

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF GENERAL SERVICES



D.C. DEPARTMENT OF GENERAL SERVICES

REQUEST FOR PROPOSALS

ARCHITECTURAL/ENGINEERING SERVICES
FRANKLIN PARK

June 20, 2017

Proposal Due Date: July 17, 2017

Preproposal Conference: June 26, 2017

to be held at: 11:00 AM

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Solicitation Number: DCAM-17-AE-0104

Executive Summary

The District of Columbia Department of General Services (DGS or Department) is issuing this Request for Proposals (RFP) to engage a design firm to serve as the architect/engineer (the Architect) for the renovation of Franklin Park (the Project). Franklin Park is a historic urban park that occupies an entire city block of 4.79 acres in downtown Washington, D.C. It is bordered by K Street on the north, 13th Street on the east, I Street on the south, and 14th Street on the west. The park is located in the heart of downtown and lies within the Downtown Business Improvement District (BID). The Department has been charged with implementing the improvements to the park, but is working collaboratively with the BID and the National Park Service (NPS) as the site constitutes NPS land. It is contemplated that the BID will operate the park once the Project is completed as part of a public-private partnership. An aerial view of the proposed Project is shown below:



NPS and other stakeholders previously commissioned a Master Plan and Conceptual Design for the park, a copy of which is included as **Attachment A**. The concept design was presented to the Commission of Fine Arts in July of 2015 and received generally favorable comments. NPS has already conducted an environmental assessment under the *National Environmental Policy Act of 1969* and a finding of no significant impact was obtained. In general, the Project includes extensive landscape rehabilitation, the creation of a new fountain in the center of the park, a playground located on the north east portion of the site, walkways, a community space on the western portion of the site, and a café of approximately 2,100 square feet on the south west corner of the site.

A more detailed description of the Project and the stakeholders' intent with regard to the design is included with **Attachment A**. Offerors should pay particular attention to the requirements of **Attachment A** as it reflects the stakeholders' desires.

Given the location of the site and its relation to federal interests, it is envisioned that the entitlement and permitting process for this effort will be extensive and will require interface with the Commission on Fine Arts (CFA), the National Capital Planning Commission (NCPC), NPS as well as other District of Columbia agencies typically involved in construction. The site is located in the Central Area and it is likely that NCPC will have jurisdiction in lieu of zoning under the *National Capital Planning Act*. As a result, the Department desires that the architectural team selected for this engagement have a minimum of 15 years of experience practicing before those bodies and some experience with development of federal property in the District of Columbia. A copy of and the Partner Design and Construction Agreement between NPS and the District for the revitalization of Franklin Park is included as **Attachment B**.

A.1 Project Delivery Method

The Architect engaged through this procurement will work directly for the Department. In general, the design team engaged through this procurement will provide complete design services through Construction Administration and close out for the renovation of Franklin Park.

A preliminary schedule for the Project is set forth below:

#	Milestone	Base		Milestone Date
		Duration in Weeks	Duration in Days	
1	Issue AE Solicitation			June 20, 2017
2	AE Bids Due	4	27	July 17, 2017
3	Notice of Award	4	33	August 19, 2017
4	Notice to Proceed	1	7	August 26, 2017
5	Concept Design Verrification Phase	4	28	September 23, 2017
6	DPR Program Confirmation/Design Review	2	14	October 7, 2017
9	Schematic Design Submission	8	56	December 16, 2017
10	DPR Program Confirmation/Design Review	2	14	December 30, 2017
11	Initial budget estimate (concurrent with Program Confirmation)	2	14	December 30, 2017
12	Scope Reconciliation (if necessary)	2	14	January 13, 2018
13	Design Development Submission	8	56	March 10, 2018
14	DPR Design Review	2	14	March 24, 2018
15	DD budget estimate (concurrent with Design Review)	2	14	March 24, 2018
16	Scope Reconciliation (if necessary)	2	14	April 7, 2018
17	NCPC Preliminary Design Approval	6	42	May 5, 2018
19	Permit Set of Construction Documents (partially concurrent with NCPC review)	10	70	June 2, 2018
23	Start of Construction	1	7	November 17, 2018

(N.B. The design of the fountain and the café should occur concurrently with durations set forth above.)

The Department will hold the Architect's contract throughout the life of the Project.

A.2 Contract Documents

The Agreement for Architectural/Engineering Services, the NPS Mandatory Provisions and the Standard Contract Provisions are attached hereto as **Attachment B, Attachment J and Attachment I**. Respondents to this RFP (Offerors) should carefully review the Agreement for Architectural/Engineering Services, the NPS Mandatory Provisions, and the Standard Contract Provisions when submitting their proposal. To the extent there are any inconsistencies between this RFP, the Agreement for Architectural/Engineering Services, the NPS Mandatory Provisions, and the Standard Contract Provisions, the Agreement for Architectural/Engineering Services, the NPS Mandatory Provisions, and the Standard Contract Provisions shall have precedence. Offerors are advised that they are required to submit their proposal premised upon agreeing to the terms of the Agreement for Architectural/Engineering Services, the NPS Mandatory Provisions, and the Standard Contract Provisions. **A proposal that identifies or describes changes or exceptions to the Standard Contract Provisions, the Agreement for Architectural/Engineering Services, or the Letter Contract, as defined in Section F of this RFP, may be deemed non-responsive.** The form Architectural/Engineering Services Agreement is attached hereto as Attachment B. The Agreement for Architectural/Engineering Services shall include several provisions as provided in the proposed Partner Design and Construction Agreement between NPS and the District for the revitalization of Franklin Park and as set forth in Attachment B.

A.3 Design Fees; Incentives; Reimbursable Expenses

As is more fully described in the Agreement for Architectural/Engineering Services, the selected Architect will be paid a fixed fee for all design and construction phase services. Offerors will be required to submit a Design Fee that covers all of the Offeror's costs associated with the preparation of: (i) a preliminary assessment and refinement (if necessary) of the concept design; (ii) schematic design; (ii) design development documents; (iii) a permit set of construction documents; (iv) a complete, coordinated set of construction documents; and (v) construction administration services. The selected Architect will also need to present the approved design documents to the NCPC for both preliminary and final design approval and to the CFA for final design approval. The Architect's scope of work will also include such presentations and submission as may be required to other permitting and regulatory agencies.

As is more fully described in Section B of this RFP, the Architect will be required to present the design to the Department and other stakeholders at each stage in the design process (i.e. schematic, design development, construction documents) and incorporate such changes as may be directed by DGS. Given the nature of the Project and its prominent location, Offerors should assume that such comments are likely to be extensive and should include sufficient time and

funding in their proposal to address these issues. The selected Architect will also be required to work with the Construction Manager selected by the Department in an active and collaborative manner so as to address schedule, constructability, budget, and value engineering issues.

Offerors are required to submit with their proposal a proposed lump sum price (Design Fee) that covers the cost of all necessary design services. The Department intends to award this contract to the most qualified firm. If, however, the Department and the most qualified firm are unable to agree upon a price or contract, the Department will proceed to negotiate with the second highest ranked firm. The price proposal should include a schedule of values that allocates the Design Fee among the various design phases (i.e. preliminary concept review, schematic design, design development, construction documents, and construction administration). The schedule of values will be used as the basis for subsequent contract negotiations and the final schedule of values included in the contract will be used for purposes of making progress payments. Please see **Section E.4** of this RFP for additional information related to the fee and the price proposal.

Offerors should submit with their proposal an Offer Letter in substantially the form of **Attachment C** on the Offeror's letterhead that includes the proposed Design Fee as well as a list of fully loaded hourly rates for the Architect and the required subconsultants for any additional services. The Agreement for Architectural/Engineering Services will provide for a five percent (5%) retention of the firm, fixed fee (but not expenses) and an incentive amount equal to 5% of the original Design Fee (but not expenses). This 5% retention and 5% incentive will only be due to the Architect if: (i) the Project is Substantially Complete on or before July 12, 2019; and (ii) the total hard construction costs (inclusive of the builder's fees and general conditions and FF&E) do 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 Builder, the Department, the District, the Code Official or any other person or cause.

A.4 Selection Criteria

Proposals will be evaluated in accordance with **Section D** of this RFP. The following evaluation criteria will be used:

- Experience & References of the Prime Architectural Firm (15 points)
- Experience & References of the Landscape Architect (15 points)
- Experience Practicing Before CFA and NCPC (15 points)
- Key Personnel (15 points)
- Management Plan & Schedule (20 points)
- Price (20)

A.5 Procurement Schedule

The preliminary procurement schedule is as follows:

- Issue RFP - June 20, 2017
- Pre-proposal Conference - June 26, 2017
- Last Day for Questions/Clarifications - July 3, 2017
- Proposals Due - July 17, 2017
- Notice of Award (Estimated) - August 19, 2017

A.6 Attachments

- Attachment A** -Master Site Plan & Concept Designs, Project Description, Aerial Image, and Geoarcheological Report
- Attachment B** -Design and Construction Agreement between NPS and DGS for the revitalization of Franklin Park
- Attachment C** -Form of Offer Letter
- Attachment D** -Tax Affidavit
- Attachment E** -Bidder Offeror Certification Form
- Attachment F** -Service Contract Act
- Attachment G** -EEO Policy Statement
- Attachment H** -Standard Form 330
- Attachment I** -Standard Contract Provisions (Architectural & Engineering Services Contracts)
- Attachment J** -NPS Mandatory Contract Provisions

SECTION B

SCOPE OF WORK

B.1 Architect's Duties; General Intent.

The Architect will be required to develop a design to demolish the existing park elements, and to construct a new café, site improvements, and improvements to the park through a collaborative design process with the Department, the District's Department of Parks and Recreation (DPR), the BID and NPS. Without limiting the generality of the foregoing, the Architect shall be required to provide all necessary architectural and engineering services and will include engaging the necessary geotechnical consultants, civil engineers and surveyors to assess the site conditions as well as environmental consultants to perform hazardous materials surveys. It is anticipated an archeological study will be required; a resource guide for such work is included with **Attachment A** and performance of a Phase 1 archeological study is included in the Architect's scope of work.

For purposes of the proposal, Offerors should assume that it will not be necessary to update the Environmental Assessment conducted by NPS December 2014 and that NCPC and the other federal agencies involved will accept that document for purposes of their NEPA obligations. To the extent a new environmental assessment (or substantial revisions to the current documents) or a full environmental impact statement is required, such services would be considered an add service or procured from a separate source.

During the course of the Design Phase, the Architect shall meet regularly with the Department, NPS, the BID and DPR in order obtain input on all aspects of the design. As the design evolves, the Architect will be required to make interim submissions of the design, as outlined herein, in order for the Department and the other stakeholders to review. Such interim submissions shall also serve as the basis for periodic cost estimates and opportunities to review the design for constructability and schedule implications. Furthermore, the Architect shall be required to provide Life Cycle & Maintenance Cost Development and Evaluation at appropriate phases of the design, as Project components (materials, building systems, equipment, etc.) are selected. The Department anticipates that this will most likely occur in the schematic design and/or design development phase. In addition, the Architect shall provide value engineering ideas as well as the other services detailed herein.

B.2 Concept Evaluation

During the Design Phase, the Architect shall develop a design for the Project that is consistent with the Master Plan and Conceptual Design outlined in **Attachment A**. The Architect's initial task will be to work with the Department to evaluate the probable cost of the current concept design and to assist the Department and the stakeholders in reconciling the concept design with available funding for the Project. Once a budget is established for the Project, the Architect will be required to develop a design that is consistent with such budget (i.e., designed to budget), and that can be constructed by the desired substantial completion date.

B.2.1 Services. The Architect shall evaluate the initial concept design for the Project and prepare a detailed cost estimate. With regard to building systems (i.e. roofs, doors, HVAC, security, IT, etc.), the cost estimate shall be prepared on a “system” basis that identifies the key building systems or functions and allocates an estimated cost for each such system. The primary purpose of such cost estimate is to aid the Department and DPR in understanding the costs associated with key elements of the Project so as to better prioritize and manage the use of the funding allocated to this Project. The cost estimate shall be submitted within two (2) weeks of the submission of the Notice to Proceed (NTP). The cost estimate shall be updated to reflect any changes resulting from DGS’ and DPR’s review of the initial concept design and incorporated into the approved concept design, as explained below (such estimate, the “**Approved Concept Design Estimate**”).

Some refinement of the initial concept design will likely be required. In evaluating and refining the concept design for the Project, the Architect may be required to complete the following tasks:

- .1 Conduct meetings with NPS, DPR and DGS representatives to confirm program requirements and verify park requirements on a space-by-space basis.
- .2 Conduct life safety/building code analyses to verify compliance of design with most current version of the international building code in effect at the time the NTP is issued.
- .3 Participate in Value Engineering workshops with NPS, DPR and DGS representatives.
- .4 Prepare and submit the Environmental Impact Screening Form (EISF).
- .5 Request and receive hydrant flow test.

B.2.2 Concept Design Submission. The Architect shall prepare a revised concept design submission for review and comment by NPS, DPR and the Department, if required. Such revised concept design submission shall include the elements and information listed below.

- .1 Architectural Concept Development (may include multiple options)
 - i. Development of final master site plan for multiple options
 - ii. Building plan including building rise plans
 - iii. Preliminary cost estimate
 - iv. Project schedule
- .2 Updated property survey, including notations of utilities and all other easements
- .3 Traffic and parking survey and zoning analysis
- .4 Geotechnical Survey including ground penetrating radar and potential test pits to identify the location of the former spring
- .5 Flow Test Results
- .6 Record of Accepted Value Engineering Strategies
- .7 EISF Submission
- .8 Summary of Required Agency Review, Timetables, including but not limited to:
Office of Planning (OP), CFA, NCPC

B.2.3 Review and Revisions to Concept Design Submission. The Architect shall submit the revised concept design submission to DGS for review and comment by NPS, DPR and DGS.

Following review of the revised concept design submission by NPS, DPR and the Department, the Architect shall make any further revisions to the concept design submission as necessary to incorporate comments, feedback and other direction provided by DPR and the Department. The Architect's pricing shall assume that such revisions will be required, and such revisions shall not entitle the Architect to additional compensation.

B.2.4 Concept Design Budget Estimate. While the concept design submission is under review by NPS, DPR and the Department, the Architect shall prepare a detailed cost estimate of the preliminary concept design. With regard to building systems (i.e. roofs, doors, HVAC, security, IT, etc.), the cost estimate shall be prepared on a "system" basis that identifies the key building systems or functions and allocates an estimated cost for each such system. Builder fees, the Design Fee, the cost of general conditions, and contingencies shall be broken out in separate line items. The primary purpose of such cost estimate is to aid the Department, NPS and DPR in understanding the costs associated with key elements of the Project so as to better prioritize and manage the use of the funding allocated to this Project. The cost estimate shall be submitted within two (2) weeks of the submission of the initial concept design submission. The cost estimate shall be updated to reflect any changes resulting from NPS, DGS' and DPR's review of the initial concept design and incorporated into the approved concept design (such estimate, the "Approved Concept Design Estimate").

B.2.5 Design Phase Schedule. During the Design Phase, the Architect shall provide those services and deliverables set forth in this RFP in accordance with the schedule set forth below ("Design Phase Schedule"):

- .1 Concept evaluation and budget reconciliation: September 19, 2017
- .2 Submission of Schematic Design: December 12, 2017
- .3 Submission of Design Development Documents: March 6, 2017;
- .4 Submission of the Permit Set: May 29, 2017
- .5 Submission of complete Construction Documents: May 29, 2017

B.2.6 Construction Phase Schedule. A schedule for Construction Phase Services shall be developed once the Construction Manager is engaged.

B.3 Schematic Design Phase

The Architect shall advance the approved concept design option into a schematic design consistent with the Design Objectives. The schematic design shall contain such detail as is typically required for schematic design under AIA Best Practices.

B.3.1 Services. In general, the Architect shall be required to undertake the following tasks during this phase:

- .1 Further develop conceptual plans and incorporate design changes. Utilize findings and final concept plans, perform site visits as necessary, attend and/or facilitate meetings with stakeholders and District staff to review program of requirements, required utilities,

- drainage, zoning and traffic needs where/when necessary to develop Schematic Design Documents.
- .2 Conduct community meetings to solicit input and keep constituents informed. Prepare a presentation and provide a minimum of three (3) presentation boards for each community meeting and present/display onsite. Presentation boards shall be in full color and include at least one (1) 3-D rendering.
 - .3 Prepare necessary presentation materials (renderings and models) to communicate design and obtain approval of design direction.
 - .4 Obtain and review applicable District standards and guidelines for design (Design Criteria Manual, Unified Development Code, DPR Standards), where applicable, and provide a complete design that meets all applicable NPS and District codes. Coordinate security requirements with National Park Service Park Police and MPD. Coordinate IT and Telecom requirements with the proposed end user.
 - .5 Coordinate with the NPS, DC Historic Preservation Office and other agencies, commissions, groups, etc. as required to assess and determine historic and/or archeological significance and requirements. Perform a complete Phase I Archeological Study if required.
 - .6 LEED Certification work as required.
 - .7 Prepare and submit three (4) hard-copy sets, and one (1) electronic copy in PDF, of Schematic Design Documents, Preliminary Specifications, and Schematic cost estimate (only if requested by DGS) to the Project Manager for review and approval. (30% plan review). Components to include, but are not limited to:
 - a. Site plans, paving layouts, traffic circulation
 - b. Floor plans, building circulation, ADA requirements
 - c. Design Narrative
 - d. Plan-to-Program Comparison
 - e. Exterior elevations, rendering and color palette
 - f. Critical building sections and details
 - g. Relevant right of way information such as easements, building set-backs etc.
 - h. Location of utilities and sizes
 - i. LID/Stormwater management
 - j. Landscape Architecture to include:
 - i. Functional analysis of site program
 - ii. Universal Design and Accessibility Plan
 - iii. Accessible Route Plan
 - iv. Roadway and parking siting and analysis
 - v. Vegetation and planting
 - vi. Materials analysis
 - vii. Character defining features listing (cultural landscape)
 - viii. Statement of historic significance (cultural landscape)
 - ix. Night Sky Preservation
 - x. Integrated Pest Management
 - k. Preliminary MEP systems
 - l. LEED Information as appropriate
 - m. Copies of all surveys and reports

- n. Updated schedule
- o. Updated cost estimate (only if requested by DGS)
- .8 After receiving schematic design comments, meet and coordinate as necessary with:
 - a. DGS, stakeholders, and all relevant regulatory or reviewing agencies as necessary to review project requirements.
 - b. Pepco, DC Water, DDOE and all others as necessary for infrastructure and utility requirements.
 - c. Private utilities and service providers if necessary
- .9 Respond in writing to all District and NPS comments on plans.
- .10 Act as scribe for all design related meetings. Distribute meeting minutes to all attendees.
- .11 Perform comprehensive Value Engineering effort (VE) utilizing 30% Plan Review submission. Provide report of findings to DGS. Conduct a meeting with NPS, DGS and other stakeholders as necessary to present and discuss VE options.
- .12 Upload all design documentation and deliverables as required utilizing the online DGS Project Management Information System (Prolog Converge) and guidelines.

B.3.2 Schematic Design Submission. The Architect shall prepare the schematic design submission for review and comment by NPS, DPR and the Department. Such schematic design submission shall include the elements and information listed below.

- .1 Digital floor plans and site plan
- .2 Preliminary building elevations and sections
- .3 Plan-to-Program Comparison
- .4 Design Narrative
- .5 Updated schedule
- .6 Preliminary LEED Scorecard
- .7 Landscape Architecture to include the following plans:
 - a. Functional analysis of site program
 - b. Universal Design and Accessibility Plan
 - c. Accessible Route Plan
 - d. Roadway and parking siting and analysis
 - e. Vegetation and planting
 - f. Materials analysis
 - g. Character defining features listing (cultural landscape)
 - h. Statement of historic significance (cultural landscape)
 - i. Night Sky Preservation
 - j. Integrated Pest Management

B.3.3 Schematic Design Budget Estimate. While the preliminary schematic design submission is under review by NPS, DPR and the Department, shall prepare a detailed cost estimate of the schematic design. If so requested by the Department, the Architect shall also prepared such cost estimate (which would be an add services). With regard to building systems (i.e. roofs, doors, HVAC, security, IT, etc.), the cost estimate shall be prepared on a “system” basis that identifies the key building systems or functions and allocates an estimated cost for each such system. The primary purpose of such cost estimate is to aid the Department, NPS and

DPR in understanding the costs associated with key elements of the Project so as to better prioritize and manage the use of the funding allocated to this Project. With that understanding, the Architect will be required to break out the landscaping costs by Project element (e.g., pathways; playground; fountain; etc.) as directed by the Department. The cost estimate shall be submitted within two (2) weeks of the submission of the schematic design submission. The cost estimate shall be updated to reflect any changes resulting from DGS' and DPR's review of the schematic design and incorporated into the approved schematic design (such estimate, the "Approved Schematic Design Estimate").

B.3.4 Review and Revisions to Schematic Design Submission. The Architect shall submit the schematic design submission to DGS for review and comment by DPR, DGS, NPS, the BID, and SHPO. Following review of the schematic design submission by DPR and the Department, the Architect shall make revisions to the schematic design submission as necessary to incorporate comments, feedback and other direction provided by NPS, DPR and the Department. The Architect's pricing shall assume that such revisions will be required, and such revisions shall not entitle the Architect to additional compensation.

B.3.5 Value Engineering Memorandum. To the extent that the Schematic Design Budget Estimate exceeds the available funding or the Architect believes that there a value engineering ideas that could materially reduce the Project's overall cost without adversely impacting the Project's intended functionality, the Architect shall prepare and submit a memorandum that outlines potential value engineering ideas. Such memorandum shall be submitted to the Department no later than one (1) week after the submission of the Schematic Design Budget Estimate.

The Architect shall meet with the Department as necessary to reach agreement on which, if any, of the value engineering options should be pursued. To the extent the Department directs the Architect to proceed with one or more of the value engineering options, the Architect shall revise its Schematic Design Budget Estimate to reflect the inclusion of such items, and to the extent requested by the Department, the schematic design shall also be revised to reflect such approved value engineering ideas.

B.3.6 Entitlements. The Architect shall prepare such materials and make such presentations as are necessary to obtain the required land use and entitlement approvals. Approvals may be required from (i) the Office of Zoning; (ii) the Office of Planning; (iii) the Commission on Fine Arts; and (iv) the Historic Preservation Review Board. Given the historic nature of the park, Offerors should assume that the approvals process will require more than staff level approval processes and submissions.

B.4 Design Development Phase

Following the approval of the schematic design, including any value engineering adjustment to be made thereto in order to ensure that the design is consistent with the Project Budget without compromising the other Design Objectives, the Architect shall progress the schematic design into a set of design development documents. The design development documents shall represent

the logical development of the approved schematic design and shall be advanced in a manner consistent with the Department's Design Objectives for the Project.

B.4.1 Services. The Architect shall undertake the following as the design development documents are being advanced:

- .1 Select and draft specifications for materials, systems, and equipment.
- .2 Develop detailed and dimensioned plans, wall sections, building section, and schedules.
- .3 Complete code compliance analysis and drawing.
- .4 Confirm space-by-space equipment layouts with representatives from DPR and DGS.
- .5 Coordinate furniture, fixtures, and equipment requirements (FF&E).
- .6 Meet and coordinate with regulatory, reviewing, and stakeholder agencies as necessary.
- .7 Present the design to CFA, NCPC, DC Office of Planning, NPS, and other regulatory agencies as required.
- .8 **Achieve CFA final approval and NCPC preliminary and final approval**
- .9 Register the project with USGBC to obtain LEED certification and pay all registration fees, if required.
- .10 Perform site visits as necessary and attend/facilitate meetings with District staff as necessary to develop and progress Design Development Documents. Incorporate VE options chosen by DGS.
- .11 Prepare and submit three (3) hard-copy sets, and one (1) electronic copy in PDF of Design Development Documents including Detailed Specifications, Cost Estimate and schedule to the District staff for review and approval. (60% plan review). Components to include, but are not limited to:
 - a. site plans, paving layouts, traffic circulation, lighting, signage and utilities
 - b. floor plans, Structural, Civil, Architectural, MEP, Fire Protection and landscaping
 - c. exterior elevations, rendering and color palette
 - d. building sections and details as required
 - e. interior elevations, casework and millwork elevations as required
 - f. playground equipment
 - g. LID/Stormwater management
 - h. food service or other equipment as required
 - i. LEED Information as appropriate
 - j. Display pool/fountain
 - k. Landscape Architecture to include:
 - i. Demolition Plan (if required)
 - ii. Site Plan
 - iii. Site Layout Plan
 - iv. Grading Plan
 - v. Planting/Revegetation/Irrigation Plan
 - vi. Site Elevations:
 - vii. Site Sections (One longitudinal and one transverse)
- .12 Respond in writing to all NPS and District comments on plans.
- .13 Attend and participate in community meeting(s) to update community regarding the project, if required. Prepare a presentation and provide a minimum of three (3)

presentation boards for each community meeting and present/display onsite. Presentation boards shall be in full color and include at least one (1) 3-D rendering.

- .14 Coordinate final utility plans as required.
- .15 Act as scribe for all design related meetings. Distribute meeting minutes to all attendees.
- .16 Upload all design documentation and deliverables as required utilizing the online DGS Project Management Information System (Prolog Converge) and guidelines.

The Architect shall produce, in addition to the complete design development documents, a fifty percent (50%) design development progress printing which shall serve as the basis of an interim review of the design relative to the Design Objectives (see **Section B.2.4** below).

B.4.2 Mid-Point Design Development Review. When the design development documents are approximately fifty percent (50%) complete, the Department shall conduct an “over the shoulder” review of such documents with the Architect. Based on the fifty percent (50%) complete design development documents, the Architect shall prepare a memo that identifies any material deviation from the schematic design. If requested by the Department, the Architect shall also make available a progress print for review by DPR and the Department.

B.4.3 Review and Revisions to Design Development Documents. The Architect shall submit the design development documents to DGS for review and comment by DPR and DGS. Following review of the design development documents by DPR and the Department, the Architect shall make revisions to the design development documents as necessary to incorporate comments, feedback and other direction provided by DPR and the Department. The Architect’s pricing shall assume that such revisions will be required, and such revisions shall not entitle the Architect to additional compensation.

B.2.4.4 Design Development Design Budget Estimate. While the preliminary design development design submission is under review by DPR and the Department shall update the Approved Schematic Design Estimate based on the preliminary design development design submission (the “**Design Development Budget Estimate**”). If so requested by the Department, the Architect shall also prepared such cost estimate (which would be an add service). The Design Development Budget Estimate shall be prepared in a format similar to the Approved Schematic Design Estimate and shall show variances from the Approved Schematic Design Estimate. The Design Development Budget Estimate shall be submitted within two (2) weeks of the submission of the initial design development design submission and shall be updated to reflect any changes resulting from DGS’ and DPR’s review of the initial design development design and incorporated into the approved design development design.

B.4.5 Value Engineering Memorandum. To the extent that the Design Development Budget Estimate exceeds the available funding or the Architect believes that there a value engineering ideas that could materially reduce the Project’s overall cost without adversely impacting the Project’s intended functionality, the Architect shall prepare and submit a memorandum that outlines potential value engineering ideas. Such memorandum shall be submitted to the Department no later than one (1) week after the submission of the Design Development Budget Estimate.

The Architect shall meet with the Department as necessary to reach agreement on which, if any, of the value engineering options should be pursued. To the extent the Department directs the Architect to proceed with one or more of the value engineering options, the Architect shall revise its Design Development Budget Estimate to reflect the inclusion of such items, and to the extent requested by the Department, the design development documents shall also be revised to reflect such approved value engineering ideas.

B.4.6 NCPC Preliminary Design Review. Given the site's location and proposed use, it is expected that the Project will require review and approval by NCPC in lieu of the normal zoning process. The Architect shall be required to provide such support as is necessary to accomplish these reviews and approvals and shall include within its pricing sufficient funding to cover the level of effort associated with such efforts. Among other things, the Architect's scope includes preliminary meetings with NCPC and CFA staff throughout the concept and schematic design phase. In addition, the Architect shall be required to prepare the necessary submission materials for NCPC's preliminary design approval at the conclusion of the design development phase and shall participate in and take the lead in presenting the design to NCPC should, as is currently expected, a formal hearing be required at this stage. The Architect's scope also includes a submission and presentation (if required) of a final design approval at the conclusion of the permit document stage. CFA has previously approved the Master Plan and Conceptual Design. As such, the Architect's scope of will include preliminary meetings with staff during the concept evaluation and schematic design phase to "re-introduce" the design to CFA and to update CFA on the design's evolution. If requested by CFA, the Architect shall be required to re-submit the revised concept design. The Architect's scope also includes a submission and presentation of the final design at the approval of the permit document stage.

B.5 Construction Documents Phase

B.5.1 Permit Set and Early Release Packages

Following the approval of the design development documents, including any value engineering adjustment to be made thereto in order to ensure that the design is consistent with the Project Budget without compromising the other Design Objectives, the Architect shall progress the design development documents into a permit set of construction documents ("**Permit Set**"). The Permit Set shall represent the logical development of the approved design development documents and shall be advanced in a manner consistent with the Department's Design Objectives for the Project. The Permit Set shall consist of Drawings and Specifications setting forth in detail the quality levels of materials and systems and other requirements for the construction of the Work. The Permit Set will be code compliant and permit ready, with all major systems sufficiently designed, detailed, specified, coordinated, and developed.

With regard to the mechanical, plumbing, elevators, electronic systems and other manufactured products, the parties anticipate that they may be purchased on a design-build basis. For those systems that will be purchased on a design-build basis, the Architect shall be required to: (x) provide a description of the system and its general layout; (y) provide a performance

specification that contains detail and performance criteria that are acceptable to the Department. With regard to finishes, the Architect shall prepare a description of the finishes that is acceptable to the Department and NPS and in such a level of detail that it will permit the the selected contractor to provide cost. The Architect shall include a credit for certain systems that the Construction Manager may elect to purchase on a design-build basis, and in the event such system(s) are purchased on a design-build basis this Architect's fee shall be reduced appropriately.

B.5.2.1The Architect shall incorporate into the Permit Set the design requirements of governmental authorities having jurisdiction over the Project. In addition, the Architect shall be required 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.

B.5.2.2[Intentionally omitted.]

B.5.2.3 Deliverables. The Architect shall provide the following deliverables during this phase:

- .1 Prepare and submit three (4) hard-copy and one (1) electronic PDF copy of the Permit Set of Construction Documents, Specifications and Architect's Cost Estimate and schedule to the Department for review (90% plan review).
- .2 Prepare detailed and coordinated drawings and specifications to be included in the Permit Set.
- .3 Prepare application and submit 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 Coordinate with all DC regulatory agencies and permit reviewers as necessary.
- .8 An EISF will be required and shall be the responsibility of the selected Firm

B.5.2.4In addition to preparing the Permit Set, the Architect shall, at no additional cost to the Department or the selected contractor:

- .1 Meet with the Department and other parties as and when requested to review the design, its constructability, and consistency.
- .2 Work with the Department and selected Contractor in order to implement such value engineering ideas as may be necessary to meet the budget, including revising or preparing any design documents necessary to implement such value engineering;
- .3 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;
- .5 Progress LEED Certification work as required;
- .6 Attend follow up meetings and coordinate with regulatory agencies, Fire Marshall, DGS Facilities personnel, NPS maintenance personnel and others as necessary;
- .7 Act as scribe for all design related meetings and distribute meeting minutes to all attendees;
- .8 Upload all design documentation and deliverables as required utilizing the online DGS Project Management Information System (Prolog Converge) and guidelines; and provide to NPS.
- .9 Obtain all required signatures on plans;
- .10 Complete Platting and record Plat;
- .11 Complete final coordination with utilities and service providers as necessary; and
- .12 Attend and participate in community meeting(s) to update community regarding the Project. Prepare a presentation and provide a minimum of three (3) presentation boards for each community meetings and present/display onsite. Presentation boards shall be in full color and include at least one (1) 3-D rendering.

B.5.2.5 The Architect shall assist the Department to facilitate the bidding process. These services will include, but are not necessarily limited to:

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

B.5.2.6 Code Review. The Architect shall submit the permit set of documents to the Department of Consumer and Regulatory Affairs in order to obtain the necessary building permits to construct the Project. The Architect shall monitor the permit process and shall incorporate any changes or adjustments required by the Code Official. The Architect shall also issue any such changes to the Department for its review and approval. In this submittal, the Architect shall highlight (or bubble) any aspect of the design that represents a material deviation from the permit set documents and shall address in a narrative format the impact, if any, such departure shall have on the Project's aesthetics, functionality or performance.

B.5.2.7 Permits. The Architect shall be responsible for preparing and submitting all of the required permit applications that are necessary to complete the Project. The Architect shall develop a list of the required permits and shall track the progress of all such permits through the review process. The Architect shall engage such permit expeditors as the Architect deems necessary or appropriate in light of the Project's schedule.

B.5.2.8 Value Engineering. To the extent that the proposed project cost exceeds the available funding, the Architect understands and agrees that it shall be required to work with the Department 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 Permit Set phase shall not be considered complete until and unless the Department 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 the Department and the Architect that the Architect's redesign obligations under this Section B.5.2.8 shall be the limit of the Architect's liability for the failure to meet its design to budget obligations.

B.5.2.9 Mid-Point Construction Document Review. It is contemplated that the construction documents will be issued in several different sets (i.e. architectural, electrical, mechanical, structural, etc.). As each such set reaches a point where it is approximately fifty percent (50%) complete, the Architect shall prepare a progress printing and the Department shall conduct an "over the shoulder" review with the Architect. Representatives from the Department (or its Program Management team) shall be invited to participate in the "over the shoulder" review. Within one (1) week after completing this review, the Architect and the Department shall prepare and submit to the Department a memorandum that outlines the results of the "over the shoulder" review. Such memorandum shall identify items of concern to the Department that represent departures from the approved scope of the design development documents or that could otherwise adversely impact the Project's budget or schedule.

B.5.2 Design Completion.

B.5.2.1 Construction Document Review & Coordination. The Architect shall complete each of the construction document packages in a manner that addresses the concerns raised by the Department during the "over the shoulder" review for such package. The Architect shall issue one or more sets of construction documents to the Department for its review and approval. With regard to each such set, the Architect shall highlight (or bubble) any aspect of the design that represents a material deviation from the approved permit documents and shall address in a narrative format the impact, if any, such departure shall have on the Project's aesthetics, functionality or performance. The Department shall have the right to disapprove the construction documents for any reason. If, however, the Department disapproves a construction document that is a logical extension of the approved design development documents, such disapproval shall be deemed a change event. In the event the Department does not approve a document within fourteen (14) days after issuance, such document shall be deemed approved unless the Department advises that such document is still under review. In the event the Department's review takes longer than fourteen (14) days, such additional review shall be deemed a change event.

B.5.2.2 Services and Deliverables. In addition to completing the construction documents, the Architect shall, at no additional cost to the Department:

- .1 Prepare and submit three (3) hard-copy and one (1) electronic PDF copy of the complete set of Construction Documents, include 90% plan review responses, to the Department (95% Construction Documents).
- .2 Correct plans to reflect issues noted by regulatory agencies and permit reviewers as required. Re-submit for additional review and approval as required. Provide three (3) hard-copy sets and one electronic PDF copy of all corrected plans to DGS. (100% Construction Documents)

B.5.2.3 Liquidated Damages. The Architect acknowledges that the Department is engaging the Architect to provide design support services so as to minimize the potential for cost overruns, schedule delays or the need for extensive value engineering/re-design late in the Project and that the reports and/or deliverables required under **Section B.2** are key to realizing the value of such services. In the event the Architect fails to deliver any of the reports or key design deliverables required in this Section (and unless such failure is the result of any event of Force Majeure), the Architect shall be subject to liquidated damages in an amount of Five Thousand Dollars (\$5,000) plus Five Hundred Dollars (\$500) per day after receiving written notice from either the COTR or the Contracting Officer of failure to submit such report.

B.6 Construction Phase Services.

B.6.1 Construction Administration. Prior to the completion of the Permit Set, the Department and the Architect shall agree upon a plan for how construction administration services will be performed (the “**Construction Administration Plan**”). The Construction Administration Plan shall specifically address: (i) whether the Architect will be required to assign staff on-site; (ii) turn-around time for submittals; and (iii) such other matters as the Architect and the Department consider relevant to the orderly administration of the Project. The Architect shall submit to the Department a signed copy of the Construction Administration Plan. Throughout the construction administration phase of the Project, the Architect shall comply with the Construction Administration Plan.

The Architect’s services during this phase will include, but are not necessarily limited to:

- .1 Attend biweekly progress meetings. Architectural site visits are included in base fee.
- .2 Review and process shop drawing submissions, RFI’s, etc.
- .3 Prepare meeting notes and records of decisions/changes made.
- .4 Conduct punchlist inspections.
- .5 Review close-out documents for completeness.

In addition, the Architect shall provide the following deliverables during this phase:

- .1 Meeting minutes
- .2 ASI’s or other clarification documents
- .3 Punchlists
- .4 Close-out document review comments

.5 As-Builts in CAD format

B.6.2 Design Changes. If it should become necessary to amend any of the approved construction drawings, the Architect to prepare an amendment to the drawings and shall submit such amendment to the Department for its review and approval. In this submittal, the Architect shall highlight (or bubble) any aspect of the design that represents a material deviation from the Permit Set documents and shall address in a narrative format the impact, if any, such departure shall have on the Project's aesthetics, functionality or performance. In the event the Department does not approve a document within ten (10) business days after issuance, unless otherwise denied, such document shall be deemed approved, provided however that the Department has not advised that such document is still under review.

B.7 Administrative Matters

B.7.1 Use of Prolog. The Architect shall utilize Prolog for the submission of: (i) requests for information; (ii) submittals; (iii) meeting minutes; (iv) invoices/applications for payment (full package including all forms required by DGS); (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.

B.8 Key Personnel; Diversion

B.8.1 Identification of Key Personnel. The following individuals shall be considered key personnel: (i) the Design Principal; (ii) the Project Architect; (iii) the lead landscape architect; (iv) the project design lead for the café; (v) the individual responsible for the playground design; and (vi) the lead Civil Engineer. The Architect will not be permitted to reassign any of the key personnel unless the Department approves the proposed reassignment and the proposed replacement.

B.8.2 Liquidated Damages. If the Architect removes or reassigns one of the key personnel (excluding, however, instances where such personnel become unavailable due to death, disability, or separation from the employment of the Architect or any affiliate of 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. These liquidated damage amount shall not bar recovery of any other damages, costs or expenses other than the Department's internal administrative costs. In addition, the Department shall have the right, to be exercised in its sole discretion, to remove, replace or to reduce the scope of services of the 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.

B.9 Compensation. For any additional services that the Department requests the Architect to provide, the Architect shall be compensated based on the fully loaded hourly rates set forth in an exhibit attached to the Contract. Such rates shall be fixed and not subject to further adjustment for the expected period of the Contract 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 attached to the Contract. Offerors should also include in their Design Fee (i) an Owner-directed allowance of \$50,000 for additional work as directed by DGS; and (ii) an allowance of \$7,500 for printing costs, to be used only for printing drawing and specification submissions for DGS' use, including any additional renderings, models, and mock-ups, requested by the Department. These allowances belong to DGS and are to be used only with written approval of the DGS project manager.

Other reimbursable expenses are in addition to compensation for Design Phase Services 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 \$25,000 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 Any other similar expenditures directly related to the Project and reasonably incurred after first receiving written approval of the Department.

B.9.1 Offerors' Design Fee should assume that the Architect will provide a schematic design cost estimate and a design development cost estimate.

SECTION C

ECONOMIC INCLUSION

C.1.1 Preference for Small, Local, and Disadvantaged Business Enterprises

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

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

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

C.1.2 Preferences for Certified Joint Ventures

A certified joint venture will receive preferences as determined by DSLBD in accordance with D.C. Official Code § 2-218.39a (h).

C.1.2.1 A copy of the certification acknowledgment letter must be submitted with the Offeror's Proposal.

C.1.2.2 Any vendor 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
(202) 727-3900

C.1.2.3 All vendors are encouraged to contact DSLBD at (202) 727-3900 if additional information is required on certification procedures and requirements.

C.2 Subcontracting Plan

An Offeror responding to this solicitation which is required to subcontract shall be required to submit with its offer, any subcontracting plan required by law. Offeror's responding to this RFP shall be deemed nonresponsive and shall be rejected if the Offeror fails to submit a subcontracting plan that is required by law. For contracts in excess of \$250,000, at least 35% of the dollar volume of the contract shall be subcontracted in accordance with **Attachment I**.

C.2.1 Subcontracting Plan Requirements

Mandatory Subcontracting Requirements

1. Unless the Director of DSLBD has approved a waiver in writing, 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).
2. If there are insufficient SBEs to completely fulfill the requirement of paragraph 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.
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 paragraphs 1 and 2 above.
4. Except as provided in paragraphs 5 and 7 below, a prime Contractor that is a CBE and has been granted an offer preference pursuant to D.C. Official Code § 2-218.43, or is selected through a set-aside program, shall perform at least 50% of the contracting effort with its own organization and resources and, if it subcontracts, 35% of the subcontracting effort shall be with CBEs. A CBE prime Contractor that performs less than 50% of the contracting effort shall be subject to enforcement actions under D.C. Official Code § 2-218.63.

5. A prime Contractor that is a certified joint venture and has been granted an offer preference pursuant to D.C. Official Code § 2-218.43, or is selected through a set-aside program, shall perform at least 50% of the contracting effort with its own organization and resources and, if it subcontracts, 35% of the subcontracting effort shall be with CBEs. A certified joint venture prime Contractor that performs less than 50% of the contracting effort shall be subject to enforcement actions under D.C. Official Code § 2-218.63.
6. Each CBE utilized to meet these subcontracting requirements shall perform at least 35% of its contracting effort with its own organization and resources.
7. A prime Contractor that is a CBE and has been granted an offer preference pursuant to D.C. Official Code § 2-218.43, or is selected through a set-aside program, shall perform at least 50% of the on-site work with its own organization and resources if the contract is \$1 million or less.

C.2.2 Subcontracting Plan

If the prime Contractor is required by law to subcontract under this contract, it must subcontract at least 35% of the dollar volume of this contract in accordance with the provisions of section (a) of this clause. The plan shall be submitted as part of the offer and may only be amended 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 shall inure to the benefit of the District.

Each subcontracting plan shall include the following:

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

C.2.3 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, District of Columbia Auditor and the Director of DSLBD.

C.2.4 Subcontracting Plan Compliance Reporting.

- (1) The Contractor has a subcontracting plan required by law for this contract; the Contractor shall submit a quarterly report to the CO, 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.
- (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.

C.2.5 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.

C.2.6 Notices

The Contractor shall provide written notice to the DSLBD and the District of Columbia Auditor upon commencement of the contract and when the contract is completed.

C.2.7 Enforcement and Penalties for Breach of Subcontracting Plan

1. A Contractor shall be deemed to have breached a subcontracting plan required by law, if the Contractor (i) fails to submit subcontracting plan monitoring or compliance reports or other required subcontracting information in a reasonably timely manner; (ii) submits a monitoring or compliance report or other required subcontracting information containing a materially false statement; or (iii) fails to meet its subcontracting requirements.
2. Contractor that is found to have breached its subcontracting plan for utilization of CBEs in the performance of a contract shall be subject to the imposition of penalties, including monetary fines in accordance with D.C. Official Code § 2-218.63.
3. If the CO determines the Contractor's failure to be a material breach of the contract, the CO shall have cause to terminate the contract under the default provisions in **Clause 8** of the Standard Contract Provisions, Default.

C.2.8 CBE as Prime Contractor

A prime Contractor which is certified as a small, local or disadvantaged business enterprise shall not be required to comply with the provisions of Section C.2.

C.3 Residency Hiring Requirements for Contractors and Subcontractors

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

Upon execution of the contract, the Offeror and all of its member firms, if any, and each of its subcontractors and subconsultants shall submit to the Department a list of current employees that will be assigned to the project, the date that they were hired and whether or not they live in the District of Columbia.

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

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

- (i) At least twenty percent (20%) of journey worker hours by trade shall be performed by District residents;
- (ii) At least sixty percent (60%) of apprentice hours by trade shall be performed by District residents;
- (iii) At least fifty one percent (51%) of the skilled laborer hours by trade shall be performed by District residents; and
- (iv) At least seventy percent (70%) of common laborer hours shall be performed by District residents.

C.4 Apprenticeship Act

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

SECTION D

EVALUATION AND AWARD CRITERIA

D.1 Evaluation Process

The Department shall evaluate submissions and any best and final offers in accordance with the provisions of this Section D and the Department's Procurement Regulations.

D.2 Evaluation Committee

Each submission shall be evaluated in accordance with this Section D by an Evaluation Committee. The Evaluation Committee shall prepare a written report summarizing its findings and submit the same to the source selection official. Based on the information submitted by the Offerors in response to this RFP and the report prepared by the Evaluation Committee, the source selection official shall select the Offeror(s) whose submissions are determined by the source selection official to be the most advantageous to the Department.

D.3 Oral Presentation

The Department does not intend to interview Offerors that are in the competitive range; however, the Department reserves the right to award conduct interviews of some or all Offerors prior to making its award. If the Department conducts such interviews, each Offeror within the competitive range shall make an oral presentation to the Department's Evaluation Committee, and participate in a question and answer session. The purpose of the oral presentation and the question and answer session is to permit the Evaluation Committee to fully understand and assess the qualifications of each Offeror and the Offeror's key personnel. The submission will be re-scored at the conclusion of the oral presentation.

D.3.1 Length of Oral Presentation

Each Offeror will be given up to 30 minutes to make the presentation. At the end of the initial presentation, there will be a break for approximately 15 minutes for the Evaluation Committee to assess the presentation and prepare questions. The Offeror will then respond to questions from the Department's Evaluation Committee for no more than 30 minutes.

D.3.2 Schedule

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

D.3.3 Offeror Attendees

The oral presentation will be made by the Offeror's personnel who will be assigned the key jobs for this Project. Each Offeror will be limited to 5 persons. The job functions of the persons attending the presentation will be considered to be an indication of the Offeror's assessment of the key areas of responsibility that are deemed essential to the successful completion of the Project.

D.3.4 Topics

The Offeror may present information about its capabilities and special qualifications to serve as the Architect for this Project, including the qualifications of key personnel.

D.4 Proposal Evaluation

Each proposal will be scored on a scale of 1 to 100 points. In addition, Offerors will be eligible to receive up to 12 preference points as described in **Section C.1** of this RFP for participation by Local, Small or Disadvantaged Business Enterprises. Thus, the maximum number of points possible is 112. The contract will be awarded to the Offeror with the highest evaluated score.

D.4.1 Experience & References of the Prime Architectural Firm (15 points)

The Department desires to engage an Architect with the experience necessary to realize the objectives set forth in **Section A** of this RFP. Offerors will be evaluated based on their demonstrated experience in (i) design excellence and demonstrated experience with urban "place making"; (ii) design of urban parks, landscaping and hardscaping; (iii) design of playgrounds; (iv) design of restaurant and food service facilities, including cafes; (v) cost estimating and value engineering/management; and (vi) knowledge of the local regulatory agencies and Code Officials. If the Offeror is a team or joint venture of multiple companies, the Evaluation Panel will consider the experience of each member of the team or joint venture in light of their role in the proposed team or joint venture. This element of the evaluation will be worth up to fifteen (15) points.

D.4.2 Experience & References of the Landscape Architect (15 points)

The Department desires that the Offeror's landscape architect have the experience necessary to realize the objectives set forth in **Section A** of this RFP. Offerors will be evaluated based on their demonstrated experience in (i) design excellence and demonstrated experience with urban "place making"; (ii) design of sustainable, maintainable, and ecologically sensitive projects; and (iii) knowledge of the Local regulatory agencies and Code Officials, including, but not limited to the District Department of Energy and the Environment (DDOEE). If the landscape architect is a team or joint venture of multiple companies, the Evaluation Panel will consider the experience of each member of the team or joint venture in light of their role in the proposed team or joint venture. This element of the evaluation will be worth up to fifteen (15) points.

D.4.3 Experience Practicing Before CFA and NCPC (15 points)

The Department desires to engage an Architect with the experience necessary to navigate the CFA and NCPC review and approval processes. Offerors will be evaluated based on their demonstrated experience in (i) submitting projects to the CFA and securing CFA approvals; and (ii) submitting projects to the NCPC and securing NCPC approvals. Offerors should include a description of at least four projects where they successfully navigated the CFA and NCPC approval process (with at least 2 of the 4 projects detailing the CFA process, and at least 2 of the 4 projects detailing the NCPC process). Offerors should highlight any challenges they encountered while trying to secure CFA and/or NCPC approvals, and explain how they were able to mitigate such challenges. This element of the evaluation will be worth up to fifteen (15) points.

D.4.4 Key Personnel (15 points)

The Department desires that senior personnel who have experience in designing and completing high quality, construction projects on-time and on-budget be assigned to this project. Key personnel shall include, at a minimum, the following individuals: (i) the Design Principal; (ii) the Project Architect; (iii) the lead landscape architect; (iv) the project design lead for the café; (v) the individual responsible for the playground design; and (vi) the lead Civil Engineer. The availability and experience of the key individuals assigned to this project will be evaluated as part of this element. This element of the evaluation will be worth up to fifteen (15) points.

D.4.5 Management Plan and Schedule (20 Points)

Offerors are required to submit a design Management Plan. The Management Plan should clearly explain how the Architect intends to manage and implement the Project. Among other things, the Management Plan should explain (i) how the Architect will manage the engineering subconsultants so as to ensure that the drawings are properly coordinated, including coordination of the drawings in light of the phasing of the project; (ii) how the Architect will manage the value engineering/management process; (iii) how the Architect proposes to staff and handle construction administration and interact with the builder; (iv) how the Architect will manage the design process to ensure that bid packages are issued in a timely manner and incorporate agreed upon value engineering changes; and (v) describe the key challenges inherent in this Project and explain how they will be overcome or mitigated. The Department will also consider the experience that the Architect and its team members have working together on similar projects.

The Management Plan should be coordinated with the Schedule that shows how the Offeror intends to complete the project in a timely manner. The schedule should be generally consistent with the durations for the various design phases set forth in the RFP but should provide a great level of detail and specific linkages with other activities (e.g., DPR & DGS meetings, regulatory reviews, etc.). The Schedule should reflect a clear understanding of the federal approval process (i.e. NCPC, CFA) as well as other required regulatory approvals and should include reasonable durations for such processes. The schedule and management plan will be carefully examined to assess the Offeror's understanding of and approach to obtaining the required entitlement approvals.

This element of the evaluation is worth up to twenty (20) points.

D.4.6 Fee Proposal (20 Points)

Offerors are required to submit a Design Fee that covers all of the Offeror's costs associated with the preparation of: (i) a preliminary assessment and refinement (if necessary) of the concept design; (ii) schematic design; (ii) design development documents; (iii) a permit set of construction documents; (iv) a complete, coordinated set of construction documents; and (v) construction administration services.

SECTION E

PROPOSAL ORGANIZATION AND SUBMISSION

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

E.1 Submission Identification

Submissions shall be proffered in a full original proposal (pricing and technical submission); one (1) copy of the pricing proposal; and five (5) copies of the technical portion of the proposal as outlined below. An electronic copy of the complete original proposal on USB flash drive shall also be provided. The Offeror's original submission shall be placed in a sealed envelope conspicuously marked: "Proposal for Architectural/Engineering Services for Franklin Park."

E.2 Delivery or Mailing of Submissions

Submissions should be delivered or mailed to:

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

E.3 Date and Time for Receiving Submissions

Submissions shall be received no later than 2:00 p.m. on Monday, July 17, 2017. The Offeror assumes the sole responsibility for timely delivery of its Submission, regardless of the method of delivery.

E.4 Submission Size, Organization and Offeror Qualifications

All submissions shall be submitted on 8-1/2" x 11" bond paper and typewritten. Telephonic, telegraphic, and facsimile submissions shall not be accepted. The Department is interested in a qualitative approach to presentation material. Brief, clear and concise material is more desirable than quantity. The submission shall be organized as follows:

E.4.1 Technical Proposal

The technical proposal shall be organized as follows:

E.4.1.1 Executive Summary

Each Offer should provide a summary of no more than three pages of the information contained in the following sections.

E.4.1.2 General Team Information and Firm(s) Data

Each Offeror should provide the following information for the principal Architectural firm and each of its subconsultants.

- A. Name(s), address(es), and role(s) of each firm (including all sub-consultants)
- B. Firm profile(s), including:
 - i. Age
 - ii. Firm history(ies)
 - iii. Firm size(s)
 - iv. Areas of specialty/concentration
 - v. Current firm workload(s) projected over the next two years
 - vi. Provide a list of any contract held by the Offeror where the contract was terminated (either for default or convenience). This list should also identify any contracts that resulted in litigation or arbitration between the Department and the Offeror. If the Offeror has multiple offices, only contracts held by the office submitting this proposal need be listed.
- C. Description of the team organization and personal qualifications of key staff, including:
 - i. Identification of the single point of contact for the Architect.
 - ii. Organizational chart illustrating reporting lines and names and titles for key participants proposed by the team.
 - iii. Resumes for each key participant on the team, including definition of that person's role, relevant project experience, and current workload over the next two years.

E.4.1.3 Relevant Experience and Capabilities

- A. List all projects that the team members have worked on in the last five (5) years that are similar to this project. For purposes of this paragraph, similar shall mean projects where the Offeror has served as the lead design consultant for a park and/or recreation project

where the estimated construction costs exceeded Ten Million Dollars (\$10,000,000). This information may be provided in an overview matrix format or brief list; however, it should include the name and location of the facility, the name of the owner, the time frame of the project, the original budget for the project, and whether the project was delivered on-time and on-budget. If a project was not delivered on-time or on budget, a brief description of the reasons should be provided.

- B. Detailed descriptions of no more than eight (8) projects that best illustrate the team's experience and capabilities relevant to this project, including at least three (3) projects where the Offeror served as the architect on a design-build team. On each project description, please provide all of the following information in consistent order:
- i. Project name and location
 - ii. Name, address, contact person and telephone number for owner reference
 - iii. Name, address, contact person and telephone number for builder reference for those projects where the Offeror served on a design-build team
 - iv. Brief project description including project cost, square footage, firm's scope of work, and key firm strengths exhibited
 - v. Identification of personnel involved in the selected project who are proposed to work on this project
 - vi. Project process and schedule data including construction delivery method, and construction completion date (any unusual events or occurrences that affected the schedule should be explained)
 - vii. Renderings or photographs that show the interior and exterior of the project.

E.4.1.4 Design Approach and Management Plan

Each Offeror should submit a Design Approach and Management Plan that addresses the issues set forth in **Section D.4.3** of this RFP.

E.4.1.5 SBE Subcontracting Plan

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

E.4.1.6 First Source Employment Agreement

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

E.4.2 Price Proposal

The Price proposal shall be organized as follows:

E.4.2.1 Bid Form

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

E.4.2.2 Bidder-Offeror Certification Form

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

E.4.2.3 Tax Affidavit

Each Offeror must submit a tax affidavit substantially in the form of Attachment D. In order to be eligible for this procurement, Offerors must be in full compliance with their tax obligations to the District of Columbia government.

SECTION F

BIDDING PROCEDURES & PROTESTS

F.1 Contact Person

For information regarding this RFP please contact:

Courtney Washington
Contract Specialist
Department of General Services
1250 U Street NW, 3rd floor
Washington, DC 20009
202-724-3986
Courtney.washington@dc.gov

Any written questions or inquiries should be sent to Courtney.Washington@dc.gov at the address above.

F.2 Pre-proposal Conference

A pre-proposal conference will be held on Monday, June 26, 2017 at 11:00 am. The meeting will be held at the Department of General Services, Adams Morgan Conference Room, 1250 U Street, and 3rd Floor. Interested Offerors are strongly encouraged to attend.

F.3 Explanations to Prospective Offerors

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

Requests should be directed to **Courtney Washington** at the address listed in Section E.2 no later than the close of business on **July 3, 2017**. The person making the request shall be responsible for prompt delivery.

F.4 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 the 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 4th Street, N.W., Suite 350N, Washington, D.C. 20001. The aggrieved person shall also mail a copy of the protest to the Contracting Officer for the solicitation.

This section is intended to summarize the bid protest procedures and is for the convenience of the Offerors only. To the extent any provision of this section is inconsistent with the Procurement Regulations, the more stringent provisions shall prevail.

F.5 Contract Award

This procurement is being conducted in accordance with D.C. Code § 2-354.03 and the provisions of Title 27 DCMR §§ 4700, et seq., of the Department's Procurement Regulations. Responses to this RFP shall be in the form of competitive sealed proposals and the contract shall be awarded based on the proposal that is the most advantageous to the Department, or in the event of more than one award, the proposals that are the most advantageous to the Department. This RFP sets forth the evaluation factors and indicates the relative importance of each factor. This RFP contains a statement of work or other description of the Department's specific needs, which shall be used as a basis for the evaluation of the proposals. Price will be evaluated; however, while price or total cost to the Department may be an important or even deciding factor in most source selections, the Department may select the source whose proposal is more advantageous in terms of technical merit and other factors in accordance with Title 27 DCMR § 1613.5. As such, the contract contemplated hereunder will be awarded to the Offeror whose competitive sealed proposal is determined by the source selection official to be the most advantageous to the Department considering technical merit and other factors.

F.6 Retention of Submissions

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

F.7 Examination of Submissions

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

F.8 Late Submissions: Modifications

- A. Any submission or best and final offer received at the office designated in this RFP after the exact time specified for receipt shall not be considered.
- B. Any modification of a submission, including a modification resulting from the CCO's requests for best and final offers, is subject to the same conditions as in Section E.8.A stated above.
- C. The only acceptable evidence to establish the time of receipt at the Department's office is the time-date stamp of such installation on the submission wrapper or other documentary evidence of receipt maintained by the installation.
- D. Notwithstanding any other provisions of this Request for Proposals to the contrary, a late modification of an otherwise successful submission which makes its terms more favorable to the Department may be considered at any time it is received and may be accepted.
- E. Submissions shall be irrevocable and remain in full force and effect for a period not less than one hundred twenty (120) days after receipt of submissions.

F.9 No Compensation for Preparation of Submissions

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

F.10 Rejection of Submissions

The Department reserves the right, in its sole discretion:

- A. To cancel this solicitation or reject all submissions.
- B. To reject submissions that fail to prove the Offeror's responsibility.
- C. To reject submissions that contain conditions and/or contingencies that in the Department's sole judgment, make the submission indefinite, incomplete, otherwise non-responsive, or otherwise unacceptable for award.

- D. To waive minor irregularities in any submission provided such waiver does not result in an unfair advantage to any Offeror.
- E. To take any other action within the applicable Procurement Regulations or law.
- F. To reject the submission of any Offeror that has submitted a false or misleading statement, affidavit or certification in connection with such submission or this Request for Proposals.
- G. To reject submissions that indicates a lack of understanding of any aspect of the Project.
- H. To reject submissions that are too costly, financially or otherwise, to the Department relative to other submissions and the project budget.
- I. To reject submissions where the Offeror has altered any pricing element or line item by thirty percent (30%) from the initial offer or median price for that pricing element or line item in response to a Request for a Best and Final Offer (BAFO).
- J. To reject submissions that are deemed non-responsive.

F.11 Limitation of Authority

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

F.12 Non-Responsive Proposals

- A. **Pricing.** In general, the Department will consider a proposal non-responsive if any pricing element of the Offeror's price is thirty percent (30%) higher than the median price submitted by other Offerors. If there are no more than two (2) Offerors, the independent government estimate shall be used to establish a median price. The Department reserves the right to deem a proposal non-responsive if any pricing element of the Offeror's price is thirty percent (30%) higher than the median price.
- B. **Certification.** The Department may consider a proposal non-responsive if the Offeror fails to properly complete or provides inaccurate information on the Bidder/Offeror Certification Form.
- C. **Exceptions.** The Department may consider a proposal non-responsive if the Offeror identifies any changes or exceptions to the Standard Contract Provisions, the Agreement for Design-Build Services, and Letter Contract.
- D. **Core Competency.** The Department may consider a proposal non-responsive if the Offeror, whether by inclusion or omission, fails, in the Department's sole judgment, to demonstrate an understanding and competence in every aspect of the project.

SECTION G

INSURANCE REQUIREMENTS

G.1 Required Insurance

The Architect will be required to maintain the following types of insurance throughout the life of the contract. Architect will be required to acquire insurance before the initiation of any in-park activities and to maintain insurance until the Project is accepted as complete by the NPS.

G.1.1 Commercial general public liability insurance (“Liability Insurance”) against liability for bodily injury and death and property damage, such Liability Insurance to be in an amount not less than One Million Dollars (\$1,000,000) for liability for bodily injury, death and property damage arising from any one claim and Three Million Dollars (\$3,000,000) from the aggregate of all claims arising from any one incident. The policy should include completed operations coverage.

G.1.2 Workers’ compensation and Employers Liability coverage providing statutory benefits for all persons employed by the Architect, or its contractors and subcontractors at or in connection with the Project.

G.1.3 Errors and Omissions coverage written on a claims made basis and having an aggregate policy limit of at least Five Million Dollars (\$5,000,000). Such coverage shall be maintained throughout the life of the Contract and three (3) years beyond substantial completion.

G.1.4 Automobile Liability, including Hired and Non-Owned Auto Liability in the amount of at least One Million Dollars (\$1,000,000) for each claim for bodily injury and property damage and Three Million Dollars (\$3,000,000) from the aggregate of all claims arising from any one incident.

G.1.5 Excess umbrella liability coverage (on at least a follow form basis) and when combined with the general liability policy has an aggregate limit of at least Ten Million Dollars (\$10,000,000).

Attachment A

Master Plan and Conceptual Design, Aerial Image and Geoarcheological Report

[A/E Services Franklin Park](#)

Attachment B

Design and Construction Agreement between NPS and DGS for the Revitalization of Franklin
Park

**AGREEMENT
FOR
ARCHITECTURAL/ENGINEERING SERVICES**

BY AND BETWEEN

**DISTRICT OF COLUMBIA
DEPARTMENT OF GENERAL SERVICES**

AND

[CONTRACTOR]

**ARCHITECTURAL/ENGINEERING SERVICES
FRANKLIN PARK**

DCAM-17-AE-0104

**AGREEMENT
FOR
ARCHITECTURAL/ENGINEERING SERVICES
FRANKLIN PARK
DCAM-17-AE-0104**

This **AGREEMENT** (“Agreement”) is made by and between the **DISTRICT OF COLUMBIA GOVERNMENT**, acting by and through its **DEPARTMENT OF GENERAL SERVICES** (the “Owner” or the “Department”) and _____, with a place of business at _____ (the “Contractor”).

WITNESSETH:

WHEREAS, the Department issued and the Contractor responded to the Department’s Request for Proposals for architectural and engineering services for the renovation of Franklin Park.

WHEREAS, the Department wishes to retain the Contractor to provide all necessary design and related services for the renovation of Franklin Park. Franklin Park is a historic urban park that occupies 4.79 acres in downtown Washington, DC. It is bordered by K Street on the north, 13th Street on the east, I Street on the south and 14th Street on the west. The Contractor shall provide the required services pursuant to the terms and conditions set forth in this Agreement

NOW, THEREFORE, the Department and Contractor, for the consideration set forth herein, mutually agree as follows:

AGREEMENT

**ARTICLE 1
DUTIES, OBLIGATIONS AND RESPONSIBILITIES
OF THE CONTRACTOR**

Section 1.1 The Contractor shall be responsible for the professional quality, technical accuracy, and the coordination of all studies, reports, recommendations, and other deliverables furnished by the Contractor under this Contract. The Contractor shall, without additional compensation, correct or revise any non-conforming deliverables that are a result of errors and or omissions in its deliverables. The Contractor shall perform its services consistent with the professional skill and care ordinarily provided by contractors practicing in the same or similar locality under the same or similar circumstances. The Contractor shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project. The Contractor shall review laws, codes, and regulations applicable to the Contractor’s services. The Contractor shall respond to requirements imposed by governmental authorities having jurisdiction over the Project.

Section 1.2 The Contractor shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Contractor's professional judgment with respect to this Project.

Section 1.3 Relationship of Parties. The Contractor accepts the relationship of trust and confidence established with the Department by this Agreement, and covenants with the Department to furnish the Contractor's reasonable skill and judgment and to cooperate with the Program Manager in furthering the interests of the Department. The Contractor shall use its best efforts to perform various Projects 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, Contractor, Program Manager, and other persons or entities employed by the Department for the Project.

Section 1.3.1 Program Manager. Program Managers (or "PM") will be assigned to provide certain program management functions. The Program Manager shall, at all times, act solely for the benefit of the Department, not the Contractor. Although day-to-day communications with the Contractor shall be routed through the Program Manager, only the individuals specified in Section 1.3.2 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 increase the fee or the not-to-exceed amount established under the contract. The Program Manager for this agreement is:

Alphonso Fluelling
Program Manager, DPR Cluster
Department of General Services
1250 U Street, 4th Floor
Washington, DC 20009
(O) 202-724-4400
Email: alphonso.fluelling@dc.gov

Section 1.3.2 Contracting Officer. The Contracting Officer for this Agreement will be:

George G. Lewis
Associate Director/ Chief Contracting Officer
Department of General Services
2000 14th Street, NW, 8th Floor
Washington, DC 20009
(O) 202 727-2800
Email george.lewis@dc.gov

Section 1.4 All deliverables are subject to the review and approval of the PM. The Contractor shall prepare, modify, and correct all such non-conforming deliverables in sufficient detail to obtain final approval under the contract.

Section 1.5 Neither the District's review, approval or acceptance of, nor payment for, any of the services required under this Contract shall be construed as a waiver of any rights under this

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Contract or of any cause of action arising out of the performance of this contract and the Contractor shall be and remain liable to the District in accordance with applicable law for all damages to the District caused by the Contractor's negligent performance of any of the services furnished under this Contract.

Section 1.6 The rights and remedies of the District provided for under this Contract is in addition to any other rights and remedies provided by law.

Section 1.7 During the performance of work under this contract, the Contractor shall each month submit one (1) copy of a progress report, completely and clearly stating the current status of the Contractor's work under this contract. The proposed form of this report shall be submitted for review and approval prior to the first invoice for partial payment.

Section 1.8 During the performance of work under this contract, the Contractor shall take notes and minutes of any meeting attended in connection with the Project, recording any decision altering, expanding, or deleting any provision which may affect the contractual obligation, and submit two (2) copies to the Owner.

ARTICLE 2 SERVICES REQUIRED

Section 2.1 Services Required. The Contractor shall provide, as applicable, Title I Design and Engineering Services and Title II Construction Administration Services in accordance with Attachment A1. The Contractor shall provide a full range of architectural and engineering services necessary to demolish and preserve the existing park elements, and to construct a new Cafe, site improvements, and improvements to the park.

Section 2.2 The Contractor shall manage the Contractor's services, consult with the Owner, provide requested services, communicate with members of the Project team and report progress to the Owner. The Contractor shall review information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Contractor's services.

Section 2.3 The Contractor shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Contractor shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner and the Owner's consultants to the extent that a reasonable professional, acting in accordance with the applicable standard of care, would have determined that the services and/or information being relied upon contain the type, quality and quantity of information appropriate for the proposed use. The Contractor shall provide prompt written notice to the Owner if the Contractor becomes aware of any error, omission or inconsistency in such services or information.

Section 2.4 The Contractor acknowledges that the District of Columbia intends to enter into a Partner Design and Construction Agreement (the Partner Agreement) with the Department of the Interior, National Park Service, for the purpose of setting forth the terms and conditions upon which the District of Columbia will design and construct improvements to the Franklin Park. The Contractor shall adhere to the terms and conditions of the Partner Agreement

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and shall comply with the National Park Service Required Clauses as provided in Attachment H hereto.

ARTICLE 3 TERM OF AGREEMENT AND COMPENSATION

Section 3.1 Term of Agreement. The term of this Agreement shall commence on the date of execution of a Letter Contract and Notice to Proceed by the Department, shall continue to be in effect through _____ (the “Substantial Completion Date” as achieved by the General Contractor), and shall terminate upon the Contractor obtaining a minimum certification of LEED Gold for the Project, which shall be no later than six months after the Substantial Completion Date.

Section 3.2 Value of Agreement. The value of this agreement is _____. This amount includes _____ for Title I services and _____ for Title II services and _____ for Allowances described in Section 3.2.1. The details of the fee proposal are provided in the Contractor’s revised Fee Proposal dated _____.

Section 3.2.1 Allowances. The Contract’s value includes _____ for Reimbursables and _____ for Permits. Allowances will be paid on a cost-reimbursement basis.

Section 3.3 Invoices. Invoices shall be submitted on a monthly basis or as determined by the Program Manager. Invoices shall be prepared in duplicate and submitted to the Agency Chief Financial Officer (CFO) and Program Manager (PM) identified in Section 1.3.1. Invoices for the CFO shall be submitted to the following address:

DGS, Office of the Chief Financial Officer
2000 14th Street, 5th Floor
Washington, DC 20001

Invoices for the PM shall be submitted electronically to dgsfm.inves@dc.gov. The Contractor must indicate the proper PO number on all invoices. Properly prepared invoices with the necessary backup shall be paid within thirty (30) days of receipt. Invoices not paid by that date shall bear interest in accordance with the Quick Payment Act.

Section 3.4 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.

ARTICLE 4 INSURANCE

Section 4.1 Insurance. The Contractor will be required to maintain the following types of insurance throughout the life of the contract. Any and all premiums or deductibles associated with such coverage shall be paid by the Contractor.

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Section 4.1.1 Commercial general public liability insurance (“Liability Insurance”) against liability for bodily injury and death and property damage, such Liability Insurance to be in an amount not less than One Million Dollars (\$1,000,000) for liability for bodily injury, death and property damage arising from any one claim and Three Million Dollars (\$3,000,000) from the aggregate of all claims arising from any one incident. The policy should include completed operations coverage.

Section 4.1.2 Workers’ compensation and Employers Liability coverage providing statutory benefits for all persons employed by the Architect, or its contractors and subcontractors at or in connection with the Project.

Section 4.1.3 Errors and Omissions coverage written on a claims made basis and having an aggregate policy limit of at least Five Million Dollars (\$5,000,000). Such coverage shall be maintained throughout the life of the Contract and three (3) years beyond substantial completion.

Section 4.1.4 Automobile Liability, including Hired and Non-Owned Auto Liability in the amount of at least One Million Dollars (\$1,000,000) for each claim for bodily injury and property damage and Three Million Dollars (\$3,000,000) from the aggregate of all claims arising from any one incident.

Section 4.1.5 Excess umbrella liability coverage (on at least a follow form basis) and when combined with the general liability policy has an aggregate limit of at least Ten Million Dollars (\$10,000,000).

Section 4.2 Additional Insureds. Each insurance policy with the exception of Professional Liability policies shall be issued in the name of the contractor and shall name as additional insured parties the Department and the District of Columbia, and shall not be cancelable or reduced without thirty (30) days prior written notice to the Department. All such insurance shall contain a waiver of subrogation against the Department and the District of Columbia, and their respective agents.

Section 4.3 Strength of Insurer. All insurance shall be placed with insurers that are reasonably acceptable to the Department and with an A.M. Best’s rating of not less than A- (Excellent) and a surplus size of not less than XV. All such insurers shall be licensed/approved to do business in the District of Columbia.

ARTICLE 5 OWNERSHIP OF DOCUMENTS

Section 5.1 Ownership of Documents. Regardless of whether the Project is completed, any reports, studies, and other work prepared by the Contractor and the architectural and engineering consultants engaged by the Contractor, and all other documents created in association with the Project shall become the sole property of the Owner upon full payment of Contractor’s fees then due under this Agreement, and shall not to be used by the Contractor, its sub-consultants on other projects, or for additions to this Project outside the scope of the work, without the specific written consent of the Owner. However, the Owner expressly acknowledges

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and agrees that the documents to be provided by the Contractor under this Agreement may contain design details, features and concepts including some from the Contractor'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 Contractor. 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 Contractor's absolute right to re-use such component design details, features and concepts on other projects, in other contexts or for other clients.

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

ARTICLE 6 CLAIMS AND DISPUTES

Section 6.1 Notice of Claim. If the Contractor submits a written request to change the terms of the agreement and the Department denies the change(s) requested in a written Change Proposal, or fails to respond to a written Change Proposal within thirty (30) days, and the Contractor wishes to pursue a claim over the disputed item; or, if the Contractor wishes to assert a claim over a contract dispute not arising from matters related to a Change Proposal, Change Order or Change Directive, then a written notice of claim must be submitted to the Department pursuant to the procedures in section 4732 of the Department of General Services ("DGS" or "Department") procurement rules (27 DCMR 4732) and section 1004 of the District's *Procurement Practices Reform Act of 2010* (PPRA) (D.C. Official Code section 2-361.06(a)(2))(2011 Repl.).

Section 6.1.1 Contents of Notice of Claim. The notice of claim shall state the nature of the claim, the events or circumstances giving rise to the claim, the type of relief requested, and the amount of time or additional compensation, or other damages sought. If the amount of time, compensation, or other damages sought is not reasonably ascertainable at the time, the

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Contractor shall so state, explain why, and provide whatever estimates it can reasonably provide. The notice shall state clearly that the Contractor intends to assert a claim against the Department.

Section 6.2 Appeal Procedures. All claims arising under or in connection with the Agreement or its breach, or relating to the Project, whether framed in contract, tort or otherwise, and which are not resolved via the claims process, may be resolved by filing an appeal with the District of Columbia Board of Contract Appeals in accordance with Title X of the *Procurement Practices Reform Act of 2010* (PPRA). However, if a third party brings any claim against the Department, including, without limitation, claims of infringement of patents, copyrights or other intellectual property rights, the Department may bring an action for defense or indemnification against the Contractor in the court in which such claim is being litigated.

ARTICLE 7 ECONOMIC INCLUSIONS

Section 7.1 Certified Business Enterprise

Section 7.1.1 The Contractor 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 7.1.2 If there are insufficient qualified small business enterprises to completely fulfill the requirement of Section 7.1.1, 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 7.1.3 The Contractor if certified as a small, local or disadvantage business enterprise shall not be required to comply with the provisions of Sections 7.1.1 and 7.1.2.

Section 7.1.4 LSDBE Utilization. The mandatory subcontracting requirements are as follows:

- (a) Unless the Director of the Department of Small and Local Business Development (DSLBD) has approved a waiver in writing in accordance with D.C. Official Code § 2-218.51, 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).
- (b) If there are insufficient SBEs to completely fulfill the requirement of paragraph (a)(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.

- (c) 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 C.2.1 (a) and C.2.1 (b) of this clause.
- (d) Except as provided in C.2.1 (e) and C.2.1 (f), 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.
- (e) A prime contractor that 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, shall perform at least 50% of the contracting effort with its own organization and resources and, if it subcontracts, 35% of the subcontracting effort shall be with CBEs. A certified joint venture prime contractor that performs less than 50% of the contracting effort shall be subject to enforcement actions under D.C. Official Code § 2-218.63.
- (f) Each CBE utilized to meet these subcontracting requirements shall perform at least 35% of its contracting effort with its own organization and resources.
- (g) A prime contractor that is a CBE and has been granted 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) A list of Certified Business Enterprises can be found on the District of Columbia, Department of Small and Local Business Development website at <http://dslbd.dc.gov/DC/DSLBD>, click on “Doing Business in the District”, click on “Find CBE Certified Contractors.”

Section 7.1.4.1 Subcontracting Plan. The Contractor’s Subcontracting Plan is provided in Attachment C. The plan shall only be amended with the prior written approval of the Contracting Officer (CO) and Director of DSLBD. Any reduction in the dollar volume of the subcontracted portion resulting from an amendment of the plan shall inure to the benefit of the District.

Section 7.1.4.1.1 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, Project Manager, District of Columbia Auditor and the Director of DSLBD.

Section 7.1.4.1.1.2 Subcontracting Plan Compliance Reporting. If the Contractor has a subcontracting plan required by law for this contract, the Contractor shall submit a quarterly report to the CO, City Administrator (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:

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- (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.

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.

Section 7.1.4.2 Annual Meetings. Upon at least 30-days written notice provided by DSLBD, the Contractor shall meet annually with the CO, Project Manager, District of Columbia Auditor and the Director of DSLBD to provide an update on its subcontracting plan.

Section 7.1.4.3 Notices. The Contractor shall provide written notice to the DSLBD and the District of Columbia Auditor upon commencement of the contract and when the contract is completed.

Section 7.1.4.4 Enforcement and Penalties for Breach of Subcontracting Plan.

Section 7.1.4.4.1 Contractor shall be deemed to have breached a subcontracting plan required by law, if the contractor (i) fails to submit subcontracting plan monitoring or compliance reports or other required subcontracting information in a reasonably timely manner; (ii) submits a monitoring or compliance report or other required subcontracting information containing a materially false statement; or (iii) fails to meet its subcontracting requirements.

Section 7.1.4.4.2 A contractor that is found to have breached its subcontracting plan for utilization of CBEs in the performance of a contract shall be subject to the imposition of penalties, including monetary fines in accordance with D.C. Official Code § 2-218.63.

Section 7.1.4.4.3 If the CO determines the Contractor's failure to be a material breach of the contract, the CO shall have cause to terminate the Contract for default pursuant to the terms set forth in the Standard Contract Provisions.

Section 7.2 First Source Employment Agreement

Section 7.2.1 The Contractor and each of its Subcontractors shall submit to the Department a list of current employees that will be assigned to the Contract, the date they were hired and whether or not they live in the District of Columbia.

Section 7.2.2 The Contractor 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 Contractor and all Subcontractors shall execute a First Source Agreement with the District of Columbia Department of Employment Services ("DOES") prior to beginning the Project.

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Section 7.2.3 The Contractor shall maintain detailed records relating to the general hiring of District of Columbia and community residents. At least fifty-one percent (51%) of the Contractor's Team and every subcontractor's employees hired under this Agreement or after such subcontractor enters into a contract with the Contractor to work on a project shall be residents of the District of Columbia.

Section 7.2.4 The Contractor shall be responsible for: (i) including the provisions of this Section 7.2 in all subcontracts; (ii) collecting the information required in this Section 7.2 from its Subcontractors; and (iii) providing the information collected from its Subcontractors in any reports required to be submitted by the Contractor pursuant to this Section 7.2.

Section 7.3 Service Contract Act Provision. The Contractor agrees that the work performed under this Agreement shall be subject to the Service Contract Act. (Attachment D)

Section 7.4 Living Wage Act. The Contractor agrees that the work performed under this Agreement shall be subject to the District of Columbia Living Wage Act. (Attachment E)

ARTICLE 8 MISCELLANEOUS PROVISIONS

Section 8.1 This Agreement shall be governed by the laws of the District of Columbia.

Section 8.2 The Owner and Contractor, 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 Contractor shall not assign this Agreement without the written consent of the Owner.

Section 8.3 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 Owner or Contractor.

Section 8.4 Unless otherwise required in this Agreement, the Contractor 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 a Project site.

Section 8.5 The Contractor shall have the right to include photographic or artistic representations of the Project among the Contractor's promotional and professional materials. If applicable, the Contractor shall be given reasonable access to the completed Project to make such representations. However, the Contractor's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Contractor in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Contractor in the Owner's promotional materials for the Project.

Section 8.6 In accordance with Section 8.11 below, if the Contractor or Owner receives information specifically designated by the other party as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not

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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 8.7 The Contractor agrees to indemnify and hold the Owner, the Owner's Representative and the Owner's officers, agents and employees harmless from and against all claims, liabilities, demands, losses, damages, judgments, costs, or expenses, including reasonable attorneys' fees and expenses recoverable under applicable law, but only to the extent they are caused by the negligent acts or omissions of the Contractor, its employees and its consultants in the performance of professional services pursuant to this Agreement.

Section 8.8 The Contractor agrees to indemnify and hold the Owner and the Owner's Representative harmless from and against any and all claims, liabilities, demands, losses, damages, costs, or expenses arising from the Contractor's failure to perform its obligations pursuant to agreements with third parties, including, but not limited to, subconsultants, made in order to provide the services required of the Contractor under this Agreement.

Section 8.9 The Contractor shall pay for and defend all such suits or claims arising out of the Work for infringement of any patent rights or copyrights and hold the Owner and Owner's Representative harmless from loss on account thereof.

Section 8.10 Confidentiality. The Contractor shall maintain the confidentiality of information specifically designated as confidential by the Owner, unless withholding such information would violate the law, create the risk of significant harm to the public or prevent the Contractor from establishing a claim or defense in an adjudicatory proceeding. The Contractor shall require of the Contractor's consultants similar agreements to maintain the confidentiality of information specifically designated as confidential by the Owner.

Section 8.11 Extent of Agreement. This Agreement represents the entire and integrated agreement between the Owner and the Contractor and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Contractor.

Section 8.12 Non-Discrimination in Employment Provisions.

Section 8.12.1 The Contractor agrees to take affirmative action to ensure that applicants are employed and that employees are treated during employment, without regard to their race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, family responsibilities, matriculation, political affiliation, or physical handicap. The affirmative action shall include, but not be limited to, the following:

Section 8.12.1.1 Employment, upgrading, or transfer;

Section 8.12.1.2 Recruitment or recruitment advertising;

Section 8.12.1.3 Demotion, layoff, or termination;

Section 8.12.1.4 Rates of pay, or other forms of compensation; and

Section 8.12.1.5 Selection for training and apprenticeship.

Section 8.12.2 Unless otherwise permitted by law and directed by the Department, the Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Department setting forth the provisions of this Section concerning non-discrimination and affirmative action.

Section 8.12.3 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 this Section.

Section 8.12.4 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 Department, advising each labor union or workers' representative of the Contractor's commitments under this Section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

Section 8.12.5 The Contractor agrees to permit access by the Department to all books, records and accounts pertaining to its employment practices for purposes of investigation to ascertain compliance with this Section, and shall post copies of the notices in conspicuous places available to employees and applicants for employment.

Section 8.12.6 The Contractor shall include in every subcontract the equal opportunity clauses of this Section so that such provisions shall be binding upon each Subcontractor or vendor.

Section 8.12.7 The Contractor shall take such action with respect to any Subcontractor as the Contracting Officer may direct as a means of enforcing these provisions, including sanctions for non-compliance.

Section 8.13 False Claims Act. Contractor shall be governed by all laws and regulations prohibiting false or fraudulent statements and claims made to the government, including the prescriptions set forth in District of Columbia Code § 22-2514.

Section 8.14 Interpretation of Contract. All of the documents comprising the Contract should be read as complementary, so that what is called for by one is called for by all. Ambiguities should be construed in favor of a broader scope of work for the Contractor, as the intent of the Contract is, with specific identified exceptions, to require the Contractor to assume entire responsibility for construction of the Project. If there is any inconsistency among the documents comprising the Contract, the order of precedence among them is as follows, with the first listed document having the highest priority: this Agreement and its Exhibits, the General

Conditions, and the Construction Documents released by the Department. Any Change Order issued and executed by the Department shall supersede those portions of earlier dated contract documents to which it pertains.

Section 8.15 Independent Contractor. In carrying out all its obligations under the Contract, the Contractor shall be acting as an independent Contractor, and not as an employee or agent of the Department, or joint venture or partner with the Department. The Contractor shall have exclusive authority to manage, direct, and control the Work, and shall be responsible for all construction means, methods, techniques, sequences, and procedures, as well as for Project safety.

Section 8.17 Confidential Information. In the course of the Contractor's performance of the Work, the Department may make available to the Contractor information that the Department designates as trade secrets or other confidential engineering, technical and business information. As long as, and to the extent that, such information remains confidential and available to others only with the consent of the Department, or is not generally available to the public from other sources, the Contractor shall maintain such information in strict confidence and shall not disclose any such information to others (including its employees or Subcontractors), except to the extent necessary to enable the Contractor to carry out the Project. The Contractor shall similarly obligate any and all persons to whom such information is necessarily disclosed to maintain the information in strict confidence. The Contractor agrees that, in the event of any breach of this confidentiality obligation, the Department shall be entitled to equitable relief, including injunctive relief or specific performance, in addition to all other rights or remedies otherwise available.

Section 8.18 No Third-Party Beneficiary Rights. Nothing in this Agreement shall be construed as creating third-party beneficiary rights in any person or entity, except as otherwise expressly provided in this Agreement.

Section 8.19 Media Releases. Neither the Contractor, its employees, agents or Subcontractors or material suppliers shall make any press release or similar media release related to the Project unless such press release have been discussed with the Department prior to its issuance.

Section 8.20 Construction. This Agreement shall be construed fairly as to all parties and not in favor of or against any party, regardless of which party prepared the Agreement.

Section 8.21 Notices. All notices or communications required or permitted under the Contract shall be in writing and shall be hand delivered or sent by tele-copier or by recognized overnight carrier to the intended recipient at the address stated below, or to such other address as the recipient may have designated in writing. Any such notice or communication shall be deemed delivered as follows: if hand delivered, on the day so delivered, if sent by tele-copier, on confirmation of successful transmission, and if sent by recognized overnight carrier, the next business day.

If to the Department:

George G. Lewis
Associate Director/
Chief Contracting Officer
Department of General Services
2000 14th St, NW – 8th Floor
Washington, DC 20009

If to the Contractor:

This Paragraph shall be read as imposing minimum requirements for distribution of required contractual notices, and not as displacing distribution requirements with respect to design documents, construction submittals, periodic reports, and other documents.

Section 8.22 Limitations. The Contractor agrees that any statute of limitations applicable to any claim or suit by the Department arising from this Contract or its breach shall not begin to run, or shall be deemed to be tolled, until Final Completion or, with respect to latent defects or nonconformities, such later time as the Department knew or should have known of the defect or nonconformity.

Section 8.23 Binding Effect; Assignment. The Contract shall inure to the benefit of, and be binding upon and enforceable by, the parties and their respective successors and permitted assigns. The Contractor acknowledges that, in entering into the Contract, the Department is relying on the particular qualifications of the Contractor, and the Contractor therefore shall not delegate or assign any of its duties or obligations under the Contract, except in accordance with the Contract's provisions relating to subcontracting, or pursuant to the Department's prior written consent. The Contractor shall not assign its rights under the Contract, including the right to all or a portion of its compensation, without the Department's prior written consent. Any delegation or assignment made contrary to the provisions of this Paragraph shall be null and void.

Section 8.24 Survival. All agreements warranties, and representations of the Contractor contained in the Contract or in any certificate or document furnished pursuant to the Contract shall survive termination or expiration of the Contract.

Section 8.25 No Waiver. If the Department waives any power, right, or remedy arising from the Contract or any applicable law, the waiver shall not be deemed to be a waiver of the power, right, or remedy on the later recurrence of any similar events. No act, delay, or course of conduct by the Department shall be deemed to constitute the Department's waiver, which may be effected only by an express written waiver signed by the Department.

Section 8.26 Remedies Cumulative. Unless specifically provided to the contrary in the Contract, all remedies set forth in the Contract are cumulative and not exclusive of any other remedy the Department may have, including, without limitation, at law or in equity. The Department's rights and remedies will be exercised at its sole discretion, and shall not be regarded as conferring any obligation on the Department's to exercise those rights or remedies for the benefit of the Contractor or any other person or entity.

Section 8.27 Headings/Captions. The headings or captions used in this Agreement or its table of contents are for convenience only and shall not be deemed to constitute a part of the Contract, nor shall they be used in interpreting the Contract.

Section 8.28 Entire Agreement; Modification. The Contract supersedes all contemporaneous or prior negotiations, representations, course of dealing, or agreements, either written or oral. No modifications to the Contract shall be effective unless made in writing signed by both the Department and the Contractor, unless otherwise expressly provided to the contrary in the Contract.

Section 8.29 Severability. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, and in lieu of each such invalid, illegal or unenforceable provision, there shall be added automatically as a part of this Agreement a provision as similar in terms to such invalid, illegal or unenforceable provision as may be possible and be valid, legal and enforceable; each part of this Agreement is intended to be severable.

ARTICLE 9 GOVERNMENTAL PROVISIONS

Section 9.1 Buy American Act Provision. The Contractor 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). The Trade Agreements Act and the North American Free Trade Agreement (NAFTA) provide that designated country (as defined in FAR 25.401) and NAFTA country construction materials are exempted from application of the Buy American Act and are therefore acceptable hereunder.

Section 9.2 False Claims Act. The Contractor shall be governed by all laws and regulations prohibiting false or fraudulent statements and claims made to the government, including the prescriptions set forth in D.C. Code § 2-308.14.

Section 9.3 Retention of Records: Inspections and Audits. The Contractor shall maintain books, records, documents and other evidence directly pertinent to performance under the Agreement in accordance with generally accepted professional practice and appropriate accounting procedures and practices consistently applied in effect on the date of execution of the Agreement.

Section 9.3.1 The Contractor shall also maintain the financial information and data used in the preparation and support of the costing and cost summary submitted to the Owner and the required cost submissions in effect on the date of execution of the Owner.

Section 9.3.2 Owner, the District of Columbia government, the Comptroller General of the United States, the U.S. Department of Labor and any of their authorized representatives shall have access to the books, records, documents and other evidence held, owned or maintained by

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the Contractor for the purpose of inspection, audit and copying during normal business hours and upon advance written notice to the Contractor. The Contractor shall provide proper facilities for such access and inspection.

Section 9.3.3 The Contractor agrees to include the wording of this Section 9.3 in all its subcontracts in excess of five thousand dollars (\$5,000.00) that directly relate to Project performance.

Section 9.3.4 Audits conducted pursuant to this Section will be in accordance with generally accepted auditing standards with the results prepared in accordance with generally accepted accounting principles and established procedures and guidelines of the applicable reviewing or audit agency.

Section 9.3.5 The Contractor agrees to the disclosure of all information and reports, resulting from access to records, to any authorized representative of the Owner. Where the audit concerns the Contractor, the auditing agency will afford the Contractor an opportunity for an audit exit conference and an opportunity to comment on the pertinent portions of the draft audit report. The final audit report will include the written comments, if any, of the audited parties.

Section 9.3.6 The Contractor shall preserve all records described herein from the effective date of the Agreement completion and for a period of seven (7) years after a final settlement. In addition, those records which relate to any dispute, appeal or litigation, or the settlement of claims arising out of such performance, or costs or items to which an audit exception has been taken, shall be maintained and made available until seven (7) years after the date of resolution of such dispute, appeal, litigation, claim or exception.

Section 9.4 Gratuities and Owners Not to Benefit Provisions. If it is found, after notice and hearing, by the Owner that gratuities (in the form of entertainment, gifts, payment, offers of employment or otherwise) were offered or given by the Contractor, or any agent or representative of the Contractor, to any official, employee or agent of the Owner or the District with a view toward securing the Agreement or any other contract or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performance of the Contract, the Owner may, by written notice to the Contractor, terminate the right of the Contractor to proceed under the Agreement and may pursue such other rights and remedies provided by law and under the Contract.

Section 9.4.1 In the event the Agreement is terminated as provided in Section 9.4, the Owner shall be entitled:

- .1 to pursue the same remedies against the Contractor as it could pursue in the event of a breach of the Agreement by the Contractor; and
- .2 as a penalty in addition to any other damages to which it may be entitled by law, to exemplary damages in an amount (as determined by the Owner) which shall be not less than ten times the costs incurred by the Contractor in providing any such gratuities to any such Owner or employee.

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Section 9.4.2 No member of, nor delegate to Congress, Mayor or City Council Member, nor Owner nor employee of the District, nor Owner nor employee of the Owner shall be admitted to any share or part of the Agreement or to any benefit that may arise therefrom, and all agreements entered into by the Contracting Owner of the Owner in which he or any Owner or employee of the Owner shall be personally interested as well as all agreements made by the Owner in which the Mayor or City Council Member or Owner or employee of the District shall be personally interested shall be void and no payments shall be made on any such contracts by the Owner or by any Owner thereof; but this provision shall not be construed or extend to the agreement if the share of or benefit to the member of, or delegate to Congress, Mayor or City Council Member, or Owner or employee of the District is de minimis.

Section 9.5 Ethical Standards For Owner's Employees And Former Employees. The Owner expects the Contractor 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 Contractor, nor any person associated with the Contractor, 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 Owner not in conformity with applicable law, rules or regulations. The Contractor shall not engage the services of any person or persons in the employment of the Owner or the District for any Work required, contemplated or performed under the Contract. The Contractor may not assign to any former Owner or District employee or agent who has joined the Contractor's firm any matter on which the former employee, while employed by the Owner, had material or substantial involvement in the matter. The Contractor may request a waiver to permit the assignment of such matters to former Owner personnel on a case-by-case basis. The Contractor shall include in every subcontract a provision substantially similar to this section so that such provisions shall be binding upon each Contractor or vendor.

Section 9.6 Anti-Deficiency Act. The obligations of the Department to fulfill financial obligations pursuant to this Agreement, or any subsequent agreement entered into pursuant to this Agreement or referenced herein (to which the Department is a party), are and shall remain subject to the provisions of (i) the federal Anti-Deficiency Act, 31 U.S.C. §§ 1341, 1342, 1349-1351 1511-1519 (2004) (the “**Federal ADA**”), and D.C. Official Code §§ 1-206.03(e) and 47-105 (2001); (ii) the District of Columbia Anti-Deficiency Act, D.C. Official Code §§ 47-355.01 – 355.08 (2004 Supp.) (the “**D.C. ADA**” and (i) and (ii) collectively, as amended from time to time, the “**Anti-Deficiency Acts**”); and (iii) Section 446 of the District of Columbia Home Rule Act, D.C. Official Code § 1-204.46 (2001). Pursuant to the Anti-Deficiency Acts, nothing in this Agreement shall create an obligation of the Department in anticipation of an appropriation by Congress for such purpose, and the Department’s legal liability for payments and other charges under this Agreement shall not arise or obtain in advance of the lawful availability of appropriated funds for the applicable fiscal year as approved by Congress.

Section 9.6.1 The Department agrees to exercise all lawful authority available to it to satisfy the financial obligations of the Department that may arise under this Agreement. During the term of this Agreement, the Mayor of the District of Columbia or other appropriate official shall, for each fiscal period, include in the budget application submitted to the Council of the District of Columbia the amount necessary to fund the Department’s known potential financial obligations under this Agreement for such fiscal period. In the event that a request for such

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appropriations is excluded from the budget approved by the Council and submitted to Congress by the President for the applicable fiscal year or if no appropriation is made by Congress to pay any amounts due under this Agreement for any period after the fiscal year for which appropriations have been made, and in the event appropriated funds for such purposes are not otherwise lawfully available, the Department will not be liable to make any payment under this Agreement upon the expiration of any then-existing appropriation, the Department shall promptly notify the Contractor, and this Agreement shall immediately terminate upon the expiration of any then-existing appropriation.

Section 9.6.2 Notwithstanding the foregoing, no officer, employee, director, member or other natural person or agent of the District or Department shall have any personal liability in connection with the breach of the provisions of this Section or in the event of non-payment by the Department under this Agreement.

Section 9.6.3 This Agreement shall not constitute an indebtedness of the District and/or 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 District has levied or pledged any form of taxation. No District of Columbia Official or employee is authorized to obligate or expend any amount under this Agreement unless such amount has been appropriated by Act of Congress and is lawfully available.

Section 9.7 Extent of Contract. The Contract, which includes the terms set forth in this IFB, the Attachments hereto, and other documents incorporated herein by reference, represents the entire and integrated agreement between the Department and Contractor and supersedes all prior negotiations representations or agreements, either written or oral. No modifications to the Contract shall be effective against the Department unless made by written instrument signed by both the Department and Contractor.

Section 9.8 Governing Law. The Contract shall be governed by and construed in accordance with the laws of the District of Columbia, without regard to its conflict of laws principles.

Section 9.9 Laws and Regulations Incorporated by Reference. All federal and District of Columbia laws and regulations, and all Department procedures now or hereafter in effect, whether or not expressly provided for or referred to in the Contract, are incorporated by reference herein and shall be binding upon the Contractor and the Department. It shall be the responsibility of the Contractor to perform the Contract in conformance with the Department's procurement regulations 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 procurement regulations, statutes, laws, codes, ordinances, regulations, rules, requirements, and orders that apply and their effect on the Contractor's obligations thereunder. However, if the application of a future law or regulation requires the Contractor to undertake additional work that is materially different in scope than that presently contemplated or required, the Contractor shall be entitled to an equitable adjustment for such additional work.

Section 9.10 Tax Exemption Provision. Any tax exemptions applicable to the District of Columbia, including the gross receipts sales tax exemption for the sale of tangible personal property to the District, codified in D.C. Code § 47-2005, shall apply to the performance of the Contract.

Section 9.11 Covenant Against Contingent Fees Provisions. The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the Contract upon an agreement or understanding for a Commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the Department shall have the right to terminate the Contract without liability or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of the Department, percentage, brokerage of contingent fee.

Section 9.12 Non-Discrimination in Employment Provisions.

Section 9.12.1 The Contractor agrees to take affirmative action to ensure that applicants are employed and that employees are treated during employment, without regard to their race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, family responsibilities, matriculation, political affiliation, or physical handicap. The affirmative action shall include, but not be limited to, the following:

- (a) Employment, upgrading, or transfer;
- (b) Recruitment or recruitment advertising;
- (c) Demotion, layoff, or termination;
- (d) Rates of pay, or other forms of compensation; and
- (e) Selection for training and apprenticeship.

Section 9.12.2 Unless otherwise permitted by law and directed by the Department, the Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Department setting forth the provisions of this Section concerning non-discrimination and affirmative action.

Section 9.12.3 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 this Section.

Section 9.12.4 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 Department, advising each labor union or workers' representative of the Contractor's commitments under this Section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

Section 9.12.5 The Contractor agrees to permit access by the Department to all books, records and accounts pertaining to its employment practices for purposes of investigation to ascertain compliance with this Section, and shall post copies of the notices in conspicuous places available to employees and applicants for employment.

Section 9.12.6 The Contractor shall include in every subcontract the equal opportunity clauses of this Section so that such provisions shall be binding upon each Subcontractor or vendor.

Section 9.12.7 The Contractor shall take such action with respect to any Subcontractor as the Contracting Officer may direct as a means of enforcing these provisions, including sanctions for non-compliance.

Section 9.13 Interpretation of Contract. All of the documents comprising the Contract should be read as complementary, so that what is called for by one is called for by all. Ambiguities should be construed in favor of a broader scope of work for the Contractor, as the intent of the Contract is, with specific identified exceptions, to require the Contractor to assume entire responsibility for the construction and installations of the Project(s). If there is any inconsistency among the documents comprising the Contract, the order of precedence among them is as follows, with the first listed document having the highest priority: this IFB, its Attachments, then the Construction Documents released by the Department. Any Change Order issued and executed by the Department shall supersede those portions of earlier dated Contract Documents to which it pertains.

Section 9.14 Independent Contractor. In carrying out all its obligations under the Contract, the Contractor shall be acting as an independent Contractor, and not as an employee or agent of the Department, or joint venture or partner with the Department. The Contractor shall have exclusive authority to manage, direct, and control the Work, and shall be responsible for all methods, techniques, sequences, and procedures, as well as for Project safety.

Section 9.15 Confidential Information. In the course of the Contractor's performance of the Work, the Department may make available to the Contractor information that the Department designates as trade secrets or other confidential engineering, technical and business information. As long as, and to the extent that, such information remains confidential and available to others only with the consent of the Department, or is not generally available to the public from other sources, the Contractor shall maintain such information in strict confidence and shall not disclose any such information to others (including its employees or Subcontractors), except to the extent necessary to enable the Contractor to carry out the Project. The Contractor shall similarly obligate any and all persons to whom such information is necessarily disclosed to maintain the information in strict confidence. The Contractor agrees that, in the event of any breach of this confidentiality obligation, the Department shall be entitled to equitable relief, including injunctive relief or specific performance, in addition to all other rights or remedies otherwise available.

Section 9.16 No Third-Party Beneficiary Rights. Nothing in this Contract shall be construed as creating third-party beneficiary rights in any person or entity, except as otherwise

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expressly provided in this Contract.

Section 9.17 Media Releases. Neither the Contractor, its employees, agents or Subcontractors or material suppliers shall make any press release or similar media release related to the Project unless such press release have been discussed with the Department prior to its issuance.

Section 9.18 Construction. This Contract shall be construed fairly as to all parties and not in favor of or against any party, regardless of which party prepared the Contract.

Section 9.19 Limitations. The Contractor agrees that any statute of limitations applicable to any claim or suit by the Department arising from this Contract or its breach shall be controlled by applicable District of Columbia law.

Section 9.20 Binding Effect; Assignment. The Contract shall inure to the benefit of, and be binding upon and enforceable by, the parties and their respective successors and permitted assigns. The Contractor acknowledges that, in entering into the Contract, the Department is relying on the particular qualifications of the Contractor, and the Contractor therefore shall not delegate or assign any of its duties or obligations under the Contract, except in accordance with the Contract's provisions relating to subcontracting, or pursuant to the Department's prior written consent. The Contractor shall not assign its rights under the Contract, including the right to all or a portion of its compensation, without the Department's prior written consent. Any delegation or assignment made contrary to the provisions of this Paragraph shall be null and void.

Section 9.21 Survival. All agreements warranties, and representations of the Contractor contained in the Contract or in any certificate or document furnished pursuant to the Contract shall survive termination or expiration of the Contract.

Section 9.22 No Waiver. If the Department waives any power, right, or remedy arising from the Contract or any applicable law, the waiver shall not be deemed to be a waiver of the power, right, or remedy on the later recurrence of any similar events. No act, delay, or course of conduct by the Department shall be deemed to constitute the Department's waiver, which may be affected only by an express written waiver signed by the Department.

Section 9.23 Remedies Cumulative. Unless specifically provided to the contrary in the Contract, all remedies set forth in the Contract are cumulative and not exclusive of any other remedy the Department may have, including, without limitation, at law or in equity. The Department's rights and remedies will be exercised at its sole discretion, and shall not be regarded as conferring any obligation on the Department's to exercise those rights or remedies for the benefit of the Contractor or any other person or entity.

Section 9.24 Headings/Captions. The headings or captions used in this Agreement or its table of contents are for convenience only and shall not be deemed to constitute a part of the Contract, nor shall they be used in interpreting the Contract.

Section 9.25 Entire Agreement; Modification. The Contract supersedes all contemporaneous or prior negotiations, representations, course of dealing, or agreements, either written or oral. No modifications to the Contract shall be effective against the Department unless made in writing signed by both the Department and the Contractor, unless otherwise expressly provided to the contrary in the Contract. Notwithstanding the foregoing, nothing herein shall be construed to limit the Department's ability to unilaterally modify the Contract.

Section 9.26 Severability. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, and in lieu of each such invalid, illegal or unenforceable provision, there shall be added automatically as a part of this Agreement a provision as similar in terms to such invalid, illegal or unenforceable provision as may be possible and be valid, legal and enforceable; each part of this Agreement is intended to be severable.

ARTICLE 10 TERMINATION OR SUSPENSION

Section 10.1 Cancellation Before Notice to Proceed. The Department may cancel the Contract at any time before issuance of a Notice to Proceed, in the Department's sole discretion. Such a cancellation shall not be a breach of the Contract, and the Contractor shall not be entitled to any compensation or damages if cancellation occurs.

Section 14.2 Termination for Default. The Department may terminate the Contract for default if the Contractor fails materially to perform any of its duties or obligations under the Contract. In particular, but without limitation, the Department may terminate the Contract if:

Section 10.2.1 the Contractor fails to prosecute the Work diligently, in accordance with the Project Schedule or to make such progress in the Work as the Department reasonably believes is necessary to complete the Project within the time required by the Contract; or

Section 10.2.2 the Contractor fails to perform the Work in a good and workmanlike manner or to correct defects in the Work promptly upon notice by the Department; or

Section 10.2.3 the Department reasonably determines that the Contractor has abandoned the Work, or has failed to pay laborers, mechanics, materialmen, Subcontractors or suppliers when payment is due; or

Section 10.2.4 becomes insolvent, makes an assignment for the benefit of creditors, files a voluntary petition under any chapter of the Bankruptcy Code or has an involuntary petition filed against it under any chapter of the Bankruptcy Code, or has a receiver appointed, or files for dissolution or otherwise is dissolved; or

Section 10.2.5 the Contractor fails to pay its debts in a timely manner or becomes insolvent, or the Department reasonably determines that the Contractor does not have the

financial ability to carry out its obligations under the Contract and the Contractor fails to give the Department prompt and reasonable assurances of its ability to perform.

Section 10.2.6 the Department must provide the Contractor with written notice of its intent to terminate the Contract under this provision seven (7) days before actually putting the termination into effect. If the Contractor has begun its curative action and has made progress satisfactory to the Department within the seven days, the Department may so notify the Contractor and the termination will not take effect. Otherwise, the termination shall take effect after seven days without further notice or opportunity to cure.

Section 10.2.7 If the Department terminates the Contract for default, the Department will have the right to take over the Work, to accept assignment of some or all Subcontracts or agreements with material suppliers, to take possession of the Project, to take and use all tools, equipment and supplies then being used in connection with the Work, and to finish the Project by whatever method it deems expedient, including accepting assignment of all outstanding Subcontracts and Supply Agreements.

Section 10.3 Termination for Convenience.

Section 10.3.1 The Department may, upon seven (7) days written notice to the Contractor, terminate the Contract in whole or specified part, for its convenience, whether the Contractor is in breach of Contract or not. The notice of termination shall state the effective date of termination, the extent of the termination, and any specific instructions.

Section 10.3.2 After receiving notice of termination for convenience, the Contractor shall (1) stop work on the terminated portion of the Project as of the effective date of the termination and stop placing subcontracts or supply agreements thereunder; (2) consult with the Department regarding the disposition of existing orders and subcontracts, and use its best efforts to terminate them on terms favorable to the Department; (3) consult with the Department to decide what actions should be taken to protect work in place and equipment that has been delivered and not yet installed, and to render the site safe, and proceed to take such actions as may be agreed upon or, absent agreement, as may be reasonable; (4) take necessary or directed action to protect and preserve property in the Contractor's possession in which the Department has or may acquire an interest and, as directed by the termination notice or other order from the Department, deliver the property to the Department; and (5) promptly deliver to the Department all computer files it has prepared relating to the Project. The Contractor shall also promptly notify the Department, in writing, of any legal proceeding arising from any subcontract or supply agreement related to the terminated portion of the Project, and, in consultation with the Department, settle outstanding liabilities arising out of the terminated portion of the Project on the best terms reasonably possible.

Section 10.3.3 The Contractor shall be entitled to receive only the following with respect to the terminated portion of the Project: (1) Cost of Work performed up to the date of termination; (2) reasonable costs of terminating outstanding subcontracts and supply agreements and other similar wind-up costs in a reasonable amount; (3) a fair and reasonable portion of the overhead and profit attributable to the Work performed on the terminated portion of the Project,

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up to the time of termination. The Contractor shall not be entitled to recover overhead or profits on unperformed portions of the Work. Further, if it appears to the Department that the cost of completing Work would have exceeded the Lump Sum Price, the Department shall have the right to adjust the settlement figure downward in an appropriate amount. In no case shall the Contractor be entitled to receive an amount in settlement for termination for convenience that would exceed the percentage value of the Work actually performed in accordance with the Contract, multiplied by the Lump Sum Price, and reduced by any damages, liquidated or otherwise, the Contractor may owe the Department.

Section 10.3.4 Payment of such amounts shall be the Contractor's sole remedy for termination for convenience.

Section 10.3.5 The Contractor shall, promptly after termination, submit a proposal for settlement of the amounts due to it as a result of the termination for convenience. The proposal shall be consistent with the requirements of Subparagraphs 10.4.2 through 10.4.4, and shall be accompanied by such documentation of costs as the Department may reasonably require. Such documentation may include cost and price data in accordance with the Department's Regulations.

Section 10.4 Effect of Wrongful Termination. Any termination for cause which is later determined to have been improperly affected shall be deemed to have been a termination for convenience pursuant to Paragraph 10.3 and shall be governed by that Paragraph.

Section 10.5 Continued Responsibility After Termination. If the Contractor is terminated, either for default or otherwise, the Contractor shall remain responsible for defects or non-conformities in all Work performed to the date of the termination.

Section 10.6 Suspension.

Section 10.6.1 Suspension at the Convenience of the Department.

The Department may at any time, with or without cause, suspend, delay, reduce or interrupt performance of all or any portion of the Work for such period or periods as the Department elects by giving the Contractor written notice specifying which portion of the Work is to be suspended and the effective date of such suspension. Such suspension, delay or interruption shall continue until the Department terminates such suspension, delay or interruption by written notice to the Contractor. No such suspension, delay, interruption or reduction by the Department shall constitute a breach or default by the Department under the Contract Documents. The Contractor shall continue to diligently perform any remaining Work that is not suspended, delayed, reduced or interrupted and shall take all actions necessary to maintain and safeguard all materials, equipment, supplies and Work in progress affected by the suspension, delay, reduction or interruption.

Section 10.6.2 Payment Upon Suspension For Convenience. In the event of suspension, delay, reduction or interruption for convenience by the Department, the Department shall pay the Contractor and the Lump Sum Price shall be increased by such amounts (subject to the payment and related requirements of the Contract Documents) as follows:

Section 10.6.2.1 Additional Costs of the Work, if any, which are incurred by the Contractor, its Subcontractors and Vendors as a result of continuing to maintain dedicated personnel, materials and equipment at the Site at the Department's request during any suspension, delay or interruption period, including for the purpose of safeguarding all material, equipment, supplies and the Work in progress caused solely by such suspension, delay or interruption ordered by the Department for convenience, but the Lump Sum Price shall be increased only if and to the extent such delay, suspension or interruption exceeds a period of thirty (30) consecutive days following commencement of the Work; and

Section 10.6.2.2 Other reasonable and unavoidable Costs of the Work, if any, which are directly related to any subsequent re-mobilization of the suspended, delayed or interrupted the Work caused solely by such suspension, delay or interruption ordered by the Department for convenience, but the Lump Sum Price shall be increased only if and to the extent such delay, suspension or interruption exceeds a period of thirty (30) consecutive days following commencement of the Work.

Section 10.6.2.3 Provided, however, that no adjustment shall be made to the extent that performance was otherwise subject to suspension, delay or interruption by another cause for which the Contractor is responsible. Furthermore, the Contractor shall not be entitled to an increase in overhead or profit for a suspension ordered by the Department.

ARTICLE 11 OTHER CONDITIONS AND SERVICES

Section 11 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 Standard Contract Provisions For Architectural and Engineering Services Revised March 2016 (Attachment G) shall govern the Contractor's obligations with respect to such action or requirement under this Agreement.

ARTICLE 12 INDEMNIFICATION

Section 12 Indemnification. To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Department and Department's consultants, agents, and employees from and against claims, damages, losses and expenses, including, but not limited to, attorneys' fees arising out of or resulting from performance of work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder.

**ARTICLE 13
ATTACHMENTS**

Section 13.1 Attachments. The following documents are incorporated into this Agreement:

Attachment A1	Title I and Title II Services
Attachment A2	Technical Requirements and Submittal Guide
Attachment B1	Contractor's Technical Proposal
Attachment B2	Contractor's Fee Proposal
Attachment C	Subcontracting Plan
Attachment D	Service Contract Act Wage Determination
Attachment E	Living Wage Act Notice
Attachment F	Bidder/Offeror Certification
Attachment G	Standard Contract Provisions Architectural and Engineering Services
Attachment H	National Park Service Required Clauses

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

By: _____
Name: George G. Lewis
Title: Associate Director/
Chief Contracting Officer
Date: _____

[CONTRACTOR]

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

Attachment C

Form of Offer Letter

Attachment C

[Offeror's Letterhead]

[Insert Date]

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

Attention: Brenda Allen
Chief Contracting Officer

Reference: Request for Proposals (RFP) – DCAM-17-AE-0104
Architectural/Engineering – Franklin Park

Dear Ms. Allen:

On behalf of [INSERT NAME OF BIDDER] (the "Offeror"), I am pleased to submit this proposal in response to the Department of General Services' (the "Department" or "DGS") Request for Proposals (the "RFP") to provide Architectural/Engineering Services for the Franklin Park project. The Offeror has reviewed the RFP and the attachments thereto, any addenda thereto, and the proposed Form of Contract (collectively, the "Bid Documents") and has conducted such due diligence and analysis as the Offeror, in its sole judgment, has deemed necessary in order to submit its Proposal in response to the RFP. The Offeror's proposal, the Design Fee (as defined in paragraph A), the Unit Prices (as defined in paragraph B), and the Hourly Rates (as defined in paragraph C) are based on the Bid Documents as issued and assume no material alteration of the terms of the Bid Documents (collectively, the proposal, the Design Fee, the Meeting/Workshop Price, and the Hourly Rates are referred to as the "Offeror's Bid"). The Offeror's Bid is as follows:

A. Design Fee: See chart below

The Offeror acknowledges and understands that the Design Fee is a fixed fee and covers all of the Offeror's costs associated with the preparation of (i) a preliminary assessment and refinement (if necessary) of the concept design; (ii) schematic design; (ii) design development documents; (iii) a permit set of construction documents; (iv) a complete, coordinated set of construction documents; and (v) construction administration services.

B. Hourly Rates: See chart below

The Offeror acknowledges and understands that the attached hourly rates are fully loaded hourly rates at which any additional services will be charged.

Preliminary Assessment and Refinement	\$
Schematic Design	\$
Design Development Documents	\$
Construction Documents	\$
Construction Administration & Close-out	\$
Owner Directed Allowance	\$50,000.00
Printing Allowance	\$7,500.00
Reimbursable Allowance	\$25,000.00
Permit Allowance	\$75,000.00
Total Design Fee	\$

Personnel Classification	Hourly Rate
Design Principal	
Project Architect	
Lead Landscape Architect	
Project Design Lead	
Playground Design Lead	
Lead Civil Engineer	

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

1. The Offeror agrees to hold its proposal open for a period of at least sixty (60) days after the date of the bid.
2. Assuming the Offeror is selected by the Department and subject only to the changes requested in paragraph 5, the Offeror agrees to enter into a contract with the Department on the terms and conditions described in the Bid Documents within ten (10) days of the notice of the award.
3. Both the Offeror and the undersigned represent and warrant that the undersigned has the full legal authority to submit this bid form and bind the Offeror to the terms of the Offeror's Bid. The Offeror further represents and warrants that no further action or approval must be obtained by the Offeror in order to authorize the terms of the Offeror's Bid.

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

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

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

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

Sincerely,

By: _____
Name: _____
Title: _____

Attachment D

Tax Affidavit

Attachment E

Bidder Offeror Certification Form

BIDDER/OFFEROR CERTIFICATION FORM

COMPLETION			
The person(s) completing this form must be knowledgeable about the bidder's/offeror's business and operations.			
RESPONSES			
Every question must be answered. Each response must provide all relevant information that can be obtained within the limits of the law. Individuals and sole proprietors may use a Social Security number but are encouraged to obtain and use a federal Employer Identification Number (EIN). Provide any explanation at the end of the section or attach additional sheets with numbered responses. Include the bidder's/offeror's name at the top of each attached page.			
GENERAL INSTRUCTIONS			
This form contains four (4) sections. Section I concerns the bidder's/offeror's responsibility; Section II includes additional required certifications; Section III relates to the Buy American Act (if applicable); and Section IV requires the bidder's/offeror's signature. Please note, a determination that a prospective contract is found to be "not responsible is final and not appealable.			
SECTION I. BIDDER/OFFEROR RESPONSIBILITY CERTIFICATION			
<i>Instructions for Section I: Section I contains eight (8) parts. Part 1 requests information concerning the bidder's/offeror's business entity. Part 2 inquires about current or former owners, partners, directors, officers or principals. Part 3 relates to the responsibility of the bidder's/offeror's business. Part 4 concerns the bidder's/offeror's business certificates and licenses. Part 5 inquires about legal proceedings. Part 6 relates to the bidder's/offeror's financial and organizational status. Part 7 requires the bidder/offeror to agree to update the information provided. Part 8 relates to disclosures under the District of Columbia Freedom of Information Act (FOIA).</i>			
PART 1: BIDDER/OFFEROR INFORMATION			
Legal Business Entity Name:		Solicitation #:	
Address of the Principal Place of Business (street, city, state, zip code)		Telephone # and ext.:	Fax #:
Email Address:		Website:	
Additional Legal Business Entity Identities: If applicable, list any other DBA, Trade Name, Former Name, Other Identity and EIN used in the last five (5) years and the status (active or inactive).			
Type:	Name:	EIN:	Status:
1.1 Business Type (Please check the appropriate box and provide additional information if necessary.):			
<input type="checkbox"/> Corporation (including PC)		Date of Incorporation:	
<input type="checkbox"/> Joint Venture		Date of Organization:	
<input type="checkbox"/> Limited Liability Company (LLC or PLLC)		Date of Organization:	
<input type="checkbox"/> Nonprofit Organization		Date of Organization:	
<input type="checkbox"/> Partnership (including LLP, LP or General)		Date of Registration or Establishment:	
<input type="checkbox"/> Sole Proprietor		How many years in business?:	
<input type="checkbox"/> Other		Date established?:	
If "Other," please explain:			
1.2 Was the bidder's/offeror's business formed or incorporated in the District of Columbia?			<input type="checkbox"/> Yes <input type="checkbox"/> No
If "No" to Subpart 1.2, provide the jurisdiction where the bidder's/offeror's business was formed or incorporated. Attach a Certificate or Letter of Good Standing from the applicable jurisdiction and a certified Application for Authority from the District, or provide an explanation if the documents are not available.			
State _____		Country _____	
1.3 Please provide a copy of each District of Columbia license, registration or certification that the bidder/offeror is required by law to obtain (other than those provided in Subpart 1.2). If the bidder/offeror is not providing a copy of its license, registration or certification to transact business in the District of Columbia, it shall either:			
(a) Certify its intent to obtain the necessary license, registration or certification prior to contract award; or			
(b) Explain its exemption from the requirement.			

1.4 If your company, its principals, shareholders, directors, or employees own an interest or have a position in another entity in the same or similar line of business as the Bidder/Offeror, please describe the affiliation in detail.

1.5 If any officer, director, shareholder or anyone holding a financial interest in the Bidder/Offeror has a relationship with an employee of the Department or any District agency for whom the Department is procuring goods or services, please describe the nature of the relationship in detail.

PART 2: INDIVIDUAL RESPONSIBILITY

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

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

2.1 Been sanctioned or proposed for sanction relative to any business or professional permit or license?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2.2 Been under suspension, debarment, voluntary exclusion or determined ineligible under any federal, District or state statutes?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2.3 Been proposed for suspension or debarment?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2.4 Been the subject of an investigation, whether open or closed, by any government entity for a civil or criminal violation for any business-related conduct?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2.5 Been charged with a misdemeanor or felony, indicted, granted immunity, convicted of a crime, or subject to a judgment or a plea bargain for: (a) Any business-related activity; or (b) Any crime the underlying conduct of which was related to truthfulness?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2.6 Been suspended, cancelled, terminated or found non-responsible on any government contract, or had a surety called upon to complete an awarded contract?	<input type="checkbox"/> Yes <input type="checkbox"/> No

Please provide an explanation for each "Yes" in Part 2.

2.7 In the past ten (10) years has the Bidder/Offeror had a contract terminated, in whole or in part, for any reason? If so, describe each such determination in detail.

2.8 In the past ten (10) years has the Bidder/Offeror ever been assessed liquidated damages, costs to re-procure, costs to complete, or any other monetary damages under a contract? If so, describe each such assessment in detail.

PART 3: BUSINESS RESPONSIBILITY

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

3.1 Been under suspension, debarment, voluntary exclusion or determined ineligible under any federal, District or state statutes?	<input type="checkbox"/> Yes <input type="checkbox"/> No
3.2 Been proposed for suspension or debarment?	<input type="checkbox"/> Yes <input type="checkbox"/> No
3.3 Been the subject of an investigation, whether open or closed, by any government entity for a civil or criminal violation for any business-related conduct?	<input type="checkbox"/> Yes <input type="checkbox"/> No
3.4 Been charged with a misdemeanor or felony, indicted, granted immunity, convicted of a crime, or subject to a judgment or plea bargain for: (a) Any business-related activity; or (b) Any crime the underlying conduct of which was related to truthfulness?	<input type="checkbox"/> Yes <input type="checkbox"/> No
3.5 Been disqualified or proposed for disqualification on any government permit or license?	<input type="checkbox"/> Yes <input type="checkbox"/> No
3.6 Been denied a contract award (in whole or in part, for any reason) or had a bid or proposal rejected based upon a non-responsibility finding by a government entity? If so, describe each such occurrence in detail.	<input type="checkbox"/> Yes <input type="checkbox"/> No
3.7 Had a low bid or proposal rejected on a government contract for failing to make good faith efforts on any Certified Business Enterprise goal or statutory affirmative action requirements on a previously held contract?	<input type="checkbox"/> Yes <input type="checkbox"/> No

3.8 Been suspended, cancelled, terminated or found non-responsible on any government contract, or had a surety called upon to complete an awarded contract?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Please provide an explanation for each "Yes" in Part 3.	
PART 4: CERTIFICATES AND LICENSES	
Has the bidder/offeror:	
4.1 Had a denial, decertification, revocation or forfeiture of District of Columbia certification of any Certified Business	<input type="checkbox"/> Yes <input type="checkbox"/> No
Please provide an explanation for "Yes" in Subpart 4.1.	
4.2 Please provide a copy of the bidder's/offeror's District of Columbia Office of Tax and Revenue Tax Certification Affidavit.	
PART 5: LEGAL PROCEEDINGS	
Within the past five (5) years, has the bidder/offeror:	
5.1 Had any liens or judgments (not including UCC filings) filed against it which remain undischarged?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes" to Subpart 5.1, provide an explanation of the issue(s), relevant dates, the Lien Holder or Claimant's name, the amount of the lien(s) and the current status of the issue(s).	
5.2 Had a government entity find a willful violation of District of Columbia compensation or prevailing wage laws, the Service Contract Act or the Davis-Bacon Act?	<input type="checkbox"/> Yes <input type="checkbox"/> No
5.3 Received any OSHA citation and Notification of Penalty containing a violation classified as serious or willful?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Please provide an explanation for each "Yes" in Part 5.	
5.4 Engaged in litigation with any governmental entity. If so, please identify and/or describe all threatened and pending litigation and/or claims, including but not limited to matters pending before any Boards of Contracts Appeals:	
PART 6: FINANCIAL AND ORGANIZATIONAL INFORMATION	
6.1 Within the past five (5) years, has the Bidder/Offeror received any formal unsatisfactory performance assessment(s) from any government entity on any contract?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes" to Subpart 6.1, provide an explanation of the issue(s), relevant dates, the government entity involved, any remedial or corrective action(s) taken and the current status of the issue(s).	
6.2 Has the Bidder/Offeror ever been assessed liquidated damages, costs to re-procure, costs to complete, or any other monetary damages under a contract? If so, describe each such assessment in detail.	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes" to Subpart 6.2, provide an explanation of the issue(s), relevant dates, the government entity involved, the amount assessed and the current status of the issue(s).	
6.3 Within the last seven (7) years, has the bidder/offeror initiated or been the subject of any bankruptcy proceedings, whether or not closed, or is any bankruptcy proceeding pending?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes" to Subpart 6.3, provide the bankruptcy chapter number, the court name and the docket number. Indicate the current status of the proceedings as "initiated," "pending" or "closed".	
6.4 During the past three (3) years, has the bidder/offeror failed to file a tax return or pay taxes required by federal, state, District of Columbia or local laws?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes" to Subpart 6.4, provide the taxing jurisdiction, the type of tax, the liability year(s), the tax liability amount the bidder/offeror failed to file/pay and the current status of the tax liability.	
6.5 During the past three (3) years, has the bidder/offeror failed to file a District of Columbia unemployment insurance return or failed to pay District of Columbia unemployment insurance?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes" to Subpart 6.5, provide the years the bidder/offeror failed to file the return or pay the insurance, explain the situation and any remedial or corrective action(s) taken and the current status of the issue(s).	

6.6 During the past three (3) years, has the bidder/offeror failed to comply with any payment agreement with the Internal Revenue Service, the District of Columbia Office of Tax and Revenue and the Department of Employment Services?	<input type="checkbox"/> Yes <input type="checkbox"/> No
--	--

If "Yes" to Subpart 6.6, provide the years the bidder/offeror failed to comply with the payment agreement, explain the situation and any remedial or corrective action(s) taken and the current status of the issue(s).

6.7 Indicate whether the bidder/offeror owes any outstanding debt to any state, federal or District of Columbia government.	<input type="checkbox"/> Yes <input type="checkbox"/> No
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If "Yes" to Subpart 6.7, provide an explanation of the issue(s), relevant dates, the government entity involved, any remedial or corrective action(s) taken and the current status of the issue(s).

6.8 During the past three (3) years, Has the bidder/offeror been audited by any government entity?	<input type="checkbox"/> Yes <input type="checkbox"/> No
--	--

(a) If "Yes" to Subpart 6.8, did any audit of the bidder/offeror identify any significant deficiencies in internal controls, fraud or illegal acts; significant violations of provisions of contract or grant agreements; significant abuse; or any material disallowance?	<input type="checkbox"/> Yes <input type="checkbox"/> No
--	--

(b) If "Yes" to Subpart 6.8(a), provide an explanation of the issue(s), relevant dates, the government entity involved, any remedial or corrective action(s) taken and the current status of the issue(s).

PART 7: CONTRACTOR PROCUREMENT ACTIVITY WITH THE DEPARTMENT

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

(a) Construction: _____ labor hours

(b) Non-Construction: _____ labor hours

7.2 In the table below, please list:

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

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

	Contract Number	Labor Hours Allocated

PART 8: RESPONSE UPDATE REQUIREMENT

8.1 In accordance with the requirement of Section 302(c) of the Procurement Practices Reform Act of 2010 (D.C. Official Code § 2-353.02), the bidder/offeror shall update any response provided in Section I of this form during the term of this contract:

- (a) Within sixty (60) days of a material change to a response; and
- (b) Prior to the exercise of an option year contract.

PART 9: FREEDOM OF INFORMATION ACT (FOIA)

9.1 Indicate whether the bidder/offeror asserts that any information provided in response to a question in Section I is exempt from disclosure under the District of Columbia Freedom of Information Act (FOIA), effective March 25, 1977 (D.C. Law 1-96; D.C. Official Code §§ 2-531, et seq.). Include the question number(s) and explain the basis for the claim. (The District will determine whether such information is, in fact, exempt from FOIA at the time of request for disclosure under FOIA.)	<input type="checkbox"/> Yes <input type="checkbox"/> No
---	--

SECTION II. ADDITIONAL REQUIRED BIDDER/OFFEROR CERTIFICATIONS

Instructions for Section II: Section II contains four (4) parts. Part 1 requests information concerning District of Columbia employees. Part 2 applies to the bidder/offeror's pricing. Part 3 relates to equal employment opportunity requirements. Part 4 relates to First Source requirements.

PART 1. DISTRICT EMPLOYEES NOT TO BENEFIT

The bidder/offeror certifies that:

1.2 No person listed in clause 13 of the Standard Contract Provisions, "District Employees Not To Benefit", will benefit from this contract.

1.3 The following person(s) listed in clause 13 of the Standard Contract Provisions may benefit from this contract. (For each person listed, attach the affidavit required by clause 13.)

(a) _____

(b) _____

PART 2: INDEPENDENT PRICE DETERMINATION REQUIREMENTS

The bidder/offeror certifies that:

2.1 The signature of the bidder/offeror is considered to be a certification by the signatory that:

- (a) The contract prices have been arrived at independently without, for the purpose of restricting competition, any consultation, communication or agreement
 - (i) Those prices;
 - (ii) The intention to submit a bid/proposal; or
 - (iii) The methods or factors used to calculate the prices in the contract.

(b) The prices in this contract have not been and will not be knowingly disclosed by the bidder/offeror, directly or indirectly, to any other bidder/offeror or competitor before bid/proposal opening unless otherwise required by law; and

(c) No attempt has been made or will be made by the bidder/offeror to induce any other concern to submit or not to submit a contract for the purpose of restricting competition.

2.2 The signature on the bid/proposal is considered to be a certification by the signatory that the signatory:

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

(b) Has been authorized, in writing, to act as an agent for the following principal in certifying that the principal has not participated, and will not participate, in any action contrary to subparagraphs 2.1(a)(i) through (a)(iii) above:

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

(i) As an authorized agent, certifies that the principals named in subparagraph 2.2(b) above have not participated, and will not participate, in any action contrary to subparagraphs 2.1(a)(i) through (a)(iii) above; and

(ii) As an agent, has not participated and will not participate in any action contrary to subparagraphs 2.1(a)(i) through (a)(iii) above.

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

2.4 The Bidder/Offeror certifies that:

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

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

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

PART 3: EQUAL OPPORTUNITY OBLIGATIONS

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

PART 4: FIRST SOURCE OBLIGATIONS

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

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

SECTION III. BUY AMERICAN ACT CERTIFICATION

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

PART 1: BUY AMERICAN ACT COMPLIANCE

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

EXCLUDED END PRODUCTS

COUNTRY OF ORIGIN

SECTION IV. WALSH-HEALEY ACT

Instruction for Section IV: Walsh-Healey Act

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

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

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

SECTION V. CERTIFICATION

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

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

Name [Print and sign]:	Telephone #:	Fax #:
Title:	Email Address:	
DUNS Number (If Applicable):		

Date:
The District of Columbia is hereby authorized to verify the above information with appropriate government authorities. Penalty for making false statements is a fine of not more than \$1,000.00, imprisonment for not more than 180 days, or both, as prescribed in D.C. Official Code § 22-2405. Penalty for false swearing is a fine of not more than \$2,500.00, imprisonment for not more than three (3) years, or both, as prescribed in D.C. Official Code § 22-2404.

Attachment F

Service Contract Act

WD 15-4281 (Rev.-6) was first posted on www.wdol.gov on 05/16/2017

REGISTER OF WAGE DETERMINATIONS UNDER
THE SERVICE CONTRACT ACT
By direction of the Secretary of Labor

U.S. DEPARTMENT OF LABOR
EMPLOYMENT STANDARDS ADMINISTRATION
WAGE AND HOUR DIVISION
WASHINGTON D.C. 20210

Daniel W. Simms Division of
Director Wage Determinations

Wage Determination No.: 2015-4281
Revision No.: 6
Date Of Revision: 05/08/2017

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.20 for calendar year 2017 applies to all contracts subject to the Service Contract Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.20 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2017. The EO minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

States: District of Columbia, Maryland, Virginia

Area: District of Columbia Statewide
Maryland Counties of Calvert, Charles, Prince George's
Virginia Counties of Alexandria, Arlington, Fairfax, Falls Church, Fauquier, Loudoun, Manassas, Manassas Park, Prince William, Stafford

****Fringe Benefits Required Follow the Occupational Listing****

OCCUPATION CODE - TITLE	FOOTNOTE	RATE
01000 - Administrative Support And Clerical Occupations		
01011 - Accounting Clerk I		18.06
01012 - Accounting Clerk II		20.28
01013 - Accounting Clerk III		22.68
01020 - Administrative Assistant		31.98
01035 - Court Reporter		21.84
01041 - Customer Service Representative I		14.94
01042 - Customer Service Representative II		16.81
01043 - Customer Service Representative III		18.33
01051 - Data Entry Operator I		14.88
01052 - Data Entry Operator II		16.23
01060 - Dispatcher, Motor Vehicle		19.28
01070 - Document Preparation Clerk		16.17
01090 - Duplicating Machine Operator		16.17
01111 - General Clerk I		14.88
01112 - General Clerk II		16.24
01113 - General Clerk III		18.74
01120 - Housing Referral Assistant		25.29
01141 - Messenger Courier		16.18
01191 - Order Clerk I		15.12
01192 - Order Clerk II		16.50
01261 - Personnel Assistant (Employment) I		18.15
01262 - Personnel Assistant (Employment) II		20.32
01263 - Personnel Assistant (Employment) III		22.65
01270 - Production Control Clerk		25.24
01290 - Rental Clerk		16.55
01300 - Scheduler, Maintenance		18.07
01311 - Secretary I		18.07
01312 - Secretary II		20.18
01313 - Secretary III		25.29
01320 - Service Order Dispatcher		17.24

01410 - Supply Technician	31.98
01420 - Survey Worker	20.03
01460 - Switchboard Operator/Receptionist	15.07
01531 - Travel Clerk I	14.80
01532 - Travel Clerk II	15.91
01533 - Travel Clerk III	17.08
01611 - Word Processor I	16.56
01612 - Word Processor II	18.59
01613 - Word Processor III	20.79
05000 - Automotive Service Occupations	
05005 - Automobile Body Repairer, Fiberglass	28.60
05010 - Automotive Electrician	23.51
05040 - Automotive Glass Installer	22.15
05070 - Automotive Worker	22.15
05110 - Mobile Equipment Servicer	19.04
05130 - Motor Equipment Metal Mechanic	24.78
05160 - Motor Equipment Metal Worker	22.15
05190 - Motor Vehicle Mechanic	24.78
05220 - Motor Vehicle Mechanic Helper	18.49
05250 - Motor Vehicle Upholstery Worker	21.63
05280 - Motor Vehicle Wrecker	22.15
05310 - Painter, Automotive	23.51
05340 - Radiator Repair Specialist	22.15
05370 - Tire Repairer	14.44
05400 - Transmission Repair Specialist	24.78
07000 - Food Preparation And Service Occupations	
07010 - Baker	14.14
07041 - Cook I	15.15
07042 - Cook II	17.61
07070 - Dishwasher	10.72
07130 - Food Service Worker	11.01
07210 - Meat Cutter	20.10
07260 - Waiter/Waitress	10.67
09000 - Furniture Maintenance And Repair Occupations	
09010 - Electrostatic Spray Painter	19.86
09040 - Furniture Handler	14.06
09080 - Furniture Refinisher	20.23
09090 - Furniture Refinisher Helper	15.52
09110 - Furniture Repairer, Minor	17.94
09130 - Upholsterer	19.86
11000 - General Services And Support Occupations	
11030 - Cleaner, Vehicles	10.54
11060 - Elevator Operator	12.66
11090 - Gardener	18.52
11122 - Housekeeping Aide	12.66
11150 - Janitor	12.66
11210 - Laborer, Grounds Maintenance	13.82
11240 - Maid or Houseman	12.22
11260 - Pruner	12.25
11270 - Tractor Operator	16.94
11330 - Trail Maintenance Worker	13.82
11360 - Window Cleaner	14.28
12000 - Health Occupations	
12010 - Ambulance Driver	22.31
12011 - Breath Alcohol Technician	21.35
12012 - Certified Occupational Therapist Assistant	27.96
12015 - Certified Physical Therapist Assistant	25.93
12020 - Dental Assistant	19.78
12025 - Dental Hygienist	45.00
12030 - EKG Technician	33.48
12035 - Electroneurodiagnostic Technologist	33.48
12040 - Emergency Medical Technician	22.31
12071 - Licensed Practical Nurse I	19.07
12072 - Licensed Practical Nurse II	21.35
12073 - Licensed Practical Nurse III	24.13

12100 - Medical Assistant	17.17
12130 - Medical Laboratory Technician	18.98
12160 - Medical Record Clerk	18.80
12190 - Medical Record Technician	21.04
12195 - Medical Transcriptionist	20.50
12210 - Nuclear Medicine Technologist	39.16
12221 - Nursing Assistant I	11.74
12222 - Nursing Assistant II	13.19
12223 - Nursing Assistant III	14.40
12224 - Nursing Assistant IV	16.16
12235 - Optical Dispenser	20.67
12236 - Optical Technician	17.38
12250 - Pharmacy Technician	18.12
12280 - Phlebotomist	17.93
12305 - Radiologic Technologist	33.85
12311 - Registered Nurse I	27.64
12312 - Registered Nurse II	33.44
12313 - Registered Nurse II, Specialist	33.44
12314 - Registered Nurse III	40.13
12315 - Registered Nurse III, Anesthetist	40.13
12316 - Registered Nurse IV	48.10
12317 - Scheduler (Drug and Alcohol Testing)	25.90
12320 - Substance Abuse Treatment Counselor	27.04
13000 - Information And Arts Occupations	
13011 - Exhibits Specialist I	21.37
13012 - Exhibits Specialist II	26.46
13013 - Exhibits Specialist III	32.37
13041 - Illustrator I	20.48
13042 - Illustrator II	25.38
13043 - Illustrator III	31.03
13047 - Librarian	37.95
13050 - Library Aide/Clerk	16.35
13054 - Library Information Technology Systems Administrator	34.26
13058 - Library Technician	20.89
13061 - Media Specialist I	22.66
13062 - Media Specialist II	25.36
13063 - Media Specialist III	28.27
13071 - Photographer I	16.65
13072 - Photographer II	18.90
13073 - Photographer III	23.67
13074 - Photographer IV	28.65
13075 - Photographer V	33.76
13090 - Technical Order Library Clerk	20.54
13110 - Video Teleconference Technician	23.38
14000 - Information Technology Occupations	
14041 - Computer Operator I	18.92
14042 - Computer Operator II	21.18
14043 - Computer Operator III	23.60
14044 - Computer Operator IV	26.22
14045 - Computer Operator V	29.05
14071 - Computer Programmer I	(see 1) 26.36
14072 - Computer Programmer II	(see 1)
14073 - Computer Programmer III	(see 1)
14074 - Computer Programmer IV	(see 1)
14101 - Computer Systems Analyst I	(see 1)
14102 - Computer Systems Analyst II	(see 1)
14103 - Computer Systems Analyst III	(see 1)
14150 - Peripheral Equipment Operator	18.92
14160 - Personal Computer Support Technician	26.22
14170 - System Support Specialist	37.87
15000 - Instructional Occupations	
15010 - Aircrew Training Devices Instructor (Non-Rated)	36.47
15020 - Aircrew Training Devices Instructor (Rated)	44.06
15030 - Air Crew Training Devices Instructor (Pilot)	52.81

15050 - Computer Based Training Specialist / Instructor	36.47
15060 - Educational Technologist	36.80
15070 - Flight Instructor (Pilot)	52.81
15080 - Graphic Artist	30.47
15085 - Maintenance Test Pilot, Fixed, Jet/Prop	48.72
15086 - Maintenance Test Pilot, Rotary Wing	48.72
15088 - Non-Maintenance Test/Co-Pilot	48.72
15090 - Technical Instructor	28.79
15095 - Technical Instructor/Course Developer	35.22
15110 - Test Proctor	23.24
15120 - Tutor	23.24
16000 - Laundry, Dry-Cleaning, Pressing And Related Occupations	
16010 - Assembler	11.41
16030 - Counter Attendant	11.41
16040 - Dry Cleaner	14.66
16070 - Finisher, Flatwork, Machine	11.41
16090 - Presser, Hand	11.41
16110 - Presser, Machine, Drycleaning	11.41
16130 - Presser, Machine, Shirts	11.41
16160 - Presser, Machine, Wearing Apparel, Laundry	11.41
16190 - Sewing Machine Operator	15.71
16220 - Tailor	16.64
16250 - Washer, Machine	12.51
19000 - Machine Tool Operation And Repair Occupations	
19010 - Machine-Tool Operator (Tool Room)	24.71
19040 - Tool And Die Maker	28.29
21000 - Materials Handling And Packing Occupations	
21020 - Forklift Operator	18.11
21030 - Material Coordinator	25.24
21040 - Material Expediter	25.24
21050 - Material Handling Laborer	13.83
21071 - Order Filler	15.09
21080 - Production Line Worker (Food Processing)	18.11
21110 - Shipping Packer	17.65
21130 - Shipping/Receiving Clerk	17.65
21140 - Store Worker I	12.49
21150 - Stock Clerk	17.98
21210 - Tools And Parts Attendant	18.11
21410 - Warehouse Specialist	18.11
23000 - Mechanics And Maintenance And Repair Occupations	
23010 - Aerospace Structural Welder	32.92
23019 - Aircraft Logs and Records Technician	23.91
23021 - Aircraft Mechanic I	31.25
23022 - Aircraft Mechanic II	32.92
23023 - Aircraft Mechanic III	34.52
23040 - Aircraft Mechanic Helper	21.22
23050 - Aircraft, Painter	29.92
23060 - Aircraft Servicer	23.91
23070 - Aircraft Survival Flight Equipment Technician	29.92
23080 - Aircraft Worker	25.42
23091 - Aircrew Life Support Equipment (ALSE) Mechanic I	25.42
23092 - Aircrew Life Support Equipment (ALSE) Mechanic II	31.25
23110 - Appliance Mechanic	21.75
23120 - Bicycle Repairer	14.43
23125 - Cable Splicer	31.48
23130 - Carpenter, Maintenance	22.45
23140 - Carpet Layer	20.49
23160 - Electrician, Maintenance	27.98
23181 - Electronics Technician Maintenance I	30.17
23182 - Electronics Technician Maintenance II	32.03
23183 - Electronics Technician Maintenance III	33.75
23260 - Fabric Worker	22.55
23290 - Fire Alarm System Mechanic	22.91

23310 - Fire Extinguisher Repairer	20.77
23311 - Fuel Distribution System Mechanic	27.60
23312 - Fuel Distribution System Operator	23.45
23370 - General Maintenance Worker	21.43
23380 - Ground Support Equipment Mechanic	31.25
23381 - Ground Support Equipment Servicer	23.91
23382 - Ground Support Equipment Worker	25.42
23391 - Gunsmith I	20.77
23392 - Gunsmith II	24.15
23393 - Gunsmith III	27.00
23410 - Heating, Ventilation And Air-Conditioning Mechanic	28.33
23411 - Heating, Ventilation And Air Contditioning Mechanic (Research Facility)	29.84
23430 - Heavy Equipment Mechanic	26.13
23440 - Heavy Equipment Operator	22.91
23460 - Instrument Mechanic	27.34
23465 - Laboratory/Shelter Mechanic	25.64
23470 - Laborer	14.98
23510 - Locksmith	23.54
23530 - Machinery Maintenance Mechanic	27.44
23550 - Machinist, Maintenance	26.10
23580 - Maintenance Trades Helper	18.27
23591 - Metrology Technician I	27.34
23592 - Metrology Technician II	28.79
23593 - Metrology Technician III	30.19
23640 - Millwright	28.19
23710 - Office Appliance Repairer	22.96
23760 - Painter, Maintenance	21.75
23790 - Pipefitter, Maintenance	26.55
23810 - Plumber, Maintenance	25.21
23820 - Pneudraulic Systems Mechanic	27.00
23850 - Rigger	27.72
23870 - Scale Mechanic	24.15
23890 - Sheet-Metal Worker, Maintenance	24.81
23910 - Small Engine Mechanic	20.49
23931 - Telecommunications Mechanic I	29.95
23932 - Telecommunications Mechanic II	31.55
23950 - Telephone Lineman	32.28
23960 - Welder, Combination, Maintenance	24.34
23965 - Well Driller	22.91
23970 - Woodcraft Worker	27.00
23980 - Woodworker	20.77
24000 - Personal Needs Occupations	
24550 - Case Manager	19.40
24570 - Child Care Attendant	12.79
24580 - Child Care Center Clerk	17.77
24610 - Chore Aide	11.57
24620 - Family Readiness And Support Services Coordinator	19.40
24630 - Homemaker	19.40
25000 - Plant And System Operations Occupations	
25010 - Boiler Tender	33.03
25040 - Sewage Plant Operator	24.67
25070 - Stationary Engineer	33.03
25190 - Ventilation Equipment Tender	23.58
25210 - Water Treatment Plant Operator	24.67
27000 - Protective Service Occupations	
27004 - Alarm Monitor	23.09
27007 - Baggage Inspector	15.38
27008 - Corrections Officer	25.08
27010 - Court Security Officer	26.37
27030 - Detection Dog Handler	20.57
27040 - Detention Officer	25.08
27070 - Firefighter	28.10

27101 - Guard I	15.38
27102 - Guard II	20.57
27131 - Police Officer I	29.70
27132 - Police Officer II	33.00
28000 - Recreation Occupations	
28041 - Carnival Equipment Operator	13.59
28042 - Carnival Equipment Repairer	14.63
28043 - Carnival Worker	9.24
28210 - Gate Attendant/Gate Tender	15.74
28310 - Lifeguard	11.59
28350 - Park Attendant (Aide)	17.62
28510 - Recreation Aide/Health Facility Attendant	12.85
28515 - Recreation Specialist	21.82
28630 - Sports Official	14.03
28690 - Swimming Pool Operator	18.21
29000 - Stevedoring/Longshoremen Occupational Services	
29010 - Blocker And Bracer	27.98
29020 - Hatch Tender	27.98
29030 - Line Handler	27.98
29041 - Stevedore I	25.78
29042 - Stevedore II	29.33
30000 - Technical Occupations	
30010 - Air Traffic Control Specialist, Center (HFO) (see 2)	41.44
30011 - Air Traffic Control Specialist, Station (HFO) (see 2)	28.58
30012 - Air Traffic Control Specialist, Terminal (HFO) (see 2)	31.47
30021 - Archeological Technician I	20.19
30022 - Archeological Technician II	22.60
30023 - Archeological Technician III	27.98
30030 - Cartographic Technician	27.98
30040 - Civil Engineering Technician	26.41
30051 - Cryogenic Technician I	24.89
30052 - Cryogenic Technician II	27.49
30061 - Drafter/CAD Operator I	20.19
30062 - Drafter/CAD Operator II	22.60
30063 - Drafter/CAD Operator III	25.19
30064 - Drafter/CAD Operator IV	31.00
30081 - Engineering Technician I	22.92
30082 - Engineering Technician II	25.72
30083 - Engineering Technician III	28.79
30084 - Engineering Technician IV	35.64
30085 - Engineering Technician V	43.61
30086 - Engineering Technician VI	52.76
30090 - Environmental Technician	27.41
30095 - Evidence Control Specialist	22.47
30210 - Laboratory Technician	24.41
30221 - Latent Fingerprint Technician I	33.09
30222 - Latent Fingerprint Technician II	36.55
30240 - Mathematical Technician	28.94
30361 - Paralegal/Legal Assistant I	21.36
30362 - Paralegal/Legal Assistant II	26.47
30363 - Paralegal/Legal Assistant III	32.36
30364 - Paralegal/Legal Assistant IV	39.16
30375 - Petroleum Supply Specialist	27.49
30390 - Photo-Optics Technician	27.98
30395 - Radiation Control Technician	27.49
30461 - Technical Writer I	25.75
30462 - Technical Writer II	31.51
30463 - Technical Writer III	38.12
30491 - Unexploded Ordnance (UXO) Technician I	26.34
30492 - Unexploded Ordnance (UXO) Technician II	31.87
30493 - Unexploded Ordnance (UXO) Technician III	38.20
30494 - Unexploded (UXO) Safety Escort	26.34
30495 - Unexploded (UXO) Sweep Personnel	26.34
30501 - Weather Forecaster I	26.93
30502 - Weather Forecaster II	32.75

30620 - Weather Observer, Combined Upper Air Or Surface Programs	(see 2)	25.19
30621 - Weather Observer, Senior	(see 2)	27.98
31000 - Transportation/Mobile Equipment Operation Occupations		
31010 - Airplane Pilot		31.87
31020 - Bus Aide		14.32
31030 - Bus Driver		20.85
31043 - Driver Courier		15.38
31260 - Parking and Lot Attendant		11.06
31290 - Shuttle Bus Driver		16.83
31310 - Taxi Driver		13.98
31361 - Truckdriver, Light		16.83
31362 - Truckdriver, Medium		18.28
31363 - Truckdriver, Heavy		20.54
31364 - Truckdriver, Tractor-Trailer		20.54
99000 - Miscellaneous Occupations		
99020 - Cabin Safety Specialist		15.54
99030 - Cashier		10.51
99050 - Desk Clerk		12.92
99095 - Embalmer		27.90
99130 - Flight Follower		26.34
99251 - Laboratory Animal Caretaker I		13.24
99252 - Laboratory Animal Caretaker II		14.47
99260 - Marketing Analyst		33.51
99310 - Mortician		34.10
99410 - Pest Controller		18.70
99510 - Photofinishing Worker		13.20
99710 - Recycling Laborer		19.20
99711 - Recycling Specialist		23.54
99730 - Refuse Collector		17.01
99810 - Sales Clerk		12.09
99820 - School Crossing Guard		16.25
99830 - Survey Party Chief		25.06
99831 - Surveying Aide		15.57
99832 - Surveying Technician		23.81
99840 - Vending Machine Attendant		15.48
99841 - Vending Machine Repairer		19.67
99842 - Vending Machine Repairer Helper		15.48

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

ALL OCCUPATIONS LISTED ABOVE RECEIVE THE FOLLOWING BENEFITS:

HEALTH & WELFARE: \$4.27 per hour or \$170.80 per week or \$740.13 per month

VACATION: 2 weeks paid vacation after 1 year of service with a contractor or successor, 3 weeks after 5 years, and 4 weeks after 15 years. Length of service includes the whole span of continuous service with the present contractor or successor, wherever employed, and with the predecessor contractors in the

performance of similar work at the same Federal facility. (Reg. 29 CFR 4.173)

HOLIDAYS: A minimum of ten paid holidays per year: New Year's Day, Martin Luther King Jr.'s Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day. (A contractor may substitute for any of the named holidays another day off with pay in accordance with a plan communicated to the employees involved.) (See 29 CFR 4.174)

THE OCCUPATIONS WHICH HAVE NUMBERED FOOTNOTES IN PARENTHESES RECEIVE THE FOLLOWING:

1) COMPUTER EMPLOYEES: Under the SCA at section 8(b), this wage determination does not apply to any employee who individually qualifies as a bona fide executive, administrative, or professional employee as defined in 29 C.F.R. Part 541. Because most Computer System Analysts and Computer Programmers who are compensated at a rate not less than \$27.63 (or on a salary or fee basis at a rate not less than \$455 per week) an hour would likely qualify as exempt computer professionals, (29 C.F.R. 541.400) wage rates may not be listed on this wage determination for all occupations within those job families. In addition, because this wage determination may not list a wage rate for some or all occupations within those job families if the survey data indicates that the prevailing wage rate for the occupation equals or exceeds \$27.63 per hour conformances may be necessary for certain nonexempt employees. For example, if an individual employee is nonexempt but nevertheless performs duties within the scope of one of the Computer Systems Analyst or Computer Programmer occupations for which this wage determination does not specify an SCA wage rate, then the wage rate for that employee must be conformed in accordance with the conformance procedures described in the conformance note included on this wage determination.

Additionally, because job titles vary widely and change quickly in the computer industry, job titles are not determinative of the application of the computer professional exemption. Therefore, the exemption applies only to computer employees who satisfy the compensation requirements and whose primary duty consists of:

(1) The application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software or system functional specifications;

(2) The design, development, documentation, analysis, creation, testing or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications;

(3) The design, documentation, testing, creation or modification of computer programs related to machine operating systems; or

(4) A combination of the aforementioned duties, the performance of which requires the same level of skills. (29 C.F.R. 541.400).

2) AIR TRAFFIC CONTROLLERS AND WEATHER OBSERVERS - NIGHT PAY & SUNDAY PAY: If you work at night as part of a regular tour of duty, you will earn a night differential and receive an additional 10% of basic pay for any hours worked between 6pm and 6am. If you are a full-time employed (40 hours a week) and Sunday is part of your regularly scheduled workweek, you are paid at your rate of basic pay plus a Sunday premium of 25% of your basic rate for each hour of Sunday work which is not overtime (i.e. occasional work on Sunday outside the normal tour of duty is considered overtime work).

** HAZARDOUS PAY DIFFERENTIAL **

An 8 percent differential is applicable to employees employed in a position that represents a high degree of hazard when working with or in close proximity to ordnance, explosives, and incendiary materials. This includes work such as screening, blending, dying, mixing, and pressing of sensitive ordnance, explosives, and pyrotechnic compositions such as lead azide, black powder and photoflash powder.

All dry-house activities involving propellants or explosives. Demilitarization, modification, renovation, demolition, and maintenance operations on sensitive ordnance, explosives and incendiary materials. All operations involving re-grading

and cleaning of artillery ranges.

A 4 percent differential is applicable to employees employed in a position that represents a low degree of hazard when working with, or in close proximity to ordnance, (or employees possibly adjacent to) explosives and incendiary materials which involves potential injury such as laceration of hands, face, or arms of the employee engaged in the operation, irritation of the skin, minor burns and the like; minimal damage to immediate or adjacent work area or equipment being used. All operations involving, unloading, storage, and hauling of ordnance, explosive, and incendiary ordnance material other than small arms ammunition. These differentials are only applicable to work that has been specifically designated by the agency for ordnance, explosives, and incendiary material differential pay.

**** UNIFORM ALLOWANCE ****

If employees are required to wear uniforms in the performance of this contract (either by the terms of the Government contract, by the employer, by the state or local law, etc.), the cost of furnishing such uniforms and maintaining (by laundering or dry cleaning) such uniforms is an expense that may not be borne by an employee where such cost reduces the hourly rate below that required by the wage determination. The Department of Labor will accept payment in accordance with the following standards as compliance:

The contractor or subcontractor is required to furnish all employees with an adequate number of uniforms without cost or to reimburse employees for the actual cost of the uniforms. In addition, where uniform cleaning and maintenance is made the responsibility of the employee, all contractors and subcontractors subject to this wage determination shall (in the absence of a bona fide collective bargaining agreement providing for a different amount, or the furnishing of contrary affirmative proof as to the actual cost), reimburse all employees for such cleaning and maintenance at a rate of \$3.35 per week (or \$.67 cents per day). However, in those instances where the uniforms furnished are made of "wash and wear" materials, may be routinely washed and dried with other personal garments, and do not require any special treatment such as dry cleaning, daily washing, or commercial laundering in order to meet the cleanliness or appearance standards set by the terms of the Government contract, by the contractor, by law, or by the nature of the work, there is no requirement that employees be reimbursed for uniform maintenance costs.

**** SERVICE CONTRACT ACT DIRECTORY OF OCCUPATIONS ****

The duties of employees under job titles listed are those described in the "Service Contract Act Directory of Occupations", Fifth Edition (Revision 1), dated September 2015, unless otherwise indicated.

**** REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND WAGE RATE, Standard Form 1444 (SF-1444) ****

Conformance Process:

The contracting officer shall require that any class of service employee which is not listed herein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination), be classified by the contractor so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination (See 29 CFR 4.6(b)(2)(i)). Such conforming procedures shall be initiated by the contractor prior to the performance of contract work by such unlisted class(es) of employees (See 29 CFR 4.6(b)(2)(ii)). The Wage and Hour Division shall make a final determination of conformed classification, wage rate, and/or fringe benefits which shall be paid to all employees performing in the classification from the first day of work on which contract work is performed by them in the classification. Failure to pay such unlisted employees the compensation agreed upon by the interested parties and/or fully determined by the Wage and Hour Division retroactive to the date such class of employees commenced contract work shall be a violation of the Act and this contract. (See 29 CFR 4.6(b)(2)(v)). When multiple wage determinations are

included in a contract, a separate SF-1444 should be prepared for each wage determination to which a class(es) is to be conformed.

The process for preparing a conformance request is as follows:

- 1) When preparing the bid, the contractor identifies the need for a conformed occupation(s) and computes a proposed rate(s).
- 2) After contract award, the contractor prepares a written report listing in order the proposed classification title(s), a Federal grade equivalency (FGE) for each proposed classification(s), job description(s), and rationale for proposed wage rate(s), including information regarding the agreement or disagreement of the authorized representative of the employees involved, or where there is no authorized representative, the employees themselves. This report should be submitted to the contracting officer no later than 30 days after such unlisted class(es) of employees performs any contract work.
- 3) The contracting officer reviews the proposed action and promptly submits a report of the action, together with the agency's recommendations and pertinent information including the position of the contractor and the employees, to the U.S. Department of Labor, Wage and Hour Division, for review (See 29 CFR 4.6(b)(2)(ii)).
- 4) Within 30 days of receipt, the Wage and Hour Division approves, modifies, or disapproves the action via transmittal to the agency contracting officer, or notifies the contracting officer that additional time will be required to process the request.
- 5) The contracting officer transmits the Wage and Hour Division's decision to the contractor.
- 6) Each affected employee shall be furnished by the contractor with a written copy of such determination or it shall be posted as a part of the wage determination (See 29 CFR 4.6(b)(2)(iii)).

Information required by the Regulations must be submitted on SF-1444 or bond paper.

When preparing a conformance request, the "Service Contract Act Directory of Occupations" should be used to compare job definitions to ensure that duties requested are not performed by a classification already listed in the wage determination. Remember, it is not the job title, but the required tasks that determine whether a class is included in an established wage determination. Conformances may not be used to artificially split, combine, or subdivide classifications listed in the wage determination (See 29 CFR 4.152(c)(1)).

Attachment G

EEO Policy Statement

CONTRACTOR'S LETTERHEAD

EQUAL EMPLOYMENT OPPORTUNITY (EEO) POLICY STATEMENT

_____ SHALL NOT DISCRIMINATE AGAINST ANY EMPLOYEE OR APPLICANT FOR EMPLOYMENT BECAUSE OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS.

_____ AGREES TO AFFIRMATIVE ACTION TO ENSURE THAT APPLICANTS ARE EMPLOYED, AND THAT EMPLOYEES ARE TREATED DURING EMPLOYMENT WITHOUT REGARD TO THEIR ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. THE AFFIRMATIVE ACTION SHALL INCLUDE, BUT NOT BE LIMITED TO THE FOLLOWING: (A) EMPLOYMENT, UPGRADING, OR TRANSFER; (B) RECRUITMENT OR RECRUITMENT ADVERTISING; (C) DEMOTION, LAYOFF, OR TERMINATION; (D) RATES OF PAY, OR OTHER FORMS OR COMPENSATION; AND (E) SELECTION FOR TRAINING AND APPRENTICESHIP.

_____ AGREES TO POST IN CONSPICUOUS PLACES THE PROVISIONS CONCERNING NON-DISCRIMINATION AND AFFIRMATIVE ACTION.

_____ SHALL STATE THAT ALL QUALIFIED APPLICANTS WILL RECEIVE CONSIDERATION FOR EMPLOYMENT PURSUANT TO SUBSECTION 1103.2 THROUGH 1103.10 OF MAYOR'S ORDER 85-85; "EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS IN CONTRACTS."

_____ AGREES TO PERMIT ACCESS TO ALL BOOKS PERTAINING TO ITS EMPLOYMENT PRACTICES, AND TO REQUIRE EACH SUBCONTRACTOR TO PERMIT ACCESS TO BOOKS AND RECORDS.

_____ AGREES TO COMPLY WITH ALL GUIDELINES FOR EQUAL EMPLOYMENT OPPORTUNITY APPLICABLE IN THE DISTRICT OF COLUMBIA.

_____ SHALL INCLUDE IN EVERY SUBCONTRACT THE EQUAL OPPORTUNITY CLAUSES, SUBSECTION 1103.2 THROUGH 1103.10 SO THAT SUCH PROVISIONS SHALL BE BINDING UPON EACH SUBCONTRACTOR OR VENDOR.

AUTHORIZED OFFICIAL AND TITLE

DATE

AUTHORIZED SIGNATURE NAME

FIRM/ORGANIZATION

CONTRACTOR'S LETTERHEAD

ASSURANCE OF COMPLIANCE WITH EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS MAYOR'S ORDER 85-85, EFFECTIVE JUNE 10, 1985, AND THE RULES IMPLEMENTING MAYORS ORDER 85-85, 33 DCR 4952, (PUBLISHED AUGUST 15, 1986), "ON COMPLIANCE WITH EQUAL OPPORTUNITY REQUIREMENTS IN DISTRICT GOVERNMENT CONTRACTS," ARE HEREBY INCLUDED AS PART OF THIS BID/PROPOSAL. THEREFORE, EACH BIDDER/OFFEROR SHALL INDICATE BELOW THEIR WRITTEN COMMITMENT TO ASSURE COMPLIANCE WITH MAYOR'S ORDER 85-85 AND THE IMPLEMENTING RULES. FAILURE TO COMPLY WITH THE SUBJECT MAYOR'S ORDER AND THE IMPLEMENTING RULES SHALL RESULT IN REJECTION OF THE RESPECTIVE BID/PROPOSAL.

I, _____, THE AUTHORIZED REPRESENTATIVE OF _____, HEREINAFTER REFERRED TO AS "THE CONTRACTOR," CERTIFY THT THE CONTRATOR IS FULLY AWARE OF ALL OF THE PROVISIONS OF MAYOR'S ORDER 85-85, EFFECTIVE JUNE 10, 1985, AND OF THE RULES IMPLEMENTING MAYOR'S ORDER 85-85, 33 DCR 4952. I FURTHER CERTIFY AND ASSURE THAT THE CONTRACTOR WILL FULLY COMPLY WITH ALL APPLICABLE PROVISIONS OF THE MAYOR'S ORDER AND IMPLEMENTING RULES IF AWARDED THE D.C. GOVERNMENT REFERENCED BY THE CONTRACT NUMBER ENTERED BELOW. FURTHER, THE CONTRACTOR ACKNOWLEDGES AND UNDERSTANDS THAT THE AWARD OF SAID CONTRACT AND ITS CONTINUATION ARE SPECIFICALLY CONDITIONED UPON THE CONTRACTOR'S COMPLIANCE WITH THE ABOVE-CITED ORDER AND RULES.

CONTRACTOR

NAME

SIGNATURE

TITLE

CONTRACT NUMBER

DATE

EQUAL EMPLOYMENT OPPORTUNITY EMPLOYER INFORMATION REPORT

GOVERNMENT OF THE DISTRICT OF COLUMBIA DC Office of Contracting and Procurement Employer Information Report (EEO)	Reply to: Office of Contracting and Procurement 441 4th Street, NW, Suite 700 South Washington, DC 20001 Washington, DC 20001				
Instructions: Two (2) copies of DAS 84-404 or Federal Form EEO-1 shall be submitted to the Office of Contracting and Procurement. One copy shall be retained by the Contractor.					
Section A – TYPE OF REPORT					
1. Indicate by marking in the appropriate box the type of reporting unit for which this copy of the form is submitted (MARK ONLY ONE BOX)					
Single Establishment Employer (1) . Single-establishment Employer Report	Multi-establishment Employer: (2) <input type="checkbox"/> Consolidated Report (3) <input type="checkbox"/> Headquarters Report (4) <input type="checkbox"/> Individual Establishment Report (submit one for each establishment with 25 or more employees) (5) <input type="checkbox"/> Special Report				
1. Total number of reports being filed by this Company. _____					
Section B – COMPANY IDENTIFICATION (To be answered by all employers) OFFICIAL					
OFFICIAL USE ONLY					
1. Name of Company which owns or controls the establishment for which this report is filed					
a.					
Address (Number and street)	City or Town	Country	State	Zip Code	b.
b. Employer Identification No.					
2. Establishment for which this report is filed.		OFFICIAL USE ONLY			
a. Name of establishment		c.			
Address (Number and street)	City or Town	Country	State	Zip Code	d.
b. Employer Identification No.					
3. Parent of affiliated Company		OFFICIAL USE ONLY			
a. Name of parent or affiliated Company	b. Employer Identification No.				
Address (Number and street)	City or Town	Country	State	Zip Code	
Section C - ESTABLISHMENT INFORMATION					
1. Is the location of the establishment the same as that reported last year?		2. Is the major business activity at this establishment the same as that reported last year?		OFFICIAL USE ONLY	
Yes	No	Did not report last year	Report on combined basis	No report last year	Reported on combined
basis					
2. What is the major activity of this establishment? (Be specific, i.e., manufacturing steel castings, retail grocer, wholesale plumbing supplies, title insurance, etc. Include the specific type of product or service provided, as well as the principal business or industrial activity.					e.
3. MINORITY GROUP MEMBERS: Indicate if you are a minority business enterprise (50% owned or 51% controlled by minority members).					
Yes			No		

SECTION D – EMPLOYMENT DATA

Employment at this establishment – Report all permanent, temporary, or part-time employees including apprentices and on-the-job trainees unless specifically excluded as set forth in the instructions. Enter the appropriate figures on all lines and in all columns. Blank spaces will be considered as zero. *In columns 1, 2, and 3, include ALL employees in the establishment Including those in minority groups*

JOB CATEGORIES	TOTAL EMPLOYEES IN ESTABLISHMENT			MINORITY GROUP EMPLOYEES								
	Total Employees Including Minorities (1)	Total Male Including Minorities (2)	Total Female Including Minorities (3)	MALE				FEMALE				
				Black (4)	Asian (5)	American Indian (6)	Hispanic (7)	Black (8)	Asian (9)	American Indian (10)	Hispanic (11)	
Officials and Managers												
Professionals												
Technicians												
Sales Workers												
Office and Clerical												
Craftsman (Skilled)												
Operative (Semi-Skilled)												
Laborers (Unskilled)												
Service Workers												
TOTAL												
Total employ reported in previous report												
(The trainee below should also be included in the figures for the appropriate occupation categories above)												
Formal On-The-Job Trainee	White collar	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
	Production											
1. How was information as to race or ethnic group in Section D obtained? a. Visual Survey c. Other Specify _____ b. Employment Record _____						2. Dates of payroll period used _____ 3. Pay period of last report submitted for this establishment. _____						
Section E – REMARKS Use this Item to give any identification data appearing on last report which differs from that given above, explain major changes in composition or reporting units, and other pertinent information.												
Section F - CERTIFICATION												
Check 1. > All reports are accurate and were prepared in accordance with the instructions (check on consolidated only) One 2. > This report is accurate and was prepared in accordance with the instructions.												
Name of Authorized Official			Title			Signature			Date			
Name of person contact regarding This report (Type of print)			Address (Number and street)									
Title			City and State			Zip Code		Telephone Number		Extension		

INFORMATION CITED HEREIN SHALL BE HELD IN CONFIDENCE.

SOLICITATION NO: _____

PROJECTED GOALS AND TIMETABLES FOR FUTURE HIRING

MINORITY GROUP EMPLOYEES GOALS					TIMETABLES				
JOB CATEGORIES	MALE				FEMALE				
	Black	Asian	American Indian	Hispanic	Black	Asian	American Indian	Hispanic	
Officials and Managers									
Professionals									
Technicians									
Sales Workers									
Office and Clerical									
Craftsman (Skilled)									
Operative (Semi-Skilled)									
Laborers (Unskilled)									
Service Workers									
TOTAL									
NAME OF AUTHORIZED OFFICIAL:				TITLE:			SIGNATURE:		
FIRM NAME:						TELEPHONE NO:		DATE:	
INDICATE IF THE PRIME UTILIZES A "MINORITY FINANCIAL INSTITUTION" _____ Yes _____ No NAME: ADDRESS: TYPE OF ACCOUNT/S:									

Attachment H

Standard Form 330

Attachment I

Standard Contract Provisions (Architectural & Engineering Services Contracts)

District of Columbia District of General Services
Standard Contract Provisions

GENERAL PROVISIONS

(Architectural & Engineering Services Contract)

ARTICLE 1. DEFINITIONS

- A. "Contracting Officer" as used herein means the District official authorized to execute and administrate the Contract on behalf of the District. Within DGS, the Director is the Chief Contracting Officer. The Director may make delegations of procurement authority to additional contracting officers within DGS.
- B. "District" as used herein means the District of Columbia District of General Services, (DGS), a party to the Contract.
- C. "Architect-Engineer" means the individual, individuals, and or firm identified as the "Architect-Engineer" In the preamble of a contract.
- D. "Agreement" shall also mean "Contract" and vice versa and shall include any Addenda, Contract Form, Standard Contract Provisions, Instructions to Bidders, General Provisions, Labor Provisions, Performance and Payment Bonds, Specifications, Special Provisions, Contract Drawings, manufacturer's specifications, industry standards, Contract Documents, approved written Change Orders and Agreements required to acceptably complete the Contract, including authorized extensions thereof.

ARTICLE 2. GENERAL

- A. The Contracting Officer shall have authority to take any action provided for herein on behalf of the District, including approval, certifications, vouchers, acceptance and changes within the scope of work.
- B. The Architect-Engineer's period of performance shall commence on the effective date as agreed and as specified in the scope of work or in each task order issued by the Contracting Officer and ends on the date all required services are satisfactorily completed and products delivered.
- C. All work shall be prosecuted under the full time direction of a principal officer or responsible representative of the Architect-Engineer, approved by the Contracting Officer. The design of architectural, structural, mechanical, plumbing, electrical, or other engineering features of the work shall be accomplished and/or reviewed and certified by architects or engineers registered to practice in the District of Columbia in the particular professional field involved.
- D. The Architect-Engineer shall furnish sufficient technical, supervisory and administrative personnel to insure the efficient prosecution of the work in accordance with the approved Project Schedule.
- E. The Architect-Engineer agrees that duly authorized representatives of the District shall have access at all reasonable times, to inspect and make copies of all notes, designs, drawings, specifications or other technical or non-technical data including but not limited to payroll of personnel on this Contract pertaining to the work to be performed under the Contract.

ARTICLE 3. PROGRESS SCHEDULES AND REPORTS

- A. **Generally.** In addition to the requirements set forth in the Scope of Work and to the requirements set forth elsewhere in the Contract, the Architect-Engineer shall furnish progress reports monthly, biweekly and with each payment request, describing accomplishments,

decisions and overall progress made during the period covered by the report and including the most recent Project Schedule and as set forth in more detail in this Article 3.

- B. Monthly Reports.** The Architect-Engineer shall provide written reports to the District, at a minimum on a monthly basis, on the progress of the entire Work, including, but not limited to, a baseline schedule and schedule updates with narrative demonstrating the critical path of the Work in Primavera format in the latest available version or as designated by the Contracting Officer. The monthly written reports shall also include, at a minimum, Work accomplished, problems encountered, cost updates, an economic inclusion report, cash flow updates, quality assurance reports and other similar relevant data as the District may reasonably require.
- C. Biweekly Updates.** The Architect-Engineer shall also provide written update reports to the District on a biweekly basis which shall reflect actual conditions of Project progress as of the date of the update. The update shall reflect the actual progress of designs or construction, as the case may be, identify developing delays, regardless of their cause, and reflect the Architect-Engineer's best projection of the actual date by which Substantial Completion and Final Completion of the Project will be achieved. Via a narrative statement (not merely a critical path method schedule), the Architect-Engineer shall identify the causes of any potential delay and state what, in the Architect-Engineer's judgment, must be done to avoid or reduce that delay. The Architect-Engineer shall point out, in its narrative, changes that have occurred since the last update, including those related to major changes in the scope of 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. Any significant variance from the previous schedule or update shall also be identified in a narrative, together with the reasons for the variance and its impact on Project completion. All schedule updates shall be in the latest version of Primavera format and reasonably acceptable to the District. The District may make reasonable requests during the Project for changes to the format or for further explanation of information provided. Submission of updates showing that Substantial Completion or Final Completion of the Project will be achieved later than the applicable scheduled completion date shall not constitute requests for extension of time and shall not operate to change the scheduled completion date. The District's receipt of, and lack of objection to, any schedule update showing Substantial Completion or Final Completion later than the dates agreed upon shall not be regarded as the District's agreement that the Architect-Engineer may have an extension of time, or as a waiver of any of the District's rights, but merely as the Architect-Engineer's representation that, as a matter of fact, Substantial Completion or Final Completion of the Project may not be completed by the agreed upon date. Changes to the scheduled completion dates may be made only in the circumstances and only by the methods set forth in the Contract.
- D. Condition Precedent to Payment.** All payments to Architect-Engineer are contingent upon satisfactory performance of the terms and conditions set forth in the Contract as determined by the Contracting Officer. Requisitions for payment shall be accompanied by a Project Progress Report which shall include the information set forth in this Article 3 and a statement indicating the percentage of completion of all required services for the Project.

ARTICLE 4. RESPONSIBILITY OF THE ARCHITECT-ENGINEER

- A. Quality.** The Architect-Engineer shall be responsible for the professional quality, technical accuracy and the coordination of all designs, drawing, specifications, and other services

furnished. The Architect-Engineer shall, without additional compensation correct or revise any errors or deficiencies in his designs, drawings, specification and other services.

- B. Scope of Work.** The Architect-Engineer shall accomplish the design services required pursuant to the scope of work or under each task order. These services shall include but not limited to the services required to enable the District to award the related construction contract pursuant to standard District procedures, for the construction of the facilities designed at a price that does not exceed the estimated construction contract price set forth in the Contract.
1. If bids or proposals are not solicited within 180 days following the District's acceptance of the services to be provided under the scope of work or task order, shall prepare an estimate of constructing the design submitted and such estimate will be used in lieu of bids or proposals to determine compliance with the funding limitation.
 2. If the bids or proposals for the construction contract received exceed such estimated price, the Architect-Engineer shall perform such redesign and other services as are necessary to permit contract award within such funding limitation. Such redesign services shall be performed at no increase in the price of the Contract. However, the Architect-Engineer shall not be required to perform such additional services at no cost to the District, if the unfavorable bids or proposals are the results of unforeseeable causes beyond the control and without the fault and negligence of the Architect-Engineer.
- C. Designing to Budget.** The Architect-Engineer shall promptly advise the Contracting Officer if the Architect-Engineer finds that the Project design will exceed or is likely to exceed the funding limitations and the Architect-Engineer is unable to design a usable facility within these limitations. Upon receipt of such information, the Contracting Officer will review the Architect-Engineer's revised estimate of construction cost. The Contracting Officer may, if he determines that the estimated construction contract price set forth in the scope of work or task order is so low that award of a construction contract not in excess of such estimate is improbable, authorize a change in scope of materials as required to reduce the estimated construction cost to an amount within the estimated construction contract price set forth elsewhere in the Contract or he may adjust such estimated construction contract price.
- D. Project Management and Inspection Entity.** In the event the Contract requires the Architect-Engineer to provide construction period services, the Architect-Engineer shall also, at intervals of no less than once per week, be responsible for:
1. *Visits to Site and Observation of Construction.* An Architect-Engineer representative who is knowledgeable of the Project and competent in each discipline which has trade activities and stages of construction being performed shall visit the site at intervals to observe as an experienced and qualified design professional the progress and quality of the various aspects of the contractor's Work. Based on information obtained during such visits and on such observations, the Architect-Engineer shall endeavor to determine whether such Work is proceeding in accordance with the Contract Documents and shall keep the District informed of the general progress of the Work in relation to the overall schedule. The Architect-Engineer shall document the site visit in writing and shall submit his findings in accordance with the report requirements set forth in Article 3 herein.

2. *Inspections of Work in Progress by the Architect-Engineer.* During his periodic visits to the Site to observe the Work in progress, the Architect-Engineer shall, as a minimum, spot check the Work installed and the Work in progress to determine compliance with the requirements of the Contract Documents and the codes and installation/workmanship standards listed therein. Defective and noncompliant Work shall be noted in the Architect-Engineer's reports and pointed out to the Contracting Officer and Program Manager. The Architect-Engineer shall identify for the Project Manager any specific checks or inspections to be made. The results of these inspections shall be made a part of the Project's daily log and reports. The Architect-Engineer shall document the inspection in writing.
 3. *Supplemental Inspections and Tests.* For Work not in compliance with the Contract Documents, the Architect-Engineer shall, with the agency's approval, require additional or supplemental inspection or testing. The Architect-Engineer shall receive and review all certificates of inspections, tests and approvals required by laws, rules, regulations, ordinances, codes, orders or the Contract Documents and shall determine whether their content complies with the requirements of each. The Architect-Engineer shall also determine whether the results certified indicate compliance with the Contract Documents. The Architect-Engineer shall document the inspection in writing.
 4. *Defective Work.* During its site visits and based on its observation during such visits, the Architect-Engineer may disapprove or reject contractor's Work, or any portion thereof, while the Work is in progress if Architect-Engineer believes that such Work does not conform to the Contract Documents, including the approved shop drawings or other submittals. The Architect-Engineer may also recommend that the District reject any Work which it believes will not result in a completed Project that conforms generally to the Contract Documents or that it believes will prejudice the integrity of the design as reflected in the Contract Documents. The Architect-Engineer shall document the Defective Work in writing.
- E. Code and Regulatory Compliance.** The Architect-Engineer is responsible for designing the project and administering the construction phase of the Project in accordance with applicable District of Columbia Codes and other regulatory requirements applicable to the Project. Nothing contained herein shall be construed as relieving any Architect-Engineer, professional design consultant, contractor, supplier or any other participant from any professional or legal responsibility for performance. Reviews, comments and approvals by the District of General Services and its Divisions, or any employee or official of the District, in no way absolve any other person, firm or corporation involved in the Project from their full responsibilities under the applicable laws, codes and professional practice as required in projects for the District of Columbia. Lack of comment by a District of Columbia reviewer does not relieve the Architect-Engineer from designing to meet the applicable Code or Architect-Engineer Manual requirements or applicable regulations related to water, sewer, fire department service, and other utilities.
1. *Additional Costs.* If the correction of a Code or regulatory violation results in a Change Order during construction, any additional costs incurred shall be borne by the party responsible for the violation. The District shall bear only the costs attributable to the actual Code or regulation-required enhancement of the Project.
 2. *Code Interpretation.* If the Architect-Engineer believes that a Code or a regulation is unclear as to meaning, he shall request a written opinion as to the applicable interpretation

from the applicable regulatory agency, as appropriate. The Architect-Engineer shall be entitled to rely on the written opinion, if any, which he receives.

- F. As-Built Drawings.** At completion of the Project, the Architect-Engineer shall prepare a full set of record drawings showing the "as-built" condition of the Project and including the locations of all utilities based on his own records and upon information supplied by the Construction Manager or Design-Builder on which the Architect-Engineer may rely. These drawings will consist of the original working drawings and the original of supplemental drawings and details modified to show the "as built" conditions both in paper, tracings, and electronic media. "As-built" drawings shall be turned over to the District as a condition precedent to Substantial Completion; final payment of the Architect-Engineer's fees shall not be due until the building is accepted by the District, the final Application for Payment is made to, in acceptable form, and accepted by the District, and record drawings and "as-built" drawings in the form of paper, tracings, and electronic media in the form of Compact Discs in latest version of AutoCAD. The District reserves the right to occupy the building, or portions thereof, prior to final acceptance.
- G. No Waiver.** Neither the District's review, approval or acceptance of, nor payment for, any of the services required under this Contract shall be construed to operate as a waiver or any rights under this Contract or of any cause of action arising out of the performance of this agreement, and the Architect-Engineer shall be and remain liable to the District in accordance with applicable law for all damages to the District caused by the Architect-Engineer's negligent or intentionally wrongful act, omission or default while performing any of the services under this Contract.
- H. Remedies Inclusive.** The rights and remedies of the District provided for under the contract are in addition to any other rights and remedies provided by law.

ARTICLE 5. PAYMENTS

- A. Invoices.** The Architect-Engineer shall submit an invoice to the District along with District-required documentation. The invoice shall generally itemize the various phases or parts of the Total Contract Amount, the value of the various phases or parts, the previously invoiced and approved amounts for payment, and the amount of the current invoice. The invoice shall also include a certification statement signed by the Architect-Engineer stating that the Architect-Engineer has paid its consultants, subcontractors and suppliers their individual proportional share of all previous payments, including interest, received from the District. Invoices for reimbursables shall include documentation of costs for which reimbursement is sought. Invoices for Architect-Engineer Services being performed on an hourly rate basis shall show the technical classifications, names of the persons performing the Architect-Engineer Services, man hours expended, marked up hourly rates for the classification, and the extended cost amount.
- B. Invoice Disputes.** Unless there is a dispute about the compensation due the Architect-Engineer including, but not limited to, claims by the District against the Architect-Engineer, then within thirty (30) days after receipt by the District of the Architect-Engineer's acceptable invoice, which shall be considered the invoice receipt date, the District shall pay to the Architect-Engineer the amount approved less any retainage and less any prior payments or advances made to Architect-Engineer. The date on which payment is due shall be referred to as the Payment Date.

- C. Frequency.** Invoices prepared the Architect-Engineer relating to the amount and value of work and services performed by the Architect-Engineer under the Contract shall be made periodically (not more often than monthly) and sent to the District for payment, accompanied by such documentation and supporting data as may be required by the Contracting Officer.
- D. Retainage.** Upon approval of such invoice amounts by the Contracting Officer and presentation of proper documentation by the Architect-Engineer, payment of the invoice amount as determined above less agreed upon retainage and all previous payments shall be made as soon as practicable. Unless otherwise provided for in the Contract the retained payment percentage shall be 5%, provided, however, that if the Contracting Officer determines that the work is Substantially Complete and that the amount of retained percentages is in excess of the amount considered by him to be adequate for the protection of the District, he may in his discretion release to the Architect-Engineer such excess amount.
- E. Final Payment.** Upon the satisfactory completion of the Work and formal notification of its final acceptance by the Contracting Officer, the Architect-Engineer shall be paid the unpaid balance of any money due hereunder, including retained percentages. Prior to such final payment under the Contract or prior to settlement upon termination of the Contract and as a condition precedent thereto, the Architect-Engineer shall execute and deliver to the Contracting Officer a release of all claims against the District arising under or by virtue of the Contract other than such claims, if any, as may be specifically excepted by the Architect-Engineer from the operation of the release in stated amounts to be set forth therein.
- F. Document Ownership.** All drawings, designs, specifications, architectural designs of buildings and structures, notes and other Architect-Engineer Work produced in the performance of this contract, or in contemplation thereof, and all as-built drawings produced after completion of the work shall be and remain the sole property of the District and may be used on any other work without additional cost to the District. With respect thereto the Architect-Engineer agrees not to assert any rights or to establish any claim under the design patent or copyright laws and not to publish or reproduce such matter in whole or in part or in any manner or form or authorize others so to do without the written consent of the District, until such time as the District may have released such matter to the public. Further, with respect to any architectural design which the District desires to protect by applying for and prosecuting a design patent application or otherwise, the Architect-Engineer agrees to furnish the Contracting Officer such duly executed instruments and other papers (prepared by the District) as are deemed necessary to vest in the District the rights granted it under this clause. The Architect-Engineer agrees to furnish and provide access to the originals or copies of all such materials on the request of the Contracting Officer for a period of three (3) years after completion for the project.
- G. Corrections of Work Post-Payment.** Notwithstanding the acceptance and approval by the District of any Services performed or Materials provided, the Architect-Engineer shall be responsible for the professional quality, technical accuracy and the coordination of all Materials, and Services furnished by the Architect-Engineer under the Contract. The Architect-Engineer shall, without additional compensation, correct or revise any errors or deficiencies or omissions in the Architect-Engineer's Materials and Services.
- H. Payment Not Waiver.** The District's review, approval or acceptance of, or payment for, any of the Materials and Services required under the Contract shall not constitute any representation, warranty or guaranty by the District as to the substance or quality of the matter reviewed,

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

- I. **Errors and Omissions.** Without limiting the Architect-Engineer's responsibility set forth above, such responsibility, by way of illustration shall include the following: If any error or omission in the Construction Documents submitted by the Architect-Engineer requires a change in the Scope of Services or any portion thereof, the Architect-Engineer shall promptly complete such change at no additional cost to the District.
- J. **Compensation Disputes.** Disputes regarding the compensation due the Architect-Engineer may include, but are not limited to, the amount due, the value or percentage of the Architect-Engineer Services completed, defects or deficiencies in the Architect-Engineer Services, quality of the Architect-Engineer Services, compliance with the Contract Documents, completion itself, or negligent performance of professional services on the part of the Architect-Engineer. In the event of disputes, payment shall be mailed on or before the Payment Date for amounts and Architect-Engineer Services not in dispute, subject to any setoffs claimed by the District.
- K. **Adjustments.** All prior payments, whether based on estimates or otherwise, may be corrected and adjusted in any payment and shall be corrected and adjusted in the final payment. In the event that any invoice by the Architect-Engineer contains a defect or impropriety which would prevent payment by the Payment Date, the District shall notify the Architect-Engineer in writing of such defect or impropriety within ten (10) days after the invoice receipt date. Any disputed amounts determined by the District to be payable to the Architect-Engineer shall be due thirty (30) days from the date the dispute is resolved.
- L. **Payments to Subcontractors.** The Architect-Engineer shall make a payment to each of its Consultants, Subcontractors and Suppliers, not later than seven (7) calendar days after receipt of amounts paid to the Architect-Engineer by the District, in an amount equal to the proportionate share of the total payment, including any interest, received from the District attributable to the Architect-Engineer Services performed by Consultants and Subcontractors and materials furnished by Suppliers less a retainage of not more than five percent (5%), said retainage being the same money, not additional money, retained by the District from the payment to the Architect-Engineer.

ARTICLE 6. CHANGES

- A. **Generally.** The Contracting Officer may at any time by written order make changes to the scope of services to be performed under each task order. If such changes cause an increase or decrease in the Architect-Engineer's cost of or time required for performance of any service under the Contract, upon approval of the Contracting Officer, an equitable adjustment shall be made and the Contract shall be modified in writing by the Contracting Officer accordingly. Any claim of the Architect-Engineer for adjustment under this clause must be made in writing to the Contracting Officer within ten (10) days from the date of receipt by the Architect-Engineer of the

notification of change unless the Contracting Officer grants a further period of time before the date of final payment under this contract. If the Architect-Engineer requests changes to the Scope of Services, the Architect-Engineer must demonstrate to the satisfaction of the District that the changes are necessary and not due to the acts or omissions of the Architect-Engineer. Generally, the time of performance of the Contract and/or any task order may be extended for the administrative convenience of the District or for other purposes whenever the Contracting Officer determines such action will not be a cause for additional fee or other related cost.

- B. Additional Compensation.** Compensation to the Architect-Engineer beyond the monetary limits set forth in the Contract shall only be made if and when a Change Order to the Contract is duly executed by the Parties. Nothing herein shall limit the District's ability to make changes to the Contract unilaterally.
- C. Designated Change Orders.** The Contracting Officer may, at any time, without notice to the sureties, by written order designated or indicated to be a change order, make any change in the work within the general scope of the Contract, including but not limited to changes
1. In the Contract drawings and specifications;
 2. In the method or manner of performance of the work;
 3. In the District furnished facilities, equipment, materials or services; or
 4. Directing acceleration in the performance of the work.

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

- D. Other Change Orders.** Any other written order or an oral order (which term as used in this Section shall include direction, instruction, interpretation, or determination) from the Contracting Officer which causes any such change, shall be treated as a Change Order under this Article, provided that the Architect-Engineer gives the Contracting Officer written notice stating the date, circumstances and sources of the order and that the Architect-Engineer regards the order as a Change Order.
- E. General Requirements.** Except as herein provided, no order, statement or conduct of the Contracting Officer shall be treated as a change under this Article or entitle the Architect-Engineer to an equitable adjustment hereunder. If any change under this Article causes an increase or decrease in the Architect-Engineer's cost of, or the time required for, the performance of any part of the work under this Contract whether or not changed by any order, an equitable adjustment shall be made and the Contract modified in writing accordingly; provided, however, that except for claims based on defective specifications, no claim for any change under (B) above shall be allowed for any cost incurred more than 20 days before the Architect-Engineer gives written notice as therein required unless this 20 days is extended by the Contracting Officer and provided further, that in case of defective drawings and specifications, the equitable adjustment shall include any increased cost reasonably incurred by the Architect-Engineer in attempting to comply with such defective drawings and specifications.
1. If the Architect-Engineer intends to assert a claim for an equitable adjustment under this Article, he must, within 30 days after receipt of a written Change Order under (A) above or

the furnishing of a written notice under (D) above, submit to the Contracting Officer a written statement setting forth the general nature and monetary extent of such claim, unless this period is extended by the Contracting Officer. The statement of claim hereunder may be included in the notice under (D) above.

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

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

1. Where Contract prices are not appropriate and the nature of the change is known in advance of construction, the parties shall attempt to agree on a fully justifiable price adjustment and/or adjustment of completion time.
2. When Contract prices are not appropriate, or the parties fail to agree on equitable adjustment, or in processing claims, equitable adjustment for Change Order work shall be per this Article and Article 7 and shall be based upon the breakdown shown in following subsections a) through g). The Architect-Engineer shall assemble a complete cost breakdown that lists and substantiates each item of work and each item of cost.
 - a) *Labor*—Payment will be made for direct labor cost plus indirect labor cost such as insurance, taxes, fringe benefits and welfare provided such costs are considered reasonable by the District. Indirect costs shall be itemized and verified by receipted invoices. If verification is not possible, up to 18 percent of direct labor costs may be allowed. In addition, up to 20 percent of direct plus indirect labor costs may be allowed for overhead and profit.
 - b) *Bond*—Payment for additional bond cost will be made per bond rate schedule submitted to the District with the executed Contract.
 - c) *Materials*—Payment for cost of required materials will be F.O.B. destination (the job site) with an allowance for overhead and profit.
 - d) *Rented Equipment*—Payment for required equipment rented from a third party company that is neither an affiliate of, nor a subsidiary of, the Architect-Engineer will be based on receipted invoices which shall not exceed rates given in the current edition of the Rental Rate Blue Book for Construction Equipment published by Data Quest. If actual rental rates exceed manual rates, written justification shall be furnished to the Contracting Officer for consideration. No additional allowance will be made for overhead and profit. The Architect-Engineer shall submit written certification to the Contracting Officer that any required rented equipment is neither owned by nor rented from the Architect-Engineer or an affiliate of or subsidiary of the Architect-Engineer.
 - e) *Architect-Engineer's Equipment*—Payment for required equipment owned by the Architect-Engineer or an affiliate of the Architect-Engineer will be based solely on an

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

- f) *Miscellaneous*—No additional allowance will be made for general superintendence, use of small tools and other costs for which no specific allowance is herein provided.
- g) *Subcontract Work*—Payment for additional necessary subcontract work will be based on applicable procedures in a) through f), to which total additional subcontract work, up to an additional 10 percent, may be allowed for the Architect-Engineer's overhead and profit.

ARTICLE 7. EQUITABLE ADJUSTMENT OF CONTRACT TERMS

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

A. Differing Site Conditions.

1. During the progress of the work, if subsurface or latent physical conditions are encountered at the site differing materially from those indicated in the contract or if unknown physical conditions of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in the work provided for in the contract, are encountered at the site, the Architect-Engineer, upon discovering such conditions, shall promptly notify the Contracting Officer in writing of the specific differing conditions before they are disturbed and before the affected work is performed.
2. Upon written notification, the Contracting Officer will investigate the conditions, and if he/she determines that the conditions materially differ and cause an increase or decrease in the cost or time required for the performance of any work under the contract, an adjustment, excluding loss of anticipated profits, will be made and the contract modified in writing accordingly. The Contracting Officer will notify the Architect-Engineer of his/her determination whether or not an adjustment of the contract is warranted.
3. No contract adjustment which results in a benefit to the Architect-Engineer will be allowed unless the Architect-Engineer has provided the required written notice; a failure to notify the Contracting Officer of the changed conditions prior to work being disturbed by said conditions shall constitute a permanent waiver of all right to compensation related to the changed conditions by the Architect-Engineer.
4. No contract adjustment will be allowed under this clause for any effects caused on unchanged work.

B. Suspension of Work Ordered by Contracting Officer.

1. If the performance of all or any portion of the work is suspended or delayed by the Contracting Officer in writing for an unreasonable period of time (not originally anticipated, customary, or inherent to the construction industry) and the Architect-Engineer believes that additional compensation and/or contract time is due as a result of such suspension or delay, the Architect-Engineer shall submit to the Contracting Officer in writing a request for equitable

adjustment within seven (7) calendar days of receipt of the notice to resume work. The request shall set forth the reasons and support for such adjustment.

2. Upon receipt, the Contracting Officer will evaluate the Architect-Engineer's request. If the Contracting Officer agrees that the cost and/or time required for the performance of the contract has increased as a result of such suspension and the suspension was caused by conditions beyond the control or and not the fault of the contractor, its suppliers, or subcontractors at any approved tier, and not caused by weather, the Contracting Officer will make an adjustment (excluding profit) and modify the contract in writing accordingly. The Contracting Officer will notify the Contract of his/her determination whether or not an adjustment of the contract is warranted.
3. No contract adjustment will be allowed unless the Architect-Engineer has submitted the request for adjustment within the time prescribed; a failure to submit a request for adjustment in the time prescribed shall constitute waiver of all right to compensation related to the suspension of work by the Architect-Engineer.
4. No contract adjustment will be allowed under this clause to the extent that performance would have been suspended or delayed by any other cause, or for which an adjustment is provided for or excluded under any other term of condition of this contract.

C. Significant Changes in Character of Work.

1. The Contracting Officer reserves the right to make, in writing, at any time during the work, such changes in quantities and such alterations in the work as are necessary to satisfactorily complete the project. Such changes in quantities and alterations shall not invalidate the contract nor release the surety, and the Architect-Engineer agrees to perform the work as altered.
2. If the alterations or changes in quantities significantly change the character of the work under the contract, whether or not changed by any such different quantities or alterations, an adjustment, excluding loss of anticipated profits, will be made to the contract. The basis for the adjustment shall be agreed upon prior to the performance of the work. If a basis cannot be agreed upon, then an adjustment will be made either for or against the Architect-Engineer in such amount as the Contracting Officer may determine to be fair and reasonable.
3. If the alterations or changes in quantities significantly change the character of the work to be performed under the contract, the altered work will be paid for as provided elsewhere in the contract.
4. The term "significant change" shall be construed to apply only to the following circumstances:
 - a. When the character of the work as altered differs materially in kind or nature from that involved or included in the original proposed construction; or
 - b. When an item of work is increased in excess of 125 percent or decreased below 75 percent of the original contract quantity. Any allowance for an increase in quantity shall apply only to that portion in excess of 125 percent of original contract item quantity, or in the case of a decrease below 75 percent, to the actual amount of work performed.

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

ARTICLE 8. TERMINATION

- A. Termination for Default.** Termination, whether for default or convenience is not a Government claim. The Contracting Officer may terminate the Contract for default, in whole or in part, if the termination is in the best interests of the Government, and the Architect-Engineer does any of the following:
1. Fails to deliver the goods or complete the work or services within the time specified in the contract or any modification;
 2. Fails to make sufficient progress on contract performance so as to endanger performance of the contract within the time specified or in the manner specified in the contract;
 3. Fails or refuses to go forward with the work in accordance with the direction of the Contracting Officer;
 4. Expresses through word or conduct an intention not to complete the work in accordance with the directions of the Contracting Officer;
 5. Fails to perform any of the other provisions of the contract;
 6. Materially deviates from the representations and capabilities set forth in the Architect-Engineer's response to the solicitation.
- B. Final Decision of Contracting Officer.** A termination for default is a final decision of a contracting officer. In order to contest a termination for default, the contractor must submit a certified request to convert the termination for default to a termination for convenience with all documents supporting such conversion and comply with all contract provisions and laws relating to terminations for convenience, including the submission of a certified termination for convenience settlement proposal. The submission of the certified request for conversion to a termination for convenience and certified termination settlement proposal to the contracting officer must occur prior to 90 days from the date of the contracting officer's final decision.
- C. Delays.** If the Architect-Engineer refuses or fails to prosecute the work, or any separable part thereof, with such diligence as will insure its completion within the time specified in the Contract, or any extension thereof, or fails to complete said work within specified time, the District may, by written notice to the Architect-Engineer, terminate his right to proceed with the work or such part of the work involving the delay. In such event the District may take over the work and prosecute the same to completion, by contract or otherwise, and may take possession of and utilize in completing the work such materials, appliances, and plant as may have been paid for by the District or may be on the site of the work and necessary therefore. Whether or not the Architect-Engineer's right to proceed with the work is terminated, he and his sureties shall be liable for any liability to the District resulting from his refusal or failure to complete the work within the specified time.
1. If fixed and agreed liquidated damages are provided in the Contract and if the District does not so terminate the Architect-Engineer's right to proceed, the resulting damage will consist of such liquidated damages until the work is completed and accepted.
 2. The Architect-Engineer's right to proceed shall not be so terminated nor the Architect-Engineer charged with resulting damage if:

- a) The delay in the completion the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Architect-Engineer, including but not restricted to acts of God, acts of the public enemy, acts of the District in either its sovereign or contractual capacity, acts of another contractor in the performance of a contract with the District, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, climatic conditions beyond the normal which could be anticipated, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of both the Architect-Engineer and such subcontractors or suppliers (the term subcontractors or suppliers shall mean subcontractors or suppliers at any tier); and
 - b) The Architect-Engineer, within 72 hours from the beginning of any such delay, (unless the Contracting Officer grants a further period of time before the date of final payment under the Contract) notifies the Contracting Officer in writing of the causes of delay.
3. The Contracting Officer shall ascertain the facts and the extent of the delay and extend the time for completing the work when, in his judgment, the findings of fact justify such an extension, and his findings of fact shall be final and conclusive on the parties, subject only to appeal as provided in Article 7 herein.
 4. If, after notice of termination of the Architect-Engineer's right to proceed under the provisions of this Article, it is determined for any reason that the Architect-Engineer was not in default under the provisions of this Article, or that the delay was excusable under the provisions of this Article, the rights and obligations of the parties shall be in accordance with Article 6 herein. Failure to agree to any such adjustment shall be a dispute concerning a question of fact within the meaning of Article 7 herein.
 5. The rights and remedies of the District provided in this Article are in addition to any other rights and remedies provided by law or under the Contract.
 6. The District may, by written notice, terminate the Contract or a portion thereof as a result of an Executive Order of the President of the United States with respect to the prosecution of war or in the interest of national defense. When the Contract is so terminated, no claim for loss of anticipated profits will be permitted.

D. Termination for Convenience of the Government

1. The performance of work under the Contract may be terminated by the District in accordance with this Article in whole, or in part, whenever the Contracting Officer shall determine that such termination is in the best interest of the District. Any such termination shall be effected by delivery to the Architect-Engineer of a Notice of Termination specifying the extent to which performance of work under the Contract is terminated, and the date upon which such termination becomes effective.
2. After receipt of a Notice of Termination, and except as otherwise directed by the Contracting Officer, the Architect-Engineer shall:
 - a) Stop work under the Contract on the date and to the extent specified in the Notice of Termination.

- b) Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the Contract as is not terminated.
- c) Terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination.
- d) Assign to the District, in the manner, at the times, and to the extent directed by the Contracting Officer, all of the right, title and interest of the Architect-Engineer under the orders and subcontracts so terminated, in which case the District shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.
- e) Settle all outstanding liabilities and all claims arising out of such termination of orders or subcontracts, with the approval or ratification of the Contracting Officer to the extent he may require, which approval or ratification shall be final for all purposes of this Article.
- f) Transfer title to the District and deliver in the manner, at the times, and to the extent, if any, directed by the Contracting Officer:
 - (i) fabricated or unfabricated parts, work in progress, completed work, supplies, and other material procured as a part of, or acquired in connection with, the performance of the work terminated by the Notice of Termination, and
 - (ii) completed, or partially completed plans, drawings information and other property which, if the Contract had been completed, would have been required to be furnished to the District.
- g) Use his best efforts to sell, in the manner, at the terms, to the extent, and at the price or prices directed or authorized by the Contracting Officer, any property of the types referred to in 6 above provided, however, that the Architect-Engineer:
 - (I) shall not be required to extend credit to any purchaser, and
 - (ii) may acquire any property under the conditions prescribed and at a price or prices approved by the contracting officer, and
 - (iii) provided further, that the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the district to the architect-engineer under the contract or shall otherwise be credited to the price or cost of the work covered by the contract or paid in such other manner as the contracting officer may direct.
- h) Complete performance of such part of the work as shall not have been terminated by the Notice of Termination.
- i) Take such action as may be necessary, or as the Contracting Officer may direct, for the protection and preservation of the property related to the Contract which is in the possession of the Architect-Engineer and in which the District has or may acquire an interest.

- j) The Architect-Engineer shall proceed immediately with the performance of the above obligations notwithstanding any delay in determining or adjusting the cost, or any item of reimbursable cost, under this Article.
 - k) "Plant clearance period" means, for each particular property classification (such as raw materials, purchased parts and work in progress) at any one plant or location, a period beginning with the effective date of the termination for convenience and ending 90 days after receipt by the Contracting Officer of acceptable inventory schedules covering all items of that particular property classification in the termination inventory at that plant or location, or ending on such later date as may be agreed to by the Contracting Officer and the Architect-Engineer. Final phase of a plant clearance period means that part of a plant clearance period which occurs after the receipt of acceptable inventory schedules covering all items of the particular property classification at the plant or location.
 - l) At any time after expiration of the plant clearance period, as defined above, the Architect-Engineer may submit to the Contracting Officer a list, certified as to quantity and quality, of any or all items of termination inventory not previously disposed of, exclusive of items the disposition of which has been directed or authorized by the Contracting Officer, and may request the District to remove such items or enter into a storage agreement covering them. Not later than 15 days thereafter, the District will accept title to such items and remove them or enter into a storage agreement covering the same; provided, that the list submitted shall be subject to verification by the Contracting Officer upon removal of the items or, if the items are stored, within 45 days from the date of submission of the list, and any necessary adjustments to correct the list as submitted, shall be made prior to final settlement.
3. After receipt of a Notice of Termination, the Architect-Engineer shall submit to the Contracting Officer his termination claim, in the form with the certification prescribed by the Contracting Officer. Such claim shall be submitted promptly but in no event later than 90 days from the effective date of termination, unless one or more extensions in writing are granted by the Contracting Officer upon request of the Architect-Engineer made in writing within such 90 day period or authorized extension thereof. In the event the Architect-Engineer was terminated for default and it asserts that it is entitled to a termination for convenience, its certified request for the conversion of the default termination to one for convenience and its certified termination settlement proposal must be submitted to the Contracting Officer prior to the expiration of 90 days from the date of the default termination. With respect to a termination for convenience, if the Contracting Officer determines that the facts justify such action, he may receive and act upon any such termination claim at any time after such 90 day period or extension thereof. Nothing herein shall be construed to extend the time for the submission of a claim hereunder for a defaulted Architect-Engineer beyond 90 days from the date of the default termination. Upon failure of the Architect-Engineer to submit his termination claim within the time allowed, the Contracting Officer may, subject to any review required by the District's procedures in effect as of the date of execution of the Contract, determine, on the basis of information available to him, the amount, if any, due to the Architect-Engineer by reason of the termination and shall thereupon pay to the Architect-Engineer the amount so determined.
4. Subject to the provisions of Section 3 above, and subject to any review required by the District's procedures in effect as of the date of execution of the Contract, the Architect-Engineer and Contracting Officer may agree upon the whole or any part of the amount or amounts to be paid to the Architect-Engineer by reason of the total or partial termination of

work pursuant to this Article, which amount or amounts may include a reasonable allowance for profit on work done; provided, that such agreed amount or amounts, exclusive of settlement costs, shall not exceed the total Contract price as reduced by the amount of payments otherwise made and as further reduced by the Contract price of work not terminated. The Contract shall be amended accordingly, and the Architect-Engineer shall be paid the agreed amount. Nothing in Section 5 below prescribing the amount to be paid to the Architect-Engineer in the event of failure of the Architect-Engineer and the Contracting Officer to agree upon the whole amount to be paid to the Architect-Engineer by reason of the termination of work pursuant to this Article, shall be deemed to limit, restrict or otherwise determine or effect the amount or amounts which may be agreed upon to be paid to the Architect-Engineer pursuant to this paragraph.

5. In the event of the failure of the Architect-Engineer and the Contracting Officer to agree as provided in Section 4 above upon the whole amount to be paid to the Architect-Engineer by reason of the termination of work pursuant to this Article, the Contracting Officer shall, subject to any review required by the District's procedures in effect as of the date of execution of the Contract, determine, on the basis of information available to him, the amount, if any, due the Architect-Engineer by reason of the termination and shall pay to the Architect-Engineer the amounts determined by the Contracting Officer, as follows, but without duplication of any amounts agreed upon in accordance with Section 4 above:
 - a) With respect to all Contract work performed prior to the effective date of the Notice of Termination, the total (without duplication of any items) of:
 - i) The cost of such work;
 - ii) The cost of settling and paying claims arising out of the termination of work under subcontracts or orders as provided in Section 2(e) above, exclusive of the amounts paid or payable on account of supplies or materials delivered or services furnished by the subcontractor prior to the effective date of the Notice of Termination of work under the Contract, which amounts shall be included in the cost on account of which payment is made under on Section 5(a)(i) above; and
 - iii) A sum, as profit on Section 5(a)(i) above, determined by the Contracting Officer to be fair and reasonable; provided however, that if it appears that the Architect-Engineer would have sustained a loss on the entire Contract had it been completed, no profit shall be included or allowed under this subparagraph and an appropriate adjustment shall be made reducing the amount of the settlement to reflect the indicated rate of loss; and provided further that profit shall be allowed only on preparations made and work done by the Architect-Engineer for the terminated portion of the Contract but may not be allowed on the Architect-Engineer's settlement expenses. Anticipatory profits and consequential damages shall not be allowed. Any reasonable method may be used to arrive at a fair profit, separately or as part of the whole settlement.
 - b) The reasonable cost of the preservation and protection of property incurred pursuant to Section 2(i); and any other reasonable cost incidental to termination of work under the Contract including expense incidental to the determination of amount due to the Architect-Engineer as the result of the termination of work under the Contract.
6. The total sum to be paid to me Architect-Engineer under Section 5(a) above shall not exceed the total Contract price as reduced by the amount of payments otherwise made and as further reduced by the Contract price of work not terminated. Except for normal spoilage, and except to the extent that the District shall have otherwise expressly assumed the risk of loss, there shall be excluded from the amounts payable to the Architect-Engineer under Section 5(a) above, the

fair value, as determined by the Contracting Officer, of property which is destroyed, lost, stolen or damaged so as to become undeliverable to the District, or to a buyer pursuant to Section 2(g) above.

7. The Architect-Engineer shall have the right of appeal, under Article 9 herein, from any determination made by the Contracting Officer under Sections 3 or 5. above, except that, if the Architect-Engineer has failed to submit his claim within the time provided in Section 3 above and has failed to request extension of such time, he shall have no such right of appeal. In any case where the Contracting Officer has made a determination of the amount due under Sections 3 or 5. above, the District shall pay to the Architect-Engineer the following:
 - a) If there is no right of appeal hereunder or if no timely appeal has been taken, the amount so determined by the Contracting Officer, or
 - b) If an appeal had been taken, the amount finally determined on such appeal.
8. In arriving at the amount due the Architect-Engineer under this Article there shall be deducted:
 - a) all unliquidated advance or other payments on account theretofore made to the Architect-Engineer, applicable to the terminated portion of the Contract;
 - b) any claim which the District may have against the Architect-Engineer in connection with the Contract; and
 - c) the agreed price for, or the proceeds of sale of, any materials, supplies or other things kept by the Architect-Engineer or sold, pursuant to the provisions of this Article and not otherwise recovered by or credited to the District.
9. If the termination hereunder be partial, prior to the settlement of the terminated portion of the Contract, the Architect-Engineer may file with the Contracting Officer a request in writing for an equitable adjustment of the price or prices specified in the Contract relating to the continued portion of the Contract (the portion not terminated by the Notice of Termination), and such equitable adjustment as may be agreed upon shall be made at such price or prices; however, nothing contained herein shall limit the right of the District and the Architect-Engineer to agree upon the amount or amounts to be paid to the Architect-Engineer for the completion of the continued portion of the Contract when said Contract does not contain an established Contract price for such continued portion.
10. The District may from time to time, under such terms and conditions as it may prescribe, make partial payments against costs incurred by the Architect-Engineer in connection with the terminated portion of the Contract whenever in the opinion of the Contracting Officer the aggregate of such payments shall be within the amount to which the Architect-Engineer will be entitled hereunder. If the total of such payments is in excess of the amount finally agreed or determined to be due under this Article, such excess shall be payable by the Architect-Engineer to the District upon demand, together with interest computed at the rate of 6 percent per annum for the period from the date such excess is received by the Architect-Engineer to the date on which such excess is repaid to the District; provided however, that no interest shall be charged with respect to any such excess payment attributable to a reduction in the Architect-Engineer's claim by reason of retention or other disposition of termination inventory until ten days after the date of such retention or disposition, or such later date as determined by the Contracting Officer by reason of the circumstances.
11. Unless otherwise provided in the Contract or by applicable statute, the Architect-Engineer, from the effective date of termination and for a period of three years after final settlement under the Contract, shall preserve and make available to the District at all reasonable times at the office of

the Architect-Engineer, but without direct charge to the District, all his books, records, documents and other evidence bearing on the costs and expenses of the Architect-Engineer under the Contract and relating to the work terminated hereunder, or, to the extent approved by the Contracting Officer, photographs and other authentic reproductions thereof.

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

ARTICLE 9. DISPUTES

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

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

1. Claim, as used in this Section B. of Article 9, means a written assertion by the Architect-Engineer seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant.
 - a) All claims by the Architect-Engineer against the District arising under or relating to a contract shall be in writing and shall be submitted to the Contracting Officer for a decision.
 - b) Within 120 days after receipt of a claim, the Contracting Officer shall issue a decision, whenever possible taking into account factors such as the size and complexity of the claim and the adequacy of the information in support of the claim provided by the Architect-Engineer.
 - c) Any failure by the Contracting Officer to issue a decision on a contract claim within the required time period shall be deemed to be a denial of the claim and shall authorize the commencement of an appeal on the claim as otherwise provided.
 - i) If the Architect-Engineer is unable to support any part of his or her claim and it is determined that the inability is attributable to a material misrepresentation of fact or fraud on the part of the Architect-Engineer, the Architect-Engineer shall be liable to the District for an amount equal to the unsupported part of the claim in addition to all costs to the District attributable to the cost of reviewing that part of the Architect-Engineer's claim.
 - ii) Liability under this section shall be determined within 6 years of the commission of the misrepresentation of fact or fraud.
 - d) All cost data, pricing data, and task data of claims hereunder must be certified as accurate, complete, required, and necessary to the best of the Architect-Engineer's knowledge and belief. Further, all task or work data in the claim must be described therein to the smallest unit of work or task. The Contracting Officer may require any additional certifications, descriptions or explanations of the claim.

- e) The parties agree that time is of the essence and all claims hereunder must be presented to the Contracting Officer for a final decision within thirty (30) days of the occurrence of the circumstances giving rise to such claim or within thirty (30) days of when the Architect-Engineer knew or should have known of the circumstances giving rise to such claim, otherwise compensation for that claim is waived.
 - f) The parties agree that there shall be no claims for unabsorbed home office overhead.
2. The Architect-Engineer's claim shall contain at least the following:
- a) A description of the claim and the amount in dispute;
 - b) Any data or other information in support of the claim;
 - c) A brief description of the Architect-Engineer's efforts to resolve the dispute prior to filing the claim; and
 - d) The Architect-Engineer's request for relief or other action by the Contracting Officer.
 - e) The certification of the accuracy, completeness, requirement, and necessity of all aspects of the claim.
3. The decision of the Contracting Officer shall be final and not subject to review unless an administrative appeal or action for judicial review is timely commenced by the Architect-Engineer.
4. Pending final decision of an appeal, action, or final settlement, the Architect-Engineer shall proceed diligently with performance of the contract in accordance with the decision of the Contracting Officer.

C. Claims by the District Against the Architect-Engineer.

1. Claim as used in this Section C of Article 9, means a written demand or written assertion by the District, including the Contracting Officer, seeking, as a matter of right, the payment of money in a sum certain, the adjustment of contract terms, or other relief arising under or relating to this contract. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant. Nothing herein shall be construed to require the District to notify the Architect-Engineer prior to the issuance of the Contracting Officer's final decision.
- 2.
- a) All claims by the District against the Architect-Engineer arising under or relating to a contract shall be decided by the Contracting Officer, who shall issue a decision in writing and furnish a copy of the decision to the Architect-Engineer.
 - b) The decision shall be supported by reasons and shall inform the Architect-Engineer of his or her rights. Specific findings of fact shall not be required.

3. This clause shall not authorize the Contracting Officer to settle, compromise, pay, or otherwise adjust any claim involving fraud.
4. The decision of the Contracting Officer shall be final and not subject to review unless an administrative appeal or action for judicial review is timely commenced by the Architect-Engineer.
5. Pending final decision of an appeal, action, or final settlement, the Architect-Engineer shall proceed diligently with performance of the contract in accordance with the decision of the Contracting Officer.
6. The Contracting Officer may enter into a voluntary exclusion agreement with the Architect-Engineer in order to settle any claim or dispute between the parties.

ARTICLE 10. RETENTION AND EXAMINATION OF RECORDS

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

ARTICLE 11. COVENANT AGAINST CONTINGENT FEES

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

ARTICLE 12. OFFICIALS NOT TO BENEFIT

- A. District Employees Not To Benefit.** Unless a determination is made as provided herein, no officer or employee of the District will be admitted to any share or part of this contract or to any benefit that may arise therefrom, and any contract made by the Contracting Officer or any District employee authorized to execute contracts in which they or an employee of the District will be personally interested shall be void, and no payment shall be made thereon by the District or any officer thereof, but this provision shall not be construed to extend to the Contract if made with a corporation for its general benefit. A District employee shall not be a party to a contract with the District and will not knowingly cause or allow a business concern or other organization owned or substantially owned or controlled by the employee to be a party to such a contract, unless a written determination has been made by the head of the procuring agency that there is a compelling reason for contracting with the employee, such as when the District's needs cannot reasonably otherwise be met in accordance with DC Procurement Practices Act of 1985, D.C. Law 6-85, D.C. Official Code, section 2-310.01, and Chapter 18 of the DC Personnel Regulations. The Architect-Engineer represents and covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or

degree with the performance of its services hereunder. The Architect-Engineer further covenants not to employ any person having such known interests in the performance of the Contract.

B. Anti-Competitive Practices and Anti-Kickback Provisions.

1. The Architect-Engineer recognizes the need for markets to operate competitively and shall observe and shall comply with all applicable law, rules, and regulations prohibiting anti-competitive practices. The Architect-Engineer shall not engage, directly or indirectly, in collusion or other anti-competitive practices that reduces or eliminates competition or restrains trade. The District shall report to the appropriate authority any activity that evidences a violation of the antitrust laws, and take such other further action to which it is entitled or obligated under the law.
2. The Architect-Engineer shall observe and comply with all applicable law, rules, and regulations prohibiting kickbacks and, without limiting the foregoing, Architect-Engineer shall not (i) provide or attempt to provide or offer to provide any kickback; (ii) solicit, accept, or attempt to accept any kickback; or (iii) include, directly or indirectly, the amount of any kickback in the contract price charged by Architect-Engineer or a Subcontractor of the Architect-Engineer to the District. The Architect-Engineer shall have in place and follow reasonable procedures designed to prevent and detect possible violations described in this subparagraph in its own operations and direct business relationships. The District may take any recourse available to it under the law for violations of this anti-kickback provision.

ARTICLE 13. CONFLICT OF INTEREST AND ETHICS

A. Former Employees Generally. Pursuant to Public Law 95-521, as amended, no former employee of the United States District or the District of Columbia:

1. Shall knowingly represent the Architect-Engineer before any District agency through personal appearance or communication in connection with a matter involving specific parties to this Contract where the former District employee participated personally and substantially in this matter while employed with the District.
2. Shall within two (2) years after terminating District employment knowingly represent the Architect-Engineer before any District agency through personal appearance or communication in connection with a matter involving specific parties to this Contract where the matter was pending under the official responsibility of the former employee within one (1) year prior to termination of District service.

B. Former Senior Employees. Pursuant to Public Law 95-591, as amended, no former senior level officer or former senior level employee of the United States District or the District of Columbia District named in or designated by the Contracting Officer of the Office of District Ethics under Section 207(d) of Title 18 USC:

1. Shall, within two (2) years after terminating District employment knowingly represent or aid counsel, advise, consult or assist in representing any other person by personal presence at any formal or informal appearance before any District agency in connection with a matter involving specific parties where the former employee participated personally aid substantially in that matter while employed with the District.

2. Shall, within one (1) year after terminating District employment knowingly act as an agent or attorney for or otherwise represent anyone in any formal or informal appearance before or with the intent to influence make any written or oral communication on behalf of anyone to (1) his or her former District or agency or any of its officers or employees or (2) in connection with any particular District matter, whether or not involving a specific party which is pending before such District or agency or in which it has a direct and substantial interest.
- C. Conflict of Interest.** The Architect-Engineer represents and warrants that neither it nor any of its directors, officers, members, partners or employees, has any interest nor shall they acquire any interest, directly or indirectly, which would or may conflict in any manner or degree with the performance or rendering of the services herein provided. The Architect-Engineer represents and warrants that in the performance of the Contract no person having such interest or possible interest shall be employed by it. No elected official or other officer or employee of the District or District, nor any person whose salary is payable, in whole or in part, from the District Treasury, shall participate in any decision relating to the Contract which affects his personal interest or the interest of any corporation, partnership or association in which he is, directly or indirectly, interested; nor shall any such person have any interest, direct or indirect, in this Contract or in the proceeds thereof.
- D. No Kick-Backs.** The Architect-Engineer shall not offer or receive any kickbacks or inducements from any other offeror, supplier, manufacturer or subcontractor in connection with this project. The Architect-Engineer shall not confer on any public employee having official responsibility for this project any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value.
- E. No Contractor Employment.** No official or employee of the District of Columbia whose duties as such official or employee include matters relating to or affecting the subject matter of the Contract shall, during the pendency and term of this Contract and/while serving as an official or employee of the District of Columbia, become or be an employee of the Architect-Engineer or any entity that is a subcontractor on this Contract.

ARTICLE 14. DISMISSALS & REPLACEMENT OF KEY PERSONNEL

- A. Dismissals by the District.** Should the continued employment of any person or persons in the Architect-Engineer's organization under this Contract be deemed by the Contracting Officer to be prejudicial to the interests of the District, such person or persons shall be immediately removed from the work hereunder. The Architect-Engineer shall make every effort in the selection of his employees and in the prosecution of the work under this Contract to safeguard all drawings and specifications and to prevent the theft conversion or unauthorized use of the same.
- B. Replacement of Key Personnel.** No substitutions for Key Personnel shall be permitted unless approved by the Contracting Officer. Any proposed replacement for Key Personnel must possess qualifications substantially similar to those of the Key Personnel being replaced and are subject to the prior written approval of the Contracting Officer. In addition, at the Contracting Officer's request at any time, the Architect-Engineer shall remove any Key Personnel or other personnel and substitute another employee of the Architect-Engineer or its subcontractors reasonably satisfactory to the Contracting Officer. The Contracting Officer may request such substitution at any time, in his sole discretion.

- C. Liquidated Damages.** In order to maintain project continuity the District expects that the Architect-Engineer will assign the same project managers to all phases of the Project and that such personnel will be available to oversee and coordinate the Work throughout the Project. Accordingly, the Architect-Engineer's designated Key Personnel shall be subject to liquidated damages for their removal or reassignment by the Architect-Engineer. In each instance where the Architect-Engineer removes or reassigns one of its Key Personnel (but excluding instances where such personnel become unavailable due to death, disability or separation from the employment of the Architect-Engineer or any affiliate of the Architect-Engineer) without the prior written consent of the Contracting Officer, the Architect-Engineer shall pay to the District an amount set forth in the Contract as liquidated damages and not a penalty, to reimburse the District for its administrative costs arising from the Architect-Engineer's failure to provide the Key Personnel. The foregoing liquidated damage amount shall not bar recovery of any other damages, costs or expenses other than the District's internal administrative costs. In addition, the District shall have the right, to be exercised in its sole discretion, to remove, replace or to reduce the scope of services of the Architect-Engineer in the event that a member of the Key Personnel has been removed or replaced by the Architect-Engineer without the consent of the District. In the event the District exercises the right to remove, replace or to reduce the scope of services of the Architect-Engineer, the District shall have the right to enforce the terms of this Contract and to keep-in-place those members of the Architect-Engineer's team not removed or replaced and the remaining members shall complete the services required under this Contract in conjunction with the new members of the Architect-Engineer's team approved by the District.

ARTICLE 15. COMPLIANCE WITH FEDERAL AND DISTRICT OF COLUMBIA LAWS AND REGULATIONS

- A. Generally.** The Architect-Engineer shall at all times observe and comply with all laws, codes, regulations, orders and decree set forth by any department, agency or branch of the United States District, and the District of Columbia and shall indemnify and save harmless the District of Columbia and all of its officers, agents, employees and servants against any and all claims or liability arising from or based on the violation of any such law, code, regulation, order or decree whether by the Architect-Engineer an employee or agent of the Architect-Engineer any person firm or corporation employee or engaged by the Architect-engineer or contractually associated with him in the performance of or in connection with the work required contemplated or performed under the Contract.
- B. Equal Opportunity: Non-Discrimination in Employment.** During the performance of this contract the Architect-Engineer shall comply with the provisions of Mayor's Order 85-85 as implemented by Title 4, Chapter 11 – Equal Employment Opportunity Requirements in Contracts, 33 DCR 4952 (August 15, 1986).
- C. Buy American Act.**
- 1. Agreement**—In accordance with the Buy American Act (41 USC 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 Architect-Engineer agrees that only domestic construction material will be used by the Architect-Engineer, subcontractors, material men and suppliers in the performance of the Contract, except for non-domestic material listed in the Contract.

2. *Domestic Construction Material*—“Construction material” means any article, material or supply brought to the construction site for incorporation in the building or work. An unmanufactured construction material is a “domestic construction material” if it has been mined or produced in the United States. A manufactured construction material is a “domestic construction material” if it has been manufactured in the United States and if the cost of its components which have been mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. “Component” means any article, material, or supply directly incorporated in a construction material. -
3. *Domestic Component*—A component shall be considered to have been “mined, produced, or manufactured in the United States” regardless of its source, in fact, if the article, material or supply in which it is incorporated was manufactured in the United States and the component is of a class or kind determined by the District to be not mined, produced or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.
4. *Foreign Material* – When steel materials are used in a project a minimal use of foreign steel is permitted. The cost of such materials cannot exceed on-tenth of one percent of the total project cost, or \$2,500,000, whichever is greater.

D. Davis-Bacon Act Provision. The Architect-Engineer agrees that the work performed under this Contract shall be subject to the Davis-Bacon Act (40 U.S.C. §§ 276a-276a-7). The wage rates applicable to this Project shall be attached as an exhibit to the Contract. The Architect-Engineer further agrees that it and all of its subcontractors shall comply with the regulations implementing the Davis-Bacon Act and such regulations are hereby incorporated by reference.

E. False Claims Act. The Architect-Engineer shall be governed by all laws and regulations prohibiting false or fraudulent statements and claims made to the government, including the prescriptions set forth in District of Columbia Code §22-2405 and §§2-381.01 et seq.

ARTICLE 16. APPOINTMENT OF ATTORNEY

The Architect-Engineer does hereby irrevocably designate and appoint the Clerk of the Superior Court of the District and his successors in office as the true and lawful attorney of the Architect-Engineer for the purpose of receiving service of all notices and processes issued by any court in the District, as well as service of all pleadings and other papers, in relation to any action or legal proceeding arising out of or pertaining to the Contract or the work required or performed hereunder.

The Architect-Engineer expressly agrees that the validity of any service upon the said Clerk as herein authorized shall not be affected either by the fact that the Architect-Engineer was personally within the District of Columbia and otherwise subject to personal service at the time of such service upon the said Clerk or by the fact that the Architect-Engineer failed to receive a copy of such process, notice, pleading or other paper so served upon the said Clerk, provided that said Clerk shall have deposited in the United States mail, certified and postage prepaid, a copy of such process, notice, pleading or other papers addressed to the Architect-Engineer at the address stated in the Contract.

ARTICLE 17. INDEMNIFICATION

- A. Violation of Laws, Regulations, Specifications, and Breach of Contract.** If the Architect-Engineer violates any laws, regulations, codes or industry standards relating to the Project, the Architect-Engineer shall take prompt action to correct or abate such violation and shall indemnify and hold the Department and its consultants, representatives, agents, servants and employees harmless against any damages, fines, penalties, third party claims, suits, awards, actions, causes of action or judgments, including but not limited to reasonable attorney's fees and costs incurred thereunder, that result from such violation. If the Architect-Engineer breaches the terms of this Agreement, including the solicitation, letter contract, standard contract provisions, directives, specifications, manufacturer's specifications, and the RFP, the Architect-Engineer shall indemnify and hold the Department and its consultants, representatives, agents, servants and employees harmless against any damages, fines, penalties, third party claims, suits, awards, actions, causes of action or judgments, including but not limited to reasonable attorney's fees and costs incurred thereunder, that result from such breach.
- B. Professional Services.** To the fullest extent permitted by law, the Architect-Engineer shall defend, indemnify and hold harmless the Department and the Department's consultants and agents and employees from and against claims, damages, losses and expenses, including but not limited to reasonable attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Architect-Engineer, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder.
- C. Non-Professional Services.** In addition, other than claims arising out of the performance of professional services, the Architect-Engineer shall indemnify and hold harmless the Department, its representatives, consultants, officers, agents, servants and employees from and against third-party claims, liabilities, demands, losses, damages, judgments, costs, or expenses, including reasonable attorneys' fees and expenses recoverable under applicable law, to the extent such claims are caused by acts or omissions of the Architect-Engineer, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified under this Agreement or arising out of the Contract Work, provided that, such claims arise out of non-professional services required under the Contract.
- D. Third Party Disputes.** Disputes between the Architect-Engineer and any subcontractors, material suppliers, or any other third parties over payments allegedly owed by the Architect-Engineer to a third party shall be resolved exclusively between the Architect-Engineer and the third party; the Architect-Engineer shall permit no pass-through suits to be brought against the District by a third party in the Architect-Engineer's name. However, nothing herein shall be construed to prevent the Architect-Engineer from paying a subcontractor's claim and seeking a timely equitable adjustment hereunder.

ARTICLE 18. SUBCONTRACTORS AND/OR OUTSIDE ASSOCIATED AND CONSULTANTS

- A. Prior Consent Required.** The Architect-Engineer shall not delegate or enter into any Subcontracts for the performance of its obligations under the Contract, in whole or in part, without on each occasion obtaining the prior written consent of the Contracting Officer. Any

subcontractors and/or outside associates or consultants required by the Architect-Engineer in connection with the services covered by the Contract shall be limited to such individuals or firms as were specifically identified in the Architect-Engineer's written proposal and approved by the District during negotiations. Any proposed changes in such subcontractors, associates, or consultants shall be subject to the prior written approval of the Contracting Officer.

B. Requests. The Architect-Engineer shall submit to the Contracting Officer copies of all proposed Subcontract(s) to be entered into by the Architect-Engineer, along with the Architect-Engineer's written request for the District's consent. All such Subcontracts must specify that:

1. work performed by the Subcontractor shall be in accordance with the terms of the Contract;
2. nothing contained in such Subcontract shall be construed to impair the rights of the District under the Contract;
3. the District's consent to or approval of any Subcontract shall not create any obligation of the District to any Subcontractor;
4. nothing contained in such Subcontract, or under the Contract, shall create any obligation of the District to any Subcontractor;
5. the District shall be expressly designated a third party beneficiary of the Subcontract;
6. upon request by the District (at the District's sole option) and upon receipt of written notice from the District stating that the Contract between the District and the Architect-Engineer has been terminated, the Subcontractor agrees that it will continue to perform its obligations under the Subcontract for the benefit of the District in accordance with the terms and conditions of the Contract, provided the District pays Subcontractor for the Services rendered and Materials provided by Subcontractor from and after the date of the termination of the Contract between the District and the Architect-Engineer at the same rate or in the same amount as set forth in the Subcontract for Services and Materials after such date of termination;
7. the Subcontractor shall be bound by the same requirements as the Architect-Engineer including, without limitation, furnishing payment and performance bonds, confidentiality, maintenance and preservation of records, and audit by government representatives, under the Contract;
8. the Subcontractor agrees (i) to assign and transfer to the District all of its rights to sales and use tax which may be refunded as a result of a claim for refund for any materials purchased in connection with the Subcontract or the Contract, (ii) that, other than as directed by the District, it will not file a claim for refund for any sales or use tax which is the subject of this assignment; and (iii) that the District, in its own name or in the name of Subcontractor, may file a claim for a refund of any sales or use tax covered by the assignment;

C. No Relief of Obligations. No permitted Subcontract shall relieve the Architect-Engineer of any obligation under the Contract. The Architect-Engineer shall be as fully responsible for the acts and omissions of its Subcontractors or persons either directly or indirectly employed by them, as

it is for the acts and omissions of the Architect-Engineer or persons directly or indirectly employed by the Architect-Engineer.

- D. No Effect.** Any purported Subcontract in violation of this Section or of any other Section in the Contract shall be of no force and effect.
- E. Right to Reject.** The District may, in its sole discretion, reject any or all bids and proposals received by the Architect-Engineer from any Subcontractor for any portion of the Work, and may require the Architect-Engineer to obtain new or revised bids or proposals or Subcontractors.
- F. Incorporation by Reference.** Any agreement the Architect-Engineer makes with a subcontractor, outside associate or consultant shall incorporate specifically or by reference thereto, each and every provision of this Contract, these Standard Contract Provisions, the Attachment(s) and Appendices hereto, and if applicable, the District's Standard Contract Provisions for Construction Contracts.

ARTICLE 19. WAIVER

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

ARTICLE 20. PATENTED AND PROPRIETARY ITEMS

- A. Prior Approval Required.** The Architect-Engineer shall not, without the prior written approval of the Contracting Officer, specify for the Project, or necessarily imply the required use of any article, product, material, fixture or form of construction, the use of which is covered by a patent, or which is otherwise exclusively controlled by a particular firm or group of firms.
- B. Indemnity.** The Architect-Engineer shall be liable to and hereby agrees to defend, indemnify and hold harmless the District against any claim, action cost or judgment against the District for patent infringement, trademark violation, copyright violation or infringement of rights in technical data, in any systems, graphs, charts, designs, drawings or specifications furnished by the Architect-Engineer in the performance of this Contract.

ARTICLE 21. TRANSFER OR ASSIGNMENT OF CONTRACT

- A. Prior Consent Required.** Unless otherwise provided by law, neither the Contract nor any interest therein may be transferred or assigned by the Architect-Engineer to any other party without the written consent of the Contracting Officer, and in the case where a performance and payment bond is required to securing the Contract, nor without the written acceptance by the surety on the performance and payment bond securing the Contract of the assignee as the Architect-Engineer and the principal on such bond; and any attempted transfer or assignment not authorized by this Article shall constitute a breach of the Contract and the District may for such cause terminate the Contract for default and terminate the right of the Architect-Engineer to proceed in the same manner as provided in Article 8.B. herein, and the Architect-Engineer and his sureties shall be liable to the District for any excess cost occasioned the District thereby.

- B. Monies.** The Architect-Engineer shall not assign any right to any monies to be paid under the Contract, without on each occasion obtaining the prior written consent of the Contracting Officer. In no case shall approval by the District of the assignment of any monies to be paid under the Contract relieve the Architect-Engineer from its obligations hereunder or change the remaining terms of the Contract. Any purported assignment in violation of this Article shall be of no effect.
- C. Applicability in Case of Bankruptcy or Insolvency.** A receiver or trustee in any federal or state bankruptcy, insolvency or other proceedings shall comply with the requirements set forth in the Standard Contract Provisions.
- D. Obligation of Architect-Engineer.** The Architect-Engineer acknowledges that the Services are the obligation of the Architect-Engineer and the District shall have no obligation to accept performance by a third party without the Contracting Officer's prior and express written consent.
- E. Failure to Obtain Consent.** Failure to obtain the previous written consent of the Contracting Officer to such an assignment, transfer or conveyance, shall justify, at the option of the Contracting Officer, the revocation and annulment of this Contract. The District shall thereupon be relieved and discharged from any further liability and obligation to the Architect-Engineer, his assignees or transfers, and the Architect-Engineer and his assignees shall forfeit and lose all monies theretofore earned under the Contract, except so much as may be required to pay the Architect-Engineer's employees.
- F. Assignment by the District.** This Contract may be assigned by the District to any corporation, agency or instrumentality having authority to accept such assignment.

ARTICLE 22. QUALIFICATIONS

- A. Signatory Authority and Qualifications.** The Architect-Engineer hereby warrants that the signature or signatures herein before affixed are duly authorized further the Architect-Engineer warrants as a true statement any and all statements of qualification with respect to but not limited to professional status premises, employees experience and financial standing such as may be set forth in documents furnished by the Architect-Engineer or required by the District for the purpose of securing the District's consent to enter into this Contract. Misrepresentation shall be cause for termination for default of the Contract and such other action as may be appropriate including with limitation suspension and debarment and civil or criminal penalties.
- B. Good Standing.** If the Architect-Engineer is an entity, the Architect-Engineer is either: (1) a not-for-profit corporation or other entity determined to be tax exempt pursuant to section 501(c) of the Internal Revenue Code by the Internal Revenue Service; or (2) a business corporation, partnership or other business entity duly organized, validly existing and in good standing under the laws of the state of its incorporation or organization. The Architect-Engineer shall also be duly licensed, qualified and in good standing in the District of Columbia and in all jurisdictions in which it conducts business activities. The Architect-Engineer's loss of good standing is grounds for Termination for Default without liability upon the Department.
- C. Authority to Act.** the Architect-Engineer has full legal power and authority to enter and perform the Contract and provide the Services and Materials without resulting in a default under or a breach or violation of (1) the Architect-Engineer's certificate or articles of incorporation or bylaws or other organizational documents, if applicable; (2) any Applicable Law, or any license, permit

or other instrument or obligation to which the Architect-Engineer is now a party or by which the Architect-Engineer may be bound or affected; and (3) the Architect-Engineer's tax exempt status, if applicable.

- D. Legal Obligation.** The Contract has been duly authorized, executed and delivered by the Architect-Engineer, by and through persons authorized to execute the Contract on behalf of the Architect-Engineer, and constitutes the legal, valid and binding obligation of the Architect-Engineer, enforceable against the Architect-Engineer in accordance with its terms.
- E. No Litigation Preventing Performance.** There is no litigation, claim, consent order, settlement agreement, investigation, challenge or other proceeding pending or threatened against the Architect-Engineer, its properties or business, or any individuals acting on the Architect-Engineer's behalf, including, without limitation, Subcontractors, which seek to enjoin or prohibit the Architect-Engineer from entering into or performing its obligations under the Contract.
- F. Requisite Licensure and Qualifications.** The Architect-Engineer and all of the entities and individuals acting on the Architect-Engineer's behalf, including, without limitation, Subcontractors, in connection with the Services and Materials under the Contract, possess and, at all times during the term of the Contract, shall possess all licenses, certifications, qualifications, or other credentials as required in accordance with all applicable laws, regulations and the terms of the Contract, to perform the Services and provide the Materials. The Architect-Engineer shall provide the District with copies of all licenses, credentials, and/or certifications specified in this Section within five (5) days of request by the District.

ARTICLE 23. ARCHITECT-ENGINEER'S WARRANTY AGAINST DEBARMENT

The Architect-Engineer certifies that it is not currently debarred, suspended, excluded, party to a voluntary exclusion agreement or otherwise enjoined from submitting bids or proposals on contracts for the type of goods and/or services covered by the Contract, nor is the Architect-Engineer an agent of any person or entity that is currently so debarred, suspended, excluded or otherwise enjoined.

ARTICLE 24. RECOVERY OF DEBTS OWED THE GOVERNMENT

The Architect-Engineer hereby agrees that the Department may use all or any portion of any payment, consideration or refund due the Architect-Engineer under the Contract to satisfy, in whole or part, any debt due the Department.

ARTICLE 25. ADMINISTRATIVE LIQUIDATED DAMAGES

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

ARTICLE 26. FORCE MAJEURE

If the Architect-Engineer, because of Force Majeure, is rendered wholly or partly unable to perform its obligations when due under this Contract, the Architect-Engineer may be excused from whatever performance is affected by the Force Majeure to the extent so affected. In order to be excused from its performance obligations under this Contract by reason of Force Majeure, within 72 hours of the occurrence or event, the Architect-Engineer must provide the Contracting Officer written notice of its inability to perform as well as a description of the Force Majeure and its effect on Contract performance. The Contracting Officer will have the right to cause the inspection of the work site to determine the validity of the Architect-Engineer's assertion of its inability to perform. If the Contracting Officer agrees that the Architect-Engineer is wholly or partly unable to perform its obligations under the Contract a decision will be issued indicating the extent to which the Architect-Engineer is excused from its performance obligations. In no event will the Contractor be entitled to money damages from the Department due to Force Majeure.

Attachment J

NPS Mandatory Contract Provisions

ATTACHMENT J

NATIONAL PARK SERVICE

REQUIRED CONTRACT PROVISIONS

The following provisions are incorporated into the Agreement, as required by the proposed Partner Design and Construction Agreement between the U.S. Department of the Interior, National Park Service and the District of Columbia, for the revitalization of Franklin Park. The Contractor hereby agrees as follows:

1. General Requirements Applicable to Work by Any Third Party

- a. That the National Park Service (NPS) is a third-party beneficiary of this contract, with all legal rights associated with that status, including the right to enforce the contract.
- b. To comply with all applicable laws, regulations, rules, and other legal requirements, and NPS Management policies (2006) <https://www.nps.gov/policy/MP2006.pdf> and NPS Director's orders <https://home.nps.gov/applications/npspolicy/DOrders.cfm>;
- c. To comply with the terms and conditions of the Project Development Plan (as defined in the Partner Design and Construction Agreement), or special use permits issued by NPS relating to the Project;
- d. To follow any NPS or District order to suspend work in the event of an emergency which threatens public safety, as determined by NPS or the District in their reasonable discretion and that at any time the NPS and the District may monitor, inspect, or access the construction site and construction-related materials and documents;
- e. To obtain, and transfer to the NPS and the District from subcontractors, manufacturers or suppliers for work performed and materials furnished all warranties that would be given in normal commercial practice:
 - i. For a period of not less than one year; and
 - ii. Executed, in writing, for the benefit of the District and the United States;
- f. To be responsible for all damages to persons or property that occur as a result of the Contractor's fault, breach of this Contract, or negligence because of, or in any way related to the Project;
- g. To waive any defense to any claim based on the Contractor's alleged reliance on the District's or the NPS's Project monitoring, inspections or tests. All monitoring, inspections or tests are for the benefit of the District or the NPS and do not relieve the Contractor of responsibility for (i) providing adequate quality control measures, or (ii)

ensuring against damage or loss before Project acceptance. In addition, such monitoring, inspections or tests do not imply acceptance of the Contractor's work by either the District or the NPS, nor does it affect the continuing rights of the District or the NPS after acceptance of the Contractor's work.

- h. That neither the District's nor the NPS's review, approval, or acceptance of the Contractor's services nor the District's payment for those services will be construed to operate as a waiver of any rights of the District or the NPS, or of any cause of action that the District or the NPS may have, and the Contractor will be and remain liable to the District and the NPS in accordance with the terms of this Contract and applicable law for all damages for which the Contractor is legally responsible.
- i. That in the event of a conflict between the provisions of this Agreement and the provisions of the Partner Design and Construction Agreement between the NPS and the District, recognize that the terms of the Partner Design and Construction Agreement shall control.
- j. To obtain and maintain insurance consistent with the requirements of Article IX of the Partner Design and Construction Agreement;
- k. That the Contractor has no recourse against the United States with respect to Contractor's performance under the Contract or payment for construction activities and will not lien any land, structures, fixtures, or improvements associated with this Contract; and
- l. To be jointly and severally liable under this Contract if the Contractor consists of more than one legal entity."

2. Requirements Applicable to Architectural or Engineering Services

- a. That it is solely responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, and other services furnished by the Contractor and warrants that the Project can be built as designed;
- b. To correct or revise any errors or deficiencies in its designs, drawings, specifications, and other services, as identified by the District and NPS, without any additional compensation; and
- c. That the final signed and sealed Final Construction Documents provided by the Contractor, as reviewed and approved in writing by the District and NPS, are the only true contract documents of record for this Project. By submission of the Final Construction Documents to the District, the Contractor warrants that all review comments have been resolved to the satisfaction of the District and NPS and have been incorporated into the Final Construction Documents or otherwise resolved to the satisfaction of the District and NPS.

3. Rights to Works Produced in the Performance Contract

a. Both the NPS and the District will own any and all rights, title, and interest, including design and construction documents and any and all patents, copyrights, trademarks, trade secrets, inventions, products or other intellectual property rights created as a result of, arising from, or directly relating to this Agreement, including without limitation intellectual property utilized in bid proposals and any pre-existing intellectual property belonging to the Contractor that is provided to the District and NPS in connection with the Project. The District may use any intellectual property for purposes related to the District's fundraising and promotional activities associated with the Project.

b. The District, at no cost to the District, and the Contractor will fully cooperate with the NPS in the protection and enforcement of any intellectual property rights resulting from activities and services performed in connection with this Agreement. This obligation includes timely execution, acknowledgment, and delivery to the NPS of all documents and papers that may be necessary to enable the NPS to utilize in any manner any copyrights, patents, trademarks, trade secrets, and other intellectual property and proprietary rights.

c. If any invention or material created in the course of performing tasks under this Agreement or any associated agreement is patentable intellectual property, the Contractor will report the invention or patentable intellectual property to the District within thirty days of its creation and the District will immediately report the invention or intellectual property to the NPS.