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|--|----------|--|---|--|---|--|---|------------------------------------|--------------------------------|--|--|
| SOLICITATION, OFFER, AND AWARD | | | 1. Market Open Market with 35% SBE Subcontracting | | | Page of Pages 1 51 | | | | | |
| | | | 2. Contract Number | | 3. Solicitation Number DCPL-2021-B-0050 | 4. Type of Solicitation <input checked="" type="checkbox"/> Sealed Bid (IFB) <input type="checkbox"/> Request for Proposal | | 5. Date Issued 26-Jul-21 | 6. Requisition/Purchase Number | | |
| 6a. Caption: BOARDCAST EQUIPMENT | | | 7. Issued By District of Columbia Public Library Office of Procurement 901 G Street NW - 4th Floor Washington, DC 20001 | | | 8. Address Offer To (If other than line 7) | | | | | |
| SOLICITATION | | | | | | | | | | | |
| 9. Sealed bid in <u> 1 </u> copy for furnishing the supplies or services in the Schedule will be received at the place specified in Item 8, or if hand carried, in the depository located in procurementdcp@dc.gov until <u> 2:00 p.m. </u> local time <u> 09-Aug-21 </u> (Hour) (Date) | | | | | | | | | | | |
| CAUTION: Late Submissions, Modifications and Withdrawals: See 19 DCMR Chapter 43 as applicable. All offers are subject to all terms and conditions contained in this solicitation. | | | | | | | | | | | |
| 10. For Information Contact | | A. Name Diane Wooden | | B. Telephone (No Collect Calls) (Area Code) 202 (Number) 727-4800 (Ext) | | | C. E-mail Address diane.wooden2@dc.gov | | | | |
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| OFFER | | | | | | | | | | | |
| 12. In compliance with the above, the undersigned agrees, if this offer is accepted within <u> 120 </u> calendar days from the date for receipt of offers specified above, to furnish any or all items upon which prices are offered at the price set opposite each item, delivered at the designated point(s), within the time specified in the schedule. | | | | | | | | | | | |
| 13. Discount for Prompt Payment | | 10 Calendar days % | | 20 Calendar days % | | 30 Calendar days % | | <u> </u> Calendar days % | | | |
| 14. Acknowledgement of Amendments (The offeror acknowledges receipt of amendments to the SOLICITATION for offerors and related documents numbered and dated): | | | | Amendment Number | | Date | | Amendment Number | | | |
| | | | | | | | | | | | |
| | | | | | | | | | | | |
| | | | | | | | | | | | |
| 15A. Name and Address of Offeror | | Code | | Facility | | 16. Name and Title of Person Authorized to Sign Offer/Contract | | | | | |
| 15B. Telephone | | 15 C. Check if remittance address is different from above - enter address in Schedule Section K. | | 17. Signature | | | 18. Offer Date | | | | |
| (Area Code) | (Number) | (Ext) | | | | | | | | | |
| AWARD (TO BE COMPLETED BY GOVERNMENT) | | | | | | | | | | | |
| 19. Accepted as to Items Numbered | | | 20. Amount | | 21. Accounting and Appropriation | | | | | | |
| 22. <input type="checkbox"/> Award - DC OCP Form 201 not required <input type="checkbox"/> Negotiated Agreement - DC OCP Form 201 may be executed | | 23. Submit Invoices to Address Shown In (1 copy unless otherwise specified) | | | See Section G. | | | | | | |
| 24. Administered By (If other than Item 7) Code | | | 25. Reserved for future use | | | | | | | | |
| See Section G. | | | | | | | | | | | |
| 26. Name of Contracting Officer (Type or Print) Diane Wooden | | | | 27. Government of the District of Columbia (Signature of Contracting Officer) | | | 28. Award Date | | | | |

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SECTION A - HISTORY AND BACKGROUND

The District of Columbia Public Library (DCPL) system is an independent agency comprised of twenty-five (25) neighborhood branch libraries and the Martin Luther King Jr. Memorial Central Library (MLK) located at 901 G Street, NW, Washington, DC 20001. MLK is a historically designated building and has the distinction of being the only library building designed in Washington, DC by renowned architect Mies Van der Rohe. It is DCPL's flagship library and has just received a multi-million renovations. The library is approximately 400,000 square feet, and DCPL seeks LEED Gold certification due to the renovation.

DCPL, through this Invitation for Bids (IFB), seeks to engage the services of a Contractor to furnish and deliver broadcasting equipment including labor, management, and supervision to ensure effective performance of DCPL's Office of Marketing and Communications.

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

B.1 DCPL is issuing this IFB to engage the services of a qualified Contractor to furnish and deliver the broadcasting equipment specified in **Attachment J.1**.

B.1.1 DCPL contemplates award of one (1) fixed price contract in accordance with DCPL Regulations.

B.1.2 **All equipment shall be delivered to the location listed in Section G.8.2 by Monday, September 20, 2021.**

B.2 OPEN MARKET

The IFB is being issued in the Open Market with a 35% SBE subcontracting requirement for contracts in excess of \$250,000, **in accordance with Paragraph H.9**. Bidders that are certified by the District of Columbia, Department of Small and Local Business Development (DSLBD) will receive a price reduction during the evaluation process in accordance with **Section M.1**.

A bidder responding to this solicitation that is required to subcontract shall be required to submit with its bid, any subcontracting plan required by law. Bids responding to this IFB may be rejected if the bidder fails to submit a subcontracting plan that is required by law.

B.3 SPECIAL PROVISIONS RELATED TO THE COVID-19 EMERGENCY

(a) Notwithstanding section H.9 SUBCONTRACTING REQUIREMENTS, for all contracts in excess of \$250,000 that are unrelated to the District's response to the COVID-19 emergency but entered into during the COVID-19 emergency, absent a waiver pursuant to D.C. Official Code § 2-218.51, at least 50% of the dollar volume ("CBE minimum expenditure") of the contract shall be subcontracted to SBEs.

(b) If there are insufficient qualified SBEs to meet the requirement of paragraph (a), the subcontracting requirement may be satisfied by subcontracting the CBE minimum expenditure to any qualified CBE; provided, that best efforts shall be

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made to ensure that qualified SBEs are significant participants in the overall subcontracting work.

- (c) For every dollar expended by the contractor with a resident-owned business (ROB), as defined in D.C. Official Code § 2-218.02(15), the contractor shall receive a credit for \$1.10 against the CBE minimum expenditure.
- (d) For every dollar expended by the contractor with a disadvantaged business enterprise (DBE), as defined in D.C. Official Code § 2-218.33, the contractor shall receive a credit for \$1.25 against the CBE minimum expenditure.
- (e) For every dollar expended by the contractor that uses a company designated as both a DBE and as a ROB, the contractor shall receive a credit for \$1.30 against the CBE minimum expenditure.
- (f) "COVID-19 emergency" means the emergencies declared in the Declaration of Public Emergency (Mayor's Order 2020-045) together with the Declaration of Public Health Emergency (Mayor's Order 2020-046), declared on March 11, 2020, including any extension of those declared emergencies.
- (g) This special provision shall apply to all option periods exercised under those contracts.
- (h) Except as provided in this paragraph B.3, the requirements of section H.9 shall remain in effect.

B.3 PRICE SCHEDULE

The price schedule (**Attachment J.1**) shall represent the Bidder's compensation for this contract. Bidders shall submit pricing as fully loaded rates, which include profit and all costs such as direct and indirect costs, insurance, overhead and G&A.

SECTION C: SPECIFICATIONS/WORK STATEMENT

C.1 STATEMENT OF WORK

- C.1.1** The contractor shall furnish and deliver the broadcasting equipment specified in **Attachment J.1** titled FY21 Broadcast Equipment Bid Log. If an item is substituted, please highlight or bold those items in the log and provide formal specification documents as an attachment to the bid.
- C.1.2** The contractor shall identify any items that will not be available (back ordered) for shipment and inside delivery to the DCPL designated address by the delivery date of Monday, September 20, 2021. The contractor shall instead provide a separate document that includes the product information, when that product will be available, and the pricing.

Installation services are not required. All boxes shall be delivered inside and addressed to:

Robert Marshall
DC Public Library
901 G Street, NW - Room A25
Washington, DC 20001

C.2 MAINTENANCE/WARRANTY REQUIREMENTS

- C.2.1** The DC Public Library reserves the right to procure extended warranties on items that may require these warranties after the manufacturer warranty expires.

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SECTION D - PACKAGING AND MARKING

This section is not applicable to the solicitation.

SECTION E - INSPECTION AND ACCEPTANCE

- E.1** The inspection and acceptance requirements for this contract will be governed by Clause Number 4383-42 Inspection of Services – Fixed Price and Clause Number 4383-43 Inspection of Supplies– Fixed Price of the Government of the District of Columbia Public Library Standard Contract Provisions for Supply, Service, Architect/Engineer and Construction Solicitations and Contracts dated October 2009 (**Attachment J.2**).
- E.2** The Project Manager (PM) identified in Section G.8 of this IFB is responsible for the inspection and acceptance of all services/deliverables submitted under the contract.

SECTION F: PERIOD OF PERFORMANCE

F.1 TERM OF CONTRACT

F.1.1 The term of the contract will be from the date of award through one (1) year thereafter.

F.2 FIRST SOURCE REQUIREMENT

The contractor shall submit to the District, as a deliverable, the report described in **Section H.3.5** which is required by the 51% District Residents New Hires Requirements and First Source Employment Agreement. If the contractor does not submit the report as part of the deliverables, the District shall not make final payment to the contractor pursuant to **Section G.7**.

F.3 EQUAL EMPLOYMENT OPPORTUNITY AND HIRING OF DISTRICT RESIDENTS

The contractor shall comply with all applicable laws and regulations regarding equal employment opportunity and affirmative action programs. The contractor shall ensure that at least fifty-one percent (51%) of the contractor's team and every sub-consultant's and subcontractor's employees hired after the effective date of the Contract (or after such sub-consultant or subcontractor enters into a contract with the contractor), to work on the Project shall be residents of the District of Columbia. In addition, the contractor shall comply with the recently adopted requirement regarding District labor utilization requirement in the Workforce Intermediary Establishment and Reform of First Source Amendment Act of 2011. See **Section H.3**.

SECTION G - CONTRACT ADMINISTRATION

G.1 INVOICE PAYMENT

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

G.2 INVOICE SUBMITTAL/E-INVOICING

- G.2.1** The contractor shall create and submit payment requests in an electronic format through the DC Vendor Portal, <https://vendorportal.dc.gov> and invoices will be paid through the DC Vendor Portal.
- G.2.2** Contractor shall submit invoices on a monthly basis or as otherwise specified in the contract;
- G.2.3** To constitute a proper invoice, the contractor shall enter all required information into the Portal after selecting the applicable Purchase Order Number which is listed on the contractor's profile.

G.3 FIRST SOURCE AGREEMENT REQUEST FOR FINAL PAYMENT

- G.3.1** For contracts subject to the 51% District Residents New Hires Requirements and First Source Employment Agreement requirements, final request for payment must be accompanied by the report or a waiver of compliance discussed in section H.5.5.
- G.3.2** The District shall not make final payment to the contractor until the agency CFO has received the Chief Procurement Officer's final determination or approval of waiver of the contractor's compliance with 51% District Residents New Hires Requirements and First Source Employment Agreement requirements.
- G.3.3** The contractor shall submit to the District, as a deliverable, the report described in Section H.5.5 which is required by the 51% District Residents New Hires Requirements and the First Source Employment Agreement included herein as **Attachment J.3**. If the contractor does not submit the report as part of the deliverables, the District shall not make final payment to the contractor pursuant to Section G.3.2.

G.4 ASSIGNMENT OF CONTRACT PAYMENTS

G.4.1 In accordance with Clause Number 4383-8, Assignments of the Government of the District of Columbia Public Library Standard Contract Provisions for Supply, Service, Architect/ Engineer and Construction Solicitations and Contracts dated October 2009, the contractor shall not assign or transfer this contract, any interest herein or any claim hereunder, except as expressly authorized in writing by the DCPL CPO.

G.5 THE QUICK PAYMENT CLAUSE

G.5.1 Interest Penalties to Contractors

G.5.1.1 The District will pay interest penalties on amounts due to the contractor under the Quick Payment Act, D.C. Official Code § 2-221.01 *et seq.*, as amended, for the period beginning on the day after the required payment date and ending on the date on which payment of the amount is made. Interest shall be calculated at the rate of at least 1.5% per month. No interest penalty shall be paid if payment for the completed delivery of the item of property or service is made on or before the required payment date. The required payment date shall be:

G.5.1.1.1 The date on which payment is due under the terms of this contract;

G.5.1.1.2 Not later than 7 calendar days, excluding legal holidays, after the date of delivery of meat or meat food products;

G.5.1.1.3 Not later than 10 calendar days, excluding legal holidays, after the date of delivery of a perishable agricultural commodity; or

G.5.1.1.4 30 calendar days, excluding legal holidays, after receipt of a proper invoice for the amount of the payment due.

G.5.1.2 No interest penalty shall be due to the contractor if payment for the completed delivery of goods or services is made on or before:

G.5.1.2.1 3rd day after the required payment date for meat or a meat product;

G.5.1.2.2 5th day after the required payment date for an agricultural commodity; or

G.5.1.2.3 15th day after any other required payment date.

G.5.1.3 Any amount of an interest penalty which remains unpaid at the end of any 30-day period shall be added to the principal amount of the debt and thereafter interest penalties shall accrue on the added amount.

G.5.2 Payments to Subcontractors

G.5.2.1 The contractor shall take one of the following actions within seven (7) days of receipt of any amount paid to the contractor by the District for work performed by any subcontractor under the contract:

G.5.2.1.1 Pay the subcontractor(s) for the proportionate share of the total payment received from the District that is attributable to the subcontractor(s) for work performed under the contract; or

G.5.2.1.2 Notify the CO and the subcontractor(s), in writing, of the contractor's intention to withhold all or part of the subcontractor's payment and state the reason for the nonpayment.

G.5.2.2 The contractor shall pay subcontractors or suppliers interest penalties on amounts due to the subcontractor or supplier beginning on the day after the payment is due and ending on the date on which the payment is made. Interest shall be calculated at the rate of at least 1.5% per month. No interest penalty shall be paid on the following if payment for the completed delivery of the item of property or service is made on or before the:

G.5.2.2.1 3rd day after the required payment date for meat or a meat product;

G.5.2.2.2 5th day after the required payment date for an agricultural commodity; or

G.5.2.2.3 15th day after any other required payment date.

G.5.2.3 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.5.2.4 A dispute between the contractor and subcontractor relating to the amounts or entitlement of a subcontractor to a payment or a late payment interest penalty under the Quick Payment Act does not constitute a dispute to which the District is a party. The District may not be interpleaded in any judicial or administrative proceeding involving such a dispute.

G.5.3 Subcontract requirements

G.5.3.1 The contractor shall include in each subcontract under this contract a provision requiring the subcontractor to include in its contract with any lower-tier subcontractor or supplier the payment and interest clauses required under paragraphs (1) and (2) of D.C. Official Code § 2-221.02(d).

G.6 CHIEF PROCUREMENT OFFICER (CPO)

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

Diane Wooden, CPO
DC Public Library
Office of Procurement
901 G Street, NW – 4th Floor
Washington DC 20001
Telephone: (202) 727-4800
E-mail: diane.wooden2@dc.gov

G.7 AUTHORIZED CHANGES BY THE DCPL CPO

- G.7.1** The CPO is the only person authorized to approve changes in any of the requirements of this contract.
- G.7.2** 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 CPO.
- G.7.3** In the event the Contractor effects any change at the instruction or request of any person other than the CPO, 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.8 PROJECT MANAGER (PM)

G.8.1 The PM is responsible for general administration of the contract and advising the CPO as to the contractor's compliance or noncompliance with the contract. The PM has the responsibility of ensuring the work conforms to the requirements of the contract and such other responsibilities and authorities as may be specified in the contract. These include:

- G.8.1.1** Keeping the CPO fully informed of any technical or contractual difficulties encountered during the performance period and advising the CPO of any potential problem areas under the contract;
- G.8.1.2** Coordinating site entry for Contractor personnel, if applicable;
- G.8.1.3** Reviewing invoices for completed work and recommending approval by the CPO if the contractor's prices and costs are consistent with the contractual amounts and progress is satisfactory and commensurate with the rate of expenditure;

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- G.8.1.4** Reviewing and approving invoices for deliverables to ensure receipt of goods and services. This includes the timely processing of invoices and vouchers in accordance with the District's payment provisions; and
- G.8.1.5** Maintaining a file that includes all contract correspondence, modifications, records of inspections (site, data, equipment) and invoice or vouchers.

G.8.2 The address and telephone number of the PM is:

Robert Marshall
Audio Visual Technician
DC Public Library
Department of Marketing and
Communications
901 G Street, NW Suite A-25
Washington, DC 20001
Telephone: (202) 727-1265
Email: robert.marshall@dc.gov

G.8.3 The PM shall NOT have the authority to:

- G.8.3.1** Award, agree to, or sign any contract, delivery order or task order. Only the CPO shall make contractual agreements, commitments or modifications;
- G.8.3.2** Grant deviations from or waive any of the terms and conditions of the contract;
- G.8.3.3** Increase the dollar limit of the contract or authorize work beyond the dollar limit of the contract;
- G.8.3.4** Authorize the expenditure of funds by the contractor;
- G.8.3.5** Change the period of performance; or
- G.8.3.6** Authorize the use of District property, except as specified under the contract.

G.8.4 The contractor will be fully responsible for any changes not authorized in advance, in writing, by the CPO; may be denied compensation or other relief for any additional work performed that is not so authorized; and may also be required, at no additional cost to the District, to take all corrective action necessitated by reason of the unauthorized changes.

SECTION H: SPECIAL CONTRACT REQUIREMENTS

H.1 RESIDENCY HIRING REQUIREMENTS FOR CONTRACTORS AND SUBCONTRACTORS

H.1.1 At least fifty-one percent (51%) of the Contractor's Team and every sub-consultant's employees hired after the contractor enters into a contract with DCPL, or after such sub-consultant enters into a contract with the contractor, to work on this project, shall be residents of the District of Columbia.

H.1.2 Upon execution of the contract, the contractor and all of its member firms, if any, and each of its sub-contractors and sub-consultants shall submit to DCPL, a list of current employees that will be assigned to the project, the date that they were hired and whether or not they live in the District of Columbia.

H.1.3 The contractor shall comply with subchapter III of Chapter II of Title 1, and subchapter II of Chapter II of Title 1 of the D.C. Code, and all successor acts thereto and the rules and regulations promulgated thereunder. The contractor and all member firms, subcontractors, tier subcontractors, sub-consultants, and suppliers with contracts in the amount of \$100,000 or more shall be required to comply with the following: (i) enter into a First Source Employment Agreement with the D.C. Department of Employment Services ("DOES") upon execution of the contract; (ii) submit an executed First Source Agreement to DOES prior to beginning work on the project; (iii) make best efforts to hire at least 51% District residents for all new jobs created by the project; (iv) list all employment vacancies with DOES; (v) submit monthly compliance reports to DOES by the 10th of each month; (vi) at least 51% apprentices and trainees employed must be residents of the District registered in program approved by the D.C. Apprenticeship Council; and (vii) trade contractors and subcontractors with contracts in the amount of \$500,000 or more must register an apprenticeship program with the D.C. Apprenticeship Council.

H.2 DEPARTMENT OF LABOR WAGE DETERMINATION

The contractor shall be bound by the **Wage Determination No. 2015-4281, Revision No. 18 dated 04/07/2021**, issued by the U.S. Department of Labor in accordance with the Service Contract Act (41 U.S.C. 351 et seq.) and incorporated herein as **Attachment J.4** of this solicitation. The contractor shall be bound by the wage rates for the term of the contract subject to revision as stated herein.

H.3 PUBLICITY

The contractor shall at all times obtain the prior written approval from the CPO before the contractor, any of its officers, agents, employees or subcontractors, 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.4 FREEDOM OF INFORMATION ACT

H.4.1 The District of Columbia Freedom of Information Act, at D.C. Official Code §2-532 (a-3), requires the District to make available for inspection and copying any record produced or collected pursuant to a District contract with a private Contractor to perform a public function, to the same extent as if the record were maintained by the agency on whose behalf the contract is made.

H.4.2 If the contractor receives a request for such information, the contractor shall immediately send the request to the CA 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 releasability of the records. The District will reimburse the contractor for the costs of searching and copying the records in accordance with D.C. Official Code §2-532 and Chapter 4 of Title 1 of the *D.C. Municipal Regulations*.

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

H.5.1 The contractor shall comply with the First Source Employment Agreement Act of 1984, as amended, D.C. Official Code §2-219.01 *et seq.* (“First Source Act”).

H.5.2 The contractor shall enter into and maintain, during the term of the contract, a First Source Employment Agreement (**Attachment J.3**), in which the contractor shall agree that:

(1) The first source for finding employees to fill all jobs created in order to perform this contract shall be the DOES; and

(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.

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H.5.3 The contractor shall submit to DOES, no later than the 10th of each month following execution of the contract, a First Source Agreement Contract Compliance Report (“contract compliance report”) to verify its compliance with the First Source Agreement for the preceding month. The contract compliance report for the contract shall include the:

- (1) Number of employees needed;
- (2) Number of current employees transferred;
- (3) Number of new job openings created;
- (4) Number of job openings listed with DOES;
- (5) Total number of all District residents hired for the reporting period and the cumulative total number of District residents hired; and
- (6) Total number of all employees hired for the reporting period and the cumulative total number of employees hired, including:
 - (a) Name;
 - (b) Social security number;
 - (c) Job title;
 - (d) Hire date;
 - (e) Residence; and
 - (f) Referral source for all new hires.

H.5.4 If the contract amount is equal to or greater than \$100,000, the contractor agrees that 51% of the new employees hired for the contract shall be District residents.

H.5.5 With the submission of the contractor’s final request for payment from the District, the contractor shall:

- (1) Document in a report to the CPO the Contractor’s compliance with section H.5.4 of this clause; or
- (2) Submit a request to the CPO for a waiver of compliance with section H.5.4 and include the following documentation:
 - (a) Material supporting a good faith effort to comply;
 - (b) Referrals provided by DOES and other referral sources;
 - (c) Advertisement of job openings listed with DOES and other referral sources; and
 - (d) Any documentation supporting the waiver request pursuant to section H.5.6.

H.5.6 The CPO may waive the provisions of section H.5.4 if the CPO finds that:

- (1) A good faith effort to comply is demonstrated by the contractor;

The contractor is located outside the Washington Standard Metropolitan Statistical Area and none of the contract work is performed inside the Washington

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Standard Metropolitan Statistical 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, Culpeper, Spotsylvania, and King George; the Maryland Counties of Montgomery, Prince Georges, Charles, Frederick, and Calvert; and the West Virginia Counties of Berkeley and Jefferson.

- (2) The contractor enters into a special workforce development training or placement arrangement with DOES; or
- (3) 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.5.7 Upon receipt of the contractor's final payment request and related documentation pursuant to sections H.5.5 and H.5.6, the CPO shall determine whether the contractor is in compliance with section H.5.4 or whether a waiver of compliance pursuant to section H.5.6 is justified. If the CPO determines that the contractor is in compliance, or that a waiver of compliance is justified, the CPO shall, within two business days of making the determination forward a copy of the determination to the agency Chief Financial Officer and the PM.

H.5.8 Willful breach of the First Source Employment Agreement, or failure to submit the report pursuant to section H.5.5, or deliberate submission of falsified data, may be enforced by the CPO 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 this contract any decision of the CPO pursuant to this section H.5.8.

H.5.9 The provisions of sections H.5.4 through H.5.8 do not apply to nonprofit organizations.

H.6 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 programs and activities. See 29 U.S.C. § 794 *et seq.*

H.7 AMERICANS WITH DISABILITIES ACT OF 1990 (ADA)

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

H.8 WAY TO WORK AMENDMENT ACT OF 2006

H.8.1 Except as described in H.8.8 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.8.2 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.8.3 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.8.4 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.8.5 The contractor shall provide a copy of the 2021 Living Wage Fact Sheet included herein as **Attachment J.5** to each employee and subcontractor who performs services under the contract. The contractor shall also post the Notice included herein as **Attachment J.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.

H.8.6 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.8.7 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.8.8 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;

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

H.8.9 The Mayor may exempt a Contractor from the requirements of the Living Wage Act of 2006, subject to the approval of Council, in accordance with the provisions of Section 109 of the Living Wage Act of 2006.

H.9 SUBCONTRACTING REQUIREMENTS

H.9.1 Mandatory Subcontracting Requirements

- H.9.1.1** For contracts in excess of \$250,000, at least 35% of the dollar volume shall be subcontracted to certified small business enterprises; provided, however, that the costs of materials, goods, and supplies shall not be counted towards the 35% subcontracting requirement unless such materials, goods and supplies are purchased from certified small business enterprises.
- H.9.1.2** If there are insufficient qualified small business enterprises to completely fulfill the requirement of paragraph H.9.1.1, then the subcontracting may be satisfied by subcontracting 35% of the dollar volume to any certified business enterprises; provided, however, that all reasonable efforts shall be made to ensure that qualified small business enterprises are significant participants in the overall subcontracting work.
- H.9.1.3** A prime Contractor which is certified as a small, local or disadvantaged business enterprise shall not be required to comply with the provisions of sections H.9.1.1 and H.9.1.2.

H.9.2 Subcontracting Plan

If the prime contractor is required by law to subcontract under this contract, it must subcontract at least 35% of the dollar volume of this contract in accordance with the provisions of section H.9.1. Each subcontracting plan shall include the following:

- H.9.2.1** A description of the goods and services to be provided by SBEs or, if insufficient qualified SBEs are available, by any certified business enterprises;
- H.9.2.2** A statement of the dollar value of the bid that pertains to the subcontracts to be performed by the SBEs or, if insufficient qualified SBEs are available, by any certified business enterprises;
- H.9.2.3** The names and addresses of all proposed subcontractors who are SBEs or, if insufficient SBEs are available, who are certified business enterprises;
- H.9.2.4** 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;
- H.9.2.5** A description of the efforts the prime contractor will make to ensure that SBEs, or, if insufficient SBEs are available, that certified business enterprises will have an equitable opportunity to compete for subcontracts;

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- H.9.2.6** In all subcontracts that offer further subcontracting opportunities, assurances that the prime contractor will include a statement, approved by the Chief Procurement Officer, that the subcontractor will adopt a subcontracting plan similar to the subcontracting plan required by the contract;
- H.9.2.7** Assurances that the prime contractor will cooperate in any studies or surveys that may be required by the CPO, and submit periodic reports, as requested by the CPO, to allow the District to determine the extent of compliance by the prime contractor with the subcontracting plan;
- H.9.2.8** A list 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 assurances that the prime contractor will make such records available for review upon the District's request; and
- H.9.2.9** A description of the prime contractor's recent effort to locate SBEs or, if insufficient SBEs are available, certified business enterprises, and to award subcontracts to them.
- H.9.2.10** The Subcontracting Plan Form is included herein as **Attachment J.10**.
- H.9.3** **Subcontracting Plan Compliance Reporting.** If the contractor has an approved subcontracting plan required by law under this contract, the contractor shall submit to the CPO and the Director of DSLBD, no later than the 21st of each month following execution of the contract, a Subcontracting Plan Compliance Report to verify its compliance with the subcontracting requirements for the preceding month. The monthly subcontracting plan compliance report shall include the following information:
- H.9.3.1** The dollar amount of the contract or procurement;
- H.9.3.2** A brief description of the goods procured, or the services contracted for;
- H.9.3.3** The name of the business enterprise from which the goods were procured or services contracted;
- H.9.3.4** Whether the subcontractors to the contract are currently certified business enterprises;
- H.9.3.5** The dollar percentage of the contract awarded to SBEs, or if insufficient SBEs, to other certified business enterprises;
- H.9.3.6** A description of the activities the contractor engaged in, in order to achieve the subcontracting requirements, set forth in its plan; and

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H.9.3.7 A description of any changes to the activities the contractor intends to make by the next month to achieve the requirements set forth in its plan.

H.9.4 **Subcontractor Standards**

H.9.4.1 A prime Contractor shall ensure that subcontractors meet the criteria for responsibility described in D.C. Official Code § 2-353.01.

H.9.5 **Enforcement and Penalties for Breach of Subcontracting Plan**

H.9.5.1 If during the performance of this contract, the contractor fails to comply with its approved subcontracting plan, and the CPO determines the contractor's failure to be a material breach of the contract, the CPO shall have cause to terminate the contract under the default clause of the Standard Contract Provisions.

H.9.5.2 There shall be a rebuttable presumption that a Contractor willfully breached its approved subcontracting plan if the contractor (i) fails to submit any required monitoring or compliance report; or (ii) submits a monitoring or compliance report with the intent to defraud.

H.9.5.3 A Contractor that is found to have willfully breached its approved subcontracting plan for utilization of certified business enterprises in the performance of a contract shall be subject to 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 certified business enterprises, whichever is greater, for each such breach.

H.10 **PRIME CONTRACTOR PERFORMANCE REQUIREMENTS APPLICABLE TO JOINT VENTURES**

H.10.1 If a certified joint venture is selected as a prime contractor and is granted a price reduction pursuant to the Act or is selected through a set-aside program under the Act, the certified business enterprise partner of the joint venture shall perform at least 50% of the contracting effort, excluding the cost of materials, goods, and supplies, with its own organization and resources and, if the joint venture subcontracts, at least 35% of the subcontracted effort, excluding the cost of materials, goods and supplies, shall be with certified business enterprises.

H.10.2 If the total of the contracting effort, excluding the cost of materials, goods, and supplies, proposed to be performed by the certified business enterprise is less than the amount required by the preceding paragraph, then the certified business enterprise shall not be eligible to receive preference points or a price reduction for a period of not less than two (2) years.

H.11 PERFORMANCE REQUIREMENT FOR CONTRACTS OF \$1 MILLION OR LESS

If this is a construction contract of \$1 million or less for which a certified business enterprise is selected as prime contractor and is granted a price reduction pursuant to the Act or is selected through a set-aside program under the Act, the certified business enterprise prime contractor shall perform at least 50% of the on-site work with its own work force.

H.12 DIVERSION, REASSIGNMENT AND REPLACEMENT OF KEY PERSONNEL

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

H.13 DISTRICT RESPONSIBILITIES

H.13.2 District Furnished Property

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

H.14 CONTRACTOR RESPONSIBILITIES

H.14.1 The contractor shall assume full responsibility and liability for compliance with all applicable regulations pertaining to the health and safety of personnel during the

execution of work and shall hold the District harmless for any action on his part or that of his employees or subcontractors, which results in illness, injury or death.

H.14.2 The contractor shall be liable for all fines and shall comply with all District regulations for safe handling, storage, disposal, and use of any hazardous materials and chemicals.

H.14.3 The contractor shall be charged the cost, in the event of fines or penalties levied by the EPA or an Air Quality Management Authority.

H.15 ALLOWABLE SUBCONTRACTING REQUIREMENTS

- H.15.1** The contractor shall ensure that all activities carried out by its subcontractors conform to the provisions of this contract.
- H.15.2** It shall be the responsibility of the contractor to ensure that its subcontractors are capable of meeting the reporting requirements under this Contract and, if they cannot, the contractor shall not be relieved of the contract requirements.
- H.15.3** The contractor shall notify the DCPL CPO in writing, of the termination of any subcontract for the provision of services, including the arrangements made to ensure continuation of the services covered by the terminated subcontract, not less than forty-five (45) calendar days prior to the effective date of the termination, unless immediate termination of the subcontract is necessary to protect the health and safety of staff or prevent fraud and abuse. In such an event, the contractor shall notify the CA immediately upon taking such action.
- H.15.4** If DCPL determines that the termination or expiration of a subcontract materially affects the ability of the contractor to carry out its responsibility under this contract, the District may terminate this contract for default.
- H.15.5** The contractor shall ensure subcontracts contain a provision that requires subcontracts to contain all provisions of the contractor's contract with DCPL and that the subcontractor look solely to the contractor for payment for services rendered.

H.16 SUBCONTRACTOR STANDARDS

A prime Contractor shall ensure that subcontractors meet the criteria for responsibility described in D.C. Official Code §2-353-02.

H.17 CONTRACT TERMINATION

In accordance with DCPL Procurement Regulation Title 19 DCMR, Chapter 43, Section 4372, the DCPL CPO may terminate contracts for **default** or **convenience** in whole or in part only by written notice to the contractor. The CPO shall have the

discretion to determine the manner in which the written notice is sent to the contractor.

H.18 GENERAL PROHIBITIONS OF GENDER IDENTITY OR EXPRESSION

It is unlawful for any person or entity, including agencies of the District of Columbia government and its contractors, to discriminate against a person in employment, housing, public accommodations, or educational institutions on the basis of that person's actual or perceived gender identity or expression, pursuant to 4 DCMR §§801(e) – 808,899.1. See the Gender Identity and Expression Policy and Factsheet included herein as **Attachment J.6**.

H.19 PROHIBITION OF WORKPLACE SEXUAL HARASSMENT

It is unlawful for employees, officials, third parties doing business with, or carrying out the goals and objectives of the District of Columbia government, such as vendors, contractors, grantees, customers, and other persons visiting or working at District of Columbia worksites inside and outside District of Columbia, to engage in workplace sexual harassment pursuant to Mayor's Order 2017-313 dated December 18, 2017.

H.20 PREGNANT WORKERS FAIRNESS

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

H.20.1 The contractor shall not:

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

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- (c) Deny employment opportunities to an employee, or a job applicant, if the denial is based on the need of the employer to make reasonable accommodations to the known limitations related to pregnancy, childbirth, related medical conditions, or breastfeeding;
- (d) Require an employee affected by pregnancy, childbirth, related medical conditions, or breastfeeding to accept an accommodation that the employee chooses not to accept if the employee does not have a known limitation related to pregnancy, childbirth, related medical conditions, or breastfeeding or the accommodation is not necessary for the employee to perform her duties;
- (e) Require an employee to take leave if a reasonable accommodation can be provided; or
- (f) Take adverse action against an employee who has been absent from work as a result of a pregnancy-related condition, including a pre-birth complication.

H.20.2 The contractor shall post and maintain in a conspicuous place a notice of rights in both English and Spanish and provide written notice of an employee's right to a needed reasonable accommodation related to pregnancy, childbirth, related medical conditions, or breastfeeding pursuant to the PPWF Act to:

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

H.20.3 The contractor shall provide an accurate written translation of the notice of rights to any non-English or non-Spanish speaking employee.

H.20.4 Violations of the PPWF Act shall be subject to civil penalties as described in the Act.

H.21 UNEMPLOYED ANTI-DISCRIMINATION

The contractor shall comply with the Unemployed Anti-Discrimination Act of 2012, D.C. Official Code § 32-1361 *et seq.*

H.21.1 The contractor shall not:

- (a) Fail or refuse to consider for employment, or fail or refuse to hire, an individual as an employee because of the individual's status as unemployed; or

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(b) Publish, in print, on the Internet, or in any other medium, an advertisement or announcement for any vacancy in a job for employment that includes:

1. Any provision stating or indicating that an individual's status as Unemployed disqualifies the individual for the job; or
2. Any provision stating or indicating that an employment agency will not Consider or hire an individual for employment based on that individual's status as unemployed.

H.21.2 Violations of the Unemployed Anti-Discrimination Act shall be subject to civil penalties as described in the Act.

H.22 BUY AMERICAN ACT PROVISION

H.22.1 The Buy American Act (41 U.S.C. §10a) provides that the District give preference to domestic end products.

“Components,” as used in this clause, means those articles, materials, and supplies incorporated directly into the end products.

“Domestic end product,” as used in this clause, means, (1) an unmanufactured end product mined or produced in the United States, or (2) an end product manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States, exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind as the products referred to in paragraph H.22.2 (2) or (3) of this clause shall be treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic.

“End products,” as used in this clause, means those articles, materials, and supplies to be acquired for public use under this contract.

H.22.2 The contractor shall deliver only domestic end products, except those-

- (1) For use outside the United States;
- (2) That the District determines are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality;
- (3) For which the District determines that domestic preference would be inconsistent with the public interest; or

(4) For which the District determines the cost to be unreasonable.

H.22.3 FAIR CRIMINAL RECORD SCREENING

H.22.4 The contractor shall comply with the provisions of the Fair Criminal Record Screening Amendment Act of 2014, effective December 17, 2014 (D.C. Law 20-152) (“Act” as used in this section). This section applies to any employment, including employment on a temporary or contractual basis, where the physical location of the employment is in whole or substantial part within the District of Columbia.

H.22.5 Prior to making a conditional offer of employment, the contractor shall not require an applicant for employment, or a person who has requested consideration for employment by the contractor, to reveal or disclose an arrest or criminal accusation that is not then pending or did not result in a criminal conviction.

H.22.6 After making a conditional offer of employment, the contractor may require an applicant to disclose or reveal a criminal conviction.

H.22.7 The contractor may only withdraw a conditional offer of employment, or take adverse action against an applicant, for a legitimate business reason as described in the Act.

H.22.8 This section and the provisions of the Act shall not apply:

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

H.22.9 A person claiming to be aggrieved by a violation of the Act may file an administrative complaint with the District of Columbia Office of Human Rights, and the Commission on Human Rights may impose monetary penalties against the contractor.

H.23 AUDITS AND RECORDS

H.23.1 As used in this clause, “records” includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.

H.23.2 Examination of Costs. If this is a cost-reimbursement, incentive, time-and-materials, labor-hour, or price redeterminable contract, or any combination of these, the contractor shall maintain and the CPO, or an authorized representative of the CPO, shall have the right to examine and audit all records and other evidence sufficient to reflect properly all costs claimed to have been incurred or anticipated to be incurred directly or indirectly in performance of this contract. This right of examination shall include inspection at all reasonable times of the contractor’s plants, or parts of them, engaged in performing the contract.

H.23.3 Cost or pricing data. If the contractor has been required to submit cost or pricing data in connection with any pricing action relating to this contract, the CPO, or an authorized representative of the CPO, in order to evaluate the accuracy, completeness, and currency of the cost or pricing data, shall have the right to examine and audit all of the Contractor’s records, including computations and projections, related to:

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

H.23.4 Comptroller General

H.24.4.1 The Comptroller General of the United States, or an authorized representative, shall have access to and the right to examine any of the contractor’s directly pertinent records involving transactions related to this contract or a subcontract hereunder.

H.24.4.2 This paragraph may not be construed to require the contractor or subcontractor to create or maintain any record that the contractor or subcontractor does not maintain in the ordinary course of business or pursuant to a provision of law.

H.23.5 Reports. If the contractor is required to furnish cost, funding, or performance reports, the CO or an authorized representative of the CPO shall have the right to examine and audit the supporting records and materials, for the purpose of evaluating:

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

H.23.6 Availability. The contractor shall make available at its office at all reasonable times the records, materials, and other evidence described in clauses H.24.1 through H.24.5, for

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examination, audit, or reproduction, until three (3) years after final payment under this contract or for any shorter period specified in the solicitation, or for any longer period required by statute or by other clauses of this contract. In addition:

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

H.23.7 The contractor shall insert a clause containing all the terms of this clause, including this section H.24.7, in all subcontracts under this contract that exceed the small purchase threshold of \$100,000, and:

- a) That are cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable type or any combination of these;
- b) For which cost or pricing data are required; or
- c) That requires the subcontractor to furnish reports as discussed in H.24.5 of this clause.

H.24 ADVISORY AND ASSISTANCE SERVICES

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

SECTION I: CONTRACT CLAUSES

I.1 APPLICABILITY OF STANDARD CONTRACT PROVISIONS

The District of Columbia Public Library Standard Contract Provisions for Supply, Service, Architect/Engineer and Construction Solicitations and Contracts dated October 2009 (**Attachment J.2**) is applicable to this solicitation.

I.2 CONTRACTS THAT CROSS FISCAL YEARS

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

I.3 CONFIDENTIALITY OF INFORMATION

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

I.4 TIME

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

I.5 RIGHTS IN DATA

A. Definitions

“Products” - A deliverable under any contract that may include commodities, services and/or technology furnished by or through contractor, including existing and custom Products, such as, but not limited to: a) recorded information, regardless of form or the media on which it may be recorded; b) document research; c) experimental, developmental, or engineering work; d) licensed software; e) components of the hardware environment; f) printed materials (including but not limited to training manuals, system and user documentation, reports, drawings); g) third party software; h) modifications, customizations, custom programs, program listings, programming tools, data, modules, components; and i) any intellectual property embodied

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therein, whether in tangible or intangible form, including but not limited to utilities, interfaces, templates, subroutines, algorithms, formulas, source code, and object code.

1. “Existing Products” - Tangible Products and intangible licensed Products that exist prior to the commencement of work under the contract. Existing Products must be identified on the Product prior to commencement of work or else will be presumed to be Custom Products.
2. “Custom Products” - Products, preliminary, final or otherwise, which are created or developed by contractor, its subcontractors, partners, employees, resellers or agents for the District under the contract.
3. “District” – The District of Columbia and its agencies.

B. Title to Project Deliverables

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

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

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

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

D. Subcontractor Rights

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

E. Source Code Escrow

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

escrow agent who shall be named and identified to the District, and who shall be directed to release the deposited source code in accordance with the terms of escrow.

3. The contractor shall update the source code, as well as any corrections or enhancements to the source code, for each new release of the Product in the same manner as provided above and certify such updating of escrow to the District in writing.

F. Indemnification and Limitation of Liability

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

I.6 OTHER CONTRACTORS

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

I.7 SUBCONTRACTS

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

ion from any other insurance, reinsurance or self-insurance including any deductible or retention, maintained by the Government of the District of Columbia.

I.8 EQUAL EMPLOYMENT OPPORTUNITY

In accordance with the District of Columbia Administrative Issuance System, Mayor's Order 85-85 dated June 10, 1985, the forms for completion of the Equal Employment Opportunity Information Report are incorporated herein as **Attachment J.7**. An award cannot be made to any bidder who has not satisfied the equal employment requirements.

I.9 INDEMNIFICATION

I.9.1 The Contractor agrees to defend, indemnify and hold harmless the District, its officers, agencies, departments, agents, and employees (collectively the “District”) from and against any and all claims, losses, liabilities, penalties, fines, forfeitures, demands, causes of action, suits, costs and expenses incidental thereto (including cost of defense and attorney’s fees), resulting from, arising out of, or in any way connected to activities or work performed by the Contractor, the Contractor’s officers, employees, agents, servants, subcontractor, or any other person acting for or by permission of the Contractor in performance of the contract. The Contractor assumes all risks for direct and indirect damages or injury to the property or persons used or employed in performance of the contract. The Contractor shall also repair or replace any District property that is damaged by the Contractor, the Contractor’s officers, employees, agents, servants, subcontractors, or any other person acting for or by permission of the Contractor while performing work hereunder. The duty to indemnify covers any claim against the District for its alleged failure to monitor or supervise the Contractor where the underlying claim arises from the conduct, action, or omission of the Contractor, the Contractor’s officers, employees, agents, servants, subcontractors, or any other person acting for or by permission of the Contractor in performance of the contract.

I.10 ORDER OF PRECEDENCE

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

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

- (1) An applicable Court Order, if any
- (2) Contract document
- (3) Standard Contract Provisions
- (4) Contract attachments other than the Standard Contract Provisions
- (5) IFB as amended
- (6) Bid

I.11 CONTRACTS IN EXCESS OF ONE MILLION DOLLARS

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

I.12 GOVERNING LAW

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

I.13 CONTINUITY OF SERVICES

I.14.1 The contractor recognizes that the services provided under this contract are vital to the District of Columbia and must be continued without interruption and that, upon contract expiration or termination, a successor, either the District or another contractor, at the District's option, may continue to provide these services. To that end, the contractor agrees to:

I.14.1.1 Furnish phase-out, phase-in (transition) training; and

I.14.1.2 Exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor.

I.14.2 The contractor shall, upon the DCPL CPO's written notice:

I.14.2.1 Furnish phase-in, phase-out services for up to ninety (90) days after this contract expires.

I.14.2.2 Negotiate in good faith a plan with a successor to determine the nature and extent of phase-in, phase-out services required. The plan shall specify a training program and a date for transferring responsibilities for each division of work described in the plan, and shall be subject to the Contracting Officer's approval.

I.14.3 The contractor shall provide sufficient experienced personnel during the phase-in, phase-out period to ensure that the services called for by this contract are maintained at the required level of proficiency.

I.14.4 The contractor shall allow as many personnel as practicable to remain on the job to help the successor maintain the continuity and consistency of the services required by this contract. The contractor also shall disclose necessary personnel records and allow the successor to conduct on-site interviews with these employees. If selected employees are agreeable to the change, the contractor shall release them at a mutually agreeable date and negotiate transfer of their earned fringe benefits to the successor.

I.14.5 Only in accordance with a modification issued by the DCPL CPO, the contractor shall be reimbursed for all reasonable phase-in, phase-out costs (i.e., costs incurred within the agreed period after contract expiration that result from phase-in, phase-out operations) and a fee (profit) not to exceed a pro rata portion of the fee (profit) under this contract.

I.14 DISCRIMINATION CLAUSES

I.15.1 Anti-Discrimination Clause:

The Contractor:

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- I.15.1.1** Shall not discriminate in any manner against any employee or applicant for employment in violation of Section 211 of the District of Columbia Human Rights Act (DC Law 2-38; DC Official Code Section 2-1402.11);
- I.15.1.2** Shall include a similar clause in every subcontract, except subcontracts for standard commercial supplies or raw materials;
- I.15.1.3** 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 District of Columbia Human Rights Act (DC Official Code Section 2-1402.51).

I.15.2 Non-Discrimination Clause:

I.15.2.1 The contractor shall not discriminate in any manner against any employee or applicant for employment that would constitute a violation of the District of Columbia Human Rights Act, 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.15.2.2 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.15.2.2.1 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, gender identity or expression, 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.15.2.2.2 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;

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- d. Rates of pay, or other forms of compensation; and
 - e. Selection for training and apprenticeship.
- I.15.2.2.3** 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.15.2.2.1 and I.15.2.2.2 concerning non-discrimination and affirmative action.
- I.15.2.2.4** The contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants shall receive consideration for employment pursuant to the non-discrimination requirements set forth in subsection I.15.2.2.2.
- I.15.2.2.5** 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.15.2.2.6** 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.15.2.2.7** The contractor agrees to comply with the provisions of this chapter and with all guidelines for equal employment opportunity applicable in the District of Columbia adopted by the Director of the Office of Human Rights, or any authorized official.
- I.15.2.2.8** The contractor shall include in every subcontract the equal opportunity clauses, subsections I.15.2.2.1 through I.15.2.2.9 of this section, so that such provisions shall be binding upon each subcontractor or contractor.
- I.15.2.2.9** 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 contractor as a result of such direction by the contracting agency, the contractor may request the District to enter into such litigation to protect the interest of the District.
- I.15** **EQUAL ACCESS TO SERVICES/NOTICE OF NON-DISCRIMINATION**
- I.16.1** In accordance with District and federal laws, the DCPL does not discrimination on the basis of actual or perceived race, color, disability, religion, national origin, sex,

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age, marital status, personal appearance, sexual orientation, gender identity or expression, family status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an interfamily offense, or place of residence. Harassment based on any of the above protected categories is prohibited by law. Therefore the contractor shall not engage in such unlawful discrimination against any of its employees, applicants or customers and shall require the same for its sub-contractors. The contractor agrees to provide equal access to its services under this agreement in accordance with District and federal laws.

I.16.2 DCPL is committed to providing language access services to persons who may have Limited English Proficiency (LEP) or who may be non-English proficiency (NEP) in accordance with the DC Language Access Act of 2004. Language assistance such as translated documents and interpreters are provided by DCPL free of charge. The contractor agrees to cooperate with DCPL in its efforts to adhere to the Language Access Act. Such cooperation may include but is not limited to directing LEP or NEP customers seeking information or service to a DCPL staff member, providing translated documents or providing documents that may be translated by DCPL, or working with Library staff to hire an interpreter.

I.16 **FORCE MAJEURE**

If the contractor, because of Force Majeure, is rendered wholly or partly unable to perform its obligations under this contract by reason of Acts of God, strikes (other than strikes involving the affected Party's labor force), equipment or transmission failure or damage reasonably beyond its control, and/or a pandemic ("**Force Majeure**"), when due under this Contract, the contractor may be excused from whatever performance is affected by the Force Majeure to the extent so affected. In order to be excused from its performance obligations under this Contract by reason of Force Majeure, within seventy-two (72) hours of the occurrence or event, the contractor must provide the DCPL Chief Procurement Officer written notice of its inability to perform as well as a description of the force majeure and its effect on Contract performance. The DCPL Chief Procurement Officer will have the right to cause the inspection of the work site to determine the validity of the contractor's assertion of its inability to perform. If the DCPL Chief Procurement Officer agrees that the contractor is wholly or partly unable to perform its obligations under the Contract a decision will be issued indicating the extent to which the contractor is excused from its performance obligations. In no event will the contractor be entitled to money damages from the Government due to force majeure.

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The following list of attachments are incorporated into the solicitation.

| Attachment Number | Document |
|-------------------|---|
| J.1 | Broadcast Equipment Price Schedule |
| J.2 | Government of the District of Columbia Public Library Standard Contract Provisions for Supply, Service, Architect/Engineer and Construction Solicitations and Contracts dated October 2009 |
| J.3 | Department of Employment Services First Source Employment Agreement (Applicable to Bids \$300,000 and Above) |
| J.4 | U.S. Department of Labor Wage Determination (Wage Determination No.2015-4282, Revision No. 18 dated 04/07/2021) |
| J.5 | 2021 Living Wage Notice and Fact Sheet |
| J.6 | Gender Identity and Expression Policy and Fact Sheet |
| J.7 | E.E.O. Information and Mayor's Order 85-85 |
| J.8 | Tax Certification Affidavit |
| J.9 | Bidder/Offeror Certification Form |
| J.10 | Subcontracting Plan Form (For Bids \$250,000 and Above) |

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

K.1 BIDDER/OFFEROR CERTIFICATION FORM

Bidders shall complete the Bidder/Offeror Certification Form included herein as **Attachment J.9**.

K.2 TAX CERTIFICATION

Each contractor must submit with its bid, a sworn Tax Certification Affidavit, incorporated herein as **Attachment J.8** and a copy of its August 2021 Certificate of Clean Hands.

SECTION L - INSTRUCTIONS, CONDITIONS AND NOTICES TO CONTRACTORS

L.1 METHOD OF AWARD

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

L.1.2 The District intends to award a single contract resulting from this solicitation to the responsive and responsible bidder who has the lowest bid.

L.2 PREPARATION AND SUBMISSION OF BIDS

L.2.1 **Bids must be submitted electronically to procurementdcpl@dc.gov no later than Monday, August 9, 2021 by 2:00 p.m. EST.** To be considered, a bidder must submit its bid to procurementdcpl@dc.gov before the closing date and time. Paper, telephonic, telegraphic, and facsimile bids may not be accepted.

L.2.2 All attachments shall be submitted as a .pdf file. The DCPL will not be responsible for corruption of any file submitted. If the submitted file cannot be viewed and printed as submitted, it will not be considered.

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

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

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

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

L.2.6 The bidder must bid on all CLINs to be considered for this award. Failure to bid on all CLINs will render the bid non-responsive and disqualify a bid.

L.3 BID SUBMISSION DATE AND TIME

Bids must be submitted electronically to procurementdcpl@dc.gov no later than **Monday, August 9, 2021 by 2:00 p.m. EST.**

L.4 WITHDRAWAL OR MODIFICATION OF BIDS

A bidder may modify or withdraw its bid electronically at any time before the closing date and time for receipt of bids.

L.5 LATE SUBMISSIONS, LATE MODIFICATIONS, AND LATE WITHDRAWALS

L.5.1 Late Submissions

DCPL will not accept late bids or modifications to bids after the closing date and time for receipt of bids.

L.5.2 Late Modifications

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

L.6 FAMILIARIZATION WITH CONDITIONS

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

L.7 ERRORS IN BIDS

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

L.8 BID PROTESTS

L.8.1 All protests alleging defects in this solicitation shall be governed by Section 4378 of the Department's Procurement Regulations (19 DCMR § 4378); provide a clear and concise statement of the legal and factual grounds of the protest, including copies of relevant documents, and citations to statutes, regulations or solicitation provisions claimed to be violated; and, be filed in writing with the District of Columbia Contracts Appeals Board ("CAB"), pursuant to title X of the Procurement Practices Reform Act of 2010 ("PPRA") (D.C. Official Code § 2-360.01 *et seq.*). Protests alleging defects in this solicitation, which are apparent prior to bid openings, must be filed prior to the time set for receipt of submissions. If an alleged defect does not exist in this initial RFP, but was later incorporated by an amendment or addendum, a protest based on that defect must be filed before the next closing time established for proffering submissions. In all other cases,

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protests shall be filed not later than ten (10) business days after the basis of protest is known or should have been known, whichever is earlier. To expedite handling of protests, forward courtesy copies of protests to the Department's Chief Procurement Officer ("CPO") with "Protest" labeled on the envelope.

L.8.2 This section is intended to summarize the protest procedures and is for the convenience of the Contractors only. To the extent any provision of this section is inconsistent with the Department's regulations or the PPRA; the more stringent provisions shall apply.

L.9 SIGNING OF BIDS

The contractor shall sign the offer and print or type its name on the Solicitation, Offer and Award form of this solicitation. Bids signed by an agent shall be accompanied by evidence of that agent's authority, unless that evidence has been previously furnished to the Contracting Officer.

L.10 BID OPENING

The District shall make publicly available the name of each bidder, the bid price, and other information that is deemed appropriate.

L.11 RETENTION OF BIDS

All bid documents shall be the property of DCPL and retained by DCPL, and therefore shall not be returned to the Contractors.

L.12 NO COMPENSATION FOR PREPARATION OF SUBMISSIONS

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

L.13 ELECTRONIC COPY OF BIDS FOR FREEDOM OF INFORMATION ACT REQUESTS

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

L.14 ACKNOWLEDGMENT OF AMENDMENTS

The bidder shall acknowledge receipt of any amendment to this solicitation electronically via procurementdopl@dc.gov. The District must receive the acknowledgment by the date and time specified for receipt of bids. A bidder's failure to acknowledge an amendment may result in rejection of its bid.

L.15 LEGAL STATUS OF BIDDER

Each bid must provide the following information:

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

L.15.2 A copy of each District of Columbia license, registration or certification that the contractor is required by law to obtain. This mandate also requires the contractor to provide a copy of the executed "Clean Hands Certification" that is referenced in D.C. Official Code §47-2862 (2001), if the contractor is required by law to make such certification. If the contractor is a corporation or partnership and does not provide a copy of its license, registration or certification to transact business in the District of Columbia, the offer shall certify its intent to obtain the necessary license, registration or certification prior to contract award or its exemption from such requirements; and

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

L.16 FAMILIARIZATION WITH CONDITIONS

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

L.17 STANDARDS OF RESPONSIBILITY

L.17.1 The prospective contractor must demonstrate to the satisfaction of the District the capability in all respects to perform fully the contract requirements; therefore, the prospective contractor must submit the documentation listed below, within seven (7) calendar days of the request by the District.

L.17.2 Evidence of adequate financial resources, credit or the ability to obtain such resources as required during the performance of the contract.

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L.17.3 Evidence of the ability to comply with the required or proposed delivery or performance schedule, taking into consideration all existing commercial and governmental business commitments.

L.17.4 Evidence of the necessary organization, experience, accounting and operational control, technical skills or the ability to obtain them.

L.17.5 Evidence of compliance with the applicable District licensing and tax laws and regulations.

L.17.6 Evidence of a satisfactory performance record, record of integrity and business ethics.

L.17.7 Evidence of the necessary production, construction and technical equipment and facilities or the ability to obtain them.

L.17.8 Evidence of other qualifications and eligibility criteria necessary to receive an award under applicable laws and regulations.

L.17.9 If the prospective contractor fails to supply the information requested, the Contracting Officer shall make the determination of responsibility or nonresponsibility based upon available information. If the available information is insufficient to make a

determination of responsibility, the Contracting Officer shall determine the prospective contractor to be non-responsible.

L.17.10 Submit a copy of their August 2021 Certificate of Clean Hands. (See K.2)

L.18 COMPLETE SOLICITATION ATTACHMENTS

The Bidder shall complete and include the following attachments with their Bid. Failure to do so will result in a determination of non-responsible by the DCPL Chief Procurement Officer.

- (a) The IFB pages 1 –51, with page 1 signed
- (b) Acknowledgement of Amendments (page 1 Section 13);
- (c) Bidder/Offeror Certification Form (Attachment J.9);
- (d) Tax Affidavit - (Attachment J.7).
- (e) SBE Subcontracting Plan if Applicable (Attachment J.10);
- (f) First Source Employment Plan and Agreement if Applicable (Attachment J.3);
- (g) EEO Policy Statement (Attachment J.7).

L.19 INSURANCE

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

All required policies shall contain a waiver of subrogation provision in favor of the Government of the District of Columbia.

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

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

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1. Commercial General Liability Insurance (“CGL”) - The Contractor shall provide evidence satisfactory to the CO with respect to the services performed that it carries a CGL policy, written on an occurrence (not claims-made) basis, on Insurance Services Office, Inc. (“ISO”) form CG 00 01 04 13 (or another occurrence-based form with coverage at least as broad and approved by the CO in writing), covering liability for all ongoing and completed operations of the Contractor, including ongoing and completed operations under all subcontracts, and covering claims for bodily injury, including without limitation sickness, disease or death of any persons, injury to or destruction of property, including loss of use resulting therefrom, personal and advertising injury, and including coverage for liability arising out of an Insured Contract (including the tort liability of another assumed in a contract) and acts of terrorism (whether caused by a foreign or domestic source). Such coverage shall have limits of liability of not less than \$1,000,000 each occurrence, a \$2,000,000 general aggregate (including a per location or per project aggregate limit endorsement, if applicable) limit, a \$1,000,000 personal and advertising injury limit, and a \$2,000,000 products-completed operations aggregate limit.
2. Automobile Liability Insurance - The Contractor shall provide evidence satisfactory to the CO of commercial (business) automobile liability insurance written on ISO form CA 00 01 10 13 (or another form with coverage at least as broad and approved by the CO in writing) including coverage for all owned, hired, borrowed and non-owned vehicles and equipment used by the Contractor, with minimum per accident limits equal to the greater of (i) the limits set forth in the Contractor’s commercial automobile liability policy or (ii) \$1,000,000 per occurrence combined single limit for bodily injury and property damage.
3. Workers’ Compensation Insurance - The Contractor shall provide evidence satisfactory to the CO of Workers’ Compensation insurance in accordance with the statutory mandates of the District of Columbia or the jurisdiction in which the contract is performed.

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

All insurance required by this paragraph 2 shall include a waiver of subrogation endorsement for the benefit of Government of the District of Columbia.

B. PRIMARY AND NONCONTRIBUTORY INSURANCE

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

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

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

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- E. **CONTRACTOR’S PROPERTY.** Contractor and subcontractors are solely responsible for any loss or damage to their personal property, including but not limited to tools and equipment, scaffolding and temporary structures, rented machinery, or owned and leased equipment. A waiver of subrogation shall apply in favor of the District of Columbia.
- F. **MEASURE OF PAYMENT.** The District shall not make any separate measure or payment for the cost of insurance and bonds. The Contractor shall include all of the costs of insurance and bonds in the contract price.
- G. **NOTIFICATION.** The Contractor shall ensure that all policies provide that the CO shall be given thirty (30) days prior written notice in the event of coverage and / or limit changes or if the policy is canceled prior to the expiration date shown on the certificate. The Contractor shall provide the CO with ten (10) days prior written notice in the event of non-payment of premium. The Contractor will also provide the CO with an updated Certificate of Insurance should its insurance coverages renew during the contract.
- H. **CERTIFICATES OF INSURANCE.** The Contractor shall submit certificates of insurance giving evidence of the required coverage as specified in this section prior to commencing work. Certificates of insurance must reference the corresponding contract number. Evidence of insurance shall be submitted to:

The Government of the District of Columbia

And mailed to the attention of:

(Name of Contracting Officer/Agency)

(Address)

(Phone Number)

(E-mail Address)

The CO may request and the Contractor shall promptly deliver updated certificates of insurance, endorsements indicating the required coverages, and/or certified copies of the insurance policies. If the insurance initially obtained by the Contractor expires prior to completion of the contract, renewal certificates of insurance and additional insured and other endorsements shall be furnished to the CO prior to the date of expiration of all such initial insurance. For all coverage required to be maintained after completion, an additional certificate of insurance evidencing such coverage shall be submitted to the CO on an annual basis as the coverage is renewed (or replaced).

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

SECTION M - EVALUATION FACTORS

M.1 Preferences for Certified Business Enterprises

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

M.1.1. Application of Preferences

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

- M.1.1.1** A small business enterprise certified by the DSLBD will receive a three percent (3%) reduction in the bid price.
- M.1.1.2** A resident-owned business certified by DSLBD will receive a five percent (5%) reduction in the bid price.
- M.1.1.3** A longtime resident business certified by DSLBD will receive a ten percent (10%) reduction in the bid price.
- M.1.1.4** A local business enterprise certified by DSLBD will receive a two percent (2%) reduction in the bid price.
- L.1.1.5** A local business enterprise with its principal offices located in an enterprise zone certified by DSLBD will receive a two percent (2%) reduction in the bid price.
- M.1.1.6** A disadvantaged business enterprise certified by DSLBD will receive a two percent (2%) reduction in the bid price.
- M.1.1.7** A veteran-owned business certified by DSLBD will receive a two percent (2%) reduction in the bid price.
- M.1.1.8** A local manufacturing business enterprise certified by DSLBD will receive a two percent (2%) reduction in the bid price.

M.1.2 Maximum Preference Awarded

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

M.1.3 Preferences for Certified Joint Ventures

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

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

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

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

**Department of Small and Local Business
DevelopmentATTN: CBE Certification Program
441 Fourth Street, NW, Suite
850NWashington DC 20001**

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