

<b>SOLICITATION/AWARD/CONTRACT</b>		1a. Caption <b>Hill East Phase II 72 Inch Sewer Relocation and Infrastructure Improvements Project</b>		Page of Pages	
		1b. Market Type <b>Open with SBE Subcontracting (See Section H.7)</b>		1	82
2. Solicitation/Contract Number <b>DCAM-24-CS-IFB-0007</b>		3. Effective Date <b>See Block 18C</b>		4. Requisition/Purchase Request/Project No. <b>RK272634</b>	
5. Issued By: <b>Department of General Services Contracts and Procurement Division 3924 Minnesota Avenue, NE, 5<sup>th</sup> Floor Washington, DC 20019</b>			6. Administered by (If other than line 5) <b>Department of General Services Capital Construction Division 3924 Minnesota Avenue, NE, 5<sup>th</sup> Floor Washington, DC 20019</b>		
7. Name and Address of Contractor <b>Insert Contractor</b>			8. Delivery <input type="checkbox"/> <b>FOB Origin</b> <input type="checkbox"/> <b>Other</b>		
			9. RESERVED		
			10. Submit invoices as described in Section G.		
11. RESERVED			12. Payment will be made by <b>Government of the District of Columbia Department of General Services Office of the Chief Financial Officer 3924 Minnesota Avenue, NE, 5<sup>th</sup> Floor Washington, DC 20019</b>		
13. Acknowledgement of Amendments The Bidder acknowledges receipt of amendments to the solicitation		<b>Amendment No.</b>		<b>Date</b>	
14. Supplies/Services/Price - <b>See Section B.3 (Attachment J.2)</b>					
15. Table of Contents					
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<i>Contracting Officer will complete Item 16</i>					
16. <input type="checkbox"/> <b>AWARD</b> Your bid for the above referenced Solicitation including your Bid and Offer Letter and Bid Form is hereby accepted. Contractor agrees to furnish and deliver all items, perform all the services set forth or otherwise identified above and on any continuation sheets, for the consideration stated herein.					
17A. Name and Title of Signer (Type or print)			18A. Name of Contracting Officer James H.Marshall		
Signature			Signature		

## **SECTION B CONTRACT TYPE, SUPPLIES OR SERVICES AND PRICE/COST**

### **B.1 INTRODUCTION**

The District of Columbia Government Department of General Services (DGS), on behalf of the Office of the Deputy Mayor for Planning and Economic Development (DMPED) is seeking a contractor to provide all labor, materials and equipment for the construction of the Hill East Phase II 72 Inch Sewer Relocation Project and Infrastructure Improvements (Project) in accordance with Section C, the Released for Construction Contract Plans 72” Sewer Relocation-(**Attachment J.1.1**), DDOT Standard Specifications for Highways and Structures, 2013 (Gold Book) (**Attachment J.1.2**), DDOT Standard Drawings -2015 (**Attachment J.1.3**), DC Water Standard Specification (**Attachment J.1.4**), Project Special Provisions (**Attachment J.1.5**) and other associated attachments listed in Section J.1 Hill East Phase II 72” Sewer Relocation and Infrastructure Improvements Project Specific Attachments.

### **B.2 TYPE OF CONTRACT**

The District contemplates award of a fixed unit price with a ceiling equal to the total Contract amount for the infrastructure and roadway improvements project.

### **B.3 PRICE SCHEDULE/BID FORM –**

#### **B.3.1 Lump Sum Price**

The awarded Contractor shall be paid per provided Contract schedule of values, as detailed in **Attachment J.2**, to complete the Project.

#### **B.3.2 Work Included in the Contract Price**

The Bidder acknowledges and understands that the unit cost in the schedule of values is based on the Scope of Work (**Section C**), including the Hill East Phase II 72” Sewer Relocation and Infrastructure Improvements Project Specific Attachments listed in (**Attachment J.1**) and which are incorporated into the Contract awarded pursuant to this IFB. It is understood and agreed that the unit Price in the schedule of values represents the Bidder’s offer to complete the specified Project scope. The Department and the awarded Contractor (the “Parties”) acknowledge and agree that it is their intent to have the awarded Contractor provide all labor, materials, and equipment to complete the project as contemplated in the Contract Documents, for the unit Price and consistent with the Project Schedule. In furtherance of such intent, the awarded Contractor assumes the risks associated with and shall be responsible for (i) any changes in market conditions that affect the cost of labor or materials; (ii) coordination issues between the drawings; (iii) elements of work not shown on the Contract Documents, but

which are reasonably inferable from the Contract Documents; (iv) cost associated with acceleration of the work and expediting of materials necessary to meet the Project Schedule which are the result of anything other than an Excusable Delay; and (v) the risk of subcontractor default or non-performance. It is understood and agreed by the Parties that items (i) through (v) listed in the preceding sentence are not intended to be an exclusive list of the risks assumed by the awarded Contractor and that such items represent a partial list of the risks assumed by the awarded Contractor.

### **B.3.3 Project Allowances**

**B.3.3.1** As included in **Attachment J.2**, the Project includes two (2) allowances: a Coordination with Engineer of Record Allowance for a total of \$150,000 and an Owner Directed Allowance in the amount of \$2,000,000. The Coordination with Engineer of Record is discussed in the Project Special Provisions (**Attachment J.1.5**) Number 24. The owner directed allowance is intended to cover both known and unforeseen aspects of the project that may arise during the construction and include costs associated with necessary adjustments, or additions to the project scope, which cannot be determined reasonably at the time of the bidding.

**B.3.3.2** The Contractors shall submit a written request for the utilization of the allowance, detailing the specific nature, scope of the additional work proposed, and the total amount to the COTR identified in G.9. The COTR will review and assess the request and provide a determination ensuring compliance with requirements of the project and DGS Budget limits for this project.

**B.3.3.3.** If approved, the Contractor shall submit a request in the DGS project team system, addressed to the COTR for review and processing. If approved, the Contractor shall include the approved draw request in the approved allowance expenses in their invoice for payment processing.

### **B.3.4 Basis of Contract Bid Item Unit Price**

The unit Price is based on the following documents that are incorporated into the IFB and resulting Contract:

**B.3.3.1 Attachment J.1.1 – J.1.9**

Hill East Phase II 72” Sewer Relocation and Infrastructure Improvements Project Specific Attachments

**B.3.3.2 Attachment J.2**

Form of Offer Letter and Schedule of Pay Items

**B.3.3.3 Attachment J.3**

Department of General Services Standard Contract Provisions  
General Provisions Construction Contracts

- B.3.3.4 Attachment J.4**  
Davis Bacon Wage Rates Determination and 29 CFR 5.5 Davis Bacon Provision
- B.3.3.5 Attachment J.5**  
Subcontracting Plan and Subcontracting Agreements
- B.3.3.6 Attachment J.6**  
First Source Employment Agreement and First Source Employment Plan
- B.3.3.7 Attachment J.7**  
Equal Employment Opportunity Employer Information Report and Mayor's Order 85-85 Living Wage Act Notice and Fact Sheet
- B.3.3.8 Attachment J.8**  
Way to Work Amendment Act of 2006 – FY 24 Living Wage Notice and Fact Sheet

#### **B.4 ACKNOWLEDGEMENT OF REVIEW OF CONTRACT DOCUMENTS**

Before submitting its bid in response to this IFB, the Bidder acknowledges that it reviewed the Drawings and Specifications for accuracy, constructability, and completeness and was required to bring such deficiencies to the attention of the Department so that the Department's Architect/Engineer can address any such deficiencies. The awarded Contractor acknowledges that any deficiencies it identifies after submitting its bid shall not be the basis for a change in the Contract Price or delaying the Project Schedule to the extent that any such deficiencies in the Drawings and Specifications could have been identified by prior review of a competent prospective Contractor.

- B.4.1** During the term of the awarded Contract, should any errors, omissions, ambiguities or discrepancies be found on the Contract Documents, or should there be found any discrepancies between the Contract Documents to which the awarded Contractor has failed to call attention before submitting its bid, the awarded Contractor shall bring any such errors, omissions, ambiguities or discrepancies to the attention of Department, and the Department will interpret the intent of the Contract Documents. The awarded Contractor agrees to abide by and to carry out the Work in accordance with the decision of the Department. Wherever the intent of the Contract Documents is not indicated clearly or there is a conflict between the Contract Documents, the awarded Contractor will be held to have included in the bid price the more expensive material or method of construction and the quantity of material.

**B.4.2** If any item or material shown on the Drawings is omitted from the Specifications, or vice versa (except when the Drawings and Specifications clearly exclude such omitted item), and such item or material is required to complete the detail shown or specified, and if additional details or instructions are required to complete the Work, then the awarded Contractor is deemed to have made an allowance in the bid price for the completion of the Work, consistent with adjoining or similar details and the best accepted practices of the trade for projects of this type and quality, whichever is more expensive, unless such additional information was not reasonably inferable from the Contract Documents. Without limiting the awarded Contractor's other duties, in the case of a difference among the Contract Documents as to the Contractor's obligations, or an inconsistency in the Contract Documents, the Department will decide which requirement governs; however, the awarded Contractor shall assume that the more expensive material or method of construction and the quantity of material shall be required without a change to the bid price.

**B.4.3** Execution of the Contract by the awarded Contractor is a representation that the Contractor has thoroughly examined all Contract Documents, including all details, plans, elevations, sections, schedules and diagrams, has visited the site, has become familiar with local conditions under which the Work is to be performed, has correlated personal observations with the requirements of the Contract Documents, and has satisfied itself before executing the Contract as to all matters that can affect the Work and its cost, including: (1) the nature of the land and subsoil; (2) the form and nature of the site and surrounding areas; (3) details and levels of existing pipe lines, conduits, sewers, drains, cables or other existing services; (4) the quantities, nature and availability of the materials, tools, equipment and labor necessary for the completion of the Work; (5) the means of access to the site and any accommodation he may require; (6) uncertainties of weather and physical conditions at the site; and in general to have himself obtained all necessary information as to risk contingencies, climatic, hydrological and natural conditions and other circumstances which may influence or affect his performance of the Work. The awarded Contractor waives any and all claims against the Department arising from or relating to such contingencies and conditions that are reasonably inferable from the Contract Documents, in light of the required preconstruction review and inspection and the Contractor's expertise in the field of construction.

**B.5** A bidder responding to this solicitation that is required to subcontract shall be required to submit with its bid, any subcontracting plan required by law. Bids responding to this IFB shall be deemed nonresponsive and shall be rejected if the bidder fails to submit a subcontracting plan that is required by law.

**B.6** For contracts in excess of \$250,000, at least 35% of the dollar volume of the contract shall be subcontracted in accordance with section H.9.1. A Subcontracting Plan form is provided in **Attachment J.5**.

**B.7 NONPROFIT FAIR COMPENSATION ACT OF 2020, D.C. Code § 2-222.01 et seq.**

**B.7.1** Nonprofit organizations, as defined in the Act, shall include in their rates the indirect costs incurred in the provision of goods or performance of services under this contract pursuant to the nonprofit organization's unexpired Negotiated Indirect Cost Rate Agreement (NICRA). If a nonprofit organization does not have an unexpired NICRA, the nonprofit organization may elect to instead include in its rates its indirect costs:

(1) As calculated using a *de minimis* rate of 10% of all direct costs under this contract;

(2) By negotiating a new percentage indirect cost rate with the awarding agency;

(3) As calculated with the same percentage indirect cost rate as the nonprofit organization negotiated with any District agency within the past 2 years; however, a nonprofit organization may request to renegotiate indirect costs rates in accordance with B.7.3; or

(4) As calculated with a percentage rate and base amount, determined by a certified public accountant, as defined in the Act, using the nonprofit organization's audited financial statements from the immediately preceding fiscal year, pursuant to the OMB Uniform Guidance, and certified in writing by the certified public accountant.

**B.7.2** If this contract is funded by a federal agency, indirect costs shall be consistent with the requirements for pass-through entities in 2 C.F.R. § 200.331, or any successor regulations.

**B.7.3** The Contractor shall pay its subcontractors which are nonprofit organizations the same indirect cost rates as the nonprofit organization subcontractors would have received as a prime contractor.

**B.8 CAMPAIGN FINANCE REFORM ACT**

**B.8.1** The Contractor agrees to comply with the Campaign Finance Reform Act certification requirement (**Attachment J.16**) pursuant to the D.C. Official Code § 1-1161.01 and will satisfy all self-certification requirements prior to the execution of any agreement, as applicable.

**SECTION C**  
**SCOPE OF WORK/SPECIFICATIONS**

**C.1 SCOPE**

The awarded Contractor shall provide all labor, materials, equipment, h supervision and other services for the construction of the Hill East Phase II 72 Inch Sewer Relocation Project (Project) in accordance with Section C, the Construction Plans (**Attachment J.1.1**), DDOT Standard Specifications for Highways and Structures, 2013 (Gold Book) (**Attachment J.1.2**), DDOT Standard Drawings -2015 (**Attachment J.1.3**), DC Water Standard Specifications (**Attachment J.1.4**), Project Special Provisions (**Attachment J.1.5**) and other associated attachments in Section J. The Contractor’s scope shall include but is not limited to removal, demolition and restoration of existing pavement, relocation of the 72 Inch Sewer line with installation of 78 inch HOBAS SN72 pipes, Furnish and Installation of 18 Inch, 21 Inch and 24 Inch HDPE pipes, installation of seven cast in place drainage structures, installation of temporary support of excavation, trench excavation and backfill, excavation and embankment fill to existing grade, relocation of dry utility lines, temporary and permanent stabilization and erosion & sediment control measures. The scope also includes maintenance of traffic, vehicular and pedestrian access to St. Coletta and correction facility. The full scope of the work is detailed in Section C.5 below.

**C.2 APPLICABLE DOCUMENTS**

The following documents are applicable to this procurement and are hereby incorporated by reference:

No.	Title	Link/Address
1	DDOT Design and Engineering Manual, 2019	<a href="https://ddot.dc.gov/sites/default/files/dc/sites/ddot/page_content/attachments/DEM-2019-01-01_DDOT_DEM_Updates_FINAL.PDF">https://ddot.dc.gov/sites/default/files/dc/sites/ddot/page_content/attachments/DEM-2019-01-01_DDOT_DEM_Updates_FINAL.PDF</a>
2	DDOT Standard Drawings, 2015	<a href="https://ddot.dc.gov/page/standard-drawings-2015">https://ddot.dc.gov/page/standard-drawings-2015</a>
3	DDOT Work Zone Safety and Mobility Policy	<a href="https://ddot.dc.gov/page/work-zone-safety-and-mobility-policy">https://ddot.dc.gov/page/work-zone-safety-and-mobility-policy</a>
4	DDOT Environmental Policy and Process Manual	<a href="https://ddot.dc.gov/page/ddot-environmentalpolicy-and-process-manual-0">https://ddot.dc.gov/page/ddot-environmentalpolicy-and-process-manual-0</a>
5	DDOT Right-of-Way Policies and Procedures Manual, 2019	<a href="https://ddot.dc.gov/sites/default/files/dc/sites/ddot/page_content/attachments/DDOT%20ROW%20Manual%202019-07-31.pdf">https://ddot.dc.gov/sites/default/files/dc/sites/ddot/page_content/attachments/DDOT%20ROW%20Manual%202019-07-31.pdf</a>

No.	Title	Link/Address
6	DDOT Temporary Traffic Control Manual Guidelines and Standards, 2006	<a href="https://ddot.dc.gov/page/temporary-traffic-control-manual">https://ddot.dc.gov/page/temporary-traffic-control-manual</a>
7	DDOT Streetlight Policy and Design Guidelines, 2013	<a href="https://wiki.ddot.dc.gov/download/attachments/96830607/Streetlight%20Policy%20and%20Design%20Guidelines.pdf?api=v2">https://wiki.ddot.dc.gov/download/attachments/96830607/Streetlight%20Policy%20and%20Design%20Guidelines.pdf?api=v2</a>
8	DDOT Construction Management Manual - May 2010 (Revised July 2010)	<a href="https://ddot.dc.gov/sites/default/files/dc/sites/ddot/publication/attachments/ddot_construction_management_manual_rev07-01-2010.pdf">https://ddot.dc.gov/sites/default/files/dc/sites/ddot/publication/attachments/ddot_construction_management_manual_rev07-01-2010.pdf</a>
9	DC Water Standard Specifications, 2020	<a href="https://dcwater.com/sites/default/files/engineering/Standard%20Specifications.pdf">https://dcwater.com/sites/default/files/engineering/Standard%20Specifications.pdf</a>
10	DC Water Project Design Manual, 2018  Volume 1 – Project Management  Volume 2 – Facilities Design Manual  Volume 3 – Linear Infrastructure Design Manual	<a href="https://dcwater.com/sites/default/files/engineering/PDM%20Vol%201%20-%20Project%20Management.pdf">https://dcwater.com/sites/default/files/engineering/PDM%20Vol%201%20-%20Project%20Management.pdf</a>  <a href="https://dcwater.com/sites/default/files/engineering/PDM%20Vol%202%20-%20Facilities%20Design.pdf">https://dcwater.com/sites/default/files/engineering/PDM%20Vol%202%20-%20Facilities%20Design.pdf</a>  <a href="https://dcwater.com/sites/default/files/engineering/PDM%20Vol%203%20-%20Linear%20Infrastructure%20Design_0.pdf">https://dcwater.com/sites/default/files/engineering/PDM%20Vol%203%20-%20Linear%20Infrastructure%20Design_0.pdf</a>
11	PEPCO Standard Drawings – Power Distribution Standards	<a href="https://www.pepco.com/MyAccount/MyService/Pages/EngineeringDesignResources.aspx">https://www.pepco.com/MyAccount/MyService/Pages/EngineeringDesignResources.aspx</a>
12	DOEE Storm Water Management Guidebook, 2020	<a href="https://doee.dc.gov/swguidebook">https://doee.dc.gov/swguidebook</a>
13	DOEE Erosion and Sediment Control Manual, 2017	<a href="https://doee.dc.gov/publication/soil-erosion-and-sediment-control-resources">https://doee.dc.gov/publication/soil-erosion-and-sediment-control-resources</a>
14	FHWA Manual on Uniform Traffic Control Devices (MUTCD), 2009	<a href="https://mutcd.fhwa.dot.gov/kno_2009r1r2.htm">https://mutcd.fhwa.dot.gov/kno_2009r1r2.htm</a>
15	WMATA - Joint Development and Adjacent Construction Manual (JDAC), Sept 2015 (rev 5a)	<a href="https://wmata.com/business/adjacent-construction/upload/ACPM-Rev-5a-09-21-15.pdf">https://wmata.com/business/adjacent-construction/upload/ACPM-Rev-5a-09-21-15.pdf</a>

### C.3 DEFINITIONS

The definitions at Section 101.03 of the Gold Book, as defined below, apply to this Contract except to the extent specifically stated herein. For the convenience of the bidders, the following definitions from Section 101.03 are specified below. To the extent that the definitions below modify and supplement Section 101.03, such modified and supplemented definitions supersede the corresponding definitions at Section 101.03.



- C.3.1 Chief Engineer** – See Contracting Officer’s Technical Representative (COTR).
- C.3.2 Contract** – The entire, integrated agreement between the District and the Contractor for the Project. The Contract is made of the Contract Documents, and supersedes prior negotiations, representations or agreements.
- C.3.3 Contracting Officer’s Technical Representative (COTR)** – See Section G.9 for definition, roles and responsibilities. The term COTR is synonymous with the term “Engineer” and “Chief Engineer” for this Contract.
- C.3.4 Contract Documents** – The Contract Documents consist of the Solicitation sections A-K (the “Contract Form”), addenda issued prior to execution of the Contract, the price schedule, performance and payment bonds, specifications, special provisions, Contract Plans, and other documents listed in the Contract Form, and modifications issued after execution of the Contract.
- C.3.5 The District of Columbia Department of General Services** – Is synonymous with the “District”, “DGS”, or “Department.”
- C.3.6 Engineer** – see Contracting Officer’s Technical Representative (COTR)
- C.3.7 Final Acceptance** – The occurrence of all the events and satisfaction of all the conditions with respect to the Work for completion of all aspects of the Contract as set forth in the Gold Book Section 108.09.
- C.3.8 Plant** – All physical resources, facilities, machinery, equipment, staging, forms, tools, work and storage space other than provided by the Contract, together with subsidiary essentials and necessary maintenance for proper construction and acceptable completion of the Project.
- C.3.9 Project** – The title of the Contract, and the entire Work to be completed under the Contract.
- C.3.10 Standard Specifications** – The term “Standard Specifications” refers to the DDOT Standard Specifications for Highways and Structures, 2013 (Gold Book).
- C.3.11 Substantial Completion** – the satisfaction of the criteria for completion of construction of the Project set forth in Section 108.09 of the Gold Book, and as defined by the Department,
- C.3.12 Work** – The furnishing of all labor, materials, equipment, and incidentals necessary or convenient to the successful completion of the Project and the carrying out of the duties and obligations imposed by the Contract

## **C.4 BACKGROUND**

The scope of the Hill East Phase II project includes a 72-inch sewer relocation work which includes the installation of 78 Inch SN72 HOBAS pipe. The new 78-inch HOBAS pipe will be tunneled from structure CS16 to CS20. The project also includes installation of a 78-inch HOBAS pipe from CS-20 to CS-16. The proposed work will reroute the existing 72-inch sewer line and tie back in to the existing 72-inch sewer at Massachusetts Ave SE. The scope of work also includes abandoning the existing sewer line under parcels B1, B2, F2 and H. The Contractor's scope shall also include but is not limited to demolition and restoration of existing pavement, relocation of the 72 Inch Sewer line with installation of 78 inch HOBAS SN72 pipes, Furnish and Installation of 18 Inch, 21 Inch and 24 Inch HDPE pipes, installation of seven cast in place drainage structures, installation of temporary support of excavation, trench excavation and backfill, excavation and embankment fill to existing grade, erosion, relocation of dry utility lines, temporary and permanent stabilization and erosion & sediment control measures. The scope also includes maintenance of traffic, vehicular and pedestrian access to St. Coletta and correction facility.

When necessary, the Contractor is also required to produce design calculations and shop drawings in connection with its chosen systems for temporary support structures or devices, protection/demolition shields, and other significant temporary work affecting the safety of the traveling public or workers on the Project.

The Contractor shall be fully responsible for protection against damage for the duration of the Contract of all the utility structures within the Contract limits and any utilities or structures adjacent thereto. The utilities include, but are not limited to, public and/or private water, sanitary and storm sewer, electric, telephone, and communication lines. No separate measurement or payment will be made. Cost of this protective work will be covered and distributed among the contract pay items. Gas lines will be designed and constructed by Washington Gas and Light (WGL) independently. It will be the responsibility of the 72 Inch Sewer relocation Contractor to work closely with WGL contractor to coordinate the required relocation of the gas main that is in conflict with the 72 Inch Sewer relocation work.

## **C.5 REQUIREMENTS**

The Contractor shall provide all labor, personnel, materials, management, equipment, supervision, and other services necessary for the construction of the Project in accordance with the Contract Documents ("the Work"), which includes relocation of the existing 72 Inch Sewer line with 78 Inch HOBAS SN72 storm sewer.

The Project shall be complete, operating, and ready for use on or before the Substantial Completion Date and within the Fixed Unit Price with a ceiling equal to the total Contract amount.

### **C.5.1 Contract Plans, Standard Specifications and Project Special Provisions**

**C.5.1.1** The Contractor shall provide the required services in accordance with the Contract Plans (**Attachment J.1.1**), DDOT Standard Specifications for Highways and Structures, 2013 (Gold Book) (**Attachment J.1.2**), Project Special Provisions (**Attachment J.1.5**), DC Water Standard Specification (**Attachment J.1.4**). The Contractor shall construct the work described in the Contract Plans and Project Special Provisions including any work that is not specifically shown in the Contract Plans and Project Special Provisions therein but is reasonably inferable therefrom or necessary for a fully successfully completing the required services. The Contract Plans and Project Special Provisions are considered complimentary Contract Documents. What is required and shown in one document is to be considered required and shown by all documents. Greater quantity and greater quality are required if there is a conflict in information provided.

**C.5.1.2** The Contractor is responsible for the means and methods of construction to complete the intent of the work as depicted in the Contract Plans and referenced documents.

### **C.5.2 Deliverables and Submittals**

The Contractor shall perform the activities required to successfully complete the District's requirements and submit each deliverable described in Section F.2.

### **C.5.3 Statement of Work**

1. Providing a construction schedule for the project and make necessary monthly adjustments to keep the schedule updated.
2. Implement Traffic Controls. Monitor and maintain traffic controls inside the Campus and within Public Space outside the Campus for the entire duration of the Project as shown in the Contract Plans. Maintain vehicular and pedestrian traffic per DDOT Gold Book or as directed by the DGS COTR. Maintain access to residential, institutional, and commercial establishments using appropriate means as outlined in the Maintenance of Traffic in the Contract Plans and per the DGS COTR.
3. Mobilization and demobilization, provision, security, and maintenance of work and storage areas, Engineer's Field Facilities, and performance of Employee Training.
4. Implementation of sediment and erosion control measures as shown on the Contract Plans. Maintenance of sediment and erosion control measures for entire duration of the Project.
5. Removal and disposal of existing pavement and median surfaces, concrete base, curb, gutter, sidewalk, and any other hard surface for removal, repair, or replacement.
6. Utility trenching and the installation of new, drainage structures and sewer pipes,.
7. Coordination with Washington Gas & Light on the installation of their privately constructed natural gas service mains within the project limits.
8. Utility test pit work for verification of utilities to complete the 72 Inch Sewer relocation work.
9. Installation of DDOT DEM and MUTCD compliant signage and pavement markings.
10. Upgrade wheelchair ramps to meet current ADA requirements and pedestrian crosswalk safety improvements, if necessary.

11. Construction of curb, gutter and adjacent walkways.
12. Maintain service of all existing utilities during construction.
13. Disposal of all unsalvageable material, and all labor materials, tools, equipment, and incidentals required to obtain a complete and finished product of work.
14. Develop and provide a groundwater management plan for dewatering in areas of contamination for excavations, including pumping of stormwater ponding in excavations where contaminated soils exist.
15. Installation of all temporary and permanent fencing and DDOT standard guard rail as shown on the Contract Plans.
16. Removal and disposal of private street lighting poles, cables, luminaries, and respective concrete foundations. The removal or reuse of these private street lighting items shall be coordinated with the staged construction of new foundations for placement of new or re-used poles. Materials not re-used on site shall be salvaged and delivered to the DGS storage area on campus as directed by DGS CM.
17. Provide record drawings of improvements including underground infrastructure in CAD format for DGS, DDOT, DC Water, DOEE, Pepco and Verizon records upon completion of infrastructure improvements. Record Drawings are to be prepared to agency or utility company standards and are to be signed and sealed by the preparing entity. Agency Record Drawing requirements can be located at the web links in section C.2 above. DDOT Urban Forestry Division (UFD) requires as built plans of the tree locations in DDOT GIS format.
18. Coordinate work and cooperate fully with other projects in the vicinity of the Project area as detailed in the special provisions.

#### **C.5.4 Contractor's Responsibility for Work**

This Section C.5.4 supersedes Gold Book Section 107.15, "Contractor's Responsibility for Work."

**C.5.4.1** Until Final Acceptance of the Project by the District, the Contractor shall be responsible for the Project and shall take every precaution against injury, or damage to any part thereof, whether arising from the execution or from the non-execution of the Project. The Contractor shall rebuild, repair, restore, and bear the expense of such injury or damage before Final Acceptance except to the extent that such injury or damage is due to unforeseeable cause beyond the control, and without the fault or negligence, of the Contractor or subcontractor.

**C.5.4.2** In case of suspension of all or any portion of the Work from any cause whatever, the Contractor shall be responsible for the Project and shall 1) take such precautions as may be necessary to prevent damage to the Project, 2) provide for normal drainage and 3) erect any necessary temporary structures, signs, or other facilities. In addition, during such period of suspension, the Contractor shall properly and continuously maintain, in an acceptable growing condition, all living material in newly established plantings, seeding, and sodding furnished under the Contract, and shall take necessary precautions to protect new tree growth and other important vegetative growth against injury.

### **C.5.5 Partnering Session**

**C.5.5.1** Success depends on how the key managers work with each other. To that end, the Contractor shall host one 8-hour Partnering Session for not more than 20 people shortly after the award of the contract. The purpose of this session will be for key individuals to meet and greet each other, to discuss and clarify project objectives and to set mutual expectations on processes and project outcomes.

**C.5.5.2** The Contractor shall choose a facilitator who is outside of the DGS organization, unassociated with the Contractor, has the special knowledge, skills, and abilities to bring client and contractor together to resolve issues that may affect the timely completion of this project.

**C.5.5.3** The Contractor shall ensure the Partnering Session is well organized. The facilitator shall meet with the DGS Director of Operations, DGS Executive Program Manager, the DGS COTR, the DDOT Project Manager, Contractor's Executive and Project Manager beforehand to identify others who will be invited to attend and to organize an agenda.

**C.5.5.4** DGS prefers that this Partnering Session be held at the DGS headquarters located at 3924 Minnesota Avenue NE, Washington, DC 20019. The partnering session may be held via teleconference.

### **C.5.6 Baseline Schedule**

**C.5.6.1** The timely completion of this project is critical to the delivery of the 72 Inch Sewer Relocation Project. Therefore, within fourteen (14) days after the Notice To Proceed (NTP) is issued, the Contractor shall prepare and submit a cost-loaded, resource-loaded, Baseline Schedule for the Project (the "Baseline Schedule"). This Baseline Schedule shall be subject to review and approval by the Department. The Contractor 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 Primavera 6 native format in sufficient detail to permit the Department and the Contractor and any other interested parties to properly manage the Project.

**C.5.6.2** Developing the schedule should not be approached casually. The overall success of any project depends largely on how well the project sequences have been thought through, how well construction bugs have been anticipated and resolved and how well issues have been communicated in a forthright and timely manner with the entire team and especially with DGS.

**C.5.6.3** Because of the importance of the schedule, updates to the schedule will be submitted every two weeks so that the effects of any delays can be detected early and solutions to correct these delays can be devised sooner.

**C.5.6.4** In view of the unpredictability of durations for approval of permits and the potential adverse effects on the overall delivery of the project, the schedule will include activities for submission and review of all permits other than the BCIV permit that DGS will obtain and transfer to the contractor at NTP. Contractor to reflect in schedule time frames for ordering and receiving critical, long-lead procurement items.

### **C.5.7 Construction Management Plan**

The Contractor shall submit a draft of its construction management plan (“Construction Management Plan”) within fourteen (14) days after the NTP is issued to include, but 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.

### **C.5.8 Compliance with Other Requirements**

In performing the Work, the Contractor and its subcontractors shall comply with all of the applicable provisions of the Standard Contract Provisions, (Construction Contracts) included as **Attachment J.3** and the requirements set forth in Section C.5.17 (Site Safety), Section C.5.18 (Workhours; Coordination with DMPED and the Community), and Section C.5.19 (Quality Control Plan) of this solicitation.

### **C.5.9 Project Sign**

The contractor shall supply a project sign in accordance with **Attachment J.1.8** and No. 31 of the Special Provisions (**Attachment J.1.5**).

### **C.5.10 Supervision**

Throughout the Work, the construction office shall be managed by the Field Superintendent, as defined in Section C.5.28 Key Personnel, 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.

### **C.5.11 Progress Meetings**

#### **C.5.11.1 Weekly Progress Meetings**

Throughout the Work, the Contractor shall prepare for and attend weekly progress meetings called by DGS or its COTR.

#### **C.5.11.2 Monthly Executive Progress Meetings**

In addition to the weekly progress meetings, there will be a monthly executive meeting organized and led by the Contractor with content involvement from DGS and its COTR. These meetings shall bring to the attention of DGS and DDOT leadership high-risk issues that will affect the cost, quality, and schedule of the project.

**This executive meeting is not intended as a replay or amalgamation of the weekly progress meeting.** Its purpose is to raise awareness of important issues to Contractor's executives, and DGS and DDOT executives that, if not resolved in a timely way, will have an adverse effect on the project. The meeting agenda should include: safety, especially data relating to frequency and severity; schedule, especially Schedule Performance Index (actual versus planned), why the schedule is ahead or behind and, if behind, how the builder intends to get back on schedule; quality issues; resource issues especially issues relating to the number and availability of workforce or equipment; subcontract issues especially availability of long-lead, critical path material issues; permits and how the issuing of permits may affect schedule or costs; status of critical RFIs especially ones that may affect schedule and costs, review of the Project Risk Register and what the builder is doing to mitigate or resolve these issues; and other agenda items that the builder or the DGS or DDOT feel need to be included.

Ideally, these meetings would be held on site, but these meetings may be held via teleconference.

#### **C.5.12 Delay Liquidated Damages**

If the Scope of Work is not substantially complete by the Substantial Completion Date, the Contractor shall be subject to liquidated damages in an amount of Three Thousand and Five Hundred Dollars (\$3,500) per day. These damages shall not apply if the delay is the result of Force Majeure and the Contractor otherwise complies with the provisions set forth in the Standard Contract Provisions (Construction Contracts), **Attachment J.3**.

#### **C.5.13 RESERVED**

#### **C5.14 Salvage Value and Stored Items**

The Contractor shall be responsible for salvaging and storing all items identified by the Department in accordance with all applicable District laws and regulations. After the items have been secured, the Contractor shall notify the Department and request permission to proceed with the project.

#### **C.5.15 Protection of Existing Elements**

The Contractor shall protect all existing features, public utilities, and other structures during construction. There is an existing 14-inch private water main crossing the site that must be temporarily relocated and kept in service during the entire project construction period. Also, private utility services to the 801 Men's Shelter shall not be impacted by construction. The Contractor shall protect existing, site improvements, trees, and shrubs

from damage during construction. Protection extends to the root systems of existing vegetation. The Contractor shall not store materials or equipment, or drive machinery, within the drip line of existing trees and shrubs.

The Contractor shall be fully responsible for protection against damage for the duration of the contract of all the utility structures within the contract limits and adjacent thereto. The utilities include but are not limited to public and/or private water, sewer, electric, gas, telephone and communication lines. No separate measurement or payment will be made. Cost of this protective work will be covered and distributed among the contract pay items.

### **C.5.16 Site Cleanliness**

During the period of performance and/or as directed by the Department's COTR, the Contractor shall ensure that the site is clear of all extraneous materials, rubbish, or debris.

### **C.5.17 Site Safety**

All costs associated with the Site Safety will not be measured for payment and are incidental to the Project.

#### **C.5.17.1 General Responsibility**

The Contractor shall provide a safe and efficient site with controlled access. As part of this obligation, the Contractor 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 (Construction Contracts) **Attachment J.3**.

#### **C.5.17.2 Safety Plan**

**C.5.17.2.1** Prior to the start of construction activities, the Contractor shall prepare a safety plan conforming to OSHA 29 CFR 1926 (such plan, the "Safety Plan"), the District of Columbia Department of Transportation (DDOT) Construction Management Manual (May 2010) and Article 27, Section A of the Standard Contract Provisions (Construction Contracts) **Attachment J.3**.

**C.5.17.2.2** The Safety Plan shall describe the proposed safety measures to be taken including fences and barriers that will be used at the site. This Safety Plan will be submitted to the Department and to DMPED for their review and approval prior to the commencement of construction. Once the Safety Plan has been approved, the Contractor shall always comply with the plan during construction. The Contractor shall be required to revise the Safety Plan as may be requested by the Department or DMPED.

**C.5.17.2.3** The Contractor shall not be permitted to commence construction until the Safety Plan is submitted and approved and in no event shall any resulting delay constitute an excusable delay. Additionally, the Contractor shall comply with the requirements of



Article 27, Section A of the Standard Contract Provisions (Construction Contracts)  
**Attachment J.3.**

### **C.5.17.3 Site Security**

Portions of the Project site will be open to the public during construction. The Contractor shall take the necessary measures to prevent vandalism and theft of materials, equipment and tools as well as damage to the completed work on the project site and to ensure the protection of personnel and property. The Department shall not be held liable for any loss or damage resulting there from. Areas around the 801 Men's Shelter and the "RED" surface parking lot, are available for public travel. These areas cannot be used for staging or material storage or employee parking. All areas shall be protected from materials and construction activities.

When, in the opinion of the Construction Manager or the Department, construction operations constitute a hazard, the Contractor may be required to suspend operations and rectify the situation. The Contractor will be permitted to recommence work once a plan has been submitted and accepted by the Engineer that resolves the safety issue.

### **C.5.17.4 Exculpation**

The right of the Department and DMPED to comment on the Safety Plan and the nature and location of the required fences and barriers shall in no way absolve the Contractor from the obligation to maintain a safe site.

## **C.5.18 Workhours; Coordination with the Department, DMPED, and the Community**

### **C.5.18.1 Workhours**

The Contractor shall comply with the Night Work requirements of the Special Provisions.

### **C.5.18.2 Parking**

The Contractor shall organize its work in such a manner 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 Contractor shall develop a parking plan for those individuals working on the site that is reasonably acceptable to the Department.

### **C.5.18.3 Wheel Washing Stations**

The Contractor shall provide wheel washing stations on site to prevent the accumulation of dirt and other refuse on the streets surrounding the Project site.

### **C.5.18.4 Outreach Plan**

The Contractor shall keep the Department informed of the construction activities and their potential impact on the community.

### **C.5.19 Quality Control Plan**

General Obligation. The Contractor shall be responsible for all activities necessary to manage, control, and document work to ensure compliance with the Contract Documents. The Contractor's responsibility includes ensuring adequate quality control services are provided by the Contractor'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.

#### **C.5.19.1 Quality Control Plan**

Within ten (10) days after NTP, the Contractor shall update the 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 Intermediate and in general, shall include a table of contents, quality control team organization, duties, responsibilities and authority of quality control staff, 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.

#### **C.5.19.2 Implementation**

The Contractor 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 daily. The Contractor shall discuss outstanding deficiencies, testing/inspections, and upcoming work at the regularly scheduled progress meetings with the Department.

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 or deficiencies raised during the month and outline the steps that are being used to address such issues. Deficiencies should be corrected in accordance with Department Standard Contract Provisions (Construction Contracts) **Attachment J.3**.

#### **C.5.19.3 Corrective Action Plan**

The Department shall have the right to direct the Contractor to revise the Quality Control Plan.

## **C.5.20 Reporting Requirements**

The Contractor shall be required to submit the following reports:

### **C.5.20.1 Monthly Report**

The Contractor shall provide written reports to the Department, on the progress of the entire Work at least monthly from NTP until Final Completion of the Project. The monthly report shall include: (i) a progressed schedule and analysis, including any plans to correct defective or deficient work or recover delays; (ii) a quality control report; and (iii) progress photos, (iv) significant events during the month including visitors to the site and (v) significant events or milestones planned for the following month.

### **C.5.20.2 Bi-Weekly Schedule Updates**

In view of the urgency to complete this project, the Contractor 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 C.5.6 of this IFB. The update shall reflect the actual progress of the Project, identify developing or potential delays, regardless of their cause, and reflect the Contractor's best projection of the actual date by which Substantial Completion and Final Completion of the Project will be achieved. The Contractor 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.

## **C.5.21 Project Close-out**

### **C.5.21.1 Punch list**

Prior to Substantial Completion, the Contractor shall develop a punch list in accordance with the Gold Book.

Once the punch list is prepared, the Contractor shall inspect the Work along with representatives from the Department and DDOT. The punch list shall be revised to reflect additional work items that are discovered during such inspections. The Contractor shall correct all punch list items no later than thirty (30) days after Substantial Completion is achieved.

### **C.5.21.2 Training**

The Contractor shall provide training to Department staff on all the installed systems on the project. The Contractor shall be required to schedule such training sessions and shall make reasonable efforts to ensure all such training occurs prior to the Substantial Completion date.

### **C.5.21.3 Warranties & Manuals**

No later than fifteen (15) days following the Substantial Completion date, the Contractor shall have a Maintenance Bond for two (2) years after the Final Acceptance. The amount of the Maintenance Bond is \$2.7 million.

### **C.5.21.4 Eleven Month Walk**

The Contractor shall schedule a joint inspection of the Project during the eleventh month after Substantial Completion is achieved. During such inspection, the Contractor and a representative of the Department shall walk the Project to identify any necessary warranty work.

### **C.5.22 Compensation**

The Contractor will be compensated in accordance with Section 109 of the Gold Book.

### **C5.23 Licensing, Accreditation and Registration**

The Contractor and all 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 Contract. Without limiting the generality of the foregoing, all drawings shall be signed and sealed by a professional Architect, surveyor, or engineer licensed in the District of Columbia.

### **C.5.24 Conformance with Laws**

It shall be the responsibility of the Contractor to perform the Contract in conformance with the Department's Procurement Regulations (27 DCMR § 4700 *et seq.*) and all statutes, laws, codes, ordinances, regulations, rules, requirements and orders of governmental bodies, including, without limitation, the U.S. Government and the District of Columbia government; and it is the sole responsibility of the Contractor to determine the Department's procurement regulations, statutes, laws, codes, ordinances, regulations, rules, requirements and orders that apply and their effect on the Contractor's obligations thereunder.

### **C.5.25 Time is of the Essence**

Time is of the essence with respect to this Project. The Project must be Substantially Complete by the Substantial Completion Date. As such, by submitting a bid, the Contractor agrees to 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.

### **C.5.26 Brand Name or Equal**

A. If items called for by the Solicitation have been identified by a brand name description, such identification is intended to be descriptive, but not restrictive, and is to indicate the quality and characteristics of products that will be satisfactory. The District will consider alternate products to be equal if the COTR determines them to be equal in all material respects to the brand name products referenced in the Solicitation.

B. The Contractor must provide all descriptive material (such as cuts, illustrations, drawings, or other information) necessary for the District to determine whether the product offered meets the requirements of the Contract. In making the determination as to equality of a product the District will consider information furnished by the Contractor. The District may, but is not obligated to, also consider information reasonably available to the District. Also, see Section L.23.

### **C.5.27 Administrative Matters**

Use of Project Team system The Contractor shall utilize the Department's Project Team system to submit any and all documentation required to be provided by the Contractor for the Project, including, but not limited to, (i) requests for information; (ii) submittals; (iii) meeting minutes; (iv) proposed Changes; (v) certified payrolls (and at DGS' option to upload via DOES LCP Tracker software which the District will make available to the Contractor); (vi) Contract Plans and Technical Specifications; (vii) punch list; (viii) invoices/applications for payment (full package including all forms required by DGS); and (ix) other documents as may be designated by the Department or its COTR.

### **C.5.28 Key Personnel**

**C.5.28.1** The Contractor's personnel should have the necessary experience and licenses to perform the required work. Toward that end, Offerors shall include within the bid a description of the staff available to perform this work and their qualifications. Key personnel shall include, at a minimum, the following individuals: (i) the Project Executive; (ii) the Field Superintendent; and (iii) the Project Manager who will be responsible for the Project. The Contractor will not be permitted to reassign any of the key personnel unless the Department approves the proposed reassignment and the proposed replacement. A list of the key personnel shall be attached to the contract that results from this IFB.

**C.5.28.2 Supervision & Coordination** The Contractor shall properly supervise and coordinate its work. The Contractor shall at a minimum:

- a. The Contractor and DGS COTR shall meet as necessary.
- b. Maintain full-time on-site construction supervision and provide daily inspections, quality control, monitoring, coordination of various trades, record drawings, and daily work log;
- c. Coordinate work with any on-site personnel so as to ensure that their activities are not adversely affected;

- d. Conduct periodic progress meetings following a Contractor generated agenda with the COTR.
- e. Meet the COTR on-site once per week for project update walk-throughs;
- f. Provide general safety signage and posting for the project and see that each subcontractor prepares and submits adequate safety program and monitoring throughout the project;
- g. Obtain all job permits and approvals from the Department of Consumer and Regulatory Affairs that are required to perform and complete the Work, unless otherwise noted herein;
- h. Prepare payment requests, verify accuracy and forward to Department for approval and payment;
- i. Assemble close-out documents required;
- j. Provide assistance to the Department through all applicable warranty periods;
- k. Coordinate its work with all third parties so as not to delay the critical path of the project; and
- l. Prepare and submit to the Department construction meeting minutes, progress meeting minutes, daily logs, inspection reports, preliminary and baseline schedules (Primavera format) and schedule updates demonstrating the critical

## **C.6 ACCELERATION**

Subject to the terms of this Section, the Department shall have the right to direct the Contractor to accelerate the work if, in the reasonable judgment of Department, the Contractor fails to: (i) supply a sufficiency of workers or to deliver the materials or equipment with such promptness as to prevent the delay in the progress of the work; or (ii) the progress of the work materially falls behind the projections contained in the then currently approved Project Schedule. In the event that the Department or its Project Manager determine that either of the events specified in the preceding sentence have occurred, the Department shall provide the Contractor with written notice of such event and the Contractor shall be required to provide the Department with a corrective action plan that is reasonably designed to address the concerns raised in such notice within three (3) days after receipt of such notice. If the Department and the Contractor are unable to agree on the terms of such corrective action plan within five (5) days after the issuance of the notice (i.e. with forty eight (48) hours after the receipt of the proposed corrective action plan), the Department shall have the right to direct such acceleration as the Department, in its reasonable judgment, deems necessary. Provided the notice provisions of this Section are complied with, the cost of any acceleration directed under this Section shall not justify an adjustment to the Lump Sum Price or the Substantial Completion Date. The Contractor hereby acknowledges that this provision is a material inducement upon which the Department has relied in entering into the Contract; and represents and warrants that it has included sufficient funding in its Lump Sum Price in order to comply with the requirements of this Section.

## **C.7 WALK-THROUGH INSPECTION**

At the achievement of Substantial Completion, the DGS COTR shall perform a walk-through inspection in the presence of the Contractor. The Contractor shall prepare a written report stating any deficiencies found during the walk-through, identify the responsible parties, and ensure that all the deficiencies are corrected by the Contractor prior to demobilization. The Contractor shall not demobilize from the site until receiving written notice, in writing, from the DGS COTR the deficiencies have been corrected to the DGS COTR satisfaction.

**SECTION D  
PACKAGING AND MARKING**

- D.1** The packaging and marking requirements for this contract shall be governed by clause number 2 of the Government of the District of Columbia Department of General Services Standard Contract Provisions (General Provisions) Construction Contracts. (**Attachment J.3**)



**SECTION E**  
**INSPECTION AND ACCEPTANCE**

- E.1** The inspection and acceptance requirements for this contract shall be governed by Article 11 of the Government of the District of Columbia Department of General Services Standard Contract Provisions (General Provisions) Construction Contracts (**Attachment J.3**).

## **SECTION F PERIOD OF PERFORMANCE AND DELIVERABLES**

### **F.1 TERM OF CONTRACT**

The term of the contract shall be for a period of 270 calendar days from the date of the Contracting Officer's (CO) execution of the Contract (as specified on page 1 of this Contract) or the date of the CO's execution of the Letter Contract /Notice to Proceed, if applicable.

**F.1.1 Substantial Completion Date.** Unless the Contract specifies a different time, Substantial Completion is 30 Calendar Days before Final Acceptance.

**F.1.2 Final Acceptance Date.** The Final Acceptance Date is **270** consecutive calendar days from the date of Notice to Proceed to the contractor.

**F.1.3 Administrative Term.** The Contract shall have an administrative term (the "Administrative Term") that runs from the effective date of the Notice to Proceed to the later of the Administrative Term Expiration Date set as 90 days from Final Completion Date. The Administrative Term is established for the sole purpose of permitting the Department's Office of the Chief Financial Officer to process payments in the event any payments become due. The Administrative Term is NOT an extension of the Substantial or Final Completion Dates, and nothing herein shall be construed to extend the Substantial and Final Completion Dates or, limit the Department's ability to assess liquidated damages thereon.

**F.1.4 Letter Contract.** It is understood and agreed that certain activities described herein may have been performed while a Letter Contract was in place, and the term of the Letter Contract shall merge into and be superseded by this contract upon its execution by the CO. In this instance, the term of the contract would begin on the effective date of the Letter Contract.

### **F.2 DELIVERABLES**

The Contractor shall perform the activities required to successfully complete the District's requirements and submit each deliverable described herein to the COTR identified in Section G.9.6.

In addition to any deliverables required elsewhere in the Contract Documents, as defined herein, the Contractor shall submit the following deliverables in accordance with the Contract:

<b>Contract Reference</b>	<b>Deliverable</b>	<b>Quantity</b>	<b>Format/Method of Delivery</b>	<b>Due Date</b>
J.1.3 – SP No. 2	Design calculations and shop drawings	As needed	Submittal to DGS	Minimum of 21 days before ordering materials
C.5.3 #1 and C.5.6	Construction Schedule	Monthly updated	P-6 file uploaded to DGS	within 14 days of NTP and Monthly with each pay request
C.5.3 #24	Groundwater Management Plan	If needed	Submittal to DGS and DOEE	When groundwater is encountered in excavations
C.5.3 #29	Survey Plan	Ongoing	No submittal required	Prior to construction of improvements to locate key elements in the field
C.5.3 #30	Record Drawings	Complete set to each utility and complete set to DDOT and DGS	Upload to respective agency and DGS. PDF and MicroStation formats.	As part of final completion of punch list and project closeout documents at the end of construction
C.5.5	Partnering Session	one	In person or virtual meeting	Within 14 days of NTP
C.5.6	Baseline Schedule	one	Upload to DGS/P-6 file	Within 14 days of NTP
C.5.6	Schedule Updates	As needed	P-6 files uploaded to DGS	Every 2 weeks
C.5.7	Construction Management Plan	one	PDF or word file uploaded to DGS	Within 14 days of NTP
C.5.9 and J.1.3 – SP No. 31	Project Sign	one	On site installation	Within 21 days of NTP
C.5.11.1	Weekly Progress Meetings	As necessary	In person or virtual meeting	Weekly at day and time agreeable to DGS and contractor
C.5.11.2	Monthly Executive Progress Meetings	As necessary	In person or virtual meeting	Monthly at day and time agreeable to DGS and contractor

C.5.13	Hazardous or Contaminated Materials Notices	When encountered	Notification uploaded to DGS and DOEE inspector notified by call	When encountered
C.5.13	Hazardous or Contaminated Materials Manifests	As necessary	Written and signed manifest uploaded to DGS	When encountered
C.5.17.2	Safety Plan	one	PDF or word file uploaded to DGS	Prior to mobilization
C.5.17.3	Site Security Remediation Plan	one	PDF or word file uploaded to DGS	Within 1 week of NTP
C.5.18.2	Parking Plan	one	PDF or word file uploaded to DGS	Within 1 week of NTP
C.5.18	Outreach Plan	one	PDF or word file uploaded to DGS	Within 1 week of NTP
C.5.19	Quality Control Plan	one	PDF or word file uploaded to DGS	Within 1 week of NTP
C.5.19.3	Corrective Action Plan			14 days from DGS's request
C.5.20.1	Monthly Report	As needed	Word file uploaded to DGS	Monthly
C.5.20.2	Bi-Weekly Schedule Updates	As needed	P-6 file	Bi-weekly
C.5.21.1	Punch list	One	Hard copy and upload of file to DGS and DDOT	At substantial completion walk thru. Correct all punch list items no later than 30 days after Substantial Completion.
C.5.21.1	Training materials	one	TBD	As needed
C.5.21.2	Warranties & Manuals	As required by DDOT	Uploaded to DGS and DDOT	15 days following substantial completion
C.5.21.3	Eleventh Month Walk	one	On site walk	11 months after Substantial Completion
Compliance	Subcontractor Payment Form	One	Electronic/Responsible Agency	Monthly
Compliance	Subcontractor Approval Request Form	One	Electronic/Responsible Agency	Monthly

Compliance	EEO Monthly Employment Utilization Report	One	Electronic/Responsible Agency	Monthly
Compliance	DSLBD CBE Utilization Form	One	Electronic/Responsible Agency	Quarterly
Compliance	Certified Payrolls and Statement of Compliance	One	Electronic/Responsible Agency	Weekly

The contractor shall produce design calculations and shop drawings in connection with necessary systems for temporary support structures or devices, protection/demolition shields, and other significant temporary work affecting the safety of the traveling public or workers on the project.

- F.2.1** The Contractor shall submit to the District, as a deliverable, the report described in section H.5.5 which is required by the 51% District Residents New Hires Requirements and First Source Employment Agreement. If the Contractor does not submit the report as part of the deliverables, the District shall not make final payment to the Contractor pursuant to section G.3.2

## **SECTION G CONTRACT ADMINISTRATION**

### **G.1 INVOICE PAYMENT**

**G.1.1** The District will make payments to the Contractor, upon the submission of proper invoices, at the prices stipulated in this contract, for supplies delivered and accepted or services performed and accepted, less any discounts, allowances or adjustments provided for in this contract.

**G.1.2** The District will pay the Contractor on or before the 30<sup>th</sup> day after receiving a proper invoice from the Contractor.

### **G.2 INVOICE SUBMITTAL**

**G.2.1** The Contractor shall initiate their payments requests in the DGS ProjectTeam System and upon approval of the DGS PM submit an electronic format through the DC Vendor Portal, <http://vendorportal.dc.gov>. The Contractor shall submit proper invoices on a monthly basis. To constitute a proper invoice, the Contractor shall enter all required information into the ProjectTeam and DC Vendor Portal after selecting the applicable purchase order number which is listed on the Contractor's profile.

**G.2.2** The Contractor shall submit proper invoices on a monthly basis or as otherwise specified in Section G.4. Invoices shall be prepared in duplicate and submitted to the agency Chief Financial Officer ("CFO") with concurrent copies to the COTR specified in Section G.9 below. The address of the CFO is:

Department of General Services  
Office of the Controller/Agency CFO  
3924 Minnesota Avenue, NE, 5<sup>th</sup> Floor  
Washington, DC 20019

For assistance with the registration process, technical difficulties and/or additional information on Prolog, please contact the Portal Help Desk at (202) 671-0571

**G.2.2** To constitute a proper invoice, the Contractor shall submit the following information on the invoice:

**G.2.2.1** Contractor's name, federal tax ID and invoice date (date invoices as of the date of mailing or transmittal);

**G.2.2.2** Contract number and invoice number;

**G.2.2.3** Description, price, quantity and the date(s) that the supplies or services were delivered or performed;

- G.2.2.4** Other supporting documentation or information, as required by the Contracting Officer;
- G.2.2.5** Name, title, telephone number and complete mailing address of the responsible official to whom payment is to be sent;
- G.2.2.6** Name, title, phone number of person preparing the invoice;
- G.2.2.7** Name, title, phone number and mailing address of person (if different from the person identified in G.2.2.6 above) to be notified in the event of a defective invoice; and
- G.2.2.8** Authorized signature.

### **G.3 FIRST SOURCE AGREEMENT REQUEST FOR FINAL PAYMENT**

- G.3.1** For contracts subject to the 51% District Residents New Hires Requirements and First Source Employment Agreement requirements, final request for payment must be accompanied by the report or a waiver of compliance discussed in section H.5.5.
- G.3.2** The District shall not make final payment to the Contractor until the agency CFO has received the CO's final determination or approval of waiver of the Contractor's compliance with 51% District Residents New Hires Requirements and First Source Employment Agreement requirements.

### **G.4 PAYMENT**

#### **G.4.1 Partial Payments**

Unless otherwise specified in this contract, payment will be made on partial deliveries of goods and services accepted by the District if:

- a. The amount due on the deliveries warrants it; or
- b. The Contractor requests it and the amount due on the deliveries is in accordance with the following:
  - 1. "Payment will be made on completion and acceptance of each percentage or stage of work as described in Section B.3"; and
  - 2. Presentation of a properly executed invoice.

### **G.5 ASSIGNMENT OF CONTRACT PAYMENTS**

- G.5.1** In accordance with 27 DCMR 3250, the Contractor may assign to a bank, trust company, or other financing institution funds due or to become due as a result of the performance of this contract.

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

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

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

## **G.6 THE QUICK PAYMENT ACT**

### **G.6.1 Interest Penalties to Contractors**

**G.6.1.1** The District will pay interest penalties on amounts due to the Contractor under the Quick Payment Act, D.C. Official Code § 2-221.01 *et seq.*, as amended, for the period beginning on the day after the required payment date and ending on the date on which payment of the amount is made. Interest shall be calculated at the rate of at least 1.5% per month. No interest penalty shall be paid if payment for the completed delivery of the item of property or service is made on or before the required payment date. The required payment date shall be:

**G.6.1.1.1** The date on which payment is due under the terms of the contract;

**G.6.1.1.2** Not later than 7 calendar days, excluding legal holidays, after the date of delivery of meat or meat food products;

**G.6.1.1.3** Not later than 10 calendar days, excluding legal holidays, after the date of delivery of a perishable agricultural commodity; or

**G.6.1.1.4** 30 calendar days, excluding legal holidays, after receipt of a proper invoice for the amount of the payment due.

**G.6.1.2** No interest penalty shall be due to the Contractor if payment for the completed delivery of goods or services is made on or after:

**G.6.1.2.1** 3<sup>rd</sup> day after the required payment date for meat or a meat food product;

**G.6.1.2.2** 5<sup>th</sup> day after the required payment date for an agricultural commodity; or



**G.6.1.2.3** 15<sup>th</sup> day after any other required payment date.

**G.6.1.3** Any amount of an interest penalty which remains unpaid at the end of any 30-day period shall be added to the principal amount of the debt and thereafter interest penalties shall accrue on the added amount.

**G.6.2 Payments to Subcontractors**

**G.6.2.1** The Contractor must take one of the following actions within seven (7) days of receipt of any amount paid to the Contractor by the District for work performed by any subcontractor under the contract:

**G.6.2.1.1** Pay the subcontractor(s) for the proportionate share of the total payment received from the District that is attributable to the subcontractor(s) for work performed under the contract; or

**G.6.2.1.2** Notify the CO and the subcontractor(s), in writing, of the Contractor's intention to withhold all or part of the subcontractor's payment and state the reason for the nonpayment.

**G.6.2.2** The Contractor must pay any subcontractor or supplier interest penalties on amounts due to the subcontractor or supplier beginning on the day after the payment is due and ending on the date on which the payment is made. Interest shall be calculated at the rate of at least 1.5% per month. No interest penalty shall be paid on the following if payment for the completed delivery of the item of property or service is made on or before the:

**G.6.2.2.1** 3<sup>rd</sup> day after the required payment date for meat or a meat product;

**G.6.2.2.2** 5<sup>th</sup> day after the required payment date for an agricultural commodity; or

**G.6.2.2.3** 15<sup>th</sup> day after any other required payment date.

**G.6.2.3** Any amount of an interest penalty which remains unpaid by the Contractor at the end of any 30-day period shall be added to the principal amount of the debt to the subcontractor and thereafter interest penalties shall accrue on the added amount.

**G.6.2.4** A dispute between the Contractor and subcontractor relating to the amounts or entitlement of a subcontractor to a payment or a late payment interest penalty under the Quick Payment Act does not constitute a dispute to which the District is a party. The District may not be interpleaded in any judicial or administrative proceeding involving such a dispute.

### **G.6.3 Subcontractor Quick Payment Clause Flow-Down Requirements**

The Contractor shall include in each subcontract under this contract a provision requiring the subcontractor to include in its contract with any lower-tier subcontractor or supplier the payment and interest clauses required under paragraphs (1) and (2) of D.C. Official Code § 2-221.02(d).

### **G.7 CONTRACTING OFFICER (CO)**

Contracts will be entered into and signed on behalf of the District only by contracting officers. The contact information for the Contracting Officer is:

James H. Marshal  
Contracting Officer  
Department of General Services  
3924 Minnesota Avenue, NE, 5<sup>th</sup> Floor  
Washington, DC 20019  
[james.marshall@dc.gov](mailto:james.marshall@dc.gov)  
Phone: 202 727-2163

### **G.8 AUTHORIZED CHANGES BY THE CONTRACTING OFFICER**

- G.8.1** The CO is the only person authorized to approve changes in any of the requirements of this contract.
- G.8.2** The Contractor shall not comply with any order, directive or request that changes or modifies the requirements of this contract, unless issued in writing and signed by the CO.
- G.8.3** In the event the Contractor effects any change at the instruction or request of any person other than the CO, the change will be considered to have been made without authority and no adjustment will be made in the contract price to cover any cost increase incurred as a result thereof.

### **G.9 CONTRACTING OFFICER'S TECHNICAL REPRESENTATIVE (COTR)**

The COTR is responsible for general administration of the contract and advising the CO as to the Contractor's compliance or noncompliance with the contract. The COTR has the responsibility of ensuring the work conforms to the requirements of the contract and such other responsibilities and authorities as may be specified in the contract. These include:

- G.9.1** Keeping the CO fully informed of any technical or contractual difficulties encountered during the performance period and advising the CO of any potential problem areas under the contract;
- G.9.2** Coordinating site entry for Contractor personnel, if applicable;

**G.9.3** Reviewing invoices for completed work and recommending approval by the CO if the Contractor's costs are consistent with the negotiated amounts and progress is satisfactory and commensurate with the rate of expenditure;

**G.9.4** Reviewing and approving invoices for deliverables to ensure receipt of goods and services. This includes the timely processing of invoices and vouchers in accordance with the District's payment provisions; and

**G.9.5** Maintaining a file that includes all contract correspondence, modifications, records of inspections (site, data, equipment) and invoice or vouchers.

**G.9.6** The address and telephone number of the COTR is:

Ali Sheikhbahaei  
DC Department of General Services  
3924 Minnesota Avenue, NE 5<sup>th</sup> Floor  
Washington, DC 20019  
202-727-2163  
[Ali.Sheikhbahaei@dc.gov](mailto:Ali.Sheikhbahaei@dc.gov)

**G.9.7** The COTR shall NOT have the authority to:

- a. Award, agree to, or sign any contract, delivery order or task order. Only the CO shall make contractual agreements, commitments or modifications;
- b. Grant deviations from or waive any of the terms and conditions of the contract;
- c. Increase the dollar limit of the contract or authorize work beyond the dollar limit of the contract,
- d. Authorize the expenditure of funds by the Contractor;
- e. Change the period of performance; or
- f. Authorize the use of District property, except as specified under the contract.

**G.9.8** The Contractor shall be fully responsible for any changes not authorized in advance, in writing, by the CO; may be denied compensation or other relief for any additional work performed that is not so authorized; and may also be required, at no additional cost to the District, to take all corrective action necessitated by reason of the unauthorized changes.

## **SECTION H SPECIAL CONTRACT REQUIREMENTS**

### **H.1 HIRING OF DISTRICT RESIDENTS AS APPRENTICES AND TRAINEES**

**H.1.1** For all new employment resulting from this contract or subcontracts hereto, as defined in Mayor's Order 83-265 and implementing instructions, the Contractor shall use its best efforts to comply with the following basic goal and objectives for utilization of bona fide residents of the District of Columbia in each Project's labor force:

**H.1.1.1** At least fifty-one (51) percent of apprentices and trainees employed shall be residents of the District of Columbia registered in programs approved by the District of Columbia Apprenticeship Council.

**H.1.2** The Contractor shall negotiate an Employment Agreement with the Department of Employment Services (DOES) for jobs created as a result of this contract. The DOES shall be the Contractor's first source of referral for qualified apprentices and trainees in the implementation of employment goals contained in this clause.

#### **H.1.2 Apprenticeship Act**

The District of Columbia Apprenticeship Act of 1946, D.C. Official Code §§ 32-1401 *et seq.* ("Act"), as amended, may apply to this Project. If applicable, 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 Act, D.C. Apprenticeship Council Rules and Regulations, as well as any federal requirements, shall be implemented. The Prime Contractor shall be liable for any subcontractor non-compliance. Thirty-five percent (35%) of all apprentice hours worked on the Project shall be worked by District residents.

### **H.2 DEPARTMENT OF LABOR WAGE DETERMINATIONS**

The Contractor shall be bound by the Wage Determination provided and issued by the U.S. Department of Labor in accordance with the Davis Bacon Act, 41 U.S.C. § 351 *et seq.*, and 29 CFR 5.5 Davis Bacon Provision, both incorporated herein as **Attachment J.4**. As such, the Contractor and its trade subcontractors shall comply with the wage and reporting requirements imposed by that Act for the term of the contract.

### **H.3 PREGNANT WORKERS FAIRNESS**

**H.3.1** The Contractor shall comply with the Protecting Pregnant Workers Fairness Act of 2016, D.C. Official Code § 32-1231.01 *et seq.* (PPWF Act).

**H.3.2** The Contractor shall not:

- a. Refuse to make reasonable accommodations to the known limitations related to pregnancy, childbirth, related medical conditions, or breastfeeding for an

employee, unless the Contractor can demonstrate that the accommodation would impose an undue hardship;

- a. Take an adverse action against an employee who requests or uses a reasonable accommodation in regard to the employee's conditions or privileges of employment, including failing to reinstate the employee when the need for reasonable accommodations ceases to the employee's original job or to an equivalent position with equivalent:
  1. Pay;
  2. Accumulated seniority and retirement;
  3. Benefits; and
  4. Other applicable service credits;
- b. Deny employment opportunities to an employee, or a job applicant, if the denial is based on the need of the employer to make reasonable accommodations to the known limitations related to pregnancy, childbirth, related medical conditions, or breastfeeding;
- c. Require an employee affected by pregnancy, childbirth, related medical conditions, or breastfeeding to accept an accommodation that the employee chooses not to accept if the employee does not have a known limitation related to pregnancy, childbirth, related medical conditions, or breastfeeding or the accommodation is not necessary for the employee to perform her duties;
- d. Require an employee to take leave if a reasonable accommodation can be provided; or
- e. Take adverse action against an employee who has been absent from work as a result of a pregnancy-related condition, including a pre-birth complication.

**H.3.3** The Contractor shall post and maintain in a conspicuous place a notice of rights in both English and Spanish and provide written notice of an employee's right to a needed reasonable accommodation related to pregnancy, childbirth, related medical conditions, or breastfeeding pursuant to the PPWF Act to:

- a. New employees at the commencement of employment;
- b. Existing employees; and
- c. An employee who notifies the employer of her pregnancy, or other condition covered by the PPWF Act, within 10 days of the notification.

**H.3.4** The Contractor shall provide an accurate written translation of the notice of rights to any non-English or non-Spanish speaking employee.

**H.3.5** Violations of the PPWF Act shall be subject to civil penalties as described in the Act.

#### **H.4 UNEMPLOYED ANTI-DISCRIMINATION**

**H.4.1** The Contractor shall comply with the Unemployed Anti-Discrimination Act of 2012, D.C. Official Code § 32-1361 *et seq.*

**H.4.2** The Contractor shall not:

- (a) Fail or refuse to consider for employment, or fail or refuse to hire, an individual as an employee because of the individual's status as unemployed; or
- (b) Publish, in print, on the Internet, or in any other medium, an advertisement or announcement for any vacancy in a job for employment that includes:
  - (1) Any provision stating or indicating that an individual's status as unemployed disqualifies the individual for the job; or
  - (2) Any provision stating or indicating that an employment agency will not consider or hire an individual for employment based on that individual's status as unemployed.

**H.4.3** Violations of the Unemployed Anti-Discrimination Act shall be subject to civil penalties as described in the Act.

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

**H.5.1** For contracts for services in the amount of \$300,000 or more, the Contractor shall comply with the First Source Employment Agreement Act of 1984, as amended, D.C. Official Code § 2-219.01 *et seq.* (First Source Act).

**H.5.2** The Contractor shall enter into and maintain during the term of the contract, a First Source Employment Agreement (Employment Agreement) (**Attachment J.6.1**) with the District of Columbia Department of Employment Service's (DOES), in which the Contractor shall agree that: (a) The first source for finding employees to fill all jobs created in order to perform the contract shall be the First Source Register; and (b) The first source for finding employees to fill any vacancy occurring in all jobs covered by the Employment Agreement shall be the First Source Register.

**H.5.3** If applicable, the Contractor 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; Page 34 of 75

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.

**H.5.4** The Contractor shall not begin performance of the contract until its Employment Agreement has been accepted by DOES. Once approved, the Employment Agreement shall not be amended except with the approval of DOES.

**H.5.5** The Contractor agrees that at least 51% of the new employees hired to perform the contract shall be District residents.

**H.5.6** The Contractor's hiring and reporting requirements under the First Source Act and any rules promulgated thereunder shall continue for the term of the contract.

**H.5.7** The CO may impose penalties, including monetary fines of 5% of the total amount of the direct and indirect labor costs of the contract, for a willful breach of the Employment Agreement, failure to submit the required hiring compliance reports, or deliberate submission of falsified data.

**H.5.8** If the Contractor does not receive a good faith waiver, the CO may also impose an additional penalty equal to 1/8 of 1% of the total amount of the direct and indirect labor costs of the contract for each percentage by which the Contractor fails to meet its hiring requirements.

**H.5.9** Any contractor which violates, more than once within a 10-year timeframe, the hiring or reporting requirements of the First Source Act shall be referred for debarment for not more than five (5) years.

**H.5.10** The contractor may appeal any decision of the CO pursuant to this clause to the D.C. Contract Appeals Board as provided in the Disputes clauses of the SCP of construction contracts.

**H.5.11** The provisions of the First Source Act do not apply to nonprofit organizations which employ 50 employees or less.

## **H.6 LIVING WAGE ACT**

The Living Wage Act is applicable to this Contract. As such, the Contractor and its subcontractors shall comply with the wage and reporting requirements imposed by that Act (**Attachment J.8**).

## **H.7 SUBCONTRACTING REQUIREMENTS**

### **H.7.1 Mandatory Subcontracting Requirements**

- H.7.1.1** For all contracts in excess of \$250,000, at least 35% of the dollar volume of the contract shall be subcontracted to qualified small business enterprises (SBEs).
- H.7.1.2** If there are insufficient SBEs to completely fulfill the requirement of paragraph H.7.1.1, then the subcontracting may be satisfied by subcontracting 35% of the dollar volume to any qualified certified business enterprises (CBEs); provided, however, that all reasonable efforts shall be made to ensure that SBEs are significant participants in the overall subcontracting work.
- H.7.1.3** A prime contractor that is certified by DSLBD as a small, local, or disadvantaged business enterprise shall not be required to comply with the provisions of sections H.7.1.1 and H.7.1.2.
- H.7.1.4** Except as provided in H.7.1.5 and H.7.1.7, a prime contractor that is a CBE and has been granted a bid preference pursuant to D.C. Official Code § 2-218.43, or is selected through a set-aside program, shall perform at least 35% 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 35% of the contracting effort shall be subject to enforcement actions under D.C. Official Code § 2-218.63.
- H.7.1.5** If the prime contractor is a certified joint venture and has been granted a bid preference pursuant to D.C. Official Code § 2-218.43, or is selected through a set-aside program, the CBE member of the certified joint venture 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. If the CBE member of the certified joint venture prime contractor performs less than 50% of the contracting effort, the certified joint venture shall be subject to enforcement actions under D.C. Official Code § 2-218.63.
- H.7.1.6** Each CBE utilized to meet these subcontracting requirements shall perform at least 35% of its contracting effort with its own organization and resources.
- H.7.1.7** A prime contractor that is a CBE and has been granted a bid 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 contract is \$1 million or less.

### **H.7.2 Subcontracting Plan**

If the prime contractor is required to subcontract under this contract, it shall submit a subcontracting plan as part of the bid and it may only be amended after award with the



prior written approval of the CO and Director of DSLBD. Any reduction in the dollar volume of the subcontracted portion resulting from an amendment of the plan after award shall inure to the benefit of the District.

Each subcontracting plan shall include the following:

- (1) The name and address of each subcontractor;
- (2) A current certification number of the small or certified business enterprise;
- (3) The scope of work to be performed by each subcontractor; and
- (4) The price that the prime contractor will pay each subcontractor.

### **H.7.3 Copies of Subcontracts**

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

### **H.7.4 Subcontracting Plan Compliance Reporting**

**H.7.4.1** The Contractor shall submit a quarterly report to the CO, CA, District of Columbia Auditor and the Director of DSLBD. The quarterly report shall include the following information for each subcontract identified in the subcontracting plan:

- (A) The price that the prime contractor will pay each subcontractor under the subcontract;
- (B) A description of the goods procured or the services subcontracted for;
- (C) The amount paid by the prime contractor under the subcontract; and
- (D) A copy of the fully executed subcontract, if it was not provided with an earlier quarterly report.

**H.7.4.2** 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.

### **H.7.5 Annual Meetings**

Upon at least 30-days written notice provided by DSLBD, the Contractor shall meet annually with the CO, CA, District of Columbia Auditor and the Director of DSLBD to provide an update on its subcontracting plan.

## **H.8 FAIR CRIMINAL RECORD SCREENING**

**H.8.1** The Contractor shall comply with the provisions of the Fair Criminal Record Screening Amendment Act of 2014, effective December 17, 2014 (D.C. Law 20-152) (“Act” as used in this section). This section applies to any employment, including employment on

a temporary or contractual basis, where the physical location of the employment is in whole or substantial part within the District of Columbia.

**H.8.2** Prior to making a conditional offer of employment, the Contractor shall not require an applicant for employment, or a person who has requested consideration for employment by the Contractor, to reveal or disclose an arrest or criminal accusation that is not then pending or did not result in a criminal conviction.

**H.8.3** After making a conditional offer of employment, the Contractor may require an applicant to disclose or reveal a criminal conviction.

**H.8.4** The Contractor may only withdraw a conditional offer of employment, or take adverse action against an applicant, for a legitimate business reason as described in the Act.

**H.8.5** This section and the provisions of the Act shall not apply:

(a) Where a federal or District law or regulation requires the consideration of an applicant's criminal history for the purposes of employment;

(b) To a position designated by the employer as part of a federal or District government program or obligation that is designed to encourage the employment of those with criminal histories;

(c) To any facility or employer that provides programs, services, or direct care to, children, youth, or vulnerable adults; or

(d) To employers that employ less than 11 employees.

**H.8.6** A person claiming to be aggrieved by a violation of the Act may file an administrative complaint with the District of Columbia Office of Human Rights, and the Commission on Human Rights may impose monetary penalties against the Contractor.

## **H.9 LIVING WAGE ACT**

The Living Wage Act is applicable to this Contract. As such, the Contractor and its subcontractors shall comply with the wage and reporting requirements imposed by that Act (**Attachment J.8**).

## **H.10 BUY AMERICAN ACT PROVISION.**

**H.10.1** In accordance with the Buy American Act (41 U.S.C. § 10a-10d), 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, 1059—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 agreement, except for non-domestic material listed in the Contract.

- a. “Components” as used in this Section, means those articles, materials and supplies incorporated directly into the end products.
- b. “Domestic end product”, as used in this section, means, (1) an unmanufactured end product mined or produced in the United States, or (2) an end product manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States, exceeds 50 percent of the cost of all its components.
- c. Components of foreign origin of the same class or kind as the products shall be treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic.
- d. “End Products”, as used in this Section, means those articles, materials, and supplies to be acquired for public use under this Contract.
- e. The Contractor shall deliver only domestic end products, except those:
  - i. For use outside the United States;
  - ii. That the District determines are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality;
  - iii. For which the District determines that domestic preference would be inconsistent with the public interest; or
  - iv. For which the District determines the cost to be unreasonable.

**H.10.1.2 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.

**H.10.1.3 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 government to be not mined, produced or manufactured in the

united states in sufficient and reasonably available commercial quantities and of a satisfactory quality.

**H.10.1.4 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 one-tenth of one percent of the total project cost, or \$2,500,000, whichever is greater

## **H.11 ANTI-DEFICIENCY ACTS**

The Department's obligations and responsibilities under the terms of the Contract are and shall remain subject to the provisions of (i) the federal Anti-Deficiency Act, 31 U.S.C. §§1341, 1342, 1349, 1350, 1351, (ii) the D.C. Code 47-105, (iii) the District of Columbia Anti-Deficiency Act, D.C. Code §§ 47-355.01 - 355.08, as the foregoing statutes may be amended from time to time, and (iv) Section 446 of the District of Columbia Home Rule Act. The Contract shall not constitute an indebtedness of the Department, nor shall it constitute an obligation for which the Department is obligated to levy or pledge any form of taxation, or for which the Department has levied or pledged any form of taxation. **IN ACCORDANCE WITH § 446 OF THE HOME RULE ACT, D.C. CODE § 1-204.46, NO DISTRICT OF COLUMBIA OFFICIAL IS AUTHORIZED TO OBLIGATE OR EXPEND ANY AMOUNT UNDER THE AGREEMENT OR CONTRACT DOCUMENTS UNLESS SUCH AMOUNT HAS BEEN APPROVED, IS LAWFULLY AVAILABLE AND APPROPRIATED BY ACT OF CONGRESS.**

## **H.12 FREEDOM OF INFORMATION ACT**

The District of Columbia Freedom of Information Act, at *D.C. Official Code § 2-532 (a-3)*, requires the District to make available for inspection and copying any record produced or collected pursuant to a District contract with a private contractor to perform a public function, to the same extent as if the record were maintained by the agency on whose behalf the contract is made. If the Contractor receives a request for such information, the Contractor shall immediately send the request to the COTR designated in subsection **G.9** who will provide the request to the FOIA Officer for the agency with programmatic responsibility in accordance with the D.C. Freedom of Information Act. If the agency with programmatic responsibility receives a request for a record maintained by the Contractor pursuant to the contract, the COTR will forward a copy to the Contractor. In either event, the Contractor is required by law to provide all responsive records to the COTR within the timeframe designated by the COTR. The FOIA Officer for the agency with programmatic responsibility will determine the releasability of the records. The District will reimburse the Contractor for the costs of searching and copying the records in accordance with *D.C. Official Code §2-532* and Chapter 4 of Title 1 of the *D.C. Municipal Regulations*.

## **H.13 SECTION 504 OF THE REHABILITATION ACT OF 1973, as amended.**

During the performance of the contract, the Contractor and any of its subcontractors shall comply with Section 504 of the Rehabilitation Act of 1973, as amended. This Act prohibits

discrimination against disabled people in federally funded program and activities. **See 29 U.S.C. §794 et seq.**

#### **H.14 AMERICANS WITH DISABILITIES ACT OF 1990 (ADA)**

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

#### **H.15 WAY TO WORK AMENDMENT ACT OF 2006**

**H.15.1** Except as described in **Section H.14.8** below, the Contractor shall comply with Title I of the Way to Work Amendment Act of 2006, effective June 8, 2006 (D.C. Law 16-118, D.C. Official Code §2-220.01 *et seq.*) (“Living Wage Act of 2006”), for contracts for services in the amount of \$100,000 or more in a 12-month period.

**H.15.2** The Contractor shall pay its employees and subcontractors who perform services under the contract no less than the current living wage.

**H.15.3** The Contractor shall include in any subcontract for \$15,000 or more a provision requiring the subcontractor to pay its employees who perform services under the contract no less than the current living wage rate.

**H.15.4** The DOES may adjust the living wage annually and Contractor will find the current living wage rate on its website at [www.does.dc.gov](http://www.does.dc.gov).

**H.15.5** The Contractor shall provide a copy of the Fact Sheet attached as **J.6** to each employee and subcontractor who performs services under the contract. The Contractor shall also post the Notice attached as **J.6** in a conspicuous place in its place of business. The Contractor shall include in any subcontract for \$15,000 or more a provision requiring the subcontractor to post the Notice in a conspicuous place in its place of business.

**H.15.6** The Contractor shall maintain its payroll records under the contract in the regular course of business for a period of at least three (3) years from the payroll date, and shall include this requirement in its subcontracts for \$15,000 or more under the contract.

**H.15.7** The payment of wages required under the Living Wage Act of 2006 shall be consistent with and subject to the provisions of *D.C. Official Code §32-1301 et seq.*

**H.15.8** The requirements of the Living Wage Act of 2006 do *not* apply to:

- (1) Contracts or other agreements that are subject to higher wage level determinations required by federal law;
- (2) Existing and future collective bargaining agreements, provided, that the future collective bargaining agreement results in the employee being paid no less than the established 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 of 2006;
- (6) An employee under 22 years of age employed during a school vacation period, or enrolled as a 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 of 2006;
- (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;
- (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 (68A 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 mentally retarded persons as those terms are defined in section 2 of the Health-Care and Community Residence Facility, Hospice, and Home Care Licensure Act of 1983, effective February 24, 1984 (*D.C. Law 5-48; 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.

**H.15.9** The Mayor may exempt a contractor from the requirements of the Living Wage Act of 2006, subject to the approval of Council, in accordance with the provisions of Section 109 of the Living Wage Act of 2006.

## **H.16 DIVERSION, REASSIGNMENT AND REPLACEMENT OF KEY PERSONNEL**

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

## **H.17 AUDITS AND RECORDS**

**H.17.1** As used in this clause, “records” includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.

**H.17.2 Examination of Costs.** If this is a cost-reimbursement, incentive, time-and-materials, labor-hour, or price re-determinable contract, or any combination of these, the Contractor shall maintain and the CO, or an authorized representative of the CO, shall have the right to examine and audit all records and other evidence sufficient to reflect properly all costs claimed to have been incurred or anticipated to be incurred directly or indirectly in performance of this contract. This right of examination shall include inspection at all reasonable times of the Contractor’s plants, or parts of them, engaged in performing the contract.

**H.17.3 Cost or pricing data.** If the Contractor has been required to submit cost or pricing data in connection with any pricing action relating to this contract, the CO, or an authorized representative of the CO, in order to evaluate the accuracy, completeness, and currency of the cost or pricing data, shall have the right to examine and audit all of the Contractor’s records, including computations and projections, related to:

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

#### **H.17.4 Comptroller General**

**H.17.4.1** The Comptroller General of the United States, or an authorized representative, shall have access to and the right to examine any of the Contractor's directly pertinent records involving transactions related to this contract or a subcontract hereunder.

**H.17.4.2** This paragraph may not be construed to require the Contractor or subcontractor to create or maintain any record that the Contractor or subcontractor does not maintain in the ordinary course of business or pursuant to a provision of law.

**H.17.5 Reports.** If the Contractor is required to furnish cost, funding, or performance reports, the CO or an authorized representative of the CO shall have the right to examine and audit the supporting records and materials, for the purpose of evaluating:

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

**H.17.6 Availability.** The Contractor shall make available at its office at all reasonable times the records, materials, and other evidence described in section H.11, for examination, audit, or reproduction, until three (3) years after final payment under this contract or for any shorter period specified in the solicitation, or for any longer period required by statute or by other clauses of this contract. In addition:

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

**H.17.7** The Contractor shall insert a clause containing all the terms of this clause, including this section H.17.7 in all subcontracts under this contract that exceed the small purchase threshold of \$100,000.00 and:

- a. That are cost-reimbursement, incentive, time-and-materials, labor-hour, or price re-determinable type or any combination of these;
- b. For which cost or pricing data are required; or
- c. That requires the subcontractor to furnish reports as discussed in H.17.5 of this clause.



## **H.18 ADVISORY AND ASSISTANCE SERVICES**

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

## **H.19 DISTRICT RESPONSIBILITIES**

### **H.19.1 District Furnished Property**

District property shall remain the property of the District in all respects. The COTR may require Contractor personnel to sign for receipt and custody of District furnished property, at the discretion of the COTR. The Contractor shall take all reasonable precautions to safeguard and protect District property. District property shall be used only in direct Operations for providing contract services, and shall not be used in any manner for any personal advantage, business gain, or other personal endeavor by the Contractor or the Contractor's employees.

## **H.20 CONTRACTOR RESPONSIBILITIES**

**H.20.1** The Contractor shall be responsible for providing services in accordance with the requirements of this contract.

**H.20.2** The Contractor shall be responsible for obtaining all licenses and permits necessary for the performance of this contract.

**H.20.3** The Contractor shall furnish all equipment needed for the performance of the work under this contract. All equipment must be properly guarded and meet all applicable United States Occupational Safety and Health Administration OSHA standards.

**H.20.4** The Contractor shall assume full responsibility and liability for compliance with all applicable regulations pertaining to the health and safety of personnel during the execution of work, and shall hold the District harmless for any action on his part or that of his employees or subcontractors, which results in illness, injury or death.

**H.20.5** Meet all federal, state vehicles compliance standards, local laws, inspections, and regulations, including, but not limited to, the permitting requirements under Chapter 25 of Title 18, DCMR by the DC Department of Transportation (DDOT), the DC Department of Consumer and Regulatory Affairs (DCRA) and the DC Department of Public Works (DPW). The Contractor shall ensure that each vehicle is licensed and registered in accordance with District regulations.

## **H.21 STAFF ATTIRE AND IDENTIFICATION**

**H.21.1** The Contractor's staff shall wear identification badges at all times. The identification badges shall provide company logo, employee's name, and employee photograph.

## **H.22 SAFETY REQUIREMENTS**

**H.22.1** The Contractor shall be responsible for complying with all applicable District and Federal rules, regulations and practices relating to safety on the job site; for all injury to persons or damage to property that occurs as a result of the Contractor's negligence and shall take proper safety and health precautions to protect the work, the workers, the tenants and District property; and for all materials delivered and work performed until completion and acceptance of the entire work in writing by the COTR.

**H.22.2** The Contractor shall provide and ensure that all its personnel at the work sites properly wear all applicable safety devices and apparel required by the United States Occupational Safety and Health Administration (OSHA) including, but not limited to:

**H.22.2.1** Back support devices

**H.22.2.2** Eye protection

**H.22.2.3** Hearing protection

**H.22.2.4** Hand protection

**H.22.2.5** Head protection

**H.22.2.6** Foot protection

**H.22.3** The District has the right to inspect all areas for safety violations at its discretion, direct the Contractor to make immediate improvement of necessary conditions and/or procedures, and/or stop the work if other hazards are deemed to exist.

**H.22.4** Notwithstanding any provision to the contrary, the District shall not be obligated to make an equitable adjustment for any work stoppage that results from safety hazards created by the Contractor. In the event that the Contracting Officer directs the work to stop because of existing safety hazards after the Contractor has been notified and provided ample time to correct, the Contractor shall bear all costs for eliminating the hazard(s) and shall not be granted compensation for the work stoppage.

**H.22.5** The Contractor shall immediately notify the COTR if the job site is visited by an OSHA official for compliance with the Occupational Safety and Health Act or any other safety regulatory requirements.

## **H.23 FIRE PREVENTION**

**H.23.1** The Contractor shall be responsible for establishing and maintaining an effective fire prevention program for its employees and the District property being serviced on the job site.

**H.23.2** The Contractor shall be knowledgeable and train all its employees on the job site to fulfill the requirements of this Statement of Work on the procedures, means of egress and methods of reporting fires on the job sites.

## **H.24 SMOKE FREE ENVIRONMENT**

The District's facilities are smoke free. The Contractor is responsible for adhering to all applicable rules and regulations regarding maintenance of a smoke free environment on the job sites.

## **H.25 ACCIDENT REPORTS**

The Contractor shall immediately notify the COTR of any accidents on the job site arising from the performance of this SOW that involve bodily injury to Contractor's employees or District workers or both, building occupants, visitors, or other persons.

## **H.26 PROPERTY DAMAGE NOTIFICATION**

Any damage caused by the Contractor or its employees to District property shall be promptly repaired or replaced by the Contractor at the Contractor's expense.

## **H.27 SUSPENSION OF WORK**

**H.27.1** In the event services are not provided or required by the District because the buildings is closed due to unanticipated circumstances, deductions to the Contractor price normally payable to Contractor will be computed as follows.

**H.27.2** The deduction rate in dollars per day will be equal to the per month contract price for the building, divided by twenty-one (21) days per month. (This will be adjusted as appropriate if some portion of the Contractor's requirements apply to weekends or holidays).

**H.27.3** The deduction rate in dollars per day multiplied by the number of days services were not provided or required will equal the total dollar deduction to be made.

**H.27.4** Deductions will not be made to the extent that the Contractor can demonstrate that payment to employees is required by an incorporated wage determination or union agreement.

**H.27.5** In the event services are provided for portion of days, appropriate adjustments will be made by the COTR to assure the Contractor is compensated for services provided.

**H.28                    CONTRACTOR RESPONSIBILITY UPON CONTRACT COMPLETION OR TERMINATION**

**H.28.1** The Contractor shall turn over all plans codes, manuals, records, files, reports, databases spare inventory and materials developed or purchased in the course of the Contract to the COTR within thirty (30) calendar days after contract completion or termination. The Contractor shall develop transition plans, which shall describe staffing and organizational structure during the phase-in and phase-out transition periods, and how the Contractor will interact with the existing work force during the thirty (30) days of transition at the beginning and end of this contract.

**H.29                    CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

The Contractor agrees that the applicable work performed under this Contract shall be subject to the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333).

**H.30                    FALSE CLAIMS ACT**

The Contractor shall be governed by all laws and regulations prohibiting false or fraudulent statements and claims made to DC government, including the prescriptions set forth in D.C. Official Code §§ 22-2405 and 2-381.02 et seq. In the event that it is discovered that the Contractor has made a false, fraudulent or unsupported statement or claim to the Department, the Department may terminate this Agreement without liability.

## **SECTION I CONTRACT CLAUSES**

### **I.1 APPLICABILITY OF STANDARD CONTRACT PROVISIONS**

The Department of General Services Standard Contract Provisions General Provisions Construction Contracts (SCP) (**Attachment J.3**). The (SCP) are incorporated as part of the contract.

### **I.2 CONTRACTS THAT CROSS FISCAL YEARS**

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

### **I.3 CONFIDENTIALITY OF INFORMATION**

The Contractor shall keep all information relating to any employee or customer of the District in absolute confidence and shall not use the information in connection with any other matters; nor shall it disclose any such information to any other person, firm or corporation, in accordance with the District and federal laws governing the confidentiality of records.

### **I.4 TIME**

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

### **I.5 RIGHTS IN DATA**

#### **A. Definitions**

1. "Products" - A deliverable under any contract that may include commodities, services and/or technology furnished by or through the Contractor, including existing and custom Products, such as, but not limited to: a) recorded information, regardless of form or the media on which it may be recorded; b) document research; c) experimental, developmental, or engineering work; d) licensed software; e) components of the hardware environment; f) printed materials (including but not limited to training manuals, system and user documentation, reports, drawings); g) third party software; h) modifications, customizations, custom programs, program listings, programming tools, data, modules, components; and i) any intellectual property embodied therein, whether in tangible or intangible form, including but not limited to utilities, interfaces, templates, subroutines, algorithms, formulas, source code, and object code.

2. "Existing Products" - Tangible Products and intangible licensed Products that exist prior to the commencement of work under the contract. Existing Products must be identified on

the Product prior to commencement of work or else will be presumed to be Custom Products.

3. “Custom Products” - Products, preliminary, final or otherwise, which are created or developed by Contractor, its subcontractors, partners, employees, resellers or agents for the District under the contract.

4. “District” – The District of Columbia and its agencies.

#### **B. Title to Project Deliverables**

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

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

2. Custom Products: Effective upon Product creation, the Contractor shall convey, assign, and transfer to the District the sole and exclusive rights, title and interest in Custom Products, whether preliminary, final or otherwise, including all patents, trademark, and copyrights. The Contractor hereby agrees to take all necessary and appropriate steps to ensure that the Custom Products are protected against unauthorized copying, reproduction and marketing by or through the Contractor.

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

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

**D. Subcontractor Rights**

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

**E. Source Code Escrow**

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

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

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

**F. Indemnification and Limitation of Liability**

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

furnished under this Contract, or based upon libelous or other unlawful matter contained in such data.

- G.** All DGS data, information, documents, and similar material provided to the contractor for the purpose of performing the scope will remain the sole property of DGS and will be destroyed or returned by the contractor upon completion of services.
- H.** All Contractors' specified deliverables to DGS will become DGS sole property. and will not be encumbered in their future use by any licensing or copyright by Contractor. Contractors may maintain a copy of deliverables for internal reference purposes.
- I.** The Contractor's intellectual property related to delivery of services will remain. The Contractor's property unless otherwise specified in this Contract or task order.

## **I.6 OTHER CONTRACTORS**

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

## **I.7 SUBCONTRACTS**

The Contractor hereunder shall not subcontract any of the Contractor's work or services to any subcontractor without the prior written consent of the CO. Any work or service so subcontracted shall be performed pursuant to a subcontract agreement, which the District will have the right to review and approve prior to its execution by the Contractor. Any such subcontract shall specify that the Contractor and the subcontractor shall be subject to every provision of this contract. Notwithstanding any such subcontract approved by the District, the Contractor shall remain liable to the District for all Contractor's work and services required hereunder.

## **I.8 DEPARTMENT APPROVAL OF SUBCONTRACTS**

The Contractor hereunder shall not subcontract any of the Contractor's work or services to any Subcontractor without the prior written consent of the CO. Any work or service so subcontracted shall be performed pursuant to a subcontract agreement, which the District will have the right to review and approve prior to its execution by the Contractor. Any such subcontract shall specify that the Contractor and its Subcontractor shall be subject to every provision of this Contract. Notwithstanding any such subcontract approved by the District, the Contractor shall remain liable to the District for all Contractor's work and services required hereunder.



## I.9 INSURANCE

- A. **GENERAL REQUIREMENTS.** The Contractor at its sole expense shall procure and maintain, during the entire period of performance under this contract, the types of insurance specified below. The Contractor shall submit a Certificate of Insurance to the Contracting Officer (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.

The Government of the District of Columbia shall be included in all policies, where applicable and allowable by law, 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 Contractor and subcontractors.

### B. INSURANCE REQUIREMENTS

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 and under all subcontracts, covering claims for bodily injury, including without limitation sickness, disease or death and mental anguish of any persons, broad form property damage, including loss of use

resulting therefrom, personal and advertising injury, and including coverage for liability arising out of an Insured Contract (including the tort liability of another assumed in a contract) and acts of terrorism (whether caused by a foreign or domestic source). Such coverage shall have limits of liability of not less than \$1,000,000 for each occurrence, and a \$2,000,000 general aggregate.

The Commercial General Liability shall be further endorsed to:

- a) To the fullest extent permitted by law, provide additional insured coverage using ISO form CG 2015 0413 (or its equivalent) to The Government of the District of Columbia
- b) Coverage available to the additional insureds shall apply on a primary and non-contributing basis as respects any other insurance, deductibles, or self-insurance available to the additional insureds.
- c) A waiver of subrogation in favor of The Government of the District of Columbia
- d) Any Annual Aggregate shall apply on a per location or per project basis (where applicable)
- e) Defense costs shall be in addition to and not erode the limits of liability.

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 in connection with work under this agreement, with a minimum combined single limit of \$1,000,000 for bodily injury or death and property damage, including loss of use thereof. Such policy or policies of automobile liability insurance shall be written on an "occurrence" (as opposed to a "claims made") basis.

Auto Physical Damage Coverage - The Contractor shall provide auto physical damage insurance to cover "loss" to a covered "auto" or its equipment:

- a) Comprehensive - Fire, lightning, or explosion; theft; windstorm, hail, or earthquake; flood; mischief or vandalism; or the sinking, burning, collision or derailment of any conveyance transporting the covered "auto".
- b) Collision Coverage - Caused by: The covered "auto's" collision with another object or the covered "auto's" overturn.

The Commercial Auto Liability policy shall be further endorsed to:

- a. To the fullest extent permitted by law, provide additional insured coverage to The Government of the District of Columbia
- b. Coverage available to the additional insureds shall apply on a primary and non-contributing basis as respects any other insurance, deductibles, or self-insurance available to the additional insureds.
- c. A waiver of subrogation in favor of The Government of the District of Columbia
- d. Defense costs shall be in addition to and not erode the limits of liability.

- e. If applicable, include Form CA 99 48 03 06 Pollution Liability - Broadened Coverage for Covered Autos - Business Auto, Motor Carrier, and Truckers (or its equivalent)

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.

The Workers Compensation and Employers Liability shall be further endorsed to:

- a) Include a Waiver of Subrogation in favor of The Government of the District of Columbia.
  - b) Where applicable, include United States Longshore and Harbor Workers Compensation Act (USL&H)
  - c) Where applicable, include Jones Act Coverage for seamen or crew members on an "if any" basis.
4. Network Security/Privacy (Cyber) Liability Insurance covering acts, errors, omissions, breach of contract, and violation of any consumer protection laws arising out of Contractor's operations or services with a limit of \$2,000,000 per claim and in the aggregate. Such coverage shall include but not be limited to, third party and first party coverage for loss or disclosure of any data, including personally identifiable information and payment card information, network security failure, violation of any consumer protection laws, unauthorized access and/or use or other intrusions, infringement of any intellectual property rights (except patent), unintentional breach of contract, negligence or breach of duty to use reasonable care, breach of any duty of confidentiality, invasion of privacy, or violations of any other legal protections for personal information, defamation, libel, slander, commercial disparagement, negligent transmission of computer virus, or use of computer networks in connection with denial of service attacks. Such coverage shall include regulatory defense and fines/penalties in any jurisdiction anywhere in the world. Such coverage shall include contractual privacy coverage for data breach response and crisis management costs that would be incurred by Contractor on behalf of The Government of the District of Columbia in the event of a data breach including legal and forensic expenses, notification costs, credit monitoring costs, and costs to operate a call center. Contractor shall maintain coverage in force during the term of this Agreement and for an extended reporting period of not less than two (2) years after.
  5. 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 \$1,000,000 per claim or per occurrence for each wrongful act and \$2,000,000 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. Limits may not be shared with other lines of coverage.

6. Commercial Umbrella or Excess Liability - The Contractor shall provide evidence satisfactory to the CO of commercial umbrella or excess liability insurance with minimum limits of \$10,000,000 per occurrence and \$10,000,000 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 Government of the District of Columbia and the “other insurance” provision must be amended in accordance with this requirement and principles of vertical exhaustion.
7. Crime Insurance (3rd Party Indemnity) - The Contractor shall provide a Crime policy including 3<sup>rd</sup> party fidelity to cover the dishonest acts of Contractors, its employees and/or volunteers which result in a loss to the District. The Government of the District of Columbia shall be included as loss payee. The policy shall provide a limit of \$15,000 per occurrence.
8. Environmental Liability/Contractors Pollution Liability Insurance - The Contractor shall provide evidence satisfactory to the CO of environmental liability insurance covering losses caused by pollution or other hazardous conditions arising from ongoing or completed operations of the Contractor. Such insurance shall apply to bodily injury, property damage (including loss of use of damaged property or of property that has been physically injured), clean-up costs, transit, and non-owned disposal sites. Coverage shall extend to defense costs and expenses incurred in the investigation, civil fines, penalties and damages or settlements. There shall be neither an exclusion nor a sublimit for mold or fungus-related claims. The minimum limits required under this paragraph shall be \$2,000,000 per occurrence and \$2,000,000 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 completed operations coverage will be maintained for at least ten (10) years or an extended reporting period shall be purchased for no less than ten (10) years after completion.

The Contractor also must furnish to the CO Owner certificates of insurance evidencing environmental liability insurance maintained by third party 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.

The Environmental Liability policy shall be further endorsed to include The Government of the District of Columbia as an Additional Insured.

9. Employment Practices Liability - The Contractor shall provide evidence satisfactory to the CO with respect to the operations performed to cover the defense of claims arising from employment related wrongful acts including but not limited to: Discrimination, Sexual Harassment, Wrongful Termination, Workplace Torts, "Bullying" in "any location" and "by any means," including the Internet, whether between employees of contractor or against third parties. Employment Practices Liability coverage must specifically state Third Party Liability coverage is included. Contractor will indemnify and defend The Government of the District of Columbia should it be named co-defendant or be subject to or party of any claim. Coverage shall also extend to Temporary Help Firms and Independent Contractors hired by Contractor. The policy shall provide limits of not less than \$1,000,000 for each wrongful act and \$2,000,000 annual aggregate for each wrongful act.
10. Installation-Floater Insurance - For projects not involving structural alterations, the contractor shall provide an installation floater policy with a limit equal to the Property values being installed as part of the project. The policy shall cover property while located at the project site, at temporary locations, or in transit; deductibles will be the sole responsibility of the contractor.

#### C. SUBCONTRACTOR INSURANCE REQUIREMENTS

Any and all subcontractors engaged by Contractor for work under this agreement shall be required to have the same insured required of Contractor. Should the Contractor wish to propose different insurance requirements than outlined below, then, prior to commencement of work by the subcontractor, the Contractor shall submit in writing the name and brief description of work to be performed by the subcontractor on the Subcontractors Insurance Requirement Template provided to the Office of Risk Management (ORM). ORM will determine the insurance requirements applicable to the subcontractor and promptly deliver such requirements in writing to the Contractor. In either instance, the Contractor must provide proof of the subcontractor's required insurance prior to commencement of work by the subcontractor.

#### D. 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.

- E. DURATION. The Contractor shall carry all required insurance until all contract work is accepted by The Government of 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.

- F. LIABILITY. These are the required minimum insurance requirements established by The Government of the District of Columbia. However, it is understood that The Government of the District of Columbia does not in any way represent that the insurance

or the limits of insurance specified herein are sufficient or adequate to protect your interests or liabilities and will not in any way limit the contractor's liability under this contract.

- G. **CONTRACTOR'S PROPERTY.** Contractors 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 Government of the District of Columbia.
- H. **MEASURE OF PAYMENT.** The Government of the District of Columbia 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.
- I. **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 cancellation, non-renewal, or material changes to the extent such cancellation or material changes results in Contractor no long complying with the above requirements. 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. The Government of the District of Columbia may reasonably change the above insurance coverage requirements during the Term by giving the Contractor at least 30 days' notice of the change. Contractor must comply, at your expense, and deliver to the CO evidence of compliance before the change becomes effective.
- J. **CERTIFICATES OF INSURANCE.** The Contractor must send to CO, at least 10 days after execution of this Agreement, certificates of insurance evidencing the required insurance coverage and endorsements required herein. Contractor must also provide us with evidence of renewal before the expiration date of each insurance policy. Contractor is responsible for providing us with 30 days advanced written notice if the certificate of insurance by the insurer has been canceled, reduced in coverage, or otherwise altered. Certificates of insurance must reference the corresponding contract number. Evidence of insurance shall be submitted electronically to [james.marshall@dc.gov](mailto:james.marshall@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).

- K. **DISCLOSURE OF INFORMATION.** The Contractor agrees that The Government of the District of Columbia may disclose the name and contact information of its insurers to any

third party which presents a claim against The Government of the District of Columbia 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.

- L. **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 better (or the equivalent by any other rating agency) and licensed in the District of Columbia.
- M. **WARRANTIES.** When applicable, the Contractor should be named as an additional insured on the applicable manufacturer's/distributor's Commercial General Liability policy using Insurance Services Office, Inc. ("ISO") form CG 20 15 04 13 (or another occurrence-based form with coverage at least as broad). CO should collect, review for accuracy, and maintain all warranties for goods and services.

#### **I.10 EQUAL EMPLOYMENT OPPORTUNITY**

In accordance with the District of Columbia Administrative Issuance System, Mayor's Order 85-85 dated June 10, 1985, the forms for completion of the Equal Employment Opportunity Information Report are incorporated herein as **Attachment J.7**. An award cannot be made to any bidder who has not satisfied the equal employment requirements.

#### **I.11 ORDER OF PRECEDENCE**

The contract awarded as a result of this IFB will contain the following clause:

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

1. An applicable Court Order, if any
2. Contract Document
3. DGS Standard Contract Provisions
4. Contract attachments other than the Standard Contract Provisions
5. IFB, as amended
6. Contractor's Bid

In the event of conflicting requirements in any of the documents noted above or herein, the Contractor agrees to be bound by all decisions by the Department to implement the most stringent and/or expensive of any conflicting requirements. Any failure by the Contractor to seek clarification from the Department as to conflicting requirements shall in no way limit the Department's ability to require implementation, including replacement of installed Work at a later date at Contractor's sole expense, to achieve compliance with the more stringent requirements.

## I.12 CLAIMS & DISPUTES

All Claims and Disputes arising under or relating to this Contract shall be resolved as provided in the attached SCP (**Attachment J.3**).

## I.13 CHANGES

- a. The CO may, at any time, by written change order, contract directive or contract modification and without notice to the surety, if any, make changes in the contract within the general scope hereof. If such change causes an increase or decrease in the cost of performance of the contract, or in the time required for performance, an equitable adjustment shall be made. Any claim for adjustment for a change within the general scope must be asserted within ten (10) days from the date the change is ordered; provided, however, that the CO, if he or she determines that the facts justify such action, may receive, consider and adjust any such claim asserted at any time prior to the date of final settlement of the contract. If the parties fail to agree upon the adjustment to be made, the dispute shall be determined as provided in the SCP.
- b. The District shall not require the Contractor, and the Contractor shall not require a subcontractor, to undertake any work that is beyond the original scope of the contract or subcontract, including work under a District-issued change order, when the additional work increases the contract price beyond the not-to-exceed price or negotiated maximum price of this contract, unless the CO:
  1. Agrees with Contractor, and if applicable, the subcontractor on a price for the additional work;
  2. Obtains a certification of funding to pay for the additional work;
  3. Makes a written, binding commitment with the Contractor to pay for the additional work within 30-days after the Contractor submits a proper invoice; and
  4. Provides the Contractor with written notice of the funding certification.
- c. The Contractor shall include in its subcontracts a clause that requires the Contractor to:
  1. Within 5 business days of its receipt of notice the approved additional funding, provide the subcontractor with notice of the amount to be paid to the subcontractor for the additional work to be performed by the subcontractor;
  2. Pay the subcontractor any undisputed amount to which the subcontractor is entitled for the additional work within 10 days of receipt of payment from the District; and
  3. Notify the subcontractor and CO in writing of the reason the Contractor withholds any payment from a subcontractor for the additional work.



- d. Neither the District, Contractor, nor any subcontractor may declare another party to be in default, or assess, claim, or pursue damages for delays, until the parties to agree on a price for the additional work.

#### **I.14 NON-DISCRIMINATION CLAUSE**

**I.14.1** The Contractor shall not discriminate in any manner against any employee or applicant for employment that would constitute a violation of the District of Columbia Human Rights Act, effective December 13, 1977, as amended (D.C. Law 2-38; D.C. Official Code § 2-1401.01 *et seq.*) (“Act”, as used in this clause). The Contractor shall include a similar clause in all subcontracts, except subcontracts for standard commercial supplies or raw materials. In addition, the Contractor agrees, and any subcontractor shall agree, to post in conspicuous places, available to employees and applicants for employment, a notice setting forth the provisions of this non-discrimination clause as provided in section 251 of the Act.

**I.14.2** Pursuant to Mayor’s Order 85-85, (6/10/85), Mayor’s Order 2002-175 (10/23/02), Mayor’s Order 2011-155 (9/9/11) and the rules of the Office of Human Rights, Chapter 11 of Title 4 of the D.C. Municipal Regulations, the following clauses apply to the contract:

- a. The Contractor shall not discriminate against any employee or applicant for employment because of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, family responsibilities, genetic information, disability, matriculation, political affiliation, or credit information. Sexual harassment is a form of sex discrimination which is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act.
- b. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, family responsibilities, genetic information, disability, matriculation, political affiliation, or credit information. The affirmative action shall include, but not be limited to the following:
  - 1. employment, upgrading or transfer;
  - 2. recruitment, or recruitment advertising;
  - 3. demotion, layoff or termination;
  - 4. rates of pay, or other forms of compensation; and
  - 5. selection for training and apprenticeship.
- c. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting agency, setting forth the provisions in paragraphs 19(b)(1) and (b)(2) concerning non-discrimination and affirmative action.

- d. The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment pursuant to the non-discrimination requirements set forth in paragraph 19(b)(2).
- e. The Contractor agrees to send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the contracting agency, advising the said labor union or workers' representative of that contractor's commitments under this nondiscrimination clause and the Act, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- f. The Contractor agrees to permit access to its books, records, and accounts pertaining to its employment practices, by the Chief Procurement Officer or designee, or the Director of the Office of Human Rights or designee, for purposes of investigation to ascertain compliance with the Act, and to require under terms of any subcontractor agreement each subcontractor to permit access of such subcontractors' books, records, and accounts for such purposes.
- g. The Contractor agrees to comply with the provisions of the Act and with all guidelines for equal employment opportunity applicable in the District adopted by the Director of the Office of Human Rights, or any authorized official.
- h. The Contractor shall include in every subcontract the equal opportunity clauses, i.e., paragraphs 19(b)(1) through (b)(9) of this clause, so that such provisions shall be binding upon each subcontractor.
- i. The Contractor shall take such action with respect to any subcontract as the CO may direct as a means of enforcing these provisions, including sanctions for noncompliance; provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Contractor may request the District to enter into such litigation to protect the interest of the District.

## **I.15 BONDS**

### **I.15.1 Bid Bond**

Bidders are required to submit with their bid a bid bond in the amount of five percent (5%) of total bidding budget, in the form included as **Attachment J.13**. All bonding companies must be included on the Department of Treasury's Listing of Approved Sureties. Alternatively, Bidders may submit a cashier's check in lieu of a bid bond. However, in the event an Bidder who is awarded the Agreement fails to post a payment and performance bond for the full value of the Agreement, the Bidder shall thereby forfeit the full amount of the cashier's check, and the Department shall collect such funds as liquidated damages. If the Bidder chooses to submit a cashier's check in lieu of a bid bond, the Bidder must complete the form included as **Attachment J.14** and return, notarized, with the Bidder's Proposal.

### **I.15.2 Trade Subcontractor Bonds**

The Contractor shall 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.

### **I.15.3 Contractor's Payment and Performance Bond**

The Contractor shall be required to provide payment and performance bonds each having a penal value equal to 100% of the Contract Amount. The Contractor shall provide the required bonds within ten (10) days of the execution of the Contract. All bonding companies must be licensed to conduct business in the District of Columbia and be included on the Department of Treasury's Listing of Approved Sureties website. The Contractor shall submit with its bid a Certification to Provide a Payment and Performance Bond (**Attachment J.12**)

### **I.16 CONTRACTS IN EXCESS OF ONE MILLION DOLLARS**

Any contract in excess of \$1,000,000 shall not be binding or give rise to any claim or demand against the District until approved by the Council of the District of Columbia and signed by the Contracting Officer.

### **I.17 GOVERNING LAW**

This Contract and any disputes arising out of or related to this contract, shall be governed by, and construed in accordance with, the laws of the District of Columbia.

**SECTION J**  
**LIST OF ATTACHMENTS**

The following list of attachments incorporated into the solicitation and resulting contract by reference.

<b>Attachment Number</b>	<b>Document</b>
<b>J.1</b>	Hill East Phase II 72” Sewer Relocation and Infrastructure Improvements Project Specific Attachments
<b>J.1.1</b>	Released for Construction Contract Plans 72” Sewer Relocation
<b>J.1.2</b>	<a href="#">DDOT Standard Specifications for Highways and Structures, 2013 (Gold Book)</a>
<b>J.1.3</b>	DDOT Standard Drawings -2015
<b>J.1.4</b>	DC Water Standard Specifications -2020
<b>J.1.5</b>	Project Special Provisions
<b>J.1.6</b>	Final Geotechnical Report
<b>J.1.7</b>	A&T Lots and Future ROW Limits
<b>J.1.8</b>	Project Sign
<b>J.1.9</b>	Hill East 2 Exhibit (Bundle 1&2)
<b>J.2</b>	Form of Offer Letter and Schedule of Pay Items
<b>J.3</b>	Department of General Services Standard Contract Provisions General Provisions Construction Contracts
<b>J.4</b>	U.S. Department of Labor Davis Bacon Wage Determination DC20240001 01/12/2024 and 29 CFR 5.5 Davis Bacon Provision
<b>J.5</b>	SBE Subcontracting Plan (if required by law)
<b>J.6</b>	Department of Employment Services First Source
<b>J.6.1</b>	First Source Employment Agreement
<b>J.6.2</b>	First Source Employment Plan

<b>Attachment Number</b>	<b>Document</b>
<b>J.7</b>	Equal Employment Opportunity Employer Information Report and Mayor's Order 85-85
<b>J.8</b>	Way to Work Amendment Act of 2006 – FY 24 Living Wage Notice and Fact Sheet
<b>J.9</b>	Bidder/Offeror Certification
<b>J.10</b>	Conflict of Interest Disclosure Statement
<b>J.11</b>	Release of Lien Form
<b>J.12</b>	Certification to Furnish Performance & Payment Bond
<b>J.13</b>	Bid Bond Form
<b>J.14</b>	Bid Bond Guarantee
<b>J.15</b>	Tax Affidavit
<b>J.16</b>	Campaign Finance Reform Self-Certification

**SECTION K  
REPRESENTATIONS, CERTIFICATIONS AND  
OTHER STATEMENTS OF BIDDERS**

Bidder/Offeror Certification Form (**Attachment J.9**)

**SECTION L  
INSTRUCTIONS, CONDITIONS AND NOTICES TO BIDDERS**

**L.1 METHOD OF AWARD**

- L.1.1** The District reserves the right to accept/reject any/all bids resulting from this IFB. The CO may reject all bids or waive any minor informality or irregularity in bids received whenever it is determined that such action is in the best interest of the District.
- L.1.2** The District intends to make one contract award resulting from this solicitation to the responsive and responsible bidder who has the lowest evaluated bid.

**L.2 BID SUBMISSION DATE AND TIME**

Bids must be submitted on or before **2:00pm May 7, 2024**

**L.3 WITHDRAWAL OR MODIFICATION OF BIDS**

A bidder may modify or withdraw its bid upon written or facsimile transmission if received at the location designated in the solicitation for submission of bids, but not later than the exact time set for opening of bids.

**L.4 LATE SUBMISSIONS, LATE MODIFICATIONS, AND LATE WITHDRAWALS**

- L.4.1** Bids, modifications to bids, or requests for withdrawals that are received at the location designated in the solicitation after the time and date specified above, are “late” and shall be considered only if they are received before the award is made and any of the following circumstances apply:
- a. The bid or modification was sent by registered or certified mail no later than five (5) calendar days before the date specified for receipt of bids;
  - b. It was sent by mail and the contracting officer determines that the late receipt was due solely to mishandling by the District after receipt at the location specified in the IFB; or
  - c. It was sent electronically by the bidder prior to the time and date specified and there is objective evidence in electronic form confirming that the bid was received prior to the bid receipt time and date specified.

**L.4.2 Postmarks**

The only acceptable evidence to establish the date of a late bid, late modification or late withdrawal sent either by registered or certified mail shall be a U.S. or Canadian Postal Service postmark on the wrapper or on the original receipt from the U.S. or Canadian Postal Service. If neither postmark shows a legible date, the bid, modification or withdrawal shall be deemed to have been mailed late. When the postmark shows the date but not the hour, the time is presumed to be the last minute of the date shown. If no date

is shown on the postmark, the bid shall be considered late unless the bidder can furnish evidence from the postal authorities of timely mailing.

#### **L.4.3 Late Submissions**

A late bid, late request for modification or late request for withdrawal shall not be considered, except as provided in this section.

#### **L.4.4 Late Modifications**

A late modification of a successful bid which makes its terms more favorable to the District will be considered at any time it is received and may be accepted.

#### **L.4.5 Late Bids**

A late bid, late modification or late withdrawal of a bid that is not considered shall be held unopened, unless opened for identification, until after award and then retained with unsuccessful bids resulting from this solicitation.

#### **L.5 BID IDENTIFICATION AND DELIVERY**

Bids must be submitted to the DGS Portal at <https://octo.quickbase.com/db/bq7rujdk2?a=dbpage&pageID=2%E2%80%9D> no later than **2:00PM May 7, 2024**.

#### **L.6 ERRORS IN BIDS**

Bidders are expected to read and understand fully all information and requirements contained in the solicitation; failure to do so will be at the bidder's risk. In event of a discrepancy between the unit price and the total price, the unit price shall govern.

#### **L.7 QUESTIONS ABOUT THE SOLICITATION**

If a prospective bidder has any questions relative to this solicitation, the prospective bidder shall submit the questions in writing to the Contact. The prospective bidder shall submit questions no later than 4:00pm **April 11, 2024** to the attention of James H. Marshall via the DGS portal at

<https://octo.quickbase.com/db/bq7rujdk2?a=dbpage&pageID=2%E2%80%9D>

The District may not consider any questions received **April 11, 2024**. The District will furnish responses promptly to all other prospective bidders. An amendment to the solicitation will be issued, if that information is necessary in submitting bids, or if the lack of it would be prejudicial to any other prospective bidders. Oral explanations or instructions given before the award of the contract will not be binding.



**L.8 BID PROTESTS**

Any actual or prospective bidder or contractor who is aggrieved in connection with the solicitation or award of a contract, must file with the D.C. Contract Appeals Board (Board) a protest no later than ten (10) business days after the basis of protest is known or should have been known, whichever is earlier. A protest based on alleged improprieties in a solicitation which are apparent prior to bid opening or the time set for receipt of initial bids shall be filed with the Board prior to bid opening or the time set for receipt of initial bids. In procurements in which bids are requested, alleged improprieties which do not exist in the initial solicitation, but which are subsequently incorporated into this solicitation, must be protested no later than the next closing time for receipt of bids following the incorporation. The protest shall be filed in writing, with the Contract Appeals Board, 441 4<sup>th</sup> Street, N.W., Suite 350N, Washington, D.C. 20001. The aggrieved person shall also mail a copy of the protest to the Department's CO, as designated in this IFB.

**L.9 ACKNOWLEDGMENT OF AMENDMENTS**

The bidder shall acknowledge receipt of any amendment to this solicitation (a) by signing and returning the amendment; (b) by identifying the amendment number and date in the space provided for this purpose in Section A.13 of the solicitation; or (c) by letter or telegram, including mailgrams. The District must receive the acknowledgment by the date and time specified for receipt of bids. Bidder's failure to acknowledge an amendment may result in rejection of the bid.

**L.10 SIGNING OF BIDS**

**L.10.1** The Contractor shall sign the bid and print or type its name on the Solicitation, Offer and Award form of this solicitation. Each bid must show a full business address and telephone number of the bidder and be signed by the person or persons legally authorized to sign contracts. Erasures or other changes must be initialed by the person signing the bid. Bids signed by an agent shall be accompanied by evidence of that agent's authority, unless that evidence has been previously furnished to the CO.

**L.10.2** All correspondence concerning the bid or resulting contract will be mailed to the address shown on the bid in the absence of written instructions from the bidder or contractor to the contrary. Any bid submitted by a partnership must be signed with the partnership name by a general partner with authority to bind the partnership. Any bid submitted by a corporation must be signed with the name of the corporation followed by the signature and title of the person having authority to sign for the corporation.

**L.11 FAMILIARIZATION WITH CONDITIONS**

Bidders shall thoroughly familiarize themselves with the terms and conditions of this solicitation, acquainting themselves with all available information regarding difficulties which may be encountered and the conditions under which the work is to be accomplished.

Bidders will not be relieved from assuming all responsibility for properly estimating the difficulties and the cost of performing the services required herein due to their failure to investigate the conditions or to become acquainted with all information, schedules and liability concerning the services to be performed.

## **L.12 LEGAL STATUS OF BIDDER**

Each bid must provide the following information:

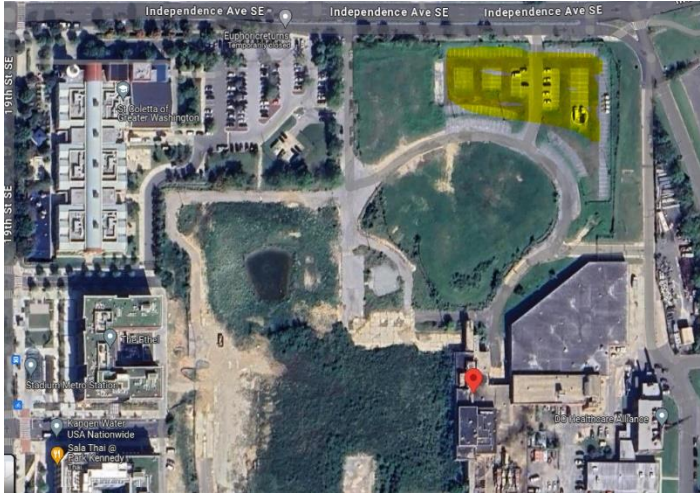
- L.12.1** Name, address, telephone number and federal tax identification number of bidder;
- L.12.2** A copy of each District of Columbia license, registration or certification that the bidder is required by law to obtain. If the bidder is a corporation or partnership and does not provide a copy of its license, registration or certification to transact business in the District of Columbia, the bid shall certify its intent to obtain the necessary license, registration or certification prior to contract award or its exemption from such requirements; and
- L.12.3** If the bidder is a partnership or joint venture, the names and addresses of the general partners or individual members of the joint venture, and copies of any joint venture or teaming agreements.

## **L.13 PRE-BID CONFERENCE**

**L.13.1 Pre-bid Conference.** A Pre-bid conference will be held in person on **April 3, 2024**, at 11:00am the Department of General Services Headquarters located at 3924 Minnesota Avenue NE, Washington, DC 20019. The conference will be held on the first floor in the Chuck Brown Conference Room. Prospective bidders will be given an opportunity to ask questions regarding this solicitation at the conference. The purpose of the conference is to provide a structured and formal opportunity for the District to accept questions from offerors on the solicitation document as well as to clarify the contents of the solicitation.

Impromptu questions will be permitted, and spontaneous answers will be provided at the District's discretion. Verbal answers given at the pre-bid conference are only intended for general discussion and do not represent the District's final position. All oral questions must be submitted in writing following the close of the pre-bid conference but no later than five working days after the pre-proposal conference in order to generate an official answer. The District will furnish responses via the Department's web site. An amendment to the solicitation will be issued if the CO decides that information is necessary in submitting proposals, or if the lack of it would be prejudicial to any prospective offeror. Oral explanations or instructions given by District officials before the award of the contract will not be binding.

**L.13.2 Site Visit.** A Site Visit will be held immediately after the Pre-Bid Conference. The address is 1900 Massachusetts Avenue SE. Bidders are advised to wait at the parking lot adjacent to Independence Ave as highlighted below.



## **L.14 BID OPENING**

A public bid opening will be held in person on **May 7, 2024**, at 3:00pm at the Department of General Services Headquarters located at 3924 Minnesota Avenue NE, Washington, DC 20019. The conference will be held on the first floor in the Chuck Brown Conference Room.

## **L.15 CERTIFICATES OF INSURANCE**

Prior to commencing work, the Contractor shall have its insurance broker or insurance company submit certificates of insurance giving evidence of the required coverages to the CO. **Each certificate of insurance must identify the contract or solicitation number.**

## **L.16 GENERAL STANDARDS OF RESPONSIBILITY**

**L.16.1** To be determined responsible, a prospective contractor must demonstrate that it:

- a. Has adequate financial resources, or the ability to obtain such resources, required to perform the contract;
- b. Is able to comply with the required or proposed delivery or performance schedule, taking into consideration all existing commercial and government contract commitments;
- c. Has a satisfactory performance record;
- d. Has a satisfactory record of integrity and business ethics;

- e. Has a satisfactory record of compliance with the applicable District licensing and tax laws and regulations;
- f. Has a satisfactory record of compliance with the law, including labor and civil rights laws and rules, and the First Source Employment Agreement Act of 1984, , D.C. Official Code § 2-219.01 *et seq.*, as amended;
- g. Has, or has the ability to obtain, the necessary organization, experience, accounting, and operational control, and technical skills;
- h. Has, or has the ability to obtain, the necessary production, construction, technical equipment, and facilities;
- i. Has not exhibited a pattern of overcharging the District;
- j. Does not have an outstanding debt with the District or the federal government in a delinquent status; and
- k. Is otherwise qualified and is eligible to receive an award under applicable laws and regulations.

**L.16.2** If the prospective contractor fails to supply the information requested, the CO shall make the determination of responsibility or non-responsibility based upon available information. If the available information is insufficient to make a determination of responsibility, the CO shall determine the prospective contractor to be non-responsible.

**L.16.3 SPECIAL STANDARDS OF RESPONSIBILITY**

The Contractor shall provide documentary evidence of the following:

**L.16.3.1** Three (3) projects that it has completed within the past seven (7) years of similar size, scope and complexity as described in Section C, Scope of Work. Completed shall mean the final payment has been made by the owner.

**L.16.3.1.1** The contractor shall provide a two-page summary of each project to provide evidence that it meets the requirements described below. The summary shall also include the general scope, the award date, the completion date, the award amount plus change orders, the client's name, and contact information.

**L.16.3.1.2** Similar in size shall mean projects completed with a total contract value (award amount + change orders) between \$15,000,000 and \$20,000,000. Each proposed project must meet this size requirement.

**L.16.3.1.3** Similar scope shall mean projects that include:

(a) Coordination with utility companies and construction of utilities requiring deep trenching and installation of large capacity duct banks for communications, and power systems.

(i) Provide DC Water approved vendor number.

(b) Constructing tree pits and planting trees and other landscaping features especially protection of existing trees and new trees.

(c) Disposal of contaminated soil including any pre-construction or construction related planning or testing in accordance with applicable laws and regulations.

**L.16.3.1.4** Similar complexity shall mean a project undertaken in an urban environment among other on-going construction projects where close coordination of adjacent work for safety and maintenance of traffic is necessary.

**L.16.3.1.5** Each project must meet the size requirement described in L.16.3.1.2. However, the projects taken together, must meet all of the requirements of L.16.3.1.3, and L.16.3.1.4. For example, one project may meet certain requirements and another project may meet certain other requirements.

**L.16.3.2** Provide a one-page background summary of proposed superintendent's experience. The proposed superintendent for the project shall have 10 years in increasingly responsible positions on similar construction projects, as described in L.16.3.1.4, at least three (3) of which are as a designated superintendent.

## **L.17 INSTRUCTIONS TO BIDDERS**

The Bidder shall complete and include the following with their Bid:

- a. Signed page 1 of the IFB
- b. The IFB pages 1 – 82 in its entirety
- c. Acknowledgement of Amendments (page 1 Section 13)
- d. SBE Subcontracting Plan (**Attachment J.5**)
- e. Department of Employment Services Employment First Source Employment Agreement (**Attachment J.6.1**) and Employment Plan (**Attachment J.6.2**)
- f. EEO Policy Statement (**Attachment J.7**);
- g. Bidder/Offeror Certification Form (**Attachment J.9**);
- h. Conflict of Interest Disclosure Statement (**Attachment J.10**)
- i. Certification to provide Payment and Performance Bond (**Attachment J.12**)
- j. Bid Bond (**Attachment J.13**) or Bid Guarantee **Attachment J.14**)
- k. Tax Affidavit - Each Contractor shall submit a tax affidavit provided as **Attachment J.15**. In order to be eligible for this procurement, Contractors

must be in full compliance with their tax obligations to the District of Columbia government.

- l. Campaign Reform Self-Certification (**Attachment J.16**)
- m. Clean Hands Certificate available at <https://mytax.dc.gov/> /
- n. Response to Special Standards of Responsibility (L.16.3)

## **L.18 RESTRICTION ON DISCLOSURE AND USE OF DATA**

**L.18.1** Bidders who include in their bid data that they do not want disclosed to the public or used by the District except for use in the procurement process shall mark the title page with the following legend:

**"This bid includes data that shall not be disclosed outside the District and shall not be duplicated, used or disclosed in whole or in part for any purpose except for use in the procurement process.**

**If, however, a contract is awarded to this bidder as a result of or in connection with the submission of this data, the District will have the right to duplicate, use, or disclose the data to the extent consistent with the District's needs in the procurement process. This restriction does not limit the District's rights to use, without restriction, information contained in this proposal if it is obtained from another source. The data subject to this restriction are contained in sheets (insert page numbers or other identification of sheets).**

**L.18.2** Mark each sheet of data it wishes to restrict with the following legend:

**"Use or disclosure of data contained on this sheet is subject to the restriction on the title page of this Bid."**

## **L.19 UNNECESSARILY ELABORATE BIDS**

Unnecessarily elaborate brochures or other presentations beyond those sufficient to present a complete and effective response to this solicitation are not desired and may be construed as an indication of the bidder's lack of cost consciousness. Elaborate artwork, expensive paper and bindings, and expensive visual and other presentation aids are neither necessary nor desired.

## **L.20 RETENTION OF SUBMISSIONS**

All submissions will be retained by the Department and therefore will not be returned to the Bidders. With the exception of proprietary financial information, the submissions will become the property of the Department, and the Department has the right to distribute or use such information as it determines.

## **L.21 NO COMPENSATION FOR PREPARATION OF BIDS**

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

## **L.22 ELECTRONIC COPY OF BIDS FOR FREEDOM OF INFORMATION ACT REQUESTS**

In addition to other bid submission requirements, the bidder must submit an electronic copy of its bid, redacted in accordance with any applicable exemptions from disclosure in D.C. Official Code §2-534, in order for the District to comply with §2-536(b) that requires the District to make available electronically copies of records that must be made public. The District's policy is to release documents relating to District bids following award of the contract, subject to applicable FOIA exemption under §2-534(a) (1).

## **L.23 BRAND NAME OR EQUAL**

**L.23.1** As used in this clause, the term "brand name" includes identification of products by make and model.

**L.23.2** If items called for by this IFB have been identified in the schedule by a "brand name or equal" description, such identification is intended to be descriptive, but not restrictive, and is to indicate the quality and characteristics of products that will be satisfactory. Bids offering "equal" products will be considered for award if such products are clearly identified in the bids and are determined by the District to be equal in all material respects to the brand name products referenced in the IFB.

Unless the bidder clearly indicates in his bid that he is offering an "equal" product, his bid shall be considered as offering a brand name product referenced in the IFB.

**L.23.3** If the bidder proposes to furnish an "equal" product, the brand name, if any, of the product to be furnished shall be inserted in the space provided in the IFB, or such product shall be otherwise clearly identified in the bid.

**L.23.4** The evaluation of bids and the determination as to equality of the product offered shall be the responsibility of the District and will be based on information furnished by the bidder or identified in his bid as well as other information reasonably available to the purchasing authority. **CAUTION TO BIDDERS:** The District is not responsible for locating or securing any information which is not identified in the bid and not reasonably available to the District.

**L.23.5** Accordingly, to insure that sufficient information is available, the bidder must furnish as a part of his bid all descriptive material (such as cuts, illustrations, drawings, or other information) necessary for the District to (i) determine the product offered meets the requirements of the IFB, and (ii) establish exactly what the bidder proposes to furnish and

what the District would be binding itself to purchasing by making an award. The information furnished may include specific reference to information previously furnished or to information otherwise available to the District.

**L.23.6** If the bidder proposes to modify a product so as to make it conform to the requirements of the IFB, it shall (i) include in its bid a clear description of such proposed modifications, and (ii) clearly mark any descriptive material to show the proposed modifications.

**L.23.7** Modifications proposed after bid opening to make a product conform to a brand name product referenced in the IFB will not be considered.



## **SECTION M EVALUATION FACTORS**

### **M.1. Preferences for Certified Business Enterprises**

Under the provisions of the “Small and Certified Business Enterprise Development and Assistance Act of 2005”, D.C. Official Code § 2-218.01 *et seq.*, as amended (“Act”, as used in this section), the District shall apply preferences in evaluating bids from businesses that are certified by the Department of Small and Local Business Development (DSLBD) pursuant to Part D of the Act.

#### **M.1.1. Application of Preferences**

For evaluation purposes, the allowable preferences under the Act shall be applicable to prime contractors in response to this IFB as follows:

- M.1.1.1** A small business enterprise certified by the DSLBD will receive a three percent (3%) reduction in the bid price.
- M.1.1.2** A resident-owned business certified by DSLBD will receive a five percent (5%) reduction in the bid price.
- M.1.1.3** A longtime resident business certified by DSLBD will receive a ten percent (10%) reduction in the bid price.
- M.1.1.4** A local business enterprise certified by DSLBD will receive a two percent (2%) reduction in the bid price.
- L.1.1.5** A local business enterprise with its principal offices located in an enterprise zone certified by DSLBD will receive a two percent (2%) reduction in the bid price.
- M.1.1.6** A disadvantaged business enterprise certified by DSLBD will receive a two percent (2%) reduction in the bid price.
- M.1.1.7** A veteran-owned business certified by DSLBD will receive a two percent (2%) reduction in the bid price.
- M.1.1.8** A local manufacturing business enterprise certified by DSLBD will receive a two percent (2%) reduction in the bid price.
- M.1.1.9** An equity impact enterprise (“EIE”) certified by DSLBD will receive a ten percent (10%) reduction in the bid price.

#### **M.1.2 Maximum Preference Awarded**

Notwithstanding the availability of the preceding preferences, the maximum total preference to which a certified business enterprise is entitled is twelve per cent (12%). There will be no preference awarded for subcontracting by the prime contractor with certified business enterprises.

**M.1.3 Preferences for Certified Joint Ventures**

A joint venture certified by DSLBD for this solicitation will receive preferences as a prime contractor as determined by DSLBD.

**M.1.4 Verification of Bidder's Certification as a Certified Business Enterprise**

**M.1.4.1** Any bidder seeking to receive preferences on this solicitation must be certified at the time of submission of its bid. The CO will verify the bidder's certification with DSLBD, and the bidder should not submit with its bid any documentation regarding its certification as a certified business enterprise.

**M.1.4.2** Any bidder seeking certification in order to receive preferences under this solicitation should contact the:

Department of Small and Local Business Development  
ATTN: CBE Certification Program  
441 Fourth Street, NW, Suite 850N  
Washington DC 20001

**M.1.4.3** All bidders are encouraged to contact DSLBD at (202) 727-3900 if additional information is required on certification procedures and requirements.