

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF GENERAL SERVICES



SECTION A
INVITATION FOR BIDS (“IFB”)
Solicitation Number: DCAM-22-CS-IFB-0005

Construction Services for New Jersey Avenue and O Street Park Renovation

This solicitation is designated only for certified small business enterprise (“SBE”) contractors under the provisions of the “Small and Certified Business Enterprise Development and Assistance Act of 2014”, D.C. Official Code § 2-218.01 *et seq.*, as amended. **ONLY** Contractors that are certified by the District of Columbia Department of Small and Local Business Development (“DSLBD”) as a SBE are eligible.

Date Issued: November 22, 2022

Pre-Bid Conference: December 2, 2022 at 11:00 A.M. to 12:00 P.M.
See Section L.12.1

[Click here to join the meeting](#)

Site Visit: December 6, 2022 at 11:00 A.M. to 12:00 P.M.
1322 New Jersey Avenue NW, Washington, DC.
At the corner of New Jersey Avenue NW and O Street NW, Washington, DC 20001
See Section L.12.2

Last Day for Questions: December 12, 2022 by 4:00 P.M.

Bid Due Date: December 21, 2022 at 12:00 P.M.

Delivery of Bids: Bids shall be submitted electronically
See section L.5

Bid Opening Date: December 21, 2022 at 3:30 P.M.
See section L.13

[Click here to join the meeting](#)

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

B.1 INTRODUCTION

The District of Columbia Department of General Services (the “District”, “Department” or “DGS”), is issuing this Invitation for Bids (“IFB” or “Solicitation”) to engage a highly qualified contractor (“Contractor”) to provide all labor, materials, and equipment to complete the construction of the New Jersey Avenue and O Street Park Renovation Project in accordance with this IFB, including, but not limited to, Section C – Scope of Work of this IFB, the Contract Drawings and Specifications (**Attachment J.1**), the DGS Standard Contract Provisions for Construction Contracts (**Attachment J.13**), and other associated attachments of this IFB (the “Project”).

B.2 TYPE OF CONTRACT

This will be a Lump Sum Price type contract. Bidders will be required to provide a Lump Sum Price to complete the Project, including, but not limited to, profit, home and field office overhead, supervision, labor, materials, equipment, bonds, insurance, and other services that may be required to obtain the necessary permits, and construct the work and complete the Project. The Lump Sum Price shall also include items that are not explicitly identified on the Drawings and Specifications but which are reasonably inferable therefrom. The District Department contemplates the award of a Lump Sum Price contract to one contractor; therefore, the Contract resulting from this IFB will be made to the lowest evaluated bidder who is responsive and responsible.

B.3 FORM OF OFFER LETTER AND BID FORM – Lump Sum Price

B.3.1 Lump Sum Price

The awarded Contractor shall be paid a Lump Sum Price, as detailed in **Attachment J.2**, to complete the Project.

B.3.2 Work Included in the Lump Sum Price

The Bidder acknowledges and understands that the Lump Sum Price is based on the Specifications/Scope of work (Section C), including the **Drawings and Specifications (Attachment J.1)**, which are incorporated into the Contract awarded pursuant to this IFB (the “Contract”). It is understood and agreed that the Lump Sum Price represents the Bidder’s offer to complete the Project. The Parties acknowledge and agree that the Contractor is obligated to provide all labor, materials, and equipment to complete the Project as contemplated in the Contract Documents for the Lump Sum Price and consistent with the project schedule. In furtherance of such agreement, the awarded Contractor assumes the risks associated with and shall be responsible for (i) any changes in market conditions that affect the cost of labor or materials; (ii) coordination issues between the Drawings; (iii) elements of work not shown on the Contract Documents, but which are reasonably inferable from the Contract Documents; (iv) cost associated with acceleration of the work and expediting of materials necessary to meet the project schedule which is the result of anything other than an excusable delay; and (v) the risk of subcontractor default or non-performance. The Parties understand and agree that

items (i) through (v) listed in the preceding sentence are not intended to be an exclusive list of the risks assumed by the awarded Contractor and that such items represent a partial list of the risks assumed by the awarded Contractor.

B.3.3 Basis of Lump Sum Price

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

B.3.3.1 Attachment J.1
Drawings and Specifications

B.3.3.2 Attachment J.2
Offer Letter and Bid Form

B.3.3.3 Attachment J.5
SBE Subcontracting Plan

B.3.3.4 Attachment J.6
2022 Living Wage Act Notice and Fact Sheet

B.3.3.5 Attachment J.7
Davis-Bacon Wage Rates Determination

B.3.3.6 Attachment J.8
First Source Employment Agreement and Employment Plan

B.3.3.7 Attachment J.13
Standard Contract Provisions (Construction Contracts)

B.4 ACKNOWLEDGEMENT OF REVIEW OF CONTRACT DOCUMENTS

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

B.4.1 During the term of the Contract, should any errors, omissions, ambiguities, or discrepancies be found in the Contract Documents, or should there be found any discrepancies between the Contract Documents to which the Contractor has failed to call attention before submitting its bid, the Contractor shall bring any such errors, omissions, ambiguities or discrepancies to the attention of the Department, and the Department will interpret the intent of the Contract Documents. The Contractor agrees to abide by and to carry out the work in accordance with the decision of the Department with no delay. Wherever the

intent of the Contract Documents is not indicated clearly or there is a conflict between the Contract Documents, the awarded Contractor will be held to have included in the Lump Sum Price the more expensive material or method of construction and the quantity of material.

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

B.4.3 Execution of the Contract by the Contractor is a representation that the Contractor has thoroughly examined all Contract Documents, including all details, plans, elevations, sections, schedules and diagrams, has visited the site, has become familiar with local conditions under which the work is to be performed, has correlated personal observations with the requirements of the Contract Documents, and has satisfied itself before executing the Contract as to all matters that can affect the work and its cost, including: (1) the nature of the land and subsoil; (2) the form and nature of the site and surrounding areas; (3) details and levels of existing pipe lines, conduits, sewers, drains, cables or other existing services; (4) the quantities, nature and availability of the materials, tools, equipment and labor necessary for the completion of the work; (5) the means of access to the site and any accommodation the Contractor may require; (6) familiarize themselves with the risks and mitigation costs associated with the hazardous materials and contaminated soils on the Project site; (7) uncertainties of weather and physical conditions at the site; and in general to have the contractor obtained all necessary information as to risk contingencies, climatic, hydrological and natural conditions and other circumstances which may influence or affect the Contractor's performance of the work. The Contractor waives any and all claims against the Department arising from or relating to such contingencies and conditions that are reasonably inferable from the Contract Documents, in light of the required preconstruction review and inspection and the Contractor's expertise in the field of construction.

B.5 A Bidder responding to this IFB must submit with its bid a copy of the certification acknowledgment letter, and a notarized statement detailing any subcontracting plan required by law. A Bidder responding to this IFB shall be deemed nonresponsive and shall be rejected if the Bidder fails to submit a subcontracting plan required by law. For contracts

more than \$250,000.00, a Bidder shall ensure that its bid complies with the subcontracting requirement(s) in accordance with Section H.9 of this IFB.

B.6 SPECIAL PROVISIONS RELATED TO THE COVID-19 EMERGENCY

B.6.1 The Contractor is required to comply with Mayor's Order 2021-099, COVID-19 Vaccination Certification Requirement for District Government Employees, Contractors, Interns, and Grantees, dated August 10, 2021, and all substantially similar vaccine requirements, including any modifications to this Order, unless and until they are rescinded or superseded. At the request of the District government, Contractors may be asked to provide certification of compliance with this requirement and/or documents and records in support of this certification.

B.6.2 The Contractor is required to comply with City Administrator's Order 2021-4, Resumption of Requirement for All Persons to Wear a Mask Inside District Government Buildings and While on Duty as a District Government Employee or Contractor, dated July 30, 2021, and all substantially similar mask requirements including any modifications to this Order, unless and until they are rescinded or superseded.

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

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

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

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

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

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

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

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

B.8 Campaign Finance Reform Act

B.8.1 The Contractor agrees to comply with the Campaign Finance Reform Act certification requirement pursuant to the D.C. Official Code § 1-1161.01.

SECTION C
SCOPE OF WORK (“SOW”)/SPECIFICATIONS

C.1 SCOPE

The Contractor will be required to complete the construction of the New Jersey Avenue and O Street Park Renovation in accordance with the Drawings and Specifications, attached hereto as **Attachment J.1**.

The Department has selected an Architectural and Engineering firm, Bradley Site Design (“Architect/Engineer”), to provide design for the selective demolition and new construction for the New Jersey Avenue and O Street Park, to be located at 1322 New Jersey Avenue NW, Washington, DC.

C.2 BACKGROUND

New Jersey Avenue and O Street Park is located at 1322 New Jersey Avenue, NW, in Ward 6. Also known as Allen Park, the approximately 0.86-acre site is situated in the southwest corner of the intersection of New Jersey Avenue NW and O Street NW. The park is surrounded on the south and east sides by a low concrete wall that restricts access to the site and contributes to its isolated and insular qualities. This isolation has led to an encampment of unhoused people in the area. Existing concrete chess tables have deteriorated and are under-utilized. Apartments flank the west and south sides of the park and currently have a locked gate. A DC Fire Department/EMS station is adjacent to the site’, and Dunbar High School is across New Jersey Avenue NW to the east. There is a District Department of Transportation (“DDOT”) right of way to the east of the park parallel to New Jersey Avenue NW that extends into the park interior. This area will include lawn and plantings, as well as seating for the park.

C.3 DEFINITIONS

C.3.1 Change Directive. A written directive signed and issued by the Department ordering the Contractor either to provide pricing and schedule impact information for a described change to the work or to proceed with a described change and provide pricing and schedule impact information after beginning the changed work.

C.3.2 Change Event. Any condition, event, act, omission, or breach other than the issuance of a Change Directive, which the Contractor believes entitles it to a change in the Lump Sum Price or the Substantial or Final Completion date(s).

C.3.3 Change Order/Contract Modification. A written document, executed by the Department and the Contractor, setting forth the agreed terms upon which a change to the Contract has been made.

C.3.4 Contract. The entire, integrated agreement between the Department and the Contractor with respect to the Project, consisting of this IFB, the Attachments to the IFB, the Construction Documents released for the Contractor’s use, and any Change Directives or Change Orders that have been executed by the Department.

C.3.5 Contract Documents. The final documents comprising the Contract, as prepared in accordance with the law, including, but not limited to the documents requiring review and approval by the District Council.

C.3.6 Drawings. Graphic and pictorial portions of the Contract Documents, wherever located and wherever issued, show the design, locations, and dimensions of the work, generally including plans, elevations, sections, details, schedules, and diagrams.

C.3.7 Reserved.

C.3.8 Reserved.

C.3.9 Reserved.

C.3.10 Hazardous Material. Any toxic substance or hazardous chemical defined or regulated pursuant to federal, state, or local laws relating to pollution, treatment, storage or disposal of waste, or protection of human health or the environment. Such laws include, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act, the Resource Conservation and Recovery Act, the Clean Water Act, the Clean Air Act and laws relating to emission, spills, leaks, discharges, releases or threatened releases of toxic material. The term Hazardous Materials shall also include petroleum and petroleum bi-products.

C.3.11 Hazardous Material Remediation. Hazardous material remediation shall mean the work performed to remove, treat and/or dispose of Hazardous Material.

C.3.12 Notice to Proceed. A written notice to proceed, signed by the Department, directing the Contractor to proceed with the Project or any portion of the Project.

C.3.13 Project Schedule. The schedule for the Project agreed to by the Project Manager and the Contractor herein. Such schedule shall not be changed except by a Change Order or Change Directive issued by the Department. The schedule shall be in a form and contain such detail as may be agreed upon by the Parties.

C.3.14 Specifications. The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, construction systems, standards and workmanship for the work, and performance of related services.

C.3.15 Subcontractor. Any person, natural or legal, to whom the Contractor delegates performance of any portion of the work required by the Contract. The term "Subcontractor," used without a qualifier, shall mean a subcontractor in direct privity with the Contractor. Subcontractors at all tiers" shall mean not only those Subcontractors in direct privity with the Contractor, but also those performing work pursuant to sub-subcontracts, sub-sub-subcontracts, and so on. "Subcontractors" shall include both those who are retained to perform labor only and those who are retained both to perform labor and to supply material or equipment. Subcontractors" shall also include design professionals who are not the Contractor's employees and to whom the Contractor delegates any part of its responsibilities under the Contract, except those references to "trade Subcontractors" shall exclude design professionals.

C.4 REQUIREMENTS

The Contractor will be required to complete the construction of the New Jersey Avenue and O Street Park Renovation in accordance with the Drawings and Specifications, attached hereto as **Attachment J.1**. To the extent there is an inconsistency between the Drawings and the Specifications, the Contractor shall be required to provide the more expensive requirement. Prior to submitting its bid, each Bidder shall carefully review the Drawings and Specifications and shall bring any inconsistency or error in the Drawings and Specifications to the attention of the Department in writing. To the extent that a competent Contractor could have identified any such inconsistency or error, such inconsistency or error shall not serve as the basis for a change order and the Contractor shall assume the risk of such inconsistency or error.

C.4.1 Renovated New Jersey Avenue and O Street Park

The park is currently under-utilized for its intended use as a place for recreation and relaxation. It therefore requires improved amenities to attract local residents and people from the city at large, to give it a sense of place and encourage ownership by the residents. Further, the park includes widespread hardscaped surfaces and as a result, produces extensive stormwater run-off. The intention of reducing the area of the concrete sidewalks is both to increase the greenspace of the park and to provide a place for stormwater run-off to re-enter the ground. The park concept includes meditative space, as well as a holistically improved park to provide community members space to gather, recreate, and reflect, thereby enhancing the overall usability of the space and increasing social interaction within the community.

C.4.2 Renovation Details

C.4.2.1 The renovation will include, but not be limited to, the following:

- a. Selective demolition of existing concrete retaining walls, curbs and concrete slabs.
- b. Removal of non-viable trees, including soil and roots (tree removal requires the approval of DDOT Urban Forestry Division).
- c. Removal of non-standard DPR benches.
- d. Removal of four (4) concrete chess tables.
- e. Site work and grading.
- f. Installation of landscaping (trees, shrubs, sod, topsoil as needed).
- g. Installation of a climbable sculpture, including foundation, with surrounding EWF surface for fall safety.
- h. Installation of a custom work of sculpture (designed and fabricated by others), including foundation.
- i. Electrical upgrades.
- j. Approximately ten (10) new non-standard lighting fixtures.
- k. Approximately ten (10) new DPR non-standard park benches.
- l. Three (3) picnic tables, with one of the picnic tables being ADA-compliant.
- m. Installation of permeable paving to replace areas of the concrete slabs.
- n. Children's play area with poured-in-place (PIP) surfacing.
- o. Bio-retention area with plantings.
- p. Install new bandstand at edge of picnic area.

- q. Plant new trees around the perimeter of the site in association with Casey Trees, a non-profit organization.
- r. Install new DPR standard trash and recycling containers, bike racks, and entrance and historical signage.
- s. Drinking fountain and utility installation to accommodate the fountain

All existing, viable trees, surrounding soil and concrete walls shall be maintained and protected. The Contractor shall include an arborist to prepare and oversee a tree protection plan during construction. The arborist shall work at the direction of DDOT arborists. New entrance gateways will be installed at the southeast, northeast and northwest corners of the park.

C.5 Preconstruction Activities

Prior to mobilizing to the Project site and commencing work, the Contractor shall be required to complete those activities set forth in this Section C.5. Unless a delay in completing the preconstruction, activities is the result of a delay beyond the timeframes set forth herein by the Department, the Project Manager, the Code Official or the Architect/Engineer or an event of force majeure, delays in completing the preconstruction activities shall not be considered excusable and shall not justify an extension of the Substantial Completion Date.

C.5.1 Detailed Schedule. Within seven (7) days of the issuance of a Notice to Proceed, the Contractor shall submit to the Department for its approval a schedule of Project. Such schedule shall include a schedule for submittals that is reasonably acceptable to the Project Manager. The Project Manager shall have five (5) business days to review such submittal.

C.5.2 Preconstruction Submittals. On or before the dates specified in the approved detailed schedule, the Contractor shall submit any necessary preconstruction phase information to the Project Manager for his review and approval. Unless a different timeframe is established in the approved baseline schedule, the Project Manager shall have five (5) business days to review such documents. In the event the Project Manager finds such documents to be unacceptable, the Contractor shall be required to revise and resubmit such documents. The Contractor shall not commence construction activities unless and until the deliverables listed in Section C.5.6 have been approved by the Project Manager. Any delays that result from any preconstruction submittal resubmissions shall be considered Non-Excusable.

C.5.3 Safety Plan. Prior to the start of construction activities, the Contractor shall prepare a safety plan for the construction phase conforming to OSHA 29 CFR 1926 and Article 27, Section A of the Standard Contract Provisions (Construction Contracts) Attachment J.13 (such plan, the "Safety Plan"). The Safety Plan shall be submitted to the Department, and the Contractor shall incorporate such comments as the Department may reasonably request.

C.5.3.1 Safety Barriers/Fences. As part of its responsibility for Project safety, the Contractor shall install such fences and barriers as may be necessary. The Contractor shall develop a plan that describes the proposed separation and the specific nature of the fences and barriers that will be used. This plan will be submitted to the Department for their review and approval prior to the commencement of construction, and the Project Manager shall have five (5) business days to review such plan. Once such plan has been approved, the

Contractor shall comply with it at all times during construction. The Contractor shall be required to revise the plan as may be reasonably requested by the Department. The cost of revising and complying with the revised plan shall not entitle the Contractor to an increase in the Lump Sum Price.

C.5.3.2 Site Security. The Contractor shall be responsible for site security and shall be required to provide such watchman as are necessary to protect the site from unwanted intrusion.

C.5.3.3 Exculpation. The right of the Department to comment on the Safety Plan and the nature and location of the required fences and barriers shall in no way absolve the Contractor from the obligation to maintain a safe site.

C.5.4 Site Logistics Plan. Prior to the start of construction activities, the Contractor shall prepare a Site Logistics Plan. The Site Logistics Plan shall address: (i) the manner in which the Contractor intends to organize the site; (ii) the location and description of site fences and other safety barricades intended to prevent the public from entering the site; (iii) the location of construction entrances and wheel washing stations; and (iv) parking restrictions and procedures that will apply to the employees of Contractor and its Subcontractors. The Contractor's storage/laydown area will be limited to the limits of disturbances shown on the Drawings and Specifications.

C.5.5 Potential Subcontractors and Suppliers. The Contractor shall include with its bid a list of the significant subcontractors that the Contractor intends to engage to perform the work. Within seven (7) days after the issuance of a Notice to Proceed, the Contractor shall furnish to the Department and its Project Manager a list of the subcontractors and suppliers that will work on this Project as well as a general description of each such subcontractor's scope of work. Within five (5) business days after such list is submitted, the Project Manager shall advise the Contractor if it has any objection to any of the listed subcontractors or suppliers. In the event the Project Manager has a reasonable objection to any such subcontractor or supplier, the Parties shall discuss such objection and agree on an appropriate course of action. To the extent the Department rejects a subcontractor that was disclosed in the bid, the Contractor shall be entitled to an appropriate equitable adjustment as a result of such disapproval.

C.5.6 Preconstruction Phase Deliverables. The following deliverables are required during the Preconstruction Phase.

1. Detailed Schedule (C.5.1).
2. Safety Plan (C.5.3).
3. Site Logistics Plan (C.5.4).
4. List of Subcontractors and Suppliers (C.5.5).

C.6 Construction Phase.

The Construction Phase shall commence when the Department issues a written Notice to Proceed for Construction. The Contractor shall construct the work described on the Drawings and Specifications including any work that is not specifically shown thereon but is reasonably inferable therefrom or necessary for a fully functioning Project. The work shall be carried out in a good and workmanlike, first-class manner, and in timely fashion. All materials and equipment to be

incorporated into the Project shall be new and previously unused, unless otherwise specified, and shall be free of manufacturing or other defects. On or before the dates specified in the approved detailed schedule, the Contractor shall submit any necessary construction phase information (i.e. shop drawings, submittals, sketches, etc.) to the Architect or the Project Manager for his review and approval. Unless a different timeframe is established in the approved baseline schedule, the Architect/Engineer and/or the Project Manager shall have twenty-one (21) business days to review such documents. In the event the Project Manager finds such documents to be unacceptable, the Contractor shall be required to revise and resubmit such documents. Any delays that result from any construction phase submittal resubmissions shall be considered Non-Excusable.

C.6.1 Supervision & Coordination. The Contractor will be required to properly supervise and coordinate its work. At a minimum, it is envisioned that the Contractor will be required to undertake the following tasks:

- a) Participate and assist in Project/Planning meetings.
- b) Maintain full-time on-site construction supervision and provide daily inspections, quality control, monitoring, coordination of various trades, record drawings, and daily work log.
- c) Coordinate the work with any on-site personnel to ensure that their activities are not adversely affected.
- d) Conduct periodic progress meetings following a Contractor generated agenda with the Project Manager.
- e) Provide general safety signage and posting for the Project and see that each subcontractor prepares and submits adequate safety program and monitoring throughout the Project.
- f) Obtain all job permits and approvals from the Department of Consumer and Regulatory Affairs that are required to perform and complete the work, unless otherwise noted herein.
- g) Prepare payment requests, verify accuracy, and forward to Department for approval and payment.
- h) Assemble close-out documents as required.
- i) Provide assistance to the Department through all applicable warranty periods.
- j) Coordinate its work with all third parties so as not to delay the critical path of the Project; and
- k) Prepare and submit to the Department construction meeting minutes, progress meeting minutes, daily logs, inspection reports, preliminary and baseline schedules, (Primavera format) and schedule updates demonstrating the critical path of the Project (Primavera format).

C.6.2 CBE 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.

C.6.3 Site Observations. The Contractor will be required to visit the site, become familiar with local conditions under which the work is to be performed and correlate personal observations with requirements of the Drawings and Specifications. The Contractor shall carefully study and compare the Drawings and Specifications with each other and with information furnished by the Department. Before commencing activities, the Contractor shall (1) take field measurements and verify field conditions; (2) carefully compare this and other information known to the Contractor with the Drawings and Specifications; and (3) promptly report errors, inconsistencies or omissions discovered to the Department. Once work is started, the Contractor assumes the responsibility and costs for the work and the cost of correcting work previously installed.

C.6.4 Warranty of the Construction Work. The Contractor warrants to the Department that materials and equipment furnished under the Contract will be of good quality and new unless otherwise expressly permitted in writing, and that for the one (1) year period following the Substantial Completion Date the construction work will be free from defects not inherent in the quality required or permitted, and that the work will conform to the Construction Documents and/or any approved design documents. The Contractor's warranty excludes remedy for damage or defect caused by abuse, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. The Contractor and a representative of the Department shall walk the Project together eleven (11) months after the Substantial Completion Date to identify any necessary warranty work. In the event the Contractor fails to schedule such a walk, the Warranty period shall be extended until such time as the Contractor schedules such a walk.

C.6.5 Extent of Responsibility and Site Conditions. The Contractor shall be entitled to an equitable adjustment in accordance with the Standard Contract Provisions for differing site conditions only to the extent that: (i) such conditions could not have been discovered by a competent visual inspection of the site, are of unusual nature, and differ materially from those ordinarily encountered and generally recognized as inhering to work of the character provided for in the Contract; or (ii) with regard to subsurface conditions on or adjacent to the Project site, such subsurface conditions differ materially from those indicated in the geotechnical reports (such circumstances, "Differing Site Conditions"). Prior to commencing construction, the Contractor shall be required to conduct a thorough review of the Project site and the surrounding area and shall document its findings. In the event the Contractor fails to undertake and document such a thorough review, the Contractor shall be deemed to have known of those conditions which a thorough review would have detected. Any Change Request related to Differing Site Conditions shall be made pursuant to the Standard Contract Provisions for Construction Contracts (**Attachment J.13**).

C.6.6 Unsafe Materials and Hazardous Materials

C.6.6.1 The Contractor shall abate and legally dispose of any Hazardous Materials in the demolished facility, in accordance with Environmental Protection Agency ("EPA") and all

jurisdictional agencies' rules and regulations. The Contractor shall be responsible for all interior and exterior demolition, as required.

C.6.6.2 The Contractor shall not bring, spill or release onto the site asbestos, PCBs, or any other Hazardous Material that is not customarily used in a facility of the type and similar to the Project, and shall bring to the Department's attention any specification of such Hazardous Materials in the design documents. If the Contractor believes that anything in the Contract would require that it use or bring onto the site asbestos, PCBs, or any Hazardous Material that is not customarily used in a facility of the type and similar to the Project, it shall immediately inform the Department and seek direction before proceeding.

C.6.6.3 The Contractor's scope of work includes the abatement and removal of hazardous materials found within the existing building. In performing such work, the Contractor shall comply with all laws, including, without limitation, the requirements of the EPA and all jurisdictional agencies as well as all laws relating to safety, health welfare, and protection of the environment, in removing, treating, encapsulating, passivating, and/or disposing of hazardous materials, including, but not limited to, removal, treatment, encapsulation, passivation, and/or disposal of the hazardous materials. If any notices to governmental authorities are required, the Contractor shall also give those notices at the appropriate times. The Contractor shall ensure abatement subcontractors and disposal sites are appropriately licensed and qualified. In addition, the Contractor shall ensure that any subcontractors involved in the abatement of hazardous materials maintain a contractor's pollution legal liability insurance policy of at least Two Million Dollars (\$2,000,000) for the duration of the Project and a period of three (3) years after Substantial Completion of the Project and that any disposal site to which hazardous materials are taken carries environmental impairment liability insurance for the duration of the Project and a period of three (3) years after Substantial Completion of the Project. The Contractor's obligations under this paragraph shall include signing (as the agent for the Department) any manifests required for the disposal of hazardous materials.

C.6.7 Progress Meetings. The Contractor shall schedule and conduct at a minimum bi-weekly progress meetings at which the Department, the Project Manager, the Contractor and appropriate Subcontractors can discuss the status of the work. The Contractor shall prepare and promptly distribute meeting minutes.

C.6.8 Written Reports. The Contractor shall provide written reports to the Project Manager on the progress of the entire work in accordance at least every other week, including, but not limited to, a baseline schedule and schedule updates with narrative demonstrating the critical path of the Project in Primavera format. The Contractor shall also maintain a daily log containing a record of weather, Subcontractors working on the site, number of workers, major equipment on the site, work accomplished, problems encountered and other similar relevant data as the Department may reasonably require. The log shall be available to the Department, the Architect/Engineer and the Project Manager and on a monthly basis a copy of the log shall be submitted to the Department.

C.6.9 Work by Separate Contractors. The Department reserves the right to perform construction or operations related to the Project with the Department's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the site.

C.6.10 Site Safety, Clean-Up & Protection of Existing Elements. The Contractor will be required to: (i) provide a safe and efficient site, with controlled access, including the installation and provision of such safety barricades, enclosures and overhead protection as may reasonably be required by the Department and as may be necessary to ensure a safe workplace or as may be required by OSHA or other applicable law including but not limited to any COVID-19-related laws, orders, or regulations, and to remove such at the end of the work and leave the site in broom clean condition; and (ii) be responsible for the security of its tools, equipment and materials that are stored at the site. The Contractor shall be responsible for the removal and legal disposal of all construction debris. The Contractor shall protect all existing features, public utilities and other existing structures during construction.

C.6.11 Close-out. The Contractor shall be required to prepare and submit at close-out a complete set of product files, including but not limited to: (i) QC/QA reports, daily reports, and test reports; (ii) a complete set of product manuals (O&M), training videos, and warranties; (iii) as-built record drawings; (iv) environmental, health, and safety documents; and (v) all applicable inspection certificates/permits. The Contractor shall also provide the Department with any shop drawings prepared by the Contractor or its subcontractors along with any other documentation that may reasonably be requested by the Department or its Project Manager.

C.6.12 Cutting and Patching. The Contractor shall be responsible for cutting, fitting or patching required to complete the work or to make its parts fit together properly. All areas requiring cutting, fitting and patching shall be restored to the condition existing prior to the cutting, fitting and patching. The Contractor shall not damage or endanger a portion of the work or fully or partially completed construction of the Department or separate Contractors by cutting, patching or otherwise altering such construction, or by excavation. The Contractor is responsible for the replacement, repair or patch of any existing surfaces or materials damaged during construction by own or subcontractor crews.

C.6.13 Salvaging and Storing. The Contractor shall be responsible for salvaging and storing all items identified by the Department in accordance with all applicable District laws and regulations. After the items have been secured, the Contractor shall notify the Department and request permission to proceed with the Project.

C.6.14 Manufacturers' Warranties

C.6.14.1 The Contractor warrants that all manufacturers or other warranties on all labor, materials and equipment furnished by the Contractor or a Subcontractor or supplier shall run directly to or will be specifically assigned to Department on demand or upon Project completion without demand. In the event any issue or defect which would be covered by any warranty arises but is not addressed by the grantor of the warranty, the Contractor shall be required to act as the guarantor of the obligations under the warranty and to perform under the terms of the warranty.

C.6.14.2 The Contractor warrants that the installation of all materials and equipment shall be in strict accordance with the manufacturers' requirements or specifications.

C.6.15 Schedule Updates. The Contractor shall submit bi-weekly schedule updates which shall reflect actual conditions of Project progress as of the date of the update. The update

shall reflect the actual progress of construction, identify developing delays, regardless of their cause, and reflect the Contractor's best projection of the actual date by which Substantial Completion and Final Completion of the Project will be achieved. Via a narrative statement (not merely a critical path method schedule), the Contractor shall identify the causes of any potential delay and state what, in the Contractor's judgment, must be done to avoid or reduce that delay. The Contractor 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 Primavera 6 format. The Department 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 Department's receipt of, and lack of objection to, any schedule update showing Substantial Completion or Final Completion later than the dates agreed upon in the project schedule shall not be regarded as the Department's agreement that the Contractor may have an extension of time, or as a waiver of any of the Department's rights, but merely as the Contractor'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 in the Project Schedule. Changes to the scheduled completion dates may be made only in the circumstances and only by the methods set forth in the Contract.

C.7 ACCELERATION

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

C.8 WALK-THROUGH INSPECTION

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

C.9 Administrative Matters

C.9.1 Use of ProjectTeam. The Contractor shall utilize the Department's ProjectTeam system to submit any and all documentation required to be provided by the Contractor, including, but not limited to: (i) requests for information; (ii) submittals; (iii) meeting minutes; (iv) invoices/applications for payment (full package including all forms required by the Department); (v) certified payrolls (in addition to upload via LCP Tracker); (vi) drawings and specifications; (vii) punch list; and (viii) other documents as may be designated by the Department.

C.9.2 Disincentive Fee. If the Contractor fails to achieve Substantial Completion by the Substantial Completion Date, the Parties acknowledge and agree that the actual damage to the Department for the delay will be impossible to determine, and in lieu thereof, the Contractor shall pay to the Department, a disincentive fee in the amount of Four Hundred Dollars (\$400.00) per day for each calendar day of delay for failure to meet the Substantial Completion Date. The Contractor and the Department agree that the incentive fee do not constitute, and shall not be deemed, a penalty but represent a reasonable approximation of the damages to the Department associated with a delay in the Project.

C.9.3 Compensation. The Contractor shall be paid its compensation in a series of progress payments and a final payment. Progress payments shall be based on a Schedule of Values that is agreed upon by the Parties as well as the Project Manager's good faith estimate of the level of completion for each component of the Schedule of Values. Contractor shall prepare the Schedule of Values which breaks down the Lump Sum Price for the various parts of the work. The Schedule of Values shall be maintained in such a manner to provide a breakdown of the Lump Sum Price in enough detail to facilitate the continued evaluation of applications for payment and progress reports. Large subcontracts shall be broken into several line items where, in the reasonable opinion of the Project Manager, such detail is necessary to properly track the progress of the work. The proposed schedule of values shall also include separate line items for each part of the work if so, required by the Project Manager. The Contractor and the Project Manager shall meet as necessary to maintain the schedule of values for the Project in a manner acceptable to the Project Manager. No progress payments shall be made unless the then-current Schedule of Values is acceptable to the Project Manager. Contractor to provide an updated and cost-loaded schedule with each pay application submission.

C.10 Key Personnel

The Bidder's personnel should have the necessary experience and licenses to perform the required work. Toward that end, Bidders should include within the bid a description of the staff available to perform the work and their qualifications.

Key Personnel shall include, at a minimum, the following individuals: (i) the Project Executive; (ii) the Field Superintendent; and (iii) the Project Manager who will be responsible for the Project.

C.11 Diversion, Reassignment and Replacement of Key Personnel

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

The Contractor will not be permitted to reassign any of the Key Personnel unless the Department's Contracting Officer approves the proposed reassignment and the proposed replacement. A list of the Key Personnel shall be attached to the Contract that results from this IFB.

C.12 Risks Assumed by the Contractor

By submitting a bid, the Bidders shall be deemed to have thoroughly examined the terms of this IFB, the Drawings, and Specifications and shall constitute its acknowledgment that it has been provided with an opportunity to visit the Project site and that such Bidder has had the opportunity to become familiar with local conditions under which the work is to be performed. Further, in submitting any such bid, the Bidder shall be deemed to represent that it has satisfied itself that it can undertake the work for the proposed cost. Among other things, by submitting a bid, the Bidder assumes the following risks: (1) the nature of the land and subsoil unless such conditions constitute a Differing Site Condition; (2) the form and nature of the site and surrounding areas; (3) details and levels of existing pipelines, conduits, sewers, drains, cables or other existing services; (4) the quantities, nature, and availability of the materials, tools, equipment, and labor necessary for the completion of the work; (5) the means of access to the site and any accommodation that may be required; (6) uncertainties of weather and physical conditions at the site; and in general to have itself obtained all necessary information as to risk contingencies, climatic, hydrological and natural conditions and other circumstances which may influence or affect the Contractor's performance of the work.

C.13 LICENSING, ACCREDITATION AND REGISTRATION

The Contractor and all its subcontractors and subconsultants (regardless of tier) shall comply with all applicable District of Columbia, state, and federal licensing, accreditation, and registration requirements and standards necessary for the performance of the Contract.

C.14 CONFORMANCE WITH LAWS

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

C.15 Time is of the essence.

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

**SECTION D
PACKAGING AND MARKING**

D.1 Not Applicable

**SECTION E
INSPECTION AND ACCEPTANCE**

E.1 The inspection and acceptance requirements for this Contract shall be governed by Article 11 of the Department of General Services Standard Contract Provisions for Construction Contracts (**Attachment J.13**).

**SECTION F
PERIOD OF PERFORMANCE AND DELIVERABLES**

F.1 TERM OF CONTRACT

The term of the Contract shall be from the date of the CO's execution through **July 31, 2023** ("**Substantial Completion Dates**"). Final Completion shall be required by no later than thirty days (30) after Substantial Completion. ("**Final Completion Date**").

F.1.1 Substantial Completion Date. The Project shall be substantially complete no later than July 31, 2023. For purposes of this requirement, the term "**Substantially Complete**" shall mean that all of the following have occurred: (1) the work has been completed with only minor punch list items remaining to be completed; (2) any and all required permits or approvals related to the work have been obtained; (3) all operating and maintenance manuals, training videotapes and warranties required by the Contract have been delivered to the Department; (4) any supplemental training session required by the Contract for operating or maintenance personnel have been completed; (5) all clean-up required by the Contract has been completed; and (6) the Project is ready for the Department to use it for its intended purpose. "**Minor punch list items**" are defined for this purpose as items that, in the aggregate, can be completed within thirty (30) days without interfering with the Department's normal use of the Project. Final Completion shall mean the point at which Substantial Completion has been achieved, all punch list items noted at Substantial Completion have been completed and all documents the Contractor is required to deliver to the Department as a condition to receiving final payment have been received. "Work" is defined as the construction and services required by the Contract, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

F.1.2 Final Completion. The point at which Substantial Completion has been achieved, all punch list items noted at Substantial Completion have been completed with the Department's approval and sign-off and all documents the Contractor is required to deliver to the Department as a condition to receiving final payment have been delivered. These may include, as applicable, but are not limited to, a final Certificate of Occupancy for the Project from the District of Columbia, and final lien releases from the Contractor and Subcontractors and material suppliers. Contractor shall cause all representations, warranties, and guarantees to be honored, and otherwise fulfill all the requirements set forth in the Contract. Final Completion shall be 60 days from Substantial Completion.

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

SECTION G
CONTRACT ADMINISTRATION

G.1 INVOICE PAYMENT

- G.1.1** The Department will make payments to the Contractor, upon the submission of proper invoices, at the prices stipulated in this Contract, for supplies delivered and accepted or services performed and accepted, less any discounts, allowances or adjustments provided for in this Contract.
- G.1.2** The Department will pay the Contractor on or before the 30th day after receiving a proper invoice from the Contractor.

G.2 INVOICE SUBMITTAL

- G.2.1** The Contractor shall create and submit payment requests in an electronic format through the DC Vendor Portal, <http://vendorportal.dc.gov> The Contractor shall submit proper invoices on a monthly basis. To constitute a proper invoice, the Contractor shall enter all required information into the Portal after selecting the applicable purchase order number which is listed on the Contractor's profile
- G.2.2** The Contractor shall submit proper invoices on a monthly basis or as otherwise specified in Section G.4. Invoices shall be prepared in duplicate and submitted to the agency Chief Financial Officer ("CFO") with concurrent copies to the COTR specified in Section G.9 below. The address of the CFO is:

Department of General Services
Office of the Controller/Agency CFO
2000 14th Street NW, 5th Floor
Washington, DC 20009

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

- G.2.3** To constitute a proper invoice, the Contractor shall submit the following information on the invoice:
- G.2.3.1** Contractor's name, federal tax ID and invoice date (date invoices as of the date of mailing or transmittal).
- G.2.3.2** Contract number and invoice number.
- G.2.3.3** Department's Purchase Order (PO) number.
- G.2.3.4** Description, price, quantity and the date(s) that the supplies or services were delivered or performed.
- G.2.3.5** Other supporting documentation or information, as required by the CO.

G.2.3.6 Name, title, telephone number and complete mailing address of the responsible official to whom payment is to be sent.

G.2.3.7 Name, title and phone number of the individual preparing the invoice.

G.2.8.8 Name, title, phone number and mailing address of person; if different from the person identified in Section G.2.3.6 above to be notified in the event of a defective invoice; and

G.2.2.9 Authorized signature.

G.3 FIRST SOURCE AGREEMENT REQUEST FOR FINAL PAYMENT

G.3.1 For contracts subject to the 51% District Residents New Hires Requirements and First Source Employment Agreement requirements, final request for payment must be accompanied by the report or a waiver of compliance discussed in section H.5.5.

G.3.2 The District shall not make final payment to the Contractor until the agency CFO has received the CO's final determination or approval of waiver of the Contractor's compliance with 51% District Residents New Hires Requirements and First Source Employment Agreement requirements.

G.4 PAYMENT

G.4.1 Partial Payments

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

- a. The amount due on the deliveries warrants it; or
- b. The Contractor requests it and the amount due on the deliveries is in accordance with the following:
 1. "Payment will be made on completion and acceptance of each percentage or stage of work as described in the Contract in accordance with the prices stated in the Form of Offer Letter and Bid Form, **Attachment J.2**; and
 2. Presentation of a properly executed invoice.

G.5 ASSIGNMENT OF CONTRACT PAYMENTS

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

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

G.5.3 Notwithstanding an assignment of contract payments, the Contractor, not the assignee, is required to prepare invoices. Where such an assignment has been made, the original copy

of the invoice must refer to the assignment and must show that payment of the invoice is to be made directly to the assignee as follows:

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

G.6 THE QUICK PAYMENT ACT

G.6.1 Interest Penalties to Contractors

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

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

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

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

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

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

G.6.1.2.1 3rd day after the required payment date for meat or a meat food product;

G.6.1.2.2 5th day after the required payment date for an agricultural commodity; or

G.6.1.2.3 15th day after any other required payment date.

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

G.6.2 Payments to Subcontractors

- G.6.2.1** The Contractor must take one of the following actions within seven (7) days of receipt of any amount paid to the Contractor by the District for work performed by any subcontractor under the Contract:
- G.6.2.1.1** Pay the subcontractor(s) for the proportionate share of the total payment received from the District that is attributable to the subcontractor(s) for work performed under the Contract; or
 - G.6.2.1.2** Notify the CO and the subcontractor(s), in writing, of the Contractor's intention to withhold all or part of the subcontractor's payment and state the reason for the nonpayment.
- G.6.2.2** The Contractor must pay any subcontractor or supplier interest penalties on amounts due to the subcontractor or supplier beginning on the day after the payment is due and ending on the date on which the payment is made. Interest shall be calculated at the rate of at least 1.5% per month. No interest penalty shall be paid on the following if payment for the completed delivery of the item of property or service is made on or before the:
- G.6.2.2.1** 3rd day after the required payment date for meat or a meat product;
 - G.6.2.2.2** 5th day after the required payment date for an agricultural commodity;
or
 - G.6.2.2.3** 15th day after any other required payment date.
- G.6.2.3** Any amount of an interest penalty which remains unpaid by the Contractor at the end of any 30-day period shall be added to the principal amount of the debt to the subcontractor and thereafter interest penalties shall accrue on the added amount.
- G.6.2.4** A dispute between the Contractor and subcontractor relating to the amounts or entitlement of a subcontractor to a payment or a late payment interest penalty under the Quick Payment Act does not constitute a dispute to which the District is a party. The District may not be interpleaded in any judicial or administrative proceeding involving such a dispute.
- G.6.2.5** Maximum markup for first tier sub-contractors shall be limited to 10%. Maximum markup for markup for second tier and lower sub-contractors shall be limited to 5%.

G.6.3 Subcontractor Quick Payment Clause Flow-Down Requirements

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

G.7 CONTRACTING OFFICERS (“CO”)

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

George G. Lewis
Contracts and Procurement, Chief Contracting Officer
Department of General Services
2000 14th Street NW, 4th Floor
Washington, DC 20009
Tel: 202 727-2800 | Email: george.lewis@dc.gov

Eric Njonjo
Contracting Officer
Department of General Services
2000 14th Street NW 4th Floor
Washington, DC 20009
Tel: (202) 644-6473 | Email: eric.njonjo@dc.gov

G.8 AUTHORIZED CHANGES BY THE CONTRACTING OFFICER

G.8.1 The CO is the only person authorized to approve changes in any of the requirements of this Contract.

G.8.2 The Contractor shall not comply with any order, directive or request that changes or modifies the requirements of the Contract, unless issued in writing and signed by the CO.

G.8.3 In the event the Contractor effects any change at the instruction or request of any person other than the CO, the change will be considered to have been made without authority and no adjustment will be made in the Contract price to cover any cost increase incurred as a result thereof.

G.9 CONTRACTING OFFICER'S TECHNICAL REPRESENTATIVE

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

- G.9.1** Keeping the CO fully informed of any technical or contractual difficulties encountered during the performance period and advising the CO of any potential problem areas under the Contract;
- G.9.2** Coordinating site entry for Contractor personnel, if applicable;
- G.9.3** Reviewing invoices for completed work and recommending approval by the CO if the Contractor's costs are consistent with the negotiated amounts and progress is satisfactory and commensurate with the rate of expenditure;
- G.9.4** Reviewing and approving invoices for deliverables to ensure receipt of goods and services. This includes the timely processing of invoices and vouchers in accordance with the District's payment provisions; and
- G.9.5** Maintaining a file that includes all Contract correspondence, modifications, records of inspections (site, data, equipment) and invoice or vouchers.
- G.9.6** The address and telephone number of the COTR is:

Michael Hutchinson
Department of General Services
1250 U Street, NW 2nd Floor
Washington, DC 20009
michael.hutchinson@dc.gov

- G.9.7** The COTR shall **NOT** have the authority to:
 - a. Award, agree to, or sign any contract, delivery order or task order. Only the CO shall make contractual agreements, commitments or modifications;
 - b. Grant deviations from or waive any of the terms and conditions of the Contract;
 - c. Increase the dollar limit of the Contract or authorize work beyond the dollar limit of the Contract;
 - d. Authorize the expenditure of funds by the Contractor;
 - e. Change the period of performance; or
 - f. Authorize the use of District property, except as specified under the Contract.
- G.9.8** The Contractor shall be fully responsible for any changes not authorized in advance, and in writing, by the CO. The Contractor may be denied compensation or other

relief for any additional work performed that is not so authorized by the CO; and may also be required, at no additional cost to the District, to take all corrective action necessitated by reason of the unauthorized changes.

**SECTION H
SPECIAL CONTRACT REQUIREMENTS**

H.1 HIRING OF DISTRICT RESIDENTS AS APPRENTICES AND TRAINEES

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

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

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

H.2 DEPARTMENT OF LABOR WAGE DETERMINATIONS

The Davis Bacon Act is applicable to this Contract. As such, the Contract and its subcontractors shall comply with the wage and reporting requirements imposed by the Act Davis-Bacon Act, incorporated as Exhibit J.7.

H.3 PREGNANT WORKERS FAIRNESS

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

H.3.2 The Contractor shall not:

- a. Refuse to make reasonable accommodations to the known limitations related to pregnancy, childbirth, related medical conditions, or breastfeeding for an employee, unless the Contractor can demonstrate that the accommodation would impose an undue hardship;
- b. Take an adverse action against an employee who requests or uses a reasonable accommodation in regard to the employee's conditions or privileges of employment, including failing to reinstate the employee when the need for reasonable accommodations ceases to the employee's original job or to an equivalent position with equivalent:
 1. Pay;
 2. Accumulated seniority and retirement;
 3. Benefits; and
 4. Other applicable service credits.
- c. Deny employment opportunities to an employee, or a job applicant, if the denial is based on the need of the employer to make reasonable accommodations to the

known limitations related to pregnancy, childbirth, related medical conditions, or breastfeeding;

- d. Require an employee affected by pregnancy, childbirth, related medical conditions, or breastfeeding to accept an accommodation that the employee chooses not to accept if the employee does not have a known limitation related to pregnancy, childbirth, related medical conditions, or breastfeeding or the accommodation is not necessary for the employee to perform her duties;
- e. Require an employee to take leave if a reasonable accommodation can be provided; or
- f. Take adverse action against an employee who has been absent from work as a result of a pregnancy-related condition, including a pre-birth complication.

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

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

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

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

H.4 UNEMPLOYED ANTI-DISCRIMINATION

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

H.4.2 The Contractor shall not:

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

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

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

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

H.5.2 The Contractor shall enter into and maintain during the term of the Contract, a First Source Agreement and Employment Plan (**Attachment J.8**) with the District of Columbia Department of Employment Service’s (DOES), in which the Contractor shall agree that: (a) The first source for finding employees to fill all jobs created in order to perform the Contract shall be the First Source Register; and (b) The first source for finding employees to fill any vacancy occurring in all jobs covered by the Employment Agreement shall be the First Source Register.

H.5.3 If applicable, the Contractor shall comply with subchapter X of Chapter II of Title 2, and all successor acts thereto, including by not limited to the workforce Intermediary Establishment and Reform of First Source Amendment Act of 2011, and the rules and regulations promulgated thereunder, including, but not limited to the following requirements:

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

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

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

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

H.5.7 The CO may impose penalties, including monetary fines of 5% of the total amount of the direct and indirect labor costs of the Contract, for a willful breach of the Employment

Agreement, failure to submit the required hiring compliance reports, or deliberate submission of falsified data.

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

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

H.5.10 The Contractor may appeal any decision of the CO pursuant to this clause to the D.C. Contract Appeals Board as provided in Section. I.12 of this IFB and Article 7 (Disputes) of the Standard Contract Provisions for Construction Contracts (**Attachment J.13**).

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

H.5.12 Construction projects or contracts covered by this Section H.5 shall be subject to the hiring and reporting requirements set forth in this Section until construction is completed and a final certificate of occupancy has been issued.

H.6 LIVING WAGE ACT

The Living Wage Act is applicable to this Contract. As such, the Contractor and its subcontractors shall comply with the wage and reporting requirements imposed by that Act (**Attachment J.6**).

H.7 BUY AMERICAN ACT PROVISION.

H.7.1 In accordance with the Buy American Act (41 U.S.C. § 10a-10d), and Executive Order 10582, December 17, 1954 (3 CFR, 1954-58 Comp., p. 230), as amended by Executive Order 11051, September 27, 1962 (3 CFR, 1059—63 Comp., p. 635), the Contractor agrees that only domestic construction material will be used by the Contractor, subcontractors, material men and suppliers in the performance of the agreement, except for non-domestic material listed in the Contract.

- a. “Components” as used in this Section, means those articles, materials and supplies incorporated directly into the end products.
- b. “Domestic end product”, as used in this section, means, (1) an unmanufactured end product mined or produced in the United States, or (2) an end product manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States, exceeds 50 percent of the cost of all its components.

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

H.7.1.2 Domestic Construction Material. “Construction material” means any article, material or supply brought to the construction site for incorporation in the building or work. An unmanufactured construction material is a “domestic construction material” if it has been mined or produced in the United States. A manufactured construction material is a “domestic construction material” if it has been manufactured in the United States and if the cost of its components which have been mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. “Component” means any article, material, or supply directly incorporated in a construction material.

H.7.1.3 Domestic Component. A component shall be considered to have been “mined, produced, or manufactured in the United States” regardless of its source, in fact, if the article, material or supply in which it is incorporated was manufactured in the United States and the component is of a class or kind determined by the government to be not mined, produced or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

H.7.1.4 Foreign Material. When steel materials are used in a project a minimal use of foreign steel is permitted. The cost of such materials cannot exceed one-tenth of one percent of the total Project cost, or \$2,500,000, whichever is greater

H.8 ANTI-DEFICIENCY ACTS

The Department’s obligations and responsibilities under the terms of the Contract are and shall remain subject to the provisions of (i) the federal Anti-Deficiency Act, 31 U.S.C. §§1341, 1342, 1349-1351, 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) The Contract shall not constitute an indebtedness of the Department, nor shall it

constitute an obligation for which the Department is obligated to levy or pledge any form of taxation, or for which the Department has levied or pledged any form of taxation. **IN ACCORDANCE WITH § 446 OF THE HOME RULE ACT, D.C. CODE § 1-204.46, NO DISTRICT OF COLUMBIA OFFICIAL IS AUTHORIZED TO OBLIGATE OR EXPEND ANY AMOUNT UNDER THE AGREEMENT OR CONTRACT DOCUMENTS UNLESS SUCH AMOUNT HAS BEEN APPROVED, IS LAWFULLY AVAILABLE AND APPROPRIATED BY ACT OF CONGRESS.**

H.9 SUBCONTRACTING REQUIREMENTS

H.9.1 Mandatory Subcontracting Requirements

Certified Business Enterprise assistance:

H.9.1.1 For all contracts in excess of \$250,000, at least 35% of the dollar volume of the Contract shall be subcontracted to qualified small business enterprises (SBEs).

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

H.9.1.3 A prime contractor that is certified by DSLBD as a small, local, or disadvantaged business enterprise shall not be required to comply with the provisions of Sections H.9.1.1 and H.9.1.2.

H.9.1.4 Except as provided in Sections H.9.1.5 and H.9.1.7, a prime contractor that is a CBE and has been granted a bid preference pursuant to D.C. Official Code § 2-218.43, or is selected through a set-aside program, shall perform at least 35% of the contracting effort with its own organization and resources and, if it subcontracts, 35% of the subcontracting effort shall be with CBEs. A CBE prime contractor that performs less than 35% of the contracting effort shall be subject to enforcement actions under D.C. Official Code § 2-218.63.

H.9.1.5 If the prime contractor is a certified joint venture and has been granted a bid preference pursuant to D.C. Official Code § 2-218.43, or is selected through a set-aside program, the CBE member of the certified joint venture shall perform at least 50% of the contracting effort with its own organization and resources and, if it subcontracts, 35% of the subcontracting effort shall be with CBEs. If the CBE member of the certified joint venture prime Contractor performs less than 50% of the contracting effort, the certified joint venture shall be subject to enforcement actions under D.C. Official Code § 2-218.63..

H.9.1.6 Each CBE utilized to meet these subcontracting requirements shall perform at least 35% of its contracting effort with its own organization and resources.

H.9.1.7 A prime contractor that is a CBE and has been granted a bid preference pursuant to D.C Official Code § 2-218.43, or is selected through a set-aside program, shall perform at least 50% of the on-site work with its own organization and resources if the contract is \$1 million or less.

H.9.2 Subcontracting Plan Requirements and Non-Responsive Bids:

I. The Subcontracting Plan Form Attachment J.5 must be provided as part of all bids, as follows:

If the prime contractor required by law to subcontract under this Contract, it shall submit a subcontracting plan as part of its bid in accordance with D.C. Official Code § § 2–218.46, and Section H.9.1 of this IFB. The SBE Subcontracting Plan must list all subcontractors at every tier and 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;
 - (d) The price to be paid by the prime contractor to each subcontractor; and
 - (e) Meet the subcontracting requirements as further described in Section H.9.1 of this IFB.
- II. If the prime contractor is a Certified Business Enterprise (“CBE”) and self performs the entire project with its own organization and resources and will not subcontract any portion of the services, then the CBE shall only submit the SBE Subcontracting Form by selecting the self-performance option located on the first page of the SBE Subcontracting Form.
- III. Bidders responding to this IFB shall be deemed nonresponsive and shall be rejected if the Bidder fails to submit a Subcontracting Plan with its bid as detailed in Section H.9.1 and Section H.9.2 of this IFB.
- IV. Once the Subcontracting Plan is approved by the Department’s CO, changes to the plan will only occur with the prior written approval of the CO and the Director of Department of Small and Local Business Development (“DSLBD”).
- V. The Subcontracting Plan shall be provided before the District accepts the submission of the bid.

H.9.3 Copies of Subcontracts

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

H.9.4 Subcontracting Plan Compliance Reporting

H.9.4.1 The Contractor shall submit a quarterly report to the CO, COTR, District of Columbia Auditor and the Director of DSLBD. The quarterly report shall include the following information for each subcontract identified in the subcontracting plan:

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

H.9.4.2 If the fully executed subcontract is not provided with the quarterly report, the prime contractor will not receive credit toward its subcontracting requirements for that subcontract.

H.9.5 Annual Meetings

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

H.10 FAIR CRIMINAL RECORD SCREENING

H.10.1 The Contractor shall comply with the provisions of the Fair Criminal Record Screening Amendment Act of 2014, effective December 17, 2014 (D.C. Law 20-152) (“Act” as used in this section). This section applies to any employment, including employment on a temporary or contractual basis, where the physical location of the employment is in whole or substantial part within the District of Columbia.

H.10.2 Prior to making a conditional offer of employment, the Contractor shall not require an applicant for employment, or a person who has requested consideration for employment by the Contractor, to reveal or disclose an arrest or criminal accusation that is not then pending or did not result in a criminal conviction.

H.10.3 After making a conditional offer of employment, the Contractor may require an applicant to disclose or reveal a criminal conviction.

H.10.4 The Contractor may only withdraw a conditional offer of employment, or take adverse action against an applicant, for a legitimate business reason as described in the Act.

H.10.5 This section and the provisions of the Act shall not apply:

- (a) Where a federal or District law or regulation requires the consideration of an applicant's criminal history for the purposes of employment;
- (b) To a position designated by the employer as part of a federal or District government program or obligation that is designed to encourage the employment of those with criminal histories;
- (c) To any facility or employer that provides programs, services, or direct care to, children, youth, or vulnerable adults; or
- (d) To employers that employ less than 11 employees.

H.10.6 A person claiming to be aggrieved by a violation of the Act may file an administrative complaint with the District of Columbia Office of Human Rights, and the Commission on Human Rights may impose monetary penalties against the Contractor.

H.11 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 Section **G.9** who will provide the request to the FOIA Officer for the agency with programmatic responsibility in accordance with the D.C. Freedom of Information Act. If the agency with programmatic responsibility receives a request for a record maintained by the Contractor pursuant to the Contract, the COTR will forward a copy to the Contractor. In either event, the Contractor is required by law to provide all responsive records to the COTR within the timeframe designated by the COTR. The FOIA Officer for the agency with programmatic responsibility will determine the releasability of the records. The District will reimburse the Contractor for the costs of searching and copying the records in accordance with *D.C. Official Code §2-532* and Chapter 4 of Title 1 of the *D.C. Municipal Regulations*.

H.12 SECTION 504 OF THE REHABILITATION ACT OF 1973, as amended.

During the performance of the Contract, the Contractor and any of its subcontractors shall comply with Section 504 of the Rehabilitation Act of 1973, as amended. This Act prohibits discrimination against disabled people in federally funded program and activities. **See 29 U.S.C. §794 et seq.**

H.13 AMERICANS WITH DISABILITIES ACT OF 1990 (“ADA”)

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

H.14 WAY TO WORK AMENDMENT ACT OF 2006

H.14.1 Except as described in **Section H.14.8** below, the Contractor shall comply with Title I of the Way to work Amendment Act of 2006, effective June 8, 2006 (D.C. Law 16-118, D.C. Official Code §2-220.01 *et seq.*) (“Living Wage Act of 2006”), for contracts for services in the amount of \$100,000 or more in a 12-month period.

H.14.2 The Contractor shall pay its employees and subcontractors who perform services under the Contract no less than the current living wage.

H.14.3 The Contractor shall include in any subcontract for \$15,000 or more a provision requiring the subcontractor to pay its employees who perform services under the Contract no less than the current living wage rate.

H.14.4 The DOES may adjust the living wage annually and Contractor will find the current living wage rate on its website at www.does.dc.gov.

H.14.5 The Contractor shall provide a copy of the Fact Sheet attached as **J.6** to each employee and subcontractor who performs services under the Contract. The Contractor shall also post the Notice attached as **J.6** in a conspicuous place in its place of business. The Contractor shall include in any subcontract for \$15,000 or more a provision requiring the subcontractor to post the Notice in a conspicuous place in its place of business.

H.14.6 The Contractor shall maintain its payroll records under the Contract in the regular course of business for a period of at least three (3) years from the payroll date, and shall include this requirement in its subcontracts for \$15,000 or more under the Contract.

H.14.7 The payment of wages required under the Living Wage Act of 2006 shall be consistent with and subject to the provisions of *D.C. Official Code §32-1301 et seq.*

H.14.8 The requirements of the Living Wage Act of 2006 do *not* apply to:

- (1) Contracts or other agreements that are subject to higher wage level determinations required by federal law.
- (2) Existing and future collective bargaining agreements, provided, that the future collective bargaining agreement results in the employee being paid no less than the established living wage.
- (3) Contracts for electricity, telephone, water, sewer, or other services provided by a regulated utility.
- (4) Contracts for services needed immediately to prevent or respond to a disaster or imminent threat to public health or safety declared by the Mayor.
- (5) Contracts or other agreements that provide trainees with additional services including, but not limited to, case management and job readiness services, provided that the trainees do not replace employees subject to the Living Wage Act of 2006.
- (6) An employee under 22 years of age employed during a school vacation period, or enrolled as a full-time student, as defined by the respective

institution, who is in high school or at an accredited institution of higher education and who works less than 25 hours per week; provided that he or she does not replace employees subject to the Living Wage Act of 2006.

- (7) Tenants or retail establishments that occupy property constructed or improved by receipt of government assistance from the District of Columbia; provided, that the tenant or retail establishment did not receive direct government assistance from the District.
- (8) Employees of nonprofit organizations that employ not more than 50 individuals and qualify for taxation exemption pursuant to section 501(c)(3) of the Internal Revenue Code of 1954, approved August 16, 1954 (68A Stat. 163; 26 U.S.C. § 501(c)(3).
- (9) Medicaid provider agreements for direct care services to Medicaid recipients, provided, that the direct care service is not provided through a home care agency, a community residence facility, or a group home for mentally retarded persons as those terms are defined in section 2 of the Health-Care and Community Residence Facility, Hospice, and Home Care Licensure Act of 1983, effective February 24, 1984 (*D.C. Law 5-48; D.C. Official Code § 44-501*); and
- (10) Contracts or other agreements between managed care organizations and the Health Care Safety Net Administration or the Medicaid Assistance Administration to provide health services.

H.14.9 The Mayor may exempt a contractor from the requirements of the Living Wage Act of 2006, subject to the approval of Council, in accordance with the provisions of Section 109 of the Living Wage Act of 2006.

H.15 AUDITS AND RECORDS

H.15.1 As used in this section, “records” includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.

H.15.2 Examination of Costs. If this is a cost-reimbursement, incentive, time-and-materials, labor-hour, or price re-determinable contract, or any combination of these, the Contractor shall maintain and the CO, or an authorized representative of the CO, shall have the right to examine and audit all records and other evidence sufficient to reflect properly all costs claimed to have been incurred or anticipated to be incurred directly or indirectly in performance of this contract. This right of examination shall include inspection at all reasonable times of the Contractor’s plants, or parts of them, engaged in performing the Contract.

H.15.3 Cost or pricing data. If the Contractor has been required to submit cost or pricing data in connection with any pricing action relating to this Contract, the CO, or an authorized representative of the CO, in order to evaluate the accuracy, completeness, and currency of the cost or pricing data, shall have the right to examine and audit all of the Contractor’s records, including computations and projections, related to:

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

H.15.4 Comptroller General

H.15.4.1 The Comptroller General of the United States, or an authorized representative, shall have access to and the right to examine any of the Contractor's directly pertinent records involving transactions related to this Contract or a subcontract hereunder.

H.15.4.2 This paragraph may not be construed to require the Contractor or subcontractor to create or maintain any record that the Contractor or subcontractor does not maintain in the ordinary course of business or pursuant to a provision of law.

H.15.5 Reports. If the Contractor is required to furnish cost, funding, or performance reports, the CO or an authorized representative of the CO shall have the right to examine and audit the supporting records and materials, for the purpose of evaluating:

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

H.15.6 Availability. The Contractor shall make available at its office at all reasonable times the records, materials, and other evidence described in section H.11, for examination, audit, or reproduction, until three (3) years after final payment under this Contract or for any shorter period specified in the Solicitation, or for any longer period required by statute or by other clauses of this Contract. In addition:

- a. If the Contract is completely or partially terminated, the Contractor shall make available the records relating to the work terminated until three (3) years after any resulting final termination settlement; and
- b. The Contractor shall make available records relating to appeals under the Article 7 (Disputes) of the SCP or to litigation or the settlement of claims arising under or relating to this Contract until such appeals, litigation, or claims are finally resolved.

H.15.7 The Contractor shall insert a clause containing all the terms of this clause, including this Section H.16.7 in all subcontracts under this Contract that exceed the small purchase threshold of \$100,000.00 and:

- a. That are cost-reimbursement, incentive, time-and-materials, labor-hour, or price re-determinable type or any combination of these;
- b. For which cost or pricing data are required; or
- c. That requires the subcontractor to furnish reports as discussed in Section H.16.5.

H.16 ADVISORY AND ASSISTANCE SERVICES

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

H.17 DISTRICT RESPONSIBILITIES

H.18.1 District Furnished Property

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

H.18 CONTRACTOR RESPONSIBILITIES

H.19.1 The Contractor shall be responsible for providing services in accordance with the requirements of this Contract.

H.19.2 The Contractor shall be responsible for obtaining all licenses and permits necessary for the performance of this Contract.

H.19.3 The Contractor shall furnish all equipment needed for the performance of the work under this Contract. All equipment must be properly guarded and meet all applicable United States Occupational Safety and Health Administration OSHA standards.

H.19.4 The Contractor shall assume full responsibility and liability for compliance with all applicable regulations pertaining to the health and safety of personnel during the execution of work, and shall hold the District harmless for any action on his part or that of his employees or subcontractors, which results in illness, injury or death.

H.19.5 The Contractor shall meet all federal, state vehicles compliance standards, local laws, inspections, and regulations, including, but not limited to, the permitting requirements under DCMR Chapter 25 of Title 18, by DDOT, DCRA and the DC Department of Public Works (“DPW”). The Contractor shall ensure that each vehicle is licensed and registered in accordance with District regulations.

H.19 STAFF ATTIRE AND IDENTIFICATION

H.20.1 The Contractor's staff shall wear identification badges at all times. The identification badges shall provide company logo, employee's name, and employee photograph.

H.20 SAFETY REQUIREMENTS

H.20.1 The Contractor shall be responsible for: (i) complying with all applicable District and Federal rules, regulations and practices relating to safety on the job site; (ii) for all injury to persons or damage to property that occurs as a result of the Contractor's negligence and shall take proper safety and health precautions to protect the work, the workers, the tenants and District property; and (iii) for all materials delivered and work performed until completion and acceptance of the entire work in writing by the COTR.

H.20.2 The Contractor shall provide and ensure that all its personnel at the work sites properly wear all applicable safety devices and apparel required by the United States Occupational Safety and Health Administration (OSHA) including, but not limited to:

H.20.2.1 Back support devices

H.20.2.2 Eye protection

H.20.2.3 Hearing protection

H.20.2.4 Hand protection

H.20.2.5 Head protection

H.20.2.6 Foot protection

H.20.3 Personal Protective Equipment (PPE) The Contractor's staff shall also comply with the CDC approved and appropriate Personal Protective Equipment (PPE) related to working in the current COVID-19 environment such as disposable gloves and masks.

H.20.4 The District has the right to inspect all areas for safety violations at its discretion, direct the Contractor to make immediate improvement of necessary conditions and/or procedures, and/or stop the work if other hazards are deemed to exist.

H.20.5 Notwithstanding any provision to the contrary, the District shall not be obligated to make an equitable adjustment for any work stoppage that results from safety hazards created by the Contractor. In the event that the CO directs the work to stop because of existing safety hazards after the Contractor has been notified and provided ample time to correct, the Contractor shall bear all costs for eliminating the hazard(s) and shall not be granted compensation for the work stoppage.

H.20.6 The Contractor shall immediately notify the COTR if the job site is visited by an OSHA official for compliance with the Occupational Safety and Health Act or any other safety regulatory requirements.

H.21 FIRE PREVENTION

H.21.1 The Contractor shall be responsible for establishing and maintaining an effective fire prevention program for its employees and the District property being serviced on the job site.

H.21.2 The Contractor shall be knowledgeable and train all its employees on the job site to fulfill the requirements of the SOW on the procedures, means of egress, and methods of reporting fires on the job sites.

H.22 SMOKE FREE ENVIRONMENT

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

H.23 ACCIDENT REPORTS

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

H.24 PROPERTY DAMAGE NOTIFICATION

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

H.25 SUSPENSION OF WORK

H.25.1 In the event services are not provided or required by the District because the buildings is closed due to unanticipated circumstances, deductions to the Contractor price normally payable to Contractor will be computed as follows.

H.25.2 The deduction rate in dollars per day will be equal to the per month contract price for the building, divided by twenty-one (21) days per month. (This will be adjusted as appropriate if some portion of the Contractor's requirements apply to weekends or holidays).

H.25.3 The deduction rate in dollars per day multiplied by the number of days services were not provided or required will equal the total dollar deduction to be made.

H.25.4 Deductions will not be made to the extent that the Contractor can demonstrate that payment to employees is required by an incorporated wage determination or union agreement.

H.25.5 In the event services are provided for portion of days, appropriate adjustments will be made by the COTR to assure the Contractor is compensated for services provided.

H.26 CONTRACTOR RESPONSIBILITY UPON CONTRACT COMPLETION OR TERMINATION

H.26.1 The Contractor shall turn over all plans codes, manuals, records, files, reports, databases spare inventory and materials developed or purchased in the course of the Contract to the COTR within thirty (30) calendar days after Contract completion or termination. The Contractor shall develop transition plans, which shall describe staffing and organizational structure during the phase-in and phase-out transition periods, and how the Contractor will interact with the existing work force during the thirty (30) days of transition at the beginning and end of this Contract.

H.27 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

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

H.28 FALSE CLAIMS ACT

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

SECTION I CONTRACT CLAUSES

I.1 APPLICABILITY OF STANDARD CONTRACT PROVISIONS

The Department of General Services Standard Contract Provisions for Construction Contracts (“SCP”) (**Attachment J.13**) are incorporated as part of the Contract.

I.2 CONTRACTS THAT CROSS FISCAL YEARS

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

I.3 CONFIDENTIALITY OF INFORMATION

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

I.4 TIME

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

I.5 RIGHTS IN DATA

A. Definitions

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

3. “Custom Products” - Products, preliminary, final or otherwise, which are created or developed by Contractor, its subcontractors, partners, employees, resellers or agents for the District under the Contract.
4. “District” – The District of Columbia and its agencies.

B. Title to Project Deliverables

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

1. Existing Products: Title to all Existing Licensed Product(s), whether or not embedded in, delivered or operating in conjunction with hardware or Custom Products, shall remain with Contractor or third party proprietary owner, who retains all rights, title and interest (including patent, trademark or copyrights). Effective upon payment, the District shall be granted an irrevocable, non-exclusive, worldwide, paid-up license to use, execute, reproduce, display, perform, adapt (unless the Contractor advises the District as part of Contractor’s bid that adaptation will violate existing agreements or statutes and Contractor demonstrates such to the District’s satisfaction), and distribute Existing Product to District users up to the license capacity stated in the Contract with all license rights necessary to fully effect the general business purpose of the Project or work plan or Contract. Licenses shall be granted in the name of the District. The District agrees to reproduce the copyright notice and any other legend of ownership on any copies authorized under this paragraph.
2. Custom Products: Effective upon Product creation, the Contractor shall convey, assign, and transfer to the District the sole and exclusive rights, title and interest in Custom Products, whether preliminary, final or otherwise, including all patents, trademark, and copyrights. The Contractor hereby agrees to take all necessary and appropriate steps to ensure that the Custom Products are protected against unauthorized copying, reproduction and marketing by or through the Contractor.

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

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

D. Subcontractor Rights

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

E. Source Code Escrow

1. For all computer software furnished to the District with the rights specified in Section I.5, the Contractor shall furnish to the District, a copy of the source code with such rights of the scope as specified in Section I.5 of this clause. For all computer software furnished to the District with the restricted rights specified in Section I.5. of this clause, the District, if the Contractor either directly or through a successor or affiliate shall cease to provide the maintenance or warranty services provided the District under the Contract or any paid-up maintenance agreement, or if the Contractor should be declared insolvent by a court of competent jurisdiction, shall have the right to obtain, for its own and sole use only, a single copy of the current version of the source code supplied under the Contract, and a single copy of the documentation associated therewith, upon payment to the person in control of the source code the reasonable cost of making each copy.
2. If the Contractor or Product manufacturer/developer of software furnished to the District with the rights specified in Section I.5. of this clause offers the source code or source code escrow to any other commercial customers, the Contractor shall either: (1) provide the District with the source code for the Product; (2) place the source code in a third party escrow arrangement with a designated escrow agent who shall be named and identified to the District, and who shall be directed to release the deposited source code in accordance with a standard escrow arrangement acceptable to the District; or (3) will certify to the District that the Product manufacturer/ developer has named the District as a named beneficiary of an established escrow arrangement with its designated escrow agent who shall be named and identified to the District, and who shall be directed to release the deposited source code in accordance with the terms of escrow.
3. The Contractor shall update the source code, as well as any corrections or enhancements to the source code, for each new release of the Product in the same manner as provided above, and certify such updating of escrow to the District in writing.

F. Indemnification and Limitation of Liability

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

G. All DGS data, information, documents, and similar material provided to the Contractor for the purpose of performing the scope will remain the sole property of DGS and will be destroyed or returned by the Contractor upon completion of services.

H. All Contractors' specified deliverables to DGS will become DGS sole property and will not be encumbered in their future use by any licensing or copyright by the Contractor. The Contractor may maintain a copy of deliverables for internal reference purposes.

I. The Contractor's intellectual property related to delivery of services will remain the Contractor's property unless otherwise specified in this Contract.

I.6 OTHER CONTRACTORS

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

I.7 DEPARTMENT APPROVAL OF SUBCONTRACTS

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

I.8 INSURANCE

- A. GENERAL REQUIREMENTS.** The Contractor at its sole expense shall procure and maintain, during the entire period of performance under this Contract, the types of insurance specified below. The Contractor shall have its insurance broker or insurance company submit a Certificate of Insurance to the CO giving evidence of the required coverage prior to commencing performance under this Contract. In no event shall any work be performed until the required Certificates of Insurance signed by an authorized representative of the insurer(s) have been provided to, and accepted by, the CO. All insurance shall be written with financially responsible companies authorized to do business in the District of Columbia or in the jurisdiction where the work is to be performed and have an A.M. Best Company rating of A- / VII or higher. Should the Contractor decide to engage a subcontractor for segments of the work under this Contract and wish to propose different insurance requirements than outlined below, then, prior to commencement of work by the subcontractor, the Contractor shall submit in writing the name and brief description of work to be performed by the subcontractor on the Subcontractors Insurance Requirement Template provided by the CA, to the Office of Risk Management (ORM). ORM will determine the insurance requirements applicable to the subcontractor and promptly deliver such requirements in writing to the Contractor and the CA. The Contractor must provide proof of the subcontractor's required insurance prior to commencement of work by the subcontractor. If the Contractor decides to engage a subcontractor without requesting from ORM specific insurance requirements for the subcontractor, such subcontractor shall have the same insurance requirements as the Contractor.

General liability, commercial auto, workers' compensation and property insurance policies (if applicable to this agreement) shall contain a waiver of subrogation provision in favor of the Government of the District of Columbia.

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

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

B. INSURANCE REQUIREMENTS

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

The contractor should be named as an additional insured on the applicable manufacturer's/distributor's Commercial General Liability policy using Insurance Services Office, Inc. ("ISO") form CG 20 15 04 13 (or another occurrence-based form with coverage at least as broad).

DGS should collect, review for accuracy and maintain all warranties for goods and services.

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

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

All insurance required by paragraphs 1,2 and 3 shall include a waiver of subrogation endorsement for the benefit of Government of the District of Columbia.

4. Cyber Liability Insurance - The Contractor shall provide evidence satisfactory to the Contracting Officer of Cyber Liability Insurance, with limits not less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Contractor in this agreement and shall include, but not limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations. Limits may not be shared with other lines of coverage. A copy of the cyber liability policy must be submitted to the Office of Risk Management (ORM) for compliance review.
5. Environmental Liability/Contractors Pollution Liability Insurance - The Contractor shall provide evidence satisfactory to the CO of environmental liability insurance covering losses caused by pollution or other hazardous conditions arising from ongoing or completed operations of the Contractor. Such insurance shall apply to bodily injury, property damage (including loss of use of damaged property or of property that has been physically injured), clean-up costs, transit and non-owned disposal sites.

Coverage shall extend to defense costs and expenses incurred in the investigation, civil fines, penalties and damages or settlements. There shall be neither an exclusion nor a sublimit for mold or fungus-related claims. The minimum limits required under this paragraph shall be equal to the greater of (i) the limits set forth in the Contractor's pollution liability policy or (ii) \$2,000,000 per occurrence and \$2,000,000 in the annual aggregate. If such coverage is written on a claims-made basis, the Contractor warrants that any retroactive date applicable to coverages under the policy precedes the Contractor's performance of any work under the Contract and that continuous completed operations coverage will be maintained for at least ten (10) years or an extended reporting period shall be purchased for no less than ten (10) years after completion.

The Contractor also must furnish to the CO - Owner certificates of insurance evidencing environmental liability insurance maintained by third party transportation and disposal site operators(s) used by the Contractor for losses arising from facility(ies) accepting, storing or disposing hazardous materials or other waste as a result of the Contractor's operations. Such coverages must be maintained with limits of at least the amounts set forth above.

6. Installation-Floater Insurance - For projects not involving structural alterations, the contractor shall provide an installation floater policy with a limit equal to the Property values being installed as part of the project. The policy shall cover property while located at the project site, at temporary locations, or in transit; deductibles will be the sole responsibility of the contractor.
7. Sexual/Physical Abuse & Molestation - The Contractor shall provide evidence satisfactory to the Contracting Officer with respect to the services performed that it carries \$1,000,000 per occurrence limits; \$2,000,000 aggregate of affirmative abuse and molestation liability coverage. Coverage should include physical abuse, such as sexual or other bodily harm and non-physical abuse, such as verbal, emotional or mental abuse; any actual, threatened or alleged act; errors, omission or misconduct. This insurance requirement will be considered met if the general liability insurance includes an affirmative sexual abuse and molestation endorsement for the required amounts. So called "silent" coverage or "shared" limits under a commercial general liability or professional liability policy will not be acceptable. Limits may not be shared with other lines of coverage. The applicable policy may need to be submitted to the Office of Risk Management (ORM) for compliance review.
8. Commercial Umbrella or Excess Liability - The Contractor shall provide evidence satisfactory to the CO of commercial umbrella or excess liability insurance with minimum limits equal to the greater of (i) the limits set forth in the Contractor's umbrella or excess liability policy or (ii) \$5,000,000 per occurrence and \$5,000,000 in the annual aggregate, following the form and in excess of all liability policies. **All** liability coverages must be scheduled under the umbrella and/or excess policy. The insurance required under this paragraph shall be written in a form that annually reinstates all required limits. Coverage shall be primary to any insurance, self-insurance or reinsurance maintained by the District and the "other insurance" provision must be amended in accordance with this requirement and principles of vertical exhaustion.

C. PRIMARY AND NONCONTRIBUTORY INSURANCE

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

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

E. LIABILITY. These are the required minimum insurance requirements established by the District of Columbia. However, the required minimum insurance requirements provided above will not in any way limit the contractor's liability under this Contract.

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

G. MEASURE OF PAYMENT. The District shall not make any separate measure or payment for the cost of insurance and bonds. The Contractor shall include all of the costs of insurance and bonds in the Contract price.

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

I. CERTIFICATES OF INSURANCE. The Contractor shall submit certificates of insurance giving evidence of the required coverage as specified in this section prior to commencing work. Certificates of insurance must reference the corresponding Contract number. Evidence of insurance shall be submitted to:

The Government of the District of Columbia

And mailed to the attention of:

Eric Njonjo

Department of General Services

1250 U Street, 2nd Floor Washington, DC 20009

eric.njonjo@dc.gov

The CO may request and the Contractor shall promptly deliver updated certificates of insurance, endorsements indicating the required coverages, and/or certified copies of the insurance policies. If the insurance initially obtained by the Contractor expires prior to completion of the Contract, renewal certificates of insurance and additional insured and

other endorsements shall be furnished to the CO prior to the date of expiration of all such initial insurance. For all coverage required to be maintained after completion, an additional certificate of insurance evidencing such coverage shall be submitted to the CO on an annual basis as the coverage is renewed (or replaced).

- J. **DISCLOSURE OF INFORMATION.** The Contractor agrees that the District may disclose the name and contact information of its insurers to any third party which presents a claim against the District for any damages or claims resulting from or arising out of work performed by the Contractor, its agents, employees, servants or subcontractors in the performance of this Contract.
- K. **CARRIER RATINGS.** All Contractor's and its subcontractors' insurance required in connection with this Contract shall be written by insurance companies with an A.M. Best Insurance Guide rating of at least A- VII (or the equivalent by any other rating agency) and licensed in the District.

I.9 GOVERNING LAW

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

I.10 EQUAL EMPLOYMENT OPPORTUNITY

In accordance with the District of Columbia Administrative Issuance System, Mayor's Order 85-85 dated June 10, 1985, "on compliance with Equal Opportunity Requirements in District government contracts," each Bidder shall submit the forms for completion of the Equal Employment Opportunity Information Report incorporated herein as **Attachment J.7**. Failure to comply with the implementing rules shall result in rejection of the respective bid. An award cannot be made to any Bidder who has not satisfied the equal employment requirements.

I.11 ORDER OF PRECEDENCE

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

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

1. An applicable Court Order, if any
2. Contract Document
3. DGS Standard Contract Provisions for Construction Contracts (**Attachment J.13**)
4. Contract Drawings and Specifications (**Attachment J.1**)
5. IFB, as amended
6. Contract attachments other than the Attachments listed in paragraphs 3 through 6 above
7. Contractor's Bid

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

I.12 CLAIMS & DISPUTES

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

I.13 CHANGES

- a. The CO may, at any time, by written change order, contract directive or contract modification and without notice to the surety, if any, make changes in the Contract within the general scope hereof. If such change causes an increase or decrease in the cost of performance of the Contract, or in the time required for performance, an equitable adjustment shall be made. Any claim for adjustment for a change within the general scope must be asserted within ten (10) days from the date the change is ordered; provided, however, that if the CO determines that the facts justify such action, may receive, consider and adjust any such claim asserted at any time prior to the date of final settlement of the Contract. If the Parties fail to agree upon the adjustment to be made, the dispute shall be determined as provided in Section I.12 of this IFB and the SCP.
- b. The District shall not require the Contractor, and the Contractor shall not require a subcontractor, to undertake any work that is beyond the original scope of the Contract or subcontract, including work under a District-issued change order, when the additional work increases the Contract price beyond the Lump Sum Price of this Contract, unless the CO:
 1. Agrees with Contractor, and if applicable, the subcontractor on a price for the additional work;
 2. Obtains a certification of funding to pay for the additional work;
 3. Makes a written, binding commitment with the Contractor to pay for the additional work within 30-days after the Contractor submits a proper invoice; and
 4. Provides the Contractor with written notice of the funding certification.
- c. The Contractor shall include in its subcontracts a clause that requires the Contractor to:
 1. Within 5 business days of its receipt of notice the approved additional funding, provide the subcontractor with notice of the amount to be paid to the subcontractor for the additional work to be performed by the subcontractor;
 2. Pay the subcontractor any undisputed amount to which the subcontractor is entitled for the additional work within 10 days of receipt of payment from the District; and

3. Notify the subcontractor and CO in writing of the reason the Contractor withholds any payment from a subcontractor for the additional work.
- d. Neither the District, Contractor, nor any subcontractor may declare another party to be in default, or assess, claim, or pursue damages for delays, until the parties agree on a price for the additional work.

I.14 NON-DISCRIMINATION CLAUSE

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

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

1. The Contractor shall not discriminate against any employee or applicant for employment because of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, family responsibilities, genetic information, disability, matriculation, political affiliation, or credit information. Sexual harassment is a form of sex discrimination which is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act.
2. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, family responsibilities, genetic information, disability, matriculation, political affiliation, or credit information. The affirmative action shall include, but not be limited to the following:
 1. employment, upgrading or transfer;
 2. recruitment, or recruitment advertising;
 3. demotion, layoff or termination;
 4. rates of pay, or other forms of compensation; and
 5. selection for training and apprenticeship.
3. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting agency, setting forth the provisions in Sections I.14.1 and I.14.2 concerning non-discrimination and affirmative action.

4. 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 Section I.12(d).
5. The Contractor agrees to send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the contracting agency, advising the said labor union or workers' representative of that contractor's commitments under this nondiscrimination clause and the Act, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
6. The Contractor agrees to permit access to its books, records, and accounts pertaining to its employment practices, by the Chief Procurement Officer or designee, or the Director of the Office of Human Rights or designee, for purposes of investigation to ascertain compliance with the Act, and to require under terms of any subcontractor agreement each subcontractor to permit access of such subcontractors' books, records, and accounts for such purposes.
7. The Contractor agrees to comply with the provisions of the Act and with all guidelines for equal employment opportunity applicable in the District adopted by the Director of the Office of Human Rights, or any authorized official.
 - (a) The Contractor shall include in every subcontract the equal opportunity clauses Sections I.10, so that such provisions shall be binding upon each subcontractor or vendor.
8. The Contractor shall take such action with respect to any subcontract as the CO may direct as a means of enforcing these provisions, including sanctions for noncompliance; provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Contractor may request the District to enter into such litigation to protect the interest of the District.

I.15 BONDS

I.15.1 Bid Bond

Bidders are required to submit with their bid a bid bond in the amount of five percent (5%) of total bidding budget, in the form included as **Attachment J.9**. All bonding companies must be included on the Department of Treasury's Listing of Approved Sureties. Alternatively, Bidders may submit a cashier's check in lieu of a bid bond. However, in the event a Bidder who is awarded the Contract fails to post payment and performance bonds for the full value of the Contract, the Bidder shall thereby forfeit the full amount of the cashier's check, and the Department shall collect such funds as liquidated damages. If the Bidder chooses to submit a cashier's check in lieu of a bid bond, the Bidder must complete the form included as **Attachment J.9** and return, notarized, with the Bidder's Bid.

I.15.2 Trade Subcontractor Bonds

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

I.15.3 Contractor's Payment and Performance Bond

The Contractor shall be required to provide payment and performance bonds each having a penal value equal to 100% of the Contract amount. The Contractor shall provide the required bonds within ten (10) days of the execution of the Contract. All bonding companies must be licensed to conduct business in the District of Columbia and be included on the Department of Treasury's Listing of Approved Sureties website. The Contractor shall submit with its bid a certification to provide payment and performance bonds (**Attachment J.11**).

I.16 CONTRACTS IN EXCESS OF ONE MILLION DOLLARS

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

**SECTION J
LIST OF ATTACHMENTS**

The following list of attachments are incorporated and attached to the Contract or a link to the attachment has been provided.

Attachment Number	Document
J.1	Drawings & Specifications
J.2	Form of Offer Letter and Bid Form
J.3	Bidder/Offeror Certification Form
J.4	Tax Certification Affidavit
J.5	SBE Subcontracting Plan Form
J.6	2022 Living Wage Act Notice and Fact Sheet
J.7	U.S. Department of Labor Davis-Bacon Wage Determination
J.8	First Source Employment Agreement and Employment Plan
J.9	Bid Bond Form
J.10	Bid Guaranty Certification
J.11	Certification to Furnish Performance & Payment Bond
J.12	EEO Policy Statement
J.13	DGS Standard Contract Provisions (Construction Contracts)
J.14	Award Signature Page

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

K.1 Bidders shall submit the Bidder/Offeror Certification Form (**Attachment J.3**) with its bids.

SECTION L
INSTRUCTIONS, CONDITIONS AND NOTICES TO BIDDERS

L.1 METHOD OF AWARD

L.1.1 The District reserves the right to accept/reject any/all bids resulting from this IFB. The CO may reject all bids or waive any minor informality or irregularity in bids received whenever it is determined that such action is in the best interest of the District.

L.1.2 The District intends to make one contract award resulting from this Solicitation to the responsive and responsible Bidder who has the lowest evaluated bid.

L.1.3 Bidders shall make no changes to the requirements set forth in the Solicitation.

L.1.4 Bidders must complete the Form of Offer Letter and Bid Form (**Attachment J.2**) in its entirety to be considered for this Solicitations. The Bidder's failure to completely fill **Attachment J.2** will render the bid non-responsive and disqualify the respective bid.

L.2 BID SUBMISSION DATE AND TIME

This solicitation will be conducted electronically using DGS' Solicitation Portal. To be considered, a bidder must submit its bid via the DGS Solicitation Portal before the closing date and time. Paper, telephonic, telegraphic, and facsimile bids will not be accepted.

L.2.1 All attachments shall be submitted in a PDF format through the DGS web portal. The District will not be responsible for corruption of any file submitted. If the submitted file cannot be viewed and printed as submitted, it will not be considered.

L.2.2 The District will reject as non-responsive any bid that fails to conform in any material respect to the IFB.

L.2.3 Bidders shall make no changes to the requirements set forth in the solicitation.

L.2.4 The District will reject as non-responsive any bid that fails to include a subcontracting plan that is required by law.

L.2.5 The bidder shall complete, sign and submit its initial First Source Employment Plan and all Representations, Certifications and Acknowledgments as appropriate. Failure to do so may result in a bid rejection.

L.2.6 Bids must be submitted on or before **12:00 PM in December 21, 2022**.

Some electronic files could take several minutes for complete submission through the network. Thus, it is incumbent on the Bidders to ensure that they start the uploading and submission of the complete bid, including all required documents, to adequately allow for the bid to be received in full by DGS before the cutoff time of 2:00 PM. DGS will reject any bid if not received in full before the 2:00 PM deadline.

L.3 WITHDRAWAL OR MODIFICATION OF BIDS

A Bidder may modify or withdraw its bid upon written transmission if received via the DGS portal designated in the solicitation for submission of bids, but not later than the exact time set for opening of bids.

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

L.4.1 Bids, modifications to bids, or requests for withdrawals that are received after the time and date specified in Section I.2 of the IFB, shall be considered a “late” bid and will be considered only if they are received before the Contract award is made and the following circumstance applies:

- a. It was sent electronically by the Bidder prior to the time and date specified and there is objective evidence in an electronic form confirming that the bid was received prior to the bid receipt time and date specified.

L.4.2 Late Submissions

Any request for withdrawal or request for modification of a bid received after the bid receipt time and date is late. A late bid, late request for modification or late request for withdrawal shall not be considered, except as provided in this section.

L.4.3 Late Modifications

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

L.4.4 Late Bids

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

L.5 BID IDENTIFICATION AND DELIVERY

All bids shall be submitted electronically on or by the bids’ due date, **December 21, 2022** no later than **12:00 P.M.**, through the DGS Submission Portal using the link below:

<https://octo.quickbase.com/db/bq7rujdk2?a=dbpage&pageID=2>

The subject of the submission should be:

DCAM-22-CS-IFB-0005, Bid (Bidder’s Name) (New Jersey Avenue and O Street Park Renovation)

L.6 QUESTIONS ABOUT THE SOLICITATION

If a prospective bidder has any questions relative to this solicitation, the prospective Bidder shall submit the questions in writing to the Contact. The prospective Bidder shall submit questions no later than **4:00 p.m., on December 12, 2022** through the DGS portal using the link below. The Department will not consider any questions received after the mentioned date and time. The Department will furnish responses promptly to all other prospective Bidders. An amendment to the IFB will be issued, if that information is necessary in submitting bids, or if the lack of it would be prejudicial to any other prospective bidders. Oral explanations or instructions given before the award of the Contract will not be binding.

<https://octo.quickbase.com/db/bq7rujdk2?a=dbpage&pageID=2>

L.7 BID PROTESTS

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

L.8 ACKNOWLEDGMENT OF AMENDMENTS

The Bidder shall acknowledge receipt of any amendment to this solicitation by: (a) signing and returning the amendment; (b) identifying the amendment number and date in the space provided for this purpose in Section B.4 of the IFB; or (c) by letter or telegram, including mailgrams. The District must receive the acknowledgment by the date and time specified for receipt of bids. A Bidder’s failure to acknowledge an amendment may result in rejection of the bid.

L.9 SIGNING OF BIDS

L.9.1 The Contractor shall sign the bid and print or type its name on the Solicitation, Offer and Award form of this Solicitation. Each bid must show a full business address and telephone number of the Bidder and be signed by the person or persons legally authorized to sign contracts. Erasures or other changes must be initialed by the person signing the bid. Bids signed by an agent shall be accompanied by evidence of that agent’s authority, unless that evidence has been previously furnished to the CO.

L.9.2 All correspondence concerning the bid or the resulting Contract will be mailed to the address shown on the bid in the absence of written instructions from the Bidder or contractor to the contrary. Any bid submitted by a partnership must be signed with the partnership name by a general partner with authority to bind the partnership. Any bid

submitted by a corporation must be signed with the name of the corporation followed by the signature and title of the person having authority to sign for the corporation.

L.10 FAMILIARIZATION WITH CONDITIONS

Bidders shall thoroughly familiarize themselves with the terms and conditions of this solicitation, acquainting themselves with all available information regarding difficulties which may be encountered and the conditions under which the work is to be accomplished. Bidders will not be relieved from assuming all responsibility for properly estimating the difficulties and the cost of performing the services required herein due to their failure to investigate the conditions or to become acquainted with all information, schedules and liability concerning the services to be performed.

L.11 LEGAL STATUS OF BIDDER

Each bid must provide the following information:

L.11.1 Name, address, telephone number and federal tax identification number of Bidder.

L.11.2 A copy of each District of Columbia license, registration or certification that the Bidder is required by law to obtain. If the Bidder is a corporation or partnership and does not provide a copy of its license, registration or certification to transact business in the District of Columbia, the Bidder shall certify its intent to obtain the necessary license, registration or certification prior to Contract award or its exemption from such requirements; and

L.11.3 If the Bidder is a partnership or joint venture, the names and addresses of the general partners or individual members of the joint venture, and copies of any joint venture or teaming agreements. If the Bidder is a partnership, the teaming agreement shall include the intention, expectations, roles and responsibility of the prime contractor, roles and responsibility of the teaming partner, why the parties are teaming, division of the work and percentages.

L.12 PRE-BID CONFERENCE AND SITE VISIT

L.12.1 Pre-bid Conference

A pre-bid conference will be held on **December 2, 2022 at 11:00 A.M. to 12:00 P.M.** The conference will be held via Microsoft Teams. Interested Offerors are strongly encouraged to attend using the link below:

[Click here to join the meeting](#)

L.12.2 Site Visit

The site visit will be held at **11:00 a.m. to 12:00 p.m. on December 6, 2022** at southwest corner of New Jersey Avenue NW and O Street NW Washington, DC 20001.

L.13 BID OPENING

Bid Opening will be held through Microsoft Teams at **3:30 p.m., EST on December 21, 2022** to announce the bids' prices at the Microsoft Teams link below:

[Click here to join the meeting](#)

L.14 CERTIFICATES OF INSURANCE

Prior to commencing work, the Contractor shall have its insurance broker or insurance company submit certificates of insurance giving evidence of the required coverages to the CO as further detailed in Section I.8 of this IFB. Each certificate of insurance must identify the Contract or solicitation number.

L.15 GENERAL STANDARDS OF RESPONSIBILITY

L.15.1 To be determined responsible, a prospective contractor must demonstrate that it:

- (a) Has adequate financial resources, or the ability to obtain such resources, required to perform the Contract;
- (b) Is able to comply with the required or proposed delivery or performance schedule, taking into consideration all existing commercial and government contract commitments;
- (c) Has a satisfactory performance record;
- (d) Has a satisfactory record of integrity and business ethics;
- (e) Has a satisfactory record of compliance with the applicable District licensing and tax laws and regulations;
- (f) Has a satisfactory record of compliance with the law, including labor and civil rights laws and rules, and the First Source Employment Agreement Act of 1984, , D.C. Official Code § 2-219.01 et seq., as amended;
- (g) Has, or has the ability to obtain, the necessary organization, experience, accounting, and operational control, and technical skills;
- (h) Has, or has the ability to obtain, the necessary production, construction, technical equipment, and facilities;
- (i) Has not exhibited a pattern of overcharging the District;
- (j) Does not have an outstanding debt with the District or the federal government in a delinquent status; and
- (k) Is otherwise qualified and is eligible to receive an award under applicable laws and regulations.

L.15.2 If the Contracting Officer determines that the price included in a prospective contractor's bid is so low as to appear unreasonable or unrealistic, the Contracting Officer may determine the prospective contractor to be non-responsible.

L.15.3 If the prospective contractor fails to supply the information requested, the CO shall make the determination of responsibility or non-responsibility based upon available information. If the available information is insufficient to make a determination of responsibility, the CO shall determine the prospective contractor to be non-responsible.

L.16 Special Standards of Responsibility

The Department has determined that it is important to the timely and successful completion of the Project that the Contractor and the Project Superintendent have specific expertise and experience similar in size and scope as those described in C.4 and the Contract Drawings and Specifications (**Attachment J.1**).

a) Provide the information below for a minimum of 3 projects the Bidder has completed in the past 5 years similar in size and scope as those described in the Drawings and Specifications (Attachment J.1). Similar is defined as Parks Renovation project valued at a minimum of \$500,000.00.

- a. Name of Project
- b. Owner
- c. Location/Address
- d. Point of Contact name, phone number and email address
- e. Start Date and End Date
- f. Dollar Amount

(b) Provide the information below for the Project Manager and Field Superintendent to demonstrate that each have a have a minimum of 5 years' experience in Park Renovation of similar in size and scope as those described in the Drawings and Specifications (Attachment J.1). Similar is defined as park renovation project valued at a minimum of \$500,000.00. This information shall be provided for a minimum of 3 projects for the Project Manager and Field Superintendent.

- a. Name of Project
- b. Owner
- c. Location/Address
- d. Point of Contact name, phone number and email address
- e. Start Date and End Date
- f. Dollar Amount
- g. Certification the project was completed for an occupied building

L.17 INSTRUCTIONS TO BIDDERS

The Bidder shall complete and include the following with their Bid in the following order with clearly labeled tabs:

1. Signed Award Signature Page (**Attachment J.14**) including Acknowledgement of Amendments (**Attachment J.14, Section 13**);
2. The IFB pages 1 – 73;
3. Completed **Attachment J.2 Offer Letter and Bid Form** including the following:
 - a. A lump sum price to provide the required construction services for the Project. The lump sum price should be to complete the SOW in accordance with the Scope of Work, Section C, Drawings and Specifications (**Attachment J.1**), and other Contract Attachments identified in **Section B.3.3**.
 - b. A schedule of values breaking down the proposed lump sum price in the form of **Attachment J.2**.
4. A list of the key personnel identified in **Section C.6**. The information shall include resume indicating the years of experience and relevant experience completing similar work;
5. Bidder/Offeror Certification Form (**Attachment J.3**);
6. Tax Affidavit - Each Contractor shall submit a tax affidavit provided as (**Attachment J.4**). To be eligible for this procurement, Contractors must be in full compliance with their tax obligations to the District of Columbia government;
7. SBE Subcontracting Plan as required by law (**Attachment J.5**);
8. DOES First Source Employment Plan and Agreement (**Attachment J.8**);
9. Bid Bond (**Attachment J.9**) or Bid Guaranty Certification (**Attachment J.10**);
10. Certification to Furnish Performance and Payment Bond (**Attachment J.11**);
11. EEO Policy Statement (**Attachment J.12**);
12. Clean Hands tax certificate available at <https://mytax.dc.gov/>;
13. Current copy of Bidder's District of Columbia Business License; and
14. Responses to **Section L.16**, Special Standards of Responsibility

L.18 RESTRICTION ON DISCLOSURE AND USE OF DATA

L.17.1 Bidders who include in their bid data that they do not want to be disclosed to the public or used by the District except for use in the procurement process shall mark the title page with the following legend:

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

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

L.17.2 Mark each sheet of data it wishes to restrict with the following legend:

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

L.19 UNNECESSARILY ELABORATE BIDS

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

L.20 RETENTION OF SUBMISSIONS

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

L.21 NO COMPENSATION FOR PREPARATION OF BIDS

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

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

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

L.23 BRAND NAME OR EQUAL

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

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

in the bids and are determined by the District to be equal in all material respects to the brand name products referenced in the IFB.

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

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

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

L.23.5 Accordingly, to ensure that sufficient information is available, the Bidder must furnish as a part of his bid all descriptive material (such as cuts, illustrations, drawings, or other information) necessary for the District to: (i) determine the product offered meets the requirements of the IFB, and (ii) establish exactly what the Bidder proposes to furnish and what the District would be binding itself to purchasing by making an award. The information furnished may include specific reference to information previously furnished or to information otherwise available to the District.

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

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

L.24 FAMILIARIZATION WITH CONDITIONS

Bidders shall thoroughly familiarize themselves with the terms and conditions of this Solicitation, acquainting themselves with all available information regarding difficulties which may be encountered and the conditions under which the work is to be accomplished. Bidders will not be relieved from assuming all responsibility for properly estimating the difficulties and the cost of performing the services required herein due to their failure to investigate the conditions or to become acquainted with all information, schedules and liability concerning the services to be performed.

SECTION M EVALUATION FACTORS

M.1. Preferences for Certified Business Enterprises

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

M.1.1. Application of Preferences

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

M.1.1.1 A small business enterprise certified by the DSLBD will receive a three percent (3%) reduction in the bid price.

M.1.1.2 A resident-owned business certified by DSLBD will receive a five percent (5%) reduction in the bid price.

M.1.1.3 A longtime resident business certified by DSLBD will receive a ten percent (10%) reduction in the bid price.

M.1.1.4 A local business enterprise certified by DSLBD will receive a two percent (2%) reduction in the bid price.

L.1.1.5 A local business enterprise with its principal offices located in an enterprise zone certified by DSLBD will receive a two percent (2%) reduction in the bid price.

M.1.1.6 A disadvantaged business enterprise certified by DSLBD will receive a two percent (2%) reduction in the bid price.

M.1.1.7 A veteran-owned business certified by DSLBD will receive a two percent (2%) reduction in the bid price.

M.1.1.8 A local manufacturing business enterprise certified by DSLBD will receive a two percent (2%) reduction in the bid price.

M.1.1.9 An equity impact enterprise certified by DSLBD will receive a ten percent (10%) reduction in the bid price.

M.1.2 Maximum Preference Awarded

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

M.1.3 Preferences for Certified Joint Ventures

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

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

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

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

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

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