

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of Mental Health
Contracts and Procurement Services

Request for Quote
Maintenance and Inspection to Green Roof System
(Saint Elizabeths Hospital)
RM-12-RFQ-085-BY-THS

The District of Columbia Department of Mental Health (DMH) is seeking Quotes from qualified bidders.

Opening Date: April 24, 2012

Closing Date: May 15, 2012

Closing Time: 12:00 PM EST

To obtain a copy of the Request for Quote please contact Tornia Harrison, Contract Specialist, at:

D.C. Department of Mental Health | Contracts and Procurement Administration
609 H Street NE - 4th Floor Washington DC 20002
Tel: 202.671-3180 | Fax: 202.671-3395
tornia.harrison-samuels@dc.gov

All responses to this request are due by May 15, 2012 12:00PM EST, mailed or hand delivered in sealed envelope, marked with Solicitation Number and Name of Vendor submitting bid.

1. ISSUED BY/ADDRESS OFFER TO: SS DISTRICT OF COLUMBIA DEPARTMENT OF MENTAL HEALTH (DMH) CONTRACTS AND PROCUREMENT ADMINISTRATION 609 H STREET NE, 4th FLOOR WASHINGTON, DC 20002	2. PAGE OF PAGES: 1 of 61
	3. CONTRACT NUMBER:
	4. SOLICITATION NUMBER: RM-12-RFQ-085-BY-THS
	5. DATE ISSUED:
	6. OPENING/CLOSING TIME: April 24, 2012/May 15, 2012 12:00 PM EST

7. TYPE OF SOLICITATION: N/A <input type="checkbox"/> SEALED BID <input type="checkbox"/> NEGOTIATION (RFP)	8. DISCOUNT FOR PROMPT PAYMENT:
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NOTE: IN SEALED BID SOLICITATION "OFFER AND CONTRACTOR" MEANS "BID AND BIDDER"

10. INFORMATION CALL	NAME: Samuel J Feinberg, CPPO, CPPB Director, Contracts and Procurement Agency Chief Contracting Officer	TELEPHONE NUMBER: (202) 671-3188	B. E-MAIL ADDRESS: Samuel.Feinberg@dc.gov
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OFFER (TO BE COMPLETED BY CONTRACTOR)

12. In compliance with the above, the undersigned agrees, if the offer is accepted within **180** calendar days (unless a different period is inserted by Contractor) from the date for receipt of offers specified above, that with respect to all terms and conditions by the DMH under "AWARD" below, this offer and the provisions of the RFQ/IFB shall constitute a Formal Contract. All offers are subject to the terms and conditions contained in the solicitation.

13. ACKNOWLEDGEMENT OF AMENDMENTS (Contractor acknowledge receipt of amendments to the SOLICITATION for Contractors and related documents numbered and dated):	AMENDMENT NO:	DATE:
14. NAME AND ADDRESS OF CONTRACTOR:	15. NAME AND TITLE OF PERSONAL AUTHORIZED TO SIGN OFFER: (Type or Print)	
14A. TELEPHONE NUMBER:	15A. SIGNATURE:	15B. OFFER DATE:
AREA CODE: NUMBER: EXT:		

AWARD (To be completed by the DMH)

16. ACCEPTED AS TO THE FOLLOWING ITEMS:	17. AWARD AMOUNT:	
18. NAME OF CONTRACTING OFFICER: (TYPE OR PRINT) Samuel J. Feinberg, CPPO, CPPB Director, Contracts and Procurement Agency Chief Contracting Officer	19. CONTRACTING OFFICER SIGNATURE:	20. AWARD DATE:

IMPORTANT NOTICE: AWARD SHALL BE MADE ON THIS FORM, OR ON DMH FORM 26, OR BY OTHER AUTHORIZED OFFICIAL WRITTEN NOTICE

SECTION B: SUPPLIES OR SERVICES AND PRICE

B.1 PURPOSE OF CONTRACT

B.1.1 The Government of the District of Columbia, Department of Mental Health (DMH) is issuing this Request for Quote (RFQ) to provide for labor, materials, supplies and equipment for Inspection, Maintenance and Repair to Green Roof System at Saint Elizabeth Hospital in accordance with the requirement as stated in Section C of this solicitation.

B.2 CONTRACT TYPE

B.2.1 This is Firm Fixed Price Contract as outlined in the Pricing Schedule in Section B of this contract.

B.3 PERIOD OF PERFORMANCE

B.3.1 The Period of Performance (POP) under this Contract shall be One (1) Year from Date of Award with Four (4) One (1) Year Option Periods.

B.4 ORDERING PROCEDURES

B.4.1 Delivery or performance shall be made only as authorized by orders issued in accordance with ordering instructions from the District. The Contractor shall furnish to the District, when and if ordered, the supplies or services specified in the Schedule C as agreed upon in the Contract. There is no limit on the number of orders that may be issued. The District may issue orders requiring delivery to multiple destinations or performance at multiple locations. Any order issued during the effective period of this Contract and not completed within the period shall be completed by the Contractor within the time specified in the order. The Contract shall govern the Contractor's and District's rights and obligations with respect to that order to the same extent as if the order were completed during the Contract's effective period; provided that the Contractor shall not be required to make any deliveries under this Contract after the Contract expiration date.

B.5 PRICING SCHEDULE

B.5.1 BASE YEAR The Contractor shall bid on all or none of the following Contract Line Items for Base Year.

Continuation Sheet		SOLICITATION/CONTRACT # RM-12-RFQ-085-BY-THS		Page 3 of 61	
<i>NAME OF CONTRACTOR-</i>					
Contract Line Item No. (CLIN)	Item Description	Quantity	Unit	Unit Price	Extended Price
0001	Initial Annual Visit	1	Each	_____	
0002	Quarterly Maintenance Service Visit	4	Each	_____	
0003	Final Annual Visit	1	Each	_____	
0004	Non-Emergency Maintenance and Repair Services	1	Hourly Labor Rate	_____	
0005	Emergency Maintenance and Repair Services	1	Hourly Labor Rate	_____	
0006	Percentage Mark-up of Invoice Pricing for Maintenance Materials, Supplies and Equipment	\$1.00	Percentage	_____ %	
0007	Percentage Mark-up of Invoice Pricing for Emergency Maintenance Materials, Supplies and Equipment	\$1.00	Percentage	_____ %	
Total					

BASE YEAR

Print Name of Offeror

Print Name of Authorized Person

Title

Signature of Authorized Person

Date

B.5.2 OPTION YEAR ONE The Contractor shall bid on all or none of the following Contract Line Items for Option Year One.

Continuation Sheet		SOLICITATION/CONTRACT # RM-12-RFQ-085-BY-THS		Page 4 of 61	
<i>NAME OF CONTRACTOR-</i>					
Contract Line Item No. (CLIN)	Item Description	Quantity	Unit	Unit Price	Extended Price
0001	Initial Annual Visit	1	Each	_____	
0002	Quarterly Maintenance Service Visit	4	Each	_____	
0003	Final Annual Visit	1	Each	_____	
0004	Non-Emergency Maintenance and Repair Services	1	Hourly Labor Rate	_____	
0005	Emergency Maintenance and Repair Services	1	Hourly Labor Rate	_____	
0006	Percentage Mark-up of Invoice Pricing for Maintenance Materials, Supplies and Equipment	\$1.00	Percentage	_____ %	
0007	Percentage Mark-up of Invoice Pricing for Emergency Maintenance Materials, Supplies and Equipment	\$1.00	Percentage	_____ %	
Total					

OPTION YEAR ONE

Print Name of Offeror

Print Name of Authorized Person

Title

Signature of Authorized Person

Date

B.5.3 OPTION YEAR TWO The Contractor shall bid on all or none of the following Contract Line Items for Option Year Two.

Continuation Sheet		SOLICITATION/CONTRACT # RM-12-RFQ-085-BY-THS		Page 5 of 61	
<i>NAME OF CONTRACTOR-</i>					
Contract Line Item No. (CLIN)	Item Description	Quantity	Unit	Unit Price	Extended Price
0001	Initial Annual Visit	1	Each	_____	
0002	Quarterly Maintenance Service Visit	4	Each	_____	
0003	Final Annual Visit	1	Each	_____	
0004	Non-Emergency Maintenance and Repair Services	1	Hourly Labor Rate	_____	
0005	Emergency Maintenance and Repair Services	1	Hourly Labor Rate	_____	
0006	Percentage Mark-up of Invoice Pricing for Maintenance Materials, Supplies and Equipment	\$1.00	Percentage	_____ %	
0007	Percentage Mark-up of Invoice Pricing for Emergency Maintenance Materials, Supplies and Equipment	\$1.00	Percentage	_____ %	
Total					

OPTION YEAR TWO

Print Name of Offeror

Print Name of Authorized Person

Title

Signature of Authorized Person

Date

B.5.4 OPTION YEAR THREE The Contractor shall bid on all or none of the following Contract Line Items for Option Year Three.

Continuation Sheet		SOLICITATION/CONTRACT # RM-12-RFQ-085-BY-THS		Page 6 of 61	
<i>NAME OF CONTRACTOR-</i>					
Contract Line Item No. (CLIN)	Item Description	Quantity	Unit	Unit Price	Extended Price
0001	Initial Annual Visit	1	Each	_____	
0002	Quarterly Maintenance Service Visit	4	Each	_____	
0003	Final Annual Visit	1	Each	_____	
0004	Non-Emergency Maintenance and Repair Services	1	Hourly Labor Rate	_____	
0005	Emergency Maintenance and Repair Services	1	Hourly Labor Rate	_____	
0006	Percentage Mark-up of Invoice Pricing for Maintenance Materials, Supplies and Equipment	\$1.00	Percentage	_____ %	
0007	Percentage Mark-up of Invoice Pricing for Emergency Maintenance Materials, Supplies and Equipment	\$1.00	Percentage	_____ %	
Total					

OPTION YEAR THREE

Print Name of Offeror

Print Name of Authorized Person

Title

Signature of Authorized Person

Date

B.5.5 OPTION YEAR FOUR The Contractor shall bid on all or none of the following Contract Line Items for Option Year Four.

Continuation Sheet	SOLICITATION/CONTRACT # RM-12-RFQ-085-BY-THS	Page 7 of 71
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NAME OF CONTRACTOR-

Contract Line Item No. (CLIN)	Item Description	Quantity	Unit	Unit Price	Extended Price
0001	Initial Annual Rehab Visit	1	Each	_____	
0002	Quarterly Maintenance Service Visit	4	Each	_____	
0003	Final Annual Visit	1	Each	_____	
0004	Non-Emergency Maintenance and Repair Services	1	Hourly Labor Rate	_____	
0005	Emergency Maintenance and Repair Services	1	Hourly Labor Rate	_____	
0006	Percentage Mark-up of Invoice Pricing for Maintenance Materials, Supplies and Equipment	\$1.00	Percentage	_____ %	
0007	Percentage Mark-up of Invoice Pricing for Emergency Maintenance Materials, Supplies and Equipment	\$1.00	Percentage	_____ %	
Total					

OPTION YEAR FOUR

Print Name of Offeror

Print Name of Authorized Person

Title

Signature of Authorized Person

Date

B.5.6 GRAND TOTAL

B.5.6.1 The Contractor shall bid on all or none of the CLINS in Section B.5.1 through B.5.5 and provide the Grand Total of all CLINS below.

Section	Extended Total
B.5.1 THROUGH B.5.5	\$ _____
Grand Total	\$ _____
(LSDBE) Total	\$ _____

Print Name of Offeror

Print Name of Authorized Person

Title

Signature of Authorized Person

Date

***** END OF SECTION B *****

PART I - THE SCHEDULE

SECTION C

BACKGROUND/SCOPE OF SERVICES/ REQUIREMENTS

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SECTION C: BACKGROUND, SCOPE OF SERVICES AND REQUIREMENTS

C.1 BACKGROUND

C.1.1 The Department of Mental Health provides Comprehensive Mental Health Services to Adults, Children, Youths and their families. Inpatient services are provided at Saint Elizabeths Hospital. Saint Elizabeths Hospital (SEH) was established in 1855 and serves as the District of Columbia's government-run Psychiatric Hospital.

C.2 SCOPE OF SERVICES

C.2.1 The Department of Mental Health (DMH) is seeking a Contractor to provide all labor, material, supplies and equipment for Technical Expertise and Maintenance for 2 (two) American Hydrotech Green Roof Systems.

The purpose of this Contract is to prepare for the annual and quarterly preventative maintenance and up keep of the 2 (two) Green Roof Systems at Saint Elizabeths Hospital, to include but not limited to Rehab Services, Planting Services, Fertilization Services and Green Roof Inspections. In addition, the Contractor shall perform Inspection, Installation, Removal, Testing and Consultation in accordance with Manufacturer's and Owner's Specifications. The Contractor shall provide all labor, materials, supervision, personal protection equipment, safety equipment, dust/debris control, clean up and disposal, away from the hospital, of all supplies and material used under this Contract. Requirements under this Contract shall be performed Monday through Friday, 8:00 AM through 4:00 PM, except in Emergencies.

C.3 REQUIREMENTS

C.3.1 The Contractor shall provide Initial Annual Rehab Service (Beginning of Season) Inspection of Green Roof Systems to ensure areas meet manufacturer's standards.

C.3.2 The Contractor shall provide scheduled quarterly maintenance visits for the maintenance and upkeep to the Green Roof Systems based on manufacture's standards and recommendations.

C.3.3 The Contractor shall provide Final Annual Service (End of Season) Inspection of Green Roof Systems for preparation of Cold Weather and to ensure areas meet manufacturer's standards during the off Season.

C.3.5 The Contractor shall provide plantings during planting season (March 15 – October 15), to include but not limited to, replacements of up to 1 flat (70)

sedums per visit and replacements to fill in areas where plant density is a concern or replacement is warranted as a result of inspection and based upon manufacture's recommendations.

C.3.6 The Contractor shall provide fertilization per manufacture's recommendations.

C.3.7 The Contractor shall ensure all inspections include:

C.3.7.1 Hand weeding and hand watering;

C.3.7.2 Installation of plant replacements (if needed);

C.3.7.3 Debris removal;

C.3.7.4. Visual Inspection for performance issues, technical concerns, proper drainage, damage of green roof systems and vegetation free zones.

C.3.8 The Contractor shall provide photos and written documentation of all findings within three (3) business days if finding requires immediate attention Contractor shall report findings within one (1) business day.

C.3.9 The Contractor shall receive a camera pass from Security and follow provided instructions prior to taking photos.

C.3.10 The Contractor shall perform quality control measures to ensure compatibility and proper function of green roof systems as designed by manufacturer and any replacement materials installed.

GENERAL

C.3.11 The Contractor shall perform all work during the hours of 8:00 a.m. through 4:00 p.m., Monday through Friday. Holidays and weekends are exempted. Work on holidays and weekends must be requested by the Contractor forty-eight (48) hours in advance, and approved by the Contracting Officers Technical Representative (COTR) and Project Manager prior to performing work, unless it is an authorized emergency.

C.3.12 The Contractor shall give at least a seventy-two (72) hour notice to the Project Manager if a utility shutdown is required in order to perform work. Before any work can begin, authorization must be given by the COTR and Project Manager.

C.3.13 The Contractor shall work in accordance with all applicable building codes and when performing services.

- C.3.14 The Contractor shall, as needed, deliver all materials in good condition to the job site in the manufacturer's original unopened containers that bear the name and brand of the manufacturer.
- C.3.15 The Contractor shall inspect all areas prior to installation of any new materials to determine any defects that may prevent proper installation of new material.
- C.3.16 The Contractor shall report conditions contrary to Contract requirements that would prevent proper installation. Do not proceed with the installation until unsatisfactory conditions have been corrected completely.
- C.3.17 The Contractor shall install materials in strict accordance with the manufacturer's recommendations.
- C.3.18 The Contractor shall protect all surfaces and work areas.
- C.3.19 The Contractor shall complete a final walk-through with COTR within two days after completion of all services.
- C.3.20 The Contractor shall accomplish all work in strict accordance to the regulations and requirements as set forth by the District's applicable codes.
- C.3.21 The Contractor is to coordinate all work with the COTR and the Project Manager.
- C.3.22 The Contractor shall submit a list of technicians, employees and subcontractors working on site under this Contract.
- C.3.23 The Contractor shall submit a schedule and/or work plan prior to start of work.

CARE OF ADJACENT SURFACES AND EXISTING STRUCTURES

- C.3.22 The Contractor shall exercise extreme caution and care to avoid and prevent any damages to adjacent equipment, surfaces and existing structures which are excluded from the Scope of Work. Any and all damages to such adjacent equipment, surfaces, equipment and existing structures shall be fully restored or replaced by the contractor at no cost to the District.

CLEANING OF SITE

- C.3.23 Upon completion of the work and on a daily basis, the Contractor shall remove, and dispose of all protection items, tools, discarded equipment, excess materials and debris from the job site without any delay out of Saint Elizabeths Hospital Campus prior to final acceptance of the work. All construction debris and waste shall be disposed of properly by the Contractor. The Contractor shall not utilize

any dumpster on the grounds of the hospital for the disposal of any debris or discarded equipment generated from the performance of the contract.

WARRANTY

C.3.24 All work shall be guaranteed for one (1) year from the date of acceptance of the work. Warranties must be submitted to the COTR within ten (10) working days after completion of work. Three copies of all warranties shall be provided to DMH.

C.3.25 The Contractor shall provide DMH with all Manufactures' Warranties for all supplies and materials used in preparation and installation.

C.26 MANDATORY WALK-THROUGH

C.26.1 All prospective bidders are required to participate in a scheduled mandatory walk through of facility in order to bid, accompanied by Program Staff and a representative of the DMH Contracts and Procurement Office at the dates and times specified:

1100 Alabama Avenue SE
Washington, DC 20032
Friday May 4, 2012
11:00 AM EST

***** END OF SECTION C *****

SECTION D
PACKAGING AND MARKING
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PART I - THE SCHEDULE

SECTION D

PACKAGING AND MARKING

D.1 References Standard Contract Provisions (SCP) Clause 2/Shipping Instructions- Consignment/Page 1.

http://www.ocp.in.dc.gov/ocp/lib/ocp/policies_and_form/Standard_Contract_Provisions_0307.pdf

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***** END OF SECTION D *****

SECTION E
INSPECTION AND ACCEPTANCE
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SECTION E: INSPECTION AND ACCEPTANCE

E.1 GENERAL PROVISIONS

E.1.1 The inspection and acceptance requirements for the resultant Contract shall be governed by the Government of the District of Columbia's Standard Contract Provisions (SCP) Clause 5/Inspection of Supplies and/or Clause 6/Inspection of Services/Pages 1 – 3.

http://www.ocp.in.dc.gov/ocp/lib/ocp/policies_and_form/Standard_Contract_Provisions_0303.pdf

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***** END OF SECTION E *****

SECTION F
PERFORMANCE AND DELIVERABLES

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SECTION F: PERFORMANCE AND DELIVERABLES

F.1 PERIOD OF PERFORMANCE

F.1.1 The Period of Performance (POP) under this Contract shall be One (1) Year from Date of Award with Four (4) One (1) Year Option Periods.

F.2 OPTION PERIOD

F.2.1 The District shall extend the POP of this Contract by exercising up to Four (4) One (1) Year Option Periods or a fraction thereof based on a satisfactory annual performance evaluation.

F.3 OPTION TO EXTEND THE TERM OF THE CONTRACT

F.3.1 The District may extend the term of this Contract for a period of Four (4), One (1) Year Option Periods, or successive fractions thereof by written notice to the Contractor before the expiration of the Contract; provided that the District shall give the Contractor a preliminary written notice of its intent to extend at least thirty (30) days before the Contract expires. The preliminary notice does not commit the District to an extension. The exercise of the option is at the sole and absolute discretion of DMH and subject to the availability of funds at the time of the exercise of the option. The Contractor shall waive the thirty (30) day preliminary notice requirement by providing a written waiver to the Director, Agency Chief Contracting Officer prior to expiration of the Contract.

F.3.2 The price for the Option Period shall be as specified in the Contract. If the District decides to renew the Contract under Section F.2.1, the option shall include the maximum number of hours as set forth in Section B.5, which the Contracting Officer may revise in accordance with the Changes clause of the Contract.

F.3.3 If the District exercises the option, the extended Contract shall be considered to include the option provision.

F.3.4 The total duration of this Contract, including the exercise of any options under this clause, shall not exceed five (5) years.

F.4 DELIVERABLES

The Contractor shall make records, reports and any other data and program information available to DMH via paper or electronically.

<u>Deliverable</u>	Method of Delivery	Due Date
	The Contractor shall provide Certification that all services have been completed.	Hard and Electronic Copies to COTR, Project Manager and Contract Specialist within (5) Days after completion of services.
Manufacturer's Warranty See Section C.3.25	The Contractor shall provide DMH with all manufacturers' warranties for all supplies and materials used in the preparation and installation of the equipment.	Hard and Electronic Copies to COTR, Project Manager and Contract Specialist within (5) Days after completion of services.
Contractor's Warranty See Section C.3.24	The Contractor shall provide a warranty for all services and workmanship rendered under this contract for a minimum of one (1) year.	Hard and Electronic Copies to COTR, Project Manager and Contract Specialist within (5) Days after completion of services.
C.3.23	The Contract shall submit list of employees, subcontractors, work schedules and work plans.	Prior to start of work to COTR.
Identification	The Contractor shall provide DMH with a copy of all drivers' identification along with the license plate number of vehicle.	Prior to start of work to COTR.

***** END OF SECTION F *****

SECTION G
CONTRACT ADMINISTRATION DATA
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SECTION G: CONTRACT ADMINISTRATION DATA

G.1 CONTRACT ADMINISTRATION

Correspondence or inquiries related to this Solicitation or any modifications shall be addressed to:

Samuel J. Feinberg, CPPO, CPPB
Director, Contracts and Procurement
Agency Chief Contracting Officer
Department of Mental Health
609 H Street, NE – 4th Floor
Washington, DC 20002
Office - (202) 671-3188 – Fax (202-671-3395
Email: Samuel.feinberg@dc.gov

G.2 TYPE OF CONTRACT

G.2.1 This shall be a Fixed Price Contract with fixed unit prices. Contractor shall be remunerated at a fixed unit rate indicated in Section B for service performed. In the event of termination under this Solicitation, the DMH shall only be liable for the payment of all services accepted during the hours of work actually performed.

G.2.2 This Solicitation shall be a “non-personal services Contract”. It is therefore, understood and agreed that Contractor and/or Contractor’s employees: (1) shall perform the services specified herein as independent Contractors, not as employees of the government; (2) shall be responsible for their own management and administration of the work required to bear sole responsibility for complying with any and all technical, schedule, financial requirements or constraints attendant to the performance of this Solicitation; (3) shall be free from supervision or control by any government employee with respect to the manner or method of performance of the service specified; but (4) shall, pursuant to the Government’s right and obligation to inspect, accept or reject work, comply with such general direction of the Director, Contracts and Procurement/Agency Chief Contracting Officer, or the duly authorized representative as the Contracting Officer’s Technical Representative (COTR) as is necessary to ensure accomplishment of the Contract objectives.

G.2.3 By accepting this order or Contract Contractor agrees that the District, at its discretion, after completion of order or Contract period, may hire an individual who is performing services as a result of this order or Contract, with restriction, penalties or fees.

G.3 MODIFICATIONS

- G.3.1 Any changes, additions or deletions to this Solicitation shall be made in writing by a formal Modification to this Solicitation and shall be signed by the Director, Contracts and Procurement/Agency Chief Contracting Officer only.

G.4 AVAILABILITY OF FUNDS FOR THE NEXT FISCAL YEAR

- G.4.1 DMH's obligation for performance of this Solicitation beyond that date is contingent upon the availability of appropriated funds from which payment for Contract purposes can be made. No legal liability on the part of the DMH for any payment may arise for performance under this Solicitation beyond September 30, 2012, until funds are made available to the Director, Contracts and Procurement/Agency Chief Contracting Officer for performance and until Contractor receives notice of availability of funds, to be confirmed in writing by the Agency's Chief Financial Officer.

G.5 DESIGNATION OF THE CONTRACTING OFFICER'S TECHNICAL REPRESENTATIVE

- G.5.1 The Director, Contracts and Procurement/Agency Chief Contracting Officer shall designate a Contracting Officer's Technical Representative (COTR) who shall, among other duties relating to this Solicitation, have direct responsibility to assign work to Contractor, review Contractor's performance during the term of this Solicitation and make recommendations to the Director, Contracts and Procurement/Agency Chief Contracting Officer. The COTR shall also review, approve and sign all invoices prior to payment by DMH. The COTR for this procurement is:

Margaret Desper shall serve as the Contracting Officer's Technical Representative (COTR) for this Contract.

**Margaret Desper, Facilities Systems Specialist
1100 Alabama Avenue SE
Washington, DC 20032
Office: 202-299-5902**

G.6 SUBMISSION OF INVOICE

The Contractor shall submit, on a monthly basis, an original and three copies of each invoice to the Department of Mental Health, Accounts Payable Office at 64 New York Ave., NE, 6th Floor Washington, DC 20002 or by e-mail to dmh.ap@dc.gov. In addition, one copy of the invoice shall be sent to the Contracting Officer's Technical Representative (COTR) as listed above. The invoices shall include Contractor's name and address, invoice date, Contract number, Contract Line Items Numbers (CLINs), description of the services,

quantity, unit price and extended prices, terms of any prompt payment discounts offered, name and address of the official to whom payment is to be sent and the name, title and phone number of the person to be notified in the event of a defective invoice. Payment shall be made within Thirty (30) days after the COTR receives a proper and certified invoice from Contractor, unless a discount for prompt payment is offered and payment is made within the discount periods. Please note that the invoice shall match the itemized lines (CLIN Lines) of the Purchase Order as written up to but not exceeding the maximum of each line. Any invoices deemed improper for payment shall be returned, **UNPAID** and shall be resubmitted as indicated in this clause.

G.7 CERTIFICATION OF INVOICE

G.7.1 Contracting Officer's Technical Representative shall perform certification of Contractor's invoice. The invoices shall be certified for payment and forwarded to the Chief Financial Officer within five (5) working days after receipt of a satisfactory invoice.

G.8 PAYMENT

DMH shall pay the Contractor monthly the amount due the Contractor as set forth in Section B.3 of the contract in accordance with the Terms of the contract and upon presentation of a properly executed invoice and authorized by the COTR.

DMH shall pay Interest Penalties on amounts due to the Contractor in accordance with the Quick Payment Act, D.C. Official Code § 2-221.02 et seq., for the period beginning on the day after the required payment date and ending on the date on which payment of the amount is made to the Contractor.

G.9 RESPONSIBILITY FOR AGENCY PROPERTY

G.9.1 Contractor shall assume full responsibility for and shall indemnify the DMH for any and all loss or damage of whatsoever kind and nature to any and all Agency property, including any equipment, supplies, accessories, or part furnished, while in Contractor's custody during the performance of services under this Solicitation, or while in Contractor's custody for storage or repair, resulting from the negligent acts or omissions of Contractor or any employee, agent, or representative of Contractor or SubContractors. Contractor shall do nothing to prejudice the DMH's right to recover against third parties for any loss, destruction of, or damage to DMH property and upon the request of the Director, Contracts and Procurement/Agency Chief Contracting Officer shall, at the DMH's expense, furnish to the DMH all reasonable assistance and cooperation, including assistance in the protection of suit and the execution of instruments of assignment in favor of the DMH recovery.

G.10 COST OF OPERATION

All costs of operation under this Solicitation shall be borne by Contractor. This includes but is not limited to taxes, surcharges, licenses, insurance, transportation, salaries and bonuses.

G.11 ORDERING CLAUSE

G.11.1 Any supplies and services to be furnished under this contract must be ordered by issuance of delivery orders or task orders by the CO. Such orders may be issued during the term of this contract.

G.11.2 All delivery orders or task orders are subject to the terms and conditions of this contract. In the event of a conflict between a delivery order or task order and this contract, the contract shall control.

G.11.3 If mailed, a delivery order or task order is considered "issued" when the District deposits the order in the mail. Orders may be issued by facsimile or by electronic commerce methods.

***** END OF SECTION G *****

SECTION H
SPECIAL CONTRACT REQUIREMENTS

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SECTION H
SPECIAL CONTRACT REQUIREMENTS

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SECTION H: SPECIAL CONTRACT REQUIREMENTS

H.1 LIQUIDATED DAMAGES

H.1.1 When the Contractor fails to perform the tasks required under this Contract, DMH shall notify the Contractor in writing of the specific task deficiencies with a scheduled meeting and a Notice to Cure document with a cure period of Not to Exceed Ten (10) Business Days. Upon receiving the Notice to Cure document, the Contractor shall provide DMH with their assessment of the identified deficiencies in order to reach an agreement on a proactive plan to resolve the matter. The assessment of Liquidated Damages as determined by the Director, Contracts and Procurement/Agency Chief Contracting Officer shall be in an amount of \$100.00 per day against the Contractor after the Not to Exceed Ten (10) Business Days of the Notice to Cure notification has expired and until such time that the Contractor has cured its deficiencies, along with being able to satisfactorily perform the tasks required under this Contract.

H.1.2 When Contractor is unable to cure its deficiencies in a timely manner and DMH requires a replacement Contractor to perform the required services, Contractor shall be liable for Liquidated Damages accruing until the time DMH is able to award said Contract to a qualified responsive and responsible Contractor. Additionally, if Contractor is found to be in default of said Contract under the Default Clause of the Standard Contract Provisions, the original Contractor is completely liable for any and all total cost differences between their Contract and the new Contract awarded by DMH to the replacement Contractor.

H.1.3 If the District terminates for default the Contractor's right to proceed in accordance with Article 5, liquidated damages will continue to accrue until the work is completed. These liquidated damages will continue to accrue until the work is completed. These liquidated damages are in addition to excess costs of re-procurement.

H.2 CONTRACTOR LICENSE/CLEARANCES

Contractor shall maintain documentation that he/she possesses adequate training, qualifications and competence to perform the duties to which he/she is assigned and hold current licenses or certification as appropriate.

H.3 PRIVACY AND CONFIDENTIALITY COMPLIANCE

H.3.1 Definitions

(a) "Business Associate" shall mean Contractor.

- (b) “DMH” shall mean the District of Columbia, Department of Mental Health
- (c) “Confidentiality law” shall mean the requirements and restrictions contained in Federal and District law concerning access to child welfare information, including D.C. Official Code §§ 4-1302.03, 1302.08, 1303.06 and 130-3.07.
- (d) “Designated Record Set” means:
 - 1. A group of records maintained by or for DMH that is:
 - (i) The medical records and billing records about individuals maintained by or for a covered health care provider;
 - (ii) The enrollment, payment, claims adjudication and case or medical management record systems maintained by or for a health plan; or
 - (iii) Used, in whole or in part, by or for DMH to make decisions about individuals.
 - 2. For purposes of this paragraph, the term record means any items, collection, or grouping of information that includes Protected Health Information and is maintained, collected, used, or disseminated by or for DMH.
- (e) Individual shall have the same meaning as the term "individual" in 45 CFR 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).
- (f) Privacy Rule. "Privacy Rule" shall mean the requirements and restrictions contained in 45 CFR part 160 and part 164, subparts A and E, as modified by any District of Columbia laws, including the Mental Health Information Act of 1978, that may have preemptive effect by operation of 45 CFR part 160, subpart B.
- (g) “Protected information” shall include “protected health information” as defined in 45 CFR 164.501, limited to the protected health information created or received by Business Associate from or on behalf of DMH, information required to be kept confidential pursuant to the confidentiality law and confidential information concerning DMH or its employees.
- (h) "Protected Health Information" shall have the same meaning as the term "protected health information" in 45 CFR 164.501, limited to the information created or received by the Business Associate from or on behalf of DMH.
- (i) "Required by law" shall have the same meaning as the term "required by law" in 45 CFR 164.501, except to the extent District of Columbia laws have preemptive effective by operation of 45 CFR part 160, subpart B, or, regarding other protected information, required by District or federal law .
- (j) "Secretary" shall mean the Secretary of the Department of Health and Human Services or designee.

H.3.2 Obligations and Activities of Business Associate

- (a) The Business Associate agrees to not use or disclose protected information other than as permitted or required by this Section H.2 or as required by law.
- (b) The Business Associate agrees to use appropriate safeguards to prevent use or disclosure of the protected information other than as provided for by this Section H.2.
- (c) The Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of protected information by the Business Associate in violation of the requirements of this Section H.2.
- (d) The Business Associate agrees to report to DMH any use or disclosure of the protected information not provided for by this Section H.2 of which it becomes aware.
- (e) The Business Associate agrees to ensure that any agent, including a subContractor, to whom it provides protected information received from, or created or received by the Business Associate on behalf of DMH, agrees to the same restrictions and conditions that apply through this Agreement to the Business Associate with respect to such information.
- (f) The Business Associate agrees to provide access, at the request of DMH and in the time and manner prescribed by the Director, Contracts and Procurement/Agency Chief Contracting Officer, to protected information in a Designated Record Set, to DMH or, as directed by DMH, to an individual in order to meet the requirements under 45 CFR 164.524.
- (g) The Business Associate agrees to make any amendment(s) to protected information in a Designated Record Set that DMH directs or agrees to pursuant to 45 CFR 164.526 at the request of CFSA or an Individual and in the time and manner prescribed by the Director, Contracts and Procurement/Agency Chief Contracting Officer.
- (h) The Business Associate agrees to make internal practices, books and records, including policies and procedures and protected information, relating to the use and disclosure of protected information received from, or created or received by the Business Associate on behalf of DMH, available to the DMH, in a time and manner prescribed by the Director, Contracts and Procurement/Agency Chief Contracting Officer, for purposes of the determining DMH's compliance with the Privacy Rule.
- (i) The Business Associate agrees to document such disclosures of protected health information and information related to such disclosures as would be required for DMH to respond to a request by an Individual for an accounting of disclosures of protected health information in accordance with 45 CFR 164.528.
- (j) The Business Associate agrees to provide to DMH or an Individual, in time and manner prescribed by the Director, Contracts and Procurement/Agency Chief Contracting Officer, information collected in accordance with Section (i) above, to permit DMH to respond to a request by an Individual for an

accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.

H.3.3 Permitted Uses and Disclosures by Business Associate

- (a) Refer to underlying services agreement. Except as otherwise limited in this Section H.2, the Business Associate may use or disclose protected information to perform functions, activities, or services for, or on behalf of, DMH as specified in this Solicitation, provided that such use or disclosure would not violate the confidentiality law or privacy rule if done by DMH or the minimum necessary policies and procedures of DMH.
- (b) Except as otherwise limited in this Section H.2, the Business Associate may use protected information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
- (c) Except as otherwise limited in this Section H.2, the Business Associate may disclose protected information for the proper management and administration of the Business Associate, provided that disclosures are required by law, or the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it shall remain confidential and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- (d) Except as otherwise limited in this Section H.2, the Business Associate may use protected information to provide Data Aggregation services to DMH as permitted by 42 CFR 164.504(e)(2)(i)(B).
- (e) The Business Associate may use protected information to report violations of law to appropriate Federal and State authorities, consistent with § 164.502(j) (1).

H.3.4 Obligations of DMH

- (a) DMH shall notify the Business Associate of any limitation(s) in its notice of privacy practices of DMH in accordance with 45 CFR 164.520, to the extent that such limitation may affect the Business Associate's use or disclosure of protected information.
- (b) DMH shall notify the Business Associate of any changes in, or revocation of, permission by Individual to use or disclose protected information, to the extent that such changes may affect the Business Associate's use or disclosure of protected information.
- (c) DMH shall notify the Business Associate of any restriction to the use or disclosure of Protected information that DMH has agreed to in accordance with

45 CFR 164.522, to the extent that such restriction may affect the Business Associate's use or disclosure of Protected information.

H.3.5 Permissible Requests by DMH

- (a) DMH shall not request the Business Associate to use or disclose protected information in any manner that would not be permissible under the confidentiality law or privacy rule if done by DMH.

H.3.6 Term and Termination

- (a) Term. The requirements of this HIPAA Privacy Compliance Clause shall be effective as of the date of Contract award and shall terminate when all of the protected information provided by DMH to the Business Associate, or created or received by the Business Associate on behalf of DMH, is destroyed or returned to DMH, or, if it is infeasible to return or destroy Protected information, protections are extended to such information, in accordance with the termination provisions in this Section.
- (b) Termination for Cause. Upon DMH's knowledge of a material breach of this Section H.2 by the Business Associate, DMH shall either:
 - (1) Provide an opportunity for the Business Associate to cure the breach or end the violation and terminate the Contract if the Business Associate does not cure the breach or end the violation within the time specified by DMH;
 - (2) Immediately terminate the Contract if the Business Associate has breached a material term of this HIPAA Privacy Compliance Clause and cure is not possible; or
 - (3) If neither termination nor cure is feasible and the breach involves protected health information, DMH shall report the violation to the Secretary.
- (c) Effect of Termination.
 - (1) Except as provided in Section H.2.6(c)(2), upon termination of the Contract, for any reason, the Business Associate shall return or destroy all protected information received from DMH, or created or received by the Business Associate on behalf of DMH. This provision shall apply to protected information that is in the possession of Subcontractors or agents of the Business Associate. The Business Associate shall retain no copies of the protected information.
 - (2) In the event that the Business Associate determines that returning or destroying the protected information is infeasible, the Business Associate shall provide to DMH notification of the conditions that make return or destruction infeasible. Upon determination by the Director, Contracts and Procurement/Agency Chief Contracting Officer that

return or destruction of protected information is infeasible, the Business Associate shall extend the protections of this Agreement to such protected information and limit further uses and disclosures of such protected information to those purposes that make the return or destruction infeasible, for so long as the Business Associate maintains such protected information.

H.3.7 Miscellaneous

- (a) Regulatory References. A reference in this Section H.2 to a Section in the Privacy Rule means the Section as in effect or as amended.
- (b) Amendment. The Parties agree to take such action as is necessary to amend this Section H.2 from time to time as is necessary for CFSA to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Public Law No. 104-191.
- (c) Survival. The respective rights and obligations of the Business Associate under Section H.2.6 of this Clause and Sections 9 and 20 of the Standard Contract Provisions for use with District of Columbia Government Supply and Services Contracts, effective March 2007, shall survive termination of the Contract.
- (d) Interpretation. Any ambiguity in this Section H.2 shall be resolved to permit DMH to comply with the Privacy Rule.

H.4 ENVIRONMENTALLY PREFERABLE JANITORIAL PRODUCTS

H.4.1 ENVIRONMENTALLY PREFERABLE PRODUCT GOALS

H.4.1.1 The District is seeking contractors to provide environmentally preferable and effective janitorial products that support the District's environmentally preferable purchasing (EPP) contracting initiative.

H.4.1.2 Environmentally preferable products are products and services that have a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. This comparison considers the life cycle of the product from raw material acquisition, production, manufacturing, packaging, distribution, re-use, operation, maintenance and disposal.

H.4.2 ENVIRONMENTALLY PREFERABLE JANITORIAL PRODUCTS

Janitorial products subject to the requirements of this clause include the following:

All-purpose cleaner	General degreaser
Bathroom cleaner	General disinfectant
Bathroom deodorizers	Glass/window cleaner

Bathroom disinfectant	Graffiti remover
Bathroom hand cleanser/soap	Gum remover
Carpet cleaner	Lime and scale remover
Chrome and brass cleaner/polish	Solvent spotter
Floor stripper/finish	Urinal deodorizers/cleaner
Furniture polish	Wood floor (wax/cleaner/finish)

H.4.3 PROHIBITED CLEANING PRODUCTS

Janitorial products with the following ingredients shall not be used because they pose an unacceptable risk to the person using the product, building occupants and the environment:

Alkylphenol Ethoxylates	Naphthalene
Benzyl Alcohol	Nitritotriacetic Acid
CFC-22; Chlorodifluoro Methan	Paradichloro benzene
Coconut Oil; Diethanolamine	Perchloroethylene
Diethanolamine	Tetrachloroethylene
HCFC-142b	Toluene
Lauric Acid Diethanolamine	Tributyl Tin
Methyl Chloroform; 1,1,1,-TCE	Trichlorethylene
Methyl Ethyl Ketone	

H.4.4 JANITORIAL PRODUCT HEALTH AND ENVIRONMENTAL REQUIREMENTS

The Contractor shall only use janitorial products during the performance of this contract that meet the following requirements:

H.4.4.1 Skin and Eye Irritation

- a) This attribute refers to janitorial cleaning supplies containing chemicals that are either mildly or strongly irritating to the skin or eyes. These substances are either highly alkaline or acidic.
- b) The Contractor shall use products with a pH between 7.2 and 7.8 which are acceptable alkaline levels.

H.4.4.2 Food Chain Exposure

- a) This attribute refers to ready-to-use cleaning products containing ingredients that are consumed by smaller aquatic plants and animals that increase in concentration through the food chain.
- b) The Contractor shall use products when the bio-concentration factor (BCF) measured are less than 1,000.

H.4.4.3 Air Pollution Potential

- a) This attribute refers to janitorial products containing volatile organic compounds (VOC) that could form smog once in the atmosphere, thereby causing irritation of the eyes, nose, throat, lungs and asthma attacks

- b) The Contractor shall not use products containing VOC in concentrations that exceed 10% of the weight of the product.

H.4.4.4 Fragrances

- a) This attribute refers to products containing fragrances that are added to the formulation to improve an odor or to mask an offensive odor. This attribute does not include natural odors associated with cleaning agents (e.g. a lemon odor).
- b) The Contractor shall not use products containing fragrances that are added to the formulation to improve an odor or to mask an offensive odor.

H.4.4.5 Dyes

- a) This attribute refers to dyes that have been added to a formulation to enhance or change the product's color.
- b) The Contractor shall use products without dyes.

H.4.4.6 Minimizing Exposure to Concentrates

- a) This attribute refers to the possibility that an end-user of a product could be exposed to a concentrated form of the product, thereby exposing the end-user to a greater health risk than that caused by exposure to the ready-to-use product.
- b) If possible, the Contractor shall use products that are not in a concentrated form.
- c) If the Contractor uses products in a concentrated form, it must be a part of a system by which chemicals are only transferred between closed containers, thereby reducing the risk of harm to the end-user.

H.4.5 PACKAGING REDUCED/RECYCLABLE

H.4.5.1 If possible, the Contractor shall use products that are in reusable, refillable, or recyclable containers or are otherwise made from recycled content products.

H.4.5.2 No products shall be delivered in aerosol cans.

H.4.5.3 All products must be available in non-aerosol containers such as ready-to-use pump action sprays, air-charged refillable containers or spray bottles.

H.4.6 PRODUCT SAFETY

H.4.6.1 The Contractor shall be responsible for:

- a) Any damage to personnel, buildings, furniture or equipment directly traceable to their use or transportation of prohibited products;
- b) Any spills or leaks that occur during the use or transportation of their products;

- c) Evacuating and warning individuals that might be affected by any spills or leaks that occur when their products are being used or transported; and
- d) Paying the cleanup cost for any spills or leaks that occur while they are using or transporting their products.

H.5 ENVIRONMENTALLY PREFERABLE SOLVENT PRODUCTS

H.5.1 ENVIRONMENTALLY PREFERABLE PRODUCT GOALS

H.5.1.1 The District is seeking contractors to provide environmentally preferable and effective solvent products that support the District's EPP contracting initiative.

H.5.1.2 Environmentally preferable products are products and services that have a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. This comparison considers the life cycle of the product from raw material acquisition, production, manufacturing, packaging, distribution, re-use, operation, maintenance and disposal.

H.5.2 ENVIRONMENTALLY PREFERABLE SOLVENT PRODUCTS

H.5.2.1 Solvents are fluids or a mixture of fluids capable of dissolving substances to produce compositions for industrial value.

H.5.2.2 Solvent products subject to the requirements of this clause include, but are not limited to, the following classes:

- (a) Alcohols. Alcohols are solvents that dissolve substances such as shellacs, vinyls, acrylics, epoxies and silicones.
- (b) Aliphatic Hydrocarbons. Aliphatic hydrocarbons are solvents often found in coatings and insecticides. Commonly used as degreasers and solvents for acrylics and epoxies. Common aliphatics include mineral spirits, paint thinner, petroleum distillates, VM&P Naphtha, kerosene, gasoline and heptane (all of which are extremely flammable).
- (c) Aromatic Hydrocarbons. Aromatic hydrocarbons are substances used in printing, fiberglass-reinforced products, glues and veneers. Common aromatics include toluene (toluol), xylene (xylol), coal-tar naphtha, styrene and benzene.
- (d) Chlorinated Hydrocarbons. Chlorinated hydrocarbons are commonly used degreasers, dry cleaning agents, rubber solvents and paint strippers found in coatings, resins and tars. Common chemicals in this class include perchloroethylene, methylene chloride, carbon tetrachloride, methyl chloroform and trichloroethylene.
- (e) Glycols. Glycols, which are water-soluble solvents used as lubricants, are found in cosmetics, coatings, resins and dyes. Glycol ethers include butyl cellusolve (2-butoxyethanol), cellusolve (2-ethoxyethanol), methyl cellusolve (2-methoxyethanol), and cellusolve acetate (2-ethoxyethyl acetate). Most common glycol ethers are combustible.

- (f) Esters. Esters have differing chemical properties depending on their use including methyl formate, ethyl acetate, isopropyl acetate, methyl acetate, secamylacetate, and isoamyl acetate (banana oil).
- (g) Ethers. Ethers are ingredients in dyes, resins, waxes, cellulose nitrate and fuels, including ethyl ether, tetrahydrofuran, dioxane and isopropyl ether.
- (h) Ketones. Ketones are solvents for dyes, resin and waxes that are used to manufacture plastics, synthetic fibers, explosives, cosmetics and medicines. Some examples of ketones include acetone, methyl ethyl ketone, cyclohexanone and isophorone.
- (i) Other Solvents. Other types of solvents include freon, turpentine, dimethylformamide and carbon disulfide.

H.5.3 SOLVENT ENVIRONMENTAL REQUIREMENTS

The Contractor shall avoid the following hazards when using solvent products during the performance of this contract:

H.5.3.1 HEALTH HAZARDS

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

H.5.3.2 PHYSICAL HAZARDS

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

H.5.4 PROHIBITED SOLVENTS

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

Benzene

Carbon tetrachloride

Trichloroethylene	1,1,2,2-tetrachloroethane
2-methoxyethanol	2-ethoxyethanol
Methyl chloride	Trichlorotrifluoroethane
Chlorinated Fluorocarbon Compounds	

H.5.5 PACKAGING REDUCED/RECYCLABLE

H.5.5.1 If possible, the Contractor shall use products that are in reusable, refillable, or recyclable containers or are otherwise made from recycled content products.

H.5.5.2 No products shall be delivered in aerosol cans.

H.5.5.3 All products must be available in non-aerosol containers such as ready-to-use pump action sprays, air-charged refillable containers, or spray bottles.

H.5.6 PRODUCT SAFETY

H.5.6.1 The Contractor shall be responsible for:

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

H.6 ENVIRONMENTALLY PREFERABLE PAINT PRODUCTS

H.6.1 ENVIRONMENTALLY PREFERABLE PRODUCTS GOALS

H.6.1.1 The District is seeking contractors to provide environmentally preferable and effective paint products that support the District's EPP contracting initiative.

H.6.1.2 Environmentally preferable products are products and services that have a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. This comparison considers the life cycle of the product from raw material acquisition, production, manufacturing, packaging, distribution, re-use, operation, maintenance and disposal.

H.6.2 PAINT ENVIRONMENTAL REQUIREMENTS

H.7.2.1 The requirements and restrictions contained in this clause shall apply to all architectural and anti-corrosive paints used during the course of this contract.

H.7.2.2 Due to the documented health risks associated with high Volatile Organic Compound (VOCs) levels, the Contractor shall use only paint and paint products that do not exceed the maximum allowable VOC content in the table below for each type of paint:

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

H.6.3 PROHIBITED PAINT COMPONENTS

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

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

Ethylbenzene

H.6.4 PACKAGING

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

H.6.5 PRODUCT SAFETY

H.6.5.1 The Contractor shall be responsible for:

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

H.7 HIRING OF DISTRICT RESIDENTS AS APPRENTICES AND TRAINEES

H.8.1 For all new employment resulting from this contract or subcontracts hereto, as defined in Mayor's Order 83-265 and implementing instructions, the Contractor shall use its best efforts to comply with the following basic goal and objectives for utilization of bona fide residents of the District of Columbia in each project's labor force:

H.8.1.1 At least fifty-one (51) percent of apprentices and trainees employed shall be residents of the District of Columbia registered in programs approved by the District of Columbia Apprenticeship Council.

H.8.2 The Contractor shall negotiate an Employment Agreement with the Department of Employment Services ("DOES") for jobs created as a result of this contract. The DOES shall be the Contractor's first source of referral for qualified apprentices and trainees in the implementation of employment goals contained in this clause.

H.8 DEPARTMENT OF LABOR WAGE DETERMINATIONS

The Contractor shall be bound by the Wage Determination No. Revision 8, dated May 26, 2009, issued by the U.S. Department of Labor in accordance with the Service Contract Act, 41 U.S.C. §351 *et seq.*, and incorporated herein as Section J.2. The Contractor shall be bound by the wage rates for the term of the contract subject to revision as stated herein and in accordance with Section 24 of the SCP. If an option is exercised, the Contractor shall be bound by the applicable wage rates at the time of the exercise of the option. If the option is exercised and the CO obtains a revised wage determination, the revised

wage determination is applicable for the option periods and the Contractor may be entitled to an equitable adjustment.

H.9 PUBLICITY

The Contractor shall at all times obtain the prior written approval from the CO before the Contractor, any of its officers, agents, employees or 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.10 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 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.11 51% DISTRICT RESIDENTS NEW HIRES REQUIREMENTS AND FIRST SOURCE EMPLOYMENT AGREEMENT

H.11.1 The Contractor shall comply with the First Source Employment Agreement Act of 1984, as amended, D.C. Official Code §2-219.01 *et seq.* (“First Source Act”).

H.11.2 The Contractor shall enter into and maintain, during the term of the contract, a First Source Employment Agreement, (Section J.4) in which the Contractor shall agree that:

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

- (2) The first source for finding employees to fill any vacancy occurring in all jobs covered by the First Source Employment Agreement shall be the First Source Register.

H.11.3 The Contractor shall submit to DOES, no later than the 10th of each month following execution of the contract, a First Source Agreement Contract Compliance Report (“contract compliance report”) to verify its compliance with the First Source Agreement for the preceding month. The contract compliance report for the contract shall include the:

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

H.11.4 If the contract amount is equal to or greater than \$100,000, the Contractor agrees that 51% of the new employees hired for the contract shall be District residents.

H.11.5 With the submission of the Contractor’s final request for payment from the District, the Contractor shall:

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

H.11.6 The CO may waive the provisions of section H.12.4 if the CO finds that:

- (1) A good faith effort to comply is demonstrated by the Contractor;
- (2) The Contractor is located outside the Washington Standard Metropolitan Statistical Area and none of the contract work is performed inside the

Washington Standard Metropolitan 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.

- (3) The Contractor enters into a special workforce development training or placement arrangement with DOES; or
- (4) DOES certifies that there are insufficient numbers of District residents in the labor market possessing the skills required by the positions created as a result of the contract.

H.11.7 Upon receipt of the Contractor's final payment request and related documentation pursuant to sections H.5.5 and H.5.6, the CO shall determine whether the Contractor is in compliance with section H.5.4 or whether a waiver of compliance pursuant to section H.5.6 is justified. If the CO determines that the Contractor is in compliance, or that a waiver of compliance is justified, the CO shall, within two business days of making the determination forward a copy of the determination to the agency Chief Financial Officer and the CA.

H.11.8 Willful breach of the First Source Employment Agreement, or failure to submit the report pursuant to section H.5.5, or deliberate submission of falsified data, may be enforced by the CO through imposition of penalties, including monetary fines of 5% of the total amount of the direct and indirect labor costs of the contract. The Contractor shall make payment to DOES. The Contractor may appeal to the D.C. Contract Appeals Board as provided in this contract any decision of the CO pursuant to this section H.5.8.

H.11.9 The provisions of sections H.5.4 through H.5.8 do not apply to nonprofit organizations.

H.12 SECTION 504 OF THE REHABILITATION ACT OF 1973, as amended.

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

H.13 AMERICANS WITH DISABILITIES ACT OF 1990 (ADA)

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

H.14 WAY TO WORK AMENDMENT ACT OF 2006

H.14.1 Except as described in H.8.8 below, the Contractor shall comply with Title I of the Way to Work Amendment Act of 2006, effective June 8, 2006 (D.C. Law 16-118, D.C. Official Code §2-220.01 *et seq.*) (“Living Wage Act of 2006”), for contracts for services in the amount of \$100,000 or more in a 12-month period.

H.14.2 The Contractor shall pay its employees and subcontractors who perform services under the contract no less than the current living wage published on the OCP website at www.ocp.dc.gov.

H.14.3 The Contractor shall include in any subcontract for \$15,000 or more a provision requiring the subcontractor to pay its employees who perform services under the contract no less than the current living wage rate.

H.14.4 The DOES may adjust the living wage annually and the OCP will publish the current living wage rate on its website at www.ocp.dc.gov.

H.14.5 The Contractor shall provide a copy of the Fact Sheet attached as J.6 to each employee and subcontractor who performs services under the contract. The Contractor shall also post the Notice attached as J.5 in a conspicuous place in its place of business. The Contractor shall include in any subcontract for \$15,000 or more a provision requiring the subcontractor to post the Notice in a conspicuous place in its place of business.

H.14.6 The Contractor shall maintain its payroll records under the contract in the regular course of business for a period of at least three (3) years from the payroll date, and shall include this requirement in its subcontracts for \$15,000 or more under the contract.

H.14.7 The payment of wages required under the Living Wage Act of 2006 shall be consistent with and subject to the provisions of D.C. Official Code §32-1301 *et seq.*

H.14.8 The requirements of the Living Wage Act of 2006 do not apply to:

- (1) Contracts or other agreements that are subject to higher wage level determinations required by federal law;
- (2) Existing and future collective bargaining agreements, provided, that the future collective bargaining agreement results in the employee being paid no less than the established living wage;
- (3) Contracts for electricity, telephone, water, sewer or other services provided by a regulated utility;

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

H.14.9 The Mayor may exempt a contractor from the requirements of the Living Wage Act of 2006, subject to the approval of Council, in accordance with the provisions of Section 109 of the Living Wage Act of 2006.

H.15 SUBCONTRACTING REQUIREMENTS

H.15.1 Mandatory Subcontracting Requirements

H.15.1.1 For contracts in excess of \$250,000, at least 35% of the dollar volume shall be subcontracted to certified small business enterprises; provided, however, that the costs of materials, goods, and supplies shall not be counted towards the 35% subcontracting requirement unless such materials, goods and supplies are purchased from certified small business enterprises.

H.15.1.2 If there are insufficient qualified small business enterprises to completely fulfill the requirement of paragraph H.9.1.1, then the subcontracting may be satisfied by subcontracting 35% of the dollar volume to any certified business

enterprises; provided, however, that all reasonable efforts shall be made to ensure that qualified small business enterprises are significant participants in the overall subcontracting work.

- H.15.1.3 A prime contractor which is certified as a small, local or disadvantaged business enterprise shall not be required to comply with the provisions of sections H.9.1.1 and H.9.1.2.

H.15.2 SUBCONTRACTING PLAN

If the prime contractor is required by law to subcontract under this contract, it must subcontract at least 35% of the dollar volume of this contract in accordance with the provisions of section H.9.1. The prime contractor responding to this solicitation which is required to subcontract shall be required to submit with its bid, a notarized statement detailing its subcontracting plan. Bids responding to this IFB shall be deemed nonresponsive and shall be rejected if the bidder is required to subcontract, but fails to submit a subcontracting plan with its bid. Once the plan is approved by the CO, changes to the plan will only occur with the prior written approval of the CO and the Director of DSLBD. Each subcontracting plan shall include the following:

- H.15.2.1 A description of the goods and services to be provided by SBEs or, if insufficient qualified SBEs are available, by any certified business enterprises;
- H.15.2.2 A statement of the dollar value of the bid that pertains to the subcontracts to be performed by the SBEs or, if insufficient qualified SBEs are available, by any certified business enterprises;
- H.15.2.3 The names and addresses of all proposed subcontractors who are SBEs or, if insufficient SBEs are available, who are certified business enterprises;
- H.15.2.4 The name of the individual employed by the prime contractor who will administer the subcontracting plan, and a description of the duties of the individual;
- H.15.2.5 A description of the efforts the prime contractor will make to ensure that SBEs, or, if insufficient SBEs are available, that certified business enterprises will have an equitable opportunity to compete for subcontracts;
- H.15.2.6 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;

- H.15.2.7 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;
- H.15.2.8 A list of the type of records the prime contractor will maintain to demonstrate procedures adopted to comply with the requirements set forth in the subcontracting plan, and assurances that the prime contractor will make such records available for review upon the District's request; and
- H.15.2.9 A description of the prime contractor's recent effort to locate SBEs or, if insufficient SBEs are available, certified business enterprises, and to award subcontracts to them.

H.15.3 SUBCONTRACTING PLAN COMPLIANCE REPORTING

If the Contractor has an approved subcontracting plan required by law under this contract, the Contractor shall submit to the CO and the Director of DSLBD, no later than the 21st of each month following execution of the contract, a Subcontracting Plan Compliance Report to verify its compliance with the subcontracting requirements for the preceding month. The monthly subcontracting plan compliance report shall include the following information:

- H.15.3.1 The dollar amount of the contract or procurement;
- H.15.3.2 A brief description of the goods procured or the services contracted for;
- H.16.3.3 The name of the business enterprise from which the goods were procured or services contracted;
- H.15.3.4 Whether the subcontractors to the contract are currently certified business enterprises;
- H.15.3.5 The dollar percentage of the contract awarded to SBEs, or if insufficient SBEs, to other certified business enterprises;
- H.15.3.6 A description of the activities the Contractor engaged in, in order to achieve the subcontracting requirements set forth in its plan; and
- H.15.3.7 A description of any changes to the activities the Contractor intends to make by the next month to achieve the requirements set forth in its plan.

H.15.4 SUBCONTRACTOR STANDARDS

- H.15.4.1 A prime contractor shall ensure that subcontractors meet the criteria for responsibility described in D.C. Official Code § 2-353.01.

H.15.5 ENFORCEMENT AND PENALTIES FOR BREACH OF SUBCONTRACTING PLAN

H.15.5.1 If during the performance of this contract, the Contractor fails to comply with its approved subcontracting plan, and the CO determines the Contractor's failure to be a material breach of the contract, the CO shall have cause to terminate the contract under the default clause of the Standard Contract Provisions.

H.15.5.2 There shall be a rebuttable presumption that a contractor willfully breached its approved subcontracting plan if the contractor (i) fails to submit any required monitoring or compliance report; or (ii) submits a monitoring or compliance report with the intent to defraud.

H.15.5.3 A contractor that is found to have willfully breached its approved subcontracting plan for utilization of certified business enterprises in the performance of a contract shall be subject to the imposition of penalties, including monetary fines of \$15,000 or 5% of the total amount of the work that the contractor was to subcontract to certified business enterprises, whichever is greater, for each such breach.

***** END OF SECTION H *****

SECTION I
CONTRACT CLAUSES
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SECTION I: CONTRACT CLAUSES

I.1 GOVERNING LAW

- I.1.1 This Contract shall be governed by and construed in accordance with the laws applicable in the District of Columbia.

I.2 APPLICABILITY OF STANDARD CONTRACT PROVISIONS AND WAGE DETERMINATION

- I.2.1 The Standard Contract Provisions for Use with District of Columbia Government Supply and Services Contracts, dated July 2010 (Attachment J-1), are incorporated by reference into this Contract. The Standard Provisions are attached hereto and can also be retrieved at <http://www.ocp.dc.gov/ocp/site/default.asp>; click on the “OCP Policies” link and then the link to “[Standard Contract Provisions-Supply and Services Contracts.](#)”

- I.3 This Section is **RESERVED** for Future Use.

I.4 TIME

- I.4.1 Time, if stated in a number of days, includes all calendar days unless otherwise stated. Business days shall mean all days excluding Saturdays, Sundays, Holidays and other days in which District government is closed.

I.5 SUSPENSION OF WORK

- I.5.1 The Director, Contracts and Procurement/Agency Chief Contracting Officer may order the Contractor, in writing, to suspend, delay, or interrupt all or any part of the work of this Contract for the period of time that the Director, Contracts and Procurement/Agency Chief Contracting Officer determines appropriate for the convenience of the District. If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed or interrupted by an act of the Director, Contracts and Procurement/Agency Chief Contracting Officer in the administration of this Contract, or by the Director, Contracts and Procurement/Agency Chief Contracting Officer's failure to act within the time specified in this Contract (or within a reasonable time if not specified), an adjustment shall be made for any increase in the cost of performance of this Contract (excluding profit) necessarily caused by the unreasonable suspension, delay, or interruption and the Contract modified in writing accordingly.
- I.5.2 No adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Contractor, or for which an equitable adjustment is provided for or excluded under any other term or condition of this Contract.

I.5.3 A claim under this clause shall not be allowed for any costs incurred more than twenty (20) days before the Contractor shall have notified the Director, Contracts and Procurement/Agency Chief Contracting Officer in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from a suspension order); and unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the suspension, delay, or interruption, but not later than the date of final payment under the Contract.

I.6 STOP WORK ORDER

I.6.1 The Director, Contracts and Procurement/Agency Chief Contracting Officer may, at any time, by written order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this Contract for a period of ninety (90) days after the order is delivered to the Contractor and for any further period to which the parties may agree.

I.6.2 The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurring of costs allocable to the work covered by the order during the period of work stoppage. Within a period of ninety (90) days after a stop-work is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the Director, Contracts and Procurement/Agency Chief Contracting Officer shall either cancel the stop-work order; or terminate the work covered by the order as provided in the Default or Termination for Convenience clauses in the Standard Contract Provisions (Attachment J-1).

I.6.3 If a stop-work order issued under this clause is canceled or the period of the order or any extension thereof expires, the Contractor shall resume work. The Director, Contracts and Procurement/Agency Chief Contracting Officer shall make an equitable adjustment in the delivery schedule or Contract price, or both and the Contract shall be modified, in writing, accordingly.

I.6.4 If the stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this Contract; and the Contractor asserts its right to the adjustment within thirty (30) days after the end of the period of work stoppage; provided, that, if the Director, Contracts and Procurement/Agency Chief Contracting Officer decides the facts justify the action, the Director, Contracts and Procurement/Agency Chief Contracting Officer may receive and act upon the claim submitted at any time before final payment under this Contract.

I.6.5 If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the District, the Director, Contracts and

Procurement/Agency Chief Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.

I.6.6 If a stop-work order is not canceled and the work covered by the order is terminated for default, the Director, Contracts and Procurement/Agency Chief Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

I.7 This Section is **RESERVED** for Future Use

I.8 This Section is **RESERVED** for Future Use

I.9 ANTI-KICKBACK PROCEDURES

I.9.1 Definitions:

I.9.1.1 “Kickback,” as used in this clause, means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided, directly or indirectly, to any prime Contractor, prime Contractor employee, subContractor, or subContractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime Contract or in connection with a subContract relating to a prime Contract.

I.9.1.2 “Person,” as used in this clause, means a corporation, partnership, business association of any kind, trust, joint-stock company, or individual.

I.9.1.3 “Prime Contract,” as used in this clause, means a Contract or Contractual action entered into by the District for the purpose of obtaining supplies, materials, equipment, or services of any kind.

I.9.1.4 “Prime Contractor” as used in this clause, means a person who has entered into a prime Contract with the District.

I.9.1.5 “Prime Contractor employee,” as used in this clause, means any officer, partner, employee, or agent of a prime Contractor.

I.9.1.6 “SubContract,” as used in this clause, means a Contract or Contractual action entered into by a prime Contractor or subContractor for the purpose of obtaining supplies, materials, equipment, or services of any kind under a prime Contract.

I.9.1.7 “SubContractor,” as used in this clause, means any person, other than the prime Contractor, who offers to furnish or furnishes any supplies, materials, equipment, or services of any kind under a prime Contract or a subContract entered into in connection with such prime Contract and includes any person

who offers to furnish or furnishes general supplies to the prime Contractor or a higher tier subContractor.

- I.9.1.8 “SubContractor employee,” as used in this clause, means any officer, partner, employee, or agent of a subContractor.
- I.9.2 The Anti-Kickback Act of 1986, 41 U.S.C. §§ 51-58 (the Act), prohibits any person from:
 - I.9.2.1 Providing or attempting to provide or offering to provide any kickback;
 - I.9.2.2 Soliciting, accepting, or attempting to accept any kickback; or
 - I.9.2.3 Including, directly or indirectly, the amount of any kickback in the Contract price charged by a prime Contractor to the District or in the Contract price charged by a subContractor to a prime Contractor or higher tier subContractor.
- I.9.3 The Contractor shall have in place and follow reasonable procedures designed to prevent and detect possible violations described in paragraph I-10.2 of this clause in its own operations and direct business relationships.
- I.9.4 When the Contractor has reasonable grounds to believe that a violation described in paragraph I-10.2 of this clause may have occurred, the Contractor shall promptly report in writing the possible violation to the Director, Contracts and Procurement/Agency Chief Contracting Officer.
- I.9.5 The Director, Contracts and Procurement/Agency Chief Contracting Officer may offset the amount of the kickback against any monies owed by the District under the prime Contract and/or direct that the Prime Contractor withhold from sums owed a subContractor under the prime Contract the amount of the kickback. The Director, Contracts and Procurement/Agency Chief Contracting Officer may order that monies withheld under this clause be paid over to the District unless the District has already offset those monies under this clause. In either case, the Prime Contractor shall notify the Director, Contracts and Procurement/Agency Chief Contracting Officer when the monies are withheld.

I.10 INSURANCE

- A. **GENERAL REQUIREMENTS.** The Contractor shall procure and maintain, during the entire period of performance under this contract, the types of insurance specified below. The Contractor shall have its insurance broker or insurance company submit a Certificate of Insurance to the CO giving evidence of the required coverage prior to commencing performance under this contract. In no event shall any work be performed until the required Certificates of Insurance signed by an authorized representative of the

insurer(s) have been provided to, and accepted by, the CO. All insurance shall be written with financially responsible companies authorized to do business in the District of Columbia or in the jurisdiction where the work is to be performed and have an A.M. Best Company rating of A-VIII or higher. The Contractor shall require all of its subcontractors to carry the same insurance required herein. The Contractor shall ensure that all policies provide that the CO shall be given thirty (30) days prior written notice in the event the stated limit in the declarations page of the policy is reduced via endorsement or the policy is canceled prior to the expiration date shown on the certificate. The Contractor shall provide the CO with ten (10) days prior written notice in the event of non-payment of premium.

1. Commercial General Liability Insurance. The Contractor shall provide evidence satisfactory to the CO with respect to the services performed that it carries \$1,000,000 per occurrence limits; \$2,000,000 aggregate; Bodily Injury and Property Damage including, but not limited to: premises-operations; broad form property damage; Products and Completed Operations; Personal and Advertising Injury; contractual liability and independent contractors. The policy coverage shall include the District of Columbia as an additional insured, shall be primary and non-contributory with any other insurance maintained by the District of Columbia, and shall contain a waiver of subrogation. The Contractor shall maintain Completed Operations coverage for five (5) years following final acceptance of the work performed under this contract.
2. Automobile Liability Insurance. The Contractor shall provide automobile liability insurance to cover all owned, hired or non-owned motor vehicles used in conjunction with the performance of this contract. The policy shall provide a \$1,000,000 per occurrence combined single limit for bodily injury and property damage.
3. Workers' Compensation Insurance. The Contractor shall provide Workers' Compensation insurance in accordance with the statutory mandates of the District of Columbia or the jurisdiction in which the contract is performed.
4. Employer's Liability Insurance. The Contractor shall provide employer's liability insurance as follows: \$500,000 per accident for injury; \$500,000 per employee for disease; and \$500,000 for policy disease limit.

I.11 CONFIDENTIALITY OF INFORMATION

- I.11.1 All information obtained by the Contractor relating to any employee or customer of the District shall 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.12 RIGHTS IN DATA

- I.12.1 “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.12.2 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, 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.12.3 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.12.4 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.12.5 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.

I.12.6 The District shall 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 shall 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.12.6.1 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.12.6.2 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.12.6.3 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.12.7 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 such computer software shall relieve the District of liability with respect to such unmarked software.

- I.12.8 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 Contracting 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.12.9 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 subContractor data or computer software which is required for the District.
- I.12.10 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.12.11 The Contractor shall indemnify and save and hold harmless the District, its officers, agents and employees acting within the scope of their official duties against any liability, including costs and expenses, (i) for violation of proprietary rights, copyrights, or rights of privacy, arising out of the publication, translation, reproduction, delivery, performance, use or disposition of any data furnished under this Contract, or (ii) based upon any data furnished under this Contract, or based upon libelous or other unlawful matter contained in such data.

I.12.12 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.12.13 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.13 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.14 SUBCONTRACTS

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

I.15 EQUAL EMPLOYMENT OPPORTUNITY

In accordance with the District of Columbia Administrative Issuance System, Mayor's Order 85-85 dated June 10, 1985, the forms for completion of the Equal Employment Opportunity Information Report are incorporated herein as Section J.4. An award cannot be made to any bidder who has not satisfied the equal employment requirements.

I.16 GOVERNING LAW

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

I.17 ORDER OF PRECEDENCE

A conflict in language shall be resolved by giving precedence to the document in the highest order of priority which contains language addressing the issue in question. The following sets forth in descending order of priority the documents comprising this Contract:

1. Consent Order dated December 12, 2003 in Dixon, et al. v. Gray et al., CA 74-285 (TFH) (Dixon Consent Order) (if appropriate).
2. Wage Determination No. 05-2103, Rev. 10, dated June 15, 2010
3. Standard Contract Provisions for the Use with District of Columbia Government Supply and Services Contracts, March 2007.
4. Sections A through J of this Contract Number RM-12-RFQ-085-BY-THS

***** END OF SECTION I *****

SECTION J

LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACHMENTS

WEBSITES ADDRESSES FOR COMPLIANCE DOCUMENTS:

- J.1** **STANDARD CONTRACT PROVISIONS (JULY 2010)**
http://ocp.in.dc.gov/ocp/lib/ocp/policies_and_form/Standard_Contract_Provisions_July2010.pdf
- J.2** **WAGE DETERMINATION (REVISION 8, MAY 26, 2009)**
[Wage Determination - May 29, 2008.PDF \(568KB\)](http://www.dmh.dc.gov/dmh/cwp/view,a,3,q,639222,dmhNav,31262,asp)
- J.3** **CONSENT ORDER DATED DECEMBER 12, 2003 in DIXON, ET AL. V FENTY, ET AL., CA 74-285 (TFH) (DIXON CONSENT ORDER)**

<http://www.dmh.dc.gov/dmh/cwp/view,a,3,q,639222,dmhNav,31262,asp>
- J.4** **EQUAL EMPLOYMENT OPPORTUNITY INFORMATION AND MAYOR ORDER 85-85**

<http://ocp.dc.gov/DC/OCP/Vendor+Support+Center/Solicitation+Attachments/EEO+Information+and+Mayor+Order+85-85>
- J.5** **FIRST SOURCE EMPLOYMENT AGREEMENT**
<http://ocp.dc.gov/DC/OCP/Vendor+Support+center/Solicitation+Attachments/First=Source+Employment+Agreement>
- J.6** **BUDGET PACKAGE (ATTACHMENT ONE)**
<http://ocp.dc.gov/DC/OCP/Vendor+Support+Center/Solicitation+Attachments/COST+DATA+REQUIREMENTS+Template>
- J.7** **TAX CERTIFICATION AFFIDAVIT**
<http://ocp.dc.gov/DC/OCP/Vendor+Support+Center/Solicitation+Attachments/Tax+Certification+Affidavit>
- J.8** **LIVING WAGE ACT FACT SHEET (THE WAY TO WORK AMENDMENT ACT OF 2006)**
<http://ocp.dc.gov/DC/OCP/Publication%20Files/Living%20Wage%20Act%20Fact%20Sheet2010.pdf>
- J.9** **DEPARTMENT OF MENTAL HEALTH POLICIES AND RULES**
<http://www.dmh.dc.gov/dmh/cwp/view,a,3,q,621393,dmhNav,%7C31262%7C.asp>

Contractor shall perform all services in accordance with the Standard Contract Provisions for use with District of Columbia Government Supplies and Services Contracts, dated July 2010 and incorporated herein by reference.

***DOCUMENTS ATTACHED SEPARATELY**

***** END OF SECTION J *****