



BID DOCUMENT

INVITATION NO. GF-2013-R-0100

AGENCY: University of the District of Columbia

PROJECT: Indefinite Delivery/Indefinite Quantity for
General Construction

LOCATION: 4200 Connecticut Avenue, NW
Washington, DC 20008

To access our website, please go to:

- www.udc.edu
- Under "About UDC", select Administration Tab
- Under Capital Procurement

 <u>SOLICITATION, OFFER AND AWARD</u>	1. <u>Solicitation No.:</u> GF-2013-R-0100	2. <u>Type:</u> ☐ Sealed Bid (IFB) ☒ Negotiated (RFP)	3. <u>Date Issued:</u> May 16, 2013	<u>Page 1 of 73</u>																																													
4. Contract Number	5. Requisition/Purchase Request No.	6. ☐ Open Market with set aside for SBE subcontracting (see Section M.1.6) ☒ SBE Set-Aside (see Sec. B.2 & Sec. M) Mandatory 35% CBE subcontracting requirement in accordance with Section M.8																																															
7. Issued By: University of the District of Columbia Capital Procurement Division 4200 Connecticut Avenue, NW Building 38, Room C04 Washington, DC 20008		8. Address Offer To: University of the District of Columbia Capital Procurement Division 4200 Connecticut Avenue, NW Building 38, Room C04 Washington, DC 20008																																															
9. For information contact:	A. Name: Tonya Mills	B. Telephone (No collect calls) <table border="1"> <tr> <td>(Area Code)</td> <td>(Number)</td> <td>(Ext)</td> </tr> <tr> <td>202</td> <td>274-6913</td> <td></td> </tr> </table>		(Area Code)	(Number)	(Ext)	202	274-6913		C. E-mail Address Tonya.Mills@udc.edu																																							
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202	274-6913																																																
IMPORTANT - The "offer" section of this form must be fully completed by offeror.																																																	
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NOTE: In sealed bid solicitations "offer" and "offeror" mean "bid" and "bidder"																																																	
10. Sealed offers in "original" plus 6 copies to perform the work required will be received at the place <u>specified in item 8, or if hand carried, to the bid counter located at address shown in item 8 until 2:00 PM local time on June 4, 2013.</u>																																																	
11. The University requires performance of the work described in strict accordance with the following: <table border="0"> <thead> <tr> <th><u>Description</u></th> <th><u>Section</u></th> <th><u>Page#</u></th> </tr> </thead> <tbody> <tr><td>• Solicitation/Offer/Award Form</td><td>---</td><td>Section A 2</td></tr> <tr><td>• Schedule for Construction, Alterations, Repairs, Price</td><td>---</td><td>Section B 4</td></tr> <tr><td>• Scope/Specifications/Drawings</td><td>---</td><td>Section C 11</td></tr> <tr><td>• Packaging and Markings</td><td>---</td><td>Section D 13</td></tr> <tr><td>• Inspection and Acceptance</td><td>---</td><td>Section E 14</td></tr> <tr><td>• Deliveries and Performances</td><td>---</td><td>Section F 15</td></tr> <tr><td>• Contract Administration Data</td><td>---</td><td>Section G 17</td></tr> <tr><td>• Special Contract Requirements</td><td>---</td><td>Section H 23</td></tr> <tr><td>• Contract Clauses</td><td>---</td><td>Section I 30</td></tr> <tr><td>• List of Attachments</td><td>---</td><td>Section J 48</td></tr> <tr><td>• Certifications and Representations</td><td>---</td><td>Section K 49</td></tr> <tr><td>• Instructions, Conditions and other Notices to Bidders</td><td>---</td><td>Section L 57</td></tr> <tr><td>• Evaluation Preference Points</td><td>---</td><td>Section M 67</td></tr> <tr><td>• The Standard Contract Provisions For Use With Specifications for DC Government Construction Projects dated March 2011.</td><td></td><td></td></tr> </tbody> </table>					<u>Description</u>	<u>Section</u>	<u>Page#</u>	• Solicitation/Offer/Award Form	---	Section A 2	• Schedule for Construction, Alterations, Repairs, Price	---	Section B 4	• Scope/Specifications/Drawings	---	Section C 11	• Packaging and Markings	---	Section D 13	• Inspection and Acceptance	---	Section E 14	• Deliveries and Performances	---	Section F 15	• Contract Administration Data	---	Section G 17	• Special Contract Requirements	---	Section H 23	• Contract Clauses	---	Section I 30	• List of Attachments	---	Section J 48	• Certifications and Representations	---	Section K 49	• Instructions, Conditions and other Notices to Bidders	---	Section L 57	• Evaluation Preference Points	---	Section M 67	• The Standard Contract Provisions For Use With Specifications for DC Government Construction Projects dated March 2011.		
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12. The Contractor shall begin performance and complete all the work within <u>(TBD per each Task Order)</u> calendar days from the date specified in the written ☐ Award ☐ NTP This performance period is ☐ Mandatory ☐ Negotiable																																																	
13. The Contractor must furnish the required performance and payment bonds. ☒ yes, within ten <u>(10)</u> calendar days after receiving the Notice of Intent to Award ☐ no																																																	
14. Additional Solicitation Considerations A. All bids are subject to the work requirements, provisions and clauses incorporated in this solicitation in full text or by reference B. A BID GUARANTEE ☐ is required ☐ is not required																																																	
University of the District of Columbia Capital Procurement Division																																																	

OFFER (Must be fully completed by offeror)										
15. Name, Company Name and Address of Offeror (with zip code)				16. Telephone No. ()				18. Remittance Address (if different than item 15).		
				17. E-mail address						
19. The offeror agrees to perform the work required at the prices specified herein and according to the BID SCHEDULE (Section B) and in strict accordance with the terms of this solicitation, if this offer is accepted by the University in writing within 90 calendar days after the date offers are due.										
20. The offeror agrees to furnish any required performance and payment bonds.										
21. ACKNOWLEDGEMENT OF AMENDMENTS										
The offeror acknowledges receipt of amendments to the solicitation (number and date each) See Section L.15										
Amendment Number										
Date										
22. Name and Title of person authorized to sign offer (Type or Print)				22A. Signature				22B. Offer		
AWARD (To be completed by the University)										
23. Amount				24. Accounting and Appropriation data						
25. PAYMENT WILL BE MADE BY: Office of the Chief Financial Officer 4200 Connecticut Avenue, NW Washington, DC 20008				26. Submit invoices as instructed in Section G of this solicitation (Contract Administration Data)						
CO WILL COMPLETE ITEM 27 OR 28 AS APPLICABLE										
27. ☐ NEGOTIATED AGREEMENT (The Contractor is required to sign this document and return__ copies to the issuing office). The Contractor agrees to furnish and deliver all items or perform all work requirements for the consideration stated in this contract. The rights and obligations of the parties of this contract shall be governed by (a) this contract award, (b) the solicitation, and (c) the clauses, representations, certifications and specifications incorporated by reference in or attached to this contract.				28. ☐ AWARD (The Contractor is not required to sign this document). Your offer on this solicitation is hereby accepted. This award consummates the contract which consists of (a) the solicitation and your offer, and (b) this contract award. No further contractual document is necessary.						
29. Name and Title of Contractor or Person Authorized to Sign (Type or Print)				30. Name of CO (Type or Print) Sherry Jones-Quashie, Contracting Officer						
29A. Signature		29B. Date		30A. Signature			30B. Date			

STANDARD FORM A - Dated May 2001

PART I

SECTION B - SCHEDULE FOR CONSTRUCTION, ALTERATIONS, REPAIRS, PRICE

- B.1** The University of the District of Columbia, Capital Procurement Division is issuing this Request for Proposal (RFP) to engage multiple contractors to perform as-directed construction services in the University system on an as needed basis. Given the commitment of the University for excellence, small construction projects arise on a recurring basis.

The goal of this procurement is to establish up to five (5) multiple Indefinite Delivery/Indefinite Quantity (ID/IQ) contracts for construction, repairs, renovations and small design-build projects. The contracts will allow the University to use this vehicle to procure or obtain a wide variety of construction services when and where required.

B.2 DESIGNATION OF SOLICITATION FOR SET-ASIDE MARKET ONLY:

This Request for Proposal (RFP) is being issued in the Set-Aside Market. Only companies that are certified by the District of Columbia Department of Small and Local Business Development (DSLBD) may participate in the procurement.

B.3 Preferences for Local Business, Disadvantaged Business, Resident-owned Businesses, Small Businesses, Longtime Resident Businesses, or Local Businesses with Principal Offices located in an Enterprise Zone

Under the provisions of the “Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005”, as amended, D.C. Official Code § 2-218.01 *et seq.* (the Act), the University shall apply preferences in evaluating proposals from businesses that are small, local, disadvantaged, resident-owned, longtime resident, or local with a principal office located in an enterprise zone of the District of Columbia.

- B.4** The term of the ID/IQ contracts will be for a period of one (1) year with an option to extend for four (4) additional one (1) year option periods.

B.5 PROJECT DELIVERY METHOD:

- B.5.1** Following the procedures in Sections G.9 and G.10, the University will issue to Contractors holding the ID/IQ contracts Request for Task Order Proposals (RFTOPs) describing the contemplated work and, after evaluating offers, the University will award the Task Orders (TOs) for the work. Contractors awarded with TOs shall perform this work in the manner and within the time specified in the individual TOs. Contractors will accomplish the work in accordance with the terms and conditions of the ID/IQ contracts and TOs.

- B.5.2** A narrative scope of work will be issued up to three (3) of the ID/IQ contract holders and each of those contractors will be provided with an opportunity to walk the project with the University representatives in order to better understand and clarify the work. Drawings, specifications and any other documentation along with the applicable Davis Bacon Wage Rate will be included with each narrative scope of work. Each contractor will then be required to submit a lump sum

price for the proposed work. Although the exact amount of time that contractors will have to submit cost proposals will depend on the specifics of the individual projects, the University envisions that contractors will typically be given five (5) to seven (7) business days to prepare and submit their cost proposals.

- B.5.3** The University will select the contractor to be awarded each such project primarily based on price, but the University reserves the right to consider non-price factors when making such decisions and will also consider differences in scope and/or proposed finishes, equipment and materials.

B.6 CONTRACTOR’S COMPENSATION:

In general, it is contemplated that Task Orders will be priced on a lump sum basis. As such and absent specific instructions to the contrary, proposed Task Order pricing should be “all inclusive” and should include sufficient funding to cover all of the contractor’s costs necessary to complete the project, including, but limited to, profit, home and field office overhead, supervision, labor, materials, equipment, bonds, insurance and such professional services as may be required to complete the design and obtain the necessary permits.

B.7 ORDERING LIMITATIONS:

- B.7.1 Minimum Order:** The University guarantees the minimum order for the awardees in an amount of \$250.00 annually.
- B.7.2 Maximum Order:** The maximum order limitation for each Task Order and the total of all the Task Orders issued to a single Contractor during any one (1) contract year or option year period will not exceed \$950,000.00.

B.8 PRICE SCHEDULE:

The following price schedule shall represent the Contractor’s hourly rates for General Construction and Design-Build services for the base and option years. The University intends to evaluate the price based on Total Cost for the base year and option years. Offerors must submit hourly labor rates as fully loaded rates, which include profit and all costs such as direct and indirect costs, overhead and G&A.

B.8.1 BASE YEAR

CLIN	Category/Trade	Hourly Rates A	Estimated Hours for Evaluation only B	Total Cost A x B
1	Laborer, skilled		1,500	
2	Laborer, unskilled		1,000	
3	Bricklayer		50	
4	Carpenter		1,000	
5	Carpenter Apprentice/Helper		500	
6	HVAC/Mechanical Technician		500	
7	HVAC/Mechanical Apprentice		200	
8	Plumbing Mechanic		1,000	
9	Plumbing Apprentice/Helper		250	
10	Steam Fitter		100	
11	Steam Fitter Apprentice/Helper		50	
12	Electrical Journeyman/Technician		1,000	
13	Electrical Apprentice/Helper		250	
14	Low Voltage Voice & Data Technician		100	
15	Low Voltage Voice & Data Apprentice		50	
16	Fire Alarm Technician		600	
17	Fire Alarm Apprentice/Helper		200	
18	Painter		1,000	
19	Painter Apprentice/Helper		200	
20	Flooring Installer		250	
21	Flooring Apprentice/Helper		50	
22	Roofing Installer		250	
23	Roofing Apprentice/Helper		50	
24	Elevator Mechanic		50	
25	Concrete Technician		100	
26	Concrete Apprentice/Helper		50	
27	Glass & Glazing Technician		100	
28	Glass & Glazing Apprentice/Helper		50	
29	Tile Setter		250	
30	Tile Finisher		250	
31	Plasterer		250	
32	Cement Mason/Concrete Finisher		100	
33	Engineering Services		100	
34	Architectural Services		100	
35	Project Manager		1,500	
36	Project Executive		600	
37	Field Superintendent		800	
TOTAL COST – BASE YEAR				

B.8.2 OPTION YEAR 1

CLIN	Category/Trade	Hourly Rates A	Estimated Hours for Evaluation only B	Total Cost A x B
1	Laborer, skilled		1,500	
2	Laborer, unskilled		1,000	
3	Bricklayer		50	
4	Carpenter		1,000	
5	Carpenter Apprentice/Helper		500	
6	HVAC/Mechanical Technician		500	
7	HVAC/Mechanical Apprentice		200	
8	Plumbing Mechanic		1,000	
9	Plumbing Apprentice/Helper		250	
10	Steam Fitter		100	
11	Steam Fitter Apprentice/Helper		50	
12	Electrical Journeyman/Technician		1,000	
13	Electrical Apprentice/Helper		250	
14	Low Voltage Voice & Data Technician		100	
15	Low Voltage Voice & Data Apprentice		50	
16	Fire Alarm Technician		600	
17	Fire Alarm Apprentice/Helper		200	
18	Painter		1,000	
19	Painter Apprentice/Helper		200	
20	Flooring Installer		250	
21	Flooring Apprentice/Helper		50	
22	Roofing Installer		250	
23	Roofing Apprentice/Helper		50	
24	Elevator Mechanic		50	
25	Concrete Technician		100	
26	Concrete Apprentice/Helper		50	
27	Glass & Glazing Technician		100	
28	Glass & Glazing Apprentice/Helper		50	
29	Tile Setter		250	
30	Tile Finisher		250	
31	Plasterer		250	
32	Cement Mason/Concrete Finisher		100	
33	Engineering Services		100	
34	Architectural Services		100	
35	Project Manager		1,500	
36	Project Executive		600	
37	Field Superintendent		800	
TOTAL COST – OPTION YEAR 1				

B.8.3 OPTION YEAR 2

CLIN	Category/Trade	Hourly Rates A	Estimated Hours for Evaluation only B	Total Cost A x B
1	Laborer, skilled		1,500	
2	Laborer, unskilled		1,000	
3	Bricklayer		50	
4	Carpenter		1,000	
5	Carpenter Apprentice/Helper		500	
6	HVAC/Mechanical Technician		500	
7	HVAC/Mechanical Apprentice		200	
8	Plumbing Mechanic		1,000	
9	Plumbing Apprentice/Helper		250	
10	Steam Fitter		100	
11	Steam Fitter Apprentice/Helper		50	
12	Electrical Journeyman/Technician		1,000	
13	Electrical Apprentice/Helper		250	
14	Low Voltage Voice & Data Technician		100	
15	Low Voltage Voice & Data Apprentice		50	
16	Fire Alarm Technician		600	
17	Fire Alarm Apprentice/Helper		200	
18	Painter		1,000	
19	Painter Apprentice/Helper		200	
20	Flooring Installer		250	
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26	Concrete Apprentice/Helper		50	
27	Glass & Glazing Technician		100	
28	Glass & Glazing Apprentice/Helper		50	
29	Tile Setter		250	
30	Tile Finisher		250	
31	Plasterer		250	
32	Cement Mason/Concrete Finisher		100	
33	Engineering Services		100	
34	Architectural Services		100	
35	Project Manager		1,500	
36	Project Executive		600	
37	Field Superintendent		800	
TOTAL COST – OPTION YEAR 2				

B.8.4 OPTION YEAR 3

CLIN	Category/Trade	Hourly Rates A	Estimated Hours for Evaluation only B	Total Cost A x B
1	Laborer, skilled		1,500	
2	Laborer, unskilled		1,000	
3	Bricklayer		50	
4	Carpenter		1,000	
5	Carpenter Apprentice/Helper		500	
6	HVAC/Mechanical Technician		500	
7	HVAC/Mechanical Apprentice		200	
8	Plumbing Mechanic		1,000	
9	Plumbing Apprentice/Helper		250	
10	Steam Fitter		100	
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29	Tile Setter		250	
30	Tile Finisher		250	
31	Plasterer		250	
32	Cement Mason/Concrete Finisher		100	
33	Engineering Services		100	
34	Architectural Services		100	
35	Project Manager		1,500	
36	Project Executive		600	
37	Field Superintendent		800	
TOTAL COST – OPTION YEAR 3				

B.8.5 OPTION YEAR 4

CLIN	Category/Trade	Hourly Rates A	Estimated Hours for Evaluation only B	Total Cost A x B
1	Laborer, skilled		1,500	
2	Laborer, unskilled		1,000	
3	Bricklayer		50	
4	Carpenter		1,000	
5	Carpenter Apprentice/Helper		500	
6	HVAC/Mechanical Technician		500	
7	HVAC/Mechanical Apprentice		200	
8	Plumbing Mechanic		1,000	
9	Plumbing Apprentice/Helper		250	
10	Steam Fitter		100	
11	Steam Fitter Apprentice/Helper		50	
12	Electrical Journeyman/Technician		1,000	
13	Electrical Apprentice/Helper		250	
14	Low Voltage Voice & Data Technician		100	
15	Low Voltage Voice & Data Apprentice		50	
16	Fire Alarm Technician		600	
17	Fire Alarm Apprentice/Helper		200	
18	Painter		1,000	
19	Painter Apprentice/Helper		200	
20	Flooring Installer		250	
21	Flooring Apprentice/Helper		50	
22	Roofing Installer		250	
23	Roofing Apprentice/Helper		50	
24	Elevator Mechanic		50	
25	Concrete Technician		100	
26	Concrete Apprentice/Helper		50	
27	Glass & Glazing Technician		100	
28	Glass & Glazing Apprentice/Helper		50	
29	Tile Setter		250	
30	Tile Finisher		250	
31	Plasterer		250	
32	Cement Mason/Concrete Finisher		100	
33	Engineering Services		100	
34	Architectural Services		100	
35	Project Manager		1,500	
36	Project Executive		600	
37	Field Superintendent		800	
TOTAL COST – OPTION YEAR 4				

GRAND TOTAL (BASE YEAR + FOUR OPTION YEARS) = \$ _____

GRAND TOTAL WRITTEN: _____

PART I

SECTION C - SCOPE/SPECIFICATIONS/DRAWINGS

C.1 INTRODUCTION:

The University of the District of Columbia, Capital Procurement Division is issuing this Request for Proposals (RFP) to engage multiple contractors to perform as-directed construction services in the University system on an as needed basis. Given the commitment of the University for excellence, small construction projects arise on a recurring basis.

C.2 SCOPE:

The selected contractors will be required to perform general construction and/or small design-build services on an as needed basis as requested by the University. These small construction projects may include building repairs, upgrades, and tenant-fit out improvements including, but not limited to, patching and plumbing, carpentry, masonry, window replacement, fire alarm repairs, electrical and other miscellaneous repairs as may be necessary in the University campuses. Such work shall be performed on an as needed basis.

C.3 CENTRAL OFFICE:

Each contractor will be required to maintain an office between the hours of 7:00 a.m. to 5:00 a.m., Monday to Friday with sufficient staffing. This office will be used to manage work associated with this contract and to dispatch work crews as requested by the University. A separate office need not to be established, and it is acceptable if the contractors elect to run this project from its current office. The office should be equipped with telephone lines, a fax machine and email, and such other equipment and supplies necessary to fulfill work required under the contract.

C.4 PROPOSALS:

As projects are identified by the University, a narrative scope of work will be issued to three (3) or more of the pre-qualified contractors for pricing. In general, the University anticipates that three (3) or more selected ID/IQ contractors will visit the proposed work site with a University representative, and then submit a lump sum cost estimate for the Contractor to perform the work. These proposals shall be reviewed by the Contracting Officer (CO) and a Task Order shall be issued to the ID/IQ contractor that provides what is most advantageous to the University. The Contractor shall not proceed with any work unless and until such proposal is approved by the CO and the Contractor is directed to begin work.

C.5 COORDINATION WITH THE UNIVERSITY:

The Contractor will be required to coordinate with the assigned Project Manager (PM) for each individual project. The work may be performed during normal business hours; however the Contractor may be required to work after hours or on weekend and holidays as to not adversely impact the work of the University employees and other contractors. The Contractor will be

required to develop work plans that are coordinated with, and acceptable to, the PM assigned to the Task Order.

C.6 PROJECT SITE SAFETY:

The Contractor will be required to ensure that its work is conducted in a safe manner and that appropriate barricades and other safety procedures are employed to ensure the safety of the University employees, students, contractors and visitors. All such barricades and safety procedures shall be subject to the approval of the University and its Project Manager.

C.7 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.

PART 1

SECTION D - PACKAGING AND MARKING

D.1 MATERIAL DELIVERY, HANDLING AND STORAGE:

- D.1.1** The Contractor shall deliver materials and equipment in the original, properly labeled, unbroken packages, containers, cartridges or bundles and in such quantities and such ample time that progress of work will not be delayed.
- D.1.2** The Contractor shall protect materials and products against any damage or deterioration during transit to the site, unloading, delivering and storing at site, installation or erection, and during period between installation or erection and final acceptance by the University, that shall include, but not limited to:
 - D.1.2.1** Minimum exposure to weather during delivery.
 - D.1.2.2** Storage off ground in dry, well-ventilated spaces.
 - D.1.2.3** Covering, as necessary, for adequate protection from soiling and wetting.
- D.1.3** The Contractor shall provide storage methods that will facilitate inspection and testing before and during the use as follows:
 - D.1.3.1** Space for storage of materials and equipment will be approved by the University's Project Manager (see Section E).
 - D.1.3.2** The Contractor shall not occupy more space at the site than is absolutely necessary for proper execution of the work.

PART 1

SECTION E - INSPECTION AND ACCEPTANCE

E.1 INSPECTION:

- E.1.1** The inspection and acceptance requirements for the resultant contract will be governed by Article 11 of the General Provisions of the Standard Contract Provisions For Use With Specifications for District Government Construction Projects, dated March 2011, incorporated herein as Attachment J.1.1.
- E.1.2** In addition, the acceptance criteria for different parts of the work, described in other sections of this RFP and the resulting Task Order shall apply.

E.2 PARTIAL ACCEPTANCE:

- E.2.1** The Contract Administrator (CA) may, at his/her option, accept part of the work under the contract in writing prior to the CA's final acceptance of all the work under the contract, when the CA considers it beneficial to the University.
- E.2.2** Partial acceptance shall not preclude liquidated damages for failure to complete the contract within the required time limits established under TIME FOR COMPLETION for each Task Order.
- E.2.3** The warranty period does not commence with partial acceptance but rather at final acceptance/completion.

E.3 FINAL INSPECTION:

- E.3.1** The Contractor shall give the CA written notice at least fourteen (14) days in advance of date on which the project will be 100% complete and ready for final inspection. Prior to final inspection date, the Contractor shall verify in writing that in the Contractor's best judgment no deficiencies exist.
- E.3.2** The Contractor, CA and University Inspector shall jointly prepare a Punch List of deficiencies found on final inspection that does not prevent the building or area(s) within the building from being occupied. The Contractor shall correct the deficiencies within (14) days after the building or area(s) within the building has been occupied and submit to the CA a report of the corrections as a condition of final acceptance.

PART 1

SECTION F - DELIVERIES AND PERFORMANCES

F.1 TERM OF CONTRACT:

The term of the contract shall be for a period of one (1) year from the date of award of the contract with four (4) one (1) year option periods.

F.2 OPTION TO EXTEND THE TERM OF THE CONTRACT:

F.2.1 The University may extend the term of this contract for a maximum of four (4), one-year option periods, or successive fractions thereof, by written notice to the Contractor before the expiration of the contract; provided that the University will give the Contractor a preliminary written notice of its intent to extend at least thirty (30) days before the contract expires. The preliminary notice does not commit the University to an extension. The Contractor may waive the thirty (30) day preliminary notice requirement by accepting the extension letter issued by the CO.

F.2.2 If the University exercises this option, the extended contract shall be considered to include this option provision.

F.2.3 The price for the option period shall be in accordance with Section B.8 of the contract.

F.2.4 Exercising the option will be at the sole discretion of the University.

F.3 LENGTH OF CONTRACT:

The total duration of this contract including the exercise of any options under F.2 shall not exceed five (5) years.

F.4 PERIOD OF PERFORMANCE FOR TASK ORDERS (TOs):

The Contractor shall commence and complete work within the dates specified in the Task Order (TO) issued by the CO.

F.5 PROGRESS REPORTS:

The Contractor is obligated to develop and submit to the CA all required reports including progress reports, special reports, weekly and monthly reports as required by the contract. The Contractor shall keep accurate and detailed written/computerized records of progress of the project during all stages. The Contractor shall maintain frequent contacts by telephone, site visits, meetings with all parties involved in the project and submit a weekly written progress reports to the CA including but not limited to: 1) information concerning the work of the A/E's and other contractors; 2) percentage of completion; 3) number and amounts of modifications and claims; 4) analyses of the schedules, and other analyses necessary to compare actual performance with planned performance.

F.6 TYPE OF CONTRACT:

This is an ID/IQ contract with payments based on fixed price TOs.

F.7 DELIVERABLES:

F.7.1 The Contractor shall submit to the University, as a deliverable, the report described in Section H.4 of this contract that is required by the 51% District Residents New Hires Requirement and First Source Employment Agreement for each TO that is \$100,000.000 and over. If the Contractor does not submit the report as part of the deliverables, final payment to the Contractor may not be paid. (Refer to Section H.4)

F.7.2 In performing a TO, the Contractor shall submit to the University all deliverables identified in the Contract and TO.

F.7.3 The Contractor shall submit all reports in writings according to the following schedules:

ITEM NO.	TYPE OF REPORTS	DUE DATES
1	Monthly Status Reports	Within 3 working days after the beginning of each month that a TO was executed.
2	Closeout Documents	After commissioning
3	Special Reports	As Required
4	Deficiency Reports	Within 48 hours of identification
5	All Other Reports related to the Project	As Required
6	Certificate of Insurance	With every TO awarded

F.7.4 The Offeror shall submit a subcontracting plan with its Task Order proposal for the CO's approval.

PART 1

SECTION G: CONTRACT ADMINISTRATION DATA

G.1 INVOICE PAYMENT:

- G.1.1** The University will make payments to the Contractor, upon the submission of proper invoices or vouchers, at the fixed price for each TO, for services performed and accepted, less any discounts, allowances or adjustments provided for in this contract.
- G.1.2** The University will pay the Contractor on or before the 30th day after receiving a proper invoice from the Contractor.

G.2 INVOICE SUBMITTAL

- G.2.1** The Contractor shall submit proper invoices on a monthly basis or as otherwise specified in this contract. Invoices shall be prepared in triplicate and submitted to the CA specified in Section G.7.1.
- G.2.2** To constitute a proper invoice, the Contractor shall submit the following information:
- G.2.2.1** Contractor's name and invoice date (Contractor is encouraged to date invoices as close to the date of mailing or transmittal as possible);
- G.2.2.2** Contract number, encumbrance number, and assignment of an invoice number by the Contractor are also recommended;
- G.2.2.3** Description, amount of payment requested, quantity, and the dates of the work performed, based upon the approved CPM schedule if a schedule is required by the TO;
- G.2.2.4** Other supporting documentation or information, as required by the CO and CA;
- G.2.2.5** Name, title, telephone number and complete mailing address of the responsible official to whom payment is to be sent;
- G.2.2.6** Name, title, phone number of person preparing the invoice;
- G.2.2.7** Name, title, phone number and mailing address of person, if different from the person identified above to be notified in the event of a defective invoice; and
- G.2.2.8** Authorized signature.

G.3 METHOD OF PAYMENT:

- G.3.1** The University will make payment for each TO based upon the terms of the individual TO. The University will make payment based upon the TO Invoice Payment Schedule on a monthly

basis in accordance with the appropriate clauses of the Contract and of the Standard Contract Provisions, when the following conditions exist:

- G.3.1.1** The Contractor has performed work and was accepted by the University;
- G.3.1.2** The Contractor has submitted his/her invoice; and
- G.3.1.3** No more than one invoice prepared and submitted by the Contractor every month.

G.3.2 FIRST SOURCE AGREEMENT REQUEST FOR FINAL PAYMENT:

- G.3.2.1** For contracts subject to the 51% District Residents New Hires Requirements and First Source Employment Agreement requirements, final request for payment must be accompanied by the report or a waiver of compliance discussed in section H.3.5.
- G.3.2.2** No final payment shall be made to the Contractor until the CFO has received the CO's final determination or approval of waiver of the Contractor's compliance with 51% District Residents New Hires Requirements and First Source Employment Agreement requirements. This clause applies to final payment under each TO that is \$100,000.00 and over.

G.4 ASSIGNMENTS

- G.4.1** In accordance with 27 DCMR 3250, the Contractor may assign funds due or to become due as a result of the performance of this contract to a bank, trust company, or other financing institution.
- G.4.2** Any assignment shall cover all unpaid amounts payable under this contract, and shall not be made to more than one party. The Contractor shall submit an assignment for each TO.
- G.4.3** Notwithstanding an assignment of money claims pursuant to authority contained in the contract, the Contractor, not the assignee, is required to prepare invoices. Where such an assignment has been made, the original copy of the invoice must refer to the assignment and must show that payment of the invoice is to be made directly to the assignee as follows:

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

G.5 CONTRACTING OFFICER (CO):

- G.5.1** In accordance with Title 8, DCMR 3001.5 contracts may be entered into and signed on behalf of the District only by CO(s). The address and telephone number of the CO authorized to sign TO(s) under this contract is:

*Sherry Jones-Quashie
Director and Contracting Officer
Capital Procurement Division
4200 Connecticut Avenue, NW
Building 38, Suite C04
Washington, DC 20008*

G.6 AUTHORIZED CHANGES BY THE CO:

- G.6.1** The CO is the only person authorized to approve changes to any of the requirements of this contract.
- G.6.2** 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 CO.
- G.6.3** In the event the Contractor effects any change at the instruction or request of any person other than the CO, the change will be considered to have been made without authority and no adjustment will be made in the contract price to cover any cost increase incurred as a result thereof.

G.7 CONTRACT ADMINISTRATOR (CA):

- G.7.1** The CA is responsible for the technical administration of the contract and advising the CO as to the Contractor's compliance or noncompliance with the contract. In addition, the CA is responsible for the day-to-day monitoring and supervision of the contract, of ensuring that the work conforms to the requirements of this contract and such other responsibilities and authorities as specified in writing by the CO. The CA for this contract is:

*Alex Garrett
University of the District of Columbia
Office of the VP for Real Estate, Facilities & Public Safety
4200 Connecticut Avenue, NW
Building 38, Suite C01
Washington, DC 20008*

- G.7.2** It is fully understood and agreed by the Contractor that the CA shall not have any authority to make changes in the scope of work, price or terms and conditions of the contract or the TO(s).
- G.7.3** Contractor shall be held fully responsible for any changes not authorized in advance, in writing, by the CO, and may be denied compensation or other relief for any additional work performed that is not authorized by the CO in writing. In addition, Contractor may also be required at no additional cost to the University, to take all corrective action necessitated by reason of the unauthorized changes.

G.8 THE QUICK PAYMENT CLAUSE:

G.8.1 Interest Penalties to Contractors

- G.8.1.1** The University will pay interest penalties on amounts due to the Contractor under the Quick Payment Act, D.C. Official Code §2-221.01 et seq., for the period beginning on the day after the required payment date and ending on the date on which payment of the amount is made. Interest shall be calculated at the rate of 1% per month. No interest penalty shall be paid if payment for the completed delivery property or service is made on or before:
- a) the 3rd day after the required payment date for meat or a meat product;

- b) the 5th day after the required payment date for an agricultural commodity; or
- c) the 15th day after the required payment date for any other item.

G.8.1.2 Any amount of an interest penalty which remains unpaid at the end of any 30-day period shall be added to the principal amount of the debt and thereafter interest penalties shall accrue on the added amount.

G.8.2 Payments to Subcontractors

G.8.2.1 The Contractor must take one of the following actions within 7 days of receipt of any amount paid to the Contractor by the University for work performed by any subcontractor under a contract:

- a) Pay the subcontractor for the proportionate share of the total payment received from the University that is attributable to the subcontractor for work performed under the contract; or
- b) Notify the University and the subcontractor, in writing, of the Contractor's intention to withhold all or part of the subcontractor's payment and state the reason for the nonpayment.

G.8.2.2 The Contractor must pay any lower-tier subcontractor or supplier interest penalties on amounts due to the subcontractor or supplier beginning on the day after the payment is due and ending on the date on which the payment is made. Interest shall be calculated at the rate of 1% per month. No interest penalty shall be paid on the following if payment for the completed delivery of the item of property or service is made on or before:

- a) the 3rd day after the required payment date for meat or a meat product;
- b) the 5th day after the required payment date for an agricultural commodity; or
- c) the 15th day after the required payment date for any other item.

G.8.2.3 Any amount of an interest penalty which remains unpaid by the Contractor at the end of any 30-day period shall be added to the principal amount of the debt to the subcontractor and thereafter interest penalties shall accrue on the added amount.

G.8.2.4 A dispute between the Contractor and subcontractor relating to the amounts or entitlement of a subcontractor to a payment or a late payment interest penalty under the Quick Payment Act does not constitute a dispute to which the University is a party. The University may not be interpleaded in any judicial or administrative proceeding involving such a dispute.

G.8.3 Contractor Obligation to Flow Down Interest Provision

"Contractor shall include in each subcontract a provision that requires the subcontractor to include in its contracts with any subcontractor or suppliers the payment and interest clauses required under paragraphs (1) and (2) of DC Official Code §2-221.02(d)."

G.9 ORDERING LIMITATIONS:

G.9.1 MINIMUM ORDER: The University guarantees the minimum order limitation to the Contractor in the amount of \$250.00 per year on the contract.

G.9.2 MAXIMUM ORDER: There will be a maximum of \$950,000.00 per year on the contract. The University may issue any number of TOs, in any amount, the cumulative total of which cannot exceed \$950,000.00.

G.10 TASK ORDERING PROCEDURES:

G.10.1 Ordering: Any services to be performed under this contract shall be based on fixed price TO(s) issued in writing and signed by the CO. All TOs are subject to the terms and conditions of this contract. In the event of conflict between a TO and this contract, the contract shall control.

G.10.2 As the need exists for performance under the terms of this contract, the CO shall notify the contractor of an existing requirement via the issuance of a RFTOP. The RFTOP will detail the project scope.

G.10.3 If the University feels that the price submitted by the Contractor for the RFTOP is not reasonable, the University will negotiate the price and then issue a TO to the Contractor.

G.10.4 Upon receipt and acceptance of the TO, the Contractor shall take necessary action to comply with the requirements and the period of performance stated in the TO.

G.10.4.1 Each TO shall include the following information:

- 1) Specific scope of requirement inclusive of all tasks and deliverables
- 2) Date of the TO
- 3) Contract number and TO number
- 4) Number of hours in each labor category with unit price
- 5) TO performance period or delivery schedule
- 6) TO administrator or point of contact if different from the CA
- 7) Place of performance

G.10.4.2 The CA shall be responsible for the daily administration of the TOs and the performance of the Contractor.

G.11 TASK ORDER COMPETITION:

Under this Contract, the University shall offer general construction and small design build services to IDIQ Contractors. It is the University's intention that all IDIQ Contractors shall have an opportunity to provide services to the University. Each successive RFTOP the University issues will specify the basis for award. The University will award individual TOs for those projects exclusively to IDIQ Contractors holding IDIQ contracts.

When issuing a RFTOP, in its sole discretion, the University will solicit up to three (3) IDIQ Contractors who were not solicited for the most recent TO; except that the University may solicit a Contractor(s) previously solicited for the most recent if necessary in order to obtain competition. In determining which IDIQ Contractors the University will solicit for a RFTOP, the University may consider current work load (TOs and otherwise), current responsibility, and past performance on projects received under their IDIQ Contract.

- G.11.1** For each successive RFTOP the University may solicit at up to three (3) IDIQ Contractors who did not receive an opportunity to respond to the most recent RFTOP issued, except under the following circumstances:
 - G.11.1.1** The University's need for the essential services or supplies is urgent and providing an opportunity to all Contractors would result in unacceptable delays;
 - G.11.1.2** Only one (1) Contractor is capable of providing the services at the level of quality required because the services ordered are unique or highly specialized;
 - G.11.1.3** The TO must be issued on a sole source basis in the interest of economy or efficiency because it is a logical follow-on to a TO already issued under the contract, provided that there was competition pursuant to the procedures in this clause to be considered for the original TO; or
 - G.11.1.4** The CO determines that only one (1) Contractor has the current capacity to fulfill the requirement.
- G.11.2** In determining which IDIQ Contractors will be solicited for each RFTOP, the University will also consider factors such as past performance, quality, timeliness, special expertise, capacity or other factors the CO determines are relevant to a particular requirement. Timely performance by an IDIQ Contractor is very important.
- G.11.3** Failure to diligently prosecute the work on a currently awarded TO under this IDIQ contract will be cause for the CO not to include the Contractor in the competitive fair-opportunity pool for future TOs. When the Contractor has corrected its delinquency, the Contractor will be considered for competition in future TOs.
- G.11.4** **IDIQ Contractors shall submit offers on all projects for which they are solicited by the University.** In the event a Contractor is unable to submit an offer in response to RFTOP, the Contractor shall notify the CO electronically, via e-mail and by U.S. mail and state in writing the reasons for declining to submit an offer. In the event a Contractor fails to submit an offer for three (3) projects offered within a contract year, the Contractor waives their right to the minimum guarantee for that contract year. The CO will notify the Contractor in writing when their offer record indicates an unacceptable offering rate. In the event the Contractor fails to correct this situation, the University reserves the right to unilaterally cancel the IDIQ contract without further obligation or liability to the University.

PART 1

SECTION H - SPECIAL CONTRACT REQUIREMENTS

H.1 UNIVERSITY'S RESPONSIBILITY:

The University will provide to the Contractor all necessary passes for Contractor's employees required to enter into the facility.

H.2 UNIVERSITY-FURNISHED EQUIPMENT/MATERIALS:

H.2.1 The Contractor, with his own forces, shall maintain all University-furnished equipment during the performance of work.

H.2.2 The Contractor shall be responsible for the loss or damage to University-furnished property.

H.2.3 The Contractor shall follow the instruction given by the CA regarding the disposition of all University-furnished equipment.

H.2.4 All University supplied equipment for use by the Contractor shall be returned to the CA in good condition before the final payment is processed. The final payment will not be processed unless it contains all release(s) relating to University-furnished equipment and/or materials from CA.

H.3 SUBCONTRACTS:

H.3.1 Nothing contained in the contract documents shall be construed as creating any contractual relationship between any subcontractor and the University.

H.3.1.1 The Contractor shall be as fully responsible to the University for the acts and omissions of subcontractor and of persons employed by them as he is for the acts and omissions of persons directly employed by him.

H.3.1.2 The Contractor shall be responsible for the coordination of the subcontractor and material persons engaged upon his work.

H.3.1.3 The Contractor shall, without additional expense to the University, utilize the services of specialty subcontractor of those parts of the work which are specified to be performed by specialty subcontractor.

H.3.1.4 The University will not undertake to settle any differences between the Contractor and his subcontractor or between subcontractors.

H.3.2 No portion of the contract shall be subcontracted except with the prior written consent of the CO, and such consent, when given, shall not be construed to relieve the Contractor of any responsibility for the fulfillment of the contract. Request(s) or permission to subcontract any portion of the contract shall be in writing and accompanied by: (a) a showing that the organization which will perform the work is particularly experienced and equipped for such work, and (b) an assurance by the Contractor that the Labor Standards Provisions set forth in this contract shall apply to labor

performed on all work encompassed by the request(s). The request(s) also shall provide the following information:

- H.3.2.1** Subcontractors name, address, telephone number, and Federal Social Security Number used on the Employers Quarterly Federal Tax Return, U.S. Treasury Department Form 941.
- H.3.2.2** Estimated dollar amount of the subcontract.
- H.3.2.3** Estimated starting and completion dates of the subcontract.
- H.3.2.4** The subcontractor approval request form included herein shall be used to request approval of subcontractor on this project. The form shall be completed for each subcontractor requested for approval and submitted to the CO. Copies of these forms are available upon request from the CA.
- H.3.3** Any work or service so subcontracted shall be performed pursuant to a subcontract agreement, which the University will have the right to review and approve prior to its execution by the Contractor. The Contractor shall assure that any subcontract contains the required flow-down provisions of this contract. Notwithstanding any such subcontract approved by the University, the Contractor shall remain liable to the University for all Contractor's work and services required hereunder.

H.4 51% DISTRICT RESIDENTS NEW HIRES/FIRST SOURCE EMPLOYMENT AGREEMENT:

- H.4.1** The Contractor shall comply with the First Source Employment Agreement Act of 1984, as amended, D.C. Official Code, sec. 2-219.01 et seq. ("First Source Act").
- H.4.2** The Contractor shall enter into and maintain, during the term of the contract, a First Source Employment Agreement, in which the Contractor shall agree that:
 - H.4.2.1** The first source for finding employees to fill all jobs created in order to perform this contract shall be the Department of Employment Services ("DOES"); and
 - H.4.2.2** The first source for finding employees to fill any vacancy occurring in all jobs covered by the First Source Employment Agreement shall be the First Source Register.
- H.4.3** The Contractor shall submit to DOES, no later than the 10th each month following execution of the contract, a First Source Agreement Contract Compliance Report ("contract compliance report") verifies its compliance with the First Source Agreement for the preceding month. The contract compliance report for the contract shall include the:
 - H.4.3.1** Number of employees needed;
 - H.4.3.2** Number of current employees transferred;
 - H.4.3.3** Number of new job openings created;
 - H.4.3.4** Number of job openings listed with DOES;

H.4.3.5 Total number of all District residents hired for the reporting period and the cumulative total number of District residents hired; and

H.4.3.6 Total number of all employees hired for the reporting period and the cumulative total number of employees hired, including;

H.4.3.6.1 Name;

H.4.3.6.2 Social Security number;

H.4.3.6.3 Job title;

H.4.3.6.4 Hire date;

H.4.3.6.5 Residence; and

H.4.3.6.6 Referral source for all new hires.

H.4.4 If the contract amount is equal to or greater than \$100,000.00, the Contractor agrees that 51% of the new employees hired for the contract shall be District residents.

H.4.5 With the submission of the Contractor's final request for payment from the University, the Contractor shall:

H.4.5.1 Document in a report to the CO its compliance with the section H.4.4 of this clause; or

H.4.5.2 Submit a request to the CO for a waiver of compliance with section H.4.4 and include the following documentation:

H.4.5.2.1 Material supporting a good faith effort to comply;

H.4.5.2.2 Referrals provided by DOES and other referral sources;

H.4.5.2.3 Advertisement of job openings listed with DOES and other referral sources; and

H.4.5.2.4 Any documentation supporting the waiver request pursuant to section H.4.6.

H.4.6 The CO may waive the provisions of section H.4.4 if the CO finds that:

H.4.6.1 A good faith effort to comply is demonstrated by the Contractor;

H.4.6.2 The Contractor is located outside the Washington Standard Metropolitan Statistical Area and none of the contract work is performed inside the Washington Standard Metropolitan Area which includes the District of Columbia; the Virginia Cities of Alexandria, Falls Church, Manassas, Manassas Park, Fairfax, and Fredericksburg, the Virginia Counties of Fairfax, Arlington, Prince William, Loudoun, Stafford, Clarke, Warren, Fauquier, Culpepper, Spotsylvania, and King George; the Maryland Counties of Montgomery, Prince Georges, Charles, Frederick, and Calvert; and the West Virginia Counties of Berkeley and Jefferson.

- H.4.6.3** The Contractor enters into a special workforce development training or placement arrangement with DOES; or
- H.4.6.4** DOES certifies that there are insufficient numbers of District residents in the labor market possessing the skills required by the positions created as a result of the contract.
- H.4.7** Upon receipt of the Contractor's final payment request and related documentation pursuant to sections H.4.5 and H.4.6, the CO shall determine whether the Contractor is in compliance with section H.4.4 or whether a waiver of compliance pursuant to section H.4.6 is justified. If the CO determines that the Contractor is in compliance, or that a waiver of compliance is justified, the CO shall, within two business days of making the determination forward a copy of the determination to the CFO and the CA.
- H.4.8** Willful breach of the First Source Employment Agreement, or failure to submit the report pursuant to section H.4.5, or deliberate submission of falsified data, may be enforced by the CO through imposition of penalties, including monetary fines of 5% of the total amount of the direct and indirect labor costs of the contract. The Contractor shall make payment to DOES. The Contractor may appeal to the D.C. Contract Appeals Board as provided in the contract any decision of the CO pursuant to this section H.4.8.
- H.4.9** The provisions of sections H.4.4 through H.4.8 do not apply to nonprofit organizations.

H.5 AUDITS, RECORDS, AND RECORD RETENTION:

- H.5.1** At any time or times before final payment and three (3) years thereafter, the CO may have the Contractor's invoices or vouchers and statements of cost audited. Any payment may be reduced by amounts found by the CO not to constitute allowable costs as adjusted for prior overpayment or underpayment. In the event that all payments have been made to the Contractor by the University and an overpayment is found, the Contractor shall reimburse the University for said overpayment within thirty (30) days after written notification.
- H.5.2** The Contractor shall establish and maintain books, records, and documents (including electronic storage media) in accordance with generally accepted accounting principles and practices which sufficiently and properly reflect all revenues and expenditures of funds provided by the University under the contract that results from this solicitation.
- H.5.3** The Contractor shall retain all records, financial records, supporting documents, statistical records, and any other documents (including electronic storage media) pertinent to the contract for a period of five (5) years after termination of the contract, or if an audit has been initiated and audit findings have not been resolved at the end of five (5) years, the records shall be retained until resolution of the audit findings or any litigation which may be based on the terms of the contract.
- H.5.4** The Contractor shall assure that these records shall be subject at all reasonable times to inspection, review, or audit by Federal, District, or other personnel duly authorized by the CO.

H.5.5 Persons duly authorized by the CO shall have full access to and the right to examine any of the Contractor's contract and related records and documents, regardless of the form in which kept, at all reasonable times for as long as records are retained.

H.5.6 The Contractor shall include these aforementioned audit and record keeping requirements in all approved subcontracts and assignments.

H.6 PUBLICITY:

The Contractor shall at all times obtain the prior written approval from the CO before the Contractor, any of its officers, agents, employees or subcontractor, either during or after expiration or termination of the contract, make any statement, or issue any material, for publication through any medium of communication, bearing on the work performed or data collected under this contract.

H.7 FREEDOM OF INFORMATION ACT:

The District of Columbia Freedom of Information Act, at D.C. Official Code § 2-532 (a-3), requires the University to make available for inspection and copying any record produced or collected pursuant to a University contract with a private Contractor to perform a public function, to the same extent as if the record were maintained by the agency on whose behalf the contract is made. If the Contractor receives a request for such information, the Contractor shall immediately send the request to the CA designated in subsection G.7 who will provide the request to the FOIA Officer for the University with programmatic responsibility in accordance with the D.C. Freedom of Information Act. If the agency with programmatic responsibility receives a request for a record maintained by the Contractor pursuant to the contract, the CA will forward a copy to the Contractor. In either event, the Contractor is required by law to provide all responsive records to the CA within the timeframe designated by the CA. The FOIA Officer for the University with programmatic responsibility will determine the reliability of the records. The University will reimburse the Contractor for the costs of searching and copying the records in accordance with D.C. Official Code § 2-532 and Chapter 4 of Title 1 of the *D.C. Municipal Regulations*.

H.8 AMERICANS WITH DISABILITIES ACT OF 1990 (ADA):

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

H.9 SECTION 504 OF THE REHABILITATION ACT OF 1973, AS AMENDED:

During the performance of the contract, the Contractor and any of its subcontractors shall comply with Section 504 of the Rehabilitation Act of 1973, as amended. This Act prohibits discrimination against disabled people in federally funded program and activities. See 29 U.S.C. 794 (1983) *et seq.*

H.10 LIVING WAGE ACT OF 2006:

The Living Wage Act of 2006 is Title I of the “Way to Work Amendment Act of 2006”, DC Law 16-118, and effective June 8, 2006. The Living Wage Act is codified at DC Official Code §§ 2-220.01 through 11.

H.10.1 WAY TO WORK AMENDMENT ACT OF 2006:

- H.10.1.1** Except as described in H.10.1.8 below, the Contractor shall comply with Title I of the Way to Work Amendment Act of 2006, effective June 8, 2006 (D.C. Law 16-118, D.C. Official Code §2-220.01 *et seq.*) (“Living Wage Act of 2006”) for contracts for services in the amount of \$100,000 or more in a 12-month period.
- H.10.1.2** The Contractor shall pay its employees and subcontractors who perform services under the contract no less than the current living wage published on the OCP website at www.ocp.dc.gov.
- H.10.1.3** The Contractor shall include in any subcontract for \$15,000 or more a provision requiring the subcontractor to pay its employees who perform services under the contract no less than the current living wage rate.
- H.10.1.4** The DOES may adjust the living wage annually and the OCP will publish the current living wage rate on its website at www.ocp.dc.gov.
- H.10.1.5** The Contractor shall provide a copy of the Fact Sheet attached as J.1.3 to each employee and subcontractor who performs services under the contract. The Contractor shall also post the Notice attached as J.1.3 in a conspicuous place in its place of business. The Contractor shall include in any subcontract for \$15,000 or more a provision requiring the subcontractor to post the Notice in a conspicuous place in its place of business.
- H.10.1.6** The Contractor shall maintain its payroll records under the contract in the regular course of business for a period of at least three (3) years from the payroll date, and shall include this requirement in its subcontracts for \$15,000 or more under the contract.
- H.10.1.7** The payment of wages required under the Living Wage Act of 2006 shall be consistent with and subject to the provisions of D.C. Official Code §32-1301 *et seq.*
- H.10.1.8** The requirements of the Living Wage Act of 2006 do not apply to:
- (1) Contracts or other agreements that are subject to higher wage level determinations required by federal law;
 - (2) Existing and future collective bargaining agreements, provided, that the future collective bargaining agreement results in the employee being paid no less than the established living wage;
 - (3) Contracts for electricity, telephone, water, sewer or other services provided by a regulated utility;
 - (4) Contracts for services needed immediately to prevent or respond to a disaster or eminent threat to public health or safety declared by the Mayor;

- (5) Contracts or other agreements that provide trainees with additional services including, but not limited to, case management and job readiness services; provided that the trainees do not replace employees subject to the Living Wage Act of 2006;
- (6) An employee under 22 years of age employed during a school vacation period, or enrolled as a full-time student, as defined by the respective institution, who is in high school or at an accredited institution of higher education and who works less than 25 hours per week; provided that he or she does not replace employees subject to the Living Wage Act of 2006;
- (7) Tenants or retail establishments that occupy property constructed or improved by receipt of government assistance from the District of Columbia; provided, that the tenant or retail establishment did not receive direct government assistance from the University;
- (8) Employees of nonprofit organizations that employ not more than 50 individuals and qualify for taxation exemption pursuant to section 501(c)(3) of the Internal Revenue Code of 1954, approved August 16, 1954 (68A Stat. 163; 26 U.S.C. § 501(c)(3));
- (9) Medicaid provider agreements for direct care services to Medicaid recipients, provided, that the direct care service is not provided through a home care agency, a community residence facility, or a group home for mentally retarded persons as those terms are defined in section 2 of the Health-Care and Community Residence Facility, Hospice, and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code § 44-501); and
- (10) Contracts or other agreements between managed care organizations and the Health Care Safety Net Administration or the Medicaid Assistance Administration to provide health services.

H.10.1.9 The Mayor may exempt a contractor from the requirements of the Living Wage Act of 2006, subject to the approval of Council, in accordance with the provisions of Section 109 of the Living Wage Act of 2006.

PART II

SECTION I - CONTRACT CLAUSES

I.1 APPLICABILITY OF STANDARD CONTRACT PROVISIONS:

The Standard Contract Provisions for use with Specifications for District of Columbia Government Construction Projects, March 2011 are incorporated herein as Attachment J.1.1, with the same force and effect as if given in full text.

I.2 DEPARTMENT OF LABOR WAGE DETERMINATIONS:

I.2.1 Davis Bacon Wage Rates are applicable. The current prevailing wage determination is General Decision Number DC130002, dated 05/10/2013 – DC2, incorporated herein as Attachment J.1.2.

I.2.2 In accordance with the applicable provisions of 29 CFR, Part 1, Section 1.6 (c) (3) (IV), if this contract has not been awarded within 90 days after bid opening, any modification, notice of which is published on WDOL prior to award of the contract or the beginning of construction, as appropriate, shall be effective with respect to that contract unless the head of the agency or his or her designee requests and obtains an extension of the 90-day period from the Administrator.

I.3 CONFLICT OF INTEREST:

I.3.1 No official or employee of the University or the Federal Government who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of this contract shall, prior to the completion of the project, voluntarily acquire any personal interest, direct or indirect, in the contract or proposed contract. (Title 8, DCMR, UDC Procurement Regulations, Chapter 3001, sub chapter 3001.7).

I.3.2 The Contractor represents and covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. The Contractor further covenants not to employ any person having such known interests in the performance of the contract.

I.4 EQUAL EMPLOYMENT OPPORTUNITY:

In accordance with the University Administrative Issuance System, Mayor's Order 85-85 dated June 10, 1985 the forms for completion of the Equal Employment Opportunity Information Report shall be completed and incorporated with the proposal. An award cannot be made to any Offeror who has not satisfied the equal employment requirements as set forth by the Department of Small and Local Business Development.

I.5 INSURANCE:

The requirements of this section apply to each TO issued under the Contract. Upon award of a TO under the Contract, Contractor shall assure that its insurance coverage for the work under the TO is in compliance with the provisions of this § I.5.

A. GENERAL REQUIREMENTS. The Contractor shall procure and maintain, during the entire period of performance under this contract, the types of insurance specified below. The Contractor shall have its insurance broker or insurance company submit a Certificate of Insurance to the Contracting Officer giving evidence of the required coverage prior to commencing performance under this contract. In no event shall any work be performed until the required Certificates of Insurance signed by an authorized representative of the insurer(s) have been provided to, and accepted by, the Contracting Officer. All insurance shall be written with financially responsible companies authorized to do business in the District of Columbia or in the jurisdiction where the work is to be performed and have an A.M. Best Company rating of A-VIII or higher. The Contractor shall require all of its subcontractors to carry the same insurance required herein. The Contractor shall ensure that all policies provide that the Contracting Officer shall be given thirty (30) days prior written notice in the event that the stated limit in the declarations page of the policy is reduced via endorsement or the policy is canceled prior to the expiration date shown on the certificate. The Contractor/Insurance Company shall provide the Contracting Officer with ten (10) days prior written notice in the event of non-payment of premium.

1. Commercial General Liability Insurance. The Contractor shall provide evidence satisfactory to the CO with respect to the services performed that it carries \$2,000,000 per occurrence limit; \$4,000,000 aggregate; Bodily Injury and Property Damage including, but not limited to: premises-operations; broad form property damage; Products and Completed Operations; Personal and Advertising Injury; contractual liability and independent contractors. The policy coverage shall include the University of the District of Columbia as an additional insured, shall be primary and non-contributory with any other insurance maintained by the University, and contain a waiver of subrogation. The Contractor shall maintain Completed Operations coverage for five (5) years following final acceptance of the work under this contract.
2. Automobile Liability Insurance. The Contractor shall provide automobile liability insurance to cover all owned, hired or non-owned motor vehicles used in conjunction with the performance of this contract. The policy shall provide \$1,000,000.00 per occurrence combined single limit for bodily injury and property damage.
3. Workers' Compensation. The Contractor shall provide Workers' Compensation insurance in accordance with the statutory mandates of the District of Columbia or the jurisdiction in which the contract is performed.

Employers' Liability Insurance. The Contractor shall provide employer's liability insurance as follows: \$1,000,000 per accident for injury; \$1,000,000 per employee for disease; and \$1,000,000 policy disease limit.

If projects hereunder include water operations, the U.S. Longshoremen and Harbor Workers' Compensation Act and Maritime endorsements must be purchased and attached to employer's liability insurance policy.

4. Builders Risk Insurance. The Contractor shall provide Builders' Risk policy equal to the replacement cost value of the completed building or other structure including the building supplies and materials to cover damage to existing facilities at the site. The policy shall

cover property while located at the project site, at temporary locations, or in transit; deductibles will be the sole responsibility of the contractor; and shall name the University as loss payee/mortgagee, as its interests may appear. The policy shall not exclude equipment breakdown, windstorm, flood, water damage other than flood, or damage due to drain/sewage backup. A waiver of subrogation in favor of the University shall be included. (This policy is not required for contracts involving demolition only).

5. Umbrella/Excess Liability. The Contractor shall provide umbrella or excess liability (which is excess over employer's liability, general liability, and automobile liability) insurance as follows: \$2,000,000 per occurrence, including the University as an additional insured.
6. Crime Insurance (3rd Party Indemnity). The Contractor shall provide a 3rd Party Crime policy to cover the dishonest acts of Contractor's employees which result in a loss to the University. The policy shall provide a limit of \$1,000,000 per occurrence; \$2,000,000 aggregate. This coverage shall be endorsed to name the District of Columbia as joint-loss payee, as their interests may appear.
7. Professional Liability Insurance (Errors & Omissions). The Contractor shall provide Professional Liability Insurance (Errors and Omissions) to cover liability resulting from any error or omission in the performance of professional services under this Contract. The policy shall provide limits of \$1,000,000 per occurrence for each wrongful act and \$2,000,000 aggregate.

The Contractor shall maintain this insurance for five (5) years following the University's final acceptance of the work performed under this contract.

8. Environmental Liability Insurance. The Contractor shall provide a policy to cover costs associated with bodily injury, property damage and remediation expenses associated with pollution incidents including, but not limited to, mold, asbestos or lead removal. The policy shall provide a minimum of \$2,000,000 per occurrence.
 9. Railroad Protective Liability Insurance. [If any services provided under or pursuant to this contract involve Contractor doing work near any railroad right-of-way (within 50 feet of a railroad (Metro, Amtrak, MARC, CSX)]. Contractor shall provide Railroad Protective Liability Insurance which shall name the applicable railroad(s) as first Insured and the University as an Additional Insured with limits of not less than \$2,000,000 per occurrence and \$6,000,000 annual aggregate or such other limits as may be required by the railroad(s), whichever are higher, and written on a combined bodily injury/property damage basis including coverage for physical damage to the railroad's property.
- B. DURATION. The Contractor shall carry all required insurance until all contract work is accepted by the University, and shall carry the required General Liability; and any required Professional Liability for five (5) years following final acceptance of the work performed under this contract.
- C. LIABILITY. These are the required minimum insurance requirements established by the University. HOWEVER, THE REQUIRED MINIMUM INSURANCE REQUIREMENTS PROVIDED ABOVE, WILL NOT IN ANY WAY LIMIT THE CONTRACTOR'S

LIABILITY UNDER THIS CONTRACT.

- D. **CONTRACTOR’S PROPERTY.** Contractor and subcontractors are solely responsible for any loss or damage to their personal property, including but not limited to tools and equipment, scaffolding and temporary structures, rented machinery, or owned and leased equipment. A waiver of subrogation shall apply in favor of the University.
- E. **MEASURE OF PAYMENT.** The University shall not make any separate measure or payment for the cost of insurance and bonds. The Contractor shall include all of the costs of insurance and bonds in the contract price.
- F. **NOTIFICATION.** The Contractor shall immediately provide the Contracting Officer with written notice in the event that its insurance coverage has or will be substantially changed, canceled or not renewed, and provide an updated certificate of insurance to the Contracting Officer.
- G. **CERTIFICATES OF INSURANCE.** The Contractor shall submit certificates of insurance giving evidence of the required coverage as specified in this Insurance Section prior to commencing work. Evidence of insurance shall be submitted to:

Sherry Jones-Quashie
Director
Capital Procurement Division
4200 Connecticut Avenue, NW
Washington, DC 20008
Phone: (202) 274-5752
sjones-quashie@udc.edu

The insurance must contain language that includes:

- 1) University of the District of Columbia, Capital Procurement Division, to (Caption of specific Task Order).
- 2) Additional Insured Endorsement naming the University of the District of Columbia as additional insured with respect to work or services performed under the contract.
- 3) Primary and Noncontributory Coverage –
 - (a) “A Contractor’s insurance policy shall be primary and noncontributory; and”
 - (b) “No other insurance from any other entity shall apply before the Contractor’s insurance coverage and limits of liability are exhausted. “
- 4) Waiver of Subrogation Endorsement – “a. the policy shall contain a waiver of subrogation endorsement in favor of the District for all claims made against the District, its officers, directs, agents, and employees, except with respect to Workers’ Compensation and Professional Liability”.

I.6 DISCRIMINATION CLAUSES:

I.6.1 Anti-Discrimination Clause:

The Contractor:

- I.6.1.1** Shall not discriminate in any manner against any employee or applicant for employment in violation of Section 211 of the University Human Rights Act (DC Law 2-38; DC Official Code Section 2-1402.11);
- I.6.1.2** Shall include a similar clause in every subcontract, except subcontracts for standard commercial supplies or raw materials;
- I.6.1.3** Shall, along with all subcontractors, post in a conspicuous place available to employees and applicants for employment, a notice setting forth the provisions of the anti-discrimination clause set out in Section 251 of the University of Columbia Human Rights Act (DC Official Code Section 2-1402.51).

I.6.2 Non-Discrimination Clause:

- I.6.2.1** The Contractor shall not discriminate in any manner against any employee or applicant for employment that would constitute a violation of the University Human Rights Act, approved December 13, 1977, as amended (D.C. Law 2-38; D.C. Official Code §2-1402.11) (2001 Ed.) (“Act” as used in this Section). The Contractor shall include a similar clause in all subcontracts, except subcontracts for standard commercial supplies or raw materials. In addition, Contractor agrees and any subcontractor shall agree to post in conspicuous places, available to employees and applicants for employment, notice setting forth the provisions of this non-discrimination clause as provided in Section 251 of the Act.
- I.6.2.2** Pursuant to rules of the Office of Human Rights, published on August 15, 1986 in the D.C. Register and Mayor’s Order 2002-175 (10/23/02), 49 DCR 9883, the following clauses apply to this contract:
 - I.6.2.2.1** The Contractor shall not discriminate against any employee or applicant for employment because of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, familial status, family responsibilities, disability, matriculation, political affiliation, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination which is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act.
 - I.6.2.2.2** The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, familial status, family responsibilities, disability, matriculation, political affiliation, source of income, or place of residence or business.

The affirmative action shall include, but not be limited to the following:

- (a) employment, upgrading or transfer;
- (b) recruitment, or recruitment advertising;
- (c) demotion, layoff, or termination;
- (d) rates of pay, or other forms of compensation; and
- (e) selection for training and apprenticeship.

- I.6.2.2.3** The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Agency, setting forth the provisions in subsections **I.6.2.2.1** and **I.6.2.2.2** concerning non-discrimination and affirmative action.
- I.6.2.2.4** The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment pursuant to the non-discrimination requirements set forth in subsection **I.6.2.2.2**.
- I.6.2.2.5** The Contractor agrees to send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the contracting agency, advising the said labor union or workers' representative of that Contractor's commitments under this nondiscrimination clause and the Act, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- I.6.2.2.6** The Contractor agrees to permit access to his books, records and accounts pertaining to its employment practices, by the Chief Procurement Officer or designee, or the Director of Human Rights or designee, for purposes of investigation to ascertain compliance with this chapter, and to require under terms of any subcontractor agreement each subcontractor to permit access of such subcontractors' books, records, and accounts for such purposes.
- I.6.2.2.7** The Contractor agrees to comply with the provisions of this chapter and with all guidelines for equal employment opportunity applicable in the University adopted by the Director of the Office of Human Rights, or any authorized official.
- I.6.2.2.8** The Contractor shall include in every subcontract the equal opportunity clauses, subsections **I.6.2.2.1** through **I.6.2.2.9** of this section, so that such provisions shall be binding upon each subcontractor or vendor.
- I.6.2.2.9** The Contractor shall take such action with respect to any subcontract as the CO may direct as a means of enforcing these provisions, including sanctions for noncompliance; provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Contractor may request the University to enter into such litigation to protect the interest of the University.

I.7 CONTRACTS IN EXCESS OF \$1 MILLION:

Any contract in excess of \$1,000,000.00 shall not be binding or give rise or any claim or demand against the University until approved by the D.C. Council, and signed by the CO.

I.8 DISPUTES:

I.8.1 All disputes arising under or relating to this contract shall be resolved as provided herein.

I.8.2 Claims by a Contractor against the University

Claim, as used in this clause, means a written assertion by the Contractor seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant.

I.8.2.1 All claims by a Contractor against the University arising under or relating to a contract shall be in writing and shall be submitted to the CO for a decision. The Contractor's claim shall contain at least the following:

I.8.2.1.1 A description of the claim and the amount in dispute;

I.8.2.1.2 Any data or other information in support of the claim;

I.8.2.1.3 A brief description of the Contractor's efforts to resolve the dispute prior to filing the claim; and

I.8.2.1.4 The Contractor's request for relief or other action by the CO.

I.8.2.2 The CO may meet with the Contractor in a further attempt to resolve the claim by agreement.

I.8.2.3 For any claim of \$50,000.00 or less, the CO shall issue a decision within sixty (60) calendar days from receipt of a written request from a Contractor that a decision is rendered within that period.

I.8.2.4 For any claim over \$50,000.00, the CO shall issue a decision within ninety (90) calendar days of receipt of the claim. Whenever possible, the CO shall take into account factors such as the size and complexity of the claim and the adequacy of the information in support of the claim provided by the Contractor.

I.8.2.5 The CO's written decision shall do the following:

I.8.2.5.1 Provide a description of the claim or dispute;

I.8.2.5.2 Refer to the pertinent contract terms;

I.8.2.5.3 State the factual areas of agreement and disagreement;

I.8.2.5.4 State the reasons for the decision, including any specific findings of fact, although specific findings of fact are not required and, if made, shall not be binding in any subsequent proceeding;

- I.8.2.5.5** If all or any part of the claim is determined to be valid, determine the amount of monetary settlement, the contract adjustment to be made, or other relief to be granted;
- I.8.2.5.6** Indicate that the written document is the CO's final decision; and
- I.8.2.5.7** Inform the Contractor of the right to seek further redress by appealing the decision to the Contract Appeals Board.
- I.8.2.6** Any failure by the CO to issue a decision on a contract claim within the required time period will be deemed to be a denial of the claim, and will authorize the commencement of an appeal to the Contract Appeals Board as authorized by D.C. Official Code § 2-309.04.
 - I.8.2.6.1** If a Contractor is unable to support any part of his or her claim and it is determined that the inability is attributable to a material misrepresentation of fact or fraud on the part of the Contractor, the Contractor shall be liable to the University for an amount equal to the unsupported part of the claim in addition to all costs to the University attributable to the cost of reviewing that part of the Contractor's claim.
 - I.8.2.6.2** Liability under Paragraph I.8.2.6.1 shall be determined within six (6) years of the commission of the misrepresentation of fact or fraud.
- I.8.2.7** The decision of the CO shall be final and not subject to review unless an administrative appeal or action for judicial review is timely commenced by the Contractor as authorized by D.C. Official Code § 2-309.04.
- I.8.2.8** Pending final decision of an appeal, action, or final settlement, a Contractor shall proceed diligently with performance of the contract in accordance with the decision of the CO.
- I.8.3** Claims by the University against a Contractor
 - I.8.3.1** Claim as used in Paragraph I.8.3 of this clause, means a written demand or written assertion by the University seeking, as a matter of right, the payment of money in a sum certain, the adjustment of contract terms, or other relief arising under or relating to this contract. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant.
 - I.8.3.2** The CO shall decide all claims by the University against a Contractor arising under or relating to a contract.
 - I.8.3.2.1** The CO shall send written notice of the claim to the Contractor. The CO's written decision shall do the following:
 - I.8.3.2.1.1** Provide a description of the claim or dispute;
 - I.8.3.2.1.2** Refer to the pertinent contract terms;
 - I.8.3.2.1.3** State the factual areas of agreement and disagreement;

- I.8.3.2.1.4** State the reasons for the decision, including any specific findings of fact, although specific findings of fact are not required and, if made, shall not be binding in any subsequent proceeding;
- I.8.3.2.1.5** If all or any part of the claim is determined to be valid, determine the amount of monetary settlement, the contract adjustment to be made, or other relief to be granted;
- I.8.3.2.1.6** Indicate that the written document is the CO's final decision; and
- I.8.3.2.1.7** Inform the Contractor of the right to seek further redress by appealing the decision to the Contract Appeals Board.
- I.8.3.3** The decision shall be supported by reasons and shall inform the Contractor of his or her rights as provided herein.
- I.8.3.4** The authority contained in this clause shall not apply to a claim or dispute for penalties or forfeitures prescribed by statute or regulation which another District agency is specifically authorized to administer, settle, or determine.
- I.8.3.5** This clause shall not authorize the CO to settle, compromise, pay, or otherwise adjust any claim involving fraud.
- I.8.4** The decision of the CO shall be final and not subject to review unless an administrative appeal or action for judicial review is timely commenced by the University as authorized by D.C. Official Code §2-309.04.
- I.8.5** Pending final decision of an appeal, action, or final settlement, the Contractor shall proceed diligently with performance of the contract in accordance with the decision of the CO.

I.9 CONFIDENTIALITY OF INFORMATION:

The Contractor shall keep all the information obtained relating to any employee or customer of the University in absolute confidence, and shall not use it in connection with any other matters, or disclose it to any other person, firm, or corporation, in accordance with the District and Federal laws governing the confidentiality of records.

I.10 TIME:

Time or performance period, if stated in number of days, shall mean calendar days which includes Saturdays, Sundays, and holidays, unless stated otherwise therein.

I.11 OTHER CONTRACTORS:

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

I.12 INCORPORATION AND ORDER OF PRECEDENCE:

Contracts: The following documents are incorporated herein by reference and in case of any discrepancy the following Order of Precedence shall apply: (1) Schedule for Construction, Alterations, Repairs, Price (Section B); (2) Scope/Specifications/ Drawings (Section C); (3) Special Contract Requirements (Section H); (4) Contract Clauses (Section I); and (5) Government of the District of Columbia Standard Contract Provisions For Use With Specifications for District of Columbia Government Construction Projects, March 2011 (Attachment J.1.1), (6) Subcontracting Plan (Attachment J.1.4), (7) General Decision No. DC130002 dated 05/10/2013 (Attachment J.1.2), (8) The Living Wage Act Notice and Fact Sheet (Attachment J.1.3), (9) Certifications and Representation (Section K), (10) Contractor's Offer, and (11) First Source Employment Agreement (Attachment J.2.2).

TOs: Unless the University otherwise provides in a TO, a revised Order of Precedence and list of Incorporated Documents, the following documents are incorporated by reference in each TO issued hereunder. In case of any discrepancy the following Order of Precedence shall apply: (1) Supplies or Services and Price/Cost Section (Section B); (2) Scope/Specifications (in TO or TO Attachments); (3) Special TO Requirements (See TO); (4) Contract Clauses (Section I); (5) US-DOL Wage Determination Rates (Contract and TO and/or TO Attachment); and (6) Government of the District of Columbia Standard Contract Provisions For Use With Specifications for District of Columbia Government Construction Projects, March 2011 (Attachment J.1.1); and (7) Attachments J.1.2, J.1.3, and J.1.4.

I.13 AUDITS, RECORDS, AND RECORD RETENTION:

I.13.1 At any time or times before final payment and three (3) years thereafter, the CO may have the Contractor's invoices or vouchers and statements of cost audited. Any payment may be reduced by amounts found by the CO not to constitute allowable costs as adjusted for prior overpayment or underpayment. In the event that all payments have been made to the Contractor by the University and an overpayment is found, the Contractor shall reimburse the University for said overpayment within thirty (30) days after written notification.

I.13.2 The Contractor shall establish and maintain books, records, and documents (including electronic storage media) in accordance with generally accepted accounting principles and practices which sufficiently and properly reflect all revenues and expenditures of funds provided by the University under the contract that results from this solicitation.

I.13.3 The Contractor shall retain all records, financial records, supporting documents, statistical records, and any other documents (including electronic storage media) pertinent to the contract for a period of five (5) years after termination of the contract, or if an audit has been initiated and audit findings have not been resolved at the end of five (5) years, the records shall be retained until resolution of the audit findings or any litigation which may be based on the terms of the contract.

- I.13.4** The Contractor shall assure that these records shall be subject at all reasonable times to inspection, review, or audit by Federal, University, or other personnel duly authorized by the CO.
- I.13.5** Persons duly authorized by the CO shall have full access to and the right to examine any of the Contractor's contract and related records and documents, regardless of the form in which kept, at all reasonable times for as long as records are retained.
- I.13.6** The Contractor shall include these aforementioned audit and record keeping requirements in all approved subcontracts and assignments.
- I.13.7** In the event of a conflict between Article 28 of the General Provisions of the Standard Contract Provisions for Construction Projects, March 2011, and the provisions of this clause, the Standard Contract Provisions shall prevail.

I.14 PUBLICITY:

The Contractor shall at all times obtain the prior written approval from the CO before the Contractor, any of its officers, agents, employees or subcontractor, either during or after expiration or termination of the contract, make any statement, or issue any material, for publication through any medium of communication, bearing on the work performed or data collected under this contract.

I.15 FREEDOM OF INFORMATION ACT:

The District's Freedom of Information Act, at D.C. Official Code § 2-532 (a-3), requires the University to make available for inspection and copying any record produced or collected pursuant to a University contract with a private Contractor to perform a public function, to the same extent as if the record were maintained by the agency on whose behalf the contract is made. If the Contractor receives a request for such information, the Contractor shall immediately send the request to the CA designated in subsection G.7 who will provide the request to the FOIA Officer for the agency with programmatic responsibility in accordance with the D.C. Freedom of Information Act. If the agency with programmatic responsibility receives a request for a record maintained by the Contractor pursuant to the contract, the CA will forward a copy to the Contractor. In either event, the Contractor is required by law to provide all responsive records to the CA within the timeframe designated by the CA. The FOIA Officer for the agency with programmatic responsibility will determine the reliability of the records. The University will reimburse the Contractor for the costs of searching and copying the records in accordance with D.C. Official Code § 2-532 and Chapter 4 of Title 1 of the *D.C. Municipal Regulations*.

I.16 AMERICANS WITH DISABILITIES ACT OF 1990 (ADA):

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

I.17 SECTION 504 OF THE REHABILITATION ACT OF 1973, AS AMENDED:

During the performance of the contract, the Contractor and any of its subcontractors shall comply with Section 504 of the Rehabilitation Act of 1973, as amended. This Act prohibits discrimination against disabled people in federally funded program and activities. See 29 U.S.C. 794 (1983) et seq.

I.18 ENVIRONMENTALLY PREFERABLE PAINT PRODUCTS:**I.18.1 Environmentally Preferable Products Goals**

I.18.1.1 The University is seeking Contractors to provide environmentally preferable and effective paint products that support the University's environmentally preferable purchasing (EPP) contracting initiative.

I.18.1.2 Environmentally preferable products are products and services that have a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. This comparison considers the life cycle of the product from raw material acquisition, production, manufacturing, packaging, distribution, re-use, operation, maintenance and disposal.

I.18.2 Paint Environmental Requirements

I.18.2.1 The requirements and restrictions contained in this clause shall apply to all architectural and anti-corrosive paints used during the course of this contract.

I.18.2.2 Due to the documented health risks associated with high Volatile Organic Compound (VOCs) levels, the Contractor shall use only paint and paint products that do not exceed the maximum allowable VOC content in the table below for each type of paint:

Product Type	Type of Paint	VOCs (grams/liter)	VOCs (pounds/gallon)
Category I	Interior		
	Architectural		
	a. Flat	50 g/l	0.42 lb/gal
	b. Non-Flat	150 g/l	1.25 lb/gal
Category II	Exterior		
	Architectural		
	a. Flat	100 g/l	0.83 lb/gal
	b. Non-Flat	200 g/l	1.66 lb/gal
Category III	Anticorrosive		
	a. Flat	250 g/l	2.1 lb/gal
	b. Semi-Gloss	250 g/l	2.1 lb/gal
	c. Gloss	250 g/l	2.1 lb/gal

I.18.3 Prohibited Paint Components

I.18.3.1 Paints often contain inorganic and organo-metallic components used as preservatives, additives and pigments. The following is a list of organic compounds and components prohibited under this contract:

1,1,1 Trichloroethane	Formaldehyde
1,2 Dichlorobenzene	Hexavalent chromium
Acrolein	Isophorone
Acrylonitrile	Lead
Antimony	Mercury
Benzene	Methylene chloride
Butyl benzyl phthalate	Methyl ethyl ketone
Cadmium	Methyl isobutyl ketone
Di (2-ethylhexyl) phthalate	Naphthalene
Dimethyl phthalate	Toluene (Methylbenzene)
Di-n-butyl phthalate	Vinyl Chloride
Ethylbenzene	

I.18.4 Packaging

I.18.4.1 Paint cans and their components shall not be fabricated with lead.

I.18.5 Product Safety

I.18.5.1 A Contractor shall be responsible for:

- (a) Any damage to personnel, buildings, furniture or equipment directly traceable to their use of prohibited paint.
- (b) Evacuating and warning individuals that might be affected by any spills or leakages directly traceable to their use of prohibited paint.
- (c) Any spills or leaks that occur during the use or transportation of their products.
- (d) Paying the cleanup cost for any spills or leaks that occur while they are unloading, transporting or otherwise using their products.

I.19 ENVIRONMENTALLY PREFERABLE SOLVENT PRODUCTS:

I.19.1 Environmentally Preferable Products Goals

I.19.1.1 The University is seeking Contractors to provide environmentally preferable and effective solvent products that support the District's environmentally preferable purchasing (EPP) contracting initiative.

I.19.1.2 Environmentally preferable products are products and services that have a lesser or reduced effect on human health and the environment when compared with competing products or

services that serve the same purpose. This comparison considers the life cycle of the product from raw material

I.19.2 Environmentally Preferable Solvent Products

I.19.2.1 Solvents are fluids or a mixture of fluids capable of dissolving substances to produce compositions for industrial value.

I.19.2.2 Solvent products subject to the requirements of this clause include, but are not limited to, the following classes:

- (a) **Alcohols.** Alcohols are solvents that dissolve substances such as shellacs, vinyls, acrylics, epoxies and silicones.
- (b) **Aliphatic Hydrocarbons.** Aliphatic hydrocarbons are solvents often found in coatings and insecticides. Commonly used as degreasers and solvents for acrylics and epoxies. Common aliphatics include mineral spirits, paint thinner, petroleum distillates, VM&P Naphtha, kerosene, gasoline and heptane (all of which are extremely flammable).
- (c) **Aromatic Hydrocarbons.** Aromatic hydrocarbons are substances used in printing, fiberglass-reinforced products, glues and veneers. Common aromatics include toluene (toluol), xylene (xylol), coal-tar naphtha, styrene and benzene.
- (d) **Chlorinated Hydrocarbons.** Chlorinated hydrocarbons are commonly used degreasers, dry cleaning agents, rubber solvents and paint strippers found in coatings, resins and tars. Common chemicals in this class include perchloroethylene, methylene chloride, carbon tetrachloride, methyl chloroform and trichloroethylene.
- (e) **Glycols.** Glycols, which are water-soluble solvents used as lubricants, are found in cosmetics, coatings, resins and dyes. Glycol ethers include butyl cellusolve (2-butoxyethanol), cellusolve (2-ethoxyethanol), methyl cellusolve (2-methoxyethanol), and cellusolve acetate (2-ethoxyethyl acetate). Most common glycol ethers are combustible.
- (f) **Esters.** Esters have differing chemical properties depending on their use including methyl formate, ethyl acetate, isopropyl acetate, methyl acetate, secamylacetate, and isoamyl acetate (banana oil).
- (g) **Ethers.** Ethers are ingredients in dyes, resins, waxes, cellulose nitrate and fuels, including ethyl ether, tetrahydrofuran, dioxane and isopropyl ether.
- (h) **Ketones.** Ketones are solvents for dyes, resin and waxes that are used to manufacture plastics, synthetic fibers, explosives, cosmetics and medicines. Some examples of ketones include acetone, methyl ethyl ketone, cyclohexanon and isophorone.
- (i) **Other Solvents.** Other types of solvents include freon, turpentine, dimethylformamide and carbon disulfide.

I.19.3 Solvent Environmental Requirements - The Contractor shall avoid the following hazards when using solvent products during the performance of this contract:**I.19.3.1 Health Hazards**

- (a) Bodily Contact – The Contractor shall not use solvent products that irritate or harm the skin, eyes, nose and throat from direct contact with the solvents;
- (b) Inhalation – The Contractor shall not use solvent products that when inhaled causes headaches, nausea, vomiting and dizziness from contact with the solvents; and,
- (c) Ingestion – The Contractor shall not use solvent products that if ingested or exposed to for a period of time cause damage to the brain, liver, kidney, respiratory system and nervous systems.

I.19.3.2 Physical Hazards

- (a) Flammable materials are substances that will easily ignite, burn and serve as fuel for a fire. The flash point is the lowest temperature at which a liquid gives off enough vapors which, when mixed with air, can be easily ignited by a spark. The lower the flash point, the greater the risk of fire or explosion.
- (b) The Contractor shall not use solvent products that are a potential fire hazard or have a low flash point. A solvent is flammable and a serious fire hazard if its flash point is below 37.8C (100F).

I.19.4 Prohibited Solvents**I.19.4.1** The following solvent products are recognized by the National Institute for Occupational Safety and Health (NIOSH) as carcinogens, ozone-depleting solvents or as reproductive hazards in the workplace and shall not be used:

Benzene	Carbon tetrachloride
Trichloroethylene	1,1,2,2-tetrachloroethane
2-methoxyethanol	2-ethoxyethanol
Methylchloride	Trichlorotrifluoroethane
Chlorinated Fluorocarbon Compounds	

I.19.5 Packaging Reduced/Recyclable**I.19.5.1** If possible, the Contractor shall use products that are in reusable, refillable, or recyclable containers or are otherwise made from recycled content products.**I.19.5.2** No products shall be delivered in aerosol cans.**I.19.5.3** All products must be available in non-aerosol containers such as ready-to-use pump action sprays, air-charged refillable containers, or spray bottles.**I.19.6 Product Safety**

I.19.6.1 The Contractor shall be responsible for:

- (a) Any damage to personnel, buildings, furniture or equipment directly traceable to their use or transportation of prohibited products.
- (b) Any spills or leaks that occur during the use or transportation of their products.
- (c) Evacuating and warning individuals that might be affected by any spills or leaks that occur when their products are being used or transported.
- (d) Paying the cleanup cost for any spills or leaks that occur while they are using or transporting their products.

I.20 PROJECT PROGRESS/COORDINATION MEETINGS:

The Contractor is required to perform the following activities:

- A. General: Prepare and distribute to each subcontracting entity performing work at the project site, a written memorandum of instructions on required coordination activities, including required notices, reports and attendance at meetings. Prepare similar memorandum for Contractors performing work where interfacing of work is required.
- B. Bi-weekly Progress Meetings: In addition to specific pre-installation and coordination meetings for each element of work, hold bi-weekly progress meetings at regularly scheduled times which are convenient for everyone involved. Conduct meetings in a manner which will resolve any project problems, both present and anticipated. Record the meeting minutes and distribute copies to all persons in attendance and to others affected by decisions or actions resulting from each meeting. The meeting minutes shall be distributed in five (5) business days from the conclusion of the meeting and all corrections shall be made and the minutes re-distributed before the next meeting convenes.

I.21 LIVING WAGE ACT OF 2006:

The Living Wage Act of 2006 is Title I of the "Way To Work Amendment Act of 2006", DC Law 16-118, effective June 8, 2006. The Living Wage Act is codified at DC Official Code §§2-220.01 through 11. Living wage act can be found at: www.ocp.dc.gov.

I.21.1 WAY TO WORK AMENDMENT ACT OF 2006

I.21.1.1 Except as described in I.21.1.8 below, the Contractor shall comply with Title I of the Way to Work Amendment Act of 2006, effective June 9, 2006 (D.C. Law 16-118, D.C. official Code §2-220.01 *et seq.*) ("Living Wage Act of 2006"), for contracts for services in the amount of \$100,000 or more in a 12-month period.

I.21.1.2 The Contractor shall pay its employees and subcontractors who perform services under the contract no less than the current living wage published on the OCP website at www.ocp.dc.gov.

- I.21.1.3** The Contractor shall include in any subcontract for \$15,000 or more a provision requiring the subcontractor to pay its employees who perform services under the contract no less than the current living wage rate.
- I.21.1.4** The Department of Employment Services may adjust the living wage annually and the OCP will publish the current living wage rate on its website at www.ocp.dc.gov.
- I.21.1.5** The Contractor shall provide a copy of the Fact Sheet attached as J.1.5 to each employee and subcontractor who performs services under the contract. The Contractor shall also post the Notice attached as J.1.5 in a conspicuous place in its place of business. The Contractor shall include in any subcontract for \$15,000 or more a provision requiring the subcontractor to post the Notice in a conspicuous place in its place of business.
- I.21.1.6** The Contractor shall maintain its payroll records under the contract in the regular course of business for a period of at least three (3) years from the payroll date, and shall include this requirement in its subcontracts for \$15,000 or more under the contract.
- I.21.1.7** The payment of wages required under the Living Wage Act of 2006 shall be consistent with and subject to the provisions of D.C. Official Code §32-1301 *et seq.*
- I.21.1.8** The requirements of the Living Wage Act of 2006 do not apply to:
- (1) Contracts or other agreements that are subject to higher wage level determinations required by federal law;
 - (2) Existing and future collective bargaining agreements, provided, that the future collective bargaining agreement results in the employee being paid no less than the established living wage;
 - (3) Contracts for electricity, telephone, water, sewer or other services provided by a regulated utility;
 - (4) Contracts for services needed immediately to prevent or respond to a disaster or eminent threat to public health or safety declared by the Mayor;
 - (5) Contracts or other agreements that provide trainees with additional services including, but not limited to, case management and job readiness services; provided that the trainees do not replace employees subject to the Living Wage Act of 2006;
 - (6) An employee under 22 years of age employed during a school vacation period, or enrolled as a full-time student, as defined by the respective institution, who is in high school or at an accredited institution of higher education and who works less than 25 hours per week; provided that he or she does not replace employees subject to the Living Wage Act of 2006;
 - (7) Tenants or retail establishments that occupy property constructed or improved by receipt of government assistance from the District of Columbia; provided, that the tenant or retail establishment did not receive direct government assistance from the District;
 - (8) Employees of nonprofit organizations that employ not more than 50 individuals and qualify for taxation exemption pursuant to section 501(c)(3) of the Internal Revenue Code of 1954, approved August 16, 1954 (68A Stat. 163; 26 U.S.C. § 501(c)(3));
 - (9) Medicaid provider agreements for direct care services to Medicaid recipients, provided, that the direct care service is not provided through a home care agency, a community residence facility, or a group home for mentally retarded persons as those terms are

defined in section 2 of the Health-Care and Community Residence Facility, Hospice, and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code § 44-501); and

- (10) Contracts or other agreements between managed care organizations and the Health Care Safety Net Administration or the Medicaid Assistance Administration to provide health services.

I.21.1.9 The Mayor may exempt a Contractor from the requirements of the Living Wage Act of 2006, subject to the approval of Council, in accordance with the provisions of Section 109 of the Living Wage Act of 2006.

PART III

SECTION J: LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACHMENTS

J.1 LIST OF ATTACHMENTS

- J.1.1 Government of the District of Columbia Standard Contract Provisions For Use With Specifications for District of Columbia Government Construction Projects, March 2011
- J.1.2 General Decision No. DC130002 dated 05/10/2013
- J.1.3 The Living Wage Act Notice and Fact Sheet
- J.1.4 Subcontracting Plan Form (This form shall be submitted with each RFTOP)

J.2 The following forms must be completed by the Offeror and submitted with its proposal:

- J.2.1 Contractor Performance Evaluation form – must be included in the Technical Proposal

Offerors shall complete and incorporate in their price proposal package the following forms located at www.udc.edu.

- J.2.2 First Source Employment Agreement
- J.2.3 E.E.O. Information and Mayor's Order 85-85
- J.2.4 Tax Certification Affidavit

PART IV

**SECTION K - CERTIFICATIONS, REPRESENTATIONS AND OTHER
STATEMENTS OF OFFERORS**

- K.1** Certification of Eligibility
- K.2** Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction
- K.3** Payment to Subcontractor and Suppliers Certification
- K.4** Certification of Independent Price Determination
- K.5** Employment Agreement
- K.6** Certification under “Buy American Act” (applicable to purchase of material and equipment)
- K.7** Certification as to Type of Business Organization

NOTE: All of the documents above must be filled out completely, signed and submitted along with your proposal.

K.1**CERTIFICATION OF ELIGIBILITY**

_____, being duly sworn (or
 (President or Authorized Official of Offeror)
 under penalty of perjury under the laws of the United States), certifies that, except as noted below, (the
 Company) or any person associated therewith in the capacity of (owner, partner, director, officer, principal
 investigator, project director, manager, auditor, or any position involving the administration of federal
 funds):

is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility under
 any Federal, District or State statutes;

has not been suspended, debarred, voluntarily excluded or determined ineligible by an Federal, District or
 state agency within the past three (3) years;

Does not have a proposed debarment pending; and

has not been indicted, convicted, or had a civil judgment rendered against (it) by a court of competent
 jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.

Exceptions will not necessarily result in denial of award, but will be considered in determining acceptability
 of offeror. For any exception noted, indicate below to whom it applies, initiating agency, and dates of
 action. Providing false information may result in criminal prosecution or administrative sanctions.

 Contractor

 President or Authorized Official

 Date

 Title

The penalties for making false statements are prescribed in the Program Fraud Civil Remedies Act of 1986
 (Public Law 99-509, 31 U.S.C. 3801-3812).

Subscribed and sworn before me this _____ day of _____

At _____
 City and State

 Notary Seal

 Notary Public

K.2**CERTIFICATION REGARDING DEBARMENT
SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION
LOWER TIER COVERED TRANSACTION**

_____, being duly sworn (or
(President or Authorized Official of Offeror)

under penalty of perjury under the laws of the United States), certifies that, except as noted below, (the Company) or any person associated therewith in the capacity of (owner, partner, director, officer, principal investigator, project director, manager, auditor, or any position involving the administration of federal funds):

is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility under any Federal, District or State statutes;

has not been suspended, debarred, voluntarily excluded or determined ineligible by an Federal, District or state agency within the past three (3) years;

Does not have a proposed debarment pending; and

has not been indicted, convicted, or had a civil judgment rendered against (it) by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.

Exceptions will not necessarily result in denial of award, but will be considered in determining acceptability of offeror. For any exception noted, indicate below to whom it applies, initiating agency, and dates of action. Providing false information may result in criminal prosecution or administrative sanctions.

Contractor

President or Authorized Official

Date

Title

The penalties for making false statements are prescribed in the Program Fraud Civil Remedies Act of 1986 (Public Law 99-509, 31 U.S.C. 3801-3812).

Subscribed and sworn before me this _day _____

At _____
City and State

Notary Seal

Notary Public

K.3

PAYMENT TO SUBCONTRACTOR AND SUPPLIERS CERTIFICATE

The Contractor, prior to receiving a progress payment, shall submit to the CA, certification that the Contractor has made and will make timely payments to his/her subcontractor and suppliers per his/her contractual arrangements with them.

The certification must be accompanied by a list of all subcontractors and suppliers who will receive payment from the invoice and the dollar amount. Payment will not be made until the Prime Contractor submits this information.

Certification shall be made on the following standard form.

Sherry Jones-Quashie
Director
Capital Procurement Division
4200 Connecticut Avenue, NW
Washington, DC 20008
Phone: (202) 274-5752

I hereby certify:

I have made and/or will make timely payments to all my subcontractors and suppliers per my contractual arrangements with them.

Contractor/Company Name

Signature of Official

Date

Title

K.4**CERTIFICATION OF INDEPENDENT PRICE DETERMINATION**

- A. Each signature of the Offeror is considered to be a certification by the signatory that:
- (a) The prices in this Proposal have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any Offeror or competitor relating to:
 - (i) those prices
 - (ii) the intention to submit a Proposal, or
 - (iii) the methods or factors used to calculate the prices in the Proposal;
 - (b) The prices in this Contract have not been and will not be knowingly disclosed by the Offeror, directly, to any other Offeror or competitor before Contract opening unless otherwise required by law; and
 - (c) No attempt has been made or will be made by the Offeror to induce any other concern to submit or not to submit a Proposal for the purpose of restricting competition.
- B. Each signature on the Proposal is considered to be a certification by the signatory that the signatory;
- (a) Is the person in the Offeror's organization responsible for determining the prices being offered in this Proposal, and that the signatory has not participated and will not participate in any action contrary to subparagraphs A(a) through A(c) above; or
 - (b) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs A(a) through A(c) above:
-
- (Insert full name of person(s) in the organization responsible for determining the prices offered in the Contract and the title of his or her position in the Offeror's organization);
- As an authorized agent, does certify that the principals named in subsection B(b) above have not participated, and will not participate, in any contrary to subparagraphs A(a) through A(c) above; and
- As an agent, has not participated, and will not participate, in any action contrary to subparagraphs A(a) through A(c) above.
- C. If the Offeror deletes or modifies subparagraph A(b) above, the Offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

K.5

EMPLOYMENT AGREEMENT

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

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

The Contractor shall negotiate an Employment Agreement with the DOES for jobs created as a result of this contract. The DOES shall be the Contractor's first source of referral for qualified apprentices and trainees in the implementation of employment goals contained in this clause.

Date

Authorized Signature

K.6

BUY AMERICAN CERTIFICATION

The Offeror hereby certifies that each end product, except the end products listed below, is a domestic end product, and that components of unknown origin are considered to have been mined, produced, or manufactured outside the United States.

_____EXCLUDED END PRODUCTS

_____COUNTRY OF ORIGIN

K.7

TYPE OF BUSINESS ORGANIZATION

The Offeror, by checking the applicable box, represents that

(1) It operates as:

a corporation incorporated under the laws of the State of _____
an individual,
a partnership,
a nonprofit organization, or
a joint venture; or

(2) If the Offeror is a foreign entity, it operates as:

an individual,
a joint venture, or
a corporation registered for business in _____
(Country)

PART IV

SECTION L - INSTRUCTIONS, CONDITIONS AND NOTICES TO OFFERORS

L.1 CONTRACT AWARD:

- L.1.1** From this solicitation, the University intends to award up to five (5) ID/IQ contracts to responsible Offeror(s) whose offer conforming to the solicitation will be most advantageous to the University, cost or price, technical and other factors, specified elsewhere in this solicitation considered.

L.1.2 Initial Offers

The University may award multiple contracts on the basis of initial offers received, without discussion. Therefore, each initial offer should contain the Offeror's best terms from a standpoint of cost or price, technical and other factors.

L.2 BEST AND FINAL OFFERS:

If, subsequent to receiving original proposals, negotiations are conducted, all Offerors within the competitive range will be notified and will be provided an opportunity to submit written best and final offers at the designated date and time. After receipt of best and final offers, no discussions will be reopened unless the CO determines that it is clearly in the University's best interest to do so, e.g., it is clear that information available at that time is inadequate to reasonably justify Offeror selection and award based on the best and final offers received. If discussions are reopened, the CO shall issue an additional request for best and final offers to all Offerors still within the competitive range.

L.3 PRE-PROPOSAL CONFERENCE:

- L.3.1** A pre-proposal conference to discuss the contents of this solicitation and other pertinent matters will be held on **Thursday, May 23, 2013, at 1:00 p.m. (EST)**, at the following location:

***University of the District of Columbia
4200 Connecticut Avenue, NW
Large Board Room, 3rd Floor, Building 39
Washington, DC 20008***

- L.3.2** Prospective Offerors will be given an opportunity to ask questions regarding this solicitation at the conference. The purpose of the conference is to provide a structured and formal opportunity for the University to accept questions from Offerors on the solicitation document as well as to clarify the contents of the solicitation. Attending Offerors must complete the Pre-Proposal Conference Sign-In Sheet so that conference attendance can be properly recorded.
- L.3.3** Impromptu questions will be permitted and spontaneous answers will be provided at the University's discretion. Verbal answers given at the pre-proposal conference are only intended for general discussion and do not represent the University's final position. All oral questions

must be submitted in writing following the close of the pre-proposal conference but no later than ten (10) calendar days before the proposal's due date in order to generate an official answer. Official answers will be provided in writing to all prospective Offerors who are listed on the Pre-Proposal Conference Sign-In Sheet. Answers will also be posted on the UDC website at www.udc.edu.

L.4 PREPARATION AND SUBMISSION OF OFFER:

L.4.1 One original and five (5) copies of the written proposals shall be submitted in two separate parts, titled "Technical Proposal" and "Price Proposal". Proposals shall be typewritten in 12 point font size on 8.5" by 11" bond paper. Telephonic, telegraphic, and facsimile proposals will not be accepted. All items accepted by the University, all pages of the RFP, all attachments and all documents containing the Offeror's offer shall constitute the formal contract.

L.4.1.2 Part I – Technical Proposal

The technical proposal must contain sufficient detail to provide a clear and concise response fully reflecting the manner in which the Offeror proposes to fully meet the requirements in Section C. The Offeror shall respond to each factor listed in Section L.4.6 in a way that will allow the University to evaluate the Offeror's response. Do not include price or pricing information in the Technical Proposal.

L.4.1.3 Part II – Price Proposal

The price proposal must contain all items listed in Section L.4.7.

L.4.2 Each proposal shall be submitted in a sealed envelope conspicuously marked: "Proposal in Response to Solicitation No. **GF-2013-R-0100, "ID/IQ for General Construction Services"**."

L.4.3 The original offer shall govern if there is a variance between the original offer and the copy submitted by the Offeror. Each Offeror shall return the complete solicitation as its offer.

L.4.4 The University may reject as unacceptable any offer that fails to conform in any material respect to the RFP.

L.4.5 The University may also reject as unacceptable any offer submitted on forms not included in or required by the solicitation, or if the solicitation package is obtained from any source other than the University's official source listed below. Offerors shall make no changes to the requirements set forth in the solicitation.

L.4.6 TECHNICAL PROPOSAL CONTENTS:

The Technical proposal shall be prepared in accordance with the instructions and format given in this section. Failure to provide a Technical proposal may render an Offeror's proposal incomplete and unacceptable for award. In order for the University to evaluate the Offeror's understanding of the contract requirements, Offerors are required to discuss their technical and administrative capabilities in a manner that demonstrates these are adequate to meet contract requirements. Offerors are strongly cautioned to follow the format below in preparing their

proposals. This will allow for ease of evaluation. Proposals will be evaluated in accordance with the evaluation criteria listed in Section M.3, Evaluation Criteria.

L.4.6.1 Executive Summary

Each Offeror should provide a summary of no more than three (3) pages of the information contained in the following sections.

L.4.6.1.1 General Team Information and Firm(s) Data

Each Offeror should provide the following information for the Contractor and each of its subcontractors.

L.4.6.1.2 Name(s), address(es), and role(s) of each firm (including all subcontractors)

L.4.6.1.3 Firm profile(s), including:

- a. Age
- b. Firm history(ies)
- c. Firm size(s)
- d. Areas of specialty/concentration
- e. Current firm workload(s) projected over the next year
- f. Provide a list of any contracts held by the Offeror where the contract was terminated (either for default or convenience). This list should also identify contracts that resulted in litigations or arbitration between the Owner and the Offeror. If the Offeror has multiple offices, only contracts held by the office submitting this proposal need be listed.
- g. Provide a list of projects where a surety firm completed a contract on your behalf, or paid for completion because your firm was default terminated by the project owner within the last five (5) years?
- h. Provide a notarized statement from a surety licensed to do business in the District of Columbia which states the amount of your current bonding capacity. Information should also contain the agents name, address and telephone number.

L.4.6.2 Relevant Experience and Capabilities (30 Points)

The University desires to engage a Contractor with the experience necessary to realize the objectives set forth in Section C of this RFP. Offerors will be evaluated based on their demonstrated experience in: (i) three (3) construction projects in occupied buildings valued over \$100,000 in which the Offeror served as the general contractor in the past five (5) years; (ii) two (2) design-build projects where the Offeror served as the general contractors in the past five (5) years; and (iii) demonstrate knowledge of the local regulatory agencies and Code Officials. Submitted projects must have the Project Description, Project Amount, Award Date, Completion Date, Client Name, Was the project delivered on time and on budget, Verifiable Contract Information of Client, Contractor Performance Evaluation (Attachment J.2.2). If the Offeror is a team or joint venture of multiple companies, the Evaluation Panel will consider the experience of each member of the team or joint venture in light of their role in the proposed team or joint venture. **This element of the evaluation will be worth up to thirty (30) points.**

L.4.6.3 Key Personnel (30 Points)

The Offeror should include with its proposal resumes of key personnel that will be assigned to this Project. This should include the Project Executive, the Project Manager who will supervise the work, and the Field Superintendent who will oversee the work in the field. Each resume shall describe the education, training, experience, professional affiliation (i.e. AIA, PE, PMP) and at least one (1) letter of recommendation for each key personnel. The Offeror should also indicate what percentage of each key personnel's time will be devoted to this Project. In case of absence, death, disability or separation from the Offeror's employment, the Offeror will not be allowed to reassign any of the key personnel without the written approval of the Contracting Officer. **This element of the evaluation will be worth up to thirty (30) points.**

L.4.6.4 Management Plan (20 Points)

Offerors are required to submit a Project Management Plan. The Project Management Plan should clearly explain how the contractor intends to manage and implement multiple Projects. It should demonstrate a knowledge of the process and impediments that must be overcome and ensure that sufficient staffing will be provided. At a minimum, the plan should: (i) include the organizational chart, the specific roles and responsibilities of the key personnel (mentioned in Section L.4.6.3) in managing a Project; (ii) identify how the Offeror will perform the site walk-throughs and develop cost estimates; (iii) identify how the Offeror will respond to on-call emergencies and unplanned activities; and (iv) describe two (2) key challenges inherent in a Project and explain how they will be overcome or mitigated. **This element of the evaluation is worth up to twenty (20) points.**

L.4.7 PRICE PROPOSAL CONTENTS:

- 1) Offer Letter – Attachment J.2.1
- 2) Completed Section B.8 - Price Schedule
- 3) Signed amendments if any
- 2) Completed Attachments J.2.3, J.2.4 and J.2.5
- 3) Section K – Representations, Certifications and other Statements of Offerors – completed and executed in accordance with the instructions included therewith.

L.5 PROPOSAL SUBMISSION DATE AND TIME:

Proposal must be submitted no later than **2:00 p.m. local time on Tuesday, June, 4 2013.**

L.6 WITHDRAWAL OR MODIFICATION OF PROPOSAL:

An Offeror may modify or withdraw its offer upon written, telegraphic notice, or facsimile transmission if received at the location designated in the solicitation for submission of proposals, but not later than the closing date and time for receipt of proposals.

L.7 LATE SUBMISSIONS, LATE MODIFICATIONS, AND LATE WITHDRAWALS:

L.7.1 Proposal, modifications to proposal, or requests for withdrawals that are received in the designated University office after the exact local time specified above, are "late" and shall be considered only if they are received before the award is made and one (1) or more of the following circumstances apply:

L.7.1.1 The proposal or modification was sent by registered or certified mail no later than the fifth (5th) calendar day before the date specified for receipt of offer; or

L.7.1.2 The proposal or modification was sent by mail and it is determined by the CO that the late receipt at the location specified in the solicitation was caused by mishandling by the University after receipt.

L.7.2 Postmarks

The only acceptable evidence to establish the date of a late proposal, late modification or late withdrawal sent either by registered or certified mail shall be a U.S. or Canadian Postal Service postmark on the wrapper or on the original receipt from the U.S. or Canadian Postal Service. If neither postmark shows a legible date, the offer, modification or withdrawal shall be deemed to have been mailed late. When the postmark shows the date but not the hour, the time is presumed to be the last minute of the date shown. If no date is shown on the postmark, the proposal shall be considered late unless the Offeror can furnish evidence from the postal authorities of timely mailing.

L.7.3 Late Submissions

A late proposal, late request for modification or late request for withdrawal shall not be considered, except as provided in this section.

L.7.4 Late Proposal

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

L.7.5 Late Modifications

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

L.8 HAND DELIVERY OR MAILING OF PROPOSAL TO:

University of the District of Columbia
Capital Procurement Division
4200 Connecticut Avenue, NW
Building 38, Room C04
Washington, DC 20008

L.9 SUBMISSION OF SUBCONTRACTING PLAN:

Each Offeror shall submit a certified subcontracting plan with each RFTOP for approval by the Contracting Officer (CO). This plan shall meet the requirements described under §§ M.6 and M.8 of this solicitation. A certified DSLBD prime who plans not to subcontract any portion of the contract work shall still submit such a plan stating so in writing. A Contractor cannot make any changes to its subcontracting plan without prior written approval by the CO. The approved plan will be incorporated into and become part of the Task Order.

L.10 ERRORS IN PROPOSAL:

Offerors are expected to read and fully understand information and requirements in the solicitation; failure to do so will be at the Offeror's risk. In the event of a discrepancy between the unit price and the total price, the unit price will govern.

L.11 QUESTIONS ABOUT THE SOLICITATION:

If a prospective Offeror has any questions relative to this solicitation, the prospective Offeror shall submit the questions in writing to the CO. The prospective Offeror shall submit questions no later than five (5) calendar days prior to the closing date and time indicated for this solicitation. The University will not consider any questions received less than five (5) calendar days before the date set for submission of proposal. The University will furnish responses promptly to all other prospective Offerors. An amendment to the solicitation will be issued, if that information is necessary in submitting proposals, or if the lack of it would be prejudicial to any other prospective Offerors. Oral explanations or instructions given before the award of the contract will not be binding.

L.12 PROPOSALS WITH OPTION YEARS:

The Offeror shall include option year prices in its financial proposal. A proposal may be determined to be unacceptable if it fails to include pricing for the option year(s).

L.13 OFFER PROTESTS:

In accordance with 8 DCMR Section 3066, all protests by interested parties including any actual or prospective Bidder or Contractor who is aggrieved in connection with the solicitation or award of a contract shall be filed in writing to the Contracting Officer (CO) within seven (7) working days after the protestor knew or should have known, whichever is earlier, of the facts and circumstances upon which the protest is based. The University will not consider protests filed after seven (7) working days. The CO will issue a written decision on the protest within ten (10) working days after receipt of the protest. The protestor may appeal the written decision of the CO within ten (10) working days after receipt of the written decision to the University's Contracts Review Committee (CRC). The CRC shall issue a written decision within thirty (30) calendar days after receipt of the appeal. Any failure by the CRC to issue a written decision within the thirty (30) calendar days shall constitute a denial of the protest and shall authorize the Contractor to appeal the protest to the D.C. Contract Appeals Board (Board). In order for the Board to consider the appeal, the protestor shall file the appeal within ten (10) working days after the protestor receives a written decision from the CRC. The Contractor shall exhaust all administrative review procedures provided herewith fully and properly before appealing to the

Board. The Board shall have exclusive jurisdiction to hear and decide protests and appeals from written decisions of the CRC. The Board is located at 717 - 14th Street, NW, Suite 430, Washington, DC 20004.

L.14 SIGNING OF PROPOSAL:

L.14.1 The Contractor shall sign the proposal and print or type its name on the offer form in the attached Offer Form Package. Each proposal must show a full business address and telephone number of the Offeror and be signed by the person or persons legally authorized to sign contracts. Erasures or other changes must be initialed by the person signing the proposal. Proposal signed by an agent shall be accompanied by evidence of that agent's authority, unless that evidence has been previously furnished to the CO.

L.14.2 All correspondence concerning the proposal or resulting contract will be mailed to the address shown on the proposal in the absence of written instructions from the Offeror or Contractor to the contrary. Any proposal submitted by a partnership must be signed with the partnership name by a general partner with authority to bind the partnership. Any proposal submitted by a corporation must be signed with the name of the corporation followed by the signature and title of the person having authority to sign for the corporation. Offerors shall complete and sign all Representations, Certifications and Acknowledgments as appropriate. Failure to do so may result in rejection of the proposal.

L.15 ACKNOWLEDGMENT OF AMENDMENTS:

The Offeror shall acknowledge receipt of any amendment to this solicitation by (a) signing and returning the amendment; (b) by identifying the amendment number and date in the space provided for this purpose in item 20 of page 1 (Solicitation, Offer, Award Form) of the solicitation; or (c) by letter or telegram, including mailgrams. The University must receive the acknowledgment by the date and time specified for receipt of proposal. Offeror's failure to acknowledge an amendment may result in rejection of the proposal.

L.16 ACCEPTANCE PERIOD:

The Offeror agrees that its offer remains valid for a period of 120 calendar days from the closing date. However, if for administrative reasons, the University is unable to make an award within this time period, the CO will request the Contractor to extend the proposal for an additional thirty (30) days.

L.17 LEGAL STATUS OF OFFEROR:

L.17.1 Each proposal must provide the following information:

L.17.2 Name, Address, Telephone Number, Federal Tax Identification Number and DUNS Number of Offeror;

L.17.3 District of Columbia license, registration or certification, if required by law to obtain such license, registration or certification. If the Offeror is a corporation or partnership and does not provide a copy of its license, registration or certification to transact business in the District of

Columbia, the offer shall certify its intent to obtain the necessary license, registration or certification prior to contract award or its exemption from such requirements;

L.17.4 If the Offeror is a partnership or joint venture, names of general partners or joint ventures and copies of any joint venture or teaming agreements; and

L.17.5 The University reserves the right to request additional information regarding the Offeror's organizational status.

L.18 LOCAL OPERATING FACILITIES:

The Contractor shall provide and maintain its own operating quarters. Such quarters shall be of sufficient size and capacity and have the necessary facilities to adequately carry out the work to be performed under the contract.

LOCAL ADDRESS

LOCAL TELEPHONE NUMBER/FAX

CELL NUMBER

EMERGENCY NUMBER

EMERGENCY CONTACT PERSON

L.19 TITLE OF CORRESPONDENCE, HAND DELIVERY OR MAILING OF SOLICITATION

All contractual correspondence must be directed to:

Sherry Jones-Quashie
Contracting Officer
University of the District of Columbia
Capital Procurement Division
4200 Connecticut Avenue, NW
Building 38, Room C04
Washington, DC 20008

L.20 PROPOSAL DOCUMENTS:

- L.20.1** Persons who obtain solicitation materials from anyone other than the University's official source are hereby notified that any addenda/amendments issued under this solicitation, and not acknowledged by an Offeror could affect the offer amount and/or responsiveness determinations.
- L.20.2** The University assumes no responsibility for furnishing any addenda/ amendments to anyone who obtains solicitation materials through other than the official channels.
- L.20.3** Amendments/Addenda to solicitation documents and solicitation material are available from the issuing office.

L.21 EXAMINATION OF OFFER DOCUMENTS AND SITE OF WORK [Applicable to each RFTOP and TO]

- L.21.1** Offerors will be held to have:
 - L.21.1.1** Checked all measurements and visible features which would in any manner affect the work to be performed.
 - L.21.1.2** Verified conditions at the site.

L.22 STANDARDS OF RESPONSIBILITY:

- L.22.1** Pursuant to 8 DCMR, 3057.2 (a) through (g), the prospective Contractor shall submit the following documentation, within ten (10) days of the request by the University, in order to be determined responsible:
 - L.22.1.1** Evidence of financial resources adequate to perform the Contract, or ability to obtain them;
 - L.22.1.2** Evidence of ability to comply with the required or proposed delivery or performance schedule, taking into consideration all existing commercial and district business commitments;
 - L.22.1.3** A satisfactory performance record;

- L.22.1.4** A satisfactory record of integrity and business ethics;
- L.22.1.5** The necessary organization, experience, accounting and operational controls and technical skills, or the ability to obtain them;
- L.22.1.6** Compliance with the applicable District licensing and tax laws and regulations;
- L.22.1.7** The necessary production, construction and technical equipment and facilities or the ability to obtain them, and
- L.22.1.8** Other qualifications and eligibility criteria necessary to receive an award under the applicable laws and regulations.
- L.22.2** If the prospective Contractor fails to supply the information requested, the CO shall make the determination of responsibility or non-responsibility based upon available information. If the available information is insufficient to make a determination of responsibility, the CO shall determine the prospective Contractor to be non-responsible.

PART V**SECTION M - EVALUATION PREFERENCE POINTS****M.1 EVALUATION FOR AWARD:** [Not applicable to TOs]

The contracts will be awarded to multiple responsible Offerors whose offer(s) is/are most advantageous to the University, based upon the evaluation criteria specified below. Thus, while the points in the evaluation criteria indicate their relative importance, the total scores will not necessarily be determinative of the award. Rather, the total scores will guide the University in making an intelligent award decision based upon the evaluation criteria.

M.2 EVALUATION COMMITTEE:

M.2.1 The Contracting Officer will appoint an Evaluation Committee who will conduct the evaluation of the Offeror's initial submission and any subsequent best and final offers in accordance with the provisions of this Section M and the University's Procurement Regulations.

M.2.2 The Evaluation Committee shall prepare a written report summarizing its findings and submit the same to the Contracting Officer (CO). Based on the information submitted by the Offerors in response to this RFP and the report prepared by the Evaluation Committee, the CO shall select the Offeror whose submissions are determined by the CO to be the most advantageous to the University.

M.3 EVALUATION CRITERIA:

Each proposal will be scored on a scale of 1 to 100 points based upon the criteria listed in this section. In addition, Offerors will be eligible to receive up to 12 preference points as described in Section M.5 – Preferences for Certified Business Enterprises. Thus, the total maximum number of points possible is 112. The total evaluation score will guide the CO in the determination of most advantageous to the University. Proposals will be evaluated based on the following evaluation factors in the manner described below:

M.3.1 Volume 1 – Technical Criteria (80 Points)**Factor 1 – Relevant Experience and Capabilities (30 Points)**

The Offeror shall describe their relevant experience and capabilities necessary to perform the scope of work set forth in Section C of this RFP. Offerors will be evaluated based on experience and capabilities in accordance with Section L.4.6.2.

Sub-factor 1 – Three (3) construction projects within past five years **(15 points)**

Sub-factor 2 – Two (2) design-build projects within past five years **(10 points)**

Sub-factor 3 – Knowledge of local regulatory agencies and Code Officials **(5 points)**

Factor 2 – Key Personnel (30 Points)

The University desires that the Project will be managed by qualified and experienced key personnel. The Offeror will be evaluated in accordance with Section L.4.6.3.

Sub-factor 1 – Project Executive (10 points)

Sub-factor 2 – Project Manager (10 points)

Sub-factor 3 – Field Superintendent (10 points)

Factor 3 – Management Plan (20 Points)

The Offeror shall describe their management plan in accordance with Section L.4.6.4 of the solicitation.

Sub-factor 1 – Organization chart, roles and availability of each identified key personnel (5 points)

Sub-factor 2 – Conducting site walk-throughs and developing cost estimates (5 points)

Sub-factor 3 – Responses to on-call emergencies and unplanned activities (5 points)

Sub-factor 4 – Overcoming two (2) identified key challenges (5 points)

M.3.2 Volume 2 - Price Criteria (20 Points)

The price proposal evaluation will be objective. *The extended prices for the base year and the option years will constitute the total price for the purpose of the price evaluation.* The Offeror with the lowest price will receive the maximum price points. All other proposals will receive a proportionately lower total score. The following formula will be used to determine each Offeror's evaluated price score:

$$\frac{\text{Lowest price proposal}}{\text{Price of proposal being evaluated}} \times 20 \text{ points} = \text{Evaluated Price Score}$$

M.3.3 Preference Points (12 POINTS)

Preferences for Local Business, Disadvantaged Business, Resident-owned Business, Small Businesses, Longtime Resident Businesses, or Local Businesses with Principal Offices Located in an Enterprise in accordance with Section M.5. The preference points will be added to the Offeror Evaluation Score.

M.3.4 Total Points (112 POINTS)

M.4 EVALUATION OF OPTION YEARS:

The University will evaluate offers for award purposes by evaluating the financial proposal for all options as well as the base year. Evaluation of options shall not obligate the University to exercise them.

M.5 PREFERENCES FOR CERTIFIED BUSINESS ENTERPRISES:

Under the provisions of the “Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005”, as amended, D.C. Official Code § 2-218.01 *et seq.* (the Act), the District shall apply preferences in evaluating proposals from businesses that are small, local, disadvantaged, resident-owned, longtime resident, veteran-owned, local manufacturing, or local with a principal office located in an enterprise zone of the District of Columbia.

M.5.1 Application of Preferences

For evaluation purposes, the allowable preferences under the Act for this procurement shall be applicable to prime Contractors as follows:

- M.5.1.1** Any prime Contractor that is a small business enterprise (SBE) certified by the Department of Small and Local Business Development (DSLBD) will receive the addition of three points on a 100-point scale added to the overall score for proposals submitted by the SBE in response to this Request for Proposals (RFP).
- M.5.1.2** Any prime Contractor that is a resident-owned business (ROB) certified by DSLBD will receive the addition of five points on a 100-point scale added to the overall score for proposals submitted by the ROB in response to this RFP.
- M.5.1.3** Any prime Contractor that is a longtime resident business (LRB) certified by DSLBD will receive the addition of five points on a 100-point scale added to the overall score for proposals submitted by the LRB in response to this RFP.
- M.5.1.4** Any prime Contractor that is a local business enterprise (LBE) certified by DSLBD will receive the addition of two points on a 100-point scale added to the overall score for proposals submitted by the LBE in response to this RFP.
- M.5.1.5** Any prime Contractor that is a local business enterprise with its principal offices located in an enterprise zone (DZE) certified by DSLBD will receive the addition of two points on a 100-point scale added to the overall score for proposals submitted by the DZE in response to this RFP.
- M.5.1.6** Any prime Contractor that is a disadvantaged business enterprise (DBE) certified by DSLBD will receive the addition of two points on a 100-point scale added to the overall score for proposals submitted by the DBE in response to this RFP.

M.5.1.7 Any prime Contractor that is a veteran-owned business (VOB) certified by DSLBD will receive the addition of two points on a 100-point scale added to the overall score for proposals submitted by the VOB in response to this RFP.

M.5.1.8 Any prime Contractor that is a local manufacturing business enterprise (LMBE) certified by DSLBD will receive the addition of two points on a 100-point scale added to the overall score for proposals submitted by the LMBE in response to this RFP.

M.5.2 Maximum Preference Awarded

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

M.5.3 Preferences for Certified Joint Ventures

When DSLBD certifies a joint venture, the certified joint venture will receive preferences as a prime Contractor for categories in which the joint venture and the certified joint venture partner are certified, subject to the maximum preference limitation set forth in the preceding paragraph.

M.5.4 Verification Of Offeror's Certification As A Certified Business Enterprise

M.5.4.1 Any vendor seeking to receive preferences on this solicitation must be certified at the time of submission of its proposal. The contracting officer will verify the Offeror's certification with DSLBD, and the Offeror should not submit with its proposal any documentation regarding its certification as a certified business enterprise.

M.5.4.2 Any vendor seeking certification or provisional 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 970N
Washington, DC 20001

M.5.4.3 All vendors are encouraged to contact DSLBD at (202) 727-3900 if additional information is required on certification procedures and requirements.

M.6 Subcontracting Plan

Any prime contractor responding to a solicitation in which there is an SBE subcontracting set-aside, shall submit, within 5 days of the CO's request, a statement detailing its subcontracting plan. Each subcontracting plan shall include the following:

M.6.1 A description of the goods and services to be provided by SBEs;

- M.6.2** A statement of the dollar value of the bid or proposal that pertains to the subcontracts to be performed by the SBEs;
- M.6.3** The names and addresses of all proposed subcontractors who are SBEs;
- M.6.4** The name of the individual employed by the prime contractor who will administer the subcontracting plan, and a description of the duties of the individual;
- M.6.5** A description of the efforts the prime Contractor shall make to ensure that SBEs will have an equitable opportunity to compete for subcontracts;
- M.6.6** In all subcontracts that offer further subcontracting opportunities, assurances that the prime Contractor shall include a statement, approved by the CO, that the subcontractor shall adopt a subcontracting plan similar to the subcontracting plan required by the contract;
- M.6.7** Assurances that the prime Contractor shall cooperate in any studies or surveys that may be required by the CO, and submit periodic reports, as requested by the CO, to allow the University to determine the extent of compliance by the prime contractor with the subcontracting plan;
- M.6.8** List the type of records the prime Contractor shall maintain to demonstrate procedures adopted to comply with the requirements set forth in the subcontracting plan, and include assurances that the prime Contractor shall make such records available for review upon the University's request; and
- M.6.9** A description of the prime contractor's recent effort to locate SBEs and to award subcontracts to them.

M.7 Enforcement and Penalties for Willful Breach of Subcontracting Plan

The willful breach by a contractor of a subcontracting plan for utilization of local, small, or disadvantaged businesses in the performance of a contract, the failure to submit any required subcontracting plan monitoring or compliance report, or the deliberate submission of falsified data may be enforced by the DSLBD through the imposition of penalties, including monetary fines of \$15,000 or 5% of the total amount of the work that the contractor was to subcontract to local, small, or disadvantaged businesses, whichever is greater, for each such breach, failure, or falsified submission.

M.8 Subcontracting Requirements

- M.8.1** All construction contracts in excess of \$250,000 must include the following requirements:
 - a) At least **35%** of the dollar volume must be subcontracted to Small Business Enterprises. The costs of materials, good and supplies are not counted towards the 35% subcontracting requirement unless such materials, goods and supplies are purchased from Small Business Enterprises.
 - b) If there are insufficient qualified Small Business Enterprises to fulfill the 35% subcontracting requirement, then the subcontracting requirement, then the subcontracting

requirement may be satisfied by subcontracting 35% of the dollar volume to any certified business enterprises, provided that all reasonable efforts are made to ensure that qualified Small Business Enterprises are significant participants in the overall subcontracting work.

M.8.2 All non-construction contracts in which a portion will be subcontracted must include the following requirements:

- a) At least **35%** of the dollar volume must be subcontracted to Small Business Enterprises. The costs of materials, goods and supplies are not counted towards the 35% subcontracting requirement unless such materials, goods and supplies are purchased from Small Business Enterprises.
- b) If there are insufficient qualified Small Business Enterprises to fulfill the 35% subcontracting requirement, then the subcontracting requirements, may be satisfied by subcontracting 35% of the dollar volume to any certified business enterprises, provided that all reasonable efforts are made to ensure that qualified Small Business Enterprises are significant participants in the overall subcontracting work.

M.8.3 Each construction contract for which a CBE is selected as a prime contractor, and is granted points or a price reduction or is selected through a set-aside program, must include a requirement that the business enterprise perform at least 35% of the contracting effort (excluding the cost of materials, goods, and supplies) with its own organization and resources.

- a) If the business enterprise subcontracts, 35% of the subcontracted effort (excluding the cost of materials, goods, and supplies), must be with CBEs.
- b) If the total contracting effort (excluding the cost materials, goods, and supplies) proposed to be performed by CBEs is less than 35%, then the business enterprises shall not be eligible to receive preference points or price reductions for at least 2 years.

M.8.4 Each construction contract for which a joint venture is selected as a prime contract or and is granted points or a price reduction or is selected through a set-aside program, shall include a requirement that the CBE perform at least **50%** of the contracting effort (excluding the cost of materials, goods, and supplies) with its own organization and resources.

- a) If the joint venture subcontracts, 35% of the subcontracted effort must be with CBEs.
- b) If the total contracting effort (excluding the cost of materials, goods, and supplies) proposed to be performed by CBEs is less than 50%, then the business enterprise shall not be eligible to receive points or price reductions for at least 2 years.

M.8.5 Each construction contract of \$1million or less for which a CBE is selected as a prime contractor, and is granted points or a price reduction or is selected through a set-aside program, must include a requirement that the business enterprise perform at least **50%** of the on-site work with its own work force.

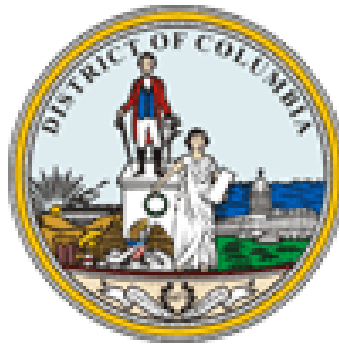
- M.8.6** Bids or proposals responding to solicitations will be deemed nonresponsive and will be rejected if the solicitation requires submission of a CBE subcontracting plan and the prime contractor fails to submit a subcontracting plan as part of its bid or proposal.
- M.8.7** The subcontracting requirements may be waived by the Director of DSLBD.

ATTACHMENT J.1.1
Government of the District of
Columbia Standard Contract
Provisions For Use With
Specifications for District of
Columbia Government
Construction Projects, March 2011

Government of the District of Columbia

STANDARD CONTRACT PROVISIONS

For Use With
Specifications for
District of Columbia Government
Construction Projects
(Revised March 2011)



PLEASE RETAIN FOR YOUR REFERENCE

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(Construction)

ARTICLE 1. QUALIFICATIONS OF BIDDERS—Bidders shall have the capability to perform classes of work contemplated, have the necessary plant and sufficient capital to execute the work properly within specified time.

Any Bidder who has not performed comparable work for the District within the last 5 years shall submit, at the Contracting Officer's discretion, a certified statement of his organization, plant, manpower, financial resources, and construction experience that he considers will qualify him for proposed contract. This information shall be certified by a Certified Public Accountant for contracts over \$25,000 and submitted on the AGC Form "Standard Questionnaires and Financial Statement for Bidders", obtainable from the Associated General Contractors of America, Inc., at 1957 "B" Street, N. W., Washington, D. C., 20008, or on an approved equivalent form. This requirement is not needed if the bidder has submitted such a statement to the District within a year prior to bid opening date, but will be required if bidder has previously submitted such a statement under one company name or organization or joint venture and is now bidding under another company name or organization or joint venture. A certified statement of prequalification approval by another jurisdiction may be considered as an alternative to foregoing procedure. A bidder shall submit a supplemental statement if requested by the District.

ARTICLE 2. BID DOCUMENTS—The Specifications (including all documents referenced therein and all documents attached thereto), drawings and addenda which form the basis of any bid shall be considered as part thereof and will form part of the bid. Copies of these documents will be furnished to or made available for the inspection of prospective bidders by that office indicated in the advertisement or invitation.

ARTICLE 3. EXAMINATION OF BID DOCUMENTS AND SITE OF WORK—Each Bidder shall carefully examine the site of the proposed work and the bid documents and fully acquaint himself with conditions relating to construction and labor so that he may fully understand the facilities, difficulties and restrictions attending the execution of the work under the bid documents, and he shall judge for and satisfy himself as to conditions to be encountered affecting the character, quality and quantity of the work to be performed and materials to be furnished and to the requirements of the bid documents. Failure to do so will be at the Bidder's own risk and shall not relieve him from any obligation under his bid or contract.

ARTICLE 4. PREPARATION FOR BIDS—The bid form furnished in the bid proposal and specifications shall be used in strict compliance with the requirements of the Invitation and Supplemental Instructions to Bidders in the specifications. Special care shall be exercised in the preparation of bids. Bidders must make their own estimates of the facilities and difficulties to be anticipated upon execution of the contract, including local conditions, uncertainty of weather and all other contingencies. All designations and prices shall be fully and clearly set forth in the bid submission. ALL PRICES SHALL BE INSERTED IN FIGURES TYPED OR PRINTED LEGIBLY ON THE BID FORM. All corrections on the bid documents must be initialed by the person signing the bid form.

ARTICLE 5. ERROR IN BIDS—Bidders or their authorized agents are expected to examine all bid documents and any addenda thereto, and all other instructions pertaining to the work which will be open to their inspection. Failure to do so will be at the bidder's own risk, and will not constitute reason for relief on plea of error in the bid. IN CASE OF ERROR IN THE EXTENSION OF PRICES IN THE BID, UNIT PRICES WILL GOVERN.

The bidder must submit his plea of error in writing to the Contracting Officer and must be prepared to document and prove his error.

ARTICLE 6. LABOR AND MATERIAL NOT FURNISHED BY DISTRICT—The District will not furnish any labor, material or supplies unless a provision to do so is included in the contract documents.

ARTICLE 7. ADDENDA AND INTERPRETATIONS—No oral interpretations of the meaning of the drawings, specifications or other bid documents will be made to any bidder. Verbal clarification will not be binding on the District. All requests must be in writing and addressed to the Contracting Officer responsible for administering the contract. Requests for interpretations of bid documents must be received by the Contracting Officer not later than 10 days prior to bid opening date. All changes to the bid documents will be made by addenda mailed to all prospective bidders, who have obtained copies of the bid documents, not later than 7 days before bid opening date. In case of discrepancy among addenda, a later dated addendum has priority over earlier dated addenda. It shall be the bidder's responsibility to make inquiry as to any or all addenda issued, and failure of any prospective bidder to receive any such addenda issued by the Contracting Officer shall not relieve the bidder from any obligation under his bid as submitted. Bidders must acknowledge receipt of all addenda on the Bid Form; failure to do so may result in rejection of bid.. All addenda issued shall become part of the bid and contract documents. -

ARTICLE 8. ALTERNATE BIDS—Alternate bids will not be considered unless called for in the Bid Form.

ARTICLE 9. BIDS FOR ALL OR PART—Where bids are not qualified by specific limitations, the District reserves the right to award all or any of the items according to its best interests.

ARTICLE 10. PRICE SCHEDULE INTERPRETATION—Quantities appearing in the Price Schedule are approximate only and are prepared for the comparison of bids. Payment will be made only for actual material requirements accepted and for work performed and accepted. Schedule quantities may be increased., decreased or omitted and there shall be no adjustment in contract unit prices except as provided, and except for such materials actually purchased or work actually performed prior to notification of the change in items affected.

The price for any item, unless otherwise specified, shall include full compensation for all materials, tests, samples, manufacturers' guaranties, tools, equipment, labor and incidental work needed to complete specified items. Prices without exception shall be net, not subject to discount, and shall include all royalties and costs arising from patents, proprietary items, trademarks and copyrights.

ARTICLE 11. CORRECTIONS—Erasures and other changes in bids must be explained or noted over the signature of the bidder.

ARTICLE 12. BOND REQUIREMENTS

- A. BID GUARANTY**—On all bids of \$100,000.00 or more, security is required to insure the execution of the contract. No bid will be considered unless it is so guaranteed. Each bidder must furnish with his bid either a Bid Bond (Form No. DC 2640-5), with good and sufficient sureties, a certified check payable to the order of the Treasurer of the District of Columbia (uncertified check will not be accepted), negotiable United States bonds (at par value), or an irrevocable letter of credit in an amount not less than five percent (5%) of the amount of his bid, as a guaranty that he Will not withdraw said bid within the period specified therein after the opening of the same; or, if no period be specified, within ninety (90) days after said opening, and will, within the period specified therefore, or, if no period be specified, within ten (10) days, after the prescribed forms are forwarded to him for execution (or within any extension of time which may be granted by the officer to whom the bid was addressed) execute and deliver a written contract on the standard District form in accordance with bid as accepted and give bond with good and sufficient sureties, as specified below for the faithful performance and proper fulfillment of such contract and payment of laborers and material men as required by law or, in the event of the withdrawal of said bid within the period above stated, or the failure to enter into such contract and give such bond within the time above stated, that he will pay to the District the difference between the amount specified in said bid and the amount for which the District may procure the required work, if the latter amount be in excess of the former.

In case security is in the form of a certified check or United States bonds, the District may make such disposition of the same as will accomplish the purpose for which

submitted. Certified checks may be held uncollected at the bidder's risk. Certified checks and United States bonds will be returned to the unsuccessful bidders after award of contract and to successful bidders after the signing of prescribed forms of contract and bonds. Guaranty bonds will be returned only upon written application.

B. PERFORMANCE BOND—For any construction contract exceeding \$100,000.00, a Performance Bond (Form No. DC 2640-7) shall be required in a penal amount equal to one hundred percent (100%) of the contract price at time of award. Additional performance bond protection shall be required in connection with any modification effecting an increase in price under any contract for which a bond is required pursuant to the above if:

1. The modification is for new or additional work which is beyond the scope of the existing contract; or,
2. The modification is pursuant to an existing provision of the contract and is expected to increase the contract price by \$50,000 or twenty-five percent (25%) of the original total contract price, whichever is less.

The penal amount of the bond protection shall be increased so that the total performance bond protection is one hundred percent (100%) of the contract price as revised by both the modification requiring such additional protection and the aggregate of any previous modification. The increased penal amount may be secured either by increasing the bond protection provided by existing surety or sureties or by obtaining an additional performance bond from a new surety.

C. PAYMENT BOND— In accordance with the provisions of Section 504(b) of the District of Columbia Procurement Practices Act of 1985, payment bonds shall be required in an amount not less than fifty percent (50%) of the total amount payable by the terms of the contract.

Additional payment protection shall be required in connection with any notification effecting an increase in price under any contract for which a bond is required pursuant to the above if —

1. The modification is for new or additional work which is beyond the scope of the existing contract; or
2. The modification is pursuant to an existing provision of the contract and is expected to increase the contract price by \$50,000 or twenty-five percent (25%) of the original total contract price, whichever is less.

The penal amount of the additional bond protection shall generally be such that the total payment bond protection is fifty percent (50%) of the contract price as revised by both the modification requiring such additional protection, and the aggregate of any previous modifications. The additional protection may be secured either by increasing the bond protection provided by the existing surety or sureties or by obtaining an additional payment bond from a new surety.

D. BOND SOURCE—The bonds may be obtained from any surety company authorized by the U.S. Treasury Department as acceptable sureties on Federal Bonds and authorized to transact business in the District of Columbia by the Director, Department of Insurance, Securities and Banking.

ARTICLE 13. SIGNATURE TO BIDS—Each bid must show the full business address of the bidder and be signed by him with his usual signature. Bids by partnerships must be signed with the partnership name by one of the members of the partnership or by an authorized representative, followed by the signature and designation of the person signing. Bids by corporations must be signed with the name of the corporation, followed by the signature and

designation of the President or Vice President and attested by the Secretary of the corporation or other persons authorized to bind the corporation and the corporate seal affixed thereto. If bid is signed by other than the President or Vice President, evidence of authority to so sign must be furnished in the form of an extract of minutes. of a meeting of the Board of Directors or extract of bylaws certified by the Corporate Secretary and corporate seal affixed thereto. The names of all persons signing shall be typed or printed below the signatures. A bid by a person who affixes to his signature the word "President", "Vice President", "Secretary", "Agent", or other designation, without disclosing his principal, may be held personally to the bid. Bids submitted by a joint venture must be signed by all authorized parties to the joint venture.

ARTICLE 14. MARKING AND MAILING BIDS—Bids, addenda acknowledgment, and bid guaranty must be securely sealed in suitable envelopes, addressed and marked on the outside with the name of the bidder, invitation number and date of opening.

ARTICLE 15. RECEIVING BIDS, MODIFICATIONS OR WITHDRAWALS—Bids received prior to the time set for opening will be securely kept unopened. The officer whose duty it is to open them will decide when the specified time has arrived and no bid received thereafter will be considered unless: (1) they are sent by registered mail or by certified mail for which an official dated post office stamp (postmark) on the original Receipt for Certified Mail has been obtained and it is determined by the District that the late receipt was due solely to delay in the mails for which the bidder was not responsible; or (2) if submitted by mail (or by telegram if authorized by the Contracting Officer), it is determined by the District that the late receipt was due solely to mishandling by the District after receipt at the District agency: Provided, that timely receipt. at such agency is established upon examination of an appropriate date or time stamp or other documentary evidence of receipt within the control of such agency.

Bidders using certified mail are cautioned to obtain a receipt for certified mail showing legible, dated postmark and to retain such receipt against the chance that it will be required as evidence that a late bid was timely mailed. The only evidence acceptable in this matter is as follows: (1) where the Receipt of Certified Mail identifies the post office station of mailing, evidence furnished by the bidder which establishes, that the business day of the station ended at an earlier time, in which case the time of mailing shall be deemed to be last minute of the business day; or (2) an entry in ink on the Receipt for Certified Mail showing the time of mailing and the initials of postal employee receiving the item and making the entry, with appropriate written verification of such entry from the post office station of mailing, in which case the time of mailing, shall be the time shown in the entry. If the postmark on the original Receipt for Certified Mail does not show a date, the bid shall not be considered.

The time of mailing of late bids submitted by registered or certified mail shall be deemed to be the last minute of the date shown in the postmark on the registered mail receipt or registered mail wrapper or on the Receipt for Certified Mail unless the bidder furnishes evidence from the post office station of mailing which establishes an earlier time.

No responsibility will attach to the District or any of its officers or employees for the premature opening of a bid not properly addressed and identified. Unless specifically authorized, telegraphic bids will not be considered, but modifications, by telegram, of bids already submitted will be considered if received prior to the hour set for opening, but should not reveal the amount of the original or revised bid.

ARTICLE 16. WITHDRAWAL OF BIDS—Bids may be withdrawn on written or telegraphic request received from bidders prior to the time fixed for opening, provided the name of the bidder appears on the outside of the envelope containing the bid. Negligence on the part of the bidder in preparing the bid confers no right for the withdrawal of the bid after it has been opened.

ARTICLE 17. OPENING OF BIDS—At the time fixed for the opening of bids, their contents will be made public by the Office of Contracting and Procurement for the information of bidders and other properly interested persons.

ARTICLE 18. AWARD OR REJECTION—The Contract will be awarded to the lowest responsible Bidder complying with conditions of the bid documents, provided his bid is reasonable and it is in the best interest of the District to accept it. The Bidder, to whom award is made, will be notified by

the Contracting Officer at the earliest possible date. The District, however, reserves the right to reject any and all bids and to waive any informality in bids received whenever such rejection or waiver is in the best interest of the District.

If more than one bid be offered by any one party, by or in the name of his or their clerk, partner, or other person, all such bids may be rejected. This shall not prevent a Bidder from proceeding under Article 8 hereof, nor from quoting different prices on different qualities of material or different conditions of delivery. A supplier or material man who has quoted prices on materials to a Bidder is not thereby disqualified from quoting to other bidders or from submitting a bid directly for the materials or work.

Each Bidder shall submit a bid on all items in the Price Schedule; failure to bid on all items may result in bid rejection.

In addition to requirements for qualification of bidders as set forth in Article 1 hereof, and as determined by the District, proposals will be considered irregular and may be rejected by the Contracting Officer for any of, but not limited to, the following reasons:

- A. Incompetency, inadequate plant or insufficient capital as revealed by Bidder's statement on AGC or equivalent form.
- B. Evidence of collusion.
- C. Uncompleted work which might hinder or prevent proper and prompt execution and completion of work contemplated.
- D. Evidence that Bidder has not adequately considered all aspects of contemplated work.
- E. Failure to settle bills satisfactorily, claims and judgments due for labor and material on Bidder's contracts in force on bid opening date.
- F. Default under previous contracts.
- G. Unacceptable rating as listed on published government lists.
- H. Proposal submission on form other than that form furnished by District, or altered or partially detached form.
- I. Unauthorized additions, deletions, omissions, conditional bids, or irregularities which may make proposal incomplete or ambiguous in meaning.
- J. Failure to acknowledge all addenda issued.
- K. Failure to submit bid in the properly labeled receptacle at that location designated as the Office of Contracting and Procurement, Bid Room, Suite 700, 441 4th St., N.W., Washington, D.C. 20001 and prior to the time set for opening as governed by the Official Clock designated as such in that Bid Room.

ARTICLE 19. CANCELLATION OF AWARDS—The right is reserved to the District, without any liability upon the District, to cancel the award of any contract at any time prior to approval of a formal written contract signed by the Contractor and the Contracting Officer.

ARTICLE 20. CONTRACT AND BOND—The Bidder to whom award is made must, when required, enter into a written contract on the standard District form, with satisfactory security in the amount required (see Article 12) within the period specified, or no period be specified, within 10 days after the prescribed forms are presented to him for signature.

**GENERAL PROVISIONS
(Construction Contract)**

ARTICLE 1. DEFINITIONS

- A. "District" as used herein means the District of Columbia, a municipal corporation.
- B. "Mayor" as used herein means the elected head of the District as set forth in Public Law 93-198 dated December 24, 1973, Title 4, Part B, Section 422(1).
- C. "Contracting Officer" as used herein means the District official authorized to execute and administrate the Contract on behalf of the District.
- D. "Contract Documents" or "Contract" as. used herein means Addenda, Contract Form, Instructions to Bidders, General Provisions, Labor Provisions, Performance and Payment Bonds, Specifications, Special Provisions, Contract Drawings, approved written Change Orders and Agreements required to acceptably complete the Contract, including authorized extensions thereof.

ARTICLE 2. SPECIFICATIONS AND DRAWINGS—The Contractor shall keep on the work site a copy of Contract drawings and specifications and shall at all times give the Contracting Officer access thereto. Anything mentioned in the specifications and not shown on the Contract drawings, or shown on the Contract drawings and not mentioned in the specifications, shall be of like effect as if shown or mentioned in both.

All Contract requirements are equally binding. Each Contract requirement, whether or not omitted elsewhere in the Contract, is binding as though occurring in any or all parts of the Contract. In case of discrepancy:

- 1. The Contracting Officer shall be promptly notified in writing of any error, discrepancy or omission, apparent or otherwise.
- 2. Applicable Federal and D. C. Code requirements have priority over: the Contract form, General Provisions, Change Orders, Addenda, Contract drawings, Special Provisions and Specifications.
- 3. The Contract form, General Provisions and Labor Provisions have priority over: Change Orders, Addenda, Contract drawings, Special Provisions and Specifications.
- 4. Change Orders have priority over: Addenda, Contract drawings and Specifications.
- 5. Addenda have priority over: Contract drawings, Special Provisions and Specifications. A later dated Addendum has priority over earlier dated Addenda.
- 6. Special Provisions have priority over: Contract drawings and other specifications.
- 7. Shown and indicated dimensions have priority over scaled dimensions.
- 8. Original scale drawings and details have priority over any other different scale drawings and details.
- 9. Large scale drawings and details have priority over small scale drawings and details.
- 10. Any adjustment by the Contractor without a prior determination by the Contracting Officer shall be at his own risk and expense. The Contracting Officer will furnish from time to time such detail drawings and other information as he may consider necessary, unless otherwise provided.

ARTICLE 3. CHANGES

A. DESIGNATED CHANGE ORDERS—The Contracting Officer may, at any time, without notice to the sureties, by written order designated or indicated to be a change order, make any change in the work within the general scope of the Contract, including but not limited to changes

1. In the Contract drawings and specifications;
2. In the method or manner of performance of the work;
3. In the District furnished facilities, equipment, materials or services; or
4. Directing acceleration in the performance of the work.

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

B. OTHER CHANGE ORDERS—Any other written order or an oral order (which term as used in this Section (B) shall include direction, instruction, interpretation, or determination) from the Contracting Officer which causes any such change, shall be treated as a Change Order under this Article, provided that the Contractor gives the Contracting Officer written notice stating the date, circumstances and sources of the order and that the Contractor regards the order as a Change Order.

C. GENERAL REQUIREMENTS—Except as herein provided, no order, statement or conduct of the Contracting Officer shall be treated as a change under this Article or entitle the Contractor to an equitable adjustment hereunder. If any change under this Article causes an increase or decrease in the Contract's cost of, or the time required for, the performance of any part of the work under this Contract whether or not changed by any order, an equitable adjustment shall be made and the Contract modified in writing accordingly; provided, however, that except for claims based on defective specifications, no claim for any change under (B) above shall be allowed for any cost incurred more than 20 days before the Contractor gives written notice as therein required unless this 20 days is extended by the Contracting Officer and provided further, that in case of defective drawings and specifications, the equitable adjustment shall include any increased cost reasonably incurred by the Contractor in attempting to comply with such defective drawings and specifications.

If the Contractor intends to assert a claim for an equitable adjustment under this Article, he must, within 30 days after receipt of a written Change Order under (A) above or the furnishing of a written notice under (B) above, submit to the Contracting Officer a written statement setting forth the general nature and monetary extent of such claim, unless this period is extended by the Contracting Officer. The statement of claim hereunder may be included in the notice under (B) above.

No claim by the Contractor for an equitable adjustment hereunder shall be allowed if asserted after final payment under the Contract.

D. CHANGE ORDER BREAKDOWN—Contract prices shall be used for Change Order work where work is of similar nature; no other costs, overhead or profit will be allowed.

Where Contract prices are not appropriate and the nature of the change is known in advance of construction, the parties shall attempt to agree on a fully justifiable price adjustment and/or adjustment of completion time.

When Contract prices are not appropriate, or the parties fail to agree on equitable adjustment, or in processing claims, equitable adjustment for Change Order work shall be per this Article and Article 4 and shall be based upon the breakdown shown in following

subsections 1. through 7. The Contractor shall assemble a complete cost breakdown that lists and substantiates each item of work and each item of cost.

1. **Labor**—Payment will be made for direct labor cost plus indirect labor cost such as insurance, taxes, fringe benefits and welfare provided such costs are considered reasonable. Indirect costs shall be itemized and verified by receipted invoices. If verification is not possible, up to 18 percent of direct labor costs may be allowed. In addition, up to 20 percent of direct plus indirect labor costs may be allowed for overhead and profit.
2. **Bond**—Payment for additional bond cost will be made per bond rate schedule submitted to the Office of Contracting and Procurement with the executed Contract.
3. **Materials**—Payment for cost of required materials will be F.O.B. destination (the job site) with an allowance for overhead and profit.
4. **Rented Equipment**—Payment for required equipment rented from an outside company that is neither an affiliate of, nor a subsidiary of, the Contractor will be based on receipted invoices which shall not exceed rates given in the current edition of the Rental Rate Blue Book for Construction Equipment published by Data Quest. If actual rental rates exceed manual rates, written justification shall be furnished to the Contracting Officer for consideration. No additional allowance will be made for overhead and profit. The Contractor shall submit written certification to the Contracting Officer that any required rented equipment is neither owned by nor rented from the Contractor or an affiliate of or subsidiary of the Contractor.
5. **Contractor's Equipment**— Payment for required equipment owned by the Contractor or an affiliate of the Contractor will be based solely on an hourly rate derived by dividing the current appropriate monthly rate by 176 hours. No payment will be made under any circumstances for repair costs, freight and transportation charges, fuel, lubricants, insurance, any other costs and expenses, or overhead and profit. Payment for such equipment made idle by delays attributable to the District will be based on one-half the derived hourly rate under this subsection.
6. **Miscellaneous**—No additional allowance will be made for general superintendence, use of small tools and other costs for which no specific allowance is herein provided.
7. **Subcontract Work**—Payment for additional necessary subcontract work will be based on applicable procedures in 1. through 6., to which total additional subcontract work up to an additional 10 percent may be allowed for the Contractor's overhead and profit.

ARTICLE 4. EQUITABLE ADJUSTMENT OF CONTRACT TERMS

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

Differing Site Conditions:

- (1) During the progress of the work, if subsurface or latent physical conditions are encountered at the site differing materially from those indicated in the contract or if unknown physical conditions of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in the work provided for in the contract, are encountered at the site, the Contractor, upon discovering such conditions, shall promptly notify the Contracting Officer in writing of the specific differing conditions before they are disturbed and before the affected work is performed.

- (2) Upon written notification, the Contracting Officer will investigate the conditions, and if he/she determines that the conditions materially differ and cause an increase or decrease in the cost or time required for the performance of any work under the contract, an adjustment, excluding loss of anticipated profits, will be made and the contract modified in writing accordingly. The Contracting Officer will notify the Contractor of his/her determination whether or not an adjustment of the contract is warranted.
- (3) No contract adjustment which results in a benefit to the Contract will be allowed unless the Contractor has provided the required written notice.
- (4) No contract adjustment will be allowed under this clause for any effects caused on unchanged work.

Suspension of Work Ordered by the Contracting Officer:

- (1) If the performance of all or any portion of the work is suspended or delayed by the Contracting Officer in writing for an unreasonable period of time (not originally anticipated, customary, or inherent to the construction industry) and the Contractor believes that additional compensation and/or contract time is due as a result of such suspension or delay, the Contractor shall submit to the Contracting Officer in writing a request for equitable adjustment within seven (7) calendar days of receipt of the notice to resume work. The request shall set forth the reasons and support for such adjustment.
- (2) Upon receipt, the Contracting Officer will evaluate the Contractor's request. If the Contracting Officer agrees that the cost and/or time required for the performance of the contract has increased as a result of such suspension and the suspension was caused by conditions beyond the control of and not the fault of the contractor, its suppliers, or subcontractors at any approved tier, and not caused by weather, the Contracting Officer will make an adjustment (excluding profit) and modify the contract in writing accordingly. The Contracting Officer will notify the Contractor of his/her determination whether or not an adjustment of the contract is warranted.
- (3) No contract adjustment will be allowed unless the Contractor has submitted the request for adjustment within the time prescribed.
- (4) No contract adjustment will be allowed under this clause to the extent that performance would have been suspended or delayed by any other cause, or for which an adjustment is provided for or excluded under any other term of condition of this contract.

Significant Changes in the Character of Work:

- (1) The Contracting Officer reserves the right to make, in writing, at any time during the work, such changes in quantities and such alterations in the work as are necessary to satisfactorily complete the project. Such changes in quantities and alterations shall not invalidate the contract nor release the surety, and the Contractor agrees to perform the work as altered.
- (2) If the alterations or changes in quantities significantly change the character of the work under the contract, whether or not changed by any such different quantities or alterations, an adjustment, excluding loss of anticipated profits, will be made to the contract. The basis for the adjustment shall be agreed upon prior to the performance of the work. If a basis cannot be agreed upon, then an adjustment will be made either for or against the Contractor in such amount as the Contracting Officer may determine to be fair and reasonable.

- (3) If the alterations or changes in quantities significantly change the character of the work to be performed under the contract, the altered work will be paid for as provided elsewhere in the contract.
- (4) The term "significant change" shall be construed to apply only to the following circumstances:
 - (a) When the character of the work as altered differs materially in kind or nature from that involved or included in the original proposed construction; or
 - (b) When an item of work is increased in excess of 125 percent or decreased below 75 percent of the original contract quantity. Any allowance for an increase in quantity shall apply only to that portion in excess of 125 percent of original contract item quantity, or in the case of a decrease below 75 percent, to the actual amount of work performed.

ARTICLE 5. TERMINATION-DELAYS—If the Contractor refuses or fails to prosecute the work, or any separable part thereof, with such diligence as will insure its completion within the time specified in the Contract, or any extension thereof, or fails to complete said work within specified time, the District may, by written notice to the Contractor, terminate his right to proceed with the work or such part of the work involving the delay. In such event the District may take over the work and prosecute the same to completion, by contract or otherwise, and may take possession of and utilize in completing the work such materials, appliances, and plant as may have been paid for by the District or may be on the site of the work and necessary therefore. Whether or not the Contractor's right to proceed with the work is terminated, he and his sureties shall be liable for any liability to the District resulting from his refusal or failure to complete the work within the specified time.

If fixed and agreed liquidated damages are provided in the Contract and if the District does not so terminate the Contractor's right to proceed, the resulting damage will consist of such liquidated damages until the work is completed or accepted.

The Contractor's right to proceed shall not be so terminated nor the Contractor charged with resulting damage if:

1. The delay in the completion the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to acts of God, acts of the public enemy, acts of the District in either its sovereign or contractual capacity, acts of another contractor in the performance of a contract with the District, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, climatic conditions beyond the normal which could be anticipated, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of both the Contractor and such subcontractors or suppliers (the term subcontractors or suppliers shall mean subcontractors or suppliers at any tier); and
2. The Contractor, within 10 days from the beginning of any such delay, (unless the Contracting Officer grants a further period of time before the date of final payment under the Contract) notifies the Contracting Officer in writing of the causes of delay.

The Contracting Officer shall ascertain the facts and the extent of the delay and extend the time far completing the work when, in his judgment, the findings of fact justify such an extension, and his findings of fact shall be final and conclusive on the parties, subject only to appeal as provided in Article 7 herein.

If, after notice of termination of the Contractor's right to proceed under the provisions of this Article, it is determined for any reason that the Contractor was not in default under the provisions of this Article, or that the delay was excusable under the provisions of this Article, the rights and

obligations of the parties shall be in accordance with Article 6 herein. Failure to agree to any such adjustment shall be a dispute concerning a question of fact within the meaning of Article 7 herein.

The rights and remedies of the District provided in this Article are in addition to any other rights and remedies provided by law or under the Contract.

The District may, by written notice, terminate the Contract or a portion thereof as a result of an Executive Order of the President of the United States with respect to the prosecution of war or in the interest of national defense. When the Contract is so terminated, no claim for loss of anticipated profits will be permitted.

ARTICLE 6. TERMINATION FOR CONVENIENCE OF THE DISTRICT

- A.** The performance of work under the Contract may be terminated by the District in accordance with this Article in whole, or in part, whenever the Contracting Officer shall determine that such termination is in the best interest of the District. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which performance of work under the Contract is terminated, and the date upon which such termination becomes effective.
- B.** After receipt of a Notice of Termination, and except as otherwise directed by the Contracting Officer, the Contractor shall:
 - 1.** Stop work under the Contract on the date and to the extent specified in the Notice of Termination.
 - 2.** Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the Contract as is not terminated.
 - 3.** Terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination.
 - 4.** Assign to the District, in the manner, at the times, and to the extent directed by the Contracting Officer, all of the right, title and interest of the Contractor under the orders and subcontracts so terminated, in which case the District shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.
 - 5.** Settle all outstanding liabilities and all claims arising out of such termination of orders or subcontracts, with the approval or ratification of the Contracting Officer to the extent he may require, which approval or ratification shall be final for all purposes of this Article.
 - 6.** Transfer title to the District and deliver in the manner, at the times, and to the extent, if any, directed by the Contracting Officer:
 - a.** The fabricated or unfabricated parts, work in progress, completed work, supplies, and other material procured as a part of, or acquired in connection with, the performance of the work terminated by the Notice of Termination, and
 - b.** The completed, or partially completed plans, drawings information and other property which, if the Contract had been completed, would have been required to be furnished to the District.
 - 7.** Use his best efforts to sell, in the manner, at the terms, to the extent, and at the price or prices directed or authorized by the Contracting Officer, any property of the types referred to in 6 above provided, however, that the Contractor:
 - a.** Shall not be required to extend credit to any purchaser, and

- b. May acquire any property under the conditions prescribed and at a price or prices approved by the Contracting Officer, and
 - c. Provided further, that the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the District to the Contractor under the Contract or shall otherwise be credited to the price or cost of the work covered by the Contract or paid in such other manner as the Contracting Officer may direct.
8. Complete performance of such part of the work as shall not have been terminated by the Notice of Termination.
 9. Take such action as may be necessary, or as the Contracting Officer may direct, for the protection and preservation of the property related to the Contract which is in the possession of the Contractor and in which the District has or may acquire an interest.
 10. The Contractor shall proceed immediately with the performance of the above obligations notwithstanding any delay in determining or adjusting the cost, or any item of reimbursable cost, under this Article.
 11. "Plant clearance period" means, for each particular property classification (such as raw materials, purchased parts and work in progress) at any one plant or location, a period beginning with the effective date of the termination for convenience and ending 90 days after receipt by the Contracting Officer of acceptable inventory schedules covering all items of that particular property classification in the termination inventory at that plant or location, or ending on such later date as may be agreed to by the Contracting Officer and the Contractor. Final phase of a plant clearance period means that part of a plant clearance period which occurs after the receipt of acceptable inventory schedules covering all items of the particular property classification at the plant or location.

At any time after expiration of the plant clearance period, as defined above, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality, of any or all items of termination inventory not previously disposed of, exclusive of items the disposition of which has been directed or authorized by the Contracting Officer, and may request the District to remove such items or enter into a storage agreement covering them. Not later than 15 days thereafter, the District will accept title to such items and remove them or enter into a storage agreement covering the same; provided, that the list submitted shall be subject to verification by the Contracting Officer upon removal of the items or, if the items are stored, within 45 days from the date of submission of the list, and any necessary adjustments to correct the list as submitted, shall be made prior to final settlement.

- C. After receipt of a Notice of Termination, the Contractor shall submit to the Contracting Officer his termination claim, in the form with the certification prescribed by the Contracting Officer. Such claim shall be submitted promptly but in no event later than one year from the effective date of termination, unless one or more extensions in writing are granted by the Contracting Officer upon request of the Contractor made in writing within such one year period or authorized extension thereof. However, if the Contracting Officer determines that the facts justify such action, he may receive and act upon any such termination claim at any time after such one year period or extension thereof. Upon failure of the Contractor to submit his termination claim within the time allowed, the Contracting Officer may, subject to any review required by the District's procedures in effect as of the date of execution of the Contract, determine, on the basis of information available to him, the amount, if any, due to the Contractor by reason of the termination and shall thereupon pay to the Contractor the amount so determined.

D. Subject to the provisions of C above, and subject to any review required by the District's procedures in effect as of the date of execution of the Contract, the Contractor and Contracting Officer may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the total or partial termination of work pursuant to this Article, which amount or amounts may include a reasonable allowance for profit on work done; provided, that such agreed amount or amounts, exclusive of settlement costs, shall not exceed the total Contract price as reduced by the amount of payments otherwise made and as further reduced by the Contract price of work not terminated. The Contract shall be amended accordingly, and the Contractor shall be paid the agreed amount. Nothing in E below prescribing the amount to be paid to the Contractor in the event of failure of the Contractor and the Contracting Officer to agree upon the whole amount to be paid to the Contractor by reason of the termination of work pursuant to this Article, shall be deemed to limit, restrict or otherwise determine or effect the amount or amounts which may be agreed upon to be paid to the Contractor pursuant to this paragraph.

E. In the event of the failure of the Contractor and the Contracting Officer to agree as provided in D above upon the whole amount to be paid to the Contractor by reason of the termination of work pursuant to this Article, the Contracting Officer shall, subject to any review required by the District's procedures in effect as of the date of execution of the Contract, determine, on the basis of information available to him, the amount, if any, due the Contractor by reason of the termination and shall pay to the Contractor the amounts determined by the Contracting Officer, as follows, but without duplication of any amounts agreed upon in accordance with D above:

1. With respect to all Contract work performed prior to the effective date of the Notice of Termination, the total (without duplication of any items) of:

a. The cost of such work;

b. The cost of settling and paying claims arising out of the termination of work under subcontracts or orders as provided in B 5. above, exclusive of the amounts paid or payable on account of supplies or materials delivered or services furnished by the subcontractor prior to the effective date of the Notice of Termination of work under the Contract, which amounts shall be included in the cost on account of which payment is made under E1.a. above; and

c. A sum, as profit on E.1.a. above, determined by the Contracting Officer to be fair and reasonable; provided however, that if it appears that the Contractor would have sustained a loss on the entire Contract had it been completed, no profit shall be included or allowed under this subparagraph and an appropriate adjustment shall be made reducing the amount of the settlement to reflect the indicated rate of loss; and provided further that profit shall be allowed only on preparations made and work done by the Contractor for the terminated portion of the Contract but may not be allowed on the Contractor's settlement expenses. Anticipatory profits and consequential damages will not be allowed. Any reasonable method may be used to arrive at a fair profit, separately or as part of the whole settlement.

2. The reasonable cost of the preservation and protection of property incurred pursuant to B.9; and any other reasonable cost incidental to termination of work under the Contract including expense incidental to the determination of the amount due to the Contractor as the result of the termination of work under the Contract.

- F. The total sum to be paid to me Contractor under E.1. above shall not exceed the total Contract price as reduced by the amount of payments otherwise made and as further reduced by the Contract price of work not terminated. Except for normal spoilage, and except to the extent that the District shall have otherwise expressly assumed the risk of loss, there shall be excluded from the amounts payable to the Contractor under E.1. above, the fair value, as determined by the Contracting Officer, of property which is destroyed, lost, stolen or damaged so as to become undeliverable to the District, or to a buyer pursuant to B.7 above.
- G. The Contractor shall have the right of appeal, under Article 7 herein, from any determination made by the Contracting Officer under C. or E. above, except that, if the Contractor has failed to submit his claim within the time provided in C above and has failed to request extension of such time, he shall have no such right of appeal. In any case where the Contracting Officer has made a determination of the amount due under C. or E. above, the District shall pay to the Contractor the following:
1. If there is no right of appeal hereunder or if no timely appeal has been taken, the amount so determined by the Contracting Officer, or
 2. If an appeal had been taken, the amount finally determined on such appeal.
- H. In arriving at the amount due the Contractor under this Article there shall be deducted:
1. all unliquidated advance or other payments on account theretofore made to the Contractor, applicable to the terminated portion of the Contract;
 2. any claim which the District may have against the Contractor in connection with the Contract; and
 3. the agreed price for, or the proceeds of sale of, any materials, supplies or other things kept by the Contractor or sold, pursuant to the provisions of this Article and not otherwise recovered by or credited to the District.
- I. If the termination hereunder be partial, prior to the settlement of the terminated portion of the Contract, the Contractor may file with the Contracting Officer a request in writing for an equitable adjustment of the price or prices specified in the Contract relating to the continued portion of the Contract (the portion not terminated by the Notice of Termination), and such equitable adjustment as may be agreed upon shall be made at such price or prices; however, nothing contained herein shall limit the right of the District and the Contractor to agree upon the amount or amounts to be paid to the Contractor for the completion of the continued portion of the Contract when said Contract does not contain an established Contract price for such continued portion.
- J. The District may from time to time, under such terms and conditions as it may prescribe, make partial payments against costs incurred by the Contractor in connection with the terminated portion of the Contract whenever in the opinion of the Contracting Officer the aggregate of such payments shall be within the amount to which the Contractor will be entitled hereunder. If the total of such payments is in excess of the amount finally agreed or determined to be due under this Article, such excess shall be payable by the Contractor to the District upon demand, together with interest computed at the rate of 6 percent per annum for the period from the date such excess is received by the Contractor to the date on which such excess is repaid to the District; provided however, that no interest shall be charged with respect to any such excess payment attributable to a reduction in the Contractor's claim by reason of retention or other disposition of termination inventory until ten days after the date of such retention or disposition, or such later date as determined by the Contracting Officer by reason of the circumstances.

- K. Unless otherwise provided in the Contract or by applicable statute, the Contractor, from the effective date of termination and for a period of three years after final settlement under the Contract, shall preserve and make available to the District at all reasonable times at the office of the Contractor, but without direct charge to the District, all his books, records, documents and other evidence bearing on the costs and expenses of the Contractor under the Contract and relating to the work terminated hereunder, or, to the extent approved by the Contracting Officer, photographs and other authentic reproductions thereof.

ARTICLE 7. DISPUTES

- A. All disputes arising under or relating to this contract shall be resolved as provided herein.
- B. Claims by a Contractor against the District.

"Claim", as used in Section B of this clause, means a written assertion by the Contractor seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant.

- (a) All claims by a Contractor against the District arising under or relating to a contract shall be in writing and shall be submitted to the Contracting Officer for a decision. The contractor's claim shall contain at least the following:

- (1) A description of the claim and the amount in dispute;
- (2) Any data or other information in support of the claim;
- (3) A brief description of the Contractor's efforts to resolve the dispute prior to filing the claim; and
- (4) The Contractor's request for relief or other action by the Contracting Officer.

(b) The Contracting Officer may meet with the Contractor in a further attempt to resolve the claim by agreement.

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(c) For any claim of \$50,000 or less, the Contracting Officer shall issue a decision within sixty (60) days from receipt of a written request from a Contractor that a decision be rendered within that period.

(d) For any claim over \$50,000, the Contracting Officer shall issue a decision within ninety (90) days of receipt of the claim. Whenever possible, the Contracting Officer shall take into account factors such as the size and complexity of the claim and the adequacy of the information in support of the claim provided by the Contractor.

(e) The Contracting Officer's written decision shall do the following:

- (1) Provide a description of the claim or dispute;
- (2) Refer to the pertinent contract terms;
- (3) State the factual areas of agreement and disagreement;
- (4) State the reasons for the decision, including any specific findings of fact, although specific findings of fact are not required and, if made, shall not be binding in any subsequent proceeding;
- (5) If all or any part of the claim is determined to be valid, determine the amount of monetary settlement, the contract adjustment to be made, or other relief to be granted;
- (6) Indicate that the written document is the contracting officer's final decision; and

(7) Inform the Contractor of the right to seek further redress by appealing the decision to the Contract Appeals Board.

(f) Any failure by the Contracting Officer to issue a decision on a contract claim within the required time period will be deemed to be a denial of the claim, and

will authorize the commencement of an appeal to the Contract Appeals Board as authorized by D.C. Official Code § 2-309.04.

(g) (1) If a Contractor is unable to support any part of his or her claim and it is determined that the inability is attributable to a material misrepresentation of fact or fraud on the part of the Contractor, the Contractor shall be liable to the District for an amount equal to the unsupported part of the claim in addition to all costs to the District attributable to the cost of reviewing that part of the Contractor's claim.

(2) Liability under paragraph (g)(1) shall be determined within six (6) years of the commission of the misrepresentation of fact or fraud.

(h) The decision of the Contracting Officer shall be final and not subject to review unless an administrative appeal or action for judicial review is timely commenced by the Contractor as authorized by D. C. Official Code § 2-309.04.

(i) Pending final decision of an appeal, action, or final settlement, a Contractor shall proceed diligently with performance of the contract in accordance with the decision of the Contracting Officer.

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C. Claims by the District against a Contractor

(a) Claim as used in Section C of this clause, means a written demand or written assertion by the District seeking, as a matter of right, the payment of money in a sum certain, the adjustment of contract terms, or other relief arising under or relating to this contract. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant.

(b) (1) All claims by the District against a Contractor arising under or relating to a contract shall be decided by the Contracting Officer.

(2) The Contracting Officer shall send written notice of the claim to the Contractor. The Contracting Officer's written decision shall do the following:

(a) Provide a description of the claim or dispute;

(b) Refer to the pertinent contract terms;

(c) State the factual areas of agreement and disagreement;

(d) State the reasons for the decision, including any specific findings of fact, although specific findings of fact are not required and, if made, shall not be binding in any subsequent proceeding;

(e) If all or any part of the claim is determined to be valid, determine the amount of monetary settlement, the contract adjustment to be made, or other relief to be granted;

(f) Indicate that the written document is the Contracting Officer's final decision; and

(g) Inform the Contractor of the right to seek further redress by appealing the decision to the Contract Appeals Board.

(3) The decision shall be supported by reasons and shall inform the Contractor of its rights as provided herein.

(4) The authority contained in this clause shall not apply to a claim or dispute for penalties or forfeitures prescribed by statute or regulation which another District agency is specifically authorized to administer, settle, or determine.

(5) This clause shall not authorize the Contracting Officer to settle, compromise, pay, or otherwise adjust any claim involving fraud.

(c) The decision of the Contracting Officer shall be final and not subject to review unless an administrative appeal or action for judicial review is timely commenced by the Contractor as authorized by D.C. Official Code §2-309.04.

(d) Pending final decision of an appeal, action, or final settlement, the Contractor shall proceed diligently with performance of the contract in accordance with the decision of the Contracting Officer.

ARTICLE 8. PAYMENTS TO CONTRACTOR—The District will pay the contract price or prices as hereinafter provided in accordance with District and Federal regulations.

The District will make progress payments monthly as the work proceeds, or at more frequent intervals as determined by the Contracting Officer, on estimates approved by the Contracting Officer. The Contractor shall furnish a breakdown of the total Contract price showing the amount included therein for each principal category of the work, in such detail as requested, to provide a basis for determining progress payments. In the preparation of estimates the Contracting Officer, at his discretion, may authorize material delivered on the site and preparatory work done to be taken into consideration. Material delivered to the Contractor at locations other than the site may also be taken into consideration:

1. If such consideration is specifically authorized by the Contract;
2. If the Contractor furnishes satisfactory evidence that he has acquired title to such material, that it meets Contract requirements and that it will be utilized on the work covered by the Contract; and
3. If the Contractor furnishes to the Contracting Officer an itemized list.

The Contracting Officer at his/her discretion shall cause to be withheld retention in an amount sufficient to protect the interest of the District of Columbia. The amount shall not exceed ten percent (10%) of the partial payment. However, if the Contracting Officer, at any time after 50 percent of the work has been completed, finds that satisfactory progress is being made, he may authorize any of the remaining progress payments to be made in full or may retain from such remaining partial payments less than 10 percent thereof. Also, whenever work is substantially complete, the Contracting Officer, if he considers the amount retained to be in excess of the amount adequate for the protection of the District, at his discretion, may release to the Contractor all or a portion of such excess amount. Furthermore, on completion and acceptance of each separate building, public work, or other division of the Contract, on which the price is stated separately in the Contract, payment may be made therefore without retention of a percentage, less authorized deductions.

All material and work covered by progress payments made shall thereupon become the sole property of the District, but this provision shall not be construed as relieving the Contractor from the sole responsibility for all material and work upon which payments have been made or the restoration of any damaged work, or as waiving the right of the District to require the fulfillment of all of the terms of the Contract.

Upon completion and acceptance of all work, the amount due the Contractor under the Contract shall be paid upon presentation at a properly executed voucher and after the Contractor shall have furnished the District with a release, if required, of all claims against the District arising by virtue of the Contract, other than claims in stated amounts as may be specifically excepted by the Contractor from the operation of the release.

ARTICLE 9. TRANSFER OR ASSIGNMENT—Unless otherwise provided by law, neither the Contract nor any interest therein may be transferred or assigned by the Contractor to any other party without the written consent of the Contracting Officer nor without the written acceptance by the surety on the performance and payment bond securing the Contract of the assignee as the Contractor and the principal on such bond; and any attempted transfer or assignment not authorized by this Article shall constitute a breach of the Contract and the District may for such cause terminate the right of the Contractor to proceed in the same manner as provided in Article 5 herein, and the Contractor and his sureties shall be liable to the District for any excess cost occasioned the District thereby.

ARTICLE 10. MATERIAL AND WORKMANSHIP

- A. **GENERAL**—Unless otherwise specifically provided in the Contract, all equipment, material and articles incorporated in the work covered by the Contract shall be new and of the most suitable grade for the purpose intended. Unless otherwise specifically provided in the Contract, reference to any equipment, material, article or patented

process, by trade name, make or catalog number, shall be regarded as establishing a standard of quality and shall not be construed as limiting competition., and the Contractor may use any equipment, material, article or process which, in the judgment of the Contracting Officer, is equivalent to that named unless otherwise specified. The Contractor shall furnish to the Contracting Officer for his approval the name of the manufacturer, the model number, and other identifying data and information respecting the performance, capacity, nature and rating of the mechanical and other equipment which the Contractor contemplates incorporating in the work. Machinery and equipment shall be in proper condition. When required by the Contract or when called for by the Contracting Officer, the Contractor shall furnish to the Contracting Officer for approval full information concerning the material or articles which he contemplates incorporating in the work. When so directed, samples shall be submitted for approval at the Contractor's expense, with all shipping charges prepaid. Machinery, equipment, material, and articles installed or used without required approval shall be at the risk of subsequent rejection and subject to satisfactory replacement at Contractor's expense.

- B. SURPLUS MATERIALS USE**—Whenever specified in the Contract or authorized by the Contracting Officer that materials become the property of the Contractor, which by reference or otherwise shall include disposal of materials, it is understood that the Contractor accepts such materials “as is” with no further expense or liability to the District. If such material specified in the Contract will have a potential or real interest of value, the Contractor shall make allowance in the Contract to show such value.
- C. DISTRICT MATERIAL**—No materials furnished by the District shall be applied to any other use, public or private, than that for which they are issued to the Contractor. The full amount of the cost to the District of all materials furnished by the District to the Contractor and for which no charge is made, which are not accounted for by the Contractor to the satisfaction of the Contracting Officer, will be charged against the Contractor and his sureties and may be deducted from any monies due the Contractor, and this charge shall be in addition to and not in lieu of any other liabilities of the Contractor whether civil or criminal. Materials furnished by the District for which a charge is made at a rate mentioned in the specifications will be delivered to the Contractor upon proper requisitions therefore and will be charged to his account.
- D. Plant** —The Contractor shall at all times employ sufficient tools and equipment for prosecuting the various classes of work to full completion in the manner and time required. The Contractor shall at all times perform work in sufficient light and shall provide proper illumination, including lighting required for night work as directed, as a Contract requirement. All equipment, tools, formwork and staging used on the project shall be of sufficient size and in proper mechanical and safe condition to meet work requirements, to produce satisfactory work quality and to prevent injury to persons, the project or adjacent property. When methods and equipment are not prescribed in the Contract, the Contractor is free to use tools, methods and equipment that he satisfactorily demonstrates will accomplish the work in conformity with Contract requirements.

If the Contractor desires to use a method or type of tool or equipment other than specified in the Contract, he shall request approval to do so; the request shall be in writing and shall include a full description of proposed methods, tools and equipment and reason for the change or substitution. Approval of substitutions and changed methods will be on condition that the Contractor will be fully responsible for producing work meeting Contract requirements. If after trial use of the substituted methods, tools and equipment, the Contracting Officer determines that work produced does not meet Contract requirements, the Contractor shall complete remaining work with specified methods, tools and equipment.

- E. CAPABILITY OF WORKERS-** All work under the Contract shall be performed in a skillful and workmanlike manner. The Contracting Officer may require the Contractor to remove from the work any such employees as the Contracting Officer deems incompetent, careless, insubordinate, or otherwise objectionable, or whose continued employment on the work is deemed by the Contracting Officer to be contrary to the public interest. Such request will be in writing:

- F. CONFORMITY OF WORK AND MATERIALS**—All work performed and materials and products furnished shall be in conformity, within indicated tolerances, with lines, grades, cross sections, details, dimensions, material and construction requirements shown or intended by the drawings and specifications.

When materials, products or work cannot be corrected, written notice of rejection will be issued. Rejected materials, products and work shall be eliminated from the project and acceptably replaced at Contractor's expense. The Contracting Officer's failure to reject any portion of the project shall not constitute implied acceptance nor in any way release the Contractor from Contract requirements.

- G. UNAUTHORIZED WORK AND MATERIALS**—Work performed or materials ordered or furnished for the project deviating from requirements without written authority, will be considered unauthorized and at Contractor's expense. The District is not obligated to pay for unauthorized work. Unauthorized work and materials may be ordered removed and replaced at Contractor's expense.

ARTICLE 11. INSPECTION AND ACCEPTANCE—Except as otherwise provided in the Contract, inspection and test by the District of material and workmanship required by the Contract shall be made at reasonable times and at the site of the work, unless the Contracting Officer determines that such inspection or test of material which is to be incorporated in the work shall be made at the place of production, manufacture or shipment of such material. To the extent specified by the Contracting Officer at the time of determining to make off-site inspection or test, such inspection or test shall be conclusive as to whether the material involved conforms to Contract requirements. Such off-site inspection or test shall not relieve the Contractor of responsibility for damage to or loss of the material prior to acceptance, nor in any way affect the continuing rights of the District after acceptance of the completed work under the terms of the last paragraph of this Article, except as herein above provided.

The Contractor shall, without charge, replace any material and correct any workmanship found by the District not to conform to Contract requirements, unless in the public interest the District consents to accept such material or workmanship with an appropriate adjustment in Contract price. The Contractor shall promptly segregate and remove rejected material from the premises at Contractor's expense.

If the Contractor does not promptly replace rejected material or correct rejected workmanship, the District:

1. May, by contract or otherwise, replace such material and correct such workmanship and charge the cost thereof to the Contractor, or
2. May terminate the Contractor's right to proceed in accordance with Article 5 herein.

The Contractor shall furnish promptly, without additional cost to the District, all facilities, labor and material reasonably needed for performing such safe and convenient inspection and test as may be required by the Contracting Officer. All inspections and tests by the District shall be performed in such manner as not unnecessarily to delay the work. Special, full size, and performance tests shall be performed as described in the Contract. The Contractor shall be charged with any additional cost of inspection when material and workmanship are not ready for inspection at the time specified by the Contractor.

Should it be considered necessary or advisable by the Contracting Officer at any time before acceptance of the work, either in part or in its entirety, to make an examination of work completed, by removing or tearing out same, the Contractor shall, on request, promptly furnish all necessary facilities, labor and material to do same. If such work is found to be defective or nonconforming in any material respect, due to the fault of the Contractor or his subcontractors, he shall defray all the expenses of such examination and of satisfactory reconstruction. If, however, such work is found to meet the requirements of the Contract, an equitable adjustment shall be made in the Contract price

to compensate the Contractor for the additional services involved in such examination and reconstruction and, if completion of the work has been delayed thereby, he shall, in addition, be granted an equitable extension of time.

Unless otherwise provided in the Contract, acceptance by the District will be made as promptly as practicable after completion and inspection of all work required by the Contract. Acceptance shall be final and conclusive except as regards to latent defects, fraud, or such gross mistakes as may amount to fraud, or as regards the District's rights under any warranty or guaranty.

ARTICLE 12. SUPERINTENDENCE BY CONTRACTOR—The Contractor shall give his personal superintendence to the performance of the work or have a competent foreman or superintendent, satisfactory to the Contracting Officer, on the work site at all times during progress, with authority to act for him.

ARTICLE 13. PERMITS AND RESPONSIBILITIES—The Contractor shall, without expense to the District, be responsible for obtaining any necessary licenses, certificates and permits, and for complying with any applicable Federal, State, and Municipal laws, codes and regulations, in connection with the prosecution of the work. He shall be similarly responsible for all damages to persons or property that occurs as a result of his fault or negligence. He shall take proper safety, health and environmental precautions to protect the work, the workers, the public, and the property of others. He shall also be responsible for all materials delivered and work performed until completion and acceptance of the entire construction work, except for any completed unit of construction thereof which theretofore may have been accepted.

ARTICLE 14. INDEMNIFICATION—The Contractor shall indemnify and save harmless the District and all of its officers, agents and servants against any and all claims or liability arising from or based on, or as a consequence or result of, any act, omission or default of the Contractor, his employees, or his subcontractors, in the performance of, or in connection with, any work required, contemplated or performed under the Contract.

ARTICLE 15. PROTECTION AGAINST TRESPASS—Except as otherwise expressly provided in the Contract, the Contractor is authorized to refuse admission either to the premises or to the working space covered by the Contract to any person whose admission is not specifically authorized in writing by the Contracting Officer.

ARTICLE 16. CONDITIONS AFFECTING THE WORK

- A. GENERAL**—The Contractor shall be responsible for having taken steps reasonably necessary to ascertain the nature and location of the work, and the general and local conditions which can affect the work and the cost thereof. Any failure by the Contractor to do so will not relieve him from responsibility for successfully performing the work as specified without additional expense to the District. The District assumes no responsibility for any understanding or representation concerning conditions made by any of its officers or agents prior to the execution of the Contract, unless such understanding or representation by the District is expressly stated in the Contract.
- B. WORK AND STORAGE SPACE**—Available work and storage space designated by the District shall be developed as required by the Contract or restored at completion of the project by the Contractor to a condition equivalent to that existing prior to construction. No payment will be made for furnishing or restoration of any work and storage space. If no area is designated or the area designated is not sufficient for the Contractor's operations, he shall obtain necessary space elsewhere at no expense or liability to the District.
- C. WORK ON SUNDAYS, LEGAL HOLIDAYS AND AT NIGHT**—No work shall be done at any time on Sundays or legal holidays or on any other day before 7 a.m. or after 7 p.m., except with the written permission of the Contracting Officer and pursuant to the requirements of the Police Requirements of the District.
- D. EXISTING FEATURES**—Subsurface and topographic information including borings data, utilities data and other physical data contained in the Contract or otherwise available, are

not intended as representations or warranties but are furnished as available information. The District assumes no expense or liability for the accuracy of, or interpretations made from, existing features. The Contractor shall be responsible for reasonable consideration of existing features above and below ground which may affect the project.

- E. UTILITIES AND VAULTS**—The Contractor shall take necessary measures to prevent interruption of service or damage to existing utilities within or adjacent to the project. It shall be the Contractor's responsibility to determine exact locations of all utilities in the field.

For any underground utility or vault encountered, the Contractor shall immediately notify the Contracting Officer and take necessary measures to protect the utility or vault and maintain the service until relocation by owner is accomplished. No additional payment will be made for the encountering of these obstructions.

In case of damage to utilities by the Contractor, either above or below ground, the Contractor shall restore such utilities to a condition equivalent to that which existed prior to the damage by repairing, rebuilding or otherwise restoring as may be directed, at the Contractor's sole expense. Damaged utilities shall be repaired by the Contractor or, when directed by the Contracting Officer, the utility owner will make needed repairs at the Contractor's expense.

No compensation, other than authorized time extensions, will be allowed the Contractor for protective measures, work interruptions, changes in construction sequence, changes in methods of handling excavation and drainage or changes in types of equipment used, made necessary by existing utilities, imprecise utility or vault information or by others performing work within or adjacent to the project.

- F. SITE MAINTENANCE**—The Contractor shall maintain the project site in a neat and presentable manner throughout the course of all operations, and shall be responsible for such maintenance until final acceptance by the District. Trash containers shall be furnished, maintained and emptied by the Contractor to the satisfaction of the Contracting Officer. Excavated earthwork, stripped forms and all other materials and debris not scheduled for reuse in the project shall be promptly removed from the site.

The Contracting Officer may order the Contractor to clean up the project site at any stage of work at no added expense to the District. If the Contractor fails to comply with this order, the Contracting Officer may require the work to be done by others and the costs will be charged to the Contractor.

Upon completion of all work and prior to final inspection, the Contractor shall clean up and remove from the project area and adjacent areas all excess materials, equipment, temporary structures, and refuse, and restore said areas to an acceptable condition.

- G. PRIVATE WORK**—Except as specifically authorized by the Contracting Officer, the Contractor shall not perform any private work abutting District projects with any labor, materials, tools, equipment, supplies or supervision scheduled for the Contract until all work under the Contract has been completed. Contract materials used for any unauthorized purpose shall be subtracted from Contract amount.

- H. DISTRICT OF COLUMBIA NOISE CONTROL ACT OF 1977**—The contractor shall be in strict compliance with D.C. Law 2-53, District of Columbia Noise Control Act of 1977 and all provisions thereof. Effective March 16, 1978. 24 D.C. Register 5293.

ARTICLE 17. OTHER CONTRACTS—The District may undertake or award other contracts for additional work and the Contractor shall fully cooperate with such other contractors and District employees and carefully coordinate his own work with such additional work as may be directed by the Contracting Officer. The Contractor shall not commit or permit any act which will interfere with the performance of work by any other contractor or by District employees. The District assumes no liability, other than authorized time extensions, for Contract delays and damages resulting from delays and lack of progress by others.

ARTICLE 18. PATENT INDEMNITY—Except as otherwise provided, the Contractor agrees to indemnify the District and its officers, agents, and employees against liability, including costs and expenses, for infringement upon any Letters Patent of the United States (except Letters Patent issued upon an application which is now or may hereafter be, for reasons of national security, ordered by the Federal Government to be kept classified or otherwise withheld from issue) arising out of the performance of the Contract or out of the use or disposal, by or for the account of the District, of supplies furnished or construction work performed hereunder.

ARTICLE 19. ADDITIONAL BOND SECURITY—If any surety upon any bond furnished in connection with the Contract becomes unacceptable to the District, or if any such surety fails to furnish reports as to his financial condition from time to time as requested by the District, the Contractor shall promptly furnish such additional security as may be required from time to time to protect the interests of the District and of persons supplying labor or materials in the prosecution of the work contemplated by the Contract. Provided that upon the failure of the Contractor to furnish such additional security within ten (10) days after written notice so to do, all payments under the Contract will be withheld until such additional security is furnished.

ARTICLE 20. COVENANT AGAINST CONTINGENT FEES—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 District shall have the right to terminate the Contract without liability or in its discretion to deduct from the Contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.

ARTICLE 21. APPOINTMENT OF ATTORNEY—The Contractor does hereby irrevocably designate and appoint the Clerk of the Superior Court of the District of Columbia and his successors in office as the true and lawful attorney of the Contractor for the purpose of receiving service of all notices and processes issued by any court in the District, as well as service of all pleadings and other papers, in relation to any action or legal proceeding arising out of or pertaining to the Contract or the work required or performed hereunder.

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

ARTICLE 22. DISTRICT EMPLOYEES NOT TO BENEFIT — Unless a determination is made as provided herein, no officer or employee of the District will be admitted to any share or part of this contract or to any benefit that may arise therefrom, and any contract made by the Contracting Officer or any District employee authorized to execute contracts in which they or an employee of the District will be personally interested shall be void, and no payment shall be made thereon by the District or any officer thereof, but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit. A District employee shall not be a party to a contract with the District and will not knowingly cause or allow a business concern or other organization owned or substantially owned or controlled by the employee to be a party to such a contract, unless a written determination has been made by the head of the procuring agency that there is a compelling reason for contracting with the employee, such as when the District's needs cannot reasonably otherwise be met. (DC Procurement Practices Act of 1985, D.C. Law 6-85, D.C. Official Code, section 2-310.01, and Chapter 18 of the DC Personnel Regulations) The Contractor represents and covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. The Contractor further covenants not to employ any person having such known interests in the performance of the contract.

ARTICLE 23. WAIVER—No waiver of any breach of any provision of the Contract shall operate as a waiver of such provision or of the Contract or as a waiver of subsequent or other breaches of the same or any other provision of the Contract; nor shall any action or non-action by the Contracting Officer or by the Mayor be construed as a waiver of any provision of the Contract or of any breach thereof unless the same has been expressly declared or recognized as a waiver by the Contracting Officer or the Mayor in writing.

ARTICLE 24. BUY AMERICAN

- A. AGREEMENT**—In accordance with the Buy American Act (41 USC 10a-10d), and Executive Order 10582, December 17, 1954 (3 CFR, 1954-58 Comp., p. 230), as amended by Executive Order 11051, September 27, 1962 (3 CFR, 1059—63 Comp., p. 635), the Contractor agrees that only domestic construction material will be used by the Contractor, subcontractors, material men and suppliers in the performance of the Contract, except for non-domestic material listed in the Contract.
- B. DOMESTIC CONSTRUCTION MATERIAL**—"Construction material" means any article, material or supply brought to the construction site for incorporation in the building or work. An unmanufactured construction material is a "domestic construction material" if it has been mined or produced in the United States. A manufactured construction material is a "domestic construction material" if it has been manufactured in the United States and if the cost of its components which have been mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. "Component" means any article, material, or supply directly incorporated in a construction material. -
- C. DOMESTIC COMPONENT**—A component shall be considered to have been "mined, produced, or manufactured in the United States" regardless of its source, in fact, if the article, material or supply in which it is incorporated was manufactured in the United States and the component is of a class or kind determined by the District to be not mined, produced or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.
- D. FOREIGN MATERIAL** – When steel materials are used in a project a minimal use of foreign steel is permitted. The cost of such materials can not exceed one-tenth of one percent of the total project cost, or \$2,500,000, whichever is greater.

ARTICLE 25. TAXES

- A. FEDERAL EXCISE**—Materials, supplies and equipment are not subject to the Federal Manufacturer's Excise Tax, if they are furnished or used in connection with the Contract provided that title to such materials, supplies and equipment passes to the District under the Contract. The Contractor shall in such cases furnish his subcontractors and suppliers with a purchaser's certificate in the form prescribed by the U.S. Internal Revenue Service.
- B. SALES AND USE TAXES**—Materials which are physically incorporated as a permanent part of real property are not subject to District of Columbia Sales and Use Tax. The Contractor shall, when purchasing such materials, furnish his suppliers with a Contractor's Exempt Purchase Certificate in the form prescribed in the Sales and Use Tax Regulations of the District of Columbia. Where the Contractor, subcontractor or material man has already paid the Sales and Use Tax on material, as prescribed above, the Sales and Use Tax Regulations of the District of Columbia permit the Contractor, subcontractor or material man to deduct the sales or use tax on the purchase price of the same on his next monthly return as an adjustment. However, the Contractor, subcontractor or material man must satisfy the Chief Financial Officer for the District of Columbia that no sum in reimbursement of such tax was included in the Contract or else that the District has received a credit under the Contract in an amount equal to such tax.

District of Columbia Sales and Use Tax shall be paid on any material and supplies, including equipment rentals, which do not become a physical part of the finished project. (See District of Columbia Sales and Use Tax Administration Ruling No. 6).

The Contractor, subcontractor, or material supplier shall provide proof of compliance with the provisions of D.C. Law 9-260, as amended, codified in D.C. Code 46-103, Employer Contributions, prior to award.

Material and supplies required under contracts relating to Glenn Dale Hospital, Glenn Dale, Maryland, and Children's Center, Laurel, Maryland, are subject to the Maryland State Sales and Use Tax, effective July 1, 1968. BIDDERS SHALL INCLUDE SUCH TAX IN THEIR BIDS. Contracts relating to Department of Corrections, Lorton, Virginia, are subject to the Virginia Retail Sales and Use Tax, effective September 1, 1966, when incorporated in public works contracts of the District. BIDDERS SHALL INCLUDE SUCH TAX IN THEIR BIDS.

The Contractor, subcontractor, or material supplier shall provide proof of compliance with the applicable tax filing and licensing requirements set forth in D.C. Code, Title 47, Taxation and Fiscal Affairs, prior to contract award.

ARTICLE 26. SUSPENSION OF WORK—The Contracting Officer may order the Contractor in writing to suspend, delay or interrupt all or any part of the work for such period of time as he may determine to be appropriate for the convenience of the District.

If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed or interrupted by an act of the Contracting Officer in the administration of the Contract, or by his failure to act within the time specified in the Contract (or if no time is specified, within a reasonable time), an adjustment will be made for an increase in the cost of performance of the Contract (excluding profit) necessarily caused by such unreasonable suspension, delay or interruption and the Contract modified in writing accordingly. However, no adjustment will be made under this Article for any suspension, delay or interruption to the extent:

1. That performance would have been so suspended, delayed or interrupted by any other cause, including the fault or negligence of the contractor, or
2. For which an equitable adjustment is provided or excluded under any other provision of the Contract.

No claim under this Article shall be allowed:

1. For any costs incurred more than 20 days before the Contractor shall have notified the Contracting Officer in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from a suspension order), and
2. Unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of such suspension, delay, or interruption, but not later than the date of final payment under the Contract.

ARTICLE 27. SAFETY PROGRAM

- A. GENERAL**—In order to provide safety controls for the protection of the life and health of District and Contract employees and the general public; prevention of damage to property, materials, supplies, and equipment; and for avoidance of work interruptions in the performance of the Contract, the Contractor shall comply with all applicable Federal and local laws governing safety, health and sanitation including the Safety Standards, Rules and Regulations issued by the American National Standards, U. S. Department of Labor, U. S. Department of Health and Human Services, D. C. Minimum Wage and Industrial Safety Board and the latest edition of "Manual of Uniform Traffic Control Devices" issued by the Federal Highway Administration.

The Contractor shall also take or cause to be taken such additional safety measures as the Contracting Officer may determine to be reasonably necessary.

The Contractor shall designate one person to be responsible for carrying out the Contractor's obligation under this Article.

The Contractor shall maintain an accurate record of all accidents resulting in death, injury, occupational disease, and/or damage to property, materials, supplies, and equipment incident to work performed under the Contract. Copies of these reports shall be furnished to the Contracting Officer within two working days after occurrence.

The Contracting Officer will notify the Contractor of any noncompliance with the foregoing provisions and the action to be taken. The Contractor shall, after receipt of such notice, immediately take corrective action. Such notice, when delivered to the Contractor or his representative at the site of the work, shall be deemed sufficient for the purpose. If the Contractor fails or refuses to comply promptly, the Contracting Officer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. No part of the time lost due to any such stop orders shall be made the subject of claim for extension of time or for excess costs or damages by the Contractor.

This Article is applicable to all subcontractors used under the Contract and compliance with these provisions by the subcontractors will be the responsibility of the Contractor.

(In Contracts involving work of short duration or of non-hazardous character, the following Section B. will be deleted by Special Provision)

B. CONTRACTOR'S PROGRAM SUBMISSION—Prior to commencement of the work, the Contractor shall:

1. Submit in writing to the Contracting Officer for his approval his program for complying with this Article for accident prevention.
2. Meet with the Contracting Officer's Safety Representative after submission of the above program to develop a mutual understanding relative to the administration of the overall safety program.

ARTICLE 28. RETENTION OF RECORDS—Unless otherwise provided in the Contract, or by applicable statute, the Contractor, from the effective date of Contract completion and for a period of three years after final settlement under the Contract, shall preserve and make available to the District at all reasonable times at the office of the Contractor but without direct charge to the District, all his books, records, documents, and other evidence bearing on the costs and expenses of the Contractor under the Contract.

ARTICLE 29. RECOVERY OF DEBTS OWED THE DISTRICT---The Contractor hereby agrees that the District may use all or any portion of any consideration or refund due the Contractor under the Contract to satisfy, in whole or part, any debt due the District.

**LABOR PROVISIONS
(Construction Contract)**

ARTICLE 1. DAVIS-BACON ACT (40 USC 276a-276a 7) —Each Contractor and subcontractor at any tier contracting for any part of Contract work in excess of \$2,000 for construction alteration, and/or repair, including painting and decorating of public buildings and public works and which requires or involves the employment of mechanics and/or laborers shall be subject to the Davis-Bacon Act provisions as follows:

A. MINIMUM WAGES—

1. All mechanics and laborers employed or working upon the site of the work or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the United States Department of Labor, hereinafter referred to as the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at wage rates not less than those contained in the wage determination decision of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such Laborers and mechanics; and the wage determination decision shall be posted by the contractor at the site of the work in a prominent place where it can be easily seen by the workers. For the purpose of this clause, contributions made or costs reasonably anticipated under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv). Also for the purpose of this clause; regular contributions made or costs incurred for more than a weekly period under plans, funds, or programs, but covering the particular weekly period, are deemed to be constructively made or incurred during such weekly period.
2. The contracting officer shall require that any class of laborers or mechanics, including apprentices and trainees, which is not listed in the wage determination and which is to be employed under the contract, shall be classified or reclassified conformably to the wage determination and a report of the action taken shall be sent by the Contracting Officer to the Secretary of Labor. In the event the interested parties cannot agree on the proper classification or reclassification of a particular class of laborers and mechanics, including apprentices and trainees, to be used, the question accompanied by the recommendation of the Contracting Officer shall be referred to the Secretary for final determination.
3. The Contracting Officer shall require, whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly wage rate and the contractor is obligated to pay a cash equivalent of such a fringe benefit, an hourly cash equivalent thereof to be established. In the event the interested parties cannot agree upon a cash equivalent of the fringe benefit, the question, accompanied by the recommendation of the Contracting Officer, shall be referred to the Secretary of Labor for determination.
4. If the Contractor does not make payments to a trustee or other third person, he may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing benefits under a plan or program of a type expressly listed in the wage determination decision of the Secretary of Labor which is a part of this contract: Provided, however, The Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the

contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

B. WITHHOLDING.—The Contracting Officer may withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices and trainees, employed by the contractor or any subcontractor on the work the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice or trainee, employed or working on the site of the work or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project, all or part of the wages required by the contract, the District may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

C. PAYROLLS AND BASIC RECORDS. —

1. Payrolls and basic records relating thereto will be maintained during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work, or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project. Such records will contain the name and address of each such employee, his correct classification, rates of pay. (including rates of contributions or costs anticipated of the types described in section I(b)(2) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(I) (iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section I(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing, to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.
2. The contractor will submit weekly a copy of all payrolls to the Contracting Officer if the agency is a party to the contract, but if the agency is not such a party the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to the Contracting Officer. The copy shall be accompanied by a statement signed by the employer or his agent indicating that the payrolls are correct and complete, that the wage rates contained therein are not less than those determined by the Secretary of Labor and that the classifications set forth for each laborer or mechanic conform with the work he performed. A submission of a "Weekly Statement of Compliance" which is required under this contract and the Copeland regulations of the Secretary of Labor (29 CFR, Part 3) and the filing with the initial payroll or any subsequent payroll of a copy of any findings by the Secretary of Labor under 29 CFR 5.5(a)(1)(iv) shall satisfy this requirement. The prime contractor shall be responsible for the submission of copies of payrolls of all subcontractors. The contractor will make the records required under the labor standards clauses of the contract available for inspection by authorized representatives of the District and the Department of Labor, and will permit such representatives to interview employees during working hours on the job. Contractors employing apprentices or trainees under approved programs shall include a notation on the first weekly certified payrolls submitted to the Contracting Officer that their employment is pursuant to an approved program and shall identify the program.

ARTICLE 2. CONVICT LABOR (18 USC 438)—Convict labor shall not be used on Contract work unless otherwise provided by law.

ARTICLE 3. APPRENTICES AND TRAINEES

- A. APPRENTICES**—Apprentices shall be permitted to work as such only when they are registered, individually, under a bona fide apprenticeship program registered with the Apprenticeship Council, D.C. Department of Labor. The allowance ratio of apprentices to journeymen in any craft classification shall not be greater than the ratio permitted to the Contractor a to his entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate, who is not a trainee as defined in Section B. of this Article or is not registered as above, shall be paid the wage rate determined by the Secretary of Labor or the classifications of work he actually performed. The Contractor and Subcontractor shall furnish to the Contracting Officer written evidence of the registration of his appropriate ratios and wage rates for the areas of construction, prior to using any apprentice on the Contract.
- B. TRAINEES**—Trainees will be permitted to work as such when they are bona fide trainees employed pursuant to a program approved by the Contracting Officer and Apprenticeship Council, D.C. Department of Labor.
- C. REQUIREMENTS**—The Contractor agrees to hire for the performance of the Contract a number of apprentices or trainees or both, in each occupation, which bears to the average number of the journeymen in that occupation to be employed in the performance of the Contract the applicable ratios as determined by the Apprenticeship Council, O. C. Department of Labor.
1. The Contractor shall assure that 25 percent of such apprentices or trainees in each occupation are in their first year of training, when feasible. Feasibility here involves a consideration of:
 - a. The availability of training opportunities for first year apprentices;
 - b. The hazardous nature of the work for beginning workers;
 - c. Excessive unemployment of apprentices in their second and subsequent years of training.
 2. The Contractor shall maintain records of employment, by trade, of the number of apprentices and trainees, apprentices and trainees by first year of training, and of journeymen, and the wages paid and hours of work of such apprentices, trainees and journeymen. The Contractor shall make these records available for inspection upon request of the Contracting Officer and the Apprenticeship Council, O. C. Department of Labor.
 3. The Contractor who claims compliance based on the criterion stated in 29 CFR5.a. agrees to maintain records of employment as described in 29 CFR5.a..3(a)(2) on non-governmental and non-governmentally assisted construction work done during the performance of the Contract in the same labor market area. The Contractor shall make these records available for inspection upon request of the Contracting Officer and the Apprenticeship Council, D. C. Department of Labor.
 4. The Contractor agrees to supply one copy of the written notices as required in accordance with 29 CFR. 5.a.4(c) at the request of the Contracting Officer. The Contractor shall supply at 3 month intervals during performance of the Contract and after completion of the Contract performance a statement containing a breakdown by craft of hours worked and wages paid for first year apprentices and trainees, other apprentices and trainees, and journeymen. Two copies of the statement shall be submitted to the Contracting Officer, who will submit a copy to the Apprenticeship Council, D. C. Department of Labor.

5. Section 5, D. C. Law 2—156, AC] 2—325, dated December 29, 1978, is hereby incorporated as part of this Amendment as follows:

“All prime contractors and subcontractors who contract with the District of Columbia Government to perform construction or renovation work with a single contract or cumulative contracts of at least \$500,000, let within a twelve (12) month period, shall be required to register an apprenticeship program with the District of Columbia Apprenticeship Council.” 25 D.C. Register 6991.

ARTICLE 4. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 USC 327- 330)

- A. OVERTIME BASIS**—Each Contractor and subcontractor at any tier contracting for any part of Contract work which may require or involve the employment of laborers, mechanics, watchmen or guards, apprentices or trainees shall not require or permit any laborer, mechanic, watchman or guard, apprentice or trainee in any workweek in which he is employed on such work, to work in excess of eight (8) hours in any calendar day or in excess of forty (40) hours in such workweek unless such laborer, mechanic, watchman or guard, apprentice or trainee receives compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in excess of eight (8) hours in any calendar day or in excess of forty (40) hours in such workweek, as the case may be.
- B. LIABILITY FOR UNPAID WAGES**—In the event of violation of the provisions of Section A, the Contractor and any subcontractor responsible therefore shall be liable to any affected employee for his unpaid wages. In addition, such Contractor and subcontractor shall be liable to the District for Liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer, mechanic, watchman or guard, apprentice or trainee employed in violation of any provision of Section A, in the amount of \$10 for each calendar day on which such employee was required or permitted to work in excess of eight (8) hours or in excess of the standard workweek of forty (40) hours without payment of the overtime wages required by Section A.

The Contracting Officer may withhold or cause to be withheld from the Contractor such sums as administratively determined to satisfy any liability of the Contractor and subcontractors for unpaid wages and liquidated damages as herein provided. In the event of failure to pay any laborer, mechanic, watchman, or guard, apprentice or trainee employed or working on the work site, all or part of the wages required by the Contract, the Contracting Officer may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment, advance or guarantee of funds until such violations have ceased.

- C. DISPUTES**—Any Contractor or subcontractor aggrieved by the withholding of a sum as liquidated damages as provided shall have the right, within sixty (60) days thereafter, to appeal to the Contracting Officer in the case of liquidated damages withheld for the use and benefit of the District. The Contracting Officer shall have authority to review the administrative determination of liquidated damages and to issue a final order affirming such determination; or if it is found that the sum determined is incorrect or that the Contractor or subcontractor violated these Labor Provisions inadvertently notwithstanding the exercise of due care on his part and that of his agents, recommendations may be made to the Secretary of Labor that an appropriate adjustment in liquidated damages be made, or that the Contractor or subcontractor be relieved of liability for such liquidated damages. The Secretary will review all pertinent facts in the matter and may conduct such investigation as he deems necessary so as to affirm or reject the recommendation. The decision of the Secretary shall be final. In all such cases in which a Contractor or subcontractor may be aggrieved by a final order for the withholding of liquidated damages as herein before provided, the Contractor or subcontractor may, within sixty (60) days after such final order, file a claim per Article 7 of the General Provisions, provided, however, that final orders of the Contracting Officer or the Secretary of Labor as the case may be, shall be conclusive with respect to findings of fact if such findings are supported by substantial evidence.

- D. VIOLATION PENALTY**—If the Contractor or subcontractor who employs, directs & controls any laborer or mechanic employed in the performance of any work contemplated by the Contract, shall intentionally violate any provision herein, he shall be deemed guilty of a misdemeanor, and for each and every such offense shall, upon conviction, be punished by a fine of not to exceed \$1,000 or by imprisonment for not more than six (6) months, or by both such fine and imprisonment, in the discretion of the court having jurisdiction thereof (Section 106 Title 1, P.L. 87—851, 40 USC Sec. 332, 76 Stat. 359).
- E. HEALTH AND SAFETY STANDARDS**—It is a condition. of the Contract, and shall be made a condition of each subcontract under the Contract, that the Contractor and any subcontractor shall not require any laborer or mechanic employed in performance of the Contract to work in surroundings or wider working condition which are unsanitary, hazardous, or dangerous to his health or safety, as determined under construction safety and health standards per 29 CFR Part 1518.

The Secretary of Labor is authorized to make such inspections, hold such hearings, issue such orders, and make such decisions based on findings of fact, as are deemed necessary to gain compliance with this Section and any health and safety standard promulgated by the Secretary. In the event that the Secretary of Labor determines non-compliance under the provisions of this Section after an opportunity for an adjudicatory hearing by the Secretary of any condition of the Contract, the District shall have the right to cancel the Contract, and to enter into other contracts for the completion of the Contract work, charging any additional cost to the Contractor.

ARTICLE 5. COPELAND ACT (18 USC 874, and 40 USC 276c) - Each Contractor and subcontractor at any tier contracting for any part of Contract work in excess of \$2,000.00 shall be subject to the Copeland Act provisions as follow:

- A. DEFINITION**—As used in this Article, the term “employee” shall not apply to persons in classifications higher than that of laborer or mechanic and those who are the immediate supervisors of such employees.
- B. WEEKLY COMPLIANCE STATEMENT**—The Contractor and each subcontractor engaged in the construction, prosecution, completion or repair of any public building or public work shall furnish each week a statement with respect to the wages paid each of his employees engaged on work covered by these Labor Provisions during the preceding weekly payroll period. The statement shall be executed by the Contractor or subcontractor, or by an authorized officer or employee of the Contractor or subcontractor, who supervises the payment of wages, and shall be on the form attached at the end of these Labor Provisions and entitled “Weekly Statement of Compliance” (Form No. DC 2640-11).

Each weekly statement required shall be delivered by the Contractor or subcontractor, within seven (7) days after regular payment date of the payroll period, to a representative of the Contracting Officer in charge at the site of the building or work. After each examination and check as may be made, such statement, or copy thereof, shall be kept available, or shall be transmitted together with a report of any violation, in accordance with applicable procedures prescribed by the US. Department of Labor.

Upon a written finding by the Contracting Officer, the Secretary of Labor may provide reasonable limitations, variations, tolerances and exemptions from the requirements of this Section subject to such conditions as the Secretary of Labor may specify.

- C. PAYROLLS AND RECORDS**—The Contractor and each subcontractor shall preserve his weekly payroll records for a period of three (3) years from date of completion of the Contract. The payroll records shall set out accurately and completely the name, address- and Social Security Number of each laborer and mechanic, his correct classification, rate of pay, daily and weekly number of hours worked, deductions made, and actual wages paid. Such payroll records shall be made available at all times for inspection by the Contracting Officer, and by authorized representatives of the U.S. Department of Labor.

D. PAYROLL DEDUCTIONS NOT SUBJECT TO SECRETARY OF LABOR APPROVAL—

Deductions made under the circumstances or in the situations described in paragraphs of this Section may be made without application to and approval at the Secretary of Labor:

1. Any deduction made in compliance with the requirements of Federal, State, or local law, such as Federal or State withholding income taxes and Federal social security taxes.
2. Any deduction of sums previously paid to the employee as a bona fide prepayment of wages when such prepayment is made without discount or interest. A "bona fide prepayment of wages" is considered to have been made only when cash or its equivalent has been advanced to the person employed in such manner as to give him complete freedom of disposition of the advanced funds.
3. Any deduction of amounts required by court process to be paid to another, unless the deduction is in favor of the Contractor, subcontractor, or any affiliated person, or when collusion or collaboration exists.
4. Any deduction constituting a contribution on behalf of the person employed to funds established by the employer, or representatives of employees, or both, for the purpose of providing either from principal or income, or both, medical or hospital care, pensions or annuities or retirement, death benefits, compensation for injuries, illness, accidents, sickness, or disability, or for insurance to provide any of the foregoing, or unemployment benefits, vacation pay, savings accounts, or similar payments for the benefit of employees, their families and dependents: Provided, however, that the following standards are met:
 - a. The deduction is not otherwise prohibited by law;
 - b. it is either voluntarily consented to by the employee in writing and in advance of the period in which the work is to be done and such consent is not a condition either for the obtaining of or for the continuation of employment, or provided for in a bona fide collective bargaining agreement between the Contractor or subcontractor and representatives of his employees;
 - c. No profit or other benefit is otherwise obtained, directly or indirectly, by the Contractor or subcontractor or any affiliated person in the form of commission, dividend, or otherwise; and
 - d. The deductions - shall serve the convenience and interest of the employee.
5. Any deduction contributing toward the purchase of United States Defense Stamps and Bonds when voluntarily authorized by the employee.
6. Any deduction requested by the employee to enable him to repay loans to or to purchase shares in credit unions organized and operated in accordance with Federal, State and District credit union statutes.
7. Any deduction voluntarily authorized by the employee for the making of contributions to governmental or quasi-governmental agencies, such as the American Red Cross.
8. Any deduction voluntarily authorized by the employee for the making of contributions to Community Chests, United Givers Funds, and similar charitable organizations.

9. Any deduction to pay regular union initiation fees and membership dues, not including fines or special assessments; provided, however, that a collective bargaining agreement between the Contractor or subcontractor and representatives of his employees provides for such deductions and the deductions are not otherwise prohibited by law.

10. Any deduction not more than for the "reasonable cost" of board, lodging, or other facilities meeting the requirements of Section 3(m) of the Fair Labor Standards Act of 1938, as amended, and Part 531 of said title. When such a deduction is made the additional records required under 516.25(a) of this title shall be kept.

E. PAYROLL DEDUCTIONS SUBJECT TO SECRETARY OF LABOR APPROVAL—The Contractor and any subcontractor may apply to the Secretary of Labor for permission to make any deduction not permitted under Section D. The Secretary may grant permission whenever he finds that:

1. The Contractor, subcontractor or any affiliated person does not make a profit or benefit directly from the deduction, either in the form of a commission, dividend or otherwise;
2. The deduction, is not otherwise prohibited by law;
3. The deduction is either:
 - a. voluntarily consented to by the employee in writing and in advance of the period in which the work is to be done and such consent is not a condition either for the obtaining of employment or its continuance, or
 - b. provided for in a bona fide collective bargaining agreement between the Contractor or subcontractor and representatives of its employees; and
4. The deduction serves the convenience and interest of the employee.

F. APPLICATIONS FOR SECRETARY OF LABOR APPROVAL—Any application for the making of payroll deductions under Section E. shall comply with the requirements prescribed in Paragraphs 1 through 5:

1. The application shall be in writing and shall be addressed to the Secretary of Labor.
2. The application shall identify the Contract under which the work in question is to be performed. Permission will be given for deductions only on specific, identified contracts, except upon a showing of exceptional circumstances.
3. The application shall state affirmatively that there is compliance with the standards set forth in Section B. The affirmation shall be accompanied by a full statement of the facts indicating such compliance.
4. The application shall include a description of the proposed deduction, the purpose to be served thereby, and the classes of laborers or mechanics from whose wages proposed deduction would be made.
5. The application shall state the name and business of any third person to whom any funds obtained from the proposed deductions are to be transmitted and the affiliation of such person, if any, with the applicant.

G. ACTION BY SECRETARY OF LABOR UPON APPLICATIONS—The Secretary will decide whether or not the requested deduction is permissible under provisions of Section B, and shall notify the applicant in writing of his decision.

H. PROHIBITED PAYROLL DEDUCTIONS—Deductions not elsewhere stipulated and which are not found to be permissible under Section B are prohibited.

- I. METHODS OF PAYMENT OF WAGES**—The payment of wages shall be by cash, negotiable instruments payable on demand, or the additional forms of compensation for which deductions are permissible. No other methods of payment shall be recognized on work subject to the Copeland Act.

ARTICLE 6. RESERVED

ARTICLE 7. NONSEGREGATED FACILITIES—The Contractor certifies that he does not and will not maintain or provide for his employees any segregated facility at any of his establishments; that he does not and will not permit his employees to perform their services at any location under his control where segregated facilities are maintained; and that he will obtain and retain identical certifications from proposed subcontractors prior to award or subcontracts.

“Segregated facilities” shall mean any waiting room, work area, wash and rest rooms, restaurant and other eating area, time clock, locker room and other storage or dressing area, parking lot, drinking fountain, recreation or entertainment area, transportation and housing facility, provided for employees which is segregated by explicit directive or is segregated on the basis of race, color, age, sex, religion or national origin, because of habit, local custom or otherwise. Penalty for violation or making false statements is prescribed in 18 USC 1001.

**DISTRICT OF COLUMBIA
WEEKLY STATEMENT OF COMPLIANCE
(Construction)**

Project No.
Invitation No.

Contract No.

Date

WAGES AND HOURS

Total This Period

Total To Date

Straight Time Hours Worked

Overtime Hours Worked

Overtime and Straight Time Hours Combined

Wages Earned

I, _____, _____
(Name of signatory party) (Title)

do hereby state

(1) That I pay or supervise the payment of the persons employed by _____

(Contractor or Subcontractor)

(Building or Work)

that during the payroll period commencing on the _____ day of _____, 19____, and ending on the _____ day of _____, 19____, all persons employed on said project have been paid full weekly wages earned, that no rebates have been or will be made either directly or indirectly to or on behalf of said _____

(Contractor or Subcontractor)

from the full weekly wages earned by any person and that no deductions have been made either directly or indirectly from the full wages earned by any person, other than permissible deductions as defined in 29 CFR Part 3 issued by the Secretary of Labor under the Copeland Act as amended (48 Stat. 948; 63 Stat. 108; 72 Stat. 967; 76 Stat. 537; 40 USC 276c), and described below:

(2) That any payroll otherwise under the Contract required to be submitted for the above period are correct and complete; that the wage rates for laborers or mechanics contained therein are not less than the applicable wage rates contained in any wage determination incorporated into the Contract; that the classifications set forth therein for each laborer or mechanic conform with the work he performed.

(3) That any apprentice employed in the above period is duly registered in a bona fide apprenticeship program registered with the Bureau of Apprenticeship Training, U.S. Department of Labor.

NOTE—Fringe Benefits Statement and Signature Block are on reverse.

Form No. DC 2640-11

[illegible]

ATTACHMENT J.1.2

**General Decision No.
DC130002 dated 5/10/2013**

General Decision Number: DC130002 05/10/2013 DC2

Superseded General Decision Number: DC20120002

State: District of Columbia

Construction Type: Building

County: District of Columbia Statewide.

BUILDING CONSTRUCTION PROJECTS (does not include single family homes or apartments up to and including 4 stories).

Modification Number	Publication Date
0	01/04/2013
1	01/25/2013
2	02/01/2013
3	02/22/2013
4	03/29/2013
5	04/05/2013
6	05/10/2013

ASBE0024-007 10/01/2012

	Rates	Fringes
ASBESTOS WORKER/HEAT & FROST INSULATOR.....	\$ 33.13	13.60

Includes the application of all insulating materials, protective coverings, coatings and finishes to all types of mechanical systems

ASBE0024-008 10/01/2012

	Rates	Fringes
ASBESTOS WORKER: HAZARDOUS MATERIAL HANDLER.....	\$ 20.86	5.61

Includes preparation, wetting, stripping, removal, scrapping, vacuuming, bagging and disposing of all insulation materials, whether they contain asbestos or not, from mechanical systems

ASBE0024-014 10/01/2012

	Rates	Fringes
FIRESTOPPER.....	\$ 26.06	6.05

Includes the application of materials or devices within or around penetrations and openings in all rated wall or floor assemblies, in order to prevent the passage of fire, smoke or other gases. The application includes all components involved in creating the rated barrier at perimeter slab edges and exterior cavities, the head of gypsum board or concrete walls, joints between rated wall or floor components, sealing of penetrating items and blank openings.

BRDC0001-002 05/01/2012

	Rates	Fringes
BRICKLAYER.....	\$ 27.89	7.76

* CARP0132-008 05/01/2013

	Rates	Fringes
CARPENTER, Includes Drywall Hanging, Form Work, and Soft Floor Laying-Carpet.....	\$ 26.81	8.13
PILEDRIVERMAN.....	\$ 26.62	8.15

CARP1831-002 04/01/2012

	Rates	Fringes
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MILLWRIGHT.....\$ 27.96 12.20

ELEC0026-016 11/05/2012

Rates Fringes

ELECTRICIAN, Includes
Installation of
HVAC/Temperature Controls.....\$ 40.00 14.30

ELEC0026-017 09/01/2012

Rates Fringes

ELECTRICAL INSTALLER (Sound
& Communication Systems).....\$ 25.55 3%+7.77

SCOPE OF WORK: Includes low voltage construction, installation, maintenance and removal of teledata facilities (voice, data and video) including outside plant, telephone and data inside wire, interconnect, terminal equipment, central offices, PABX, fiber optic cable and equipment, railroad communications, micro waves, VSAT, bypass, CATV, WAN (Wide area networks), LAN (Local area networks) and ISDN (Integrated systems digital network).

WORK EXCLUDED: The installation of computer systems in industrial applications such as assembly lines, robotics and computer controller manufacturing systems. The installation of conduit and/or raceways shall be installed by Inside Wiremen. On sites where there is no Inside Wireman employed, the Teledata Technician may install raceway or conduit not greater than 10 feet. Fire alarm work is excluded on all new construction sites or wherever the fire alarm system is installed in conduit. All HVAC control work.

ELEV0010-001 01/01/2013

Rates Fringes

ELEVATOR MECHANIC.....\$ 39.96 25.185+a+b

a. PAID HOLIDAYS: New Year's Day, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving Day, Christmas Day and the Friday after Thanksgiving.

b. VACATIONS: Employer contributes 8% of basic hourly rate for 5 years or more of service; 6% of basic hourly rate for 6 months to 5 years of service as vacation pay credit.

IRON0005-005 06/01/2012

Rates Fringes

IRONWORKER, STRUCTURAL AND
ORNAMENTAL.....\$ 29.55 14.995

IRON0201-006 05/01/2012

Rates Fringes

IRONWORKER, REINFORCING.....\$ 26.50 16.68

LAB00657-015 06/01/2012

Rates Fringes

LABORER: Skilled.....\$ 21.26 6.83

FOOTNOTE: Potmen, power tool operator, small machine operator, signalmen, laser beam operator, waterproofer, open caisson, test pit, underpinning, pier hole and ditches, ladders and all work associated with lagging that is not expressly stated, strippers, operator of hand derricks, vibrator operators, pipe layers, or tile layers, operators of jackhammers, paving breakers, spaders or any machine that does the same general type of work, carpenter tenders, scaffold builders, operators of towmasters, scootcretes, buggymobiles and other machines of similar character, operators of tampers and rammers and other

machines that do the same general type of work, whether powered by air, electric or gasoline, builders of trestle scaffolds over one tier high and sand blasters, power and chain saw operators used in clearing, installers of well points, wagon drill operators, acetylene burners and licensed powdermen, stake jumper, structural demolition.

MARB0002-004 05/01/2012

	Rates	Fringes
MARBLE/STONE MASON.....	\$ 33.08	14.59

INCLUDING pointing, caulking and cleaning of All types of masonry, brick, stone and cement EXCEPT pointing, caulking, cleaning of existing masonry, brick, stone and cement (restoration work)

MARB0003-006 05/01/2011

	Rates	Fringes
TERRAZZO WORKER/SETTER.....	\$ 26.04	9.89

MARB0003-007 05/01/2011

	Rates	Fringes
TERRAZZO FINISHER.....	\$ 20.48	8.74

MARB0003-008 05/01/2011

	Rates	Fringes
TILE SETTER.....	\$ 25.29	9.89

MARB0003-009 05/01/2011

	Rates	Fringes
TILE FINISHER.....	\$ 20.48	8.74

PAIN0051-014 06/01/2012

	Rates	Fringes
GLAZIER		
Glazing Contracts \$2 million and under.....	\$ 24.17	9.36
Glazing Contracts over \$2 million.....	\$ 27.14	9.36

PAIN0051-015 06/01/2012

	Rates	Fringes
PAINTER		
Brush, Roller, Spray and Drywall Finisher.....	\$ 24.14	8.91

PLAS0891-005 07/01/2012

	Rates	Fringes
PLASTERER.....	\$ 28.33	5.85

PLAS0891-006 05/01/2010

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER...	\$ 27.15	9.58

PLAS0891-007 08/01/2011

	Rates	Fringes
FIREPROOFER		
Handler.....	\$ 15.00	3.89
Mixer/Pump.....	\$ 17.00	3.89
Sprayer.....	\$ 21.50	3.89

Spraying of all Fireproofing materials. Hand application of Fireproofing materials. This includes wet or dry, hard or soft. Intumescent fireproofing and refraction work, including, but not limited to, all steel beams, columns, metal decks, vessels, floors, roofs, where ever fireproofing is required. Plus any installation of thermal and acoustical insulation. All that encompasses setting up for Fireproofing, and taken down. Removal of fireproofing materials and protection. Mixing of all materials either by hand or machine following manufactures standards.

PLUM0005-008 08/01/2012

	Rates	Fringes
PLUMBER		
Apartment Buildings over 4 stories (except hotels).....	\$ 23.41	9.51+a
ALL Other Work.....	\$ 38.17	15.75+a
a. PAID HOLIDAYS: Labor Day, Veterans' Day, Thanksgiving Day and the day after Thanksgiving, Christmas Day, New Year's Day, Martin Luther King's Birthday, Memorial Day and the Fourth of July.		

PLUM0602-008 08/01/2012

	Rates	Fringes
PIPEFITTER, Includes HVAC		
Pipe Installation.....	\$ 37.62	18.07+a
a. PAID HOLIDAYS: New Year's Day, Martin Luther King's Birthday, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving Day and the day after Thanksgiving and Christmas Day.		

ROOF0030-016 09/01/2012

	Rates	Fringes
ROOFER.....	\$ 26.90	10.18

SFDC0669-002 01/01/2013

	Rates	Fringes
SPRINKLER FITTER (Fire Sprinklers).....	\$ 30.53	17.62

SHEE0100-015 07/01/2012

	Rates	Fringes
SHEET METAL WORKER (Including HVAC Duct Installation).....	\$ 38.39	14.54

SUDC2009-003 05/19/2009

	Rates	Fringes
LABORER: Common or General.....	\$ 13.04	2.80
LABORER: Mason Tender - Cement/Concrete.....	\$ 15.40	2.85

LABORER: Mason Tender for pointing, caulking, cleaning of existing masonry, brick, stone and cement structures (restoration work); excludes pointing, caulking and cleaning of new or replacement masonry, brick, stone and cement.....\$ 11.67

POINTER, CAULKER, CLEANER, Includes pointing, caulking, cleaning of existing masonry, brick, stone and cement structures (restoration

work); excludes pointing,
caulking, cleaning of new or
replacement
masonry, brick, stone or
cement.....\$ 18.88

WELDERS - Receive rate prescribed for craft performing
operation to which welding is incidental.

=====

Unlisted classifications needed for work not included within
the scope of the classifications listed may be added after
award only as provided in the labor standards contract clauses
(29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification
and wage rates that have been found to be prevailing for the
cited type(s) of construction in the area covered by the wage
determination. The classifications are listed in alphabetical
order of "identifiers" that indicate whether the particular
rate is union or non-union.

Union Identifiers

An identifier enclosed in dotted lines beginning with
characters other than "SU" denotes that the union
classification and rate have found to be prevailing for that
classification. Example: PLUM0198-005 07/01/2011. The first
four letters , PLUM, indicate the international union and the
four-digit number, 0198, that follows indicates the local union
number or district council number where applicable , i.e.,
Plumbers Local 0198. The next number, 005 in the example, is
an internal number used in processing the wage determination.
The date, 07/01/2011, following these characters is the
effective date of the most current negotiated rate/collective
bargaining agreement which would be July 1, 2011 in the above
example.

Union prevailing wage rates will be updated to reflect any
changes in the collective bargaining agreements governing the
rates.

0000/9999: weighted union wage rates will be published annually
each January.

Non-Union Identifiers

Classifications listed under an "SU" identifier were derived
from survey data by computing average rates and are not union
rates; however, the data used in computing these rates may
include both union and non-union data. Example: SULA2004-007
5/13/2010. SU indicates the rates are not union majority rates,
LA indicates the State of Louisiana; 2004 is the year of the
survey; and 007 is an internal number used in producing the
wage determination. A 1993 or later date, 5/13/2010, indicates
the classifications and rates under that identifier were issued
as a General Wage Determination on that date.

Survey wage rates will remain in effect and will not change
until a new survey is conducted.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can
be:

- * an existing published wage determination
- * a survey underlying a wage determination

- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION

ATTACHMENT J.1.3

The Living Wage Act and Fact Sheet

"LIVING WAGE ACT OF 2006"

Title I of the Way to Work Amendment Act of 2006, effective June 8, 2006 (D.C. Law 16-118, D.C. Official Code §2-220.01 *et seq.*), as amended, ("Living Wage Act of 2006") applies to all contracts for services in the amount of \$100,000 or more in a 12-month period.

The Living Wage Act of 2006 requires a contractor to:

1. pay its employees and subcontractors who perform services under the contract no less than the current living wage rate;
2. include in any subcontract for \$15,000 or more a provision requiring the subcontractor to pay its employees who perform services under the contract no less than the current living wage rate;
3. provide a copy of the Living Wage Act Fact Sheet to each employee and subcontractor who performs services under the contract;
4. post the Living Wage Act Notice in a conspicuous place in its place of business;
5. include in any subcontract for \$15,000 or more a provision requiring the subcontractor to post the Living Wage Act Notice in a conspicuous place in its place of business;
6. maintain its payroll records under the contract in the regular course of business for a period of at least three (3) years from the payroll date; and
7. require its subcontractors with subcontracts for \$15,000 or more under the contract to maintain its payroll records under the contract in the regular course of business for a period of at least three (3) years from the payroll date.

EFFECTIVE JANUARY 1, 2008, THE CURRENT LIVING WAGE RATE IS \$12.10.

Starting in 2008, the Department of Employment Services may adjust the living wage annually. The OCP will publish the current living wage rate on its website at www.ocp.dc.gov.

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

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

1. Contracts or other agreements that are subject to higher wage level determinations required by federal law (i.e., if a contract is subject to the Service Contract Act and certain wage rates are lower than the District's current living wage, the contractor must pay the higher of the two rates);
2. Existing and future collective bargaining agreements, provided, that the future collective bargaining agreement results in the employee being paid no less than the established living wage;
3. Contracts for electricity, telephone, water, sewer or other services provided by a regulated utility;
4. Contracts for services needed immediately to prevent or respond to a disaster or eminent threat to public health or safety declared by the Mayor;
5. Contracts or other agreements that provide trainees with additional services including, but not limited to, case management and job readiness services; provided that the trainees do not replace employees subject to the Living Wage Act of 2006;
6. An employee under 22 years of age employed during a school vacation period, or enrolled as a full-time student, as defined by the respective institution, who is in high school or at an accredited institution of higher education and who works less than 25 hours per week; provided that he or she does not replace employees subject to the Living Wage Act of 2006;
7. Tenants or retail establishments that occupy property constructed or improved by receipt of government assistance from the District of Columbia; provided, that the tenant or retail establishment did not receive direct government assistance from the District;
8. Employees of nonprofit organizations that employ not more than 50 individuals and qualify for taxation exemption pursuant to section 501(c)(3) of the Internal Revenue Code of 1954, approved August 16, 1954 (68A Stat. 163; 26 U.S.C. § 501(c)(3));
9. Medicaid provider agreements for direct care services to Medicaid recipients, provided, that the direct care service is not provided through a home care agency, a community residence facility, or a group home for mentally retarded persons as those terms are defined in section 2 of the Health-Care and Community Residence Facility, Hospice, and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code § 44-501); and
- (10) Contracts or other agreements between managed care organizations and the Health Care Safety Net Administration or the Medicaid Assistance Administration to provide health services.

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

LIVING WAGE ACT FACT SHEET

The "Living Wage Act of 2006," Title I of D.C. Law 16-18, (D.C. Official Code §§2-220.01-.11 became effective June 9, 2006. It generally provides that District of Columbia government contractors and recipients of government assistance (grants, loans, tax increment financing) in the amount of \$100,000 or more shall pay affiliated employees wages no less than the amount of \$11.75 per hour.

Subcontractors of D.C. government contractors who receive \$15,000 or more from the contract and subcontractors of the recipients of government assistance who receive \$50,000 or more from the assistance are also required to pay their affiliated employees no less than \$11.75 per hour.

"Affiliated employee" means any individual employed by a recipient who received compensation directly from government assistance or a contract with the District of Columbia government, including any employee of a contractor or subcontractor of a recipient who performs services pursuant to government assistance or contract. The term "affiliated employee" does not include those individuals who perform only intermittent or incidental services with respect to the contract or government assistance or who are otherwise employed by the contractor, recipient or subcontractor.

Exemptions – The following contracts and agreements are exempt from the "Living Wage Act":

1. Contracts or other agreements that are subject to higher wage level determinations required by federal law (i.e., if a contract is subject to the Service Contract Act and certain wage rates are lower than the District's current living wage, the contractor must pay the higher of the two rates);
2. Existing and future collective bargaining agreements, provided, that the future collective bargaining agreement results in the employee being paid no less than the established living wage;
3. Contracts for electricity, telephone, water, sewer or other services provided by a regulated utility;
4. Contracts for services needed immediately to prevent or respond to a disaster or eminent threat to public health or safety declared by the Mayor;
5. Contracts or other agreements that provide trainees with additional services including, but not limited to, case management and job readiness services; provided that the trainees do not replace employees subject to the Living Wage Act of 2006;
6. An employee, under 22 years of age, employed during a school vacation period, or enrolled as a full-time student, as defined by the respective institution, who is in high school or at an accredited institution of higher education and who works less than 25 hours per week; provided that he or she does not replace employees subject to the Living Wage Act of 2006;

ATTACHMENT J.1.4

**Subcontracting Plan Form
(This form shall be submitted
with each RFTOP)**

SUBCONTRACTING PLAN

Page 1 of 2

PRIME CONTRACTOR INFORMATION:

Company: _____ Street Address: _____ City & Zip Code: _____ Phone Number: _____ Fax: _____ Email Address: _____	Solicitation Number: _____ Contractor's Tax ID Number: _____ Caption of Plan: _____ _____ _____
Project Name: _____ Address: _____ _____ Project Descriptions: _____ _____ _____	Duration of the Plan: From _____ to _____ Total Prime Contract Value: \$ _____ Amount of Contract (excluding the cost of materials, goods, supplies and equipment) \$ _____ Amount of all Subcontracts: \$ _____ LSDBE Total: \$ _____ equals _____% LSDBE Subcontract Value Percentage Set Aside

SUBCONTRACTOR INFORMATION: (use continuation sheet for additional subcontractors)

Name	Address & Telephone No.	Type of Work	NIGP Code(s)	Description of Work						
Total Amount Set Aside: \$ _____ Percentage of Total Set Aside Amount : _____% Tier: : _____ 1st, 2nd, 3rd LSDBE Certification Number: _____ Certification Status: (check all that apply) <table border="1" style="display: inline-table; margin-left: 10px;"> <tr> <td>CBE:</td> <td>LBE:</td> <td>DBE:</td> <td>DZE:</td> <td>ROB:</td> <td>LRB:</td> </tr> </table>				CBE:	LBE:	DBE:	DZE:	ROB:	LRB:	Point of Contact: _____ Name (Print) Contact Telephone Number: _____ Fax Number: _____ Email Address: _____
CBE:	LBE:	DBE:	DZE:	ROB:	LRB:					

(List each subcontractor at any tier that will be awarded a subcontract to meet your total set aside goal.)

CERTIFICATIONS

The prime Contractor shall attach a **notarized** statement including the following:

- A **description of the efforts** the prime Contractor will make to ensure that LBEs, DBEs, ROB, SBEs, LRBs, or DZEs will have an equitable opportunity to compete for subcontracts;
- In all subcontracts that offer **further subcontracting opportunities**, assurances that the prime Contractor will include a statement, approved by the CO, that the subcontractor will adopt a subcontracting plan similar to the subcontracting plan required by the contract;
- Assurances** that the prime Contractor will cooperate in any studies or surveys that may be required by the CO, and submit periodic reports, as requested by the CO, to allow the University to determine the extent of **compliance** by the prime Contractor with the subcontracting plan;
- Listing of the type of **records** the prime Contractor will maintain to demonstrate procedures adopted to comply with the requirements set forth in the subcontracting plan, and include assurances that the prime Contractor will make such records available for review upon the University's request; and
- A description of the prime Contractor's recent **efforts to locate LBEs, DBEs, SBEs, DZEs, LRBs, and ROB, and to award subcontracts to them.**

PERSON PREPARING THE SUBCONTRACTING PLAN:

Name: _____ (Print) Telephone Number: () _____ - _____ Fax Number: () _____ - _____ Email Address: _____	Signature: _____ Title: _____ Date: _____
---	---

Date Plan Received by CO: _____		
Report: ☐ Acceptable	☐ Not Acceptable	Contract Number: _____
<u>Sherry Jones-Quashie</u>	_____	_____
Name of CO	Signature	Date

**FOR CO USE ONLY
(SUBCONTRACTORS LIST CONTINUED)**

Page 2 of 2

(List each subcontractor that will be awarded a subcontract to meet your total set aside goal.)

SUBCONTRACTOR INFORMATION: (use continuation sheet for additional subcontracts)										
Name	Address & Telephone No.	Type of Work	NIGP Code(s)	Description of Work						
Total Amount Set Aside: \$ _____ Percentage of Total Set Aside Amount : _____ % Tier: : _____ 1st, 2nd, 3rd LSDBE Certification Number: _____ Certification Status: (check all that apply) <table border="1" style="display: inline-table; margin-left: 10px;"> <tr> <td>CBE:</td> <td>LBE:</td> <td>DBE:</td> <td>DZE:</td> <td>ROB:</td> <td>LRB:</td> </tr> </table>			CBE:	LBE:	DBE:	DZE:	ROB:	LRB:	Point of Contact: _____ Name (Print) Contact Telephone Number: _____ Fax Number: _____ Email Address: _____	
CBE:	LBE:	DBE:	DZE:	ROB:	LRB:					
SUBCONTRACTOR INFORMATION:										
Name	Address & Telephone No.	Type of Work	NIGP Code(s)	Description of Work						
Total Amount Set Aside: \$ _____ Percentage of Total Set Aside Amount : _____ % Tier: : _____ 1st, 2nd, 3rd LSDBE Certification Number: _____ Certification Status: (check all that apply) <table border="1" style="display: inline-table; margin-left: 10px;"> <tr> <td>CBE:</td> <td>LBE:</td> <td>DBE:</td> <td>DZE:</td> <td>ROB:</td> <td>LRB:</td> </tr> </table>			CBE:	LBE:	DBE:	DZE:	ROB:	LRB:	Point of Contact: _____ Name (Print) Contact Telephone Number: _____ Fax Number: _____ Email Address: _____	
CBE:	LBE:	DBE:	DZE:	ROB:	LRB:					
SUBCONTRACTOR INFORMATION:										
Name	Address & Telephone No.	Type of Work	NIGP Code(s)	Description of Work						
Total Amount Set Aside: \$ _____ Percentage of Total Set Aside Amount : _____ % Tier: : _____ 1st, 2nd, 3rd LSDBE Certification Number: _____ Certification Status: (check all that apply) <table border="1" style="display: inline-table; margin-left: 10px;"> <tr> <td>CBE:</td> <td>LBE:</td> <td>DBE:</td> <td>DZE:</td> <td>ROB:</td> <td>LRB:</td> </tr> </table>			CBE:	LBE:	DBE:	DZE:	ROB:	LRB:	Point of Contact: _____ Name (Print) Contact Telephone Number: _____ Fax Number: _____ Email Address: _____	
CBE:	LBE:	DBE:	DZE:	ROB:	LRB:					
SUBCONTRACTOR INFORMATION:										
Name	Address & Telephone No.	Type of Work	NIGP Code(s)	Description of Work						
Total Amount Set Aside: \$ _____ Percentage of Total Set Aside Amount : _____ % Tier: : _____ 1st, 2nd, 3rd LSDBE Certification Number: _____ Certification Status: (check all that apply) <table border="1" style="display: inline-table; margin-left: 10px;"> <tr> <td>CBE:</td> <td>LBE:</td> <td>DBE:</td> <td>DZE:</td> <td>ROB:</td> <td>LRB:</td> </tr> </table>			CBE:	LBE:	DBE:	DZE:	ROB:	LRB:	Point of Contact: _____ Name (Print) Contact Telephone Number: _____ Fax Number: _____ Email Address: _____	
CBE:	LBE:	DBE:	DZE:	ROB:	LRB:					

ATTACHMENT J.2.1

Contractor Performance Evaluation Form

PAST PERFORMANCE EVALUATION FORM

Contractor Name: _____

Project Name: _____

Project Location: _____

Contract Amount: \$ _____

Period of Performance: _____

Type of Service: _____

(Check appropriate box)

Performance Elements	Excellent	Good	Acceptable	Poor	Unacceptable
Quality of Services/ Work					
Timeliness of Performance					
Cost Control					
Business Relations					
Customer Satisfaction					

1. Name & Title of Evaluator: _____

2. Signature of Evaluator: _____

3. Name of Organization: _____

4. Telephone Number of Evaluator: _____

5. Remarks on Excellent Performance: Provide data supporting this observation.
(Continue on separate sheet if needed)

6. Remarks on unacceptable performance: Provide data supporting this observation. (Continue on separate sheet if needed)

RATING GUIDELINES

Summarize Contractor performance in each of the rating areas. Assign each area a rating of 0 (Unacceptable), 1 (Poor), 2 (Acceptable), 3 (Good), 4(Excellent), or ++ (Plus). Use the following instructions a guidance in making these evaluations.

	Quality Product/Service -Compliance with contract requirements -Accuracy of reports -Appropriateness of personnel -Technical excellence	Cost Control -Within budget (over/under target costs) -Current, accurate, and complete billings -Relationship of negated costs to actual -Cost efficiencies -Change order issue	Timeless of Performance -Meet Interim milestones -Reliable -Responsive to technical directions -Completed on time, including wrap-up and contract administration -No liquidated damages assessed	Business Relations -Effective management -Businesslike correspondence -Responsive to contract Requirements -Prompt notification of contract problems -Reasonable/cooperative -Flexible -Pro-active -effective contractor recommended solutions -Effective snail/small disadvantaged business Subcontracting program
0. Zero	Nonconformances are comprises the achievement of contract requirements, despite use of Agency resources	Cost issues are comprising performance of contract requirements.	Delays are comprising the achievement of contract requirements, Despite use of Agency resources.	Response to inquiries, technical/ service/administrative issues is not effective and responsive.
1. Unacceptable	Nonconformances require major Agency resources to ensure achievement of contract requirements.	Cost issues require major Agency resources to ensure achievement of contract requirements.	Delays require major Agency resources to ensure achievement of contract requirements.	response to inquiries, technical/ service/administrative issues is marginally effective and responsive.
2. Poor	Nonconformances require minor Agency resources to ensure achievement of contract requirements.	Costs issues require minor Agency resources to ensure achievement of contract requirements.	Delays require minor Agency resources to ensure achievement of contract requirements.	Responses to inquiries, technical/ service/administrative issues is somewhat effective and responsive.
3. Acceptable	Nonconformances do not impact achievement of contract requirements.	Cost issues do not impact achievement of contract requirements.	Delays do not impact achievement of contract requirements.	Responses to inquires, technical/ service/administrative issues is usually effective and responsive.
4. Good	There are no quality problems	There are no cost issues.	There are no delays.	Responses to inquiries, technical/ service/administrative issues is effective and responsive,
5. Excellent	The contractor has demonstrated an exceptional performance level in some or all of the above categories.			