

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF GENERAL SERVICES



D.C. DEPARTMENT OF GENERAL SERVICES

INVITATION FOR BIDS

Solicitation Number: DCAM-17-NC-0056

**INTEGRATED PEST MANAGEMENT SERVICES
(MPD LOCATIONS)**

This solicitation is being set-aside for Bidders that are certified by the District of Columbia Department of Small and Local Business Development (DSLBD) as a Small Business Enterprise (SBE).

Solicitation Issue Date: Friday, February 17, 2017

Bid Due Date: **Tuesday, March 14, 2017 at 11:00 a.m.**

Delivery of Bids: Department of General Services
Contracts and Procurement Division, 8th Floor
Attention: George G. Lewis, CPPO
Associate Director/Contracting Officer
Frank D. Reeves Center
2000 14th Street NW | 8th Floor
Washington, DC 20009

Bid Opening: **Tuesday, March 14, 2017 at 11:15 a.m.**
DGS 2nd Floor Community Room
Frank D. Reeves Municipal Center
2000 14th Street, NW, Washington, DC 20009

Pre-Bid Conference: **Wednesday, February 22, 2017 at 10:30 a.m.**
2000 14th Street, NW, 6th Floor
6th Floor - DPW Large Conference Room

Contact: **Karen J. Araujo**
Contract Specialist
Contracts & Procurement Division
2000 - 14th Street, NW | 8th Floor
Washington, DC 20009
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Email: karen.araujo@dc.gov

SECTION A EXECUTIVE SUMMARY

The Department of General Services (“Department” or “DGS”) is issuing this Invitation for Bids (“IFB”) to engage one certified Small Business Enterprise (SBE) Contractor to perform Integrated Pest Management (IPM) Services to control pest populations with the least amount of risk to people and the environment. The Contractor shall provide knowledge about pests and their management, on-going comprehensive inspections of facilities, pest monitoring, proper identification and management of pests consistent with IPM principles and IPM reporting, including recommendations to prevent future pest infestations. The awarded Contractor will be required to provide these Services at various Metropolitan Police Department (MPD) locations, identified on **Attachment A**. The Department reserves the right at any time (including after an award hereunder), to either add or remove facilities and/or to increase or decrease the responsibility under an awarded contract.

The awarded Contractor shall provide all management, tools, supplies, equipment, vehicles and labor necessary to successfully perform Integrated Pest Management Services as required for a base year and up to four (4) one (1) year option periods. Interested Bidders are required to bid on all line item, including the base year and the four option periods.

This IFB is designated only for certified Small Business Enterprise (SBE) bidders under the provisions of the “Small and Certified Business Enterprise Development and Assistance Act of 2014”, D.C. Official Code § 2-218.01 *et seq.*, as amended. ONLY Bidders that are certified by the District of Columbia Department of Small and Local Business Development (DSLBD) as a SBE are eligible. A copy of the certification acknowledgment letter must be submitted with the Bidder’s Bid.

A.1 CONTRACT TYPE:

A.1.1 The Contract awarded pursuant to this IFB will be a firm fixed fully loaded monthly contract.

A.2 FORM OF CONTRACT:

A.2.1 The Contract resulting from this IFB will typically include the following:

- (a) The Award/Signature Page (**Attachment C**)
- (b) Acknowledgement of Amendments (*See Award/Signature Page Section 13*)
- (c) The IFB pages **2 – 51**
- (d) The Contractor’s Bid Form (**Attachment B**)
- (e) Applicable exhibits provided as attachments or incorporated by reference

A.3 TERM OF CONTRACT:

A.3.1 Base Term: The base term of the Contract will be for one (1) year from the Date of Award.

A.3.2 Option Year(s): The Department shall have the right to unilaterally extend the term of this agreement for four (4), one (1) year option periods or successive portions thereafter. The Department shall give the Contractor preliminary written notice of its intent to exercise an option period at least thirty (30) days prior to the expiration of the Contract. The Contractor may waive the thirty (30) day notice requirement by providing a written waiver to the Contracting Department prior to the expiration of the Contract.

A.3.3 Option Years Pricing: In the event the Department exercises its option to extend the period of the Contract, the firm fixed fully loaded monthly rates applicable to such Option Year(s) are set forth in the Bid Form (*Attachment B*).

A.4 PRICING:

Each interested Bidder shall complete and provide, along with required licenses, certifications, key personnel documentation, the Bid Form attached hereto as *Attachment B*, to include firm fixed fully loaded monthly rates (monthly inspections and monitoring treatments) plus firm fixed fully loaded hourly rates for emergency service calls on an as-needed basis. The firm fixed fully loaded monthly rates and the firm fixed fully loaded hourly rates shall be the Bidder's sole method of compensation and as such shall be sufficient to cover all of the costs necessary to provide services including, but not limited to, labor, supplies, material, repair parts, tools, vehicles, transportation, travel to and from work sites, per diem, subcontractor costs, home office overhead, profit and all else necessary to perform all work related to providing the District with safe and proper provision of required Pest Control Services as described herein.

The Bidder's price shall be equal to or lower than those charged to the bidder's most favored customer under similar terms and conditions.

A.5 PROCUREMENT SCHEDULE:

The "Procurement Schedule" for this procurement is as outlined below:

- Issuance of IFB February 17, 2017
- Pre-Bid Conference February 22, 2017 at 10:30 a.m.
- Last Day for Questions February 24, 2017
- Due Date & Time for Bid submission March 14, 2017 at 11:00 a.m.
- Bid Opening March 14, 2017 at 11:15 a.m.

IMPORTANT NOTICE: Contracts & Procurement will notify Bidders of any changes, additions and or deletions to the specifications and or responses to questions by addenda posted on the Department of General Services, Contracts & Procurement (C&P) website. It is the potential Bidder’s responsibility to frequently visit C&P’s 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.

A.6 ATTACHMENTS:

The following documents are attached to the IFB:

- Attachment AList of MPD Locations/Service Schedule
- Attachment B Bid Form
- Attachment C Award/Signature Page
- Attachment DBidder/Offeror Certification Form
- Attachment E Tax Certification Affidavit
- Attachment F.....SBE Subcontracting Plan
- Attachment G.....First Source Employment Agreement Form
- Attachment H.....EEO Policy Statement Agreement
- Attachment I.....Standard Contract Provisions for Services – January 2016
- Attachment J2017 Living Wage Act Notice and Fact Sheet
- Attachment K..... U.S. DOL Wage Determination No.2015-4281 Rev4 12/30/2016

SECTION B SCOPE OF WORK

B.1 PROJECT SUMMARY

The selected Contractor shall be required to provide all management, tools, supplies, equipment, vehicles and labor necessary to perform monthly Integrated Pest Management (IPM) Services at MPD locations, listed in *Attachment A*, to control pest populations with the least amount of risk to people and the environment. The Contractor shall provide knowledge about pests and their management, on-going, comprehensive inspections of facilities, pest monitoring, proper identification and management of pests consistent with IPM principles and IPM reporting, including recommendations to prevent future pest infestations.

B.2 DEFINITIONS

“Integrated Pest Management (IPM)” is a common sense approach to pest management that utilizes a variety of different control methods. Conditions that introduce pests, sustain their existence and promote infestations are addressed first. By doing so, targeted pests are likely attacked from many different angles with less dependency on pesticides. Pesticide applications and procedures may still play a role in an IPM program but are not the central focus of the overall plan. Significant resources are also placed on pest exclusion, housekeeping and storage practices and structural modifications if necessary. A successful IPM program requires the partnership of everyone involved in the management and maintenance of the building.

“Harborage” is the hiding places or protected areas where pests live, such as cracks and crevices.

“Monitoring” is a systematic pest inspection conducted at regular intervals to determine the types of pests, their numbers, and the amount of damage caused by pests, entry points, access to food, water, and harborage sites, and the effectiveness of treatment methods.

“Nonchemical Controls” are pest control measures that do not use pesticides or other chemicals. Nonchemical controls include biological, physical, mechanical, and cultural tactics and strategies.

“Pesticide” is a substance used to control, prevent, destroy, repel, or mitigate any pest.

“Re-entry Period” is the time that must elapse from the completion of a pesticide application until the staff may re-enter the building.

“Sanitation” is a measure that promotes cleanliness and pest-free surroundings. Indoor pest control sanitation involves removing pest food sources and physically altering

potential access and harborage sites. Outdoor removal of plant or plant parts that serve as harborage or a source of inoculum for pests.

B.3 CALLS FOR PEST SERVICE

The Contractor shall provide service calls outside the scheduled services, identified later in this scope, for DGS facilities as requested by the Contracting Officer's Technical Representative (COTR) or their designee. The Department categorizes a call for pest service two ways and expects a response as follows:

B.3.1 Emergency - Contractor shall respond and begin the necessary work within two (2) hours of receipt of the requests for services from the COTR, or designee.

B.3.2 Routine - Contractor shall respond and begin the necessary work within 24 hours of receipt of the requests for services from the COTR, or designee.

Note: The COTR, or designee, determines the category of response (Emergency or Routine) based on numerous factors, and will provide instruction and authorization to proceed to the Contractor.

B.4 COVERED PESTS

The Contractor shall suppress any building or landscape pests as requested. However, ninety percent of the IPM Technician's time shall be spent dealing with the following pests:

B.4.1 Indoor and outdoor populations of rodents such as rats, mice, squirrels, pigeons, and insects, including cockroaches, bed bugs, arachnids, and other arthropods, and flying insects such as flies, bees, and wasps.

B.4.2 Outdoor populations of potentially indoor-infesting species that are within the property boundaries of the specified buildings.

B.4.3 Nests of stinging insects within the property boundaries of the specified buildings.

B.4.4 All excluded pest populations that are incidental invaders inside the specified buildings, including winged termite swarmer's emerging indoors.

B.4.5 The Contractor shall notify the COTR if it notices any of the following pests. Contractor is not responsible for their control unless the COTR and Contractor agree in writing.

B.4.5.1 Bats, snakes, and all other vertebrates other than commensal rodents.

B.4.5.2 Termites and other wood-destroying organisms.

B.4.5.3 Pests that primarily feed on outdoor vegetation.

B.5 IPM PROGRAM REQUIREMENTS

Contactors shall develop and implement an Integrated Pest Management (IPM) program to control pest population with the least amount of risk to people and the environment. The Contractor's IPM Program shall include or address at a minimum the following:

- B.5.1 Communication and reinforcement of IPM policies and procedures to Building Managers, building occupants, staff, and maintenance personnel as opportunities arise;
- B.5.2 Identification of pests and environmental conditions and controls that limit the spread of pests;
- B.5.3 Manage pests only when necessary through the identification of action thresholds at which pest populations warrant action;
- B.5.4 Monitor, track, and maintain records including regular sampling and assessment of pests, surveillance techniques, remedial actions taken, and assessment of program effectiveness;
- B.5.5 Identification of methods to improve non-pesticide methods such as mechanical pest management methods; sanitation; waste management and assessment of the effectiveness of these methods;
- B.5.6 Prevent pest entry and movement, monitor and maintain structures and grounds including sealing cracks, eliminating moisture intrusion and accumulation and add physical barriers to pest entry and movement;
- B.5.7 Provide facility Building Manager and other occupants with education materials on IPM and specific pest information, as applicable;
- B.5.8 Utilize pesticides only as needed where need is determined by pest population monitoring and previous unsuccessful attempts to solve the pest problem with non-chemical strategies; provide preference for products that, while producing the desired level of effectiveness, pose the least harm to human health and the environment, and, as appropriate, notifying Building Manager before application and provide copy of pesticide label to Building Manager.
- B.5.9 Provide and post *Pesticide Use Notification* signs or other warnings in coordination with the COTR.
- B.5.10 Contractor shall suppress pest populations described in this section through Routine Service Sessions as described including regular and thorough inspections,

accurate identification of pests, and assessment of conditions at each property and application of appropriate control methods.

B.5.11 The frequency of Routine Service Session shall be as indicated in *Attachment A*. This process is called monitoring, and it plays a significant role in IPM.

B.5.12 Contractor's monitoring shall include at a minimum the following:

- B.5.12.1 Identifying and locating pests;
- B.5.12.2 Identifying areas of critical sensitivity;
- B.5.12.3 Estimating size of pest populations;
- B.5.12.4 Identifying the factors that are contributing to the pest problem such as poor sanitation, improper storage, holes or cracks and crevasses in walls;
- B.5.12.5 Reporting management practices that could affect pest populations or pest management activities such as trash pickup, lighting, and construction;
- B.5.12.6 Identifying non-target species that could be killed or injured;
- B.5.12.7 Assessing natural enemies and potential secondary pests; and
- B.5.12.8 Assessing environmental conditions such as temperature, humidity, weather or seasonal changes.

B.5.13 Contractor shall utilize the following three (3) basic components to monitor the IPM program at each facility:

- B.5.13.1 A walk-through visual inspections of all areas of the building including outside with an emphasis on areas more prone to pests than others such as cafeterias and snack rooms, food storage areas, staff lounges, sites with live animals, locker rooms, recycling collection points, and loading docks;
- B.5.13.2 Use of various types of monitoring traps to identify and measure hidden pests. Contractor shall utilize the following major types of traps:
 - B.5.13.2.1 Sticky traps, which use an adhesive to capture insects

B.5.13.2.2 Pheromone traps, which use chemical attractants to draw certain species of pests into the trap

B.5.13.2.3 Insect light Traps (ILTs), which use ultraviolet light to lure and capture certain flying insects.

B.5.13.3 Information obtained from personnel working on site, including review of the logbook.

B.5.14 The Contractor shall note a key difference between IPM and traditional pest control is that the IPM often uses "action thresholds," the pest level in an IPM program at which a technician takes action to control a pest. The Contractor shall utilize an action threshold of one for covered pests. The Contractor shall examine the type of pest, their number, and their location to justify and document the need for a control action. The Contractor shall take no direct control action below the action threshold except action may be taken to correct sanitation, clutter, and other problems that can lead to pests.

B.5.15 When a pest problem requires a control action, the Contractor shall first examine nonchemical methods, methods that do not require the use of pesticides, with an emphasis on those methods that work over the long term or that prevent pests in the first place such as pest-proofing (exclusion) or operational changes that improve sanitation. The Contractor shall combine nonchemical measures to achieve the most effective results. The Contractor shall, when deemed necessary, utilize nonchemical methods together with a limited application of pesticide.

B.5.16 The Contractor shall utilize chemical control products only when nonchemical control measures are unavailable, impractical, ineffective, or likely to fail to reduce pest below action thresholds. The Contractor shall obtain the written approval of the COTR prior to the use of pesticides. The Contractor shall employ the least hazardous materials, most precise application techniques and the minimum quantity of pesticide necessary to achieve control for all pests.

B.5.17 The Contractor shall post Notification of Intent to Use Pesticides in buildings to receive chemical treatment at least 24 hours prior to application. The Contractor shall provide the Building Manager with Notification of Intent to use Pesticides for posting in conspicuous locations such as bulletin boards commonly seen by occupants and staff. The Building Manager will also make an announcement on the facility's public announcement system at least 24 hours before the application of a pesticide, warning occupants and staff of indoor and landscape applications, with warnings to avoid posted or flagged areas until signs are removed. The Contractor shall place signs on the day the pesticide to instruct persons not to enter the treated area and not to remove the signs for a period of at least 24 hours or for the label-specified reentry period, whichever is longer. Outdoors, the notices or markers must be placed around the perimeter of the treatment area.

Indoors, notices shall be placed on main facility doors and near sites of planned applications.

B.5.18 The Contractor shall ensure compliance with or completion of the following to ensure the safe and effective usage of Pesticides:

B.5.18.1 The Contractor shall not store Pesticides in or on any DC property;

B.5.18.2 The Contractor's IPM Technicians shall bring only the chemicals necessary for treatment;

B.5.18.3 The Contractor shall ensure the application of pesticides according to the label of the product.

B.5.18.4 The pesticides used by the Contractor shall be registered with the United States Environmental Protection Agency (E.P.A.) and the District of Columbia;

B.5.18.5 The Contractor shall ensure that when pesticides are used in and around a facility, they are used in ways that minimize risk to people, particularly to children; and

B.5.18.6 The Contractor shall ensure that pest control products are placed where they are inaccessible to children, staff and the public.

B.5.19 Before a bait station is used in a facility; the IPM Technician shall place a notice or sign on the door of the room in which the bait station is placed indicating the date of placement, the name of the contact person for additional information including information on potential adverse effects. The notice or sign shall remain posted until the bait station is removed (applies to monitoring stations as well).

B.5.20 On a **monthly basis** the Contractor shall check vacant property and outside rodent traps.

B.5.21 The Contractor shall for each facility prepare and maintain reports to document and track problems, to document needed improvements in housekeeping and building repairs, to meet legal requirements, and to evaluate and assess the IPM program's effectiveness. The Contractor shall maintain the following:

B.5.21.1 **IPM Logbook** - The Contractor's staff shall maintain detailed and accurate notes in the IPM Logbook including everything about all IPM program activities, all pest sightings, actions taken, recommendations made, and reports written. The Contractor shall possess the logbook and make available upon the request of the Building Manager or COTR.

B.5.21.2 **IPM Service Report** - The Contractor shall develop and maintain an IPM Service Report. The IPM Service Report shall contain a record of inspections and chemical control actions implemented by the IPM Technician. The report shall include miscellaneous information, such as pesticide information, monitoring data, pest activity, floor plans, and general information, what was checked, what was found, description of any chemical/nonchemical pesticides applied, a detailed description of the treatment, the site, the application rate, and the amount applied. The Contractor shall provide monthly a copy of the IPM Service Report to the Building Manager and the COTR.

B.5.21.3 **Corrective Action Notice** - The initial notice of a pest-related problem with facility sanitation or maintenance shall first be provided through: (1) an entry in the facility's IPM logbook (the logbook should include a column for those actions needed to be taken by the facility so that the Building Manager can review it periodically) and (2) a field "corrective action notice" filled out on the spot by the technician and given to the Building Manager. When the problem has been corrected, the Supervisory IPM Technician shall note the action taken and the date in the IPM logbook. A copy of the notice is filed so that the problem shall be rechecked within 30 days.

B.5.22 The Contractor shall provide IPM Technicians as part of the IPM Program per facility for various DC properties listed herein and other properties, which may be added later on. The Contractor shall ensure its technicians understand and promote the difference between IPM and traditional pest control in that IPM is not based on regular or automatic use of pesticides; IPM depends heavily on nonchemical methods of control such as sanitation, exclusion, cultural practices, and on careful monitoring to identify problems early. IPM provides effective, long-term control of landscape and structural pests, while protecting the health, the environment, and the quality of life of the public.

B.5.23 The Contractor shall ensure that all staff applying pesticides in buildings or on grounds shall be licensed to apply pesticides and shall be trained and knowledgeable in the principles and practices of IPM. The Contractor and staff shall follow DC Regulations and label precautions and shall comply with the IPM Program. The Contractor shall provide copies of their current Pest Control License and dated pesticide applicator certificates for every employee who will be performing on-site services under this contract.

B.5.24 The Contractor shall ensure that IPM technicians shall provide effective and comprehensive communications including at a minimum the following:

- B.5.24.1 Talking with staff members about pest sightings, discussing ways to reduce pests by improving housekeeping or making repairs, and soliciting staff cooperation;
 - B.5.24.2 Explaining to staff, occupants, and sometimes even to the community how IPM differs from regular pest control service, and answering questions about the IPM program; and
 - B.5.24.3 Maintain verbal communications with the staff at the facility during their service visits, usually the building manager, custodial foreman/supervisor, and cafeteria manager.
- B.5.25 The Contractor shall ensure staff has the necessary experience and licenses to perform the required work. The Contractor shall identify a Project Manager and/or a Supervisory IPM Technician to serve as Key Personnel. The Project Manager and/or a Supervisory IPM Technician shall serve as the District's point of contact (POC) and should be a senior member of the Contractor's management team who has the authority and responsibility for ensuring that the Contractor's responsibilities are properly discharged. The Supervisory IPM Technician shall be properly licensed and have the requisite knowledge of IPM services.
- B.5.26 The Contractor shall ensure that all staff to provide services are provided and wear uniforms that clearly identify the Contractor.
- B.5.27 The Contractor shall develop an IPM Plan to include or address the following:
- B.5.27.1 **Structural or operational changes:** The Contractor shall describe site- specific solutions for eliminating pest access, food, water, and harborage.
 - B.5.27.2 **Monitoring:** The Contractor shall describe the products and procedures used for identification of pest presence, access and harborage locations. Types of monitors and number required shall be discussed. Monitors shall be in good working condition at all times. Any changes in the monitoring program at a building site shall be communicated to the IPM Coordinator on the inspection form.
 - B.5.27.3 **Materials and Equipment:** The Contractor shall provide current labels and Material Safety Data Sheets (MSDS) for all pesticide products to be used. In addition, brand names shall be provided for all application equipment, rodent bait boxes, monitoring and trapping devices, and any other control equipment that may be used to provide service.

B.5.27.4 Service Schedule: The Contractor shall provide service schedules that include the frequency of Contractor visits consistent with the required frequency of service for each location as described in *Attachment A*. The Contractor's schedule shall minimize the disruption of building activities and be pre-approved by the COTR. The Contractor must check in with the Building Manager to register the date, purpose of visit, activities performed, and duration of visit. When it is necessary to perform work outside of the regularly scheduled service time, the Contractor shall notify the COTR and the Building Manager at least one (1) day in advance.

B.6 AREAS OF SERVICE

Except as otherwise designated by the COTR, all areas of each facility listed in *Attachment A*, including but not limited to offices, conference rooms, kitchens, restrooms, equipment rooms, storage rooms, entrances, and hallways, shall receive inspections and monitoring/treatment.

B.7 SERVICE HOURS AND DAYS

Routine pest control services that do not adversely affect the staff health and activities shall be conducted on the scheduled days as described on *Attachment A*, and shall coordinate with the COTR and Building Manager on the working hours, as described in **Section B.5.27.4**. The Contractor shall be available on-call for emergency hours (nights, weekends, holidays and overtime), which shall be justified and approved by the COTR in advance.

B.7.1 Non-Interference: The Contractor shall coordinate its work so as to not interfere with certain District of Columbia Government functions including, but not limited to, the Metropolitan Police Department's (MPD) changing of shifts, and work at MPD facilities. Adequate notice shall be provided by the Contractor to DGS in the event that government vehicles will need to be cleared from parking lots in order for the Contractor to provide Integrated Pest Management Services.

B.8 RESPONSE TIME

B.8.1 The Contractor shall provide a designated phone number for the Department to place on-call service call request, twenty-four (24) hours a day, seven (7) days a week.

B.8.2 The Contractor shall provide the name(s) and phone number(s) of the individual(s) the District should contact for after hour emergency service calls.

B.8.3 The Contractor shall respond, in person to all non-emergency service requests within four (4) hours of initial notification and within two (2) hours for all emergency service requests including after-hours emergency requests.

B.9 CONTRACTOR QUALIFICATIONS

The Contractor shall be of established reputation with a minimum of three (3) consecutive years' experience in IPM Services, regularly engaged in the performance of the specified work and makes available, for this purpose, a regular force of skilled workers.

B.9.1 Key Personnel: The Contractor shall identify a Project Manager and/or a Supervisory IPM Technician to serve as Key Personnel as described in **Section B.5.25**. The Supervisory IPM Technician shall be available to communicate with the Department by telephone and email twenty-four (24) hours a day, seven (7) days a week, over the course of the contract. The Contractor shall not be permitted to reassign any of the key personnel unless the Department approves the proposed reassignment and the proposed replacement.

B.9.1.1 Requirements: The Contractor shall ensure that all its IPM Technician employees, including subcontractors (if applicable) have at least one (1) year of experience and be licensed with the District through the Department of Consumer and Regulatory Affairs (DCRA).

B.9.2 Submittals: The Contractor shall provide the following required submittals with its Bid:

- 1) List of Key Personnel, including Project Manager and/or Supervisory IPM Technician (POC), and all licensed Technicians designated to service each property location and respond to emergencies.
- 2) Current Pest Control License and dated Pesticide Applicator Certificates for every employee who will be performing on-site services under this contract.
- 3) The Contractor shall provide references from at least three (3) similar work situations; and
- 4) The Contractor shall provide a copy of the firm's current Basic Business License.

B.10 SITE INSPECTION

Each bidder is encouraged to visit all locations to determine size and site conditions. The site square footage listed on **Attachment A** are only estimates; there are a few property locations that list no site square footage. The act of submitting a bid is to be considered acknowledgement by the Bidder that they have visited the site, taken measurements and are familiar with the conditions and requirements affecting the work. Failure to do so will not relieve the successful Bidder of his/her obligation to furnish all materials and labor necessary to carry out the provisions of the contract and to complete the work for the consideration set forth in this bid.

No plea of ignorance of conditions that exist or may hereafter exist on the site of the work, or difficulties that may be encountered in the execution of the work, as a result of failure to make necessary investigation and examination, will be accepted as an excuse for failure or omission on the part of the bidder to fulfill in every detail all requirements set forth herein.

B.10.1 Schedule and Requirements for Site Inspections: Bidders may visit the property locations strictly on the dates and hours listed below. As these sites are all MPD locations, Bidders are required to email the COTR, Ricardo Eley, at the email listed on **Section I.2.2.1.6**, no later than *Wednesday, February 22, 2017 by 12:00 noon* to provide full names of all visitors, company name, and property locations to visit. The Bidder shall be required to provide credentials at each site location. Please note that if the Bidder does not inform the COTR in advance, Bidder may be turned away from conducting a site inspection.

Date: Thursday, February 23, 2017; Time: 10:00 a.m. through 2:00 p.m.

Date: Friday, February 24, 2017; Time: 10:00 a.m. through 2:00 p.m.

B.11 COMPLETION SCHEDULE

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

B.12 SAFETY AND CLEANLINESS

The Contractor shall provide for a neat, clean, and safe environment at all times during all work. Vehicles and all other equipment utilized on the contract must be in proper working order and present a neat, clean appearance. Any fluid spills or spoils generated from equipment operations or maintenance are the sole responsibility of the contractor and must be handled according to all applicable regulations. All spills shall be cleaned up and damage repaired at the cost of the contractor.

Whenever the Contractor leaves a location, that location shall be clean, safe, and free of any equipment and other materials related the work. The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions with the work. The Contractor shall take all reasonable protection to prevent damage, injury, or loss to:

- All employees on the job and any other persons who may be affected thereby.
- All work and all materials.
- Other property at the site or adjacent thereto.

The Contractor shall give all notices and comply with all applicable laws, ordinance, rules, regulations, and orders of any public authority bearing on safety of persons and property and their protection from damage, injury, or loss. The Contractor shall notify the COTR and promptly remedy all damage or loss to property caused in whole or in part by the Contractor. It is the responsibility of the contractor to bring all hazardous situations to the immediate attention of the COTR.

SECTION C ECONOMIC INCLUSION

C.1 PREFERENCE FOR SMALL, LOCAL AND DISADVANTAGED 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 bids from businesses that are certified by the Department of Small and Local Business Development (DSLBD) pursuant to Part D of the Act.

C.1.1 Application of Preferences:

Under the provisions of the Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005, D.C. Law 16-33 (codified at D.C. Code § 2-218.01 et seq.), preferences shall be given to Bidders that are certified by the Department of Small and Local Business Development as being a small business enterprise, having resident business ownership, having a longtime resident business, being a local business enterprise, being a disadvantaged business enterprise, or being a local business enterprise with its principal office located in an enterprise zone. (A copy of the certification acknowledgment letter must be submitted with the Bidder’s Bid.) A percentage reduction in price shall be granted to prime contractors as follows:

- (a) Three (3) percent reduction for a small business enterprise (SBE);
- (b) Five (5) percent for a resident-owned business (RBO);
- (c) Ten (10) percent for a longtime resident business (LRB);
- (d) Two (2) percent for a local business enterprise (LBE);
- (e) Two (2) percent for a local business enterprise with its principal office located in an enterprise zone (DZE);
- (f) Two (2) percent for a disadvantaged business enterprise (DBE);
- (g) Two (2) percent for veteran-owned business (VOB);
- (h) Two (2) percent for local manufacturing business enterprise (LMBE)

C.1.2 Maximum Preference Points Awarded:

Notwithstanding the availability of the preceding preferences, the maximum total preference to which a certified business enterprise (CBE) is entitled under the Act is twelve per cent (12%) for bids submitted in response to this IFB. There will be no preference awarded for subcontracting by the prime contractor with CBEs.

C.1.3 Preferences for Certified Joint Ventures:

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

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

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

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

C.2 DSLBD UTILIZATION

C.2.1 Mandatory Subcontracting Requirements

- (a) Unless the Director of the Department of Small and Local Business Development (DSLBD) has approved a waiver in writing, for all Contracts in excess of \$250,000, at least 35% of the dollar volume of the Contract shall be subcontracted to qualified small business enterprises (SBEs).
- (b) If there are insufficient SBEs to completely fulfill the requirement of paragraph (a)(1), then the subcontracting may be satisfied by subcontracting 35% of the dollar volume to any qualified certified business enterprises (CBEs); provided, however, that all reasonable efforts shall be made to ensure that SBEs are significant participants in the overall subcontracting work.
- (c) A prime contractor that is certified by DSLBD as a small, local or disadvantaged business enterprise shall not be required to comply with the provisions of sections C.2.1 (a) and C.2.1 (b) of this clause.
- (d) Except as provided in C.2.1 (e) and C.2.1 (f), a prime contractor that is a CBE and has been granted a bid preference pursuant to D.C. Official Code § 2-218.43, or is selected through a set-aside program, shall perform at least 35% of the contracting effort with its own organization and resources and, if it subcontracts, 35% of the subcontracting effort shall be with CBEs. A CBE prime contractor that performs less than 35% of the contracting effort shall be subject to enforcement actions under D.C. Official Code § 2-218.63.
- (e) A prime contractor that is a certified joint venture and has been granted a bid preference pursuant to D.C. Official Code § 2-218.43, or is selected through a set-aside program, shall perform at least 50% of the contracting effort with its own organization and resources and, if it subcontracts, 35% of the

subcontracting effort shall be with CBEs. A certified joint venture prime contractor that performs less than 50% of the contracting effort shall be subject to enforcement actions under D.C. Official Code § 2-218.63.

- (f) Each CBE utilized to meet these subcontracting requirements shall perform at least 35% of its contracting effort with its own organization and resources.
- (g) A prime contractor that is a CBE and has been granted a bid preference pursuant to D.C. Official Code § 2-218.43, or is selected through a set-aside program, shall perform at least 50% of the on-site work with its own organization and resources if the contract is \$1 million or less.
- (h) A list of Certified Business Enterprises can be found on the District of Columbia, Department of Small and Local Business Development website at <http://dslbd.dc.gov/> DC/DSLBD, click on “Doing Business in the District”, click on “Find CBE Certified Contractors.”

C.2.2 Subcontracting Plan

C.2.2.1 If the prime contractor is required by law to subcontract under this contract, it must subcontract at least 50% of the dollar volume of this contract in accordance with the provisions of section C.2.1 of this clause. The plan shall be submitted as part of the bid and may only be amended with the prior written approval of the CO and Director of DSLBD. Any reduction in the dollar volume of the subcontracted portion resulting from an amendment of the plan shall inure to the benefit of the District. Each subcontracting plan shall include the following:

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

C.2.3 Copies of Subcontracts

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

C.2.4 Subcontracting Plan Compliance Reporting

C.2.4.1 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.

C.2.4.2 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.

C.2.5 Annual Meetings

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

C.2.6 Notices

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

C.2.7 Enforcement and Penalties for Breach of Subcontracting Plan

C.2.7.1 Contractor shall be deemed to have breached a subcontracting plan required by law, if the contractor (i) fails to submit subcontracting plan monitoring or compliance reports or other required subcontracting information in a reasonably timely manner; (ii) submits a monitoring or compliance report or other required subcontracting information containing a materially false statement; or (iii) fails to meet its subcontracting requirements.

C.2.7.2 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.

C.2.7.3 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 SCP, Default.

C.3 RESIDENCY HIRING REQUIREMENTS FOR CONTRACTORS & SUBCONTRACTORS

C.3.1 At least fifty-one percent (51%) of the Bidder's team and every sub-consultant's employees hired after the Bidder enters into a contract with the Department, or after such sub-consultant enters into a contract with the Bidder, to provide the required goods or services, shall be residents of the District of Columbia.

- C.3.2** Upon execution of the contract, the Bidder and all of its member firms, if any, and each of its subcontractors and sub-consultants shall submit to the Department a list of current employees that will be assigned to work under the contract, the date that they were hired and whether or not they live in the District of Columbia.
- C.3.3** The Bidder shall comply with subchapter X of Chapter II of Title 2, and all successor acts thereto, including by not limited to the Workforce Intermediary Establishment and Reform of the First Source Amendment Act of 2011, and the rules and regulations promulgated thereunder. The Bidder and all member firms, subcontractors, tier subcontractors, sub-consultants, and suppliers with contracts in the amount of \$300,000 or more shall be required to comply with the following: (i) enter into a First Source Employment Agreement Attachment G with the D.C. Department of Employment Services (“DOES”) upon execution of the contract; (ii) submit an executed First Source Agreement to DOES prior to beginning work; (iii) make best efforts to hire at least 51% District residents for all new jobs created under the contract; (iv) list all employment vacancies with DOES; (v) submit monthly compliance reports to DOES by the 10th of each month; (vi) at least 51% apprentices and trainees employed must be residents of the District registered in a program approved by the D.C. Apprenticeship Council; and (vii) trade contractors and subcontractors with contracts in the amount of \$500,000 or more must register an apprenticeship program with the D.C. Apprenticeship Council.

SECTION D COMPLIANCE REQUIREMENTS

D.1 CONFORMANCE WITH LAWS

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

D.1.1 In June of 2008, the Loretta Carter Hanes Pesticide Consumer Notification Act of 2008 became effective, which requires that citizens are provided with information and notification of outdoor pesticide applications.

D.1.2 All pesticide use is currently regulated by DC pesticide laws and regulations, and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

D.2 LICENSING, ACCREDITATION AND REGISTRATION

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

D.3 APPRENTICESHIP ACT

The Apprenticeship Act shall apply to this Contract and the Contractor and all of its trade subcontractors shall be required to comply with the act. In addition, thirty-five percent (35%) of all apprentice hours worked on any projects subject of this Contract shall be worked by District residents.

D.4 STANDARD CONTRACT PROVISIONS

The Standard Contract Provisions for use with Specifications for District of Columbia Government Supplies and Services Contracts dated January 14, 2016 are incorporated into this Contract by attachment (*Attachment I*).

D.5 LIVING WAGE ACT

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

D.6 SERVICE CONTRACT ACT

This Service Contract Act is applicable to the resulting Contract. As such, the Contractor and its subcontractors shall comply with the wage and reporting requirement imposed by this Act. Applicable wage determination rates are attached hereto as *Attachment K*.

SECTION E
EVALUATION AND AWARD CRITERIA

E.1 CONTRACT AWARD

- E.1.1** This procurement is being conducted in accordance with the provisions of §4720 of the Department's Procurement Regulations (27 DCMR, Chapter 47).
- E.1.2** The District reserves the right to accept/reject bids resulting from this solicitation. The Chief Contracting Officer may reject all bids or waive any minor informality or irregularity in bids received whenever it is determined that such action is in the best interest of the District.
- E.1.3** The District will make an award to one **responsive and responsible** Bidder, complying with all provisions of the IFB, with the lowest evaluated bid price as determined by the sum of the firm fixed fully loaded monthly rates plus the firm fixed fully loaded hourly rates for emergency service calls, for the base and four (4) option years after application of the appropriate percentage reduction for certified Small Business Enterprise (SBE).

SECTION F BID ORGANIZATION AND SUBMISSION

This section outlines specific information necessary for the proper organization and manner in which Bidder's bid submissions shall be proffered. References are made to other sections in this IFB for further explanation.

F.1 BID IDENTIFICATION

Bids shall be proffered in an original and three (3) hard copies placed in a sealed envelope conspicuously marked: **DCAM-17-NC-0056 – Integrated Pest Management Services – MPD Locations.**

F.2 DELIVERY OR MAILING OF BIDS

Submissions shall be delivered or mailed to:

Department of General Services
Contracts & Procurement Division
Attn: **George G. Lewis**
Interim Associate Director/Chief Contracting Officer
2000 14th Street, NW | 8th Floor
Washington, D.C. 20009
Phone: (202) 727-2800

F.3 DATE AND TIME FOR RECEIVING BIDS

Submissions shall be received no later than **11:00 a.m. local time on March 14, 2017.** The Bidder assumes the sole responsibility for timely delivery of its submission, regardless of the method of delivery.

An electronic copy of the Bid Form **Attachment B** shall be emailed to the address indicated in **Section G.1** by the Bid Submission Deadline. The electronic document shall be in MS Excel format **only** and both the electronic copy and the hard copy Bid Forms **Attachment B** shall contain the same bid information, without exception.

NOTE: Material deviations of **Attachment B**, in the opinion of the Department, from the bid form provided by the Department as **Attachment B** shall be sufficient to render the proposal non-responsive and subject to exclusion from further evaluation in consideration of award.

F.4 BID OPENING

A public Bid Opening will be held at **11:15 a.m. on March 14, 2017** at the 2nd Floor Community Reeves Center.

F.5 ATTACHMENTS

The Bidder shall complete and include **all** of the following attachments with their bid **in the order listed below**:

- (a) Award/Signature Page (***Attachment C***)
 - i. Acknowledgement of Amendments (Award/Signature Page Section 13)
- (b) The IFB pages 2 - 43
- (c) Hard Copy Bid Form - Each Bidder shall submit a Bid Form (***Attachment B***);
 - i. Electronic Copy Bid Form (***Attachment B***) in MS Excel format only shall be emailed to the address indicated in Section G.1as described in section F.1;
- (d) Bidder/Offeror Certification Form (***Attachment D***);
- (e) Tax Certification Affidavit - Each Bidder shall submit a completed tax affidavit to include an e-mail address and fax number (***Attachment E***). In order to be eligible for this procurement, Bidders must be in full compliance with their tax obligations to the District of Columbia government;
- (f) SBE Subcontracting Plan form - Each Bidder shall submit an SBE Subcontracting Plan (regardless of Bidder self-performing work) in the form of ***Attachment F***;
- (g) First Source Employment - Each Bidder shall submit the First Source Employment Agreement in the form of ***Attachment G***;
- (h) Equal Employment Opportunity (EEO) Policy Statement Agreement – Each Bidder shall submit a signed EEO Policy Statement Agreement on company letterhead and complete and sign the Employer Information Report in the form of ***Attachment H***;
- (i) DSLBD Certification Letter – Each Bidder shall submit a copy of the certification acknowledgement letter issued by DSLBD.
- (j) Submittals – The Bidder shall present all Key Personnel documentation requirements in accordance with ***Section B.9.2***.

SECTION G BIDDING PROCEDURES & PROTESTS

G.1 CONTACT PERSON

The contact person for this IFB is:

Karen J. Araujo
Department of General Services
Contracts and Procurement Division
2000 14th Street, NW | 8th Floor
Washington, DC 20009
Phone: (202) 545-3035
Email: karen.araujo@dc.gov

G.2 EXPLANATIONS TO PROSPECTIVE BIDDERS

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

Requests shall be directed to Karen J. Araujo at the email address listed in Section G.1 **no later than February 24, 2017**. The person making the request shall be responsible for prompt delivery.

G.3 PROTESTS

Any Proposer, 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 350 N,

Washington, D.C. 20001. The aggrieved person shall also mail a copy of the protest to the Contracting Officer listed in this document.

G.4 RETENTION OF SUBMISSIONS

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

G.5 EXAMINATION OF BIDS

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

G.6 LATE BIDS AND MODIFICATIONS

- (a) Any bid received by the Department after the exact time specified for receipt shall not be considered.
- (b) The only acceptable evidence to establish the time of receipt at the Department's office is the time-date stamp of such installation on the bid wrapper or other documentary evidence of receipt maintained by the installation.
- (c) Notwithstanding any other provisions of this Invitation for Bids to the contrary, a late modification of an otherwise successful bid which makes its terms more favorable to the DGS may be considered at any time it is received and may be accepted.
- (d) Bids shall be irrevocable and remain in full force and effect for a period not less than 120 days after receipt of bids.

G.7 NO COMPENSATION FOR PREPARATION OF BIDS

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

G.8 REJECTION OF BIDS

The Department reserves the right, in its sole discretion:

- (a) To cancel this solicitation or reject all bids;
- (b) To reject bids that fail to prove the Bidder's responsibility;
- (c) To reject bids that contain conditions and/or contingencies that in the Department's sole judgment, make the bid indefinite, incomplete, otherwise non-responsive, or otherwise unacceptable for award;

- (d) To waive minor irregularities in any bid provided such waiver does not result in an unfair advantage to any Bidder;
- (e) To take any other action within the applicable Procurement Regulations or law;
- (f) To reject the bid of any Bidder that has submitted a false or misleading statement, affidavit or certification in connection with such bid or this Request for Bids.
- (g) To reject as non-responsive any bid that fails to include a subcontracting plan that is required by law.

G.9 LIMITATION OF AUTHORITY

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

SECTION H INSURANCE REQUIREMENTS

H.1 REQUIRED INSURANCE

The Contractor shall maintain the following types of insurance throughout the life of the contract.

H.1.1 Commercial general public liability insurance (“Liability Insurance”) against liability for bodily injury and death and property damage, such Liability Insurance to be in an amount not less than One Million Dollars (\$1,000,000) for liability for bodily injury, death and property damage arising from any one occurrence and One Million Dollars (\$1,000,000) from the aggregate of all occurrences within each policy year. The policy should include completed operations coverage. The Contractor will be required to maintain this coverage in force for a period of at least two years after substantial completion.

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

H.1.3 Automobile Liability, including Hired and Non-Owned Auto Liability in the amount of at least One Million Dollars (\$1,000,000) for each occurrence for bodily injury and property damage.

H.1.4 Excess umbrella liability coverage (on at least a follow form basis) and when combined with the general liability policy has an aggregate limit of at least Two Million Dollars (\$2,000,000).

H.2 ADDITIONAL INSURED

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

H.3 WAIVER OF SUBROGATION

All such insurance shall contain a waiver of subrogation against the Department and the District of Columbia, and their respective agents.

H.4 STRENGTH OF INSURER

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

**SECTION I
DEPARTMENT'S RESPONSIBILITIES**

I.1 INFORMATION & SERVICES

I.1.1 The Department will provide full information in a timely manner regarding the requirements of the Project, including a program which sets forth the Department's objectives, constraints and criteria, including space requirements and relationships, flexibility and expandability requirements, special equipment and systems, and site requirements.

I.2 DEPARTMENT'S DESIGNATED REPRESENTATIVES

I.2.1 Chief Contracting Officer (CCO): In accordance with 27 DCMR, Chapter 47, Section 4704 contracts may be entered into and signed on behalf of the District Government only by CCO. The address and telephone number of the CCO is:

George G. Lewis, CPPO
Interim Associate Director / Chief Contracting Officer
Department of General Services
2000 14th Street, N.W. | 8th Floor
Washington, D.C. 20009
Telephone: (202) 727-2800
E-mail: george.lewis@dc.gov

I.2.1.1 Authorized Changes by the Contracting Officer (CO) and the CCO

I.2.1.1 The CCO and the CO are the only persons authorized to approve changes to any of the requirements of the Contract. The CO is authorized to approve changes valued up to \$100,000.00.

I.2.1.2 The Contractor 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 CCO.

I.2.1.3 In the event the Contractor effects any change at the instruction or request of any person other than the CCO, 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.

I.2.2 Contracting Officer's Technical Representative (COTR)

I.2.2.1 The Contracting Officer's Technical Representative is responsible for general administration of the Contract and advising the CCO as to the Contractor's compliance or noncompliance with the Contract. The Contracting Officer's Technical Representative has the responsibility for

the day-to-day monitoring and supervision of the Contract, of ensuring the Work conforms to the requirements of the Contract and such other responsibilities and authorities as may be specified in writing by the CCO and/or in the Contract. These include:

- I.2.2.1.1** Keeping the CCO fully informed of any technical or contractual difficulties encountered during the performance period and advising the CCO of any potential problem areas under the Contract;
- I.2.2.1.2** Coordinating site entry for Contractor personnel, if applicable;
- I.2.2.1.3** Reviewing invoices for completed work and recommending approval by the CCO if the Contractor's prices and costs are consistent with the Contract and progress is satisfactory and commensurate with the rate of expenditure;
- I.2.2.1.4** 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 and the Contract; and
- I.2.2.1.5** Maintaining a file that includes all contract correspondence, modifications, records of inspections (site, data, equipment) and invoice or vouchers.
- I.2.2.1.6** The address and telephone number of the Contracting Officer's Technical Representative is:

Ricardo Eley, Safety & Health Manager
Contracting Officer's Technical Representative (COTR)
Office of Safety & Health Facilities Division
DC Department of General Services
2000 14th St, NW, Washington, DC 20009
Telephone: (202) 576-5585
Cell: (202) 438-6535
E-mail: ricardo.eley@dc.gov

I.2.2.2 The Contracting Officer’s Technical Representative Shall NOT Have the Authority to:

- I.2.2.2.1** Award, agree to, or sign any Contract document, change order, change directive, delivery order or Task Order. Only the CCO shall make contractual agreements, commitments or modifications;
- I.2.2.2.2** Grant deviations from or waive any of the terms and conditions of the Contract;
- I.2.2.2.3** Increase the dollar limit of the Contract or authorize work beyond the scope and dollar limit of the Contract,
- I.2.2.2.4** Authorize the expenditure of funds by the Contractor;
- I.2.2.2.5** Change the period of performance; or
- I.2.2.2.6** Authorize the use of District property, except as specified under the Contract.
- I.2.2.2.7** The Contractor shall be held fully responsible for any changes not authorized in advance, in writing, by the CCO, and may be denied compensation or other relief for any additional work performed that is not authorized by the CCO in writing. In addition, Contractor may also be required at no additional cost to the District, to take all corrective action necessitated by reason of any unauthorized changes.

I.3 PAYMENTS

I.3.1 Invoicing: The Contractor shall invoice the Department on a monthly basis. Each such invoice shall itemize all goods and services provided and submitted to dgsfm.invcs@dc.gov.

I.3.2 Right to Withhold Payments: The Department will notify the Contractor within fifteen (15) calendar days after receiving any invoice for payment, of any defect in the invoice or the work which may result in the Department's declining to pay all or a part of the invoiced amount. The Department may withhold payment from the Contractor, in whole or part, as appropriate, if:

I.3.2.1 The work is defective and such defects have not been remedied; or

I.3.2.2 The Department has determined that the Contractor's progress has fallen behind the Project Schedule, and the Contractor fails, within ten calendar days of

the Department's written demand, to provide the Department with a realistic and acceptable plan to recover the delays; or

I.3.2.3 The Contractor has failed to pay subcontractors promptly or has made false or inaccurate certifications that payments to Subcontractors or Suppliers are due or have been made; or

I.3.2.4 The Contractor is otherwise in substantial breach of the Contract (including, without limitation, failures to comply with the Economic Inclusion Requirements in Section C of this Contract).

I.3.3 The Department's liability under this contract is contingent upon the future availability of appropriated monies with which to make payment under the contract. The legal liability on the part of the Department for the payment of any money shall not arise unless and until such appropriations have been provided.

**SECTION J
MISCELLANEOUS PROVISIONS**

J.1 RESERVED

J.2 EXTENT OF CONTRACT

The Contract, which includes this Agreement and the exhibits attached hereto, and other documents incorporated herein by reference, represents the entire and integrated agreement between the Department and Contractor and supersedes all prior negotiations representations or agreements, either written or oral. The Contract may be amended only by written instrument signed by both the Department and Contractor. If anything in any document incorporated into this Agreement is inconsistent with this Agreement, this Agreement shall govern.

J.3 GOVERNING LAW

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

J.4 ASSIGNMENT

The Department and Contractor respectively bind themselves, their partners, members, joint venturers, constituent entities, successors, assigns and legal representative to the other party hereto and to partners, members, joint venturers, constituent entities, successors, assigns and legal representatives of such other party in respect to covenants, agreements and obligations contained in the Contract. Neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

J.5 RETENTION OF RECORDS AND INSPECTIONS AND AUDITS

J.5.1 The Contractor shall maintain books, records, documents and other evidence directly pertinent to performance under the Contract in accordance with generally accepted professional practice and appropriate accounting procedures and practices consistently applied in effect on the date of execution of the Contract.

J.5.2 The Contractor shall also maintain the financial information and data used in the preparation and support of the costing and cost summary submitted to the Department and the required cost submissions in effect on the date of execution of the Department.

- J.5.3** The Department, the District of Columbia government, the District of Columbia Financial Responsibility and Management Assistance Office, the Comptroller General of the United States, the U.S. Department of Labor and any of their authorized representatives shall have access to the books, records, documents and other evidence held, owned or maintained by the Contractor for the purpose of inspection, audit and copying during normal business hours and upon advance written notice to the Contractor. The Contractor shall provide proper facilities for such access and inspection.
- J.5.4** The Contractor agrees to include the wording of this Section in all its subcontracts in excess of five thousand dollars (\$5,000) that directly relate to Project performance.
- J.5.5** Audits conducted pursuant to this Section will be in accordance with generally acceptable auditing principles and established procedures and guidelines of the applicable reviewing or audit agency.
- J.5.6** The Contractor agrees to the disclosure of all information and reports, resulting from access to records, to any authorized representative of the Department. Where the audit concerns the Contractor, the auditing agency will afford the Contractor an opportunity for an audit exit conference and an opportunity to comment on the pertinent portions of the draft audit report. The final audit report will include the written comments, if any, of the audited parties.
- J.5.7** The Contractor shall preserve all records described herein from the effective date of the Contract completion and for a period of seven (7) years after a final settlement. In addition, those records which relate to any dispute, appeal or litigation, or the settlement of claims arising out of such performance, or costs or items to which an audit exception has been taken, shall be maintained and made available until seven (7) years after the date of resolution of such dispute, appeal, litigation, claim or exception.

J.6 INSPECTION FOR SUPPLIES AND SERVICES

- J.6.1** To the extent applicable or appropriate, the Department may, in its sole discretion, enter the place of business of the Contractor or the place of business of any Subcontractor in order to inspect or test supplies or services for acceptance by the Department. If inspections and tests are performed at the place of business of the Contractor or any Subcontractor, the inspections and tests shall be performed in a manner so as to not unduly delay the Work. Inspections and tests by the Department shall not relieve the Contractor or any Subcontractor of responsibility for defects or other failures to meet Contract requirements, and shall not constitute or imply acceptance.
- J.6.2** Notwithstanding the Department's acceptance of or payment for any product or service delivered by Contractor, the Contractor shall remain liable for latent

defects, fraud, gross mistakes amounting to fraud and the Department's rights under any warranty or guarantee.

J.6.3 The Department shall have the right to enter the place of business of the Contractor or the place of business of any Subcontractor in order to investigate any contractor or offeror with respect to a debarment or suspension of the Contractor or any such Subcontractor.

J.7 LAWS AND REGULATIONS INCORPORATED BY REFERENCE

All federal and District of Columbia laws and regulations, and all Department procedures now or hereafter in effect, whether or not expressly provided for or referred to in the Contract, are incorporated by reference herein and shall be binding upon the Contractor and the Department. It shall be the responsibility of the Contractor to perform the Contract in conformance with the Department's procurement regulations and all statutes, laws, codes, ordinances, regulations, rules, requirements, and orders of governmental bodies, including, without limitation, the U.S. Government and the District of Columbia government; and it is the sole responsibility of the Contractor to determine the procurement regulations, statutes, laws, codes, ordinances, regulations, rules, requirements, and orders that apply and their effect on the Contractor's obligations thereunder. However, if the application of a future law or regulation requires the Contractor to undertake additional work that is materially different in scope than that presently contemplated or required, the Contractor shall be entitled to an equitable adjustment for such additional work.

J.8 TAX EXEMPTION PROVISION

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

J.9 ANTI-COMPETITIVE PRACTICES AND ANTI-KICKBACK PROVISIONS

J.9.1 The Contractor recognizes the need for markets to operate competitively and shall observe and shall comply with all applicable law, rules, and regulations prohibiting anti-competitive practices. The Contractor shall not engage, directly or indirectly, in collusion or other anti-competitive practices that reduces or eliminates competition or restrains trade. The Department shall report to the appropriate authority any activity that evidences a violation of the antitrust laws, and take such other further action to which it is entitled or obligated under the law.

J.9.2 The Contractor shall observe and comply with all applicable law, rules, and regulations prohibiting kickbacks and, without limiting the foregoing, Contractor shall not (i) provide or attempt to provide or offer to provide any kickback; (ii) solicit, accept, or attempt to accept any kickback; or (iii) include,

directly or indirectly, the amount of any kickback in the contract price charged by Contractor or a Subcontractor of the Contractor to the Department. The Contractor shall have in place and follow reasonable procedures designed to prevent and detect possible violations described in this subparagraph in its own operations and direct business relationships. The Department may take any recourse available to it under the law for violations of this anti-kickback provision.

J.9.3 The Contractor represents and warrants that it did not, directly or indirectly, engage in any collusive or other anti-competitive behavior in connection with the bid, negotiation or award of the Contract.

J.10 RESPONSIBILITY FOR AGENTS AND CONTRACTORS

At all times and during performance under this contract, the Contractor shall be responsible to the Department for any and all acts and omissions of the Contractor's agents, employees, Subcontractors, Sub-Subcontractors, material suppliers, and laborers, and the agents and employees of the Subcontractors, Sub-Subcontractors, material suppliers, and laborers performing or supplying Work in connection with the Project.

J.11 ETHICAL STANDARDS FOR DEPARTMENT'S EMPLOYEES AND FORMER EMPLOYEES

The Department expects the Contractor to observe the highest ethical standards and to comply with all applicable law, rules, and regulations governing ethical conduct or conflicts of interest. Neither the Contractor, nor any person associated with the Contractor, shall provide (or seek reimbursement for) any gift, gratuity, favor, entertainment, loan or other thing of value to any employee of the District or the Department not in conformity with applicable law, rules or regulations. The Contractor shall not engage the services of any person or persons in the employment of the Department or the District for any Work required, contemplated or performed under the Contract. The Contractor may not assign to any former Department or District employee or agent who has joined the Contractor's firm any matter on which the former employee, while in the employ of the Department, had material or substantial involvement in the matter. The Contractor may request a waiver to permit the assignment of such matters to former Department personnel on a case-by-case basis. The Contractor shall include in every subcontract a provision substantially similar to this section so that such provisions shall be binding upon each Subcontractor or vendor.

J.12 GRATUITIES AND OFFICERS NOT TO BENEFIT PROVISIONS

J.12.1 If it is found, after notice and hearing, by the Department that gratuities (in the form of entertainment, gifts, payment, offers of employment or otherwise) were offered or given by the Contractor, or any agent or representative of the Contractor, to any official, employee or agent of the Department or the District with a view toward securing the Contract or any other contract or securing

favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performance of the Contract, the Department may, by written notice to the Contractor, terminate the right of the Contractor to proceed under the Contract and may pursue such other rights and remedies provided by law and under the Contract.

J.12.2 In the event the Contract is terminated as provided in J.12.1, the Department shall be entitled:

J.12.2.1 To pursue the same remedies against the Contractor as it could pursue in the event of a breach of the Contract by the Contractor; and

J.12.2.2 As a penalty in addition to any other damages to which it may be entitled by law, to exemplary damages in an amount (as determined by the Department) which shall be not less than ten times the costs incurred by the Contractor in providing any such gratuities to any such officer or employee.

J.12.3 No member of, nor delegate to Congress, Mayor or City Council Member, nor officer nor employee of the District, nor officer nor employee of the Department shall be admitted to any share or part of the Contract or to any benefit that may arise therefrom, and all agreements entered into by the authorized representative of the Department in which he or any officer or employee of the Department shall be personally interested as well as all agreements made by the Department in which the Mayor or City Council Member or officer or employee of the District shall be personally interested shall be void and no payments shall be made on any such contracts by the Department or by any officer thereof; but this provision shall not be construed or extend to the agreement if the share of or benefit to the member of, or delegate to Congress, Mayor or City Council Member, or officer or employee of the District is de minimus.

J.13 COVENANT AGAINST CONTINGENT FEES PROVISIONS

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

J.14 NON-DISCRIMINATION IN EMPLOYMENT PROVISIONS

- J.14.1** The Contractor agrees to take affirmative action to ensure that applicants are employed and that employees are treated during employment, without regard to their race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, family responsibilities, matriculation, political affiliation, or physical handicap. The affirmative action shall include, but not be limited to, the following:
- J.14.1.1** Employment, upgrading, or transfer;
 - J.14.1.2** Recruitment or recruitment advertising;
 - J.14.1.3** Demotion, layoff, or termination;
 - J.14.1.4** Rates of pay, or other forms of compensation; and
 - J.14.1.5** Selection for training and apprenticeship.
- J.14.2** Unless otherwise permitted by law and directed by the Department, the Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Department setting forth the provisions of this Section concerning non-discrimination and affirmative action.
- J.14.3** The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment pursuant to the non-discrimination requirements set forth in this Section.
- J.14.4** The Contractor agrees to send to each labor union or representative of workers with which it has a collective bargaining agreement, or other contract or understanding, a notice to be provided by the Department, advising each labor union or workers' representative of the Contractor's commitments under this Section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- J.14.5** The Contractor agrees to permit access by the Department to all books, records and accounts pertaining to its employment practices for purposes of investigation to ascertain compliance with this Section, and shall post copies of the notices in conspicuous places available to employees and applicants for employment.
- J.14.6** The Contractor shall include in every subcontract the equal opportunity clauses of this Section so that such provisions shall be binding upon each Subcontractor or vendor.

J.14.7 The Contractor shall take such action with respect to any Subcontractor as the Contracting Officer may direct as a means of enforcing these provisions, including sanctions for non-compliance.

J.15 BUY AMERICAN ACT PROVISION

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

J.16 RESERVED

J.17 TERMINATION OR SUSPENSION

J.17.1 Cancellation before Notice to Proceed:

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

J.17.2 Termination for Default:

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

J.17.2.1 the Contractor fails to prosecute the Work diligently, in accordance with the Project Schedule or to make such progress in the Work as the Department reasonably believes is necessary to complete the Project within the time required by the Contract; or

J.17.2.2 the Contractor fails to perform the Work in a good and workmanlike manner or to correct defects in the Work promptly upon notice by the Department; or

J.17.2.3 the Department reasonably determines that the Contractor has abandoned the Work, or has failed to pay laborers, mechanics, material men, Subcontractors or suppliers when payment is due; or

J.17.2.4 becomes insolvent, makes an assignment for the benefit of creditors, files a voluntary petition under any chapter of the Bankruptcy Code or has an involuntary petition filed against it under any chapter of the Bankruptcy Code, or has a receiver appointed, or files for dissolution or otherwise is dissolved; or

J.17.2.5 the Contractor fails to pay its debts in a timely manner or becomes insolvent or the Department reasonably determines that the Contractor does not have the financial ability to carry out its obligations under the Contract and the Contractor fails to give the Department prompt and reasonable assurances of its ability to perform.

J.17.2.6 the Department must provide the Contractor with written notice of its intent to terminate the Contract under this provision seven (7) days before actually putting the termination into effect. If the Contractor has begun its curative action and has made progress satisfactory to the Department within the seven days, the Department may so notify the Contractor and the termination will not take effect. Otherwise, the termination shall take effect after seven days without further notice or opportunity to cure.

J.17.2.7 If the Department terminates the Contract for default, the Department will have the right to take over the Work, to accept assignment of some or all Subcontracts or agreements with material suppliers, to take possession of the Project, to take and use all tools, equipment and supplies then being used in connection with the Work, and to finish the Project by whatever method it deems expedient, including accepting assignment of all outstanding Subcontracts and Supply Agreements.

J.17.3 Termination for Convenience:

J.17.3.1 The Department may, upon seven (7) days written notice to the Contractor, terminate the Contract in whole or specified part, for its convenience, whether the Contractor is in breach of Contract or not. The notice of termination shall state the effective date of termination, the extent of the termination, and any specific instructions.

J.17.3.2 After receiving notice of termination for convenience, the Contractor shall (1) stop work on the terminated portion of the Project as of the effective date of the termination and stop placing subcontracts or supply agreements thereunder; (2) consult with the Department regarding the disposition of existing orders and subcontracts, and use its best efforts to terminate them on terms favorable to the Department; (3) consult with the Department to decide what actions should be taken to protect work in place and equipment that has been delivered and not yet installed, and to render the site safe, and proceed to take such actions as may be agreed upon or, absent agreement, as may be reasonable; (4) take necessary or directed action to protect and preserve property in the Contractor's possession in which the Department has or may acquire an interest and, as directed by the termination notice or other order from the Department, deliver the property to the Department; and (5) promptly deliver to the Department all computer files it has prepared relating to the Project.

The Contractor shall also promptly notify the Department, in writing, of any legal proceeding arising from any subcontract or supply agreement related to the terminated portion of the Project, and, in consultation with the Department, settle outstanding liabilities arising out of the terminated portion of the Project on the best terms reasonably possible.

J.17.3.3 The Contractor shall be entitled to receive only the following with respect to the terminated portion of the Project: (1) Cost of Work performed up to the date of termination; (2) reasonable costs of terminating outstanding subcontracts and supply agreements and other similar wind-up costs in a reasonable amount; (3) a fair and reasonable portion of the overhead and profit attributable to the Work performed on the terminated portion of the Project, up to the time of termination. The Contractor shall not be entitled to recover overhead or profits on unperformed portions of the Work. Further, if it appears to the Department that the cost of completing Work would have exceeded the Price, the Department shall have the right to adjust the settlement figure downward in an appropriate amount. In no case shall the Contractor be entitled to receive an amount in settlement for termination for convenience that would exceed the percentage value of the Work actually performed in accordance with the Contract, multiplied by the Price, and reduced by any damages, liquidated or otherwise, the Contractor may owe the Department.

J.17.3.4 Payment of such amounts shall be the Contractor's sole remedy for termination for convenience.

J.17.3.5 The Contractor shall, promptly after termination, submit a bid for settlement of the amounts due to it as a result of the termination for convenience. The bid shall be consistent with the requirements of Subparagraphs J.17.6.2 and shall be accompanied by such documentation of costs as the Department may reasonably require. Such documentation may include cost and price data in accordance with the Department's Regulations.

J.17.4 Effect of Wrongful Termination:

Any termination for cause which is later determined to have been improperly effected shall be deemed to have been a termination for convenience pursuant to Paragraph J.17.3 and shall be governed by that Paragraph.

J.17.5 Continued Responsibility after Termination:

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

J.17.6 Suspension:

J.17.6.1 Suspension at the Convenience of the Department:

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

J.17.6.2 Payment upon Suspension for Convenience.

In the event of suspension, delay, reduction or interruption for convenience by the Department, the Department shall pay the Contractor and the Price shall be increased by such amounts (subject to the payment and related requirements of the Contract Documents) as follows:

J.17.6.2.1 Additional Costs of the Work, if any, which are incurred by the Contractor, its Subcontractors and Vendors as a result of continuing to maintain dedicated personnel, materials and equipment at the Site at the Department's request during any suspension, delay or interruption period, including for the purpose of safeguarding all material, equipment, supplies and the Work in progress caused solely by such suspension, delay or interruption ordered by the Department for convenience, but the Price shall be increased only if and to the extent such delay, suspension or interruption exceeds a period of thirty (30) consecutive days following commencement of the Work; and

J.17.6.2.2 Other reasonable and unavoidable Costs of the Work, if any, which are directly related to any subsequent re-mobilization of the suspended, delayed or interrupted the Work caused solely by such suspension, delay or interruption ordered by the Department for convenience, but the Price shall be increased only if and to the extent such delay, suspension or

interruption exceeds a period of thirty (30) consecutive days following commencement of the Work.

J.17.6.2.3 Provided, however, that no adjustment shall be made to the extent that performance was otherwise subject to suspension, delay or interruption by another cause for which the Contractor is responsible. Furthermore, the Contractor shall not be entitled to an increase in overhead or profit for a suspension ordered by the Department.

J.18 FALSE CLAIMS ACT

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

J.19 INTERPRETATION OF CONTRACT

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

J.20 INDEPENDENT CONTRACTOR

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

J.21 CONFIDENTIAL INFORMATION

In the course of the Contractor's performance of the Work, the Department may make available to the Contractor information that the Department designates as trade secrets or other confidential engineering, technical and business information. As long as, and to the extent that, such information remains confidential and available to others only with the consent of the Department, or is not generally available to the public from other sources, the Contractor shall maintain such information in strict confidence and shall not disclose any such information to others (including its employees or Subcontractors), except to the extent necessary to enable the Contractor to carry out the Project. The Contractor shall

similarly obligate any and all persons to whom such information is necessarily disclosed to maintain the information in strict confidence. The Contractor agrees that, in the event of any breach of this confidentiality obligation, the Department shall be entitled to equitable relief, including injunctive relief or specific performance, in addition to all other rights or remedies otherwise available.

J.22 NO THIRD-PARTY BENEFICIARY RIGHTS

Nothing in this Agreement shall be construed as creating third-party beneficiary rights in any person or entity, except as otherwise expressly provided in this Agreement.

J.23 MEDIA RELEASES

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

J.24 GOODS AND SERVICES

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

J.25 NOTICES

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

If to the Department:

If to the Contractor:

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

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

J.26 LIMITATIONS

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

J.27 BINDING EFFECT; ASSIGNMENT

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

J.28 SURVIVAL

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

J.29 NO WAIVER

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

J.30 REMEDIES CUMULATIVE

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

J.31 HEADINGS/CAPTIONS

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

J.32 ENTIRE AGREEMENT; MODIFICATION

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

J.33 SEVERABILITY

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

J.34 ANTI-DEFICIENCY ACT

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

J.35 INDEMNIFICATION

To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Department and Department's consultants, agents, and employees from and against claims, damages, losses and expenses, including, but not limited to, attorneys' fees arising out of or resulting from performance of work, provided that such claim, damage,

loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder.

J.36 CHANGES

J.36.1 Changes Authorized: The Department may, without invalidating the contract, and without notice to or approval of any surety, order changes in the Work, including additions, deletions or modifications. Any such change must be conveyed by the Department to the Contractor via written Change Directive or Change Order.

J.36.1.1 The Contracting Officer is the only person authorized to approve changes in any of the requirements of this contract. The Contractor 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 Contracting Officer.

J.36.1.2 In the event the Contractor effects any change at the instruction or request of any person other than the Contracting Officer, 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.

J.36.2 Executed Change Directive/Order Required: Changes to the Agreement may be made only by a written Change Directive or Change Order executed by the Department.

J.36.3 Prompt Notice: In the event the Contractor encounters a situation which the Contractor believes to be a change to this Agreement, the Contractor shall provide the Department with prompt written notice of such event and the possible impact such event could have on cost and schedule. All such notices shall be given promptly, considering the then applicable situations, but in no event more than ten (10) calendar days after encountering the situation. The Contractor acknowledges that the failure to provide such notice in a timely manner could limit or eliminate the Department's ability to mitigate such events, and thus, the Contractor shall not be entitled to an adjustment in the event it fails to provide prompt notice. The Contractor shall include provisions similar to this provision in all of its subcontracts.

J.36.4 Executed Change Orders Final: The Contractor agrees that any Change Order executed by the Department and the Contractor constitutes its full and final adjustment for all costs, delays, disruptions, inefficiencies, cumulative impact, accelerations, schedule impacts, or other consequences arising from the change in question, whether a Change Directive, or a Change Event, or from any claimed cumulative effect of changes made to the date of the Change Order, and that no further adjustments in compensation or

time shall be sought or made with respect to the Change Directive or the Change Event giving rise to the Change Order.

J.36.5 Failure to Agree: If the Contractor claims entitlement to a change in the Agreement, and the Department does not agree that any action or event has occurred to justify any change in time or compensation, or if the parties fail to agree upon the appropriate amount of the adjustment in time or compensation, the Department will unilaterally make such changes, if any, to the Agreement, as it determines are appropriate pursuant to the terms of this Agreement. The Contractor shall proceed with the Work and the Department's directives, without interruption or delay, and may make a claim of this Agreement. Failure to proceed due to a dispute over a change request shall constitute a material breach of the Agreement and entitle the Department to all available remedies for such breach, including, without limitation, termination for default.

J.37 DISPUTES

J.37.1 Informal Resolution

It is the mutual desire of the parties to resolve any disputes arising under, or otherwise related to, this Agreement in an informal manner and by consensus. Toward this end, should any such dispute arise, the parties shall use their best efforts to resolve the dispute without the need for formal litigation or process of any kind. In the event that any such dispute cannot be resolved by the parties' representatives, the parties shall arrange for representatives of their senior management to meet and, if possible, discuss the issue. If this process cannot resolve the problem, then either party may initiate arbitration in accordance with Section J.37.2 of this Agreement, if resolution is not reached in such manner, the Program Manager shall make a claim in accordance with this Section.

J.37.2 Formal Dispute Resolution Procedure

J.37.2.1 Notice of Claim: If the Contractor wishes to assert a claim over a contract dispute, the Contractor shall provide written notice of the claim to the Department pursuant to procedures set forth in Section 4732 of the Department's procurement rules and Section 1004 of the District's Procurement Practices Reform Act of 2010 (PPRA).

J.37.2.2 Contents of Notice of Claim: The notice of claim shall state the nature of the claim, the events or circumstances giving rise to the claim, the type of relief requested, and the amount of time or additional compensation, or other damages sought. If the amount of time, compensation, or other damages sought is not reasonably ascertainable at the time such notice is provided, the Contractor shall so state, explain why, and provide whatever estimates it can reasonably provide. The notice shall state clearly that the Contractor intends to assert a claim against the Department.

J.37.2.3 Appeal Procedures: All claims arising under or in connection with the Agreement or its breach, or relating to the delivery of services, whether framed in contract, tort or otherwise, and which are not resolved via the claims process may be resolved by filing an appeal with the District of Columbia Board of Contract Appeals in accordance with Title X of the Procurement Practices Reform Act of 2010 (PPRA). However, if a third party brings any claim against the Department, including, without limitation, claims of infringement of patents, copyrights or other intellectual property rights, the Department may bring an action for defense or indemnification against the Contractor in the court in which such claim is being litigated.