

**FORM OF CONTRACT FOR  
SNOW & ICE REMOVAL AND SNOW MELT SERVICES  
DCAM-17-NC-0003**

**THIS CONTRACT FOR SNOW & ICE REMOVAL, and SNOW MELT SERVICES** (“Agreement”) is entered into by and between the District of Columbia government acting by and through its **DEPARTMENT OF GENERAL SERVICES** (“Department”) and **[INSERT CONTRACTOR NAME]** (“Contractor”).

**WITNESSETH:**

**WHEREAS**, the Department is charged with snow & ice removal and snow melt services at various District government facilities under its jurisdiction.

**WHEREAS**, the Department issued a Request for Proposals to engage multiple Contractors to provide snow & ice removal and snow melt services for District of Columbia public facilities.

**WHEREAS**, the Contractor submitted a proposal in response to the Request for snow & ice removal and snow melt services Proposals, and the Department wishes to engage the Contractor to provide the requested services.

**WHEREAS**, the Department desires that the services be provided from Date of Award through one year thereafter with the option to extend up to four (4) option periods.

**NOW, THEREFORE**, in consideration of the foregoing and for good and valuable consideration, the sufficiency and adequacy of which is hereby acknowledged, the parties to this Agreement agree as follows:

**AGREEMENT**

**SECTION 1 SCOPE OF WORK**

**Section 1.1 Project Summary**

In general, the Contractor shall provide all management, tools, supplies, equipment, storage, vehicles and labor necessary to perform the required snow & ice removal and snow melt services for the specified District of Columbia public facilities (“Services”) on a twenty-four (24) hours a day, seven (7) days a week basis. The intent of this contract is to combat adverse weather conditions in a comprehensive, proactive, and orderly manner that results in a high level of quality and safety for the District of Columbia public. The Contractor shall be required to provide the Services, for a base year and up to four (4) additional option years. The months of service include, but are not limited to, October through May (“Snow Season”).

### **Section 1.2 Mobilization**

The Department expects that the Contractor shall take a proactive approach to pending inclement weather. Either upon notification by the Contractor to the Department of an impending Storm and issuance of authorization to proceed by the Department, or notification from the Department to the Contractor of an impending Storm, the Contractor shall have two (2) hours to mobilize manpower, equipment and materials and begin snow melt services.

### **Section 1.3 Snow Melt Services**

At the direction of DGS Contracting Officer's Technical Representative (COTR), prior to the start of a Storm, the Contractor shall mobilize and take the appropriate action to include providing snow melt services on all concrete pedestrian and vehicular travel areas including, without limitation, (i) sidewalks, stairways, ramps, and parking lots with snow melt materials suitable for such surfaces, and (ii) all asphalt surfaces with snow melt materials suitable for asphalt surfaces (collectively, "Snow Melt Services"). The Contractor will be expected to perform one or more Passes of Snow Melt Services to such pedestrian and vehicular areas, as directed by DGS during a particular Storm.

### **Section 1.4 Snow and Ice Removal**

#### **Section 1.4.1 General**

The Contractor shall maintain the Targeted Properties (to which it is awarded) free from all hazardous conditions that may develop from ice or snow including, without limitation, all entrances, steps, moats, landings, sidewalks, ramps, vehicular courts, parking areas and other approaches ("Snow/Ice Removal Services"). All areas involving vehicular or pedestrian travel, including without limitation, sidewalks, stairways, ramps, and parking lots shall be clear of all snow and ice at least one (1) hour prior to the beginning of business hours and, as needed, throughout the duration of the Storm. The Contractor will be expected to perform one or more Passes of Snow/Ice Removal Services to such Targeted Properties, as directed by DGS during a particular Storm.

#### **Section 1.4.2 Project Management Plan**

The Contractor will be required to perform all of its Services hereunder consistent with the requirements outlined in this RFP and the Project Management Plan attached hereto as Attachment D. As part of its submission, each offeror is required to sign, date and deliver (as part of its proposal) the signed Project Management Plan. The Contractor must completely fill out, and deliver as part of its submission, all information responsive to the charts located at the end of the Project Management Plan (including snow removal contact list, truck & equipment list, snow blowers, heavy equipment inventory and miscellaneous equipment). After

selection, DGS reserves the right, at any time, to make modifications to the Project Management Plan in order to maximize efficient operations or to customize it to the particular needs of each Targeted Property or Property Group. After notice of such modifications by DGS, the Contractors shall be required to perform its Services in compliance with the Project Management Plan, as modified.

#### **Section 1.4.3 Non-Interference**

The Contractor shall coordinate its work so as to not interfere with District of Columbia Government functions including, but not limited to, the Metropolitan Police Department's (MPD) changing of shifts, and work at MPD facilities. Adequate notice shall be provided by the Contractor to DGS in the event that government vehicles will need to be cleared from parking lots in order for the Contractor to provide Snow Melt Services and Snow/Ice Removal Services.

### **Section 1.5 Prioritization**

#### **Section 1.5.1 Priority 1 Properties**

For those Targeted Properties identified as having a "Priority 1" rating on Attachment A, unless instructed by DGS to commence operations earlier, all snow and/or ice removal operations should begin upon the first to occur: (i) when accumulation exceeds ½ inch, or (ii) within one (1) hour after the precipitation ceases. With respect to any Targeted Property identified as having a "Priority 1" rating, the Contractor must remove all snow and ice from, and maintain a clear passage to, from and along, all areas involving vehicular or pedestrian travel including, without limitation, sidewalks, stairways, ramps, and parking lots. In the case of a Storm resulting in 12" or more of snow/ice accumulation, (i) during such Storm, the Contractor shall ensure that there exists a pedestrian pathway that is a minimum of three (3) feet wide, and is kept free of any snow and/or ice accumulation, and (ii) after any such Storm, the Contractor shall ensure that the entire pedestrian pathways are completely cleared of all snow and/or ice accumulation. In the event of a snow resulting in less than 12" of snow/ice accumulation, the Contractor shall ensure that the entire pedestrian pathways are completely cleared of all snow and/or ice accumulation. For purposes of determining the total amount of snow and/or ice accumulation during a given Storm, DGS shall make its determination based upon weather reporting, in Washington, DC, from the National Weather Services.

### **Section 1.5.2 Priority 2 and Priority 3 Properties**

With respect to any Targeted Property identified as having a “Priority 2” or “Priority 3” rating, after performing required services to all “Priority 1” rated facilities, the Contractor must remove all snow and ice from, and maintain a clear passage to, from and along, all areas involving vehicular or pedestrian travel including, without limitation, sidewalks, stairways, ramps, and parking lots. Unless directed otherwise by DGS, the Contractor shall be required to commence Services for “Priority 3” properties only after it has first performed any required Services for “Priority 2” properties.

### **Section 1.6 Excess Sand/Material/Snow**

The Contractor shall be responsible for clearing all excess sand or other snow melt material from treated areas. If not all snow and/or ice are removed from a facility area, Contractor shall be responsible, after a Storm, for providing daily maintenance in order to prevent piles or drifts on paved surfaces. Such maintenance shall include the pushing back of snow piles to create additional snow storage with bobcats and/or tractors. Such efforts by the Contractor shall continue until instructed to “Stand Down” by the COTR.

### **Section 1.7 Optional Services/Properties**

#### **Section 1.7.1 Optional Street Plowing Services**

As noted above, during a Storm, if another DGS contractor has not adequately plowed (within a timeframe acceptable to DGS) any of the Targeted Roadways within its awarded Property Group, then DGS reserves the right to require Contractor to plow such Targeted Roadways as directed. Upon DGS’s instruction, the Contractor shall plow such requested streets and roadways to remove snow and ice accumulation and, thereby, enable vehicular travel to and from the Targeted Properties (“Optional Street Plowing Services”). Such Optional Street Plowing Services shall be performed in a manner consistent with the requirements outlined in this RFP and the Project Management Plan attached hereto as Attachment D. The Contractor will be expected to perform one or more Passes of Optional Street Plowing Services to such Targeted Roadways, as directed by DGS during a particular Storm.

### **Section 1.8 Additional Targeted Properties.**

#### **1.8.1 Newly Acquired Properties**

As noted above, if instructed by DGS, a Contractor shall be required to perform Services to any Newly Acquired Properties (i.e., any property that DGS has subsequently acquired

responsibility for, after an award made hereunder, (and, if a DC Public School, any surrounding streets or roadways) that DGS desires to include within a particular Contractor's awarded Property Group(s). The pricing for performing such Services shall be dependent upon when DGS has notified a Contractor of its desire to include such Newly Acquired Properties within such Contractor's awarded Property Group(s) (and DGS reaching an agreement with such Contractor on pricing), as is set forth below.

### **1.8.2 Notification Pre-Storm**

If DGS informs a Contractor before a Storm that a Newly Acquired Property has been added to such Contractor's Property Group, then the Contractor shall be required to provide DGS within ten (10) days thereafter its proposed pricing for performing all Services contemplated hereunder to such property. Such proposed pricing shall not be on terms (including financial) any less favorable than the Contractor's then existing pricing for other comparable Targeted Properties and Targeted Roadways within its awarded Property Group. DGS reserves the absolute right to reject such pricing for any reason and, under such circumstances, may either (i) engage another third party contractor to perform Services on such properties, or (ii) require the Contractor to instead provide such Services temporarily based upon the hourly rate submitted in its proposal for Additional Targeted Properties until (x) an agreement can be reached on pricing by DGS with the Contractor or (y) DGS has elected to permanently reassign such property to another third party contractor.

### **1.8.3 Notification During Storm**

During a Storm, if DGS so informs a Contractor that a Newly Acquired Property has been added to such Contractor's Property Group, then the Contractor shall be required to provide Services based upon the hourly rate submitted in its proposal for Additional Targeted Properties during a given Storm. After the end of such Storm, the Contractor shall be required to promptly submit its pricing quote to DGS for servicing such property in a manner contemplated by the immediately preceding section.

### **1.8.4 Under-serviced Targeted Properties**

As noted above, if instructed by DGS, a Contractor shall be required to perform Services to any Targeted Property or Targeted Roadway that was awarded to another Contractor if such other Contractor has, during a Storm, been unable to adequately perform Services within a timeframe acceptable to DGS. If DGS so instructs a Contractor to perform such Services, the Contractor

shall be required to provide Services based upon the hourly rate submitted in its proposal for Additional Targeted Properties.

Each bidder by submitting its proposal hereby expressly acknowledges and consents that DGS shall have the right, in its sole and absolute discretion, to utilize any other available contractors under the previously described circumstances. Furthermore, each bidder also agrees that, if it should become such a nonperforming Contractor, it shall not be entitled to receive any compensation for any Services that were independently and solely performed by another contractor with respect to its awarded Targeted Properties.

### **1.8.7 Non-DGS Properties**

As noted above, if instructed by DGS, a Contractor shall be required to perform Services to any property not within the DGS's real estate portfolio. If DGS so instructs a Contractor to perform such Services, the Contractor shall be required to provide Services based upon the hourly rates submitted in its proposal.

## **Section 1.9 Damages**

The Contractor shall not injure, damage, or destroy District government property. The Contractor shall be held responsible for all damage it may cause to District government properties, any third parties, or any properties of such third parties, in any way related to the performance of Services hereunder (including the operation of its' equipment or the application of chemicals for ice and snow removal). All chemicals used by the Contractor shall be in accordance with Applicable Laws. The Contractor shall only use environmentally and pet-friendly ice-melt products (on concrete only) and sand (on asphalt only).

## **Section 1.10 Vehicular Identification**

The Contractor shall ensure that all of its vehicles used in the performance of its services hereunder are clearly identified. Each vehicle shall have signage that prominently displays the Contractor's company name on both the driver and passenger side doors. Such signage shall be of a size that is highly visible to public. Equipment that has no doors shall display similar signage in a prominent area on both the left and right side of the equipment.

In the event that the Contractor fails to display the required signage on its vehicles or equipment, DGS may assess the Contractor administrative liquidated damages, per violation, in the amount of \$100 per day, in addition to other damages and remedies available

to DGS. In the event that DGS has assessed any such liquidated damages, it will deduct the amount of such damages from any payments then owed by DGS to the Contractor.

### **Section 1.11 Equipment**

**1.11.1** The Contractor shall provide and maintain contractor-owned or leased vehicles to meet the requirements of this contract. Any Contractor vehicles used in the performance of this contract shall have the company name prominently displayed on both sides of the vehicle.

**1.11.2** All vehicles used in the performance of this contract shall be in operable condition and meet the local, state and federal safety requirements. The Department may inspect the Contractor's vehicles at any time and direct the removal of any unsafe or non-functional vehicles. All vehicles shall be registered, licensed, insured, and operated by a licensed driver. All vehicles shall be registered; have Department of Transportation (DOT) numbers visible as required by law; and follow all District regulations related to parking, driving, and licensing.

**1.11.3** The Contractor's equipment shall be of a quality, size and type suitable for accomplishing the required work. The Contractor's equipment shall be in good repair and able to operate efficiently and safely..

**1.11.4** The Contractor's equipment shall have the proper safety devices maintained at all times while in use. If equipment does not contain proper safety devices and/or is being operated in an unsafe manner, the Department shall direct the Contractor to remove such equipment and/or operator until the deficiency is corrected to the satisfaction of the District.

**1.11.5** The Department may inspect the Contractor's equipment and tools at any time.

### **Section 1.12 Reporting/Invoicing**

The Contractor shall remain in communication with the Department prior to, during, and after each Storm. The Contractor shall report its hourly activities to DGS through DGS's "Salesforce" online work management system. The Contractor's reporting must be done "real time" and include: (i) properties

treated, (ii) date and time of operations; (iii) quantity of snow and/or ice removed; (iv) equipment and materials used; (v) staff utilized; (vi) challenges or problems encountered during the operations; and (vii) time and date stamped photographs of snow removal operations (including before, during, and after photographs). The Contractor shall submit its invoice within twenty-four (24) hours after performing its Services hereunder.

### **Section 1.13 Key Personnel**

**1.13.1** The Offeror's personnel should have the necessary experience and licenses to perform the required work. Key personnel shall include, at a minimum, the following individuals: (i) the account executive for this contract; (ii) the individual who will be responsible for dispatching crews and equipment; and (iii) the key foreman who will oversee and supervise the work in the field. The account executive should be a senior member of the Offeror's management team who has the authority and responsibility for ensuring that the Contractor's responsibilities are properly discharged. The Contractor will not be permitted to reassign any of the key personnel unless the Department approves the proposed reassignment and the proposed replacement.

**1.13.2** The Contractor shall designate two Key Personnel to be available to communicate with the Department by telephone and email twenty-four (24) hours a day, seven (7) days a week over the course of the contract.

### **Section 1.14 Licensing, Accreditation and Registration**

All offerors must provide proof, in their bids, to DGS that they have a "General Business License" issued by the D.C. Department of Consumer and Regulatory Affairs. During the contract, each Contractor and all of its subcontractors and sub-consultants (regardless of tier) shall comply with all licensing, accreditation, and registration requirements and standards under Applicable Laws for the performance of the contract

### **Section 1.15 Conformance with Laws**

The Contractor shall perform the Services hereunder in accordance with applicable local and federal statutes, laws, codes, ordinances, regulations, rules, requirements and orders ("Applicable Laws").



### **Section 1.16 Completion Schedule**

Time is of the essence with respect to the contract. In order to efficiently and expeditiously complete the clearing of snow and ice from the Targeted Properties (and, if instructed, Targeted Roadways and Additional Targeted Properties), it is necessary to establish a completion schedule. It is understood that weather conditions, particularly in winter, are difficult to predict, and that each Storm has a number of variables; e.g. depth, length of snowfall, falling or rising temperatures, time of day or night, early, mid or late winter, and traffic impact. Nonetheless, some requirements are necessary. Therefore, it is expected that, in most instances, the Contractor will complete all Services required of it herein with respect to its awarded Property Group within twelve (12) hours after the end of a Storm.

The Department shall have priority over any other similar contract held by the Contractor throughout the course of the contract. As such, the Contractor must dedicate such personnel and other resources as are necessary to ensure that the required Services are completed on-time and in a diligent, skilled, and professional manner.

## **SECTION 2 CONTRACTOR'S FEES**

### **Section 2.1 Contract Type**

This is an Indefinite Delivery, Indefinite Quantity contract (IDIQ) with fixed fully loaded flat rates on a per-pass basis. All other additionally added Targeted Properties will be paid based on fixed fully loaded hourly rates. The Contractor will be compensated in accordance with the rates established in **Attachment B**. The rates in Attachment B shall be the Contractor's sole method of compensation for all work performed and required under this contract and as such, include adequate funding for all of the Contractor's cost associated with but not limited to; management, tools, labor, equipment, storage, vehicles/trucks, overhead, insurance, and profit with the exception of the cost actually incurred by the Contractor with respect to environmentally and pet-friendly bulk road salt, ice melt, and sand supplies.

### **Section 2.2 Mandatory Subcontract Provisions**

The Contractor shall ensure that all subcontracts in excess of \$250,000.00 and required by law, as described in Section 13, contain the following provisions;

- 2.2.1** That, to the extent of the Work or supply within the agreement's scope, the Subcontractor or supplier is bound to the Contractor for the performance of all obligations, which the Contractor owes the Department under the Contract;

- 2.2.2** that the Subcontractor or supplier is not in privity with the Department and shall not seek compensation directly from the Department on any third-party beneficiary, quantum meruit, or unjust enrichment claim, or otherwise, except as may be permitted by any applicable mechanic's lien law;
- 2.2.3** that the Department is a third-party beneficiary of the subcontract or supply agreement, entitled to enforce any rights thereunder for its benefit;
- 2.2.4** that the Subcontractor or supplier consents to assignment of its agreement to the Department, at the Department's sole option, if the Contractor is terminated for default;
- 2.2.5** that the Subcontractor or supplier shall comply immediately with a written order from the Department to the Contractor to suspend or stop work;
- 2.2.6** that the Subcontractor or supplier shall maintain records of all Work it is requested or authorized to do on a time and material or cost-plus basis, or with respect to claims that it has asserted on a time and materials or cost-plus basis, during the Project and for a period of time specified in the General Conditions and requiring the Subcontractor or supplier to make those records available for review or audit by the Department during that time;
- 2.2.7** that the Subcontractor shall obtain and maintain, throughout the Project, workers' compensation insurance in accordance with the laws of the District of Columbia (This provision is not applicable to supply agreements.);
- 2.2.8** that, if the Department terminates the Contract for convenience, the Contractor may similarly terminate the subcontract or supply agreement for convenience, upon seven (7) days' written notice to the Subcontractor or supplier, and that the Subcontractor or supplier shall, in such a case, be entitled only to the costs set forth in the Termination for Convenience provisions of this Agreement;
- 2.2.9** that the Department shall have the right to enter into a contract with the Subcontractor or supplier for the same price as its subcontract or supply agreement price less amounts already paid, if the Contractor files a voluntary

petition in bankruptcy or has an involuntary petition in bankruptcy filed against it;

**2.2.10** that the Subcontractor or supplier shall not be entitled to payment for defective or non-conforming work, materials or equipment, and shall be obligated promptly to repair or replace non-conforming work, materials or equipment at its own cost;

### **Section 2.3 Certified Subcontractors**

The Contractor shall not substitute or replace any Subcontractor or supplier certified by the District of Columbia Department of Small and Local Business Development without the Department's prior written consent.

### **Section 2.4 Value of Contract**

The Contractor shall be entitled to receive a minimum of Two Hundred Fifty Dollars (\$250.00) pursuant to this Contract regardless of whether any work is performed under this Contract. However, in no event shall the Contractor be entitled to receive more than Five Million Dollars (\$5,000,000.00) per year for work performed pursuant to services performed under this Contract.

## **SECTION 3 TERM**

### **Section 3.1 Term**

The Base term of this Agreement shall begin on the date of Award, and end one (1) year thereafter. The Contractor shall be required to perform the required snow & ice removal and snow melt services for all the facilities identified in **Attachment A** during the term of this Agreement.

### **Section 3.2 Option Years**

The Department shall have the unilateral right to extend the term of this Agreement for four (4) one-year option periods, or successive fractions thereof by written notice to the Contractor before the expiration of the contract.

**3.2.1 Option Years Pricing.** In the event the Department, exercises its option to extend the Agreement to cover an option year, the indefinite delivery indefinite quantity fixed fully loaded flat rates and fixed fully loaded hourly rates are applicable to such Option Year are set forth in **Attachment B**.

## **SECTION 4 CHANGES**

### **Section 4.1 Changes Authorized**

The Department may, without invalidating the contract, and without notice to or approval of any surety, order changes in the Work, including additions, deletions

or modifications. Any such change must be conveyed by the Department to the Contractor via written Contract Modification or Change Order.

**Section 4.2 Executed Change Directive/Order Required**

Modification/Changes to the Contract may be made only by a written Change Directive or Change Order executed by the Department.

**Section 4.3 Prompt Notice**

In the event the Contractor encounters a situation which the Contractor believes to be a change to this contract, the Contractor shall provide the Department with prompt written notice of such event and the possible impact such event could have on cost and schedule. All such notices shall be given promptly, considering the then applicable situations, but in no event more than ten (10) calendar days after encountering the situation. The Contractor acknowledges that the failure to provide such notice in a timely manner could limit or eliminate the Department's ability to mitigate such events, and thus, the Contractor shall not be entitled to an adjustment in the event it fails to provide prompt notice. The Contractor shall include provisions similar to this provision in all of its subcontracts.

**Section 4.4 Executed Modification/Change Orders Final**

The Contractor agrees that any Modification/Change Order executed by the Department and the Contractor constitutes its full and final adjustment for all costs, delays, disruptions, inefficiencies, cumulative impact, accelerations, schedule impacts, or other consequences arising from the change in question, whether a Change Directive, or a Change Event, or from any claimed cumulative effect of changes made to the date of the Modification/Change Order, and that no further adjustments in compensation or time shall be sought or made with respect to the Change Directive or the Change Event giving rise to the Modification/Change Order.

**Section 4.5 Failure to Agree**

If the Contractor claims entitlement to a change in the contract, and the Department does not agree that any action or event has occurred to justify any change in time or compensation, or if the parties fail to agree upon the appropriate amount of the adjustment in time or compensation, the Department will unilaterally make such changes, if any, to the contract, as it determines are appropriate pursuant to the terms of this Agreement. The Contractor shall proceed with the Work and the Department's directives, without interruption or delay, and may make a claim as provided in Section 14 of this Agreement. Failure to proceed due to a dispute over a change request shall constitute a material breach of the contract and entitle the Department to all available remedies for such breach, including, without limitation, termination for default.

#### **Section 4.6 Indemnification**

The Contractor agrees to defend, indemnify and hold harmless the District, its officers, agencies, departments, agents, and employees (collectively the “District”) from and against any and all claims, losses, liabilities, penalties, fines, forfeitures, demands, causes of action, suits, costs and expenses incidental thereto (including cost of defense and attorney’s fees), resulting from, arising out of, or in any way connected to activities or work performed by the Contractor, Contractor’s officers, employees, agents, servants, subcontractors, or any other person acting for or by permission of the Contractor in the performance of this Contract. The Contractor assumes all risks for direct and indirect damage or injury to the property or persons used or employed in performance of this Contract. The Contractor shall repair or replace any District property that is damaged by the Contractor, Contractor’s officers, employees, agents, servants, subcontractors, or any other person acting for or by permission of the Contractor while performing work hereunder.

The indemnification obligation under this section shall not be limited by the existence of any insurance policy or by any limitation on the amount or type of damages, compensation or benefits payable by or for Contractor or any subcontractor, and shall survive the termination of this Contract. The District agrees to give Contractor written notice of any claim of indemnity under this section. Monies due or to become due the Contractor under the Contract may be retained by the District as necessary to satisfy any outstanding claim which the District may have against the Contractor.

### **SECTION 5 PAYMENTS**

#### **Section 5.1 Invoicing**

The Contractor shall bill the Department on a monthly basis. As such, each invoice shall cover all work performed during the preceding month and shall be broken down by storm. For each storm, the invoice shall include: (i) date and time of operations; (ii) quantity of snow and/or ice removed; (iii) equipment and materials used; and (iv) staff utilized.

- The District will make payments by purchase card to the Contractor, upon the submission of proper invoices, at the prices stipulated in this contract, for supplies delivered and accepted or services performed and accepted, less any discounts, allowances or adjustments provided for in this contract.
- The District will pay the Contractor on or before the 30th day after receiving a proper invoice from the Contractor. The Contractor shall submit invoices to the Department on a monthly basis. Each such invoice shall itemize all goods and services provided during the previous month and include a valid Purchase Order Number.

- The Department will no longer accept hardcopy invoice submittals; going forward all invoices must be submitted electronically through the EASI Pay Portal on the Department Website at <https://dgs.onbaseonline.com>.
  - EASI First time users will be prompted to register for Portal access; for assistance with the registration process, technical assistance and or additional information on the EASI Pay Portal, please contact the Portal Help Desk at (301) 563-3025.
- The following address should be referenced for all Invoices:

Department of General Services  
Office of the Chief Financial Officer  
2000 14<sup>th</sup> Street, N.W. | 5<sup>th</sup> Floor  
Washington, D.C. 20001

### **Section 5.2 Supporting Documentation**

The Contractor shall submit with each invoice cost backup supporting such invoice.

### **Section 5.3 Right to Withhold Payments**

The Department will notify the Contractor within fifteen (15) calendar days after receiving any invoice for payment of any defect in the invoice or the work which may result in the Department's declining to pay all or a part of the invoiced amount. The Department may withhold payment from the Contractor, in whole or part, as appropriate, if

- i. the work is defective and such defects have not been remedied; or
- ii. the Department has determined that the Contractor's progress has fallen behind the Project Schedule, and the Contractor fails, within five calendar days of the Department's written demand, to provide the Department with a realistic and acceptable plan to recover the delays; or
- iii. the Contractor has failed to pay subcontractors promptly or has made false or inaccurate certifications that payments to Subcontractors or Suppliers are due or have been made; or
- iv. the Contractor is otherwise in substantial breach of the Contract (including, without limitation, failures to comply with the these Special Provisions).

## SECTION 6 ECONOMIC INCLUSION REQUIREMENTS

### Section 6.1 SBE Utilization

The Contractor shall comply with the following:

#### 6.1.1 Mandatory Subcontracting Requirements

- (a) Unless the Director of the Department of Small and Local Business Development (DSLBD) has approved a waiver in writing, for all contracts in excess of \$250,000, at least 50% 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 12.1 (a), then the subcontracting may be satisfied by subcontracting 50% 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 Section 12.1.1 and Section 12.1.2 of this clause.
- (d) Except as provided in Section 12.1 (e) and 12.1 (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 35% of the contracting effort with its own organization and resources and, if it subcontracts, 50% 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, 50% 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.

**6.1.2 Subcontracting Plan** If the prime contractor is required by law to subcontract, it shall subcontract at least 50% of the dollar volume of Task Orders in accordance with the provisions of Section 12.1. The subcontracting Plan shall be submitted as part of the Contractor's Task Order proposal 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.

**6.1.2.1 Copies of Subcontracts.** If the Contractor has a subcontracting plan required by law for this contract or Task Orders issued pursuant to this agreement, the Contractor shall submit fully executed copies of all subcontracts identified in the subcontracting plan to the CO, PM, District of Columbia Auditor and the Director of DSLBD within twenty-one (21) days of the execution of a Task Order.

**6.1.2.2 Subcontracting Plan Compliance Reporting.** If the Contractor has a subcontracting plan required by law for this



contract or Task Orders issued pursuant to this agreement, the Contractor shall submit a quarterly report to the CO, PM, 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.

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

**6.1.4 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.

**6.1.5 Enforcement and Penalties for Breach of Subcontracting Plan**

- (h) 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.
- (i) 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.
- (j) 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 Section 14.16 of the agreement.

## **SECTION 7 SUBCONTRACTS**

### **Section 7.1 Subcontracts**

The Contractor shall perform the work with its own forces. In the event that the Contractor desires to engage one or more subcontractors to assist with the work, it shall advise the Department and obtain the Department's written approval of any such subcontractor. All subcontractors shall be required to comply with the insurance requirements set forth herein. In addition, the Contractor shall be responsible for all work performed by the subcontractors and shall assume the risk of the subcontractors' non-performance.

## **SECTION 8 FIRST SOURCE AGREEMENT**

**Section 8.1** Upon execution of the Contract, the Contractor and all its member firms, if any, 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 8.2** 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 member firms and Subcontractors shall execute a First Source Agreement with the District of Columbia Department of Employment Services ("DOES") prior to beginning Work at the Project site.

**Section 8.3** The Contractor shall maintain detailed records relating to the general hiring of District of Columbia and community residents.

**Section 8.4** The Contractor shall be responsible for: (i) including the provisions of this Section 13 in all subcontracts; (ii) collecting the information required in this Section 13 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 13.

## **SECTION 9 TERMINATION FOR CONVENIENCE**

The Department may at any time terminate this Agreement, in whole or specified part, for convenience. In such an event, the Contractor shall be entitled to receive compensation for services performed through the effective date of termination in accordance with the terms of this Agreement. In no event, however, shall the

Contractor be entitled to recover lost profits or opportunity costs on the unperformed portion of work.

#### **SECTION 10 TERMINATION FOR DEFAULT**

The Department may terminate this Contract for default if the Contractor fails materially to perform any of its duties or obligations under this Contract and such failure continues for a period of at least seven (7) days after receiving written notice of such failure from the Department.

#### **SECTION 11 CONTRACTING OFFICER'S TECHNICAL REPRESENTATIVE (COTR)**

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

- (a) Keeping the CO fully informed of any technical or contractual difficulties encountered during the performance period and advising the CO of any potential problem areas under the contract;
- (b) Coordinating site entry for Contractor personnel, if applicable;
- (b) Reviewing invoices for completed work and recommending approval by the CO if the Contractor's prices and costs are consistent with the contractual amounts and progress is satisfactory and commensurate with the rate of expenditure;
- (c) Reviewing and approving invoices for deliverables to ensure receipt of goods and services. This includes the timely processing of invoices and vouchers in accordance with the District's payment provisions; and
- (d) Maintaining a file that includes all contract correspondence, modifications, records of inspections (site, data, and equipment) and invoice or vouchers.
- (e) The contact information of the COTR is:

Anthony Peters  
Building & Grounds Maintenance Supervisor  
(202) 576-850 Office  
(202) 438-9466 Cell  
[anthony.peters@dc.gov](mailto:anthony.peters@dc.gov)

## **SECTION 12 CLAIMS AND DISPUTE RESOLUTION**

### **Section 12.1 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 12.2 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 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 12.3 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.

## **SECTION 13 INSURANCE**

### **Section 13.1 Required Insurance**

The Contractor will be required to maintain the following types of insurance throughout the life of the contract.

- i. Commercial general public liability insurance ("Liability Insurance") against liability for bodily injury and death and property damage, such Liability Insurance written on an occurrence basis to be in an amount not less than Two Million Dollars (\$2,000,000.00) for liability for bodily injury, death and property damage arising from any one occurrence and Two Million Dollars (\$2,000,000.00) from the aggregate of all

occurrences within each policy year. The policies shall contain blanket contractual coverage (including coverage for the indemnity clauses to be provided under the Agreement) and completed operations coverage (for 3 years beyond completion of the Work).

- ii. Workers' compensation providing statutory benefits for all persons employed by the Contractor, or its contractors and subcontractors at or in connection with the Work.
- iii. Automobile Liability, including Hired and Non-Owned Auto Liability in the amount of at least One Million Dollars (\$1,000,000.00) for each occurrence for bodily injury and property damage.

### **Section 13.2 Additional Insurers**

Each insurance policy shall be issued in the name of the Contractor and shall name as additional insured the Department and the District of Columbia and shall not be cancelable or reduced without thirty (30) calendar days' prior written notice to the Department.

### **Section 13.3 Waiver of Subrogation**

All such insurance shall contain a waiver of subrogation against the Department and its respective agents.

### **Section 13.4 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 then-current rating of "A-" or better and a financial size category of Class XV or higher. All such insurers shall be licensed/approved to do business in the District of Columbia.

## **SECTION 14 MISCELLANEOUS PROVISIONS**

### **Section 14.1 Standard Contract Provisions**

The District of Columbia Department of General Services Standard Contract Provisions, dated January 14, 2016, is incorporated by reference as part of this contract as **Attachment** \_\_\_\_.

### **Section 14.2 Service Contract Act Provision**

The Contractor agrees that the work performed under this Contract shall be subject to the Service Contract Act. The wage rates applicable to this Project are attached as **Attachment** \_\_\_\_.

### **Section 14.3 Living Wage Act**

The Contractor agrees that the work performed under this Contract shall be subject to the District of Columbia Living Wage Act, **Attachment** \_\_\_\_.

**Section 14.4 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 14.5 Americans With Disabilities Act Of 1990 (ADA)**

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

**Section 14.6 Buy American Act Provision**

The Contractor shall comply with the provisions of the Buy American Act (41 U.S.C. § 10a), including, but not limited to, the purchase of steel.

**Section 14.7 Freedom of Information Act**

The District of Columbia Freedom of Information Act, at D.C. Official Code § 2-532 (a-3), requires the District to make available for inspection and copying any record produced or collected pursuant to a District contract with a private contractor to perform a public function, to the same extent as if the record were maintained by the agency on whose behalf the contract is made. If the Contractor receives a request for such information, the Contractor shall immediately send the request to the COTR designated in subsection 6.7., which will provide the request to the FOIA Officer for the agency with programmatic responsibility in accordance with the D.C. Freedom of Information Act. If the agency with programmatic responsibility receives a request for a record maintained by the Contractor pursuant to the contract, the COTR will forward a copy to the Contractor. In either event, the Contractor is required by law to provide all responsive records to the COTR within the timeframe designated by the COTR. The FOIA Officer for the agency with programmatic responsibility will determine the releasability of the records. The District will reimburse the Contractor for the costs of searching and copying the records in accordance with D.C. Official Code §2-532 and Chapter 4 of Title 1 of the D.C. Municipal Regulations.

**Section 14.8 Retention of Records: Inspections and Audits**

**14.8.1** The Contractor shall maintain books, records, documents and other evidence directly pertinent to performance under the Contract in accordance with generally accepted professional practice and appropriate accounting procedures and practices consistently applied in effect on the date of execution of the Contract.

**14.8.2** 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 Department

and the required cost submissions in effect on the date of execution of the Department.

- 14.8.3** The Department, 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 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.
- 14.8.4** The Contractor agrees to include the wording of this Section 19 in all its subcontracts in excess of Five Thousand Dollars (\$5,000.00) that directly relate to Project performance.
- 14.8.5** 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.
- 14.8.6** The Contractor agrees to the disclosure of all information and reports, resulting from access to records, to any authorized representative of the Department. 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.
- 14.8.7** The Contractor shall preserve all records described herein from the effective date of the Contract 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 15 GRATUITIES AND OFFICERS NOT TO BENEFIT PROVISIONS**

**Section 15.1** If it is found, after notice and hearing, by the Department 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 Department or the District with a view toward securing the Contract 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 Department may, by written notice to the Contractor, terminate the right of the Contractor to proceed under the Contract and may pursue such other rights and remedies provided by law and under the Contract.

**15.1.2** In the event the Contract is terminated the Department shall be entitled:

- (a) to pursue the same remedies against the Contractor as it could pursue in the event of a breach of the Contract by the Contractor; and
- (b) 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 Department) which shall be not less than ten times the costs incurred by the Contractor in providing any such gratuities to any such officer or employee.

**Section 15.2** No member of, nor delegate to Congress, Mayor or City Council Member, nor officer nor employee of the District, nor officer nor employee of the Department shall be admitted to any share or part of the Contract or to any benefit that may arise therefrom, and all agreements entered into by the Contracting Officer of the Department in which he or any officer or employee of the Department shall be personally interested as well as all agreements made by the Department in which the Mayor or City Council Member or officer or employee of the District shall be personally interested shall be void and no payments shall be made on any such contracts by the Department or by any officer 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 officer or employee of the District is de minimis.

### **Section 15.3 Ethical Standards For Department's Employees And Former Employees**

The Department 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 Department 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 Department or the District for any Work required, contemplated or performed under the Contract. The Contractor may not assign to any former Department or District employee or agent who has joined the Contractor's firm any matter on which the former employee, while in the employ of the Department, had material or substantial involvement in the matter. The Contractor may request a waiver to permit the assignment of such matters to former Department 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 Subcontractor or vendor.

#### **Section 15.4 Anti-Deficiency Act**

The Department's obligations and responsibilities under the terms of the Contract and the Contract Documents are and shall remain subject to the provisions of (i) the federal Anti-Deficiency Act, 31 U.S.C. §§1341, 1342, 1349, 1350, 1351, (ii) the D.C. Code 47-105, (iii) the District of Columbia Anti-Deficiency Act, D.C. Code §§ 47-355.01 - 355.08, as the foregoing statutes may be amended from time to time, and (iv) Section 446 of the District of Columbia Home Rule Act. Neither the Contract nor any of the Contract Documents shall constitute an indebtedness of the Department, nor shall it constitute an obligation for which the Department is obligated to levy or pledge any form of taxation, or for which the Department has levied or pledged any form of taxation. **IN ACCORDANCE WITH § 446 OF THE HOME RULE ACT, D.C. CODE § 1-204.46, NO DISTRICT OF COLUMBIA OFFICIAL IS AUTHORIZED TO OBLIGATE OR EXPEND ANY AMOUNT UNDER THE CONTRACT OR CONTRACT DOCUMENTS UNLESS SUCH AMOUNT HAS BEEN APPROVED, IS LAWFULLY AVAILABLE AND APPROPRIATED BY ACT OF CONGRESS.**

#### **SECTION 21 ORDER OF PRECEDENCE**

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

This Contract document

- a. Contract Exhibits other than the Standard Contract Provisions
- b. Rate Schedule/Contractor's Proposal
- c. The RFP dated, October 7, 2016, as amended
- d. District of Columbia Department of General Services Standard Contract

**IN WITNESS WHEREOF,** each of the parties to this Agreement has caused this Agreement to be signed by its duly authorized representative.

**[CONTRACTOR NAME]**

**By:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**DEPARTMENT OF GENERAL SERVICES**

**By:** \_\_\_\_\_

**Name:** **George G. Lewis, CPPO**

**Title:** Interim Associate Director/  
Chief Contracting Officer

**Date:** \_\_\_\_\_