

AWARD/CONTRACT			1. Solicitation Number		Page of Pages 1 51 + Attachments.	
2. Contract Number CFOPD-19-C-004		3. Effective Date See 20C		4. Requisition/Purchase Request/Project No.		
5. Issued By Office of the Chief Financial Officer Office of Contracts 1100 - 4th Street, SW., Suite E610 Washington, DC 20024			6. Administered By (If other than line 5)			
7. Name and Address of Contractor (No. Street, city, country, state and ZIP Code) Paige Industrial Services, Inc. 2828 10th Street NE Washington DC 20017 Attn: Devroux Paige, President/CEO devroux@paige-inc.com 202-832-8882 (o)				8. Delivery <input checked="" type="checkbox"/> FOB Destination <input type="checkbox"/> Other (See Schedule Section F)		
				9. Discount for prompt payment		
				10. Submit Invoices in accordance with Section G.3		
Code				Facility		Item
11. Ship to/Mark For Office of the Chief Financial Officer Office of Logistics and Support Services 1101 4th Street, SW, Suite W1636 Washington, DC 20024 202-442-6930			12. Payment will be made by Office of the Chief Financial Officer Office of Management and Administration Financial Operations/Accounts Payable 1100 4th Street, SW Suite E600 Washington, DC 20024 oma.invoicing @dc.gov			
13. Contract Type Firm Fixed Price			14. Accounting and Appropriation Data			
15A. Item	15B. Supplies/Services	15C. Qty	15D. Unit	15E. Unit Price	15F. Amount	
1	Office Renovatuoin	1	Lot	\$110,335.23	\$110,335.23	
Total Amount of Contract					\$110,335.23	
16. Table of Contents						
(X)	Section	Description	Pages	(X)	Section	Description
PART I - THE SCHEDULE				PART II - CONTRACT CLAUSES		
	A	Solicitation/Contract Form	1		I	Contract Clauses
	B	Supplies or Services and Price/Cost	2	PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACHMENTS		
	C	Description/Specifications/Work Statement	5		J	List of Attachments
	D	Packaging and Marking	8	PART IV - REPRESENTATIONS AND INSTRUCTIONS		
	E	Inspection and Acceptance	9		K	Representations, Certifications and Other Statements of Offerors
	F	Deliveries or Performance	11		L	Instructions, conditions & notices to offerors
	G	Contract Administration Data	12		M	Evaluation factors for award
	H	Special Contract Requirements	15			
Contracting Officer will Complete Item 17 or 18 as Applicable						
17 <input checked="" type="checkbox"/> CONTRACTOR'S NEGOTIATED AGREEMENT (Contractor is required to sign this document and return <u>1 pdf</u> copies to issuing office.) Contractor agrees to furnish and deliver all items or perform all the services set forth or otherwise identified above and on any continuation sheets for the consideration stated herein. The rights and obligations of the parties to this contract shall be subject to and governed by the following documents: (a) this award/contract, (b) the solicitation, if any, and (c) such provisions, representations, certifications, and specifications, as are attached or incorporated by reference herein. (Attachments are listed herein.)				18 <input type="checkbox"/> AWARD (Contractor is not required to sign this document.) Your offer on Solicitation Number _____, including the additions or changes made by you which additions or changes are set forth in full above, is hereby accepted as to the items listed above and on any continuation sheets. This award consummates the contract which consists of the following documents: (a) the Government's solicitation and your offer, and (b) this award/contract. No further contractual document is necessary.		
19A. Name and Title of Signer (Type or print) <i>DEVROUX M. PAIGE President-CEO</i>				20A. Name of Contracting Officer Anthony A. Stover, CPPO		
19B. Name of Contractor <i>Paige Industrial Services, Inc.</i>		19C. Date Signed <i>10/18/18</i>		20B. District of Columbia		20C. Date Signed <i>11-8-18</i>
(Signature of person authorized to sign)				(Signature of Contracting Officer)		

SECTION B
PRICE SCHEDULE

B.1 General Description

B.1.1 The Office of the Chief Financial Officer (“OCFO”) for the District of Columbia (“District”) and the Office of Contracts on behalf the Office of Logistics and Support Services (“OLSS”) requires a qualified contractor to perform renovations in its tenant space located at 1100 4th Street, SW Site E620, adjacent suites E610 and E630 Washington, DC 20024 as delineated on Attachment J.4 OCFO 6th Floor Alterations OMA for Office Space Renovation for the Office of the Chief Financial Officer.

B.2 Contract Type

The District awards a Firm Fixed Price contract with Firm Fixed unit prices.

B.3 Designation of Award for the D.C. Small Business Set Aside Market Only

This contract is designated only for certified small business enterprise (SBE) bidders under the provisions of the “Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005”, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.01 et seq.), as amended. Bidders must be certified at the time of submittal.

B.4 Price Schedule

- B.4.1 The Contractor shall provide a detailed list that breaks out all costs associated with this project. Cost shall include but not limited to direct costs, indirect costs, overhead, general and administrative costs, and profit. The Contractor shall perform all work for the Firm Fixed price stated in the Price Schedule. The Contractor shall provide and/or supply all necessary and required financial and personnel resources, and program management services required for the services. The term of this contract shall be an agreed term between the District of Columbia and the Contractor.
- B.4.2 In addition to providing an all-inclusive Firm Fixed Price, please identify all fees you propose for performing the work outlined in Section C. Describe the rationale for each of the fees and the basis on which they are calculated.

B.4.3 Base Period

Contract Line Item No. (CLIN)	Item Description	Firm Fixed Total Price
001	Office Space Renovation	<u>\$110,335.23</u>

B.4.3.a Base Year Price Breakdown

*DIVISION NO.	DESCRIPTION	PRICE OF EACH DIVISION COMPONENT
01	General Requirements	\$15,492.17
02	Existing Conditions (incl. abatement/demo. of existing structure)	\$9,708.24
03	Concrete	\$0.00
04	Masonry	\$
05	Metals	\$0.00
06	Wood and Plastics	\$6,699.07
07	Thermal and Moisture Protection	\$0.00
08	Opening	\$2,601.95
09	Finishes	\$22,770.70
10	Specialties	\$0.00
11	Equipment	\$0.00
12	Furnishings	\$0.00
13	Special Construction	\$0.00

14	Special Construction	\$0.00
15	Conveying Systems	\$0.00
21	Fire Suppressions	\$2,609.69
22	Plumbing	\$0.00
23	Heating, Ventilation and Air Conditioning	\$12,016.68
26	Electrical	\$38,436.73
27	Communication	\$0.00
28	Electronic Safety and Security	\$0.00
31	Earthwork	\$0.00
32	Exterior Improvements	\$0.00
33	Utilities	\$0.00
Base Year Price Breakdown		<u>\$110,335.23</u>

*Division – a discrete component of the work for which a separate price is requested. The “Total Price Breakdown” is the sum total of all components and must equal the Firm Fixed Total Price.

** Pricing shall include the breakout of all materials

B.4.4 Option Year One – Price to Be Determined

** Pricing shall include the breakout of all materials

B.4.5 Option Year Two – Price to Be Determined

** Pricing shall include the breakout of all materials

B.4.6 Option Year Three – Price to Be Determined

** Pricing shall include the breakout of all materials

B.4.7 Option Year Four – Price to Be Determined

** Pricing shall include the breakout of all materials

SECTION C

STATEMENT OF WORK

C.1 SCOPE

The Office of the Chief Financial Officer (“OCFO”) for the District of Columbia (“District”) and the Office of Contracts on behalf the Office of Logistics and Support Services (“OLSS”) requires a qualified contractor to renovate the commercial space located at 1100 4th Street, SW Site E620, adjacent suites E610 and E630 Washington, DC 20024 as delineated on Attachment J.4 OCFO 6th Floor Alterations OMA for Office Space Renovation for the Office of the Chief Financial Officer.

C.2 Requirements

C.2.1 The Contractor shall provide the necessary demolition, renovation, and construction services, in accordance with the OCFO 6th Floor Alterations OMA for Office Space Renovation (Attachment J.4) and as approved by the OCFO located at 1100 4th Street, SW Site E620, adjacent suites E610 and E630 Washington, DC 20024.

C.2.1.1 The Contractor shall complete the project requirements to include but not limited to the following:

- a. Partial demolition of existing partitions;
- b. Construction/Modification of spaces for new partition walls;
- c. Modification to existing Heating, Ventilating, and Air Conditioning (HVAC), lighting, electrical, plumbing, sprinklers, and fire alarm; and
- d. Modification of millwork and paint all walls where the contractor has performed work.

C.2.2 Duties to Be Performed

The Contractor shall meet the following requirements:

- a. Construction permits for this project shall be coordinated with the COTR and the architectural firm. The Contractor shall display all permits at the entrance to the worksite.
- b. The work for this renovation will be in an occupied building. All work shall be coordinated so as not to disrupt existing building operations including but not limited to HVAC, electric, sprinkler, fire alarm and security. All work must be performed in accordance with the property owners operating procedures which will be provided to the construction contractor at or immediately after contract award.
- c. The removal and reinstallation of modular system furniture shall be coordinated with the contractor, but these services shall be performed by a separate vendor at the instruction of the Contracting Officer Technical Representative (COTR).

- d. All IT activities shall be coordinated with the District's technology/communication Contractor (DC NET);
- e. The construction project will be performed in an occupied building during work hours of 8:00 AM thru 6:00 PM, Monday through Friday. After hours, weekend and holiday work may be required to limit disturbance to building occupants. Any work that creates excessive noise, dust, fumes and odors must be performed after normal business hours. The OCFO shall provide an escort for the contractor when after-hour work is required.
- f. The building is a restricted facility and the Contractor shall obtain advance permission to work in the building after normal business hours. The Contractor shall coordinate with the COTR to deliver construction materials after normal business hours via the loading dock.

C.2.3 Demolition and Construction

The Contractor shall coordinate all construction activities with District of Columbia Agencies responsible for respective areas of expertise including but not limited to:

- a. OCIO/OCTO/DCNET for information technology and communications;
- b. The Department of General Services (DGS)/Protective Services Division (PSD) for Security; and
- c. Cushman and Wakefield, Inc. for base building access to electrical and telecommunications facilities.

C.2.4 Project Communication and Meeting Minutes

C.2.4.1 The OCFO is available for consultation at any time during the contract. OCFO encourages open lines of communication by frequent consultation via telephone, email or in person. It is the responsibility of the contractor to document all conversations in writing, for the project record and notify OCFO of any issues that are deemed to be beyond the scope of work.

C.2.4.2 The Contractor shall be responsible for the generation and maintenance of all meeting minutes throughout the construction phases. The Contractor shall provide electronic copies of all meeting minutes that shall be submitted to the COTR within five business days following each meeting.

C.2.5 Performance Schedule

The Contractor shall prepare and furnish a performance schedule that shows the project beginning and completion dates.

C.2.6 Record Drawings

Upon completion of the construction phase, the Contractor shall prepare and deliver to the COTR one set of project record drawings and specifications in an electronic format acceptable to the District. The electronic drawings shall incorporate all revisions made by the Contractor during the construction phase and field changes noted on the contractor's marked-up field set.

C.2.7 Experience and Qualifications

The Contractor and the Contractor's personnel shall, at a minimum have the following qualifications and demonstrate the following

1. Licensed to do business in the District
2. Minimum of four (4) years' experience in construction
3. Be OSHA compliant

The Contractor shall provide evidence that demonstrates their capability.

SECTION D

PACKAGING AND MARKING

D.1 PACKAGING

D.1.1 All reports and deliverables that are in “hard copy” and physically transported through the U.S. mail or private courier services are to be securely packaged using the Contractor’s best practices.

D.2 MARKING

D.2.1 Unless otherwise specified herein, all reports and deliverables delivered under this contract must be plainly marked, stating the Contractor’s name, contract number and addressed to the recipient, including the name of the office or floor, and the recipient’s office telephone number as noted in the contract.

D.2.2 In case of carload lots, the Contractor shall tag the car, stating Contractor’s name and contract number. Any failure to comply with these instructions will place the material at the Contractor’s risk.

D.2.3 Deliveries by rail, water, truck or otherwise, must be within the working hours and in ample time to allow for unloading and if necessary, the storing of the materials or supplies before closing time. Deliveries at any other time will not be accepted unless specific arrangements have been previously made with the contact person identified in the contract at the delivery point.

SECTION E

INSPECTION, ACCEPTANCE AND WARRANTY OF SERVICES

E.1 INSPECTION

E.1.1 Inspection of all goods and services provided by the Contractor under this contract shall be performed by the Contracting Officer's Technical Representative ("COTR") identified in Section G.1 (b).

Inspection of Services

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

E.2 ACCEPTANCE

E.2.1 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 IS THE LIFE OF THE CONTRACT PLUS ALL ACTIVE OPTIONS AND EXTENSIONS.

(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 reperfomed 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
DELIVERABLES / PERFORMANCE

F.1 CONTRACT PERIOD

F.1.1. *Base Paid Period.* The base period of the contract shall begin upon the date of the Contracting Officer's signature and end one (1) year after.

F.1.2. *Options to extend.*

F.1.2.1 The District may extend the term of this contract for four (4) one-year option periods or fractions thereof. The District may exercise an option by written notice to the Contractor before expiration of the contract. The preliminary notice does not commit the District to an extension.

F.2 DELIVERABLES

F.2.1 All deliverables shall be submitted in accordance with the statement of work in Section C.

F.2.2 Reports that are required are to be submitted to the District as a deliverable(s) shall be delivered in accordance with the Statement of Work contained in Section C. If the report(s) is not submitted as part of the deliverables, final payment to the Contractor shall not be paid.

SECTION G

CONTRACT ADMINISTRATION DATA

G.1 CONTRACT ADMINISTRATION

(a) Contracting Officer

The Contracting Officer for this contract is:

Mr. Anthony A. Stover
Contracting Officer
Office of Contracts
Office of Management and Administration
Office of the Chief Financial Officer
1100 4th Street SW Suite 610 East
Washington, DC 20024
Phone: 202-442-7122
Email: Anthony.Stover@dc.gov

The Contracting Officer is the ONLY official authorized to legally bind the District or make changes to the terms and conditions of this contract. Only he or his designee can increase, decrease, extend or terminate this agreement. All other changes are unauthorized.

(b) Contracting Officer Technical Representative (COTR)

The COTR for this contract will maintain a close relationship with the Contractor and will ensure that the Contractor's work conforms to the day-to-day technical requirements of the contract. **It is understood and agreed that the COTR shall not have authority to make changes in the scope or terms and conditions of the contract.** The COTR is:

Ms. Brenda Proctor
Director of Logistics and Support Services
1101 4th Street, SW, Suite 1636
Washington, DC 20024
Phone: (202)-442-6932
Email: Brenda.Proctor@dc.gov

G.2 INVOICE PAYMENT

G.2.1 The District will make payments to the Contractor, upon the submission of proper invoices, at the prices stipulated in this contract, for supplies delivered and accepted or services performed and accepted, less any discounts, allowances or adjustments provided for in this contract.

G.2.2 The District will pay the Contractor on or before the 30th day after receiving a proper invoice from the Contractor. The District reserves the right to conduct post payment reviews or audits.

G.3 INVOICE SUBMITTAL

G.3.1 The Contractor shall submit proper invoices on a monthly basis or as otherwise specified in the contract.

G.3.2 The Contractor shall submit payment requests in electronic format through the DC Vendor Portal www.vendorportal.dc.gov by selecting the applicable purchase order number which is listed on the Contractor's profile.

G.3.3 To constitute a proper invoice, the Contractor shall attach to all payment request the invoice and all supporting documentation or information.

G.4 THE QUICK PAYMENT PROVISIONS

G.4.1 INTEREST AND PENALTIES TO CONTRACTORS

G.4.1.1 The District will pay interest penalties on amounts due to the Contractor under the Quick Payment Act, D.C. Official Code §2-221.01 *et seq.*, for the period beginning on the day after the required payment date and ending on the date on which payment of the amount is made. Interest shall be calculated at the rate of 1% per month. No interest penalty shall be paid if payment for the completed delivery of the item of property or service is made on or before the 15th day after the required payment date for any other item.

G.4.1.2 Any amount of an interest penalty which remains unpaid at the end of any 30-day period shall be added to the principal amount of the debt and thereafter interest penalties shall accrue on the added amount.

G.4.2 PAYMENTS TO SUBCONTRACTORS

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

- a. Pay the subcontractor for the proportionate share of the total payment received from the District that is attributable to the subcontractor for work performed under the contract; or
- b. Notify the District and the subcontractor, in writing, of the Contractor's intention to withhold all or part of the subcontractor's payment and state the reason for the nonpayment.

G.4.2.2 The Contractor shall pay any lower-tier subcontractor or supplier interest penalties on amounts due to the subcontractor or supplier beginning on the day after the payment is

due and ending on the date on which the payment is made. Interest shall be calculated at the rate of 1% per month. No interest penalty shall be paid if payment for the completed delivery of the item of property or service is made on or before the 15th day after the required payment date for any other item.

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

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

G.5 ASSIGNMENT OF CONTRACT PAYMENTS

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

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

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

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

G.6 FIRST SOURCE AGREEMENT REQUEST FOR FINAL PAYMENT

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

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

SECTION H

SPECIAL CONTRACT REQUIREMENTS

H.1 STAFFING

H.1.1 The Contractor shall not employ or permit the employment of any unfit or unqualified person or persons not skilled in the tasks assigned to them by the contractor. The Contractor shall at all times employ sufficient labor to carry out functions and services in the manner and time prescribed by the Contract. The Contractor shall be responsible to the District for all acts and omissions of the Contractor's employees, agents and subcontractors and the Contractor shall enforce strict discipline among the Contractor's employees, agents and subcontractors performing the services under the Contract. Any person employed by the Contractor shall, at the written request of the District, and within the District's sole discretion, be removed immediately by the Contractor from work relating to the Contract.

H.2 SUBCONTRACTS

H.2.1 The Contractor hereunder shall not subcontract any of the Contractor's work or services to any subcontractor without the prior, written consent of the Contracting Officer in consultation with the COTR. Any such subcontract shall specify that the Contractor and the subcontractor shall be subject to every provision of this Contract. Notwithstanding any such subcontract approved by the District, the Contractor shall remain liable to the District for all Contractor's work and services required hereunder, including any work conducted by a subcontractor.

H.3 CERTIFIED BUSINESS ENTERPRISE SUBCONTRACTING REQUIREMENTS

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

- (a) Subcontract at least 35% of the dollar volume to small business enterprises, as defined in D.C. Code §2-218.32; or
- (b) If there are insufficient qualified small business enterprises to completely fulfill the requirement set forth in H.3.1 (a), then the subcontracting requirement may be satisfied by subcontracting 35% of the dollar volume to any qualified certified business enterprises, as defined in D.C. Code §§2-218.31-39a; provided, that all reasonable efforts shall be made to ensure that qualified small business enterprises are significant participants in the overall subcontracting work.
- (c) For each government-assisted project for which a certified business enterprise is utilized to meet the subcontracting requirements set forth above in H.3.1 (a) or H.3.1 (b), the certified business enterprise shall perform at least 35% of the contracting effort with its own organization and resources.

- (d) Beneficiaries certified as a small business enterprise, local business enterprise, or disadvantaged business enterprise shall not have to comply with Sections H.3.1 (a) or H.3.1 (b).

H.3.2

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

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

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

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

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

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

- H.3.7 A Beneficiary shall submit within 15 days of contract award, to the Contracting Officer, project manager, District of Columbia Auditor and the Director of the Department of Small and Local Business Development copies of the executed contracts with the subcontracts identified in the subcontracting plan. Failure to submit copies of the executed contracts shall render the underlying contract voidable by the District.
- H.3.8 The Beneficiary shall provide written notice to the Department of Small and Local Business Development and District of Columbia Auditor upon the initiation and completion of a project.
- H.3.9 Within 15 days after the end of each quarter, the Beneficiary shall provide a quarterly report to the Department of Small and Local Business Development, the Contracting Officer, project manager and the District of Columbia Auditor which shall include a list of each subcontractor identified in the subcontracting plan and for each subcontract:
- (a) The price to be paid by the contractor to the subcontractor;
 - (b) A description of the goods procured or the services contracted for;
 - (c) The amount paid by the contractor to the subcontractor under the subcontract; and
 - (d) A copy of the fully executed subcontract, if it was not provided in a prior quarterly report. If not included, the Beneficiary shall not receive credit toward the subcontracting requirements of this section for that subcontract.
- H.3.10 The Beneficiary shall meet on an annual basis with the Department of Small and Local Business Development, the Contracting Officer, project manager and the District of Columbia Auditor to provide an update of the subcontracting plan for utilization of small business enterprises and certified business enterprises. The Department of Small and Local Business development shall provide the Beneficiary with a 30-day written notice of the meeting.
- H.3.11 A Beneficiary and/or certified business enterprise subject to this section, that fails to meet the requirements of this section shall be subject to penalties set forth in D.C. Code §2-218.63.
- H.3.12 Waiver of Subcontracting Requirements
- (a) The Director of the Department of Small and Local Business Development may waive the subcontracting requirements only if there is insufficient market capacity for the goods and services that comprise the project and such lack of capacity leaves the contractor commercially incapable of achieving the subcontracting requirements.
 - (b) Prior to submission of bids or proposals, the Beneficiary may request a waiver of the subcontracting requirements by timely filing a written request with the Contracting Officer detailing the reasons justifying a waiver, including the Beneficiary's efforts to secure involvement by Certified Business Enterprises, no later than March 2, 2015. The Contracting Officer will, in turn, use the Beneficiary's information to submit a waiver request to the Director of the Department of Small and Local Business Development.

- (c) The Contracting Officer will provide written notice of the waiver determination to the Beneficiary prior to the acceptance of bids or proposals and upon a decision of the waiver by the Director of the Department of Small and Local Business Development.
 - (d) The Beneficiary should provide the following information in its waiver request to the Contracting Officer to demonstrate the Beneficiary's good faith efforts to secure involvement by a Certified Business Enterprise:
 - i. Whether the Beneficiary advertised in general circulation, trade association, or other media outlets concerning the subcontracting opportunity;
 - ii. Whether the Beneficiary provided written notice to a reasonable number of certified business enterprises that their interest in the subcontracting opportunity was being solicited;
 - iii. Whether the Beneficiary conducted any pre-solicitation or pre-bid conferences to inform certified business enterprises of the subcontracting opportunity;
 - iv. Whether the Beneficiary provided sufficient time to allow certified business enterprises to participate effectively in its efforts to secure involvement by a certified business enterprise;
 - v. Whether the Beneficiary followed up responses of interest by conducting negotiations with certified business enterprises;
 - vi. Whether rejections by the Beneficiary of certified business enterprises as being unqualified were based on sound reasoning and thorough investigation of their capabilities;
 - vii. Whether the Beneficiary made efforts to assist interested certified business enterprises in obtaining bonding, lines of credit, or insurance required by the Beneficiary;
 - viii. Whether the Beneficiary effectively used the services of the Department of Small and Local Business Development, (202) 727-3900 and <http://dslbd.dc.gov>, in recruiting qualified certified business enterprises; and
 - ix. Whether bids submitted by certified business enterprises were excessive or noncompetitive based upon a review of prevailing market conditions.
 - (e) While the information described in (d) above will assist the Director of the Department of Small and Local Business Development in reviewing the waiver request, it does not guarantee that a waiver will, in fact, be approved. Additional factors may be considered and additional information may be requested from the Beneficiary to support the waiver request.
- H.3.13 In addition to the information provided by the Beneficiary, the Contracting Officer will include the following information in its written request for a waiver:
- (a) The number of certified business enterprises, if any, qualified to perform the elements of the work that comprise the project;
 - (b) A summary of the market research or outreach conducted to analyze the relevant market; and

- (c) The consideration given to alternate methods for acquiring the work to be subcontracted in order to make the work more amenable to being performed by certified business enterprises.

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

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

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

H.4 WARRANTIES

- H.4.1 The Contractor warrants and agrees that it is lawfully organized and constituted under all federal, state and local laws, ordinances and other authorities of its domicile and is otherwise in full compliance with all legal requirements of its domicile.
- H.4.2 The Contractor warrants and agrees that it is of legal authority and capacity to enter into and perform under the Contract, and that it has the financial ability to perform its obligations under such Contract.

- H.4.3 The Contractor warrants and agrees that it has been duly authorized to operate and do business in all places where it will be required to do business under the Contract that it has obtained or will obtain all necessary licenses and permits required in connection with such Contract; and that it will fully comply with all laws, decrees, labor standards and regulations of its domicile and wherever performance occurs during the term of such Contract.
- H.4.4 The Contractor warrants and agrees that it has no present interest and shall not acquire any interest which would conflict in any manner with its duties and obligations under the Contract.
- H.4.5 The Contractor warrants and agrees that all systems analysis, systems design and programming pursuant to the Contract or for use in its performance there under has been and shall be prepared or done in a high quality, professional and competent manner using only qualified personnel.
- H.4.6 The Contractor further represents and warrants that all programs implemented in its performance under the contract shall meet the performance standards required there under and shall correctly and accurately perform their intended functions on the equipment supplied by the District or Contractor.
- H.4.7 The Contractor warrants and agrees that all services provided by it under the Contract shall be performed in a prompt, high quality, professional and competent manner using only qualified personnel.
- H.4.8 The Contractor warrants and agrees that it will not take any action inconsistent with any of the terms, conditions, agreements, or covenants set forth in this Contract without the express written consent of the District.
- H.4.9 The Contractor warrants and agrees that it shall keep all equipment in good condition and repair, and shall not permit anything to be done that may materially impair the value thereof. The Contractor shall use such equipment only in the ordinary course of its performance under the Contract and shall not permit such equipment to be used in violation of any applicable law, regulation or policy of insurance. The Contractor agrees to develop a maintenance and replacement schedule subject to approval by the District and agrees to comply with that schedule.
- H.4.10 The Contractor warrants and agrees that it shall not sell, assign, lease, transfer, pledge, hypothecate, or otherwise dispose of any component of any goods, system proposed in the Contract or any interest therein, or permit any of it to become a fixture or accession to other goods or property without the prior written consent of the District.

H.5 DISCLOSURE OF LITIGATION

- H.5.1 Each Bidder shall include in its proposal a complete disclosure of any material civil or criminal litigation or indictment either threatened or pending involving the Bidder. The Bidder shall also disclose any material litigation threatened or pending for subcontractors,

consultants, and/or lobbyists. For purposes of this section, material refers to any action or pending action that a reasonable person knowledgeable in the industry would consider relevant or any development such a person would want to be aware of in order to stay fully apprised of the total mix of information relevant to the industry and its operations. This is a continuing disclosure requirement; any litigation commencing after submission of a Proposal shall be disclosed in a written statement within fifteen (15) days of its occurrence. The Contractor shall be required to file with the District comprehensive monthly reports regarding all threatened or pending litigation involving the Contractor's District of Columbia operations and all threatened or pending litigation that may be considered material to the overall operations of the Contractor.

H.6 CONTINUITY OF SERVICES

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

H.7 BACKGROUND INVESTIGATIONS AND OTHER INTEGRITY REQUIREMENTS

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

H.8 Crime Insurance

The Contractor shall maintain crime insurance with a limit of not less than one million dollars (\$1,000,000) protecting the District against losses, including lost income, lost profits, extra expenses and other consequential losses suffered by the District, resulting from loss of property (including money, securities, etc.) by robbery, burglary, or theft, or the loss of money, securities or District tickets because of destruction or disappearance. The Contractor shall provide the District with proof of such coverage no later than October 1st of each year the Contract is in effect.

H.9 Bonds and Insurance

All required bonds and insurance shall be issued by companies or financial institutions which are financially rated A or better as rated by A.M. Best Company and duly licensed, admitted, and authorized to do business in the District of Columbia. The District shall be named as the Obligee in each required bond and as an Additional Insured in each required insurance contract. Except as otherwise expressly provided herein, required coverage shall remain in effect throughout the term of the Contract and provide adequate coverage for incidents discovered after termination of the contract. The Contractor shall submit certificates of insurance to the District no later than January 1 of each year, except for the first year of the Contract in which the copies of the required certificates of insurance shall be submitted within fifteen (15) days after contract execution, or as otherwise provided herein. The District reserves the right to require the Contractor to provide copies of the required insurance contracts in addition to the certificates of insurance. Bidders shall submit required bonds when and as provided in herein.

H.10 Self Insurance

The Contractor may not elect to provide entirely or in part for the insurance/bond protections described in the contract through self-insurance. A deductible provision contained in an insurance policy that meets the requirements of the contract is not considered as self-insurance unless the deductible amount exceeds one percent (1%) of the face amount of the insurance policy.

H.11 Equipment

The Contractor hereby represents and warrants that all equipment provided shall be new, shall be free from defects in materials and workmanship, shall be merchantable and fit for the purpose, for which it is intended, and shall meet or exceed the performance standards and specifications required in the Contract. Any equipment, or component thereof, used by the Contractor pursuant hereto which does not conform to the foregoing shall be repaired or replaced by the Contractor without cost to the District in addition to other amounts the District may be entitled to in law or in equity, or as specified in the Contract.

H.12 Performance Bond

H.12.1 The Contractor shall, provide a performance bond in the amount equal to one-hundred percent (100%) of the contract price. The bond shall be maintained in full force and effect for the initial term and any and all renewal terms of the Contract. Should the contract price increase, the performance bond shall increase to ensure that it is equal to one-hundred percent (100%) of the contract price including said increase. The bond may be renewable on an annual basis provided that the Contractor provides the District with a renewed bond that is immediately effective upon expiration of the prior bond. Such renewed bond shall be provided to the District prior to the expiration of the previous bond. The bond shall be forfeited to the District if the Contractor fails to perform as required by the Contract. Neither non-renewal by the surety, nor failure or inability of the Principal to file a replacement bond in the event the surety exercises its right to not renew this Bond, shall itself constitute a loss to the Obligee recoverable under this bond or any extension. If the Contractor defaults in the performance of its contractual obligations or if the District incurs damages due to the Contractor's breach of its duties, the surety shall have the option to cure the default or tender funds sufficient to pay the cost of completion, up to an amount not to exceed the penal sum of the bond. With the concurrence of the District, the surety may assume the remainder of the contract to perform or sublet.

H.12.2 The Contractor shall provide evidence of all required coverage under the performance bond within fourteen (14) days of contract award at the following address:

Mr. Anthony Stover
Contracting Officer
Office of Contracts
Office of Management and Administration
Office of the Chief Financial Officer
1100 4th Street SW, Suite 610 East
Washington, DC 20024
Phone: 202-442-7122
Email: Anthony.Stover@dc.gov

With a copy of the COTR at the following address:

Ms. Brenda Proctor
Director of Logistics and Support Services
1101 4th Street, SW Suite 1636
Washington, DC 20024
Phone: 202-442-6392
Email: Brenda.Proctor@dc.gov

H.13 RESERVED**H.14 PAYMENT BOND**

For all construction contracts exceeding one hundred thousand dollars (\$100,000), the Contractor shall provide a payment bond as part of their response to the invitation for bids or request for proposals. The amount of the payment security shall be for fifty percent (50%) of the original contract price. The payment bond shall be executed by a surety company authorized to do business in the District or otherwise secured in a manner satisfactory to the District, for protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the construction work provided for in the contract. When the contract price is increased, the District may require additional payment security in an amount adequate to protect suppliers of labor and material. However, in no event shall the amount of payment security fall below fifty percent (50%) of the increased contract price.

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

I.1.1 To the extent applicable, the provisions of the following acts, together with the provisions of applicable regulations made pursuant to said acts are hereby incorporated by reference into this contract; together with the laws and regulations of the District of Columbia:

- A. Contract Work Standards Act of August 13, 1962, also known as the Contract Work Hours and Safety Standards Act of 1962, 76 Stat. 357-360.
- B. Buy American Act, Act of March 3, 1983, c.212, Title III, 47 Stat. 1520, as amended.
- C. Walsh-Healy Public Contracts Act, Act of June 30, 1936, c.881, 49 Stat. 2036, as amended. (Applies only when contract is \$10,000 or more).
- D. Mayor's Order 85-85, dated June 10, 1985, as amended, entitled: "Compliance with Equal Opportunity Obligations in Contracts." All required forms are available on the Office of Contracting and Procurement website at www.ocp.dc.gov (See Solicitation Attachments).
- 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.

I.2 WAIVER

I.2.1 The waiver of any breach of the contract will not constitute a waiver of any subsequent breach thereof, or a waiver of the contract.

I.3 INDEMNIFICATION

I.3.1 The Contractor agrees to defend, indemnify and hold harmless the District, its officers, agencies, departments, agents, and employees (collectively the "District") from and against any and all claims, losses, liabilities, penalties, fines, forfeitures, demands, causes of action, suits, costs and expenses incidental thereto (including cost of defense and attorneys' fees), resulting from, arising out of, or in any way connected to activities or work performed by the Contractor, Contractor's officers, employees, agents, servants, subcontractors, or any other person acting for or by permission of the Contractor in

performance of this Contract. The Contractor assumes all risks for direct and indirect damage or injury to the property or persons used or employed in performance of this Contract. The Contractor shall also repair or replace any District property that is damaged by the Contractor, Contractor's officers, employees, agents, servants, subcontractors, or any other person acting for or by permission of the Contractor while performing work hereunder.

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

I.4 TRANSFER

- I.4.1 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 \$50,000 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 \$50,000, 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 to the Contract Appeals Board.
- (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 to the Contract Appeals Board as authorized by D.C. Official Code § 2-360.04.
- (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 administrative appeal or action for judicial review is timely commenced by the Contractor as authorized by D. C. Official Code § 2-360.04.
- (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 to the Contract Appeals Board.
- (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 administrative appeal or action for judicial review is timely commenced by the Contractor as authorized by D.C. Official Code §2-360.04.
- (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

I.8.1 The Contracting Officer may, at any time, by written order, and without notice to the surety, if any, make changes in the contract within the general scope hereof. If such changes cause an increase or decrease in the cost of performance of this contract, or in the time required for performance, an equitable adjustment shall be made. Any claim for adjustment under this paragraph must be asserted within ten (10) days from the date the change is offered, provided, however, that the Contracting Officer, if he 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 failure to agree shall be considered a dispute. Nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

I.9 TERMINATION FOR DEFAULT

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

Officer may authorize in writing) after receipt of notice from the Contracting Officer specifying such failure.

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

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

I.10 TERMINATION FOR CONVENIENCE

- A. The District may, at any time, terminate performance of work under this contract in whole or 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. After receipt of a “Notice of Termination”, and except as directed by the Contracting Officer, the Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this clause: (i) Stop work as specified in the notice; (ii) 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; (iii) Terminate all contracts to the extent they relate to the work terminated; (iv) 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 shall have the right to settle or pay any termination settlement proposal arising out of those terminations; (v) 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; (vi) As directed by the Contracting Officer, transfer title and deliver to the District: (a) the fabricated and unfabricated parts, work in process, completed work, supplies, and other material produced or acquired for the work terminated; and (b) the completed or partially completed plans, drawings, information, and other property that, if the contract had been completed, would be required to be furnished to the District; (vii) Complete performance of the work not terminated; (viii) 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 have acquired an interest; (ix) Use its best efforts to sell, as directed or authorized by the Contracting Officer, any property of the types referred to in the subparagraph (vi) above; provided, however, that the Contractor is not required to extend credit to any purchase, and 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.

- B. After the expiration of ninety (90) days (or such longer period as may be agreed to) after receipt by the Contracting Officer of acceptable inventory schedules, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality of termination inventory not previously disposed of excluding items authorized for disposition by the Contracting Officer. The Contractor may request the District to remove those items or enter into an agreement for their storage. Within fifteen (15) days, the District will accept title to those items and remove them or enter into a storage agreement. The Contracting Officer may verify the list upon removal of the items, or if stored, within forty-five (45) days from submission of the list, and shall correct the list, as necessary, before final settlement.
- C. After termination, the Contractor shall submit a final 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 not later than six (6) months from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this 6-month period. However, if the Contracting Officer determines that the facts justify it, a termination settlement proposal may be received and acted on after six (6) months or any extension.
- D. 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 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, or paragraph F., below, exclusive of costs shown in subparagraph F (iii) below, may not exceed the total contract price as reduced by: (a) the amount of payments previously made, and (b) 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 of 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: (i) The contract price for completed supplies or services accepted by the District (or sold or acquired under subparagraph A(ix), above, not previously paid for, adjusted for any saving of freight and other charges. (ii) The total of—
- (a) 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(i), above;

- (b) 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(i) above; and
 - (c) A sum, as profit on subparagraph F. (i) 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 (c) and shall reduce the settlement to reflect the indicated rate of loss. (iii) The reasonable cost of settlement of the work terminated, including (a) Accounting, legal, clerical, and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data; (b) The termination and settlement of subcontracts (excluding the amounts of such settlement); and (c) 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 E., 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 paragraph C., E. or I., of this clause except that if the Contractor failed to submit the termination settlement proposal within the time provided in paragraph C. or I., 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 C., E. or I., the District shall pay the Contractor:
 - (a) the amount determined by the Contracting Officer if there is no right of appeal or if no timely appeal has been taken, or (b) the amount finally determined on an appeal. In arriving at the amount due the Contractor under this clause, there shall be deducted: (i) All unliquidated advance or other payments to the Contractor under the terminated portion of this contract; (ii) Any claim which the District has against the Contractor under this contract; and (iii) 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.
- I. 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 90 days from the effective date of termination unless extended in writing by the Contracting Officer.
- J. The District may, under the terms and conditions it prescribes, make any 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. 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 ten 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 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.

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

I.11 TERMINATION OF CONTRACTS FOR CERTAIN CRIMES AND VIOLATIONS

- A. The District may terminate without liability any contract and may deduct from the contract price or otherwise recover the full amount of any fee, commission, percentage, gift, or consideration paid in violation of this title if:
- (1) The Contractor has been convicted of a crime arising out of or in connection with the procurement of any work to be done or any payment made under this contract.
 - (2) There has been any breach or violation of:
 - (A) Any provision of the Procurement Practices Act of 1985, as amended, 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 NONDISCRIMINATION CLAUSE

- (a) The Contractor shall not discriminate in any manner against any employee or applicant for employment that would constitute a violation of the District of Columbia Human Rights Act, approved December 13, 1977, as amended (D.C. Law 2-38; D.C. Official Code §2-1402.11) (2001 Ed.) (“Act” as used in this Section). The Contractor shall include a similar clause in all subcontracts, except subcontracts for standard commercial supplies or raw materials. In addition, Contractor agrees and any subcontractor shall agree to post in conspicuous places, available to employees and applicants for employment, notice setting forth the provisions of this non-discrimination clause as provided in Section 251 of the Act.
- (b) Pursuant to rules of the Office of Human Rights, published on August 15, 1986 in the D.C. Register, Mayor’s Order 2002-175 (10/23/02), 49 DCR 9883 and Mayor’s Order 2006-151 (11/17/06), 52 DCR 9251, 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

I.14.1 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 not 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

I.15.1 The Contractor hereby agrees that the District may use all or any portion of any consideration or refund due the Contractor under the present contract to satisfy in whole or part, any debt due the District.

I.16 NON-DISCLOSURE AGREEMENT

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

I.17 GOVERNMENT PROPERTY

I.17.1 Contractor use of Government property shall be governed by Chapter 41 of Title 27 of the D.C. Municipal Regulations.

I.18 RESERVED

I.19 PATENTS

I.19.1 The Contractor shall hold and save the District, its officers, agents, servants and employees harmless from liability of any nature or kind, including costs, expenses, for or on account of any patented or unpatented invention, article, process, or appliance, manufactured or use in the performance of this contract, including their use by the

District, unless otherwise specifically stipulated in this contract.

I.20 RESPONSIBILITY FOR SUPPLIES TENDERED

I.20.1 The Contractor shall be responsible for the materials or supplies covered by this contract until they are delivered at the designated point, but the Contractor shall bear all risk on rejected materials or supplies after notification of rejection. Upon failure to do so within ten days after notification, the District may return the rejected materials or supplies to the Contractor at the Contractor's risk and expense.

I.21 APPROPRIATION OF FUNDS

I.21.1 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

I.22.1 If funds are not 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 EXPIRATION OR CANCELLATION

I.23.1 In the event this contract is cancelled because of non-availability of funds or non-appropriation of funds for any subsequent fiscal year, there shall be a cancellation ceiling of zero dollars representing reasonable pre-production and non-recurring cost, which would be applicable to the items of the life of the contract. If the contract is canceled due to unavailability of funds, the Contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the supplies delivered or services performed under the contract.

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

I.24.1 Any contract in excess of one million dollars (\$1,000,000) within a 12-month period shall not be binding or give rise to any claim or demand against the District unless first

approved by the Council of the District of Columbia and signed by the Contracting Officer.

I.25 LIVING WAGE ACT OF 2006 REQUIREMENTS

I.25.1 Contractor shall comply with the provisions of 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.

I.25.1.1 The Living Wage Act of 2006 requires a contractor to:

1. Pay its employees and subcontractors who perform services under the contract no less than the current living wage;
2. Include in any subcontract for \$15,000.00 or more a provision requiring the subcontractor to pay its employees who perform services under the contract no less than the current living wage rate;
3. Provide a copy of the Living Wage Act Fact Sheet to each employee and Subcontractor who performs services under the contract;
4. Post the Living Wage Act Notice in a conspicuous place in its place of business;
5. Include in any subcontract for \$15,000.00 or more a provision requiring the subcontractor to post the Living Wage Act Notice in a conspicuous place in its place of business;
6. Maintain its payroll records under the contract in the regular course of business for a period of at least three (3) years from the payroll date; and
7. Require its subcontractors with subcontracts for \$15,000.00 or more under the contract to maintain its payroll records under the contract in the regular course of business for a period of at least three (3) years from the payroll date.
8. The Current Living Wage Rate is \$14.20.

I.25.1.2 The Living Wage Act Fact Sheet may be found at <https://sites.google.com/a/dc.gov/ocfo-procurements/> under the title: Living Wage Act Fact Sheet and is provided in accordance with the provisions of the above referenced DC statutes.

I.26 RESERVED

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

I.27.1 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”)

I.28.1 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 PROPRIETARY REQUIREMENTS

I.29.1 Trade secrets or similar proprietary data, which the Contractor or the District does not wish disclosed to other than personnel involved in the evaluation or contract administration will be kept confidential to the extent permitted. The District and the Contractor shall identify and mark all proprietary materials.

I.30 INSURANCE

I.30.1 The Contractor shall obtain the minimum insurance coverage set forth below prior to award of the contract and within ten (10) calendar days after being called upon by the District to do so and keep such insurance in force throughout the contract period.

I.30.1.1 Bodily Injury: The Contractor shall carry bodily injury insurance coverage written in the comprehensive form of policy of at least five hundred thousand dollars (\$500,000) per occurrence.

I.30.1.2 Property Damage: The Contractor shall carry property damage insurance of at least one hundred thousand dollars (\$100,000) per occurrence.

I.30.1.3 Workers' Compensation: The Contractor shall carry workers' compensation insurance covering all of its employees employed upon the premises and in connection with its other operations pertaining to the contract, and the Contractor agrees to comply at all times with the provisions of the workers' compensation laws of the District.

I.30.1.4 Employer's Liability: The Contractor shall carry employer's liability coverage of at least one hundred thousand dollars (\$100,000).

- I.30.1.5 Automobile Liability: The contractor shall maintain automobile liability insurance written on the comprehensive form of policy. The policy shall provide for bodily injury and property damage liability covering the operation of all automobiles used in connection with performing the contract. Policies shall provide coverage of at least two hundred thousand dollars (\$200,000) per person and five hundred thousand dollars (\$500,000) per occurrence for bodily injury and twenty thousand dollars (\$20,000) per occurrence for property damage.
- I.30.1.6 The Contractor shall maintain in full force and effect during the term of the contract professional liability insurance in an aggregate amount not less than five million dollars (\$5,000,000).
- I.30.1.7 If the professional liability insurance policy that the Contractor has is a "Claims Made" policy, the Contractor must also obtain a tail coverage policy for a seven (7) year period.
- I.30.1.8 The Contractor shall maintain crime insurance with a limit of not less than five hundred thousand dollars (\$500,000) protecting the District against losses, including lost income, lost profits, extra expenses and other consequential losses suffered by the District, resulting from loss of property (including money, securities, etc.) by robbery, burglary, or theft, or the loss of money, or securities. The Contractor shall provide the District with proof of such coverage no later than October 1st of each year the Contract is in effect.
- I.30.1.9 All insurance provided by the Contractor as required by this section I.8, except comprehensive automobile liability insurance, shall set forth the District as an additional named insured. All insurance shall be written with responsible companies licensed by the District of Columbia's Department of Insurance and Securities Regulation with a certificate of insurance to be delivered to the CO with a copy to the COTR within fourteen (14) days of contract award. The policies of insurance shall provide for at least thirty (30) days written notice to the District prior to their termination or material alteration.

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

- I.31.1 For contracts for services in the amount of \$300,000 or more, the Contractor shall comply with the First Source Employment Agreement Act of 1984, as amended, D.C. Official Code § 2-219.01 et seq. (First Source Act).
- I.31.2 The Contractor shall enter into and maintain during the term of the contract, a First Source Employment Agreement (Employment Agreement) with the District of Columbia Department of Employment Service's (DOES), in which the Contractor shall agree that:
- (a) The first source for finding employees to fill all jobs created in order to perform the contract shall be the First Source Register; and

- (b) The first source for finding employees to fill any vacancy occurring in all jobs covered by the Employment Agreement shall be the First Source Register.
- I.31.3 The Contractor shall not begin performance of the contract until its Employment Agreement has been accepted by DOES. Once approved, the Employment Agreement shall not be amended except with the approval of DOES.
- I.31.4 The Contractor agrees that at least 51% of the new employees hired to perform the contract shall be District residents.
- I.31.5 The Contractor's hiring and reporting requirements under the First Source Act and any rules promulgated thereunder shall continue for the term of the contract.
- I.31.6 The CO may impose penalties, including monetary fines of 5% of the total amount of the direct and indirect labor costs of the contract, for a willful breach of the Employment Agreement, failure to submit the required hiring compliance reports, or deliberate submission of falsified data.
- I.31.7 If the Contractor does not receive a good faith waiver, the CO may also impose an additional penalty equal to 1/8 of 1% of the total amount of the direct and indirect labor costs of the contract for each percentage by which the Contractor fails to meet its hiring requirements.
- I.31.8 Any contractor which violates, more than once within a 10-year timeframe, the hiring or reporting requirements of the First Source Act shall be referred for debarment for not more than five (5) years.
- I.31.9 The contractor may appeal any decision of the CO pursuant to this clause to the D.C. Contract Appeals Board as provided in clause I.7, Disputes.
- I.31.10 The provisions of the First Source Act do not apply to nonprofit organizations which employ 50 employees or less.

I. 32 COVENANT AGAINST CONTINGENT FEES

- I.32.1 The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the District will have the right to terminate the contract without liability or in its discretion to deduct from the contract price or consideration or otherwise recover the full amount of the commission, percentage, brokerage, or contingent fee.

I.33 HEALTH AND SAFETY STANDARDS

I.33.1 Items delivered under this contract shall conform to all requirements of the Occupational Safety and Health Act of 1970, as amended (“OSHA”), and Department of Labor Regulations under OSHA, and all Federal requirements in effect at time of proposal submission.

I.34 AUDITS AND RECORDS

I.34.1 As used in this clause, “records” includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.

I.34.2 **Examination of Costs.** If the award is a cost-reimbursement, incentive, time-and-materials, labor-hour, or price redeterminable contract, or any combination of these, the Contractor shall maintain and the Contracting Officer and the COTR, shall have the right to examine and audit all records and other evidence sufficient to reflect properly all costs claimed to have been incurred or anticipated to be incurred directly or indirectly in performance of this contract. This right of examination shall include inspection at all reasonable times of the Contractor’s plants or offices, or parts of them, engaged in performing the contract.

I.34.3 **Cost or pricing data.** If the Contractor has been required to submit cost or pricing data in connection with any pricing action relating to the contract or task orders issued there under, the Contracting Officer and the COTR, or an authorized representative of the Contracting Officer, in order to evaluate the accuracy, completeness, and currency of the cost or pricing data, shall have the right to examine and audit all of the Contractor’s records, including computations and projections, related to:

- a. The bid for the contract, subcontract, modification, or task order;
- b. The discussions conducted on the bid(s), including those related to negotiating;
- c. Pricing of the contract, subcontract, modification, or task order; or
- d. Performance of the contract, subcontracts, modification, or task order.

I.34.4 Office of the Inspector General

I.34.4.1 The Office of the Inspector General, or an authorized representative, shall have access to and the right to examine any of the Contractor’s directly pertinent records involving transactions related to this contract or a subcontract there under.

I.34.4.2 This paragraph may not be construed to require the Contractor or any subcontractor to create or maintain any record that the Contractor or subcontractor does not maintain in the ordinary course of business or pursuant to a provision of law.

I.34.5 **Reports.** If the Contractor is required to furnish cost, funding, or performance reports, the Contracting Officer and the COTR shall have the right to examine and audit the supporting records and materials, for the purpose of evaluating:

- a. The effectiveness of the Contractor's policies and procedures to produce data compatible with the objectives of these reports; and
- b. The data reported.

I.34.6 **Availability.** The Contractor shall make available at its office at all reasonable times the records, materials, and other evidence described in clauses I.34.1 through I.34.5, for examination, audit, or reproduction, until three (3) years after final payment under the contract or for any shorter period specified in this Solicitation, or for any longer period required by statute or by other clauses of the contract. In addition:

- a. If this contract is completely or partially terminated, the Contractor shall make available the records relating to the work terminated until three (3) years after any resulting final termination settlement; and
- b. The Contractor shall make available records relating to appeals under the Disputes clause or to litigation or the settlement of claims arising under or relating to this contract until such appeals, litigation, or claims are finally resolved.

I.34.7 The Contractor shall insert a clause containing all the terms of this clause, including this section I.34.7, in all subcontracts under this contract that exceed the small purchase threshold of \$100,000, and:

- a. That are cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable type or any combination of these;
- b. For which cost or pricing data are required; or
- c. That requires the subcontractor to furnish reports described in I.34.5 of this clause.

I.35 FORCE MAJEURE

I.35.1 Neither the Contractor nor the District shall be deemed in default or otherwise liable hereunder due to either party's inability to perform by reason of any fire, earthquake,

flood, epidemic, accident, explosion, casualty, strike, lockout, labor controversy, riot, civil disturbance, act of public enemy, embargo, war, act of God, or any municipal, county, state or national ordinance or law, or any executive, administrative or judicial orders (which judicial orders are not the result of any act or omission to act which would constitute a default hereunder), or any failure or delay of any transportation, power or other essential thing required, or similar causes beyond the parties control.

I.36 GOVERNING LAW

I.36.1 This contract shall be governed by, and construed in accordance with, the laws of the

District of Columbia, including, but not limited to, the District of Columbia Procurement Practices Act and D.C. MUN. REGS. tit. 27.

I.37 ORDER OF PRECEDENCE

I.37.1 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) Bid Dated June 20, 2018

SECTION J
ATTACHMENTS

The following attachments are hereby incorporated.

Attachment Number	Document
J.1	U.S. Department of Labor Wage Determination No. 2015-4281 Revision No.: 11 Dated 07/03/2018
J.2	Bidder/Offeror Certifications
J.3	Doing Business with Integrity
J.4	OCFO 6 th Floor Alterations OMA

SECTION K

REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF BIDDERS

K.1 AUTHORIZED OFFICERS

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

Frederick Gramlich Vice President 240-216-4674

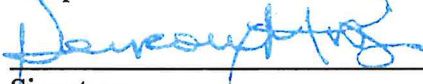
Joesph Merton Vice President 240-216-4678

K.2 PENDING LEGAL CLAIMS AGAINST THE DISTRICT

The Bidder 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. Bidders with pending legal claims against the District are not automatically precluded from contract award. If Bidder does not have any pending legal claims against the District, please indicate this below.

No legal claims against the District

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



9/19/2018

President/CEO

Signature

Date

Title

K.3 TERMS AND CONDITIONS CERTIFICATION

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



9/19/2018

President/CEO

Signature

Date

Title