

AWARD/CONTRACT		1. Solicitation Number CFOPD-16-R-059	Page of Pages 1 56 + Attachments				
2. Contract Number CFOPD-17-C-025E		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		Code	6. Administered By (If other than line 5)				
7. Name and Address of Contractor (No. Street, city, country, state and ZIP Code) Orrick, Herrington & Sutcliffe LLP 1152 15th Street, NW Washington DC 20005 Attn: Darrin L. Glymph, Partner <u>dglymph@orrick.com 202-339-8401 (o)</u>		8. Delivery <input checked="" type="checkbox"/> FOB Destination <input type="checkbox"/> Other (See Schedule Section F)		9. Discount for prompt payment			
Code		Facility		10. Submit Invoices to the Address shown in Line 12 Item (2 copies unless otherwise specified)			
11. Ship to/Mark For Office of the Chief Financial Officer Office of the General Counsel John A Wilson Building 1350 Pennsylvania Avenue, NW, Room 200 Washington, DC 20004 Telephone No. 202-727-4221		Code	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 Requirements with NTE Ceiling		14. Accounting and Appropriation Data					
15A. Item	15B. Supplies/Services	15C. Qty	15D. Unit	15E. Unit Price	15F. Amount		
1	Bond Counsel Legal Services	N/A	N/A	N/A	NTE \$950,000		
Total Amount of Contract					NTE \$950,000.00		
16. Table of Contents							
(X)	Section	Description	Pages	(X)	Section	Description	Pages
PART I - THE SCHEDULE				PART II - CONTRACT CLAUSES			
	A	Solicitation/Contract Form	1		I	Contract Clauses	30
	B	Supplies or Services and Price/Cost	2	PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACHMENTS			
	C	Description/Specifications/Work Statement	7		J	List of Attachments	55
	D	Packaging and Marking	11	PART IV - REPRESENTATIONS AND INSTRUCTIONS			
	E	Inspection and Acceptance	12		K	Representations, Certifications and Other Statements of Offerors	56
	F	Deliveries or Performance	13		L	Instructions, conditions & notices to offerors	
	G	Contract Administration Data	15		M	Evaluation factors for award	
	H	Special Contract Requirements	19				
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</u> pdf 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>DARRIN L. GLYMPH, Partner</i>				20A. Name of Contracting Officer Anthony A. Stover, CPPO			
19B. Name of Contractor <i>Darrin L. Glymph</i>		19C. Date Signed <i>5/8/17</i>		20B. District of Columbia <i>Anthony A. Stover</i>		20C. Date Signed <i>5-31-17</i>	
<small>(Signature of person authorized to sign)</small>				<small>(Signature of Contracting Officer)</small>			

SECTION B
SERVICES AND PRICES

B.1 OVERVIEW OF SERVICES

The District of Columbia, a municipal corporation, by and through its Office of Contracts within the Office of the Chief Financial Officer (“OCFO”), on behalf of the Office of General Counsel (“OGC”) within the OCFO (“District”), requires a law firms to represent the District in connection with:

- (1) The issuance and sale of municipal securities, including general obligation bonds and notes, revenue bonds and notes, and other obligations under the District of Columbia Home Rule Act, approved December 24, 1973 (Pub. L. No. 93-198; 87 Stat. 774; D.C. Official Code § 1-201.01 et seq.) (“Home Rule Act”), sections 424(d), 461, 471, 472 and 490 (D.C. Official Code sections 1-204.24d, 1-204.61, 1-204.71, 1-204.72, and 1-204.90), and the statutes adopted thereunder, as now existing or as hereafter amended, and the development and implementation of various economic development and financing programs and initiatives financed through the borrowing;
- (2) The review of proposed or existing private uses of District property and/or facilities (“Facilities”) financed in whole or in part with tax-exempt municipal securities issued by the District or its instrumentalities. As Facilities continue to age beyond their viability for District purposes, the District may seek to sell or lease all or a part of such Facilities to private parties; and
- (3) Providing tax counsel services as requested by the District with regard to the Internal Revenue Code and the rules and regulations governing tax-exempt municipal securities. Such services include, but are not limited to, legal advice and opinions relating to whether an existing or proposed District action or transaction, individually or in conjunction with other actions or transactions will or will not render applicable tax-exempt District municipal securities taxable; how a proposed District active or proposed transaction should be structured or restricted to comply with Internal Revenue Service requirements; and whether there is or is not a viable method of achieving the proposed transactions short of refunding the affected tax-exempt District municipal securities or, in the case of proposed new Facilities, issuing taxable municipal bonds. This will include qualified subsequent agreements and P3’s.

B.1.1 The process of obtaining bond counsel service contracts through this solicitation and request for proposals (“Solicitation”), and the task orders issued pursuant to a contract hereunder are exempt from the District of Columbia Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-351.01 *et seq.*) and the regulations promulgated thereunder, including DCMR Title 27. This solicitation is to establish a consistent and fair process for the District to obtain the best combination of quality and value for bond counsel services based on considerations and evaluations including, without limitations, the Offeror’s knowledge, experience, business practice, other practice areas associated with financing transactions (including, but not limited to securities, tax, real property and contracts) accessibility, available staff, cost, past working experiences with the District, knowledge of applicable District and federal law, and the District’s need (“Best Value Consideration”). The District will issue task orders in accordance with Section G.9.

B.2 INDEFINITE DELIVERY INDEFINITE QUANTITY (IDIQ) CONTRACT

This is an IDIQ contract for the services specified and effective for the period stated.

- a. This contract is a one-year contract with four options to renew at the option of the District. The base year or each renewal period is individually a contract period (“Contract Period”). The minimum amount of the contract for each contract period is \$1,000 and the maximum is \$950,000. In the event the District awards multiple contracts, the minimum and maximum contract amounts shall be the same as stated above for each contract and for each contract period. The District may exercise its option to renew a contract in accordance with Section F.
- b. Delivery or performance shall be made only as authorized by task orders issued in accordance with the Ordering Clause, Section G.9. The Contractor shall furnish to the District, when and if ordered, the services specified in accordance with Schedule B.3 and Section C unless otherwise specified in the applicable task order. The District will order services or pay at least the minimum dollar value of \$1,000.00 per contract period. In the event the District awards multiple contracts, the maximum and minimum dollar value will be the same as stated above for each contract and for each Contract Period.
- c. There is no limit on the number of task orders that may be issued to a contractor during any Contract Period, and there is no assurance that a Contractor will receive any task orders.
- d. Any task order issued during a Contract Period and not completed within that period shall be completed by the Contractor within the time specified in the task order. As specified below, the Contractor shall notify the District, in advance, if the task order price may be exceeded or the time of performance will exceed the expiration of the task order. **ANY CHARGES INCURRED IN EXCESS OF THE AMOUNT IN A TASK ORDER OR PERFORMED BEYOND THE EXPIRATION DATE OF THE TASK ORDER IS NOT ELIBIGLE FOR PAYMENT UNLESS APPROVED IN ADVANCE BY THE CONTRACTING OFFICER IN ACCORDANCE WITH SECTION G.9.6.** The contract shall govern the Contractor's and District's rights and obligations with respect to that task order to the same extent as if the task order were completed during the Contract Period.

B.3 PRICE AND COST SCHEDULE OF SERVICES

The Contractor shall provide bond counsel services pursuant to the scope of work described in Section C.1 and Administrative Requirements in Section C.3 with the rates as outlined in the price schedules below. The cost reimbursement components as described in Section G.10 shall not exceed \$100,000.00 in any period. The following rates shall remain in effect throughout the duration of the contract. Further, The Contractor shall specifically state the names and rates of each professional in each category, as applicable.

B.3.1 BASE YEAR

CLIN	Item Description	Price Per Unit
001	Partner: Tax Lawyer Securities Lawyer	\$ <u>715.00</u> /hour \$ <u>N/A</u> /hour
002	Counsel: Tax Lawyer Securities Lawyer	\$ <u>610</u> / hour \$ <u>N/A</u> /hour
003	Associate: Tax Lawyer Securities Lawyer	\$ <u>440.00</u> /hour \$ <u>N/A</u> /hour
004	Paralegal/Legal Assistant	\$ <u>185.00</u> /hour

B.3.2 OPTION YEAR ONE

CLIN	Item Description	Price Per Unit
011	Partner: Tax Lawyer Securities Lawyer	\$ <u>750.00</u> /hour \$ <u>N/A</u> /hour
012	Counsel: Tax Lawyer Securities Lawyer	\$ <u>640.00</u> /hour \$ <u>N/A</u> /hour
013	Associate: Tax Lawyer Securities Lawyer	\$ <u>465.00</u> / hour \$ <u>N/A</u> /hour
014	Paralegal/Legal Assistant	\$ <u>195.00</u> / hour

B.3.3 OPTION YEAR TWO

CLIN	Item Description	Price Per Unit
021	Partner: Tax Lawyer Securities Lawyer	\$ <u>790.00</u> / hour \$ <u>N/A</u> /hour
022	Counsel: Tax Lawyer Securities Lawyer	\$ <u>675.00</u> / hour \$ <u>N/A</u> /hour
023	Associate: Tax Lawyer Securities Lawyer	\$ <u>490.00</u> / hour \$ <u>N/A</u> /hour
024	Paralegal/Legal Assistant	\$ <u>205.00</u> / hour

B.3.4 OPTION YEAR THREE

CLIN	Item Description	Price Per Unit
031	Partner: Tax Lawyer Securities Lawyer	\$ <u>830.00</u> /hour \$ <u>N/A</u> /hour
032	Counsel: Tax Lawyer Securities Lawyer	\$ <u>710.00</u> /hour \$ <u>N/A</u> /hour
033	Associate: Tax Lawyer Securities Lawyer	\$ <u>515.00</u> /hour \$ <u>N/A</u> /hour
034	Paralegal/Legal Assistant	\$ <u>215.00</u> /hour

B.3.5 OPTION YEAR FOUR

CLIN	Item Description	Price Per Unit
041	Partner: Tax Lawyer Securities Lawyer	\$ <u>870.00</u> / hour \$ <u>N/A</u> /hour
042	Counsel: Tax Lawyer Securities Lawyer	\$ <u>745.00</u> / hour \$ <u>N/A</u> /hour
043	Associate: Tax Lawyer Securities Lawyer	\$ <u>540.00</u> / hour \$ <u>N/A</u> /hour
044	Paralegal/Legal Assistant	\$ <u>225.00</u> / hour

SECTION C
DESCRIPTION/SPECIFICATIONS/WORK STATEMENT

C.1 SCOPE OF WORK

The Contractor, under the direction and supervision of the OGC, shall provide bond counsel services in connection with taxable and tax-exempt capital and operational borrowings of the District. These borrowings include general obligation bonds and notes, revenue bonds and notes (including the income tax secured revenue bonds and notes, the TIF and PILOT bonds and notes), governmental, enterprise and other revenue bonds and notes, master lease financing, other obligations authorized under the Act, and the refunding of such bonds and notes. The Contractor shall be responsible for the following duties in connection with these transactions:

1. Conducting preliminary legal analysis and legal sufficiency determinations, as requested;
2. Developing all necessary legal documentation;
3. Assisting the District in the development of the financing structure in accordance with applicable laws;
4. Drafting and/or reviewing all financing and closing documents;
5. Providing assistance with the issuance and sale of the bonds and notes;
6. Reviewing and verifying financial calculations;
7. Rendering legal opinions as to the proper issuance of the debt and the legality, validity and status of the bonds and notes with regard to federal and District income taxation;
8. Assisting the District in responding to requests for information and assistance from regulatory agencies, rating agencies, and District government officials or employees concerning compliance of current and prospective transactions with federal tax laws and other matters;
9. Assisting in the preparation and development of preliminary and final offering documents and providing customary related opinions;
10. Arranging for the printing of the bonds and notes (if applicable);
11. Coordinating administrative tasks required to complete closing of all transactions;
12. Participating in all meetings associated with the issuance of the bonds and notes, as requested;
13. Drafting and reviewing legislation, internal rules and regulations related to the issuance of such bonds, notes or other obligations;
14. Providing expert legal testimony before courts or public bodies related to such purposes;
15. Cooperating with the OCFO and the Office of the Attorney General in the discharge of all duties as bond counsel consistent with the Chief Financial Officer's duties relating to District borrowing transactions and the Attorney General's statutory responsibility for all legal business of the District;
16. Providing analysis of and advice on municipal finance, federal and state income tax, or other taxes that relate to the payment of interest on bonds or as security for bonds, real estate, securities, bond issuance, bankruptcy, and banking laws or other laws necessary for the issuance of such bonds, notes or other debt instruments;
17. Providing assistance in the development of presentation materials for rating agencies and investors;
18. Assisting the District in the establishment and development of new financing programs and the improvement of existing programs to expand the District's financing options, reduce borrowing costs and maximize financial benefits;

19. Apprising the District of the development, status and updates of municipal financing laws and regulations;
20. Compiling and deliver the closing transcription CD or binder to the District in requested numbers within 60 days from the closing of the financing transaction;
21. Issuing and selling of general obligation bonds and notes, income tax secured bonds and notes, bond anticipation notes, tax revenue anticipation notes, revenue bonds and notes and other debt instruments;
22. Issuing and selling of TIF notes or bonds, PILOT notes or bonds, and notes or bonds or other debt or financing instruments related to economic development financings;
23. Issuing of municipal securities in complex transactions that involve multiple parties and financing mechanism including, without limitations, public-private joint development projects, energy, utility, transportation or infrastructure financing, and transactions and projects with federal funding or other public or private funding;
24. Providing legal advice and consultation services in connection with economic development financing programs and initiatives;
25. Providing federal and local tax and securities expertise;
26. Responding to applicable requests from the Internal Revenue Service;
27. Reviewing proposed private uses of existing or proposed District property and/or facilities financed all or in part with tax-exempt bonds or notes issued by the District or its instrumentalities (the "Facilities") and advising on a project's effect on the tax exemption of outstanding or prospective bonds or notes;
28. Advising on alternative structures to either eliminate any adverse effect on the outstanding tax-exempt bonds or notes or to redeem, refund, or otherwise address the outstanding tax-exempt bonds or notes so as not to lose the tax exemption thereon;
29. Assisting the District with the structuring and scope of a refunding or defeasance of tax-exempt bonds or notes that are attributable to private activity bonds or notes;
30. Drafting and/or reviewing legislations, rules and regulations related to the private use of Facilities funded with tax-exempt bonds, notes or other District obligations in compliance with IRS requirements;
31. Providing legal advice, opinions and assistance as requested by the District including, but not limited to: (1) the Internal Revenue Code and the regulations and rulings governing tax-exempt bonds; (2) whether a proposed transaction will or will not render applicable tax-exempt bonds taxable; (3) how a proposed transaction should be cost structured to comply with Internal Revenue Service ("IRS") requirements; (4) whether there is no viable method of achieving the proposed transaction short of refunding or advance refunding the affected tax-exempt bonds, or, in the case of new Facilities, issuing taxable bonds; and (5) a refunding or defeasance of certain outstanding tax-exempt bonds.
32. Providing computerized document management;
33. Performing other duties typically required of bond and bond tax counsel; and
34. Work with the IRS as requested by the District in conjunction with the advice, opinions and assistance provided by the Contractor to the District.

C.2 CLIENT

Although the representation will be of the District, the primary client to whom the Contractor reports will be the OCFO through OGC.

C.3 ADMINISTRATIVE REQUIREMENTS

C.3.1 OGC'S SUPERVISION OF BOND COUNSEL SERVICES

The District, through OGC, shall have the authority to supervise and control all aspects of the Contractor's legal services and representation pursuant to the resultant contract. The District's authority shall be final, in its sole discretion and not subject to review. Subject to the overall direction and supervision of OGC, the Contractor shall at a minimum represent the District in providing bond and tax counsel services and performing the following listed tasks, without significantly impairing the ability of the OCFO and other involved District agencies to meet their ongoing governmental obligations related to District financing transactions and economic development projects:

- a. Perform bond and tax counsel services pursuant to Section C.1, as applicable;
- b. Develop and implement strategies and approaches to effectively provide the required services;
- c. Consult in advance with, and obtain written approval from the Contracting Officer's Technical Representative appointed pursuant to Section G.8 ("COTR") concerning all substantive matters related to the proposed issuance of bonds, notes or other obligations;
- d. Provide the COTR with copies of all correspondence, opinions and documents related to the bond counsel services;
- e. Inform the COTR in advance of all significant meetings with third parties that concern or potentially affect the issuance of bonds, notes or other obligations;
- f. Keep the COTR informed of the status of each financing transaction, including the possibility of legal services or fees beyond the task order issued or the task order period, as required in Sections G.9.6 and G.10.1.d. The Contractor shall not assume that the COTR is aware of circumstances that may create fees to exceed the maximum in the task order or which may require performance beyond the expiration of the task order, such that the Contractor must inform the COTR reasonably in advance of any such circumstance. Without a modification to the task order or a new task order issued pursuant to Sections G.9.6 or G.10.1.h at the District's sole discretion, the Contractor is not eligible to receive payment for, and the District is not legally obligated to pay, fees or costs in excess of the task order or for work completed beyond the expiration of the task order; and
- g. Hold regular status meetings with the COTR, as requested.

C.3.2 TECHNICAL CAPACITY

C.3.2.1 The Contractor shall provide the staffing, organization, legal and technical expertise, and capacity necessary to successfully perform the required services, including at a minimum the following:

- a. A partner or shareholder, who is qualified to provide legal opinions on the matters handled, to supervise all work and the duties performed by staff as necessary;
- b. Staff with the capacity and expertise to deliver legal services involving complex municipal financing transactions. The staff shall have demonstrated knowledge of and experience in municipal financing and applicable District law as necessary for providing bond counsel services pursuant to Section C.1; and
- c. Organizational structure that establishes reporting lines and lines of accountability among the Contractor's staff and facilitates an efficient and effective approach to the completion of the required services.

C.3.2.2 The Contractor shall provide the COTR the position description and resume for each of the Contractor's staff that explains the responsibilities and duties of each in the completion of the required services.

SECTION D

[Reserved]

SECTION E
INSPECTION AND ACCEPTANCE

E.1 INSPECTION OF WORK PERFORMED

- (a) Definition. "Services" as used in this section includes services performed pursuant to Section C, and applicable task orders (which may be properly modified if circumstances permit).
- (b) The Contractor shall provide and maintain an inspection system acceptable to the District covering the services under this contract and applicable task orders. Complete records of all work performed by the Contractor shall be maintained and made available to the District during any Contract Period and for as long afterwards as the contract requires.
- (c) The District has the right to inspect all records for all services called for by the contract and applicable task orders, to the extent practicable at all times and places during the term of the contract. The District will perform inspections in a manner that will not unduly delay the work.
- (d) If the District performs inspections 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 and applicable task order requirements, the District may require the Contractor to correct its performance in conformity with the requirements, at no increase in contract and applicable task order 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 the requirements and reduce the price to reflect value of services performed.
- (f) If the Contractor fails to promptly perform the services again or take the necessary action to ensure future performance in conformity to the 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 or applicable task order for default.

SECTION F
DELIVERY OR PERFORMANCE

F.1 TERM OF CONTRACT

F.1.1 The term of the contract shall be for a period of one (1) year from the effective date of award as specified on page one of the Contract.

F.2 OPTION TO EXTEND THE TERM OF THE CONTRACT

F.2.1 The District may, at its sole discretion, extend the term of the contract for a period of four (4), one-year option periods, or successive fractions thereof, by written notice to the Contractor before the expiration of the base year or any option period of the contract; provided that the District will give the Contractor a preliminary written notice of its intent to extend at least thirty (30) days before the contract expires. The preliminary notice does not commit the District to an extension. The exercise of this option is subject to the availability of funds at the time of the exercise of this option. The Contractor may waive the thirty (30) day preliminary notice requirement by providing a written waiver to the Contracting Officer (with a copy to OGC through the COTR) prior to expiration of the base year or any option period of the contract.

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

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

F.2.4 The total duration of the Contract, including all options under this clause, shall not exceed five (5) years from the effective date of the base year Contract Period.

F.3 DELIVERABLES

F.3.1 The Contractor shall perform its tasks and provide the COTR each required Deliverable, except Deliverable No. 6 which shall be provided to both the COTR and the Contracting Officer identified in Section G.6.4, by the due dates presented in the tables below in accordance with the following, whereas the method of delivery for soft copies is via email and for hard copies may be U.S. Postal Service, courier, or hand delivery:

Deliverable No.	Deliverable Name	Quantity/ Format and Method of Delivery	Due Date
1	All correspondence, draft financing and closing documents, and draft opinions (C.3.1 d)	1 soft copy 3 hard copies	As required by the specific transaction
2	Request for Modification of a Task Order (C.3.1.f and G.9.6)	1 soft copy 1 hard copies	As Applicable
3	Notification of Cost Differential (G.10.1d)	1 soft copy 3 hard copies	As Applicable

Deliverable No.	Deliverable Name	Quantity/ Format and Method of Delivery	Due Date
4	Legal Services Invoice with supporting documentation (G.1)	1 soft copy 2 hard copies	Upon completion of services pursuant to an applicable task order
5	Transaction Transcript (C.1.20)	Soft, CD, or hard copies as requested	Within 60 days from the closing of the transaction

SECTION G
CONTRACT ADMINISTRATION DATA

G.1 INVOICES

A. An invoice is a written request for payment under the contract for services rendered pursuant to an applicable task order. All invoices must include, as applicable, the following and must be accompanied by an accurately completed Legal Services Invoice Form (Attachment J.1) to be considered a proper invoice for this contract:

- (1) Name and address of the Contractor;
- (2) Invoice date;
- (3) Contract number or other authorization for services performed (*including order number and contract line item number*);
- (4) Description, quantity, price and services performed with supporting documentation;
- (5) Detailed billing statements of all professionals who provided services pursuant to the applicable task order. Billing statements should include documentation that describes the services performed, by whom performed, when performed, and the hourly rate of the person performing services;
- (6) Name and address of Contractor official to whom the payment is to be sent (*must be the same as that on the contract or accompanied by a proper notice of assignment*);
- (7) Name (*where practicable*), title, phone number, mailing address, and email address of the person to be notified in event of defective invoice; and
- (8) Any other information or documentation required by the Contract, the Task Order or the COTR.

B. For purpose of determining if interest begins to accrue under the Quick Payment Act (D.C. Official Code § 2-221.01 *et seq.*):

- (1) A proper invoice will be deemed to have been received when it is received by the office designated in the contract for receipt of invoices and acceptance of the services rendered has occurred;
- (2) Payment must be considered made on the date on which check for such payment is dated;
- (3) Payment terms (*e.g., "net 20"*) offered by the Contractor will not be deemed as the "required payment date;" and
- (4) The following periods of time will not be included:
 - (i) after receipt of an improper invoice and prior to notice of any defect or impropriety, but not to exceed 7 days; and
 - (ii) between the date of a notice and any defect or impropriety and the date a proper invoice is received. When the notice is in writing, it must be considered made on the date shown in the notice.

C. Payment for Contractor's services must be made within thirty (30) days of the COTR's authorization of the invoice for payment. Concurrent with the forwarding of invoices to the COTR, the Contractor must submit copies in triplicate of the invoices to:

Office of the Chief Financial Officer
Office of Management and Administration
Financial Operations/Accounts Payable
Attention: Comptroller
1100 4th Street, SW Suite E600
Washington, DC 20024

G.1.2 Invoices must not contain (1) charges for services beyond the scope of work stated in the applicable task order; or (2) services performed beyond the scope of the contract or the applicable task order for which there was no prior modification.

G.2 [RESERVED]

G.3 PAYMENT

G.3.1 The District will pay the Contractor under this contract on or before the 30th day after both:

- a. Completion and acceptance of all work and deliverables;
- b. Presentation of a properly executed invoice in accordance with Section G.1.A; and
- c. Upon the COTR's authorization for payment.

G.3.2 Alternatively, in the District's sole discretion, the District may pay the Contractor at the closing of the financing transaction for all services performed and accepted by the District, from the proceeds of the financing transaction, upon the COTR's authorization for payment.

G.3.3 The District's obligation under the contract will be contingent upon the lawful availability of appropriated funds from which payment for contract purposes can be made. No legal liability on the part of the District for any payment may arise, and no contract may be awarded or task orders may be issued thereunder, until the Contracting Officer receives written certification confirming the availability of appropriated funds for such purposes.

G.3.4 The Contractor may be held fully responsible for any change not authorized by the Contracting Officer in consultation with the COTR and issued by the Contracting Officer in writing, and may be denied compensation or other relief for any additional work performed that is not so authorized, and may also be required, at no additional cost to the District, to take all corrective action necessitated by reason of the unauthorized changes.

G.4 ASSIGNMENT OF CONTRACT PAYMENTS

G.4.1 The Contractor may assign funds due or to become due as a result of the performance of the contract to a bank, trust company, or other financing institution.

G.4.2 Any assignment shall cover all unpaid amounts payable under the contract, and shall not be made to more than one party.

G.4.3 Notwithstanding any assignment of money claims pursuant to authority contained in the contract, the Contractor, not the assignee, is required to prepare invoices. Where such an assignment has been made, the original copy of each invoice shall refer to the assignment and shall show that payment of the invoice is to be made directly to the assignee as follows:

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

G.5 THE QUICK PAYMENT PROVISIONS

G.5.1 INTEREST AND PENALTIES TO CONTRACTORS

G.5.1.1 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.5.1.2 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.5.2 PAYMENTS TO SUBCONTRACTORS

G.5.2.1 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.5.2.2 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 on the following 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.5.2.3 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.5.2.4 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.6 AUTHORITY OF CONTRACTING OFFICER

- G.6.1 Contracts may be entered into and signed on behalf of the District only by contracting officers, subject to the specific terms and conditions set forth in this Solicitation. The Contracting Officer of the Office of the Chief Financial Officer (“Contracting Officer”) for this contract shall have the following authority:
- G.6.2 Timely executing any contract, task order, modification or termination of a contract as requested, in consultation with the COTR; and
- G.6.3 Timely fulfill ordering provision in Section G.9.

G.6.4 RESERVED

- G.6.5 The address and telephone number of the Contracting Officer for this contract is:

Anthony A. Stover
 Office of the Chief Financial Officer
 Office of Management and Administration
 Office of Contracts
 1100 4th Street S.W., Suite E610
 Washington, DC 20024
 Tel: (202) 442-7122
 Fax: (202) 442-6454

G.7 AUTHORIZED CHANGES ONLY BY THE CONTRACTING OFFICER

- G.7.1 The Contracting Officer is the only person authorized to issue changes in any of the requirements of the contract or task orders.
- G.7.2 The Contractor shall not comply with any order, task order, directive or request that changes or modifies the requirements of the contract, unless issued in writing and signed by the Contracting Officer, or pursuant to specific authority otherwise included as part of the contract.
- G.7.3 In the event the Contractor effects any change at the direction of any person other than the Contracting Officer, the change will be considered to have been made without authority and no adjustment will be made in the contract price to cover any cost increase incurred as a result thereof.

G.8 CONTRACTING OFFICER’S TECHNICAL REPRESENTATIVE (COTR)

- G.8.1 The Contracting Officer’s Technical Representative (“COTR”), will have the responsibility of supervising and managing all aspects of the work of the Contractor in accordance with the requirements of the contract, the task order and such other responsibilities and authorities as may be specified in the contract. These include but are not limited to:

- G.8.1.1 Determining: (i) when it is appropriate to terminate a contract for cause or for convenience, (ii) when and if a modification of a contract with the Contractor is necessary and appropriate, and (iii) whether and under what conditions to allow a Contractor under contract with the OCFO to sub-contract its assigned work to another private law firm for legal services;
- G.8.1.2 Requesting the Contracting Officer to issue contract modifications or extensions, as well as partial or full contract terminations, and keeping the Contracting Officer informed of any technical or contractual difficulties encountered during the Contract Period or any potential problem areas under the contract;
- G.8.1.3 Reviewing and approving invoices for completed work in accordance with Section C including determining if the Contractor's costs are consistent with the agreed amounts, the work performed and progress are satisfactory and commensurate with the rate of expenditure;
- G.8.1.4 Reviewing and approving invoices for deliverables to ensure receipt of services. This includes the timely processing of invoices in accordance with the District's payment provisions;
- G.8.1.5 Maintaining a file that includes all contract correspondence, modifications, records of inspections (site, data, equipment) and invoices/vouchers; and
- G.8.1.6 Ensuring that all legal issues arising out of the contract be considered and decided by OGC.
- G.8.2 The COTR is the only person authorized to approve changes or modifications in any of the requirements of the contract, notwithstanding provisions contained elsewhere in the contract.
- G.8.3 The address and telephone number of the COTR for the contract is:

Stacie Y. L. Mills
Assistant General Counsel
Office of the General Counsel
Office of the Chief Financial Officer
John A. Wilson Building
1350 Pennsylvania Avenue, Room 200
Washington, DC 20004
Tel: (202) 727-4221
Fax: (202) 724-4217
Email: Stacie.Mills2@dc.gov

G.8.4 RESERVED

- G.8.5 The COTR shall NOT have the authority to:
- G.8.5.1 Award, agree to, or sign any contract, issue any task order. Only the Contracting Officer shall make contractual agreements, commitments, or modifications;
- G.8.5.2 Grant deviations from or waive any of the terms and conditions of the contract;
- G.8.5.3 Increase the dollar limit of the contract or authorize work beyond the dollar limit of the contract, or a task order, or authorize the expenditure of funds by the Contractor;
- G.8.5.4 Change the period of performance; or

G.8.5.5 Authorize the furnishing of District property, except as specified under the contract.

G.9 ORDERING CLAUSE

G.9.1 Any services to be performed under the contract shall be ordered by issuance of task orders by the Contracting Officer. Such task orders may be issued during any Contracting Period.

G.9.1.1 If the Contracting Office awards multiple contracts for the services required herein, the COTR may choose between the contractors in awarding subsequent task orders to obtain the best combination of quality and value based on considerations and evaluations, including, without limitation, the contractor's knowledge, experience, business practice, other practice areas associated with financing transactions (including, but not limited to securities, tax, real property and contracts), accessibility, available staff, cost, past working experiences with the District, knowledge of applicable District law, and the District's need ("Best Value Consideration").

G.9.1.2 Generally, one (1) of the following two (2) award procedures shall be used to award task orders:

- (a) Non-competitive award procedure based on the Best Value (for purposes of these rules, "Best Value" is the expected outcome of a procurement that provides the best overall benefit for the government in response to the requirement); or
- (b) The preferred, competitive award procedure, where the COTR or Contracting Officer requests task order proposals from two (2) or more contractors.

G.9.1.3 If the competitive award procedure is used, each task order request shall specify:

- (a) The specific legal services required;
- (b) A delivery date; and
- (c) Such other information as the COTR may reasonably request.

G.9.1.4 Each task order shall state the not-to-exceed price or the firm fixed price and the duration for the period of service performance.

G.9.1.5 If a task order is issued with a not-to-exceed amount, the District will pay the selected Contractor the lesser of the not-to-exceed amount or the total amount stated on the Legal Service Invoice based on the applicable rates stated in Section B.

G.9.2 All task orders will be subject to the terms and conditions of the contract. In the event of a conflict between a task order and the contract, the contract shall control. A task order, when combined with all prior task orders issued for that Contract Period, cannot exceed the total amount of the contract for that Contract Period.

G.9.3 A task order becomes effective on the date indicated by the Contracting Officer on the task order and may be issued by mail, by facsimile or by electronic commerce methods.

G.9.4 RESERVED**G.9.5 RESERVED**

G.9.6 If a Contactor is awarded a task order, the Contractor must keep the COTR informed of the status of each financing transaction or project in accordance with Section C.3.1.f and request a modification to the task order as determined. The Contracting Officer, in consultation with the COTR, will review of the Contractor's request and, at the Contracting Officer's discretion, may modify the existing task order or issue a new task order to address the additional work, cost or time necessary to complete a financing transaction or project.

G.10 COST REIMBURSEMENT**G.10.1 COST REIMBURSEMENT CEILING**

- a. Cost reimbursement ceiling for the contract for direct costs specified in G.10.2 is set forth in Section B.3.
- b. The direct costs specified in G.10.2 for performing the contract shall not exceed the cost reimbursement ceiling specified in Section B.3.
- c. The Contractor agrees to use its best efforts to perform the work specified in this contract and to meet all obligations under the contract within the cost reimbursement ceilings for direct costs specified in G.10.2.
- d. The Contractor must notify the COTR, in writing, whenever it has reason to believe that the total cost for reimbursement will be either greater or substantially less than the cost reimbursement ceilings ("Notification of Cost Differential").
- e. As part of the notification, the Contractor must provide the COTR a revised estimate of the total cost of reimbursement for the contract.
- f. The District will not be obligated to reimburse the Contractor for cost incurred in excess of the cost reimbursement ceiling specified in B.3 and the Contractor is not obligated to incur costs in excess of the cost reimbursement ceilings specified in B.3, until a modification is executed by the Contracting Officer that the estimated cost has been increased and provides revised cost reimbursement ceilings for performing the contract.
- g. No notice, communication, or representation in any form from any person other than the Contracting Officer shall change the cost reimbursement ceilings. In the absence of the specified notice, the District is not obligated to reimburse the Contractor for any costs in excess of the cost reimbursement ceilings, whether such costs were incurred during the course of contract performance or as a result of termination.
- h. No increase or change in cost reimbursement ceiling shall be effective unless a modification to the contract or task order specifying the changes is signed by the Contracting Officer and the Contractor. **ANY SUCH MODIFICATION MUST BE OBTAINED BEFORE THE COSTS EXCEED THE ORIGINAL CONTARC/TASK**

ORDER AMOUNT OR THE SERVICES EXTENDED BEYOND THE EXPIRATION OF THE CONTRACT/TASK ORDER – OTHERWISE THE DISTRICT CANNOT AND IS UNDER NO OBLIGATION TO PAY THE CONTRACTOR FOR SUCH COSTS.

G.10.2 Unless otherwise specified or capped in the task order, the District will reimburse the Contractor for the direct costs incurred by the Contractor for expert analysis and testimony, air/rail fares, hotel accommodations, copying, and Westlaw/Lexis search time as described below; provided, however, the Contractor shall not select any consultant, expert testimony or outside analysis without the COTR's approval. Any accumulated expense over one thousand dollars (\$1,000) shall require approval of the COTR in advance of any cost being incurred. The District shall reimburse the Contractor the direct costs of Contractor's:

- a. Air travel at coach fares (one week advance purchase unless a later purchase is justified by exigent circumstances), although Contractor may purchase business class or first class travel and pay the difference from its own funds;
- b. Direct costs incurred for hotel accommodations at "government" rates;
- c. Direct costs incurred for related copy services;
- d. Direct costs incurred for Westlaw/Lexis search time based on the cost to Contractor's organization of the search time used. The District will not reimburse the Contractor for the flat monthly or yearly subscription fee that the Contractor pays to any computerized legal research service; and
- e. Direct costs incurred for long distance calls and taxi fares.

SECTION H
SPECIAL CONTRACT REQUIREMENTS

H.1 HIRING OF DISTRICT RESIDENTS AS APPRENTICES AND TRAINEES

- H.1.1 For all new employment resulting from the contract awarded or any subcontracts thereto, as defined in Mayor's Order 83-265 and implementing instructions, the Contractor shall use its best efforts to comply with the following basic goal and objectives for utilization of bona fide residents of the District of Columbia in each project's labor force:
- H.1.2 At least fifty-one (51%) percent of apprentices and trainees employed shall be residents of the District of Columbia registered in programs approved by the District of Columbia Apprenticeship Council.
- H.1.3 The Contractor shall negotiate an Employment Agreement with the District's Department of Employment Services ("DOES") for jobs created as a result of the contract. The DOES shall be the Contractor's first source of referral for qualified applicants, trainees, and other workers in the implementation of employment goals contained in this clause.

H.2 LIVING WAGE ACT OF 2006 REQUIREMENTS

- H.2.1 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.

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 published on the OCP website at www.ocp.dc.gov;
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.

H.2.2 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.

H.3 PUBLICITY

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.

H.4 FREEDOM OF INFORMATION ACT

The District of Columbia Freedom of Information Act, at D.C. Official Code § 2-532 (a-3), as amended, 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 Section G.8.3 who will provide the request to the FOIA Officer for the agency with programmatic responsibility in accordance with the District of Columbia 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 which records are not subject to release. 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*.

H.5 FIRST SOURCE EMPLOYMENT AGREEMENT AND 51% DISTRICT RESIDENTS NEW HIRES REQUIREMENTS

H.5.1 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”).

H.5.2 The Contractor shall enter into and maintain, during the term of the contract, a First Source Employment Agreement in which the Contractor shall agree that:

- a. The first source for finding employees to fill all jobs created in order to perform this contract shall be DOES; and

- b. The first source for finding employees to fill any vacancy occurring in all jobs covered by the First Source Employment Agreement shall be the First Source Register maintained by DOES.

H.5.3 The Contractor shall submit to DOES, no later than the 10th day of each month following execution of the contract, a First Source Agreement Contract Compliance Report (“contract compliance report”) verifying its compliance with the First Source Agreement for the preceding month. The contract compliance report for the contract shall include the:

- a. Number of employees needed;
- b. Number of current employees transferred;
- c. Number of new job openings created;
- d. Number of job openings listed with DOES;
- e. Total number of all District residents hired for the reporting period and the cumulative total number of District residents hired; and
- f. Total number of all employees hired for the reporting period and the cumulative total number of employees hired, including:
 1. Name;
 2. Social Security number;
 3. Job title;
 4. Hire date;
 5. Residence; and
 6. Referral source for all new hires.

H.5.4 If the contract amount is equal to or greater than \$100,000, the Contractor agrees that 51% of the new employees hired for the contract shall be District residents.

H.5.5 With the submission of the Contractor’s final request for payment from the District, the Contractor shall:

- a. Document in a report to the Contracting Officer, its compliance with the Section H.5.4 of this clause; or
- b. Submit a request to the Contracting Officer for a waiver of compliance with Section H.5.4 and include the following documentation:
 1. Material supporting a good faith effort to comply;
 2. Referrals provided by DOES and other referral sources;
 3. Advertisement of job openings listed with DOES and other referral sources; and
 4. Any documentation supporting the waiver request pursuant to section H.5.6.

H.5.6 The Contracting Officer may determine whether to waive the provisions of section H.5.4 if the Contracting Officer finds that:

- a. A good faith effort to comply is demonstrated by the Contractor; the Contractor is located outside the Washington Standard Metropolitan Statistical Area and none of the contract work is performed inside the Washington Standard Metropolitan Statistical Area, which includes the District of Columbia, the Virginia Cities of Alexandria, Falls Church, Manassas, Manassas Park, Fairfax, and Fredericksburg, the Virginia Counties of Fairfax, Arlington, Prince William, Loudoun, Stafford, Clarke, Warren, Fauquier, Culpepper, Spotsylvania, and King George, the Maryland Counties of Montgomery, Prince Georges, Charles, Frederick, and Calvert, and the West Virginia Counties of Berkeley and Jefferson.
- b. The Contractor enters into a special workforce development training or placement arrangement with DOES; or
- c. DOES certifies that there are insufficient numbers of District residents in the labor market possessing the skills required by the positions created as a result of the contract.

H.5.7 Upon receipt of the contractor's final payment request and related documentation pursuant to sections H.5.5 and H.5.6, the Contracting Officer, shall determine whether the Contractor is in compliance with section H.5.4 or whether a waiver of compliance pursuant to section H.5.6 is justified. If the Contracting Officer determines that the Contractor is in compliance, or that a waiver of compliance is justified, the Contracting Officer shall, within two business days of making the determination forward a copy of the determination to the CFO.

H.5.8 Willful breach of the First Source Employment Agreement, or failure to submit the report pursuant to section H.5.5, or deliberate submission of falsified data, may be enforced by the District through imposition of penalties, including monetary fines of 5% of the total amount of the direct and indirect labor costs of the contract. The Contractor shall make payment to DOES. As set forth in the contract, the Contractor may appeal to the D.C. Contract Appeals Board any decision of the Contracting Officer pursuant to this section H.5.8.

H.5.9 The provisions of sections H.5.4 through H.5.8 do not apply to nonprofit organizations.

H.6 AMERICANS WITH DISABILITIES ACT OF 1990 ("ADA")

During the performance of the contract, the Contractor and any of its subcontractors shall comply with the ADA. The ADA makes it unlawful to discriminate in employment against a qualified individual with a disability.

See 42 U.S.C. § 12101 et seq.

H.7 ANTI-DISCRIMINATION LAWS

During the performance of the contract, the Contractor shall comply with the provisions of Title 2, Chapter 14 of the District of Columbia Code (D.C. Official Code §§ 2-1401.01 et seq., as amended) and shall not discriminate any person based upon the race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, family responsibilities, political affiliation, source of income or physical handicap of any individual.

H.7.1 SECTION 504 OF THE REHABILITATION ACT OF 1973, AS AMENDED

During the performance of the contract, the Contractor and any of its subcontractors shall comply with Section 504 of the Rehabilitation Act of 1973, as amended. This Act prohibits discrimination against disabled people in federally funded program and activities. *See* 29 U.S.C. § 794 *et seq.*

H.8 AUDITS AND RECORDS

H.8.1 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.

H.8.2 **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.

H.8.3 **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 thereunder, 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, subcontract, modification, or task order.

H.8.4 Comptroller General

H.8.4.1 The Comptroller General of the United States, 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 thereunder.

H.8.4.2 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.

H.8.5 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.

H.8.6 Availability. The Contractor shall make available at its office at all reasonable times the records, materials, and other evidence described in clauses H.8.1 through H.8.5, 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.

H.8.7 The Contractor shall insert a clause containing all the terms of this clause, including this section H.8.7, 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 H.8.5 of this clause.

H.9 ADVISORY AND ASSISTANCE SERVICES

The contract is a contract for bond counsel services. It is therefore, understood and agreed that the Contractor and the Contractor's employees: (1) shall perform the services specified herein as independent contractors, not as employees of the District; (2) shall be responsible for their own management and administration of the work required and bear sole responsibility for complying with any and all legal, technical, schedule, financial requirements or constraints attendant to the performance of this contract; and (3) shall, pursuant to the District's rights and obligations to inspect, accept or reject work, comply with such general direction of the COTR, or the duly authorized representative of the COTR as is necessary to ensure accomplishment of the contract objectives.

H.10 CONFLICT OF INTEREST

H.10.1 No official or employee of the District of Columbia or the Federal government who exercises any functions or responsibilities in the review of approval of the undertaking or carrying out of the contract shall, prior to the completion of the project, voluntarily acquire any personal interest, direct or indirect, in the contract or proposed contract.

H.10.2 The Contractor must represent and covenant 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 under the contract. The Contractor must further covenant that, in the performance of the contract, no person having any such known interests shall be employed.

H.11 ETHICAL OBLIGATIONS AND CONFLICTS

H.11.1 An attorney-client relationship will exist between the District and any attorney who performs work under the contract, as well as between the District and the firm of any attorney who performs work under the contract. The D.C. Rules of Professional Conduct and the ethical rules of any other jurisdiction in which work is performed are binding on the Contractor. The parties agree that the District may have a contractual cause of action based on violation of such rules, in addition to any other remedies available.

H.11.2 In addition to the prohibitions contained in the D.C. Rules of Professional Conduct and the ethical rules of any other jurisdiction in which work is performed, the Contractor agrees that it shall recognize that in the performance of this contract it may receive certain information submitted to the District on a proprietary basis by third parties, information which relates to potential or actual claims against the District, or information which relates to matters in dispute or litigation. Unless the District consents to a particular disclosure, the Contractor shall use such information exclusively in the performance of the contract and shall forever hold inviolate and protect from disclosure all such information, except disclosures required by law or court order. The Contractor also agrees to restrict access to such information to individuals who have a "need to know."

H.11.3 Prior to execution of a task order and as applicable during a contract period, the Contractor shall notify the Contracting Officer and the COTR in writing, of any existing or potential conflict of interest for review by the CO in consultation with the COTR and the Office of the Attorney General for the District of Columbia. If the conflicts are waived, the Contractor shall comply with the waiver agreement between the District and the Contractor, including notifying the Contracting Officer and the COTR (as well as the Office of the Attorney General) of any new conflicts of interest that arises from time to time or upon the issuance of a task order.

H.11.4 In addition to the prohibitions contained in the D.C. Rules of Professional Conduct and the ethical rules of any other jurisdiction in which work is performed, the Contractor shall not represent any party other than the District in any dispute, litigation or matter which is substantially related to the work performed under the contract, unless the District agrees to such representation.

H.12 DIVERSION, REASSIGNMENT AND REPLACEMENT OF KEY PERSONNEL

The Contractor's key personnel assigned at the time of contract award to provide the technical capacity specified in Section C.3.2 of the contract are considered to be essential to the work being performed hereunder. Prior to diverting any of the key personnel assigned at the time of award for any reason, the Contractor shall notify the COTR at least thirty calendar days in advance and shall submit justification (including proposed substitutions) in sufficient detail to permit evaluation of the impact upon the contract. The Contractor shall obtain written approval of the COTR for any proposed substitution of key personnel.

SECTION I **CONTRACT CLAUSES**

I.1 INDEMNIFICATION

- I.1.1 Unless explicitly prohibited by applicable law, 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.1.2 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.2 RESERVED

I.3 CONFIDENTIALITY OF INFORMATION

All information obtained by the Contractor relating to any employee or customer of the District shall be kept in absolute confidence and shall not be used by the Contractor in connection with any other matters, nor shall any such information be disclosed to any other person, firm, or corporation, in accordance with the District and Federal laws governing the confidentiality of records.

I.4 TIME

Time, if stated in a number of days, will include Saturdays, Sundays, and holidays, unless otherwise stated in the contract.

I.5 RIGHTS IN DATA

- I.5.1 "Data," as used herein, means recorded information, regardless of form or the media on which it may be recorded. The term includes technical data and computer software. The term does not

include information incidental to contract administration, such as financial, administrative, cost or pricing, or management information.

- I.5.2 The term “Technical Data”, as used herein, means recorded information, regardless of form or characteristic, of a scientific or technical nature. It may, for example, document research, experimental, developmental or engineering work, or be usable or used to define a design or process or to procure, produce, support, maintain, or operate material. The data may be graphic or pictorial delineations in media such as drawings or photographs, text in specifications or related performance or design type documents or computer printouts. Examples of technical data include research and engineering data, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information, and computer software documentation. Technical data does not include computer software or financial, administrative, cost and pricing, and management data or other information incidental to contract administration.
- I.5.3 The term “Computer Software”, as used herein means computer programs and computer databases. “Computer Programs”, as used herein means a series of instructions or statements in a form acceptable to a computer, designed to cause the computer to execute an operation or operations. "Computer Programs" include operating systems, assemblers, compilers, interpreters, data management systems, utility programs, sort merge programs, and automated data processing equipment maintenance diagnostic programs, as well as applications programs such as payroll, inventory control and engineering analysis programs. Computer programs may be either machine-dependent or machine-independent, and may be general purpose in nature or designed to satisfy the requirements of a particular user.
- I.5.4 The term "computer databases", as used herein, means a collection of data in a form capable of being processed and operated on by a computer.
- I.5.5 All data first produced in the performance of the Contract shall be the sole property of the District. The Contractor hereby acknowledges that all data, including, without limitation, computer program codes, produced by Contractor for the District under the Contract, are works made for hire and are the sole property of the District; but, to the extent any such data may not, by operation of law, be works made for hire, Contractor hereby transfers and assigns to the District the ownership of copyright in such works, whether published or unpublished. The Contractor agrees to give the District all assistance reasonably necessary to perfect such rights including, but not limited to, the works and supporting documentation and the execution of any instrument required to register copyrights. The Contractor agrees not to assert any rights in common law or in equity in such data. The Contractor shall not publish or reproduce such data in whole or in part or in any manner or form, or authorize others to do so, without written consent of the District until such time as the District may have released such data to the public.
- I.5.6 The District shall have restricted rights in data, including computer software and all accompanying documentation, manuals and instructional materials, listed or described in a license or agreement made a part of the Contract, which the parties have agreed will be furnished with restricted rights, provided however, notwithstanding any contrary provision in any such license or agreement, such restricted rights shall include, as a minimum the right to:

- I.5.6.1 Use the computer software and all accompanying documentation and manuals or instructional materials with the computer for which or with which it was acquired, including use at any District installation to which the computer may be transferred by the District;
- I.5.6.2 Use the computer software and all accompanying documentation and manuals or instructional materials with a backup computer if the computer for which or with which it was acquired is inoperative;
- I.5.6.3 Copy computer programs for safekeeping (archives) or backup purposes; and
- I.5.6.4 Modify the computer software and all accompanying documentation and manuals or instructional materials, or combine it with other software, subject to the provision that the modified portions shall remain subject to these restrictions.
- I.5.7 The restricted rights set forth in Section I.5.6 are of no effect unless:
 - I.5.7.1 The data is marked by the Contractor with the following legend:

RESTRICTED RIGHTS LEGEND

Use, duplication, or disclosure is subject to restrictions stated in Contract No. CFOPD-17-C-025E with Orrick Herrington Sutcliffe.

- I.5.7.2 If the data is computer software, the related computer software documentation includes a prominent statement of the restrictions applicable to the computer software. The Contractor may not place any legend on the computer software indicating restrictions on the District's rights in such software unless the restrictions are set forth in a license or agreement made a part of the contract prior to the delivery date of the software. Failure of the Contractor to apply a restricted rights legend to such computer software shall relieve the District of liability with respect to such unmarked software.
- I.5.8 In addition to the rights granted in section I.5.6 above, the Contractor hereby grants to the District a nonexclusive, paid-up license throughout the world, of the same scope as restricted rights set forth in Section I.5.6 above, under any copyright owned by the Contractor, in any work of authorship prepared for or acquired by the District under the Contract. Unless written approval of the Contracting Officer is obtained, the Contractor shall not include in technical data or computer software prepared for or acquired by the District under the contract any works of authorship in which copyright is not owned by the Contractor without acquiring for the District any rights necessary to perfect a copyright license of the scope specified in the first sentence of this paragraph.
- I.5.9 Whenever any data, including computer software, are to be obtained from a subcontractor under the Contract, the Contractor shall use Section I.5 in the subcontract, without alteration, and no other clause shall be used to enlarge or diminish the District's or the Contractor's rights in that subcontractor data or computer software which is required for the District.
- I.5.10 For all computer software furnished to the District with the rights specified in Section I.5.5, the Contractor shall furnish to the District, a copy of the source code with such rights of the scope

specified in Section I.5.5. For all computer software furnished to the District with the restricted rights specified in Section I.5.6, the District, if the Contractor, either directly or through a successor or affiliate shall cease to provide the maintenance or warranty services provided the District under the contract or any paid-up maintenance agreement, or if Contractor should be declared bankrupt or insolvent by the court of competent jurisdiction, shall have the right to obtain, for its own and sole use only, a single copy of the then current version of the source code supplied under the contract, and a single copy of the documentation associated therewith, upon payment to the person in control of the source code the reasonable cost of making each copy.

- I.5.11 The Contractor shall indemnify and save and hold harmless the District, its officers, agents and employees acting within the scope of their official duties against any liability, including costs and expenses, (i) for violation of proprietary rights, copyrights, or rights of privacy, arising out of the publication, translation, reproduction, delivery, performance, use or disposition of any data furnished under the contract, or (ii) based upon any data furnished under the contract, or based upon libelous or other unlawful matter contained in such data.
- I.5.12 Nothing contained in this clause shall imply a license to the District under any patent, or be construed as affecting the scope of any license or other right otherwise granted to the District under any patent.
- I.5.13 Paragraphs I.5.6, I.5.7, I.5.8, and I.5.11 above are not applicable to material furnished to the Contractor by the District and incorporated in the work furnished under contract, provided that such incorporated material is identified by the Contractor at the time of delivery of such work

I.6 OTHER CONTRACTORS

The Contractor shall not commit or permit any act that will interfere with the performance of work by another District contractor or by any District employee.

I.7 SUBCONTRACTS

- I.7.1 The Contractor hereunder shall not subcontract any of the Contractor's work or services to any subcontractor without the prior, written consent of the COTR. Any such subcontract shall specify that the Contractor and the subcontractor shall be subject to every provision of the 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.

I.8 INSURANCE

- I.8.1 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.8.1.1 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.8.1.2 Property Damage: The Contractor shall carry property damage insurance of at least one hundred thousand dollars (\$100,000) per occurrence.
- I.8.1.3 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.8.1.4 Employer's Liability: The Contractor shall carry employer's liability coverage of at least one hundred thousand dollars (\$100,000).
- I.8.1.5 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.8.2 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.8.2.1 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.8.3 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.9 EQUAL EMPLOYMENT OPPORTUNITY

- I.9.1 In accordance with the District of Columbia Administrative Issuance System, Mayor's Order 85-85 dated June 10, 1985; the forms for completion of the Equal Employment Opportunity Information Report are incorporated herein as Attachment J.4. An award cannot be made to any Offeror who has not satisfied the equal employment requirements as set forth by the Departments of Human Rights and Small and Local Business Development.
- I.9.2 In accordance with 45 CFR 74 Appendix A (1), the Contractor shall comply with E.O. 11246 "Equal Employment Opportunity" as amended by 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented at 41 CFR 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

I.10 ORDER OF PRECEDENCE

Any inconsistency in the Contract shall be resolved by giving precedence in the following order: Services and Prices (Section B), Description/Specifications/Work Statement (Section C), Special Contract Requirements (Section H), Contract Clauses (Section I), Delivery or Performance (Section F), Contract Administration Data (Section G); Representations, Certifications and Other Statements of Offerors (Section K); List of Attachments (Section J); Proposal, and BAFO.

I.11 CONTRACTS IN EXCESS OF \$1 MILLION DOLLARS

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

I.12 PRE-AWARD APPROVAL

In accordance with the Council Contract Review Criteria Amendment Act of 1999, D.C. Official Code §2-301.05a, the Mayor must submit to the Council for approval any contract action for an amount exceeding one million dollars (\$1,000,000) within a 12-month period.

I.13 CONTINUITY OF SERVICES

- I.13.1 The Contractor recognizes that the services provided under the contract are vital to the District and must be continued without interruption and that, upon contract expiration or termination, a successor, either the District or another contractor, at the District's option, may continue to provide these services. To that end, the Contractor agrees to:
- I.13.1.1 Furnish phase-out, phase-in (transition) training; and
 - I.13.1.2 Exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor.
 - I.13.2 The Contractor shall, upon issuance of a no cost transition service task order by the Contracting Officer:
 - I.13.2.1 Furnish phase- in, phase-out services for up to 90 days after the contract expires and
 - I.13.2.2 Negotiate in good faith a plan with a successor to determine the nature and extent of phase-in, phase-out services required. The plan shall specify a training program and a date for transferring responsibilities for each division of work described in the plan, and shall be subject to the CO's, and the COTR approval.
 - I.13.3 The Contractor shall provide sufficient experienced personnel during the phase- in, phase-out period to ensure that the services called for by the contract are maintained at the required level of proficiency.
 - I.13.4 The Contractor shall allow as many personnel as practicable to remain on the job to help the successor maintain the continuity and consistency of the services required by this contract. The

Contractor also shall disclose necessary personnel records and allow the successor to conduct on-site interviews with these employees. If selected employees are agreeable to the change, the Contractor shall release them at a date mutually agreed upon with the successor and negotiate with the successor a transfer of their earned fringe benefits to the successor.

- I.13.5 Only in accordance with a modification to the transition service task order issued by the Contracting Officer, shall the Contractor be reimbursed for all reasonable phase-in, phase-out costs (i.e., costs incurred within the agreed period after contract expiration that result from phase-in, phase-out operations) and a fee (profit) not to exceed a pro rata portion of the fee (profit) under the contract up to a ceiling amount of fifteen thousand dollars (\$15,000). The reimbursement of the Contractor's costs shall be in accordance with Section G.10.
- I.13.6 If the Contractor is a law firm providing legal services to the District, upon request, the Contractor shall return to the District all contract files at no cost to the District (unless the District requests the Contractor to provide actual physical delivery, in which case the Contractor may charge the delivery costs). The Contractor cannot charge the District for the costs of reviewing the files for determination of what will not be returned, for copying the files for the Contractor's records, or for any internal costs of preparing the files for storage by the Contractor or for such storage.

I.14. COVENANT AGAINST CONTINGENT FEES

The Contractor warrants that no person 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.15 PATENTS

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

I.16 WAIVER

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

I.17 TERMINATION FOR DEFAULT

- (a) CO in consultation with the COTR may, subject to the provisions of paragraph (c) below, and by written notice of default to the Contractor, terminate the whole or any part of this contract in any one of the following circumstances:

- (1) If the Contractor fails to perform the services within the time specified herein or any extension thereof; or
 - (2) 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 may authorize in writing) after receipt of notice from the Contracting Officer the R specifying such failure.
- (b) In the event the CO terminates this contract in whole or in part as provided in paragraph (a) of this section, the District may procure, upon such terms and in such manner as the Contracting Officer may deem appropriate, service similar to those so terminated, and the Contractor shall be liable to the District for any excess costs for similar services; provided, that the Contractor shall continue the performance of this contract to the extent not terminated under the provisions of this section.
- (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 the 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 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 services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery schedule.
- (d) If this contract is terminated as provided in paragraph (a) of this section, 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 and draft documents in connection with the applicable task order, and (ii) such partially completed materials, parts, tools, dies, jigs, fixtures plans, drawing information, and contract rights (hereinafter called "manufacturing materials") as the Contractor has specifically produced or specifically acquired for the performance of such part of this contract as has been 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 services delivered to and accepted by the District will be at the contract price. Payment for manufacturing materials delivered to and accepted by the District will be at the contract price. Payment for manufacturing materials delivered to and accepted by the District and for the protection and preservation of property shall be in an amount agreed upon by the Contractor and the Contracting Officer; failure to agree to such amount shall be a dispute concerning a question of fact within the meaning of Section I.22 entitled "Disputes". The District may withhold from amounts otherwise due the Contractor for such completed services or manufacturing materials such sum as the Contracting Officer

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 provisions of this clause, or that the default was excusable under the provisions of this section, the rights and obligations of the parties shall, if the contract contains a clause providing for termination of convenience of the District, be the same as if the notice of termination had been issued pursuant to such section. See Section I.24 for Termination for Convenience of the District.
- (f) The rights and remedies of the District provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.
- (g) As used in paragraph (c) of this clause, the terms "subcontractor(s) means subcontractor(s) at any tier.

I.18 TRANSFER

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

I.19 TAXES

I.19.1 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.

I.19.2 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.

I.19.3 "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 As Follows:

- a) Deliveries to Glenn Dale Hospital - Exemption No. 4647
- b) Deliveries to Children' s Center - Exemption No. 4648
- c) Deliveries to other District Departments or Agencies - 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.20 APPOINTMENT OF ATTORNEY

- I.20.1 The Contractor hereby irrevocably designate and appoint the Clerk of the District of Columbia Superior Court and his successor in office as the true and lawful attorney of the Contractor for the purpose of receiving service of all notices and processes issued by any court in the District of Columbia, as well as service of all pleadings and other papers, in relation to any action or legal proceeding arising out of or pertaining to this contract or the work required or performed hereunder.
- I.20.2 The Contractor expressly agrees that the validity of any service upon the said Clerk as herein authorized shall not be affected either by the fact that the contractor was personally within the District of Columbia and otherwise subject to personal service at the time of such service upon the said Clerk or by the fact that the contractor failed to receive a copy of such process, notice or other paper so served upon the said Clerk provided the said Clerk shall have deposited in the United States mail, registered and postage prepaid, a copy of such process, notice, pleading or other paper addressed to the bidder/offeror or contractor at the address stated in this contract.

I.21 DISTRICT EMPLOYEES NOT TO BENEFIT

- I.21.1 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 Contracting Officer that there is a compelling reason for contracting with the employee, such as when the District's needs cannot reasonably otherwise be met.
- I.21.2 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.22 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 I.22, 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.

- (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 § 2-309.04.
- (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 I.22, 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 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.
- (c) 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 §2-309.04.
- (d) Pending final decision of an appeal, action, or final settlement, the Contractor shall proceed diligently with performance of the contract in accordance with the decision of the Contracting Officer.

I.23 CHANGES

The Contracting Officer, in consultation with the COTR, may at any time by written order, and without notice to the surety, make changes in the contract within the general scope hereof. If such change causes 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 or she determines that the facts justify such action, may receive, consider and may adjust any such claim asserted at any time prior to the date of final settlement of the contract. If the parties fail to agree upon the adjustment to be made, the dispute shall be determined as provided in Section I.22 entitled: "Disputes". Nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

I.24 TERMINATION FOR CONVENIENCE OF THE DISTRICT

- A. The Contracting Officer in consultation with the COTR may terminate performance of work under this contract in whole or, from time to time, in part if the Contracting Officer determines that a termination is in the District's interest. The Contracting Officer shall terminate by delivering to the Contractor a Notice of Termination specifying the extent of termination and effective date.
- B. After receipt of a Notice of Termination, and except as directed by the Contracting Officer, the Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this clause:
 - (1) Stop work as specified in the notice.
 - (2) Place no further subcontracts or orders (referred to as subcontracts in this clause) for materials, services, or facilities, except as necessary to complete the continued portion of the contract.
 - (3) Terminate all contracts to the extent they relate to the work terminated.
 - (4) Assign to the District, as directed by the Contracting Officer, all rights, title and interest of the Contractor under the subcontracts terminated, in which case the District will have the right to settle or pay any termination settlement proposal arising out of those terminations.

- (5) With approval or ratification to the extent required by the Contracting Officer, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts. The approval or ratification will be final for purposes of this section.
 - (6) As directed by the Contracting Officer, transfer title and deliver to the District (i) the fabricated or unfabricated parts, work in process, completed work, and other materials produced or acquired for the work terminated, and (ii) the completed or partially completed plans, drawings, information, and other property that, if the contract has been completed, would be required to be furnished to the District.
 - (7) Complete performance of the work not terminated.
 - (8) Take any action that may be necessary, or that the Contracting Officer may direct, for the protection and preservation of the property related to this contract that is in the possession of the Contractor and in which the District has or may acquire an interest.
 - (9) Use its best efforts to sell, as directed or authorized by the Contracting Officer, any property of the types referred to in subparagraph (6) above; provided, however, that the Contractor (i) is not required to extend credit to any purchaser and (ii) may acquire the property under the conditions prescribed by, and at prices approved by, the Contracting Officer. The proceeds of any transfer or disposition will be applied to reduce any payments to be made by the District under this contract, credited to the price or cost of the work, or paid in any other manner directed by the Contracting Officer.
- C. After the expiration of ninety (90) days (or such longer period as may be agreed to) after receipt by the Contracting Officer of acceptable inventory schedules, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality of termination inventory not previously disposed of excluding items authorized for disposition by the Contracting Officer. The Contractor may request the District to remove those items or enter into an agreement for their storage. Within fifteen (15) days, the District will accept title to those items and remove them or enter into a storage agreement. The Contracting Officer may verify the list upon removal of the items, or if stored, within forty five (45) days from submission of the list, and shall correct the list, as necessary, before final settlement.
- D. After termination, the Contractor shall submit a final termination settlement proposal to the Contracting Officer in the form and with the certification prescribed by the Contracting Officer. The Contractor shall submit the proposal promptly, but no later than one year from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this one year period. However, if the Contracting Officer determines that the facts justify it, a termination settlement proposal may be received and acted on after one year or any extension. If the Contractor fails to submit the proposal within the time allowed, the Contracting Officer may determine, on the basis of information available, the amount, if any, due to the Contractor because of the termination and shall pay the amount determined.

- E. Subject to paragraph (d) above, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount to be paid because of the termination. The amount may include a reasonable allowance for profit on work done. However, the agreed amount, whether under this paragraph (e) or paragraph (f) below, exclusive of costs shown in subparagraph (f)(3) below, may not exceed the total contract price as reduced by (1) the amount of payment previously made and (2) the contract price of work not terminated. The contract shall be amended, and the Contractor paid the agreed amount. Paragraph (f) below shall not limit, restrict, or affect the amount that may be agreed upon to be paid under this paragraph.
- F. If the Contractor and the Contracting Officer fail to agree on the whole amount to be paid because of the termination work, the Contracting Officer shall pay the Contractor the amounts determined by the Contracting Officer as follows, but without duplication of any amounts agreed on under paragraph (e) above:
- (1) District (or sold or acquired under subparagraph (b)(9) above) not the contract price for completed services accepted by the previously paid for, adjusted for any saving of freight and other charges.
 - (2) The total of :
 - (i) The costs incurred in the performance of the work terminated, including initial costs and preparatory expense allocable thereto, but excluding any costs attributable to services paid or to be paid under subparagraph (0(1) above;
 - (ii) The cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the ten Hinted portion of the contract if not included in subparagraph (f)(1) above; and
 - (iii) A sum, as profit on subparagraph f(1) above, determined by the Contracting Officer to be fair and reasonable; however, if it appears that the Contractor would have sustained a loss on the entire contract had it been completed, the Contracting Officer shall allow no profit under this subparagraph (iii) and shall reduce the settlement to reflect the indicated rate of loss.
 - (3) The reasonable cost of settlement of the work terminated, including-
 - (i) Accounting, legal, clerical, and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data;
 - (ii) The termination and settlement of subcontractors (excluding the amounts of such settlements); and
 - (iii) Storage, transportation, and other costs incurred, reasonably necessary for the preservation, protection, or disposition of the termination inventory.
- G. Except for normal spoilage, and except to the extent that the District expressly assumed the risk of loss, the Contracting Officer shall exclude from the amounts payable to the Contractor under paragraph (f) above, the fair value as determined by the Contracting Officer, of property that is destroyed, lost, stolen, or damaged so as to become undeliverable

to the District or to a buyer.

- H. The Contractor shall have the right of appeal, under Section I. 22 entitled: "Disputes", from any determination made by the Contracting Officer under paragraphs (d), (f) or (j), except that if the Contractor failed to submit the termination settlement proposal within the time provided in paragraph (d) or (j), and failed to request a time extension, there is no right of appeal. If the Contracting Officer has made a determination of the amount due under paragraph (d), (f) or (j), the District will pay the Contractor (1) the amount determined by the Contracting Officer if there is no right of appeal or if no timely appeal has been taken, or (2) the amount finally determined on an appeal.
- I. In arriving at the amount due the Contractor under this clause, there shall be deducted:
- J. All unliquidated advances or other payments to the Contractor under the termination portion of the contract;
- K. Any claim which the District has against the Contractor under this contract; and
- L. The agreed price for, all services under the provisions of this clause and not recovered by or credited to the District.
- M. If the termination is partial, the Contractor may file a proposal with the Contracting Officer for an equitable adjustment of the price(s) of the continued portion of the contract. The Contracting Officer shall make any equitable adjustment agreed upon. Any proposal by the Contractor for an equitable adjustment under this clause shall be requested within ninety (90) days from the effective date of termination unless extended in writing by the Contracting Officer.
 - (1) The District may, under the terms and conditions it prescribes, make partial payments and payments against costs incurred by the Contractor for the terminated portion of the contract, if the Contracting Officer believes the total of these payments will not exceed the amount to which the Contractor shall be entitled.
 - (2) If the total payments exceed the amount finally determined to be due, the Contractor shall repay the excess to the District upon demand together with interest computed at the rate of 10 percent (10%) per year. Interest shall be computed for the period from the date the excess payment is received by the Contractor to the date the excess payment is repaid. Interest shall not be charged on any excess payment due to a reduction in the Contractor's termination settlement proposal because of retention or other disposition of termination inventory until 10 days after the date of the retention or disposition, or a later date determined by the Contracting Officer because of the circumstances.
- N. Unless otherwise provided in this contract or by statute, the Contractor shall maintain all records and documents relating to the terminated portion of this contract for 3 years after final settlement. This includes all books and other evidence bearing on the Contractor's costs and expenses under this contract. The Contractor shall make these records and documents available to the District, at the Contractor's office, at all reasonable times, without any direct charge. If approved by the Contracting Officer, photographs, micrographs, or other authentic reproductions may be maintained instead of original records and documents.

I.25 RECOVERY OF DEBTS OWED THE DISTRICT

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

I.26 RETENTION AND EXAMINATION OF RECORDS

- I.26.1 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.
- I.26.2 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.
- I.26.3 The Contractor shall assure that these records shall be subject at all reasonable times to inspection, review, or audit by Federal, District, the Contracting Officer, the COTR, or other personnel duly authorized by the Contracting Officer.
- I.26.4 The Contracting Officer, the COTR, the Inspector General and the District of Columbia Auditor, 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.27 NON-DISCRIMINATION CLAUSE

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

the Act.

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

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

- (a) Employment, upgrading or transfer;
 - (b) Recruitment, or recruitment advertising;
 - (c) Demotion, layoff, or termination;
 - (d) Rates of pay, or other forms of compensation; and
 - (e) Selection for training and apprenticeship.
- (3) The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Agency, setting forth the provisions in subsections (b)(1) and (b)(2) concerning nondiscrimination 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 on 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 Contracting 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 terms of any subcontractor agreement each subcontractor to permit access of such subcontractors' 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 vendor as a result of such direction by the contracting agency, the Contractor may request the District to enter into such litigation to protect the interest of the District.

I.28 DEFINITIONS

The terms Mayor, Contracting Officer, COTR, Contract Appeals Board and District will mean the Mayor of the District of Columbia, the Contracting Officer of the Office of the Chief Financial Officer or his/her alternate, the Contracting Officer's Technical Representative selected by OGC, the Contract Appeals Board of the District of Columbia, and the Government of the District of Columbia respectively. If the Contractor is an individual, the term Contractor shall mean the Contractor, his heirs, his executor and his administrator. If the Contractor is a corporation, the term Contractor shall mean the Contractor and its successor.

I.29 HEALTH AND SAFETY STANDARDS

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

I.30 APPROPRIATION OF FUNDS

- I.30.1 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 the payment of any money shall not arise unless and until such appropriation shall have been provided.
- I.30.2 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.31 BUY AMERICAN ACT

- (a) The Buy American Act (41 U.S.C. § 10a) provides that the District give preference to domestic end products.

"Components," as used in this clause, means those articles, materials, and supplies incorporated directly into the end products.

"Domestic end product," as used in this clause, means, (1) an unmanufactured end product mined or produced in the United States, or (2) an end product manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States, exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind as the

products referred to in paragraphs (b)(2) or (3) of this clause shall be treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic.

"End products," as used in this clause, means those articles, materials, and supplies to be acquired for public use under this contract.

(b) The Contractor shall deliver only domestic end products, except those:

- (1) For use outside the United States;
- (2) That the District determines are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality;
- (3) For which the District determines that domestic preference would be inconsistent with the public interest; or
- (4) For which the District determines the cost to be unreasonable.

I.32 SERVICE CONTRACT ACT OF 1965

(a) Definitions. "Act," as used in this clause, means the Service Contract Act of 1965, as amended (41 U.S.C. §351, *et seq.*)

- (1) "Contractor," as used in this clause, means the prime Contractor or any subcontractor at any tier.
- (2) "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 District 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.

(b) 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 (20 CFR part 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 of 29 CFR 4.

(c) Compensation

- (1) Each service employee employed in the performance of this contract by the Contractor or any subcontractor shall be paid not less than the minimum monetary wages and shall be furnished fringe benefits in accordance with the wages and fringe benefits determined by the Secretary of Labor or the Secretary's authorized representative, as specified in any wage determination attached to this contract.
- (2) If a wage determination is attached to this contract, the Contractor shall classify any class of service employees not listed in it, but to be employed under this contract (i.e., the work to be performed is not performed by any classification listed in the wage

determination) so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed class of employees shall be paid the monetary wages and furnished the fringe benefits as are determined pursuant to the procedures in this paragraph. This conforming procedure shall be initiated by the Contractor prior to the performance of contract work by the unlisted class of employee.

- (a) The Contractor shall submit Standard Form (SF) 1444, Request for Authorization of Additional Classification and Rate, to the Contracting Officer no later than 30 days after the unlisted class of employee performs any contract work. The Contracting Officer shall review the proposed classification and rate and promptly submit the completed SF 1444 (which must include information regarding the agreement or disagreement of the employees' authorized representatives or the employees themselves together with the agency recommendation), and all pertinent information to the Wage and Hour Division, Employment Standards Administration (ESA), Department of Labor. The Wage and Hour Division will approve, modify, or disapprove the action or render a final determination in the event of disagreement within 30 days of receipt or will notify the Contracting Officer within 30 days of receipt that additional time is necessary;
- (b) The final determination of the conformance action by the Wage and Hour Division shall be transmitted to the Contracting Officer who shall promptly notify the Contractor of the action taken. Each affected employee shall be furnished by the Contracting Officer with a written copy of such determination or it shall be posted as a part of the wage determination;
- (c) The process of establishing wage and fringe benefit rates that bear a reasonable relationship to those listed in a wage determination cannot be reduced to any single formula. The approach used may vary from wage determination to wage determination depending on the circumstances. Standard wage and salary administration practices which rank various job classifications by pay grade pursuant to point schemes or other job factors may, for example, be relied upon. Guidance may also be obtained from the way different jobs are rated under Federal pay systems (Federal Wage Board Pay System and the General Schedule) or from other wage determinations issued in the same locality. Basic to the establishment of any conformable wage rate(s) is the concept that a pay relationship should be maintained between job classifications based on the skill required and the duties performed;
- (d) In the case of a contract modification, an exercise of an option, or extension of an existing contract, or in any other case where a Contractor succeeds to a contract under which the classification in question was previously conformed pursuant to this clause, a new conformed wage rate and fringe benefits may be assigned to the conformed classification by indexing (*i.e.*, adjusting) the previous conformed rate and fringe benefits by an amount equal to the average (mean) percentage increase (or decrease, where appropriate) between the wages and fringe benefits specified for all classifications to be used on the contract which are listed in the current wage determination, and those specified for the corresponding classifications in the previously applicable wage determination. Where conforming actions are accomplished in accordance with this paragraph prior to the performance of contract work by the unlisted class of employees, the Contractor shall advise the Contracting

Officer of the action taken but the other procedures in this clause need not be followed;

- (e) No employee engaged in performing work on this contract shall in any event be paid less than the currently applicable minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended;
 - (f) The wage rate and fringe benefits finally determined under this clause shall be paid to all employees performing in the classification from the first day on which contract work is performed by them in the classification. Failure to pay the unlisted employees the compensation agreed upon by the interested parties or finally determined by the Wage and Hour Division retroactive to the date such class of employees commenced contract work shall be a violation of the Act and this contract;
 - (g) Upon discovery of failure to comply with this clause, the Wage and Hour Division shall make a final determination of conformed classification, wage rate, and/or fringe benefits which shall be retroactive to the date such class or classes of employees commenced contract work.
- (3) If the term of this contract is more than 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 2 years, under wage determinations issued by ESA.
 - (4) The Contractor can discharge the obligation to furnish fringe benefits specified in the attachment or determined under paragraph (2) of this clause by furnishing any equivalent combinations of bona fide fringe benefits, or by making equivalent or differential cash payments, in accordance with Subpart B and C of 29 CFR 4.
- (d) 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 obligation to pay a higher wage to any employee.
 - (e) 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:
 - (1) Determines that the agreement under the predecessor was not the result of arms-length negotiations; or
 - (2) 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 or determines, as provided in 29 CFR 4.11, that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations. Where it is found in accordance with the review procedures provided in 29 CFR 4.10 and 4.11 and parts 6 and 8 that some or all of the wages and fringe benefits contained in a predecessor Contractor's collective bargaining agreement are substantially at

variance with those which prevail for services of a character similar in the locality, and that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of amt's length negotiations, the Department will issue a new or revised wage determination setting forth the applicable wage rates and fringe benefits. Such determination shall be made part of the contract or subcontract, in accordance with the decision of the Administrator, the Administrative Law Judge, or the Board of Service Contract Appeals, as the case may be, irrespective of whether such issuance occurs prior to or after the award of a contract or subcontract (53 Comp. Gen. 401 (1973)). In the case of a wage determination issued solely as a result of a fording of substantial variance, such determination shall be effective as of the date of the final administrative decision.

- (f) Notification to employees: The Contractor shall notify each service employee commencing work on this contract of a 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 worksite, using such poster as may be provided by the Department of Labor.
- (g) Safe and sanitary working conditions: The Contractor shall not permit services called for by this contract to be performed in buildings 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.
- (h) Records: The Contractor shall maintain for 3 years from the completion of work, and make available for inspection and transcription by authorized ESA representatives, a record of the following:
 - (1) 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, rate or rates of payments in lieu of fringe benefits, and total daily and weekly compensation;
 - (c) Daily and weekly hours worked; and
 - (d) Any deductions, rebates, or refunds from total daily or weekly compensation.
 - (2) 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 (c)(3) of this clause. A copy of the report required by paragraph (e) of this clause will fulfill this requirement.
 - (3) Any list of the predecessor Contractor's employees which had been furnished to the Contractor as prescribed by this clause. The Contractor shall also make available a copy of this contract for inspection or transcription by authorized representatives of the Wage and Hour Division. Failure to make and maintain or to make available these records for inspection and transcription shall be a violation of the regulations and this contract, and in the case of failure to produce these records, the Contracting Officer, upon direction of the Department of Labor and notification to the Contractor, shall take action to cause suspension of any further payment or advance of funds until the violation ceases. The Contractor shall

permit authorized representatives of the Wage and Hour Division to conduct interviews with employees at the worksite during normal working hours.

- (i) Pay periods : The Contractor shall unconditionally pay to each employee subject to the Act all wages due free and clear and without subsequent deduction (except as otherwise provided by law or regulations, 29 CER part 4), rebate, or kickback on any account. These payments shall be made no later than one pay period following the end of the regular pay period in which the wages were earned or accrued. A pay period under this Act may not be of any duration longer than semi-monthly.
- (j) Withholding of payments and termination of contract: The Contracting Officer, in consultation with COTR, shall withhold from the prime Contractor under this or any other District 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. In the event of failure to pay any employees subject to the Act all or part of the wages or fringe benefits due under the Act, the Contracting Officer may, after authorization or by direction of the Department of Labor and written notification to the Contractor, take action to cause suspension of any further payment or advance of funds until such violations have ceased. Additionally, any failure to comply with the requirements of this clause may be grounds for termination for default. In such event, the District may enter into other contracts or arrangements for completion of the work, charging the Contractor in default with any additional cost.
- (k) Subcontracts: The Contractor agrees to insert this clause in all subcontracts.
- (l) Contractor's report:
 - (1) 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.
 - (2) If wages to be paid or fringe benefits to be furnished any service employees under the contract are covered in a collective bargaining agreement effective at any time when the contract is being performed, the 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 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.
- (m) Contractor's Certification: By entering into this contract, the Contractor (and officials thereof) certifies that neither it (nor he or she) nor any person or firm who has a substantial interest in the Contractor's firm is a person or firm ineligible to be awarded District contracts by virtue of the sanctions imposed under section 5 of the Act. No part of this contract shall be subcontracted to any person or firm ineligible for award of a District contract under section 5 of the Act. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. § 1001.
- (n) Variations, tolerances, and exemptions involving employment: Notwithstanding any of the provisions in paragraphs (c) through (1) of this clause, the following employees may be

employed in accordance with the following variations, tolerances, and exemptions authorized by the Secretary of Labor.

- (o) (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, student-learners, handicapped persons, or handicapped clients of sheltered workshops not subject to the Fair Labor Standards Act of 1938, or subject to different minimum rates of pay under the two acts, authorizing appropriate rates of minimum wages, but without changing requirements concerning fringe benefits or 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.
- (p) An employee engaged in an occupation in which the employee customarily and regularly receives more than \$30 a month in tips shall be credited by the employer against the minimum wage required by section 2(a)(1) 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.

SECTION J
LIST OF ATTACHMENTS

The Attachment J.1 listed below will be incorporated into the contract by this reference.

Attachment	Title
J.1	Legal Services Invoice
J.2	Office of Contracts Bidder/Offeror Certification Form
J.3	Doing Business With Integrity

In order to do business with the District, a potential contractor must be registered to do business with the Office of Tax and Revenue (OTR) and Department of Employment Services (DOES). In order to register with the Office of Tax and Revenue, contact Customer Service Office at 202-727-4829 to request a form FR-500 (Combined Registration Application) which must be fully completed and submitted to the address indicated on the form, Office of Tax and Revenue, PO Box 470, Washington, DC 20044-0470 or register online at: https://www.taxpayerservicecenter.com/FR500_Instructions.jsp. In order to register with the Department of Employment Services, complete, Part VI of the FR-500 - (Combined Registration Application) and return it to the Unemployment Tax Division. Please contact the Registration section at 202-698-5124 or 202-698-5127 for more information. Any and all selected firms must be registered and in compliance with DOES & OTR prior to consideration for contract award.

SECTION K

REPRESENTATIONS, CERTIFICATIONS
AND
OTHER STATEMENTS OF OFFERORS

AUTHORIZED OFFICERS

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

Name: Darrin L. Glymph
Title: Partner
Email: dglymph@orrick.com
Telephone: (202) 339-8401

PENDING LEGAL CLAIMS AGAINST THE DISTRICT

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

The Offeror has not pending legal claims against the District.

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

Darrin L. Glymph 10/28/2016 Partner
Signature Date Title

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.*

Darrin L. Glymph 10/28/2016 Partner
Signature Date Title

J.2

OFFICE OF CONTRACTS BIDDER/OFFEROR CERTIFICATION FORM

COMPLETION			
The person(s) completing this form must be knowledgeable about the bidder's/offeror's business and operations.			
RESPONSES			
Every question must be answered. Each response must provide all relevant information that can be obtained within the limits of the law. Individuals and sole proprietors may use a Social Security number but are encouraged to obtain and use a federal Employer Identification Number (EIN). Provide any explanation at the end of the section or attach additional sheets with numbered responses. Include the bidder's/offeror's name at the top of each attached page.			
GENERAL INSTRUCTIONS			
This form contains four (4) sections. Section I concerns the bidder's/offeror's responsibility; Section II includes additional required certifications; Section III relates to the Buy American Act (if applicable); and Section IV requires the bidder's/offeror's signature.			
SECTION I. BIDDER/OFFEROR RESPONSIBILITY CERTIFICATION			
<i>Instructions for Section I: Section I contains eight (8) parts. Part 1 requests information concerning the bidder's/offeror's business entity. Part 2 inquires about current or former owners, partners, directors, officers or principals. Part 3 relates to the responsibility of the bidder's/offeror's business. Part 4 concerns the bidder's/offeror's business certificates and licenses. Part 5 inquires about legal proceedings. Part 6 relates to the bidder's/offeror's financial and organizational status. Part 7 requires the bidder/offeror to agree to update the information provided. Part 8 relates to disclosures under the District of Columbia Freedom of Information Act (FOIA).</i>			
PART 1: BIDDER/OFFEROR INFORMATION			
Legal Business Entity Name: Orrick, Herrington & Sutcliffe LLP		Solicitation #: CFOPD-16-R059	
Address of the Principal Place of Business (street, city, state, zip code) Columbia Center 1152 15th Street NW Washington, DC 2005		Telephone # and ext.: 202-339-8401	Fax #: 202-339-8500
Email Address: dglymph@orrick.com		Website: www.orrick.com	
Additional Legal Business Entity Identities: If applicable, list any other DBA, Trade Name, Former Name, Other Identity and EIN used in the last five (5) years and the status (active or inactive).			
Type:	Name:	EIN:	Status:
Please see attached			
I.1 Business Type (Please check the appropriate box and provide additional information if necessary.):			
<input type="checkbox"/> Corporation (including PC)	Date of Incorporation:		
<input type="checkbox"/> Joint Venture	Date of Organization:		
<input checked="" type="checkbox"/> Limited Liability Company (LLC or PLLC)	Date of Organization: 8/30/1996		
<input type="checkbox"/> Nonprofit Organization	Date of Organization:		
<input type="checkbox"/> Partnership (including LLP, LP or General)	Date of Registration or Establishment:		
<input type="checkbox"/> Sole Proprietor	How many years in business?:		
<input type="checkbox"/> Other	Date established?:		
If "Other," please explain:			
I.2 Was the bidder's/offeror's business formed or incorporated in the District of Columbia?			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Other
If "No" to Subpart I.2, provide the jurisdiction where the bidder's/offeror's business was formed or incorporated. Attach a Certificate or Letter of Good Standing from the applicable jurisdiction and a certified Application for Authority from the District of Columbia, or provide an explanation if the documents are not available.			
State <u>California</u>		Country <u>USA</u>	

1.3 Please provide a copy of each District of Columbia license, registration or certification that the bidder/offeror is required by law to obtain (other than those provided in Subpart 1.2). If the bidder/offeror is not providing a copy of its license, registration or certification to transact business in the District of Columbia, it shall either:

- (a) Certify its intent to obtain the necessary license, registration or certification prior to contract award; or
- (b) Explain its exemption from the requirement.

PART 2: INDIVIDUAL RESPONSIBILITY

Additional Instructions for Section 1, Parts 2 through 8: Provide an explanation of the issue(s), relevant dates, the government entity involved, any remedial or corrective action(s) taken and the current status of the issue(s).

Within the past five (5) years, has any current or former owner, partner, director, officer, principal or any person in a position involved in the administration of funds, or currently or formerly having the authority to sign, execute or approve bids, proposals, contracts or supporting documentation on behalf of the bidder/offeror with any government entity:

2.1 Been sanctioned relative to any business or professional permit or license?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Other
2.2 Been under suspension, debarment, voluntary exclusion or determined ineligible under any federal, District or state statutes?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Other
2.3 Been proposed for suspension or debarment?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Other
2.4 Been the subject of an investigation, whether open or closed, by any government entity for a civil or criminal violation for any business-related conduct?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Other
2.5 Been charged with a misdemeanor or felony, indicted, granted immunity, convicted of a crime, or subject to a judgment or plea bargain for: (a) Any business-related activity; or (b) Any crime the underlying conduct of which was related to truthfulness?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Other
2.6 Been suspended, cancelled or terminated for cause on any government contract including, but not limited to, a non-responsibility finding?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Please provide an explanation for each "Yes" or "Other" in Part 2. For each "Other", include an explanation that provides the basis for not definitively responding "Yes" or "No". PLEASE SEE ATTACHED

PART 3: BUSINESS RESPONSIBILITY

Within the past five (5) years, has the bidder/offeror:

3.1 Been under suspension, debarment, voluntary exclusion or determined ineligible under any federal, District or state statutes?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Other
3.2 Been proposed for suspension or debarment?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Other
3.3 Been the subject of an investigation, whether open or closed, by any government entity for a civil or criminal violation for any business-related conduct?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Other
3.4 Been charged with a misdemeanor or felony, indicted, granted immunity, convicted of a crime, or subject to a judgment or plea bargain for: (a) Any business-related activity; or (b) Any crime the underlying conduct of which was related to truthfulness?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Other
3.5 Been disqualified on any government permit or license?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Other
3.6 Been denied a contract award or had a bid or proposal rejected based upon a non-responsibility finding by a government entity?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Other
3.7 Had a low bid or proposal rejected on a government contract for failing to make good faith efforts on any Certified Business Enterprise goal or statutory affirmative action requirements on a previously held contract?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Other
3.8 Been suspended, cancelled or terminated for cause on any government contract including, but not limited to, a non-responsibility finding?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Other

Please provide an explanation for each "Yes" or "Other" in Part 3. PLEASE SEE ATTACHED

PART 4: CERTIFICATES AND LICENSES

Within the past five (5) years, has the bidder/offeror:

4.1 Had a denial, decertification, revocation or forfeiture of District of Columbia certification of Certified Business Enterprise or federal certification of Disadvantaged Business Enterprise status for other than a change of ownership?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
---	---

Please provide an explanation for "Yes" in Subpart 4.1.

4.2 Please provide a copy of the bidder's/offeror's District of Columbia Office of Tax and Revenue Tax Certification Affidavit.

PART 5: LEGAL PROCEEDINGS

Within the past five (5) years, has the bidder/offeror:

5.1 Had any liens or judgments (not including UCC filings) over \$25,000 filed against it which remain undischarged?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
--	---

If "Yes" to Subpart 5.1, provide an explanation of the issue(s), relevant dates, the Lien Holder or Claimant's name, the amount of the lien(s) and the current status of the issue(s).

5.2 Had a government entity find a willful violation of District of Columbia compensation or prevailing wage laws, the Service Contract Act or the Davis-Bacon Act?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
5.3 Received any OSHA citation and Notification of Penalty containing a violation classified as serious or willful?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Please provide an explanation for each "Yes" in Part 5.	
PART 6: FINANCIAL AND ORGANIZATIONAL INFORMATION	
6.1 Within the past five (5) years, has the bidder/offeror received any formal unsatisfactory performance assessment(s) from any government entity on any contract?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes" to Subpart 6.1, provide an explanation of the issue(s), relevant dates, the government entity involved, any remedial or corrective action(s) taken and the current status of the issue(s).	
6.2 Within the past five (5) years, has the bidder/offeror had any liquidated damages assessed over \$25,000?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes" to Subpart 6.2, provide an explanation of the issue(s), relevant dates, the government entity involved, the amount assessed and the current status of the issue(s).	
6.3 Within the last seven (7) years, has the bidder/offeror initiated or been the subject of any bankruptcy proceedings, whether or not closed, or is any bankruptcy proceeding pending?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes" to Subpart 6.3, provide the bankruptcy chapter number, the court name and the docket number. Indicate the current status of the proceedings as "initiated," "pending" or "closed".	
6.4 During the past three (3) years, has the bidder/offeror failed to file or pay any tax returns required by federal, state, District of Columbia or local laws?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes" to Subpart 6.4, provide the taxing jurisdiction, the type of tax, the liability year(s), the tax liability amount the bidder/offeror failed to file/pay and the current status of the tax liability.	
6.5 During the past three (3) years, has the bidder/offeror failed to file a District of Columbia unemployment insurance return or failed to pay District of Columbia unemployment insurance?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes" to Subpart 6.5, provide the years the bidder/offeror failed to file the return or pay the insurance, explain the situation and any remedial or corrective action(s) taken and the current status of the issue(s).	
6.6 During the past three (3) years, has the bidder/offeror complied with any payment agreement with the Internal Revenue Service, the District of Columbia Office of Tax and Revenue and the Department of Employment Services	<input type="checkbox"/> Yes <input type="checkbox"/> No <i>N/A</i>
If "Yes" to Subpart 6.6, provide the years the bidder/offeror failed to comply with the payment agreement, explain the situation and any remedial or corrective action(s) taken and the current status of the issue(s).	
6.7 Indicate whether any outstanding debt is owed to the federal or District of Columbia government.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes" to Subpart 6.7, provide an explanation of the issue(s), relevant dates, the government entity involved, any remedial or corrective action(s) taken and the current status of the issue(s).	
6.8 During the past three (3) years, has the bidder/offeror been audited by any government entity?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
(a) If "Yes" to Subpart 6.8, did any audit of the bidder/offeror identify any significant deficiencies in internal controls, fraud or illegal acts; significant violations of provisions of contract or grant agreements; significant abuse; or any material disallowance?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
(b) If "Yes" to Subpart 6.8(a), provide an explanation of the issue(s), relevant dates, the government entity involved, any remedial or corrective action(s) taken and the current status of the issue(s).	
PART 7: RESPONSE UPDATE REQUIREMENT	
7.1 In accordance with the requirement of Section 302(c) of the Procurement Practices Reform Act of 2010 (D.C. Official Code § 2-353.02), the bidder/offeror shall update any response provided in Section I of this form during the term of this contract:	
(a) Within sixty (60) days of a material change to a response; and	
(b) Prior to the exercise of an option year contract.	
PART 8: FREEDOM OF INFORMATION ACT (FOIA)	
8.1 Indicate whether any information provided in response to a question in Section I is believed to be exempt from disclosure under the District of Columbia Freedom of Information Act (FOIA), effective March 25, 1977 (D.C. Law 1-96; D.C. Official Code §§ 2-531, et seq.). Include the question number(s) and explain the basis for the claim. (A determination of whether such information is, in fact, exempt from FOIA will be made at the time of any request for disclosure under FOIA.)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

SECTION II. ADDITIONAL REQUIRED BIDDER/OFFEROR CERTIFICATIONS

Instructions for Section II: Section II contains three (3) parts. Part 1 requests information concerning District of Columbia employees. Part 2 applies to the bidder/offeree's pricing. Part 3 relates to equal employment opportunity requirements.

PART 1. DISTRICT EMPLOYEES NOT TO BENEFIT

By checking the applicable line, the bidder/offeree certifies that:

- 1.2 No person listed in clause 13 of the Standard Contract Provisions, "District Employees Not To Benefit", will benefit from this contract.
- 1.3 The following person(s) listed in clause 13 of the Standard Contract Provisions may benefit from this contract. (For each person listed, attach the affidavit required by clause 13.)
- (a) _____
- (b) _____

PART 2: INDEPENDENT PRICE DETERMINATION REQUIREMENTS

By checking the applicable line, the bidder/offeree certifies that:

- 2.1 Each signature of the bidder/offeree is considered to be a certification by the signatory that:
- (a) The contract prices have been arrived at independently without, for the purpose of restricting competition, any consultation, communication or agreement with any bidder/offeree or competitor related to:
 - (i) Those prices;
 - (ii) The intention to submit a bid/proposal; or
 - (iii) The methods or factors used to calculate the prices in the contract.
 - (b) The prices in this contract have not been and will not be knowingly disclosed by the bidder/offeree, directly or indirectly, to any other bidder/offeree or competitor before bid/proposal opening unless otherwise required by law; and
 - (c) No attempt has been made or will be made by the bidder/offeree to induce any other concern to submit or not to submit a contract for the purpose of restricting competition.
- 2.2 Each signature on the bid/proposal is considered to be a certification by the signatory that the signatory:
- (a) Is the person in the bidder's/offeree's organization responsible for determining the prices being offered in the contract;
 - (b) Has not participated and will not participate in any action contrary to subparagraphs 2.1(a)(i) through (a)(iii) above; or
 - (c) Has been authorized, in writing, to act as an agent for the following principal in certifying that the principal has not participated, and will not participate, in any action contrary to subparagraphs 2.1(a)(i) through (a)(iii) above:

Darrin Glymph, Partner

[Insert full name of person(s) in the organization responsible for determining the prices offered in this contract and the title of his or her position in the bidder's/offeree's organization]

- (i) As an authorized agent, certifies that the principal named in subparagraph 2.2(c) above has not participated, and will not participate, in any action contrary to subparagraphs 2.1(a)(i) through (a)(iii) above; and
- (ii) As an agent, has not participated, and will not participate, in any action contrary to subparagraphs 2.1(a)(i) through (a)(iii) above.

2.3 If the bidder/offeree deletes or modifies subparagraph 2.1(b) above, the bidder/offeree must furnish with its bid a signed statement setting forth in detail the circumstances of the disclosure.

PART 3: EQUAL OPPORTUNITY OBLIGATIONS

3.1 I hereby certify that I am fully aware of the contents of Mayor's Order 85-85 and the Office of Human Rights' regulations in Chapter 11 of the DCMR, and agree to comply with them while performing under this contract.

SECTION III. BUY AMERICAN ACT CERTIFICATION

Instructions for Section III: Section III contains one (1) part which should only be completed if goods are being provided that are subject to the requirements of the Buy American Act.

PART 1: BUY AMERICAN ACT COMPLIANCE

By checking the applicable line, the bidder/offeree certifies that:

1.1 Each end product, except the end products listed below, is a domestic end product (as defined in Paragraph 23 of the Standard Contract Provisions, "Buy American Act"), and that components of unknown origin are considered to have been mined, produced or manufactured outside the United States.

Not applicable

_____ COUNTRY OF ORIGIN

SECTION IV. CERTIFICATION

Instruction for Section IV: This section must be completed by all bidder/offers.

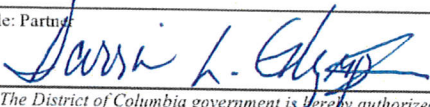
I, Darrin Glymph, as the person authorized to sign this bid/proposal, hereby certify that the information provided in this form is true and accurate.

Name: Darrin Glymph

Telephone #: 202-339-8401

Fax #: 202-339-8500

Title: Partner



Email Address: dglymph@orrick.com

The District of Columbia government is hereby authorized to verify the above information with appropriate government authorities. Penalty for making false statements is a fine of not more than \$1,000.00, imprisonment for not more than one year, or both, as prescribed in D.C. Official Code § 22-2514. Penalty for false swearing is a fine of not more than \$2,500.00, imprisonment for not more than three (3) years, or both, as prescribed in D.C. Official Code § 22-2513.

Attachment to J2

2.1 Other. Like all law firms that have been in business for over 150 years, Orrick attorneys have from time to time been reprimanded by the bars in which we practice typically due to an alleged failure to pay bar dues or meet continuing legal education requirements. To the best of our knowledge, no Orrick attorney has in the last five years or longer been sanctioned or otherwise disciplined by a Bar Association due to an allegation of malpractice or other ethical violation, or been debarred or suspended by any public entity from obtaining or performing a contract. Orrick makes this statement on behalf of itself, its officers and directors and not on behalf of any

2.4 and 3.3 No. Over the years and on behalf of clients, the Firm has responded to and cooperated with government, regulatory or administrative investigations. To the best of our knowledge, Orrick itself is not and has not been the subject of such an investigation. Orrick makes this response on behalf of itself, its officers and directors and not on behalf of any individual attorney or employee.

2.6 and 3.8 No. We are not aware of any instance where the Firm has been removed for cause as bond counsel by a tax-exempt issuer during the last five years. Of course, from time to time Orrick has been replaced between financings by other counsel following a competitive selection process, upon changes in administration, as a result of another firm's willingness to provide certain opinions, upon the departure of an attorney from Orrick, or for



**GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE CHIEF FINANCIAL OFFICER**

DOING BUSINESS WITH INTEGRITY

Introduction

You are receiving this because you are a contractor or a vendor who does repeated business with the Office of the Chief Financial Officer (OCFO), Government of the District of Columbia, or you are an organization or individual outside the OCFO with whom we frequently interact.

Our purpose is to advise you of the high expectation of integrity that we strive to bring to bear in all of our business relationships.

Environment of Trust

The Office of the Chief Financial Officer is committed to maintaining working relationships that are founded on fair and honest exchanges in all of our business interactions. Our employees are held to high standards of ethical behavior in the conduct of their official business.

We want to share these expectations of ethical business practices with you to ensure that our business relationships are conducted with the highest level of honesty and integrity.

OCFO Code of Conduct for Employees

The OCFO Code of Conduct imparts three fundamental values for employees:

- Employees should conduct themselves in such a manner as to maintain and enhance the integrity and professional reputation of the OCFO organization
- Employees should not use their position to secure unwarranted privileges, awards, or exemptions for themselves or others
- Employees should avoid real or perceived conflicts of interest between the employee's private interest and the employee's official duties.

For your reference, the OCFO Code of Conduct can be accessed electronically at www.cfo.dc.gov. Go to Information, click on Integrity and Oversight, then click on Integrity Documents to reach the Code of Conduct.

Confidentiality of Financial and Other Information

We expect our employees to maintain absolute confidentiality concerning all information that they obtain, observe, or create relating to the financial affairs of those we do business with. We vigorously investigate any compromise of confidentiality by employees or any attempts to improperly obtain such information by private parties or businesses.

Bribery and Conflict of Interest

In addition to our standards of conduct, there are certain criminal statutes in the federal criminal code relating to bribery and conflict of interest that apply not only to employees of the federal government, but also to employees of the District of Columbia.

- The offer of anything of value in expectation of specific performance by a government employee is a crime, and even the appearance of such activity should be avoided.
- Employees may not accept anything of value (other than their government salaries) for the performance of their duties. This is outlined below under Gratuities and Other Gift Rules.
- Our employees are required to report all offers of bribes and gratuities to us, and we ensure that these matters are investigated and addressed. Likewise, we encourage anyone who believes they may have been solicited for a bribe or gratuity by an OCFO employee to report the matter immediately, as indicated at the end of this document.
- We also expect our employees to avoid conflicts of interest or the appearance of conflicts of interest. A particularly sensitive issue for government employees is the offer of employment with a company doing business with the OCFO. At any point when a government employee is considering employment with a private company that has a business relationship with the government, that employee must discontinue work on any assignment involving that company or face the very real possibility of violating conflict of interest statutes. This could also jeopardize the company's eligibility to be awarded government contracts.
- Employees are also expressly forbidden from performing official duties in situations involving friends, relatives or persons or businesses with whom they, or their family members, have a financial relationship. At any point where such a relationship is discovered or develops, the employee must discontinue their involvement in the official matter. For the employee and the business entity to continue to conduct official business after such a conflict is evident, would be inappropriate and possibly illegal.

Gratuities

It is always gratifying to hear that our staff has provided exemplary service to those with whom we do business. Sometimes, however, the expression of appreciation is made in a form that is inappropriate for government employees to accept.

OCFO employees are prohibited by law from accepting money or other things of value as an appreciation for a job well done. Sometimes even the mere offer of something of value may violate bribery and gratuity statutes. A more appropriate expression of gratitude for the service rendered is a letter to the employee's supervisor. If you don't know who that is, you may simply send your letter to the Office of the Chief Financial Officer, and it will be routed to the proper official.

Other Gift Rules

Gifts of food and/or beverages, even during holiday seasons and other celebratory occasions, are not acceptable if the giver has a business relationship of any kind with the D.C. Government. Such offers, while well-intentioned, tend to give the impression of a special relationship between the giver and the government employee.

This rule does not apply to the offer and acceptance of an insignificant item, such as a soft drink, coffee, donuts and other modest items of food and refreshments when not offered as part of a meal. Additional information on gift rules and exceptions is contained in OCFO Code of Conduct, which can be accessed electronically at www.cfo.dc.gov. Go to Information, click on Integrity and Oversight, then click on Integrity Documents to reach the Code of Conduct.

Compliance with Contracting Rules and Regulations

Ensuring compliance with the provisions of contracts is an important expectation of government employees. Even so, we have seen examples where the rules were not followed, usually based on the "need to get the job done." Such behavior puts both the government employee and the contractor in jeopardy.

If modifications to existing contracts are necessary, they should be formally pursued in accordance with OCFO contracting rules and regulations. No work outside the specifications of a contract should be performed without an approved contract modification. Performing work outside of contract specifications or beyond authorized funding, could result in a default for the contractor and denial of payment for such work. In the more extreme cases, failure to comply with contracting regulations could be considered fraud and may be investigated as a criminal violation.

Reporting Misconduct, Fraud, Waste and Abuse

The OCFO has a zero tolerance policy for fraud and misconduct involving its employees and programs. Similarly, we do not tolerate attempts to corrupt our employees.

The Office of Integrity and Oversight is an independent entity of the OCFO with responsibility for protecting the integrity of the OCFO and preventing fraud and other misconduct in OCFO programs. OIO conducts investigations of alleged employee misconduct and works closely with federal and District law enforcement agencies in investigating criminal offenses affecting the integrity of the OCFO.

We all want the government's business to be conducted fairly, impartially, and with the highest degree of integrity. The best way to ensure this is to report any indication that illegal acts or administrative misconduct may have occurred. Here is how you can report such matters, by telephone, in person, mail, or electronically:

OCFO Office of Integrity and Oversight

1100 4th Street, S.W.; Suite 750-E
Washington, DC 20024
(202) 442-6433

In addition to receiving your report, investigators are available to discuss any questions or concerns you may have about the matter. Reporting can also be done electronically at the OCFO website: www.cfo.dc.gov. Under Information, click on the Integrity and Oversight link, and then click on Reporting Incidents and Concerns.

OCFO Confidential Hotline

In order to address any concern about reporting anonymously, the OCFO has contracted with an independent, third-party organization that provides a confidential hotline service. This hotline is available for reporting allegations of OCFO employee misconduct, and fraud, waste and abuse involving OCFO programs.

Reports can be made by telephone to this toll-free hotline, which is staffed 24 hours a day, at 1-877-252-8805, or it can be accessed at www.ocfo.ethicspoint.com.

District of Columbia Office of the Inspector General

Reports of fraud, waste and abuse may be reported to the Office of the Inspector General by telephone at 1-800-521-1639, or electronically at www.oig.dc.gov.