GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF GENERAL SERVICES

REQUEST FOR PROPOSALS

DESIGN-BUILD SERVICES
BENJAMIN BANNEKER HIGH SCHOOL

December 20, 2018

Solicitation Number: DCAM-19-CS-RFP-0045

Proposal Due Date: **January 22, 2019 by 2:00 P.M.**

Pre-Proposal Conference:
Date and time to be issued by Addendum

Table of Contents

PART 1 - PROJECT INTRODUCTION AND INSTRUCTIONS FOR OFFERORS **3**

PART 2 - PROJECT REQUIREMENTS **12**

PART 3 - EVALUATION AND AWARD CRITERIA **40**

PART 4 - ECONOMIC INCLUSION **45**

PART 5 - PROPOSAL ORGANIZATION AND SUBMISSION **50**

PART 6 - BIDDING PROCEDURES & PROTESTS **54**

PART 7 - DESIGN BUILD AGREEMENT **58**

PART 8 - INSURANCE REQUIREMENTS **59**

PART 9 - BONDS REQUIREMENTS **65**

PART 10 - MISCELLANEOUS PROVISIONS **66**

PART 11 - ATTACHMENTS **67**

PART 1 - PROJECT INTRODUCTION AND INSTRUCTIONS FOR OFFERORS

1.0 Procurement Overview

The Department of General Services (the "Department" or "DGS") submits this Request for Proposals ("RFP") to solicit design-build proposals ("Proposal(s)") from offerors or bidders ("Offeror(s)") interested in contracting to serve as the design-builder ("Design-Builder") for the new Benjamin Banneker High School, which will be located at the current site of Shaw Junior High School at the corner of Rhode Island Avenue and 9th Street NW Washington, DC 20001 (the "Project"). The purpose of this RFP is to determine which Offeror will be awarded the Design-Build contract ("Agreement" or "Contract") for the Project.

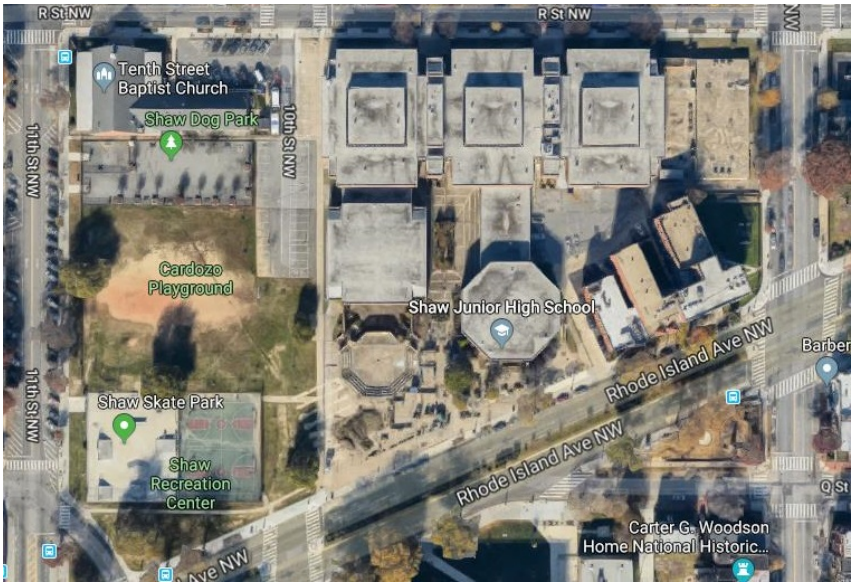
1.1 Project Overview

The Department is issuing this RFP to engage a Design-Builder to design and construct the new Benjamin Banneker High School ("Banneker"). The Project includes, among other things design, preconstruction and construction services to build a new 21st century learning environment to accommodate an increased enrollment of approximately 800 students within the next decade (collectively the "Work").

1.2 Project Background

The existing Banneker High School is located at 800 Euclid Street, NW, and was constructed in 1939. The Department's desire is to construct a new building on the site of the existing Shaw Junior High School in order to create a 21st century learning environment for up to 800 students. A copy of the Educational Specifications for the new facility is attached hereto as **Attachment A.** While the Educational Specifications encourage the Design-Build team to explore both completely new construction as well as partially new construction options, the Department has determined that this Project shall entail razing of the existing building on site and construction of a completely new high school facility.

It is anticipated that the new Banneker High School would be situated off either R Street, NW or Rhode Island Avenue, NW. The exact location will be determined during the conceptual phase of the design process, with input from both DCPS and other local community stakeholders. It is anticipated that the new footprint would not encroach on the adjacent Department of Parks and Recreation ("DPR") space to the west of the existing school or onto the private property to the southwest of the existing Shaw Junior High School campus. The Banneker program will stay in its current facility until construction of the new building is completed.



The Project shall be designed in such a way so as to achieve, at a minimum, LEED for Schools – Gold, with a preference of LEED Platinum certification. As part of the LEED certification, the District will require the innovation LEED Pilot Credit – Integrative Process for Health Promotion (https://www.usgbc.org/credits/new-construction-core-and-shell-schools-new-construction-retail-new-construction-healthc-106), green roof credits (through the DOEE Stormwater Retention Credit program and RiverSmart Rooftops Rewards and Rebate program), and Energy Star Certification. The Design-Build team will be responsible for applying for and achieving Energy Star Certification, and filing the DOEE Stormwater Retention Credit and RiverSmart Rooftops registration forms. The Design-Build team shall also comply with the recently adopted International Green Construction Code. In addition, the District is particularly interested in Banneker High School becoming a Net Zero energy building, and the Department requires the Design-Build team to explore net zero strategies in the building's design and certification through the International Living Future Institute's (ILFI) Zero Energy Building program. Finally, the Design-Build team shall include a traffic engineer to provide relevant traffic and parking studies for this Project. A secure, web-based, electronic project management (ePM) system will be provided by the Design-Builder to accommodate the information needs of all project participants. The ePM system will be implemented at the beginning of the Design Stage and maintained continuously through completion of project closeout. All communications among the major parties involved in the execution of the project are to be captured and recorded in the ePM system. User licenses and training will be provided for all Government and contracted members of the Project Delivery Team who will require access to the ePM system.

The DB Contractor shall use the ePM system for all necessary communications with other major parties involved in the project. Electronic storage and transmission of information via the ePM system shall be compliant with the provisions of the Document Security section of these General Requirements.

Building Information Modeling (BIM) is required to be used throughout the facility lifecycle, including all project phases from project planning and concept design through construction, as-builts and into facilities management. The DB Contractor must work collaboratively with all project stakeholders. It is expected by the DGS that all team members are to be committed to the use of BIM in the project, share their ideas of BIM expertise with the team, provide BIM data as requested by other team members, look for cost savings and schedule improvements during the entire project duration, and endeavor to leave as a legacy a fully updated, as built, facility management ready building information model.

The Department expects Banneker to be a flagship project for the District. As such, the Design-Build team's architect/engineer shall participate in helping the Department prepare applications for industry awards after the completion of the project. The Design-Build team shall also help the Department present at prominent industry seminars, and conferences by creating presentations that highlight the Banneker project.

The Design-Builder shall consider all DGS Facilities Management Building Standards, as well as Sustainability/High Performance Best Practices, Smart Roof Design Guidelines, and NREL Net Zero Guidelines. The school design shall implement the latest applicable building codes for ADA accessibility and fire and life safety systems. The design shall also meet or exceed the minimum threshold for Sustainability for DC-owned buildings that undergo major renovations, and shall follow Appendix Z of the District's latest energy code for net zero energy standards and considerations.

It is the Department's desire to procure separately a network engineering design that will fully integrate the network infrastructure and IT equipment, along with all Building Automation System (BAS) technology. This network engineering design and technology will need to be incorporated and coordinated with the awarded Design-Build team's design.

1.3 Project Budget and Funding Limitations

The Department has an approved construction budget of approximately $118Million dollars for this Project (hard cost). Accordingly, Offerors are to base their Proposals on the approved budget. Upon award, the Agreement for Design-Build Services will be submitted to the Council of the District of Columbia for approval.

1.4 Compensation

As is more fully described in the Agreement, this will be a cost plus a fixed fee with a guaranteed maximum price ("Guaranteed Maximum Price" or "GMP") type Contract. The Agreement will be issued via Addendum to the RFP as **Attachment M**, Design-Build Agreement. Offerors are

not required to submit trade costs or a proposed GMP with their Proposals. Those costs will be developed later in the Project in accordance with the procedures set forth in **Part 2** of this RFP. Offerors are advised, however, that adjustments will only be made to the fees and the maximum cost of general conditions should (i) the overall dollar amounts allocated for the Project increase by more than (10%) above the approved budget for the Project as of the date of issuance of this RFP; or (ii) if the Department elects to delay or extend the Project schedule beyond that described herein for reasons other than delay caused by the Design-Builder, and in such an instance, only in accordance with the terms of the resulting Agreement, which is set forth as **Attachment M.**

1.5 Milestones and Substantial Completion Date

The final Design Development submittal is required by September 6, 2019 and Construction Documents submittal is required by October 31, 2019 It is expected that the razing of the existing building and related site work would be completed in the fall of 2019 and the new building would be substantially complete no later than July 16, 2021 (the "Substantial Completion Date").

1.6 Project Delivery Method and Schedule

The Department intends to implement the Project through a design-build approach. The scope of work for the Project ("Scope of Work") will be divided into two phases: (i) the Design and Preconstruction Phase; and (ii) the Construction Phase.

During the Design and Preconstruction Phase, the selected Design-Builder, in consultation with the Department, will be required to (i) develop and advance the design in accordance with the Department's programming requirements to permit drawings/specifications and submit for permit(s); (ii) progress the permit drawings/specifications for the Project to construction documents ("Construction Documents"); (iii) participate in any on-going community engagement process; and (iv) develop a GMP for the Project. In developing the GMP, the Design-Builder will be required to obtain quotes from trade subcontractors based on the approved design documents. The process by which the GMP will be formed is more fully described in the Agreement. Construction and construction administration services for early authorized work (e.g., abatement, demolition, and swing space construction) may also occur.

During the Construction Phase, the Design-Builder, in consultation with the Department, will be required to provide construction and construction administration services to (i) construct the new facility; and (ii) assist DCPS in relocating FF&E and other items, as necessary.

The completed Project needs to be completed and available for occupancy by DCPS no later than the Substantial Completion Date. In general, the Department envisions the following schedule:

Required demolition work at Shaw Middle School building is expected to be completed by Summer/Fall 2019. At this point, the Department expects the abatement and demolition of the Shaw Middle School building to be completed under a separate contract by a different vendor. The Department contemplates that construction will begin in fall of 2019. Substantial Completion Date for the new Banneker High School Project is July 16, 2021. Current Banneker students will remain at the existing Banneker building during construction of the new facility.

The Department has established the following preliminary milestone dates for the design phase. While the Department is amenable to shifting the interim design milestones dates, the Department requires that the design development documents, which will serve as the basis for the Design-Builder's GMP, be completed no later than September 6, 2019. Any shift in the interim design milestones dates must be approved by DGS and must provide for the durations for DCPS and DGS design reviews reflected in the milestone schedule below.

Activity	**Start Date**	**End Date**
Concept Design Phase	February 15th, 2019	April 12th, 2019
DGS/DCPS Concept Design Review	April 15th, 2019	April 26th, 2019
Finalize Concept Design	April 29th, 2019	May 3rd, 2019
Schematic Design Phase	May 6th, 2019	June 21st, 2019
DGS/DCPS Schematic Design Review	June 24th, 2019	July 5th, 2019
Scope Reconciliation/Value Engineering	July 8th, 2019	July 19th, 2019
Finalize Schematic Design	July 22nd, 2019	July 26th, 2019
Design Development Phase	July 29th, 2019	September 6th, 2019
DGS/DCPS Design Development Review	September 9th, 2019	September 20th, 2019
Final Design Development	September 23rd, 2019	September 27th, 2019
GMP Proposal Period - Builders	September 30th, 2019	November 1st, 2019
Early Release Packages	November 2019	
GMP Approval	December 2019	
Construction Documents Submitted	October 31, 2019	
Demolition	April 2019	August 2019
Construction Begins	January 2020	
Substantial Completion of Building	July 16, 2021	

1.7 Department Designated Point of Contact

The Department's sole point of contact ("POC") for matters related to this RFP is the only individual authorized to discuss this RFP with any interested parties, including Offerors. All communications with the Department's POC about the Project or this RFP shall be sent in writing to:

Name:	Courtney Washington
Title:	Contract Specialist Department of General Services Contracts and Procurement Division
Mailing address:	1250 U Street, NW, 3rd Floor Washington, DC 20009
Phone:	(202) 724-3986
E-mail:	Courtney.washington@dc.gov

The Department disclaims the accuracy of information derived from any source other than the Department's POC, and the use of any such information is at the sole risk of the Offeror. All communications and requests for information shall be submitted by the Offeror's point of contact identified in the Submission. Written communications to the Department from Offerors shall specifically reference the correspondence as being associated with Banneker High School Design-Build Services and DCAM-19-CS-RFP-0045.

1.7 Design-Builder Designated Point of Contact

All Offerors responding to this RFP shall provide the name, address, phone number and email address of its designated point of contact to the Department's POC as part of its proposal, as noted in **Section 1.6**. Offerors shall notify the Department of any changes in the Offeror's designated point of contact's information. Notification of change(s) may be communicated by email and shall be as soon as practicable following the event(s) causing the change(s). Failure to identify a designated point of contact in writing may result in the Offeror failing to receive post-bid addenda or other important communications from the Department, for which the Department shall not be responsible.

1.8 Procurement Schedule and Project Milestones

The Department anticipates conducting the procurement of the Project in accordance with the following list of milestones leading to award of the Agreement. The schedule is subject to revision and the Department reserves the right to modify this schedule as it finds necessary, in its sole discretion.

1.8.1 RFP Schedule

- RFP Advertisement: December 20, 2018
- Pre-Proposal Conference: Will be issued by Addendum
- RFP Questions due to the Department: January 4, 2018
- Proposals Submission Due date: January 22, 2019 at 2:00 P.M.
- Notice of intent to award February 2019
- Notice to Proceed / Letter Contract (if any) February 2019

1.8.2 Project Schedule

The Department has established the following milestones for the Agreement completion dates for the Project, and Offerors shall base their Proposals on such milestones.

1.8.2.1 Substantial Completion Date shall be no later than the date set forth in **Section 1.5**; and

1.8.2.2 If an Offeror proposes a Substantial Completion Date earlier than that shown in **Section 1.5**, and the Department agrees to such proposed date, such proposed date will be deemed by the Department as the contractual Substantial Completion Date for the Agreement for all purposes, including liquidated damages.

1.9 Selection Criteria

Proposals will be evaluated in accordance with **Part 3** of this RFP.

1.10 Economic Inclusion

The Department requires that Local, Small and Disadvantaged Business Enterprises ("LSBDE") participate in this Project as fully described in **Part 4** of this RFP.

In addition to LSDBE participation as described in **Part 4** of the RFP, the Department requires that District of Columbia ("District") residents participate in the Project to the greatest extent possible.

1.11 RFP Documents

The documents included in this RFP consist of this RFP in all of its parts, all addenda, attachments and exhibits contained or identified in the RFP's sections (Collectively the "RFP Documents"). Each Offeror shall review the RFP Documents and provide questions or requests for clarification, including but not limited to terms that it considers to be ambiguous or to which it takes exception. Such questions or requests for clarification will be submitted to the Department's POC within the time specified in **Part 1, Section 1.8.1** of this RFP. The Department will review all questions and/ or requests for clarification received and, if it deems appropriate, in its sole discretion, may modify the RFP Documents through an addenda. Offerors shall base their Proposals on the terms and conditions of the RFP Documents included in the latest issued addenda.

Attachments to this RFP include the following:

Attachment A	Educational Specifications
Attachment B	Banneker Feasibility Study
Attachment C	Form of Offer Letter
Attachment D	Bidder/Offeror's Certification Form
Attachment E	Tax Affidavit
Attachment F	Davis-Bacon Wage Rates
Attachment G	Bid Bond Form
Attachment H1	Standard Contract Provisions for Construction
Attachment H2	Standard Contract Provisions Architectural & Engineering
Attachment I	SBE Subcontracting Plan
Attachment J	First Source Agreement and Employment Plan
Attachment K	2019 Living Wage Act
Attachment L	Past Performance Evaluation Form
Attachment M	Design-Build Agreement (will be issued via Addendum)
Attachment N	Notice to Proceed and Letter Contract (will be issued via Addendum)
Attachment O	Bid Guarantee Certification
Attachment P	Conflict Of Interest Disclosure Statement
Attachment Q	Release of Lien Forms
Attachment R	EEO Policy Statement
Attachment S	Certification to Furnish Performance & Payment Bond
Attachment T	National BIM Guide

1.12 Obligation to Meet All of the Requirements of the RFP Documents

If awarded the Agreement, the Design-Builder will be obligated to meet all of the requirements of the RFP Documents for the Project Budget and within the Agreement schedule.

1.13 Offeror's Pre-Proposals Responsibilities and Representations

Each Offeror shall be solely responsible for examining the RFP Documents, including any addenda issued to the RFP, and any and all conditions which may in any way affect the Offeror's Proposal or the performance of the Work on the Project, including but not limited to:

a) Examine and carefully study the RFP Documents, including any addenda and other information or data identified in all of the RFP Documents;
b) Visit the Project site and become familiar with and satisfy itself as to the general, local, and site conditions that may affect the fees required to be submitted with the Offeror's Proposal;
c) Address all potential impacts with third parties and ensure all such impacts have been included in the Offeror's Proposal;
d) Become familiar with and aware of all federal, state, and local laws and regulations that may affect the cost, progress, or performance of its work on the Project;
e) Determine that the RFP Documents are sufficient to indicate and convey understanding of all terms and conditions for the performance of Offeror's work on the Project; and
f) Notify the Department in writing of all conflicts, errors, ambiguities, or discrepancies that Offeror discovers in the RFP Documents.

Any failure to fulfill these responsibilities is at the Offeror's sole risk and no relief will be provided by the Department.

PART 2 - PROJECT REQUIREMENTS

2.0 Scope of Work

Under this RFP, the Department will engage a Design-Builder to provide any and all design and construction services required to design and complete the Project. The Project shall be complete, operating and ready for use on or before the Substantial Completion Date and within the Project's budget as specified in **Part 1**, **Section 1.3** and **Section 1.5** of this RFP.

The Project will be located at the current site of Shaw Junior High School at the corner of Rhode Island Avenue and 9th Street NW Washington, DC 20001.

Generally, the Design-Builder's responsibilities shall include, but will not be limited to, the following:

a) To confirm the design and construction of the Project in accordance with the RFP Documents.
b) To provide all design services and construction management services necessary to implement the goals of the Project inclusive of, but not limited to, the following: civil, architectural, electrical, structural, and mechanical design services as required for the Project; construction management services inclusive of budgeting, value engineering ("Value Engineering"), scheduling, project administration, management and coordination of subcontractors.
c) To conduct subsurface investigation work if and as required for the Project.
d) To furnish and provide all materials, management, personnel, equipment, hazardous material abatement, supervision, labor and other services necessary to complete the Project.

2.1 Design-Builder's Duties; General Intent

The Design-Builder will be required to work with the Department and DCPS through a collaborative design process to develop a concept design for the Project in accordance with the available budget. The Design-Builder will be required to engage in extensive preconstruction efforts to ensure that the design is developed in a manner consistent with the Department's goals for the Project (e.g., programmatic, budgetary, schedule and quality); to solicit competitive trade bids for the construction work and to develop an acceptable guaranteed maximum price and corresponding scope and schedule for the work; and to implement the requisite construction and other work necessary no later than July 15, 2020. The Design-Builder will be required to provide a "turn-key" Project ready for occupancy by DCPS and shall be responsible for all items of cost except for those items set forth in **Section 2.12** of this RFP.

2.2 Design and Preconstruction Phase

2.2.1 Initial Deliverables

The Preconstruction Phase will start from the issuance of the Notice to Proceed through the execution of the GMP amendment ("GMP Amendment"). The Department will issue a Notice to Proceed for preconstruction services (the "Preconstruction NTP" or "Letter Contract"), attached hereto as **Attachment M**. Offerors are advised that they are required to submit their Proposals premised upon agreeing to the terms of the Preconstruction NTP. To the extent there are any ambiguities or inconsistencies between this RFP, the Standard Contract Provisions and the Preconstruction NTP, the order of precedence shall be: the Standard Contract Provisions; Preconstruction NTP; and the RFP. **A Proposal that identifies or describes changes or exceptions to the Standard Contract Provisions or the Preconstruction NTP may be deemed non-responsive**.

The Design-Builder's initial task will be to develop a concept design and budget for the Project. As part of this effort, the Design-Builder shall prepare and provide the following initial deliverables:

2.2.1.1 Building System Assessment. If requested by the Department, within fourteen (14) days after the Preconstruction NTP is issued, the Design-Builder shall conduct an assessment report of the building systems and submit a written report to the Department that assesses whether the existing building systems can be repaired or whether such systems should be replaced. Such report shall take into consideration the nature of this Project and the proposed Educational Specifications. This report shall assess all of the buildings key systems, including, but not limited to, HVAC, kitchens, roof, windows, electrical, lighting, Audio Visual Equipment, intercom, fire alarms, and plumbing.

2.2.1.2 Baseline Schedule. Within twenty one (21) days after the Preconstruction NTP is issued, the Design-Builder shall prepare and submit a Baseline Schedule for the Project (the "Baseline Schedule"). The Baseline Schedule shall be subject to review and approval by the Department and the Design-Builder shall incorporate such adjustments to the Baseline Schedule as may be reasonably requested by the Department. The Baseline Schedule shall be prepared in a critical path method ("CPM") in a sufficient level of detail to permit the Department and the Design-Builder and any other affected parties to properly plan the Project. The Baseline Schedule shall show: (i) key design milestones and bid packages; (ii) release dates for long lead items; (iii) release dates for key subcontractors; and (iv) Substantial and Final Completion Dates. The Baseline Schedule shall include durations and logic ties for those building systems that the Design-Builder is recommending for replacement. The Baseline Schedule must

also be submitted in Primavera 6 native format and shall be updated by the Design-Builder, at a minimum, on a bi-weekly basis.

2.2.1.3 Concept Design. No later than eight (8) weeks after the Preconstruction NTP is issued, the Design-Builder shall prepare and submit a proposed concept design for the Project. The concept design shall contain at least the level of detail contemplated in the AIA standard contract and shall contain such detail as is typically required for a concept design under the AIA Best Practices. The design submittal shall specifically identify any deviations from the Educational Specifications and shall explain the rationale and cost implications associated with such deviation. The Department shall have the right to disapprove the concept design submittal for any reason. Following review of the concept design submission by DCPS and the Department, the Design-Builder shall make revisions to the schematic design submission as necessary to incorporate comments, feedback and other direction provided by DCPS and the Department. The Design-Builder's pricing shall assume that such revisions will be required, and such revisions shall not entitle the Design-Builder to additional compensation. The concept design submittal shall include but not limited to the following:

a) Historic resources survey.
b) Conceptual floor plan and site plan, including Swing Space concept design;
c) Updated property survey, including notations of utilities and all other easements;
d) Hazardous materials survey. It is understood that the Design-Builder and/or its design component shall be required to engage the services of industrial hygienist that is acceptable to the Department to perform such survey;
e) Flow test results;
f) Record of accepted LEED strategies;
g) Environmental Impact Screening Form ("EISF") submission. The Design-Builder shall be required to engage consultants that are necessary to prepare this form. The cost of such consultants should be included in the design fee.
h) Education specifications survey update; and
i) Summary of required agency review, timetables, including but not limited to: Office of Planning ("OP"), Commission of Fine Arts ("CFA"), and Historic Preservation Office ("HPO"), and National Capital Planning Commission ("NCPC").

2.2.1.4 Preliminary Budget Estimate. Concurrently with the delivery of the concept design, the Design-Builder shall submit a detailed cost estimate of the

proposed design (such estimate, the "Preliminary Budget Estimate"). With regard to building systems (i.e. roofs, doors, HVAC, security, IT, etc.), the Preliminary Budget Estimate shall be prepared on a "system" basis that identifies the key building systems or functions and allocates an estimated cost for each such system. The Design-Build Fee, the cost of general conditions, and contingencies shall be broken out in separate line items. The primary purpose of the Preliminary Budget Estimate is to aid the Department and DCPS in understanding the costs associated with key elements of the Project to better prioritize and manage the use of the funding allocated to this Project.

2.2.1.5 Baseline Budget and Program. The Department shall provide the Design-Builder with a baseline budget and program and comments on the concept design. Such approval shall be provided (or signed by) the Department's Deputy Director for Capital Construction (the "Deputy Director"). In the event the Design-Builder does not receive such approval within fourteen (14) days after submitting the Preliminary Budget Estimate, it shall so advise the COTR, the Deputy Director and the contracting officer ("Contracting Officer" or "CO") in writing of such failure and request direction. If the Design-Builder fails to provide such notice, the Design-Builder will be proceeding at its own risk and will be responsible for any redesign costs associated with budget revisions.

2.2.1.6 Construction Management Plan. The Design-Builder shall submit a draft of its construction management plan ("Construction Management Plan") within fourteen (14) days after the Preconstruction NTP is issued to include, but is not limited to, noise control, hours for construction and deliveries, truck routes, trash and debris removal plan, traffic and parking control, communications procedures, emergency procedures, quality control procedures, dust control, public street cleaning and repair, planned occupancy of public ways, erosion control, tree protection plan, vibration monitoring, temporary fire protection measures, project signage, pest control, construction staging plan, and construction logistics plan.

2.2.1.7 Additional Preconstruction Services. In addition to those items enumerated above, the Design-Builder shall provide such preconstruction services as are necessary to properly advance the Project. These services shall include, but are not limited to, scheduling, estimating, shop-drawings, the ordering of long-lead materials, condition assessments, conservator studies, archeological studies, recommended testing, additional geotechnical testing, and monitoring of historic assets.

2.2.1.8 Deliverables Liquidated Damages. The Design-Builder acknowledges that the Department is engaging the Design-Builder to provide an extensive level of preconstruction support services to minimize the potential for cost overruns,

schedule delays or the need for extensive Value Engineering/re-design late in the Project and that the deliverables required under this **Section 2.2.1** are key to identify the value of such services. In the event the Design-Builder fails to deliver any of the deliverables required in **Section 2.2.1** (and unless such failure is the result of any event of Force Majeure), the Design-Builder shall be subject to liquidated damages in an amount of Five Thousand Dollars ($5000) plus Five Hundred Dollars ($500) per day after receiving written notice from either the COTR or the Contracting Officer of failure to submit such deliverables.

2.2.2 Design Management

Between the time the Preconstruction NTP is issued and the time the GMP is accepted by the Department, the Design-Builder shall use commercially reasonable best efforts to ensure that: (i) the design evolves in a manner that is consistent with the Department's budget and programmatic requirements, as the same were defined and established by the Department at the end of the concept design; (ii) the design work is properly coordinated; and (iii) the required design deliverables are produced on or before the dates contemplated in the Project schedule. As part of this undertaking, the Design-Builder shall provide the following:

2.2.2.1 Schematic Design. The Design-Builder shall prepare a schematic design that is a logical development of the approved concept design and is consistent with the Department's schedule, budget and programmatic requirements. The schematic design shall contain at least the level of detail contemplated in the AIA standard contract and shall contain such detail as is typically required for a schematic design under the AIA Best Practices. The design submittal shall specifically identify any deviations from the approved concept design and shall explain the rationale, cost and time implications associated with such deviation. The Department shall have the right to disapprove the schematic design submittal for any reason. Following review of the schematic design submission by DCPS and the Department, the Design-Builder shall make revisions to the schematic design submission as necessary to incorporate comments, feedback and other direction provided by DCPS and the Department. The Design-Builder's pricing shall assume that such revisions will be required, and such revisions shall not entitle the Design-Builder to additional compensation.

In general, the Design-Builder shall be required to undertake the following tasks during this phase:

a) Further develop conceptual plans and incorporate design changes.
b) Conduct additional community meetings to solicit input and keep constituents informed.

c) Prepare necessary presentation materials (renderings and models) to communicate design and obtain approval of design direction.
d) Develop a swing plan based on the approved concept design to accommodate the school's need for the duration of construction.
e) Participate in SIT Meetings, and Community Meetings
f) Conduct DOEE, DCRA, DDOT and DC Water Preliminary Design Review meetings.
g) If it is necessary for the Project, early inquiry with Public Utility Companies PEPCO and Washington Gas as well as Verizon should be conducted.

The schematic design submittal shall include at least the following:

a) Digital site and floor plans (including adjacencies and room locations);
b) Preliminary building elevations and sections;
c) Plan-to-Program comparison;
d) Preliminary LEED scorecard;
e) Design narrative; and
f) A preliminary description of proposed building system upgrades (i.e. HVAC, roofs, windows, kitchen equipment, etc.). With regard to any proposed building system upgrade, the package shall include a narrative description of the proposed system and an estimated line item cost.

2.2.2.2 Schematic Budget Update. Concurrent with submission of the schematic design, the Design-Builder shall submit a budget update. The budget update shall be submitted in the same format as the Preliminary Budget Estimate and shall show variations from Preliminary Budget Estimate. To the extent the budget update shows an overrun from the approved budget, the Design-Builder shall submit Value Engineering suggestions that would return the Project to budget. Only the Department shall have the authority to increase the Project budget, and absent such direction, the Deign-Builder shall proceed on the assumption that the budget remains as originally directed by the Department.

2.2.2.3 Constructability/Sole Source/Long-Lead Time Memorandum. Concurrently with the Schematic Design Budget Estimate, the Design-Builder shall prepare a memorandum identifying key construction concerns related to the Project. Such memorandum shall: (i) assess the constructability issues related to the Project, including site logistics; (ii) identify any items where the design is predicated on a single manufacturer and, if so, identify at least two (2) comparable products; and (iii) identify any long-lead delivery items that could adversely affect the schedule contemplated in this RFP. To the extent any such long-lead items are identified, the memorandum shall make recommendations for addressing such items.

2.2.2.4 Design Development. The Design-Builder shall prepare a set of design development documents ("Design Development Documents") that is a logical development of the approved schematic design and is consistent with the Department's schedule, budget and programmatic requirements. The Design Development Documents shall contain at least the level of detail contemplated in the AIA standard contract and shall contain such detail as is typically required for a schematic design under the AIA Best Practices. The design submittal shall specifically identify any deviations from the approved schematic design and shall explain the rationale and cost implications associated with such deviation. The Department shall have the right to disapprove the Design Development Documents submittal for any reason.

The design development submittal shall include at least the following:

a) Detailed and dimensioned plans, wall sections, building section, and schedules;
b) Draft specifications for materials, systems, equipment;
c) Complete code compliance analysis and drawing;
d) Space-by-space equipment layouts for key spaces. As part of the design development phase, the Design-Builder and/or the Architect and any design consultants shall confer with representatives from DCPS and the Department regarding these layouts to confirm that they are acceptable to DCPS;
e) A preliminary lay-out for furniture, fixtures, and equipment;
f) Preliminary designs for approved building system upgrades. With regard to HVAC systems, the submission should include: (i) a detailed description of the proposed mechanical systems; (ii) their general layout, including 'Single-Line Diagrams' (aka 'Riser Diagrams'); and (iii) any required load calculations. The HVAC design solution would also include preliminary layouts of other major components of the HVAC system, including the type and location of energy recovery units (ERUs), variable air volume ("VAV") boxes, condensing units, and any related system appurtenances; and
g) Updated LEED scorecard.
h) Present the design to CFA, Office of Planning, and other regulatory agencies as required
i) Register the project with USGBC to obtain LEED certification and pay all registration fees.
j) Participate in SIT Meetings, and community meetings.

2.2.2.5 Permits. The Design-Builder shall be responsible for preparing and submitting all of the required permit applications that are necessary to complete the Project. The Design-Builder shall develop a list of the required permits and shall track the progress of all such permits through the review process. The Design-Builder shall update the Department with the status of each permit that is

required for the Project. The Design-Builder shall engage such permit expediters as the Design-Builder deems necessary or appropriate in light of the Project's schedule.

2.2.2.6 Entitlements. The Design-Builder shall prepare such materials and make such presentations as are necessary to obtain the required land use and entitlement approvals. Approvals may be required from (i) the Office of Zoning, (ii) OP, and (iii) the CFA. Given the nature of the Work, it is not envisioned that such approvals will require extensive hearings or submissions.

2.2.3 GMP Formation

The Design-Builder shall provide the Department with a Guaranteed Maximum Price based on the Design Development Documents. The GMP shall be agreed upon in the manner set forth in this **Section 2.2.3**.

2.2.3.1 Develop Offeror/Bidders List. Within fifteen (15) days after the completion of the schematic design, the Design-Builder shall submit to the Department for its review and approval a written submission on the proposed subcontractor bidding procedures. These procedures shall include: (i) a list of proposed trade packages; (ii) a list of trade subcontractors that will be invited to bid on each such package; and (iii) a narrative description of the process. At least three (3) potential subcontractors shall be identified for each trade package. In addition to the information normally required in such bids, the Design-Builder shall also require subcontractors to provide an estimate of the percentage of labor hours performed in completing the subcontracted work that will be performed by District residents. A copy of this deliverable shall be provided to both the COTR and the Contracting Officer.

2.2.3.2 Manage Bidding Process. The Design-Builder shall manage the trade bidding process in accordance with the approved bidding procedures and shall use commercially reasonable best efforts to obtain at least three (3) qualified and bona fide bids for each trade package in excess of One Hundred Thousand Dollars ($100,000). The Design-Builder shall carefully document its procedures for making available bid packages to potential bidders, the contents of each bid package, discussions with bidders at any pre-bid meetings, bidders' compliance with bid requirements, all bids received, the Design-Builder's evaluations of all bids, and the basis for the Design-Builder's recommendation as to which bidders should be chosen. The Department shall be afforded access to all such records at all reasonable times so that, among other things, it may independently confirm the Design-Builder's adherence to all contractual requirements including, without limitation, affirmative action requirements and subcontracting requirements.

2.2.3.3 Prepare Bid Tabs. The Design-Builder shall provide the Department with an analysis of the bids received and as a copy of each such bid. To the extent that the Design-Builder's award recommendation is based on scoping adjustments, the Design-Builder shall clearly identify the scoping adjustment and the need for such adjustments. In general, the bid tab shall be presented in tabular format that compares the bids received and any other relevant information (i.e. exclusions, past performance history, etc.).

2.2.3.4 Submission of GMP Proposal. Based on the trade bids, the Design-Builder shall submit a GMP Proposal to the Department. The GMP Proposal shall include the following elements:

a) A list of drawings, specifications, addenda, general, supplementary and other conditions on which the Guaranteed Maximum Price is based.
b) A list of unit prices and allowance items and a statement of their basis.
c) Assumptions and clarifications made in preparing the GMP Proposal, noting in particular any exclusions. The assumptions and clarifications shall take precedence over the drawings and specifications. The Design-Builder shall prepare a separate memorandum that highlights any differences between the then approved drawings and the modifications made in the assumptions and clarifications. Such memorandum shall specifically address any changes in the Project aesthetics, functionality or performance.
d) The proposed GMP, including a statement of the detailed cost estimate organized by trade categories, allowances, contingency, and other items and the fees that comprise the GMP.
e) An update to the Project's schedule to which the Design-Builder will agree to be bound. This update shall be prepared in the same level of detail and in the same manner as the Baseline Schedule.
f) A subcontracting plan setting forth the names and estimated dollar volume of the work that will be perform by LSBDEs, as certified by the Department of Small and Local Business Development, upon which the GMP is based.

2.2.3.5 Approval of GMP. The Department and the Design-Builder shall meet to negotiate the terms of the GMP Proposal. If the GMP Proposal is acceptable to the Department, the Department shall submit the resulting GMP amendment to the Council for the District of Columbia. **The GMP shall be subject to review and approval by the Council for the District of Columbia in the event it exceeds the previously approved Contract value by more than $1 million. In such event, the GMP shall not be effective until so approved**. In the event that the Department and the Design-Builder are unable to agree upon the GMP or the schedule for the Project, the Department shall have the right to terminate the Agreement and assume any trade subcontracts held by the Design-Builder. In

such an event, the Design-Builder shall only be entitled to Fifty percent (50%) of the Preconstruction Fee.

2.2.3.6 Self-Performed Work. The Design-Builder and its affiliates may not carry out trade work with its own forces without the Department's written permission, which permission may be withheld or conditioned by the Department in its sole and absolute judgment.

2.2.4 Early Release/Abatement & Demolition

2.2.4.1 Abatement & Selective Demolition. Once the schematic design has been approved, the Department may release the Design-Builder to commence hazardous material abatement and interior demolition, or other early activities, as applicable. It is envisioned that this work may be released in advance of the GMP.

2.2.4.2 Long Lead Materials. The Department will release funding for long-lead items once the Design Development Documents have been approved. If the Design-Builder believes an earlier release is required in order to meet the Project schedule, it shall advise the Department and make a recommendation as to the requested release date. Any decision to authorize an early release shall be made by the Department in its sole and absolute discretion.

2.2.5 Design Management

The Design-Builder shall manage the completion of the design of the Project. As part of this effort, the Design-Builder shall undertake the following activities:

2.2.5.1 Mid-Point Construction Document Review. Based on the approved Design Development Documents and any approved Value Engineering, the Design-Builder shall prepare a set of Construction Documents. It is contemplated that the Construction Documents will be issued in several different sets (i.e. architectural, electrical, mechanical, structural, etc.). As each such set reaches a point where it is approximately Fifty percent (50%) complete, the Design-Builder shall prepare and submit a progress printing to the Department for its review and comment.

2.2.5.2 Construction Document Review & Coordination. The Design-Builder shall complete each of the Construction Documents packages in a manner that addresses the concerns raised by the Department during the review contemplated in **Section 2.2.5.1** for such package. The Design-Builder shall issue one or more set of permit documents to the Department for its review and approval ("Permit Set"). With regard to each such set, the Design-Builder shall highlight (or bubble) any aspect of the design that represents a material deviation from the approved Design Development Documents and shall address in a narrative format the impact, if any, such departure shall have on the Project's aesthetics, functionality or performance. The Department shall have the right to

disapprove the Construction Documents for any reason. If the Department disapproves the Construction Documents, the Design-Builder will not be entitled to any additional compensation. If, however, the Department disapproves a Construction Document that is a logical extension of the approved Design Development Documents, the Design-Builder will be entitled to an adjustment to the GMP and/or the Agreement schedule unless such a package departs from the Scope of Work fairly reflected in the GMP Drawings and Specifications and in such event the Design-Builder shall be required to prepare a revised design that complies with the GMP drawings and specifications ("Drawings and Specifications") and without any entitlement to an increase in the GMP or an adjustment of the Agreement schedule**.** In the event the Department does not approve a document within fourteen (14) days after issuance, such document shall be deemed approved unless the Department advises that such document is still under review. In the event the Department's review takes longer than fourteen (14) days, such additional review shall be deemed a change event.

2.2.5.3 Code Review. The Design-Builder shall submit the Permit Set to the Department of Consumer and Regulatory Affairs ("DCRA") in order to obtain the necessary building permits to construct the Project. The Design-Builder shall monitor the permit process and shall incorporate any changes or adjustments required by the Code Official. The Design-Builder shall also issue any such changes to the Department for its review and approval. In this submittal, the Design-Builder shall highlight (or bubble) any aspect of the design that represents a material deviation from the permit set documents and shall address in a narrative format the impact, if any, such departure shall have on the Project's aesthetics, functionality or performance. Subsequent to obtaining the necessary building permits, the Design-Builder shall prepare one or more sets of "issued for construction documents" (the "IFC Set(s)").

2.2.5.4 Design Changes. If it should become necessary to amend any of the approved IFC Set(s), the Design-Builder shall prepare an amendment to the drawings and shall submit such amendment to the Department for its review and approval. In this submittal, the Design-Builder shall highlight (or bubble) any aspect of the design that represents a material deviation from the permit set documents and shall address in a narrative format the impact, if any, such departure shall have on the Project's aesthetics, functionality or performance. In the event the Department does not approve such document within ten (10) business days after issuance, unless otherwise denied, such document shall be deemed approved, provided however that the Department has not advised that such document is still under review.

2.3 Construction Phase

Based on the approved plans and specifications, the Design-Builder shall construct the Project. During the Construction Phase, the Design-Builder shall be required to cause the Work to be completed in a manner consistent with the design documents approved by the Department and

shall provide all labor, materials, insurance, bonds and equipment necessary to fully complete the Project in accordance with the drawings, specifications, schedule and budget that are issued for the Project. The Design-Builder shall be responsible for paying for and obtaining all necessary permits and to pay all necessary fees for utility connections and the like. The Work shall be accomplished in accordance with the following:

2.3.1 Drawings & Specifications. All of the Work shall be constructed in strict compliance and in accordance with the final Construction Documents issued for and approved by the Department.

2.3.2 Compliance with Other Requirements. In performing the Work, the Design-Builder and its subcontractors shall comply with all of the applicable provisions of the Standard Contract Provisions and the requirements set forth in **Section 2.5** (Site Safety), **Section 2.7** (Workhours; Coordination with DCPS and the Community), and **Section 2.8** (Quality Control Plan) of this RFP.

2.3.3 Site Office. Throughout the Work, the Design-Builder shall provide and maintain a fully-equipped construction office on the Project site.

2.3.4 Supervision. Throughout the Work, the construction office shall be managed by personnel competent to oversee the Work at all times while construction is underway. Such personnel shall maintain full-time, on-site construction supervision and provide daily inspections, quality control, monitoring, coordination of various trades, record drawings, and daily work log.

2.3.5 Weekly Progress Meetings. Throughout the Work, the Design-Builder shall conduct weekly progress meetings following the Design-Builder's generated agenda with the Department's Project Manager and key trade subcontractors. The Design-Builder shall draft and circulate the meeting minutes on a weekly basis.

2.3.6 Move-in Assistance. The Design-Builder shall assist DCPS in relocating FF&E and other items, as applicable. The GMP shall include an allowance and Scope of Work for these activities.

2.3.7 Delay Liquidated Damages. In addition to the liquidated damages provided for in **Sections 2.13.2** relating to Key Personnel, and **2.2.1.8** relating to deliverables, if the Scope of Work is not substantially complete by the Substantial Completion Date, the Design-Builder shall be subject to liquidated damages in an amount of Seven Thousand Five Hundred Dollars ($7,500) per day. These damages shall not apply if the delay is the result of Force Majeure and the Design-Builder otherwise complies with the provisions set forth in the Standard Contract Provisions.

2.3.8 Hazardous Materials. The Design-Builder's Scope of Work includes the abatement and removal of hazardous materials found anywhere on or within the Project site. In performing such work, the Design-Builder shall comply with all laws, including, without limitation, the requirements of the Environmental Protection Agency and all jurisdictional agencies and all laws relating to safety, health welfare, and protection of the environment, in removing, treating, encapsulating, passivating, and/or disposing of hazardous materials, including, but not limited to, removal, treatment, encapsulation, passivation, and/or disposal of the hazardous materials. If any notices to governmental authorities are required, the Design-Builder shall also give those notices at the appropriate times. The Design-Builder shall ensure abatement subcontractors and disposal sites are appropriately licensed and qualified. In addition, the Design-Builder shall ensure that any subcontractors involved in the abatement of hazardous materials maintain a contractor's pollution legal liability insurance policy of at least Two Million Dollars ($2,000,000) for the duration of the Project and a period of three (3) years after Substantial Completion of the Project, and that any disposal site to which hazardous materials are taken carries environmental impairment liability insurance for the duration of the Project and a period of three (3) years after Substantial Completion of the Project. The Design-Builder's obligations under this **Section 2.3.8** shall include signing (as the agent for the Department) any manifests required for the disposal of hazardous materials.

2.3.9 Salvage Value. In general, the salvage value of construction material located in the existing building shall accrue to the Design-Builder and/or its subcontractor. However, the Department shall be entitled to the value of any piece of equipment, such as chillers, computers, etc., that remain in the existing building to the extent that such piece of equipment has a salvage value of more than Twenty Thousand dollars ($25,000).

2.4 Science, Technology, Engineering, and Math Program

2.4.1 Requirements and Purpose. For this Project, the selected Design-Builder, in coordination with DCPS, shall develop and implement a Science, Technology, Engineering, and Math ("STEM") educational program (the "STEM Program"). The STEM Program shall be designed to achieve the following goals:

a) To Introduce K-12 students to careers in the architectural, engineering and construction industries;
b) To provide students with a challenging learning environment focused on STEM;
c) To create a learning environment that motivates and inspires collaboration, communication, creativity and critical thinking; and
d) To expand knowledge of students to acquire STEM literacy and other critical skills and knowledge to help prepare for future STEM careers while offering an opportunity to share creative talents in a positive environment that builds confidence, promotes leadership, and enhances self-esteem and awareness

2.4.2 Time to implement. The Design-Builder shall provide a timeline to develop and implement the STEM Program. The Design-Builder shall ensure that the STEM Program is developed and provided prior to the Project demobilization and shall include at a minimum:

a) One (1) Project tour/site visit; and
b) At least 20 students.

2.4.3 Roles and Responsibilities. The Department and the Design Builder will provide the following roles and responsibilities in developing and implementing the STEM Program:

a) The roles and responsibilities of the Design-Builder shall include, but not limited to:

1. Developing and providing an implementation strategy to address the introduction, delivery, timeline and evaluation of the STEM Program.
2. Identifying and partnering with the DCPS K-12 students.
3. Coordinating all aspects of the STEM Program.
4. Identifying and providing presenters.
5. Coordinating and implementing sessions.
6. Providing technology needs.
7. Informing the Department of any challenges that prevent the delivery of the STEM Program.
8. Performing any other necessary actions to develop and implement the STEM Program.

b) The roles and responsibilities of the Department will include the following:

1. Reviewing the proposed STEM Program and its implementation strategy.
2. Participating in planning meetings.
3. Providing security at sessions.
4. Providing assistance with any challenges to the implementation of the STEM Program, as appropriate.
5. Assisting the Design-Builder with coordinating with a DCPS K-12 school

2.4.4 No Cost Program. The Design-Builder shall be solely responsible for developing and providing this STEM Program at Design-Builder's expense. No additional compensation shall be provided by the Department to the Design-Builder for developing and implementing such a STEM Program.

2.4.5 Participants and Sessions Information.

a) The Design-Builder shall maintain records of the participants for each and every STEM Program session(s) in a confidential manner. The records shall include demographics (i.e. - age, race and gender) of all participants.
b) At the Department's request, the Design-Builder shall provide the Department with a copy of the records outlined in subsection (a) above.
c) The Design-Builder shall retain all books, records, and other documents relative to the STEM Program for at least three (3) years after Final Completion of the Project.

2.4.6 Personnel Information.

a) The Design-Builder shall provide names and qualifications of personnel involved in the implementation of the Program.
b) The Design-Builder shall ensure that personnel involved in the delivery of this Program fulfill the background check requirements for working with children and youth as described in DC Code 4-1500 and 27 DCMR Section 27-5.

2.4.7 Design-Builder's Failure to Deliver. In the Event that the Design-Builder fails to deliver the required STEM Program, the Department will develop a similar Program at the Design-Builder's expenses and will request the Design-Builder to implement such a Program.

2.4.8 Existing Design-Builder STEM Programs. A Design-Builder with a pre-existing STEM program may submit such program(s) for evaluation and approval by the Department. The Department will evaluate such program(s) to determine whether such program(s) substantially fulfills the requirements of this Section, which will be the basis for the Department's approval or disapproval. The Department's approval of such program(s) shall not be unreasonably withheld

2.5 Site Safety

2.5.1 General Responsibility. The Design-Builder shall provide a safe and efficient site, with controlled access. As part of this obligation, the Design-Builder shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Project, and shall comply with the requirements set forth in **Article 16**, **Section F** of the Standard Contract Provisions.

2.5.2 Safety Plan. Prior to the start of construction activities, the Design-Builder shall prepare a safety plan for the Construction Phase conforming to OSHA 29 CFR 1926 (such plan, the "Safety Plan"). This Safety Plan developed by the Design-Builder shall describe the proposed separation and the specific nature of the safety measures to be taken including fences and barriers that will be used and the site security details. This Safety Plan will be submitted to the Department and DCPS for their review and approval prior to the commencement of construction. Once the Safety Plan has been approved, the

Design-Builder shall comply with the plan at all times during construction. The Design-Builder shall be required to revise the Safety Plan as may be requested by the Department or DCPS. The cost of revising and complying with the plan shall not entitle the Design-Builder to an increase in the GMP. The Design Builder will not be permitted to commence the Construction Phase until the Safety Plan is submitted and in no event shall any resulting delay constitute an excusable delay. Additionally, the Design-Builder shall comply with the requirements of **Article 27**, **Section A** of the Standard Contract Provisions.

2.5.3 Safety Barriers/Fences. As part of its responsibility for Project safety, the Design-Builder shall install such fences and barriers as may be necessary to separate the construction areas of the site from those areas that are then being used by DCPS. The Design-Builder shall describe in the Safety Plan the proposed separation and the specific nature of the fences and barriers that will be used.

2.5.4 Site Security. The Design-Builder shall be responsible for site security and shall be required to provide such watchman as are necessary to protect the site from unwanted intrusion.

2.5.5 Exculpation. The right of the Department and DCPS to comment on the Safety Plan and the nature and location of the required fences and barriers shall in no way absolve the Design-Builder from the obligation to maintain a safe site.

2.6 Reporting Requirements

The Design-Builder shall be required to submit the following reports:

2.6.1 Monthly Report. The Design-Builder shall provide written reports to the Department, on the progress of the entire Work at least monthly from Preconstruction NTP until Final Completion of the Project. The monthly report shall include: (i) an updated schedule analysis, including any plans to correct defective or deficient work or recover delays; (ii) an updated cost report; (iii) a monthly review of cash flow; (iv) a quality control report; and (v) progress photos.

2.6.2 Bi-Weekly Schedule Updates. The Design-Builder shall provide a Baseline Schedule update to the Department, on the progress of the entire Work at least bi-weekly, in the same format set forth in **Section 2.2.1.2** of this RFP. The update shall reflect the actual progress of the Project, identify developing or potential delays, regardless of their cause, and reflect the Design-Builder's best projection of the actual date by which Substantial Completion and Final Completion of the Project will be achieved. The Design-Builder shall also state what must be done to avoid or reduce that delay, changes that have occurred since the last update, including those related to major changes in the Scope of Work, activities modified since the last update, revised projections of durations,

progress and completion, revisions to the schedule logic or assumptions, and other relevant changes.

2.6.3 Use of Prolog. The Design-Builder shall utilize the Department's Prolog system to submit any and all documentation required to be provided by the Design-Builder, including, but not limited to: (i) requests for information; (ii) submittals; (iii) meeting minutes; (iv) invoices/applications for payment (full package including all forms required by the Department); (v) certified payrolls (in addition to upload via LCP Tracker); (vi) drawings and specifications; (vii) punchlist; and (viii) other documents as may be designated by the Department.

2.7 Workhours; Coordination with DCPS and Community

2.7.1 Workhours. The Design-Builder shall comply with the Noise Ordinance and neither it nor its subcontractors shall undertake work on the Project site other than at the times and sound level permitted by the Noise Ordinance.

2.7.2 Parking. The Design-Builder shall organize its work in such a manner so as to minimize the impact of its operations on the surrounding community. To the extent that the number of workers on the site is likely to have an adverse impact on neighborhood parking, the Design-Builder shall develop a parking plan for those individuals working on the site that is reasonably acceptable to the Department.

2.7.3 Wheel Washing Stations. The Design-Builder shall provide wheel washing stations on site to prevent the accumulation of dirt and other refuse on the streets surrounding the Project site.

2.7.4 Outreach Plan. The Design-Builder shall keep the Department informed of the construction activities and their potential impact on the community. The Design-Builder shall submit the plan to the Department prior to its implementation and such plan shall be subject to the Department's review and approval.

2.7.5 Site Office. Throughout the Project, the Design-Builder shall provide and maintain a fully equipped construction office for the Project site.

2.8 Quality Control Plan

2.8.1 General Obligation. The Design-Builder shall be responsible for all activities necessary to manage, control, and document work to ensure compliance with the Contract Documents. The Design-Builder's responsibility includes ensuring adequate quality control services are provided by the Design-Builder's employees and its subcontractors at all levels. The Work activities shall include safety, submittal management, document reviews, reporting, and all other functions related to quality construction.

2.8.2 Quality Control Plan. Within forty five (45) days after the Design Development Documents are approved, the Design-Builder shall develop a quality control plan for the Project (the, "Quality Control Plan"). A draft of the Quality Control Plan shall be submitted to the Department and shall be subject to the Department's review and approval. The Quality Control Plan shall be tailored to the specific products/type of construction activities contemplated in the Design Development Documents, and in general, shall include a table of contents, quality control team organization, duties/responsibilities of quality control personnel, submittal procedures, inspection procedures, deficiency correction procedures, documentation process, and a list of any other specific actions or procedures that will be required for key elements of the Work.

2.8.3 Implementation. During the Construction Phase, the Design-Builder shall perform regular quality control inspections and create reports based on such inspections pursuant to the Quality Control Plan. These quality control reports shall be provided to the Department electronically on a monthly basis. The Design-Builder shall incorporate a quality control section in the progress meetings to discuss outstanding deficiencies, testing/inspections, and upcoming work. The monthly report shall include a detailed summary of the steps that are being employed to provide quality construction and workmanship. The monthly report should specifically address issues raised during the month and outline the steps that are being used to address such issues.

2.8.4 Corrective Action Plan. The Department shall have the right to direct the Design-Builder to revise the Quality Control Plan in accordance with the Agreement.

2.9 Project Close-out

2.9.1 Punchlist. Promptly after Substantial Completion, the Design-Builder shall develop a punchlist. Once the punchlist is prepared, the Design-Builder shall inspect the Work along with representatives from the Department. The punchlist shall be revised to reflect additional work items that are discovered during such inspection. The Design-Builder shall correct all punchlist items no later than ninety (90) days after Substantial Completion is achieved.

2.9.2 Training. The Design-Builder shall provide training to DCPS staff on all of the building systems, as applicable. The Design-Builder shall be required to schedule such training sessions and shall use commercially reasonable efforts to ensure all such training occurs prior to the Final Completion Date.

2.9.3 Warranties & Manuals. Subsequent to Substantial Completion Date and no later than fifteen (15) days following the Substantial Completion Date, the Design-Builder shall prepare and submit the following documentation: (i) a complete set of product manuals (O&M), training videos, warranties, etc.; (ii) attic stock; (iii) an equipment

schedule; (iv) a proposed schedule of maintenance for the new building; (v) environmental, health and safety documents for the new building; and (vi) all applicable inspection certificates/permits (boiler, elevator, emergency evacuation plans, health inspection, etc.) for the new building.

No later than thirty (30) days following the Substantial Completion Date, the Design-Builder shall prepare and submit: (i) a complete set of its Project files; and (ii) a set of record drawings, including BIM model(s).

2.9.4 Eleven Month Walk. The Design-Builder shall use commercially reasonable efforts to schedule a joint inspection of the Project during the eleventh month after Substantial Completion is achieved. During such inspection, the Design-Builder and a representative of the Department shall walk the Project to identify any necessary warranty work.

2.9.5 Support for Initial Heating & Cooling Season. The Design-Builder and its mechanical subcontractor shall provide support to DCPS and the Department during system start-up and in initial operation for the first heating and cooling season after Substantial Completion is achieved.

2.10 Costs and Fees

2.10.1 Reimbursable Costs

The following costs shall be reimbursable at cost and without mark-up:

a) Payments made by the Design-Builder to subcontractors and suppliers, but only in accordance with the Subcontracts and Supply Agreements;
b) The Cost of General Conditions (as defined below in **Section 2.10.2**), subject however to the Maximum Cost of General Conditions;
c) All amounts due to the Design-Builder under the terms of the Department's written authorization for the Design-Builder to perform any portion of the Work as Self-Performed Work. If an authorization for the Design-Builder to engage in Self-Performed Work is not on a fixed-price basis, then, as to that work, the following costs shall be within the Cost of the Work:
    1. **Labor.** Properly documented wages actually paid to Project foremen, construction workers, and other personnel in the direct employ of the Design-Builder, while engaged in approved Self-Performed Work, together with contributions, assessments, payroll taxes, or fringe benefits required by the laws or applicable collective bargaining agreements.
    2. **Incorporated Materials.** The cost, net of trade discounts, of all materials, products, supplies and equipment incorporated into the Self-Performed Work, including, without limitation, costs of transportation and handling.

3. **Unincorporated Materials.** The cost of materials, products, supplies and equipment not actually installed or incorporated into the Self-Performed Work, but required to provide a reasonable allowance for waste or spoilage, subject to the Design-Builder's agreement to turn unused excess materials over to the Department at the completion of the Project or, at the Department's option, to sell the material and pay the proceeds to the Department or give the Department a credit in the amount of the proceeds against the Cost of the Work.

d) Royalty and license fees paid for use of a design, process or product, if its use is required by the Agreement or has been approved in advance by the Department;
e) Fees for obtaining all required approvals or permits associated with the abatement, demolition, utilities abandonment, and utility relocation, and all trade permit fees and the building permit fee;
f) Cost of the Architect/Engineer's contract reimbursed at cost and without markup; provided, however, that such costs shall not exceed the Design Budget set forth in the Offeror's Proposal. Any amounts in excess of the Design Budget shall not be reimbursable as a Cost of Work;
g) All fees and other costs necessarily incurred to carry out testing and inspection required by the Agreement, or otherwise to maintain proper quality assurance. The costs the Design-Builder incurs to schedule and coordinate any additional testing and inspections the Department may decide to conduct itself shall be reimbursable unless the additional testing establishes that the work tested was defective or otherwise failed to satisfy the Agreement's requirements, in which case the Design-Builder shall pay the costs, without reimbursement;
h) All bonds to jurisdictional agencies (utilities, storm water management, land disturbance, and grading); and
i) All performance and payment bonds and general liability insurance. The Department may, in its sole discretion, allow the Design-Builder to recover the costs of subcontractor default insurance at a mutually agreed upon rate in lieu of trade level bonds, provided that such insurance be approved by the Department in advance and after being presented with a cost-benefit analysis of such use.

2.10.2 Cost of General Conditions

The Design-Builder's general condition costs shall be reimbursable at cost and without mark-up. Only the following items, however are reimbursable: (Any other items or expenses are non-reimbursable and the Design-Builder shall use its fee to cover any additional cost items)

a) The cost of "construction staff". The term construction staff shall mean the Project Executive, project managers and superintendents assigned to the Project, administrative and professional staff performing scheduling, cost estimating and accounting services assigned on a full-time basis to the Project site;

b) Fringe Benefits associated with construction staff;
c) Payroll taxes and payroll insurance associated with construction staff;
d) Staff costs associated with obtaining permits and approvals;
e) Out-of-house consultants;
f) The field office for the Design-Builder including but not limited to: (i) trailer purchase and/or rent; (ii) field office installation, relocation and removal; (iii) utility connections and charges during the Construction Phase; (iv) furniture: (v) office supplies;
g) Office equipment including but not limited to: (i) computer hardware and software; (ii) fax machines; (iii) copying machines; (iv) telephone installation, system and use charges: (v) job radios;
h) Local delivery and overnight delivery costs; and
i) First aid facility.

2.10.3 Non-Reimbursable Costs

The following costs shall not be reimbursable:

a) Any personnel or labor costs other than those provided for in **Section 2.10.1 (c) (1)** or **Section 2.10.2 (a)**.
b) Fees for any permits or licenses the Design-Builder requires to conduct its general business operations.
c) Capital expenses and interest on capital employed for the Work.
d) The cost of home or regional offices, it being understood that compensation for such costs included in the Design-Build Fee and Award Fee.
e) Sales or use taxes, unless the Design-Builder establishes that applicable law required payment of such taxes.
f) Costs due to the errors or omissions of the Design-Builder or its subcontractors or suppliers at all tiers, negligent or otherwise.
g) Costs dues to breach of Contract by the Design-Builder or its subcontractors or material suppliers at all tiers, including, without limitation, costs arising from defective or damaged work or its correction, disposal of materials or equipment erroneously supplied, and repairs to property damaged by the Design-Builder or its subcontractors or material suppliers at all tiers.
h) Any costs incurred in performing work of any kind before Preconstruction NTP, unless specifically authorized by the Department in advance and in writing.
i) Direct or indirect costs of any kind, except those expressly included in **Section 2.10.1.**

2.11 Design-Build Fee & Award Fee Calculations

The Design-Builder's compensation shall consist of the Design-Build Fee bid by selected Offeror. In addition, the Design-Builder shall be entitled to recover at cost and without mark-up:

(i) its design costs, as defined in **Sections 2.10.1(f) and 3.4.6**, and (ii) its Costs of General Conditions as is defined in **Section 2.10.2**; subject, however, to the Design Budget and the Maximum Cost of General Conditions proposed by the selected Offeror which limits shall serve as a cap on the Design Budget and the Cost of General Conditions, respectively. The Design-Builder shall only be entitled to Fifty percent (50%) of the Preconstruction Fee if the Design-Builder and the Department are unable to agree to a GMP, as set forth in more detail in the Design-Build Agreement. Entitlement to the Design-Build Fee shall be determined as described more fully below.

2.11.1 Base Design-Build Fee. The Design-Build Fee shall be divided into two categories. Sixty percent (60%) of the Design-Build Fee shall be referred to as the ("Base Design-Build Fee") and the remaining Forty percent (40%) shall be at risk (the "At Risk Portion") and shall be used to establish and fund the award fee pool (the "Award Fee Pool"). The Base Design-Build Fee shall be paid in monthly progress payments with Fifteen percent (15%) of the Base Design-Build Fee being allocated to the Preconstruction Phase of the Project ("Preconstruction Fee"), Eight Five percent (85%) being allocated to the Construction Phase. Each of those amounts shall be paid in equal monthly installments spread over the duration of each such phase. To the extent that the Agreement duration is extended, the then remaining amounts of the Base Design-Build Fee will be re-allocated such that the then existing portion of the Base Design-Build Fee allocated to each phase shall be evenly spread over the then -remaining duration of the phase.

2.11.2 Maximum Cost of General Conditions. The Maximum Cost of General Conditions shall be the maximum amount that will be reimbursed by the Department for those costs described in **Section 2.10.2**. The Maximum Cost of General Conditions shall not be increased or decreased as a result of Change Orders or Change Directive unless such changes (i) extend the duration of the Project beyond the time identified in **Section 1.5**; and (ii) the Design-Builder can demonstrate to the satisfaction of the Department that such additional Cost of General Conditions are necessary and not due to any fault of the Design-Builder, its subcontractors, materialmen, consultants or anyone making claims thereunder. To the extent the Design-Builder incurs General Conditions costs in excess of the Maximum Cost of General Conditions, the Design-Builder shall not be entitled to reimbursement for such amounts. In such an event, the Design-Builder shall be required to adequately staff the Project.

2.11.3 Award Fee Determination. The Design-Builder shall be entitled to amounts within the Award Fee Pool as follows:

a) If a GMP is agreed upon by the Design-Builder and the Department on or before November 1 2019, the Design-Builder shall earn Twenty Five percent (25%) of the At Risk Portion (i.e. 10% of the Design-Build Fee).
b) If the GMP agreed upon is less than the Project Budget, the Design-Builder shall earn Twenty Five percent (25%) of the Award Fee Pool.

c) The Design-Builder shall be eligible to earn up to Twenty Five percent (25%) of the Award Fee Pool based on the overall level of quality of the Project as delivered (such amount, the "Quality Incentive Amount"). Entitlement to this portion of the Award Fee Pool shall be determined by an award fee committee (the "Award Fee Evaluation Committee"), which will be appointed by the selected Offeror and the Department within sixty (60) days after award. The Award Fee Evaluation Committee will consist of: (i) the Department's Deputy Director for Capital Construction; (ii) a senior representative from DCPS; and (iii) a senior member of the Program Management team that is not involved in the day-to-day management of this Project that is acceptable to both the Department and the Design-Builder. Upon Substantial Completion, the Award Fee Evaluation Committee shall inspect the Project and assess the overall appearance, functionality and level of quality found in the Work. In making this determination, the Award Fee Evaluation Committee shall endeavor to reach a consensus among its members and ascribe one of the following four words to the overall success of the design intent: poor, fair, good or excellent.

   If the panel determines that the overall level of success was poor, then the panel shall award Zero Dollars ($0); if the panel determines that the overall level of success was fair, then the panel shall award one third (1/3) of the Construction Quality Incentive Amount; if the panel determines that the overall level of success was good, then the panel shall award two thirds (1/3) of the Construction Quality Incentive Amount; and if the panel determines that the overall level of success was excellent, then the panel shall award all of the Construction Quality Incentive Amount. In the event the panel cannot reach consensus, then each member of the panel shall make a determination and the three such determinations shall be averaged with poor equating to 0% of the Construction Quality Incentive Amount, fair equating to 33% of the Construction Quality Incentive Amount, good equating to 67% of the Construction Quality Incentive Amount, and excellent equating to 100% of the Construction Quality Incentive Amount.

d) If the Design-Builder achieves Substantial Completion of the Project as stated in **Section 1.5**, the Design-Build Fee and the final amount due to the Design-Builder (inclusive of the Preconstruction Fee, the Design Budget, the earned portions of the Award Fee, the Base Design-Build Fee and the Cost of General Conditions) is less than One Hundred Three percent (103%) or the GMP as originally established, the Design-Builder shall earn Twenty Five percent (25%) of the At Risk Portion (i.e. 10% of the Design-Build Fee). Entitlement to this portion of the Award Fee Pool shall be based on the final outcome of the Project. For the avoidance of doubt, the Design-Builder shall not be entitled to earn such portion of the Award Fee Pool even if the failure to deliver on-time or within the (103%) cost goal was caused by DCPS, the Department, delays resulting from the permitting or zoning process, or an event of Force Majeure.

2.12 Excluded Cost Elements

It is the Department's intent that the Design-Builder provide a turn-key solution for the implementation of the Project, and the budget set forth in **Section 1.3** has been developed based on such framework. The Design-Builder shall advance the Project in a manner consistent with such budget and the understanding that only the following cost elements are excluded from the budget set forth in **Section 1.3** of the RFP:

a) 3rd Party Material Testing;
b) Commissioning;
c) 3rd Party Inspections;
d) Costs of active DCPS equipment;
e) 3rd Party Plan Review;
f) Public Art; and

2.13 – Building Information Modeling

DGS is implementing Building Information Modeling (BIM) as a standard on the Benjamin Banneker project. DGS's BIM plan will facilitate more informed decision making, design-intent, communication, project coordination across various phases, enhance project delivery schedule and budget management, post-construction asset and facility management, and building automation. This will be accomplished through the real time collaboration and utilization of a common data environment.

Department of General Services uses Building Information Modeling (BIM) and, as such, will require a BIM process to be followed for the Benjamin Banneker project.
This process will include the following additional tasks and deliverables:

a) an initial meeting dedicated to reviewing the BIM process and requirements for all parties as well as periodic BIM status meetings.
b) BIM (Revit) models created during design that conform to DGS' modeling requirements and LOD standards
c) BIM models used during pre-construction to facilitate coordination of trades.
d) BIM (Revit) models during pre-construction that conform to DGS' modeling requirements and LOD standards and will allow for efficient transfer of FM data as well as to be used as backgrounds for future renovation work.

DGS will require the following Autodesk software for the design and construction phase of the project.

2.13.1 - Software and Hardware Procurement

DGS will require the following Autodesk software for the design and construction of this project.

a) Design Phase – Subscriptions provided by the Design-Build team
    a. Autodesk Revit 2018 or higher

b. Autodesk Collaboration for Revit (BIM 360) Design
c. Autodesk Navisworks Manage 2018 or higher

b) Construction Phase – Subscriptions provided by the Design-Build team.
a. Autodesk Revit 2018 or higher
b. BIM 360 Field
c. BIM 360 Glue
d. BIM 360 Docs

DGS will require five (5) Dell Semi-Tough Tablets for use by the owner's representatives. Accessories should include keyboards (5 total) and stylus pens (5 total).

Purchase of the software can be done on behalf or the agency and added to DGS's master Autodesk contract (Provided at the time of purchase). All Autodesk software/subscription ownership rights will be turned over to the agency DGS.

By following this BIM standard, DGS and chosen contractors will use industry standard technology from Autodesk. It is DGS' intent to benefit from project data ownership, greater project insight, design intent communication, project coordination across various phases, enhanced project delivery schedule and budget management and to realize greater post-construction asset and facility management benefits throughout the lifecycle of the building.

2.14 Key Personnel; Diversion

2.14.1 Identification of Key Personnel. The following individuals shall be considered key personnel ("Key Personnel"): (i) the Project Executive; (ii) the Field Superintendent; (iii) the Project manager who will supervise the interior design and Work; (iv) the Project Manager who will supervise the Mechanical, Electrical, and Plumbing ("MEP") work; and (v) the individual that will manage quality control and interact with the Department's quality control representative. The Design-Builder will not be permitted to reassign any of the Key Personnel unless the Department approves the proposed reassignment and the proposed replacement.

2.14.2 Key Personnel Liquidated Damages. If the Design-Builder removes or reassigns one of the Key Personnel (excluding, however, instances where such personnel become unavailable due to death, disability, or separation from the employment of the Design-Builder or any affiliate of the Design-Builder) without the prior written consent of the Department, the Design-Builder shall pay to the Department the sum of Twenty Five Thousand Dollars ($25,000) as liquidated damages. These liquidated damage amount shall not bar recovery of any other damages, costs or expenses other than the Department's internal administrative costs. In addition, the Department shall have the

right, to be exercised in its sole discretion, to remove, replace or to reduce the scope of services of the Design-Builder in the event that a member of the key personnel has been removed or replaced by the Design-Builder without the consent of the Department.

2.15 Deliverable List

The Design-Builder shall be required to prepare and submit the following, in addition to any other deliverables required under this RFP and the RFP Documents:

2.15.1 Design and Preconstruction Phase Deliverables

a) Project Schedule.
b) List of Long Lead Items that could adversely impact the Project's schedule and recommendations for purchase.
c) Concept Cost Estimate and Concept Designs.
d) Schematic Cost Estimate and Schematic Design.
e) Design Development Cost Estimate and Design Development.
f) Permit Set of Construction Documents Cost Estimate and Permit Set of Construction Documents.
g) Permit Set of Construction Documents, including DCRA plan review responses.
h) Issued for Construction Documents.
i) List of subcontractors from which the Design-Builder intends to solicit bids and bidding procedure.
j) Trade bid tabulations, including all subcontractor Proposals.
k) Report outlining Value Engineering strategies.
l) GMP Proposal.
m) Construction Phase Baseline Schedule.
n) Statement of constructability within ten (10) days of the conclusion of the Design and Preconstruction Phase, executed by both the Design-Builder and the Project Architect/Engineer.
o) Insurance Certificates
p) Payment and Performance Bonds

2.15.2 Construction Deliverables

a) Contingency Balance Update.
b) Hazardous Material Abatement Subcontractor Insurance Certificates.
c) Hazardous Material Abatement Records.
d) Construction Document Packages.
e) Progress Meeting Minutes.
f) Project Schedule Updates.
g) Project Progress Reports.
h) Cost Variance Report.

i) OSHA Safety Plan.
j) Close out documents (Product Manuals, Warranties, etc.).
k) Quality Control Plan.
l) Quality Control Inspection Reports.
m) Corrective Action Plan.
n) Prolog submissions.
o) Invoices and Acceptable Application for Payment with Release of Liens and Claims.
p) Insurance Certificates.
q) Performance and Payment Bonds and Agreement of Indemnity
r) Certificate of Substantial Completion executed by the Project Architect/Engineer and submitted Department for review, concurrence and approval
s) Documents that may be required by Contracting Officer from time to time.

2.15.3 Close-Out Deliverables

a) STEM Program
b) A complete set of the Design-Builder's Project files.
c) A complete set of product manuals (O&M), training videos, warranties, etc.
d) As built record drawings.
e) Attic stock and schedule.
f) Equipment schedule.
g) Proposed schedule of maintenance.
h) Environmental, health & safety documents.
i) LEED – Preliminary Construction Review.
j) All applicable inspection certificates/permits (boiler, elevator, emergency evacuation plans, health inspection, etc.).

2.16 Licensing, Accreditation and Registration

The Design-Builder and all of its subcontractors and subconsultants (regardless of tier) shall comply with all applicable District of Columbia, state, and federal licensing, accreditation, and registration requirements and standards necessary for the performance of the Agreement. Without limiting the generality of the foregoing, all drawings shall be signed and sealed by a professional Architect or engineer licensed in the District of Columbia.

2.17 Conformance with Laws

It shall be the responsibility of the Design-Builder to perform under the Agreement in conformance with the Department's Procurement Regulations and all statutes, laws, codes, ordinances, regulations, rules, requirements, orders, and policies of governmental bodies.

2.18 Davis-Bacon Act

The Davis-Bacon Act is applicable to this Project. As such, the Design-Builder and its trade subcontractors shall comply with the wage and reporting requirements imposed by that Act.

2.19 Time is of the Essence

Time is of the essence with respect to the Design-Build Agreement. The Project must be Substantially Complete by the Substantial Completion Date. As such, the Design-Builder must dedicate such personnel and other resources as are necessary to ensure that the Project is completed on-time and in a diligent, skilled, and professional manner.

PART 3 - EVALUATION AND AWARD CRITERIA

3.0 Evaluation Criteria

Proposals will be evaluated in accordance with the following evaluation criteria:

a) Past Performance, Relevant Experience & Capabilities of the Builder (**10 points**)
b) Key Personnel of the Builder (**10 points**)
c) Past Performance, Relevant Experience & Capabilities of the Architect/Engineer (**10 points**)
d) Key Personnel of the Architect/Engineer (**10 points**)
e) Project Management Plan & Schedule (**40 points**)
f) Price (**20 points**)
g) Certified Business Enterprise ("CBE") Preference (up to **12 points**)

3.1 Evaluation Process

The Department shall evaluate Offerors' submissions ("Submission(s)") and any best and final offers in accordance with the provisions of this **Part 3** and the Department's Procurement Regulations. Submission(s) include all items outlined in **Section 5.1**.

3.2 Evaluation Committee

Each Offeror's Submission shall be evaluated in accordance with this **Part 3** by an Evaluation Committee. The Evaluation Committee shall prepare a written report summarizing its findings and submit the same to the source selection official. Based on the information submitted by the Offerors in response to this RFP and the report prepared by the Evaluation Committee, the source selection official shall select the Offeror(s) whose Submission(s) are determined by the source selection official to be the most advantageous to the Department in accordance with 27 DCMR §§ 1613.5 and 1630.5 and not necessarily the Offeror (s) with the highest score as evaluated per the factors in **Section 3.4** of this RFP.

3.3 Oral Presentation

The Department does intend to interview Offerors. A minimum of three (3) offerors within the competitive range will be selected to participate in the presentation/interview process after the initial RFP submissions are evaluated by the Technical Evaluation Panel (TEP) based on the evaluation criteria listed herein. Selected Offerors will be required to come in for an interview/presentation with the TEP. At this presentation, the Offerors will be required to provide the following information (at a minimum):

a) Team introduction, and capabilities and experience of each key member participating in the interview;
b) Discussion/presentation of the Design-Build team's approach to design for Banneker High School;

c) Discussion/presentation of the Design-Build team's approach to the construction of Banneker High School; and
d) Discussion/presentation of the Design-Build team's proposed schedule for the Banneker High School Project.

Each Offeror selected for the interview/presentation stage shall make an oral presentation to the Department's Evaluation Committee, and participate in a question and answer session. The purpose of the oral presentation and the question and answer session is to permit the Evaluation Committee to fully understand and assess the qualifications of each Offeror and the Offeror's key personnel. The submission will be re-scored at the conclusion of the oral presentation.

The Department is setting aside $100,000 for stipends for these presentations. Based on the final number of participants in the Design-Build interview/presentation stage, the stipend set-aside amount will be distributed evenly among the non-winning Design-Build teams that will take part in the in the presentation/interview stage. The awardee of contract for the Design-Build Services for Banneker High School will not receive any reimbursement for participating in the presentation/interview process.

3.3.1 Length of Oral Presentation

Each Offeror will be given up to sixty (60) minutes to make the presentation. At the end of the initial presentation, there will be a break for approximately forty five (45) minutes for the Evaluation Committee to assess the presentation and prepare questions. The Offeror will then respond to questions from the Department's Evaluation Committee for no more than ninety (90) minutes.

3.3.2 Oral Presentation Schedule

The order of oral presentations will be selected randomly and the Offerors will be informed of their presentation date before the beginning of oral presentations. The Department reserves the right to reschedule any Offeror's presentation at the discretion of the Contracting Officer.

3.3.3 Offeror Attendees

The oral presentation will be made by the Offeror's personnel who will be assigned the key jobs for this Project. Each Offeror will be limited to seven (7) persons. The job functions of the persons attending the presentation will be considered to be an indication of the Offeror's assessment of the key areas of responsibility that are deemed essential to the successful completion of the Project.

3.3.4 Topics

The Offeror may present information about its capabilities and special qualifications to serve as the Design-Builder for this Project, including the qualifications of Key Personnel.

3.4 Proposal Evaluation

Each Proposal will be scored on a scale of zero (0) to one hundred twelve **(112)** points. Offerors will be eligible to receive up to twelve (12) of the one hundred twelve **(112**) points based on the Offeror's status as a CBE as outlined in **Part 4** of this RFP. The Department's evaluation shall not necessarily be limited to the information provided in the Offeror's Proposal. As part of the evaluation, the Department will also consider its own historical experience with the Offeror, and the direct experience with the Offeror of the members of the evaluation panel and others involved in the evaluation process. The Agreement will be awarded to the Offeror found to be the most advantageous to the Department in accordance with 27 DCMR §§ 1613.5 and 1630.5 and not necessarily the Offeror(s) with the highest evaluated score.

3.4.1 Past Performance, Relevant Experience & Capabilities of the Builder (10 points)

The Department desires to engage a Design-Builder with the experience necessary to accomplish the objectives set forth in the RFP. The construction component of each Design-Builder will be evaluated based on their demonstrated experience in: (i) construction and renovation projects in an urban setting; (ii) construction and renovation of schools; (iii) knowledge of, and access to, the local subcontracting market; (iv) knowledge of the local regulatory agencies and Code Officials; and (v) constructing projects on fast track schedules. In evaluating these subfactors, the Department will consider, among other things, the Offeror's track record in delivering projects on-time and on-budget. If the Offeror is a team or Joint Venture of multiple companies, the Evaluation Panel will consider the experience of each member of the team or Joint Venture in light of their role in the proposed team or Joint Venture. This element of the evaluation will be worth up to ten (10) points.

3.4.2 Key Personnel of the Builder (10 points)

The Department desires that the Design-Builder assign the appropriate number of personnel having the necessary seniority to implement a project of this type. The personnel should have experience working together and each such individual should have the necessary level of experience and education for his or her proposed role. Proposals should identify, at a minimum, (i) the Project executive; (ii) the superintendent; (iii) the Project Manager (interiors); (iv) the Project Manager (MEP); (v) Preconstruction Manager/Estimator; and (vi) Safety/Quality Assurance/Quality Control Manager. The availability and experience of the key individuals assigned to this Project will be evaluated as part of this element. Offerors should provide a table that identifies the specific staff that will be assigned to this Project. The table should include: (i) the

individual's name (if known); (ii) his or her title; (iii) his or her level of effort (i.e. the percentage of time devoted to this Project); and (iv) the time periods during which the individual will be assigned to the Project. This table should include all personnel that will be assigned to the Project. This element of the evaluation will be worth up to ten (10) points.

3.4.3 Past Performance, Relevant Experience & Capabilities of the Architect/Engineer (10 points)

The Department desires to engage a Design-Builder with a design component that possesses the experience necessary to accomplish the objectives set forth in the RFP. The design component of each Design-Builder will be evaluated based on their demonstrated experience in: (i) the design of projects in an urban setting; (ii) design of school facilities; (iii) cost estimating and Value Engineering/management; and (iv) knowledge of the local regulatory agencies and Code Officials. If the Offeror is a team or Joint Venture of multiple companies, the Evaluation Panel will consider the experience of each member of the team or Joint Venture in light of their role in the proposed team or Joint Venture. This element of the evaluation will be worth up to ten (10) points.

3.4.4 Key Personnel of the Architect/Engineer (10 points)

The Department desires that the design component of the Design-Builder assign to this Project personnel who have experience in designing and completing construction projects on-time and on-budget. The personnel so assigned should have the necessary experience and professional credentials for the role each such individual is assigned. At a minimum, the proposal should identify: (i) the design principal-in-charge; (ii) the project designer; (iii) the project architect; (iv) the landscape architect; and (v) the civil engineer, (vi) the key Mechanical, Electrical and Plumbing (MEP) engineers; (vii) the key structural engineers; and (viii) the traffic engineer. Offerors should provide a table that identifies the specific staff that will be assigned to this Project. The table should include: (i) the individual's name (if known); (ii) his or her title; (iii) his or her level of effort (i.e. the percentage of time devoted to this project); and (iv) the time periods during which the individual will be assigned to the Project. This table should include all personnel that will be assigned to the Project. This element of the evaluation will be worth up to ten (10) points.

3.4.5 Project Management Plan & Schedule (40 points)

Offerors are required to submit with their proposal a management plan ("Management Plan"). The Management Plan should clearly explain how the Design-Builder intends to manage and implement the Project. At a minimum, it should (i) outline the procedures that the Offeror will use during the pre-construction phase to guide the design to ensure that it will stay within the Department's budgetary constraint; (ii) outline the purchasing procedures that will be used to maximize competition and manage cost constraints; (iii)

outline the procedures that will be used during the Construction Phase to minimize change orders and maximize Project quality; and (iv) identify the key personnel and their specific roles in managing the Project.

In addition, the Management Plan should include a discussion outlining how the Offeror intends to implement the Project. This discussion should demonstrate an understanding of the key constraints and challenges related to the Project and how the Offeror will work to mitigate and manage these constraints and challenges. Such narratives should also include key milestone dates and an explanation of how those dates will be achieved. The narrative shall include a preliminary schedule which shall be coordinated with the approach. This element of the evaluation is worth up to forty (40 points).

3.4.6 Price (20 points)

Offerors will be required to bid a Design Budget, a Design-Build Fee, and a General Conditions Budget. Offerors will be required to submit with their Proposals the following fee components: (i) a Design Budget; (ii) a Design-Build Fee; and (iii) a General Conditions Budget. The Design-Build Fee will be a fixed fee and should cover the cost of the Design-Builder's overhead and profit; the Design Budget should include an upset limit and a schedule of values showing the cost of the various phases of the design; and the cost of general conditions, as defined in the Design-Build Agreement, shall be reimbursable subject to a cap equal to the General Conditions Budget proposed by the Offeror. Each Offeror will be required to complete and submit with their Proposal a copy of the pricing sheet set forth as **Attachment C**, which includes all these price components. The pricing sheet shall be submitted as part of Volume 2 (i.e. the price proposal) as more fully described in **Part 5** of this RFP. These price components will be worth up to twenty (20) points.

3.4.7 CBE Preference (12 points)

The remaining twelve (12) points will be awarded based on the Offeror status as a CBE/SBE as outlined in **Part 4** of this RFP.

PART 4 - ECONOMIC INCLUSION

4.0 Preference for Small, Local, and Disadvantaged Business Enterprises

General: Under the provisions of the Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005, D.C. Law 16-33 (codified at D.C. Code § 2-218.01 et seq.), preferences shall be given to Offerors that are certified by the Department of Small and Local Business Development as being a small business enterprise ("SBE"), having resident business ownership, having a longtime resident business, being a local business enterprise, being a disadvantaged business enterprise, being a local business enterprise with its principal office located in an enterprise zone, being a veteran-owned business enterprise, or being a local manufacturing business enterprise. In accordance with these laws, the following preferences shall be awarded in evaluating an Offeror's Proposal:

a) Three (3) preference points shall be awarded if the Offeror is certified as having a SBE.
b) Five (5) preference points shall be awarded if the Offeror is certified as having a resident business ownership.
c) Five (5) points shall be awarded if the Offeror is certified as having a longtime resident business.
d) Two (2) preference points shall be awarded if the Offeror is certified as a local business enterprise.
e) Two (2) preference points shall be awarded if the Offeror is certified as being a local business enterprise with its principal office located in an enterprise zone.
f) Two (2) preference points shall be awarded if the Offeror is certified as a disadvantaged business enterprise.
g) Two (2) preference points shall be awarded if the Offeror is certified as a veteran-owned business enterprise.
h) Two (2) preference points shall be awarded if the Offeror is certified as a local manufacturing business enterprise.

Offerors may qualify for more than one of these categories, so that the maximum number of points available under this section is twelve (12) points.

4.1 Preferences for Certified Joint Ventures

A certified Joint Venture will receive preferences as determined by Department of Small and Local Business Development in accordance with D.C. Official Code § 2-218.39a (h).

a) A copy of the certification acknowledgment letter must be submitted with the Offeror's Proposal.
b) Any vendor seeking certification in order to receive preferences under this RFP should contact the:

Department of Small and Local Business Development
ATTN: CBE Certification Program

c) All Offerors are encouraged to contact Department of Small and Local Business Development at (202) 727-3900 if additional information is required on certification procedures and requirements.

4.2 Subcontracting Plan

An Offeror responding to this RFP which is obligated to subcontract shall be required to submit with its Proposal, any subcontracting plan required by law. Offeror's responding to this RFP shall be deemed nonresponsive and shall be rejected if the Offeror fails to submit a subcontracting plan that is required by law. If the Agreement is in excess of ($250,000), at least (35%) of the dollar volume of the Agreement shall be subcontracted in accordance with **Attachment H**.

4.2.1 Mandatory Subcontracting Requirements

a) Unless the Director of the Department of Small and Local Business Development has approved a waiver in writing, for all contracts in excess of ($250,000), at least (35%) of the dollar volume of the Agreement shall be subcontracted to qualified SBEs.
b) If there are insufficient SBEs to completely fulfill the requirement of paragraph **(a)** of this **Section 4.2.1** above, then the subcontracting may be satisfied by subcontracting (35%) of the dollar volume to any qualified CBEs; provided, however, that all reasonable efforts shall be made to ensure that SBEs are significant participants in the overall subcontracting work.
c) A Design-Builder ("Prime Contractor") that is certified by Department of Small and Local Business Development as a small, local or disadvantaged business enterprise shall not be required to comply with the provisions of paragraphs (a) and (b) above of this **Section 4.2.1**.
d) Except as provided in paragraphs (e) and (g) below of this **Section 4.2.1**, a Prime Contractor that is a CBE and has been granted an offer preference pursuant to D.C. Official Code § 2-218.43, or is selected through a set-aside program, shall perform at least (50%) of the contracting effort with its own organization and resources and, if it subcontracts, (35%) of the subcontracting effort shall be with CBEs. A CBE Prime Contractor that performs less than (50%) of the contracting effort shall be subject to enforcement actions under D.C. Official Code § 2-218.63.
e) A Prime Contractor that is a certified Joint Venture and has been granted an offer preference pursuant to D.C. Official Code § 2-218.43, or is selected through a set-aside program, shall perform at least (50%) of the contracting effort with its own organization and resources and, if it subcontracts, (35%) of the subcontracting effort shall be with CBEs. A certified Joint Venture Prime Contractor that performs less than (50%) of the contracting effort shall be subject to enforcement actions under D.C. Official Code § 2-218.63.

f) Each CBE utilized to meet these subcontracting requirements shall perform at least (35%) of its contracting effort with its own organization and resources.
g) A Prime Contractor that is a CBE and has been granted an offer preference pursuant to D.C. Official Code § 2-218.43, or is selected through a set-aside program, shall perform at least (50%) of the on-site work with its own organization and resources if the Agreement is one ($1) million dollars or less.

4.2.2 Subcontracting Plan Requirements

If the Prime Contractor is required by law to subcontract under the Agreement, it must subcontract at least (35%) of the dollar volume of the Agreement in accordance with the provisions of **Section 4.2.1 (a)**. The plan shall be submitted as part of the Proposal and may only be amended with the prior written approval of the CO and Director of Department of Small and Local Business Development. Any reduction in the dollar volume of the subcontracted portion resulting from an amendment of the plan shall inure to the benefit of the District and the Department. Each subcontracting plan shall include the following:

a) The name and address of each subcontractor;
b) A current certification number of the small or certified business enterprise;
c) The Scope of Work to be performed by each subcontractor; and
d) The price that the Prime Contractor will pay each subcontractor.

4.2.3 Copies of Subcontracts

Within twenty-one (21) days of the date of award, the Prime Contractor shall provide fully executed copies of all subcontracts identified in the subcontracting plan to the CO, District of Columbia Auditor and the Director of Department of Small and Local Business Development.

4.2.4 Subcontracting Plan Compliance Reporting

a) The Prime Contractor has a subcontracting plan required by law for this Agreement; the Prime Contractor shall submit a quarterly report to the CO, District of Columbia Auditor and the Director of Department of Small and Local Business Development. The quarterly report shall include the following information for each subcontract identified in the subcontracting plan:

1. The price that the Prime Contractor will pay each subcontractor under the subcontract;
2. A description of the goods procured or the services subcontracted for;
3. The amount paid by the Prime Contractor under the subcontract;
4. A copy of the fully executed subcontract, if it was not provided with an earlier quarterly report.

b) If the fully executed subcontract is not provided with the quarterly report, the Prime Contractor will not receive credit toward its subcontracting requirements for that subcontract.

4.2.5 Annual Meetings

Upon at least 30-days written notice provided by Department of Small and Local Business Development, the Prime Contractor shall meet annually with the CO, contract administrator ("CA"), District of Columbia Auditor and the Director of Department of Small and Local Business Development to provide an update on its subcontracting plan.

4.2.6 Notices

The Prime Contractor shall provide written notice to the Department of Small and Local Business Development and the District of Columbia Auditor upon commencement of the Agreement and when the Agreement is completed.

4.2.7 Enforcement and Penalties for Breach of Subcontracting Plan

A Prime Contractor shall be deemed to have breached a subcontracting plan required by law, if the Prime Contractor (i) fails to submit subcontracting plan monitoring or compliance reports or other required subcontracting information in a reasonably timely manner; (ii) submits a monitoring or compliance report or other required subcontracting information containing a materially false statement; or (iii) fails to meet its subcontracting requirements. A Prime Contractor that is found to have breached its subcontracting plan for utilization of CBEs in the performance of a contract shall be subject to the imposition of penalties, including monetary fines in accordance with D.C. Official Code § 2-218.63. If the CO determines the Prime Contractor's failure to be a material breach of the Contract, the CO shall have cause to terminate the Contract under the default provisions in the Standard Contract Provisions, **Attachment G.**

4.2.8 CBE as Prime Contractor

A Prime Contractor which is certified as a small, local or disadvantaged business enterprise shall not be required to comply with the provisions of **Section 4.2.**

4.3 Residency Hiring Requirements for Contractors and Subcontractors

At least fifty-one percent (51%) of the Offeror's Team and every subconsultant's employees hired after the Offeror enters into a contract with the Department, or after such subconsultant enters into a contract with the Offeror, to work on this Project, shall be residents of the District of Columbia.

Upon execution of the Agreement, the Offeror and all of its member firms, if any, and each of its subcontractors and subconsultants shall submit to the Department a list of

current employees that will be assigned to the Project, the date that they were hired and whether or not they live in the District of Columbia.

The Offeror shall comply with subchapter III of Chapter II of Title 1, and subchapter II of Chapter II of Title 1 of the D.C. Code, and all successor acts thereto and the rules and regulations promulgated thereunder. The Offeror and all member firms, subcontractors, tier subcontractors, subconsultants, and suppliers with contracts in the amount of ($100,000) or more shall be required to comply with the following: (i) enter into a First Source Employment Agreement with the D.C. Department of Employment Services ("DOES") upon execution of the Agreement; (ii) submit an executed First Source Agreement to DOES prior to beginning work on the Project; (iii) make best efforts to hire at least (51%) District residents for all new jobs created by the Project; (iv) list all employment vacancies with DOES; (v) submit monthly compliance reports to DOES by the 10th of each month; (vi) at least (51%) apprentices and trainees employed must be residents of the District registered in program approved by the D.C. Apprenticeship Council; and (vii) trade contractors and subcontractors with contracts in the amount of ($500,000) or more must register an apprenticeship program with the D.C. Apprenticeship Council.

The Offeror shall comply with subchapter X of Chapter II of Title 2, and all successor acts thereto, including by not limited to the *Workforce Intermediary Establishment and Reform of First Source Amendment Act of 2011*, and the rules and regulations promulgated thereunder, including, but not limited to the following requirements:

a) At least twenty percent (20%) of journey worker hours by trade shall be performed by District residents;
b) At least sixty percent (60%) of apprentice hours by trade shall be performed by District residents;
c) At least fifty one percent (51%) of the skilled laborer hours by trade shall be performed by District residents; and
d) At least seventy percent (70%) of common laborer hours shall be performed by District residents.

4.4 Apprenticeship Act

The D.C. Apprenticeship Act of D.C. Law 2-156, ("Act") as amended shall apply to this Project. All subcontractors selected to perform work on the Project on a craft-by-craft basis shall be required to comply with this Act. All terms and conditions of the D.C. Apprenticeship Council Rules and Regulations shall be implemented. The Prime Contractor shall be liable for any subcontractor non-compliance.

PART 5 - PROPOSAL ORGANIZATION AND SUBMISSION

5.0 General

This part outlines specific information necessary for the proper organization and manner in which Offerors' Proposals should be proffered. References are made to other sections in this RFP for further explanation.

5.1 Submission Identification

Submissions shall be proffered in a complete original proposal (Technical and Price Proposals); one (1) copy of the Price Proposal; and five (5) copies of the technical portion of the Proposal as outlined below; an electronic copy of the complete original proposal either on USB flash drive or CD-ROM shall also be provided. The Offeror's original Submission shall be placed in a sealed envelope conspicuously marked: "**Proposal for Design-Build Services for Benjamin Banneker High School – DCAM-19-CS-RFP-0045**."

5.2 Delivery or Mailing of Submissions

Submissions should be delivered or mailed to:

DC Department of General Services
Contracts & Procurement Division
Frank D. Reeves Center
2000 14th Street, NW, 8th Floor
Washington, DC 20009
Attn: George G. Lewis

5.3 Date and Time for Receiving Submissions

Submissions shall be received in the place identified in **Section 5.2** of this RFP no later than 2:00 P.M. on January 22, 2019**.** The Offeror assumes the sole responsibility for timely delivery of its Submission, regardless of the method of delivery.

5.4 Submission Size, Organization and Offeror Qualifications

All Submissions shall be submitted on 8-1/2" x 11" bond paper and typewritten. The CPM schedule may be on 11"x17" bond paper, but shall be folded to a size of 8-1/2"x11". Telephonic, telegraphic, and facsimile Submissions shall not be accepted. The Department is interested in a qualitative approach to presentation material. Brief, clear and concise material is more desirable than quantity. The Submission shall be organized as follows:

5.4.1 Executive Summary of Proposal

Each Offeror should provide a Proposal executive summary of no more than three pages of the information contained in **Section 5.4.2.**

5.4.2 General Team Information and Firm(s) Data

Each Offeror should provide the following information for the Design-Builder and each of its subconsultants.

a) Name(s), address(es), and role(s) of each firm (including all sub-consultants)
b) Firm profile(s), including:

    1. Age.
    2. Firm history(ies).
    3. Firm size(s).
    4. Areas of specialty/concentration.
    5. Current firm workload(s) projected over the next year.
    6. A list of any contract held by the Offeror where the contract was terminated (either for default or convenience). This list should also identify any contracts that resulted in litigation or arbitration between the Department and the Offeror. If the Offeror has multiple offices, only contracts held by the office submitting a Proposal to this RFP need be listed.

c) Description of the team organization and personal qualifications of key staff, including:
    1. Identification of the single point of contact for the Offeror.
    2. Organizational chart illustrating reporting lines and names and titles for key participants proposed by the Offeror.
    3. A list or chart of all personnel proposed for the Project. Such list or chart should include the following information for each individual:

        (i) The individual's name.
        (ii) The individual's role.
        (iii) The percentage of time that will be devoted by the individual to the Project. This should be identified for each phase of the Project.
        (iv) The individual's resume. Resumes should indicate the individual's experience on the eight (8) relevant projects and identify the role of the individual in each past project noted on the resume. The resume should also clearly identify how long the individual has worked in the construction industry and should indicate the number of years of experience in his or her current role and the prior roles.
        (v) The individual's current workload over the next two years.

    4. A chart showing the experience that the key team members have working together.

5.4.3 Relevant Experience and References

a) Detailed descriptions of no more than eight (8) projects that best illustrate the team's experience and capabilities relevant to this Project. For each such project, the Offeror should provide the information requested below:

   1. The name and location of the project.
   2. The square footage of the project
   3. A short narrative of the scope of the contractor's work on the project.
   4. The delivery method implemented on the project.
   5. The start and end dates for construction.
   6. The date of builder's engagement and point during the design process at which builder was engaged (e.g., schematic design 50% complete; schematic design 100%complete, etc.).
   7. The initial substantial completion date and initial contract value, also noting the contract type (i.e., GMP, NTE or Lump Sum).
   8. The level of completion of design documents that the initial contract value was based on.
   9. The actual substantial completion date and the final contract value.

b) The Offeror shall ensure that a minimum of three (3) Past Performance Evaluation forms **Attachment L,** are completed and submitted on behalf of the Offeror directly to the Department's POC stated in **Section 1.7** by the due date for Proposals as specified in **Section 5.3**.

c) If the Offeror is a team or Joint Venture of multiple companies, the Evaluation Panel will consider the experience of each member of the team or Joint Venture in light of their role in the proposed team or Joint Venture.

5.4.4 Project Management Plan

The Project Management Plan should contain the information requested in **Section 3.4.4** of the RFP.

5.4.5 SBE Subcontracting Plan

Each Offeror shall complete and submit as part of its Technical Proposal a Subcontracting Plan in the form of **Attachment I**.

5.4.6 First Source Employment Agreement

Each Offeror shall complete and submit as part of its Technical Proposal a First Source Agreement in the form of **Attachment J**.

5.4.7 Preliminary Project Schedule

Each Offeror should prepare a preliminary project schedule (the "Baseline Schedule") that shows how the Offeror intends to complete the Project in a timely manner. The Baseline Schedule shall be subject to review and approval by the Department. The

Design-Builder shall incorporate any adjustment to the Baseline Schedule as may be reasonably requested by the Department. The Baseline Schedule shall be prepared in CPM and be developed in a sufficient level of detail so as to permit the affected parties (i.e. the Department, the Architect and the Design-Builder) to properly plan the Project, and shall show: (i) key design milestones and bid packages; (ii) release dates for long lead items; (iii) release dates for key subcontractors; and (iv) Substantial and Final Completion Dates. The preliminary schedule must also be submitted in Primavera 6 native format, and upon award, shall be updated by the Design-Builder, at a minimum, on a bi-weekly basis. The schedule should demonstrate that the Offeror understands the Project and has a workable method to deliver the Project in a timely manner.

5.4.8 Price Proposal

The Price proposal shall be organized as follows:

a) **Bid Form.** Each Offeror shall submit a bid form substantially in the form of **Attachment C**. Material deviations, in the opinion of the Department, from the bid form shall be sufficient to render the Proposal non-responsive.

b) **Bidder-Offeror Certification Form.** Each Offeror shall complete and submit with its Price Proposal the Bidder-Offeror Certification Form attached hereto as **Attachment D**. An Offeror who submits an incomplete or improperly or inaccurately completed Bidder-Offeror Certification Form may be deemed non-responsive.

c) **Tax Affidavit.** Each Offeror must submit a tax affidavit substantially in the form of **Attachment E**. In order to be eligible for this procurement, Offerors must be in full compliance with their tax obligations to the District of Columbia Government.

d) **Bid Bond.** Each Offeror shall submit with their Price Proposal a bid bond in the amount specified and further explained in **Part 9, Section 9.0**, in the form of **Attachment G**.

e) **SBE Subcontracting Plan.** Each Offeror shall submit a SBE subcontracting plan substantially in the form of **Attachment I**.

f) **First Source Agreement and Employment Plan**. Each Offeror shall submit a first source agreement and employment plan substantially in the form of **Attachment J**.

g) **Conflict of Interest Disclosure Form**. Each Offeror shall submit a conflict of interest disclosure statement substantially in the form of **Attachment P.**

h) **EEO Policy Form.** Each Offeror shall submit an EEO policy form substantially in the form of **Attachment R**.

i) **Certification to Furnish Performance & Payment Bond**. Each Offeror shall submit a certification to furnish a performance & payment bond substantially in the form of **Attachment S**.

PART 6 - BIDDING PROCEDURES & PROTESTS

6.0 Contact Person

Offerors should contact the department's POC as stated in **Section 1.7** for information about this RFP or for any written questions or inquiries regarding the RFP.

6.1 Preproposal Conference

Will be determined by Addendum.

6.2 Explanations to Prospective Offerors

Each Offeror should carefully examine this RFP and any and all amendments, addenda or other revisions, and thoroughly be familiar with all requirements prior to proffering a Submission. Should an Offeror find discrepancies or ambiguities in, or omissions from, the RFP and amendments, addenda or revisions, or otherwise desire an explanation or interpretation of the RFP, any amendments, addenda, or revisions, it must submit a request for interpretation or correction in writing. Any information given to an Offeror concerning the RFP shall be furnished promptly to all other Offerors as an amendment or addendum to this RFP if in the sole discretion of the Department that information is necessary in proffering Submissions or if the lack of information would be prejudicial to any other prospective Offerors. Oral explanations or instructions given before the award of the Agreement shall not be binding.

Requests should be directed to the Department's POC at the address listed in **Section 1.7** no later than the close of business on **January 4, 2019**. The person making the request shall be responsible for prompt delivery.

6.3 Protests

Protests shall be governed by D.C. Code § 2-360.08 and Section 4734 of the Department's Procurement Regulations (27 DCMR § 4734).

6.4 Contract Award

This procurement is being conducted in accordance with D.C. Code § 2-354.03 and the provisions of Title 27 DCMR §§ 4700, et seq., of the Department's Procurement Regulations. Responses to the RFP shall be in the form of competitive sealed Proposals and the Agreement shall be awarded based on the Proposal that is the most advantageous to the Department, or in the event of more than one award, the Proposals that are the most advantageous to the Department. The RFP sets forth the evaluation factors and indicates the relative importance of each factor. The RFP contains a statement of work or other description of the Department's specific needs, which shall be used as a basis for the evaluation of the Proposals. Price will be evaluated; however, while price or total cost to the Department may be an important or even deciding factor in most source selections, the Department may select the source whose Proposal

is more advantageous in terms of technical merit and other factors in accordance with Title 27 DCMR § 1613.5. As such, the Agreement contemplated hereunder will be awarded to the Offeror whose competitive sealed Proposal is determined by the source selection official to be the most advantageous to the Department considering technical merit and other factors.

6.5 Retention of Submissions

All Submissions shall be retained by the Department and therefore shall not be returned to the Offerors. With the exception of proprietary financial information, the Submissions shall become the property of the Department and the Department shall reserve the right to distribute or use such information as it determines.

6.6 Examination of Submissions

Offerors are expected to examine the requirements of all instructions outlined in the RFP Documents including all amendments, addenda, attachments and exhibits. Failure to do so shall be at the sole risk of the Offeror and may result in disqualification.

6.7 Late Submissions: Modifications

a) Any Submission or best and final offer received at the office designated in **Section 5.2** after the time specified in **Section 5.3** shall not be considered.
b) Any modification of a Submission, including a modification resulting from the CCO's requests for best and final offers, is subject to the same conditions as in **Section 6.7 (a)** stated above.
c) The only acceptable evidence to establish the time of receipt at the Department's designated office is the time-date stamp of such installation on the Submission wrapper or other documentary evidence of receipt maintained by the installation.
d) Notwithstanding any other provisions of this RFP to the contrary, a late modification of an otherwise successful Submission which makes its terms more favorable to the Department may be considered at any time as received and may be accepted.
e) Submissions shall be irrevocable and remain in full force and effect for a period not less than one hundred twenty (120) days after receipt of Submissions.

6.8 No Compensation for Preparation of Submissions

The Department shall not bear or assume any financial obligations or liabilities regarding the preparation of any Submissions submitted in response to this RFP, or prepared in connection therewith, including, but without limitation, any Submissions, statements, reports, data, information, materials or other documents or items.

6.9 Rejection of Submissions

The Department reserves the right, in its sole discretion:

a) To cancel this RFP, in whole or in part, at any time before the opening of Proposals and/or reject all Submissions.
b) To reject Submissions that fail to prove the Offeror's responsibility.
c) To reject Submissions that contain conditions and/or contingencies that in the Department's sole judgment, make the Submission indefinite, incomplete, otherwise non-responsive, or otherwise unacceptable for award.
d) To waive minor irregularities in any Submission provided such waiver does not result in an unfair advantage to any Offeror.
e) To take any other action within the applicable Procurement Regulations or law.
f) To reject the Submission of any Offeror that has submitted a false or misleading statement, affidavit or certification in connection with such Submission or this RFP.
g) To reject Submission that indicates a lack of understanding of any aspect of the Project.
h) To reject Submissions that are too costly, financially or otherwise, to the Department relative to other Submissions and the Project budget.
i) To reject Submissions where the Offeror has altered any pricing element or line item by Thirty Percent (30%) from the initial Proposal or median price for that pricing element or line item in response to a Request for a best and final offer.
j) To reject Submissions that are deemed non-responsive.

6.10 Limitation of Authority

Only a Contracting Officer with prior written authority from the CCO shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clauses or conditions of the Agreement. Furthermore, any alteration, amendment, modification, or waiver of any clause or condition of this RFP is not effective or binding unless made in writing and signed by the CCO or its authorized representative.

6.11 Non-Responsive Proposals

6.11.1 Pricing. In general, the Department will consider a Proposal non-responsive if any pricing element of the Offeror's price is Thirty Percent (30%) higher than the median price submitted by other Offerors. If there are no more than two (2) Offerors, the independent government estimate shall be used to establish a median price. The Department reserves the right to deem a Proposal non-responsive if any pricing element of the Offeror's price is Thirty Percent (30%) higher than the median price.

6.11.2 Certification. The Department may consider a Proposal non-responsive if the Offeror fails to properly complete or provides accurate information on the Bidder/Offeror Certification Form **Attachment C**.

6.11.3 Exceptions. The Department may consider a proposal non-responsive if the Offeror identifies any changes or exceptions to the Standard Contract Provisions, the Agreement, and/or the Letter Contract.

6.11.4 Core Competency. The Department may consider a Proposal non-responsive if the Offeror, whether by inclusion or omission, fails, in the Department's sole judgment, to demonstrate an understanding and competence in every aspect of the Project.

PART 7 - DESIGN BUILD AGREEMENT

7.0 Contract Documents

The Design-Build Agreement will be issued via Addendum to the RFP as **Attachment L.** The Standard Contract Provisions, is attached hereto as **Attachment G**. Offerors should carefully review the Design-Build Agreement and Standard Contract Provisions when submitting their Proposals. To the extent there are any ambiguities or inconsistencies between this RFP, the Standard Contract Provisions and Design-Build Agreement shall have precedence. Offerors are advised that they are required to submit their Proposals premised upon agreeing to the terms of the Standard Contract Provisions and entering into a Letter Contract, and subsequently, the Design-Build Agreement. **A proposal that identifies or describes changes or exceptions to the Standard Contract Provisions, the Design-Build Agreement, or the Letter Contract, as defined in Section 2.6.1 of this RFP, may be deemed non-responsive**.

PART 8 - INSURANCE REQUIREMENTS

8.0 Required Insurance

The Design-Builder at its sole expense shall procure and maintain, during the entire period of performance under this contract, the types of insurance specified below. The Contractor shall have its insurance broker or insurance company submit a Certificate of Insurance to the CO giving evidence of the required coverage prior to commencing performance under this contract. In no event shall any work be performed until the required Certificates of Insurance signed by an authorized representative of the insurer(s) have been provided to, and accepted by, the CO. All insurance shall be written with financially responsible companies authorized to do business in the District of Columbia or in the jurisdiction where the work is to be performed and have an A.M. Best Company rating of A- / VII or higher. The Contractor shall require all of its subcontractors to carry the same insurance required herein.

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

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

If the Contractor and/or its subcontractors maintain broader coverage and/or higher limits than the minimums shown below, the District requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Grantee and subcontractors.

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

8.2 Automobile Liability Insurance - The Contractor shall provide evidence satisfactory to the CO of commercial (business) automobile liability insurance written on ISO form CA 00 01 10 13 (or another form with coverage at least as broad and approved by the CO in writing) including coverage for all owned, hired, borrowed and non-owned vehicles and equipment used by the Contractor, with minimum per accident limits equal to the greater of (i) the limits set forth in the Contractor's commercial automobile liability policy or (ii) $1,000,000 per occurrence combined single limit for bodily injury and property damage.

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

Employer's Liability Insurance - The Contractor shall provide evidence satisfactory to the CO of employer's liability insurance as follows: $500,000 per accident for injury; $500,000 per employee for disease; and $500,000 for policy disease limit.

All insurance required by this paragraph 8.3 shall include a waiver of subrogation endorsement for the benefit of Government of the District of Columbia.

8.4 Crime Insurance (3rd Party Indemnity) - The Contractor shall provide a 3rd Party Crime policy to cover the dishonest acts of Contractor's employees which result in a loss to the District. The policy shall provide a limit of $50,000 per occurrence.

8.5 Cyber Liability Insurance - The Contractor shall provide evidence satisfactory to the Contracting Officer of Cyber Liability Insurance, with limits not less than $5,000,000 per occurrence or claim, $5,000,000 aggregate. Coverage shall be sufficiently broad to

respond to the duties and obligations as is undertaken by Contractor in this agreement and shall include, but not limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations. This insurance requirement will be considered met if the general liability insurance includes an affirmative cyber endorsement for the required amounts and coverages.

8.6 Environmental Liability Insurance - The Contractor shall provide evidence satisfactory to the CO of pollution legal liability insurance covering losses caused by pollution conditions that arise from the ongoing or completed operations of the Contractor. Completed operations coverage shall remain in effect for at least ten (10) years after completion of the work. Such insurance shall apply to bodily injury, property damage (including loss of use of damaged property or of property that has been physically injured), cleanup costs, liability and cleanup costs while in transit, and defense (including costs and expenses incurred in the investigation, defense and settlement of claims). There shall be neither an exclusion nor a sublimit for mold-related claims. The minimum limits required under this paragraph shall be equal to the greater of (i) the limits set forth in the Contractor's pollution legal liability policy or (ii) $5,000,000 per occurrence and $5,000,000 in the annual aggregate. If such coverage is written on a claims-made basis, the Contractor warrants that any retroactive date applicable to coverages under the policy precedes the Contractor's performance of any work under the Contract and that continuous coverage will be maintained or an extended reporting period will be exercised for at least ten (10) years after completion. The Contractor also must furnish to the Owner certificates of insurance evidencing pollution legal liability insurance maintained by the transportation and disposal site operators(s) used by the Contractor for losses arising from facility(ies) accepting, storing or disposing hazardous materials or other waste as a result of the Contractor's operations. Such coverages must be maintained with limits of at least the amounts set forth above.

8.7 Professional Liability Insurance (Errors & Omissions) - The Contractor shall provide Professional Liability Insurance (Errors and Omissions) to cover liability resulting from any error or omission in the performance of professional services under this Contract. The policy shall provide limits of $5,000,000 per claim or per occurrence for each wrongful act and $5,000,000 annual aggregate. The Contractor warrants that any applicable retroactive date precedes the date the Contractor first performed any professional services for the Government of the District of Columbia and that continuous coverage will be maintained or an extended reporting period will be exercised for a period of at least ten years after the completion of the professional services.

8.8 Commercial Umbrella or Excess Liability. The Contractor shall provide evidence satisfactory to the CO of commercial umbrella or excess liability insurance with minimum limits equal to the greater of (i) the limits set forth in the Contractor's umbrella or excess liability policy or (ii) $20,000,000 per occurrence and $20,000,000 in the annual aggregate, following the form and in excess of all liability policies. **All** liability coverages must be scheduled under the umbrella and/or excess policy. The insurance required under this paragraph shall be written in a form that annually reinstates all required limits. Coverage shall be primary to any insurance, self-insurance or reinsurance maintained by the District and the "other insurance" provision must be amended in accordance with this requirement and principles of vertical exhaustion.

8.9 Railroad Protective Liability Insurance (RPL) - The Contractor shall provide evidence satisfactory to the Contracting Officer of a RPL policy with respect to activities Contractor, or any of its officers, agents, employees, members, successors and assigns, or subcontractors, perform within fifty (50) feet vertically or horizontally of railroad tracks, but only prior to the initiation of any such activity, Contractor shall provide Railroad Protective Liability Insurance (ISO CG 00 35 or equivalent), in the name of The Government of the District of Columbia. The policy shall have limits of liability of not less than Ten Million Dollars ($10,000,000.00) per occurrence, combined single limits, for coverage A & B, for losses arising out of injury to or death of any person, and for physical loss or damage to or destruction of property, including the loss of use thereof. A Ten Million Dollar ($10,000,000.00) annual aggregate may apply. (IF APPLICABLE)

Construction Projects Controlled by the District

For construction projects controlled by the District, the District will procure the following policies with the District listed as the first named insured. Since the District will control the placement of the policies, the District should not contractually bind itself to secure coverage broader than the minimum that satisfy the interests of the Contractor.

Builders Risk – The District shall purchase and maintain builders risk insurance at 100% replacement cost upon the entire Work at the site and portions of the Work stored off the site with the District's approval, and contingent transit coverage for portions of the Work in transit. This insurance shall include the interests of the District, the Contractor and the Subcontractors in the Work and shall insure against all risk of physical damage subject to standard exclusions. Losses not covered by the District's insurance or Contractor's insurance shall be borne pursuant to the provisions of the Contract. The builders risk policy will have a deductible of not more than $25,000 Losses within the deductible will be paid by the Contractor or the responsible Subcontractor. If not covered under the builders risk insurance or otherwise provided in the Contract Documents, the Contractor shall effect and maintain similar property insurance on portions of the Work stored off the site or in transit.

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

8.11 Duration. The Contractor shall carry all required insurance until all contract work is accepted by the District of Columbia, and shall carry listed coverages for ten years for construction projects following final acceptance of the work performed under this contract and two years for non-construction related contracts.

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

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

8.14 Measure of Payment. The District shall not make any separate measure or payment for the cost of insurance and bonds. The Contractor shall include all of the costs of insurance and bonds in the contract price.

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

8.16 Certificates of Insurance. The Contractor shall submit certificates of insurance giving evidence of the required coverage as specified in this section prior to commencing work. Certificates of insurance must reference the corresponding contract number. Evidence of insurance shall be submitted to:

The Department of General Services

And mailed to the attention of:
Franklin Austin, CPPB, CPM/Contracting & Procurement Division
1250 U Street, NW | 3rd Floor
Washington, DC 20009
Desk: 202-727-7128
Franklin.Austin5@dc.gov

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

8.17 Disclosure of Information. The Contractor agrees that the District may disclose the name and contact information of its insurers to any third party which presents a claim against the District for any damages or claims resulting from or arising out of work performed by the Contractor, its agents, employees, servants or subcontractors in the performance of this contract.

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

PART 9 - BONDS REQUIREMENTS

9.0 Bid Bond

Offerors are required to submit with their Proposals a bid bond in the amount of five percent (5%) of total bidding budget, in the form included as **Attachment G**. All bonding companies must be included on the Department of Treasury's Listing of Approved Sureties. Alternatively, Offerors may submit a cashier's check in lieu of a bid bond. However, in the event an Offeror who is awarded the Agreement fails to post a payment and performance bond for the full value of the Agreement, the Offeror shall thereby forfeit the full amount of the cashier's check, and the Department shall collect such funds as liquidated damages. If the Offeror chooses to submit a cashier's check in lieu of a bid bond, the Offeror must complete the form included as **Attachment O** and return, notarized, with the Offeror's Proposal.

9.1 Trade Subcontractor Bonds

The Agreement will require that all trade subcontractors provide a payment and performance bond having a penal value equal to One Hundred Percent (100%) of the cost of the trade subcontract. All such bonds shall be written on a dual-obligee basis.

9.2 Contractor's Payment and Performance Bond

In addition to the trade subcontractor bonds required by **Section 9.1**, the Design-Builder will be required to post a payment and performance bond having a penal value equal to the GMP at the time the Agreement is executed.

PART 10 - MISCELLANEOUS PROVISIONS

10.0 Conflict of Interest

The Department reserves the right, in its sole discretion, to make determinations relative to potential conflicts of interest on a project specific basis. Offeror shall submit the Conflict Of Interest Disclosure Statement with their Proposals **(Attachment P).**

10.1 Definitions

Capitalized terms not otherwise defined in the Agreement definitions section shall have the meanings given to them in the RFP.

10.2 Abbreviations

The following are abbreviations used throughout this RFP:

CPM	Critical Path Method
GMP	Guaranteed Maximum Price
LEED	Leadership in Energy & Environmental Design
NTP	Notice to Proceed
RFP	Request for Proposals
OP	Office of planning
CO	Contracting Officer
CCO	Chief Contracting Officer
CA	Contract Administrator
CFA	Commission of Fine Arts
COTR	A Contracting Officer's Technical Representative
DCPS	District of Columbia Public Schools
CBE	A Certified Business Enterprise
SBE	Small Business Enterprises

PART 11 - ATTACHMENTS

Attachment A – Educational Specifications

DISTRICT OF COLUMBIA
PUBLIC SCHOOLS

Benjamin Banneker High School
Modernization Program

School: Benjamin Banneker Academic High School
Address: 925 Rhode Island Ave NW Washington DC 20001
Grades Served: 9-12
SY16-17 Enrollment: 482 students
Design Capacity: 800 students
Programs: International Baccalaureate (IB)

The Benjamin Banneker Academic High School, located in Ward 1 is a high school that serves students in grade 9 through grade 12. Because of its demanding academic options, students must undergo an application process in order to be admitted. In School Year 2016-2017 Banneker's enrollment was 482 students. The DCPS enrollment team expects enrollment to grow to approximately 800 students by School Year 2025-2026. Currently the Banneker program is in the Pleasant Plains neighborhood but will be relocating to the Shaw Jr. High School site located in Ward 6. Benjamin Banneker High offers one of the District's International Baccalaureate (IB) Diploma Program sites and offers Pre-IB, Advanced Placement (AP) and its own summer institute as additional rigorous academic options.

International Baccalaureate (IB)
DCPS International Baccalaureate (IB) school network provides a pathway to an internationally recognized diploma. For more than 35 years, the IB Program has been developing a network of more than 3,700 schools in 145 countries. DCPS IB schools develop inquiring, knowledgeable, and caring young people who help to create a better and more peaceful world through intercultural understanding and respect.

The IB Diploma is a rigorous and demanding two-year pre-university program that meets the needs of highly motivated students in grades 11 and 12. To earn an IB diploma, students must complete the following:

- Take courses and pass examinations in six academic subjects
- Participate in the Theory of Knowledge course that investigates learning and knowing throughout the traditional disciplines
- Participate in 150 hours of Creativity, Action, and Service (CAS)
- Conduct original research and write an extended essay of 4,000 words

Students who successfully complete this program are awarded an internationally recognized IB Diploma in conjunction with their local school diploma.

Also included in the appendix is a copy of the Banneker Feasibility Study that was conducted in Spring/Summer 2018. The study investigated whether the Banneker program should remain in the existing Banneker building or move to Shaw Jr. High School site (925 Rhode Island Ave NW Washington DC 20001) in the Shaw neighborhood located in Ward 6. Because of the many constraints at the current Banneker location, including limited area for expansion and the historic nature of the existing building, remaining at the existing Banneker location made it impossible to expand the program to meet the desired growth and new Educational Specifications. This will also allow for students and staff to remain at the current Banneker location until the new modernized school is complete, eliminating the need for the school to move to a temporary location.

The new location for the Banneker program is the old Shaw Jr. High School site, approximately 1.2 miles from the current Banneker location. The existing building was an "open plan" style school constructed in the 1970's and served as one of the District's Jr. High Schools until it closed in 2013. Since then the building has remained unoccupied. As part of the Feasibility Study conducted earlier in 2018, options were explored to both tear down the existing Shaw building completely and to keep portions of the existing building along with a new construction addition.

The draft sheet for the 800- student capacity and the educational specification front-end narrative are included in the appendix. The programmatic requirements are subject to change. As part of the design process, the selected design team shall participate in visioning sessions to better understand the community vision and school culture. Because the location of this program is moving to a different location within a different Ward, extra engagement with both the school community and new neighborhood community will be required.

DISTRICT OF COLUMBIA PUBLIC SCHOOLS

Enrollment	800	**School Type**	High
Lunch Periods	3	**Count of TS**	59
Title One	No	**Count of JROTC**	0
4 or 7 Periods	7	**Total SQFT**	163,643
Staff	0		
100% Efficient Capacity	990		

Academic Spaces

Space	Description	Qty	Size	Total
H-ACA-1	Grades 9-12 Classroom	34	850	28,900
H-ACA-2	Science Classroom/Lab	7	1,200	8,400
H-ACA-3	Science Prep./Storage	4	200	800
H-ACA-4	Chemical Storage	1	100	100
H-ACA-5	Technology Lab A (Messy)	1	1,200	1,200
H-ACA-6	Technology Lab B (Clean)	1	1,200	1,200
H-ACA-7	Technology Storage	2	100	200
H-ACA-8	Resource / Small Group Room	8	360	2,880
H-ACA-9	Self Contained Classroom	0	850	0
H-ACA-10	Restroom with Changing Area	1	100	100
H-ACA-11	Speech / OT / PT	2	450	900
H-ACA-12	Speech / OT / PT Storage	1	150	150
H-ACA-13	Daily Living Kitchen	0	400	0
H-ACA-14	Independent Area	0	75	0
H-ACA-15	Student Services Office	3	150	450
H-ACA-16	Teacher Collaboration Room	3	300	900
H-ACA-17	Publication Workroom	0	425	0
H-ACA-18	School Store	1	200	200
H-ACA-19	Distance Learning Lab	1	450	450
H-ACA-20	Alternative Attendance Center	1	450	450
H-ACA-21	Alternative Attendance Center Office	1	150	150
H-ACA-22	Outdoor Classroom	1	0	0
H-ACA-23	Garden	1	0	0
			Sub-Total	47,430

Library Spaces

Space	Description	Qty	Size	Total
H-LIB-1	Reading/Learning/Circulation Room	1	5,330	5,330
H-LIB-2	Makerspace	1	500	500
H-LIB-3	Small Group/Conference Room	3	360	1,080
H-LIB-4	Combined Office/Workroom	1	400	400
H-LIB-5	Storage	1	350	350
H-LIB-6	Device Charging Room	0	150	0
			Sub-Total	7,660

Visual Arts

Space	Description	Qty	Size	Total
H-VA-1	2-D Studio	1	1,575	1,575
H-VA-2	3-D Studio	1	1,875	1,875
H-VA-3	Kiln Room	1	54	54
H-VA-4	Art Storage	2	150	300
			Sub-Total	3,804

Performing Arts Spaces

Space	Description	Qty	Size	Total
H-PA-1	Auditorium	1	5,750	5,750
H-PA-2	Stage	1	2,500	2,500
H-PA-3	Ticket Booth/Box office	1	75	75
H-PA-4	Control Room	1	150	150
H-PA-5	Storage	1	200	200
H-PA-6	Scene Shop	1	500	500
H-PA-7	Scene Shop Storage	1	200	200
H-PA-8	Make Up/Dressing Room	2	350	700
H-PA-9	Costume/Prop Room	1	200	200
H-PA-10	Instrumental Room	1	1,400	1,400
H-PA-11	Choral Room	1	1,400	1,400
H-PA-12	Practice Room	3	100	300
H-PA-13	Music Library	1	150	150
H-PA-14	Instrument / Uniform Storage	1	500	500
H-PA-15	Robe Storage	0	100	0
H-PA-16	Choral Storage	1	250	250
H-PA-17	Orchestra Pit	1	540	540
H-PA-18	Black Box Theater (optional)	0	2,450	0
			Sub-Total	14,815

Physical Education Spaces

Space	Description	Qty	Size	Total
H-PE-1	Gymnasium	1	8,480	8,480
H-PE-2	Auxiliary Gymnasium	0	6,290	0
H-PE-3	Fitness Room	1	850	850
H-PE-4	Dance/Aerobics/Wrestling Room	1	3,000	3,000
H-PE-5	Locker Room/Shower	2	1,500	3,000
H-PE-6	Athletic Locker Room	2	1,500	3,000
H-PE-7	Training Room	1	700	700
H-PE-8	Health Classroom	2	850	1,700
H-PE-9	Office	2	225	450
H-PE-10	Concessions	2	450	900
H-PE-11	Laundry	1	150	150
H-PE-12	Equipment Storage	2	400	800
H-PE-13	Uniform Storage	1	1,500	1,500
			Sub-Total	24,530

JROTC Spaces

Space	Description	Qty	Size	Total
H-JR-1	JROTC Classroom	0	900	0
H-JR-2	JROTC Office	0	225	0
H-JR-3	JROTC Storage	0	100	0
			Sub-Total	0

CTE Spaces

Space	Description	Qty	Size	Total
H-CTE-1	CTE Classroom	0	1,000	0
H-CTE-2	Science Lab	0	1,400	0
H-CTE-3	Technology Lab A (Messy)	0	1,400	0
H-CTE-4	Skills Suite	0	0	0
H-CTE-5	Specialized Suite	0	0	0
			Sub-Total	0

Admin Spaces

Space	Description	Qty	Size	Total
H-AD-1	Entrance Lobby	**Included in Gross Up**		-
H-AD-2	Welcome Center	1	700	700
H-AD-3	Security Center	1	75	75
H-AD-4	Principal's Office	1	200	200
H-AD-5	Administrative Workroom	1	400	400
H-AD-6	Storage	1	400	400
H-AD-7	Conference Room	1	200	200
H-AD-8	Records Room	1	150	150
H-AD-9	Administrative Office	3	150	450
H-AD-10	Reception / Waiting Area	1	700	700
H-AD-11	Attendance/Clerical Office	1	150	150
H-AD-12	Staff Lounge	1	450	450
H-AD-13	Parent Resource Center	0	200	0
H-AD-14	Wellness / Lactation Room	1	150	150
H-AD-15	Counselor Reception / Waiting Area	1	60	60
H-AD-16	Career Center	1	850	850
H-AD-17	School-to-Career Coordinator	1	150	150
H-AD-18	Counselor Office	3	150	450
H-AD-19	Career Center Storage	1	200	200
H-AD-20	Day Care Center	0	0	0
H-AD-21	Parent Center	1	0	0
H-AD-22	Office / Conference Room (IB Coordinator)	1	0	0
H-AD-23	Storage (IB Coordinator)	1	0	0
			Sub-Total	5,735

Health Services Spaces

Space	Description	Qty	Size	Total
H-HS-1	Office	1	125	125
H-HS-2	Waiting Area	1	150	150
H-HS-3	Treatment Area	1	150	150
H-HS-4	Cots	1	125	125
H-HS-5	Storage	1	25	25
H-HS-6	Toilet	1	50	50
H-HS-7	Medical Provider Office	0	150	0
H-HS-8	Med Assistant Cubicle	0	100	0
H-HS-9	Mental Health Office/Conf. Room	0	150	0
H-HS-10	Exam Room	0	100	0
H-HS-11	Dental Suite	0	225	0
H-HS-12	Lab	0	100	0
H-HS-13	SBHC Toilet	0	100	0
H-HS-14	SBHC Storage	0	50	0
			Sub-Total	625

Student Dining Spaces

Space	Description	Qty	Size	Total
H-SD-1	Student Dining Area	1	5,267	5,267
H-SD-2	Chair / Table Storage	1	310	310
H-SD-3	Kitchen/Food Preparation	1	800	800
H-SD-4	Serving Area	1	600	600
H-SD-5	Dry Food Storage	1	500	500
H-SD-6	Ware Washing	1	250	250
H-SD-7	Freezer / Cooler	1	450	450
H-SD-8	Cleaning Storage	1	85	85
H-SD-9	Food Service Office	1	150	150
H-SD-10	Toilet / Lockers	1	150	150
			Sub-Total	8,562

Building Services

Space	Description	Qty	Size	Total
H-BS-1	Supply Storage	1	800	800
H-BS-2	Custodial / DGS Office	2	150	300
H-BS-3	Toilet/Shower/Locker Room	0	150	0
H-BS-4	Large Group Restrooms	**Included in Gross Up**		-
H-BS-5	Custodial Closet	15	25	369
H-BS-6	Electrical Closet	**Included in Gross Up**		-
H-BS-7	Telecommunications Room	**Included in Gross Up**		-
H-BS-8	Corridors	**Included in Gross Up**		-
H-BS-9	Mechanical / Electrical Space / Decks	**Included in Gross Up**		-
H-BS-10	Outdoor Custodial Equipment Storage Area	1	300	300
H-BS-11	Central Storage Area	1	800	800
H-BS-12	Custodian Shop	1	300	300
H-BS-13	Custodial Storage	1	300	300
H-BS-14	Engineering Shop	1	300	300
H-BS-15	Engineering Office	1	150	150
H-BS-16	Engineering Storage	1	200	200
H-BS-17	Receiving Area	1	150	150
H-BS-18	Staff Restroom	Gross up	65	-
H-BS-19	Family Restroom	Gross up	65	-
H-BS-20	Technology Storage	3	200	600
			Sub-Total	4,569

Building Subtotal		117,729
Building Gross-up	39%	45,914
Building Total Sq. Ft.		**163,643**

Attachment B – Banneker Feasibility Study

Design-Build Services Benjamin Banneker High School

Attachment C - Form of Offer Letter

Attachment C

[Offeror's Letterhead]

[Insert Date]

District of Columbia Department of General Services
2000 14th Street, NW
Washington, D.C. 20009

Attention: Franklin Austin
Contracting Officer

Reference: Request for Proposals (RFP) – DCAM-19-CS-RFP-0045
Design Build Services Benjamin Banneker High School

Dear Mr. Austin:

On behalf of [INSERT NAME OF BIDDER] (the "Offeror"), I am pleased to submit this proposal in response to the Department of General Services' (the "Department" or "DGS") Request for Proposals (the "RFP") to provide Design Build Services for Benjamin Banneker High School. The Offeror has reviewed the RFP and the attachments thereto, any addenda thereto, and the proposed Form of Contract (collectively, the "Bid Documents") and has conducted such due diligence and analysis as the Offeror, in its sole judgment, has deemed necessary in order to submit the Offeror's Bid in response to the RFP. The Offeror's proposal, the Design-Build Fee (as defined in 2.11), and the Maximum Cost of General Conditions (as defined in 2.11.2) are based on the Bid Documents as issued and assume no material alteration of the terms of the Bid Documents (collectively, the proposal, the Design-Build Fee, and the Maximum Cost of General Conditions are referred to as the "Offeror's Bid.").

The Offeror's Bid is as follows:

A. Design Fee/Budget is: $_____
B. The Design-Build Fee is: $_____

The Offeror acknowledges and understands that Design-Build Fee is a firm, fixed price and other than as permitted in the Form of Contract will not be subject to further adjustment. The Offeror further acknowledges that Forty Percent (40%) of the Design-Build Fee shall be at risk, and the Offeror shall be entitled such portion if such portions are earned in accordance with the Form of Contract.

C. The estimated cost of the Offeror's general conditions (the "Maximum Cost of General Conditions") is set forth below. The Maximum Cost of General Conditions consists of the following elements:

Cost of construction staff (only field staff are reimbursable)	$_____
Fringe Benefits associated with field staff costs	$_____
Payroll taxes and payroll insurance associated with field staff costs	$_____
Staff costs associated with obtaining permits and approvals	$_____
Out-of-house consultants	$_____
Travel, Living and Relocation expenses	$_____
Job vehicles	$_____
Field office for Design-Builder including but not limited to:	$_____
• Trailer purchase and/or rental	
• Field office installation, relocation and removal	
• Utility connections and charges during the Construction phase	
• Furniture	
• Field offices for the Office and Program Manager	
• Office supplies	
Office equipment including but not limited to:	$_____
• Computer hardware and software	
• Fax machines	
• Copy machines	
• Telephone installation, system and uses charges	
• Job radios	
Local delivery and overnight delivery costs	$_____
Field computer network	$_____
First aid facility	$_____
Progress photos	$_____
Printing cost for drawings, bid packages, etc.	$_____
Other (please itemize)	$_____

Total Maximum Cost of General Conditions $_____

The Offeror acknowledges and understands that the Maximum Cost of General Conditions will be incorporated into the contract and that the Offeror will not be permitted to exceed the Maximum Cost of General Conditions unless it first obtains the written approval of the Department.

C. In addition, the Offeror hereby represents that, based on its current rating with its surety, the indicated cost of a payment and performance bond is [INSERT PERCENTAGE].

The Offeror's Bid is based on and subject to the following conditions:

1. The Offeror agrees to hold its proposal open for a period of at least one hundred and twenty (120) days after the date of the bid.

2. Assuming the Offeror is selected by the Department and subject only to the changes requested in paragraph 5, the Offeror agrees to enter into a contract with the Department on the

terms and conditions described in the Bid Documents within ten (10) days of the notice of the award. In the event the Offeror fails to do so, the Department shall have the right to levy upon the Offeror's bid bond.

3. Both the Offeror and the undersigned represent and warrant that the undersigned has the full legal authority to submit this bid form and bind the Offeror to the terms of the Offeror's Bid. The Offeror further represents and warrants that no further action or approval must be obtained by the Offeror in order to authorize the terms of the Offeror's Bid. In addition to any other remedies that the Department may have at law or in equity, the Department shall have the right to levy upon Bidder's Bid Bond in the event of a breach of this paragraph 3.

4. The Offeror and its principal team members hereby represent and warrant that they have not: (i) colluded with any other group or person that is submitting a proposal in response to the RFP in order to fix or set prices; (ii) acted in such a manner so as to discourage any other group or person from submitting a proposal in response to the RFP; or (iii) otherwise engaged in conduct that would violate applicable anti-trust law.

5. The Offeror's proposal is subject to the following requested changes to the Form of Contract: **[INSERT REQUESTED CHANGES. OFFERORS ARE ADVISED THAT THE CHANGES SO IDENTIFIED SHOULD BE SPECIFIC SO AS TO PERMIT THE DEPARTMENT TO EVALUATE THE IMPACT OF THE REQUESTED CHANGES IN ITS REVIEW PROCESS. GENERIC STATEMENTS, SUCH AS "A MUTUALLY ACCEPTABLE CONTRACT" ARE NOT ACCEPTABLE. OFFERORS ARE FURTHER ADVISED THAT THE DEPARTMENT WILL CONSIDER THE REQUESTED CHANGES AS PART OF THE EVALUATION PROCESS.]**

6. The Offeror hereby certifies that neither it nor any of its team members have entered into any agreement (written or oral) that would prohibit any contractor, subcontractor or sub-consultant that is certified by the District of Columbia Office of Department of Small and Local Business Enterprises as a Local, Small, Resident Owned or Disadvantaged Business Enterprise (collectively, "LSDBE Certified Companies") from participating in the work if another company is awarded the contract.

7. This bid form and the Offeror's Bid are being submitted on behalf of [INSERT FULL LEGAL NAME, TYPE OF ORGANIZATION, AND STATE OF FORMATION FOR THE OFFEROR].

Sincerely,

By: _____
Name: _____
Title: _____

Attachment D - Bidder/Offeror’s Certification Form

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 five (5) 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); Section IV relates to the Walsh-Healey Act; and Section V requires the Bidder's/Offeror's signature. Please note, a determination that a prospective contractor is found to be "not responsible" is final and not appealable.

SECTION I. BIDDER/OFFEROR RESPONSIBILITY CERTIFICATION

Instructions for Section I: Section I contains nine (9) 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 relates to current procurement activity within the Department. Part 8 requires the Bidder/Offeror to agree to update the information provided. Part 9 relates to disclosures under the District of Columbia Freedom of Information Act (FOIA).

PART 1: BIDDER/OFFEROR INFORMATION

Legal Business Entity Name:	Solicitation #:	
Address of the Principal Place of Business (street, city, state, zip code)	Telephone # and ext.:	Fax #:
Email Address:	Website:	

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:

1.1 Business Type (Please check the appropriate box and provide additional information if necessary.):

☐ Corporation (including PC)	Date of Incorporation:
☐ Joint Venture	Date of Organization:
☐ Limited Liability Company (LLC or PLLC)	Date of Organization:
☐ Nonprofit Organization	Date of Organization:
☐ Partnership (including LLP, LP or General)	Date of Registration or Establishment:
☐ Sole Proprietor	How many years in business?:
☐ Other	Date established?:

If "Other," please explain:

1.2 Was the Bidder's/Offeror's business formed or incorporated in the District of Columbia? ☐ Yes ☐ No

If "No" to Subpart 1.2, 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, or provide an explanation if the documents are not available.

State _____ Country _____

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.

1.4 If your company, its principals, shareholders, directors, or employees own an interest or have a position in another entity in the same or similar line of business as the Bidder/Offeror, please describe the affiliation in detail.	
1.5 If any officer, director, shareholder or anyone holding a financial interest in the Bidder/Offeror has a relationship with an employee of the Department or any District agency for whom the Department is procuring goods or services, please describe the nature of the relationship in detail and identify the employee.	
PART 2: INDIVIDUAL RESPONSIBILITY	
Additional Instructions for Section I, Parts 2 through 9: *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 or proposed for sanction relative to any business or professional permit or license?	☐ Yes ☐ No
2.2 Been under suspension, debarment, voluntary exclusion or determined ineligible under any federal, District or state statutes?	☐ Yes ☐ No
2.3 Been proposed for suspension or debarment?	☐ Yes ☐ No
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?	☐ Yes ☐ No
2.5 Been charged with a misdemeanor or felony, indicted, granted immunity, convicted of a crime, or subject to a judgment or a plea bargain for:	
(a) Any business-related activity; or	☐ Yes ☐ No
(b) Any crime the underlying conduct of which was related to truthfulness?	☐ Yes ☐ No
2.6 Been suspended, cancelled, terminated or found non-responsible on any government contract, or had a surety called upon to complete an awarded contract?	☐ Yes ☐ No
Please provide an explanation for each "Yes" in Part 2 above.	
2.7 In the past ten (10) years has the Bidder/Offeror had a contract terminated, in whole or in part, for any reason? If so, describe each such termination in detail.	
2.8 In the past ten (10) years has the Bidder/Offeror ever been assessed liquidated damages, costs to re-procure, costs to complete, or any other monetary damages under a contract? If so, describe each such assessment in detail.	
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?	☐ Yes ☐ No
3.2 Been proposed for suspension or debarment?	☐ Yes ☐ No
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?	☐ Yes ☐ No
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	☐ Yes ☐ No
(b) Any crime the underlying conduct of which was related to truthfulness?	☐ Yes ☐ No
3.5 Been disqualified or proposed for disqualification on any government permit or license?	☐ Yes ☐ No
3.6 Been denied a contract award (in whole or in part, for any reason) or had a bid or proposal rejected based upon a non-responsibility finding by a government entity? If so, describe each such occurrence in detail.	☐ Yes ☐ No
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?	☐ Yes ☐ No

3.8 Been suspended, cancelled, terminated or found non-responsible on any government contract, or had a surety called upon to complete an awarded contract?	☐ Yes ☐ No
Please provide an explanation for each "Yes" in Part 3.	

PART 4: CERTIFICATES AND LICENSES

Has the Bidder/Offeror:	
4.1 Had a denial, decertification, revocation or forfeiture of District of Columbia certification of any Certified Business Enterprise or federal certification of Disadvantaged Business Enterprise status for other than a change of ownership?	☐ Yes ☐ 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.	
4.3 Had a denial, suspension, revocation or forfeiture of any licensures?	☐ Yes ☐ No
Please provide an explanation for "Yes" in Subpart 4.3	

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) filed against it which remain undischarged?	☐ Yes ☐ 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?	☐ Yes ☐ No
5.3 Received any OSHA citation and Notification of Penalty containing a violation classified as serious or willful?	☐ Yes ☐ No
Please provide an explanation for each "Yes" in Part 5 above.	
5.4 Engaged in any litigation with any government entity? If so, please identify and/or describe all threatened and pending litigation and/or claims, including but not limited to matters pending before any Boards of Contracts Appeals.	☐ Yes ☐ No

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?	☐ Yes ☐ 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 Has the Bidder/Offeror ever been assessed liquidated damages, costs to re-procure, costs to complete, or any other monetary damages under a contract? If so, describe each such assessment in detail below.	☐ Yes ☐ 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?	☐ Yes ☐ 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 a tax return or pay taxes required by federal, state, District of Columbia or local laws?	☐ Yes ☐ 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?	☐ Yes ☐ 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 failed to comply with any payment agreement with the Internal Revenue Service, the District of Columbia Office of Tax and Revenue and the Department of Employment Services?	☐ Yes ☐ No

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 the Bidder/Offeror owes any outstanding debt to any state, federal or District of Columbia government.	☐ Yes ☐ 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?	☐ Yes ☐ 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?	☐ Yes ☐ 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: CONTRACTOR PROCUREMENT ACTIVITY WITHIN THE DEPARTMENT

7.1 What is your organization's Design Capacity (total labor hours) to conduct or purse business with the Department of General Services (DGS) in the current fiscal year? Design capacity is calculated by multiplying the total number of company employees dedicated to a particular line of business by no more than 12 hours per day. Person's completing this form may be required to provide supporting documentation to substantiate allocable labor hours presented.

(a) Construction:_____labor hours

(b) Non-Construction:_____ labor hours

7.2 In the table below, please list:

(1) The active contracts your organization currently holds with the Department of General Services, please include the contract number(s) as a part of your response; and

(2) The number of labor hours your organization has allocated to each active contract within the current fiscal year. (Note, if more entries are required, please list an attached addendum to this document).

	Contract Number	Labor Hours Allocated	

PART 8: RESPONSE UPDATE REQUIREMENT

8.1 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 9: FREEDOM OF INFORMATION ACT (FOIA)

9.1 Indicate whether the Bidder/Offeror asserts that any information provided in response to a question in Section I is 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. (The District will determine whether such information is, in fact, exempt from FOIA at the time of request for disclosure under FOIA.)	☐ Yes ☐ No

SECTION II. ADDITIONAL REQUIRED BIDDER/OFFEROR CERTIFICATIONS

Instructions for Section II: Section II contains six (6) parts. Part 1 requests information concerning District of Columbia employees. Part 2 applies to the Bidder/Offeror's pricing. Part 3 relates to equal employment opportunity requirements. Part 4 relates to First Source requirements. Part 5 relates to employment eligibility obligations. Part 6 relates to Language Access obligations.

PART 1. DISTRICT EMPLOYEES NOT TO BENEFIT

The Bidder/Offeror 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

The Bidder/Offeror certifies that:

2.1 The signature of the Bidder/Offeror 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/offeror 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/Offeror, directly or indirectly, to any other bidder/offeror 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/Offeror to induce any other concern to submit or not to submit a contract for the purpose of restricting competition.

2.2 The 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/Offeror's organization responsible for determining the prices being offered in this contract, and that the signatory has not participated and will not participate in any action contrary to subparagraphs 2.1(a)(i) through (a)(iii) above; or

(b) 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:

_____

[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/Offeror's organization]

(i) As an authorized agent, certifies that the principals named in subparagraph 2.2(b) above have 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/Offeror deletes or modifies subparagraph 2.1(b) above, the bidder/offeror must furnish with its bid a signed statement setting forth in detail the circumstances of the disclosure.

2.4 The Bidder/Offeror certifies that:

(a) there are no other entities related to it that are responding to or bidding on the subject solicitation or invitation to bid. Related entities include, but are not limited to, any entity that shares management positions, board positions, shareholders, or persons with a financial interest in the Bidder/Offeror.

(b) there are no current or former owners, partners, officers, directors, principals, managers, employees or any persons with a financial interest in the Bidder/Offeror who have a financial interest in the request for proposal or invitation for bid or any asset, tangible or intangible, arising out of any contract or scope of work related to the request for proposal or invitation for bid.

With regards to 2.4 (b), if the Bidder/Offeror has knowledge of such a financial interest, please provide a detailed explanation.

PART 3: EQUAL OPPORTUNITY AND HUMAN RIGHTS OBLIGATIONS

3.1 I hereby certify that I am fully aware of the contents of Mayor's Order 85-85, Mayor's Order 2017-313 and the Office of Human Rights' regulations in Chapter 11 of the DCMR, and agree to comply with them while performing this contract.

PART 4: FIRST SOURCE OBLIGATIONS

4.1 I hereby certify that I am fully aware of the requirements of the Workforce Intermediary Establishment and Reform of the First Source Amendment Act of 2011 (D.C. Law 19-84), and agree to enter into a First Source Employment Agreement with the Department of Employment Services if awarded any contract valued at $300,000 or more which receives funds or resources from the District, or funds or resources which, in accordance with a federal grant or otherwise, is administered by the District government.

4.2 I certify that the Initial Employment Plan submitted with my bid or proposal is true and accurate.

PART 5: EMPLOYMENT ELIGIBILITY OBLIGATIONS

5.1 I hereby certify that the Bidder/Offeror has verified the identity and employment eligibility of all its employees.

PART 6: LANGUAGE ACCESS OBLIGATIONS

6.1 For contracts where the contracting agency is a "covered entity" or "covered entity with major public contact" as defined in Sections 2(2) and 2(3) of the Language Access Act of 2004 (D.C. Official Code § 2-1931(2) and § 2-1931(3)), I hereby certify that I will comply with Language Access compliance requirements of the contracting agency while performing 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

1.1 The Bidder/Offeror certifies that each end product, except the end products listed below, is a domestic end product, and that components of unknown origin are considered to have been mined, produced or manufactured outside the United States.

_____ EXCLUDED END PRODUCTS

_____ COUNTRY OF ORIGIN

SECTION IV. WALSH-HEALEY ACT

Instructions for Section IV: *Walsh-Healey Act.*

If this contract is for the manufacture or furnishing of materials, supplies, articles or equipment in an amount that exceeds or may exceed $10,000, and is subject to the Walsh-Healey Public Contracts Act, as amended (41 U.S.C. §§ 35-45) (the "Act", as used in this section), the following terms and conditions apply:

(a) All representations and stipulations required by the Act and regulations issued by the Secretary of Labor (41 CFR 50-201.3) are incorporated by reference. These representations and stipulations are subject to all applicable rulings and interpretations of the Secretary of Labor that are now, or may hereafter, be in effect.

(b) All employees whose work relates to this contract shall be paid not less than the minimum wage prescribed by regulations issued by the Secretary of Labor (41 CFR 50-202.2) (41 U.S.C. §40). Learners, student learners, apprentices, and handicapped workers may be employed at less than the prescribed minimum wage (see 41 CFR 50-202.3) to the same extent that such employment is permitted under Section 14 of the Fair Labor Standards Act (29 U.S.C. §214).

SECTION V. CERTIFICATION

Instruction for Section V: This section must be completed by all bidder/offerors.

I, [ ], as the person authorized to sign these certifications, hereby certify that the information provided in this form is true and accurate.

Name [Print and sign]:	Telephone #:	Fax #:
Title:	Email Address:	
Date:		

The District of Columbia 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 180 days, or both, as prescribed in D.C. Official Code § 22-2405. 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 § 22-2404.

Attachment E - Tax Affidavit

Attachment F - Davis-Bacon Wage Rates

General Decision Number: DC180002 10/19/2018 DC2

Superseded General Decision Number: DC20170002

State: District of Columbia

Construction Type: Building

County: District of Columbia Statewide.

BUILDING CONSTRUCTION PROJECTS (does not include single family homes or apartments up to and including 4 stories).

Note: Under Executive Order (EO) 13658, an hourly minimum wage of $10.35 for calendar year 2018 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least $10.35 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2018. The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Modification Number	Publication Date
0	01/05/2018
1	01/12/2018
2	02/09/2018
3	03/23/2018
4	04/20/2018
5	05/04/2018
6	05/11/2018
7	06/15/2018
8	06/29/2018
9	07/06/2018
10	07/27/2018
11	08/03/2018
12	08/17/2018
13	08/24/2018
14	09/07/2018
15	09/14/2018
16	09/21/2018
17	09/28/2018
18	10/19/2018

ASBE0024-007 10/01/2017

	Rates	Fringes
ASBESTOS WORKER/HEAT & FROST INSULATOR	$ 35.13	16.22

Includes the application of all insulating materials, protective coverings, coatings and finishes to all types of mechanical systems

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ASBE0024-008 10/01/2017

	Rates	Fringes
ASBESTOS WORKER: HAZARDOUS MATERIAL HANDLER	$ 22.81	7.34

Includes preparation, wetting, stripping, removal, scrapping, vacuuming, bagging and disposing of all insulation materials, whether they contain asbestos or not, from mechanical systems

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ASBE0024-014 10/01/2017

	Rates	Fringes
FIRESTOPPER	$ 28.01	7.78

Includes the application of materials or devices within or around penetrations and openings in all rated wall or floor assemblies, in order to prevent the pasage of fire, smoke of other gases. The application includes all components involved in creating the rated barrier at perimeter slab edges and exterior cavities, the head of gypsum board or concrete walls, joints between rated wall or floor components, sealing of penetrating items and blank openings.

BRDC0001-002 04/29/2018

	Rates	Fringes
BRICKLAYER	$ 31.36	10.78

CARP0197-011 05/01/2018

	Rates	Fringes
CARPENTER, Includes Drywall Hanging, Form Work, and Soft Floor Laying-Carpet	$ 28.71	12.08

CARP0219-001 05/01/2018

	Rates	Fringes
MILLWRIGHT	$ 34.24	11.23

CARP0441-001 05/01/2018

	Rates	Fringes
PILEDRIVERMAN	$ 30.94	11.45

ELEC0026-016 06/04/2018

	Rates	Fringes
ELECTRICIAN, Includes Installation of HVAC/Temperature Controls	$ 45.45	18.01

ELEC0026-017 09/03/2018

	Rates	Fringes
ELECTRICAL INSTALLER (Sound & Communication Systems)	$ 28.05	10.91

SCOPE OF WORK: Includes low voltage construction, installation, maintenance and removal of teledata facilities (voice, data and video) including outside plant, telephone and data inside wire, interconnect, terminal equipment, central offices, PABX, fiber optic cable and equipment, railroad communications, micro waves, VSAT, bypass, CATV, WAN (Wide area networks), LAN (Local area networks) and ISDN (Integrated systems digital network).

WORK EXCLUDED: The installation of computer systems in industrial applications such as assembly lines, robotics and computer controller manufacturing systems. The installation of conduit and/or raceways shall be installed by Inside Wiremen. On sites where there is no Inside Wireman employed, the Teledata Technician may install raceway or conduit not greater than 10 feet. Fire alarm work is excluded on all new construction sites or wherever the fire alarm system is installed in conduit. All HVAC control work.

ELEV0010-001 01/01/2018

	Rates	Fringes
ELEVATOR MECHANIC	$ 44.12	32.645+a+b

a. PAID HOLIDAYS: New Year's Day, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving Day, Christmas Day and the Friday after Thanksgiving.

b. VACATIONS: Employer contributes 8% of basic hourly rate for 5 years or more of service; 6% of basic hourly rate for 6 months to 5 years of service as vacation pay credit.

IRON0005-011 06/01/2017

	Rates	Fringes
IRONWORKER	$ 31.15	20.63

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* LABO0011-009 06/01/2018

	Rates	Fringes
LABORER: Skilled	$ 24.22	8.32

FOOTNOTE: Potmen, power tool operator, small machine operator, signalmen, laser beam operator, waterproofer, open caisson, test pit, underpinning, pier hole and ditches, laggers and all work associated with lagging that is not expressly stated, strippers, operator of hand derricks, vibrator operators, pipe layers, or tile layers, operators of jackhammers, paving breakers, spaders or any machine that does the same general type of work, carpenter tenders, scaffold builders, operators of towmasters, scootcretes, buggymobiles and other machines of similar character, operators of tampers and rammers and other

machines that do the same general type of work, whether powered by air, electric or gasoline, builders of trestle scaffolds over one tier high and sand blasters, power and chain saw operators used in clearing, installers of well points, wagon drill operators, acetylene burners and licensed powdermen, stake jumper,demolition.

MARB0002-004 04/29/2018

	Rates	Fringes
MARBLE/STONE MASON	$ 37.91	17.08

INCLUDING pointing, caulking and cleaning of All types of masonry, brick, stone and cement EXCEPT pointing, caulking, cleaning of existing masonry, brick, stone and cement (restoration work)

MARB0003-006 04/29/2018

	Rates	Fringes
TERRAZZO WORKER/SETTER	$ 28.20	11.67

MARB0003-007 04/29/2018

	Rates	Fringes
TERRAZZO FINISHER	$ 23.28	10.72

MARB0003-008 04/29/2018

	Rates	Fringes
TILE SETTER	$ 28.20	11.67

MARB0003-009 04/29/2018

	Rates	Fringes
TILE FINISHER	$ 23.28	10.72

PAIN0051-014 06/01/2018

	Rates	Fringes
GLAZIER		
Glazing Contracts $2 million and under	$ 26.07	12.15
Glazing Contracts over $2 million	$ 30.31	12.15

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* PAIN0051-015 06/01/2018

	Rates	Fringes
PAINTER		
Brush, Roller, Spray and Drywall Finisher	$ 25.06	9.76

PLAS0891-005 07/01/2018

	Rates	Fringes

PLASTERER.....$ 29.53 6.80

PLAS0891-006 02/01/2018

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER	$ 28.15	10.58

PLAS0891-007 08/01/2016

	Rates	Fringes
FIREPROOFER		
Handler	$ 16.50	4.89
Mixer/Pump	$ 18.50	4.89
Sprayer	$ 23.00	4.89

Spraying of all Fireproofing materials. Hand application of Fireproofing materials. This includes wet or dry, hard or soft. Intumescent fireproofing and refraction work, including, but not limited to, all steel beams, columns, metal decks, vessels, floors, roofs, where ever fireproofing is required. Plus any installation of thermal and acoustical insulation. All that encompasses setting up for Fireproofing, and taken down. Removal of fireproofing materials and protection. Mixing of all materials either by hand or machine following manufactures standards.

PLUM0005-010 08/01/2018

	Rates	Fringes
PLUMBER	$ 42.92	18.15+a

a. PAID HOLIDAYS: Labor Day, Veterans' Day, Thanksgiving Day and the day after Thanksgiving, Christmas Day, New Year's Day, Martin Luther King's Birthday, Memorial Day and the Fourth of July.

PLUM0602-008 08/01/2018

	Rates	Fringes
PIPEFITTER, Includes HVAC		
Pipe Installation	$ 41.64	21.57+a

a. PAID HOLIDAYS: New Year's Day, Martin Luther King's Birthday, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving Day and the day after Thanksgiving and Christmas Day.

ROOF0030-016 05/01/2016

	Rates	Fringes
ROOFER	$ 28.75	11.74

SFDC0669-002 04/01/2018

	Rates	Fringes

SPRINKLER FITTER (Fire Sprinklers).....$ 35.60 20.24

SHEE0100-015 07/01/2018

	Rates	Fringes
SHEET METAL WORKER (Including HVAC Duct Installation).....$	40.27	20.34+a

a. PAID HOLIDAYS: New Year's Day, Martin Luther King's Birthday, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day and Christmas Day

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SUDC2009-003 05/19/2009

	Rates	Fringes
LABORER: Common or General.....$	13.04	2.80
LABORER: Mason Tender - Cement/Concrete.....$	15.40	2.85
LABORER: Mason Tender for pointing, caulking, cleaning of existing masonry, brick, stone and cement structures (restoration work); excludes pointing, caulking and cleaning of new or replacement masonry, brick, stone and cement.....$	11.67	
POINTER, CAULKER, CLEANER, Includes pointing, caulking, cleaning of existing masonry, brick, stone and cement structures (restoration work); excludes pointing, caulking, cleaning of new or replacement masonry, brick, stone or cement.....$	18.88	

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic

violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate

that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

* an existing published wage determination
* a survey underlying a wage determination
* a Wage and Hour Division letter setting forth a position on a wage determination matter
* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION

Attachment G - Bid Bond Form

GOVERNMENT OF THE DISTRICT OF COLUMBIA

PROPOSAL BOND **(See Instructions on 2nd page)**	**Date Bond Executed:** **(Must Not be Later Than Bid Opening Date)**				
PRINCIPAL (Legal Name and Address)	**TYPE OF ORGANIZATION ("X")**				
	[ ] INDIVIDUAL **[ ] PARTNERSHIP** **[ ] JOINT VENTURE** **[ ] CORPORATION**				
	STATE OF INCORPORATION				
	PENAL SUM OF BOND				
SURETY(IES) (Name(s) and Address(es))	**AMOUNT NOT TO EXCEED**				**5% OF BID**
	MILLION(S)	**THOUSAND(S)**	**HUNDRED(S)**	CENTS	
	PROPOSAL IDENTIFICATION				
	PROPOSAL CLOSING DATE	**REQUEST FOR PROPOSAL NO.**			

KNOW ALL MEN BY THESE PRESENTS, that we, the Principal and Surety(ies) hereto are firmly bound to the District of Columbia Government, a municipal corporation, hereinafter called "the District", in the above penal sum for the payment of which we bind ourselves, our heirs, executors, and successors, jointly and severally; Provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly" and "severally" only for the purpose of allowing a joint action against any or all of us, and for all other purposes each Surety bonds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

THE CONDITION OF THIS OBLIGATION IS SUCH that whereas the Principal has submitted the bid identified above. NOW THEREFORE, if the Principal shall not withdraw said bid within the period specified therein after the receipt of the same, or, no period be specified, within ninety (90) calendar days after said receipt, and shall within the period specified therefore, or, if no period be specified, within ten (10) calendar days after being called upon to do so, furnish Performance & Payment Bonds with good and sufficient surety, as may be required, for the faithful performance and proper fulfillment of the Contract, and for the protection of all persons supplying labor and material in the prosecution of the work provided for in such Contract or, in the event of withdrawal of said bid, within the period specified, or the failure to furnish such bond within the time specified, if the Principal shall pay the District the difference between the amount specified in said bid and the amount for which the District may procure the required work and/or supplies, if the latter amount be in excess of the former, then the above obligations shall be void and of no effect, otherwise to remain in full force and virtue. Each Surety executing this bond hereby agrees that its obligation shall not be impaired by extension(s) of time for acceptance of the bid that the Principal may grant to the District, notice of which extension(s) to Surety (ies) being hereby waived: Provided that such waiver of notice shall apply only with respect to extensions aggregating not more than sixty (60) calendar days in addition to the period originally allowed for acceptance of the bid.

IN WITNESS WHEREOF, the Principal and Surety (ies) have executed this bid bond and have affixed their seals on the date set forth above.

PRINCIPAL

1. SIGNATURE **Seal**	**1. ATTEST**	**Corporate Seal**
Name & Title (typed)	**Name & Title (typed)**	
2. SIGNATURE **Seal**	**2. ATTEST**	**Corporate Seal**
Name & Title (typed)	**Name & Title (typed)**	

CERTIFICATE AS TO CORPORATION

I, _____, certify that I am _____, Secretary of the Corporation, named as Principal herein, that _____, who signed this bond, on behalf of the Principal, was then of said Corporation; that I know his signature, and his signature thereto is genuine; that said bond was duly signed and sealed for and in behalf of said Corporation by authority of its governing body, and is within the scope of its corporate powers.

_____
Secretary of Corporation

SURETY(IES)

1. Name & Address (typed)	State of Inc.	Liability Limit	Corporate Seal
Signature of Attorney-in-Fact	Attest (Signature)		
Name & Address (typed)	Name & Address (typed)		
1. Name & Address (typed)	State of Inc.	Liability Limit	Corporate Seal
Signature of Attorney-in-Fact	Attest (Signature)		
Name & Address (typed)	Name & Address (typed)		

INSTRUCTIONS

1. This form shall be used whenever a bid guaranty is required in connection with construction, alteration and repair work.
2. Corporations name should appear exactly as it does on Corporate Seal and inserted in the space designated "Principal" on the face of this form. If practicable, bond should be signed by the President or Vice President; if signed by other official, evidence of authority must be furnished. Such evidence should be in the form of an Extract or Minutes of a Meeting of the Board of Directors, or Extract of Bylaws, certified by the Corporate Secretary, or Assistant Secretary and Corporate Seal affixed thereto. CERTIFICATE AS TO CORPORATION must be executed by Corporate Secretary or Assistant Secretary.
3. Corporations executing the bond as sureties must be among those appearing on the U. S. Treasury Department's List of approved sureties and must be acting within the limitations set forth therein, and shall be licensed by the Insurance Administration, Department of Consumer and Regulatory Affairs, to do business in the District of Columbia. The surety shall attach hereto an adequate Power-Of-Attorney for each representative signing the bond.
4. Corporations executing the bond shall affix their Corporate Seals. Individuals shall sign full first name, middle initial and last name opposite the word "seal", two witnesses must be supplied, and their addresses, under the word "attest". If executed in Maine or New Hampshire, an adhesive seal shall be affixed.
5. Names of all partners must be set out in body of bond form, with the recital that they are partners composing a firm, naming it, and all members of the firm shall execute the bond as individuals. Each signature must be witnessed by two persons and addresses supplied.

Attachment H - Standard Contract Provisions

District of Columbia Department of General Services
Standard Contract Provisions

GENERAL PROVISIONS
(Construction Contract)

ARTICLE 1. DEFINITIONS

A. "Government" as used herein means the District of Columbia Department of General Services, (DGS) that is a party to a contract.

B. "Executive" as used herein means the elected head of the Government as set forth in [Public Law 93-198 dated December 24, 1973, Title 4, Part B, Section 422(1)] (Or relevant local law).

C. "Contracting Officer" as used herein means the Government official authorized to execute and administrate the Contract on behalf of the Government. Within DGS, the Director is the Chief Contracting Officer. The Director may make delegations of procurement authority to additional contracting officers within DGS.

D. "Contract Documents" or "Contract" as used herein means Addenda, Contract Form, Standard Contract Provisions, Instructions to Bidders, General Provisions, Labor Provisions, Performance and Payment Bonds, Specifications, Special Provisions, Contract Drawings, approved written Change Orders and Agreements required to acceptably complete the Contract, including authorized extensions thereof.

ARTICLE 2. SPECIFICATIONS AND DRAWINGS—The Contractor shall keep on the work site a copy of Contract drawings and specifications and shall at all times give the Contracting Officer access thereto. Anything mentioned in the specifications and not shown on the Contract drawings, or shown on the Contract drawings and not mentioned in the specifications, shall be of like effect as if shown or mentioned in both.

There shall be no change orders or equitable adjustments for work related to items appearing in either the Contract drawing or specifications.

All Contract requirements are equally binding. Each Contract requirement, whether or not omitted elsewhere in the Contract, is binding as though occurring in any or all parts of the Contract. In case of discrepancy:

1. The Contracting Officer shall be promptly notified in writing of any error, discrepancy or omission, apparent or otherwise.

2. Applicable Federal, State, and Municipal Code requirements have priority over: the Contract form, General Provisions, Change Orders, Addenda, Contract drawings, Special Provisions and Specifications.

3. The Contract form, Standard Contract Provisions, General Provisions and Labor Provisions have priority over: Change Orders, Addenda, Contract drawings, Special Provisions and Specifications.

4. Change Orders have priority over: Addenda, Contract drawings and Specifications.

5. Addenda have priority over: Contract drawings, Special Provisions and Specifications. A later dated Addendum has priority over earlier dated Addenda.

6. Special Provisions have priority over: Contract drawings and other specifications.

7. Shown and indicated dimensions have priority over scaled dimensions.

8. Original scale drawings and details have priority over any other different scale drawings and details.

9. Large scale drawings and details have priority over small scale drawings and details.

10. Any adjustment by the Contractor without a prior determination by the Contracting Officer shall be at his own risk and expense. The Contracting Officer will furnish from time to time such detail drawings and other information as he may consider necessary, unless otherwise provided.

ARTICLE 3. CHANGES

A. **DESIGNATED CHANGE ORDERS**—The Contracting Officer may, at any time, without notice to the sureties, by written order designated or indicated to be a change order, make any change in the work within the general scope of the Contract, including but not limited to changes

1. In the Contract drawings and specifications;

2. In the method or manner of performance of the work;

3. In the Government furnished facilities, equipment, materials or services; or

4. Directing acceleration in the performance of the work.

Nothing provided in this Article shall excuse the Contractor from proceeding with the prosecution of the work so changed.

B. **OTHER CHANGE ORDERS**—Any other written order or an oral order (which term as used in this Section (B) shall include direction, instruction, interpretation, or determination) from the Contracting Officer which causes any such change, shall be treated as a Change Order under this Article, provided that the Contractor gives the Contracting Officer written notice stating the date, circumstances and sources of the order and that the Contractor regards the order as a Change Order.

C. **GENERAL REQUIREMENTS**—Except as herein provided, no order, statement or conduct of the Contracting Officer shall be treated as a change under this Article or entitle the Contractor to an equitable adjustment hereunder. If any change under this Article causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work under this Contract whether or not changed by any order, an equitable adjustment shall be made and the Contract modified in writing accordingly; provided, however, that except for claims based on defective specifications, no claim for any change under (B) above shall be allowed for any cost incurred more than 20 days before the Contractor gives written notice as therein required unless this 20 days is extended by the Contracting Officer and provided further, that in case of defective drawings and specifications, the equitable adjustment shall include any increased cost reasonably incurred by the Contractor in attempting to comply with such defective drawings and specifications.

If the Contractor intends to assert a claim for an equitable adjustment under this Article, he must, within 30 days after receipt of a written Change Order under (A) above or the furnishing of a written notice under (B) above, submit to the Contracting Officer a written statement setting forth the general nature and monetary extent of such claim, unless this period is extended by the Contracting Officer. The statement of claim hereunder may be included in the notice under (B) above.

With respect to the notification requirements hereunder, time is of the essence. A failure to provide timely notice constitutes waiver of the claim. No claim by the Contractor for an equitable adjustment hereunder shall be allowed if asserted after final payment under the Contract.

D. CHANGE ORDER BREAKDOWN—Contract prices shall be used for Change Order work where work is of similar nature; no other costs, overhead or profit will be allowed.

Where Contract prices are not appropriate and the nature of the change is known in advance of construction, the parties shall attempt to agree on a fully justifiable price adjustment and/or adjustment of completion time.

When Contract prices are not appropriate, or the parties fail to agree on equitable adjustment, or in processing claims, equitable adjustment for Change Order work shall be per this Article and Article 4 and shall be based upon the breakdown shown in following subsections 1. through 7. The Contractor shall assemble a complete cost breakdown that lists and substantiates each item of work and each item of cost.

1. **Labor**—Payment will be made for direct labor cost plus indirect labor cost such as insurance, taxes, fringe benefits and welfare provided such costs are considered reasonable. Indirect costs shall be itemized and verified by receipted invoices. If verification is not possible, up to 18 percent of direct labor costs may be allowed. In addition, up to 20 percent of direct plus indirect labor costs may be allowed for overhead and profit.

2. **Bond**—Payment for additional bond cost will be made per bond rate schedule submitted to the Office of Contracting and Procurement with the executed Contract.

3. **Materials**—Payment for cost of required materials will be F.O.B. destination (the job site) with an allowance for overhead and profit.

4. **Rented Equipment**—Payment for required equipment rented from an outside company that is neither an affiliate of, nor a subsidiary of, the Contractor will be based on receipted invoices which shall not exceed rates given in the current edition of the Rental Rate Blue Book for Construction Equipment published by Data Quest. If actual rental rates exceed manual rates, written justification shall be furnished to the Contracting Officer for consideration. No additional allowance will be made for overhead and profit. The Contractor shall submit written certification to the Contracting Officer that any required rented equipment is neither owned by nor rented from the Contractor or an affiliate of or subsidiary of the Contractor.

5. **Contractor's Equipment**— Payment for required equipment owned by the Contractor or an affiliate of the Contractor will be based solely on an hourly rate derived by dividing the current appropriate monthly rate by 176 hours. No payment will be made under any circumstances for repair costs, freight and transportation charges, fuel, lubricants, insurance, any other costs and expenses, or overhead and profit. Payment for such equipment made idle by delays attributable to the Government will be based on one-half the derived hourly rate under this subsection.

6. **Miscellaneous**—No additional allowance will be made for general superintendence, use of small tools and other costs for which no specific allowance is herein provided.

7. **Subcontract Work**—Payment for additional necessary subcontract work will be based on applicable procedures in 1. through 6., to which total additional subcontract work up to an additional 10 percent may be allowed for the Contractor's overhead and profit.

ARTICLE 4. EQUITABLE ADJUSTMENT OF CONTRACT TERMS

The Contractor is entitled to an equitable adjustment of the contract terms whenever the following situations develop:

A. DIFFERING SITE CONDITIONS:

1. During the progress of the work, if subsurface or latent physical conditions are encountered at the site differing materially from those indicated in the contract or if unknown physical conditions of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in the work provided for in the contract, are encountered at the site, the Contractor, upon discovering such conditions, shall promptly notify the Contracting Officer in writing of the specific differing conditions before they are disturbed and before the affected work is performed.

2. Upon written notification, the Contracting Officer will investigate the conditions, and if he/she determines that the conditions materially differ and cause an increase or decrease in the cost or time required for the performance of any work under the contract, an adjustment, excluding loss of anticipated profits, will be made and the contract modified in writing accordingly. The Contracting Officer will notify the Contractor of his/her determination whether or not an adjustment of the contract is warranted.

3. No contract adjustment which results in a benefit to the Contractor will be allowed unless the Contractor has provided the required written notice; a failure to notify the Contracting Officer of the changed conditions prior to work being disturbed by said conditions shall constitute a permanent waiver of all right to compensation related to the changed conditions by the Contractor.

4. No contract adjustment will be allowed under this clause for any effects caused on unchanged work.

B. SUSPENSION OF WORK ORDERED BY THE CONTRACTING OFFICER:

1. If the performance of all or any portion of the work is suspended or delayed by the Contracting Officer in writing for an unreasonable period of time (not originally anticipated, customary, or inherent to the construction industry) and the Contractor believes that additional compensation and/or contract time is due as a result of such suspension or delay, the Contractor shall submit to the Contracting Officer in writing a request for equitable adjustment within seven (7) calendar days of receipt of the notice to resume work. The request shall set forth the reasons and support for such adjustment.

2. Upon receipt, the Contracting Officer will evaluate the Contractor's request. If the Contracting Officer agrees that the cost and/or time required for the performance of the contract has increased as a result of such suspension and the suspension was caused by conditions beyond the control or and not the fault of the contractor, its suppliers, or subcontractors at any approved tier, and not caused by weather, the Contracting Officer will make an adjustment (excluding profit) and modify the contract in writing accordingly. The Contracting Officer will notify the Contract of his/her determination whether or not an adjustment of the contract is warranted.

3. No contract adjustment will be allowed unless the Contractor has submitted the request for adjustment within the time prescribed; a failure to submit a request for adjustment in the time

prescribed shall constitute waiver of all right to compensation related to the suspension of work by the Contractor.

4. No contract adjustment will be allowed under this clause to the extent that performance would have been suspended or delayed by any other cause, or for which an adjustment is provided for or excluded under any other term of condition of this contract.

C. SIGNIFICANT CHANGES IN THE CHARACTER OF WORK*:*

1. The Contracting Officer reserves the right to make, in writing, at any time during the work, such changes in quantities and such alterations in the work as are necessary to satisfactorily complete the project. Such changes in quantities and alterations shall not invalidate the contract nor release the surety, and the Contractor agrees to perform the work as altered.

2. If the alterations or changes in quantities significantly change the character of the work under the contract, whether or not changed by any such different quantities or alterations, an adjustment, excluding loss of anticipated profits, will be made to the contract. The basis for the adjustment shall be agreed upon prior to the performance of the work. If a basis cannot be agreed upon, then an adjustment will be made either for or against the Contractor in such amount as the Contracting Officer may determine to be fair and reasonable.

3. If the alterations or changes in quantities significantly change the character of the work to be performed under the contract, the altered work will be paid for as provided elsewhere in the contract.

4. The term "significant change" shall be construed to apply only to the following circumstances:

a. When the character of the work as altered differs materially in kind or nature from that involved or included in the original proposed construction; or

b. When an item of work is increased in excess of 125 percent or decreased below 75 percent of the original contract quantity. Any allowance for an increase in quantity shall apply only to that portion in excess of 125 percent of original contract item quantity, or in the case of a decrease below 75 percent, to the actual amount of work performed.

ARTICLE 5. TERMINATION

TERMINATION GENERALLY-Termination, whether for default or convenience, is not a Government claim. The Contracting Officer may terminate a contract for default, in whole or in part, if the termination is in the best interests of the Government, and the Contractor does any of the following:

(a) Fails to deliver the goods or complete the work or services within the time specified in the contract or any modification;
(b) Fails to make sufficient progress on contract performance so as to endanger performance of the contract within the time specified or in the manner specified in the contract;
(c) Fails or refuses to go forward with the work in accordance with the direction of the Contracting Officer;
(d) Expresses through word or conduct an intention not to complete the work in accordance with the directions of the Contracting Officer;
(e) Fails to perform any of the other provisions of the contract;
(f) Materially deviates from the representations and capabilities set forth in the Contractor's response to the solicitation.

A termination for default is a final decision of a Contracting Officer. In order to contest a termination for default, the Contractor must submit a certified request to convert the termination for default to a termination for convenience with all documents supporting such conversion and comply with all contract

provisions and laws relating to terminations for convenience, including the submission of a certified termination for convenience settlement proposal. The submission of the certified request for conversion to a termination for convenience and certified termination settlement proposal to the Contracting Officer must occur prior to 90 days from the date of the Contracting Officer's final decision.

DELAYS—If the Contractor refuses or fails to prosecute the work, or any separable part thereof, with such diligence as will insure its completion within the time specified in the Contract, or any extension thereof, or fails to complete said work within specified time, the Government may, by written notice to the Contractor, terminate his right to proceed with the work or such part of the work involving the delay. In such event the Government may take over the work and prosecute the same to completion, by contract or otherwise, and may take possession of and utilize in completing the work such materials, appliances, and plant as may have been paid for by the Government or may be on the site of the work and necessary therefore. Whether or not the Contractor's right to proceed with the work is terminated, he and his sureties shall be liable for any liability to the Government resulting from his refusal or failure to complete the work within the specified time.

If fixed and agreed liquidated damages are provided in the Contract and if the Government does not so terminate the Contractor's right to proceed, the resulting damage will consist of such liquidated damages until the work is completed and accepted.

The Contractor's right to proceed shall not be so terminated nor the Contractor charged with resulting damage if:

1. The delay in the completion the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to acts of God, acts of the public enemy, acts of the Government in either its sovereign or contractual capacity, acts of another contractor in the performance of a contract with the Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, climatic conditions beyond the normal which could be anticipated, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of both the Contractor and such subcontractors or suppliers (the term subcontractors or suppliers shall mean subcontractors or suppliers at any tier); and

2. The Contractor, within 72 hours from the beginning of any such delay, (unless the Contracting Officer grants a further period of time before the date of final payment under the Contract) notifies the Contracting Officer in writing of the causes of delay.

The Contracting Officer shall ascertain the facts and the extent of the delay and extend the time far completing the work when, in his judgment, the findings of fact justify such an extension, and his findings of fact shall be final and conclusive on the parties, subject only to appeal as provided in Article 7 herein.

If, after notice of termination of the Contractor's right to proceed under the provisions of this Article, it is determined for any reason that the Contractor was not in default under the provisions of this Article, or that the delay was excusable under the provisions of this Article, the rights and obligations of the parties shall be in accordance with Article 6 herein. Failure to agree to any such adjustment shall be a dispute concerning a question of fact within the meaning of Article 7 herein.

The rights and remedies of the Government provided in this Article are in addition to any other rights and remedies provided by law or under the Contract.

The Government may, by written notice, terminate the Contract or a portion thereof as a result of an Executive Order of the President of the United States with respect to the prosecution of war or in the interest of national defense. When the Contract is so terminated, no claim for loss of anticipated profits will be permitted.

ARTICLE 6. TERMINATION FOR CONVENIENCE OF THE GOVERNMENT

A. The performance of work under the Contract may be terminated by the Government in accordance with this Article in whole, or in part, whenever the Contracting Officer shall determine that such termination is in the best interest of the Government. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which performance of work under the Contract is terminated, and the date upon which such termination becomes effective.

B. After receipt of a Notice of Termination, and except as otherwise directed by the Contracting Officer, the Contractor shall:

1. Stop work under the Contract on the date and to the extent specified in the Notice of Termination.

2. Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the Contract as is not terminated.

3. Terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination.

4. Assign to the Government, in the manner, at the times, and to the extent directed by the Contracting Officer, all of the right, title and interest of the Contractor under the orders and subcontracts so terminated, in which case the Government shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.

5. Settle all outstanding liabilities and all claims arising out of such termination of orders or subcontracts, with the approval or ratification of the Contracting Officer to the extent he may require, which approval or ratification shall be final for all purposes of this Article.

6. Transfer title to the Government and deliver in the manner, at the times, and to the extent, if any, directed by the Contracting Officer

:

a. The fabricated or unfabricated parts, work in progress, completed work, supplies, and other material procured as a part of, or acquired in connection with, the performance of the work terminated by the Notice of Termination, and

b. The completed, or partially completed plans, drawings information and other property which, if the Contract bad been completed, would have been required to be furnished to the Government.

7. Use his best efforts to sell, in the manner, at the terms, to the extent, and at the price or prices directed or authorized by the Contracting Officer, any property of the types referred to in 6 above provided, however, that the Contractor:

a. Shall not be required to extend credit to any purchaser, and

b. May acquire any property under the conditions prescribed and at a price or prices approved by the Contracting Officer, and

c. Provided further, that the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the Government to the Contractor under the Contract or shall otherwise be credited to the price or cost of the work covered by the Contract or paid in such other manner as the Contracting Officer may direct.

8. Complete performance of such part of the work as shall not have been terminated by the Notice of Termination.

9. Take such action as may be necessary, or as the Contracting Officer may direct, for the protection and preservation of the property related to the Contract which is in the possession of the Contractor and in which the Government has or may acquire an interest.

10. The Contractor shall proceed immediately with the performance of the above obligations notwithstanding any delay in determining or adjusting the cost, or any item of reimbursable cost, under this Article.

11. "Plant clearance period" means, for each particular property classification (such as raw materials, purchased parts and work in progress) at any one plant or location, a period beginning with the effective date of the termination for convenience and ending 90 days after receipt by the Contracting Officer of acceptable inventory schedules covering all items of that particular property classification in the termination inventory at that plant or location, or ending on such later date as may be agreed to by the Contracting Officer and the Contractor. Final phase of a plant clearance period means that part of a plant clearance period which occurs alter the receipt of acceptable inventory schedules covering all items of the particular property classification at the plant or location.

At any time after expiration of the plant clearance period, as defined above, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality, of any or all items of termination inventory not previously disposed of, exclusive of items the disposition of which has been directed or authorized by the Contracting Officer, and may request the Government to remove such items or enter into a storage agreement covering them. Not later than 15 days thereafter, the Government will accept title to such items and remove them or enter into a storage agreement covering the same; provided, that the list submitted shall be subject to verification by the Contracting Officer upon removal of the items or, if the items are stored, within 45 days from the date of submission of the list, and any necessary adjustments to correct the list as submitted, shall be made prior to final settlement.

C. After receipt of a Notice of Termination, the Contractor shall submit to the Contracting Officer his termination claim, in the form with the certification prescribed by the Contracting Officer. Such claim shall be submitted promptly but in no event later than 90 days from the effective date of termination, unless one or more extensions in writing are granted by the Contracting Officer upon request of the Contractor made in writing within such 90 day period or authorized extension thereof. In the event the Contractor was terminated for default and it asserts that it is entitled to a termination for convenience, its certified request for the conversion of the default termination to one for convenience and its certified termination settlement proposal must be submitted to the Contracting Officer prior to the expiration of 90 days from the date of the default termination. With respect to a termination for convenience, if the Contracting Officer determines that the facts justify such action, he may receive and act upon any such termination claim at any time after such 90 day period or extension thereof. Nothing herein shall be construed to extend the time for the submission of a claim hereunder for a defaulted Contractor beyond 90 days from the date of the default termination. Upon failure of the Contractor to submit his termination claim within the time allowed, the Contracting Officer may, subject to any review required by the Government's procedures in effect as of the date of execution of the Contract, determine, on the basis of information available to him, the amount, if any, due to the Contractor by reason of the termination and shall thereupon pay to the Contractor the amount so determined.

D. Subject to the provisions of C above, and subject to any review required by the Government's procedures in effect as of the date of execution of the Contract, the Contractor and Contracting

Officer may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the total or partial termination of work pursuant to this Article, which amount or amounts may include a reasonable allowance for profit on work done; provided, that such agreed amount or amounts, exclusive of settlement costs, shall not exceed the total Contract price as reduced by the amount of payments otherwise made and as further reduced by the Contract price of work not terminated. The Contract shall be amended accordingly, and the Contractor shall be paid the agreed amount. Nothing in E below prescribing the amount to be paid to the Contractor in the event of failure of the Contractor and the Contracting Officer to agree upon the whole amount to be paid to the Contractor by reason of the termination of work pursuant to this Article, shall be deemed to limit, restrict or otherwise determine or effect the amount or amounts which may be agreed upon to be paid to the Contractor pursuant to this paragraph.

E. In the event of the failure of the Contractor and the Contracting Officer to agree as provided in D above upon the whole amount to be paid to the Contractor by reason of the termination of work pursuant to this Article, the Contracting Officer shall, subject to any review required by the Government's procedures in effect as of the date of execution of the Contract, determine, on the basis of information available to him, the amount, if any, due the Contractor by reason of the termination and shall pay to the Contractor the amounts determined by the Contracting Officer, as follows, but without duplication of any amounts agreed upon in accordance with D above:

1. With respect to all Contract work performed prior to the effective date of the Notice of Termination, the total (without duplication of any items) of:

a. The cost of such work;

b. The cost of settling and paying claims arising out of the termination of work under subcontracts or orders as provided in B 5. above, exclusive of the amounts paid or payable on account of supplies or materials delivered or services furnished by the subcontractor prior to the effective date of the Notice of Termination of work under the Contract, which amounts shall be included in the cost on account of which payment is made under E1.a. above; and

c. A sum, as profit on E.1.a. above, determined by the Contracting Officer to be fair and reasonable; provided however, that if it appears that the Contractor would have sustained a loss on the entire Contract had it been completed, no profit shall be included or allowed under this subparagraph and an appropriate adjustment shall be made reducing the amount of the settlement to reflect the indicated rate of loss; and provided further that profit shall be allowed only on preparations made and work done by the Contractor for the terminated portion of the Contract but may not be allowed on the Contractor's settlement expenses. Anticipatory profits and consequential damages will not be allowed. Any reasonable method may be used to arrive at a fair profit, separately or as part of the whole settlement.

2. The reasonable cost of the preservation and protection of property incurred pursuant to B.9; and any other reasonable cost incidental to termination of work under the Contract including expense incidental to the determination of the amount due to the Contractor as the result of the termination of work under the Contract.

F. The total sum to be paid to me Contractor under E.1. above shall not exceed the total Contract price as reduced by the amount of payments otherwise made and as further

reduced by the Contract price of work not terminated. Except for normal spoilage, and except to the extent that the Government shall have otherwise expressly assumed the risk of loss, there shall be excluded from the amounts payable to the Contractor under E.1. above, the fair value, as determined by the Contracting Officer, of property which is destroyed, lost, stolen or damaged so as to become undeliverable to the Government, or to a buyer pursuant to B.7 above.

G. The Contractor shall have the right of appeal, under Article 7 herein, from any determination made by the Contracting Officer under C. or E. above, except that, if the Contractor has failed to submit his claim within the time provided in C above and has failed to request extension of such time, he shall have no such right of appeal. In any case where the Contracting Officer has made a determination of the amount due under C. or E. above, the Government shall pay to the Contractor the following:

1. If there is no right of appeal hereunder or if no timely appeal has been taken, the amount so determined by the Contracting Officer, or

2. If an appeal had been taken, the amount finally determined on such appeal.

H. In arriving at the amount due the Contractor under this Article there shall be deducted:

1. all unliquidated advance or other payments on account theretofore made to the Contractor, applicable to the terminated portion of the Contract;

2. any claim which the Government may have against the Contractor in connection with the Contract; and

3. the agreed price for, or the proceeds of sale of, any materials, supplies or other things kept by the Contractor or sold, pursuant to the provisions of this Article and not otherwise recovered by or credited to the Government.

I. If the termination hereunder be partial, prior to the settlement of the terminated portion of the Contract, the Contractor may file with the Contracting Officer a request in writing for an equitable adjustment of the price or prices specified in the Contract relating to the continued portion of the Contract (the portion not terminated by the Notice of Termination), and such equitable adjustment as may be agreed upon shall be made at such price or prices; however, nothing contained herein shall limit the right of the Government and the Contractor to agree upon the amount or amounts to be paid to the Contractor for the completion of the continued portion of the Contract when said Contract does not contain an established Contract price for such continued portion.

J. The Government may from time to time, under such terms and conditions as it may prescribe, make partial payments against costs incurred by the Contractor in connection with the terminated portion of the Contract whenever in the opinion of the Contracting Officer the aggregate of such payments shall be within the amount to which the Contractor will be entitled hereunder. If the total of such payments is in excess of the amount finally agreed or determined to be due under this Article, such excess Shall be payable by the Contractor to the Government upon demand, together with interest computed at the rate of 6 percent per annum for the period from the date such excess is received by the Contractor to the date on which such excess is repaid to the Government; provided however, that no interest shall be charged with respect to any such excess payment attributable to a reduction in the Contractor's claim by reason of retention or other disposition of termination inventory until ten days after the date of such retention or disposition, or such later date as determined by the Contracting Officer by reason of the circumstances.

K. Unless otherwise provided in the Contract or by applicable statute, the Contractor, from the effective date of termination and for a period of three years after final settlement under the Contract, shall preserve and make available to the Government at all reasonable times at the office of the Contractor, but without direct charge to the Government, all his books, records, documents and other evidence bearing on the costs and expenses of the Contractor under the Contract and relating to the work terminated hereunder, or, to the extent approved by the Contracting Officer, photographs and other authentic reproductions thereof.

ARTICLE 7. DISPUTES

A. All disputes arising under or relating to this contract shall be resolved as provided herein.
B. Claims by a Contractor against the Government.
(1) Claim, as used in Section B of this clause, means a written assertion by the Contractor seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant.

(a) All claims by a Contractor against the Government arising under or relating to a contract shall be in writing and shall be submitted to the Contracting Officer for a decision.
(b) Within 120 days after receipt of a claim, the Contracting Officer shall issue a decision, whenever possible taking 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.
(c) Any failure by the Contracting Officer to issue a decision on a contract claim within the required time period shall be deemed to be a denial of the claim and shall authorize the commencement of an appeal on the claim as otherwise provided.
(d) (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 Government for an amount equal to the unsupported part of the claim in addition to all costs to the Government attributable to the cost of reviewing that part of the Contractor's claim.
(2) Liability under this section shall be determined within 6 years of the commission of the misrepresentation of fact or fraud.
(e) All cost data, pricing data, and task data of claims hereunder must be certified as accurate, complete, required, and necessary to the best of the Contractor's knowledge and belief. Further, all task or work data in the claim must be described therein to the smallest unit of work or task. The Contracting Officer may require any additional certifications, descriptions or explanations of the claim.
(f) The parties agree that time is of the essence and all claims hereunder must be presented to the Contracting Officer for a final decision within thirty (30) days of the occurrence of the circumstances giving rise to such claim or within thirty (30) days of when the Contractor knew or should have known of the circumstances giving rise to such claim, otherwise compensation for that claim is waived.
(g) The parties agree that there shall be no claims for unabsorbed home office overhead.

(2) The Contractor's claim shall contain at least the following:
(a) A description of the claim and the amount in dispute;
(b) Any data or other information in support of the claim;
(c) A brief description of the Contractor's efforts to resolve the dispute prior to filing the claim; and
(d) The Contractor's request for relief or other action by the Contracting Officer.
(e) The certification of the accuracy, completeness, requirement, and necessity of all aspects of the claim.

(3) 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.
(4) 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 Government against a Contractor

(a) Claim as used in Section C of this clause, means a written demand or written assertion by the Government, including the Contracting Officer, 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. Nothing herein shall be construed to require the Government to notify the Contractor prior to the issuance of the Contracting Officer's final decision.
(b) (1) All claims by the Government against a Contractor arising under or relating to a contract shall be decided by the Contracting Officer, who shall issue a decision in writing and furnish a copy of the decision to the Contractor.
(2) The decision shall be supported by reasons and shall inform the Contractor of his or her rights. Specific findings of fact shall not be required.
(3) This clause shall not authorize the Contracting Officer to settle, compromise, pay, or otherwise adjust any claim involving fraud.
(4) 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.
(5) 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.

ARTICLE 8. PAYMENTS TO CONTRACTOR—The Government will pay the contract price or prices as hereinafter provided in accordance with Government regulations.

The Government will make progress payments monthly as the work proceeds, or at more frequent intervals as determined by the Contracting Officer, on estimates approved by the Contracting Officer. The Contractor shall furnish a breakdown of the total Contract price showing the amount included therein for each principal category of the work, in such detail as requested, to provide a basis for determining progress payments. In the preparation of estimates the Contracting Officer, at his discretion, may authorize material delivered on the site and preparatory work done to be taken into consideration. Material delivered to the Contractor at locations other than the site may also be taken into consideration:

1. If such consideration is specifically authorized by the Contract;

2. If the Contractor furnishes satisfactory evidence that he has acquired title to such material, that it meets Contract requirements and that it will be utilized on the work covered by the Contract; and

3. If the Contractor furnishes to the Contracting Officer an itemized list.

The Contracting Officer at his/her discretion shall cause to be with held retention in an amount sufficient to protect the interest of the Government. The amount shall not exceed ten percent (10%) of the partial payment. However, if the Contracting Officer, at any time after 50 percent of the work has been completed, finds that satisfactory progress is being made, he may authorize any of the remaining progress payments to be made in full or may retain from such remaining partial payments less than 10 percent thereof. Also, whenever work is substantially complete, the Contracting Officer, if he considers the amount retained to be in excess of the amount adequate for the protection of the Government, at his discretion, may release to the Contractor all or a portion of such excess amount. Furthermore, on completion and acceptance of each separate building, public work, or other division of the Contract, on which the price is stated separately in the Contract, payment may be made therefore without retention of a percentage, less authorized deductions.

All material and work covered by progress payments made shall thereupon become the sole property of the Government, but this provision shall not be construed as relieving the Contractor from the sole responsibility for all material and work upon which payments have been made or the restoration of any damaged work, or as waiving the right of the Government to require the fulfillment of all of the terms of the Contract.

Upon completion and acceptance of all work, the amount due the Contractor under the Contract shall be paid upon presentation at a properly executed voucher and after the Contractor shall have furnished the Government with a release, if required, of all claims against the Government arising by virtue of the Contract, other than claims in stated amounts as may be specifically excepted by the Contractor from the operation of the release.

ARTICLE 9. TRANSFER OR ASSIGNMENT—Unless otherwise provided by law, neither the Contract nor any interest therein may be transferred or assigned by the Contractor to any other party without the written consent of the Contracting Officer nor without the written acceptance by the surety on the performance and payment bond securing the Contract of the assignee as the Contractor and the principal on such bond; and any attempted transfer or assignment not authorized by this Article shall constitute a breach of the Contract and the Government may for such cause terminate the right of the Contractor to proceed in the same manner as provided in Article 5 herein, and the Contractor and his sureties shall be liable to the Government for any excess cost occasioned the Government thereby.

ARTICLE 10. MATERIAL AND WORKMANSHIP

A. GENERAL—Unless otherwise specifically provided in the Contract, all equipment, material and articles incorporated in the work covered by the Contract shall be new and of the most suitable grade for the purpose intended. Unless otherwise specifically provided in the Contract, reference to any equipment, material, article or patented process, by trade name, make or catalog number, shall be regarded as establishing a standard of quality and shall not be construed as limiting competition., and the Contractor may use any equipment, material, article or process which, in the judgment of the Contracting Officer, is equivalent to that named unless otherwise specified. The Contractor shall furnish to the Contracting Officer for his approval the name of the manufacturer, the model number, and other identifying data and information respecting the performance, capacity, nature and rating of the mechanical and other equipment which the Contractor contemplates incorporating in the work. Machinery and equipment shall be in proper condition. When required by the Contract or when called for by the Contracting Officer, the Contractor shall furnish to the Contracting Officer for approval full information concerning the material or articles which he contemplates incorporating in the work. When so directed, samples shall be submitted for approval at the Contractor's expense, with all shipping charges prepaid. Machinery, equipment, material, and articles installed or used without required approval shall be at the risk of subsequent rejection and subject to satisfactory replacement at Contractor's expense.

B. SURPLUS MATERIALS USE—Whenever specified in the Contract or authorized by the Contracting Officer that materials become the property of the Contractor, which by reference or otherwise shall include disposal of materials, it is understood that the Contractor accepts such materials "as is" with no further expense or liability to the Government. If such material specified in the Contract will have a potential or real interest of value, the Contractor shall make allowance in the Contract to show such value.

C. GOVERNMENT MATERIAL—No materials furnished by the Government shall be applied to any other use, public or private, than that for which they are issued to the Contractor. The full amount of the cost to the Government of all materials furnished by the Government to the Contractor and for which no charge is made, which are not accounted for by the Contractor to the satisfaction of the Contracting Officer, will be charged against the Contractor and his sureties and may be deducted from any monies due the Contractor, and this charge shall be in addition to and not in lieu of any other liabilities of the Contractor whether civil or criminal. Materials furnished by the Government for which a charge is made at a rate mentioned in the specifications will be delivered to the Contractor upon proper requisitions therefore and will be charged to his account.

D. Plant —The Contractor shall at all times employ sufficient tools and equipment for prosecuting the various classes of work to full completion in the manner and time required. The Contractor shall at all times perform work in sufficient light and shall provide proper illumination, including

lighting required for night work as directed, as a Contract requirement. All equipment, tools, formwork and staging used on the project shall be of sufficient size and in proper mechanical and safe condition to meet work requirements, to produce satisfactory work quality and to prevent injury to persons, the project or adjacent property. When methods and equipment are not prescribed in the Contract, the Contractor is free to use tools, methods and equipment that he satisfactorily demonstrates will accomplish the work in conformity with Contract requirements.

If the Contractor desires to use a method or type of tool or equipment other than specified in the Contract, he shall request approval to do so; the request shall be in writing and shall include a full description of proposed methods, tools and equipment and reason for the change or substitution. Approval of substitutions and changed methods will be on condition that the Contractor will be fully responsible for producing work meeting Contract requirements. If after trial use of the substituted methods, tools and equipment, the Contracting Officer determines that work produced does not meet Contract requirements, the Contractor shall complete remaining work with specified methods, tools and equipment.

E. CAPABILITY OF WORKERS- All work under the Contract shall be performed in a skillful and workmanlike manner. The Contracting Officer may require the Contractor to remove from the work any such employees as the Contracting Officer deems incompetent, careless, insubordinate, or otherwise objectionable, or whose continued employment on the work is deemed by the Contracting Officer to be contrary to the public interest. Such request will be in writing:

F. CONFORMITY OF WORK AND MATERIALS—All work performed and materials and products furnished shall be in conformity, within indicated tolerances, with lines, grades, cross sections, details, dimensions, material and construction requirements shown or intended by the drawings arid specifications.

When materials, products or work cannot be corrected, written notice of rejection will be issued. Rejected materials, products and work shall be eliminated from the project and acceptably replaced at Contractor's expense. The Contracting Officer's failure to reject any portion of the project shall not constitute implied acceptance nor in any way release the Contractor from Contract requirements.

G. UNAUTHORIZED WORK AND MATERIALS—Work performed or materials ordered or furnished for the project deviating from requirements and specifications without written authority, will be considered unauthorized and at Contractor's expense. The Government is not obligated to pay for unauthorized work. Unauthorized work and materials may be ordered removed and replaced at Contractor's expense.

ARTICLE 11. INSPECTION AND ACCEPTANCE—Except as otherwise provided in the Contract, inspection and test by the Government of material and workmanship required by the Contract shall be made at reasonable times and at the site of the work, unless the Contracting Officer determines that such inspection or test of material which is to be incorporated in the work shall be made at the place of production, manufacture or shipment of such material. To the extent specified by the Contracting Officer at the time of determining to make off-site inspection or test, such inspection or test shall be conclusive as to whether the material involved conforms to Contract requirements. Such off-site inspection or test shall not relieve the Contractor of responsibility for damage to or loss of the material prior to acceptance, nor in any way affect the continuing rights of the Government after acceptance of the completed work under the terms of the last paragraph of this Article, except as herein above provided.

The Contractor shall, without charge, replace any material and correct any workmanship found by the Government not to conform to Contract requirements and specifications, unless in the public interest the Government consents to accept such material or workmanship with an appropriate adjustment in Contract price. The Contractor shall promptly segregate and remove rejected material from the premises at Contractor's expense.

If the Contractor does not promptly replace rejected material or correct rejected workmanship, the Government:

1. May, by contract or otherwise, replace such material and correct such workmanship and charge the cost thereof to the Contractor, or

2. May terminate the Contractor's right to proceed in accordance with Article 5 herein.

The Contractor shall furnish promptly, without additional cost to the Government, all facilities, labor and material reasonably needed for performing such safe and convenient inspection and test as may be required by the Contracting Officer. All inspections and tests by the Government shall be performed in such manner as not unnecessarily to delay the work. Special, full size, and performance tests shall be performed as described in the Contract. The Contractor shall be charged with any additional cost of inspection when material and workmanship are not ready for inspection at the time specified by the Contractor.

Should it be considered necessary or advisable by the Contracting Officer at any time before acceptance of the work, either in part or in its entirety, to make an examination of work completed, by removing or tearing out same, the Contractor shall, on request, promptly furnish all necessary facilities, labor and material to do same. If such work is found to be defective or nonconforming in any material respect, due to the fault of the Contractor or his subcontractors, he shall defray all the expenses of such examination and of satisfactory reconstruction. If, however, such work is found to meet the requirements of the Contract, an equitable adjustment shall be made in the Contract price to compensate the Contractor for the additional services involved in such examination and reconstruction and, if completion of the work has been delayed thereby, he shall, in addition, be granted an equitable extension of time.

Unless otherwise provided in the Contract, acceptance by the Government will be made as promptly as practicable after completion and inspection of all work required by the Contract. Acceptance shall be final and conclusive except as regards to latent defects, fraud, or such gross mistakes as may amount to fraud, or as regards the Government's rights under any warranty or guaranty, or as otherwise provided herein.

ARTICLE 12. SUPERINTENDENCE BY CONTRACTOR—The Contractor shall give his personal superintendence to the performance of the work or have a competent foreman or superintendent, satisfactory to the Contracting Officer, on the work site at all times during progress, with authority to act for him.

ARTICLE 13. PERMITS AND RESPONSIBILITIES—The Contractor shall, without expense to the Government, be responsible for obtaining any necessary licenses, certificates and permits, and for complying with any applicable Federal, State, and Municipal laws, codes and regulations, in connection with the prosecution of the work. He shall be similarly responsible for all damages to persons or property that occurs as a result of his fault or negligence. He shall take proper safety, health and environmental precautions to protect the work, the workers, the public, and the property of others. He shall also be responsible for all materials delivered and work performed until completion and acceptance of the entire construction work, except for any completed unit of construction thereof which theretofore may have been accepted.

ARTICLE 14. INDEMNIFICATION—

A. The Contractor shall indemnify and save harmless the Government and all of its officers, agents and servants against any and all claims or liability arising from or based on, or as a consequence or result of, any act, omission or default of the Contractor, his employees, or his subcontractors, in the performance of, or in connection with, any work required, contemplated or performed under the Contract.

B. Disputes between the Contractor and any subcontractors, material suppliers, or any other third parties over payments allegedly owed by the Contractor to a third party shall be resolved exclusively between the Contractor and the third party; the Contractor shall permit no pass-through suits to be brought against the Government by a third party in the Contractor's name. However, nothing herein shall be construed to prevent the Contractor from paying a subcontractor's claim and seeking a timely equitable adjustment hereunder.

ARTICLE 15. PROTECTION AGAINST TRESPASS—Except as otherwise expressly provided in the Contract, the Contractor is authorized to refuse admission either to the premises or to the working space covered by the Contract to any person whose admission is not specifically authorized in writing by the Contracting Officer.

ARTICLE 16. CONDITIONS AFFECTING THE WORK

A. GENERAL—The Contractor shall be responsible for having taken steps reasonably necessary to ascertain the nature and location of the work, and the general and local conditions which can affect the work and the cost thereof. Any failure by the Contractor to do so will not relieve him from responsibility for successfully performing the work as specified without additional expense to the Government. The Government assumes no responsibility for any understanding or representation concerning conditions made by any of its officers or agents prior to the execution of the Contract, unless such understanding or representation by the Government is expressly stated in the Contract.

B. WORK AND STORAGE SPACE—Available work and storage space designated by the Government shall be developed as required by the Contract or restored at completion of the project by the Contractor to a condition equivalent to that existing prior to construction. No payment will be made for furnishing or restoration of any work and storage space. If no area is designated or the area designated is not sufficient for the Contractor's operations, he shall obtain necessary space elsewhere at no expense or liability to the Government.

C. WORK ON SUNDAYS, LEGAL HOLIDAYS AND AT NIGHT—No work shall be done at any time on Sundays or legal holidays or on any other day before 7 a.m. or after 7 p.m., except with the written permission of the Contracting Officer and pursuant to the requirements of the Police Requirements of the Government.

D. EXISTING FEATURES—Subsurface and topographic information including borings data, utilities data and other physical data contained in the Contract or otherwise available, are not intended as representations or warranties but are furnished as available information. The Government assumes no expense or liability for the accuracy of, or interpretations made from, existing features. The Contractor shall be responsible for reasonable consideration of existing features above and below ground which may affect the project.

E. UTILITIES AND VAULTS—The Contractor shall take necessary measures to prevent interruption of service or damage to existing utilities within or adjacent to the project. It shall be the Contractor's responsibility to determine exact locations of all utilities in the field.

For any underground utility or vault encountered, the Contractor shall immediately notify the Contracting Officer and take necessary measures to protect the utility or vault and maintain the service until relocation by owner is accomplished. No additional payment will be made for the encountering of these obstructions.

In case of damage to utilities by the Contractor, either above or below ground, the Contractor shall restore such utilities to a condition equivalent to that which existed prior to the damage by repairing, rebuilding or otherwise restoring as may be directed, at the Contractor's sole expense.

Damaged utilities shall be repaired by the Contractor or, when directed by the Contracting Officer, the utility owner will make needed repairs at the Contractor's expense.

No compensation, other than authorized time extensions, will be allowed the Contractor for protective measures, work interruptions, changes in construction sequence, changes in methods of handling excavation and drainage or changes in types of equipment used, made necessary by existing utilities, imprecise utility or vault information or by others performing work within or adjacent to the project.

F. SITE MAINTENANCE—The Contractor shall maintain the project site in a neat and presentable manner throughout the course of all operations, and shall be responsible for such maintenance until final acceptance by the Government. Trash containers shall be furnished, maintained and emptied by the Contractor to the satisfaction of the Contracting Officer. Excavated earthwork, stripped forms and all other materials and debris not scheduled for reuse in the project shall be promptly removed from the site.

The Contracting Officer may order the Contractor to clean up the project site at any stage of work at no added expense to the Government If the Contractor fails to comply with this order, the Contracting Officer may require the work to be done by others and the costs will be charged to the Contractor.

Upon completion of all work and prior to final inspection, the Contractor shall clean up and remove from the project area and adjacent areas all excess materials, equipment, temporary structures, and refuse, and restore said areas to an acceptable condition.

G. PRIVATE WORK—Except as specifically authorized by the Contracting Officer, the Contractor shall not perform any private work abutting Government projects with any labor, materials, tools, equipment, supplies or supervision scheduled for the Contract until all work under the Contract has been completed. Contract materials used for any unauthorized purpose shall be subtracted from Contract amount.

H. GOVERNMENT NOISE CONTROL ACT OF 1977—The contractor shall be in strict compliance with [D.C. Law 2-53, Government of Columbia Noise Control Act of 1977 and all provisions thereof. Effective March 16, 1978. 24 D.C.Register 5293.] (Or relevant local law)

ARTICLE 17. OTHER CONTRACTS—The Government may undertake or award other contracts for additional work and the Contractor shall fully cooperate with such other contractors and Government employees and carefully coordinate his own work with such additional work as may be directed by the Contracting Officer. It is the duty of the Contractor to coordinate its activities with all third parties, including, but not limited to utilities, who may affect the Contract work hereunder. The Contractor shall not commit or permit any act which will interfere with the performance of work by any other contractor or by Government employees. The Government assumes no liability, other than authorized time extensions, for Contract delays and damages resulting from delays and lack of progress by others. The Contractor shall make no claim against the Government for delay or damages resulting from the actions of third parties, including, but limited to utilities.

ARTICLE 18. PATENT INDEMNITY—Except as otherwise provided, the Contractor agrees to indemnify the Government and its officers, agents, and employees against liability, including costs and expenses, for infringement upon any Letters Patent of the United States (except Letters Patent issued upon an application which is now or may hereafter be, for reasons of national security, ordered by the Federal Government to be kept classified or otherwise withheld from issue) arising out of the performance of the Contract or out of the use or disposal, by or for the account of the Government, of supplies furnished or construction work performed hereunder.

ARTICLE 19. ADDITIONAL BOND SECURITY—If any surety upon any bond furnished in connection with the Contract becomes unacceptable to the Government, or if any such surety fails to furnish reports

as to his financial condition from time to time as requested by the Government, the Contractor shall promptly furnish such additional security as may be required from time to time to protect the interests of the Government and of persons supplying labor or materials in the prosecution of the work contemplated by the Contract. Provided that upon the failure of the Contractor to furnish such additional security within ten (10) days after written notice so to do, all payments under the Contract will be withheld until such additional security is furnished.

ARTICLE 20. COVENANT AGAINST CONTINGENT FEES—The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the Contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the Government shall 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 such commission, percentage, brokerage or contingent fee.

ARTICLE 21. APPOINTMENT OF ATTORNEY—The Contractor does hereby irrevocably designate and appoint the Clerk of the Superior Court of the Government and his successors 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 Government, as well as service of all pleadings and other papers, in relation to any action or legal proceeding arising out of or pertaining to the Contract or the work required or performed hereunder.

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 Columbis 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, pleading or other paper so served upon the said Clerk, provided that said Clerk shall have deposited in the United States mail, certified and postage prepaid, a copy of such process, notice, pleading or other papers addressed to the Contractor at the address stated in the Contract.

ARTICLE 22. GOVERNMENT EMPLOYEES NOT TO BENEFIT — Unless a determination is made as provided herein, no officer or employee of the Government 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 Government employee authorized to execute contracts in which they or an employee of the Government will be personally interested shall be void, and no payment shall be made thereon by the Government 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 Government employee shall not be a party to a contract with the Government and will not knowingly cause or allow a business concern or other organization owned or substantially owned or controlled by the employee to be a party to such a contract, unless a written determination has been made by the head of the procuring agency that there is a compelling reason for contracting with the employee, such as when the Government's needs cannot reasonably otherwise be met. [DC Procurement Practices Act of l985, D.C. Law 6-85, D.C. Official Code, section 2-310.01, and Chapter 18 of the DC Personnel Regulations] (Or relevant local law). 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.

ARTICLE 23. WAIVER—No Governmental waiver of any breach of any provision of the Contract shall operate as a waiver of such provision or of the Contract or as a waiver of subsequent or other breaches of the same or any other provision of the Contract; nor shall any action or non-action by the Contracting Officer or by the Government be construed as a waiver of any provision of the Contract or of any breach thereof unless the same has been expressly declared or recognized as a waiver by the Contracting Officer or the Government in writing.

ARTICLE 24. BUY AMERICAN

A. AGREEMENT—In accordance with the Buy American Act (41 USC l0a-l0d), and Executive Order 10582. December 17, 1954 (3 CFR, 1954-58 Comp., p. 230), as amended by Executive Order 11051, September 27,1962 (3 CFR, l059—63 Comp., p. 635), the Contractor agrees that only domestic construction material will be used by the Contractor, subcontractors, material men and suppliers in the performance of the Contract, except for non-domestic material listed in the Contract.

B. DOMESTIC CONSTRUCTION MATERIAL—"Construction material" means any article, material or supply brought to the construction site for incorporation in the building or work. An unmanufactured construction material is a "domestic construction material" if it has been mined or produced in the United States. A manufactured construction material is a "domestic construction material" if it has been manufactured in the United States and if the cost of its components which have been mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. "Component" means any article, material, or supply directly incorporated in a construction material. -

C. DOMESTIC COMPONENT—A component shall be considered to have been "mined, produced, or manufactured in the United States" regardless of its source, in fact, if the article, material or supply in which it is incorporated was manufactured in the United States and the component is of a class or kind determined by the Government to be not mined, produced or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

D. FOREIGN MATERIAL – When steel materials are used in a project a minimal use of foreign steel is permitted. The cost of such materials cannot exceed on-tenth of one percent of the total project cost, or $2,500,000, whichever is greater.

ARTICLE 25. TAXES

A. FEDERAL EXCISE—Materials, supplies and equipment are not subject to the Federal Manufacturer's Excise Tax, if they are furnished or used in connection with the Contract provided that title to such materials, supplies and equipment passes to the Government under the Contract. The Contractor shall in such cases furnish his subcontractors and suppliers with a purchaser's certificate in the form prescribed by the U.S. Internal Revenue Service.

B. SALES AND USE TAXES—Materials which are physically incorporated as a permanent part of real property are not subject to Government Sales and Use Tax. The Contractor shall, when purchasing such materials, furnish his suppliers with a Contractor's Exempt Purchase Certificate in the form prescribed in the Sales and Use Tax Regulations of the Government. Where the Contractor, subcontractor or material man has already paid the Sales and Use Tax on material, as prescribed above, the Sales and Use Tax Regulations of the Government permit the Contractor, subcontractor or material man to deduct the sales or use tax on the purchase price of the same on his next monthly return as an adjustment. However, the Contractor, subcontractor or material man must satisfy the Chief Financial Officer for the Government that no sum in reimbursement of such tax was included in the Contract or else that the Government has received a credit under the Contract in an amount equal to such tax.

Government Sales and Use Tax shall be paid on any material and supplies, including equipment rentals, which do not become a physical part of the finished project. [See Government of Columbia Sales and Use Tax Administration Ruling No. 6] (Or relevant local law).

The Contractor, subcontractor, or material supplier shall provide proof of compliance with the provisions of [D.C. Law 9-260] (Or relevant local law), as amended, codified in [D.C. Code46-103] (Or relevant local law), Employer Contributions, prior to award.

The Contractor, subcontractor, or material supplier shall provide proof of compliance with the applicable tax filing and licensing requirements set forth in [D.C. Code, Title 47, Taxation and Fiscal Affairs] (Or relevant local law), prior to contract award.

ARTICLE 26. SUSPENSION OF WORK—The Contracting Officer may order the Contractor in writing to suspend, delay or interrupt all or any part of the work for such period of time as he may determine to be appropriate for the convenience of the Government.

If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed or interrupted by an act of the Contracting Officer in the administration of the Contract, or by his failure to act within the time specified in the Contract (or if no time is specified, within a reasonable time), an adjustment will be made for an increase in the cost of performance of the Contract (excluding profit) necessarily caused by such unreasonable suspension, delay or interruption and the Contract modified in writing accordingly. However, no adjustment will be made under this Article for any suspension, delay or interruption to the extent:

1. That performance would have been so suspended, delayed or interrupted by any other cause, including the fault or negligence of the contractor, or

2. For which an equitable adjustment is provided or excluded under any other provision of the Contract.

No claim under this Article shall be allowed:

1. For any costs incurred more than 20 days before the Contractor shall have notified the Contracting Officer in writing of the act or failure to act involved (but this requirement shall no apply as to a claim resulting from a suspension order), and

2. Unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of such suspension, delay, or interruption, but not later than the date of final payment under the Contract.

ARTICLE 27. SAFETY PROGRAM

A. GENERAL—In order to provide safety controls for the protection of the life and health of Government and Contract employees and the general public; prevention of damage to property, materials, supplies, and equipment; and for avoidance of work interruptions in the performance of the Contract, the Contractor shall comply with all applicable Federal and local laws governing safety, health and sanitation including the Safety Standards, Rules and Regulations issued by the American National Standards, U. S. Department of Labor, U. S. Department of Health and Human Services, [D.C. Minimum Wage and Industrial Safety Board] (Or relevant local law) and the latest edition of “Manual of Uniform Traffic Control Devices” issued by the Federal Highway Administration.

The Contractor shall also take or cause to be taken such additional safety measures as the Contracting Officer may determine to be reasonably necessary.

The Contractor shall designate one person to be responsible for carrying out the Contractor’s obligation under this Article.

The Contractor shall maintain an accurate record of all accidents resulting in death, injury, occupational disease, and/or damage to property, materials, supplies, and equipment incident to work performed under the Contract. Copies of these reports shall be furnished to the Contracting Officer within two working days after occurrence.

The Contracting Officer will notify the Contractor of any noncompliance with the foregoing provisions and the action to be taken. The Contractor shall, after receipt of such notice, immediately take corrective action. Such notice, when delivered to the Contractor or his representative at the site of the work, shall be deemed sufficient for the purpose. If the Contractor fails or refuses to comply promptly, the Contracting Officer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. No part of the time lost due to any such stop orders shall be made the subject of claim for extension of time or for excess costs or damages by the Contractor.

This Article is applicable to all subcontractors used under the Contract and compliance with these provisions by the subcontractors will be the responsibility of the Contractor.

(In Contracts involving work of short duration or of non-hazardous character, the following Section B. will be deleted by Special Provision)

B. CONTRACTOR'S PROGRAM SUBMISSION—Prior to commencement of the work, the Contractor shall:

1. Submit in writing to the Contracting Officer for his approval his program for complying with this Article for accident prevention.

2. Meet with the Contracting Officer's Safety Representative after submission of the above program to develop a mutual understanding relative to the administration of the overall safety program.

ARTICLE 28. RETENTION OF RECORDS—Unless otherwise provided in the Contract, or by applicable statute, the Contractor, from the effective date of Contract completion and for a period of three years after final settlement under the Contract, shall preserve and make available to the Government at all reasonable times at the office of the Contractor but without direct charge to the Government, all his books, records, documents, and other evidence bearing on the costs and expenses of the Contractor under the Contract.

ARTICLE 29. RECOVERY OF DEBTS OWED THE GOVERNMENT---The Contractor hereby agrees that the Government may use all or any portion of any payment, consideration or refund due the Contractor under the Contract to satisfy, in whole or part, any debt due the Government.

ARTICLE 30. ADMINISTRATIVE LIQUIDATED DAMAGES---In addition to any other liquidated damages provided for in the Contract, the Contractor hereby agrees that the Government may assess administrative liquidated damages for the Contractor's failure to submit when due any deliverable required by the Contract. Unless otherwise prescribed by the Contracting Officer, the rate of the administrative liquidated damages shall be $250 per day until the required deliverable is received and accepted by the Government. The Government's remedies for failure to comply with the Contract terms and conditions are cumulative and not exclusive. Nothing herein shall be construed to limit the Government's ability to terminate the Contractor for the failure to submit Contract deliverables when due.

ARTICLE 31. FORCE MAJEURE---If the Contractor, because of Force Majeure, is rendered wholly or partly unable to perform its obligations when due under this Contract, the Contractor may be excused from whatever performance is affected by the Force Majeure to the extent so affected. In order to be excused from its performance obligations under this Contract by reason of Force Majeure, within 72 hours of the occurrence or event, the Contractor must provide the Contracting Officer written notice of its

inability to perform as well as a description of the force majeure and its effect on Contract performance. The Contracting Officer will have the right to cause the inspection of the work site to determine the validity of the Contractor's assertion of its inability to perform. If the Contracting Officer agrees that the Contractor is wholly or partly unable to perform its obligations under the Contract a decision will be issued indicating the extent to which the Contractor is excused from its performance obligations. In no event will the Contractor be entitled to money damages from the Government due to force majeure.

District of Columbia District of General Services

Released October 2018

Standard Contract Provisions

General Provisions
(Architectural & Engineering Services Contract)

ARTICLE 1. DEFINITIONS

A. "Architect-Engineer" means the individual, individuals, and or firm identified as the "Architect-Engineer" in the preamble of Contract executed by and between the District and the Architect-Engineer for the Project.

B. "Change Order" means a document signed by the District and the Architect-Engineer to authorize an addition, deletion or revision in the services, the Architect-Engineer's cost of, or the time required for, the performance of any part of the services under the Contract, issued on or after the Effective Date of the Contract.

C. "Contract" means the written contract for professional services between the District and the Architect-Engineer, including all exhibits, Standard Contract Provisions, and any duly executed amendments.

D. "Contracting Officer" means the District official authorized to execute and administrate the Contract on behalf of the District. Within DGS, the Director is the Chief Contracting Officer. The Director may make delegations of procurement authority to additional contracting officers within DGS.

E. "District" means the District of Columbia, Department of General Services, (the "Department" or "DGS"), a party to the Contract.

F. "Project" means the District's project identified in the Contract, of which Architect-Engineer's services under the Contract as a party.

G. "Scope of Services" means any and all work done in any and all phases of the Project, pursuant to and as set forth by the Department in the Contract.

H. "Day or Days" All references to day or days in these Standard Contract Provisions will be counted based on calendar days not business days.

ARTICLE 2. GENERAL

A. The Contracting Officer shall have authority to take any action provided for herein on behalf of the District, including approval, certifications, vouchers, acceptance and changes within the Scope of Services.

B. The Architect-Engineer's period of performance shall commence on the effective date as agreed and as specified in the Scope of Services or in each task order issued by the Contracting Officer and ends on the date all required services are satisfactorily completed in accordance with the terms of the Contract and Project close-out documents and all deliverables are delivered to the District.

C. All services shall be prosecuted under the direction of a principal officer or responsible representative of the Architect-Engineer, approved by the Contracting Officer. The design of architectural, civil, structural, mechanical, plumbing, electrical, or other engineering features of the Project shall be accomplished in accordance with the terms of the Contract and reviewed and certified in accordance with applicable District of Columbia regulations by architects or engineers registered to practice in the District of Columbia in the particular professional field involved.

D. The Architect-Engineer shall furnish sufficient technical, supervisory and administrative personnel

to ensure the efficient prosecution of the services in accordance with the approved Project Schedule.

E. The Architect-Engineer agrees that duly authorized representatives of the District shall have access at all reasonable times to inspect and make copies of all notes, designs, drawings, specifications or other technical or non-technical data, including but not limited to payroll of company personnel, pertaining to the services performed under the Contract.

F. The standard of care. The Architect-Engineer, its consultants and subcontractors shall perform the services consistent with the professional skill and care ordinarily provided by members of the same profession currently practicing under similar or same circumstances in the same or similar locality of the Project. The standard of care shall not be altered by the application, interpretation, or construction of this or any other provision of these Standard Contract Provisions or the Contract.

ARTICLE 3. PROGRESS SCHEDULES AND REPORTS

A. Generally. In addition to the requirements set forth in the Scope of Services and the requirements set forth elsewhere in the Contract, the Architect-Engineer shall furnish progress reports monthly, biweekly and with each payment request, describing accomplishments, decisions and overall progress made during the period covered by the report and including the most recent Project Schedule and as set forth in more detail in this Article 3.

B. Monthly Reports. The Architect-Engineer shall provide written reports to the District, at a minimum on a monthly basis on the progress of the Project, including, but not limited to, a baseline schedule and schedule updates with narrative demonstrating the critical path of the services in Primavera format in the latest available version or as designated by the Contracting Officer. The monthly written reports shall also include, at a minimum, the services accomplished, problems encountered, cost updates, an economic inclusion report, cash flow updates, quality assurance reports and other similar relevant data as the District may reasonably require.

C. Biweekly Updates. The Architect-Engineer shall also provide written update reports to the District on a biweekly basis, which shall reflect actual conditions of Project progress as of the date of the update. The update shall reflect the actual progress of designs or construction, as the case may be, identify developing delays, regardless of their cause, and reflect the Architect-Engineer's best projection of the actual date by which Substantial Completion and Final Completion of the Project will be achieved. Via a narrative statement (not merely a critical path method schedule), the Architect-Engineer shall identify the causes of any potential delay and state what, in the Architect-Engineer's judgment, must be done to avoid or reduce that delay. The Architect-Engineer shall point out, in its narrative, changes that have occurred since the last update, including those related to major changes in the Scope of Services, activities modified since the last update, revised projections of durations, progress and completion, revisions to the schedule logic or assumptions, and other relevant changes. Any significant variance from the previous schedule or update shall also be identified in a narrative, together with the reasons for the variance and its impact on Project completion. All schedule updates shall be in the latest version of Primavera format and reasonably acceptable to the District. The District may make reasonable requests during the Project for changes to the format or for further explanation of information provided. Submission of updates showing that Substantial Completion or Final Completion of the Project will be achieved later than the applicable scheduled completion date shall not constitute requests for extension of time and shall not operate to change the scheduled completion date. The District's receipt of, and lack of objection to, any schedule update showing Substantial Completion or Final Completion later than

the dates agreed upon shall not be regarded as the District's agreement that the Architect-Engineer may have an extension of time, or as a waiver of any of the District's rights, but merely as the Architect-Engineer's representation that, in the Architect-Engineer's best projection, Substantial Completion or Final Completion of the Project may not be completed by the agreed upon date. Changes to the scheduled completion dates may be made only in the circumstances and only by the methods set forth in the Contract.

D. Condition Precedent to Payment. All payments to Architect-Engineer are contingent upon satisfactory performance of the terms and conditions set forth in the Contract as determined by the Contracting Officer. Requisitions for payment shall be accompanied by a Project Progress Report which shall include the information set forth in this Article 3 and a statement indicating the percentage of completion of all required services for the Project.

ARTICLE 4. RESPONSIBILITY OF THE ARCHITECT-ENGINEER

A. Quality. The Architect-Engineer shall be responsible for the professional quality, technical accuracy and the coordination of all designs, drawing, specifications, and other services furnished. The Architect-Engineer shall, without additional compensation correct or revise any errors or deficiencies in its designs, drawings, specification and other services.

B. Scope of Services. The Architect-Engineer shall accomplish the design services required pursuant to the Scope of Services or under each task order. The services, as set forth in the Contract, shall include but are not limited to the services required to enable the District to award the related construction contract pursuant to standard District procedures, for the construction of the facilities designed at a price that does not exceed the estimated construction contract price set forth in the Contract.

1. If bids or proposals are not solicited within 180 days following the District's acceptance of the services to be provided under the Scope of Services or task order, the Architect-Engineer shall, prepare an estimate of constructing the design submitted and such estimate will be used in lieu of bids or proposals to determine compliance with the funding limitation.

2. If the bids or proposals for the construction contract received exceed such estimated price, the Architect-Engineer shall perform such redesign and other services as are necessary to permit contract award within such funding limitation. Such redesign services shall be performed at no increase in the price of the Contract. However, the Architect-Engineer shall not be required to perform such additional services at no cost to the District if the unfavorable bids or proposals are the results of unforeseeable causes beyond the control and without the fault and negligence of the Architect-Engineer.

C. Designing to Budget. The Architect-Engineer shall promptly advise the Contracting Officer if the Architect-Engineer finds that the Project design will exceed or is likely to exceed the funding limitations and the Architect-Engineer is unable to design a usable facility within these limitations. Upon receipt of such information, the Contracting Officer will review the Architect- Engineer's revised estimate of construction cost. The Contracting Officer may, if he determines that the estimated construction contract price set forth in the Scope of Services or task order is so low that award of a construction contract not in excess of such estimate is improbable, authorize a change in the scope, quality or type of materials, or both, as required to reduce the estimated construction cost to an amount within the estimated construction contract price set forth elsewhere in the Contract or he may adjust such estimated construction contract price.

D. Project Management and Inspection Entity. In the event the Contract requires the Architect-Engineer to provide construction period services, the Architect-Engineer shall also, at intervals of no less than once per week or as set forth in the Scope of Services, be responsible for:

1. *Visits to Site and Observation of Construction.* An Architect-Engineer representative who is knowledgeable of the Project and competent in each discipline that has trade activities and stages of construction being performed shall visit the site at the agreed-to intervals to observe as an experienced and qualified design professional the progress and quality of the various aspects of the contractor's work. Based on information obtained during such visits and on such observations, the Architect-Engineer shall endeavor to determine whether such work is proceeding in accordance with the Contract Documents and shall keep the District informed of the general progress of the work in relation to the overall schedule. The Architect-Engineer shall document the site visit in writing and shall submit his findings in accordance with the report requirements set forth in Article 3 herein.

2. *Inspections of Work in Progress by the Architect-Engineer.* During his periodic visits to the site to observe the work in progress, the Architect-Engineer shall, as a minimum, spot check the work installed and in progress to determine compliance with the requirements of the Contract Documents and the codes and installation/workmanship standards listed therein. Defective and noncompliant work observed during such visits shall be noted in the Architect-Engineer's reports and pointed out to the Contracting Officer and Program Manager. The Architect-Engineer shall identify for the Project Manager any specific checks or inspections to be made. The results of these inspections shall be made a part of the Project's daily log and reports. The Architect-Engineer shall document the inspection in writing.

3. *Supplemental Inspections and Tests.* For work not in compliance with the Contract Documents, the Architect-Engineer shall, with the District's approval, require additional or supplemental inspection or testing. The Architect-Engineer shall receive and review all certificates of inspections, tests and approvals required by laws, rules, regulations, ordinances, codes, orders or the Contract Documents and shall determine whether, in its opinion as an Architect-Engineer, their content complies with the requirements of each. The Architect-Engineer shall also determine whether the results certified indicate compliance with the Contract Documents. The Architect-Engineer shall document the inspection in writing.

4. *Defective Work.* During its site visits and based on its observation during such visits, the Architect-Engineer may disapprove the contractor's work, or any portion thereof, while the work is in progress if Architect-Engineer believes that such work does not conform to the Contract Documents or the approved shop drawings or other submittals. The Architect-Engineer may also recommend that the District reject any work that the Architect-Engineer believes will not result in a completed Project that conforms generally to the Contract Documents or that it believes will prejudice the integrity of the design as reflected in the Contract Documents. The Architect-Engineer shall document the defective work in writing.

E. Code and Regulatory Compliance. The Architect-Engineer is responsible for designing the project and administering the construction phase of the Project in accordance with applicable District of Columbia Codes and other regulatory requirements applicable to the Project. Nothing contained herein shall be construed as relieving the Architect-Engineer, any other professional design consultant, or any contractor, supplier or other participant from any professional or legal responsibility for performance. Reviews, comments and approvals by the Department of General Services and its divisions, or any employee or official of the District, in no way absolve any other person, firm or corporation involved in

the Project from their full responsibilities under the applicable laws, codes and professional practice as required in projects for the District of Columbia. Lack of comment by a District of Columbia reviewer does not relieve the Architect-Engineer from designing to meet the applicable code or Architect-Engineer Manual requirements or applicable regulations related to water, sewer, fire department service, and other utilities.

1. *Additional Costs.* If the correction of a code or regulatory violation results in a Change Order during construction, any additional costs incurred shall be borne by the party responsible for the violation. The District shall bear only the costs attributable to the actual code or regulation-required enhancement of the Project.

2. *Code Interpretation.* If the Architect-Engineer believes that a code or a regulation is unclear as to meaning, the Architect-Engineer shall request a written opinion as to the applicable interpretation from the applicable regulatory agency, as appropriate. The Architect-Engineer shall be entitled to rely on the written opinion, if any, received from such agency.

F. As-Built Drawings. At completion of the Project, the Architect-Engineer shall prepare a full set of record drawings showing the "as-built" condition of the Project and including the locations of all utilities based on his own records and upon information supplied by the Construction Manager, Contractor or Design-Builder, as applicable, on which the Architect-Engineer may rely. These drawings will consist of the original working drawings and the original of supplemental drawings and details modified to show the "as built" conditions both in paper, tracings, and electronic media. "As-built" drawings shall be turned over to the District as a condition precedent to Substantial Completion; final payment of the Architect-Engineer's fees shall not be due until the building is accepted by the District, the final Application for Payment is made, in acceptable form, to and accepted by the District, and record drawings and "as-built" drawings in the form of paper, tracings, and electronic media in the form of Compact Discs in latest version of AutoCAD. The District reserves the right to occupy the building, or portions thereof, prior to final acceptance.

G. No Waiver. Neither the District's review, approval or acceptance of, nor payment for, any of the services required under the Contract shall be construed to operate as a waiver or any rights under the Contract or of any cause of action arising out of the performance of the Contract, and the Architect-Engineer shall be and remain liable to the District in accordance with applicable law for all damages to the District caused by the Architect-Engineer's negligent or intentionally wrongful act, omission or default while performing any of the services under the Contract.

H. Remedies Inclusive. The rights and remedies of the District and the Architect-Engineer provided for under the Contract are in addition to any other rights and remedies provided by law.

ARTICLE 5. PAYMENTS

A. Invoices. The Architect-Engineer shall submit an invoice to the District, along with District-required documentation. The invoice shall generally itemize the various phases or parts of the Total Contract Amount, the value of the various phases or parts, the previously invoiced and approved amounts for payment, and the amount of the current invoice. The invoice shall also include a certification statement signed by the Architect-Engineer stating that the Architect-Engineer has paid its consultants, subcontractors and suppliers their individual proportional share of all previous payments, including interest if applicable, received from the District in accordance with the terms of the Architect-Engineer's subcontract with such persons or companies and these Standard Contract Provisions. Invoices for reimbursables shall include documentation of costs for which reimbursement is sought. Invoices for Architect-Engineer Services being performed on an

hourly rate basis shall show the technical classifications, names of the persons performing the Architect-Engineer services, man hours expended, marked up hourly rates for the classification, and the extended cost amount.

B. Invoice Disputes. Unless there is a dispute about the compensation due the Architect-Engineer, including, but not limited to, claims by the District against the Architect-Engineer, then within thirty (30) days after receipt by the District of the Architect-Engineer's acceptable invoice, which shall be considered the invoice receipt date, the District shall pay to the Architect-Engineer the amount approved less any retainage and less any prior payments or advances made to Architect-Engineer. The date on which payment is due shall be referred to as the "payment date."

C. Frequency. Invoices prepared the Architect-Engineer relating to the amount and value of work and services performed by the Architect-Engineer under the Contract shall be made periodically (not more often than monthly) and sent to the District for payment, accompanied by such documentation and supporting data as may be required by the Contracting Officer.

D. Retainage. Upon approval of such invoice amounts by the Contracting Officer and presentation of proper documentation by the Architect-Engineer, payment of the invoice amount as determined above less agreed upon retainage and all previous payments shall be made in accordance with the Quick Payment Act, D.C. Official Code §2-221.01 *et seq*. Unless otherwise provided for in the Contract, the retained payment percentage shall be 5%, provided, however, that if the Contracting Officer determines that the work is Substantially Complete and that the amount of retained percentages is in excess of the amount considered by him to be adequate for the protection of the District, he may in his discretion release to the Architect-Engineer such excess amount.

E. Final Payment. Upon the satisfactory completion of the Architect-Engineer's services and formal notification of its final acceptance by the Contracting Officer, the Architect-Engineer shall be paid the unpaid balance of any money due hereunder, including retained percentages. Prior to such final payment under the Contract or prior to settlement upon termination of the Contract and as a condition precedent thereto, the Architect-Engineer shall execute and deliver to the Contracting Officer a release of all claims against the District arising under or by virtue of the Contract other than such claims, if any, as may be specifically excepted by the Architect-Engineer from the operation of the release in stated amounts to be set forth therein.

F. Document Ownership. All drawings, designs, specifications and other Architect-Engineer deliverables first produced solely for the District in the performance of the Contract, or in contemplation thereof, and all as-built drawings produced after completion of the work shall be and remain the sole property of the District and may be used on any other work without additional cost to the District. With respect thereto, the Architect-Engineer agrees not to assert any rights or to establish any claim under the design patent or copyright laws and not to publish or reproduce such matter in whole or in part or in any manner or form or authorize others so to do without the written consent of the District, until such time as the District may have released such matter to the public. Further, with respect to any architectural design which the District desires to protect by applying for and prosecuting a design patent application or otherwise, the Architect-Engineer agrees to furnish the Contracting Officer such duly executed instruments and other papers (prepared by the District) as are deemed necessary to vest in the District the rights granted it under this clause. The Architect-Engineer agrees to furnish and provide access to the originals or copies of all such materials on the request of the Contracting Officer for a period of three (3) years after completion for the project.

G. Corrections of Work Post-Payment. Notwithstanding the acceptance and approval by the District of any services performed or provided by the Architect-Engineer, the Architect-Engineer shall be responsible for the professional quality, technical accuracy and the coordination of all services furnished by the Architect-Engineer under the Contract. The Architect-Engineer shall, without additional compensation, correct or revise any errors or deficiencies or omissions in the Architect-Engineer's services.

H. Payment Not Waiver. The District's review, approval or acceptance of, or payment for, any of the Materials and Services required under the Contract shall not constitute any representation, warranty or guaranty by the District as to the substance or quality of the matter reviewed, approved or accepted and shall not be construed to operate as a waiver or estoppel of any of the District's rights or privileges under the Contract or of any cause of action arising out of the performance of the Contract. No person or firm shall rely in any way on such review, approval or acceptance by the District. The Architect-Engineer shall be and remain liable in accordance with Applicable Law for all damages to the District caused by the Architect-Engineer. Review, approval or acceptance by the District or the Contracting Officer under the Contract shall not constitute approval otherwise required by any of the District departments, boards, commissions, or other regulatory agencies in the exercise of their independent regulatory authority.

I. Errors and Omissions. Without limiting the Architect-Engineer's responsibility set forth above, such responsibility, by way of illustration shall include the following: If any error or omission in the Construction Documents submitted by the Architect-Engineer requires a change in the Scope of Services or any portion thereof, the Architect-Engineer shall promptly complete such change at no additional cost to the District.

J. Compensation Disputes. Disputes regarding the compensation due the Architect-Engineer may include, but are not limited to, the amount due, the value or percentage of the Architect- Engineer Services completed, defects or deficiencies in the Architect-Engineer Services, quality of the Architect-Engineer Services, compliance with the Contract Documents, completion itself, or negligent performance of professional services on the part of the Architect-Engineer. In the event of disputes, payment shall be mailed on or before the Payment Date for amounts and Architect-Engineer Services not in dispute, subject to any setoffs claimed by the District.

K. Adjustments. All prior payments, whether based on estimates or otherwise, may be corrected and adjusted in any payment and shall be corrected and adjusted in the final payment. In the event that any invoice by the Architect-Engineer contains a defect or impropriety which would prevent payment by the Payment Date, the District shall notify the Architect-Engineer in writing of such defect or impropriety within ten (10) days after the invoice receipt date. Any disputed amounts determined by the District to be payable to the Architect-Engineer shall be due thirty (30) days from the date the dispute is resolved. Interest shall be paid by the District in accordance with the Quick Payment Act, D.C. Official Code §2-221.01 *et seq*.

L. Payments to Subcontractors. The Architect-Engineer shall make a payment to each of its Consultants and Subcontractors, not later than seven (7) calendar days after receipt of amounts paid to the Architect-Engineer by the District, in an amount equal to the proportionate share of the total payment, including any interest, received from the District attributable to the Architect-Engineer Services performed by Consultants and Subcontractors less a retainage of not more than five percent (5%) if provided for in the applicable subcontract, said retainage being the same money, not additional money, retained by the District from the payment to the Architect-Engineer.

ARTICLE 6. CHANGES

A. Generally. The Contracting Officer may at any time by written order make changes within the general scope of the Contract to the Scope of Services to be performed under each task order. If such changes cause an increase or decrease in the Architect-Engineer's cost of or time required for performance of any service under the Contract, or both, upon approval of the Contracting Officer, an equitable adjustment shall be made and the Contract shall be modified in writing by the Contracting Officer accordingly. Any claim of the Architect-Engineer for adjustment under this clause must be made in writing to the Contracting Officer within ten (10) days from the date of receipt by the Architect-Engineer of the notification of change unless the Contracting Officer grants a further period of time before the date of final payment under this Contract. If the Architect-Engineer requests changes to the Scope of Services, the Architect-Engineer must demonstrate to the satisfaction of the District that the changes are necessary and not due to the acts or omissions of the Architect-Engineer. Generally, the time of performance of the Contract and/or any task order may be extended for the administrative convenience of the District or for other purposes whenever the Contracting Officer determines such action will not be a cause for additional fee or other related cost.

B. Additional Compensation. Compensation to the Architect-Engineer beyond the monetary limits set forth in the Contract shall only be made if and when a Change Order to the Contract is duly executed by the Parties. Nothing herein shall limit the District's ability to make changes to the Contract unilaterally.

C. Designated Change Orders. The Contracting Officer may, at any time, by written order designated or indicated to be a change order, make any changes in the work within the general scope of the Contract, including but not limited to changes:

1. In the Contract drawings and specifications;

2. In the method or manner of performance of the services;

3. In the District furnished facilities, equipment, materials or services; or

4. Directing acceleration in the performance of the services.

Nothing provided in this Article shall excuse the Architect-Engineer from proceeding with the prosecution of the services so changed.

D. Other Change Orders. Any other written order or an oral order (which term as used in this Section shall include direction, instruction, interpretation, or determination) from the Contracting Officer which causes any such change, shall be treated as a Change Order under this Article, provided that the Architect-Engineer gives the Contracting Officer written notice stating the date, circumstances and sources of the order and that the Architect-Engineer regards the order as a Change Order.

E. General Requirements. Except as herein provided, no order, statement or conduct of the Contracting Officer shall be treated as a change under this Article or entitle the Architect-Engineer to an equitable adjustment hereunder. If any change under this Article causes an increase or decrease in the Architect-Engineer's cost of, or the time required for, the performance of any part of the services under the Contract whether or not changed by any order, an equitable adjustment shall be made and the Contract modified in writing accordingly; provided, however, that except for claims based on defective specifications, no claim for any change under (B) above shall

be allowed for any cost incurred more than thirty (30) days before the Architect-Engineer gives written notice as therein required unless this thirty (30) day period is extended by the Contracting Officer and provided further, that in case of defective drawings and specifications, the equitable adjustment shall include any increased cost reasonably incurred by the Architect- Engineer in attempting to comply with such defective drawings and specifications.

1. If the Architect-Engineer intends to assert a claim for an equitable adjustment under this Article, the Architect-Engineer must, within thirty (30) days after receipt of a written Change Order under (A) above or the furnishing of a written notice under (D) above, submit to the Contracting Officer a written statement setting forth the general nature and monetary extent of such claim, unless this period is extended by the Contracting Officer. The statement of claim hereunder may be included in the notice under (D) above.

2. With respect to the notification obligations of the Architect-Engineer hereunder, time is of the essence. A failure to provide timely notice constitutes waiver of the claim. No claim by the Architect-Engineer for an equitable adjustment hereunder shall be allowed if asserted after final payment under the Contract.

F. Change Order Breakdown. Contract prices shall be used for Change Order work where the services, as changed, are of similar nature; no other costs, overhead or profit will be allowed.

1. Where Contract prices are not appropriate and the nature of the change is known in advance of construction, the parties shall attempt to agree on a fully justifiable adjustment of the Architect-Engineer's compensation and time for performance.

2. When Contract prices are not appropriate, or the parties fail to agree on equitable adjustment, or in processing claims, equitable adjustment for Change Order work shall be per this Article and Article 7 and shall be based upon the breakdown shown in following subsections a) through g). The Architect-Engineer shall assemble a complete cost breakdown that lists and substantiates each item of work and each item of cost.

a) *Labor*—Payment will be made for direct labor cost plus indirect labor cost such as insurance, taxes, fringe benefits and welfare provided such costs are considered reasonable by the District. Indirect costs shall be itemized and verified by receipted invoices. If verification is not possible, up to 18 percent of direct labor costs may be allowed. In addition, up to 20 percent of direct plus indirect labor costs may be allowed for overhead and profit.

b) *Rented Equipment*—Payment for required equipment rented from a third party company that is neither an affiliate of, nor a subsidiary of, the Architect-Engineer will be based on receipted invoices, which shall not exceed rates given in the current edition of the Rental Rate Blue Book for Construction Equipment published by Data Quest. If actual rental rates exceed manual rates, written justification shall be furnished to the Contracting Officer for consideration. No additional allowance will be made for overhead and profit. The Architect-Engineer shall submit written certification to the Contracting Officer that any required rented equipment is neither owned by nor rented from the Architect-Engineer or an affiliate of or subsidiary of the Architect- Engineer.

c) *Architect-Engineer's Equipment*—Payment for required equipment owned by the Architect-Engineer or an affiliate of the Architect-Engineer will be based solely on an hourly rate

derived by dividing the current appropriate monthly rate by 176 hours. No payment will be made under any circumstances for repair costs, freight and transportation charges, fuel, lubricants, insurance, any other costs and expenses, or overhead and profit. Payment for such equipment made idle by delays attributable to the District will be based on one-half the derived hourly rate under this subsection.

d) *Miscellaneous*—No additional allowance will be made for general superintendence, use of small tools and other costs for which no specific allowance is herein provided.

e) *Subcontract Work*—Payment for additional necessary subcontract work will be based on applicable procedures in a) through f), to which total additional subcontract work, up to an additional 10 percent, may be allowed for the Architect-Engineer's overhead and profit.

G. Significant Changes in Character of Services.

1. The Contracting Officer reserves the right to make, in writing, at any time during the performance of services, such changes in quantities and such alterations in the services as are necessary to satisfactorily complete the Project. Such changes in quantities and alterations shall not invalidate the Contract, and the Architect-Engineer agrees to perform the services as altered.

2. If the alterations or changes in quantities significantly change the character of the services under the Contract, whether or not changed by any such different quantities or alterations, an adjustment, excluding loss of anticipated profits, will be made to the Contract. The basis for the adjustment shall be agreed upon prior to the performance of the services. If a basis cannot be agreed upon, then an adjustment will be made either for or against the Architect-Engineer in such amount as the Contracting Officer may determine to be fair and reasonable.

3. If the alterations or changes in quantities significantly change the character of the services to be performed under the Contract, the altered services will be paid for as provided elsewhere in the Contract.

4. The term "significant change" shall be construed to apply only to the following circumstances:

a. When the character of the services as altered differs materially in kind or nature from that involved or included in the original proposed construction; or

b. When an item of work is increased in excess of 125 percent or decreased below 75 percent of the original Contract quantity. Any allowance for an increase in quantity shall apply only to that portion in excess of 125 percent of original Contract item quantity, or in the case of a decrease below 75 percent, to the actual amount of services performed.

5. If the parties fall to agree upon the adjustment to be made, the dispute shall be processed as provided in Article 10 hereof entitled "Disputes". Nothing provided in this section shall excuse the Architect-Engineer from proceeding with the prosecution of services so changed.

ARTICLE 7. EQUITABLE ADJUSTMENT OF CONTRACT TERMS

The Architect-Engineer is entitled to an equitable adjustment of the contract terms whenever the following situations develop:

A. Differing Site Conditions.

1. During the progress of the work, if subsurface or latent physical conditions are encountered at the site differing materially from those indicated in the Contract or if unknown physical

conditions of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in the work provided for in the Contract, are encountered at the site, the Architect-Engineer, upon discovering such conditions, shall promptly notify the Contracting Officer in writing of the specific differing conditions before they are disturbed and before the affected work is performed.

2. Upon written notification, the Contracting Officer will investigate the conditions, and if he/she determines that the conditions materially differ and cause an increase or decrease in the cost or time required for the performance of any work under the contract, or both, an adjustment, excluding loss of anticipated profits, will be made and the Contract modified in writing accordingly. The Contracting Officer will notify the Architect-Engineer of his/her determination whether or not an adjustment of the Contract is warranted.

3. No contract adjustment which results in a benefit to the Architect-Engineer will be allowed unless the Architect-Engineer has provided the required written notice; a failure to notify the Contracting Officer of the changed conditions prior to work being disturbed by said conditions shall constitute a permanent waiver of all right to compensation related to the changed conditions by the Architect-Engineer.

4. No contract adjustment will be allowed under this clause for any effects caused on unchanged work.

B. Suspension of Work Ordered by Contracting Officer.

1. If the performance of all or any portion of the work is suspended or delayed by the Contracting Officer in writing for an unreasonable period of time (not originally anticipated, customary, or inherent to the nature of the services) and the Architect-Engineer believes that additional compensation or contract time, or both, is due as a result of such suspension or delay, the Architect-Engineer shall submit to the Contracting Officer in writing a request for equitable adjustment within ten (10) days of receipt of the notice to resume work. The request shall set forth the reasons and support for such adjustment.

2. Upon receipt, the Contracting Officer will evaluate the Architect-Engineer's request. If the Contracting Officer agrees that the cost or time required for the performance of the Contract, or both, has increased as a result of such suspension and the suspension was caused by conditions beyond the control or and not the fault of the Architect-Engineer or its consultants or subcontractors at any approved tier, and not caused by weather, the Contracting Officer will make an adjustment (excluding profit) and modify the contract in writing accordingly. The Contracting Officer will notify the Architect-Engineer of his/her determination whether or not an adjustment of the Contract is warranted.

3. No contract adjustment will be allowed unless the Architect-Engineer has submitted the request for adjustment within the time prescribed; a failure to submit a request for adjustment in the time prescribed shall constitute waiver of all right to compensation related to the suspension of work by the Architect-Engineer.

ARTICLE 8. TERMINATION

A. Termination for Default. Termination, whether for default or convenience is not a Government claim. The Contracting Officer may terminate the Contract, or any task order issued thereunder by the Contracting Officer, for default, in whole or in part, if the termination is in the best interests of the Government, and the Architect-Engineer does any of the following:

1. Fails to complete the Services within the time specified in the Contract or any modification (including task orders);

2. Fails to make sufficient progress on contract performance so as to endanger performance

of the Contract (including any task order) within the time specified or in the manner specified in the Contract;

3. Fails or refuses to go forward with the services in accordance with the direction of the Contracting Officer;

4. Expresses through word or conduct an intention not to complete the services in accordance with the directions of the Contracting Officer;

5. Fails to perform any of the other provisions of the Contract (or any task order);

6. Materially deviates from the representations and capabilities set forth in the Architect-Engineer's response to the solicitation.

B. Final Decision of Contracting Officer. A termination for default is a final decision of the Contracting Officer. In order to contest a termination for default, the Architect-Engineer must submit a certified request to convert the termination for default to a termination for convenience with all documents supporting such conversion and comply with all Contract provisions and laws relating to terminations for convenience, including the submission of a certified termination for convenience settlement proposal. The submission of the certified request for conversion to a termination for convenience and certified termination settlement proposal to the Contracting Officer must occur prior to ninety (90) days from the date of the Contracting Officer's final decision.

C. Delays. If the Architect-Engineer refuses or fails to prosecute the services, or any separable part thereof, with such diligence as will provide for its completion within the time specified in the Contract, or any extension thereof, or fails to complete said services within the specified time, the District may, by written notice to the Architect-Engineer, terminate its right to proceed with the services or such part of the services involving the delay. In such event, the District may take over the services and prosecute the same to completion, by contract or otherwise, and may take possession of and utilize in completing the services such materials as may have been paid for by the District. Whether or not the Architect- Engineer's right to proceed with the services are terminated, the Architect-Engineer shall be liable for any liability to the District resulting from the Architect-Engineer's refusal or failure to complete the services within the specified time.

1. If fixed and agreed liquidated damages are provided in the Contract and if the District does not so terminate the Architect-Engineer's right to proceed, the resulting damage will consist of such liquidated damages until the services are completed and accepted.

2. The Architect-Engineer's right to proceed shall not be so terminated nor the Architect-Engineer charged with resulting damage if:

a) The delay in the completion the services arises from unforeseeable causes beyond the control and without the fault or negligence of the Architect-Engineer, including but not restricted to acts of God, acts of the public enemy, acts of the District in either its sovereign or contractual capacity, acts of another contractor in the performance of a contract with the District, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, climatic conditions beyond the normal which could be anticipated, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of both the Architect-Engineer and such consultants or subcontractors at any tier; and

b) The Architect-Engineer, within 72 hours from the beginning of any such delay, (unless the

Contracting Officer grants a further period of time before the date of final payment under the Contract) notifies the Contracting Officer in writing of the causes of delay.

3. The Contracting Officer shall ascertain the facts and the extent of the delay and extend the time for completing the services when, in his/her judgment, the findings of fact justify such an extension, and his/her findings of fact shall be final and conclusive on the parties, subject only to appeal as provided in Article 7 herein.

4. If, after notice of termination of the Architect-Engineer's right to proceed under the provisions of this Article, it is determined for any reason that the Architect-Engineer was not in default under the provisions of this Article, or that the delay was excusable under the provisions of this Article, the rights and obligations of the parties shall be in accordance with Article 6 herein. Failure to agree to any such adjustment shall be a dispute concerning a question of fact within the meaning of Article 7 herein.

5. The rights and remedies of the District provided in this Article are in addition to any other rights and remedies provided by law or under the Contract.

6. The District may, by written notice, terminate the Contract or a portion thereof as a result of an Executive Order of the President of the United States with respect to the prosecution of war or in the interest of national defense. When the Contract is so terminated, no claim for loss of anticipated profits will be permitted.

D. Opportunity to Cure. Notwithstanding the foregoing sections A and C, the Contract will not terminate as a result of the failure to perform if the Architect-Engineer begins, immediately upon receipt of such notice, to correct its failure to perform and proceeds diligently to cure such failure with no more than ten (10) days of receipt thereof. The Contracting Officer in its sole discretion, but is not obligated to, may extend the period to cure if the Department finds a legitimate reason for the extension.

E. Termination for Convenience of the District Government

1. The performance of services under the Contract, or any task order issued thereunder by the Contracting Officer, may be terminated by the District in accordance with this Article, in whole or in part, whenever the Contracting Officer shall determine that such termination is in the best interest of the District. Any such termination shall be effected by delivery to the Architect-Engineer of a Notice of Termination specifying the extent to which performance of services under the Contract (or task order) is terminated, and the date upon which such termination becomes effective.

2. After receipt of a Notice of Termination, and except as otherwise directed by the Contracting Officer, the Architect-Engineer shall:

a) Stop work under the Contract (or task order) on the date and to the extent specified in the Notice of Termination.

b) Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the services under the Contract (or task order) as is not terminated.

c) Terminate all orders and subcontracts to the extent that they relate to the performance of the services terminated by the Notice of Termination.

d) Assign to the District, in the manner, at the times, and to the extent directed by the Contracting Officer, all of the right, title and interest of the Architect-Engineer under the orders and subcontracts so terminated, in which case the District shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.

e) Settle all outstanding liabilities and all claims arising out of such termination of orders or subcontracts, with the approval or ratification of the Contracting Officer to the extent he/she may require, which approval or ratification shall be final for all purposes of this Article.

f) Transfer title to the District and deliver in the manner, at the times, and to the extent, if any, directed by the Contracting Officer completed, or partially completed plans, drawings, information and other property which, if the Contract (or task order) had been completed, would have been required to be furnished to the District.

g) Complete performance of such part of the services as shall not have been terminated by the Notice of Termination.

h) Take such action as may be necessary, or as the Contracting Officer may direct, for the protection and preservation of the property related to the Contract that is in the possession of the Architect-Engineer and in which the District has or may acquire an interest.

i) The Architect-Engineer shall proceed immediately with the performance of the above obligations notwithstanding any delay in determining or adjusting the cost, or any item of reimbursable cost, under this Article.

3. After receipt of a Notice of Termination, the Architect-Engineer shall submit to the Contracting Officer its termination claim, in the form with the certification prescribed by the Contracting Officer. Such claim shall be submitted promptly but in no event later than ninety (90) days from the effective date of termination, unless one or more extensions in writing are granted by the Contracting Officer upon request of the Architect-Engineer made in writing within such ninety (90)-day period or authorized extension thereof. In the event the Architect- Engineer was terminated for default and it asserts that it is entitled to a termination for convenience, its certified request for the conversion of the default termination to one for convenience and its certified termination settlement proposal must be submitted to the Contracting Officer prior to the expiration of ninety (90) days from the date of the default termination. With respect to a termination for convenience, if the Contracting Officer determines that the facts justify such action, he/she may receive and act upon any such termination claim at any time after such ninety (90)-day period or extension thereof. Nothing herein shall be construed to extend the time for the submission of a claim hereunder for a defaulted Architect-Engineer beyond ninety (90) days from the date of the default termination. Upon failure of the Architect- Engineer to submit his termination claim within the time allowed, the Contracting Officer may, subject to any review required by the District's procedures in effect as of the date of execution of the Contract, determine, on the basis of information available to him/her, the amount, if any, due to the Architect-Engineer by reason of the termination and shall thereupon pay to the Architect-Engineer the amount so determined.

4. Subject to the provisions of Section 3 above, and subject to any review required by the District's procedures in effect as of the date of execution of the Contract, the Architect-Engineer and Contracting Officer may agree upon the whole or any part of the amount or amounts to be paid to the Architect-Engineer by reason of the total or partial termination of services pursuant to this Article, which amount or amounts may include a reasonable allowance for profit on services completed; provided, that such agreed amount or amounts, exclusive of settlement costs, shall not exceed the total Contract price as reduced by the amount of

payments otherwise made and as further reduced by the Contract price of any services not terminated. The Contract shall be amended accordingly, and the Architect-Engineer shall be paid the agreed amount. Nothing in Section 5 below prescribing the amount to be paid to the Architect-Engineer in the event of failure of the Architect-Engineer and the Contracting Officer to agree upon the whole amount to be paid to the Architect-Engineer by reason of the termination of services pursuant to this Article, shall be deemed to limit, restrict or otherwise determine or effect the amount or amounts which may be agreed upon to be paid to the Architect-Engineer pursuant to this paragraph.

5. In the event of the failure of the Architect-Engineer and the Contracting Officer to agree as provided in Section 4 above upon the whole amount to be paid to the Architect-Engineer by reason of the termination of services pursuant to this Article, the Contracting Officer shall, subject to any review required by the District's procedures in effect as of the date of execution of the Contract, determine, on the basis of information available to him/her, the amount, if any, due the Architect-Engineer by reason of the termination and shall pay to the Architect-Engineer the amounts determined by the Contracting Officer, as follows, but without duplication of any amounts agreed upon in accordance with Section 4 above:

a) With respect to all Contract work performed prior to the effective date of the Notice of Termination, the total (without duplication of any items) of:

i) The cost of such services;

ii) The cost of settling and paying claims arising out of the termination of services under subcontracts or orders as provided in Section 2(e) above, exclusive of the amounts paid or payable on account of supplies or materials delivered or services furnished by the subcontractor prior to the effective date of the Notice of Termination of work under the Contract, which amounts shall be included in the cost on account of which payment is made under on Section 5(a)(i) above; and

iii) A sum, as profit on Section 5(a)(i) above, determined by the Contracting Officer to be fair and reasonable; provided however, that if it appears that the Architect-Engineer would have sustained a loss on the entire Contract had it been completed, no profit shall be included or allowed under this subparagraph and an appropriate adjustment shall be made reducing the amount of the settlement to reflect the indicated rate of loss; and provided further that profit shall be allowed only on preparations made and services performed by the Architect-Engineer for the terminated portion of the Contract (or task order) but may not be allowed on the Architect-Engineer's settlement expenses. Anticipatory profits and consequential damages shall not be allowed. Any reasonable method may be used to arrive at a fair profit, separately or as part of the whole settlement.

b) The reasonable cost of the preservation and protection of property incurred pursuant to Section 2(i); and any other reasonable cost incidental to termination of services under the Contract including expense incidental to the determination of amount due to the Architect-Engineer as the result of the termination of work under the Contract.

6. The total sum to be paid to the Architect-Engineer under Section 5(a) above shall not exceed the total Contract price as reduced by the amount of payments otherwise made and as further reduced by the Contract price of services not terminated. Except for normal spoilage, and except to the extent that the District shall have otherwise expressly assumed the risk of loss, there shall be excluded from the amounts payable to the Architect-Engineer under Section 5(a) above, the fair value, as determined by the Contracting Officer, of property which is destroyed, lost, stolen or damaged so as to become undeliverable to the District

7. The Architect-Engineer shall have the right of appeal, under Article 9 herein, from any determination made by the Contracting Officer under Sections 3 or 5, above, except that, if

the Architect-Engineer has failed to submit its claim within the time provided in Section 3 above and has failed to request extension of such time, the Architect-Engineer shall have no such right of appeal. In any case where the Contracting Officer has made a determination of the amount due under Sections 3 or 5, above, the District shall pay to the Architect-Engineer the following:

a) If there is no right of appeal hereunder or if no timely appeal has been taken, the amount so determined by the Contracting Officer, or

b) If an appeal had been taken, the amount finally determined on such appeal.

8. In arriving at the amount due the Architect-Engineer under this Article there shall be deducted:

a) all unliquidated advance or other payments on account theretofore made to the Architect-Engineer, applicable to the terminated portion of the Contract (or task order);

b) any claim which the District may have against the Architect-Engineer in connection with the Contract; and

c) the agreed price for, or the proceeds of sale of, any materials, supplies or other things kept by the Architect-Engineer or sold, pursuant to the provisions of this Article and not otherwise recovered by or credited to the District.

9. If the termination hereunder be partial, prior to the settlement of the terminated portion of the Contract (or task order), the Architect-Engineer may file with the Contracting Officer a request in writing for an equitable adjustment of the price or prices specified in the Contract relating to the continued portion of the Contract (the portion not terminated by the Notice of Termination), and such equitable adjustment as may be agreed upon shall be made at such price or prices; however, nothing contained herein shall limit the right of the District and the Architect-Engineer to agree upon the amount or amounts to be paid to the Architect-Engineer for the completion of the continued portion of the Contract when said Contract does not contain an established Contract price for such continued portion.

10. The District may from time to time, under such terms and conditions as it may prescribe, make partial payments against costs incurred by the Architect-Engineer in connection with the terminated portion of the Contract (or task order) whenever in the opinion of the Contracting Officer the aggregate of such payments shall be within the amount to which the Architect-Engineer will be entitled hereunder. If the total of such payments is in excess of the amount finally agreed or determined to be due under this Article, such excess shall be payable by the Architect-Engineer to the District upon demand, together with interest in accordance with the Quick Payment Act, D.C. Official Code §2-221.01 *et seq*.

11. Unless otherwise provided in the Contract or by applicable statute, the Architect-Engineer, from the effective date of termination and for a period of three (3) years after final settlement under the Contract, shall preserve and make available to the District at all reasonable times at the office of the Architect-Engineer, but without direct charge to the District, all its books, records, documents and other evidence bearing on the costs and expenses of the Architect-Engineer under the Contract and relating to the services terminated hereunder, or, to the extent approved by the Contracting Officer, photographs and other authentic reproductions thereof.

12. By virtue of a Termination for Convenience, the Architect-Engineer shall not become entitled to payment for defective services, deficient services, rejected services, or services not in accordance with the plans or specifications set forth in the Contract.

ARTICLE 9. DISPUTES

A. Generally. All disputes arising under or relating to the Contract shall be resolved as provided herein.

B. Claims by the Architect-Engineer against the District.

1. Claim, as used in this Section B of Article 9, means a written assertion by the Architect- Engineer 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 the 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 the Architect-Engineer against the District arising under or relating to the Contract shall be in writing and shall be submitted to the Contracting Officer for a decision.

b) Within 120 days after receipt of a claim, the Contracting Officer shall issue a decision, whenever possible taking 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 Architect-Engineer.

c) Any failure by the Contracting Officer to issue a decision on a Contract claim within the required time period shall be deemed to be a denial of the claim and shall authorize the commencement of an appeal on the claim as otherwise provided.

i) If the Architect-Engineer is unable to support any part of its claim and it is determined that the inability is attributable to a material misrepresentation of fact or fraud on the part of the Architect-Engineer, the Architect-Engineer 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 Architect-Engineer's claim.

ii) Liability under this section shall be determined within six (6) years of the commission of the misrepresentation of fact or fraud.

d) All cost data, pricing data, and task data of claims hereunder must be certified as accurate, complete, required, and necessary to the best of the Architect-Engineer's knowledge and belief. Further, all task or work data in the claim must be described therein to the smallest unit of work or task. The Contracting Officer may require any additional certifications, descriptions or explanations of the claim.

e) The parties agree that time is of the essence and all claims hereunder must be presented to the Contracting Officer for a final decision within thirty (30) days of the occurrence of the circumstances giving rise to such claim or within thirty (30) days of when the Architect-Engineer knew or should have known of the circumstances giving rise to such claim, otherwise compensation for that claim is waived.

f) The parties agree that there shall be no claims for unabsorbed home office overhead.

2. The Architect-Engineer's claim shall contain at least the following:

a) A description of the claim and the amount in dispute;

b) Any data or other information in support of the claim;

c) A brief description of the Architect-Engineer's efforts to resolve the dispute prior to filing the claim; and

d) The Architect-Engineer's request for relief or other action by the Contracting Officer.

e) The certification of the accuracy, completeness, requirement, and necessity of all aspects of the claim.

3. 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 Architect-Engineer.

4. Pending final decision of an appeal, action, or final settlement, the Architect-Engineer shall proceed diligently with performance of the contract in accordance with the decision of the Contracting Officer.

C. Claims by the District Against the Architect-Engineer.

1. Claim as used in this Section C of Article 9, means a written demand or written assertion by the District, including the Contracting Officer, 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 the 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. Nothing herein shall be construed to require the District to notify the Architect-Engineer prior to the issuance of the Contracting Officer's final decision.

2.

a) All claims by the District against the Architect-Engineer arising under or relating to a contract shall be decided by the Contracting Officer, who shall issue a decision in writing and furnish a copy of the decision to the Architect-Engineer.

b) The decision shall be supported by reasons and shall inform the Architect-Engineer of its rights. Specific findings of fact shall not be required.

3. This clause shall not authorize the Contracting Officer to settle, compromise, pay, or otherwise adjust any claim involving fraud.

4. 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 Architect-Engineer.

5. Pending final decision of an appeal, action, or final settlement, the Architect-Engineer shall proceed diligently with performance of the contract in accordance with the decision of the Contracting Officer.

6. The Contracting Officer may enter into a voluntary exclusion agreement with the Architect-Engineer in order to settle any claim or dispute between the parties.

ARTICLE 10. RETENTION AND EXAMINATION OF RECORDS

Unless otherwise provided in the Contract, or by applicable statute, the Architect-Engineer, from the effective date of Contract completion and for a period of three (3) years after final settlement under the Contract, shall preserve and make available to the District at all reasonable times at the office of the Architect-Engineer but without direct charge to the District, all its books, records, documents, and other evidence bearing on the costs and expenses of the Architect-Engineer under the Contract.

ARTICLE 11. COVENANT AGAINST CONTINGENT FEES

The Architect-Engineer warrants that no person or selling agency has been employed or retained to solicit or secure the Contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Architect-Engineer for the purpose of securing business. For breach or violation of this warranty, the District shall 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 such commission, percentage, brokerage or contingent fee.

ARTICLE 12. OFFICIALS NOT TO BENEFIT

A. District Employees Not To Benefit. Unless a determination is made as provided herein, no officer or employee of the District will be admitted to any share or part of the 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 the Contract if made with a corporation for its general benefit. A District employee shall not be a party to a contract with the District and will not knowingly cause or allow a business concern or other organization owned or substantially owned or controlled by the employee to be a party to such a contract, unless a written determination has been made by the head of the procuring agency that there is a compelling reason for contracting with the employee, such as when the District's needs cannot reasonably otherwise be met in accordance with DC Procurement Practices Act of l985, D.C. Law 6-85, D.C. Official Code, section 2-310.01, and Chapter 18 of the DC Personnel Regulations. The Architect-Engineer 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 Architect-Engineer further covenants not to employ any person having such known interests in the performance of the Contract.

B. Anti-Competitive Practices and Anti-Kickback Provisions.

1. The Architect-Engineer recognizes the need for markets to operate competitively and shall observe and shall comply with all applicable law, rules, and regulations prohibiting anti-competitive practices. The Architect-Engineer shall not engage, directly or indirectly, in collusion or other anti-competitive practices that reduces or eliminates competition or restrains trade. The District shall report to the appropriate authority any activity that evidences a violation of the antitrust laws, and take such other further action to which it is entitled or obligated under the law.

2. The Architect-Engineer shall observe and comply with all applicable law, rules, and regulations prohibiting kickbacks and, without limiting the foregoing, Architect-Engineer shall not (i) provide or attempt to provide or offer to provide any kickback; (ii) solicit, accept, or attempt to accept any kickback; or (iii) include, directly or indirectly, the amount of any

kickback in the contract price charged by Architect-Engineer or a Subcontractor of the Architect-Engineer to the District. The Architect-Engineer shall have in place and follow reasonable procedures designed to prevent and detect possible violations described in this subparagraph in its own operations and direct business relationships. The District may take any recourse available to it under the law for violations of this anti-kickback provision.

ARTICLE 13. CONFLICT OF INTEREST AND ETHICS

A. Former Employees Generally. Pursuant to Public Law 95-521, as amended, no former employee of the United States District or the District of Columbia:

1. Shall knowingly represent the Architect-Engineer before any District agency through personal appearance or communication in connection with a matter involving specific parties to the Contract where the former District employee participated personally and substantially in this matter while employed with the District.

2. Shall within two (2) years after terminating District employment knowingly represent the Architect-Engineer before any District agency through personal appearance or communication in connection with a matter involving specific parties to the Contract were the matter was pending under the official responsibility of the former employee within one (1) year prior to termination of District service.

B. Former Senior Employees. Pursuant to Public Law 95-591, as amended, no former senior level officer or former senior level employee of the United States District or the District of Columbia District named in or designated by the Contracting Officer of the Office of District Ethics under Section 207(d) of Title 18 USC:

1. Shall, within two (2) years after terminating District employment knowingly represent or aid counsel, advise, consult or assist in representing any other person by personal presence at any formal or informal appearance before any District agency in connection with a matter involving specific parties where the former employee participated personally aid substantially in that matter while employed with the District.

2. Shall, within one (1) year after terminating District employment knowingly act as an agent or attorney for or otherwise represent anyone in any formal or informal appearance before or with the intent to influence make any written or oral communication on behalf of anyone to his or her former District or agency or any of its officers or employees or (2) in connection with any particular District matter, whether or not involving a specific party which is pending before such District or agency or in which it has a direct and substantial interest.

C. Conflict of Interest. The Architect-Engineer represents and warrants that neither it nor any of its directors, officers, members, partners or employees, has any interest nor shall they acquire any interest, directly or indirectly, which would or may conflict in any manner or degree with the performance or rendering of the services herein provided. The Architect-Engineer represents and warrants that, in the performance of the Contract, no person having such interest or possible interest shall be employed by it. No elected official or other officer or employee of the District, nor any person whose salary is payable, in whole or in part, from the District Treasury, shall participate in any decision relating to the Contract which affects his/her personal interest or the interest of any corporation, partnership or association in which he/she is, directly or indirectly, interested; nor shall any such person have any interest, direct or indirect, in the Contract or in the proceeds

thereof.

D. No Kick-Backs. The Architect-Engineer shall not offer or receive any kickbacks or inducements from any other offeror, supplier, manufacturer or subcontractor in connection with the Contract. The Architect-Engineer shall not confer on any public employee having official responsibility for the Contract any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value.

E. No Contractor Employment. No official or employee of the District of Columbia whose duties as such official or employee include matters relating to or affecting the subject matter of the Contract shall, during the pendency and term of the Contract and/while serving as an official or employee of the District of Columbia, become or be an employee of the Architect-Engineer or any entity that is a subcontractor on the Contract.

ARTICLE 14. DISMISSALS AND REPLACEMENT OF KEY PERSONNEL

A. Dismissals by the District. Should the continued employment of any person or persons in the Architect-Engineer's organization under the Contract be deemed by the Contracting Officer to be prejudicial to the interests of the District, such person or persona shall be immediately removed from the work hereunder. The Architect-Engineer shall make every effort in the selection of its employees and in the prosecution of the work under the Contract to safeguard all drawings and specifications and to prevent the theft conversion or unauthorized use of the same.

B. Replacement of Key Personnel. No substitutions for Key Personnel shall be permitted unless approved by the Contracting Officer. Any proposed replacement for Key Personnel must possess qualifications substantially similar to those of the Key Personnel being replaced and are subject to the prior written approval of the Contracting Officer. In addition, at the Contracting Officer's request at any time, the Architect-Engineer shall remove any Key Personnel or other personnel and substitute another employee of the Architect-Engineer or its subcontractors reasonably satisfactory to the Contracting Officer. The Contracting Officer may request such substitution at any time, in his/her sole discretion.

C. Liquidated Damages. In order to maintain project continuity the District expects that the Architect-Engineer will assign the same project managers to all phases of the Project and that such personnel will be available to oversee and coordinate the services throughout the Project. Accordingly, the Architect-Engineer's designated Key Personnel shall be subject to liquidated damages for their removal or reassignment by the Architect-Engineer. In each instance where the Architect-Engineer removes or reassigns one of its Key Personnel (but excluding instances where such personnel become unavailable due to death, disability, or separation from the employment of the Architect-Engineer or any affiliate of the Architect-Engineer) without the prior written consent of the Contracting Officer, the Architect-Engineer shall pay to the District an amount set forth in the Contract as liquidated damages and not a penalty, to reimburse the District for its administrative costs arising from the Architect-Engineer's failure to provide the Key Personnel. The foregoing liquidated damage amount shall not bar recovery of any other damages, costs or expenses other than the District's internal administrative costs. In addition, the District shall have the right, to be exercised in its sole discretion, to remove, replace or to reduce the Scope of Services of the Architect-Engineer in the event that a member of the Key Personnel has been removed or replaced by the Architect-Engineer without the consent of the District. In the event the District exercises the right to remove, replace or to reduce the Scope of Services of the Architect-Engineer, the District shall have the right to enforce the terms of the Contract and to keep-in-place those members of the Architect-Engineer's team not removed or replaced and the remaining members

shall complete the services required under the Contract in conjunction with the new members of the Architect-Engineer's team approved by the District.

ARTICLE 15. COMPLIANCE WITH FEDERAL AND DISTRICT OF COLUMBIA LAWS AND REGULATIONS

A. Generally. The Architect-Engineer shall at all times exercise the professional skill and care required by Section 2.F of these Standard Contract Provisions in observing and complying with all laws, codes, regulations, orders and decree set forth by any department, agency or branch of the United States District, and the District of Columbia applicable to the services.

B. Equal Opportunity: Non-Discrimination in Employment. During the performance of the Contract the Architect-Engineer shall comply with the provisions of Mayor's Order 85-85 as implemented by Title 4, Chapter 11 – Equal Employment Opportunity Requirements in Contracts, 33 DCR 4952 (August 15, 1986).

C. Buy American Act.

1. *Agreement*—In accordance with the Buy American Act (41 USC l0a-l0d), and Executive Order 10582. December 17, 1954 (3 CFR, 1954-58 Comp., p. 230), as amended by Executive Order 11051, September 27,1962 (3 CFR, l059—63 Comp., p. 635), the Architect-Engineer agrees that only domestic construction material will be used by the Architect-Engineer, subcontractors, material men and suppliers in the performance of the Contract, except for non-domestic material listed in the Contract.

2. *Domestic Construction Material*—"Construction material" means any article, material or supply brought to the construction site for incorporation in the building or work. An unmanufactured construction material is a "domestic construction material" if it has been mined or produced in the United States. A manufactured construction material is a "domestic construction material" if it has been manufactured in the United States and if the cost of its components which have been mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. "Component" means any article, material, or supply directly incorporated in a construction material.

3. *Domestic Component*—A component shall be considered to have been "mined, produced, or manufactured in the United States" regardless of its source, in fact, if the article, material or supply in which it is incorporated was manufactured in the United States and the component is of a class or kind determined by the District to be not mined, produced or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

4. *Foreign Material* – When steel materials are used in a project a minimal use of foreign steel is permitted. The cost of such materials cannot exceed on-tenth of one percent of the total project cost, or $2,500,000, whichever is greater.

D. Service Contract Act. The Architect-Engineer agrees that the work performed under this Contract shall be subject to the Service Contract Act (41 U.S.C. 351 *et seq.*). The wage rates applicable to this Project shall be attached as an exhibit to the Contract. The Architect-Engineer further agrees that it and all of its subcontractors shall comply with the regulations implementing the Service Contract Act and such regulations are hereby incorporated by reference.

E. False Claims Act. The Architect-Engineer shall be governed by all laws and regulations prohibiting false or fraudulent statements and claims made to the government, including the prescriptions set forth in District of Columbia Code §22-2405 and §§2-381.01 et seq.

ARTICLE 16. APPOINTMENT OF ATTORNEY

The Architect-Engineer does hereby irrevocably designate and appoint the Clerk of the Superior Court of the District and his successors in office as the true and lawful attorney of the Architect-Engineer for the purpose of receiving service of all notices and processes issued by any court in the District, as well as service of all pleadings and other papers, in relation to any action or legal proceeding arising out of or pertaining to the Contract or the work required or performed hereunder.

The Architect-Engineer 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 Architect-Engineer 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 Architect-Engineer failed to receive a copy of such process, notice, pleading or other paper so served upon the said Clerk, provided that said Clerk shall have deposited in the United States mail, certified and postage prepaid, a copy of such process, notice, pleading or other papers addressed to the Architect-Engineer at the address stated in the Contract.

ARTICLE 17. INDEMNIFICATION

A. Violation of Laws, Regulations, Specifications, and Breach of Contract. If the Architect-Engineer violates any laws, regulations, codes or industry standards relating to the Project, the Architect-Engineer shall take prompt action to correct or abate such violation and shall indemnify and hold the District of Columbia and its officials, officers, agents, and employees, the Department and its consultants, representatives, agents, servants and employees harmless against any and all claims or liability, damages, fines, penalties, third party claims, suits, awards, actions, causes of action or judgments, including but not limited to reasonable attorney's fees and costs incurred thereunder, arising from or based on the violation of any such law, code, regulation, codes or industry standards, order or decree in performance of the Contract services whether by the Architect-Engineer, an employee or agent of the Architect-Engineer, any person, firm or corporation employee engaged by the Architect-Engineer or contractually associated with the Architect-Engineer in the performance of or in connection with the Services contemplated or performed under the Contract.. If the Architect-Engineer breaches the terms of this Contract, including the solicitation, letter contract, standard contract provisions, directives, specifications, manufacturer's specifications, and the RFP, the Architect-Engineer shall indemnify and hold the Department and its consultants, representatives, agents, servants and employees harmless against any damages, fines, penalties, claims, suits, awards, actions, causes of action or judgments, including but not limited to reasonable attorney's fees and costs incurred thereunder, that result from such breach.

B. Professional Services. To the fullest extent permitted by law, the Architect-Engineer shall defend, indemnify and hold harmless the Department and the Department's consultants and agents and employees from and against claims, damages, losses and expenses, including but not limited to reasonable attorneys' fees, arising out of or resulting from performance of the services, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Architect-Engineer, a consultant or subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party

indemnified hereunder.

C. Non-Professional Services. In addition, other than claims arising out of the performance of professional services, the Architect-Engineer shall defend, indemnify and hold harmless the Department, its representatives, consultants, officers, agents, servants and employees, from and against claims, liabilities, demands, losses, damages, judgments, costs, or expenses, including reasonable attorneys' fees and expenses recoverable under applicable law, to the extent such claims are caused by acts or omissions of the Architect-Engineer, a consultant or subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder or arising out of the Contract services, provided that, such claims arise out of non-professional services required under the Contract.

D. Third Party Disputes. Disputes between the Architect-Engineer and any subcontractors, material suppliers, or any other third parties over payments allegedly owed by the Architect-Engineer to a third party shall be resolved exclusively between the Architect-Engineer and the third party; the Architect-Engineer shall permit no pass-through suits to be brought against the District by a third party in the Architect-Engineer's name. However, nothing herein shall be construed to prevent the Architect-Engineer from paying a subcontractor's claim and seeking a timely equitable adjustment hereunder.

ARTICLE 18. SUBCONTRACTORS AND/OR OUTSIDE ASSOCIATES AND CONSULTANTS

A. Prior Consent Required. Except as otherwise provided in this Section 18 (A), the Architect-Engineer shall not delegate or enter into any Subcontracts for the performance of its obligations under the Contract, in whole or in part, without on each occasion obtaining the prior written consent of the Contracting Officer. Any subcontractors and/or outside associates or consultants required by the Architect-Engineer in connection with the Services covered by the Contract shall be limited to such individuals or firms as were specifically identified in the Architect-Engineer's written proposal and approved by the District during negotiations. Any proposed changes in such subcontractors, associates, or consultants shall be subject to the prior written approval of the Contracting Officer.

B. Requests. The Architect-Engineer shall submit to the Contracting Officer copies of all proposed subcontract(s) to be entered into by the Architect-Engineer, along with the Architect-Engineer's written request for the District's consent. All such subcontracts must specify that:

1. work performed by the subcontractor shall be in accordance with the terms of the Contract;

2. nothing contained in such subcontract shall be construed to impair the rights of the District under the Contract;

3. the District's consent to or approval of any subcontract shall not create any obligation of the District to any subcontractor;

4. nothing contained in such subcontract, or under the Contract, shall create any obligation of the District to any subcontractor;

5. the District shall be expressly designated a third party beneficiary of the subcontract;

6. upon request by the District (at the District's sole option) and upon receipt of written notice from the District stating that the Contract between the District and the Architect-Engineer has been

terminated, the subcontractor agrees that it will continue to perform its obligations under the subcontract for the benefit of the District in accordance with the terms and conditions of the Contract, provided the District pays the subcontractor for the services rendered and materials provided by the subcontractor from and after the date of the termination of the Contract between the District and the Architect-Engineer at the same rate or in the same amount as set forth in the subcontract for services and materials after such date of termination;

7. the subcontractor shall be bound by the same requirements as the Architect-Engineer including confidentiality, maintenance and preservation of records, and audit by government representatives, under the Contract; and

8. the subcontractor agrees (i) to assign and transfer to the District all of its rights to sales and use tax which may be refunded as a result of a claim for refund for any materials purchased in connection with the subcontract or the Contract, (ii) that, other than as directed by the District, it will not file a claim for refund for any sales or use tax which is the subject of this assignment; and (iii) that the District, in its own name or in the name of subcontractor, may file a claim for a refund of any sales or use tax covered by the assignment.

C. No Relief of Obligations. No permitted subcontract shall relieve the Architect-Engineer of any obligation under the Contract. The Architect-Engineer shall be as fully responsible for the acts and omissions of its subcontractors or persons either directly or indirectly employed by them, as it is for the acts and omissions of the Architect-Engineer or persons directly or indirectly employed by the Architect-Engineer.

D. No Effect. Any purported subcontract in violation of this Section or of any other section in the Contract shall be of no force and effect.

E. Right to Reject. The District may, in its sole discretion, reject any or all bids and proposals received by the Architect-Engineer from any subcontractor for any portion of the services, and may require the Architect-Engineer to obtain new or revised bids or proposals or subcontractors.

F. Incorporation by Reference. Any agreement the Architect-Engineer makes with a subcontractor, outside associate or consultant shall incorporate specifically or by reference thereto, each and every provision of the Contract, these Standard Contract Provisions, the Attachment(s) and Appendices hereto, and if applicable, the District's Standard Contract Provisions for Construction Contracts.

ARTICLE 19. WAIVER

No waiver by the District or the Architect-Engineer of any breach of any provision of the Contract shall operate as a waiver of such provision or of the Contract or as a waiver of subsequent or other breaches of the same or any other provision of the Contract; nor shall any action or non-action by the Contracting Officer or by the District or the Architect-Engineer be construed as a waiver of any provision of the Contract or of any breach thereof unless the same has been expressly declared or recognized as a waiver by the Contracting Officer or the District or the Architect-Engineer, as applicable, in writing.

ARTICLE 20. PATENTED AND PROPRIETARY ITEMS

A. Prior Approval Required. The Architect-Engineer shall not, without the prior written approval of the Contracting Officer, specify for the Project, or necessarily imply the required use of any article, product, material, fixture or form of construction, the use of which is covered by a patent, or which

is otherwise exclusively controlled by a particular firm or group of firms.

B. Indemnity. The Architect-Engineer shall be liable to and hereby agrees to defend, indemnify and hold harmless the District against any claim, action cost or judgment against the District for patent infringement, trademark violation, copyright violation or infringement of rights in technical data, in any systems, graphs, charts, designs, drawings or specifications furnished by the Architect-Engineer in the performance of the Contract.

ARTICLE 21. TRANSFER OR ASSIGNMENT OF CONTRACT

A. Prior Consent Required. Unless otherwise provided by law, neither the Contract nor any interest therein may be transferred or assigned by the Architect-Engineer to any other party without the written consent of the Contracting Officer; and any attempted transfer or assignment not authorized by this Article shall constitute a breach of the Contract and the District may for such cause terminate the Contract for default and terminate the right of the Architect-Engineer to proceed in the same manner as provided in Article 8.B. herein, and the Architect-Engineer shall be liable to the District for any excess cost occasioned the District thereby.

B. Monies. The Architect-Engineer shall not assign any right to any monies to be paid under the Contract, without on each occasion obtaining the prior written consent of the Contracting Officer. In no case shall approval by the District of the assignment of any monies to be paid under the Contract relieve the Architect-Engineer from its obligations hereunder or change the remaining terms of the Contract. Any purported assignment in violation of this Article shall be of no effect.

C. Applicability in Case of Bankruptcy or Insolvency. A receiver or trustee in any federal or state bankruptcy, insolvency or other proceedings shall comply with the requirements set forth in the Standard Contract Provisions.

D. Obligation of Architect-Engineer. The Architect-Engineer acknowledges that the Services are the obligation of the Architect-Engineer and the District shall have no obligation to accept performance by a third party without the Contracting Officer's prior and express written consent.

E. Failure to Obtain Consent. Failure to obtain the previous written consent of the Contracting Officer to such an assignment, transfer or conveyance, shall justify, at the option of the Contracting Officer, the revocation and annulment of the Contract. The District shall thereupon be relieved and discharged from any further liability and obligation to the Architect-Engineer, his assignees or transfers, and the Architect-Engineer and his assignees shall forfeit and lose all monies theretofore earned under the Contract, except so much as may be required to pay the Architect-Engineer's employees.

F. Assignment by the District. This Contract may be assigned by the District to any corporation, agency or instrumentality of the District having authority to accept such assignment.

ARTICLE 22. QUALIFICATIONS

A. Signatory Authority and Qualifications. The Architect-Engineer hereby warrants that the signature or signatures herein before affixed are duly authorized further the Architect-Engineer warrants as a true statement any and all statements of qualification with respect to but not limited to professional status premises, employees experience and financial standing such as may be set forth in documents furnished by the Architect-Engineer or required by the District for the purpose of securing the District's consent to enter into the Contract. Misrepresentation shall be

cause for termination for default of the Contract and such other action as may be appropriate including with limitation suspension and debarment and civil or criminal penalties.

B. Good Standing. If the Architect-Engineer is an entity, the Architect-Engineer is either: (1) a not-for-profit corporation or other entity determined to be tax exempt pursuant to section 501(c) of the Internal Revenue Code by the Internal Revenue Service; or (2) a business corporation, partnership or other business entity duly organized, validly existing and in good standing under the laws of the state of its incorporation or organization. The Architect-Engineer shall also be duly licensed, qualified and in good standing in the District of Columbia. The Architect-Engineer's loss of good standing is grounds for Termination for Default without liability upon the Department.

C. Authority to Act. The Architect-Engineer has full legal power and authority to enter and perform the Contract and provide the Services without resulting in a default under or a breach or violation of (1) the Architect-Engineer's certificate or articles of incorporation or bylaws or other organizational documents, if applicable; (2) any applicable law, or any license, permit or other instrument or obligation to which the Architect-Engineer is now a party or by which the Architect-Engineer may be bound or affected; and (3) the Architect-Engineer's tax exempt status, if applicable.

D. Legal Obligation. The Contract has been duly authorized, executed and delivered by the District and the Architect-Engineer, by and through persons authorized to execute the Contract on their respective behalf, and constitutes the legal, valid and binding obligation of the District and the Architect-Engineer, enforceable against the District and the Architect-Engineer in accordance with its terms.

E. No Litigation Preventing Performance. There is no litigation, claim, consent order, settlement agreement, investigation, challenge or other proceeding pending or threatened against the Architect-Engineer, its properties or business, or any individuals acting on the Architect-Engineer's behalf, including, without limitation, subcontractors, which seek to enjoin or prohibit the Architect-Engineer from entering into or performing its obligations under the Contract.

F. Requisite Licensure and Qualifications. The Architect-Engineer and all of the entities and individuals acting on the Architect-Engineer's behalf, including, without limitation, consultants and subcontractors, in connection with the Services under the Contract, possess and, at all times during the term of the Contract, shall possess all licenses, certifications, qualifications, or other credentials as required in accordance with all applicable laws, regulations and the terms of the Contract, to perform the Services. The Architect- Engineer shall provide the District with copies of all licenses, credentials, and/or certifications specified in this Section within five (5) days of request by the District.

ARTICLE 23. ARCHITECT-ENGINEER'S WARRANTY AGAINST DEBARMENT

The Architect-Engineer certifies that it is not currently (i) debarred, suspended or excluded, (ii) a party to a voluntary exclusion agreement, or (iii) otherwise enjoined from submitting bids or proposals on contracts for the type of services covered by the Contract, nor is the Architect-Engineer an agent of any person or entity that is currently so debarred, suspended, excluded or otherwise enjoined.

ARTICLE 24. RECOVERY OF DEBTS OWED THE GOVERNMENT

The Architect-Engineer hereby agrees that the Department may use all or any portion of any payment, consideration or refund due the Architect-Engineer under the Contract to satisfy, in whole or part, any debt due the District.

ARTICLE 25. ADMINISTRATIVE LIQUIDATED DAMAGES

In addition to any other liquidated damages provided for in the Contract, the Architect-Engineer hereby agrees that the Government may assess administrative liquidated damages for the Architect-Engineer's failure to submit when due any deliverable required by the Contract. Unless otherwise prescribed by the Contracting Officer, the rate of the administrative liquidated damages shall be $250 per day until the required deliverable is received and accepted by the Department. The Department's remedies for failure to comply with the Contract terms and conditions are cumulative and not exclusive. Nothing herein shall be construed to limit the Department's ability to terminate the Architect-Engineer for the failure to submit Contract deliverables when due.

ARTICLE 26. FORCE MAJEURE

If the Architect-Engineer, because of Force Majeure, is rendered wholly or partly unable to perform its obligations when due under this Contract, the Architect-Engineer may be excused from whatever performance is affected by the Force Majeure to the extent so affected. In order to be excused from its performance obligations under this Contract by reason of Force Majeure, within 72 hours of the occurrence or event, the Architect-Engineer must provide the Contracting Officer written notice of its inability to perform as well as a description of the Force Majeure and its effect on Contract performance. The Contracting Officer will have the right to cause the inspection of the work site to determine the validity of the Architect-Engineer's assertion of its inability to perform. If the Contracting Officer agrees that the Architect-Engineer is wholly or partly unable to perform its obligations under the Contract a decision will be issued indicating the extent to which the Architect-Engineer is excused from its performance obligations. In no event will the Contractor be entitled to money damages from the Department due to Force Majeure.

Attachment I - SBE Subcontracting Plan

SBE SUBCONTRACTING PLAN

INSTRUCTIONS: All construction & non-construction contracts for **government-assisted projects** (**agency contracts** & **private project with District subsidy**) over $250,000, shall require at least 35% of the amount of the contract (total amount of agency contract or total private project development costs) be subcontracted to Small Business Enterprises (SBE), if insufficient qualified SBEs to Certified Business Enterprises (CBE). The SBE Subcontracting Plan must list all SBE and CBE subcontracts at every tier. Once the SBE Subcontracting Plan is submitted for agency contracts, options & extensions, it can only be amended with DSLBD's consent.

SUBMISSION OF SBE SUBCONTRACTING PLAN:

- For **agency** solicitations - submit to agency with bid/proposal.
- For **agency** options & extensions - submit to agency before option or extension exercised.
- For **private projects** - submit to DSLBD, agency project manager and District of Columbia Auditor, with each quarterly report. As private projects may not have awarded all contracts at the time the District subsidy is granted, the SBE Subcontracting Plan may be submitted simultaneously with each quarterly report and list all SBE/CBE subcontracts executed by the time of submission.

CREDIT: For each subcontract listed on the SBE Subcontracting Plan, credit will only be given for the portion of the subcontract performed, at every tier, by a SBE/CBE using *its own organization and resources*. **COPIES OF EACH FULLY EXECUTED SUBCONTRACT WITH SBEs and CBEs (AT EVERY TIER) MUST BE PROVIDED TO RECEIVE CREDIT**.

EXEMPTION: If the **Beneficiary (Prime Contractor or Developer)** is a CBE and will perform the ENTIRE **government-assisted project** with its *own organization and resources* and will NOT subcontract any portion of the services and goods, then the CBE is not required to subcontract 35% to SBEs.

BENEFICIARY (✓ which applies ☐ Prime Contractor or ☐ Developer) INFORMATION:

Company:_____ Contact # _____ Email address: _____

Street Address: _____

✓all that applies, Company is:

- ☐ **a SBE** ☐ **a CBE** ☐ **CBE Certification Number:** _____
- ☐ **WILL perform the ENTIRE agency contract or private project with its own organization and resources**
- ☐ **WILL subcontract a portion of the agency contract or private project**

Company's point of contact for agency contract or private project:

Point of Contact:_____ Title: _____

Contact # _____ Email address: _____

Street Address: _____

GOVERNMENT-ASSISTED PROJECT (✓ which applies ☐ Agency Contract or ☐ Private Project) INFORMATION:

AGENCY SOLICITATION

Solicitation Number _____
Solicitation Due Date: _____
Agency : _____
Total Dollar Amount of Contract: $ _____

**Design-Build must include total contract amount for both design and build phase of project.*

35% of Total Dollar Amount of Contract: $_____

Total Amount of All SBE/CBE subcontracts: $_____
(include every lower tier)

PRIVATE PROJECT

District Subsidy: _____
Agency Providing Subsidy: _____
Amount of District Subsidy:_____
Date District Subsidy Provided:_____

Project Name: _____

Project Address: _____

Total Development Project Budget: $ _____
(include pre-construction and construction costs)

35% of Total Development Project Budget: $ _____

Total Amount of All SBE/CBE subcontracts: $ _____
(include every lower tier)

SBE/ CBE SUBCONTRACTORS (FOR EACH TIER):

SBE/ CBE SUBCONTRACTOR INFORMATION: *(For design-build projects, the SBE Subcontracting Plan is not required to be submitted for preconstruction services; however, a full SBE Subcontracting Plan (*35% of the contract amount ***including total design and build costs****) is required to be submitted before entering into a guaranteed maximum price or contract authorizing construction.)*			
SBE/ CBE Company	Address/Telephone No./ Email	Subcontractor Tier (1st, 2nd, 3rd, etc.)	Description of Subcontract scope of work to be PERFORMED WITH SBE/CBEs OWN ORGANIZATION & RESOURCES
_____	_____	Select Tier	_____

Period of subcontract: _____ Price to be paid to the SBE/CBE Subcontractor: $_____ ✓*all that applies*, Subcontractor is: ☐ **a SBE** ☐ **a CBE** ☐ **CBE Certification #:**_____ ☐ **SBE/CBE will perform the ENTIRE subcontract with its own organization and resources** ☐ **SBE/CBE will subcontract a portion of the subcontract (MUST LIST EACH LOWER TIER SBE/ CBE SUBCONTRACTS)**	SBE/ CBE Point of Contact Name: _____ Title: _____ Telephone Number:_____ Email Address:_____

SBE/ CBE SUBCONTRACTOR INFORMATION: *(For design-build projects, the SBE Subcontracting Plan is not required to be submitted for preconstruction services; however, a full SBE Subcontracting Plan (*35% of the contract amount ***including total design and build costs****) is required be to submitted before entering into a guaranteed maximum price or contract authorizing construction.)*			
SBE/ CBE Company	Address/Telephone No./ Email	Subcontractor Tier (1st, 2nd, 3rd, etc.)	Description of Subcontract scope of work to be PERFORMED WITH SBE/CBEs OWN ORGANIZATION & RESOURCES
_____	_____	Select Tier	_____

Period of subcontract: _____ Price to be paid to the SBE/CBE Subcontractor: $_____ ✓*all that applies*, Subcontractor is: ☐ **a SBE** ☐ **a CBE** ☐ **CBE Certification #**_____ ☐ **SBE/CBE will perform the ENTIRE subcontract with its own organization and resources** ☐ **SBE/CBE will subcontract a portion of the subcontract (MUST LIST EACH LOWER TIER SBE/ CBE SUBCONTRACTS)**	SBE/ CBE Point of Contact Name: _____ Title: _____ Telephone Number:_____ Email Address:_____

I _____, _____ of _____, swear or affirm the above is true and accurate
(Name) (Title) (Prime Contractor/ Developer)

_____ _____
(Signature) **(Date)**

Complete additional copies as needed.

☐ **AGENCY CONTRACTING OFFICER'S USE ONLY OR ☐ AGENCY PROJECT MANAGER'S USE ONLY**
(✓ which applies. Only one option should be selected.)

AGENCY CONTRACT AWARD	**PRIVATE PROJECT SUBSIDY AWARD**
Agency: _____ Prime Contractor: _____ Contract Number: _____ Date SBE Subcontracting Plan Accepted: _____ Date agency contract signed: _____ Anticipated Start Date of Contract: _____ Anticipated End Date of Contract: _____ Total Dollar Amount of Contract: **$** _____ **Design-Build must include total contract amount for both design and build phase of project.* 35% of Total Contract Amount: **$**_____ Total Amount of All SBE/CBE subcontracts: **$** _____ *(include every tier)* (✓ if applies) ☐ Base Period Contract -- Option/Extension Period: _____ ☐ Multi-year Contract First year (period) of Contract: _____ Current year (period) of Contract: _____ ☐ Design-Build --Date of Guaranteed Contract: _____ ☐Check if prime contractor is a CBE and will perform the ENTIRE government-assisted project (agency contract) with its *own organization and resources and NOT subcontract any portion of services or goods.*	Agency Providing Subsidy: _____ District Subsidy: _____ Developer: _____ Amount of District Subsidy: _____ Date District Subsidy Provided/ contract signed: _____ Anticipated Start Date of Project: _____ Anticipated End Date of Project: _____ Project Name: _____ Project Address: _____ Total Development Project Budget: **$** _____ *(include pre-construction and construction costs)* 35% of Total Development Project Budget: **$** Total Amount of All SBE/CBE subcontracts: **$** *(include every lower tier)* ☐Check if developer is a CBE and will perform the ENTIRE government-assisted project (private project) with its *own organization and resources and NOT subcontract any portion of services or goods.*

☐ AGENCY CONTRACTING OFFICER'S AFFIRMATION OR ☐ AGENCY PROJECT MANAGER'S AFFIRMATION
(✓ which applies)

The Below Agency Contracting Officer or Agency Project Manager Affirms the following (✓ to affirm):

☐ If the Beneficiary is a CBE, DSLBD was contacted to confirm Beneficiary's CBE certification;

☐ The fully executed Contract (Base or Option or Extension or Multi-Year) or subsidy document, between the Beneficiary and Agency, was emailed to DSLBD @ Compliance.Enforcement@dc.gov within five (5) days of signing;

☐ **FOR AGENCY CONTRACT** the SBE Subcontracting Plan, submitted by Beneficiary, was emailed to DSLBD @ Compliance.Enforcement@dc.gov within five (5) days of signing the contract between the Beneficiary and Agency.

_____
Name of Agency Contracting Officer or Agency Project Manager

_____
Title of Agency Contracting Officer or Agency Project Manager

_____ _____
Signature Date

Attachment J - First Source Agreement

GOVERNMENT OF THE DISTRICT OF COLUMBIA
FIRST SOURCE EMPLOYMENT AGREEMENT FOR CONSTRUCTION PROJECTS ONLY

GOVERNMENT-ASSISTED PROJECT/CONTRACT INFORMATION

CONTRACT/SOLICITATION NUMBER: _____

DISTRICT CONTRACTING AGENCY: _____

CONTRACTING OFFICER: _____

TELEPHONE NUMBER: _____

TOTAL CONTRACT AMOUNT: _____

THIS SECTION TO BE COMPLETED BY THE BENEFICIARY ONLY:

TOTAL GOVERNMENT ASSISTED FUNDED AMOUNT: _____ DATE _____

☐ CONTRACT ☐ GRANT ☐ LOAN ☐ TAX ABATEMENT OR EXEMPTION ☐ LAND TRANSFER

☐ LAND DISPOSITION AND DEVELOPMENT AGREEMENT ☐ TAX INCREMENT FINANCING

☐ ANY ADDITIONAL LEGISLATION, IF YES _____

D.C. CODE#

GENERAL CONTRACTOR WILL MEET THE HIRING OR HOURS WORKED PERCENTAGES REQUIREMENTS FOR ENTIRE PROJECT ☐ OR PER EACH SUBCONTRACTOR ☐

PROJECT NAME: _____

PROJECT ADDRESS: _____

CITY: _____ STATE: _____ ZIP CODE: _____

PROJECT START DATE: _____ PROJECT END DATE: _____

EMPLOYER START DATE: _____ EMPLOYER END DATE: _____

EMPLOYER INFORMATION

EMPLOYER NAME: _____

EMPLOYER ADDRESS: _____

CITY: _____ STATE: _____ ZIP CODE: _____

TELEPHONE NUMBER: _____ FEDERAL IDENTIFICATION NO.: _____

CONTACT PERSON: _____

TITLE: _____

E-MAIL: _____ TELEPHONE NUMBER: _____

CERTIFIED BUSINESS ENTERPRISES CERTIFICATION NUMBER: _____

D.C.!APPRENTICESHIP COUNCIL REGISTRATION NUMBER: _____

ARE YOU A SUBCONTRACTOR ☐ YES ☐ NO IF YES, NAME OF PRIME CONTRACTOR:

_____

This First Source Employment Agreement (Agreement), in accordance with Workforce Intermediary Establishment and Reform of the First Source Amendment Act of 2011 (D.C. Official Code §§ 2-219.01 – 2.219.05), and relevant provisions of the Apprenticeship Requirements Amendment Act of 2004 (D.C. Official Code § 2-219.03 and § 32-1431) is a required agreement between the District of Columbia Department of Employment Services (DOES) and EMPLOYER.

EMPLOYER, which includes the Beneficiary and all contractors and subcontractors, is working on a contract or project that has received:

☐ D.C. Government assistance valued between $300,000 and $5 million dollars, required to make a good faith effort to ensure that 51% of all new hires are District residents. (D.C. Official Code § 2-219(e)(1)(A))

☐ D.C. Government assistance valued at $5 million or more, required to have the following percentage of hours worked in each classification by DC residents; 20% of journey worker hours; 60% of apprentice hours; 51% of skilled laborer hours; 70% of common laborer hours for all jobs created by the Project. (D.C. Official Code §2-219.03 (1A)(A))

DOES is the first source for recruitment, referral, and placement of new hires or employees for all jobs created by the Government Assisted Project or Contract (Project).

The Parties agree to the terms and conditions of the Agreement as follows:

I. DEFINITIONS

The following definitions shall govern the terms used in this Agreement.

A. **Apprentice** means a worker who is employed to learn an apprenticeable occupation under the terms and conditions of approved apprenticeship standards.

B. **Beneficiary** means:

1. The signatory to a contract executed by the Mayor which involves any District of Columbia government funds, or funds which, in accordance with a federal grant or otherwise, the District government administers and which details the number and description of all jobs created by a government-assisted Project for which the beneficiary is required to use the First Source Register;

2. A recipient of a District government economic development action including contracts, grants, loans, tax abatements, land transfers for redevelopment, or tax increment financing that results in a financial benefit of $300,000 or more from an agency, commission, instrumentality, or other entity of the District government, including a financial or banking institution which serves as the repository for $1 million or more of District of Columbia funds.

C. **Contracting Agency** means any District of Columbia agency that awarded a government assisted Project totaling $300,000 or more.

D. **Direct labor costs** means all costs, including wages and benefits, associated with the hiring and employment of personnel assigned to a process in which payroll expenses are traced to the units of output and are included in the cost of goods sold.

E. **EMPLOYER** means any entity awarded a government assisted Project totaling $300,000 or more, including all individual contractor and subcontractor entities at any tier who work on the Project.

F. **First Source Employer Portal** is a website consisting of a connected group of static and dynamic web pages with the ability for Employers to enter data using the internet. The website is accessible by a Uniform Resource Locator (URL) and is maintained by DOES. The website provides reporting information to First Source EMPLOYERS.

G. **First Source Register** means the DOES Automated Applicant Files, which consists of the names of DC residents registered with DOES.

H. **Good faith effort** means an EMPLOYER has exhausted all reasonable means to comply with any affirmative action, hiring, or contractual goal(s) pursuant to the First Source law and Agreement.

I. **Government-assisted project or contract (Project)** means any construction or non-construction Project that receives funds or resources, valued at $300,000 or more, from the District of Columbia, or funds or resources which, in accordance with a federal grant or otherwise, the District of Columbia government administers, including contracts, grants, loans, tax abatements or exemptions, land transfers, land disposition and development agreements, tax increment financing, or any combination of the aforementioned.

J. **Hard to employ** means a District of Columbia resident who is confirmed by DOES as:

1. An ex-offender who has been released from prison within the last 10 years;
2. A participant of the Temporary Assistance for Needy Families program;
3. A participant of the Supplemental Nutrition Assistance Program;
4. Living with a permanent disability verified by the Social Security Administration or District vocational rehabilitation program;
5. Unemployed for 6 months or more in the last 12-month period;
6. Homeless;
7. A participant or graduate of the Transitional Employment Program established by § 32-1331; or
8. An individual who qualified for inclusion in the Work Opportunity Tax Credit Program as certified by the Department of Employment Services.

K. **Indirect labor costs** means all costs, including wages and benefits, that are part of operating expenses and are associated with the hiring and employment of personnel assigned to tasks other than producing products.

L. **Jobs** means any union and non-union managerial, non-managerial, professional, nonprofessional, technical or nontechnical position including: clerical and sales occupations, service occupations, processing occupations, machine trade occupations, bench work occupations, structural work occupations, agricultural, fishery, forestry, and related occupations, and any other occupations as the Department of Employment Services may identify in the Dictionary of Occupational Titles, United States Department of Labor.

M. **New Hire:** Individual(s) newly hired by the EMPLOYER to perform work on a government assisted Project.

N. **Transfer:** Existing EMPLOYER employee who has been moved from one Project to another Project.

O. **Journeyman** means a worker who has attained a level of skill, abilities and competencies recognized within an industry as having mastered the skills and competencies required for the occupation.

P. **Revised Employment Plan** means a document prepared and submitted by the EMPLOYER that includes the following:

1. A projection of the total number of hours to be worked on the Project by trade;
2. A projection of the total number of journey worker hours, by trade, to be worked on the Project and the total number of journey worker hours, by trade, to be worked by DC residents;
3. A projection of the total number of apprentice hours, by trade, to be worked on the Project and the total number of apprentice hours, by trade, to be worked by DC residents;
4. A projection of the total number of skilled laborer hours, by trade, to be worked on the Project and the total number of skilled laborer hours, by trade, to be worked by DC residents;
5. A projection of the total number of common laborer hours to be worked on the

Project and the total number of common laborer hours to be worked by DC residents;

6. A timetable outlining the total hours worked by trade over the life of the Project and an associated hiring schedule;

7. Descriptions of the skill requirements by job title or position, including industry-recognized certifications required for the different positions;

8. A strategy to fill the hours required to be worked by DC residents pursuant to this paragraph, including a component on communicating these requirements to contractors and subcontractors and a component on potential community outreach partnerships with the University of the District of Columbia, the University of the District of Columbia Community College, the Department of Employment Services, Jointly Funded Apprenticeship Programs, the District of Columbia Workforce Intermediary, or other government-approved, community-based job training providers;

9. A remediation strategy to ameliorate any problems associated with meeting these hiring requirements, including any problems encountered with contractors and subcontractors;

10. The designation of a senior official from the EMPLOYER(S) or general contractor who will be responsible for implementing the hiring and reporting requirements;

11. Descriptions of the health and retirement benefits that will be provided to DC residents working on the Project;

12. A strategy to ensure that District residents who work on the Project receive ongoing employment and training opportunities after they complete work on the job for which they were initially hired and a review of past practices in continuing to employ DC residents from one Project to the next;

13. A strategy to hire graduates of District of Columbia Public Schools, District of Columbia public charter schools, and community-based job training providers, and hard-to-employ residents; and

14. A disclosure of past compliance with the Workforce Act and the Davis-Bacon Act, where applicable, and the bidder or offeror's general DC resident hiring practices on projects or contracts completed within the last 2 years.

Q. **Tier Subcontractor** means any subcontractor selected by the primary contractor to perform portion(s) or all work related to the trade or occupation area(s) on a Project subject to this First Source Agreement**.**

R. **Washington Metropolitan Statistical Area** means the District of Columbia; Virginia Cities of Alexandria, Fairfax, Falls Church, Fredericksburg, Manassas, and Manassas Park; the Virginia Counties of Arlington, Clarke, Fairfax, Fauquier, Loudon, Prince William, Spotsylvania, Stafford, and Warren; the Maryland Counties of Calvert, Charles, Frederick, Montgomery and Prince Georges; and the West Virginia County of Jefferson.

S. **Workforce Intermediary Pilot Program** means the intermediary between employers and training providers to provide employers with qualified DC resident job applicants. See DC Official Code § 2-219.04b.

II. GENERAL TERMS

A. Subject to the terms and conditions set forth herein, DOES will receive the Agreement from the Contracting Agency no less than 7 calendar days in advance of the Project start date. No work associated with the relevant Project can begin until the Agreement has been accepted by DOES.

B. The Beneficiary and/or EMPLOYER shall require all Project contractors and subcontractors, under a Project receiving government assistance or benefits valued at $300,000 or more, to enter into an Agreement with DOES.

C. Agreement will take affect once beneficiary/Employer awarded contract and start work on the government assisted Project and no work can begin prior to execution of the Agreement and will be fully effective through the duration, any extension or modifications of the Project and until such time as construction is complete and a certificate of occupancy is issued.

D. If an EMPLOYER began work prior to the execution of a First Source Employment Agreement, the EMPLOYER shall cease work on the Project and sign a First Source Employment Agreement to be bound by the applicable First Source Employment Agreement requirements, retroactively, from the start of work throughout the duration of the contract.

E. DOES will provide recruitment, referral, and placement services to the EMPLOYER, subject to the limitations in this Agreement.

F. DOES and the EMPLOYER agree that, for purposes of this Agreement, new hires and jobs created for the Project (both union and nonunion) include all of EMPLOYER'S job openings and vacancies in the Washington Metropolitan Statistical Area created for the Project as a result of internal promotions, terminations, and expansions of the EMPLOYER'S workforce, as a result of this Project.

G. This Agreement includes apprentices as defined in D.C. Official Code §§ 32-1401- 1431.

DOES will make every effort to work within the terms of all collective bargaining agreements to which the EMPLOYER is a party. The EMPLOYER will provide DOES with written documentation that the EMPLOYER has provided the representative of any collective bargaining unit involved with this Project a copy of this Agreement and has requested comments or objections. If the representative has any comments or objections, the EMPLOYER will promptly provide them to DOES.

The EMPLOYER who contracts with the District of Columbia government to perform construction, renovation work, or information technology work with a single contract, or cumulative contracts, of at least $500,000, within a 12-month period will be required to register an apprenticeship program with the District of Columbia Apprenticeship Council as required by DC Code 32-1431.

H. If, during the term of this Agreement, the EMPLOYER should transfer possession of all or a portion of its business concerns affected by this Agreement to any other party by lease, sale, assignment, merger, or otherwise this First Source Agreement shall remain in full force and effect and transferee shall remain subject to all provisions herein. In addition, the EMPLOYER as a condition of transfer shall:

1. Notify the party taking possession of the existence of this EMPLOYER'S First Source Employment Agreement.
2. Notify DOES within 7 business days of the transfer. This notice will include the

name of the party taking possession and the name and telephone of that party's representative.

I. The EMPLOYER and DOES may mutually agree to modify this Agreement. Any modification shall be in writing, signed by the EMPLOYER and DOES and attached to the original Agreement.

J. To the extent that this Agreement is in conflict with any federal labor laws or governmental regulations, the federal laws or regulations shall prevail.

III. TRAINING

A. DOES and the EMPLOYER may agree to develop skills training and on-the-job training programs as approved by DOES; the training specifications and cost for such training will be mutually agreed upon by the EMPLOYER and DOES and will be set forth in a separate Training Agreement.

IV. RECRUITMENT

A. The EMPLOYER shall complete the attached Revised Employment Plan that will include the information outlined in Section I.P.

B. The EMPLOYER shall register and post all job vacancies with the Job Bank Services of DOES at www.dcnetworks.org a minimum of 10 days. Should you need assistance posting job vacancies, please contact Job Bank Services at (202) 698-6001.

C. The EMPLOYER shall notify DOES of all new jobs created for the Project within at least 7 business days (Monday - Friday) of the EMPLOYERS' identification/creation of the new jobs. The Notice of New Job Creation shall include the number of employees needed by job title, qualifications and specific skills required to perform the job, hiring date, rate of pay, hours of work, duration of employment, and a description of the work to be performed. This must be done before using any other referral source.

D. Job openings to be filled by internal promotion from the EMPLOYER'S current workforce shall be reported to DOES for placement and referral, if the job is newly created. EMPLOYER shall provide DOES a Notice of New Job Creation that details such promotions in accordance with Section IV.C.

E. The EMPLOYER will submit to DOES, prior to commencing work on the Project, a list of Current Employees that includes the name, social security number, and residency status of all current employees, including apprentices, trainees, and laid-off workers who will be employed on the Project. All EMPLOYER information reviewed or gathered, including social security numbers, as a result of DOES' monitoring and enforcement activities will be held confidential in accordance with all District and federal confidentiality and privacy laws and used only for the purposes that it was reviewed or gathered.

V. REFERRAL

A. DOES will screen applicants through carefully planned recruitment and training events and provide the EMPLOYER with a list of qualified applicants according to the number of employees needed by job title, qualifications and specific skills required to perform the job, hiring date, rate of pay, hours of work, duration of employment, and a description of the work to be performed as supplied by the EMPLOYER in its Notice of New Job Creation set forth above in Section IV.C.

B. DOES will notify the EMPLOYER of the number of applicants DOES will refer, prior to the anticipated hiring dates.

VI. PLACEMENT

A. EMPLOYER shall in good faith, use reasonable efforts to select its new hires or employees from among the qualified applicants referred by DOES. All hiring decisions are made by the EMPLOYER.

B. In the event that DOES is unable to refer qualified applicants meeting the EMPLOYER'S established qualifications, within 7 business days (Monday - Friday) from the date of notification from the EMPLOYER, the EMPLOYER will be free to directly fill remaining positions for which no qualified applicants have been referred. However, the EMPLOYER shall still be required to meet the First Source hiring requirements or hours worked percentages for all jobs created by the Project.

C. After the EMPLOYER has selected its employees, DOES is not responsible for the employees' actions and the EMPLOYER hereby releases DOES, and the Government of the District of Columbia, the District of Columbia Municipal Corporation, and the officers and employees of the District of Columbia from any liability for employees' actions.

VII. REPORTING REQUIREMENTS

A. EMPLOYER with a single contract valued at $300,000 or more on a Project that received government assistance totaling between $300,000 and $5,000,000, a provision that at least 51% of the new employees hired to work on the Project shall be District residents.

B. EMPLOYER shall register in the First Source Online Registration and Reporting System for electronic submission of all monthly Contract Compliance data, weekly certified payrolls and any other documents required by DOES for reporting and monitoring.

C. EMPLOYER shall submit to the Department of Employment Services each month following the start of the Project a hiring compliance report for the Project that includes the:

1. Number of new job openings created/available;
2. Number of new job openings listed with DOES, or any other District Agency;
3. Number of DC residents hired for new jobs;
4. Number of employees transferred to the Project;
5. Number of DC residents transferred to the Project;
6. Direct or indirect labor cost associated with the project;
7. Each employee's name, job title, social security number, hire date, residence, and referral source; and
8. Workforce statistics throughout the entire project tenure.

D. EMPLOYER with a single contract valued at $300,000 or more on a Project that received government assistance totaling $5 million or more shall meet the following hours worked percentages for **all** jobs created by the Project:

1. At least 20% of journey worker hours by trade shall be performed by DC residents;
2. At least 60% of apprentice hours by trade shall be performed by DC residents;
3. At least 51% of the skilled laborer hours by trade shall be performed by DC residents; and
4. At least 70% of common laborer hours shall be performed by DC residents.

E. EMPLOYERS shall provide the following cumulative statistics, that will be used to create the monthly report, by uploading certified payrolls or payroll data into the LCPtracker reporting system:

1. Number of journey worker hours worked by DC residents by trade;
2. Number of hours worked by all journey workers by trade;
3. Number of apprentice hours worked by DC residents by trade;
4. Number of hours worked by all apprentices by trade;
5. Number of skilled laborer worker hours worked by DC residents by trade;
6. Number of hours worked by all skilled laborers by trade;
7. Number of common laborer hours worked by DC residents by trade; and
8. Number of hours worked by all common laborers by trade.

F. EMPLOYER may "double count" hours for the "hard to employ" up to 15% of total hours worked by DC Residents; however, a collective bargaining agreement shall not be a basis for waiver of this requirement.

G. For construction Projects that are not subject to Davis-Bacon law in which certified payroll records do not exist, EMPLOYER shall submit monthly documents of workers employed on the Project to DOES, including DC residents and all employment classifications of hours worked.

H. EMPLOYER may also be required to provide verification of hours worked or hiring percentages of DC residents, such as internal payroll records for construction Projects that are not subject to Davis-Bacon.

I. Monthly, EMPLOYER shall submit weekly certified payrolls from all subcontractors at any tier working on the Project to the Contracting Agency. EMPLOYER is also required to make payroll records available to DOES as a part of compliance monitoring, upon request at job sites.

VIII. FINAL REPORT AND GOOD FAITH EFFORTS

A. With the submission of the final request for payment from the Contracting Agency, the Beneficiary and/or EMPLOYER shall:

1. Report to DOES its compliance with the hiring or hours worked percentage requirements for all jobs created by the Project, and report the hours that DC residents worked for each trade classifications in each area of the Project; or

2. Submit to DOES a request for a waiver of the hiring or hours worked percentage requirements for all jobs created by the Project that will include the following documentation:
   a. Documentation supporting EMPLOYER'S good faith effort to comply;
   b. Referrals provided by DOES and other referral sources; and
   c. Advertisement of job openings listed with DOES and other referral sources.

B. DOES may waive or partially waive the hiring or hours worked percentage requirements for jobs created by the Project, and/or the required hours of DC residents for each trade classifications, if DOES finds that the Beneficiary or EMPLOYER, including its contractors or subcontractors:

1. DOES certified that Beneficiary or Employer demonstrated a good faith effort to comply, as set forth in Section VIII.C.; or

2. Is located outside the Washington Metropolitan Statistical Area, and none of the contract work is performed inside the Washington Metropolitan Statistical Area;

3. The beneficiary published each job opening or part-time work needed for 7 calendar days in a District newspaper of city-wide circulation; and

4. The DOES certified that there are insufficient eligible applicants from the First Source Register that possess the skills required by the positions, or the eligible applicants are not available for part-time work or do not have a means to travel to the onsite jobs; or

5. Beneficiary/Employer entered into a special workforce development training or placement arrangement with DOES or with the District of Columbia Workforce Intermediary.

C. DOES shall consider documentation of the following when making a determination of a good-faith effort to comply:

1. DOES has certified that there are insufficient number of District residents in the labor market possessing the skills required by the EMPLOYER for the positions created as a result of the Project.

2. Whether the EMPLOYER posted the jobs on the DOES job website for a minimum of 10 calendar days;

3. Whether the EMPLOYER advertised each job opening in a District newspaper with city-wide circulation for a minimum of 7 calendar days;

4. Whether the EMPLOYER advertised each job opening in special interest publications and on special interest media for a minimum of 7 calendar days;

5. Whether the EMPLOYER hosted informational/recruiting or hiring fairs;

6. Whether the EMPLOYER contacted churches, unions, and/or additional Workforce Development Organizations;

7. Whether the EMPLOYER interviewed employable candidates;

8. Whether the EMPLOYER created or participated in a workforce development program approved by DOES;

9. Whether the EMPLOYER created or participated in a workforce development program approved by the District of Columbia Workforce Intermediary;

10. Whether the EMPLOYER substantially complied with the relevant monthly reporting requirements set forth in this section;

11. Whether the EMPLOYER has submitted and substantially complied with its most recent employment plan that has been approved by DOES; and

12. Any additional documented efforts.

IX. MONITORING

A. DOES is the District agency authorized to monitor and enforce the requirements of the Workforce Intermediary Establishment and Reform of the First Source Amendment Act of 2011 (D.C. Official Code §§ 2 219.01 – 2.219.05), and relevant provisions of the Apprenticeship Requirements Amendment Act of 2004 (D.C. Official Code § 2-219.03 and § 32-1431). As a part of monitoring and enforcement, DOES may require and EMPLOYER shall grant access to Project sites, employees, and documents.

B. EMPLOYER'S noncompliance with the provisions of this Agreement may result in the imposition of penalties.

C. All EMPLOYER information reviewed or gathered, including social security numbers, as a result of DOES' monitoring and enforcement activities will be held confidential in accordance with all District and federal confidentiality and privacy laws and used only for the purposes that it was reviewed or gathered.

D. DOES shall monitor all Projects as authorized by law. DOES will:

1. Review all contract controls to determine if the Beneficiary or EMPLOYER, including any Contractors or Subcontractors, are subject to the Workforce Intermediary Establishment and Reform of the First Source Amendment Act of 2011.

2. Notify stakeholders and company officials and establish meetings to provide technical assistance involving the First Source Process.

3. Make regular construction site visits to determine if the Prime or Subcontractors' workforce is in concurrence with the submitted Agreement and Monthly Compliance Reports.

4. Inspect and copy certified payroll, personnel records and any other records or information necessary to ensure the required workforce utilization is in compliance with the First Source Law.

5. Conduct desk reviews of *Monthly Compliance Reports*.

6. Educate EMPLOYERS about additional services offered by DOES, such as On-the-Job training programs and tax incentives for EMPLOYERS who hire from certain categories.

7. Monitor and complete statistical reports that identify the overall project, contractor, and subcontractors' hiring or hours worked percentages.

8. Provide formal notification of non-compliance with the required hiring or hours worked percentages, or any alleged breach of the First Source Law to all contracting agencies, and stakeholders. ***(Please note: EMPLOYERS are granted 30 days to correct any alleged deficiencies stated in the notification.)***

X. PENALTIES

A. Willful Breach of the Agreement by the EMPLOYER, failure to submit the contract compliance reports, deliberate submission of falsified data may result in DOES imposing a fine of 5% of the total amount of the direct and indirect labor costs of the Project, in addition to other penalties provided by law. Failure to meet the required hiring requirements or failure to receive good faith waiver may result in the Department of Employment Services

imposing a penalty equal to 1/8 of 1% of the total amount of the direct and indirect labor costs of the Project for each percentage by which the beneficiary fails to meet the hiring requirements.

B. EMPLOYERS who have been found in violation 2 times or more over a 10 year period may be debarred and/or deemed ineligible for consideration for Projects for a period of 5 years.

C. Within 90 days of a Determination of a Penalty, the Beneficiary or Employer may appeal the violations or fines by filing a complaint with the Contract Appeals Board in accordance with D.C. Code §2-360.03 and §2-360.04.

I hereby certify that I have the authority to bind the EMPLOYER to this Agreement from the start of work on the Project, throughout the duration of the Project, and agree to all terms and conditions herein.

By:

_____ _____

EMPLOYER Senior Official (Print) Date

_____

EMPLOYER Senior Official (Signature)

_____

Name of Company

_____

_____

Address

_____

Telephone

_____

Email

_____ _____

Signature Department of Employment Services Date

GOVERNMENT OF THE DISTRICT OF COLUMBIA

REVISED EMPLOYMENT PLAN

I. REVISED FIRST SOURCE EMPLOYMENT PLAN

GOVERNMENT-ASSISTED PROJECT/CONTRACT INFORMATION

DISTRICT CONTRACTING AGENCY: _____
CONTRACTING OFFICER: _____
TELEPHONE NUMBER: _____
TOTAL CONTRACT AMOUNT: _____
EMPLOYER CONTRACT AMOUNT: _____
PROJECT NAME: _____
PROJECT ADDRESS: _____
CITY:_____STATE:__ZIP CODE: _____
PROJECT DESCRIPTION OF WORK:_____
_____
PROJECT START DATE:_____PROJECT END DATE: _____
EMPLOYER START DATE:_____EMPLOYER END DATE: _____

EMPLOYER INFORMATION

EMPLOYER NAME: _____
COMPANY NAME: _____
EMPLOYER ADDRESS: _____
CITY:_____STATE:_____ZIP CODE: _____
TELEPHONE NUMBER:_____FEDERAL IDENTIFICATION NO.:_____
CONTACT PERSON: _____
TITLE: _____
E-MAIL:_____TELEPHONE NUMBER: _____
EMPLOYER DESCRIPTION OF WORK:_____
_____

ARE YOU A SUBCONTRACTOR YES ☐ NO ☐
IF YES, NAME OF PRIME CONTRACTOR:_____

PRIME CONTRACTOR WILL MEET HOURS WORKED PERCENTAGES REQUIREMENTS
FOR ENTIRE PROJECT ☐ OR PER EACH SUBCONTRACTOR ☐

II. EMPLOYMENT HOURS TO BE WORKED PROJECTIONS

First Source law requires EMPLOYERS (winning bidders) to submit a revised Employment Plan.

A. For construction projects receiving $5 million or more in government assistance, Employers to provide projection of the total number of hours to be worked on the project by trade.

JOURNEY WORKER

Provide a projection of the total number of journey worker hours, by trade, to be worked on the project or contract and the total number of journey worker hours, by trade, to be worked by District residents.

This page to be completed by Employer

_____
Employer Initials

Projection of Total Number of Journey Worker Hours	Trade	Projection of Total Number of Journey Worker Hours by DC Residents *(First Source Law requires 20%)*

APPRENTICE
Provide a projection of the total number of apprentice hours, by trade, to be worked on the project or contract and the total number of apprentice hours, by trade, to be worked by District residents.

Projection of Total Number of Apprentice Hours	Trade	Projection of Total Number of Apprentice Hours by DC Residents *(First Source Law requires 60%)*

SKILLED WORKER
Provide a projection of the total number of skilled laborer hours, by trade, to be worked on the project or contract and the total number of skilled laborer hours, by trade, to be worked by District residents.

Projection of Total Number of Skilled Labor Hours	Trade	Projection of Total Number of Skilled Labor Hours by DC Residents *(First Source Law requires 51%)*

COMMON LABORER
Provide a projection of the total number of common laborer hours to be worked on the project or contract and the total number of common laborer hours to be worked by District residents.

Projection of Total Number of Common Laborer Hours	Trade	Projection of Total Number of Common Laborer Hours by DC Residents *(First Source Law requires 70%)*

This page to be completed by Employer _____
Employer Initials

B. EMPLOYMENT HIRING PROJECTIONS

ALL EMPLOYERS:

Please indicate ALL new position(s) you will create as a result of the project. If you WILL NOT be creating any new employment opportunities, please complete the attached justification sheet with an explanation. Attach additional sheets as needed.

JOB TITLE		# OF JOBS F/T P/T	SALARY RANGE	UNION MEMBERSHIP REQUIRED NAME LOCAL#	PROJECTED HIRE
A					
B					
C					
D					
E					
F					
G					
H					
I					
J					
K					

This page to be completed by Employer

_____
Employer Initials

C. JUSTIFICATION SHEET: Please provide a detailed explanation of why the Employer will not have any new hires on the project.

This page to be completed by Employer

_____
Employer Initials

D. EMPLOYMENT PROJECTIONS

I. Provide a timetable outlining the total hours worked by trade over the life of the project or contract and an associated hiring schedule.

II. Provide descriptions of the skill requirements by job title or position, including industry-recognized certifications required for the different positions.

III. Provide a strategy to fill the hours required to be worked by District residents, including a component on communicating these requirements to contractors and subcontractors and a component on potential community outreach partnerships with the University of the District of Columbia, the University of the District of Columbia Community College, the Department of Employment Services, Jointly Funded Apprenticeship Programs, the District of Columbia Workforce Intermediary, or other government-approved, community-based job training providers.

This page to be completed by Employer

_____
Employer Initials

D. EMPLOYMENT PROJECTIONS (Continued)

IV. A remediation strategy to ameliorate any problems associated with meeting these worked hours percentage requirements, including any problems encountered with contractors and subcontractors.

V. The designation of a senior official from the general contractor who will be responsible for implementing the hours worked percentages and reporting requirements.

VI. Provide descriptions of the health and retirement benefits that will be provided to District residents working on the project or contract.

VII. Provide a strategy to ensure that District residents who work on the project or contract receive ongoing employment and training opportunities after they complete work on the job for which they were initially hired and a review of past practices in continuing to employ District residents from one project or contract to the next.

This page to be completed by Employer _____
Employer Initials

D. EMPLOYMENT PROJECTIONS *(continued)*

VIII. Provide a strategy to hire graduates of District of Columbia Public Schools, District of Columbia Public Charter Schools, community-based job training providers, and hard-to-employ residents.

IX. Please disclose past compliance with the First Source Employment Agreement Act of 1984 or the Workforce Intermediary Establishment and Reform of First Source Amendment Act of 2011 and the Davis-Bacon Act, where applicable, and the bidder or offeror's general District-resident hiring practices on projects or contracts completed within the last two (2) years.

X. Please note that EMPLOYERS on construction projects must submit weekly certified payrolls from all subcontractors at any tier working on the project or contract, as well as make such payroll and personnel records available upon request at job sites to the contracting District of Columbia agency.

This page to be completed by Employer

_____
Employer Initials

GOVERNMENT OF THE DISTRICT OF COLUMBIA

REVISED EMPLOYMENT PLAN

Once approved, this revised employment plan shall not be amended except with the approval of Department of Employment Services.

By:

_____ _____

EMPLOYER Senior Official (Print) Date

_____

EMPLOYER Senior Official (Signature)

_____

Name of Company

_____

_____

Address

_____

Telephone

_____

Email

_____ _____

Signature Department of Employment Services Date

Attachment K - 2019 Living Wage Act

GOVERNMENT OF THE DISTRICT OF COLUMBIA

Department of Employment Services

MURIEL BOWSER
MAYOR

DR. UNIQUE MORRIS-HUGHES
ACTING DIRECTOR

LIVING WAGE ACT FACT SHEET

The Living Wage Act of 2006, D.C. Official Code §§ 2-220.01 – 2-220.11, provides that District of Columbia government contractors and recipients of government assistance (grants, loans, tax increment financing) in the amount of $100,000 or more shall pay affiliated employee wages at no less than the current living wage rate.

Effective January 1, 2019, the living wage rate is $14.50 per hour.

Subcontractors of D.C. government contractors who receive $15,000 or more from the contract and subcontractors of the recipients of government assistance who receive $50,000 or more from the assistance are also required to pay their affiliated employees no less than the current living wage rate.

"Affiliated employee" means any individual employed by a recipient who receives compensation directly from government assistance or a contract with the District of Columbia government, including any employee of a contractor or subcontractor of a recipient who performs services pursuant to government assistance or a contract. The term "affiliated employee" does not include those individuals who perform only intermittent or incidental services with respect to the government assistance or contract, or who are otherwise employed by the contractor, recipient or subcontractor.

Exemptions – The following contracts and agreements are exempt from the Living Wage Act:

1. Contracts or other agreements that are subject to higher wage level determinations required by federal law (i.e., if a contract is subject to the Service Contract Act and certain wage rates are lower than the District's current living wage, the contractor must pay the higher of the two rates);

2. Existing and future collective bargaining agreements, provided that the future collective bargaining agreement results in the employee being paid no less than the current living wage;

3. Contracts for electricity, telephone, water, sewer or other services provided by a regulated utility;

4. Contracts for services needed immediately to prevent or respond to a disaster or imminent threat to public health or safety declared by the Mayor;

5. Contracts or other agreements that provide trainees with additional services including, but not limited to, case management and job readiness services, provided that the trainees do not replace employees subject to the Living Wage Act;

6. An employee, under 22 years of age, employed during a school vacation period, or enrolled as full-time student, as defined by the respective institution, who is in high school or at an accredited institution of higher education and who works less than 25 hours per week; provided that he or she does not replace employees subject to the Living Wage Act;

7. Tenants or retail establishments that occupy property constructed or improved by receipt of government assistance from the District of Columbia; provided, that the tenant or retail establishment did not receive direct government assistance from the District of Columbia;

8. Employees of nonprofit organizations that employ not more than 50 individuals and qualify for taxation exemption pursuant to Section 501 (c) (3) of the Internal Revenue Code of 1954, approved August 16, 1954 (68 A Stat. 163; 26. U.S.C. §501(c)(3));

9. Medicaid provider agreements for direct care services to Medicaid recipients, **provided, that** the direct care service is not provided through a home care agency, a community residence facility, or a group home for persons with intellectual disabilities as those terms are defined in section 2 of the Health-Care and Community Residence Facility, Hospice, and Home Care Licensure Act of 1983; D.C. Official Code § 44-501; and

10. Contracts or other agreements between managed care organizations and the Health Care Safety Net Administration or the Medicaid Assistance Administration to provide health services.

Enforcement

The Department of Employment Services (DOES) Office of Wage-Hour and the D.C. Office of Contracting and Procurement share monitoring responsibilities.

Furthermore, as of November 12, 2015, the US Court of Appeals upheld "The Home Care Final Rule", issued on October 1, 2013, which had an effective date of January 1, 2015. The Department of Labor issued the Home Care Final Rule to extend overtime protections to home care workers and workers who provide companionship services. Employers within this industry are now subject to recordkeeping provisions.

If you learn that a contractor subject to this law is not paying at least the current living wage, you should report it to the contracting officer. If you believe that your employer is subject to this law and is not paying at least the current living wage, you may file a complaint with the DOES Office of Wage - Hour, located at 4058 Minnesota Avenue, N.E. Suite 3600, Washington, D.C. 20019, call (202) 671-1880, or file your claim on-line: www.does.dc.gov. Go to "File a Claim" tab.

For questions and additional information, contact the Office of Contracting and Procurement at (202) 727-0252 or the Department of Employment Services on (202) 671-1880.

Please note: *This fact sheet is for informational purposes only as required by Section 106 of the Living Wage Act. It should not be relied on as a definitive statement of the Living Wage Act or any regulations adopted pursuant to the law.*

THE LIVING WAGE ACT OF 2006

D.C. Official Code §§ 2-220.01 – 2-220.11

Recipients of new contracts or government assistance shall pay affiliated employees and subcontractors who perform services under the contracts no less than the current living wage.

Effective January 1, 2019, the living wage rate is $14.50 per hour.

The requirement to pay a living wage applies to:

- **All recipients of contracts in the amount of $100,000 or more, and all subcontractors that receive $15,000 or more from the funds received by the recipient from the District of Columbia, and**
- **All recipients of government assistance in the amount of $100,000 or more, and all subcontractors of these recipients that receive $50,000 or more from the government assistance received by the recipient from the District of Columbia.**

"Contract" means a written agreement between a recipient and the District government.
"Government assistance" means a grant, loan, or tax increment financing that result in a financial benefit from an agency, commission, instrumentality, or other entity of the District government.
"Affiliated employee" means any individual employed by a recipient who received compensation directly from government assistance or a contract with the District of Columbia government, including employees of the District of Columbia, any employee of a contractor or subcontractor of a recipient who performs services pursuant to government assistance or contract. The term "affiliated employee" does not include those individuals who perform only intermittent or incidental services with respect to the contract or government assistance or who are otherwise employed by the contractor, recipient, or subcontractor.

Certain exemptions apply: 1) contracts or agreements subject to wage determinations required by federal law which are higher than the wage required by this Act; 2) Existing and future collecting bargaining agreements, provided that the future agreements results in employees being paid no less than the current living wage; 3) contracts performed by regulated utilities; 4) contracts for services needed immediately to prevent or respond to a disaster or imminent threat declared by the Mayor; 5) contracts awarded to recipients that provide trainees with services, including but not limited to case management and job readiness services, provided the trainee does not replace employees; 6) employees under 22 years of age employed during a school vacation period, or enrolled as a full-time student who works less than 25 hours per week; 7) tenants or retail establishments that occupy property constructed or improved by government assistance, provided there is no receipt of direct District government assistance; 8) employees of nonprofit organizations that employ not more than 50 individuals and qualify for 501(c)(3) status; 9) Medicaid provider agreements for direct care services to Medicaid recipients, **provided, that** the direct care service is not provided through a home care agency, a community residence facility, or a group home for persons with intellectual disabilities as those terms are defined in section 2 of the Health-Care and Community Residence Facility, Hospice, and Home Care Licensure Act of 1983; D.C. Official Code § 44-501; and 10) contracts or agreements between managed care organizations and the Health Care Safety Net Administration or the Medicaid Assistance Administration to provide health services.

Home Care Final Rule: The Department of Labor extended overtime protections to home care workers and workers who provide companionship services. Employers within this industry are now subject to recordkeeping provisions.

Each recipient and subcontractor of a recipient shall provide this notice to each affiliated employee covered by this notice, and shall also post this notice in a conspicuous site in its place of business.

All recipients and subcontractors shall retain payroll records created and maintained in the regular course of business under District of Columbia law for a period of at least 3 years.

To file a claim, visit: Department of Employment Services , Office of Wage-Hour, 4058 Minnesota Avenue, NE, Suite 3600, Washington, D.C. 20019; call: (202) 671-1880; or file your claim on-line: does.dc.gov. Go to "File a Claim" tab.

Attachment L - Past Performance Evaluation Form

Attachment L

DCAM-19-CS-RFP-0045 Design-Build Services Benjamin Banneker High School

PAST PERFORMANCE EVALUATION FORM

(Check appropriate box)

OFFEROR _____

Performance Elements	Excellent	Good	Acceptable	Poor	Unacceptable
Quality of Services/ Work					
Timeliness of Performance					
Cost Control					
Business Relations					
Customer Satisfaction					

1. Name and Title of Evaluator:_____

2. Signature of Evaluator:_____

3. Name of Organization: _____

4. Telephone Number of Evaluator: _____

   E-mail address of Evaluator: _____

5. State type of service received: _____

6. State Contract Number, Amount and Period of Performance _____

   _____

7. Remarks on Excellent Performance: Provide data supporting this observation. Continue on separate sheet if needed)

8. Remarks on unacceptable performance: Provide data supporting this observation. (Continue on separate sheet if needed)

Please submit completed evaluation to courtney.washington@dc.gov

Attachment L

RATING GUIDELINES

Summarize Contractor performance in each of the rating areas. Assign each area a rating of 0 (Unacceptable), 1 (Poor), 2 (Acceptable), 3 (Good), 4(Excellent), or ++ (Plus). Use the following instructions for guidance in making these evaluations.

	Quality Product/Service	**Cost Control**	**Timeless of Performance**	**Business Relations**
	-Compliance with contract requirements -Accuracy of reports -Appropriateness of personnel -Technical excellence	-Within budget (over/ under target costs) -Current, accurate, and complete billings -Relationship of negated costs to actual -Cost efficiencies -Change order issue	-Meet Interim milestones -Reliable -Responsive to technical directions -Completed on time, including wrap-up and -contract administration -No liquidated damages assessed	-Effective management -Businesslike correspondence -Responsive to contract requirements -Prompt notification of contract problems -Reasonable/cooperative -Flexible -Pro-active -effective contractor recommended solutions -Effective snail/small disadvantaged business Subcontracting program
0. Zero	Nonconformances are comprises the achievement of contract requirements, despite use of Agency resources	Cost issues are comprising performance of contract requirements.	Delays are comprising the achievement of contract requirements, Despite use of Agency resources.	Response to inquiries, technical/ service/administrative issues is not effective and responsive.
1. Unacceptable	Nonconformances require major Agency resources to ensure achievement of contract requirements.	Cost issues require major Agency resources to ensure achievement of contract requirements.	Delays require major Agency resources to ensure achievement of contract requirements.	response to inquiries, technical/ service/administrative issues is marginally effective and responsive.
2. Poor	Nonconformances require minor Agency resources to ensure achievement of contract requirements.	Costs issues require minor Agency resources to ensure achievement of contract requirements.	Delays require minor Agency resources to ensure achievement of contract requirements.	Responses to inquiries, technical/ service/administrative issues is somewhat effective and responsive.
3. Acceptable	Nonconformances do not impact achievement of contract requirements.	Cost issues do not impact achievement of contract requirements.	Delays do not impact achievement of contract requirements.	Responses to inquires, technical/ service/administrative issues is usually effective and responsive.
4. Good	There are no quality problems.	There are no cost issues.	There are not delays.	Responses to inquiries, technical/ service/administrative issues is effective and responsive,
5. Excellent	The contractor has demonstrated an exceptional performance level in some or all of the above categories.			

Attachment M - Agreement for Design-Build Services – will be issued via Addendum

Attachment N – Notice to Proceed and Letter Contract (will be issued via Addendum)

Attachment O - Bid Guarantee Certification

Certification Letter for Cashier's Check or Irrevocable Letter of Credit

Offerors who submit a cashier's check or an irrevocable letter of credit ("Alternate Bid Security") in lieu of a bid bond must also submit this certification, properly notarized, with their proposal. By executing this document, Offeror acknowledges that, if awarded this contract, Offeror shall be required to post promptly a payment and performance bond equal to the full value of the contract. In the event Offeror fails to post such payment and performance bond, the Offeror understands and agrees that; (i) the Department shall draw upon the Alternate Bid Security as liquidated damages; (ii) the award and or contract shall be terminated; (iii) for a period of two (2) years thereafter, the Department will not accept from such Offeror Alternate Bid Security in lieu of a bid bond; and (iv) the Offeror hereby waives the right to protest the termination of any such award or contract. The Offeror further acknowledges and agrees that the damages the Department would experience in the event such award or contract are terminated due to the Offeror's failure to post a payment and performance bond are difficult to determine and that the value of the Alternate Bid Security represents a reasonable estimate of the damages the Department would incur.

By: _____
Name: _____
Title: _____
Date: _____

District of Columbia) ss:

On the_____day of_____, 2019, before me, a notary public in and for the District of Columbia, personally appeared_____, who acknowledged himself/herself to be_____of_____, and that he/she as such, being authorized to do so, executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

_____

Notary Public
My Commission Expires:_____

Attachment P - Conflict Of Interest Disclosure Statement

CONFLICT OF INTEREST DISCLOSURE STATEMENT

Offeror's Name: _____("Offeror(s)")

Offeror's attention is directed to **Section 4705** and **Section 4707** of the Department of General Services Procurement Rules for Construction and Related Services regarding organizational conflicts of interest ("Organizational Conflicts of Interest"). Offerors are advised that certain firms will not be allowed to participate in the Project or on any Offeror's team for the Project because of their work with the Department in connection with the Project procurement.

(Initially capitalized terms not otherwise defined herein shall have the meanings set forth in the Agreement or the RFP).

Required Disclosure of Conflicts

In the space provided below identify all relevant facts relating to past, present, or planned interest(s) of the Offeror's team (including the Offeror, principal/major participants, proposed subconsultants and proposed subcontractors, and their respective chief executives, directors, and other key personnel for the Project) which may result, or could be viewed as, an Organizational Conflict of Interest in connection with the RFP.

Offeror should disclose: (a) any current contractual relationships with the Department, (b) any past, present, or planned contractual or employment relationships with any officer or employee of Department, and (c) any other circumstances that might be considered to create a financial interest in the Agreement by any Department member, officer or employee if Offeror is awarded the Contract. Offeror should also disclose matters such as having directors in common with any of the individuals or entities involved in preparing the RFP. Offeror should also disclose contractual relationships (i.e. Joint Ventures) with any of the individuals or entities involved in preparing the RFP, as well as relationships wherein such individual or entity is a contractor or consultant (or subcontractor or subconsultant) to Offeror or a member of Offeror's team. The foregoing is provided by way of example, and shall not constitute a limitation on the disclosure obligations.

_____

_____

_____

_____

_____

_____

_____

Certification

The undersigned hereby certifies that, to the best of his or her knowledge and belief, no interest exists that is required to be disclosed in this Conflict of Interest Disclosure Statement, other than as disclosed above.

_____

Signature

_____

Name

_____

Title

_____

Company Name

_____, 20__

Date

Attachment Q

Release of Lien Forms

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF GENERAL SERVICES

RELEASE OF LIEN

Project Name:

Contract No.:

Task Order No.:

Work Performed:

Contract Date:

Contract Amount:

Date:

Release of Liens:

The undersigned (insert Consultant/Contractor), has been paid partial payments totaling the sum of (insert net amounts), which is _____% of the current contract value, in accordance with the contract terms for the above referenced project, and hereby indemnifies, waives, releases and holds the District of Columbia harmless for the above referenced project, including all claims, right to liens, and stop work notices upon said premises or the improvements thereon under the statutes of the jurisdiction in which the project is located.

In consideration of this payment due in the net amount of insert net amount due, in accordance with contract terms for the above referenced project. Hereby indemnifies, waives, and releases the District of Columbia for the above referenced project. All claims, right to liens, stop work notices upon said premises or the improvements thereon under the statues of the jurisdiction in which the project is located.

The undersigned further represents and warrants, as of this date, that he/she is duly authorized to sign and execute this Release of Liens on behalf of (insert Consultant/Contractor); that (insert Consultant/ Contractor) has properly performed all work in accordance with the Contract Documents and that all consultants, subcontractors or material men have been paid for all labor, including fringe benefits, workers compensation, materials, equipment, services, taxes, insurance premiums, and bonds (if required), and that any materials supplied to or incorporated in this project were taken from fully paid or open stock with any exceptions noted below.

This letter must be signed and notarized below by authorized individuals.

Insert Consultants /Contractors name: _____

By:_____

Print Name: _____

Title: _____ Date: _____

DISTRICT OF COLUMBIA) ss

I, a Notary Public in and for the District of Columbia, hereby certify that, on this ___ day of , 20 , personally appeared before me , known to me (or satisfactorily proven) to be the person who executed the foregoing Final Release of Liens and Claims, as of (insert Consultant/Contactor name) who acknowledged having done so for the purposes therein contained.

IN WITNESS WHEREOF, I have set my hand and official seal.

_____
Notary Public, D.C.

My commission expires: _____

[NOTARIAL SEAL]

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF GENERAL SERVICES

FINAL RELEASE OF LIENS AND CLAIMS

Project Name:

Contract No.:

Task Order No.:

Work Performed:

Contract Date:

Contract Amount:

Date:

Final Release of Liens and Claims:

The undersigned (insert Consultant/Contactor name), in consideration of payments received and upon receipt of the amount of a final payment of $ _____ hereby indemnifies, waives, releases, and holds the District of Columbia harmless for the above referenced project, including all claims, right to liens, terminations, and stop notices upon said premises or the improvements thereon under the statutes of the jurisdiction in which the project is located.

The undersigned further represents and warrants, as of this date, that he/she is duly authorized to sign and execute this Release of Final Liens and Claims on behalf of (insert Consultant /Contractor; that (insert Consultant /Contractor) has properly performed all work and furnished all materials of the specified quality in accordance with all contract documents in an acceptable workmanlike manner to the Department of General Services/Construction Division, District of Columbia and that (insert Consultant /Contractor) has paid for all labor, including fringe benefits and workers compensation, all materials, equipment, services, taxes, insurance premiums, and bonds (if required) and that any materials supplied to or incorporated in this project have been paid.

(Insert Consultant/Contactor) is executing this Final Release of Liens and Claims for the express purpose of inducing the District to make final disbursement and payment to (insert Consultant/Contactor name) of $_____.

This letter must be signed and notarized below by authorized individuals.

Insert Consultants /Contractors name: _____

By:_____

Print Name: _____

Title: _____ Date: _____

DISTRICT OF COLUMBIA) ss

I, a Notary Public in and for the District of Columbia, hereby certify that, on this ___ day of , 20 , personally appeared before me , known to me (or satisfactorily proven) to be the person who executed the foregoing Final Release of Liens and Claims, as of (insert Consultant/Contactor name) who acknowledged having done so for the purposes therein contained.

IN WITNESS WHEREOF, I have set my hand and official seal.

_____
Notary Public, D.C.

My commission expires: _____

[NOTARIAL SEAL]

Attachment R

EEO Policy Form

CONTRACTOR'S LETTERHEAD

EQUAL EMPLOYMENT OPPORTUNITY (EEO) POLICY STATEMENT

_____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, FAMILIA L STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS.

_____AGREES TO AFFIRMATIVE ACT ION 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, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, 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 OR COMPENSATION; AND (E) SELECTION FOR TRAINING AND APPRENTICESHIP.

_____AGREES TO POST IN CONSPICUOUS PLACES THE PROVISIONS CONCERNING NON-DISCRIMINATION AND AFFIRMATIVE ACTION.

_____SHALL STATE THAT ALL QUALIFIED APPLICANTS WILL RECEIVE CONSIDERATION FOR EMPLOYMENT PURSUANT TO SUBSECTION 1103.2 THROUGH 1103.10 OF MAYOR'S ORDER 85-85; "EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS IN CONTRACTS."

_____AGREES TO PERMIT ACCESS TO ALL BOOKS PERTAINING TO ITS EMPLOYMENT PRACTICES , AND TO REQUIRE EACH SUBCONTRACTOR TO PERMIT ACCESS TO BOOKS AND RECORDS.

_____AGREES TO COMPLY WITH ALL GUIDELINES FOR EQUAL EMPLOYMENT OPPORTUNITY APPLICABLE IN THE DISTRICT OF COLUMBIA.

_____SHALL INCLUDE IN EVERY SUBCONTRACT THE EQUAL OPPORTUNITY CLAUSES, SUBSECTION 1103.2 THROUGH 1103.10 SO THAT SUCH PROVISIONS SHALL BE BINDING UPON EACH SUBCONTRACTOR OR VENDOR.

_____ _____

AUTHORIZED OFFICIAL AND TITLE DATE

_____ _____

AUTHORIZED SIGNATURE NAME FIRM/ORGANIZATION

CONTRACTOR'S LETTERHEAD

ASSURANCE OF COMPLIANCE WITH EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS MAYOR'S ORDER 85-85, EFFECTIVE JUNE 10, 1985, AND THE RULES IMPLEMENTING MAYORS ORDER 85-85, 33 DCR 4952, (PUBLISHED AUGUST 15, 1986), "ON COMPLIANCE WITH EQUAL OPPORTUNITY REQUIREMENTS IN DISTRICT GOVERNMENT CONTRACTS," ARE HEREBY INCLUDED AS PART OF THIS BID/PROPOSAL. THEREFORE, EACH BIDDER/OFFEROR SHALL INDICATE BELOW THEIR WRITTEN COMMITMENT TO ASSURE COMPLIANCE WITH MAYOR'S ORDER 85-85 AND THE IMPLEMENTING RULES. FAILURE TO COMPLY WITH THE SUBJECT MAYOR'S ORDER AND THE IMPLEMENTING RULES SHALL RESULT IN REJECTION OF THE RESPECTIVE BID/PROPOSAL.

I, _____, THE AUTHORIZED REPRESENTATIVE OF _____, HEREINAFTER REFERRED TO AS "THE CONTRACTOR," CERTIFY THT THE CONTRATOR IS FULLY AWARE OF ALL OF THE PROVISIONS OF MAYOR'S ORDER 85-85, EFFECTIVE JUNE 10, 1985, AND OF THE RULES IMPLEMENTING MAYOR'S ORDER 85-85, 33 DCR 4952. I FURTHER CERTIFY AND ASSURE THAT THE CONTRACTOR WILL FULLY COMPLY WITH ALL APPLICABLE PROVISIONS OF THE MAYOR'S ORDER AND IMPLEMENTING RULES IF AWARDED THE D.C. GOVERNMENT REFERENCED BY THE CONTRACT NUMBER ENTERED BELOW. FURTHER, THE CONTRACTOR ACKNOWLEDGES AND UNDERSTANDS THAT THE AWARD OF SAID CONTRACT AND ITS CONTINUATION ARE SPECIFICALLY CONDITIONED UPON THE CONTRACTOR'S COMPLIANCE WITH THE ABOVE-CITED ORDER AND RULES.

_____
CONTRACTOR

_____
NAME

_____
SIGNATURE

_____
TITLE

_____
CONTRACT NUMBER

_____
DATE

EQUAL EMPLOYMENT OPPORTUNITY
EMPLOYER INFORMATION REPORT

GOVERNMENT OF THE DISTRICT OF COLUMBIA DC Office of Contracting and Procurement Employer Information Report (EEO)	Reply to: Office of Contracting and Procurement 441 4th Street, NW, Suite 700 South Washington, DC 20001 Washington, DC 20001

Instructions:
Two (2) copies of DAS 84-404 or Federal Form EEO-1 shall be submitted to the Office of Contracting and Procurement. One copy shall be retained by the Contractor.

Section A – TYPE OF REPORT

1. Indicate by marking in the appropriate box the type of reporting unit for which this copy of the form is submitted (MARK ONLY ONE BOX)

Single Establishment Employer
(1) . Single-establishment Employer Report

Multi-establishment Employer:
(2) ☐ Consolidated Report
(3) ☐ Headquarters Report
(4) ☐ Individual Establishment Report (submit one for each establishment with 25 or more employees)
(5) ☐ Special Report

1. Total number of reports being filed by this Company. _____

Section B – COMPANY IDENTIFICATION (To be answered by all employers) OFFICIAL					OFFICIAL USE ONLY
1. Name of Company which owns or controls the establishment for which this report is filed					a.
Address (Number and street)	City or Town	Country	State	Zip Code	b.
b. Employer Identification No.					
2. Establishment for which this report is filed.					OFFICIAL USE ONLY
a. Name of establishment					c.
Address (Number and street)	City or Town	Country	State	Zip Code	d.
b. Employer Identification No.					
3. Parent of affiliated Company					
a. Name of parent or affiliated Company	b. Employer Identification No.				
Address (Number and street)	City or Town	Country	State	Zip Code	

Section C - ESTABLISHMENT INFORMATION

1. Is the location of the establishment the same as that reported last year? ☐ Yes ☐ No Did not report last year Report on combined basis 2. Is the major business activity at this establishment the same as that reported last year? ☐ Yes ☐ No No report last year Reported on combined basis	OFFICIAL USE ONLY
2. What is the major activity of this establishment? (Be specific, i.e., manufacturing steel castings, retail grocer, wholesale plumbing supplies, title insurance, etc. Include the specific type of product or service provided, as well as the principal business or industrial activity.	e.
3. MINORITY GROUP MEMBERS: Indicate if you are a minority business enterprise (50% owned or 51% controlled by minority members). ☐ Yes ☐ No	

SECTION D – EMPLOYMENT DATA

Employment at this establishment – Report all permanent, temporary, or part-time employees including apprentices and on-the-job trainees unless specifically excluded as set forth in the instructions. Enter the appropriate figures on all lines and in all columns. Blank spaces will be considered as zero. *In columns 1, 2, and 3, include ALL employees in the establishment Including those in minority groups*

JOB CATEGORIES	TOTAL EMPLOYEES IN ESTABLISHMENT			MINORITY GROUP EMPLOYEES							
				MALE				FEMALE			
	Total Employees Including Minorities (1)	Total Male Including Minorities (2)	Total Female Including Minorities (3)	Black (4)	Asian (5)	American Indian (6)	Hispanic (7)	Black (8)	Asian (9)	American Indian (10)	Hispanic (11)
Officials and Managers											
Professionals											
Technicians											
Sales Workers											
Office and Clerical											
Craftsman (Skilled)											
Operative (Semi-Skilled)											
Laborers (Unskilled)											
Service Workers											
TOTAL											
Total employ reported in previous report											

(The trainee below should also be included in the figures for the appropriate occupation categories above)

Formal On-The-Job Trainee	White collar	(1)	(2)	(3)	(4))	(5)	(6)	(7)	(8)	(9)	(10)	(11
	Production											

1. How was information as to race or ethnic group in Section D obtained?
   a. Visual Survey
   b. Employment Record _____
   c. Other Specify _____
2. Dates of payroll period used
3. Pay period of last report submitted for this establishment._____

Section E – REMARKS Use this Item to give any identification data appearing on last report which differs from that given above, explain major changes in composition or reporting units, and other pertinent information.

Section F - CERTIFICATION

Check 1. › All reports are accurate and were prepared in accordance with the instructions (check on consolidated only)
One 2. › This report is accurate and was prepared in accordance with the instructions.

_____

Name of Authorized Official | Title | Signature | Date

Name of person contact regarding This report (Type of print) | Address (Number and street)

Title | City and State | Zip Code | Telephone Number Extension

INFORMATION CITED HEREIN SHALL BE HELD IN CONFIDENCE.

DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT
CONTRACT COMPLIANCE DIVISION

SUBCONTRACT SUMMARY FORM

This SUMMARY form is to be completed by the PRIME contractor.		
BID NO. CCB NUMBER:	_____of _____ pages	
NOTE: the standard for minority subcontracting is 25% or the TOTAL contract dollar amount to be subcontracted.	AMOUNT OF PRIME CONTRACT $_____ AMOUNT OF ALL SUBCONTRACTS: $_____ equals _____ % OF THE PRIME CONTRACT.	
NAME OF PRIME CONTRACTOR: TELEPHONE NO.	ADDRESS:	
PROJECT NAME: ADDRESS: _____ WARD NO:_____	PROJECT DESCRIPTIONS:	
SECTION II LIST ALL SUBCONTRACTORS THAT WILL BE UTILIZED OH THE ABOVE PROJECT		
1. NAME OF SUBCONTRACTOR 2. ADDRESS 3. CONTACT PERSON 4. MBOC CERT. NO. 5. PHONE NO.	1. IS THIS A MINORITY SUB? _____YES _____NO 2. TRADE OR BUSINESS PRODUCT THAT SUB WILL PROVIDE.	1. $ AMOUNT OF-SUBCONTRACT equals (=) 2. _____ % (percent) OF TOTAL PRIME CONTRACT.
1. 2. 3. 4. 5.	1. MINORITY SUBCONTRACTOR _____YES _____NO 2.	1. _____ equals (=) 2. _____%
1. 2. 3. 4. 5.	1. MINORITY SUBCONTRACTOR _____YES _____NO 2.	1. _____ equals (=) 2. _____%
1. 2. 3. 4. 5.	1. MINORITY SUBCONTRACTOR _____YES _____NO 2.	1. _____ equals (=) 2. _____%
1. 2. 3. 4. 5.	1. MINORITY SUBCONTRACTOR _____YES _____NO 2.	1. _____ equals (=) 2. _____%
1. 2. 3. 4. 5.	1. MINORITY SUBCONTRACTOR _____YES _____NO 2.	1. _____ equals (=) 2. _____%
1. 2. 3. 4. 5.	1. MINORITY SUBCONTRACTOR _____YES _____NO 2.	1. _____ equals (=) 2. _____%
1. 2. 3. 4. 5.	1. MINORITY SUBCONTRACTOR _____YES _____NO 2.	1. _____ equals (=) 2. _____%
1. 2. 3. 4. 5.	1. MINORITY SUBCONTRACTOR _____YES _____NO 2.	1. _____ equals (=) 2. _____%
1. 2. 3. 4. 5.	1. MINORITY SUBCONTRACTOR _____YES _____NO 2.	1. _____ equals (=) 2. _____%
1. 2. 3. 4. 5.	1. MINORITY SUBCONTRACTOR _____YES _____NO 2.	1. _____ equals (=) 2. _____%
1. 2. 3. 4. 5.	1. MINORITY SUBCONTRACTOR _____YES _____NO 2.	1. _____ equals (=) 2. _____%

TOTAL DOLLAR AMOUNT SUBCONTRACTED TO 'MINORITY BUSINESS ENTERPRISES $_____

PERCENT OF PRIME CONTRACT. _____%

SOLICITATION NO:_____

PROJECTED GOALS AND TIMETABLES FOR FUTURE HIRING

MINORITY GROUP EMLOYES GOALS TIMETABLES

JOB CATEGORIES	MALE				FEMALE				
	Black	Asian	American Indian	Hispanic	Black	Asian	American Indian	Hispanic	
Officials and Managers									
Professionals									
Technicians									
Sales Workers									
Office and Clerical									
Craftsman (Skilled)									
Operative (Semi-Skilled)									
Laborers (Unskilled)									
Service Workers									
TOTAL									

NAME OF AUTHORIZED OFFICIAL:	TITLE:	SIGNATURE:

FIRM NAME:	TELEHONE NO:	DATE:

INDICATE IF THE PRIME UTILIZES A "MINORITY FINANCIAL ISTITUTION"

_____ Yes _____ No

NAME:

ADDRESS:

TYPE OF ACCOUNT/S:

Attachment S

Certification to Furnish Performance & Payment Bond

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF GENERAL SERVICES

Certification to Furnish Performance & Payment Bond

Dear Sir/Madam:

By virtue of this notice,_____ hereby certify, that we will furnish the required Performance & Payment Bond in the amount of the submitted bid or a maximum of _____dollars if _____(General Contractor) is successfully awarded the contract for the _____.

This required Bond shall be furnished in compliance with the stipulations of the contract document. This guarantee shall remain valid and irrevocable for a period of one hundred and twenty (120) days from the date of bid submission.

IN WITNESS WHEREOF, we have hereunto set our hands with the intent to be legally binding.

Name of agent: _____

Address of agent: _____

Contact Phone: _____ Email: _____

_____ _____
Type or Print Name Signature

PLEASE NOTE: The person affixing his/her signature herein MUST be authorized to sign for the company.

Sworn to before me this _____day of _____20_____

_____ _____
Notary Public My commission expires

Attachment T

National BIM Guide

Design-Build Services Benjamin Banneker High School