reform Act of 2010, (D.C. Law 18-371; D.C. Official Code §§ 2-351.01, et seq. ("PPRA")); (ii) D.C. Council contract review provisions of Section 451 of the Home Rule Act ("D.C. Official Code § 1-204.51); and (iii) Small and Certified Business Enterprise Development and Assistance Amendment Act of 2014 (the "CBE Act").
- B.1.3 The Contractor shall design, implement, and manage the Plan to appeal to DC's diverse population. The Contractor shall offer a wide range of investment options with competitive investment performance, state-of-the-art technology, a strategic and robust marketing and workplace plan, seamless administration and recordkeeping, and responsive customer service.

B.2 CONTRACT TYPE

The District awards a Requirements contract based on Firm Fixed unit price.

B.3 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.4 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

B.5.1 The Contractor’s pricing is contained in **J.19 – Attachment L Pricing/Cost Analysis Spreadsheet**. For accounts with a balance of \$15,000.00 or more, the Contractor will waive the Account Maintenance Fees.

B.5.2 PRICE SUMMARY

Description	Investment Management Fees	Administrative Fees	Other Fees	Non-Investment Services Fees (Administrative fees + Other Fees)	Contract Year Total (Investment Management Fees + Non-Investment Services Fees)
Base Period (Year 1)	\$812,686.28	\$3,110,804.74	\$383,235.00	\$3,494,039.74	\$4,306,726.02
Base Period (Year 2)	\$893,954.91	\$3,421,885.21	\$402,396.75	\$3,824,281.96	\$4,718,236.87
Base Period (Year 3)	\$983,350.40	\$3,764,073.73	\$422,516.59	\$4,186,590.32	\$5,169,940.72
Base Period (Year 4)	\$1,081,685.43	\$4,140,481.11	\$443,642.42	\$4,584,123.53	\$5,665,808.96
Base Period (Year 5)	\$1,189,853.98	\$4,554,529.22	\$465,824.54	\$5,020,354.76	\$6,210,207.74
Base Period 1-5 Total					\$26,070,920.31
Option Period One Year 1	\$1,308,839.38	\$5,009,982.14	\$489,115.76	\$5,499,097.90	\$6,807,937.28
Option Period One Year 2	\$1,439,723.32	\$5,510,980.35	\$513,571.55	\$6,024,551.90	\$7,464,275.23
Option Period One Years 1 and 2					\$14,272,212.51
Grand Total Not To Exceed Amount for Base Periods 1-5 and Option Period One Years 1 and 2					\$40,343,132.82

SECTION C

DESCRIPTION/SPECIFICATIONS/WORK STATEMENT

C.1 **SCOPE**

The District of Columbia Office of the Chief Financial Officer, Office of Contracts, on behalf of Office of Finance & Treasury (OFT) (the “District”) requires the Contractor to provide bundled services for the D.C College Savings Plan (the Plan): record keeping, administration and custodial services, investment management, marketing and customer services.

C.2 **DEFINITIONS**

These terms when used herein have the following meanings:

Enabling Legislation - The D.C. College Savings Act of 2000 as stated in D.C. Law 13-212, approved March 31, 2001, and as amended by the College Savings Program Temporary Act of 2002, D.C. Law 14-186, approved October 1, 2002, and the College Savings Program Act of 2002, D.C. Law 14-307 approved June 5, 2003.

Participant - Person who has an account in the Plan.

Section 529 Plan - Qualified Tuition Programs (as defined in Internal Revenue Code §529) operating in compliance with §529 of the Internal Revenue Code and the proposed regulations promulgated thereunder.

C.3 **BACKGROUND**

- C.3.1 The Government of the District of Columbia (the “District”), Office of the Chief Financial Officer is charged with administering the District of Columbia “College Savings Act of 2000” as stated in D.C. Law 13-212, approved March 31, 2001, and as amended, by the College Savings Program Temporary Act of 2002 D.C. Law 14-186, approved October 1, 2002, and the College Saving Program Act of 2002, D.C. Law 14-307 approved June 5, 2003. The Office of Chief Financial Officer (OCFO), Office of Finance and Treasury (OFT), requires a Contractor to manage the Section 529 College Savings Plan (the Plan).
- C.3.2 Ascensus currently serves as Program Manager for the Plan.
- C.3.3 The Plan also includes a principal protection option, which is managed by Ameritas Life Insurance Corporation (Ameritas). This strategy is offered as an individual option as well as a component of the year of college enrollment portfolios. The District entered into the funding agreement, which is part of the Ameritas Life’s General Account, in March of 2017. The contract will remain in effect until April 1, 2027.
- C.3.4 Assets invested in the Plan as of September 30, 2022, totals approximately \$948.3 million on behalf of more than 36,904 participants. The average account balance is \$25,696, while annual cash inflows total \$133.2 million and annual distributions total \$65.2 million.
- C.3.5 The District’s population, educational attainment and economic indicators from the 2020 Census data and January 2020 data from the DC government website (J.9 - Attachment B) will provide an analysis of the market for growing the college savings plan in the District of Columbia. Key factors in the growth of a college savings plan are the number of residents that have access to it, the income levels of these residents, the educational background and the economic indicators for

the offering state, or in this case, the District. The District is using the most recent data taken from the Department of Labor (2020 Census data), the DC Government’s website (January 2020 data) and the DC IPDES from the U.S. Department of Education data/website. In 2020, there were 288,307 households in the District with a mean income of \$133,587 and a median income of \$90,842. The mean family income in the District is \$173,874 and the median family income is \$120,337. As of 2020 there were 168,035 people over the age of three enrolled in school. Of them, 72,846 were enrolled in elementary, middle and/or high school (15.1% attended private school). There were also 71,793 people enrolled in college or graduate school at the time and 18,116 were first time, first year students attending college or accredited post-secondary schools. Of the people 25 and older in the District, 91.8% were high school graduates or higher and 59.7% had a bachelor’s degrees or higher. Major economic indicators show that there is strength in the District economy. Jobs have increased by 1.8% over the year ending May 2022 and unemployment was down from 6.6% in May 2021 to 4.8% in May of 2022. Personal income has also risen 1.8% year over year with the most recent period ending in June 2022. In general, these statistics suggest a positive environment for the continuance of a 529 College Savings program.

C.3.6 The below table provides the history of the 529 college savings plan for the previous five (5) years.

At Contract Fiscal Year End 2018 - 2022	Number of Participants	Assets under Custody	Minimum Number of Investment Options	Number of Year of College Enrollment Funds
2022	36,904	\$ 948,342,836	10	8
2021	34,090	\$1,018,821,198	10	8
2020	31,445	\$814,152,053	10	8
2019	25,504	\$691,965,700	10	8
2018	25,812	\$619,659,209	10	8

C.3.7 The plan currently offers: eight years of college enrollment portfolios (with a new vintage launched every three years), comprised mostly of passively managed funds, eight individual portfolios and a principal protected portfolio. Individual portfolios include six actively managed options and three passively managed options. The active funds include: 1) U.S. equity, 2) US equity socially responsible, 3) international equity, socially responsible, 4) small cap equity or small/mid cap equity fund, 5) core/core plus fixed income and 6). Passively managed funds include: 1) U.S. equity, 2) Non-U.S. equity and 3) core bond. There is a preference that within the year of college enrollment portfolio there be exposure to a socially responsible investment strategy. Additionally, the same preferences apply to the mix of the standalone single fund investment strategies, where at a minimum, a socially responsible investment strategy is included. Each of these Options and the fees associated with them is described in detail in the Plan Description, which can be downloaded from www.dccollegesavings.com.

C.4 REQUIREMENTS

The District of Columbia's Office of the Chief Financial Officer (OCFO), Office of Contracts (District) on behalf of the Office of Finance and Treasury (OFT) requires the Contractor to provide program management services (record keeping, administration and custodial services, investment management, marketing and customer services) for the District of Columbia's College Savings Plan. The Contractor shall work in conjunction with District staff members while managing the Plan.

C.5 Record keeping, Administration and Custodial Services**C.5.1 Records Administration**

C.5.1.1 The Internal Revenue Code, Section 529 establishes certain requirements for a Qualified State Tuition Program (QSTP) and requires the District to provide adequate safeguards in its administration of the D.C. College Savings Plan in order to protect the tax benefits granted by this Act. Records administration for the District shall include safeguards to ensure that:

1. Contributions made on behalf of a designated beneficiary are not in excess of the maximum allowed; and
2. Distributions of funds from the D.C. College Savings Plan meet the requirements of Section 529.

C.5.1.2 The Contractor shall possess the ability to aggregate accounts and transactions by beneficiary to ensure federal compliance.

C.5.1.3 Basic services to be provided shall include, but not limited to, the following:

- A. Record keeping at the individual account level,
- B. Aggregation of accounts by beneficiary and by participant for tax compliance and participant reporting,
- C. Statements and customer mailings,
- D. Application processing,
- E. Receipt and recording of deposit,
- F. Disbursement documentation and tax compliance,
- G. Form 1099G or 1099Q reporting,
- H. Toll-free number for participants and prospective customers,
- I. Call center availability from 8:00am to 8:00pm EST Monday – Friday, and
- J. Website for customer service inquiries, account information, enrollment, distribution requests, e-mail and marketing information.

C.5.1.4 Statements of each trust account shall be furnished at least quarterly and upon written request of the participant. The statements shall include the following:

- A. Identification of the participant and beneficiary,
- B. The amount contributed by the account owner/participant,
- C. Identification of any withdrawals or distributions made within the quarter,
- D. The portfolio allocation of each participant,
- E. The quarterly earnings and accumulated earnings of the account as of close of business on the previous day, and
- F. Any terms and conditions necessary to conform the college savings plan account with the requirements of Section 529.

C.5.1.5 The Contractor shall provide at a minimum, all customer service functions as defined in the Contractor's proposal that are available to participants or potential participants via the Internet or through a call center.

C.5.2 Custodial/Trust Services

The Contractor shall provide the following custodial services:

1. Open and maintain a custody account in the name of the D.C. College Savings Plan and hold in such account all cash, securities and certificates of ownership initially deposited plus any additional cash, securities and certificates of ownership that may be received from time to time for the account.
2. Maintain accurate books and records detailing all investments, receipts (including all investment income), expenses, disbursements and other transactions relating to the account. In addition, the Contractor shall maintain records of all transactions, including all historical cost basis information and provide reports required under this Contract based on those records. These reports shall include all information required for the preparation of any applicable government or other required filings.
3. Conduct all necessary transactions, including the buying and selling of securities and making deposits and withdrawals from investment accounts upon the instructions of authorized parties. As necessary, establish daily trade interfaces with all investment managers and funds and the record keeper.
4. Conduct all necessary activities to register all securities and participant accounts and vote all proxies and tender offers received in accordance with the trust/custody agreement.
5. Accrue and pay all authorized Plan expenses in accordance with the trust/custody agreement.
6. Provide a monthly statement of the number of applications received, the number of new accounts opened, the number of account holders, the inventory of all the assets in each participant account and the market value of all the assets in the participant account. The Contractor shall also provide other reports as the District may reasonably request, including reports to the District's auditor or its authorized agents. Also, provide a monthly summary of transactions, including payments and expenses from the D.C. College Savings Plan.
7. Ensure that all custody activities and transactions are in compliance with provisions of the Plan and the trust or custody agreement and do not jeopardize the tax status of the D.C. College Savings Plan.

C.5.3 Program Administration

The Contractor shall administer the following processes throughout the period of performance, meeting all requirements of law, especially with respect to anything involving taxes. The Contractor shall:

1. Submit monthly and annual statistical reports to the Contract Officer's Technical Representative (COTR) covering all activity. The schedule of submission dates for these reports shall be determined between the Contractor and the COTR within thirty days of award of the contract.

2. Perform the following oversight activities and be responsible for enforcing Plan rules with respect to the funds and transactions listed:
 - (a) Monitor the flow of funds contributed by the D.C. College Savings Plan and assure that such funds are invested according to the Plan rules and the investment instructions given by each participant.
 - (b) Monitor the withdrawal of funds by participants to assure that such funds are withdrawn according to the Plan rules and in the proper amounts.
3. Review and inform the District of existing Plan limitations and administrative structures subject to improvement and provide advice and assistance to the District regarding the communication of Plan-related information to participants.
4. Inform the District within ten (10) days of all newly enacted federal tax laws and regulations and all present or prospective federal tax legislation or other changes in the tax laws that may have an impact upon the record keeping and administrative requirements of the Plan. Describe the nature of any amendments to the Plan, which may be required by changing conditions, federal tax laws or regulations, or which may make available to participants more advantageous investment options and investment returns. Work with the District to evaluate and implement any such amendments.
5. Ensure that each participant's account complies with the applicable plan regulations and individual contributions limits, and that all forms and authorizations are complete and on file.
6. Promptly notify the COTR of any material irregularities that would materially affect the operations of the Plan.
7. Refer any complaints that remain unresolved after thirty (30) days to the COTR.

C.5.4 Plan Level Responsibilities for Record Keeping, Administration and Custodial Services

The Contractor's overall responsibilities to the District and the participants of the D.C. College Savings Plan are as follows. The Contractor shall:

- A. Set up all necessary investment accounts and contracts required for the operation of the Plan choices to be offered.
- B. Reconcile Plan investment accounts with investment service providers monthly and provide a copy of the monthly Plan financial reconciliation summary to the District within twenty (20) days of month-end. The monthly Plan reconciliation summary for the Plan shall be in a form agreed upon between the Contractor and the District.
- C. Reconcile individual participant accounts to the plan level financial reconciliation at least monthly. Submit a copy of this report to the District within twenty (20) days of month-end.
- D. Record participants' contributions and their investment allocation within one business day of receipt.
- E. Transfer funds it receives from the District to the appropriate investment service provider on the same day it receives the funds, assuming it receives contribution detail in good order, before the close of trading on the New York Stock Exchange (usually 4:00pm Eastern Time) on any business day. Contributions received in good order at

or after the close of trading on the New York Stock Exchange or on a day other than a business day shall be credited on the next business day. Each failure to meet a posting deadline, unless due to a District caused delay or Force Majeure, shall be subject to a penalty of the amount of earnings/gains that would have been received by participants, if the posting had occurred as scheduled and which will be used by the Contractor to make participant accounts whole for the delay. The Contractor shall ensure that the COTR is provided with the current names, addresses and contact information of the impacted participants. The Contractor will process the remittances related to this section 6.5.4.E.

- F. Compute the amount of transfers between investment options, adjust the amounts allocated to each investment option, make these transfers effective on the business day instructions are received in good order from the participant.
- G. Maintain suspense items in situations where a contribution is made, but due to lack of sufficient information or other causes, it is unclear how it should be processed. The Contractor shall maintain a subsidiary record of all suspense items and research and resolve them within (15) days. The COTR for the Plan will provide assistance as necessary to resolve suspense items. In the event of a change in investment value, including interest, between the time the suspense item should have been invested and the time it is ultimately invested, if the investment value has increased and the Contractor caused the suspense item to occur, the Contractor must contribute the difference between the initial contribution amount and the price of the investment when it is actually purchased. In the event the investment value has gone down, the entire initial contribution amount will be utilized to purchase the investment at its current price so that there is no gain to the Contractor. The Contractor shall maintain and report to the District a monthly suspense account balance reflecting all unpaid and uncleared transactions with corresponding occurrence dates.
- H. Develop a system for making corrections due to erroneous contributions or participant check cancellations, administrative errors, participant misunderstandings, etc. Any errors made by the Contractor shall be corrected at its expense so that the value of the participant's account is not less than it would have been had the error not occurred. Such system shall provide for prompt repayment or credit of any refunds within 15 business days following the date on which the reason for such refund or credit is brought to the Contractor's attention by the District.
- I. Cooperate with the COTR and other District officials to establish administrative rules for the operation of the Plan, including enrollments, address changes, contributions, transfers and termination withdrawals. The Contractor shall prepare and publish a comprehensive administrative manual that includes the administrative rules described in the first sentence of this paragraph as well as all legal and tax requirements.
- J. Maintain duplicate or back-up computer data files for the Plan. All computer data files of the Plan, as maintained by the Contractor, shall at all times remain the property of the District; notwithstanding the fact that such records may be stored upon or within one or more computer or data retention systems owned, operated, or leased by the Contractor. The District or its representatives shall, at all reasonable times, have access to the records. To the extent that any such records are to be maintained upon a computer system or any other data retention system, which is not owned by the Contractor, the Contractor shall provide the District with assurances from the owner

of such computer facilities, satisfactory to the District, of the continued availability and security of such records at all times.

- K. Provide access to the District to all back-up source materials, reports, books, records, computer programs and all other information and documentation relating to the Plan, as reasonably required so that the District and/or its designated officers, agents and accountants, can conduct a financial examination and/or audit of the Plan as requested by the COTR. "Access", for the purposes of this paragraph, is defined to explicitly include the Contractor's copying records in its possession and delivering them to the COTR within 3 business days. For records maintained by a subcontractor or vendor, the Contractor will deliver them to the COTR within 5 business days.

C.5.5 Deliverables for Record Keeping, Administration and Custodial Services

C.5.5.1 The Contractor shall also deliver the following to the COTR in the manner and in accordance with time schedule shown below in each item:

- A. Within two months of the Contract Effective Date, the Contractor shall produce and publish a comprehensive administrative procedures manual that includes the administrative rules established by virtue of the operation of this Contract, as well as all legal and tax requirements. The Contractor shall continually review this manual and update it as necessary throughout the period of performance of this Contract and shall submit such changes to the District for its review and approval.
- B. Annually, before each September 30th, the Contractor shall provide the COTR with a certification that during the contract year ending the previous July 31st that all Contractor related personnel providing any portion of the investment services under this Contract were appropriately licensed for the entire time period.

C.5.5.2 The Contractor shall maintain participant and Plan records as follows:

- A. Maintain daily information associated with participant's account, including, but not limited to investment balances, contributions, distributions, earnings, administrative costs, investment elections, current address, beneficiary designation(s) and any other information necessary for the proper administration of a participant's account.

C.5.5.3 Regarding the valuation of a participant's account, the Contractor shall adhere to the following:

- a. Amounts that are not guaranteed as to principal or interest will be valued at their net asset value as of the close of each business day and/or in accordance with any applicable contract with a mutual fund contractor or in accordance with the fund prospectus. Similarly, separate accounts will be unitized and priced daily.
- b. Plan assets invested in stable income option(s), which provide for guaranteed interest rate and a guarantee of principal shall be valued at book value, unless otherwise required by generally accepted accounting principles. Interest shall be accounted for on a daily effective method, in accordance with the contract with the District and stable value investment option providers.

C.5.5.4 Records relating to individual participants shall be maintained by the Contractor and a database shall be kept, which at a minimum, shall include the following fields:

- A. Date of plan entry
- B. Date of birth
- C. Contribution amounts
- D. Home address and telephone number
- E. Social Security Number
- F. Username and Password
- G. Investment earnings/loss
- H. Participant name - maintain participant name data and process name changes as required.
- I. Participant address – maintain participant address and process address changes as required. Beneficiaries of participant – maintain participant beneficiary data and process beneficiary changes. The contractor shall be the primary record holder of beneficiary designations.

C.5.5.5 Timely submission of reports in accordance with the terms and conditions of this contract are of prime importance to the District. The Contractor shall generate reports for the District that document the results of each activity undertaken on behalf of the District. Such reports shall be provided to the COTR in an automated format, i.e., in a tested communication effected between electro-mechanical or electronic devices.

1) **Monthly Reports to the District** – The following reports are required and shall be submitted by the Contractor as provided for herein:

- a. **Monthly Plan Activity Report** – The Contractor shall submit monthly reports to the District on all Plan activities. The reports must be delivered to the COTR within twenty (20) days after the end of each month. The format of such reports shall be subject to the approval of the COTR and shall include, at a minimum, the following information:
 - i. The total number of participants in the Plan. Compare these items to the previous quarters in the year and then compare to each year-end.
 - ii. The number of new participants in the Plan for the month and cumulatively for the Plan year and show the same information for the previous year.
 - iii. Total number of people leaving the Plan for the month and cumulatively for the year and the same information for the previous year.
 - iv. For the participants leaving the Plan, provide a narrative indicating their withdrawal selection.
 - v. Total contributions, application fees, investment earnings, participant hardship withdrawals and payments for the month and cumulatively for the Plan year to/from each investment option.
 - vi. Assets in the Plan by investment option at the end of the reporting period and cumulatively from the beginning of the Plan year.
 - vii. Reconciliation between the monthly allocation of investment funds and deposits for each investment option.

- viii. A statement of the rate of return for each investment option for the month, the last quarter, the last year and the last three, five and ten years, if applicable and compared to the agreed-upon investment benchmarks.
 - ix. Total dollar amount under management for each investment option.
 - x. Payout reports identified by participant.
 - xi. Inter-fund transfers for each investment option and on an overall Plan basis: transfers from one investment option to another, contributions, expenses and withdrawals for the month, the last three months, the last year compared to the previous periods from the prior year.
 - xii. Total record keeping/administrative, investment management, consulting, accounting, and all other expenses paid for by the participants and the Plan by month and cumulatively for the year compared to the same periods from the prior year.
 - xiii. The number of pieces of mail returned for the month and cumulatively for the year compared to the previous periods from the prior year.
- b. **Monthly Call Center Performance Report-** The Contractor shall submit to the District monthly reports within twenty (20) days after the end of each month on the Contractor's service center quality and performance including, but not limited to, activity and abandoned and aborted calls.
- c. **Other Monthly Reports**
- i. The requirement is for the Contractor to reconcile Plan investment accounts with investment service providers monthly. A copy of the monthly Plan financial reconciliation summary is to be sent to the COTR within twenty (20) days of each month-end.
 - ii. The requirement is for the Contractor to reconcile individual participant accounts to the plan level financial records monthly. The Contractor is to submit a copy of this report to the COTR within twenty (20) days of each month-end.

2) Quarterly Reports

- a. Quarterly Statements for all accounts will be generated and posted electronically no later than the 15th of the month following the quarter-end date. Quarterly Statements for the 4th quarter (Q4) will be emailed to participants or mailed by the Contractor to participants' home addresses no later than the 15th of the month following the quarter-end date. Quarterly Statements for Q1, Q2, and Q3 will be delivered only to accounts that had activity in that quarter.
- b. The number of statements delayed for error reconciliation shall not exceed 1% of statements mailed by the Contractor except if the cause of the errors originated from an investment service provider or the District.
- c. Statements shall contain the following information:
 - i. Participant's name, address, account number, and beneficiary's name,
 - ii. Beginning and ending balance for the quarter,

- iii. Personal rate-of-return for quarter, beginning upon the first anniversary of the account for any accounts opened after conversion,
 - iv. All activity for the quarter including transfers, contributions, investment, earnings/losses and administrative costs all detailed by investment choice and
 - v. Show year-to-date information on contributions and withdrawals.
- d. At the District's direction and as part of the Contractor's marketing commitment, a statement "stuffer" shall accompany a quarterly statement, and be prepared and inserted with the quarterly statements by the Contractor into each statement-mailing envelope. The stuffers shall include information that the District instructs the Contractor to include with reasonable advance notice to the Contractor so that the quarterly statements can be produced timely.
- e. Lost Shareholder Rule and Escheatment.

Lost Shareholder Rule and Unresponsive Payees – The Contractor shall perform certain Services in accordance with Rule 17Ad-17 under the 1934 Act (the "**Lost Shareholder and Unresponsive Payee Rule**"), including but not limited to those set forth below. Notwithstanding the foregoing, upon receipt of mail returned to the Contractor as undeliverable, the Contractor may attempt to re-mail the returned item or otherwise attempt to obtain a correct address for the applicable Account Owner. The Contractor will provide quarterly reports to the District of all accounts that have had a stop mail indicator for three or more years, for which the Contractor is unable to locate a current address. The Contractor may, in its sole discretion, use the services of a third party to perform some of or all lost shareholder searches and recordkeeping set forth in Rule 17Ad-17, including:

- (A) documentation of search policies and procedures;
 - (B) execution of required searches;
 - (C) tracking results and maintaining data sufficient to comply with the Lost Shareholder Rule;
 - (D) preparation and submission of data required under the Lost Shareholder Rule; and
 - (E) contacting an Account Owner in writing of any uncashed checks seven (7) months following the check's issuance.
- ii. *Escheatment* – The District shall be the holder of the Trust assets. The Contractor shall maintain compliance with unclaimed and/or escheatment laws related to the Trust assets. To the extent that laws conflict or are unclear, the Contractor shall seek direction from the District.

3) Annual Reports

- a. **Annual Activity Report** – A cumulative plan-year statistical report shall be delivered during the Contract period of performance to parties identified by the COTR within ninety (90) days after the end of the plan year on September 30th.
 - b. **Annual Financial Statement/Audit** – The Contractor shall provide the District with the Plan’s annual financial statements and information to ensure the District and/or its independent accounting firm is able to audit the Plan in accordance with generally acceptable accounting principles. The Plan’s financial statements shall be provided within forty-five (45) days after the end of the fiscal plan year to the COTR. It is expected that the Contractor will coordinate with the District’s Auditor in order to complete the Plan’s annual financial statements. Such reports will be posted on www.dccollegesavings.com.
 - c. **Annual Reports to Participants and Management** ("Stakeholders Report") – The Contractor(s) shall work with the COTR or his/her designated representative to create a Participant and Plan Sponsor Annual Stakeholders Report that will be produced by the Contractor also within 90 days after the end of the plan year. This report will include information from the year end statistical management report and the Plan’s audited financial statements as well as a description of the current investment options available to participants and any significant Plan changes that occurred during the fiscal year. The Participant and Plan Sponsor Annual Stakeholders Report will be distributed to participants and senior management of the District. Such reports will be posted on www.dccollegesavings.com.
- 4) **Annual Reports** – The Contractor shall provide the COTR copies of its SOC 1 and SOC 2 independent audit reports annually.
 - 5) **Progress or Interim Reports** – The Contractor or its designee shall provide interim reports upon request by the COTR. Such reports may contain information related to performance of investment options, call volumes, number of account owners and beneficiaries, and such other information as the District may reasonably request.

C.5.5.6 In accordance with elections made by the participant, the Contractor shall affect, make and process contributions to a participant’s account pursuant to such participant’s election of a payroll deduction

C.5.5.7 Disclosure Booklet and amendments and supplements thereto.

C.5.6 Accounting Services

The Contractor shall provide the following accounting services:

1. Journalize investment, capital share and income and expense activities.
2. Verify investment buy/sell trade tickets when received from the investment adviser for the fund (the “Adviser”) and transmit trades to the fund’s custodian (the “Custodian”) for proper settlement.
3. Maintain individual ledgers for investment securities.

4. Reconcile cash and investment balances of the fund and provide the investment manager with the beginning cash balance available for investment purposes.
5. Post to and prepare the statement of assets and liabilities and the statement of operations on a monthly basis.
6. Calculate various contractual expenses (e.g., advisory and custody fees).
7. Monitor the expense accruals.
8. Control all disbursements and authorize such disbursements.
9. Calculate capital gains and losses at the fund level.
10. Determine net interest and dividend income at the fund level.
11. Obtain security market quotes from independent pricing services approved by the Adviser, or if such quotes are unavailable, then obtain such prices from the investment manager and in either case calculate the market value of the fund's investments on a daily basis.
12. Transmit or mail a copy of the daily portfolio valuation to the investment manager.
13. Compute daily net asset values for each fund and each option.
14. On a monthly basis (by month's end), compute yields, total return, expense ratios, portfolio turnover rate and, if required, portfolio average dollar-weighted maturity.
15. Prepare and deliver to the District a monthly financial statement (within 20 business days), which shall include the following items:
 - a. Schedule of investments
 - b. Statement of assets and liabilities
 - c. Statement of operations
 - d. Statement of changes in net assets
 - e. Statement of cash flows
 - f. Cash statement
 - g. Schedule of capital gains and losses
 - h. Unit/shares for the period

C.6 Investment Management, Marketing and Customer Services

C.6.1 Investment Management

Contractor is authorized to delegate and has delegated to its affiliate, Ascensus Investment Advisors, LLC, ("AIA") the investment management services listed below. The Contractor shall manage Plan investments as a fiduciary for the District to the extent provided by applicable law; and in accordance with the Program's Investment Policy Statement and Monitoring Procedures and Criteria (Monitoring Procedures) which is included as J.14 - Attachment G and the resultant contract. The Contractor shall also do the following:

1. Develop and recommend fee-competitive investment options that appeal to a wide range of investors with various risk tolerances, contribution levels and take into consideration current participants investment choices. The District must approve any and all recommended investment options.
2. Develop and recommend for the District's approval an asset allocation for the year of college enrollment and static allocation portfolios.
3. Recommend single-fund investment options that shall include, at a minimum, socially responsible and principal protection options.

4. Offer investments options that are easily communicated to and understood by participants.
5. Offer investments that each have a clear investment strategy that includes a reasonable set of assumptions about expected risks and expected returns.
6. While open architecture is strongly preferred, the Contractor may recommend a proprietary line-up of underlying investments, investments from a single mutual fund company, or investments from multiple investment managers. In doing so, the Contractor must support its recommendation to the District.
7. The Contractor's performance will be measured by the Districts Monitoring Procedures. The Contractor shall also demonstrate that it has rigorous oversight processes and monitoring procedures in place to monitor the funds and investment vehicles proposed as underlying investments.
8. Monitor qualitative aspects of the underlying funds and provide timely communications of any changes to the District of personnel, investment philosophy or process, or firm leadership.
9. On at least a quarterly basis, or more often if necessary, the Contractor shall inform the District about any significant changes in the investment management climate, market conditions or investment philosophies that could impact the plan.
10. The Contractor shall prepare an annual review of the investment portfolios and the underlying investments. The review shall include, but not be limited to, an asset allocation review of the year of college enrollment portfolios as well as proposed changes to benchmarks and underlying investments.
11. The Contractor shall provide a clear and appropriate conversion plan showing the mapping of current account investments from the existing Plan to a new Plan. Please note that it is the District's intention to map existing assets to the most "like investment" of the proposed products.

C.6.2 Plan Level Responsibilities for Investment Management, Marketing and Customer Service

The Contractor's overall responsibilities to the District and the participants of the Plan are as follows. The Contractor shall:

- A. Manage all necessary investment accounts and contracts required for the operation of the plan choices to be offered.
- B. Reconcile Plan investment accounts with Plan custodian monthly and provide a copy of the monthly Plan financial reconciliation summary to the District within ten (10) days of month-end. The monthly Plan reconciliation summary for the Plan shall be in a form acceptable to the District.
- C. Maintain duplicate or back-up computer data files for the Plan in a place of safekeeping. All computer data files of the Plan, as maintained by the Contractor, shall at all times remain the property of the District; notwithstanding the fact that such records may be stored upon or within one or more computer or data retention systems owned, operated, or leased by the Contractor. The District or its representatives shall, at all reasonable times, have access to the records. To the extent that any such records are to be maintained upon a computer system or any other data retention system which is not owned by the

Contractor, the Contractor shall provide the District with assurances from the owner of such computer facilities, satisfactory to the District, of the continued availability and security of such records at all times.

- D. Provide access to the District within 3 business days to all back-up source materials, reports, books, records, computer programs and all other information and documentation relating to the Plan, as reasonably required so that the District and/or its designated officers, agents and accountants, can conduct a financial examination and/or audit of the Plan as requested by the COTR. "Access", for the purposes of this paragraph, is defined to explicitly include the Contractor's copying records in its possession and delivering them to the Plan Administrator. For records maintained by a subcontractor or vendor, the Contractor will deliver them to the COTR within 5 business days.

C.6.3 Deliverables for Investment Management, Marketing and Customer Service

In addition to the requirement for the Contractor to perform the services and provide the materials listed in the Scope of Work, the Contractor shall also deliver the following to the COTR in the manner and the time schedule shown below in each item:

- A. Annually, before September 30th, the Contractor shall provide the Plan Administrator with a certification that during the contract year ending the previous July 31st, that all Contractor-related personnel providing any portion of the investment services under this contract were appropriately licensed for the entire time period.
- B. By August 31st of each year of the contract's period of performance, the Contractor shall prepare and submit to the COTR, for the District's approval, a marketing plan for the upcoming Plan fiscal year (October 1st through September 30th). This Plan shall meet the minimum requirements in the Statement of Work. It shall fully describe any communication materials to be used and include samples of such materials. It shall fully describe supplemental educational resources that the Contractor will make available to participants and include samples of such materials.
- C. Record Keeping - The Contractor shall provide daily information to the Plan custodian, including, but not limited to investment balances, earnings, administrative costs and any other information necessary for the proper administration of the Plan.
- i. Amounts that are not guaranteed as to principal or interest will be valued at their net asset value as of the close of each business day and/or in accordance with the fund prospectus.
 - ii. Plan assets invested in stable income option(s), which provide for guaranteed interest rate and a guarantee of principal shall be valued at book value, unless otherwise required by generally accepted accounting principles. Interest shall be accounted for on a daily effective method, in accordance with the Contract with the District.
- D. The Contractor shall generate reports for the District that document the results of each activity undertaken on behalf of the District. Such reports shall be provided to the COTR in an automated format, i.e., in a tested communication effected between electro-mechanical or electronic devices.
- a. **Monthly Investment Activity Report.** The Contractor shall submit monthly reports to the District on all investment activities. The reports must be delivered to the COTR

within twenty (20) days after the end of each month. The format of such reports shall be subject to the approval of the COTR and shall include, at a minimum, the following information:

- i. Assets in the Plan by investment option at the end of the reporting period and cumulatively from the beginning of the Plan year.
 - ii. A statement of the rate of return for each investment option for the month, the last quarter, the last year and the last three, five and ten years, if applicable and compared to the agreed-upon investment benchmarks.
 - iii. For each investment option and on an overall Plan basis: expenses and withdrawals for the month, the last three months, the last year compared to the previous periods from the prior year Total investment management, fund accounting and all other expenses assessable to the Plan by month and cumulatively for the year compared to the same periods from the prior year.
 - v. Changes in portfolio managers, if any, **Annual Audit**. The Contractor(s) involved in performance under this contract shall each present to the COTR an annual audit of the Contractor's operations that are prepared by an independent certified public accountant.
- 3) **Annual Report**. The Contractor shall provide the COTR a copy of its SOC 1 and SOC 2 independent audit reports annually.

C.6.4 Marketing

According to U.S. News & World Report ranking of Best Colleges 2019-2023, approximately 85% of first-time, first-year undergraduate students receive financial aid in some form. Tuition Assistance Grant Programs (TAG) is a grant program available in the District to help increase the affordability of higher education. The Contractor's marketing proposal shall include a component of community outreach within the District which shall cover all the DC wards. The Contractor shall aggressively market the College Savings Plan to potential District participants in all of the DC Wards. The D.C. College Savings Plan complements the existing DC TAG Program and offers the residents of the District an affordable way to save for college, whether or not a student attends a public or private college or pursue his/her qualified higher education in or outside the District.

C.6.5 Marketing Approach

- C.6.5.1 In order to provide District families with information about the college savings options available through the D.C. College Savings Plan, the marketing of the plan in the District and the community outreach component of the marketing plan must be extensive. The Contractor shall work cooperatively with the District to formulate marketing and public relations plan including community outreach strategies to all DC Wards, branding, integrated logos, collateral materials, advertising, websites and public relation strategies. The component of the marketing plan that addresses community outreach to all DC wards shall include, among other things, a list of events at which the Contractor is scheduled to attend and participate in the various DC wards. The Contractor shall provide a toll-free number that will be directed to an interactive voice response (IVR) system and/or call center. The IVR and call center shall be able to provide comprehensive

information about the D.C. College Savings Plan to callers. Additionally, a website and a consistent marketing perspective shall be used to explain the plan to potential participants and to provide direct access to the investment options. The District shall have final approval of all marketing and marketing materials.

C.6.5.2 The Contractor, in consultation with the District, is required to develop and schedule the initial and subsequent marketing efforts. The Contractor shall launch a marketing campaign in the District.

C.6.6 District's Marketing Role

The D.C. College Savings Plan staff will include personnel, who will be available to review and approve marketing materials. The District's staff will also be available to the Contractor and participants for problem resolutions and handling of unusual inquiries. The District's staff will not be the primary point of contact for current or prospective participants.

C.6.7 Contractor's Marketing Role

The Contractor shall coordinate development of the District's marketing strategy and program with the District, including drafts of promotional materials and advertisements. The Contractor shall provide the District with quarterly reports regarding marketing expenditures and activities for the previous quarter including copies of all promotional materials and advertisements. The report shall include performance analysis of selected campaigns and activities and a schedule of proposed marketing activities for the subsequent two (2) quarters. The District will retain approval of the marketing program, promotional materials and advertisements, particularly as to appropriateness of content, image and style. The District will not provide marketing support (financial or other resources) toward the Contractor's marketing efforts.

C.6.8 RESERVED

C.6.9 Customer Service

C.6.9.1 Web Services

The Contractor shall provide a complete array of services through the Internet. The Contractor's website shall provide basic customer service functions and shall provide information about the Plan. The website shall also provide the following:

- a. Enrollment and distributions on-line.
- b. Process inquiries or requests for information about the Plan.
- c. Provide account information including portfolio allocation, accumulated investments, earnings and total investment balance,
- d. Provide information regarding enrollment in the Plan and the ability to process enrollments,
- e. Process distribution requests and provide information about qualified expenses,
- f. Allow participants access to account history,
- g. Accept and process general inquiries via e-mail,
- h. Provide general marketing information,
- i. Investment performance versus appropriate benchmarks, including quarter-to-date, year-to-date, one-year, three-year, five-year and since inception time periods.
- j. Include access to a gifting platform.
- k. Offer a college cost calculator.

C.6.9.2 Call Center Services

All participants or potential participants may not have access to the Internet. The Contractor shall provide an Interactive Voice Response system (IVR) and call center. The IVR and call center shall be able to provide comprehensive customer service functions in connection with the Plan. The call center shall provide all capabilities that are described above for Internet based services. The Contractor shall demonstrate that it has appropriate administrative processes to fulfill requests for information or enrollment that may be received through the call center.

C.6.9.3 Data Security

The Contractor is required to encrypt, password-protect, and take affirmative steps and measures necessary to ensure the safety and safeguard the confidentiality of all proprietary information. Provide copies of all related policies, procedures and/or internal governance measures currently in place to ensure the sanctity of the aforementioned proprietary information.

C.6.9.4 Computer Security

- C.4.9.4.1 The Contractor shall keep duplicates or back-up computer data files maintained in connection with the Plan at an alternate site. Maximum recovery time shall be within 24 hours.
- C.6.9.4.2 Additionally, the Contractor shall have a disaster recovery plan in effect and shall be required periodically by the COTR to provide evidence that the system has been tested within the last twelve (12) months.
- C.6.9.4.3 All computer data files for the D. C. College Savings Plan, as maintained by the Contractor, shall at all times remain the property of the District, notwithstanding the fact that such records may be stored upon or within one or more computer or data retention systems owned, operated or leased by the Contractor. The District or its representatives shall, at all reasonable times, have access to the records. To the extent that any such records are to be maintained upon a computer system, or any other data retention system, which is not owned by the Contractor, the Contractor shall provide the District with assurances from the owner of such computer facilities, satisfactory to the District, of the continued availability and security of such records.
- C.6.9.4.4 The Contractor shall also demonstrate to the COTR that the system used for record keeping will have an adequate capacity to handle the volume of records generated as well as daily transmittals. In addition, the Contractor needs a test environment that is accessible by the COTR and has the capability of emulating the Contractor's production environment, complete with daily and monthly posting cycles. The Contractor shall have program version software in place to control software development.

C.6.10 Participant Privacy

In addition, the Contractor shall work closely with the COTR to ensure that the Privacy Policy of the Plan is enforced.

C.7 Additional Requirements

- C.7.1 The Contractor shall ensure that account owners are able to request distributions online and electronically send funds to their bank accounts.
- C.7.2 Personal rate of return shall be provided online for account owners. Last quarter, year-to-date, one-year, three-year, five-year, and since inception performance figures shall also be provided.

- C.7.3 The Contractor shall provide Participant statements that show personal rate of return for the year-to-date and since account inception time periods.
- C.7.4 The Contractor shall provide a draft transition plan for the services to be provided.
- C.7.5 The Contractor shall hold and maintain all licenses and registrations required by applicable federal and state laws for businesses offering securities, investment and municipal advisory services. All licenses and registrations must be current and in good standing.
- C.7.6 The Contractor's affiliate, AIA, shall maintain registration as a Municipal Advisor with the Securities and Exchange Commission for the duration of the agreement.
- C.7.7 All laws of the District, whether substantive or procedural, applicable to the Contractor in its performance of the services under this agreement, shall apply to this Contract, and all statutory, charter, and ordinance provisions that are applicable to public contracts in the District shall be followed with respect to this Contract.
- C.7.8 The Contractor's field service representatives shall provide onsite education and participant communication services and may not market any associated banking services, have commission-based compensation or any financial incentives to promote any investment product or services. Compensation and incentive awards for field representatives must be structured to maintain an objective and unbiased distribution of investment products and services to the Plans' participants.

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.

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

E.1.1 All 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.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 five (5) years 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 one (1) two-year option period, 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 at least thirty (30) days 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.

(a) *Emergency Option to Extend*

- (1) The District reserves the right to further extend the initial term of the Contract, or any extension thereof, at the price agreed upon for the last year of the extension period of the Contract, upon thirty (30) days' notice, for one (1) ninety (90) day period, or fraction thereof to allow additional time to complete the requirement.
- (2) The District also reserves the right to further extend the Contract upon expiration of such ninety-day extension, if any, for a period of one (1) year or a fraction thereof.
- (3) The District's right to extend shall not be construed as obligating the District to repeat the procurement process for any subsequent contract or conferring any right or expectation for Contractor to continue operating under the Contract after the expiration of either a ninety (90) day or one (1) year or fraction thereof extension.

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 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 commence services five (5) days after the District has provided an order to proceed.

F.3.4 The Contractor shall submit to the District, as a deliverable, the report described in Section I.30 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
Office of the Chief Financial 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 and the Contractor.
- 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:

Rodney Dickerson
Program Manager, 401(a) Retirement Plan and OPEB Trust
Office of Finance & Treasury (OFT)
1101 4th Street S.W. Suite 850W Washington, DC 20024
(202) 727-0107
Rodney.Dickerson@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 approving invoices 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 PAYMENT

G.2.1 The contractor shall charge the agreed upon fees to the participants fund that it administers.

G.2.2 The contractor shall provide quarterly financial statements with the amount of fees charged for the period. The District will reconcile the fee statements and approve. If there is a discrepancy, the contractor shall reimburse the funds. The District reserves the right to conduct post payment reviews or audits.

G.3 STATEMENT SUBMITTAL

G.3.1 The Contractor shall submit financial statements with an outline of fees charged for the performance of the services on a quarterly basis or as otherwise specified in this Section G.

a. The Statements shall not contain charges for items not listed in the Schedule of Fees. Work performed outside this contract, for which there was no prior modification to include under Section C, Description/Specification/Work Statement, shall not be included.

b. The Statements shall be prepared and submitted to the COTR.

G.4 RESERVED

G.5 RESERVED

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. In the event the District is dissatisfied with the performance of any person employed by the Contractor that is directly providing services to the District pursuant to this agreement, the District shall provide written notice to the Contractor. Upon such written notice and subject to applicable law, the Contractor will utilize commercially reasonable efforts to address the concerns of the District, up to and including removal of the employee by the Contractor from work relating to the Contract.

H.2 SUBCONTRACTS

The Contractor is hereby authorized to enter into subcontract(s) to provide services required in this Agreement. The Contractor may delegate material services ("Material Services") to subcontractors; such services shall include: (i) investment management; and (ii) custody, fund accounting services. The Contractor shall not enter into any new subcontract(s) for Material Services, or materially modify any existing contract(s) for Material Services related to the Plan without the prior written consent of COTR. Contractor shall be authorized to delegate to its affiliates, Ascensus Investment Advisors, LLC, and/or Ascensus Broker Dealer Services, Inc. without prior approval from COTR. 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 RESERVED

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 RESERVED
- 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.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 providing Material Services pursuant to the Agreement. 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.

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 effect an orderly and efficient transition to a successor, as further detailed below:

- H.6.2 Upon the termination or expiration of this Agreement, the Contractor shall take all reasonable steps necessary to effect an orderly transition of the relevant portions of its duties and

responsibilities to the District or a successor provider(s), as designated by the District. During the Transition, the Contractor shall not be required to perform any service not previously provided, with the exception of conversion and transition services, from the time of termination or expiration of this Agreement.

- H.6.3 The Contractor shall use commercially reasonable efforts to ensure that during the transition, it and its agents do not impede or delay the orderly transfer of work. However, Contractor shall not be liable for any failure to effect the transition pursuant to this Section H.6 due to forces beyond its control, including, without limitation, the acts or omissions of the District, its agents or that of new or successor contractor that prevent or impede Contractor from effecting the transition (e.g., the inability of District, or its designee to securely receive assets and records in connection with the transition).

Each party shall be responsible for its own expenses to facilitate the transition; during the transition phase, the District shall continue to be charged the agreed upon fees for the services as set forth in this Agreement.

H.7 BACKGROUND INVESTIGATIONS AND OTHER INTEGRITY REQUIREMENTS

- H.7.1 The Contractor in its regular course of business conducts a 7 year nationwide criminal background check on prospective employees. Such background checks shall include both misdemeanors and felonies and an OFAC (Office of Foreign Assets Control) check which performed in the prospective employee's counties of residence, employment and the surrounding counties. Pursuant to FINRA (Financial Industry Regulatory Authority) rules, the Contractor does not hire individuals with known convictions of a felony of any nature or a misdemeanor of violence, theft, fraud or dishonesty. Additionally, the Contractor conducts a fingerprint check against the FBI database for all new employees.
- H.7.2 Upon the District's request, the Contractor agrees to certify that it adheres to the above outlined background procedures. The Contractor also agrees that the District, in accordance with all applicable laws, may conduct background investigations of such persons, at its cost and expense.
- 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 MANAGEMENT OF CONTRACTOR

During the term of this agreement, the Contractor shall notify the District, as soon as reasonably possible and pursuant to applicable law, of any changes to the Contractor's senior management team.

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. RESERVED
- B. RESERVED
- C. RESERVED
- 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 <https://does.dc.gov/service/office-wage-hour-compliance-0> 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) (“Losses”), resulting from or arising out of, the material breach, material nonperformance, gross negligence or willful misconduct of 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. However, this indemnity shall exclude 1) any Losses arising from indirect, special, punitive, incidental exemplary and consequential damages or and /or 2) any Losses that result or arising from Contractor’s reliance on instruction or information provided to Contractor by the District, and/or the negligence or misconduct of the District.
- I.3.2 The Contractor shall have no liability or indemnification obligation for Losses in connection with the acts or omissions of the District or its other past or present service providers or agents (other than the Contractor's affiliates, subcontractors, and their officers, employees and agents), including, but not limited, to the provision of inaccurate data, determination of fund balances, calculation of Net Asset Values or transaction processing.
- I.3.3 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.

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

- A. All disputes arising under or relating to this contract shall be resolved as provided herein.
- B. **Claims by a Contractor against the District**

Claim, as used in Section B 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.

- (a) 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:
- (1) A description of the claim and the amount in dispute;
 - (2) Any data or other information in support of the claim;
 - (3) A brief description of the Contractor’s efforts to resolve the dispute prior to filing the claim; and
 - (4) The Contractor’s request for relief or other action by the Contracting Officer.

- (b) The Contracting Officer may meet with the Contractor in a further attempt to resolve the claim by agreement.
- (c) For any claim of \$100,000 or less, the Contracting Officer shall issue a decision within sixty (60) days from receipt of a written request from a Contractor that a decision be rendered within that period.
- (d) For any claim over \$100,000, the Contracting Officer shall issue a decision within ninety (90) days of receipt of the claim. Whenever possible, the Contracting Officer 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.
- (e) The Contracting Officer's written decision shall do the following:
 - (1) Provide a description of the claim or dispute;
 - (2) Refer to the pertinent contract terms;
 - (3) State the factual areas of agreement and disagreement;
 - (4) 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;
 - (5) 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;
 - (6) Indicate that the written document is the contracting officer's final decision; and
 - (7) Inform the Contractor of the right to seek further redress by appealing the decision.
- (f) Any failure by the Contracting Officer to issue a decision on a contract claim within the required time period will be deemed to be a denial of the claim and will authorize the commencement of an appeal.
- (g)
 - (1) 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.
 - (2) Liability under paragraph (g) (1) shall be determined within six (6) years of the commission of the misrepresentation of fact or fraud.

- (h) The decision of the Contracting Officer shall be final and not subject to review unless an appeal is timely commenced by the Contractor as authorized by CFO Order No. 15-14 Contracting Procedures for Services in Relation to Benefit Plans.
- (i) 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.

C. Claims by the District against a Contractor

- (a) Claim as used in Section C 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.
- (b)
 - (1) All claims by the District against a Contractor arising under or relating to a contract shall be decided by the Contracting Officer.
 - (2) The Contracting Officer shall send written notice of the claim to the Contractor. The Contracting Officer's written decision shall do the following:
 - (a) Provide a description of the claim or dispute;
 - (b) Refer to the pertinent contract terms;
 - (c) State the factual areas of agreement and disagreement;
 - (d) 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;
 - (e) 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;
 - (f) Indicate that the written document is the Contracting Officer's final decision; and
 - (g) Inform the Contractor of the right to seek further redress by appealing the decision.
 - (3) The decision shall be supported by reasons and shall inform the Contractor of its rights as provided herein.
 - (4) The authority contained in this clause 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.

- (5) This clause shall not authorize the Contracting Officer to settle, compromise, pay, or otherwise adjust any claim involving fraud.
- (6) The decision of the Contracting Officer shall be final and not subject to review unless an appeal is timely commenced by the Contractor as authorized by CFO Order No. 15-14 Contracting Procedures for Services in Relation to Benefit Plans.
- (7) 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, upon written notice to the Contractor, make non-material and/or administrative changes in the contract within the general scope hereof. If such non-material and/or administrative 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**.

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 subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery schedule.

- D. To the extent applicable, 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.
- H. This Agreement may be terminated by the Contractor upon written notice to the District if Contractor is not then in material breach of any representation, warranty, covenant or other agreement contained herein, and the District is in breach of this Agreement, and such breach has a material adverse effect, and such breach is not cured (i) with respect to breaches (other than breaches involving computer systems) within thirty (30) days, (or such longer period as the District and Contractor mutually agree to in writing) after receipt of notice from the Contractor specifying such failure following written notice of the breach to District from Contractor, or (ii) with respect to breaches involving computer systems within ninety (90)

days, following written notice to District from Contractor of the breach;. In the event that Contractor determines to terminate the Agreement under this Section, Contractor shall provide at least one-hundred and twenty days (120) notice to District.

I.10 TERMINATION FOR CONVENIENCE

In the event the District desires to terminate this Agreement for its convenience, it agrees to provide Contractor with at least ninety (90) days prior written notice. Additionally, the following subsections shall govern the Termination for Convenience to the extent applicable.

(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 comply with the notice, regardless of any delay in determining or adjusting any amounts due under this clause by doing, to the extent applicable to the services provided under this Agreement, the following:

- (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) RESERVED

(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 federal or District of Columbia law, 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) RESERVED
- (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.
- E. District (which includes its employees, subcontractors, and agents) to hold Contractor's Confidential Information, as defined below, in strict confidence and District agrees not to disclose it to any third party without Contractor's prior written consent. Confidential Information includes all information generated whether in documentary or electronic form (e.g., know-hows, data, software, reports, analyses, compilations, business plans, designs, information systems, and other materials) or provided pursuant to this Agreement with the exception of: (a) information already known or independently developed by the District; (b) information required to be released by law; (c) information in the public domain through no wrongful act of the District; and (d) information received by the District from a third party who was free to disclose it (the "Confidential Information").
- F. In the event District or its representatives are requested or required by law to disclose any of Contractor's Confidential Information, the District agrees to provide Contractor with

prompt written notice of any such request or requirement so that Contractor may seek a protective order or other appropriate remedy.

I.17 INTELLECTUAL PROPERTY

Intellectual Property (defined below) shall remain the property of the Contractor or the subcontractor, as applicable. In addition, Contractor and/or third party licensors providing software and/or other technology to Contractor for development, modification and/or operation of the Plan, shall own and continue to own, during and after this Agreement, all right, title and interest in and exclusive beneficial ownership of all software and source code (including superseded versions), system design materials, system testing materials, system technical support materials, system training materials, and other components of such information technology. "Intellectual Property" shall mean know-hows and other intellectual property developed by or for the Contractor to perform the services under this Agreement or pursuant to any subcontract (including without limitation investment allocation methodologies, know-hows, technology platform, or any software and analytical tools as are otherwise owned, utilized or licensed by the Contractor or developed by or for the management, marketing and administration of the Plan).

I.18 The District acknowledges that the Contractor may receive indirect compensation for the custodial services that it provides to the Plan. This compensation, known as "float" income, is paid by the financial organization at which the Contractor maintains "clearing accounts" or by the investments in which the Contractor invests in those clearing accounts. Float income may arise from interest that is earned on contributions or distributions to Plan accounts during the time that these assets are held by the Contractor in clearing accounts, but are not invested in a Plan investment option.

I.19 RESERVED

I.20 RESERVED

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 – 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 at its sole expense 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- / VII or higher. The Contractor shall require all of its subcontractors to carry the same insurance required herein.

All required policies shall contain a waiver of subrogation provision in favor of the Government of the District of Columbia.

The Government of the District of Columbia shall be included in all policies required hereunder to be maintained by the Contractor and its subcontractors (except for workers' compensation, professional liability and crime) as an additional insureds for claims against The Government of the District of Columbia relating to this contract, with the understanding that any affirmative obligation imposed upon the insured Contractor or its subcontractors (including without limitation the liability to pay premiums) shall be the sole obligation of the Contractor or its subcontractors, and not the additional insured. The additional insured status under the Contractor's and its subcontractors' Commercial General Liability insurance policies shall be effected using the ISO Additional Insured Endorsement form CG 20 10 11 85 (or CG 20 10 07 04 **and** CG 20 37 07 04) or such other endorsement or combination of endorsements providing coverage at least as broad and approved by the CO in writing. The Contractor and its subcontractors' liability policies (except for workers' compensation, professional liability, and crime) shall be endorsed using ISO form CG 20 01 04 13 or its equivalent so as to indicate that such policies provide primary coverage (without any right of contribution by any other insurance, reinsurance or self-insurance, including any deductible or retention, maintained by an Additional Insured) for all claims against the additional insured arising out of the performance of this Statement of Work by the Contractor or its subcontractors, or anyone for whom the Contractor or its subcontractors may be liable. These policies shall include a separation of insureds clause applicable to the additional insured.

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.

1. Commercial General Liability Insurance ("CGL") - The Contractor shall provide evidence satisfactory to the CO with respect to the services performed that it carries a CGL policy, written on an occurrence (not claims-made) basis, on Insurance Services Office, Inc. ("ISO") form CG 00 01 04 13 (or another occurrence-based form with coverage at least as broad and approved by the CO in writing), covering liability for all ongoing and completed operations of the Contractor, including ongoing and completed operations under all subcontracts, and covering claims for bodily injury, including without limitation sickness, disease or death of any persons, injury to or destruction of property, including loss of use resulting therefrom, personal and advertising injury, and including coverage for liability arising out of an Insured Contract (including the tort liability of another assumed in a contract) and acts of terrorism (whether caused by a foreign or domestic source). Such coverage shall have limits of liability of not less than \$1,000,000 each occurrence, a \$2,000,000 general aggregate (including a per location or per project aggregate limit endorsement, if applicable) limit, a \$1,000,000 personal and advertising injury limit, and a \$2,000,000 products-completed operations aggregate limit.
2. RESERVED.

3. i) Workers' Compensation Insurance - The Contractor shall provide evidence satisfactory to the CO of Workers' Compensation insurance in accordance with the statutory mandates of the District of Columbia or the jurisdiction in which the contract is performed.

ii) Employer's Liability Insurance - The Contractor shall provide evidence satisfactory to the CO of 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.

iii) All insurance required by this paragraph 3 shall include a waiver of subrogation endorsement for the benefit of Government of the District of Columbia.
4. Crime Insurance (3rd Party Indemnity) - The Contractor shall provide a Crime policy including 3rd party fidelity to cover the dishonest acts of Contractor, its employees and/or volunteers which result in a loss to the District. The policy shall provide a limit of \$100,000 per occurrence.
5. Cyber Liability Insurance - The Contractor shall provide evidence satisfactory to the Contracting Officer of Cyber Liability Insurance, with limits not less than \$5,000,000 per occurrence or claim, \$5,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Contractor in this agreement and shall include, but not limited to, claims involving infringement of intellectual property (except patent), including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties where insurable by law as well as credit monitoring expenses with limits sufficient to respond to these obligations. This insurance requirement will be considered met if the general liability insurance includes an affirmative cyber endorsement for the required amounts and coverages. Shared limits with the Professional Liability coverage will be acceptable.
6. Employment Practices Liability - The Contractor shall provide evidence satisfactory to the Contracting Officer with respect to the operations performed to cover the defense of claims arising from employment related wrongful acts including but not limited to: Discrimination, Sexual Harassment, Wrongful Termination, or Workplace Torts, whether between employees of contractor or against third parties. Employment Practices Liability coverage must specifically state Third Party Liability coverage is included. The Third-Party Liability coverage is for Discrimination or Sexual Harassment. The Contractor will indemnify and defend the District of Columbia should it be named co-defendant or be subject to or party of any claim. Coverage shall also extend to Temporary Help Firms and Independent Contractors hired by Contractor. The policy shall provide limits of not less than \$1,000,000 for each wrongful act and \$2,000,000 annual aggregate for each wrongful act.
7. RESERVED
8. Professional Liability Insurance (Errors & Omissions) - The Contractor shall provide Professional Liability Insurance (Errors and Omissions) to cover liability resulting from any error or omission in the performance of professional services under this Contract. The

policy shall provide limits of \$5,000,000 per claim or per occurrence for each wrongful act and \$5,000,000 annual aggregate. The Contractor warrants that any applicable retroactive date precedes the date the Contractor first performed any professional services for the Government of the District of Columbia and that continuous coverage will be maintained or an extended reporting period will be exercised for a period of at least ten years after the completion of the professional services. Shared limits with Cyber Liability coverage will be acceptable.

9. Commercial Umbrella or Excess Liability - The Contractor shall provide evidence satisfactory to the CO of commercial umbrella or excess liability insurance with minimum limits equal to the greater of (i) the limits set forth in the Contractor's umbrella or excess liability policy or (ii) \$5,000,000 per occurrence and \$5,000,000 in the annual aggregate, following the form and in excess of all liability policies. **All** liability coverages must be scheduled under the umbrella and/or excess policy. The insurance required under this paragraph shall be written in a form that annually reinstates all required limits. Coverage shall be primary to any insurance, self-insurance or reinsurance maintained by the District and the "other insurance" provision must be amended in accordance with this requirement and principles of vertical exhaustion.

B. PRIMARY AND NONCONTRIBUTORY INSURANCE.

The insurance required herein shall be primary to and will not seek contribution from any other insurance, reinsurance or self-insurance including any deductible or retention, maintained by the Government of the District of Columbia.

- 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 ten years for construction projects following final acceptance of the work performed under this contract and two years for non-construction related contracts.

- 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.** The 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 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 its 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. Certificates of insurance must reference the corresponding contract number. Evidence of insurance shall be submitted to:

**The Government of the District of Columbia
And mailed to the attention of:**

**Sharon Guilford
Document Control Specialist
Office of the Chief Financial Officer
Office of Contracts Sharon.guilford@dc.gov**

The CO may request, and the Contractor shall promptly deliver updated certificates of insurance, endorsements indicating the required coverages, and/or other evidence of the insurance policies. If the insurance initially obtained by the Contractor expires prior to completion of the contract, renewal certificates of insurance and additional insured and other endorsements shall be furnished to the CO prior to the date of expiration of all such initial insurance. For all coverage required to be maintained after completion, an additional certificate of insurance evidencing such coverage shall be submitted to the CO on an annual basis as the coverage is renewed (or replaced).

- 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.
- J. **CARRIER RATINGS.** All Contractor's and its subcontractors' insurance required in connection with this contract shall be written by insurance companies with an A.M. Best Insurance Guide rating of at least A- VII (or the equivalent by any other rating agency) and licensed in the in the District.

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** DOES 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 fails to meet the hiring requirements or does not receive a good faith waiver, the DOES 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.** Upon a second violation by a Contractor within a 10-year timeframe of requiring hiring or reporting requirements, or failure to receive a good faith waiver, DOES shall refer the Contractor for debarment for not more than five (5) years.
- I.31.9** Upon a second violation by a Contractor within a 10-year timeframe of the required hiring or reporting requirements, or failure to receive a good faith waiver, DOES may deem a Contractor ineligible of consideration for government-assisted projects within the District of Columbia for a period of not more than five (5) years.
- I.31.10** The contractor may appeal any decision of DOES pursuant to this clause to the D.C. Contract Appeals Board as provided in Section I.7.
- I.31.11** 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 RESERVED

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, pandemic, 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 Financial Management Control Order No. 15-14, OCFO Contracting Procedures for Services in Relation to Benefit Plans and the laws of the District of Columbia. Notwithstanding the foregoing, the provisions of the District of Columbia Procurement Practices Reform Act of 2010 (D.C. Code §2-351.01 et seq), the Small and Certified Business Enterprise Development and Assistance Amendment Act of 2014 (D.C. Code §2-219.01 et seq) and D.C. MUN. REGS. tit. 27 shall not apply to this contract. The OCFO Contracting Procedures for Services in Relation to Benefit Plans can be found on the OCFO Office of Contracts website at <https://sites.google.com/a/dc.gov/ocfo-procurements/Procurement-Guidance>.

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) Contractor Proposal

SECTION J
ATTACHMENTS

The following Attachments are hereby incorporated.

- J.1 U.S. Department of Labor Wage Determination No. 2015-4281, Revision 30, Dated 07/22/2024
- J.2 Doing Business with Integrity
- J.3 Intentionally Deleted
- J.4 Intentionally Deleted
- J.5 Intentionally Deleted
- J.6 Intentionally Deleted
- J.7 Intentionally Deleted
- J.8 Attachment A D.C. Official Code Title 47. Taxation, Licensing, Permits, Assessments and Fees
- J.9 Attachment B D.C. 2020 Census Statistics
- J.10 Attachment C Plan Statistics (Unaudited)
- J. 11 Attachment D 529 FY22 Annual Report
- J.12 Attachment E D.C. Regulations, 49 DCR 9859, November 1, 2002
- J.13 Attachment F D.C. College Savings Plan Summary Brochure
- J.14 Attachment G D.C. 529 Investment Policy Statement and Monitoring Procedures and Criteria
- J.15 Attachment H D.C. 529 Monthly Plan Activity Reports (form)
- J.16 Attachment I D.C. 529 Monthly Management Report (form)
- J.17 Attachment J Glidepath and Performance Data
- J.18 Attachment K Table of Bidder's Static and/or Individual Proposed Products
- J.19 Attachment L Pricing/Cost Analysis Spreadsheets

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):

Margaret Creonte, President, Ascensus Government Savings


Ascensus College Savings Recordkeeping Services, LLC

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.

N/A

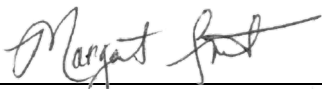
The Contractor hereby certifies that the information provided above is true, correct and complete.

 January 29, 2025 President

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*.

 January 29, 2025 President

Signature Date Title