

AWARD/CONTRACT				1. Caption				Page of Pages	
				Energy Savings Performance Contract ("ESPC")				1	
2. Contract Number		3. Effective Date		4. Requisition/Purchase Request/Project No.					
DCAM-24-NC-RFP-0019		See Block 20C							
5. Issued By: Domonique L. Banks, Contracting Officer, Supervisory Contract Specialist			Code	6. Administered by (If other than line 5): Karen Araujo, Senior Contract Specialist					
Department of General Services Contracts and Procurement Division 3924 Minnesota Avenue, NE 5 th Floor Washington, DC 20019				Department of General Services Contracts and Procurement Division 3924 Minnesota Avenue, NE 5 th Floor Washington, DC 20019					
8. Name and Address of Contractor (No. Street, City, County, state, and Zip Code)				8. Delivery <input checked="" type="checkbox"/> FOB Origin Other (See Schedule Section F)					
				9. Discount for prompt payment Net thirty (30) Days					
Code				10. Submit invoices to the Address shown in item 6 (2 copies unless otherwise specified)			<input type="checkbox"/>	Item 6	
11. Ship to/Mark For				12. Payment will be made by			Code		
13. Acknowledgement of Amendments The Offeror acknowledges receipt of amendments to the Solicitation. <input checked="" type="checkbox"/> Signature _____				14. Accounting and Appropriation Data ENCUMBRANCE CODE:					
				TOTAL CONTRACT VALUE <input type="checkbox"/> TBD					
16. Table of Contents									
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PROCUREMENT SCHEDULE									
ISSUE DATE		MONDAY, APRIL 1, 2024							
PRE-PROPOSAL CONFERENCE		SECTION [L.18] 2:30 P.M. EST ON THURSDAY, APRIL 11, 2024							
SITE VISIT		SECTION [L.19] <i>RESERVED [Intentionally Omitted]</i>							
QUESTIONS		SECTION [L.5] ELECTRONIC SUBMISSION OF QUESTIONS VIA VENDOR SUBMISSION PORTAL CLOSE OF BUSINESS MONDAY, APRIL 29, 2024							
PROPOSAL SUBMISSION DATE		SECTION [L.4] ELECTRONIC SUBMISSION PROPOSAL VIA VENDOR SUBMISSION PORTAL 2:00 P.M. EST MONDAY, JUNE 3, 2024							
17. <input type="checkbox"/> CONTRACTORS NEGOTIATED AGREEMENT (Contractor is required to sign this document and return copies to issuing office.) Contractor agrees to furnish and deliver all items, perform all the services set forth or otherwise identified above and on any continuation sheets, for the consideration stated herein. The rights and obligations of the parties to this Contract shall be subject to and governed by the following documents: (a) this award/contract, (b) the solicitation, if any, and (c) such provisions, representations, certifications, and specifications, as are attached or incorporated by reference herein. (Exhibits are listed herein.)				18. <input checked="" type="checkbox"/> AWARD (Contractor is not required to sign this document.) Your offer on Solicitation Number DCAM-24-NC-RFP-0019 including the additions or changes made by which additions or changes are set forth in full above, is hereby accepted as to the items listed above and on any continuation sheets. This award consummates the Contract which consists of the following documents: (a) the Government's solicitation and your offer, and (b) this award/contract. No further contractual document is necessary.					
19A. Name and Title of Contractor (Type or print)				20A. Name of Contracting Officer Domonique L. Banks Contracting Officer, Supervisory Contract Specialist					
19B. Name of CONTRACTOR (Signature of person authorized to sign)			19C. Date Signed		20B. District of Columbia (Signature of Contracting Officer)			20C. Date Signed	
★★★ Government of the District of Columbia									

SECTION B

CONTRACT TYPE, SUPPLIES OR SERVICES AND PRICE/COST

- B.1** The District of Columbia Government (the “District”), acting by and through its Department of General Services (“DGS” or the “Department”), Division of Contracts and Procurement, on behalf of its Sustainable and Energy (“S&E”) Management Division is seeking proposals (“Proposals”) to engage a single qualified Energy Services Company (“ESCO”) to provide Energy Savings Performance Contracting (“ESPC”) Services. The primary intent of this selection process is to: (i) execute a successful Performance Contract for District facilities; and (ii) implement comprehensive clean energy projects in existing buildings in accordance with the Scope of Work (“SOW”) in **Section [C]** of this Request for Proposals (“RFP”), the Department’s Standard Contract Provisions (“SCP”) for Supplies and Services Contracts, January 2016 **Exhibit E.1**, the Department’s SCP for Construction Contracts **Exhibit E.2**, and other associated Contract Exhibits and Solicitation Attachments listed in **Section [J]** of this RFP and the proposed Contract.
- B.1.1** The awarded ESCO shall provide all management, tools, supplies, travel to and from work sites, and all else necessary to successfully provide ESPC services. The proposed Contract will have a term beginning with a base period (“Base Period”) effective date of award through September 30 of the respective fiscal year and include up to four (4) one (1) year option periods (“Option Periods”). The total length of the proposed Contract will not exceed five (5) years in accordance with **Section [F.2.4]**.
- B.2** **TYPE OF CONTRACT.** Pursuant to the District of Columbia Procurement Practices Reform Act (“PPRA”) 2010, Section 402 Competitive Sealed Bids, and in accordance with Title 27 DCMR, Chapter 24, 2416 Term Contracts, the Department awards an Indefinite Delivery, Indefinite Quantity (“ID/IQ”) Contract with services compensated on a Labor Hour basis in accordance with Title 27 DCMR Chapter 24, 2420 and 2421 Labor Hour Contracts.
- B.2.1** **Indefinite Delivery / Indefinite Quantity (ID/IQ) Contract**
This is an IDIQ contract for the supplies or services specified, and effective for the period stated.
- B.2.1.1** Delivery or performance shall be made only as authorized by the Investment Grade Audit (“IGA”) or Energy Services Agreement (“ESA”), each of which will serve as a task order (“Task Orders”) issued in accordance with the Ordering Clause, **Section G.10**. The ESCO shall furnish to the District, when and if ordered, the labor hour services specified in the Task Order up to and including the maximum, *non-guaranteed* aggregate value of \$95,000,000. The District will order at least the minimum value of \$50.
- B.2.1.2** The District may issue Task Orders to multiple vendors for services or supplies for multiple requirements at multiple locations simultaneously.
- B.2.1.3** There is no limit on the number of Task Orders that may be issued. The District may issue Task Orders requiring performance at multiple locations.

B.2.1.4 Any Task Order issued during the effective period of this Contract and not completed within that period shall be completed by the ESCO within the time specified in the Task Order. The Contract shall govern the ESCO's and District's rights and obligations with respect to that Task Order to the same extent as if the Task Order were completed during the Contract's effective period, provided that the ESCO shall not be required to provide any performance under this Contract, beyond twelve months following the term of the final Option Period end date unless prior to the expiration of a Contract, the Chief Procurement Officer determines in writing that it is in the best interest of the District to extend the term beyond the total term specified and provides justification for using a sole source modification in accordance with “Chapter 17 of Title 27 of the DCMR, per 27 DCMR 2005 (Use of Options)” in accordance with **Section [F.2.4]** of this Contract.

B.2.1.5 The aggregate, non-guaranteed maximum ordering ceiling contemplated herein is **not** a representation to the bidders that the Department will actually require services up-to the maximum ordering limit, or that conditions affecting the requirements contemplated under the proposed Contract, will be stable or normal.

B.3 **AGGREGATE GROUP OR INDIVIDUAL ITEM – *RESERVED [Intentionally Omitted]***

B.4 **PRICE / LABOR RATE SCHEDULE.** The pricing information provided in the Proposal shall be the ESCO’s sole method of compensation and as such, shall be sufficient to cover all service requirements and expenses necessary to complete the Project in full, including, but not limited to, all labor, supplies, tools, equipment, transportation, travel to and from work sites, per diem, subcontractor cost, overhead, profit, insurance coverage and provisions as required in **Section [I.14]**, including all else necessary, as is reasonably inferred, to perform all work in accordance with the deliverables to provide the District with safe and proper provision of required services describe herein.

B.4.1 **Price-Cost Schedule – Exhibit E.6**
[THE BELOW TABLE IS FOR REFERENCE ONLY – PRICE SCHEDULE SHALL BE SUBMITTED SUBSTANTIALLY IN THE FORM OF EXHIBIT E.6]

B.4.1.1 **Base Period**

CLIN	DESCRIPTION - Labor Categories	UOM	RATE HOURLY/FIXED
0001	Project Development Manager	HRLY	
0002	Lead Project Engineer	HRLY	
0003	Project Engineer	HRLY	
0004	Construction Manager	HRLY	
0005	Construction Superintendent	HRLY	
0006	Operations & Maintenance Manager	HRLY	
0007	Measurement & Verification Manager	HRLY	
0008	HVAC Skilled Trades Professional	HRLY	
0009	Electrical Skilled Trades Professional	HRLY	

B.4.1.2 Option Year One (OY1)

CLIN	DESCRIPTION - Labor Categories	UOM	RATE HOURLY/FIXED
1001	Project Development Manager	HRLY	
1002	Lead Project Engineer	HRLY	
1003	Project Engineer	HRLY	
1004	Construction Manager	HRLY	
1005	Construction Superintendent	HRLY	
1006	Operations & Maintenance Manager	HRLY	
1007	Measurement & Verification Manager	HRLY	
1008	HVAC Skilled Trades Professional	HRLY	
1009	Electrical Skilled Trades Professional	HRLY	

B.4.1.3 Option Year Two (OY2)

CLIN	DESCRIPTION - Labor Categories	UOM	RATE HOURLY/FIXED
2001	Project Development Manager	HRLY	
2002	Lead Project Engineer	HRLY	
2003	Project Engineer	HRLY	
2004	Construction Manager	HRLY	
2005	Construction Superintendent	HRLY	
2006	Operations & Maintenance Manager	HRLY	
2007	Measurement & Verification Manager	HRLY	
2008	HVAC Skilled Trades Professional	HRLY	
2009	Electrical Skilled Trades Professional	HRLY	

B.4.1.4 Option Year Three (OY3)

CLIN	DESCRIPTION - Labor Categories	UOM	RATE HOURLY/FIXED
3001	Project Development Manager	HRLY	
3002	Lead Project Engineer	HRLY	
3003	Project Engineer	HRLY	
3004	Construction Manager	HRLY	
3005	Construction Superintendent	HRLY	
3006	Operations & Maintenance Manager	HRLY	
3007	Measurement & Verification Manager	HRLY	
3008	HVAC Skilled Trades Professional	HRLY	
3009	Electrical Skilled Trades Professional	HRLY	

B.4.1.5 Option Year Four (OY4)

CLIN	DESCRIPTION - Labor Categories	UOM	RATE HOURLY/FIXED
4001	Project Development Manager	HRLY	

4002	Lead Project Engineer	HRLY	
4003	Project Engineer	HRLY	
4004	Construction Manager	HRLY	
4005	Construction Superintendent	HRLY	
4006	Operations & Maintenance Manager	HRLY	
4007	Measurement & Verification Manager	HRLY	
4008	HVAC Skilled Trades Professional	HRLY	
4009	Electrical Skilled Trades Professional	HRLY	

B.4.2 Minimum Order. The District guarantees the minimum order for each awardee in an amount of fifty dollars (\$50.00) for the base year and each of the option periods. The District is not obligated to order any supplies or services beyond the stated minimum.

B.4.2.1 Maximum Order. For any Task Order, the maximum order limitation shall be no greater than the maximum contract ceiling amount.

B.4.2.2 Maximum Contract Ceiling. The maximum contract ceiling for each Contract period is outlined below:

APPLICABLE CONTRACT PERIOD	MINIMUM ORDERING VALUE	AGGREGATE, NON-GUARANTEED MAXIMUM ORDERING CEILING
BASE PERIOD	\$50.00	\$95,000,000
OPTION YEAR ONE (1)	\$50.00	\$96,000,000
OPTION YEAR TWO (2)	\$50.00	\$97,000,000
OPTION YEAR THREE (3)	\$50.00	\$98,000,000
OPTION YEAR FOUR (4)	\$50.00	\$99,000,000

B.5 SIGNIFICANT CHANGES IN THE CHARACTER OF WORK

B.5.1 The District, through its authorized Contracting Officer(s) (“CO”), reserves the right to make changes in quantities and any other alterations in the work in accordance with Article 15 of the SCP for Supplies and Services and Article 3 of the SCP for Construction Contracts as further detailed in **Exhibit E.1** and **Exhibit E.2** of this RFP.

B.5.2 If the alteration or changes in quantities significantly change the character of the Work to be performed under the Contract, the altered Work will be authorized by a contract modification executed by the Contracting Officer.

B.6 ACKNOWLEDGEMENT OF REVIEW OF CONTRACT DOCUMENTS

Before submitting its proposal in response to the proposed Contract, the Offeror(s) acknowledges that it reviewed the proposed contract and all exhibits/attachments and is required to bring all such inconsistencies and or questions to the attention of the Department so that the Department can address any inconsistencies and or questions by addendum to this solicitation. The ESCO acknowledges that any inconsistencies and or questions it identifies after submitting its proposal shall not be the basis for a change to the Contract terms and conditions.

B.6.1 Execution of the Contract by the ESCO is a representation that the ESCO has thoroughly examined all Contract Documents, including all details, estimated staff scheduling plans, and has satisfied itself before executing the Contract as to all matters that can affect the Work and its cost, including: (1) the prevailing wage; (2) financial capacity; (3) availability of personnel to appropriately perform services; (4) familiarized itself with the risks and mitigation costs associated with providing the contemplated ESPC services; and (5) in general, to have itself obtained all necessary information as to risk contingencies, and other circumstances which may influence or affect its performance of the Work. The ESCO waives all claims against the Department arising from or relating to such contingencies and conditions that are reasonably inferable from the Contract Documents.

B.7 DESIGNATION OF SOLICITATION FOR THE OPEN MARKET

This procurement is an open market solicitation.

B.8 SUBCONTRACTING REQUIREMENTS

An Offeror responding to this RFP that is required to subcontract shall be required to submit with its proposal, any subcontracting plan required by law **Attachment A.4**. Proposal responding to this RFP shall be deemed nonresponsive and shall be rejected if the Offeror fails to submit a subcontracting plan that is required by law. For contracts in excess of \$250,000, at least 35% of the dollar volume of the contract shall be subcontracted in accordance with **Section H.9**.

B.9 DEPARTMENT-DESIGNATED POINT OF CONTACT

The Department's sole point of contact for matters related to this RFP ("Department's POC") is the only individual authorized to discuss this RFP with any interested parties, including Offerors. All communications with the Department's POC about the Project or this RFP shall be sent in writing to:

Name: **KAREN ARAUJO**
Senior Contract Specialist
Contracts and Procurement Division
3924 Minnesota Avenue, NE | 5th Floor | Washington, DC 20019
Email: karen.araujo@dc.gov

The Department disclaims the accuracy of information derived from any source other than the Department's POC. The use of any such information is at the sole risk of the Offeror. All communications and requests for information shall be submitted by the Offeror's point of contact identified in the Proposal. Written communications to the Department from Offerors shall specifically reference the correspondence as being associated with **ENERGY SAVINGS PERFORMANCE CONTRACT, RFP NO. DCAM-24-NC-RFP-0019**.

SECTION C PERFORMANCE/WORK STATEMENT

C.1 SCOPE OF WORK

C.1.1 The ESCO shall conduct an Investment Grade Audit (“IGA”) at the District’s facilities identified in **Exhibit E.7 (Technical Facility Profile)**, with the intention of utilizing the IGA as the basis for an ESPC project. The goal of the IGA and ESPC is to support the District in their greenhouse gas emission reduction goals, reduce energy and water consumption and spend, and finance these facility improvements via guaranteed savings. The District may, if it deems it to be beneficial, require the selected ESCO to provide partial or full-service HVAC operation, maintenance, repair, and/or replacement services over the contract term.

C.1.1.1 Please note that the District reserves the right to revise the facilities identified in **Exhibit E.7** at any point in time.

C.2 **APPLICABLE DOCUMENTS.** The ESCO shall comply with the most recent versions and any future revisions to all applicable federal and District laws, Court Orders, regulations, policies in the fulfillment of the required services. The following documents are applicable to this procurement and are hereby incorporated by reference:

Item No.	Document Type	Title	Version /Date
1	U.S. Law	ISO 2000	Most Current
2	Consent Decree	ISO 9000	Most Current
3	District of Columbia	ISO 9001:2015	12-March-2020
4	Legislation	ISO 27001:2013	2010
5	Legislation	Clean Energy DC Omnibus Amendment Act	Most recent
6	DC Law	Greener Government Buildings Amendment Act of 2022	Most recent
7	DC Law	Climate Commitment Amendment Act of 2022	Most recent

C.3 DEFINITIONS & ACRONYMS

C.3.1 **Definitions.** These terms when used in this RFP have the following meanings:

C.3.1.1 **Acceptance** means an authorized representative of the District has inspected and agreed that the work meets all requirements of this Contract, to include documentation requirements.

- C.3.1.2** **Approval** means the Department, and/or the District has reviewed submittal, deliverables, or administrative documents (e.g., insurance certificates, etc.), and has determined the documents conform to contract requirement. Department and/or District approval shall not relieve the ESCO(s) of responsibility for complying with Federal, District, local laws, and regulations.
- C.3.1.3** **Building Electrification** refers to the process of powering all building space and water heating appliances and systems with electricity in lieu of fossil fuels (e.g. natural gas). Heat pumps are almost always the technology of preference and electric resistance should never be used as the primary space heating technology.
- C.3.1.4** **Contracting Officer (CO)** shall be a business communications liaison between the Department and a ESCO(s). He or she ensures that their goals are mutually beneficial. The CO is an employee who is responsible for recommending, authorizing, or denying actions and expenditures for both standard delivery orders and task orders, and those that fall outside of the normal business practices of it supporting ESCO(s) and Subcontractor(s).
- C.3.1.5** **Contractor(s)** means the individual, firm, company, corporation, partnership, or combination thereof, contracting with the Department to the contract work. The ESCO(s) is one of the parties to this Contract.
- C.3.1.6** **District** means all authorized District of Columbia (DC) government agencies and their representative having authority over the Facility.
- C.3.1.7** **Divisions** refers to those “Divisions,” as defined by the Construction Specifications Institute (CSI) and are numbered therein and refer to the subject matter or trade. These expert formats are the national standard for construction specifications.
- C.3.1.8** **Energy Services Agreement** refers to an arrangement where a service provider (ESCO) delivers energy-saving services using equipment it designs, installs, owns, and may or may not operate and maintain.
- C.3.1.19** **Energy Service Company (“ESCO”)** - a business enterprise that develops, installs, and may finance and/or perform operations and maintenance for projects designed to improve energy efficiency and reduce operations and maintenance costs for its customers' facilities. Otherwise known as the “ESCO.”
- C.3.1.20** **Greenhouse Gas** – such as carbon dioxide, methane, nitrous oxide, and certain synthetic chemicals, trap some of the Earth's outgoing energy, thus retaining heat in the atmosphere.
- C.3.1.21** **Industry Standards** means the highest level of industry-developed best standards, practices, or procedures (including any standards, practices or procedures established by the applicable trade associations or under Applicable Laws).
- C.3.1.22** **Operational** meaning equipment is functioning as specified by the manufacturer recommendations.

- C.3.1.23** **Prevailing Wage** is defined as the hourly wage, usual benefits, and overtime, allegedly paid to the majority of workers, laborers, and mechanics within a particular area as determined by the Service Contract Action Wage Determination, Davis Bacon and or the District of Columbia Living Wage Act; whichever of the applicable is higher. Prevailing wages are established by regulatory agencies for each trade and occupation employed in the performance of public work, as well as by State Departments of Labor or their equivalents.
- C.3.1.24** **Utility Bill Management** is a software platform that automatically collects, audits, processes, analyses, and reports on an organization’s electricity, gas, steam, solar, wind, water and waste bills.
- C.3.2** **Acronyms.** The following are acronyms used for the purpose of this solicitation:
- C.3.2.2** **CA** – Contract Administrator
- C.3.2.3** **COTR** – Contracting Officer’s Technical Representative
- C.3.2.4** **CO** – Contracting Officer
- C.3.2.5** **DCMR** – District of Columbia Municipal Regulations
- C.3.2.6** **DGS** – Department of General Services
- C.3.2.7** **ESA** – Energy Services Agreement
- C.3.2.8** **ESCO** – Energy Service Company
- C.3.2.9** **ESPC** – Energy Savings Performance Contract
- C.3.2.10** **EMCS** – Energy Management Control System - is a computerized control system designed to regulate the energy consumption of a building by controlling the operation of energy consuming systems, such as the heating, ventilation, and air conditioning (HVAC), lighting, and water heating systems, and is capable of monitoring environmental and system loads, and adjusting HVAC operations in order to optimize energy usage and respond to demand response signals.
- C.3.2.11** **FIM** – Facility Improvement Measure – is any improvement that generates energy consumption, carbon dioxide equivalent, and or cost savings.
- C.3.2.12** **GHG** – Greenhouse Gas
- C.3.2.13** **IGA** – Investment Grade Audit
- C.3.2.14** **UBM** – Utility Bill Management platform

C.4 BACKGROUND

C.4.1 DGS is a District of Columbia Government agency comprised of more than 700 skilled employees operating across six (6) divisions to build new, and manage existing, District-owned properties. Our team members are highly skilled in various fields including architecture, design, construction, building management and maintenance, real estate management, and security. With responsibilities spanning across more than 840 real properties throughout the city, DGS achieves its objectives through the Office of the Director and the following specialized divisions:

- a. Capital Construction;
- b. Contracts & Procurement;
- c. Sustainability and Energy;
- d. Facilities Management;
- e. Portfolio Management; and
- f. Protective Services.

C.4.2 The DGS Sustainability and Energy Management Division (“DGS-SE”) falls under the leadership of the Office of the Director.

C.4.2.1 Mission Statement

The DGS-SE Division has three core objectives: (i) limit portfolio resource consumption and environmental impacts; (ii) increase digital control and system knowledge of the building portfolio; and (iii) deliver cost savings to District taxpayers and agencies.

C.4.2.2 Vision Statement

Transform the District’s utilities and building footprint, through energy and sustainability efforts while improving occupant health, saving taxpayer dollars, and creating local jobs.

C.5 REQUIREMENTS & STANDARDS OF SERVICES

C.5.1 The requirements as described herein are not intended to represent the maximum performance levels or limitation of the effort the ESCO shall expend to accomplish the work. It is the District’s expectation that all functions of the ESPC Project are inclusive, and the ESCO shall be held to the standards of the service requires delineated herein and as reasonably inferred.

C.5.2 The ESCO shall use innovation, technology and other means and methods to develop and perform the most efficient, and comprehensive ESPC services on behalf of the District.

C.5.3 **Monthly Status Report.** The ESCO shall provide the Contracting Officer’s Technical Representative (“COTR”) a monthly status report due on the first of every month. The status report will provide the COTR with a Project update for: (i) completed Project activities; (ii) Project issues/delays; (iii) upcoming Project activities; and (iv) monthly accomplished milestones.

C.5.4 Service Delivery Expectation

C.5.4.1 The ESCO shall be qualified to conduct an IGA and implement a Performance Contract for Facility Improvement Measures (“FIMs”) to provide energy and maintenance cost-saving equipment and services. The purpose of this Contract is to focus on energy and greenhouse gas reduction, equipment maintenance/repair, etc.

The ESCO, through its work under this Contract, shall support the District’s interest in significantly reducing and improving the energy and water consumption efficiency at the selected facilities and maintaining those reductions and savings for the life of the Contract. The ESCO shall evaluate opportunities for electrification of fossil-fueled systems, excluding electric resistance resistive and steam heating, wherever technically and financially feasible. The ESCO shall seek all available funding opportunities through federal funding and separate grant or rebate opportunities to support the guaranteed savings in funding the upfront and on-going project costs.

C.5.4.2 The IGA by the ESCO shall be conducted to identify and quantify the upfront costs, on-going costs, and potential cost savings of potential Facility Improvement Measures at the selected facilities. A representative list of project sites for the first IGA are listed in **Exhibit E.7** (“Technical Facility Profile”). At the sole discretion of the District, future IGA work orders may be issued during the term of this contract.

C.5.4.2.1 The ESCO shall maximize energy and related operational cost savings to pay for facility upgrades, improvements, and services. Services and capital improvements will be financed through an Energy Services Agreement (“ESA”) for FIMs which:

- a. Incurs no initial capital costs but with an option for the District to provide initial capital if desired.
- b. Achieves significant long-term operating and energy cost savings.
- c. Provides an annual cost savings and performance guarantee over the term of the Contract.
- d. Maintains improvements in, and consistent levels of, operational functionality.
- e. Realizes additional related benefits such as reduced maintenance needs and facility improvements and occupant comfort.
- f. Maintains consistency with all applicable codes and standards. The designs shall comply with all relevant building codes.
- g. Maximizes financial benefits from participation in utility sponsored energy efficiency and demand response programs and other Federal grant or rebate programs.

C.5.4.2.2 The ESCO shall follow the District’s OPR for schools, which is included as **Exhibit E.8**.

C.5.4.3 PROJECT PHASES

C.5.4.3.1 **Phase 1 – Investment Grade Audit and Project Development:** The ESCO shall conduct an IGA of a group of buildings to identify potential FIMs, determine the cost and savings of each measure, and present a measurement and verification plan to validate

future savings. A Project proposal shall present a bundle of measures that can be financed through guaranteed savings over the proposed financing term, including a cash-flow table for the financing term, which shall not exceed 25 years. The District, at its sole option, shall choose the financing term. The ESCO shall submit the IGA Report to the District.

C.5.4.3.2 **Phase 2 – Financing:** The District reserves the right to evaluate all forms of financing and will determine financing structure, cost, and financial terms for the performance contract. When negotiations are concluded, the District may issue a Notice to Proceed (“NTP”). Through the Energy Services Agreement (ESA), the ESCO shall proceed to final design, construction, and commissioning of the improvement measures. The ESA shall define the final agreed upon list of measures, equipment, and labor costs, guaranteed cost savings, measurement & verification plans, and additional relevant information. The document shall identify equipment specifications and warranties and establish the schedule and responsibilities of the ESCO and the District. It shall incorporate all current District or other applicable statutes and directives that directly relate to performance contracting. Designs shall comply with adopted building codes and receive required permits. Design charrette(s) shall be held with the ESCO and District personnel, and submittal reviews at the 30%, 60%, and 95% levels shall be performed by the District.

C.5.4.3.3 **Phase 3 – Design, Implementation, and Commissioning:** Upon issuance of a Notice to Proceed, the ESCO shall continue the design process from the IGA phase and initiate construction. The ESCO should work continuously internally and with the sub-ESCOs for each ECM to provide interim commissioning plans, design drawings, and equipment submittals to DGS periodically for review. The review process should be documented accordingly, so that the appropriate designs and related equipment match the final IGA scopes of work and meet the original ECM intent. During the IGA phase, the ESCO will provide a construction schedule which includes estimated completions dates for the following: ECM installation, Cx, post-installation M&V, punch list, and final acceptance. Throughout the implementation phase, this schedule shall be updated periodically to reflect the actual process towards final completion. Upon completion of the construction, but prior to Project Acceptance by the District, the ESCO shall use Commissioning to verify that the design intent has been implemented. The District reserves the right to have its own representative witness all commissioning activities, as well as review all plans, manuals, and reports related to this Project. Equipment submittals will be reviewed and compared to design and will be tested by the ESCO in the field to verify performance. The ESCO shall conduct Commissioning to verify proper installation and proper operation of all equipment and cost-savings measures. When all ECMs are completed, the ESCO will issue a Final Completion Certification. This document is the formal notification to DGS that the ESCO has completed all ECM tasks outlined in the ESA including installation, Cx, and post-install M&V. DGS will have inspected the project and accepted resolution of any outstanding punch list items prior to this notice. The ESCO confirms through Final Completion that the project is providing cost savings sufficient to repay the investment. Acceptance of the Final Completion Certification by DGS constitutes the date of completion of the construction period and the commencement of the performance period for the project and the term of the ESA.

C.5.4.3.4 **Phase 4 – Guarantee and Measurement and Verification:** The ESCO shall monitor the energy, other operating cost savings measures implemented under the ESA, and shall at least once a year prepare and provide a Measurement and Verification (“M&V”) Report to the District on the performance of the operating cost-savings measures. The ESA shall include a Measurement and Verification Plan to identify the methodology used to validate the cost savings identified by the ESCO. The M&V Plan shall follow established industry guidelines such as the guidelines presented by the International Performance Measurement and Verification Protocol (“IPMVP”). The M&V Plan shall provide the measurement and verification methodologies and the terms and conditions for the savings guarantee.

C.5.4.4 **Labor Categories**

C.5.4.4.1 **Project Development Manager**

C.5.4.4.1.1 **Minimum Qualifications and Experience**

- a. Ten (10) years overall experience in a senior managerial position.
- b. Experience on at least five (5) projects that included the engineering development and phases of an ESPC project.
- c. Experience with utility relocation and coordination on at least two (2) projects of comparable size and complexity, at the Department’s discretion.
- d. Bachelor’s degree in engineering, management, or related field.

C.5.4.4.1.2 **Responsibilities/Duties and Functions**

- a. Responsible for the execution and day-to-day management of the engineering development.
- b. Responsible for the overall control of the production process and resulting work products.
- c. Responsible for quality and schedule of the work.
- d. Responsible for ensuring that all work complies with all scope of work agreements. available as necessary to engage with the Department.

C.5.4.4.2 **Lead Project Engineer**

C.5.4.4.2.1 **Minimum Qualifications and Experience**

- a. Ten (10) years overall experience in a technical engineering position.
- b. A registered Professional Engineer in the District of Columbia.
- c. Experience on at least five (5) projects that included the engineering development and design phases of an ESPC project.
- d. Bachelor’s degree in a relevant engineering discipline, at the Department’s discretion.

C.5.4.4.2.2 **Responsibilities/Duties and Functions**

- a. Responsible for all technical engineering deliverables.

- b. Oversee and directly responsible for all project level engineering personnel.
- c. Available as necessary to engage with the Department.

C.5.4.4.3 Project Engineer

C.5.4.4.3.1 Minimum Qualifications and Experience

- a. Five (5) years of overall experience in a technical engineering position.
- b. A registered Professional Engineer or Engineer in Training.
- c. Experience on at least three projects that included the engineering development and design phases of an ESPC project.
- d. Bachelor's degree in a relevant engineering discipline, at the District's discretion

C.5.4.4.3.2 Responsibilities/Duties and Functions

- a. Responsible for technical engineering development and analysis work.
- b. Coordinate with and support the Lead Project Engineer.

C.5.4.4.4 Construction Manager

C.5.4.4.4.1 Minimum Qualifications and Experience

- a. 15 years of overall professional experience.
- b. Ten (10) years of experience as a construction manager, project manager, or equivalent on at least five projects that included design, construction, commissioning, and close-out of an ESPC project.
- c. Bachelor's degree in construction management or related field, at the Department's discretion.

C.5.4.4.4.2 Responsibilities/Duties and Functions

- a. Responsible for the execution and day-to-day management of the construction and implementation of scope of work.
- b. Responsible for quality and schedule of the work.
- c. Responsible for managing and coordinating all construction personnel and administering all construction requirements of the contract documents.
- d. Available as necessary to engage with the Department.

C.5.4.4.5 Construction Superintendent

C.5.4.4.5.1 Minimum Qualifications and Experience

- a. Ten (10) years of overall professional experience.
- b. Five (5) years of experience as a site superintendent, project manager, or equivalent on at least three projects that included design, construction, commissioning, and close-out of an ESPC project.

C.5.4.4.5.2 Responsibilities/Duties and Functions

- a. Responsible for site-specific day-to-day field activities associated with construction of scope of work.
- b. Responsible for all sub-contractors on site.
- c. Available as necessary to engage with the Department.

C.5.4.4.6 **Operations and Maintenance Manager**

C.5.4.4.6.1 Minimum Qualifications and Experience

- a. Ten (10) years of overall professional experience.
- b. Five (5) years of experience managing O&M duties related to ESPC project scopes of work.
- c. Bachelor's degree in engineering, construction management, or a related field, at the Department's discretion.

C.5.4.4.6.2 Responsibilities/Duties and Functions

- a. Responsible for all technical maintenance, management, and monitoring deliverables.
- b. Responsible for quality and schedule of all O&M work.
- c. Responsible for management of O&M resources.
- d. Available as necessary to engage with the Department.

C.5.4.4.7 **Measurement & Verification Manager**

C.5.4.4.7.1 Minimum Qualifications and Experience

- a. Ten (10) years of experience in a technical engineering position.
- b. Five (5) years of experience managing M&V performance duties on an ESPC project.
- c. Bachelor's degree in a relevant engineering discipline, at the Department's discretion.

C.5.4.4.7.2 Responsibilities/Duties and Functions

- a. Responsible for all technical performance, management, and monitoring deliverables.
- b. Responsible for quality and schedule of all performance period work.
- c. Responsible for management of performance engineer resources.
- d. Available as necessary to engage with the Department.

C.5.4.4.7 **HVAC Skilled Trades Professional**

C.5.4.4.7.1 Minimum Qualifications and Experience

- a. Ten (10) years of overall professional experience.
- b. Five (5) years of experience in the field of HVAC trades.
- c. Associate degree from an accredited technical institution.
- d. Applicable HVAC technician's license.

C.5.4.4.7.2 Responsibilities/Duties and Functions

- a. Responsible for trades work associated with install and troubleshooting of all HVAC systems and components.
- b. Coordination with construction site superintendents.

C.5.4.4.8 **Electrical Skilled Trades Professional**

C.5.4.4.8.1 Minimum Qualifications and Experience

- a. Ten (10) years of overall professional experience.
- b. Five (5) years of experience in the field of electrical trades.
- c. Associate degree from an accredited technical institution.
- d. Applicable electrician's license.

C.5.4.4.8.2 Responsibilities/Duties and Functions

- a. Responsible for trades work associated with install and troubleshooting of all electrical systems and components.
- b. Coordination with construction site superintendents.

SECTION D PACKAGING AND MARKING

- D.1** The packaging and marking requirements for the Contract shall be governed by **Article No. 2**, Shipping Instructions-Consignment, of the Government of the District of Columbia's Department of General Services Standard Contract Provisions (“SCP”) for Supplies and Services Contracts, January 2016 (**Exhibit E.1**).

SECTION E INSPECTION AND ACCEPTANCE

- E.1** The inspection and Acceptance requirements for the Contract shall be governed by **Article No. 5**, Inspection of Supplies, and **Article No. 6**, Inspection of Services, of the Government of the District of Columbia's Department of General Services Standard Contract Provisions (“SCP”) for Supplies and Services Contracts, January 2016 **Exhibit E.1**, and Article 11, Inspection and Acceptance, of the Government of the District of Columbia's Department of General Services SCP for Construction Contracts, **Exhibit E.2**.

SECTION F PERIOD OF PERFORMANCE AND DELIVERABLES

F.1 TERM OF CONTRACT

Base Term: The base term of this Contract shall be for a Base Period from date of execution by the Department’s Contracting Officer (“CO”), as specified on the cover page of this contract, through one year thereafter (as specified on page 1, Block 20B of this Contract).

F.1.2 Letter Contract (if and where applicable): It is understood and agreed that certain activities described herein may have been performed while a Letter Contract was in place, and the term of the Letter Contract shall merge and be incorporated into this Contract upon its execution by the CO. In this instance, the term of the Contract would begin on the effective date of the Letter Contract.

F.2 OPTION TO EXTEND THE TERM OF THE CONTRACT

F.2.1 The District may *unilaterally* extend the term of this Contract for a period of four (4), one (1)-year Option Periods, or successive fractions thereof, by written notice to the ESCO before the expiration of the Contract; provided that the District will give the Contractor preliminary written notice of its intent to extend at least thirty (30) days before the Contract expires. The preliminary notice does not commit the District to an extension. The exercise of any Option Period is subject to the availability of funds at the time of the exercise of this option. The ESCO may waive the thirty (30) day preliminary notice requirement by providing a written waiver to the Contracting Officer prior to expiration of the Contract. *For the avoidance of confusion and notwithstanding anything to the contrary, this Contract does not automatically renew.*

F.2.1.1 Option Periods of Performance: In the event the Department exercises its option to extend the term of the Contract to cover the Option Period(s), the costs, and prices for the Option Period shall be as specified in the **Section B.4.1** of the Contract and **Exhibit E.6**. Each subsequent Option Period is anticipated to begin on date of award through one year after.

F.2.2 If the Department exercises an Option Period, the extended Contract shall be considered to include this option provision.

F.2.3 The price and cost for the Option Period shall be as specified in **Section B.4.1** of the Contract.

F.2.4 The total duration of this Contract, including the exercise of any options under this clause, shall not exceed five (5) years unless prior to the expiration of the Contract, the Chief Procurement Officer determines in writing that it is in the best interest of the District to extend the term beyond the total term specified and provides justification for using a sole source modification in accordance with “Chapter 17 of Title 27 of the DCMR, per 27 DCMR 2005 (Use of Options).”

F.2.5 The continuation of services through the exercise of an Option Period is subject to the availability of appropriated funds at the time of the exercise of the option.

F.2.6 During any Option Period, the Contract requirements and deliverables remain the same as those of the Base Period unless changed by way of a Contract Modification issued by the Contracting Officer.

F.2.7 If the Department exercises an Option Period, the extended Contract shall be considered to include this entire option clause.

F.3 DELIVERABLES

The ESCO shall perform the activities required to successfully complete the Department’s requirements and submit each deliverable to the COTR identified in **Section G.9.2** in accordance with the following:

DELIVERABLE	FORMAT METHOD OF DELIVERY	DUE DATE
IGA Plan & Schedule	MS Word & TBD by DGS	5 Days Prior to IGA Kick Off
IGA Schedule Updates/Revisions	TBD by DGS	Minimum 1 Time per Month
IGA Progress Meeting Agendas	TBD by DGS	3 Days Prior to Meeting
IGA Progress Meeting Minutes	MS Word	Within 5 Days of previous IGA Meeting
Monthly Status Report	MS Word	Monthly, first Tuesday of the month
30% IGA Report and Supporting Data Analysis	MS Word & Excel / TBD by DGS	As specified in the final IGA Agreement Scope of Work
60% IGA Report and Supporting Data Analysis	MS Word & Excel / TBD by DGS	As specified in the final IGA Agreement Scope of Work
90% IGA Report and Supporting Data Analysis	MS Word & Excel / TBD by DGS	As specified in the final IGA Agreement Scope of Work
100% IGA Report and Supporting Data Analysis	MS Word & Excel / TBD by DGS	As specified in the final IGA Agreement Scope of Work
Construction Plan & Schedule	MS Excel & TBD by DGS	5 Days Prior to Construction Kick Off
Construction Schedule Updates/Revisions	TBD by DGS	Minimum 1 Time per Month
Construction Progress Meeting Agendas	TBD by DGS	3 Days Prior to Meeting
Construction Progress Meeting Minutes	TBD by DGS	Within 5 Days of previous Meeting
Design Submittal Packages	PDF	As Specified in the Final ESA
Commissioning Manuals & Reports	PDF	As Specified in the Final ESA
Construction Close-out Package	PDF	As Specified in Final IGA
Post-Installation M&V Report	MS Word / PDF	As Specified in the Final ESA
Annual M&V Reports	MSWord / PDF	As Specified in the Final ESA

F.3.1 The ESCO shall submit to the District the deliverable report described in **Section [H.5]** which is required by the 51% District Residents New Hires Requirements and First Source Employment Agreement (**Attachment A.2**). If the ESCO does not submit the report as part of the deliverables, the District shall not make final payment to the ESCO pursuant to **Section [G.3.2]**.

SECTION G CONTRACT ADMINISTRATION

G.1 INVOICE PAYMENT

G.1.1 The Department will make payments to the ESCO, 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 ESCO on or before the 30th day after receiving a proper invoice from the ESCO.

G.2 INVOICE SUBMITTAL

G.2.1 Unless otherwise directed by the Department, the ESCO shall create and submit payment requests in an electronic format through the DC Vendor Portal, <https://vendorportal.dc.gov>. The E-invoicing vendor helpdesk number (202) 741-5200 and email is dcvendor.help@dc.gov. The ESCO must indicate the proper PO number on all invoices. Properly prepared invoices with the necessary backup shall be paid within thirty (30) days of receipt. Invoices not paid by that date shall bear interest in accordance with the Quick Payment Act

G.2.1.1 Prior to creating the payment request described above, the ESCO shall submit a proper invoice based on applicable guidelines specified in **Section G.4**. Invoices shall be prepared and submitted to the COTR identified in **Section G.9**.

G.2.2 To constitute a proper invoice, the ESCO shall submit the following information on the invoice.

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

G.2.2.2 The Contract number and invoice number;

G.2.2.3 Department's Purchase Order ("PO") number;

G.2.2.4 Description, price, quantity, and the date(s) that the supplies or services were delivered or performed;

G.2.2.5 Other supporting documentation or information, as required by the Contracting Officer;

G.2.2.6 Name, title, telephone number and complete mailing address of the responsible official to whom payment is to be sent;

G.2.2.7 Name, title and phone number of the individual preparing the invoice;

G.2.2.8 Name, title, phone number and mailing address of person (if different from the person identified in **Section G.2.2.6** 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 (**Attachment A.2**) requirements, final request for payment must be accompanied by the report or a waiver of compliance discussed in **Section [H.5.7]**.

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

G.4 PAYMENT

G.4.1 Payments On Partial Deliveries of Services

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

- (a) The CO determines that the amount due on the deliveries warrants it; or
- (b) The ESCO requests it and the amount due on the deliveries is at least \$1,000 or 50 percent of the total Contract price; or
- (c) Presentation of a properly executed invoice.

G.5 ASSIGNMENT OF CONTRACT PAYMENTS

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

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

G.5.3 Notwithstanding an assignment of Contract payments, the ESCO, 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 ESCO 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% 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 ESCO 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 ESCO must take one of the following actions within seven (7) days of receipt of any amount paid to the ESCO 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 ESCO’s intention to withhold all or part of the subcontractor’s payment and state the reason for the nonpayment.
- G.6.2.2** The ESCO 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 ESCO 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 ESCO and subcontractor relating to the amounts or entitlement of a subcontractor to a payment or a late payment interest penalty under the Quick Payment Act does not constitute a dispute to which the District is a party. The District may not be interpleaded in any judicial or administrative proceeding involving such a dispute.
- G.6.3** **Subcontract requirements.** The ESCO shall include in each subcontract under this Contract a provision requiring the subcontractor to include in its Contract with any lower-tier subcontractor or supplier the payment and interest clauses required under paragraphs (1) and (2) of D.C. Official Code § 2-221.02(d).
- G.7** **CONTRACTING OFFICER (“CO”)**
Contracts will be entered into and signed on behalf of the District only by contracting officers. The contact information for the Contracting Officer is:
- DOMONIQUE L. BANKS**
Contracting Officer, Supervisory Contract Specialist
Department of General Services
3924 Minnesota Avenue, NE | 5th Floor | Washington, DC 20019
Telephone: (202) 719-6544
E-mail address: domonique.banks@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 ESCO shall not comply with any order, directive or request that changes or modifies the requirements of this contract, unless issued in writing and signed by the CO.

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

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

G.9.1 The COTR is responsible for general administration of the Contract and advising the CO as to the ESCO'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.9.1.1 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.9.1.2 Coordinating site entry for ESCO personnel, if applicable.

G.9.1.3 Reviewing invoices for completed work and recommending approval by the CO if the ESCO's costs are consistent with the negotiated amounts and progress is satisfactory and commensurate with the rate of expenditure.

G.9.1.4 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.

G.9.1.5 Maintaining a file that includes all Contract correspondence, modifications, records of inspections (site, data, equipment) and invoice or vouchers.

G.9.2 The address and telephone number of the COTR *will be provided upon award*.

G.9.3 The COTR shall NOT have the authority to:

1. Award, agree to, or sign any contract, delivery order or Task Order. Only the CO shall make contractual agreements, commitments, or modifications.
2. Grant deviations from or waive any of the terms and conditions of the Contract.
3. Increase the dollar limit of the Contract or authorize work beyond the dollar limit of the Contract.
4. Authorize the expenditure of funds by the ESCO.
5. Change the period of performance.
6. Authorize the use of District property, except as specified under the Contract.

G.9.4 The ESCO will be fully responsible for any changes not authorized in advance, and in writing, by the CO. The ESCO 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.

G.10 ORDERING CLAUSE

- G.10.1** Any supplies and services to be furnished under this Contract must be ordered by issuance of Task Orders by the Contracting Officer. Such orders may be issued during the term of this Contract. The ESCO is hereby made aware that only the Contracting Officer is authorized to issue Task Orders under the Contract, and the Department shall have no obligation to provide or remit compensation to the vendor for any work, materials, or supplies that the vendor provides contrary, beyond, or outside of that parameter and understanding. The vendor should always take care to receive Task Order instructions from the Contracting Officer, versus any non-authorized personnel of the Department such as the COTR who is not authorized to make change to this Agreement and or any issues/modify any Task Orders pursuant to this Agreement.
- G.10.2** All delivery orders or task orders are subject to the terms and conditions of this Contract. In the event of a conflict between a delivery order or Task Order and this Contract, the Contract shall prevail.
- G.10.3** There is no limit or maximum on the number of orders/Task Orders that may be issued. The Department may issue Task Orders requiring delivery to multiple destinations or performance at multiple locations. The Department reserves the right, at any time (including after an award hereunder), to either adjust or cancel a Task Order(s).
- G.10.4** The Ordering Maximum values identified in **Section [B.4.2.2]** are *non-guaranteed* estimated ordering maximums and is not a representation of the District's intent to order up-to or that the maximum ordering values will be required within any give Contract Period, or that conditions affecting the requirements, will be stable or normal. ESCOs are *only* guaranteed the stated minimum ordering value of Fifty Dollars (\$50.00) during a Contract Period.
- G.10.5** Any order(s) issued during the effective period of this Contract and not completed within that period shall be completed by the ESCO within the time specified in the individual order(s). The Contract shall govern the ESCO's and Department's rights and obligations with respect to any and all order(s) to the same extent as if the order(s) were completed during the Contract's effective period.
- G.10.6** The Contracting Officer may establish Contract delivery or performance schedules on the basis of Contracts containing indefinite delivery provisions (such as term Contracts or federal supply schedules), a specific time for delivery and or performance of services after receipt by the ESCO of each individual Task Order issued under the Contract, thus the period of performance established by the individual task order shall prevail.
- G.10.7** If mailed, a delivery order or task order is considered "issued" when the District deposits the order in the mail. Orders may be issued by facsimile or by electronic commerce methods.
- G.11** **SUPPLEMENTAL SERVICES NOT-TO-EXCEED OWNER-DIRECTED ALLOWANCE - *RESERVED [Intentionally Omitted]***

- G.12** **HOURLY RATE CEILING – *RESERVED [Intentionally Omitted]***
- G.13** **RIDER CLAUSE**
- G.13.1** The Mid-Atlantic Purchasing Team (MAPT) is the agreement between the Metropolitan Washington Council of Governments (“MWCOCG”) and the Baltimore Metropolitan Council (“BMC”) to aggregate the public entity and non-profit purchasing volumes in the Maryland, Virginia and Washington, DC region (“region”).
- G.13.2** A lead agency format is used to accomplish this work. The Lead Agency in this procurement and has included this MAPT Cooperative Rider Clause in this solicitation indicating its willingness to allow other public entities to participate pursuant to the following Terms and Conditions.
- G.13.2.1** Participating entities, through their use of the Cooperative Rider Clause, agree to the terms and conditions of the resulting contract to the extent that they can be reasonably applied to the participating entity.
- G.13.2.2** Participating entities may also negotiate additional terms and conditions specific to their local requirements upon mutual agreement between the parties.
- G.13.3** Other Conditions - Contract and Reporting
- G.13.3.1** The contract resulting from this solicitation shall be governed by and "construed in accordance with the laws of the State/jurisdiction in which the participating entity officially is located.
- G.13.3.2** To provide to MWCOCG and/or BMC contract usage reporting information, including but not limited to quantity, unit pricing and total volume of sales by entity, as well reporting other participating entities added on the contract, on demand and without further approval of contract participants.
- G.13.3.3** Contract obligations rest solely with the participating entities only.
- G.13.3.4** Significant changes in total contract value may result in further negotiations of contract pricing with the lead agency and participating entities.
- G.13.4** In pricing and other conditions, vendors are urged to consider the broad reach and appeal of MAPT with public and non-profit entities in this region.
- G.13.5** A list of the participating members of the Mid-Atlantic Purchasing Team can be found at the following web links:

www.mwcog.org/purchasing-and-bids/cooperative-purchasing/member-links/

[http://www.baltometro.org/our-work/cooperative-purchasing/brcpc-representatives.](http://www.baltometro.org/our-work/cooperative-purchasing/brcpc-representatives)

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 ESCO 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 ESCO 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 ESCO's first source of referral for qualified apprentices and trainees in the implementation of employment goals contained in this clause. Thirty-Five percent (35%) of all apprentice hours shall be worked by District residents.

H.2 PREVAILING WAGE

H.2.1 Department of Labor Wage Determinations

The ESCO shall be bound by the *Wage Determination No. 2015-4281, Revision No.: 28, dated 26-December-2023* – **Exhibit E.3**, issued by the U.S. Department of Labor in accordance with the Service Contract Act, 41 U.S.C. § 351 *et seq.*, and incorporated herein as **Exhibit E.3**. The ESCO shall be bound by the wage rates for the term of the Contract subject to revision as stated herein and in accordance with **Article 25 of the SCP (Supplies and Services)**. If an option is exercised, the ESCO shall be bound by the applicable wage rates at the time of the exercise of the option. If the option is exercised and the CO obtains a revised wage determination, the revised wage determination is applicable for the option periods.

H.2.2 Davis Bacon Act

As and where applicable, the ESCO agrees that services performed shall be subject to the Davis Bacon Wage Determination Act that is in effect at the time services are performed, as set forth in **Exhibit E.4**.

H.2.3 Living Wage Act

The Living Wage Act is applicable to this Contract. As such, the ESCO and its subcontractors shall comply with the wage and reporting requirements imposed by that Act – **Exhibit E.5**.

H.3 PREGNANT WORKERS FAIRNESS

H.3.1 The ESCO 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 ESCO 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 ESCO demonstrates 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 ESCO 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:

- 1. New employees at the commencement of employment.
- 2. Existing employees; and
- 3. 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 ESCO 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 ESCO shall comply with the Unemployed Anti-Discrimination Act of 2012, D.C. Official Code § 32-1361 *et seq.*

H.4.2 The ESCO shall not:

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

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

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

H.5.1 For contracts for services in the amount of \$300,000 or more, the ESCO shall comply with the First Source Employment Agreement **Attachment A.2 & Attachment A.3**. Act of 1984, as amended, D.C. Official Code § 2-219.01 *et seq.* (First Source Act).

H.5.2 The ESCO shall enter into and maintain during the term of the contract, a First Source Employment Agreement (“Employment Agreement”) **Attachment A.2 & Attachment A.3** with the District of Columbia Department of Employment Service’s (DOES), in which the ESCO 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 The ESCO shall not begin performance of the contract until its Employment Agreement has been accepted by DOES. Once approved, the Employment Agreement shall not be amended except with the approval of DOES.

H.5.4 The ESCO agrees that at least 51% of the new employees hired to perform the contract shall be District residents.

- H.5.5** The ESCO’s hiring and reporting requirements under the First Source Act and any rules promulgated thereunder shall continue for the term of the contract.
- H.5.6** 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.5.7** If the ESCO 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 ESCO fails to meet its hiring requirements.
- H.5.8** Any ESCO 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.5.9** The ESCO may appeal any decision of the CO pursuant to this clause to the D.C. Contract Appeals Board as provided in **clause 14 of the SCP (Supplies and Services Contracts), Disputes**.
- H.5.10** The provisions of the First Source Act do not apply to nonprofit organizations which employ 50 employees or less.
- H.6** **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 ESCO 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 ESCO shall obtain written approval of the CO for any proposed substitution of key personnel.
- H.7** **AUDITS AND RECORDS**
- H.7.1** As used in this clause, “records” includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.
- H.7.2** **Examination of Costs.** If this is a cost-reimbursement, incentive, time-and-materials, labor-hour, or price redeterminable contract, or any combination of these, the ESCO 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 ESCO’s plants, or parts of them, engaged in performing the contract.

H.7.3 Cost or pricing data. If the ESCO 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 ESCO's records, including computations and projections, related to:

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

H.7.4 Comptroller General

H.7.4.1 The Comptroller General of the United States, or an authorized representative, shall have access to and the right to examine any of the ESCO's directly pertinent records involving transactions related to this contract or a subcontract hereunder.

H.7.4.2 This paragraph may not be construed to require the ESCO or subcontractor to create or maintain any record that the ESCO or subcontractor does not maintain in the ordinary course of business or pursuant to a provision of law.

H.7.5 Reports. If the ESCO is required to furnish cost, funding, or performance reports, the CO or an authorized representative of the CO shall have the right to examine and audit the supporting records and materials, for the purpose of evaluating:

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

H.7.6 Availability. The ESCO shall make available at its office at all reasonable times the records, materials, and other evidence described in **Section H.7.1 through H.7.5**, for examination, audit, or reproduction, until three (3) years after final payment under this contract or for any shorter period specified in the solicitation, or for any longer period required by statute or by other clauses of this contract. In addition:

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

H.7.7 The ESCO shall insert a clause containing all the terms of this clause, including this **Section H.7.7**, in all subcontracts under this contract that exceed the small purchase threshold of \$100,000, and:

- (a) That are cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable type, or any combination of these;
- (b) For which cost or pricing data are required; or
- (c) That requires the subcontractor to furnish reports as discussed in **H.7.5** of this clause.

H.8 ADVISORY AND ASSISTANCE SERVICES

H.8.1 This contract is a “nonpersonal services contract”. The ESCO and the ESCO’s employees: (1) shall perform the services specified herein as independent ESCOs, 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.9 SUBCONTRACTING REQUIREMENTS

[Disclaimer: For the purposes of this Section, the term “prime contractor” and “contractor” refers to ESCO.]

H.9.1 Mandatory Subcontracting Requirements

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 paragraph **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 proposal 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 proposal 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 proposal 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**

H.9.2.1 If the prime contractor is required by law to subcontract under this contract, it must subcontract at least 35% of the dollar volume of this contract in accordance with the provisions of **Sections H.9.1 or H.9.2** of this clause. The plan shall be submitted as part of the proposal and may only be amended after being awarded with the prior written approval of the CO and Director of DSLBD. Any reduction in the dollar volume of the subcontracted portion resulting from an amendment of the plan after award shall inure to the benefit of the District.

H.9.2.2 Each subcontracting plan shall include the following:

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

H.9.3 **Copies of Subcontracts**

H.9.3.1 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 If the contractor has a subcontracting plan required by law for this contract, the contractor shall submit a quarterly report to the CO, CA, District of Columbia Auditor, and the Director of DSLBD. The quarterly report shall include the following information for each subcontract identified in the subcontracting plan:

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

H.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**

H.9.5.1 Upon at least 30 days written notice provided by DSLBD, the Contractor shall meet annually with the CO, CA, District of Columbia Auditor, and the Director of DSLBD to provide an update on its subcontracting plan.

H.9.6 **Notices**

H.9.6.1 The Contractor shall provide written notice to the DSLBD and the District of Columbia Auditor upon commencement of the contract and when the contract is completed.

H.9.7 **Enforcement and Penalties for Breach of Subcontracting Plan**

H.9.7.1 A contractor shall be deemed to have breached a subcontracting plan required by law, if the contractor: (i) fails to submit subcontracting plan monitoring or compliance reports or other required subcontracting information in a reasonably timely manner; (ii) submits a monitoring or compliance report or other required subcontracting information containing a materially false statement; or (iii) fails to meet its subcontracting requirements.

H.9.7.2 A contractor that is found to have breached its subcontracting plan for utilization of CBEs in the performance of a contract shall be subject to the imposition of penalties, including monetary fines in accordance with D.C. Official Code § 2-218.63.

H.9.7.3 If the CO determines the contractor's failure to be a material breach of the contract, the CO shall have cause to terminate the contract under the default provisions in **Clause 8 of the Standard Contract Provisions (Supplies and Services Contracts), Default**; and Article 5 Termination of the Standard Contract Provisions (Construction Contracts).

H.10 **FAIR CRIMINAL RECORD SCREENING**

H.10.1 The ESCO shall comply with the provisions of the Fair Criminal Record Screening Amendment Act of 2014, effective December 17, 2014 (D.C. Law 20-152) (the "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 ESCO shall not require an applicant for employment, or a person who has requested consideration for employment by the ESCO, 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 ESCO may require an applicant to disclose or reveal a criminal conviction.
- H.10.4** The ESCO 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 ESCO.
- H.11** **BOND REQUIREMENTS** – Will be required prior to entering into an ESA with the District.
- H.11.1** **Bid Bond** – *RESERVED [Intentionally Omitted]*
- H.11.2** **Performance and Payment Bond**
- H.11.2.1** The ESCO will be required to post a Performance and Payment Bond **Attachment A.12** for each with a penal value of 100% of the total proposed Contract NTE value (as modified), at the time the Agreement.
- H.11.2.2** The ESCO shall, before commencing the exercise of any option period, provide to the Department a payment bond and performance bond, each with a penal sum equal to 100% of the subject Contract NTE for the option period price (i.e., base period and/or each of the individual option periods). Such bonds shall remain in full force and effect until the Contract period reaches term and the Department shall be able to draw upon such bonds regardless of the amount paid by the Department to the ESCO, even if such amount exceeds the penal value of such bonds.

H.11.2.3 All bonding companies must be included on the Department of Treasury’s Listing of Approved Sureties.

H.12 *RESERVED [Intentionally Omitted]*

H.13 **DISTRICT RESPONSIBILITIES**

H.13.1 At the time of the execution of this Agreement, the Department will provide ESCO with the readily available benchmarking data, drawings, specifications, and other documentation in the Department's possession concerning the Premises, Sites and Site Electrical Systems and shall continue to provide such drawings, specifications, and other documentation, where readily available, that ESCO may reasonably require to develop and complete detailed designs for each System. There may be cases where drawings, specifications, and other documentation of the District government property do not exist, and ESCO may need to either do without or create said documentation. For this purpose, the Department has provided ESCO with reasonable access to the Premises and the Sites to verify field conditions and has made and shall make appropriate staff reasonably available to answer questions and provide information required by ESCO to support the detailed design process.

H.13.2 **Periodic and Annual Contract Performance Evaluations:**

As per the terms and conditions set forth herein, the Contracting Officer's Technical Representative (“COTR”) shall be responsible for conducting periodic and annual evaluations of the Contractor's performance under this Contract. These evaluations are imperative to ensure that the services rendered align with the scope, terms, conditions, and service level agreements as reasonably inferred from this Contract.

H.13.2.1 The COTR shall carry out these evaluations in strict adherence to the Department's established performance evaluation criteria. These assessments will include a comprehensive review of the Contractor's performance, covering aspects such as compliance with contractual requirements, quality of services rendered, adherence to timelines, responsiveness to the District's needs, and conformity with relevant laws and regulations.

H.13.2.2 The COTR shall document the findings of each evaluation and communicate them to the Contractor in writing. These evaluations may also serve as a foundation for identifying areas requiring improvement and offering constructive feedback to enhance the Contractor's performance.

H.13.2.3 Failure to meet the performance standards outlined in this Contract or to address any deficiencies identified through the evaluation process may result in the enforcement of contractual remedies as provided for within this Contract and in accordance with the Department’s Standard Contract Provisions (“SCP”) for Supplies and Service Contracts, January 2016 **Exhibit E.1** and the SCP for Construction Contracts **Exhibit E.2**.

H.13.2.4 This provision shall remain in effect for the duration of this Contract, unless otherwise amended in writing by both parties.

H.14 ESCO RESPONSIBILITIES

H.14.1 At all times and during performance under this Contract, the ESCO shall be responsible to the Department for any and all acts and omissions of the ESCO's agents, employees, subcontractors and the agents and employees of the subcontractors, performing or supplying work in connection with the Project/services.

H.14.1.1 Notwithstanding anything to the contrary, the ESCO shall be responsible for providing services and or supplies in accordance with the requirements of this Contract including but not limited to **Section [C] – Scope of Work**.

H.14.1.2 Notwithstanding anything to the contrary, the ESCO shall be responsible for obtaining any and all licenses and permits, unless otherwise stated herein necessary for the performance of this Contract.

H.14.1.3 Notwithstanding anything to the contrary, the ESCO shall furnish all equipment needed for the performance of the work under the resultant contract.

H.14.1.4 Notwithstanding anything to the contrary, the ESCO shall assume full responsibility and liability for compliance with all applicable regulations 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.14.2 Allowable Subcontracting Requirements

H.14.2.1 The ESCO shall ensure that all activities carried out by any subcontractor conform to the provisions of this Contract.

H.14.2.2 It is the responsibility of the ESCO to ensure its subcontractors are capable of meeting the reporting requirements under this Contract and, if they cannot, the ESCO is not relieved of the reporting requirements.

H.14.2.3 The ESCO shall notify the Contracting Officer, in writing, of the termination of any subcontract for the provision of services, including the arrangements made to ensure continuation of the services covered by the terminated subcontract, not less than forty-five (45) days prior to the effective date of the termination, unless immediate termination of the Contract is necessary to protect the health and safety of enrollees or prevent fraud or abuse. In such an event, the ESCO shall notify the COTR immediately upon taking such action.

H.14.2.4 If the District determines that the termination or expiration of a subcontract materially affects the ability of the ESCO to carry out its responsibility under this Contract; the District may terminate this Contract.

H.14.2.5 The ESCO shall ensure that all of its subcontracts contain a provision that incorporates all provisions of the ESCO's Contract with the District and that the subcontractor look solely to ESCO for payment for services rendered.

H.14.3 Staff Attire and Identification

H.14.3.1 The ESCO's staff shall wear neat, clean, and professionally appropriate attire. The attire shall include distinctive apparel identifying staff as the ESCO's employees.

H.14.3.2 The ESCO's staff shall wear identification badges at all times. The identification badges shall provide a company logo, employee's name, and employee photograph.

H.14.4 Safety Requirements

H.14.4.1 The ESCO shall be responsible for complying with all applicable District and Federal rules, regulations and practices relating to safety on the job site; for all injury to persons or damage to property that occurs as a result of the ESCO's negligence and shall take proper safety and health precautions to protect the work, the workers, the tenants and District property; and for all materials delivered and work performed until completion and acceptance of the entire work in writing by the COTR.

H.14.4.2 The ESCO 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.14.4.2.1 Back support devices;

H.14.4.2.2 Eye protection;

H.14.4.2.3 Hearing protection;

H.14.4.2.4 Hand protection;

H.14.4.2.5 Head protection; and

H.14.4.2.6 Foot protection.

H.14.4.3 The District has the right to inspect all areas for safety violations at its discretion, direct the ESCO to make immediate improvement of necessary conditions and/or procedures, and/or stop the work if other hazards are deemed to exist.

H.14.4.4 Notwithstanding any provision to the contrary, the District shall not be obligated to make an equitable adjustment for any work stoppage that results from safety hazards created by the ESCO. In the event that the Contracting Officer directs the work to stop because of existing safety hazards after the ESCO has been notified and provided ample time to correct, the ESCO shall bear all costs for eliminating the hazard(s) and shall not be granted compensation for the work stoppage.

H.14.4.5 The ESCO shall immediately notify the COTR if the job site is visited by an OSHA official for compliance of the OSHA or any other safety regulatory requirements

H.14.5 Fire Prevention

H.14.5.1 The ESCO 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.14.5.2 The ESCO shall be knowledgeable and train all its employees on the job site to fulfill the requirements of this SOW on the procedures, means of egress and methods of reporting fires on the job sites.

H.14.6 Smoke Free Environment

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

H.14.8 Delivery of Services

For the avoidance of doubt, it is understood that the ESCO shall deliver the services contemplated in the Scope of Work, **Section [C]** in accordance with all services level agreements and Deliverables identified in **Section [F.3]**.

H.14.9 Communication

At its own expense, the ESCO shall provide cellular telephones, or any other telecommunication devices adequate to effectively provide a communication link to District officials especially in emergency situations when the need to get hold of ESCO personnel is greatest. The names of the individual officers and the telephone numbers for their assigned telephone numbers respectively shall be provided to the Contracting Officer and the COTR at the start of the period of performance.

H.14.10 Accident Reports

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

H.14.11 Property Damage Notification

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

H.14.12 Suspension of Work

H.14.12.1 In the event services are not provided or required by the District because the building is closed due to unanticipated circumstances, deductions to the ESCO's price normally payable to the ESCO will be computed as follows.

H.14.12.2 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 ESCO's requirements apply to weekends or holidays).

- H.14.12.3** 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.14.12.4** Deductions will not be made to the extent that the ESCO can demonstrate that payment to employees is required by an incorporated wage determination or union agreement.
- H.14.12.5** In the event services are provided for a portion of days, appropriate adjustments will be made by the COTR to assure the ESCO is compensated for services provided.

H.14.13 **Contract Completion or Termination**

The ESCO 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 ESCO shall develop transition plans, which shall describe staffing and organizational structure during the phase-in and phase-out transition periods, and how the ESCO will interact with the existing work force during the thirty (30) days of transition at the beginning and end of this Contract.

H.15 **ANTI-DEFICIENCY ACTS**

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

H.16 **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 ESCO 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 ESCO receives a request for such information, the ESCO shall immediately send the request to the COTR designated in **Section [G.9.2]** 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 ESCO pursuant to the contract, the COTR will forward a copy to the ESCO. In either event, the ESCO 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 ESCO 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.17 SECTION 504 OF THE REHABILITATION ACT OF 1973, as amended.

During the performance of the contract, the ESCO 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.18 AMERICANS WITH DISABILITIES ACT OF 1990 (ADA)

During the performance of this contract, the ESCO 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.19 WAY TO WORK AMENDMENT ACT OF 2006

H.19.1 Except as described in **Section [H.18.8]** below, the ESCO 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.19.2 The ESCO shall pay its employees and subcontractors who perform services under the Contract no less than the current Living Wage.

H.19.3 The ESCO 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.19.4 The DOES may adjust the Living Wage annually and ESCO will find the current Living Wage rate on its website at www.does.dc.gov.

H.19.5 The ESCO shall provide a copy of the Fact Sheet attached as **Exhibit E.5** to each employee and subcontractor who performs services under the contract. The ESCO shall also post the Notice attached as **Exhibit E.5** in a conspicuous place in its place of business. The ESCO 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.19.6 The ESCO 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.19.7 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.19.8 The requirements of the Living Wage Act of 2006 do *not* apply to:

- (1) Contracts or other Agreement s that are subject to higher wage level determinations required by federal law.
- (2) Existing and future collective bargaining Agreement s, 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 Agreement s 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 Agreement s 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 Healthcare 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.19.9 The Mayor may exempt a ESCO 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.20 **CAMPAIGN FINANCE REFORM ACT**
The ESCO agrees to comply with the Campaign Finance Reform Act certification requirement **Attachment A.6** pursuant to D.C. Official Code § 1-1161.01 and will satisfy all self-certification requirements prior to the execution of any task order, as applicable.

SECTION I CONTRACT CLAUSES

I.1 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.2 APPLICABILITY OF STANDARD CONTRACT PROVISIONS

The Standard Contract Provisions for use with District of Columbia Government, Department of General Services Supplies and Services Contracts dated January 14, 2016 and Construction Contracts (“SCP”) are incorporated as part of the contract.

I.3 CONTRACTS THAT CROSS FISCAL YEARS

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

I.4 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 Office.

I.5 CONTINUITY OF SERVICES

I.5.1 The ESCO recognizes that the services provided under this Contract are vital to the District of Columbia and must be continued without interruption and that, upon Contract expiration or termination, a successor, either the District or another ESCO, at the District’s option, may continue to provide these services. To that end, the ESCO agrees to:

I.5.1.1 Furnish phase-out, phase-in (transition) training; and

I.5.1.2 Exercise its best efforts and cooperation to affect an orderly and efficient transition to a successor.

I.5.2 The ESCO shall, upon the Contracting Officer’s written notice:

I.5.2.1 Furnish phase-in, phase-out services for up to ninety (90) days after this contract expires; and

I.5.2.2 Negotiate in good faith a plan with a successor to determine the nature and extent of phase-in, phase-out services required. The plan shall specify a training program and a date for transferring responsibilities for each division of work described in the plan and shall be subject to the Contracting Officer’s approval.

I.5.3 The ESCO shall provide sufficient experienced personnel during the phase-in, phase-out period to ensure that the services called for by this contract are maintained at the required level of proficiency.

I.5.4 The ESCO shall allow as many personnel as practicable to remain on the job to help the successor maintain the continuity and consistency of the services required by this contract. The ESCO also shall disclose necessary personnel records and allow the successor to conduct on-site interviews with these employees. If selected employees are agreeable to the change, the ESCO shall release them at a mutually agreeable date and negotiate transfer of their earned fringe benefits to the successor.

I.5.5 Only in accordance with a modification issued by the Contracting Officer, the ESCO shall be reimbursed for all reasonable phase-in, phase-out costs (i.e., costs incurred within the agreed period after contract expiration that result from phase-in, phase-out operations) and a fee (profit) not to exceed a pro rata portion of the fee (profit) under this contract

I.6 CONFIDENTIALITY OF INFORMATION

The ESCO 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.7 ESTIMATED QUANTITIES

It is the intent of the District to secure a contract for all of the needs of the designated agencies for items specified herein which may occur during the contract term. The District agrees that it will purchase its requirements of the articles or services included herein from the ESCO. Articles or services specified herein have a history of repetitive use in the District agencies. The estimated quantities stated in the RFP reflect the best estimates available. They shall not be construed to limit the quantities which may be ordered from the ESCO by the District or to relieve the ESCO of his obligation to fill all such orders. Orders will be placed from time to time if and when needs arise for delivery, all charges prepaid, to the ordering agency. The District does not guarantee to order any specific quantities of any item(s) or work hours of service.

I.8 DISPUTES

All disputes arising under or relating to the Contract shall be resolved as provided in the Standard Contract Provisions for use with District of Columbia Department of General Services Supplies and Services Contracts dated January 14, 2016 and Construction Contracts (“SCP”), Article 14: Disputes **Exhibit E.1** and Article 7: Disputes **Exhibit E.2**.

I.9

CHANGES

- (a) The CO may, at any time, by written order, and without notice to the surety, if any, make changes in the Contract within the general scope hereof. If such change causes an increase or decrease in the cost of performance of the Contract, or in the time required for performance, an equitable adjustment shall be made. Any claim for adjustment for a change within the general scope must be asserted within ten (10) days from the date the change is ordered; provided, however, that the CO, if he or she determines that the facts justify such action, may receive, consider, and adjust any such claim asserted at any time prior to the date of final settlement of the Contract. If the parties fail to agree upon the adjustment to be made, the dispute shall be determined as provided in **Section [I.8] - Disputes**.
- (b) The District shall not require the ESCO, and the ESCO shall not require a subcontractor, to undertake any work that is beyond the original scope of the Contract or subcontract, including work under a District-issued change order, when the additional work increases the Contract price beyond the not-to-exceed price or negotiated maximum price of this Contract, unless the CO:
 - (1) Agrees with ESCO, 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 ESCO to pay for the additional work within 30-days after the ESCO submits a proper invoice; and
 - (4) Provides the ESCO with written notice of the funding certification.
- (c) The ESCO shall include in its subcontracts a clause that requires the ESCO 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 ESCO withholds any payment from a subcontractor for the additional work.
- (d) Neither the District, ESCO, 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.10

NON-DISCRIMINATION CLAUSE

I.10.1

The ESCO 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 ESCO shall include a similar clause

in all subcontracts, except subcontracts for standard commercial supplies or raw materials. In addition, the ESCO 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.10.2** 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:
- I.10.3** The ESCO 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.
- I.10.4** The ESCO 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:
- (a) employment, upgrading or transfer,
 - (b) recruitment, or recruitment advertising,
 - (c) demotion, layoff, or termination,
 - (d) rates of pay, or other forms of compensation, and
 - (e) selection for training and apprenticeship.
- I.10.5** The ESCO agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting agency, setting forth the provisions in paragraphs 19(b) (1) and (b) (2) concerning non-discrimination and affirmative action.
- I.10.6** The ESCO shall, in all solicitations or advertisements for employees placed by or on behalf of the ESCO, state that all qualified applicants will receive consideration for employment pursuant to the non-discrimination requirements set forth in paragraph 19(b) (2).
- I.10.7** The ESCO 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 ESCO'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.

I.10.8 The ESCO 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.

I.10.9 The ESCO 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.

I.10.10 The ESCO shall include in every subcontract the equal opportunity clause, i.e., paragraphs I.10.1 through I.10.11 of this clause, so that such provisions shall be binding upon each subcontractor.

I.10.11 The ESCO 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 ESCO becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Contracting agency, the ESCO may request the District to enter into such litigation to protect the interest of the District.

I.11 **RIGHTS IN DATA – *RESERVED [Intentionally Omitted]***

I.12 **OTHER CONTRACTORS**

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

I.13 **SUBCONTRACTS**

The ESCO hereunder shall not subcontract any of the ESCO'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 ESCO. Any such subcontract shall specify that the ESCO and the subcontractor shall be subject to every provision of this contract. Notwithstanding any such subcontract approved by the District, the ESCO shall remain liable to the District for all ESCO's work and services required hereunder.

I.14 **INSURANCE**

[Disclaimer: For the purposes of this Section, the term "Contractor" refers to ESCO.]

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.

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. Professional Liability Insurance (Errors & Omissions) - The Contractor shall provide Professional Liability Insurance (Errors and Omissions) to cover liability resulting from any error or omission in the performance of professional services under this Contract. The policy shall provide limits of \$1,000,000 per claim or per occurrence for each wrongful act and \$2,000,000 annual aggregate. The Contractor warrants that any applicable retroactive date precedes the date the Contractor first performed any professional services for the Government of the District of Columbia and that continuous coverage will be maintained or an extended reporting period will be exercised for a period of at least ten years after the completion of the professional services. Limits may not be shared with other lines of coverage.
6. 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.
7. 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 e-mailed to the attention of:
Domonique Banks c/o Karen Araujo
Contracting Officer, Supervisory Contract Specialist
Contracts and Procurement Division
Department of General Services
Tel: O: 202-545-3035 | M: 202-384-7744 | karen.araujo@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.15 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 Offeror shall submit the forms for completion of the Equal Employment Opportunity Information Report incorporated herein as **Attachment A.5**. Failure to comply with the implementing rules shall result in rejection of the respective bid. An award cannot be made to any Offeror who has not satisfied the equal employment requirements.

I.16 TIME

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

I.17 ORDER OF PRECEDENCE

The Contract awarded as a result of this RFP 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) Department of General Services Standard Contract Provisions for Services and Supplies dated January 2016, and Standard Contract Provisions for Construction Contracts;
- (4) Contract exhibits and solicitation attachments other than the Standard Contract Provisions;
- (5) BAFOs (in order of most recent to earliest)
- (6) the RFP, as amended; and
- (7) the ESCO's Proposal.

SECTION J PROPOSED CONTRACT EXHIBITS & SOLICITATION ATTACHMENTS

The following list of Proposed Contract Exhibits and Solicitation Attachments are incorporated by and reference herein:

EXHIBIT /ATTACHMENT NO.	DOCUMENT	REFERENCE/ COMPLIANCE
EXHIBITS TO THE CONTRACT		
E.1	Government of the District of Columbia’s Department of General Services Standard Contract Provisions (“SCP”) for Supplies and Services Contracts, January 2016	<i>Ref.</i>
E.2	Government of the District of Columbia’s Department of General Services Standard Contract Provisions (“SCP”) for Construction Contract	<i>Ref.</i>
E.3	U.S. Department of Labor Wage Determination 2015-4281, Revision 28 Dated 26-Dec-2023	<i>Ref.</i>
E.4	Davis-Bacon Act WD #: DC20240002	<i>Rev.</i>
E.5	Way to Work Amendment Act of 2006 - Living Wage Notice & Fact Sheet	<i>Ref.</i>
E.6	Price-Cost Schedule	<i>Submittal</i>
E.7	Technical Facility Profile <i>(to be issued via addendum)</i>	<i>Ref.</i>
E.8	DGS Owner’s Project Requirements (OPR) for Schools	<i>Ref.</i>
E.9	Form of Investment Grade Audit Agreement	<i>Ref.</i>
E.10	Form of Energy Savings Agreement (ESA)	<i>Ref.</i>
REQUIRED SOLICITATION COMPLIANCE DOCUMENT ATTACHMENTS		
A.1	Bidder/Offer Certification <i>revised September 2021</i>	COMPLIANCE
A.2	Department of Employment Services First Source Employment Agreement	COMPLIANCE
A.3	Department of Employment Services First Source Employment Plan	COMPLIANCE
A.4	DSLBD SBE Subcontracting Plan Form (October 2023)	COMPLIANCE
A.5	Equal Employment Opportunity Employer Information Report and Mayor’s Order 85-85	COMPLIANCE
A.6	Campaign Finance Reform Self-Certification Form	COMPLIANCE
A.7	Past Performance Evaluation Forms	COMPLIANCE
A.8	List of Key Personnel	COMPLIANCE
A.9	DGS Quick Base Submission Portal Instructions	COMPLIANCE
A.10	Certificate of Clean Hands – https://mytax.dc.gov/ /	COMPLIANCE
A.11	Active/Current DC Business License	COMPLIANCE
A.12	Performance and Payment Bond	COMPLIANCE

SECTION K
REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS

K.1 Bidder/Offeror Certification Form **Attachment A.1.**

K.2 **WALSH-HEALEY ACT**

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

- (a) All representations and stipulations required by the Act and regulations issued by the Secretary of Labor (41 CFR 50-201.3) are incorporated by reference. These representations and stipulations are subject to all applicable rulings and interpretations of the Secretary of Labor that are now, or may hereafter, be in effect.
- (b) All employees whose work relates to this Contract shall be paid not less than the minimum wage prescribed by regulations issued by the Secretary of Labor (41 CFR 50-202.2) (41 U.S.C. §40). Learners, student learners, apprentices, and handicapped workers may be employed at less than the prescribed minimum wage (see 41 CFR 50-202.3) to the same extent that such employment is permitted under Section 14 of the Fair Labor Standards Act (29 U.S.C. §214).

K.3 **CERTIFICATION REGARDING A DRUG-FREE WORKPLACE (JULY 1990)**

K.3.1 Definitions. As used in this provision:

K.3.1.1 **Controlled substance:** means a controlled substance in schedules I through V of Section 202 of the Controlled Substances Act (21 U.S.C. § 812) and as further defined in regulation at 21 CFR 1308.11 - 1308.15.

K.3.1.2 **Conviction:** means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the federal or state criminal drug statutes.

K.3.1.3 **Criminal drug statute:** means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, possession or use of any controlled substance.

K.3.1.4 **Drug-free workplace:** means the site(s) for the performance of work done by the ESCO in connection with a specific Contract at which employees of the ESCO are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance.

K.3.1.5 **Employee:** means an employee of a ESCO directly engaged in the performance of work under a District Contract. “Directly engaged” is defined to include all direct cost

employees and any other ESCO employee who has other than a minimal impact or involvement in Contract performance.

K.3.1.6 Individual: means an offeror/ESCO that has no more than one employee including the offeror/ESCO.

K.3.2 The ESCO, if other than an individual, shall within 30 days after award (unless a longer period is agreed to in writing for Contracts of 30 days or more performance duration), or as soon as possible for Contracts of less than 30 days performance duration:

- (1) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the ESCO's workplace and specifying the actions that will be taken against employees for violations of such prohibition;
- (2) Establish an ongoing drug-free awareness program to inform such employees about:
 - a. The dangers of drug abuse in the workplace,
 - b. The ESCO's policy of maintaining a drug-free workplace,
 - c. Any available drug counseling, rehabilitation, and employee assistance programs, and
 - d. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
- (3) Provide all employees engaged in performance of the Contract with a copy of the statement required by **Section [K.3.2(1)]** of this clause;
- (4) Notify such employees in writing in the statement required by **Section [K.3.2(1)]** of this clause that, as a condition of continued employment on this Contract, the employee will:
 - a. Abide by the terms of the statement; and
 - b. Notify the employer in writing of the employee's conviction under a criminal drug statute for a violation occurring in the workplace no later than 5 days after such conviction.
- (5) Notify the CO in writing within 10 days after receiving notice under **Section [K.3.2(4)(b)]** of this clause, from an employee or otherwise receiving actual notice of such conviction. The notice shall include the position title of the employee;
- (6) Within 30 days after receiving notice under **Section [K.3.2(4)(b)]** of this clause of a conviction, take one of the following actions with respect to any employee who is convicted of a drug abuse violation occurring in the workplace:
 - a. Take appropriate personnel action against such employee, up to and including termination; or
 - b. Require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency; and

(7) Make a good faith effort to maintain a drug-free workplace through implementation of **Section [K.3.2(1)]** through **[K.3.2(6)]** of this clause.

K.3.3 The ESCO, if an individual, agrees by award of the Contract or Acceptance of a purchase order, not to engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance while performing this Contract.

K.3.4 In addition to other remedies available to the District, the ESCO's failure to comply with the requirements of **Sections [K.3.2] or [K.3.3]** of this clause may render the ESCO subject to suspension of Contract payments, termination of the Contract for default, and suspension or debarment.

SECTION L INSTRUCTIONS, CONDITIONS AND NOTICES TO OFFERORS

L.1 CONTRACT AWARD

L.1.1 Most Advantageous to the District

The Department intends to award a single Contract to the responsive and responsible Offeror whose offer conforms to the solicitation and will be most advantageous to the Department, in accordance with D.C. Official Code § 2-354.03, cost or price, technical and other factors, specified elsewhere in this solicitation shall be considered.

L.1.2 SELECTION OF NEGOTIATION PROCESS

In accordance with 27 DCMR § 1632, after evaluation of the proposals using only the criteria stated in the RFP and in accordance with weightings provided in the RFP **Section [M.4]**, the CO may elect to proceed with any method of negotiations, discussions, or award of the contract without negotiations, which is set forth in subsections (a), (b), (c), or (d) of 27 DCMR § 1632.1. If the CO elects to proceed with negotiations under subsection (c) of 27 DCMR §1632.1, the CO may limit, for purposes of efficiency, the number of proposals in the competitive range to the greatest number that will permit an efficient competition among the most highly rated proposals.

L.2 PROPOSAL ORGANIZATION, CONTENT & SUBMISSION REQUIREMENTS

L.2.1 This solicitation will be conducted electronically using the Departments QuickBase Contracts and Procurement Submission Portal (“QBSP”). To be considered, an Offeror must submit the required attachments via the QBSP system before the closing date and time. Paper, telephonic, telegraphic, and facsimile proposals ***will not be accepted.***

L.2.2 All attachments shall be submitted as a .pdf, MS Word, or MS Excel files (as specified in the RFP elsewhere). The District will not be responsible for the corruption of any file submitted. If the submitted file cannot be viewed and printed as submitted, it will not be considered.

L.2.3 The offeror shall submit the following attachments in its electronic submittal: (1) a technical proposal; (2) price proposal; and (3) compliance document package. **Please note two of the upload fields have a maximum file size of 100MB and the third upload has a maximum file size of 50MB.**

L.2.4 The offeror shall label each attachment, i.e., “Technical Proposal”, “Price Proposal” and “Compliance Document Package.”

L.2.5 Technical Proposal Organization

Offerors are directed to the specific proposal evaluation criteria found in **Section [M]** of this solicitation, Evaluation Factors. The offeror shall respond to each factor in a way that will allow the District to evaluate the offeror’s response. The offeror shall submit

information in a clear, concise, factual, and logical manner providing a comprehensive description of program supplies and services and delivery thereof. The information requested for the technical proposal shall facilitate evaluation of all proposals. The technical proposal must contain sufficient detail to provide a clear and concise response fully reflecting the manner in which the offeror proposes to fully meet the requirements in **Section [C]**.

L.2.5.1 Each **Technical Proposal** must be organized and prepared as follows:

1. Table of Contents.
2. Each page of the proposal must be numbered consecutively.
3. Proposals shall be typewritten in 12-point font size; with each section separated as organized in Section L.2.5.2, categories A-G below.
4. Offerors' Past Performance Evaluation Forms (**Attachment A.7**). The Offeror shall provide no less than three (3) Past Performance Evaluations forms completed by its clients where providing comparable relative and related services defined by this RFP, **Section C**. **Note:** The evaluator must provide remarks for all "Excellent Performance" and or "Unacceptable Performance" ratings.
5. List of Key Personnel (**Attachment A.8**).

L.2.5.2 Each **Technical Proposal** must include the following:

A. Overview

1. Provide a stand-alone overview, maximum of one (1) page, to present an overview of your company.
2. Briefly describe your company's expertise in each of the following market sectors or facility types:
 - (i) School Districts;
 - (ii) Cities/Counties; and
 - (iii) Other government agency facilities (recreation centers, EMS facilities, etc.).
3. Provide the details of up to five (5) recent projects your firm completed:
 - (i) A minimum of three (3) and no more than five (5) Past Performance Evaluation Forms (**Attachment A.7**) shall be provided by the offeror's past clients who can document the Offeror's ability to provide services specified in this RFP. Each reference shall be from a client for whom the Offeror has provided services within the past five (5) years, with projects with at least one year of performance data, are currently in repayment, and are under contract with your firm. Forms included in the offeror's technical proposal will not be taken into consideration. Offerors who have previously or are currently performing services with the Department may have these Past Performance Evaluation forms submitted by the Department's Project Manager/COTRs; however at least one (1) Past Performance Evaluation form shall be submitted from a client outside the Department.

NOTE: The evaluator must provide remarks for all “Excellent Performance” and or “Unacceptable Performance” ratings.

B. Experience and Expertise:

History and Focus of Company and Employees: Limit your response to no more than one page for each item below #1-7.

1. Structure and Evolution of the Firm.
 - (i) List any other names for company’s business. Provide any other information, only if deemed necessary.
 - (ii) Years in the Energy Business.
 - (iii) State the number of years the company has been involved in the energy-efficiency related business.
2. Involvement with ESPCs.
 - (i) State the number of years the company has offered ESPC services.
 - (ii) State the number of project professionals (energy engineers, project managers, etc.) in your firm that are directly involved with ESPCs and energy efficiency or renewable energy business.
 - (iii) Number of ESPC Projects Completed.
3. General Scope of Services: The purpose of this section is to ensure the firm has the qualifications to provide the full scope of ESPC services.
 - (i) Provide a brief discussion (five pages maximum) for this section (General Scope of Services) to illustrate the company’s capability in each area.
4. Buildings and Energy Systems
 - (i) **Energy Conservation Measures.** This discussion may include: lighting and lighting controls, building envelope and weatherization, HVAC equipment upgrades, building automation / energy management control system, retro-commissioning, HVAC system optimization, air/water-side distribution upgrades, electrical system upgrades, and similar measures. -
 - (ii) **Operational Savings Measures.** This discussion may include eliminating maintenance costs, training and educational programs for staff or occupants.
 - (iii) **Electrification:** This discussion may include the firm’s overall approach to electrification of buildings.

- (iv) **Renewables:** This discussion may include the firm's overall approach to installation and management of renewable energy assets.

5. Project Development and Implementation

- (i) IGA (potential measures, savings projections; cost estimates including approach to open-book pricing).
- (ii) Baseline development (including future savings adjustment).
- (iii) Project proposal (package of measures with cash flow).
- (iv) System design engineering.
- (v) Equipment and subcontractor procurement and bidding.
- (vi) Construction management.
- (vii) Commissioning of projects and retro-commissioning of existing buildings.
- (viii) Project management.
- (ix) Standards of comfort (company guidelines on light levels, space temperatures, ventilation rates, etc. in typical government facilities).
- (x) Hazardous materials identification and abatement, recycling, or disposal (including asbestos).

6. Core ESPC Services

- (i) Performance guarantee for every year of the financing term.
- (ii) Insurance per contract requirements.
- (iii) Equipment warranties, and warranty management.
- (iv) Approach to facilitating the financing (including a municipal, tax-exempt lease purchase), if registered and able to do so (federal regulations restrict ESCO involvement to advise on financing). Recommend potential options for DC government to consider.
- (v) Measurement and verification of savings (experience with the latest version of the International Performance Measurement and Verification Protocol (IPMVP)).

- (vi) Training (facility staff, occupants)

7. Support Services

- (i) Long-term maintenance services on energy systems.
- (ii) Application for an ENERGY STAR Label.
- (iii) Data reporting and management.
- (iv) Community engagement
- (v) Student engagement and educational curriculum

C. Company Key Personnel and Key Subcontractor Personnel

1. Provide an organization chart and the resumes (up to one page each) for each of the key project personnel that will be responsible for any IGA, construction, or performance activity, to confirm that they have the necessary professional qualifications and experience for the work to be performed.
2. Subcontractors and Vendors
 - (i) Describe your use of subcontractors. Note that subcontractors are required to carry the appropriate state licenses.
 - (ii) Describe how you propose to involve Washington DC-based subcontractors in this work.
3. Describe how you propose to involve local vendors or suppliers in this work.
4. If the Offeror is a team or joint venture, the names and addresses of the team or individual members of the joint venture, and copies of any joint venture or teaming agreements shall be provided. If the Offeror is a team the teaming agreement should include intention, expectations, roles and responsibility of the ESCO, roles and responsibility of the teaming partner, why the parties are teaming, division of the work and percentages. If the Offeror is a team or a Joint Venture of multiple companies, the Evaluation Committee will consider the experience of each member of the team or Joint Venture in light of their role in the proposed team or Joint Venture.

D. Financial Capability: Describe the financial soundness and expected stability of the company, including the financial ability to serve the District related to this RFP.

1. Financial Reports

- (i) Provide a Federal Tax Identification Number.
- (ii) Profitability: Demonstrate that the Offeror is financially stable and has been in business, providing a similar service for at least the last three (3) years. The offeror shall provide proof of a positive balance sheet and profitable business operations for two (2) of the previous three (3) years.

2. Bonding

- (i) Ability to obtain the necessary bonding for the work required by the District related to this RFP.
- (ii) Current bonding rating.
- (iii) Current bonding capacity.
- (iv) Amount or percentage of bonding capacity currently obligated.
- (v) Confirmation that the company is bondable for 100% of a payment bond on a project.
- (vi) Confirmation that the Offeror is bondable for 100% of a performance bond on a project.
- (vii) Letter from a licensed surety as evidence of ability to bond for payment and performance.

E. Insurance: Ability to obtain and maintain insurance coverage for public liability and property damage within limits sufficient to protect the company and all the subcontractors of the Company from claims for personal injury, accidental death and damage to property that may arise in connection with the work required by the District.

F. Technical Approach:

1. Investment Grade Audit

- (i) Briefly summarize your overall approach to auditing.
- (ii) Include a brief overview of your sample Investment Grade Audit. Be prepared to provide a sample Investment Grade Audit report for an ESPC project that your firm implemented in a public facility, including detailed energy/water savings and economic calculations (excluding equipment cut sheets) and samples of tables, and supporting calculations. This is intended to allow reviewers to conduct a reasonable analysis of your company's auditing methodology. Please be judicious regarding the volume of

information submitted. The sample audit is not required at this time.

2. Measurement and Verification
 - (i) Briefly summarize your overall approach to Measurement and Verification including your approach to developing the M&V Plan & M&V Report.
 - (ii) Include a brief overview of a sample M&V plan and M&V report.
 - (iii) As an appendix to your response, provide a sample Measurement and Verification Plan & Report from a performance contracting project implemented by your company.
3. Commissioning
 - (i) Briefly summarize your overall approach to Commissioning.
 - (ii) Include a brief overview of your sample Commissioning Plan and provide a copy of a Commissioning Plan from a previous performance contracting project.
4. Operations & Maintenance Plan
 - (i) Briefly summarize your approach to Operations and Maintenance.
 - (ii) Include a brief overview of your sample Operations and Maintenance Plan. As an appendix to your response, provide a sample Operations & Maintenance Plan from a performance contracting project implemented by your firm. The District may, if it is deemed beneficial, require the selected ESCO to provide all maintenance of replaced equipment over the contract term. Please describe your firm's technical, management, and financial approach to this scenario.
5. Handling of Savings Shortfalls
 - (i) Address any savings shortfalls that occurred previously (provide up to 5 examples) and describe how they were resolved. Include contact information, including point of contact name; title; organization; email; and direct phone number; for each client involved.
6. Development and Implementation Approach: Provide the following:
 - (i) A review and analysis of the data and information provided in the Technical Facility Profile **Exhibit E.7** for the representative sample of buildings and the Preliminary Scope Requirements and Specifications in **Attachment C**. Provide a projected schedule and recommended approach to the IGA and the Implementation Phases. Describe your project management plan, communication plan,

ability to scale, potential obstacles, and how your approach will resolve those issues and ensure a successful outcome for this project.

G. Financing Approach:

- (i) Provide an overview of your approach to supporting past clients in exploring the pros, cons, and other key considerations of various financing strategies commonly employed for Energy Savings Performance Contracts.
- (ii) Provide recommendations for the District to consider in evaluating potential financing vehicles for an Energy Services Agreement (ESA).

L.2.6 Price Proposal Organization

Offerors are directed to include a Completed Price Schedule substantially in form of **Exhibit E.6**.

L.2.6.1 The Price Proposal must be organized and prepared as follows:

- 1. The Offeror shall provide pricing for all CLINs including those CLINs identified. Failure to provide pricing for all CLINs as order herein shall be sufficient to render an Offerors' proposal nonresponsive and thereby may be excluded from further evaluation related to a potential contract award.
- 2. The Offeror shall submit its Price Proposal **Exhibit E.6** in the MS Excel document format only.

NOTE: *In the opinion of the Department, any material deviations of these forms, **Exhibit E.6**, which is provided by the Department, shall be sufficient to render the proposal non-responsive and subject to exclusion from further evaluation in consideration of award.*

L.2.6.2 Each Price Proposal must include the following:

A. Pricing

The maximum audit costs, markups and fees as proposed/negotiated for the ESCO(s) will be applied in any IGA(s) or Energy Services Agreement(s) subsequent to selection. Each responding company shall provide its proposed maximum cost for performing an IGA as well as schedules illustrating proposed maximum project markups, overhead and profit markups, and fees for pre-defined categories. See below for a description of the required Cost and Pricing Information.

B. Project Cost Breakdown

In the table below, provide your company's proposed Maximum Percentage of Total Project Price for each category listed. This format is required and must be completed in its entirety. Use only the categories shown. Ranges are not acceptable. Also, clearly describe how incidental and ancillary work will be charged (e.g., billed hourly, billed as a markup of equipment and labor costs).

Incidental and ancillary work includes jobsite safety, security, cleanliness and sanitation, limited demolition, and other incidental work that is necessary to ensure that all work is completed in a timely manner.

If a submittal is from a joint venture partnership, include proposed maximum allowable markups in the schedule format above for each participating company.

PROJECT BUDGET		PROJECT BUDGET
A	Subcontractor Costs (Contractor Costs to ESCO)	N/A
B	Other Direct Purchases of Equipment, Material, Supplies (Supplier Costs to ESCO)	
C = A+B	Total of Hard Costs	
D	Project Development	
E	Design/Engineering	
F	Project Management	
G	Permits	
H	Performance Bond	
I	Payment Bond	
J	Commissioning	
K	Measurement & Verification	
L	Training	
M	Contingency	
N	Warranty Service	
O = C + SUM(D:N)	Total of Hard Costs & ESCO Fees	
P	Overhead	
Q	Profit	
R = O + P + Q	PROJECT PRICE SUB TOTAL w/OH & P	

Assumptions for Project Budget

Rows D – N are calculated as a percent of Row C
 Rows P & Q are calculated as a percent of Row O

C. Investment Grade Audit Fee – Maximum

Identify your maximum fee to conduct the Investment Grade Audit and Project Development Proposal, on a cost per square foot basis:

Proposed Max cost per sf	
Investment Grade Audit and Project Proposal	\$/sf

D. Self-Performed Work Fees

In the table below, provide the position descriptions and hourly rates (with Overhead and Profit applied) for labor and services as performed by your company. The purpose of this is to enable confirmation through open book pricing.

CLIN	DESCRIPTION	UOM	BP	OY1	OY2	OY3	OY4
0001-4001	Project Development Manager	HRLY					

0002-4002	Lead Project Engineer	HRLY					
0003-4003	Project Engineer	HRLY					
0004-4004	Construction Manager	HRLY					
0005-4005	Construction Superintendent	HRLY					
0006-4006	Operations & Maintenance Manager	HRLY					
0007-4007	Measurement & Verification Manager	HRLY					
0008-4008	HVAC Skilled Trades Professional	HRLY					
0009-4009	Electrical Skilled Trades Professional	HRLY					

E. Annual Costs and Fees - Maximum

For each category describe how that annual cost is determined, how the fee is charged to the Project and when it is applied. Markups on fees are not allowable.

1. Measurement and Verification – Annual Fee: The Measurement and Verification Services cost is the annual cost for the services necessary after Acceptance of the Project to annually verify the Energy Performance Contract guarantees. The cost for the guarantee is based upon the M&V option utilized, the risk of savings failure, the field time to measure building performance, and the time to document and present the report.
2. Warranty: Warranty is the burdened labor cost associated with time anticipated to be expended by ESCO staff in supporting their direct purchase equipment warranties; and/or equipment provided by subcontractors. This warranty cost may also include costs for extended equipment warranties in those cases where the required/specified equipment warranty is longer than the equipment warranty offered by the manufacturer.
3. Other: Describe any other fees and how they will be determined.

Category of Service Fees	Estimated % of Annual Cost Savings
Annual Service Fees	
Measurement & Verification	
Maintenance	
Equipment Performance Monitoring	
Annual Training	
Warranty Management	
Total	0.00%

F. Contingency:

Describe your company’s typical level of contingency budget for lighting, electrical, mechanical, controls projects, and other projects and how it proposes to apply contingency to cover changes in work scope and subcontractor change orders. Note that all unused contingency funds will revert to the District or be applied to additional work scope through a change order approved by the District. Please note – this section refers to additional customer-controlled contingency that should not be included in Row M above in the Project Cost Breakdown table.

G. Equipment/Labor Cost Competition:

Describe your company’s process to solicit bids on equipment/labor or to ensure price/cost competition and the best value for the District.

H. Open Book Pricing:

Open book pricing is required. Describe your company’s approach to open book pricing and the method for maintaining cost accounting records on authorized work performed under actual costs for labor and material, or other basis requiring accounting records.

I. Best Value:

Briefly describe how your approach to Performance Contracting delivers best value for the investment. Describe any utility rebates or other financial incentives or grants you can potentially provide and/or facilitate.

L.2.7 Compliance Documents Package Organization

The Department identified Contractor required compliance Documents and listed these requirements are identified and labeled respectively in **Section J** of the RFP.

The District will reject any offer that fails to include a subcontracting plan that is required by law.

L.2.7.1 The **Compliance Documents Package** documents ***must be*** completed in their entirety, signed, and submitted by the Offeror.

L.2.7.2 The **Compliance Document Package** ***must include*** the following:

- Attachment A.1 Bidder/Offer Certification revised September 2021
- Attachment A.2 Department of Employment Services First Source Employment Agreement
- Attachment A.3 Department of Employment Services First Source Employment Plan
- Attachment A.4 DSLBD SBE Subcontracting Plan Form
- Attachment A.5 Equal Employment Opportunity Employer Information Report and Mayor’s Order 85-85
- Attachment A.6 Campaign Finance Reform Contractor Self-Certification Form
- Attachment A.7 **Past Performance Evaluation Forms shall be submitted with the Technical Proposal*
- Attachment A.8 List of Key Personnel
- Attachment A.10 Certificate of Clean Hands – [https://mytax.dc.gov/ /](https://mytax.dc.gov/)
- Attachment A.11 Active/Current DC Business License

L.3 REQUIREMENT FOR AN ELECTRONIC COPY OF PROPOSALS TO BE MADE AVAILABLE TO THE PUBLIC

In addition to the proposal submission requirements in **Section [L.2]** above, the offeror must submit an electronic copy of its proposal, ***redacted*** in accordance with any applicable exemptions from disclosure under D.C. Official Code § 2-534. Redacted copies of the

offeror's proposal must be submitted electronically, fully uploaded into the Department's QBSP system to the attention of the contact person designated in the solicitation. D.C. Official Code § 2-536(b) 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 proposals following award of the contract, subject to applicable Freedom of Information Act ("FOIA") exemption under § 2-534(a)(1). Successful proposals will be published on the OCP website in accordance with D.C. Official Code § 2-361.04, subject to applicable FOIA exemptions.

L.4 PROPOSAL SUBMISSION DATE AND TIME, AND LATE SUBMISSIONS, LATE MODIFICATIONS, WITHDRAWAL OR MODIFICATION OF PROPOSALS AND LATE PROPOSALS

L.4.1 Electronic Proposal Submission

L.4.1.1 Proposals must be fully uploaded into the Department's QBSP system no later than the closing date and time specified. The Department will not consider late proposals, modifications to proposals, or requests for withdrawals after the exact closing date and time.

L.4.1.2 Paper, telephonic, telegraphic, and facsimile proposals ***will not*** be accepted or considered for award.

L.4.1.3 It is solely the offeror's responsibility to ensure that it begins the upload process in sufficient time to get the attachments uploaded into the Department's QBSP system before the closing time. **You may use the latest version of Google Chrome (all Chromium based browsers), Mozilla Firefox 52 and later, Safari 5.1 and above, Microsoft Internet Explorer 11, or Microsoft Edge version 83 (released May 2020) and later.**

L.4.1.4 Proposals must be submitted into the Department's QBSP system (Submission Instruction – ***Attachment A.9*** no later than **[2:00 p.m. on June 3, 2024.](#)**

Department's QBSP Portal:

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

Solicitation ID:

DCAM-24-NC-RFP-0019

Project Name:

Energy Savings Performance Contract (ESPC)

Designated Senior Contract Specialist:

Select the designated Contract Specialist name, **Karen Araujo**, from the QBSP applicable drop-down list.

NOTE: Offerors may group multiple required exhibits/attachments into a single pdf and submit to (1) of the (3) file uploads (up to the maximum file sizes). Two of the uploads

have a maximum file size of 100MB and the third upload has a maximum file size of 50MB. Additionally, for the avoidance of confusion and not to the contrary, there is no limit to the number of times an Offeror may access and submit documents through the Vendor Submission Portal but only documents received by the due date and time will be accepted by the Department.

L.4.2 Withdrawal or Modification of Proposals

An offeror may modify or withdraw its proposal via the Department's QBSP system at any time before the closing date and time for receipt of proposals.

L.4.3 Late Proposals

The Department's QBSP system will accept proposals at any time without limitation; however, any proposal received and timestamped by the system **after exact closing date and time**, or modifications to proposals **after** the closing date and time for receipt of proposals will not be considered, opened, or accepted.

L.4.4 Late Modifications

A late modification of a successful proposal, which makes its terms more favorable to the District, may be considered at any time it is received and may be accepted by the CO if determined to be most advantageous to the Department.

L.5 EXPLANATION TO PROSPECTIVE OFFERORS

If a prospective offeror has any questions relating to this solicitation, the prospective Offeror shall submit the question(s) to the attention of the Contract Specialist through the Department's QBSP system (Instructions for use of the portal can be found in ***Attachment A.9***). The prospective Offeror should submit questions no later than the close of business on ***April 29, 2024***, thirty-six (36)-days prior to the closing date and time indicated for this solicitation in **Section [L.4.1.4]**. The District may not consider any questions received less than twenty-nine (29)-days before the date set for submission of proposals. The District will furnish responses via addenda issued to the solicitation and posted to the Department's Solicitation Web page found at <https://dgs.dc.gov/page/dgs-solicitations>. An amendment to the solicitation will be issued only if the CO decides that information is necessary in submitting offers, or if the lack of it would be prejudicial to any prospective Offerors. Oral explanations or instructions given by District officials before the award of the Contract will not be binding.

L.5.1 IMPORTANT NOTICE: The Department will notify Offerors of any changes, additions and or deletions to the specifications and or responses to questions by addenda posted on the Department of Contracts and Procurement website. It is the potential Offeror's responsibility to frequently visit the Department's Contracts and Procurement website at: <http://dgs.dc.gov/page/dgs-solicitations> to obtain addenda once they have received a copy or downloaded a copy of the solicitation.

L.6 RESTRICTION ON DISCLOSURE AND USE OF DATA

L.6.1 Offerors who include in their proposal data that they do not want disclosed to the public or used by the District except for use in the procurement process shall mark the title page with the following legend:

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

L.6.2 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 proposal.”

L.7 PROPOSALS WITH OPTION YEARS

When applicable, the offeror shall include option year prices in its price/cost proposal. An offer may be determined to be unacceptable if it fails to include pricing for the option year(s).

L.8 PROPOSAL PROTESTS

Any actual or prospective Offeror or ESCO 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 at the time set for receipt of initial proposals shall be filed with the Board prior to the time set for receipt of initial proposals. In procurements in which proposals are requested, alleged improprieties which do not exist in the initial solicitation, but which are subsequently incorporated into the solicitation, must be protested no later than the next closing time for receipt of proposals following the incorporation. The protest shall be filed in writing with the Contract Appeals Board, 441 4th Street, N.W., Suite 350N, Washington, D.C. 20001. The aggrieved person shall also mail a copy of the protest to the CO for the solicitation.

L.9 UNNECESSARILY ELABORATE PROPOSALS

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 offeror's lack of cost consciousness. Elaborate artwork, expensive visual and other presentation aids are neither necessary nor desired.

L.10 RETENTION OF PROPOSALS

All proposal documents will be the property of the District and retained by the District, and therefore will not be returned to the offerors.

L.11 PROPOSAL COSTS

The District is not liable for any costs incurred by the offerors in submitting proposals in response to this solicitation.

L.12 CERTIFICATES OF INSURANCE

Prior to commencing work, the ESCO shall have its insurance broker or insurance company submit certificates of insurance giving evidence of the required coverages as specified in **Section [L.14]** to:

Domonique L. Banks C/O Karen Araujo
Contracting Officer, Supervisory Contracts Specialist
Department of General Services
Telephone: (202) 384-7744 | E-mail address: karen.araujo@dc.gov

L.13 ACKNOWLEDGMENT OF AMENDMENTS

The Offeror shall acknowledge receipt of any amendment to this solicitation by clearly signing **Section [A], Block 13**. The District must receive the acknowledgment as part of the proposal submission by the date and time specified for receipt of proposals. An offeror's failure to acknowledge an amendment may result in rejection of its offer.

L.14 BEST AND FINAL OFFERS

If, subsequent to receiving original proposals, negotiations are conducted under 27 DCMR § 1632.1(c), all offerors within the competitive range will be so notified and will be provided an opportunity to submit written best and final offers at a designated date and time. Best and final offers will be subject to the Late Submissions, Late Modifications and Late Withdrawals of Proposals provisions of the solicitation. After evaluation of best and final offers, the CO may award the contract to the highest-ranked offeror or negotiate with the highest ranked offeror in accordance with 27 DCMR § 1634.

L.15 LEGAL STATUS OF OFFEROR

Each proposal must provide the following information:

L.15.1 Name, address, telephone number and federal tax identification number of Offeror.

L.15.2 A copy of each District of Columbia license, registration, or certification that the offeror is required by law to obtain. If the offeror 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 offer shall certify its intent to obtain the necessary license, registration or certification prior to contract award or its exemption from such requirements; and

L.15.3 If the Offeror is a partnership or joint venture, the names and addresses of the general partners or individual members of the joint venture, and copies of any joint venture or teaming agreements.

L.16 FAMILIARIZATION WITH CONDITIONS

Offerors 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. ESCOs 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.17 GENERAL STANDARDS OF RESPONSIBILITY

The prospective ESCO must demonstrate to the satisfaction of the District its capability in all respects to perform fully the contract requirements; therefore, the prospective ESCO must submit relevant documentation within five (5) days of the request by the District.

L.17.1 To be determined responsible, a prospective ESCO must demonstrate that it:

- (a) Has adequate financial resources, or the ability to obtain such resources, required to fulfil 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, as amended, D.C. Official Code § 2-219.01 *et seq.*;
- (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.17.2 If the prospective ESCO 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 ESCO to be non-responsible.

L.18 PRE-PROPOSAL CONFERENCE

A virtual pre-proposal Webinar conference will be held at **2:30 p.m. on April 11, 2024** via the Districts’ TEAMS platform. Prospective offerors will be given an opportunity to ask questions regarding this solicitation at the webinar conference. The purpose of the conference is to provide a structured and formal opportunity for the District to accept questions from offerors regarding the solicitation document as well as to clarify the contents of the solicitation. Attending offerors ***must pre-register to attend*** the conference so that their attendance can be properly recorded.

Registration Link:

Potential Offerors shall pre-register to attend the Pre-Proposal Conference TEAMS:
<https://events.gcc.teams.microsoft.com/event/e27a9723-97cd-4704-8c45-8135e8033907@8fe449f1-8b94-4fb7-9906-6f939da82d73>

Meeting Link:

https://teams.microsoft.com/l/meetup-join/19%3ameeting_NzNmMjQ5YmQtZTk3Yy00OTFjLTIIN2QtNDVIM2RiMmYzOTVh%40thread.v2/0?context=%7b%22Tid%22%3a%228fe449f1-8b94-4fb7-9906-6f939da82d73%22%2c%22Oid%22%3a%2239a05083-b3c2-43b3-8c52-ebfe67ba443d%22%7d

Meeting ID: 289 905 631 187

Passcode: uXBEJm

Dial-in by phone

+1 202-594-9550,,859709461# United States, Washington DC

Phone conference ID: 859 709 461#

L.18.1 If the Webinar has not started yet, you will be placed in a queue until the host starts the webcast. If you join the call after it has started, the system will automatically join you to the call; an audible beep will come over the line to indicate a new participant has joined. To exit the Webinar, simply hang up and or exit.

L.18.2 Impromptu questions will be permitted, and spontaneous answers will be provided at the District's discretion. Verbal answers given at the pre-proposal conference are only intended for general discussion and do not represent the District's final position. All oral questions must be submitted in writing following the close of the pre-proposal conference but no later than five working days after the pre-proposal conference in order to generate an official answer. The District will furnish responses via the District's E-Sourcing system's messaging process. An amendment to the solicitation will be issued if the CO decides that information is necessary in submitting proposals, or if the lack of it would be prejudicial to any prospective offeror. Oral explanations or instructions given by District officials before the award of the contract will not be binding.

L.19 **FACILITY SITE VISIT/WALK-THRU** – *RESERVED [Intentionally Omitted]*

L.20 **KEY PERSONNEL**

L.20.1 The District considers the following positions to be key personnel for this contract:

1. Overall Account Manager
 - a. Responsibility includes client/customer management and primary point of contract for The District for business related items.
2. Project Manager for Development
 - a. Responsibility includes management of execution and delivery of all technical engineering scope items identified in the IGA Agreement during IGA development.
3. Project Manager for Construction
 - a. Responsibility includes management of full design, installation, commissioning, post-installation M&V, and close out activities required for completion of construction phase.
4. Performance Period Manager
 - a. Responsibilities include management of all annual performance period M&V activities associated with the ECMs installed.

L.20.2 The offeror shall set forth in its proposal the names and reporting relationships of the key personnel the offeror will use to perform the work under the proposed contract. Their resumes shall be included. The hours that each will devote to the contract shall be provided in total and broken down by task.

SECTION M EVALUATION FACTORS

M.1 EVALUATION FOR AWARD

Contracts are awarded to the responsible Offerors whose offers are most advantageous to the District, based upon the evaluation criteria specified below. Thus, while the points in the evaluation criteria indicate their relative importance, the total scores will not necessarily be determinative of the award. Rather, the total scores will guide the District in making an intelligent award decision based upon the evaluation criteria.

M.2 EVALUATION CRITERIA (112-Points Maximum)

The Evaluation Criteria set forth below has been developed by agency technical personnel and has been tailored to the requirements of this RFP. The criteria serve as the standard against which all proposals shall be evaluated and serve to identify the significant matters which the Offeror should specifically address in complying with the requirements of this solicitation. Each Offeror's proposal will be evaluated, and the Government will make a determination of the relevancy and confidence level using the scales in table identified in **Section [M.3.1] Technical Rating Scale**. While the Government will strive for maximum objectivity, the evaluation process, by its nature, is subjective; therefore, professional judgment is implicit throughout the selection process. The Offerors that provide the best value to the Government are based on the results of the evaluation criteria described in the paragraphs below which outline the evaluation factors.

M.2.1 Relative Importance of Each Factor and Subfactor. Among the evaluation factors considered in the evaluation process, there are additional subfactors considered, when combined are significantly more important than cost or price.

M.3 TECHNICAL RATING

M.3.1 The Technical Rating Scale is as follows:

NUMERIC RATING	ADJECTIVE	DESCRIPTION
0	Unacceptable	Fails to meet minimum requirements; e.g., no demonstrated capacity, major deficiencies which are not correctable; Offeror did not address the factor.
1	Poor	Marginally meets minimum requirements; major deficiencies which may be correctable.
2	Minimally Acceptable	Marginally meets minimum requirements; minor deficiencies which may be correctable.
3	Acceptable	Meets requirements; no deficiencies.
4	Good	Meets requirements and exceeds some requirements; no deficiencies.
5	Excellent	Exceeds most, if not all requirements; no deficiencies.

M.3.2 The technical rating is a weighting mechanism that will be applied to the point value for each evaluation factor to determine the Offeror's score for each factor. The Offeror's total

technical score will be determined by adding the Offeror’s score in each evaluation factor. For example, if an evaluation factor has a point value range of zero (0) to forty (40) points, using the Technical Rating Scale above, if the District evaluates the Offeror’s response as “Good,” then the score for that evaluation factor is 4/5 of 40 or 32.

M.3.3 If subfactors are applied, the Offeror’s total technical score will be determined by adding the Offeror’s score for each subfactor. For example, if an evaluation factor has a point value range of zero (0) to forty (40) points, with two subfactors of twenty (20) points each, using the Technical Rating Scale above, if the District evaluates the Offeror’s response as “Good” for the first subfactor and “Poor” for the second subfactor, then the total score for that evaluation factor is 4/5 of 20 or 16 for the first subfactor plus 1/5 of 20 or 4 for the second subfactor, for a total of 20 for the entire factor.

M.4 TECHNICAL EVALUATION FACTORS (80-Points Maximum)
 These factors consider the Offeror’s experience, past performance, key personnel, and proposed business operations model used in performing services similar to the required services as described in **Section [C]**. These factors include an examination of the quality of services provided, timeliness in service delivery, business practices, and overall satisfaction with the Offeror’s performance.

TECHNICAL EVALUATION FACTORS	POINTS
Factor A: The Firms Relative Experience and Past Performance	30
Factor B: Project Management Experience and Approach	15
Factor C: Technical Approach	30
Factor D: Financial Approach	5
TOTAL MAXIMUM TECHNICAL POINTS AVAILABLE	80

M.4.1 The Firms Relative Experience and Past Performance (30-Points)

The Department desires to engage one ESCO with the experience necessary to realize the objectives set forth in **Section [C]** of this RFP. Offerors will be evaluated based on the following information:

M.4.1.1 Experience with performing similar work as described in **Section [C]** – Scope of Work, for other client organizations of similar size, scope, technology, and complexity of the Department of General Services. The evaluation will focus on the ESCO’s past performance as highlighted by Offeror’s experience and project references, in achieving a high degree of customer satisfaction. Evaluation of this factor will be based on the quantity and quality of Offeror’s performance on projects of comparable size, highly technical nature, and complexity, pursuant to **Section L.2.5.2.A & L.2.5.2.B**. Key past performance criteria include:

1. Reliability of equipment performance on past projects.

2. Documented energy savings on past projects, ability to meet guaranteed savings and recourse on savings shortfalls.
3. Quality and completeness of past project documentation.
4. Quality of client references.

M.4.1.2 The qualifications, experience, and appropriateness of identified key personnel, including subcontractors and their personnel, in accomplishing the Objectives set forth in **Section C**. The District will consider how subject matter expertise fits with the District’s needs, the depth of expertise, and the breadth of expertise. The District will also consider the appropriateness of the identified personnel for the demands of this project and adequacy of staff capacity to effectively complete the project on time.

M.4.1.3 Project references provided will be evaluated based upon the location, recency, success of the project, reference feedback, and similarities of facilities to portfolio listed in the Technical Facility Profile (**Exhibit E.7**). Projects should involve school districts, be substantially large ESPC projects, recently implemented, actively being monitored, and for local government agencies of similar size to the Department of General Services.

M.4.2 Project Management Experience and Approach (15-Points)

M.4.2.1 Appropriateness of the Offeror’s plan to assign responsibility for various project tasks and phases to specific individuals. Additionally, how will the Offeror ensure consistency of service in the event there are changes in key personnel.

M.4.2.2 Quality of completeness of project management approach, and how the Offeror will effectively manage project construction and complete the project on schedule and within budget.

M.4.2.3 Quality of approach to performance services and alignment with generally accepted standards in the industry. Performance services include operations and maintenance, monitoring, measurement, and verification services, and reporting.

M.4.2.4 Plan and ability to communicate clearly, transparently, and effectively throughout the ESPC process. This includes clarity, organization, and level of detail in written proposal and quality of communication skills of the ESCO’s representatives at the oral interview.

M.4.3 Technical Approach (30-Points)

Offerors shall provide a detailed but concise description of the technical approach to this project. These descriptions are not expected to exhaustively illustrate all the Offeror’s experience but highlight its capabilities using examples of areas where the Offeror abilities can be of service to DGS.

M.4.3.1 Quality of sample investment grade audit for project similar to the District’s. This sample IGA should highlight the offerors technical approach, including methods of analysis, methodology for and diligence in calculating baseline energy usage, and the feasibility and innovation of proposed technical measures.

- M.4.3.2** Quality of approach in developing a Measurement & Verification plan in collaboration with the client and the Sample M&V plan’s alignment with best practices, such as the International Performance Measurement & Verification Protocol (IPMVP)
- M.4.3.3** Robustness and thoughtfulness of approach planning for and completing end of construction activities such as project commissioning, and facility staff training.
- M.4.3.4** Robustness and thoughtfulness in considering the technical, financial, management, and performance aspects of an Operations & Maintenance plan on replaced equipment over the contract term.
- M.4.3.5** Pursuant to **Section L.2.5.2(F)(5)**, offerors will be evaluated based upon the cause, effect, and how the shortfall was handled to the satisfaction of the client. The previous clients’ feedback and overall satisfaction may be considered for consistency with the offerors’ explanation. Responses that do not list any previous shortfalls will be considered an unsatisfactory response.
- M.4.3.6** Robustness and thoughtfulness in developing the Implementation Approach based on the specific facility conditions presented in **Exhibit E.7** and the requested scope of work in Section C. Consider the quality and reasonableness of project schedule, plans for project management and communication, scalability, potential obstacles, and how your approach will ensure a successful outcome.

M.4.4 Financial Approach (5-Points)

- M.4.4.1** Financial soundness and ability of the ESCO to deliver over the life of the Contract.
- M.4.4.2** Demonstrated expertise in assisting public agencies evaluate and pursue financing strategies.

M.5 PRICE EVALUATION FACTOR (20-Points)

The price evaluation will be objective. The offeror with the lowest audit costs and mark-ups will receive the maximum price points for each category. All other proposals will receive a proportionately lower total score. Both the audit costs (\$/SF) and the mark-up will be evaluated and weighed separately. The following formula will be used to determine each offeror's evaluated price score:

Audit Cost (5 out of 20 points):

$$\text{Lowest audit cost} \text{-----} \times \text{weight (5 points)} = \text{Evaluated price score}$$

Audit cost of proposal being evaluated.

Project Cost Breakdown (%) (15 out of 20 points): The Total % shall be equal to the sum of Rows D through N, P, and Q in the Project Cost Breakdown table included above in Section L.2.6.2, Section B.

Lowest total project cost breakdown (%)
----- x weight (15 points) = Evaluated price score

Project cost breakdown being evaluated (%)

M.6 PREFERENCE POINTS AWARDED PURSUANT TO SECTION M.9.1 (12-Points Maximum)

M.7 TOTAL POINTS (112 Points Maximum)

Total points shall be the cumulative total of the offeror’s technical criteria points, price criterion points and preference points, if any.

M.8 EVALUATION OF OPTION YEARS

The District will evaluate offers for award purposes by evaluating the total price for all options as well as the base year. Evaluation of options shall not oblige the District to exercise them. The total District’s requirements may change during the option years. The quantities to be awarded will be determined at the time each option is exercised.

M.9 PREFERENCES FOR CERTIFIED BUSINESS ENTERPRISES

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 (“Act”, as used in this section), the District shall apply preferences in evaluating proposals from businesses that are certified by the Department of Small and Local Business Development (DSLBD) pursuant to Part D of the Act.

M.9.1 Application of Preferences

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

M.9.1.1 Any prime contractor that is a small business enterprise (“SBE”) certified by the DSLBD will receive the addition of three points on a 100-point scale added to the overall score.

M.9.1.2 Any prime contractor that is a resident-owned business (“ROB”) certified by DSLBD will receive the addition of five points on a 100-point scale added to the overall score.

M.9.1.3 Any prime contractor that is a longtime resident business (“LRB”) certified by DSLBD will receive the addition of five points on a 100-point scale added to the overall score.

- M.9.1.4** Any prime contractor that is a local business enterprise (“LBE”) certified by DSLBD will receive the addition of two points on a 100-point scale added to the overall score.
- M.9.1.5** Any prime contractor that is a local business enterprise with its principal offices located in an enterprise zone (“DZE”) certified by DSLBD will receive the addition of two points on a 100-point scale added to the overall score.
- M.9.1.6** Any prime contractor that is a disadvantaged business enterprise (“DBE”) certified by DSLBD will receive the addition of two points on a 100-point scale added to the overall score.
- M.9.1.7** Any prime contractor that is a veteran-owned business (“VOB”) certified by DSLBD will receive the addition of two points on a 100-point scale added to the overall score.
- M.9.1.8** Any prime contractor that is a local manufacturing business enterprise (“LMBE”) certified by DSLBD will receive the addition of two points on a 100-point scale added to the overall score.

M.9.2 **Maximum Preference Awarded**

Notwithstanding the availability of the preceding preferences, the maximum total preference to which a certified business enterprise is entitled under the Act is the equivalent of twelve (12) points on a 100-point scale for proposals submitted in response to this RFP. There will be no preference awarded for subcontracting by the prime contractor with certified business enterprises.

M.9.3 **Preferences for Certified Joint Ventures**

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 (“Act”, as used in this section), the District shall apply preferences in evaluating proposals from businesses that are certified by the Department of Small and Local Business Development (DSLBD) pursuant to Part D of the Act.

M.9.4 **Verification of Offeror’s Certification as a Certified Business Enterprise**

M.9.4.1 Any vendor seeking to receive preferences on this solicitation must be certified at the time of submission of its proposal. The CO will verify the offeror’s certification with DSLBD, and the offeror should not submit with its proposal any additional documentation regarding its certification as a certified business enterprise.

M.9.4.2 Any vendor seeking certification in order to receive preferences under this solicitation should contact the:

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

M.9.4.3 All vendors are encouraged to contact DSLBD at (202) 727-3900 if additional information is required on certification procedures and requirements.

M.10 EVALUATION OF PROMPT PAYMENT DISCOUNT

M.10.1 Prompt payment discounts shall *not be* considered in the evaluation of offers. However, any discount offered will form a part of the award and will be taken by the District if payment is made within the discount period specified by the offeror.

M.10.2 In connection with any discount offered, time will be computed from the date of delivery of the supplies to carrier when delivery and acceptance are at point of origin, or from date of delivery at destination when delivery, installation and acceptance are at that, or from the date correct invoice or voucher is received in the office specified by the District, if the latter date is later than date of delivery. Payment is deemed to be made for the purpose of earning the discount on the date of mailing of the District check.