

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF GENERAL SERVICES



ARCHITECTURAL/ENGINEERING SERVICES ELIOT-HINE MIDDLE SCHOOL

Solicitation No: DCAM-17-AE-0125

Amendment No. 3


Issued: October 6, 2017

This Addendum No. 3 is issued and hereby published on the DGS website on October 6, 2017. Except as modified hereby, the Request for Proposals ("RFP") remains unmodified.

Item #1 A.8 Attachments

Insert: Attachment F – Form of Contract (Attached as Exhibit 1)

Item #2 Responses to Questions about the Solicitation (Attached as Exhibit 2)

By: 
Franklin Austin
Contracting Officer

Date: 10/6/17

- End of Addendum No. 3 -

Exhibit 1

**AGREEMENT FOR
ARCHITECTURAL/ENGINEERING SERVICES**

BY AND BETWEEN

**DISTRICT OF COLUMBIA
DEPARTMENT OF GENERAL SERVICES**

AND

[SELECTED OFFEROR]

ELIOT-HINE MIDDLE SCHOOL

CONTRACT NUMBER: DCAM-17-AE-0125

**AGREEMENT BETWEEN OWNER AND ARCHITECT FOR
ARCHITECTURAL/ENGINEERING SERVICES FOR
ELIOT-HINE MIDDLE SCHOOL
DCAM-17-AE-0125**

THIS AGREEMENT (“Agreement”) is made by and between the **DISTRICT OF COLUMBIA GOVERNMENT**, acting by and through its **DEPARTMENT OF GENERAL SERVICES** (“DGS” or the “Department”) and **[SELECTED OFFEROR]**, being duly organized under the laws of **[LOCATION]**, and with a place of business at **[ADDRESS]** (the “Architect”, and collectively with the Department, the “Parties”).

WITNESSETH:

WHEREAS, the Department issued a request for proposals dated October 5, 2017 for architectural/engineering services for the modernization of Eliot-Hine Middle School located at 1830 Constitution Avenue, NE, Washington, DC 20002 (the “Project”);

WHEREAS, the Architect submitted a proposal dated **[DATE]** in response to the Department’s solicitation to provide such services;

WHEREAS, the Department wishes to retain the Architect to provide all necessary design and related services for the Project pursuant to the terms and conditions set forth in this Agreement;

WHEREAS, the Architect wishes to provide all of the design and related services necessary for the Project pursuant to the terms and conditions set forth in this Agreement;

WHEREAS, the Department intends to engage a builder (the “Design-Builder”) to work with the Architect in advancing the design, to provide a guaranteed maximum price (“GMP”) for the requisite construct, to assume the Architect’s contract and manage the completion of the design after a GMP has been established, and to construct the Project;

WHEREAS, the Department requires that the Project, including the requisite construction, be Substantially Complete no later than July 14, 2020 (the “Substantial Completion Date”);

WHEREAS, the Department has retained the services of a Program Manager (the “Program Manager”) to advise it concerning the Project; and

WHEREAS, the Parties entered into a letter contract dated **[DATE]** (the “Letter Contract”) pursuant to which the Architect was authorized to provide preliminary services in furtherance of the Project.

NOW, THEREFORE, the Department and Architect, for the consideration set forth herein, mutually agree as follows.

ARTICLE 1

GENERAL PROVISIONS

Section 1.1 Relationship of Parties. The Architect accepts the relationship of trust and confidence established with the Department by this Agreement, and covenants with the Department to furnish the Architect's reasonable skill and judgment and to cooperate with the Program Manager in furthering the interests of the Department. The Architect shall use its best efforts to perform the Project in an expeditious and economical manner consistent with the interests of the Department. The Department shall endeavor to promote harmony and cooperation among the Department, Architect, Design-Builder, Program Manager, and other persons or entities employed by the Department for the Project.

Section 1.2 Project Description. In general, the Project includes the development of a design for the renovation or modernization of Eliot-Hine Middle School and related site improvements and construction of the approved design no later than July 14, 2020. The design developed by the Architect for the Project shall meet the Department's programmatic requirements which are set forth in **Exhibit A**, attain a minimum of LEED for Schools-Gold certification, and meet the requirements of the recently adopted International Green Construction Code and DOEE storm water management requirements. The A/E team is encouraged to use BIM, or similar type software (recognized in the industry), to develop and coordinate the design documents. District of Columbia Public Schools ("DCPS") is contemplating multi-year phasing to complete the required work and the Architect will be required to develop, in consultation with the Department, a phasing plan that provides adequate facilities for current school at all times. All required work must allow for staff and student use of the building throughout construction. Currently, the Department anticipates renovating the west wing as Phase 1 in Fiscal Year 2019. Upon completion of Phase 1, the Eliot-Hine population will move into the newly renovated space. Phase 2 will include final modernization of the remaining portion of the campus in Fiscal Year 2020. In addition, in the 2017-2018 school year, Eliot-Hine's playing field will accommodate modular buildings for use by Maury Elementary School ("Maury") students during the Maury planned renovation. As described herein, a Guaranteed-Maximum Price will be based on a set of Design Development documents.

The existing building was originally constructed in 1931, with an east wing addition in 1936, and a 1964 addition of a gymnasium wing, a third floor addition to the north wing of original 1931 building, and a northeast wing addition. The building is approximately 157,800 square feet. The school serves students from grade 6 to grade 8. Currently, the school serves a population of 200 students per school year. It is anticipated the school attendance will grow to a maximum of 405 students per year in the next eight years. The school also follows the Behavior and Education Support ("BES"), and the Communication and Education Support ("CES") curricula from DCPS educational stream, as well as hosting an International Baccalaureate program. The building underwent roof replacement for the eastern wings of the facility and exterior door replacement in 2017, exterior and interior door replacements in 1990, and exterior window replacements in 1988. District of Columbia Public Schools desires to expand the school in order to accommodate approximately 480 students (final number to be determined in the concept phase). Since accommodating 480 students would only require about 89,103 of renovated square feet, it is not anticipated that a 480 student program will require all of the

existing 157,800 square footage. The Architect will work with DGS and DCPS to determine the optimal use of the extra square footage, including the currently unused West Wing, if it will not continue to be used as swing space for DCPS use.

Section 1.3 Program Manager. At its discretion, the Department may hire a Program Manager (or “PM”) to provide certain program management functions. The Program Manager shall, at all times, be acting solely for the benefit of the Department, not the Architect. The Program Manager shall not be authorized to modify any of the rights or obligations of the Department or the Architect pursuant to this Agreement, or to issue Change Orders or Change Directives. **The Architect hereby acknowledges and agrees that only a duly authorized contracting officer shall have the authority to issue Change Orders or Change Directives on the Department’s behalf. As of the date that this Agreement is signed, the Department’s duly authorizing contracting officers are George Lewis, Chief Contracting Officer and Franklin Austin, Contracting Officer.** Unless otherwise provided herein, all deliverables hereunder shall be submitted to the PM

Section 1.4 General Description of Architect’s Duties. It is the intent of the Parties that the Architect provide all architectural, engineering and other services necessary to develop a design for the Project that is consistent with the Department’s programmatic, budgetary and schedule requirements for the Project, and to produce the required deliverables. In furtherance of this understanding, the Architect shall be required to provide all such services in a timely manner so as to permit DCPS to occupy the school no later than the Phase 1 and Phase 2 Substantial Completion Dates. Without limiting the generality of the foregoing, it is understood and agreed that the Architect will be responsible for all aspects of the design. The Architect’s services include, but are not limited to: (i) engineering services including the civil, structural, mechanical, electrical and plumbing engineering disciplines as well as any appropriate specialty subconsultants; (ii) the design of FF&E; (iii) providing a site survey; (iv) engaging the services of an industrial hygienist or similar specialist to survey existing structures on the Project Site so as to identify hazardous materials that require abatement in the existing building; (v) sustainable design initiatives; (vi) engaging the services of a geotechnical engineer; and (vii) engaging, consulting with, advising, and coordinating with the Design-Builder such that the Project is Substantially Complete by the Substantial Completion Dates set forth in the Design-Builder’s agreement with the Department for completion of the Project.

Section 1.5 Phases. In general, the Architect’s work shall be divided into two phases as is more fully described in Articles 2 and 3. Generally, these duties include (i) development of a set of design development documents which will serve as the basis of the Design-Builder’s GMP for the Project; (ii) furthering the design development documents for the Project; and (iii) providing construction administration services. The services to be provided under Article 2 constitute the design phase services to be performed by the Architect prior to development of a GMP (the “Design Phase Services”). The services to be provided under Article 3 constitute the construction documents and construction phase services to be provided by the Architect (the “Construction Phase Services”).

Section 1.6 Delivery Method. The Department intends to use a Modified Design/Build delivery method for this Project. The Architect understands and agrees that the

Department intends to engage a Design-Builder following the execution of this Agreement while the Architect is preparing the schematic design for the Project and that such Design-Builder shall participate in the design process by reviewing design drawings, conducting constructability reviews and assisting with cost estimating to ensure that the design developed by the Architect is consistent with the Department's program, budget and schedule for this Project. Working together, but under separate contracts, the Architect and the Design-Builder will develop a set of design development documents that will serve as the basis of a guaranteed maximum price ("GMP") to be provided by the Design-Builder for the construction of the Project. The Department expects that these documents will be completed in May 2018 and that the Design-Builder will put them out to bid with trade subcontractors that month. Value engineering (if required) and GMP negotiations will occur in June 2018. Assuming that an acceptable GMP is developed, the Department intends to enter into an agreement with the Design-Builder establishing the GMP for the completion of the Project. Concurrent with the execution of the agreement establishing the GMP (the date of such execution, the "GMP Date"), the Department will assign this Agreement in its entirety to the Design-Builder and from and after the GMP Date, the Architect's contract shall be with the Design-Builder, and the Design-Builder shall be responsible to complete both the design and the construction of the Project. Such assignment shall occur automatically at the time the GMP is agreed to by the Builder and the Department and without the need for any further document; provided, however, that the Department shall issue a notice to both the Design-Builder and the Architect confirming such assignment. The Architect hereby consents to such assignment. In the event that the Design-Builder fails to complete the Project, this Agreement will revert to the Department.

The Architect acknowledges that the Project will proceed on a fast-track schedule. In recognition of the fast-track nature of the Project, the Architect understands it may be required to prepare multiple bid packages, which may include, but is not necessarily limited to (i) a foundation-to-grade/excavation package; (ii) a hazardous materials abatement package; and (iii) an interior demolition package. The Architect further acknowledges that its pricing includes sufficient funding to accommodate the division of the work into multiple packages and to address the coordination issues associated with such a delivery method as well as to meet the milestone schedule outlined in Section 1.7.1.

Section 1.7 Schedule. A schedule for the Project is set forth below. The Architect shall provide the services required hereunder in accordance with this schedule.

Activity	End Date
Concept Design Submission	December 29, 2017
DGS/DCPS Concept Design Review	January 12, 2018
Finalize Concept Design	January 26, 2018
Submit Swing Space Design/Phasing Plan	January 26, 2018
Schematic Design Submission	February 23, 2018
DGS/DCPS Schematic Design Review & Builder Estimating	March 9, 2018
Scope Reconciliation/Value Engineering	March 23, 2018
Submit Swing Space Permit Set to DCRA	March 9, 2018

Council Approval of Target GMP	Spring 2018
Design Development Submission	May 4, 2018
DGS/DCPS Design Development Review	May 18, 2018
Trade Bidding	June 1, 2018
Scope Reconciliation, Value Engineering & GMP Negotiation	June 22, 2018
Permit Set to DCRA	June 15, 2018
Construction Documents Submitted	July 27, 2018
Start Swing Space Construction	June 25, 2018
Start General Construction	July 27, 2019
Substantial Completion of Phase 1	July 15, 2019
Substantial Completion of Phase 2	July 14, 2020

Section 1.7.1 Design Phase Schedule. During the Design Phase, the Architect shall provide those services and deliverables set forth in Article 2 in accordance with the schedule set forth below:

- .1 Submission of Concept Design: December 29, 2017;
- .2 Submission of Final Concept Design: January 26, 2018;
- .3 Submission of Swing Space Design/Phasing Plan: January 26, 2018;
- .4 Submission of Schematic Design: February 23, 2018;
- .5 Submission of Swing Space Permit Set to DCRA: March 9, 2018;
- .6 Submission of Final Schematic Design: March 23, 2018;
- .7 Submission of Design Development Documents: May 4, 2018;
- .8 Submission of Permit Set to DCRA: June 15, 2018; and
- .9 Submission of Construction Documents: July 27, 2018.

Section 1.7.2 Construction Phase Schedule. Construction Administration services shall be provided from throughout the Project until the Phase 2 Substantial Completion Date.

Section 1.7.3 Time is of the Essence. Time is of the essence in the performance of the Architect's obligations under this Agreement.

Section 1.8 Department's Representative. The Department's representative for this Project shall be:

George Lewis
Chief Contracting Officer
Capital Construction Services
Department of General Services
2000 14th Street, NW
Washington, DC 20009
george.lewis@dc.gov

Although day-to-day communications with the Architect shall be routed through the Program Manager, only the individual specified in this Section 1.8 shall have the authority to alter the terms of this Agreement; Without limiting the generality of the foregoing, **it is understood and agreed that the Program Manager shall not have the authority to: (i) increase the Architect's fee or the not-to-exceed amount established herein; (ii) authorize any additional work; or (iii) increase the overall Project budget or the specified design-to-budgets.**

Section 1.9 Architect's Representative. The Architect representative for this Project shall be:

[ARCHITECT'S REPRESENTATIVE]

The Architect hereby represents and agrees that the representative specified in this Section 1.9 has the full legal authority to bind the Architect and to agree to changes to the terms of this Agreement.

Section 1.10 Project Budget. The Architect has been advised that the Government of the District of Columbia has set aside \$67.374 million (such amount, the "Design-to-Budget") to complete the Work. Such Budget is intended to cover (construction costs, FF&E, and the design-builder's fees and general conditions), and all cost estimates shall be prepared based on such components. Any increases to such Design-to-Budget must be approved by the Department's Budget Representative. As used herein, the term "Budget Representative" shall mean the Department's Director or its Deputy Director – Capital Construction. Any increase to the Design-to-Budget shall only be effective if such authorization is signed by the Budget Representative. For the avoidance of doubt and as more fully set forth herein, the Architect further understands and agrees that it will manage its work in accordance with the Design-to-Budget Requirements set forth herein.

Section 1.11 Land Use Entitlements. The Parties acknowledge that the design for the Project will require various land use approvals. The Parties anticipate that the approval of the following bodies will be required:

- .1 Commission of Fine Arts
- .2 Office of Zoning
- .3 Office of Planning
- .4 Historic Preservation Office

The Architect shall endeavor to obtain from the bodies listed above the approvals required in order for the Project to proceed. The Architect acknowledges that the aspects of the design for the Project may need to be revised or redesigned in order to obtain such approvals, and the fixed fee set forth herein includes sufficient amounts for such redesign.

Section 1.12 Permits. In addition to securing land use approvals, the Parties anticipate that permits will be required from the following bodies:

- .1 District of Columbia Department of Consumer and Regulatory Affairs

- .2 District of Columbia Department of Environment
- .3 District of Columbia Department of Transportation
- .4 District of Columbia Water and Sewer Authority

The Architect will be required to respond to comments provided by the regulatory agencies on the design documents as contemplated in Section 2.10 of this Agreement.

Section 1.13 It is understood and agreed that certain of the design services required by this Agreement were performed by the Architect while the Letter Contract was in place, and the terms of the Letter Contract shall merge into and be superseded by this Agreement upon its execution.

ARTICLE 2

DESIGN PHASE SERVICES

Section 2.1 The Architect shall provide all services, professional and otherwise, necessary to develop a design for the Project. Without limiting the generality of the foregoing, the Architect shall provide services set forth in this Agreement and all other services reasonably necessary to achieve the goals set forth herein. The Architect shall be responsible for the professional quality, technical accuracy, and the coordination of all studies, reports, recommendations, and other deliverables furnished by the Architect under this Agreement. The Architect shall, without additional compensation, correct or revise any non-conforming deliverables that are a result of errors and or omissions in its deliverables. The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project. The Architect shall review laws, codes, and regulations applicable to the Architect's services. The Architect shall respond in the design of the Project to requirements imposed by governmental authorities having jurisdiction over the Project.

Section 2.2 Key Personnel.

Section 2.2.1 Attached as **Exhibit B** is a list of the key personnel and the role played by each that will be assigned by the Architect and its principal consultants to this Project. The Architect understands that the Department selected the Architect based in large part on the key personnel proposed to staff this Project, and as such, the Architect agrees that the Architect will not be permitted to reassign any of the key personnel unless the Department approves the proposed reassignment and the proposed replacement. In the event that any of the key personnel become unavailable to work on this Project for reasons beyond the control of the Architect or its principal consultants (i.e. due to retirement, resignation, etc.), the Architect shall propose a substitute for any such individual and obtain the Department's consent to such substitute

Section 2.2.2 Certain members of the Architect's Key Personnel shall be subject to liquidated damages for their removal or reassignment by the Architect. Those members of the Architect's Key Personnel subject to the liquidated damages provisions of this Agreement shall

be identified in **Exhibit B** as subject to the liquidated damages provisions. In the event there is no delineation in **Exhibit B** of those members of the Architect's Key Personnel subject to the liquidated damages provisions of this Agreement, then all of the Key Personnel shall be subject to the liquidated damages provisions of this Agreement. In each instance where the Architect removes or reassigns one of the key personnel listed in **Exhibit B** as being subject to liquidated damages (but excluding instances where such personnel become unavailable due to death, disability or separation from the employment of the Architect or any affiliate of the Architect) without the prior written consent of the Department's Designated Representative, the Architect shall pay to the Department the sum of Twenty Five Thousand dollars (\$25,000) as liquidated damages and not a penalty, to reimburse the Department for its administrative costs arising from the Architect's failure to provide the Key Personnel. The foregoing liquidated damage amount shall not bar recovery of any other damages, costs or expenses other than the Department's internal administrative costs. In addition, the Department shall have the right, to be exercised in its sole discretion, to remove, replace or to reduce the scope of services of the Architect in the event that a member of the Key Personnel has been removed or replaced by the Architect without the consent of the Department. In the event the Department exercises the right to remove, replace or to reduce the scope of services of the Architect, the Department shall have the right to enforce the terms of this Agreement and to keep-in-place those members of the Architect's team not removed or replaced and the remaining members shall complete the services required under this Agreement in conjunction with the new members of the Architect's team approved by the Department.

Section 2.3 Except with the knowledge and consent of the Department's Designated Representative, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

Section 2.4 The Architect shall manage the Architect's services, consult with the Department, research applicable design criteria, attend Project meetings, communicate with members of the Project team and report progress to the Department. The Architect shall review the Department's Program and other information furnished by the Department, and shall review laws, codes, and regulations applicable to the Architect's services.

Section 2.5 The Architect shall coordinate its services with those services provided by the Department and the Department's consultants. The Architect shall be entitled to rely on the accuracy and completeness of services and information furnished by the Department and the Department's consultants. The Architect shall provide prompt written notice to the Department if the Architect becomes aware of any error, omission or inconsistency in such services or information.

Section 2.6 Upon request of the Department, the Architect shall make periodic presentations to explain the design of the Project to representatives of the Department and to others in support of the Department's efforts for the Project. The Architect understands and agrees that this obligation will require the Architect to participate in briefings of the affected Parent Teacher Association, neighbors, community organization, community leaders and District government officials as identified by Department. Without limiting the generality of the

foregoing, the Architect understands and agrees that it shall be required to meet at least once a month with the School Improvement Team for the duration of the Project and that such meetings are likely to be more frequent during key aspects of the design process.

Section 2.7 Concept Design. The Architect shall develop a concept design for the Project. Such concept design shall be consistent with the Department's Program, schedule, and Design-to-Budget for the Project.

Section 2.7.1 The Architect shall be required to meet with the Department's Program Manager within one (1) week of its appointment in order to discuss the manner in which this project will proceed and the requirements applicable to the Project. The Architect will also be required to meet with school personnel and other stakeholders to better understand the needs and requirements of the Project.

Section 2.7.2 Services. During the Concept Design Phase, the Architect will work with Department and other stakeholders to further develop the programmatic requirements and prepare a concept design for the Project. At a minimum, during this phase, the Architect shall complete the following tasks:

- .1 Conduct meetings with the Chancellor's Office and DGS representatives to confirm instructional program and verify facility requirements on a space-by-space basis.
- .2 Conduct life safety/building code analysis to verify compliance of design with all current applicable codes recently adopted and/or adopted by Washington, DC, including the 2013 District of Columbia Building Code, the 2013 District of Columbia Green Construction Code, the 2013 District of Columbia Energy Conservation Code, the 2013 District of Columbia Fire Code, the 2013 District of Columbia Mechanical Code, and the 2013 District of Columbia Plumbing Code.
- .3 Conduct LEED Workshops with design team and DGS representatives to identify sustainable design strategies to be included in revised design. It is understood that a minimum of LEED for Schools-Gold certification is expected.
- .4 Participate in Value Engineering workshops, as required, with the Chancellor's Office and DGS representatives.
- .5 Prepare and submit Environmental Impact Screening Form ("EISF").
- .6 Survey existing facility to confirm locations and types of hazardous materials to be abated or mitigated.
- .7 Perform geotechnical investigations of the site.
- .8 Request and receive hydrant flow test.
- .9 Perform alternative mechanical systems evaluation and recommend selection.
- .10 Confer with audio-visual and acoustic consultants to establish design requirements for the Project.
- .11 Confer with the Department's IT representatives/consultants to verify technological requirements for the Project.
- .12 Meet with DCPS and DGS representatives to develop a preliminary phasing plan for construction of Phases 1 and 2. The Eliot-Hine building will serve as a swing space for Maury ES before and during Phase 1 of construction. It will also

continue to serve as the school building for the Eliot-Hine MS population. The Architect will help develop a phasing plan that aligns with the Project's funding schedule and multiple uses of the building while still allowing for execution of the Project per the Project Schedule set forth herein. Upon completion of Phase 1, Eliot-Hine should be able to operate successfully in the Phase 1 portion of the building while Phase 2 is being executed.

- .13 Conduct community meetings to solicit input and keep constituents informed. The A/E will attend School Improvement Team ("SIT") meetings as arranged by DCPS throughout the development of the project.
- .14 Prepare and submit a Phase 1 Archaeological Survey to DC HPRB, including all permitting and development of civil plans as required to support the work.

Section 2.7.3 Deliverables. During this phase, the Architect will be required to prepare and to submit to the Department the below-listed deliverables. It is understood that all such deliverables shall be subject to review and approval by the Department, and the Architect's pricing assumes that revisions may be required to these documents to address concerns raised by the Department and/or other Project stakeholders.

- .1 Survey of existing conditions
- .2 Conceptual floor plan and site plan.
- .3 Updated property survey, including notations of utilities and all other easements
- .4 Results of Hazardous Materials Survey
- .5 Historic resources survey
- .6 Flow Test Results
- .7 Record of Accepted LEED Strategies
- .8 Record of Accepted Value Engineering Strategies
- .9 EISF Submission.
- .10 Geotechnical Survey
- .11 Education specifications survey update
- .12 Summary of Required Agency Review, Timetables, including but not limited to: Office of Planning ("OP"), Commission of Fine Arts ("CFA"), National Capital Planning Commission ("NCPC"), and Historic Preservation Office ("HPO") to include a preliminary archeological study
- .13 Architectural Concept Development
 - i. Development of final master site plan
 - ii. Building plan
 - iii. Preliminary Phasing Plan recommendations
 - iv. Preliminary cost estimates
 - v. Project schedule

Section 2.8 Schematic Design Phase. Based on the concept design prepared by the Architect as well as written and oral feedback from Department and its Program Manager, the Architect shall develop a schematic design that meets the requirements of the Department's Program and schedule as well as the Design-to-Budget.

Section 2.8.1 Services. The Schematic Design shall contain such detail as is typically required for a schematic design under the AIA Best Practices. In general, the Architect shall be required to

- .1 Further develop conceptual plans and incorporate design changes.
- .2 Conduct community meetings to solicit input and keep constituents informed. The Architect will attend SIT meetings as arranged by DCPS throughout the development of the project.
- .3 Prepare necessary presentation materials (renderings and models) to communicate design intent and obtain approval of design direction.
- .4 Continue development of phasing plan based on the approved concept design, to accommodate the school's needs for the duration of construction.
- .5 Submit an early estimate for the modernization with a magnitude of error of Not to Exceed +/- 10% of the Project hard cost budget.
- .6 Conduct DOEE, DCRA, DDOT and DC Water Preliminary Design Review meetings.
- .7 If it is necessary for the Project early inquiry with Public Utility Companies PEPCO and Washington Gas as well as Verizon should be conducted.

Section 2.8.2 Deliverables. In addition to the services described in Section 2.8.1, above, the Architect shall prepare and submit to the Department the following deliverables. All such deliverables shall be subject to review and approval by the Department. The Architect shall be required to revise these documents, without additional compensation, to address concerns raised by the Department and/or other project stakeholders.

- .1 Digital site and floor plans (including adjacencies and room locations);
- .2 Preliminary building elevations and sections;
- .3 Plan-to-Program Comparison (Plan-to-Program Test Fit);
- .4 Phasing Plan
- .5 Preliminary LEED Scorecard;
- .6 If Value Engineering is necessary (in particular for the HVAC System selection) it should be executed at this stage of the design submission with all the stakeholders
- .7 Meeting minutes of Preliminary Design Review Meetings
- .8 Design narrative
- .9 Updated schedule and cost estimate

Section 2.8.3 At the end of the Schematic Design Phase, the Architect shall seek and obtain in writing from the Department's Budget Representative confirmation of the Design-to-Budget. For the avoidance of doubt, in the absence of any adjustment to the previously approved Design-to-Budget by the Department's Budget Representative, the Architect shall be required to design to the previously approved Design-to-Budget. The Architect shall use its best efforts to develop the design development documents and all subsequent design documents in a manner that is consistent with the Design-to-Budget.

Section 2.9 Design Development Phase.

Section 2.9.1 Based on the approved schematic design and in a manner consistent with the Design-to-Budget, the Architect will be required to prepare a set of design development documents that describe the Work. The design development documents will serve as the basis of the Design-Builder's GMP at the end of the Design Development Phase. The Department anticipates that the design development documents will require a greater level of detail than is typically required in design development documents, and in particular, the Department will expect a greater level of detail with regard to the Architectural, Structural, MEP, Fire Suppression System design, and finishes. Throughout the design development phase, the Architect shall be required to work with the Design-Builder, and at a minimum, shall meet with the Design-Builder twice a month to discuss the status of the design, any key issues, and the level of detail that will be required in the design development documents in order to allow for accurate pricing by trade subcontractors. A complete set of coordinated drawings between each discipline is expected to be submitted at this stage of the Design Phase.

At the beginning of this phase or as soon thereafter as the Design-Builder is appointed, the Architect shall work closely with the Design-Builder to develop an agreed upon listing of the number of bid packages that will be required as well as the level of detail that shall be included in each such bid package in the design development document set. It is anticipated that this process will involve a series of meetings and working sessions with regard to each of the bid packages. No later than thirty (30) days after the Design-Builder is appointed, the Architect shall submit to the Department a memorandum which describes the packages that will be required in the design development set and the level of detail for each such package.

Section 2.9.2 The Architect understands that the Department intends to appoint the Design-Builder no later than the design development phase and that the Architect and the Design-Builder shall work in close cooperation with each other. During the design development phase, the Architect shall work with the Builder to ensure that the design for the Project evolves in a manner that is consistent with the Design-to-Budget, the Department's schedule requirements (i.e. to address the potential impact of long-lead purchasing items included in the design) and constructability. The Parties envision that this will require a level of effort beyond that required in a traditional design-bid-build project delivery method. Among other things, the Design Development package shall provide a level of detail with regard to finish levels that will establish the "look and feel" of the Project.

Section 2.9.3 The Architect shall perform the following services required during this phase:

- .1 Select and draft specifications for materials, systems, equipment.
- .2 Develop detailed and dimensioned plans, wall sections, building sections and elevations, and schedules.
- .3 Complete code compliance analysis and drawing.
- .4 Confirm space-by-space equipment layouts with representatives from the Chancellor's Office and DGS.
- .5 Present the design to CFA, Office of Planning, and other regulatory agencies as required and conduct follow up meetings as required.

- .6 Coordinate furniture, fixtures, and equipment (“FF&E”) requirements,
- .7 Register the project with USGBC to obtain LEED certification and pay all registration fees.
- .8 Confer with the Department’s IT representatives/consultants to verify technological requirements for the Project.

Section 2.9.4 The Architect shall prepare and submit to the Department the following deliverables. All such deliverables shall be subject to review and approval by the Department. The Architect shall be required to revise these documents to address concerns raised by the Department and/or other project stakeholders.

- .1 35% (minimum progress) documents for all technical disciplines, drawings and specs.
- .2 50% design development progress printing.
- .3 A reconciliation report that addresses issues raised by the Design-Builder as a result of the 50% progress printing.
- .4 CFA submission materials; meetings and presentations to CFA as required
- .5 Updated LEED Scorecard.
- .6 Submit the A/E’s second estimate for the hard cost of the Project with a Maximum +/- 5% of the owner’s budget

Section 2.9.5 GMP Formation.

Section 2.9.5.1 Trade Bidding. Upon approval of the design development documents, the Design-Builder shall solicit bids from trade subcontractors for the Work. The Architect shall facilitate the Design-Builder’s bidding of the design development documents with trade subcontractors. These services will include, but are not necessarily limited to:

- .1 Assist Design-Builder with distribution of documents, as needed
- .2 Prepare and issue bidding phase addenda
- .3 Respond to bidding questions and issue clarification and requests for substitutions, as needed
- .4 Consider and evaluate requests for substitutions
- .5 Assist with bid openings and tabulations, as needed

Section 2.9.5.2 Value Engineering. In furtherance of the Architect’s obligation to develop a design for the Project that is consistent with the Design-to-Budget, the Architect understands and agrees that value engineering and other design changes may be required during the Design Development Phase and at the conclusion thereof as bids are received from trade subcontractors in order to reach a design, a schedule, and a GMP that is consistent with the Design-to-Budget. The Architect understands and agrees that it shall be required to work with the Department and the Design-Builder as they negotiate the GMP and that such efforts may involve redesigning portions of the Project or its systems and that the Architect shall not be entitled to any additional compensation as a result of such efforts. The Architect further understands and agrees that the Design Development Phase shall not be considered complete until and unless a GMP is agreed upon.

The Architect understands and agrees that any such redesign may need to be completed on an expedited basis or in multiple packages in order to keep the Project on schedule and the Architect shall use its best efforts to meet the Project's schedule requirements in performing such redesign. It is understood and agreed by both parties to this Agreement that the Architect's redesign obligations under this Section 2.9.5.2 shall be the limit of the Architect's liability for the failure to meet its design to budget obligations.

ARTICLE 3

CONSTRUCTION DOCUMENTS AND CONSTRUCTION PHASE SERVICES

Section 3.1 Assignment. It is contemplated that the Design-Builder will provide a GMP based on the design development documents, and that thereafter, the Architect's contract will be assigned to the Design-Builder and the Architect will work directly for the Design-Builder from such time. From and after such assignment, the Architect shall be required to provide such services as may be required in order to advance the Project, including, but not limited to, the preparation of the Permit Set, detailed construction documents, and the provision of construction administration services. The Architect understands and agrees that the Design-Builder shall be solely responsible for compensating the Architect for such services and that the Department shall not be liable for the cost of such services.

Section 3.2 Continued Design-to-Budget Obligations. In general, the Architect shall use its best efforts to develop the Construction Documents in a manner that is consistent with the Design-to-Budget that was established at the GMP. In furtherance of the Architect's design to budget obligations, the Architect hereby agrees as follows:

- .1** With regard to any bid package that was purchased at the GMP on a design-assist basis or with a mini-GMP, the Architect shall work with the Design-Builder and the relevant trade subcontractor to develop a design that can be accommodated by such mini-GMP or other subcontract structure. The Architect understands and agrees that this may require redesign and that any such redesign is included within its base fee.
- .2** With regard to work that will be purchased subsequent to the formation of the GMP, the Architect shall be required to work with the Department and the Design-Builder should the trade bids for any such package exceed the design to budget figure established at the time the GMP was agreed upon for such package at no additional cost to either the Department or the Design-Builder.

The Architect understands and agrees that any such redesign may need to be completed on an expedited basis or in multiple packages in order to keep the Project on schedule and the Architect shall use its best efforts to meet the Project's schedule requirements in performing such redesign. It is understood and agreed by both parties to this Agreement that the Architect's redesign obligations under this Section 3.2 shall be the limit of the Architect's liability for the failure to meet its design to budget obligations.

Section 3.3 Permit Set.

Section 3.3.1 Based on the approved design development documents as well as any approved value engineering, the Architect shall prepare the Permit Set. The Permit Set shall represent the further progression of the approved design development documents together with any value engineering strategies approved by the Department. The Permit Set will be construction documents progressed to approximately 75% completion of those required in a traditional Design/Bid/Build delivery method. The Permit Set will be code compliant and permit ready, with all major systems sufficiently designed, detailed, specified, coordinated, and developed.

3.3.2 The Architect shall incorporate into the Permit Set the design requirements of governmental authorities having jurisdiction over the Project. The Architect shall modify or amend the Permit Set and reissue portions of or all to: (a) define, clarify, or complete the concepts and information contained in the Permit Set; (b) correct design errors or omissions, ambiguities, and inconsistencies in the Permit Set (whether found prior to or during the course of construction); and (c) correct any failure of the Architect to follow written instructions of the Department during any phase of design services or the construction of the Project provided they are compatible with industry standards.

Section 3.3.3 At a minimum and in addition to any services that would typically be provided by an architect during this phase, the Architect shall provide the following services:

- .1** Prepare detailed and coordinated drawings and specifications.
- .2** Prepare and submit early release packages for permitting if required, based on the design. This may include: (i) hazardous materials abatement package; (ii) a demolition/raze package; and (iii) a foundation-to-grade package.
- .3** Prepare application and submit balance of design documents for building permit.
- .4** Work with the Department's third party plan reviewer to review the documents for permit document submission.
- .5** Upload all documents to DCRA's permit document review website in accordance with their instructions.
- .6** Prepare all traffic control plans required to obtain relevant DDOT permit approvals at all stages of the project.
- .7** Prepare DDOT public space modifications package for submission to and approval by DDOT Public Space Committee, participate in Committee meetings as necessary.
- .8** Prepare and submit DC Water permit application packages (all permit types that may be required) and DOEE Storm Water Management and Green Area Ratio packages for review and approval.

The Architect shall also be required to prepare and submit at least two (2) sets of drawing updates that update the early packages to reflect changes and/or evolution of the design that occur in later packages.

Section 3.3.4 In addition to preparing the Permit Set, the Architect shall:

- .1 meet with the Design-Builder as and when requested to review the design, its constructability, and consistency with the GMP;
- .2 work with the Design-Builder in order to implement such value engineering ideas as may be necessary to meet the budget reflected in the GMP, including revising or preparing any design documents necessary to implement such value engineering;
- .3 promptly address issues raised by the Code Official during the permit review process.
- .4 Develop building information modeling (BIM) files for all plans to be utilized by the contractor for MEP coordination.

Section 3.4 Issued for Construction Documents. Upon review and approval of the Permit Set, the Design-Builder will be required to construct the Work. The Architect shall provide such additional design services as are requested by the Design-Builder, including, but not limited to, the preparation of more developed construction documents, if requested, and provision of construction administration services.

Section 3.4.1 Construction Documents. The Architect shall be required to develop an Issued for Construction ("IFC") Set. The IFC Set shall represent the further progression of the approved Permit Set together with any value engineering strategies approved by the Department. The IFC Set should be progressed to One Hundred Percent (100%) completion of those required in a traditional Design/Bid/Build delivery method. The construction documents shall be coordinated and shall contain such at a minimum the level of detail as is typically required for construction documents under the AIA Best Practices. The Architect shall be required to respond to and revise the construction documents as may be necessary in order to address any concerns raised by the Code Official.

Section 3.4.2 Construction Administration. The Department and Architect acknowledge that in order to construct the Work, the Design-Builder will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review. During the Design Development Phase, the Department, the Architect and the Design-Builder shall meet and develop a plan for the manner in which Construction Administration Services will be provided (the "Construction Administration Plan"). Among other things, the Construction Administration Plan shall include provisions addressing: (i) where construction administration services will be provided (i.e. on or off site); (ii) the staffing level that will be devoted to construction administration services; (iii) timelines for reviewing shop drawings, submittals, RFIs, etc.; and (iv) the process by which shop drawings, submittals, RFIs, etc. will be handled. Once agreed upon by the three parties, the Architect shall provide construction administration services in accordance with the Construction Administration Plan.

Section 3.4.2.1 At a minimum and in addition to any services that would typically be provided by an architect during this phase, the Architect shall perform the following services:

- a. Attend biweekly progress meetings. A/E Team site visits are included in the Design Fee.
- b. Review and process shop drawing submissions, RFI's, etc.
- c. Prepare meeting notes and records of decisions/changes made.
- d. Conduct pre-closeout/punchlist inspections.
- e. Review closeout documents for completeness, such as As-Built Drawings based on the Design-Builder's red line drawings and/or coordinated set developed during the subcontractor coordination process. As-Built Drawings should be transmitted to DGS in hard copy, PDF and CAD formats.

Section 3.4.2.2 The Architect shall provide the following deliverables during this phase:

- a. Meeting minutes, if requested
- b. RFI responses, ASI's or other clarification documents
- c. Punchlists
- d. Closeout document review comments
- e. As-Built drawings in CAD format

ARTICLE 4 **COMPENSATION**

Section 4.1 Compensation.

Section 4.1.1 Design Phase Services. The Architect shall be paid a fixed fee of [AMOUNT] (the "Design Phase Design Fee") for all services necessary to accomplish the objectives of the Design Phase as described in Article 2 above. Monthly payments shall be made to the Architect on the percentage complete basis. Such fee is broken down among the various design phases in the schedule of values attached hereto as **Exhibit C**.

Section 4.1.2 Construction Document and Construction Phase Services. The Architect shall be paid a fixed fee of [AMOUNT] (the "Construction Phase Design Fee") for all services necessary to accomplish the objectives of the Design Phase as described in Article 3 above, including the provision of construction administration services. Monthly payments shall be made to the Architect on the percentage complete basis. Such fee is broken down among the various design phases in the schedule of values attached hereto as **Exhibit C**. Together, the Design Phase Design Fee and the Construction Phase Design Fee, in the total amount of [AMOUNT] (the "Design Fee") represents the total compensation that shall be paid to the Architect for all services required under this Agreement.

Section 4.1.3 Compensation for Reimbursable Expenses. Reimbursable Expenses are in addition to compensation for Design Phase Services and Construction Document and Construction Phase Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project. An allowance in the amount of [AMOUNT] is established for such reimbursable expenses. Such expenses shall be reimbursed without markup of any kind and records of Reimbursable Expenses and services performed on the basis of hourly

rates shall be available to the Department at mutually convenient times. Reimbursable expenses shall include the following:

- .1 Transportation and authorized out-of-town travel and subsistence, provided, however, that local transportation costs (i.e. taxis, parking, etc.) shall not be reimbursable;
- .2 Fees paid for securing approval of authorities having jurisdiction over the Project;
- .3 Reproductions, plots, standard form documents;
- .4 Postage, handling and delivery;
- .5 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Department, provided, however, that such expenses shall only be reimbursable to the extent that they were caused by the failure of the Department to act within timeframes agreed to by the parties in advance and in writing;
- .6 Additional renderings, models, and mock-ups, requested by the Department;
- .7 Any other similar expenditures directly related to the Project and reasonably incurred after first receiving written approval of the Department.

Section 4.2 Retention. An amount equal to five percent (5%) of all fees (but not expenses) shall be withheld as retention from all progress payments that are due to the Architect. This 5% retention will only be due the Architect if: (i) the Project is Substantially Complete on or before July 14, 2020; and (ii) the hard construction costs (inclusive of the builder's fees and general conditions and FF&E) does not exceed One Hundred Three Percent (103%) of the amount allocated in the Design-to-Budget established at the end of the schematic design phase. The determination as to whether these goals have been achieved shall be measured irrespective of fault, only if both goals are met irrespective of whether the reason these goals were not met was caused by the Architect, the Design-Builder, the Department, the District, the Code Official or any other person or cause.

Section 4.3 Payments. Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid forty five (45) days after the invoice date shall bear interest in accordance with the Quick Payment Act.

Section 4.4 Payment Disputes. Disputes or questions regarding a portion of an invoice shall not be cause for withholding payment for the remaining portion of the invoice.

Section 4.5 Hourly Rates for Additional Services. For any services that the Department requests the Architect to provide, the Architect shall be compensated based on the fully loaded hourly rates set forth in **Exhibit D**. Such rates shall be fixed and not subject to further adjustment for the expected period of this Agreement plus a period of one (1) year thereafter. Compensation for services performed on an hourly basis shall be computed by multiplying the number of hours directly spent on the Project by the applicable hourly billing rate listed on **Exhibit D**.

ARTICLE 5 **INSURANCE**

Section 5.1 General Requirements.

Section 5.1.1 The Architect at its sole expense, including all premiums or deductibles associated with such coverage, shall procure and maintain, during the entire period of performance under this contract, the types of insurance specified below. The Architect shall have its insurance broker or insurance company submit a Certificate of Insurance to the Department's Contracting Officer 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 Contracting Officer. All insurance shall be written with financially responsible companies authorized to do business in the District of Columbia or in the jurisdiction where the work is to be performed and have an A.M. Best Company rating of A- / VII or higher. The Architect shall require all of its subcontractors to carry the same insurance required herein.

Section 5.1.2 All required policies shall contain a waiver of subrogation provision in favor of the Government of the District of Columbia.

Section 5.1.3 The Government of the District of Columbia shall be included in all policies required hereunder to be maintained by the Architect 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 Architect or its subcontractors (including without limitation the liability to pay premiums) shall be the sole obligation of the Architect 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 Contracting Officer in writing. All of the Architect'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 Architect or its subcontractors, or anyone for whom the Architect or its subcontractors may be liable. These policies shall include a separation of insureds clause applicable to the additional insured.

Section 5.1.4 If the Architect and/or its subcontractors maintain broader coverage and/or higher limits than the minimums shown in this Section 5, the District requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Grantee and subcontractors.

Section 5.2 Commercial General Liability Insurance ("CGL"). The Architect shall provide evidence satisfactory to the Contracting Officer 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 Contracting Officer in writing), covering liability for all ongoing and completed operations of the Architect, including ongoing and completed operations under all subcontracts, and covering claims for bodily injury, including without limitation sickness, disease or death of any persons, injury to or destruction of property, including loss of use resulting therefrom, personal and advertising injury, and including coverage for liability arising out of an Insured Contract (including the tort liability of another assumed in a contract) and acts of terrorism (whether caused by a foreign or domestic source). Such coverage shall have limits of liability of not less than \$1,000,000 each occurrence, a \$2,000,000 general aggregate (including a per location or per project aggregate limit endorsement, if applicable) limit, a \$1,000,000 personal and advertising injury limit, and a \$2,000,000 products-completed operations aggregate limit.

Section 5.3 Automobile Liability Insurance. The Architect shall provide evidence satisfactory to the Contracting Officer 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 nonowned vehicles and equipment used by the Architect, with minimum per accident limits equal to the greater of (i) the limits set forth in the Architect’s commercial automobile liability policy or (ii) \$1,000,000 per occurrence combined single limit for bodily injury and property damage.

Section 5.4 Workers’ Compensation Insurance and Employer’s Liability Insurance. The Architect shall provide evidence satisfactory to the Contracting Officer of Workers’ Compensation insurance in accordance with the statutory mandates of the District of Columbia or the jurisdiction in which the contract is performed. The Architect shall also provide evidence satisfactory to the Contracting Officer of employer’s liability insurance as follows: \$500,000 per accident for injury; \$500,000 per employee for disease; and \$500,000 for policy disease limit.

All insurance required by this Section 5.4 shall include a waiver of subrogation endorsement for the benefit of Government of the District of Columbia.

Section 5.5 Cyber Liability Insurance. The Architect shall provide evidence satisfactory to the Contracting Officer of Cyber Liability Insurance, with limits not less than \$5,000,000 per occurrence or claim, \$5,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Architect in this agreement and shall include, but not limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations. This insurance requirement will be considered met if the general liability insurance includes an affirmative cyber endorsement for the required amounts and coverages.

Section 5.6 Environmental Liability Insurance. The Architect shall provide evidence satisfactory to the Contracting Officer of pollution legal liability insurance covering losses caused by pollution conditions that arise from the ongoing or completed operations of the Architect. Completed operations coverage shall remain in effect for at least ten (10) years after completion of the work. Such insurance shall apply to bodily injury, property damage (including loss of use of damaged property or of property that has been physically injured), cleanup costs, liability and cleanup costs while in transit, and defense (including costs and expenses incurred in the investigation, defense and settlement of claims). There shall be neither an exclusion nor a sublimit for mold related claims. The minimum limits required under this paragraph shall be equal to the greater of (i) the limits set forth in the Architect's pollution legal liability policy or (ii) \$2,000,000 per occurrence and \$2,000,000 in the annual aggregate. If such coverage is written on a claims-made basis, the Architect warrants that any retroactive date applicable to coverages under the policy precedes the Architect's performance of any work under the Contract and that continuous coverage will be maintained or an extended reporting period will be exercised for at least ten (10) years after completion. The Architect also must furnish to the Department certificates of insurance evidencing pollution legal liability insurance maintained by the transportation and disposal site operator(s) used by the Architect for losses arising from facility(ies) accepting, storing or disposing hazardous materials or other waste as a result of the Architect's operations. Such coverages must be maintained with limits of at least the amounts set forth above.

Section 5.7 Employment Practices Liability. The Architect shall provide evidence satisfactory to the Contracting Officer with respect to the operations performed to cover the defense of claims which the District of Columbia would be named as a co-defendant in claims arising from employment related wrongful acts including but not limited to: Discrimination, Sexual Harassment, Wrongful Termination, or Workplace Torts. The policy shall include an endorsement naming the District of Columbia as a codefendant or additional insured and shall also include the Client Company Endorsement for Temporary Help Firms and the Independent Contractors Endorsement. 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.

Section 5.8 Professional Liability Insurance (Errors & Omissions). The Architect 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 Agreement. The policy shall provide limits of \$5,000,000 per claim or per occurrence for each wrongful act and \$10,000,000 annual aggregate. The Architect warrants that any applicable retroactive date precedes the date the Architect 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.

Section 5.9 Commercial Umbrella or Excess Liability. The Architect shall provide evidence satisfactory to the Contracting Officer of commercial umbrella or excess liability insurance with minimum limits equal to the greater of (i) the limits set forth in Architect's umbrella or excess liability policy or (ii) \$20,000,000 per occurrence and \$20,000,000 in the annual aggregate, following the form and in excess of all liability policies. All required liability

coverages must be scheduled under the umbrella or excess policy. The insurance required under this paragraph shall be written in a form that annually reinstates all required limits. Coverage shall be primary to any insurance, self-insurance or reinsurance maintained by the District and the “other insurance” provision must be amended in accordance with this requirement and principles of vertical exhaustion.

Section 5.10 Primary and Noncontributory Insurance. The insurance required herein shall be primary to and will not seek contribution from any other insurance, reinsurance or self-insurance including any deductible or retention, maintained by the Government of the District of Columbia.

Section 5.11 Duration. The Architect shall carry all required insurance until all contract work is accepted by the District of Columbia, and shall carry listed coverages for ten years for construction projects following final acceptance of the work performed under this contract and two years for non-construction related contracts.

Section 5.12 Liability. The limited outlined in this Article 5 are the required minimum insurance requirements established by the District of Columbia. **HOWEVER, THE REQUIRED MINIMUM INSURANCE REQUIREMENTS PROVIDED ABOVE WILL NOT IN ANY WAY LIMIT THE ARCHITECT’S LIABILITY UNDER THIS CONTRACT.**

Section 5.13 Architect’s Property. Architect and subcontractors are solely responsible for any loss or damage to their personal property, including but not limited to tools and equipment, scaffolding and temporary structures, rented machinery, or owned and leased equipment. A waiver of subrogation shall apply in favor of the District of Columbia.

Section 5.14 Measure of Payment. The District shall not make any separate measure or payment for the cost of insurance and bonds. The Architect shall include all of the costs of insurance and bonds in the contract price.

Section 5.15 Notification. The Architect shall ensure that all policies provide that the Contracting Officer shall be given thirty (30) days prior written notice in the event of coverage and / or limit changes or if the policy is canceled prior to the expiration date shown on the certificate. The Architect shall provide the Contracting Officer with ten (10) days prior written notice in the event of non-payment of premium. The Architect will also provide the Contracting Officer with an updated Certificate of Insurance should its insurance coverages renew during the contract.

Section 5.16 Certificates of Insurance. The Architect shall submit certificates of insurance giving evidence of the required coverage as specified in this section prior to commencing work. Certificates of insurance must reference the corresponding contract number. Evidence of insurance shall be submitted to:

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

George G. Lewis, CPPO
Associate Director/Chief Contracting Officer
Department of General Services
2000 14th Street, NW | 8th Floor
202-727-2800
George.lewis@dc.gov

The Contracting Officer may request and the Architect 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 Architect expires prior to completion of the contract, renewal certificates of insurance and additional insured and other endorsements shall be furnished to the Contracting Officer 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 Contracting Officer on an annual basis as the coverage is renewed (or replaced).

Section 5.17 Disclosure of Information. The Architect agrees that the District may disclose the name and contact information of its insurers to any third party which presents a claim against the District for any damages or claims resulting from or arising out of work performed by the Architect, its agents, employees, servants or subcontractors in the performance of this contract.

Section 5.18 Carrier Ratings. All Architect's and its subcontractors' insurance required in connection with this contract shall be written by insurance companies with an A.M. Best Insurance Guide rating of at least A- VII (or the equivalent by any other rating agency) and licensed in the in the District.

ARTICLE 6 **OWNERSHIP OF DOCUMENTS**

Section 6.1 Ownership of Documents. Regardless of whether the Project is completed, any design documents prepared by the Architect and the architectural, engineering or other consultants engaged by the Architect, any copies thereof furnished to the Design-Builder, and all other documents created in association with the Project shall become the sole property of the Department upon full payment of Architect's fees then due under this Agreement, and shall not to be used by the Architect, its subconsultants on other projects, or for additions to this Project outside the scope of the work, without the specific written consent of the Department. However, the Department expressly acknowledges and agrees that the documents to be provided by the Architect under this Agreement will contain design details, features and concepts including some from the Architect's library, which collectively form part of the design for the project, but which separately are and shall remain the sole and exclusive property of the Architect. These details are repetitive in nature, not Project specific, function rather than form-oriented, and were not developed for or identifiable with the Project. Nothing herein shall be construed as a limitation on the Architect's absolute right to re-use such component design details, features and concepts on other projects, in other contexts or for other clients.

The Department shall be under no obligation to account to the Architect for any profits obtained by the Department as a result of the Project, or the use of such drawings, specifications and other documents in connection with the Project. In the event that the Agreement is terminated prior to completion of the Project or the Architect is unable to complete this Project for any reason, the Department shall have the right to use without the Architect's consent, and the Architect shall deliver to the Department and/or its designee within two (2) calendar days after such termination or inability, all such drawings, specifications and other documents as well as design concepts and details in connection with the Project or necessary for the Department's completion of this Project (including subsequent phases thereof), so long as the Department has paid the Architect all fees then owed to the Architect under this Agreement. The Department's rights hereunder shall extend to its successors and assigns and the Architect's obligation to deliver such drawings, specifications, and documents. Any other use shall be at the Department's sole risk and without liability to the Architect or the Architect's consultants. Unless Department fails hereunder to pay Architect therefor, the Department shall be deemed the owner of such drawings, specifications, and other documents and shall have and retain all rights therein. In the event Department is adjudged to have failed hereunder to pay Architect for such drawings, specifications or other documents, ownership thereof, and all rights therein, shall revert to the Architect. This provision shall survive termination of this Agreement.

ARTICLE 7

MISCELLANEOUS PROVISIONS

Section 7.1 This Agreement shall be governed by the laws of the District of Columbia.

Section 7.2 Terms in this Agreement shall have the same meaning as construed under District law.

Section 7.3 The Department and Architect, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns of such other party with respect to all covenants of this Agreement. The Architect shall not assign this Agreement without the written consent of the Department.

Section 7.4 If the Department requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least fourteen (14) days prior to the requested dates of execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of this Agreement.

Section 7.5 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Department or Architect.

Section 7.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

Section 7.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Department's confidential or proprietary information if the Department has previously advised the Architect in writing of the specific information considered by the Department to be confidential or proprietary. The Department shall provide professional credit for the Architect in the Department's promotional materials for the Project.

Section 7.8 If the Architect receives information specifically designated by the Department as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information.

Section 7.9 Extent of Agreement. This Agreement represents the entire and integrated agreement between the Department and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Department and Architect.

Section 7.10 Prolog. The Architect shall utilize the Department's Prolog 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) invoices/applications for payment (full package including all forms required by the Department); (v) certified payrolls (in addition to upload via LCP Tracker); (vi) drawings and specifications; (vii) punchlist; and (viii) other documents as may be designated by the Department. The Architect shall also require all subcontractors and subconsultants to utilize prolog for the Project.

ARTICLE 8

GOVERNMENTAL PROVISIONS

Section 8.1 Buy American Act Provision. The Architect shall not design or specify a proprietary product that does not comply with the provisions of the Buy American Act (41 U.S.C. § 10a), as further explained in the Standard Contract Provisions.

Section 8.2 Ethical Standards For Department's Employees And Former Employees. The Department expects the Architect to observe the highest ethical standards and to comply with all applicable law, rules, and regulations governing ethical conduct or conflicts of interest. Neither the Architect, nor any person associated with the Architect, shall provide (or seek reimbursement for) any gift, gratuity, favor, entertainment, loan or other thing of value to any employee of the District or the Department not in conformity with applicable law, rules or regulations. The Architect shall not engage the services of any person or persons in the employment of the Department or the District for any Work required, contemplated or performed under the Agreement. The Architect may not assign to any former Department or District

employee or agent who has joined the Architect's firm any matter on which the former employee, while in the employ of the Department, had material or substantial involvement in the matter. The Architect may request a waiver to permit the assignment of such matters to former Department personnel on a case-by-case basis. The Architect shall include in every subcontract a provision substantially similar to this section so that such provisions shall be binding upon each Architect or vendor.

Section 8.3 Anti-Deficiency Act. The Department's obligations and responsibilities under the terms of the Agreement 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. Neither the Agreement shall 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 CONTRACT OR CONTRACT DOCUMENTS UNLESS SUCH AMOUNT HAS BEEN APPROVED, IS LAWFULLY AVAILABLE AND APPROPRIATED BY ACT OF CONGRESS.**

If this Agreement is a multiyear contract, then the following provision is made part of this Agreement: If funds are not appropriated or otherwise made available for the continued performance in a subsequent year of a multiyear contract, the contract for the subsequent year shall be terminated, either automatically or in accordance with the termination clause of the contract. Unless otherwise provided for in the contract, the effect of termination is to discharge both the Department and the Architect from future performance of the contract, but not from the existing obligations. The Architect shall be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of the supplies or services delivered under the contract.

Section 8.4 General Conditions. To the extent that this Agreement is silent on an action or requirement of the Contractor, and current as of the date of this Agreement, the Department's Standard Contract Provisions for A&E Services Contracts, attached hereto as **Exhibit F**, shall govern the Contractor's obligations with respect to such action or requirement under this Agreement.

ARTICLE 9 **ECONOMIC PROVISIONS**

Section 9.1 Certified Business Enterprise.

Section 9.1.1 The Architect shall subcontract at least 35% of the dollar volume of each contract with a value of \$250,000 or more to certified small business enterprises; provided, however, that the costs of materials, goods and supplies shall not be counted towards the 35%

subcontracting requirements unless such materials, goods and supplies are purchased from the certified small business enterprises.

Section 9.1.2 If there are insufficient qualified small business enterprises to completely fulfill the requirement of Section 9.1.1, then the subcontracting may be satisfied by subcontracting 35% of the dollar volume to any certified business enterprises; provided, however, that all reasonable efforts shall be made to ensure that qualified small business enterprises are significant participants in the overall subcontracting work.

Section 9.1.3 The Architect certified as a small, local or disadvantage business enterprise shall not be required to comply with the provisions of Sections 9.1.1 and 9.1.2 of this Agreement

Section 9.2 First Source Employment Agreement.

Section 9.2.1 The Architect and each of its subcontractors shall submit to the Department a list of current employees that will be assigned to the Agreement, the date they were hired and whether or not they live in the District of Columbia.

Section 9.2.2 The Architect and its constituent entities shall comply with subchapter III of Chapter 11 Title 1, and subchapter II of Chapter 11 of Title 1 of the D.C. Code, and all successor acts thereto and the rules and regulations promulgated thereunder. The Architect and all subcontractors shall execute a First Source Agreement with the District of Columbia Department of Employment Services (“DOES”) prior to beginning the Project.

Section 9.2.3 The Architect shall maintain detailed records relating to the general hiring of District of Columbia and community residents. At least fifty-one percent (51%) of the Architect’s Team and every subcontractor’s employees hired under this Agreement or after such subcontractor enters into a contract with the Architect to work on a project shall be residents of the District of Columbia.

Section 9.2.4 The Architect shall be responsible for: (i) including the provisions of this Section 9.2 in all subcontracts; (ii) collecting the information required in this Section 9.2 from its subcontractors; and (iii) providing the information collected from its subcontractors in any reports required to be submitted by the Architect pursuant to this Section 9.2.

Section 9.3 Service Contract Act Provision. The Architect agrees that the work performed under this Agreement shall be subject to the Service Contract Act Wage Determination in effect on the date this agreement is executed. Service Contract Wage Schedules are available at wdol.gov, **Exhibit E**.

Section 9.4 Living Wage Act. In addition to the requirements set forth in the First Source Employment Agreement, the Architect shall comply with all applicable provisions of the Living Wage Act of 2006, as amended (codified at D.C. Official Code §§ 2-220.01 et seq.) and its implementing regulations.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

DEPARTMENT OF GENERAL SERVICES, an agency within the executive branch of the Government of the District of Columbia

[SELECTED OFFEROR]

By: _____
Name: _____
Title: _____
Date: _____

By: _____
Name: _____
Title: _____
Date: _____

Exhibit A

Owner's Program

Exhibit B

Key Personnel

Exhibit C

Schedule of Values

Exhibit D

Hourly Rates

Exhibit E

Service Contract Act

Exhibit F

Standard Contract Provisions for Architectural Engineering Services

Exhibit 2

A-E Services for Eliot-Hine
Questions About the Solicitation

Number	Question	Response
1	Are the architect and any of the subconsultant team (eg, structural engineer, AV/IT, etc.) that provided services for the feasibility study precluded from performing any services or being on any teams for this solicitation?; Is the feasibility study team (prime and all sub consultants) precluded in pursuing this portion of the project?	Yes
2	What type of content and format is DGS seeking in response to item D.4.3, Detailed Resource Allocation Plan, “(iii) proposed subcontracting effort in connection with obtaining additional resources?”	Please provide a proposed subcontracting plan to include all subcontracting disciplines.
3	Is it acceptable to provide percentages in response to item D.4.3, Detailed Resource Allocation Plan, “(i) a Cost Allocation Plan?”	Yes
4	Attachment K, Past Performance Evaluation Form, is included in the RFP. However, the proposal requirements do not mention whether this form is needed, or where it should be included within the response. Please clarify.	Attachment K shall be submitted to the contract specialist by email by the time that proposals are due.