

**SOLICITATION NO. DCPL-2015-R-0011
DESIGN-BUILD SERVICES FOR MAKERSPACE AND
RECORDING STUDIO AT MLK JR. MEMORIAL LIBRARY**

SECTION A – HISTORY AND BACKGROUND

The District of Columbia Public Library was created by an act of Congress in 1896 as an official entity “to furnish books and other printed matter and information service convenient to the homes and offices of all residents of the District.” The establishment of a library entity (the “Library”) was largely due to the long and arduous efforts of Theodore W. Noyes, editor of The Evening Star. Mr. Noyes served as president of the Board of Library Trustees for 50 years.

From 1898 until 1903, the first public library in the District of Columbia was located in a house at 1326 New York Ave. NW. In 1899, philanthropist and library enthusiast Andrew Carnegie donated funds to build a central library at Mount Vernon Square. In 1903, the new library was dedicated in a ceremony attended by President Theodore Roosevelt. In the 1960s, the Library established a new central library at the corner of 9th and G Streets, N.W. (“MLK Library”). The new central library was designed by Ludwig Mies van der Rohe, one of the most influential modern architects of the twentieth century and is the only building designed by him in D.C. The building continues to serve as the Library’s central library today.

Now more than ever, people using the public library are seeking assistance in navigating the complex networks of information available to them and in converting that information to knowledge for their personal needs (education, lifelong learning, enjoyment, jobs, business development, and so on). The public library provides open and accessible space for educational, social, economic, and personal use. It provides an environment for study and education, social and community interaction, information acquisition, business incubation, cultural awareness and creativity, networking, and quiet contemplation. As a cultural and educational institution, the library serves everyone, regardless of gender, age, ethnicity or cultural background, or economic status. The library helps library users change their lives.

The library has moved along a continuum from a book centered institution to a technology-centered institution to a community institution to a creative institution, always keeping the best of tradition as it adapts and innovates. As part of this desire to remain innovative, the Library desires to create two (2) Makerspaces at MLK Library: a Fabrication Makerspace and Audiovisual Production Makerspace.

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SECTION B – SUPPLIES OR SERVICES AND PRICE/COST

B.1 INTRODUCTION

The District of Columbia Public Library (“DCPL”) is requesting proposals from Offerors to provide Design-Build Services for the Build-Out of the Makerspace and Recording Studio at the MLK Jr. Memorial Library (the “Project”). It is anticipated that each space will be approximately 1,000 square feet and will be located in rooms 219 and 226 of the MLK Jr. Memorial Library. DCPL has commissioned concept designs for each of the spaces, attached as **Attachment J.11** (the “Concept Design”). DCPL seeks to engage a Design-Build Team (“Contractor”) to advance the Concept Design and to build out the spaces. It is anticipated that the work will be tenant fit out type work and will require some selective demolition. DCPL’s budget for the Construction Phase (Phase 2) of this project is \$250,000

B.2 OPEN MARKET

This RFP is being issued in the Open Market with a 35% subcontracting requirement in accordance with Section M.5. Offerors that are certified by the District of Columbia, Department of Small and Local Business Development (DSLBD) will receive preference points during the evaluation process in accordance with Section M.4.

B.3 PRICE

Offerors will be required to submit a price for the Phase I work specified in Section C.2 of this RFP. See **Attachment J.13** – Form of Offer Letter.

B.3.1 Offerors shall quote a firm fixed price to: (i) provide all necessary preconstruction services; and (ii) to develop the necessary design documents for the Project (the “Preconstruction & Design Fee”). Other than reimbursable expenses, the firm fixed price so quoted will be the selected Offeror’s sole compensation for all design services required for the Project, including construction administration. The quoted price shall be a “turn-key” price for such services and shall include sufficient funding for all of the engineering and design sub-consultants necessary to complete the Project.

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SECTION C: STATEMENT OF WORK

C.1 BACKGROUND

The MLK Jr. Memorial Library is one of DCPL's twenty six (26) libraries and serves as the District's central library. DCPL desire to create two (2) Makerspaces at MLK Jr. Memorial Library to provide Library patrons with the access, tools, and space to unleash people's creative and innovative spirit. One (1) of the two (2) spaces will be a fabrication space; the other will be a recording studio.

C.2 SCOPE OF WORK

DCPL has commissioned a Concept Design for both spaces, and through this procurement, DCPL seeks to engage a design-build team to work with the Library to advance the designs for both spaces and to build out both spaces. The Contractor selected through this procurement shall be required to advance the Concept Design in consultation with DCPL and also to implement the approved design. It is anticipated that work involved will generally include selective demolition and tenant fit out type work. The Contractor shall not be required to design or furnish the user equipment for the Makerspaces; the user equipment will be provided by others. However, the Contractor shall be required to design the spaces to accommodate the user equipment (e.g., millwork, MEP reconfiguration and special systems).

C.2.1 PHASE 1

C.2.1.1 Design & Preconstruction: As part of Phase 1, the Contractor shall be required to advance the Concept Design for the Project and provide preconstruction services such as scheduling, estimating, and providing constructability reviews of the design as it advances.

C.2.1.1.1 During Phase 1, the Contractor shall be required to develop a design for both spaces. DCPL anticipates that, in addition to other design and preconstruction efforts, the Contractor shall be required to conduct an analysis of the existing electrical system to determine whether the existing panel can accommodate the load of the two (2) spaces once renovated as well as an analysis of the existing HVAC service to determine whether it is appropriate for the two (2) spaces once renovated, including but not limited to layout and air changes.

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C.2.1.1.2 Deliverables. During this phase, the Contractor shall be required to prepare and submit to DCPL the deliverables listed below. In addition, the Contractor shall submit to DCPL at appropriate times progress drawings for DCPL's review and comment. All deliverables shall be subject to review and approval by DCPL, and the Contractor's pricing should assume that revisions may be required to these documents to address concerns raised by DCPL and/or other Project stakeholders.

- a. An electrical analysis verifying that the building's existing electrical system can support the necessary load;
- b. A single-line electrical drawing that shows the location, number and type of outlets and other fixtures;
- c. An analysis of the HVAC systems as to whether they are appropriate for the intended use;
- d. Drawings showing any necessary revisions to the building's HVAC system;
- e. Permit & Pricing Documents. Such documents shall be sufficiently detailed to secure any and all required regulatory approvals. It shall also include a finish schedule and interior renderings of the proposed spaces. Such documents shall be the basis of the Contractor's Lump Sum Price to complete the Project.

C.2.1.2 Bidding: Following DCPL's approval of the Permit & Pricing Documents, the Contractor will be required to solicit bids from trade subcontractors to implement the work. Such bids shall serve as the basis of the Contractor's Lump Sum Price to complete the Project.

C.2.1.2.1 Upon DCPL's approval of the Permit & Pricing Documents, the Contractor shall issue the approved Permit & Pricing Documents to trade subcontractors for bidding. Because the scope of work remains to be defined, the Contractor and DCPL shall determine a transparent method of ensuring that the construction costs are appropriate, and such method must be approved by DCPL.

C.2.1.2.2 Based on method of price validation approved by DCPL, the Contractor shall submit to DCPL a proposed Lump Sum Price to construct the Project, which Lump Sum Price shall be the sum of (1) individual trade price elements; (2) the Preconstruction & Design Fee; (3) the Construction Fee; and (4) the Contingency Percentage bid by the selected contractor. Such Lump Sum Price proposal shall include a line item breakdown of the costs as well as a CBE utilization plan and schedule for the completion of the work. (See section M.5 of the RFP for CBE utilization requirements).

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C.2.1.2.3 The Lump Sum Price shall be the Contractor's sole compensation for the Project, and the Contractor shall assume the following risks: (1) the form and nature of the site and surrounding areas, including those that can be reasonably anticipated in light of an existing structure of this age and nature; (2) details and levels of existing pipe lines, conduits, sewers, drains, cables or other existing services; (3) the quantities, nature and availability of the materials, tools, equipment and labor necessary for the completion of the Work; (4) the means of access to the site and any accommodation that may be required, including those related to working in an occupied facility; (5) uncertainties of weather and physical conditions at the site; and (6) in general, to have itself obtained all necessary information as to risk contingencies, climatic, hydrological and natural conditions and other circumstances which may influence or affect his performance of the Work.

C.2.2 PHASE 2:

C.2.2.1 Construction: During Phase 2, the Contractor shall construct the Project in a manner consistent with the approved design documents and shall provide all labor, materials, supervision and equipment necessary to fully construct the Project no later than February 28, 2015. Phase 2 shall commence upon approval by DCPL of the Lump Sum Price and memorialization of such Lump Sum Price in a definitized contract document. Such work shall generally include the following activities:

C.2.2.1.1 Mobilization & Site Safety and Security. The Contractor will be required to take control of the site and install the necessary safety barriers and other devices to properly secure the site. It is anticipated that this will occur when the Construction Phase begins. The Contractor's storage/laydown area will be limited to the limits of disturbance shown on the approved concept design plans. The Contractor shall also be responsible for removing all construction debris off site in accordance with all applicable rules and regulations of those jurisdictions having authority.

C.2.2.1.2 Permitting. The Contractor shall be responsible for paying all permits and fees associated with any abatement, demolition, utilities abandonment, and utility relocation, if necessary. The Contractor shall also be responsible for secure and paying for any and all other required permits, including but not limited to trade permit and a building permit, if required.

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C.2.2.1.3 Hazardous Materials Abatement & Selective Demolition. The Contractor shall be responsible for abating hazardous materials in the existing space as necessary to complete the work, in accordance with EPA and all jurisdictional agencies. DCPL is providing a previously-completed hazardous materials assessment as Attachment J.12 (“MLK Jr. Memorial Library Pre-Design Building Evaluation dated 9/20/13, Volume Two Environmental Report”). The Contractor shall be responsible for all demolition necessary to complete the Project.

C.2.2.1.4 Work in an Occupied Building. The MLK Library will be occupied and in operation during the course of the Project. Accordingly, the Contractor shall be required to coordinate its work with the operations of DCPL which may require afterhours work. Details regarding work limitations will be provided during Phase 1.

C.3 KEY PERSONNEL

In its proposal, each Offeror will be required to identify its key personnel. Key personnel shall include, at a minimum, the following individuals: (i) Project Executive; (ii) the Project Manager; (iii) the Project Architect.

The Contractor will not be permitted to change any of the key personnel unless DCPL approves the proposed reassignment and the proposed replacement. Certain members of the Contractor’s Key Personnel shall be subject to liquidated damages for their removal or reassignment by the Contractor. In each instance where the Contractor removes or reassigns one of the key personnel that is subject to liquidated damages (but excluding instances where such personnel become unavailable due to death, disability or separation from the employment of the Contractor or any affiliate thereof) without the prior written consent of DCPL’s Contract Administrator (CA), the Contractor shall pay to DCPL the sum of one thousand dollars (\$1,000) as liquidated damages and not a penalty, to reimburse DCPL for its administrative costs arising from the Contractor’s failure to provide the Key Personnel. The foregoing liquidated damage amount shall not bar recovery of any other damages, costs or expenses other than DCPL’s internal administrative costs.

In addition, DCPL will have the right, to be exercised in its sole discretion, to remove, replace or to reduce the scope of services of the Contractor in the event that a member of the Key Personnel has been removed or replaced by the Contractor without the consent of DCPL. In the event DCPL exercises the right to remove, replace or to reduce the scope of services of the Contractor, DCPL

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will have the right to enforce the terms of this Agreement and to keep-in-place those members of the Contractor not removed or replaced and the remaining members shall complete the services required under this Agreement in conjunction with the new members of the Contractor approved by DCPL.

C.4 LICENSING, ACCREDITATION AND REGISTRATION

The Contractor and all of its subcontractors and subconsultants (regardless of tier) shall comply with all applicable District of Columbia, state, and federal licensing, accreditation, and registration requirements and standards necessary for the performance of the contract. Without limiting the generality of the foregoing, all drawings shall be signed and sealed by a professional architect or engineer licensed in the District of Columbia.

C.5 CONFORMANCE WITH LAWS

It shall be the responsibility of the Contractor to perform under the contract in conformance with DCPL's Procurement Regulations and all statutes, laws, codes, ordinances, regulations, rules, requirements, orders, and policies of governmental bodies.

C.6 BUY AMERICAN ACT COMPLIANCE

The Contractor shall not design or specify a proprietary product that does not comply with the provisions of the Buy American Act (41 U.S.C. § 10a).

C.7 Davis-Bacon Act. The Davis-Bacon Act is applicable to this Project. As such, the Contractor and its trade subcontractors shall comply with the wage and reporting requirements imposed by that Act.

C.8 Apprenticeship Act (For projects \$500,000 and above). The Apprenticeship Act shall apply to this contract and the Contractor and all of its trade subcontractors shall be required to comply with that act.

C.9 Time is of the Essence. Time is of the essence with respect to the Project. Both phases of the project must be substantially complete by February 28, 2015. As such, the Contractor must dedicate such personnel and other resources as are necessary to ensure that the Project is completed on-time and in a diligent, skilled, and professional manner.

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C.10 OWNERSHIP OF DESIGN DOCUMENTS

C.10.1 Regardless of whether the Project is completed, any Design Documents prepared by the Contractor and the architectural and engineering consultants engaged by the Contractor and all other documents created in association with the Project shall become the sole property of DCPL upon full payment of Contractor's fees then due under this Agreement, and shall not be used by the Contractor OR its sub-consultants on other projects, or for additions to this Project outside the scope of the work, without the specific written consent of DCPL. However, DCPL expressly acknowledges and agrees that the documents to be provided by the Contractor under this Agreement will contain design details, features and concepts including some from the Contractor's library, which collectively form part of the design for the project, but which separately are and shall remain the sole and exclusive property of the Contractor. These details are repetitive in nature, not Project specific, function rather than form-oriented, and were not developed for or identifiable with the Project. Nothing herein shall be construed as a limitation on the Contractor's absolute right to re-use such component design details, features and concepts on other projects, in other contexts or for other clients.

C.10.2 DCPL shall be under no obligation to account to the Contractor for any profits obtained by DCPL as a result of the Project, or the use of such drawings, specifications and other documents in connection with the Project. In the event the resulting contract with the Contractor is terminated prior to completion of the Project or the Contractor is unable to complete this Project for any reason, DCPL shall have the right to use without the Contractor's consent, and the Contractor shall deliver to DCPL and/or its designee within two (2) calendar days after such termination or inability, all such drawings, specifications and other documents as well as design concepts and details in connection with the Project or necessary for DCPL's completion of this Project (including subsequent phases thereof), so long as DCPL has paid the Contractor all fees then owed to the Contractor under the contract. Any other use shall be at DCPL's sole risk and without liability to the Contractor or the Contractor's consultants.

C.11 WARRANTY

C.11.1 In addition to any other warranties in this contract, the Contractor warrants, except as provided in paragraph C.11.9 of this clause, that work performed under this contract conforms to the contract requirements and is free of any defect in equipment, material, or design furnished, or workmanship performed by the Contractor or any subcontractor or supplier at any tier.

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- C.11.2** This warranty shall continue for a period of one (1) year from the date of final acceptance of the work. If DCPL takes possession of any part of the work before final acceptance, this warranty shall continue for a period of one (1) year from the date DCPL takes possession.
- C.11.3** The Contractor shall remedy at the Contractor's expense any failure to conform, or any defect. In addition, the Contractor shall remedy at the Contractor's expense any damage to Government-owned or controlled real or personal property, when that damage is the result of—
- (1) The Contractor's failure to conform to contract requirements; or
 - (2) Any defect of equipment, material, workmanship, or design furnished.
- C.11.4** The Contractor shall restore any work damaged in fulfilling the terms and conditions of this clause. The Contractor's warranty with respect to work repaired or replaced will run for one (1) year from the date of repair or replacement.
- C.11.5** The Chief Procurement Officer (CPO) shall notify the Contractor, in writing, within a reasonable time after the discovery of any failure, defect, or damage.
- C.11.6** If the Contractor fails to remedy any failure, defect, or damage within a reasonable time after receipt of notice, DCPL shall have the right to replace, repair, or otherwise remedy the failure, defect, or damage at the Contractor's expense.
- C.11.7** With respect to all warranties, express or implied, from subcontractors, manufacturers, or suppliers for work performed and materials furnished under this contract, the Contractor shall—
- (1) Obtain all warranties that would be given in normal commercial practice;
 - (2) Require all warranties to be executed, in writing, for the benefit of the Government, if directed by the Contracting Officer; and
 - (3) Enforce all warranties for the benefit of the Government, if directed by the CPO.
- C.11.8** In the event the Contractor's warranty under paragraph C.11.2 of this clause has expired, the Government may bring suit at its expense to enforce a subcontractor's, manufacturer's, or supplier's warranty.

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- C.11.9** Unless a defect is caused by the negligence of the Contractor or subcontractor or supplier at any tier, the Contractor shall not be liable for the repair of any defects of material or design furnished by DCPL nor for the repair of any damage that results from any defect in DCPL-furnished material or design.
- C.11.10** This warranty shall not limit the DCPL's rights under the Inspection and Acceptance clause of this contract with respect to latent defects, gross mistakes, or fraud.

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SECTION D – PACKAGING AND MARKING

D.1 PACKAGING AND MARKING

All packaging and marking shall be in accordance with 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.

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SECTION E - INSPECTION AND ACCEPTANCE

E.1 INSPECTION OF SUPPLIES AND SERVICES

The inspection and acceptance requirements for this contract shall 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.

E.2 INSPECTION AND ACCEPTANCE

The Contract Administrator (CA) identified in Section G of this RFP shall be responsible for inspection and acceptance of all services/deliverables submitted under the contract.

E.3 ACCEPTANCE CRITERIA

Certification by the CA of satisfactory services provided is contingent upon the Contractor performing in accordance with the terms and conditions of the contract and all modifications.

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SECTION F – DELIVERIES AND PERFORMANCE

F.1 PERIOD OF PERFORMANCE

The period of performance will be specified in the Notice to Proceed (NTP) issued by the DCPL Chief Procurement Officer to February 28, 2015 for substantial completion and March 15, 2015 for contract closeout.

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 Contractor 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. See Section H.3.

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SECTION G – CONTRACT ADMINISTRATION DATA

G.1 CONTRACTING OFFICER

G.1.1 Contracting Officer: The DCPL Chief Procurement Officer who has the appropriate contracting authority is the only DCPL official authorized to contractually bind the DCPL through signing contract documents. All correspondence to the DCPL Chief Procurement Officer shall be forwarded to:

Diane Wooden
District of Columbia Public Library
Office of Procurement
901 G Street, NW
Suite 434
Washington, DC 20001
Email: diane.wooden2@dc.gov

G.2 AUTHORIZED CHANGES BY THE CONTRACTING OFFICER

G.2.1 The DCPL Chief Procurement Officer is the only person authorized to approve changes in any of the requirements of this contract.

G.2.2 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 DCPL Chief Procurement Officer.

G.2.3 In the event the Contractor effects any change at the instruction or request of any person other than the DCPL Chief Procurement Officer, the change will be considered to have been made without authority and no adjustment will be made in the contract price to cover any cost increase incurred as a result thereof.

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G.3 AUTHORIZED REPRESENTATIVE OF THE CONTRACTING OFFICER

G.3.1 Contract Administrator (CA): The CA is responsible for the general administration of the contract and advising the DCPL Chief Procurement Officer as to the Contractor's compliance or noncompliance with the contract. In addition, the CA is responsible for the day-to-day monitoring and supervision of the contract. The CA shall be:

Chris Wright, Project Manager
Capital Projects
District of Columbia Public Library
901 G Street, NW - Room 401
Washington, D C 20001
Telephone Number: (202) 727-4913
Email: chris.wright@dc.gov

G.3.2 It is understood and agreed that the CA shall not have authority to make changes in the scope of work or terms and conditions of the contract.

G.3.3 The resultant Contractor is hereby forewarned that, absent the requisite authority of the CA to make any such changes, Contractor may be held fully responsible for any changes not authorized in advance, in writing, by the DCPL Chief Procurement Officer, 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.

G.4 INVOICE PAYMENT

G.4.1 The District will make payments to the Contractor, upon the submission of proper invoices or vouchers, at the prices stipulated in specific Task Order for services performed and accepted, less any discounts, allowances or adjustments provided for in the contract. The District will pay the Contractor on or before the 30th day after receiving a proper invoice from the Contractor (See Section G.6.2). If you have not received payment within 30 calendar days, please contact the Accounts Payable (A/P) Unit at (202) 727-1198.

G.5 METHOD OF PAYMENT

The Contractor shall be paid based on satisfactory performance at the price submitted in accordance with Section B.

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G.6 INVOICE SUBMITTAL

G.6.1 The Contractor shall submit proper invoices on a monthly basis or as otherwise specified in this Section G. Contractors shall submit one (1) copy of their invoice with appropriate back-up documentation electronically to the DCPL Accounts Payable (A/P) Unit at invoices.dcpl@dc.gov. The following guidelines will apply to the electronic submittal process:

1. Submit the invoice in Adobe PDF format, ONLY.
2. Invoice must be clearly marked ‘Original’ or ‘Certified Original’.
3. One invoice per electronic submittal.

G.6.2 To constitute a proper invoice, the Contractor shall submit the following information on the invoice. If the invoice does not comply with these requirements, the Contractor shall be notified of the defect within fifteen (15) calendar days after receipt of the invoice by the DCPL Budget Office.

G.6.2.1 Contractor’s name, federal tax ID and invoice date (date invoices as of the date of mailing or transmittal);

G.6.2.2 Purchase Order number and invoice number;

G.6.2.3 Description, price, quantity and the date(s) that the supplies or services were delivered or performed;

G.6.2.4 Other supporting documentation or information, as required by the Chief Procurement Officer;

G.6.2.5 Name, title, telephone number and complete mailing address of the responsible official to whom payment is to be sent;

G.6.2.6 Name, title, phone number of person preparing the invoice;

G.6.2.7 Name, title, phone number and mailing address of person (if different from the person identified in G.2.2.6 above) to be notified in the event of a defective invoice; and

G.6.2.8 Authorized signature.

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G.7 FIRST SOURCE AGREEMENT REQUEST FOR FINAL PAYMENT

G.7.1 For contracts subject to the 51% District Residents New Hires Requirements and First Source Employment Agreement, final request for payment must be accompanied by the report or a waiver of compliance discussed in H.3.7.

G.7.2 No final payment shall be made to the Contractor until the CFO has received the CO's final determination or approval of waiver of the Contractor's compliance with 51% District Residents New Hires Requirements and First Source Employment Agreement.

G.8 ASSIGNMENTS

G.8.1 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 Chief Procurement Officer.

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SECTION H - CONTRACT CLAUSES

H.1 PUBLICITY

The Contractor shall at all times obtain the prior written approval from the Chief Procurement Officer before it, 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.2 FREEDOM OF INFORMATION ACT

The District of Columbia Freedom of Information Act, at D.C. Official Code § 2- 532 (a-3), requires the District to make available for inspection and copying any record produced or collected pursuant to a District contract with a private contractor to perform a public function, to the same extent as if the record were maintained by the agency on whose behalf the contract is made. If the Contractor receives a request for such information, the Contractor shall immediately send the request to the CA designated in subsection G.9 who will provide the request to the FOIA Officer for the agency with programmatic responsibility in accordance with the D.C. Freedom of Information Act. If the agency with programmatic responsibility receives a request for a record maintained by the Contractor pursuant to the contract, the 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.3 51% DISTRICT RESIDENTS NEW HIRES REQUIREMENTS
AND FIRST SOURCE EMPLOYMENT AGREEMENT**

H.3.1 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”).

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The Contractor shall enter into and maintain, during the term of the contract, a First Source Employment Agreement in which the Contractor shall agree that: The first source for finding employees to fill all jobs created in order to perform this contract shall be the Department of Employment Services (“DOES”); and the first source for finding employees to fill any vacancy occurring in all jobs covered by the First Source Employment Agreement shall be the First Source Register.

H.3.2 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”) verifying its compliance with the First Source Agreement for the preceding month. The contract compliance report for the contract shall include the following:

- (i) Number of employees needed;
- (ii) Number of current employees transferred;
- (iii) Number of new job openings created;
- (iv) Number of job openings listed with DOES;
- (v) Total number of all District residents hired for the reporting period and the cumulative total number of District residents hired; and
- (vi) 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.3.3 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.3.4 With the submission of the Contractor’s final request for payment from the District, the Contractor shall:

- (i) Document in a report to the Chief Procurement Officer its compliance with the section H.3.4 of this clause; or
- (ii) Submit a request to the Chief Procurement Officer for a waiver of compliance with section H.3.4 and include the following documentation:

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- (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.3.6.

H.3.5 The Chief Procurement Officer may waive the provisions of section H.3.4 if the Chief Procurement Officer finds that:

- (i) A good faith effort to comply is demonstrated by the Contractor;
- (ii) The Contractor is located outside the Washington Standard Metropolitan Statistical Area and none of the contract work is performed inside the Washington 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.
- (iii) The Contractor enters into a special workforce development training or placement arrangement with DOES; or
- (iv) 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.3.6 Upon receipt of the Contractor's final payment request and related documentation pursuant to sections H.3.5 and H.3.6, the Contracting Officer shall determine whether the Contractor is in compliance with section H.3.4 or whether a waiver of compliance pursuant to section H.3.6 is justified. If the Contracting Officer determines that the Contractor is in compliance, or that a waiver of compliance is justified, the Contracting Officer shall, within two business days of making the determination forward a copy of the determination to the Agency Chief Financial Officer and the CA.

H.3.7 Willful breach of the First Source Employment Agreement, or failure to submit the report pursuant to section H.3.5, or deliberate submission of falsified data, may be enforced by the Contracting Officer through imposition of penalties, including monetary fines of 5% of the total amount of the direct and indirect

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labor costs of the contract. The Contractor shall make payment to DOES. The Contractor may appeal to the D.C. Contract Appeals Board as provided in the contract any decision of the Contracting Officer pursuant to this section H.3.8.

H.3.8 The provisions of sections H.3.4 through H.3.8 do not apply to nonprofit organizations.

H.4 DEPARTMENT OF LABOR WAGE DETERMINATION

Phase 1 and 2 - The Contractor shall be bound by Wage Determination No. 2005-2103, Revision No. 14, dated 07/25/2014, issued by the U.S. Department of Labor and incorporated herein as Attachment J.2. The Contractor shall be bound by the wage rates for the term of the contract.

Phase 2 - The Contractor shall be bound by Davis Bacon General Decision Number DC20130002, Modification Number 17, dated 09/26/2014, issued by the U.S. Department of Labor and incorporated herein as Attachment J.13. The Contractor shall be bound by the wage rates for the term of the contract.

H.5 AUDITS, RECORDS, AND RECORD RETENTION

H.5.1 At any time or times before final payment and three (3) years thereafter, the Contracting Officer may have the Contractor's invoices or vouchers and statements of cost audited. For cost reimbursement contracts any payment may be reduced by amounts found by the Contracting Officer not to constitute allowable costs as adjusted for prior overpayment or underpayment. In the event that all payments have been made to the Contractor by the District Government and an overpayment is found, the Contractor shall reimburse the District for said overpayment within thirty (30) days after written notification.

H.5.2 The Contractor shall establish and maintain books, records, and documents (including electronic storage media) in accordance with generally accepted accounting principles and practices which sufficiently and properly reflect all revenues and expenditures of funds provided by the District under the contract that results from this solicitation.

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H.5.3 The Contractor shall retain all records, financial records, supporting documents, statistical records, and any other documents (including electronic storage media) pertinent to the contract for a period of five (5) years after termination of the contract, or if an audit has been initiated and audit findings have not been resolved at the end of five (5) years, the records shall be retained until resolution of the audit findings or any litigation which may be based on the terms of the contract.

H.5.4 The Contractor shall assure that these records shall be subject at all reasonable times to inspection, review, or audit by Federal, District, or other personnel duly authorized by the CPO.

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

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

H.5.7 LIQUIDATED DAMAGES

H.6.1 Phase 1 - The Contractor shall pay to the District of Columbia the sum of five hundred dollars (**\$500.00**) as agreed liquidated damages for each calendar day of delay in completion of the work for this project, within the time limits set forth in the RFP.

H.6.2 Phase 2 - The Contractor shall pay to the District of Columbia the sum of eight hundred dollars (**\$800.00**) as agreed liquidated damages for each calendar day of delay in completion of the work for this project, within the time limits set forth, subject to provisions of **Section 43-8398, LIQUIDATED DAMAGES – CONSTRUCTION** of the DCPL Standard Contract Provisions.

H.6.3 If the District terminates for default the Contractor's right to proceed in accordance with **Section 43-8398**, liquidated damages will continue to accrue until the work is completed. These liquidated damages are in addition to excess costs of reprourement.

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SECTION I - CONTRACT CLAUSES

I.1 APPLICABILITY OF STANDARD CONTRACT PROVISIONS

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, are incorporated herein as **Attachment J.1.**

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

All information obtained by the Contractor relating to any employee or customer of the District will be kept in absolute confidence and shall not be used by the Contractor in connection with any other matters, nor shall any such information be disclosed 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

I.5.1 “Data,” as used herein, means recorded information, regardless of form or the media on which it may be recorded. The term includes technical data and computer software. The term does not include information incidental to contract administration, such as financial, administrative, cost or pricing, or management information.

I.5.2 The term “Technical Data”, as used herein, means recorded information, regardless of form or characteristic, of a scientific or technical nature. It may, for example, document research, experimental, developmental or engineering work, or be usable or used to define a design or process or to procure, produce,

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support, maintain, or operate material. The data may be graphic or pictorial delineations in media such as drawings or photographs, text in specifications or related performance or design type documents or computer printouts. Examples of technical data include research and engineering data, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information, and computer software documentation. Technical data does not include computer software or financial, administrative, cost and pricing, and management data or other information incidental to contract administration.

- I.5.3** The term “Computer Software”, as used herein means computer programs and computer databases. “Computer Programs”, as used herein means a series of instructions or statements in a form acceptable to a computer, designed to cause the computer to execute an operation or operations. "Computer Programs" include operating systems, assemblers, compilers, interpreters, data management systems, utility programs, sort merge programs, and automated data processing equipment maintenance diagnostic programs, as well as applications programs such as payroll, inventory control and engineering analysis programs. Computer programs may be either machine-dependent or machine-independent, and may be general purpose in nature or designed to satisfy the requirements of a particular user.
- I.5.4** The term "computer databases", as used herein, means a collection of data in a form capable of being processed and operated on by a computer.
- I.5.5** All data first produced in the performance of this Contract shall be the sole property of the District. The Contractor hereby acknowledges that all data, including, without limitation, computer program codes, produced by Contractor for the District under this Contract, are works made for hire and are the sole property of the District; but, to the extent any such data may not, by operation of law, be works made for hire, Contractor hereby transfers and assigns to the District the ownership of copyright in such works, whether published or unpublished. The Contractor agrees to give the District all assistance reasonably necessary to perfect such rights including, but not limited to, the works and supporting documentation and the execution of any instrument required to register copyrights. The Contractor agrees not to assert any rights in common law or in equity in such data. The Contractor shall not publish or reproduce such data in whole or in part or in any manner or form, or authorize others to do so, without written consent of the District until such time as the District may have released such data to the public.

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I.5.6 The District will have restricted rights in data, including computer software and all accompanying documentation, manuals and instructional materials, listed or described in a license or agreement made a part of this contract, which the parties have agreed will be furnished with restricted rights, provided however, notwithstanding any contrary provision in any such license or agreement, such restricted rights shall include, as a minimum the right to:

I.5.6.1 Use the computer software and all accompanying documentation and manuals or instructional materials with the computer for which or with which it was acquired, including use at any District installation to which the computer may be transferred by the District;

I.5.6.2 Use the computer software and all accompanying documentation and manuals or instructional materials with a backup computer if the computer for which or with which it was acquired is inoperative;

I.5.6.3 Copy computer programs for safekeeping (archives) or backup purposes; and modify the computer software and all accompanying documentation and manuals or instructional materials, or combine it with other software, subject to the provision that the modified portions shall remain subject to these restrictions.

I.5.7 The restricted rights set forth in section I.5.6 are of no effect unless

(i) the data is marked by the Contractor with the following legend:

RESTRICTED RIGHTS LEGEND

Use, duplication, or disclosure is subject to restrictions stated in Contract No. _____

With _____ (Contractor's Name); and

(ii) If the data is computer software, the related computer software documentation includes a prominent statement of the restrictions applicable to the computer software. The Contractor may not place any legend on the computer software indicating restrictions on the District's rights in such software unless the restrictions are set forth in a license or agreement made a part of the contract prior to the delivery date of the software. Failure of the Contractor to apply a restricted rights legend to

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such computer software shall relieve the District of liability with respect to such unmarked software.

In addition to the rights granted in Section I.5.6 above, the Contractor hereby grants to the District a nonexclusive, paid-up license throughout the world, of the same scope as restricted rights set forth in Section I.5.6 above, under any copyright owned by the Contractor, in any work of authorship prepared for or acquired by the District under this contract. Unless written approval of the DCPL Chief Procurement Officer is obtained, the Contractor shall not include in technical data or computer software prepared for or acquired by the District under this contract any works of authorship in which copyright is not owned by the Contractor without acquiring for the District any rights necessary to perfect a copyright license of the scope specified in the first sentence of this paragraph.

- I.5.8** Whenever any data, including computer software, are to be obtained from a subcontractor under this contract, the Contractor shall use this clause, I.5, 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 subcontract data or computer software which is required for the District.
- I.5.9** For all computer software furnished to the District with the rights specified in Section I.5.5, the Contractor shall furnish to the District, a copy of the source code with such rights of the scope specified in Section I.5.5. For all computer software furnished to the District with the restricted rights specified in Section I.5.6, 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 this contract or any paid-up maintenance agreement, or if Contractor should be declared bankrupt or 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 then current version of the source code supplied under this 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.
- I.5.10** 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

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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.5.11 Nothing contained in this clause shall imply a license to the District under any patent, or be construed as affecting the scope of any license or other right otherwise granted to the District under any patent.

I.5.12 Paragraphs I.5.6, I.5.7, I.5.8, I.5.11 and I.5.12 above are not applicable to material furnished to the Contractor by the District and incorporated in the work furnished under contract, provided that such incorporated material is identified by the Contractor at the time of delivery of such work.

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 Chief Procurement Officer. Any work or service so subcontracted shall be performed pursuant to a subcontract agreement, which the District will have the right to review and approve prior to its execution by the Contractor. Any such subcontract shall specify that the Contractor and the subcontractor shall be subject to every provision of this contract. Notwithstanding any such subcontract approved by the District, the Contractor shall remain liable to the District for all Contractor's work and services required hereunder.

I.8. INSURANCE

I.8.1 The Contractor at its expense shall obtain the minimum insurance coverage set forth below within ten (10) calendar days after being called upon by the District to do so and keep such insurance in force throughout the contract award period.

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I.8.2 Commercial General Liability Insurance. Commercial General Liability Insurance with policy limits of not less than One Million Dollars (\$1,000,000) for each occurrence and not less than Two Million Dollars (\$2,000,000) in the aggregate for bodily injury and property damage. Such insurance shall (within the limits of the insurance required above):

- (i) include a broad form property damage liability, including completed operations, endorsement;
- (ii) contain blanket contractual liability insurance covering written contractual liability;
- (iii) contain contractual liability insurance covering any Contractor's indemnification obligation under the contract, to the extent such indemnification obligation is for an insurable risk;
- (iv) contain independent contractors liability (i.e., coverage for events arising out of work done by subcontractors);
- (v) include Products/Completed Operations coverage that is to be maintained for five (5) years after the date of Substantial Completion of the Project;
- (vi) contain Personal and Advertising Injury coverage; and
- (vii) include business automobile liability insurance covering any owned, leased, non-owned or hired automobile or other motor vehicle used in connection with the work performed under this Agreement with combined single limits for bodily injury and property damage in an amount not less than One Million Dollars (\$1,000,000) in any one accident.

I.8.3 Professional Liability Insurance (Errors & Omissions). The Contractor shall provide, pay for and maintain professional liability insurance for protection from claims arising out of the performance of professional services caused by negligent error, omission or act for which the Contractor is legally liable. Such liability insurance will provide coverage of \$1,000,000.00 per occurrence for each negligent act, error or omission and \$3,000,000.00 annual aggregate. The Contractor shall maintain this coverage for a period of three (3) years after Substantial Completion of the Project is achieved.

I.8.4 Worker's Compensation. The Contractor shall procure and carry Statutory Workers' Compensation and Disability Benefits Insurance and any other insurance required by law covering all persons employed by Contractor, contractors, subcontractors, or any entity performing work for the Contractor on the Project (unless and to the extent provided by such other parties), including Employers Liability coverage, all in amounts not less than the statutory

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minimum, except that Employers Liability coverage shall be in an amount of not less than One Million Dollars (\$1,000,000) each accident.

I.8.5 Builder's risk insurance written on an "all risk" basis and covering the value of the Lump Sum Price. This coverage does not need to be begin until Phase 2 begins.

I.8.6 Each policy of insurance required to be carried pursuant to the provisions of this Section I.8 (other than Workers' Compensation/Employers' Liability and Professional Liability/Errors & Omissions Liability/Builder's risk policies) and each corresponding certificate issued by or on behalf of the insurer shall contain a clause designating DCPL and the District as additional insureds, as their interests may appear (but not a loss payee).

I.8.7 All of the insurance policies required by this Section I.8 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 having either: (i) an A.M. Best Company rating of A-VIII or higher; (ii) a Standard & Poor's rating of AA or higher; (iii) a Moody's rating of Aa2 or higher; or (iv) another comparable rating reasonably acceptable to the DCPL. The policies of insurance shall provide for at least thirty- (30) days written notice to the District prior to their termination or material alteration.

I.9 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. An award cannot be made to any Contractor who has not satisfied the equal employment requirements.

I.10 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 Chief Procurement Officer.

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I.11 FORM OF CONTRACT

The Form of Contract will be issued by addendum. Offerors should carefully review the Form of Contract when submitting their proposal. To the extent there are any inconsistencies between this RFP and the Form of Contract, the Form of Contract shall prevail. Offerors are further advised that they are required to submit their proposal premised upon entering into a contract that is substantially similar to the Form of Contract.

I.12 ORDER OF PRECEDENCE

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) Contractor's BAFOs (in order of most recent to earliest)
- (6) Contractor's Proposal
- (7) RFP as amended

I.13 BONDS

I.13.1 Bid Bond. Contractors are required to submit with their proposal a bid bond in the amount of 5% of the Phase I proposal price. All bonding companies must be included on the Department of Treasury's Listing of Approved Sureties.

I.13.2 Contractor's Payment and Performance Bond. The Contractor shall post a payment and performance bond having a penal value equal to the Lump Sum Price at the time the Lump Sum Price is executed.

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**SECTION J
LIST OF ATTACHMENTS**

The following list of attachments are incorporated into the solicitation.

Attachment Number	Document
J.1	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.2	U.S. Department of Labor Wage Determination No. 2005-2103 Revision No. 14 dated 07/25/14
J.3	Department of Employment Services First Source Employment Agreement
J.4	2014 Living Wage Notice
J.5	2014 Living Wage Fact Sheet
J.6	Tax Certification Affidavit
J.7	E.E.O. Information and Mayor's Order 85-85
J.8	Contractor Past Performance Evaluation
J.9	Subcontracting Plan Form
J.10	Form of Offer Letter
J.11	Concept Designs 1 and 2
J.12	Volume 2 Environmental Report
J.13	U.S. Department of Labor General Decision No. DC20130002 Revision No. 17 dated 09/26/14

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

K.1 AUTHORIZED NEGOTIATORS

The Contractor represents that the following persons are authorized to negotiate on its behalf with the District in connection with this request for proposals: (list names, titles, and telephone numbers of the authorized negotiators).

K.2 TYPE OF BUSINESS ORGANIZATION

K.2.1 The Contractor, by checking the applicable box, represents that

(a) It operates as:

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

(b) If the Contractor is a foreign entity, it operates as:

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

**K.3 CERTIFICATION AS TO COMPLIANCE WITH EQUAL OPPORTUNITY
OBLIGATIONS**

Mayor's Order 85-85, "Compliance with Equal Opportunity Obligations in Contracts", dated June 10, 1985 and the Office of Human Rights' regulations, Chapter 11, "Equal Employment Opportunity Requirements in Contracts",

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promulgated August 15, 1986 (4 DCMR Chapter 11, 33 DCR 4952) are included as a part of this solicitation and require the following certification for contracts subject to the order. Failure to complete the certification may result in rejection of the Contractor for a contract subject to the order. I hereby certify that I am fully aware of the content of the Mayor's Order 85-85 and the Office of Human Rights' regulations, Chapter 11, and agree to comply with them in performance of this contract.

Contractor _____ Date _____

Name _____ Title _____

Signature _____

Contractor ____ has ____ has not participated in a previous contract or subcontract subject to the Mayor's Order 85-85. Contractor ____ has ____ has not filed all required compliance reports, and representations indicating submission of required reports signed by proposed sub Contractors. (The above representations need not be submitted in connection with contracts or subcontracts which are exempt from the Mayor's Order.)

K.4 BUY AMERICAN CERTIFICATION

The Contractor hereby certifies that each end product, except the end products listed below, is a domestic end product (See Clause 23 of the SCP, "Buy American Act"), and that components of unknown origin are considered to have been mined, produced, or manufactured outside the United States.

_____ EXCLUDED END PRODUCTS
_____ COUNTRY OF ORIGIN

K.5 DISTRICT EMPLOYEES NOT TO BENEFIT CERTIFICATION

Each Contractor shall check one of the following:

_____ No person listed in Clause 13 of the OCP SCP, March 2007, "District Employees Not To Benefit" shall benefit from this contract.

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_____ The following person(s) listed in Clause 13 may benefit from this contract. For each person listed, attach the affidavit required by Clause 13 of the OCP SCP, March 2007.

K.6 CERTIFICATION OF INDEPENDENT PRICE DETERMINATION

(a) Each signature of the Contractor is considered to be a certification by the signatory that:

1) The prices in this contract have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any Contractor or competitor relating to:

- (i) those prices
- (ii) the intention to submit a contract, or
- (iii) the methods or factors used to calculate the prices in the contract.

2) The prices in this contract have not been and shall not be knowingly disclosed by the Contractor, directly or indirectly, to any other Contractor or competitor before contract opening unless otherwise required by law; and

3) No attempt has been made or shall be made by the Contractor to induce any other concern to submit or not to submit a contract for the purpose of restricting competition.

(b) Each signature on the offer is considered to be a certification by the signatory that the signatory:

1) Is the person in the Contractor's organization responsible for determining the prices being offered in this contract, and that the signatory has not participated and shall not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above; or

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- 2) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and shall not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above:

(insert full name of person(s) in the organization responsible for determining the prices offered in this Contract and the title of his or her position in the Contractor's organization);

- (i) As an authorized agent, does certify that the principals named in subdivision (b)(2) have not participated, and shall not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above; and
- (ii) As an agent, has not participated, and shall not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above.
- (c) If the Contractor deletes or modifies subparagraph (a)(2) above, the Contractor must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

K.7 TAX CERTIFICATION

Each Contractor must submit with its offer, a sworn Tax Certification Affidavit, incorporated herein as Attachment J.6.

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**SECTION L - INSTRUCTIONS, CONDITIONS AND NOTICES TO
CONTRACTORS**

L.1 CONTRACT AWARD

L.1.1 Most Advantageous to the District of Columbia Public Library

L.1.1.1 The District of Columbia Public Library intends to award a single contract resulting from this solicitation to the responsible Contractor whose offer conforming to the solicitation shall be most advantageous to the District, cost or price, technical and other factors, specified elsewhere in this solicitation considered.

L.1.1.2 This procurement is being conducted in accordance with the provisions of Chapter 43, Section 4317 of the Department's Procurement Regulations (Title 19 DCMR).

L.1.2 Initial Offers

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

L.2 PRE-PROPOSAL CONFERENCE

L.2.1 Interested Contractors may ask questions about the RFP and selection process at a pre-proposal conference scheduled for **11:00 a.m.** on October 29, 2014 at the Martin Luther King Jr. Memorial Library, Room 219, 901 G Street, NW, Washington, DC 20001.

L.2.2 Impromptu questions will be permitted and spontaneous answers will be provided at the District's discretion. Verbal answers given at the pre-proposal conference are only intended for general discussion and do not represent the District's final position. All oral questions must be submitted in writing by **2:00 p.m. on October 31, 2014**, in order for DCPL to generate an official answer. Official answers will be posted on the DCPL website at <http://www.dclibrary.org/about/opportunities>.

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L.3 EVALUATION COMMITTEE

Each submission shall be evaluated in accordance with **Section M** by an Evaluation Committee. The Evaluation Committee shall prepare a written report summarizing its findings and submit the same to the source selection official. Based on the information submitted by the Offerors in response to this RFP and the report prepared by the Evaluation Committee, the source selection official shall select the Offeror whose submission is determined by the source selection official to be the most advantageous to DCPL.

L.4 ORAL PRESENTATIONS

DCPL does not intend to interview; however, it reserves the right to do so if it determines that interviews would be in DCPL's best interests. If DCPL conducts such interviews, each Offeror within the competitive range shall make an oral presentation to DCPL's Evaluation Committee, and participate in a question and answer session. The purpose of the oral presentation and the question and answer session is to permit the Evaluation Committee to fully understand and assess the qualifications of each Offeror and the Offeror's key personnel. The submission will be re-scored at the conclusion of the oral presentation.

L.4.1 Length of Oral Presentation - Each Offeror will be given up to 30 minutes to make the presentation. At the end of the initial presentation, there will be a break for approximately 15 minutes for the Evaluation Committee to assess the presentation and prepare questions. The Offeror will then respond to questions from DCPL's Evaluation Committee for no more than 30 minutes.

L.4.2 Schedule - The order of presentation will be selected randomly and the Offerors will be informed of their presentation date before the beginning of oral presentations. DCPL reserves the right to reschedule any Offeror's presentation at the discretion of the Chief Procurement Officer.

L.4.3 Offeror Attendees - The oral presentation will be made by the Offeror's personnel who will be assigned the key jobs for this project. Each Offeror will be limited to 8 persons. The job functions of the persons attending the presentation will be considered to be an indication of the Offeror's assessment of the key areas of responsibility that are deemed essential to the successful completion of the Project.

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L.4.4 Topics - The Offeror may present information about its capabilities and special qualifications to serve as the Contractor for this Project, including the qualifications of key personnel.

L.5 PROPOSAL FORM, ORGANIZATION AND CONTENT

L.5.1 One (1) original and four (4) copies of the written proposals shall be submitted in two parts, titled "Technical Proposal" and "Price Proposal". Proposals shall be typewritten in 12 point font size on 8 ½" x 11" white paper. Telephonic, telegraphic, and facsimile proposals will not be accepted. Each proposal shall be submitted in a sealed envelope conspicuously marked: "Proposal in Response to Solicitation No. DCPL-2015-R-0011, Caption of RFP and Name of Contractor". Offerors shall submit proposals in response to this solicitation in English.

L.5.2 Offerors are directed to the specific proposal evaluation criteria found in Section M of this solicitation, Evaluation Factors. The Offeror shall respond to each factor in a way that will allow the District to evaluate the Contractor's response. The Offeror shall submit information in a clear, concise, factual and logical manner providing a comprehensive description of program supplies and services delivery thereof. The information requested below for the technical proposal shall facilitate evaluation and best value source selection for all proposals. The technical proposal must contain sufficient detail to provide a clear and concise representation of the requirements in Section C.

L.5.3 Technical Proposal

Each Offeror shall structure its Technical Proposal to include the following information.

L.5.4 Executive Summary

Each Offer shall provide a summary of the information contained in the following sections.

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L.5.5 Contractor Information and Firm(s) Data

Each Offeror shall provide the following information for the principal firm and each of its sub-consultants.

Name(s), address(es), and role(s) of each firm (including all sub-consultants).

A. Firm profile(s), including:

- i. Age;
- ii. Firm history(ies);
- iii. Firm size(s);
- iv. Areas of specialty/concentration; and
- v. Current firm workload(s) projected over the next two (2) years

B. Description of the Contractor organization and personal qualifications of key staff, including:

- i. Identification of the single point of contact for the principal firm; and
- ii. Organizational chart illustrating reporting lines and names and titles for key participants in the design team and project management team proposed by the Contractor.

L.5.6 Volume One: Technical Proposal

L.5.6.1 The below documents shall be included in Volume 1.

Transmittal Letter

Section 1Table of Contents

Section 2Executive Summary

Section 3Contractor Information and Firm(s) Data

Section 4Amendments

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Section 5.....Relevant Experience, Capabilities & References (Including Past Performance Evaluations)

Section 6.....Key Personnel & Resumes

Section 7.....Management Plan

Section 8.....CBE Utilization Plan

L.5.8 Volume Two: Price Proposal and Required Documents

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Each Offeror shall submit a Form of Offer Letter substantially in the form of **Attachment J.12**. Material deviations, in the opinion of the DCPL, from the bid form shall be sufficient to render the proposal non-responsive.

Section 1.....Form of Offer Letter (See Attachment J.12)

Section 2.....Licenses and Reps and Certs

Section 3.....First Source Employment Agreement

Section 4.....EEO Information Report

Section 5..... Subcontracting Plan Form

Section 6.....Tax Affidavit

L.6 PROPOSAL SUBMISSION DATE AND TIME, AND LATE SUBMISSIONS, LATE MODIFICATIONS, WITHDRAWAL OR MODIFICATION OF PROPOSALS AND LATE PROPOSALS

L.6.1 Proposal Submission

L.6.1.1 Proposals must be submitted no later than **2:00 p.m. on November 13, 2014** (see page 1, block 9). Proposals, modifications to proposals, or requests for withdrawals that are received in the designated District office after the exact local time specified above, are "late" and shall be considered only if they are received before the award is made and one (1) or more of the following circumstances apply:

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- L.6.1.1.1** The proposal or modification was sent by registered or certified mail not later than the fifth (5th) day before the date specified for receipt of offers;
- L.6.1.1.2** The proposal or modification was sent by mail and it is determined by the Chief Procurement Officer that the late receipt at the location specified in the solicitation was caused by mishandling by the District, or
- L.6.1.1.3** The proposal is the only proposal received.

L.6.2 Withdrawal or Modification of Proposals

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

L.6.3 Postmarks

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

L.6.4 Late Modifications

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

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L.6.5 Late Proposals

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

L.7 EXPLANATION TO PROSPECTIVE CONTRACTORS

If a prospective Contractor has any questions relative to this solicitation, the prospective Contractor shall submit the question in writing to the contact person, identified on page one. The prospective Contractor shall submit questions no later than **2:00 p.m. on October 31, 2014**. The District shall not consider any questions received after **2:00 p.m. on October 31, 2014**. The District shall furnish responses promptly to all other prospective Contractors. An amendment to the solicitation shall be issued if that information is necessary in submitting offers, or if the lack of it would be prejudicial to any other prospective Contractors. Oral explanations or instructions given before the award of the contract shall not be binding.

L.8 FAILURE TO SUBMIT OFFERS

Recipients of this solicitation not responding with an offer should not return this solicitation. Instead, they should advise the Chief Procurement Officer, by letter or postcard whether they want to receive future solicitations for similar requirements. It is also requested that such recipients advise the Chief Procurement Officer, of the reason for not submitting a proposal in response to this solicitation. If a recipient does not submit an offer and does not notify the Chief Procurement Officer, that future solicitations are desired, the recipient's name may be removed from the applicable mailing list.

L.9 RESTRICTION ON DISCLOSURE AND USE OF DATA

L.9.1 Contractors who include in their proposal data that they do not want disclosed to the public or used by the District except for use in the procurement process shall mark the title page with the following legend:

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

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

L.9.2 Mark each sheet of data it wishes to restrict with the following legend:

"Use or disclosure of data contained on this sheet is subject to the restriction on the title page of this proposal."

L.10 PROPOSALS WITH OPTION YEARS (NOT USED)

L.11 PROPOSAL PROTESTS

L.11.1 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, 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 DCPL's Chief Procurement Officer ("CPO") with "Protest" labeled on the envelope.

L.11.2 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.

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L.12 SIGNING OF OFFERS

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

L.13 UNNECESSARILY ELABORATE PROPOSALS

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

L.14 RETENTION OF PROPOSALS

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

L.15 PROPOSAL COSTS

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

L.16 ELECTRONIC COPY OF PROPOSALS FOR FREEDOM OF INFORMATION ACT REQUESTS

In addition to other proposal submission requirements, the Contractor must submit an electronic copy of its proposal, 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 proposals following award of the contract, subject to applicable FOIA exemption under Section 2-534(a)(1).

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L.17 CERTIFICATES OF INSURANCE

The Contractor shall submit certificates of insurance giving evidence of the required coverages as specified in Section I.8 prior to commencing work. Evidence of insurance shall be submitted within fourteen (14) days of contract award to:

Diane Wooden
Martin Luther King Jr. Library
Office of Procurement
901 G Street, NW – 4th Floor
Washington, DC 20001
diane.wooden2@dc.gov

L.18 ACKNOWLEDGMENT OF AMENDMENTS

The Contractor shall acknowledge receipt of any amendment to this solicitation (a) by signing and returning the amendment; (b) by identifying the amendment number and date in the space provided for this purpose in Section A, Solicitation, Offer and Award form; or (c) by letter or telegram including mailgrams. The District must receive the acknowledgment by the date and time specified for receipt of offers. Contractors' failure to acknowledge an amendment may result in rejection of the offer.

L.19 BEST AND FINAL OFFERS

If, subsequent to receiving original proposals, negotiations are conducted, all Contractors within the competitive range shall be so notified and shall be provided an opportunity to submit written best and final offers at the designated date and time. Best and Final Offers shall be subject to the Late Submissions, Late Modifications and Late Withdrawals of Proposals provision of the solicitation. After receipt of best and final offers, no discussions shall be reopened unless the Chief Procurement Officer determines that it is clearly in the District's best interest to do so, e.g., it is clear that information available at that time is inadequate to reasonably justify Contractor selection and award based on the best and final offers received. If discussions are reopened, the Chief Procurement Officer shall issue an additional request for best and final offers to all Contractors still within the competitive range.

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L.20 LEGAL STATUS OF CONTRACTOR

Each proposal must provide the following information:

L.20.1 Name, address, telephone number and federal tax identification number of Contractor;

L.20.2 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.20.3 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.21 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.22 STANDARDS OF RESPONSIBILITY

L.22.1 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 five (5) days of the request by the District.

L.22.2 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.22.3** 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.22.4** Evidence of the necessary organization, experience, accounting and operational control, technical skills or the ability to obtain them.
- L.22.5** Evidence of compliance with the applicable District licensing and tax laws and regulations.
- L.22.6** Evidence of a satisfactory performance record, record of integrity and business ethics.
- L.22.7** Evidence of the necessary production, construction and technical equipment and facilities or the ability to obtain them.
- L.22.8** Evidence of other qualifications and eligibility criteria necessary to receive an award under applicable laws and regulations.
- L.22.9** If the prospective Contractor fails to supply the information requested, the Chief Procurement 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 Chief Procurement Officer shall determine the prospective Contractor to be nonresponsible.

L.23 PROPOSAL EVALUATION

Proposals will be evaluated in accordance with Section M.2.

L.24 RELEVANT EXPERIENCE, CAPABILITIES & REFERENCES

Each Offeror shall submit the information required by Section M.2.2.

L.25 KEY PERSONNEL

- L.25.1** Each Offeror shall submit the information required by Section C.3 and M.2.3.

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L.26 MANAGEMENT PLAN

Each Offeror shall submit the information required by M.2.4.

L.27 CBE UTILIZATION PLAN

Each Offeror shall submit the information required by Section M.2.5.

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SECTION M - EVALUATION FACTORS

M.1 EVALUATION FOR AWARD

The contract shall be awarded to the responsible Contractor whose offer is most advantageous to the District, based upon the evaluation criteria specified below. Thus, while the points in the evaluation criteria indicate their relative importance, the total scores shall not necessarily be determinative of the award. Rather, the total scores shall guide the District in making an intelligent award decision based upon the evaluation criteria.

M. 2 EVALUATION CRITERIA

M.2.1 Proposals shall be evaluated based on the following evaluation factors in the manner described below. Each proposal will be scored on a scale of 1 to 100 points. In addition, Offerors will be eligible to receive up to 12 preference points for participation by Local, Small or Disadvantaged Business Enterprises as described in the RFP. Thus, the maximum number of points possible is 112.

M.2.2 Factor 1 – Relevant Experience, Capabilities & References (0 - 30 Points)

M.2.2.1 DCPL desires to engage a Contractor with the experience necessary to realize the objectives set forth in this RFP. Offerors will be evaluated based on their demonstrated experience in areas pertinent to the services sought including, but not limited to, the design of libraries and knowledge thereof. If the Offeror is a team or joint venture of multiple companies, the Evaluation Committee will consider the experience of each member of the team or joint venture in light of their role in the proposed team or joint venture.

M.2.2.2 The Offeror shall list all similar projects that the team members have worked on in the last five (5) years that are similar to this project. For purposes of this paragraph, similar shall mean tenant improvement projects in occupied buildings where the total project budget exceeded \$250,000. This information may be provided in an overview matrix format or brief list; however, it should include the name and location of the facility, the name of

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the owner, the time frame of the project, the original budget for the project, and whether the project was delivered on-time and on-budget. If a project was not delivered on-time or on budget, a brief description of the reasons should be provided.

M.2.2.3 The Offeror shall include detailed descriptions of no more than five (5) projects that best illustrate the Offeror's experience and capabilities relevant to this project. On each project description, please provide all of the following information in consistent order:

- i. Project name and location
- ii. Name, address, contact person and telephone number for owner reference
- iii. Brief project description including project cost, square footage, firm's scope of work, and key firm strengths exhibited
- iv. Identification of personnel involved in the selected project who are proposed to work on this project
- v. Project process and schedule data including construction delivery method, and construction completion date (any unusual events or occurrences that affected the schedule should be explained)
- vi. Construction cost data including pre-construction budget, and actual construction cost (if actual construction cost exceeds original, please explain why).

M.2.3 Factor 2 - Key Personnel (0 - 15 Points)

M.2.3.1 DCPL desires that the Contractor assigns to this project personnel who have the necessary experience and professional credentials for the role each such individual is assigned. The availability and experience of the key personnel assigned to this project will be evaluated as part of this factor. See Section C.3 for the list of key personnel.

M.2.3.2 The Offeror shall set forth in its proposal the names and reporting relationships of the key personnel the Offeror will use to perform the work under the proposed contract. The Offeror's proposal shall include resumes for the proposed Key Personnel and percentage of time each will be devoted to the contract. The resumes shall contain, at a minimum: company name/address; telephone number; points of contact; duties performed by individual personnel; dates employed; qualifications; experience; skills; availability; and credentials (education, training and certifications).

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M.2.3.3 An Offeror's overview of proposed Key Personnel is not a resume and will not satisfy this requirement. If a subcontractor or personnel employed by other than the Offeror are proposed, DCPL will only consider those qualifications if a firm commitment is demonstrated with the firm by which they are employed or with the individuals identified. Commitment letters shall be provided with the offer.

M.2.3.4 The Offeror shall also identify whether each proposed personnel is a current full-time employee, current part-time employee, contingent-employee, consultant, subcontractor, or other.

M.2.3.5 Key Personnel shall serve in their specified roles unless DCPL approves of the proposed replacement in writing. See Section C.3.

M.2.4 Management Plan (0 - 30 Points)

Offerors shall submit a Management Plan. The Management Plan should clearly explain how the Offeror intends to manage and implement the project. Among other things, it should explain: (i) how the Offeror shall manage design process, including the manner in which it will manage and coordinate the necessary engineering sub-consultants; (ii) how the Offeror expects to solicit bids for the work; (iii) how the Offeror will manage the construction work in light of the fact that the building will be occupied; and (iv) the key challenges likely to be encountered and how they will be addressed by the Offeror.

M.2.5 CBE Utilization Plan (0 - 10 Points)

DCPL desires the selected Contractor to provide the maximum level of participation for Local, Small and Disadvantaged Business Enterprises as well as employment opportunities for District of Columbia residents. Offerors shall submit a LSDBE Utilization Plan that describes demonstrated past LSDBE utilization experience and/or how this goal will be met.

M.2.6 Price (0 - 15 Points)

The Phase 1 price evaluation shall be objective. The Offeror with the lowest price shall receive the maximum price points. All other proposals shall receive a proportionately lower total score. Offerors shall submit the pricing information required by Section B of this RFP. The following formula shall be used to determine each Offeror's evaluated price score:

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$$\frac{\text{Lowest Price Proposal}}{\text{Price of Proposal Being Evaluated}} \times 15 = \text{Evaluated Price Score}$$

M.2.7 Preference Points

Total of 12 preferences points shall be awarded as stated in Section M.4.

Total possible points = 112

M.3 EVALUATION OF PROMPT PAYMENT DISCOUNT

M.3.1 Prompt payment discounts shall not be considered in the evaluation of offers. However, any discount offered shall form a part of the award and shall be taken by the District if payment is made within the discount period specified by the Contractor.

M.3.2 In connection with any discount offered, time shall be computed from the date of delivery of the supplies to carrier when delivery and acceptance are at point of origin, or from date of delivery at destination when delivery, installation and acceptance are at that, or from the date correct invoice or voucher is received in the office specified by the District, if the latter date is later than date of delivery. Payment is deemed to be made for the purpose of earning the discount on the date of mailing of the District check.

M.4 PREFERENCES FOR CERTIFIED BUSINESS ENTERPRISES

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

M.4.1 Application of Preferences

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

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- M.4.1.1** Any prime contractor that is a small business enterprise (SBE) certified by the Department of Small and Local Business Development (DSLBD) will receive the addition of three points on a 100-point scale added to the overall score for proposals submitted by the SBE in response to this Request for Proposals (RFP).
- M.4.1.2** Any prime contractor that is a resident-owned business (ROB) certified by DSLBD will receive the addition of five points on a 100-point scale added to the overall score for proposals submitted by the ROB in response to this RFP.
- M.4.1.3** Any prime contractor that is a longtime resident business (LRB) certified by DSLBD will receive the addition of five points on a 100-point scale added to the overall score for proposals submitted by the LRB in response to this RFP.
- M.4.1.4** Any prime contractor that is a local business enterprise (LBE) certified by DSLBD will receive the addition of two points on a 100-point scale added to the overall score for proposals submitted by the LBE in response to this RFP.
- M.4.1.5** Any prime contractor that is a local business enterprise with its principal offices located in an enterprise zone (DZE) certified by DSLBD will receive the addition of two points on a 100-point scale added to the overall score for proposals submitted by the DZE in response to this RFP.
- M.4.1.6** Any prime contractor that is a disadvantaged business enterprise (DBE) certified by DSLBD will receive the addition of two points on a 100-point scale added to the overall score for proposals submitted by the DBE in response to this RFP.
- M.4.1.7** Any prime contractor that is a veteran-owned business (VOB) certified by DSLBD will receive the addition of two points on a 100-point scale added to the overall score for proposals submitted by the VOB in response to this RFP.
- M.4.1.8** Any prime contractor that is a local manufacturing business enterprise (LMBE) certified by DSLBD will receive the addition of two points on a 100-point scale added to the overall score for proposals submitted by the LMBE in response to this RFP.

M.4.2 Maximum Preference Awarded

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

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M.4.3 Preferences for Certified Joint Ventures

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

M.4.4 Verification of Offeror's Certification as a Certified Business Enterprise

M.4.4.1 Any vendor seeking to receive preferences on this solicitation must be certified at the time of submission of its proposal. The Chief Procurement Officer will verify the Offeror's certification with DSLBD, and the Offeror should not submit with its proposal any documentation regarding its certification as a certified business enterprise.

M.4.4.2 Any vendor seeking certification or provisional certification in order to receive preferences under this solicitation should contact the:

Department of Small and Local Business Development
ATTN: CBE Certification Program
441 4th Street NW, Suite 850N
Washington DC 20001

M.4.4.3 All vendors are encouraged to contact DSLBD at (202) 727-3900 if additional information is required on certification procedures and requirement

M.5 SLDBE PARTICIPATION

M.5.1 Mandatory Subcontracting Requirement

M.5.1.1 For contracts in excess of \$250,000.00, 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.

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M.5.1.2 If there are insufficient qualified small business enterprises to completely fulfill the requirement of paragraph M.5.1.1, 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.

M.5.1.3 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 M.5.1.1 and M.5.1.2.

M.5.1.4 Offerors will be required to submit a CBE Utilization Plan with their proposals. The CBE Utilization Plan must demonstrate how this requirement will be met and extent should identify the specific firms that will be used and their respective roles.

**M.6 CERTIFIED BUSINESS ENTERPRISES PRIME CONTRACTOR
PERFORMANCE REQUIREMENTS**

M.6.1 If a certified business enterprise 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, that certified business enterprise prime contractor shall perform at least 35% of the contracting effort, excluding the cost of materials, goods and supplies, with its own organization and resources and, if it subcontracts, at least 35% of the subcontracted effort, excluding the cost of materials, goods and supplies, shall be with certified business enterprises.

M.6.2 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 years.

**M.7 PRIME CONTRACTOR PERFORMANCE REQUIREMENTS
APPLICABLE TO JOINT VENTURES**

M.7.1 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

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venture subcontracts, at least 35% of the subcontracted effort, excluding the cost of materials, goods and supplies, shall be with certified business enterprises.

M.7.2 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.

M.8 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.

M.9 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 M.5. The prime contractor responding to this solicitation which is required to subcontract shall be required to submit with its offer, a notarized statement detailing its subcontracting plan. Offers responding to this RFP shall be deemed nonresponsive and shall be rejected if the Offeror is required to subcontract in accordance with the provisions of Section M.5, but fails to submit a subcontracting plan with its offer. Once the plan is approved by the CPO, changes to the plan will only occur with the prior written approval of the CPO and the Director of DSLBD. Each subcontracting plan shall include the following:

M.9.1 A description of the goods and services to be provided by SBEs or, if insufficient qualified SBEs are available, by any certified business enterprises;

M.9.2 Statements of the dollar value of the offer that pertains to the subcontracts to be performed by the SBEs or, if insufficient qualified SBEs are available, by any certified business enterprises;

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- M.9.3** The names and addresses of all proposed subcontractors who are SBEs or, if insufficient SBEs are available, who are certified business enterprises;
- M.9.4** The name of the individual employed by the prime contractor who will administer the subcontracting plan, and a description of the duties of the individual;
- M.9.5** 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;
- M.9.6** In all subcontracts that offer further subcontracting opportunities, assurances that the prime contractor will include a statement, approved by the contracting officer, that the subcontractor will adopt a subcontracting plan similar to the subcontracting plan required by the contract;
- M.9.7** Assurances that the prime contractor will cooperate in any studies or surveys that may be required by the Contracting Officer, and submit periodic reports, as requested by the Contracting Officer, to allow the District to determine the extent of compliance by the prime contractor with the subcontracting plan;
- M.9.8** 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
- M.9.9** 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.
- M.10 COMPLIANCE REPORTS**
- M.10.1** By the 21st of every month following the execution of the contract, the prime contractor shall submit to the CPO and the Director of DSLBD a compliance report detailing the contractor's compliance, for the preceding month, with the subcontracting requirements of the contract. The monthly compliance report shall include the following information:
- M.10.1.1** The dollar amount of the contract or procurement;
- M.10.1.2** A brief description of the goods procured or the services contracted for;

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- M.10.1.3** The name and address of the business enterprise from which the goods were procured or services contracted;
- M.10.1.4** Whether the subcontractors to the contract are currently certified business enterprises;
- M.10.1.5** The dollar percentage of the contract or procurement awarded to SBEs, or if insufficient SBEs, to other certified business enterprises;
- M.10.1.6** A description of the activities the Contractor engaged in, in order to achieve the subcontracting requirements set forth in M.4 and M.5 and its approved Subcontracting Plan; and
- M.10.1.7** A description of any changes to the activities the Contractor intends to make by the next month to achieve the requirements set forth in M.4 and M.5 and its approved Subcontracting Plan.

**M.11 ENFORCEMENT AND PENALTIES FOR BREACH OF
SUBCONTRACTING PLAN**

- M.11.1** If during the performance of this contract, the Contractor fails to comply with its approved subcontracting plan and the Chief Procurement Officer determines the Contractor's failure to be a material breach of the contract; the Chief Procurement Officer shall have cause to terminate the contract under the default clause of the Standard Contract Provisions.
- M.11.2** 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.
- M.11.3** For the willful breach by a Contractor of a subcontracting plan for utilization of certified business enterprises in the performance of a contract, the Contractor 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.

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**M.12 RESIDENCY HIRING REQUIREMENTS FOR CONTRACTORS AND
SUBCONTRACTORS**

- M.12.1** 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.
- M.12.2** 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.
- M.12.3** 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.