AWARD/CONTRACT

1. Caption – Market-OPEN

FY18 RiverSmart Schools

Page of Pages
1 61

2. Contract Number

3. Effective Date

4. Requisition/Purchase Request/Project No.

CW59438

SEE BLOCK 20C

RQ975159

5. Issued By: Code

6. Administered by (If other than line 5)

Office of Contracting and Procurement
District of Columbia Government
441 4th Street, N.W., Suite 700 South
Washington D.C. 20001

Department of Energy and Environment
District of Columbia Government
Watershed Protection Division
1200 First Street, N.E., 6th Floor
Washington, DC 2002

8. Name and Address of Contractor (No. street, city, county, state and Zip Code)

J & G Landscape Design, Inc.
1910 Spencerville Road
Spencerville, MD 20868
Attn: Jeff Potter, President
Phone: 301-476-7600

8. Delivery

□ FOB Origin

□ Other (See Schedule Section F

9. Discount for prompt payment

10. Submit invoices to the Address shown in

(2 copies unless otherwise specified)

Section G.11

11. Ship to/Mark For

Code

12. Payment will be made by

Code

Department of Energy and Environment
District of Columbia Government
Watershed Protection Division
1200 First Street, N.E., 6th Floor
Washington, DC 2002

Office of the Chief Financial Officer
Government Services Cluster – Accounts Payable Division
2000 14th Street, N.W., 6th Floor
Washington D.C. 20009

13. Reserved for future use

14. Accounting and Appropriation Data

ENCUMBRANCE CODE

15A Item

15B Supplies/Services

15C Qty.

15D Unit

15E Individual

15F Total Annual

Monthly Price

Per Client

Additional Price

0001

Design, construct and install low impact development ("LID") stormwater retrofits and outdoor education features at three (3) local District of Columbia Schools through its RiverSmart Schools program

1

Design/Build

See Price Schedule Section B.3

$640,529.00

Total Amount of Contract $640,529.00

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Description

Page (X) Section

Description

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17. CONTRACTOR’S NEGOTIATED AGREEMENT (Contractor is required to sign this document and return one copy to issuing office.) Contractor agrees to furnish and deliver all items, perform all the services set forth or otherwise identified above and on any continuation sheets, for the consideration stated herein. The rights and obligations of the parties to this contract shall be subject to and governed by the following documents: (a) this award/contract, (b) the solicitation, if any, and (c) such provisions, representations, certifications, and specifications, as are attached or incorporated by reference herein. (Attachments are listed herein.)

18. AWARD (Contractor is not required to sign this document.) Your offer on Solicitation Number DOC356425, including the additions or changes made by which additions or changes are set forth in full above, is hereby accepted as to the items listed above and on any continuation sheets. This award consummates the contract which consists of the following documents: (a) the Government’s solicitation and your offer, and (b) this award/contract. No further contractual document is necessary.

19A. Name and Title of Signer (Type or print)

Gregg E. Potter

UP

19B. Signature of Person authorized to sign

[Signature]

[Signature]

19C. Date Signed

3/10/18

20A. Name of Contracting Officer

Marie Niestrath

20B. Date of Columbia

3/10/18

20C. Date Signed

Signature of Contracting Officer

Government of the District of Columbia

Office of Contracting and Procurement

DC OCP 201 (7-99)
SECTION B
CONTRACT TYPE, SUPPLIES OR SERVICES AND PRICE/COST

B.1 INTRODUCTION

The District of Columbia, Office of Contracting and Procurement (“OCP”), on behalf of the District Department of Environment (“DOEE”), is awarding J&G Landscape Design, Inc. (“Contractor”, “Design Build (DB) Contractor”), a qualified contractor to provide all labor, materials, equipment and supervision necessary to design, construct and install low impact development (“LID”) stormwater retrofits and outdoor education features at three (3) local District of Columbia Schools through its RiverSmart Schools program. The LID retrofits must be designed to treat and infiltrate stormwater from impervious areas, including school parking lots and impervious play areas. The selected offeror will serve as the design-build contractor for the Project. The projects must be completed by August 30, 2018.

B.2 FIRM FIXED PRICE CONTRACT

The District contemplates award of a firm fixed-price design-build contract (“Contract”) in accordance with 27 DCMR Chapter 24.

B.3 PRICE SCHEDULE/COST SCHEDULE

B.3.1 All Three (3) Schools Price Schedule

<table>
<thead>
<tr>
<th>Contract Line Item Number (CLIN)</th>
<th>Item Description</th>
<th>Total Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>0001</td>
<td>Project Kickoff meeting minutes (See Section C.5.1.1)</td>
<td>$500.00</td>
</tr>
<tr>
<td>0002</td>
<td>Detailed Project Plan (See Section C.5.1.1)</td>
<td>$500.00</td>
</tr>
<tr>
<td>0003</td>
<td>Concept Design Drawings (See Section C.5.1.3.1.3)</td>
<td>$4,500.00</td>
</tr>
<tr>
<td>0004</td>
<td>Concept Design Boards (See Section C.5.1.3.1.3)</td>
<td>$1,500.00</td>
</tr>
<tr>
<td>0005</td>
<td>Concept Design Meeting (See Section C.5.1.3.1.4)</td>
<td>$1,500.00</td>
</tr>
<tr>
<td>0006</td>
<td>Concept Designs (Section C.5.1.3.2)</td>
<td>$12,000.00</td>
</tr>
</tbody>
</table>
### B.3.1.1 Summary Price Schedule

<table>
<thead>
<tr>
<th>Contract Line Item Number (CLIN)</th>
<th>ITEM DESCRIPTION</th>
<th>ITEM TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>0001</td>
<td>Design and construct low impact development and outdoor education features at IDEA Public Charter School as outlined in Section C. 5 below.</td>
<td>$218,759.00</td>
</tr>
</tbody>
</table>
B.3.1 Design-Build Price

B.3.1.1 Offeror’s firm fixed price shall be “all inclusive” and should include sufficient funding to cover all of the Design-Build (DB) Contractor’s Costs necessary to timely perform all of the Work to complete the Project, including, but not limited to, profit, overhead, general and administrative Costs, supervision, labor, materials, Equipment, warranty, services of Subcontractors, taxes and such professional services as may be required to complete the design and obtain the necessary permits and Governmental Approvals.

B.3.2 Each offeror shall submit with its proposal an itemized breakdown of the firm fixed price in accordance with Section L.2.5 below.

B.3.3 Timing of payments is shown in Section L.2.5.C below. Each offeror must submit a completed Attachment J.21, DB Contractor Payment Schedule.

B.4 RESERVED

<table>
<thead>
<tr>
<th>0002</th>
<th>Design and construct low impact development and outdoor education features at Janney Elementary School as outlined in Section C. 5 below.</th>
<th>$ 202,727.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>0003</td>
<td>Design and construct low impact development and outdoor education features at Lee Montessori Public Charter School as outlined in Section C. 5 below.</td>
<td>$ 219,043.00</td>
</tr>
</tbody>
</table>

GRAND TOTAL FOR ALL THREE (3) SCHOOLS: $ 640,529.00
C.1 SCOPE

The design and construction of these low impact development and outdoor education features at these schools have different and unique requirements. The DB Contractor shall be required to work with OCP, DOEE, DCPS, and Department of General Services (DGS) to advance the design and installation of LID stormwater retrofits. A minimum 1.2 inch rainfall should be used as the basis of bioretention and permeable paver sizing. Additional feasibility analyses, such as checks for utility conflicts may also be needed before the design and construction of the proposed retrofits.

DOEE will coordinate the design and construction of low impact development (LID) features at IDEA Public Charter School located at 1027 45th Street NE Washington, DC 20019, Lee Montessori Public Charter School located at 3025 4th Street NE Washington, DC 20017, and Janney Elementary School located at 4130 Albemarle Street NW Washington DC 20016. The Contractor shall provide all necessary labor, materials, tools, equipment, supervision and incidentals to complete the requirements. The statement of work (SOW) set forth herein contains the entire project, including the design and installation of the LID retrofits, any necessary permitting, and the maintenance and warranty of the installed retrofits for one year following construction. Work shall be performed in accordance with the District of Columbia 2013 Stormwater Management Rule and Guidebook (Section C.2, Items No. 0001 and 0002).

The project must be completed by August 30, 2018.

C.1.1 GENERAL DESCRIPTION OF THE PROJECT AREAS

The goals of the Projects are to retrofits the selected three (3) schoolyard sites of impervious areas with green infrastructures to restore natural hydrology, prevent erosion, reduce stormwater pollution and increase natural habitat for the pollinators in the area. Because of the high visibility of the Project Area and nature of the Project, the school partners desire creative designs that will be attractive yet cost effective.

The specific objectives of the Projects are to:

A. Decrease water pollution and increase groundwater recharge by treating polluted stormwater runoff on the Project Area through proven vegetative LID practices;

B. Reduce flooding hazards by capturing and infiltrating the first 1.2 inches of a rainfall event from the Project Area (i.e., 90% of all rain events will be captured in the Project Area); and

C. Establish an outdoor classroom space for instructional use to teach environmental literacy and nature investigation.
C.1.2 Project Goals and Objectives

The goals of the projects are to design and construct low impact development and outdoor education features at three (3) schoolyard in the District of Columbia. These sites are: (1) IDEA Public Charter School located at 1027 45th Street NE Washington, DC 20019; (2) Janney Elementary located at 4130 Albemarle St NW Washington DC 20016; and (3) Lee Montessori Public Charter School located at 3025 4th Street NE Washington, DC 20017. Because of the high visibility of the Project Areas and nature of the Projects, the school partners desire creative designs that will be attractive yet cost effective.

The specific objectives of the Project are to:
A. Decrease water pollution and increase groundwater recharge by treating polluted stormwater runoff on the Project Area through proven LID practices;

B. Aim to capture and infiltrate the first 1.2 inches of a rainfall event from the Project Area;

C. Create habitat for plant and animal life; and

D. Construct outdoor education features sized twenty (20) elementary school students.

C.2 APPLICABLE DOCUMENTS

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Document Type</th>
<th>Title</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>0001</td>
<td>Stormwater Management Rules adopted on July 22\textsuperscript{nd}, 2013 by the District</td>
<td>2013 Rule on Stormwater Management and Soil Erosion and Sediment Control</td>
<td>2013</td>
</tr>
<tr>
<td>0002</td>
<td>Stormwater Guidebook</td>
<td>2013 Stormwater Management Guidebook</td>
<td>2013</td>
</tr>
<tr>
<td>0003</td>
<td>DDOT Standard and Specifications</td>
<td>District Department of Transportation, Standard Specifications for Highways and Structures</td>
<td>2013</td>
</tr>
<tr>
<td>0004</td>
<td>DDOT Green Infrastructure Standards</td>
<td>District Department of Transportation, Green Infrastructure Standards, Supplement to Design and Engineering Manual</td>
<td>2014</td>
</tr>
<tr>
<td>0006</td>
<td>DDOT Tree Protection Guidelines</td>
<td>Construction Guidelines for Tree Protection set forth by the District Department of Transportation, Urban Forestry Administration</td>
<td>2009</td>
</tr>
</tbody>
</table>

C.3 DEFINITIONS

C.3.1 ABBREVIATIONS, ACRONYMS AND DEFINITIONS
### C.3.2 DEFINITIONS

<table>
<thead>
<tr>
<th>Term</th>
<th>Meaning</th>
</tr>
</thead>
</table>
| Affiliate| a. Any Person who directly or indirectly through one or more intermediaries controls, or is controlled by, or is under common control with the DB Contractor;  
           b. Any Person for which 10% or more of the equity interest in such Person is held directly or indirectly, beneficially, or of record by the (a) DB Contractor; or (b) Any Affiliate of the DB Contractor. |

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Title/Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>CA</td>
<td>Contract Administrator (DOEE)</td>
</tr>
<tr>
<td>CFO</td>
<td>Chief Financial Officer</td>
</tr>
<tr>
<td>CO</td>
<td>Contracting Officer</td>
</tr>
<tr>
<td>CPO</td>
<td>Chief Procurement Officer</td>
</tr>
<tr>
<td>DBE</td>
<td>Disadvantaged Business Enterprise</td>
</tr>
<tr>
<td>DC</td>
<td>District of Columbia</td>
</tr>
<tr>
<td>DCMR</td>
<td>District of Columbia Municipal Regulations</td>
</tr>
<tr>
<td>DCRA</td>
<td>Department of Consumer and Regulatory Affairs</td>
</tr>
<tr>
<td>DDOT</td>
<td>District Department of Transportation</td>
</tr>
<tr>
<td>DOEE</td>
<td>Department of Energy and Environment</td>
</tr>
<tr>
<td>DOES</td>
<td>Department of Employment Services</td>
</tr>
<tr>
<td>DOL</td>
<td>Department of Labor</td>
</tr>
<tr>
<td>DSLBD</td>
<td>Department of Small and Local Business Development</td>
</tr>
<tr>
<td>EPA</td>
<td>U.S. Environmental Protection Agency</td>
</tr>
<tr>
<td>ESC</td>
<td>Erosion and Sediment Control</td>
</tr>
<tr>
<td>FOIA</td>
<td>Freedom of Information Act</td>
</tr>
<tr>
<td>LID</td>
<td>Low Impact Development</td>
</tr>
<tr>
<td>MBE</td>
<td>Minority Business Enterprise</td>
</tr>
<tr>
<td>OCP</td>
<td>Office of Contracting and Procurement</td>
</tr>
<tr>
<td>PDRM</td>
<td>Preliminary Design Review Meeting</td>
</tr>
<tr>
<td>QA</td>
<td>Quality Assurance</td>
</tr>
<tr>
<td>QC</td>
<td>Quality Control</td>
</tr>
<tr>
<td>RCRA</td>
<td>Resource Conservation and Recovery Act</td>
</tr>
<tr>
<td>RFP</td>
<td>Request for Proposal</td>
</tr>
<tr>
<td>ROW</td>
<td>Right-of-Way</td>
</tr>
<tr>
<td>SWM</td>
<td>Stormwater Management</td>
</tr>
<tr>
<td>WBE</td>
<td>Women’s Business Enterprise</td>
</tr>
<tr>
<td>Term</td>
<td>Definition</td>
</tr>
<tr>
<td>-------------------------------</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Contract</td>
<td>The binding agreement between the District of Columbia and another party or parties.</td>
</tr>
<tr>
<td>Agent for the Owner</td>
<td>District Department of Energy &amp; Environment</td>
</tr>
<tr>
<td>Approve or Approval</td>
<td>Formal conditional determination in writing by the District that a particular matter or item is good or satisfactory for the Project. Such determination may be based on requirements beyond those set forth in the Contract Documents and may reflect preferences of the District.</td>
</tr>
<tr>
<td>As-Buils</td>
<td>Revised set of drawings submitted by a contractor upon completion of a project or a particular job. They reflect all changes made in the specifications and working drawings during the construction process, and show the exact dimensions, geometry, and location of all elements of the work completed under the contract.</td>
</tr>
<tr>
<td>Award</td>
<td>The Acceptance of the Proposal by the Contracting Officer</td>
</tr>
<tr>
<td>Business Day</td>
<td>A day that DOEE is open for business, excluding Holidays, Saturdays and Sundays.</td>
</tr>
<tr>
<td>Calendar Day</td>
<td>Each and every day shown on the calendar, including Saturdays and Sundays, beginning and ending at midnight.</td>
</tr>
<tr>
<td>Change Order</td>
<td>A written order issued by the Contracting Officer to the DB Contractor covering changes in the contract.</td>
</tr>
<tr>
<td>Completion Date</td>
<td>Any or all of the following deadlines, depending on the context: the Substantial Completion Date and/or Final Completion Date and/or Final Acceptance Date.</td>
</tr>
<tr>
<td>Concept Designs</td>
<td>Conceptual Design Plans</td>
</tr>
<tr>
<td>Construction Site Manager</td>
<td>Designee of the DB Contractor responsible for overseeing the construction work and long-term Project schedule.</td>
</tr>
<tr>
<td>Contract Documents</td>
<td>Contract, addenda, general provisions, labor provisions, Performance and Payment Bonds, specifications, special provisions, Contract Drawing, approved written change orders and agreements required to acceptably complete the Contract including authorized extensions thereof.</td>
</tr>
<tr>
<td>Contract Drawings</td>
<td>The Chief Procurement Officer’s designee vested with the authority to execute and administer the Contract on behalf of the District or otherwise bind the District in compliance with the provisions of the Procurement Practices Reform Act of 2010 and shall include his/her duly appointed successor and his/her authorized representative.</td>
</tr>
<tr>
<td>Contracting Officer</td>
<td>The Chief Procurement Officer’s designee vested with the authority to execute and administer the Contract on behalf of the District or otherwise bind the District in compliance with the provisions of the Procurement Practices Reform Act of 2010 and shall include his/her duly appointed successor and his/her authorized representative.</td>
</tr>
<tr>
<td>Cost</td>
<td>The actual cost incurred, as distinguished from forecasted cost and determined in accordance with prevailing principles applicable to public contracts.</td>
</tr>
<tr>
<td><strong>Design Build Contractor (DB Contractor)</strong></td>
<td>The individual, firm, partnership, corporation or joint venture under Contract with the District for execution of the prescribed Work, acting directly or through an authorized representative.</td>
</tr>
<tr>
<td><strong>Disadvantaged Business Enterprise (DBE)</strong></td>
<td>An entity owned or controlled by a socially and economically disadvantaged individual as described by Public Law 102–389 (42 U.S.C. 4370d) or an entity owned and controlled by a socially and economically disadvantaged individual as described by Title X of the Clean Air Act Amendments of 1990 (42 U.S.C. 7601 note); a Small Business Enterprise (SBE); a Small Business in a Rural Area (SBRA); or a Labor Surplus Area Firm (LSAF), a Historically Underutilized Business (HUB) Zone Small Business Concern, or a concern under a successor program.</td>
</tr>
<tr>
<td><strong>District</strong></td>
<td>The District of Columbia, a municipal corporation, and its agencies.</td>
</tr>
<tr>
<td><strong>Defect or Defective</strong></td>
<td>Nonconforming Work</td>
</tr>
<tr>
<td><strong>Design Documents</strong></td>
<td>All drawings (including Plans, elevations, sections, details, and diagrams), specifications, reports, calculations and records, at any stage of development or revision necessary for design of the Project in accordance with the Contract Documents.</td>
</tr>
<tr>
<td><strong>Dispute</strong></td>
<td>Any claim, disagreement, or controversy between District and DB Contractor concerning their respective rights and obligations under the Contract Documents including any alleged breach of Contract or failure to perform and remedies.</td>
</tr>
<tr>
<td><strong>DOEE Project Manager</strong></td>
<td>Designee by DOEE responsible for overseeing construction of the Project.</td>
</tr>
<tr>
<td><strong>Equipment</strong></td>
<td>All machinery, tools, and apparatus together with supplies for upkeep and maintenance, necessary for the proper construction/design and acceptable completion of the Work.</td>
</tr>
<tr>
<td><strong>Error</strong></td>
<td>An error, omission, inconsistency, inaccuracy or deficiency.</td>
</tr>
<tr>
<td><strong>Erosion and Sediment Control Inspector</strong></td>
<td>DOEE representative charged with inspecting construction projects and construction of green infrastructure</td>
</tr>
<tr>
<td><strong>ESC Plan</strong></td>
<td>Design Plans and Construction Drawings</td>
</tr>
<tr>
<td><strong>Fair Share Objective</strong></td>
<td>An objective expressing the percentage of MBE or WBE utilization expected absent the effects of discrimination.</td>
</tr>
<tr>
<td><strong>Field Superintendent</strong></td>
<td>The DB Contractor’s authorized representative responsible for running the day-to-day operations on the construction site and control the short-term schedule.</td>
</tr>
<tr>
<td><strong>Governmental Approval</strong></td>
<td>Any approval, authorization, certification, consent, decision, exemption, filing, lease, license, permit, agreement, concession, grant, franchise, registration or ruling, required by or with any Governmental Person in order to design and construct the Project.</td>
</tr>
<tr>
<td><strong>Governmental Approval</strong></td>
<td>New Year’s Day</td>
</tr>
<tr>
<td><strong>Inauguration Day</strong></td>
<td>Dr. Martin Luther King, Jr. Birthday</td>
</tr>
<tr>
<td><strong>President’s Day</strong></td>
<td>President’s Day</td>
</tr>
<tr>
<td><strong>D.C. Emancipation Day</strong></td>
<td>D.C. Emancipation Day</td>
</tr>
<tr>
<td><strong>Memorial Day</strong></td>
<td>Memorial Day</td>
</tr>
<tr>
<td><strong>Independence Day</strong></td>
<td>Independence Day</td>
</tr>
<tr>
<td><strong>Labor Day</strong></td>
<td>Labor Day</td>
</tr>
<tr>
<td><strong>Columbus Day</strong></td>
<td>Columbus Day</td>
</tr>
<tr>
<td><strong>Veteran’s Day</strong></td>
<td>Veteran’s Day</td>
</tr>
<tr>
<td><strong>Thanksgiving Day</strong></td>
<td>Thanksgiving Day</td>
</tr>
<tr>
<td>Term</td>
<td>Description</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
</tr>
<tr>
<td>Christmas Day</td>
<td>When any of the above Holidays falls on Sunday, the Holiday will be observed on the following Monday; when any of the Holidays falls on a Saturday, the Holiday will be observed on the immediately preceding Friday. If Approved in writing by the District, the DB Contractor may work on Holidays.</td>
</tr>
<tr>
<td>Inspection</td>
<td>The act of viewing or looking carefully at construction, manufacturing, design, and maintenance practices, processes, and products, including document control and shop drawing review, to ensure that the practices, processes, and products comply with the quality requirements contained in the Contract Documents.</td>
</tr>
<tr>
<td>Licensed Professional Engineer</td>
<td>A Disadvantaged Business Enterprise (DBE) other than a Small Business Enterprise (SBE), a Labor Surplus Area Firm (LSAF), a Small Business in Rural Areas (SBRA), or a Women's Business Enterprise (WBE).</td>
</tr>
<tr>
<td>Minority Business Enterprise (MBE)</td>
<td>A written order to the DB Contractor stating the date on which the DB Contractor shall begin prosecution of the Work under the Contract, or to begin a phase of the Work.</td>
</tr>
<tr>
<td>Notice to Proceed</td>
<td>Final Construction Designs that can be permitted for construction.</td>
</tr>
<tr>
<td>One hundred Percent (100%) Design Drawings</td>
<td>Final Construction Designs that can be permitted for construction.</td>
</tr>
<tr>
<td>Owner</td>
<td>Department of General Services</td>
</tr>
<tr>
<td>Performance and Payment Bond</td>
<td>A guarantee by a surety company that the DB Contractor will be responsible for the performance and fulfillment of the Contract and will pay all bills and accounts for materials and labor used in the Work.</td>
</tr>
<tr>
<td>Person</td>
<td>Any individual, corporation, company, voluntary association, partnership, trust, unincorporated organization, or Governmental Person, including the District.</td>
</tr>
<tr>
<td>Plans</td>
<td>The Contract Drawings which show the location, character and dimensions of the prescribed Work including layouts, profiles, cross sections and other details.</td>
</tr>
<tr>
<td>Primary Designer</td>
<td>A Licensed Professional Engineer designated by the DB Contractor to develop Construction Designs in consultation with a licensed landscape architect.</td>
</tr>
<tr>
<td>Project</td>
<td>The entire Work to be completed under the Contract.</td>
</tr>
<tr>
<td>Project Executive</td>
<td>Designee of the DB Contractor responsible for overall Project design, construction, installation, contract administration; ensuring that adequate personnel and resources are assigned to the Project; delivery of the Project; and post-construction services.</td>
</tr>
<tr>
<td>Project Areas</td>
<td>The locations where the Work will be performed: IDEA Public Charter School at 1027 45th St NE; Janney Elementary at 4130 Albemarle St NW; and Lee Montessori Public Charter School at 3025 4th St NE.</td>
</tr>
<tr>
<td>Project Kickoff</td>
<td>A meeting that will be convened by the CO and CA within five (5) business days of Contract award between the selected DB Contractor’s team and representatives of DOEE to discuss key deliverables; Project timelines and other expectations.</td>
</tr>
<tr>
<td>Project Partners</td>
<td>DOE, DGS, DCPS, DDOT</td>
</tr>
<tr>
<td>Proposal</td>
<td>The offer submitted by an offeror in response to this RFP to perform stated Work at the prices quoted.</td>
</tr>
<tr>
<td>Public Space</td>
<td>All publically owned property located between the property lines on a street and includes, but is not limited to, the roadway, tree spaces, sidewalks and alleys.</td>
</tr>
<tr>
<td>Punch List</td>
<td>The list of Work items with respect to the Project that remain to be completed prior to Final Acceptance.</td>
</tr>
</tbody>
</table>
### Quality Assurance (QA)
All those planned and systematic actions necessary for the DB Contractor to certify to the District that all Work fully complies with the requirements of the Contract Documents and that all materials incorporated in the Work, all equipment used, and all elements of the Work will perform satisfactorily for the purpose(s) intended.

### Quality Control (QC)
The Activities performed by the DB Contractor, designer, producer or manufacturer to ensure and document that a product meets the requirements of the Contract Documents. Activities may include checking, materials handling and construction procedures, calibrations and maintenance of equipment, shop drawing review, document control, production process control, and any sampling, testing, and Inspection done for these purposes.

### Semi-Final Drawings
Draft Detailed Construction Designs

### Specifications
All the directions, provisions and requirements contained in the standard specifications and special provisions which are necessary for the proper performance of the Contract.

### Subcontractor
Any individual, partnership, firm, corporation or any acceptable combination thereof, or joint venture, to which the DB Contractor, with the consent of District, sublets part of the Contract.

### Women’s Business Enterprise (WBE)
A business concern which is at least 51% owned or controlled by women for purposes of EPA's 8% statute or a business concern which is at least 51% owned and controlled by women for purposes for EPA’s 10% statute. Determination of ownership by a married woman in a community property jurisdiction will not be affected by her husband's 50 percent interest in her share. Similarly, a business concern which is more than 50 percent owned by a married man will not become a qualified WBE by virtue of his wife's 50 percent interest in his share.

### Work
The furnishing of all labor, materials, equipment and incidentals necessary or convenient to the successful completion of the Project and the carrying out of duties and obligations imposed by the Contract.

## C.4. BACKGROUND

The Department of Energy & Environment (DOEE) is the leading authority on energy and environmental issues affecting the District of Columbia. Its mission is to improve the quality of life for the residents and natural inhabitants of the District by protecting and restoring the environment; conserving natural resources; mitigating pollution; and educating the public on ways to secure a sustainable future. Using a combination of regulations, outreach, education, and incentives, DOEE administers programs and services to fulfill its mission. DOEE works collaboratively with other government agencies, residents, businesses, and institutions to promote environmentally responsible behavior that will lead to a more sustainable urban environment.

The stormwater retrofits to be installed as a part of this SOW are funded through the DOEE, Watershed Protection Division program called RiverSmart Schools and through the U.S. Environmental Protection Agency (EPA) Clean Water State Revolving Fund (CWSRF). This program creates outdoor classrooms and learning areas on school grounds and provides teachers with training and resources that can be
utilized for outdoor environmental education focused on the protection and restoration of local watersheds and the Chesapeake Bay.

In addition to installing new schoolyard green space, the program provides teachers with the training and resources they need to use their conservation site to teach lessons based on the District of Columbia Public Schools (DCPS) Standards. The garden will serve as a permanent outdoor learning tool for teachers to provide hands-on learning in many areas of study. Further information on this program can be found at [http://ddoe.dc.gov/service/riversmart-schools](http://ddoe.dc.gov/service/riversmart-schools).

DOEE will coordinate and oversee this Project through a partnership with the DGS, and DCPS (“Project Partners”). DOEE will act as the partners’ agent during the design and construction of the Project. DGS will be the owner of the completed Project at Janney Elementary.

DOEE applied for CWSRF funds in 2014 to retrofit DPR parkland with LID practices. The Project was funded in fiscal year 2015 and the partnership is moving forward with an initial effort including two parks targeted for retrofits. If deemed successful, the partnership will fund additional retrofits in future years.

C.5 REQUIREMENTS/PROJECT DELIVERY METHOD

The Design-Build (DB) Contractor shall design and construct low impact development and outdoor education features at three (3) schools in the District of Columbia. The site locations are: (a) IDEA Public Charter School located at 1027 45th St NE Washington DC 20019; (b) Janney Elementary located at 4130 Albemarle St NW Washington DC 20016; and (c) Lee Montessori Public Charter School located at 3025 4th St NE Washington DC 20017. The project must be completed by August 30, 2018.

C.5.1 PHASE 1 - PRECONSTRUCTION PHASE

The Preconstruction Phase will run from issuance of the Notice to Proceed for a period of no more than six (6) months.

C.5.1.1 The DB Contractor shall work in consultation with the DOEE Project Manager and OCP to: (i) complete Project planning, budgeting and scheduling; (ii) determine the current Project Area characteristics; (iii) advance the design of the Project in a manner consistent with the schedule and programmatic and other requirements; and (iv) obtain required permits.

C.5.1.1.1 The DB Contractor shall within five (5) business days of Contract award schedule a Project Kickoff meeting with the CO and CA to discuss key deliverables; Project timelines and other expectations (“Project Kickoff”).

C.5.1.2 DESIGN PARTICIPATION

During the Preconstruction Phase, the DB Contractor shall be required to complete the following:
a. Establish and maintain lines of communication with DOEE Project Manager;
b. Attend and participate in the Project Kickoff meeting;
c. Within three (3) weeks of Contract award, provide to the DOEE Project Manager a written, detailed Project plan and schedule;
d. Provide a Licensed Professional Engineer to serve as the Primary Designer for the Project who will be responsible for actively overseeing and managing the development of construction designs, including, but not limited to, regularly consulting with the landscape architect and actively monitoring and promptly responding to comments from agencies during the permit review process;
e. Include on its design team a licensed and certified Geotechnical Engineer with at least five (5) years of experience and who has overseen at least five (5) projects involving oversight of infiltration rate testing within the last five (5) years.
f. Meet with the DOEE Project Manager on a periodic and ongoing basis (but not less frequently than once a month) to discuss the status of the project and conduct design reviews, including one prior to the completion of permit documents;
g. Document all meetings through minutes and disperse meeting minutes to all Project partners; and
h. Submit monthly written progress reports to the DOEE Project Manager.

C.5.1.3 DETERMINATION OF CURRENT PROJECT AREA CHARACTERISTICS

C.5.1.3.1 The Design-Build (DB) Contractor shall inspect and examine the Project Area and surrounding locations and undertake other appropriate activities sufficient to familiarize itself with surface and subsurface conditions affecting the Project including, but not limited to the following:

a. Review and record existing information for the Project Area including locations and depths of sanitary and storm sewers, utilities (if any), and surveys of land plats and ownership points; plats and ownership points
b. Perform field reconnaissance of existing conditions;
c. Survey Project Area including the entire anticipated limit of disturbance;
d. Determine Project Area geology including slopes, soil types, and depth to water table;
e. Estimate stormwater flows into proposed Project Area LID; and
Prepare and submit to the DOEE Project Manager a report detailing its findings and recommendations.

As a result of such review, Inspection, examination and other activities, the DB Contractor shall be familiar with all aspects of the physical requirements of the Work. Before beginning any Work on any particular aspect of the Project, the DB Contractor shall verify all governing dimensions and conditions in the Project Area and shall examine all adjoining work that may have an impact on such Work. The DB Contractor shall be responsible for ensuring that the design and construction documents accurately depict all governing and adjoining dimensions and conditions.
C.5.1.3.2 The Design-Build (DB) Contractor’s team shall include a certified Land Surveyor with at least five (5) years of experience including involvement in at two (2) projects that required surveying roadways and/or parking areas.

C.5.1.4 CREATION OF PROJECT DESIGNS

C.5.1.4.1. CONCEPT DESIGNS

C.5.1.4.1.1 The DB Contractor will use information that was gathered during the determination of Project Area characteristics described in Section C.5.1.2 above. The DB Contractor shall develop conceptual designs including, but not limited to:

1. Base maps showing exiting conditions as determined through existing records and field reconnaissance;
2. Proposals for LID in the Project Area;
3. Opportunities for habitat improvement and outdoor education areas;
4. Proposed stormwater retrofit plan including preliminary Cost estimates and volume capture by stormwater practice; and Initial drawings based upon design criteria established through discussions with DOEE.

C.5.1.4.1.2 The DB Contractor shall meet with DOEE, DCPS, and Department of General Services (DGS), to outline and discuss the concept designs. The DOEE Project Manager will provide the DB Contractor with written comments on the concept designs within three (2) weeks of the meeting.

C.5.1.4.1.3 The DB Contractor shall provide DOEE with three (3) paper copies and one (1) foam board rendering of the concept design drawings for use at public meetings, within two months from the Project Kickoff meeting.

C.5.1.4.1.4 The DB Contractor shall participate in an interactive meeting with the public to discuss and get Public feedback on the concept design board. The DB Contractor shall be responsible for documenting the public meeting through minutes and dispersing meeting minutes to all Project partners within two (2) weeks of the meeting.

C.5.1.4.2. SEMI-FINAL DESIGNS

The DB Contractor shall perform percolation tests following the protocols listed in Appendix O of the 2013 DOEE Stormwater Management Guidebook at planned LID locations.

Within three (3) weeks after receiving written review comments from DOEE and its partners on the concept design, the DB Contractor shall produce semi-final designs.

C.5.1.4.2.1 The DB Contractor shall provide where applicable, these designs meeting the following criteria:

1. Be based on the results of percolation tests;
2. Maximize the amount of stormwater that can be diverted into LID (at a minimum, the project should attempt to retain the 1.2-inch rain event in the Project Area); and
3. Minimize the amount of maintenance required;

C.5.1.4.2.2 The DB Contractor Semi-Final Design Documents shall include, but not be limited to, the following:

1. Base map from surveys and background information;
2. Design Plans and specifications including an operations plan for construction;
3. Stormwater calculations, including a hydrologic and hydraulic report;
4. Specification detail sheets for street inlets or other detail sheets that show how stormwater is diverted into the LID systems;
5. Maintenance of traffic plan as needed;
6. Planting Plans including species, spacing, and size of plants;
7. Erosion and sediment control Plans including locations and requirements for DB Contractor storage/lay down areas, access roads, and limits of construction

C.5.1.4.2.3 The DB Contractor shall also include an operations plan that addresses the timing of each phase of construction and specify the size and type of materials and machinery needed for the Work. The DB Contractor shall schedule a preliminary design review meeting (“PDRM”) with the District Department of Transportation (“DDOT”) at the Semi-final Design level and a Semi-final Design review with DOEE, DDOT, Department of Parks and Recreation (DPR) and Department of General Services (DGS).

C.5.1.4.2.4 The DB Contractor shall provide DOEE with three paper (3) copies, one electronic copy and one (1) foam board rendering of the Semi-Final Design for the planned installation for use at meetings with the public.

C.5.1.4.2.5 The DB Contractor shall perform a Quality Assurance/Quality Control (QA/QC) review of the Semi-Final design prior to distributing the designs to DOEE.

C.5.1.4.2.6 The DB Contractor shall meet with DOEE and its partners to outline and discuss the semi-final designs. The DOEE Project Manager will provide the DB Contractor with written comments on the semi-final designs within two (2) weeks of the meeting.

C.5.1.4.2.7 The DB Contractor shall participate in an interactive meeting with the public to educate, discuss, and get public feedback on the Semi-Final design. The DB Contractor shall be responsible for documenting the public meeting through minutes and dispersing meeting minutes to all Project Partners within two (2) weeks of the meeting.

C.5.1.4.3 FINAL DESIGN

C.5.1.4.3.1 Within three (3) weeks of receiving written feedback on the semi-final design from DOEE, DCPS, Department of General Services, and Department of Parks and Recreation (if applicable), the DB Contractor shall produce final designs.
C.5.1.4.3.2 In creating the final designs, the DB Contractor shall:

1. Address all Semi-Final Design comments;
2. Create one (1) foam board rendering of the semi-final design for the planned installation for use at meetings with the public;
3. Finalize all plans, profiles, cross sections, and details for permitting;
4. Finalize utility protection measures as needed;
5. Finalize ESC Plan sheets and staging/access;
6. Finalize landscaping plans and special provisions;
7. Finalize maintenance specifications for each Project Area; and

C.5.1.4.4 OBTAINING APPROVAL AND PERMITS

C.5.1.3.4.1 The DB Contractor shall submit the approved Final Design package to the District Department of Commerce and Regulatory Affairs (“DCRA”) and any other requisite agency for approval and all required permits.

C.5.1.3.4.2 The DB Contractor shall be responsible for the cost of all permits.

C.5.1.3.4.3 The DB Contractor shall provide to the DOEE Project Manager scanned copies of all Project permits. Permits received through DCRA may include, but are not limited to, the following:

   a) DOEE stormwater permits;
   b) DCRA building permits;
   c) DDOT Public Space permits; and
   d) Water utility review.

C.5.2 PHASE 2 - CONSTRUCTION

During the Construction Phase, the DB Contractor shall be required to cause the construction and installation of the LID stormwater retrofits in a manner consistent with the approved drawings and specifications from the permitted Plans to achieve substantial completion of the Project by August 30, 2018. If porous asphalt, porous concrete or pervious pavers are proposed to be installed, the offeror shall have Persons onsite during constructions that have appropriate certifications as required in the DDOT Green Infrastructure Standards.

C.5.2.1 PROJECT MANAGEMENT

In order to properly manage the Project, the DB Contractor shall provide a Project Executive for the entire duration of the Project. The Project Executive shall be required to undertake the tasks outlined in the sections below.

   a. Ensuring compliance with requirements of EPA Clean Water State Revolving funds, CFDA 66.418
   b. Participating and assisting in Project planning meetings;
   c. Participating in a Project Kickoff meeting;
d. Holding a pre-construction meeting with Project Inspector and the District Erosion and Sediment Control (ESC) Inspector as noted in the ESC Plan;
e. Generating and distributing meeting minutes for all such meetings;
f. Conducting weekly progress meetings following a DB Contractor generated agenda to keep DOEE, DCPS, DGS and DDOT informed of construction progress;
g. Ensuring compliance with requirements established by the DOEE construction inspector;
h. Providing a weekly written progress report to the CA, with a copy to the CO, summarizing the prior week’s activities, to include number of hours worked and the overall status of the Project.
i. Preparing payment requests;
j. Assembling and submitting close out documents as required in Section C.6 below.
k. Overseeing the Project through the post installation maintenance phase and warranty period; and
l. Participating in school stakeholder community meetings as needed

C.5.2.1.1 ON-SITE MANAGEMENT

The DB Contractor shall designate a Field Superintendent/Construction Foreman who shall be on site daily to oversee the installation Work. The Field Superintendent/Construction Foreman’s duties shall include, but not be limited to, the following activities:

a. Maintaining full-time, on-site construction supervision and providing daily Inspections, Quality Control, monitoring, coordination of various trade, record drawings and daily Work logs;
b. Providing general safety and signage and seeing that each Subcontractor prepares and submits an adequate safety program and monitoring throughout the Project;
c. Ensuring that proper erosion and sediment control measures are installed and maintained;
d. Checking materials used to confirm that they meet the standards of the design specifications;
e. Certifying that structures installed are within the specifications included in the permitted designs; and
f. Confirming that the operations plan is followed and Work is contained within the limits of disturbance to minimize environmental impact to the Project Area.

C.5.2.2 MOBILIZATION

The DB Contractor shall be required to undertake the following tasks:

C.5.2.2.1 Take control of the Project Area and install the necessary construction fences and other devices to properly secure the Project Area.

C.5.2.2.2 Be responsible for all required performance and payment bonds and insurance coverage.

C.5.2.3 SITE SAFETY AND CLEAN UP
The DB Contractor shall:

a. Provide a safe and efficient Project Area with controlled access.
b. Be responsible for Project Area security.
c. Remove construction debris off the Project Area in accordance with all applicable rules and regulations of those jurisdictions having authority.
d. Be responsible for the Cost of temporary power used during the construction of the Project as needed, including, but not limited to, the Cost of installing such temporary wiring as may be required to bring power to the Project Area.
e. Be responsible for all temporary construction necessary on the Project Area.

C.5.2.4 AS-BUILT CERTIFICATION

The DB Contractor shall be required to undertake the following tasks:

C.5.2.4.1 Obtain the As-Built Certification from a Professional Engineer.

C.5.2.4.2 Submit completed as-built Plans to DOEE following the As-Built Stormwater Management Plan Guidelines (included in 2013 Stormwater Management Rule and Guidebook) (Attachment J.20).

C.5.3 PHASE 3 – POST CONSTRUCTION MAINTENANCE

During the Post Construction Maintenance Phase the DB Contractor shall be responsible for the following:

C.5.3.1 INSTALLATION OF EDUCATIONAL SIGNS

C.5.3.1.1 The DB Contractor shall work with DOEE, DCPS and DGS to develop language and graphics for three (3) educational signs about the constructed practices.

C.5.3.1.2 The DB Contractor shall follow the DOEE Sign Guidelines to develop the final sign designs.

C.5.3.1.3 The DB Contractor shall work with DOEE, DCPS, DGS and DPR (if applicable) to determine the location for the educational sign.

C.5.3.1.4 Once the language and design has been accepted by DOEE, DCPS, DGS and DPR, the DB Contractor shall print and install the educational signage.

C.5.3.2 MAINTENANCE OF VEGETATION

The DB Contractor shall ensure the establishment of vegetation planted as a part of the construction by:
C.5.3.2.1 Watering vegetation every other day for the first two weeks after planting;

C.5.3.2.2 Provide training to school staff on watering maintenance once a week for the two months following the first two week period;

C.5.3.2.3 Continue check in on school staff watering vegetation as needed after the first two month during first growing season (April- October), depending on rainfall;

C.5.3.2.4 The DB Contractor shall replant affected vegetation if more than 15% of the plant material dies.

C.5.3.3 MAINTENANCE OF LID INSTALLATION

The DB Contractor shall maintain the completed Work for a period of one (1) year after installation. Regular maintenance should follow the maintenance schedules for the appropriate LID per the District of Columbia 2013 Stormwater Management Guidebook (Item 2).

C.5.4 CLOSEOUT

The DB Contractor shall be required to prepare and submit at close-out the following documentation:

1. A complete set of Project files, including QC/QA reports, daily reports, test reports etc.
2. A complete set of product manuals (O&M), training videos, warranties, etc.
3. As built record drawings stamped by the engineer of record;
4. All applicable inspection certificates/permits; and
5. A summary of actual costs.
SECTION D –
PACKAGING AND MARKING

N/A
SECTION E
INSPECTION AND ACCEPTANCE

SECTION F
PERIOD OF PERFORMANCE AND DELIVERABLES

F.1 TERM OF CONTRACT

The term of the Contract shall be for a Base Period of one (1) year from the date of award specified on the cover page of the contract.

F.2 RESERVED

F.3 DELIVERABLES

The DB Contractor shall perform the activities required to successful complete the District’s requirements and shall submit each deliverable to the Contract Administrator (“CA”) identified in Section G.11.1.6 in accordance with the following:

<table>
<thead>
<tr>
<th>Deliverable Number</th>
<th>Deliverable</th>
<th>Quantity</th>
<th>Method of Delivery</th>
<th>Due Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>001</td>
<td>Project Kickoff meeting minutes (See Section C.5.1.1)</td>
<td>1</td>
<td>Pdf/electronic</td>
<td>Two weeks after Project Kickoff meeting</td>
</tr>
<tr>
<td>002</td>
<td>Detailed Project Plan (See Section C.5.1.1)</td>
<td>1</td>
<td>Pdf/electronic</td>
<td>Three weeks after Contract award</td>
</tr>
<tr>
<td>003</td>
<td>Concept Design Drawings (See Section C.5.1.3.1.3)</td>
<td>3</td>
<td>Three paper copies and one Pdf/electronic copy</td>
<td>Three months after Project Kickoff</td>
</tr>
<tr>
<td>004</td>
<td>Concept Design Boards (See Section C.5.1.3.1.3)</td>
<td>1</td>
<td>One foam board rendering and one pdf/electronic copy</td>
<td>Three months after Project Kick off</td>
</tr>
<tr>
<td>005</td>
<td>Concept Design Meeting (See Section C.5.1.3.1.4)</td>
<td>1</td>
<td>On-site</td>
<td>Three months after Project Kickoff</td>
</tr>
<tr>
<td>006</td>
<td>Concept Designs (See Section C.5.1.3.2)</td>
<td>3</td>
<td>Three paper copies and one pdf/electronic copy</td>
<td>Three weeks after written concept design review comments returned to DB Contractor</td>
</tr>
<tr>
<td>007</td>
<td>Semi-Final Design Boards (See Section C.5.1.3.2.3)</td>
<td>1</td>
<td>One foam board rendering and one pdf/electronic copy</td>
<td>Three weeks after concept design review comments returned to DB Contractor</td>
</tr>
<tr>
<td>008</td>
<td>Semi-Final Design Meeting (See Section C.5.1.3.2.6)</td>
<td>1</td>
<td>On-site</td>
<td>Three weeks after concept design review comments returned to DB Contractor</td>
</tr>
<tr>
<td>009</td>
<td>Final Design (See Section C.5.1.3.3.1)</td>
<td>3</td>
<td>Four paper copies and one pdf/electronic copy</td>
<td>Three weeks after semi-final design review comments returned to DB Contractor</td>
</tr>
<tr>
<td>010</td>
<td>Final Design Board (See Section C.5.1.3.3.2)</td>
<td>1</td>
<td>One foam board rendering and one pdf/electronic copy</td>
<td>Three weeks after semi-final design review comments returned to DB Contractor</td>
</tr>
<tr>
<td>011</td>
<td>Project permits (See Section C.5.1.3.5.1)</td>
<td>1</td>
<td>Scanned electronic</td>
<td>One week after 100% designs accepted</td>
</tr>
<tr>
<td>012</td>
<td>Pre-construction meeting (See Section C.5.2.1.1)</td>
<td>1</td>
<td>On-site</td>
<td>Two weeks after final designs accepted</td>
</tr>
<tr>
<td>013</td>
<td>Pre-construction meeting minutes (C.5.2.1.1)</td>
<td>1</td>
<td>Pdf/electronic</td>
<td>Two weeks after pre-construction meeting</td>
</tr>
<tr>
<td>014</td>
<td>Weekly progress report (See Section C.5.2.1.1)</td>
<td>1</td>
<td>Pdf/electronic</td>
<td>On a weekly basis once construction starts</td>
</tr>
<tr>
<td>015</td>
<td>As-built certification (See Section C.5.2.1.5.1)</td>
<td></td>
<td>One paper copy and one pdf/electronic copy</td>
<td>Three weeks after construction completion</td>
</tr>
<tr>
<td>016</td>
<td>As-built Plans (See Section C.5.2.1.5.2)</td>
<td></td>
<td>One mylar copy and one pdf/electronic copy</td>
<td>Three weeks after construction completion</td>
</tr>
<tr>
<td>017</td>
<td>Installed educational signs (See Section C.5.3.1.1)</td>
<td>3</td>
<td>Installed on-site utilizing DOEE sign requirements</td>
<td>Two weeks after completed construction</td>
</tr>
</tbody>
</table>

**F.3.1** The DB Contractor shall submit to the District, as a deliverable, 1) the report described in Section H.5 that is required by the 51% District Residents New Hires Requirements and First Source Employment Agreement; 2) MBE WBE Reports, as required by Section 8 of the DBA, Attachment J20; 3) CBE Quarterly Reports with certified payrolls for primary and subcontracting. If the DB Contractor does not submit the report as part of the deliverables, final payment to the DB Contractor shall not be paid pursuant to Section G.6.
SECTION G
CONTRACT ADMINISTRATION

G.1 PAYMENT TO DB CONTRACTOR

The District will pay the Contract price in accordance with District and federal regulations.

The District will make partial payments as outlined in the agreed upon Payment Schedule or at more frequent intervals as determined by the CO, on estimates approved by the CO. The DB Contractor shall furnish a breakdown of the total firm fixed price showing the amount included therein for each principal category of the Work, in such detail as requested, to provide a basis for determining partial payments. In the preparation of estimates the CO, at his/her discretion may authorize material delivered to the Project Area and preparatory Work done to be taken into consideration. Material delivered to the DB Contractor at locations other than the Project Area may also be taken into consideration:

A. If such consideration is specifically authorized by the Contract;

B. If the DB Contractor furnishes satisfactory evidence that he/she has acquired title to such material, that it meets Contract requirements and that it will be utilized on the Work covered by the Contract; and

C. If the DB Contractor furnishes to the CO an itemized list.

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

Upon completion and acceptance of all Work, the amount due the DB Contractor under the Contract shall be paid upon presentation of a properly executed invoice and after release, if required, of all claims against the District arising by virtue of the Contract, other than claims instated amounts as may be specifically excepted by the DB Contractor from the operation of the release.

All payments of the District to the DB Contractor are subject to the provisions of D.C. Law 9-81 (District of Columbia Quick Payment Act of 1984 Amendment Act of 1992).

G.2 RETAINAGE AND DEDUCTIONS

G.2.1 RETAINAGE

The CO at his/her discretion shall cause to be withheld retention from each partial payment to be made to the DB Contractor in an amount sufficient to protect the interest of the District. The amount shall not exceed ten percent (10%) of the partial
payment (refer to Attachment J.21). However, if the CO, at any time finds that satisfactory progress is being made, he/she may authorize any of the remaining partial payments to be made in full or may retain from such remaining partial payments less than ten percent (10%) thereof. Also, whenever Work is substantially complete, the CO, if he/she considers the amount retained to be in excess of the amount adequate for the protection of the District, at his/her discretion may release to the DB Contractor all or a portion of such excess amount. Furthermore on completion and acceptance of each separate division of the Contract, on which the price is stated separately in the Contract, payment may be made thereof without the retention of percentage, less authorized deductions.

If the DB Contractor performs a nonconforming act the retainage clause does not apply. Please refer to the Attachment of the DBA Section 7.6 on nonconforming.

G.2.2 DEDUCTIONS

The District may deduct from any amounts otherwise owing to the DB Contractor, including each partial and final payment, the following:

a) Any accrued losses, liability, or other damages for which the DB Contractor is responsible, including, without limitation, amounts based on reasonable evidence that the Work will not be completed within the contract time and that the unpaid balance would not be adequate to cover actual damages for the anticipated delay.

b) The anticipated Cost of remedying any nonconforming Work or otherwise remedying any breach or default of the Contract by the DB Contractor.

c) The amount of any outstanding claim relating to the Work.

d) Amounts of third-party claims filed, or of probable claims for which reasonable evidence indicates probable filing unless security acceptable to the District is provided by the DB Contractor.

e) The amount for Work that the DB is obligated to perform under the Contract, which the DB Contractor has failed to perform.

f) Damage to the District or a separate contractor.

g) Failure of the DB Contractor to make payments properly to Subcontractor or for labor, materials or Equipment.

h) Any other sums which the District is entitled to recover from the DB Contractor under the terms of the Contract.

The District’s failure to deduct from partial payments any amount, which the District is entitled to recover from the DB Contractor under the Contract, shall not constitute a waiver of the District’s right to such amounts.
G.3 LIMITATIONS ON PAYMENT

G.3.1 The District may withhold payment in whole or in part if the difference between the firm fixed price and the sum of the amount requested in an invoice and amounts paid pursuant to prior invoices is not sufficient, in the District’s reasonable judgment to: (a) pay for completion of the Work; (b) pay any unpaid liens properly and timely filed under applicable laws; or (c) satisfy all obligations of the DB Contractor, present or future, for Work provided or to be provided under this Contract.

G.3.1 The District does not have the obligation to pay DB Contractor for any nonconforming Work.

G.3.2 STOCKPILED MATERIALS

Payment for stockpiled materials shall be included in partial payments provided the following conditions are met:

1. The stockpile site is under the control of the DB Contractor and will remain so until the material is incorporated in the Work. The stockpile materials must be specifically authorized by and acquired for the Project. The stockpile site must be bonded and acceptable to the District and must be kept secure at all times by the DB Contractor. Proof of such bond and control shall be submitted to the District.

2. Appropriate test reports, if required, shall be submitted by the District and show that the materials meet the requirements of the Contract. The District has the authority to inspect, test and approve the stockpiled materials.

3. If the stockpile materials are stored in a site outside of the District, the DB Contractor shall be responsible for payment of all Costs for the District to inspect the stockpile site and the materials stored at the site.

4. DB Contractor requests for payment shall be in writing and shall include the written consent of the Surety as well as insurance in the District’s name that covers loss, damage or destruction of the stockpiled materials.

5. Copies of suppliers’ invoices shall accompany all requests for payment. Copies of paid invoices for materials shall be submitted to the District within one (1) month after the DB Contractor has received payment for the materials. Failure to provide timely submission of paid invoices shall be cause to deduct payment for the materials from subsequent partial payment.

G.4 INVOICE PAYMENT

G.4.1 The District will make payments to the DB Contractor, upon the submission of proper invoices at the prices stipulated in the Contract for deliverables and services performed and accepted, less any discounts, allowances or adjustments provided for in this Contract.
G.4.2 The District will pay the DB Contractor on the completion and acceptance of each deliverable in accordance with the agreed upon deliverable and payment schedules and presentation of a properly executed invoice.

G.5 INVOICE SUBMITTAL

G.5.1 The DB Contractor shall prepare and submit to the CA specified in Section G.11 below proper invoices.

G.5.2 To constitute a proper invoice, the DB Contractor shall submit the following information on the invoice:

G.5.2.1 DB Contractor’s name, federal tax ID and invoice date (date invoices as of the date of mailing or transmittal);

G.5.2.2 Contract number and invoice number;

G.5.2.3 Description, price, quantity and the date(s) that the services were delivered or performed;

G.5.2.4 Other supporting documentation or information, as required by the Contracting Officer. Such as incremental and cumulative amount paid to each subcontractor, materials purchased and delivered, permits, securities, etc. paid.

G.5.2.5 Name, title, telephone number and complete mailing address of the responsible official to whom payment is to be sent;

G.5.2.6 Name, title, phone number of Person preparing the invoice;

G.5.2.7 Name, title, phone number and mailing address of Person (if different from the Person identified in Section G.5.2.6 above) to be notified in the event of a defective invoice; and

G.5.2.8 Authorized signature.

G.6 FIRST SOURCE AGREEMENT REQUEST FOR FINAL PAYMENT

G.6.1 For contracts subject to the 51% District Residents New Hires Requirements and First Source Employment Agreement requirements, final request for payment must be accompanied by the report or a waiver of compliance discussed in section H.5.5.

G.6.2 No final payment shall be made to the DB Contractor until the agency CFO has received the CO’s final determination or approval of waiver of the DB Contractor’s compliance with 51% District Residents New Hires Requirements and First Source Employment Agreement requirements.

G.7 ASSIGNMENT OF CONTRACT PAYMENTS
G.7.1 In accordance with 27 DCMR 3250, the DB Contractor may assign to a bank, trust company, or other financing institution funds due or to become due as a result of the performance of this contract.

G.7.2 Any assignment shall cover all unpaid amounts payable under this contract, and shall not be made to more than one party.

G.7.3 Notwithstanding an assignment of contract payments, the DB Contractor, not the assignee, is required to prepare invoices. Where such an assignment has been made, the original copy of the invoice must refer to the assignment and must show that payment of the invoice is to be made directly to the assignee as follows:

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

G.8 THE QUICK PAYMENT CLAUSE

G.8.1 INTEREST PENALTIES TO CONTRACTORS

G.8.1.1 The District will pay interest penalties on amounts due to the DB Contractor under the Quick Payment Act, D.C. Official Code §2-221.02 for the period beginning on the day after the required payment date and ending on the date on which payment of the amount is made. Interest shall be calculated at the rate of 1% per month. No interest penalty shall be paid if payment for the completed delivery of the item of property or service is made on or before:

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

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

G.8.2 PAYMENTS TO SUBCONTRACTORS

G.8.2.1 The DB Contractor must take one of the following actions within seven (7) days of receipt of any amount paid to the DB Contractor by the District for Work performed by any subcontractor under this contract:

a) Pay the subcontractor for the proportionate share of the total payment received from the District that is attributable to the subcontractor for work performed under the contract; or

b) Notify the District and the subcontractor, in writing, of the DB Contractor’s intention to withhold all or part of the subcontractor’s payment and state the reason for the nonpayment.
G.8.2.2 The DB Contractor must pay any Subcontractor or supplier interest penalties on amounts due to the subcontractor or supplier beginning on the day after the payment is due and ending on the date on which the payment is made. Interest shall be calculated at the rate of 1% per month. No interest penalty shall be paid on the following if payment for the completed delivery of the item of property or service is made on or before:

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

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

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

G.8.3 SUBCONTRACT REQUIREMENTS

G.8.3.1 The Contractor shall include in each subcontract under this contract a provision requiring the subcontractor to include in its contract with any lower-tier subcontractor or supplier the payment and interest clauses required under paragraphs (1) and (2) of D.C. Official Code §2-221.02(d).

G.9 CONTRACTING OFFICER (CO)

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

Marie Niestrath
Office of Contracting and Procurement
Assigned to District Department of Energy and Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
Telephone: 202-724-4051
Email: marie.niestrath@dc.gov

G.10 AUTHORIZED CHANGES BY THE CONTRACTING OFFICER

G.10.1 The CO is the only person authorized to approve changes in any of the requirements of this contract.

G.10.2 The DB Contractor shall not comply with any order, directive or request that changes or modifies the requirements of this contract, unless issued in writing and signed by the CO.
G.10.3  In the event the DB Contractor effects any change at the instruction or request of any person other than the CO, the change will be considered to have been made without authority and no adjustment will be made in the contract price to cover any cost increase incurred as a result thereof.

G.11  CONTRACT ADMINISTRATOR (CA)

G.11.1  The CA is responsible for general administration of the contract and advising the CO as to the DB Contractor’s compliance or noncompliance with the contract. The CA has the responsibility of ensuring the work conforms to the requirements of the contract and such other responsibilities and authorities as may be specified in the contract. These include:

G.11.1.1  Keeping the CO fully informed of any technical or contractual difficulties encountered during the performance period and advising the CO of any potential problem areas under the contract;

G.11.1.2  Coordinating site entry for Contractor personnel, if applicable;

G.11.1.3  Reviewing invoices for completed work and recommending approval by the CO if the DB Contractor’s costs are consistent with the negotiated amounts and progress is satisfactory and commensurate with the rate of expenditure;

G.11.1.4  Reviewing and approving invoices for deliverables to ensure receipt of services. This includes the timely processing of invoices and vouchers in accordance with the District’s payment provisions; and

G.11.1.5  Maintaining a file that includes all contract correspondence, modifications, records of inspections (Project Area, data, Equipment) and invoice or vouchers.

G.11.1.6  The address and telephone number of the CA is:

Patricia (Trinh) Doan  
Environmental Protection Specialist  
Department of Energy and Environment  
Government of the District of Columbia  
1200 First Street NE, 5th Floor  
Washington D.C.  20002  
Telephone:  202-535-1653  
E-mail:  patricia.doan@dc.gov

G.11.1.7  The CA SHALL NOT have the authority to:

1.  Award, agree to, or sign any contract, delivery order or task order. Only the CO shall make contractual agreements, commitments or modifications;
2.  Grant deviations from or waive any of the terms and conditions of the Contract;
3.  Increase the dollar limit of the Contract or authorize Work beyond the dollar limit of the contract;
4. Authorize the expenditure of funds by the DB Contractor;
5. Change the period of performance; or
6. Authorize the use of District property, except as specified under the Contract.

**G.11.1.8** The DB Contractor will be fully responsible for any changes not authorized in advance, in writing, by the CO; may be denied compensation or other relief for any additional Work performed that is not so authorized; and may also be required, at no additional Cost to the District, to take all corrective action necessitated by reason of the unauthorized changes.

**G.12 FINAL PAYMENT**

Final payment shall be made in accordance with this Section G.12.

**G.12.1 APPLICATION FOR FINAL PAYMENT**

On or about the date of delivery of its Affidavit of Final Completion, the DB Contractor shall prepare and submit a proposed Application for Final Payment to the District showing the proposed total amount due the DB Contractor. In addition to meeting all other requirements for invoices hereunder, the Application for Final Payment shall include the following: (a) an affidavit, on the form prescribed by the District, to the effect that all payments have been made and all claims have been released for all material, labor and other items covered by the Contract bond; or (b) a list of outstanding and pending PCO Notices and all existing or threatened claims, liens, and stop notices by Subcontractors, laborers, utility companies or other third parties relating to the Project, including any notices filed or to be filed with the Affidavit of Final Completion, stating the amount at issue associated with each such notice; (c) the written consent of the surety to such payment; and (d) such other documentation as the District may reasonably require. Prior application and payments shall be subject to correction in the proposed Application for Final Payment. PCO Notices filed concurrently with the Application for final Payment must be otherwise timely and meet all the requirements under Section C. If a Subcontractor refuses to furnish a release or waiver required by the District, the DB Contractor may furnish a bond satisfactory to the District to indemnify the District against such lien. If such lien remains unsatisfied after payments are made and is not bonded over as provided in the previous sentence, the DB Contractor shall promptly pay to the District all money that the District may be compelled to pay in discharging such lien, including all Costs and attorney’s fees.

The District will review the DB Contractor’s proposed Application for Final Payment. If changes or corrections are required, the CO will request that the DB Contract correct and resubmit the Application for Final Payment. If no changes or corrections are required, the District will approve the Application for Final Payment.

**G.12.2 FINAL PAYMENT**

As a condition to its obligation to make payment to the DB Contractor based on the Application for Final Payment, the District shall have received an Affidavit Regarding Settlement of Claims from the DB Contractor, releasing and waiving any
claims against the indemnified parties and those matters identified in any PCO notices listed as outstanding in the Application for Final Payment, and otherwise satisfactory in form and content to the District.

The Settlement of Claims Affidavit shall include, at a minimum, a certification by the DB Contractor that:

1. It has resolved any claims made by Subcontractors, utility companies and others against the DB Contractor and the Project.

2. If has no reason to believe that any Person has a valid claim, against the DB Contractor of the Project, which has not been communicated in writing by the DB Contractor to the District as of the date of the certificate.

3. All guarantees and warranties are in full force and effect.
   The Settlement of Claims Affidavit shall survive Final Payment. The payment amount will be reduced by any amounts deductible under Sections G.2.2.

All prior partial estimates and payments shall be subject to correction in the final payment. The DB Contractor’s acceptance of final payment shall constitute a waiver of affirmative claims by the DB Contractor except those previously made in writing and identified as unsettled at the time of final payment.
SECTION H
SPECIAL CONTRACT REQUIREMENTS

H.1 HIRING OF DISTRICT RESIDENT AS APPRENTICES AND TRAINEES

H.1.1 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.1.1.1 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.1.2 The DB 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.2 DEPARTMENT OF LABOR WAGE DETERMINATIONS

The DB Contractor shall be bound by the Davis Bacon-Act Determination Building Number DC170002, Modification 12, dated September 29, 2017 issued by the U.S. Department of Labor in accordance with the Davis Bacon-Act 40 U.S.C. 3141 et seq., and incorporated herein as Section J.4 and J.5. If an option is exercised, the DB Contractor shall be bound by the applicable wage rates at the time 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 DB Contractor may be entitled to an equitable adjustment.

H.3 PREGNANT WORKERS FAIRNESS

H.3.1 The DB Contractor shall comply with the Protecting Pregnant Workers Fairness Act of 2016, D.C. Official Code § 32-1231.01 et seq. (PPWF Act).

H.3.2 The DB Contractor shall not:

(a) Refuse to make reasonable accommodations to the known limitations related to pregnancy, childbirth, related medical conditions, or breastfeeding for an employee, unless the DB Contractor can demonstrate that the accommodation would impose an undue hardship;

(b) Take an adverse action against an employee who requests or uses a reasonable accommodation in regard to the employee's conditions or privileges of employment, including failing to reinstate the employee when the need for reasonable accommodations ceases to the employee's original job or to an equivalent position with equivalent:

(1) Pay;
(2) Accumulated seniority and retirement;

(3) Benefits; and

(4) Other applicable service credits;

(c) Deny employment opportunities to an employee, or a job applicant, if the denial is based on the need of the employer to make reasonable accommodations to the known limitations related to pregnancy, childbirth, related medical conditions, or breastfeeding;

(d) Require an employee affected by pregnancy, childbirth, related medical conditions, or breastfeeding to accept an accommodation that the employee chooses not to accept if the employee does not have a known limitation related to pregnancy, childbirth, related medical conditions, or breastfeeding or the accommodation is not necessary for the employee to perform her duties;

(e) Require an employee to take leave if a reasonable accommodation can be provided; or

(f) Take adverse action against an employee who has been absent from work as a result of a pregnancy-related condition, including a pre-birth complication.

H.3.3 The DB Contractor shall post and maintain in a conspicuous place a notice of rights in both English and Spanish and provide written notice of an employee's right to a needed reasonable accommodation related to pregnancy, childbirth, related medical conditions, or breastfeeding pursuant to this chapter to:

(a) New employees at the commencement of employment;

(b) Existing employees; and

(c) An employee who notifies the employer of her pregnancy, or other condition covered by this chapter, within 10 days of the notification.

H.3.4 The DB Contractor shall provide an accurate written translation of the notice of rights to any non-English or non-Spanish speaking employee.

H.3.5 Violations of the PPWF Act shall be subject to civil penalties as described in the Act.

H.4 UNEMPLOYED ANTI-DISCRIMINATION

H.4.1 The DB Contractor shall comply with the Unemployed Anti-Discrimination Act of 2012, D.C. Official Code § 32-1361 et seq.

H.4.2 The DB Contractor shall not:
a) Fail or refuse to consider for employment, or fail or refuse to hire, an individual as an employee because of the individual's status as unemployed; or

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

(1) Any provision stating or indicating that an individual's status as unemployed disqualifies the individual for the job; or

(2) Any provision stating or indicating that an employment agency will not consider or hire an individual for employment based on that individual's status as unemployed.

H.4.3 Violations of the Unemployed Anti-Discrimination Act shall be subject to civil penalties as described in the Act.

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

H.5.1 For contracts for services in the amount of $300,000 or more, the DB Contractor shall comply with the First Source Employment Agreement Act of 1984, as amended, D.C. Official Code § 2-219.01 et seq. (First Source Act).

H.5.2 The DB Contractor shall enter into and maintain during the term of the contract, a First Source Employment Agreement (Employment Agreement) with the District of Columbia Department of Employment Service’s (DOES), in which the DB Contractor shall agree that:

(a) The first source for finding employees to fill all jobs created in order to perform the contract shall be the First Source Register; and

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

H.5.3 The DB Contractor shall not begin performance of the contract until its Employment Agreement has been accepted by DOES. Once approved, the Employment Agreement shall not be amended except with the approval of DOES.

H.5.4 The DB Contractor agrees that at least 51% of the new employees hired to perform the contract shall be District residents.

H.5.5 The DB Contractor’s hiring and reporting requirements under the First Source Act and any rules promulgated thereunder shall continue for the term of the contract.

H.5.6 The CO may impose penalties, including monetary fines of 5% of the total amount of the direct and indirect labor Costs of the contract, for a willful breach of the Employment Agreement, failure to submit the required hiring compliance reports, or deliberate submission of falsified data.
H.5.7 If the DB Contractor does not receive a good faith waiver, the CO may also impose an additional penalty equal to 1/8 of 1% of the total amount of the direct and indirect labor Costs of the contract for each percentage by which the DB Contractor fails to meet its hiring requirements.

H.5.8 Any contractor which violates, more than once within a 10-year timeframe, the hiring or reporting requirements of the First Source Act shall be referred for debarment for not more than five (5) years.

H.5.9 The DB Contractor may appeal any decision of the CO pursuant to this clause to the D.C. Contract Appeals Board as provided in Section I.11 below.

H.5.10 The provisions of the First Source Act do not apply to nonprofit organizations which employ 50 employees or less.

H.6 DIVERSION, REASSIGNMENT AND REPLACEMENT OF KEY PERSONNEL

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

H.7 RESERVED

H.8 DISADVANTAGED BUSINESS ENTERPRISES

Refer to the DBA, Attachment J.20.

H.8.1 Contract Administration Requirements

To prevent unfair practices that adversely DBEs, the EPA requires the following:

a. The District must require the DB Contractor to pay its Subcontractor for satisfactory performance no more than thirty (30) days from the DB Contractor’s receipt of payment from the District.

b. The District must be notified in writing by the DB Contractor prior to any termination of a DBE Subcontractor for convenience by the DB Contractor.

c. If the DBE Subcontractor fails to complete Work under the subcontract for any reason, the District must require the DB Contractor to employ the six good faith efforts to find and hire a new DBE subcontractor.

H.9 FAIR CRIMINAL RECORD SCREENING
H.9.1 The DB Contractor shall comply with the provisions of the Fair Criminal Record Screening Amendment Act of 2014, effective December 17, 2014 (D.C. Law 20-152) (the “Act” as used in this section). This section applies to any employment, including employment on a temporary or contractual basis, where the physical location of the employment is in whole or substantial part within the District of Columbia.

H.9.2 Prior to making a conditional offer of employment, the DB Contractor shall not require an applicant for employment, or a Person who has requested consideration for employment by the DB Contractor, to reveal or disclose an arrest or criminal accusation that is not then pending or did not result in a criminal conviction.

H.9.3 After making a conditional offer of employment, the DB Contractor may require an applicant to disclose or reveal a criminal conviction.

H.9.4 The DB Contractor may only withdraw a conditional offer of employment, or take adverse action against an applicant, for a legitimate business reason as described in the Act.

H.9.5 This section and the provisions of the Act shall not apply:

   (a) Where a federal or District law or regulation requires the consideration of an applicant’s criminal history for the purposes of employment;

   (b) To a position designated by the employer as part of a federal or District government program or obligation that is designed to encourage the employment of those with criminal histories;

   (c) To any facility or employer that provides programs, services, or direct care to, children, youth, or vulnerable adults; or

   (d) To employers that employ less than 11 employees.

H.9.6 A Person claiming to be aggrieved by a violation of the Act may file an administrative complaint with the District of Columbia Office of Human Rights, and the Commission on Human Rights may impose monetary penalties against the DB Contractor.

H.10 **DAVIS BACON ACT**

The Davis Bacon Act is applicable to this Contract/Project. As such, the DB Contractor and its Subcontractors shall comply with the wage and reporting requirements imposed by the Davis-Bacon Act incorporated herein at Section J, Attachment J.3.

H.11 **DISTRICT RESPONSIBILITIES**

H.11.1 The District shall designate an on-site Project Inspector who, along with the CA and DOEE Project Manager, will have oversight of the DB Contractor for this Contract.
H.11.2 The primary responsibility of the District’s on-site Project Inspector shall be to work with the DB Contractor to ensure that the construction effort is performed to the intent of the construction documents to obtain a successful restoration Project for the District. The District’s on-site Project Inspector shall be the liaison between the DB Contractor and the DDOE Contract Administrator. The District’s on-site Project Inspector shall serve to expedite construction efforts and maintain design integrity by being able to make slight horizontal and vertical adjustments to proposed grades and/or construction features due to local site conditions without a direct change order.

H.11.3 The DDOE CA shall ensure that all change orders are provided to the DB Contractor by through a notice to proceed or written modification from the CO.

H.12 CONTRACTORS RESPONSIBILITIES

H.12.1 WORK SCHEDULE

a. The DB Contractor shall coordinate the Work schedules with the Project Inspector before the DB Contractor begins work on this Contract.

b. All Work and monitoring will proceed on weekdays, excluding Federal Holidays, during daylight hours.

c. Any activities that may hamper traffic on park land will be performed during non-rush hour periods, provided advanced permission is obtained from the Department of Parks and Recreation (DPR).

d. Daylight hours are between 8:00 a.m. and 5:00 p.m.

e. Non-rush hour periods are between 9:30 a.m. and 2:30 p.m. No Work requiring the presence of the Project Inspector shall be done at night, on weekends, or on Federal Holidays.

f. Construction hours will be weekdays from 8:00 a.m. to 5:00 p.m.

H.12.2 CONFORMANCE WITH LAWS

The DB Contractor shall be responsible for performing its activities relating to the Project in compliance with all federal and District laws, regulations and ordinances and to secure all appropriate necessary public and private permits and consents. Notwithstanding anything to the contrary contained herein, in the event of any conflict between any District requirements, federal requirements or other requirements of the Contract Documents, the federal requirements shall prevail, take precedence and be in force over and against any conflicting provisions, unless the District requirements are more stringent as allowed by federal law.

H.13 BOND REQUIREMENTS

The DB Contractor shall provide to the District and maintain at all times during the term of the Contract security for performance of the Work as described below (or
other assurance satisfactory to the District in its sole discretion). The Contract bonds may not be in excess of the cumulative underwriting limitation listed in the circular of the underwriting capacities of the DB Contractor’s surety companies. Performance and Payment Bonds shall be submitted to the CO within five (5) days of the issuance of contract award.

H.15.1 Bid Guaranty

On all bids of $100,000.00 or more, security is required to insure the execution of the Contract. No bid will be considered unless it is so guaranteed. Each bidder must furnish with his bid either a Bid Bond (See Section J, Attachment J.11) with good and sufficient sureties, a certified check payable to the order of the Treasurer of the District of Columbia (uncertified check will not be accepted), negotiable United States bonds (at par value), or an irrevocable letter of credit in an amount not less than five percent (5%) of the amount of his bid, as a guaranty that he will not withdraw said bid within the period specified therein after the opening of the same; or, if no period be specified, within ninety (90) days after said opening, and will, within the period specified therefore, or, if no period be specified, within ten (10) days, after the prescribed forms are forwarded to him for execution (or within any extension of time which may be granted by the officer to whom the bid was addressed) execute and deliver a written contract on the standard District form in accordance with bid as accepted and give bond with good and sufficient sureties, as specified below for the faithful performance and proper fulfillment of such contract and payment of laborers and material men as required by law or, in the event of the withdrawal of said bid within the period above stated, or the failure to enter into such contract and give such bond within the time above stated, that he will pay to the District the difference between the amount specified in said bid and the amount for which the District may procure the required Work, if the latter amount be in excess of the former.

In case security is in the form of a certified check or United States bonds, the District may make such disposition of the same as will accomplish the purpose for which submitted. Certified checks may be held uncollected at the bidder’s risk. Certified checks and United States bonds will be returned to the unsuccessful bidders after award of contract and to successful bidders after the signing of prescribed forms of contract and bonds. Guaranty bonds will be returned only upon written application.

H.13.1 PAYMENT BOND

The DB Contractor shall provide a Payment Bond in accordance with Title 27 District of Columbia Municipal Regulations § 2703.6, in Section J.13 of the Solicitation, in the amount of 100 percent of the total amount of the original Contract Price. The Surety must be authorized to do business in the District of Columbia. The Payment Bond may also be the equivalent in cash or other security considered satisfactory to the District.

The Payment Bond shall be for the protection of all businesses supplying labor and materials, including lessors of equipment to the extent of the fair rental value of the
equipment, to the DB Contractor or a Subcontractor in the performance of Work provided for by the Contract.

Before receiving a progress or final payment under a contract covered by this Section, the DB Contractor shall certify in writing that the DB Contractor has made payment from the proceeds of prior payments, and that the DB Contractor will make timely payments from the proceeds of the progress or final payment then due the DB Contractor, to the DB Contractor's Subcontractors and suppliers in accordance with its contractual arrangements with them.

The Payment Bond shall be released one (1) year after Final Acceptance or the District’s receipt of the DB Contractor’s Affidavit Regarding Settlement of Claims, whichever occurs later.

Additional Payment Bond protection shall be required in connection with any modification effecting an increase in price under the Contract if: (i) the modification is for new or additional Work that is beyond the scope of the existing Contract, or (ii) the modification is pursuant to an existing provision of the Contract and is expected to increase the Contract value by more than $50,000.

**H.13.2 PERFORMANCE BOND**

The DB Contractor shall provide a Performance Bond in accordance with Title 27 District of Columbia Municipal Regulations § 2703.3, in the form of Exhibit F, in the amount of 100 percent of the original Contract Price to the extent that this differs from the Standard Specification. Additional Performance Bond protection shall be required in connection with any modification effecting an increase in price under the Contract if: (i) the modification is for new or additional Work that is beyond the scope of the existing Contract, or (ii) the modification is pursuant to an existing provision of the Contract and is expected to increase the Contract value by more than $50,000. Performance bond is not required at time of proposal submission. See Section J.12 of the Solicitation.
SECTION I  
CONTRACT CLAUSES

I.1  APPLICABILITY OF STANDARD CONTRACT PROVISIONS

The Standard Contract Provisions for Use with Specifications for District of Columbia Government Construction Projects (Revised March 2011) are incorporated as part of the Contract. See Section J, Attachment J.1

I.2  CONTRACT THAT CROSS FISCAL YEARS

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

I.3  CONFIDENTIALITY OF INFORMATION

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

I.4  TIME

I.4.1 Time, if stated in a number of days, will include Saturdays, Sundays, and holidays, unless otherwise stated herein.

I.4.2 Computation of Periods

References to “days” contained in the Contract Documents shall mean calendar days unless otherwise specified. If the date to perform any act or give any notice specified in the Contract Documents (including the last day for performance or provision of notice “within a specified time period) falls on a non-business day, such act or notice may be timely performed on the next succeeding day that is a business day. Notwithstanding the foregoing, requirements contained in the Contract and other requirements for which it is clear that performance is intended to occur when necessary on a non-business day shall be required to perform as specified, even though the date in question may fall on a non-business day.

I.5  RIGHTS IN DATA

A. DEFINITION

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

2. “Existing Products” - Tangible Products and intangible licensed Products that exist prior to the commencement of work under the contract. Existing Products must be identified on the Product prior to commencement of work or else will be presumed to be Custom Products.

3. “Custom Products” - Products, preliminary, final or otherwise, which are created or developed by DB Contractor, its Subcontractors, partners, employees, resellers or agents for the District under the contract.


B. TITLE TO PROJECT DELIVERABLES

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

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

2. **Custom Products**: Effective upon Product creation, DB Contractor hereby conveys, assigns, and transfers to the District the sole and exclusive rights, title and interest in Custom Product(s), whether preliminary, final or otherwise, including all patent, trademark and copyrights. DB Contractor hereby agrees to take all necessary and appropriate steps to ensure that the Custom Products are protected against unauthorized copying, reproduction and marketing by or through DB Contractor.
C. TRANSFER OR ASSIGNMENTS OF EXISTING OR CUSTOM PRODUCTS BY THE DISTRICT

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

D. SUBCONTRACTOR RIGHTS

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

E. SOURCE CODE ESCROW

1. For all computer software furnished to the District with the rights specified in section B.2, the DB Contractor shall furnish to the District, a copy of the source code with such rights of the scope as specified in section B.2 of this clause. For all computer software furnished to the District with the restricted rights specified in section B.1 of this clause, the District, if the DB Contractor either directly or through a successor or Affiliate shall cease to provide the maintenance or warranty services provided the District under the contract or any paid-up maintenance agreement, or if the DB Contractor should be declared insolvent by a court of competent jurisdiction, shall have the right to obtain, for its own and sole use only, a single copy of the current version of the source code supplied under the contract, and a single copy of the documentation associated therewith, upon payment to the Person in control of the source code the reasonable Cost of making each copy.

2. If the DB Contractor or Product manufacturer/developer of software furnished to the District with the rights specified in section B.1 of this clause offers the source code or source code escrow to any other commercial customers, the DB Contractor shall either: (1) provide the District with the source code for the Product; (2) place the source code in a third party escrow arrangement with a designated escrow agent who shall be named and identified to the District, and who shall be directed to release the deposited source code in accordance with a standard escrow arrangement acceptable to the District; or (3) will certify to the District that the Product manufacturer/ developer has named the District as a named beneficiary of an established escrow arrangement with its designated escrow agent who shall be named and identified to the
District, and who shall be directed to release the deposited source code in accordance with the terms of escrow.

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

F. INDEMNIFICATION AND LIMITATION OF LIABILITY

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

I.6 OTHER CONTRACTORS

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

I.7 SUBCONTRACTS

The DB Contractor hereunder shall not subcontract any of the DB 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 DB Contractor. Any such subcontract shall specify that the DB Contractor and the Subcontractor shall be subject to every provision of this contract. Notwithstanding any such subcontract approved by the District, the DB Contractor shall remain liable to the District for all DB Contractor’s Work and services required hereunder.

I.8 INSURANCE

A. GENERAL REQUIREMENTS. The Contractor at its sole expense shall procure and maintain, during the entire period of performance under this contract, the types of insurance specified below. The Contractor shall have its insurance broker or insurance company submit a Certificate of Insurance to the CO giving evidence of the required coverage prior to commencing performance under this contract. In no event shall any work be performed until the required Certificates of Insurance signed by an authorized representative of the insurer(s) have been provided to, and accepted by, the CO. All insurance shall be written with financially responsible companies authorized to do business in the District of Columbia or in the jurisdiction where the work is to be performed and have an A.M. Best Company rating of A- / VII or higher. The Contractor shall require all of its subcontractors to carry the same insurance required herein.
All required policies shall contain a waiver of subrogation provision in favor of the Government of the District of Columbia.

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

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

1. Commercial General Liability Insurance (“CGL”) - The Contractor shall provide evidence satisfactory to the CO with respect to the services performed that it carries a CGL policy, written on an occurrence (not claims-made) basis, on Insurance Services Office, Inc. (“ISO”) form CG 00 01 04 13 (or another occurrence-based form with coverage at least as broad and approved by the CO in writing), covering liability for all ongoing and completed operations of the Contractor, including ongoing and completed operations under all subcontracts, and covering claims for bodily injury, including without limitation sickness, disease or death of any persons, injury to or destruction of property, including loss of use resulting therefrom, personal and advertising injury, and including coverage for liability arising out of an Insured Contract (including the tort liability of another assumed in a contract) and acts of terrorism (whether caused by a foreign or domestic source). Such coverage shall have limits of liability of not less than $1,000,000 each occurrence, a $2,000,000 general aggregate (including a per location or per project aggregate limit endorsement, if applicable) limit, a $1,000,000 personal and advertising injury limit, and a $2,000,000 products-completed operations aggregate limit.

2. Automobile Liability Insurance - The Contractor shall provide evidence satisfactory to the CO of commercial (business) automobile liability insurance written on ISO form CA 00 01 10 13 (or another form with coverage at least as broad and approved by the CO in writing) including coverage for all owned, hired, borrowed and non-
owned vehicles and equipment used by the Contractor, with minimum per accident limits equal to the greater of (i) the limits set forth in the Contractor’s commercial automobile liability policy or (ii) $1,000,000 per occurrence combined single limit for bodily injury and property damage.

3. **Workers’ Compensation Insurance** - The Contractor shall provide evidence satisfactory to the CO of Workers’ Compensation insurance in accordance with the statutory mandates of the District of Columbia or the jurisdiction in which the contract is performed.

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

All insurance required by this paragraph 3 shall include a waiver of subrogation endorsement for the benefit of Government of the District of Columbia.

4. **Cyber Liability Insurance** - The Contractor shall provide evidence satisfactory to the Contracting Officer of Cyber Liability Insurance, with limits not less than $1,000,000 per occurrence or claim, $1,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Contractor in this agreement and shall include, but not limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations. This insurance requirement will be considered met if the general liability insurance includes an affirmative cyber endorsement for the required amounts and coverages.

5. **Environmental Liability Insurance** - The Contractor shall provide evidence satisfactory to the CO of pollution legal liability insurance covering losses caused by pollution conditions that arise from the ongoing or completed operations of the Contractor. Completed operations coverage shall remain in effect for at least ten (10) years after completion of the work. Such insurance shall apply to bodily injury, property damage (including loss of use of damaged property or of property that has been physically injured), cleanup costs, liability and cleanup costs while in transit, and defense (including costs and expenses incurred in the investigation, defense and settlement of claims). There shall be neither an exclusion nor a sublimit for mold-related claims. The minimum limits required under this paragraph shall be equal to the greater of (i) the limits set forth in the Contractor’s pollution legal liability policy or (ii) $2,000,000 per occurrence and $2,000,000 in the annual aggregate. If such coverage is written on a claims-made basis, the Contractor warrants that any retroactive date applicable to coverages under the policy precedes the Contractor’s performance of any work under the Contract and that continuous coverage will be maintained or an extended reporting period will be exercised for at least ten (10) years after completion. The Contractor also must furnish to the Owner certificates of insurance evidencing pollution legal liability insurance maintained by the
transportation and disposal site operators(s) used by the Contractor for losses arising from facility(ies) accepting, storing or disposing hazardous materials or other waste as a result of the Contractor’s operations. Such coverages must be maintained with limits of at least the amounts set forth above.

6. Professional Liability Insurance (Errors & Omissions) - The Contractor shall provide Professional Liability Insurance (Errors and Omissions) to cover liability resulting from any error or omission in the performance of professional services under this Contract. The policy shall provide limits of $1,000,000 per claim or per occurrence for each wrongful act and $2,000,000 annual aggregate. The Contractor warrants that any applicable retroactive date precedes the date the Contractor first performed any professional services for the Government of the District of Columbia and that continuous coverage will be maintained or an extended reporting period will be exercised for a period of at least ten years after the completion of the professional services.

7. Commercial Umbrella or Excess Liability - The Contractor shall provide evidence satisfactory to the CO of commercial umbrella or excess liability insurance with minimum limits equal to the greater of (i) the limits set forth in the Contractor’s umbrella or excess liability policy or (ii) $10,000,000 per occurrence and $10,000,000 in the annual aggregate, following the form and in excess of all liability policies. All liability coverages must be scheduled under the umbrella and/or excess policy. The insurance required under this paragraph shall be written in a form that annually reinstates all required limits. Coverage shall be primary to any insurance, self-insurance or reinsurance maintained by the District and the “other insurance” provision must be amended in accordance with this requirement and principles of vertical exhaustion.

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

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

D. LIABILITY. These are the required minimum insurance requirements established by the District of Columbia. HOWEVER, THE REQUIRED MINIMUM INSURANCE REQUIREMENTS PROVIDED ABOVE WILL NOT IN ANY WAY LIMIT THE CONTRACTOR’S LIABILITY UNDER THIS CONTRACT.

E. CONTRACTOR’S PROPERTY. Contractor and subcontractors are solely responsible for any loss or damage to their personal property, including but not limited to tools and equipment, scaffolding and temporary structures, rented machinery, or owned and leased equipment. A waiver of subrogation shall apply in favor of the District of Columbia.
**F. MEASURE OF PAYMENT.** The District shall not make any separate measure or payment for the cost of insurance and bonds. The Contractor shall include all of the costs of insurance and bonds in the contract price.

**G. NOTIFICATION.** The Contractor shall ensure that all policies provide that the CO shall be given thirty (30) days prior written notice in the event of coverage and / or limit changes or if the policy is canceled prior to the expiration date shown on the certificate. The Contractor shall provide the CO with ten (10) days prior written notice in the event of non-payment of premium. The Contractor will also provide the CO with an updated Certificate of Insurance should its insurance coverages renew during the contract.

**H. CERTIFICATES OF INSURANCE.** The Contractor shall submit certificates of insurance giving evidence of the required coverage as specified in this section prior to commencing work. Certificates of insurance must reference the corresponding contract number. Evidence of insurance shall be submitted to:

Marie Niestrath  
Office of Contracting and Procurement  
With Assignment to District Department of Energy & Environment  
1200 First Street NE, 5th Floor  
Washington, DC 20002  
Telephone: 202-724-4051  
E-mail address: marie.niestrath@dc.gov

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

**I. DISCLOSURE OF INFORMATION.** The DB Contractor agrees that the District may disclose the name and contact information of its insurers to any third party which presents a claim against the District for any damages or claims resulting from or arising out of Work performed by the DB Contractor, its agents, employees, servants or Subcontractors in the performance of this contract.

**J. CARRIER RATINGS.** All Contractor’s and its subcontractors’ insurance required in connection with this contract shall be written by insurance companies with an A.M. Best Insurance Guide rating of at least A- VII (or the equivalent by any other rating agency) and licensed in the in the District.

**I.9 EQUAL EMPLOYMENT OPPORTUNITY**

In accordance with the District of Columbia Administrative Issuance System, Mayor’s Order 85-85 dated June 10, 1985, the forms for completion of the Equal
Employment Opportunity Information Report are incorporated herein as Section J.5. An award cannot be made to any offeror who has not satisfied the equal employment requirements

**I.10 ORDER OF PRECEDENCE**

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

**Order of Precedence**

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

1. An applicable Court Order, if any
2. Contract document
5. RFP, as amended
6. BAFOs (in order of most recent to earliest)
7. Proposal

**I.11 DISPUTES**

All Disputes arising under or relating to the contract shall be resolved as provided herein.

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

1. All claims by a contractor against the District arising under or relating to a contract shall be in writing and shall be submitted to the CO for a decision. The Contractor’s claim shall contain at least the following:
   
   i. A description of the claim and the amount in Dispute;
   ii. Data or other information in support of the claim;
   iii. A brief description of the contractor’s efforts to resolve the Dispute prior to filing the claim; and
   iv. The contractor’s request for relief or other action by the CO.

2. The CO may meet with the contractor in a further attempt to resolve the claim by agreement.
(3) The CO shall issue a decision on any claim within 120 calendar days after receipt of the claim. Whenever possible, the CO shall take into account factors such as the size and complexity of the claim and the adequacy of the information in support of the claim provided by the Contractor.

(4) The CO’s written decision shall do the following:

i. Provide a description of the claim or Dispute;
ii. Refer to the pertinent contract terms;
iii. State the factual areas of agreement and disagreement;
iv. State the reasons for the decision, including any specific findings of fact, although specific findings of fact are not required and, if made, shall not be binding in any subsequent proceeding;
v. If all or any part of the claim is determined to be valid, determine the amount of monetary settlement, the contract adjustment to be made, or other relief to be granted;
vii. Indicate that the written document is the CO’s final decision; and
vi. Inform the Contractor of the right to seek further redress by appealing the decision to the Contract Appeals Board.

(5) Failure by the CO to issue a decision on a contract claim within 120 days of receipt of the claim will be deemed to be a denial of the claim, and will authorize the commencement of an appeal to the Contract Appeals Board as provided by D.C. Official Code § 2-360.04.

(6) If a contractor is unable to support any part of its claim and it is determined that the inability is attributable to a material misrepresentation of fact or fraud on the part of the Contractor, the Contractor shall be liable to the District for an amount equal to the unsupported part of the claim in addition to all Costs to the District attributable to the cost of reviewing that part of the Contractor’s claim. Liability under this paragraph (a)(6) shall be determined within six (6) years of the commission of the misrepresentation of fact or fraud.

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

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

(1) The CO shall decide all claims by the District against a contractor arising under or relating to a contract.
(2) The CO shall send written notice of the claim to the contractor. The CO’s written decision shall do the following:

(i) Provide a description of the claim or Dispute;
(ii) Refer to the pertinent contract terms;
(iii) State the factual areas of agreement and disagreement;
(iv) State the reasons for the decision, including any specific findings of fact, although specific findings of fact are not required and, if made, shall not be binding in any subsequent proceeding;
(v) If all or any part of the claim is determined to be valid, determine the amount of monetary settlement, the contract adjustment to be made, or other relief to be granted;
(vi) Indicate that the written document is the CO’s final decision; and
(vii) Inform the Contractor of the right to seek further redress by appealing the decision to the Contract Appeals Board.

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

(4) Before or after issuing the decision, the CO may meet with the Contractor to attempt to resolve the claim by agreement.

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

(6) This paragraph shall not authorize the CO to settle, compromise, pay, or otherwise adjust any claim involving fraud.

(c) Decisions of the CO shall be final and not subject to review unless the Contractor timely commences an administrative appeal for review of the decision, by filing a complaint with the Contract Appeals Board, as authorized by D.C. Official Code § 2-360.04.

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

I.12 RESERVED

I.13 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.14 DISTRICT OF COLUMBIA FALSE CLAIMS ACT
In accordance with D.C. Official Code § 2-381.02, any Person who commits any of the following acts shall be liable to the District for three (3) times the amount of damages which the District sustains because of the act of that Person. A Person who commits any of the following acts shall also be liable to the District for the Costs of a civil action brought to recover penalties or damages, and shall be liable to the District for a civil penalty of not less than $5,500, and not more than $11,000, for each false or fraudulent claim for which the Person:

a. Knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval;

b. Knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim;

c. Has possession, custody, or control of property or money used, or to be used, by the District and knowingly delivers, or causes to be delivered, less than all of that money or property;

d. Is authorized to make or deliver a document certifying receipt of property used, or to be used, by the District and, intending to defraud the District, makes or delivers the receipt without completely knowing that the information on the receipt is true;

e. Knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer or employee of the District who lawfully may not sell or pledge property;

f. Knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the District, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the District;

g. Conspires to commit a violation of paragraph (a), (b), (c), (d), (e), or (f) of this subsection;

h. Is a beneficiary of an inadvertent submission of a false or fraudulent claim to the District, subsequently discovers the falsity of the claim, and fails to disclose the false or fraudulent claim to the District; or

i. Is the beneficiary of an inadvertent payment or overpayment by the District of monies not due and knowingly fails to repay the inadvertent payment or overpayment to the District.

Notwithstanding subsection (a) of this section, the court may assess not more than two (2) times the amount of damages which the District sustains because of the act of the Person, and there shall be no civil penalty, if the court finds all of the following:

1. The Person committing the violation furnished officials of the District responsible for investigating false claims violations with all information known
to that Person about the violation within 30 days after the date on which the Person first obtained the information;

2. The Person fully cooperated with any investigation by the District; and

3. At the time the Person furnished the District with information about the violation, no criminal prosecution, civil action, or administrative action had commenced with respect to the violation, and the Person did not have actual knowledge of the existence of an investigation into the violation.

Liability pursuant to this section shall be joint and several for any act committed by 2 or more Persons.

This section shall not apply to claims, records, or statements made pursuant to those portions of Title 47 that refer or relate to taxation.

I.15 WHISTLEBLOWER PROTECTIONS

A. Prohibition of Reprisals.

1. Pursuant to 41 U.S.C. 4712, the Contractor and all Subcontractors are prohibited from discharging, demoting or otherwise discriminating against as reprisal for disclosing to a Person or body described in paragraph 2 information that the employee reasonably believes is evidence of:

   a. Gross mismanagement of a Federal contract or grant;
   b. Gross waste of Federal funds;
   c. An abuse of authority relating to a Federal contract or grant;
   d. A substantial or specific danger to public health or safety; or
   e. A violation of law, rule or regulation related to a Federal contract (including the competition for or negotiation of a contract) or grant.

2. Persons and Bodies covered. The Persons and bodies described in this paragraph are the Persons and bodies as follows:

   a. A member of Congress or a representative of a committee of Congress;
   b. An Inspector General;
   c. The Government Accountability Office;
   d. A Federal employee responsible for contract or grant oversight or management at the relevant agency;
   e. An authorized official of the Department of Justice or other law enforcement agency;
   f. A court or grand jury; or
   g. A management official or employee of the DB Contractor, Subcontractor, or grantee who has the responsibility to investigate; discover or address misconduct.

B. The inspector general shall receive and investigate all complaints alleging a violation of Paragraph 1 of this section.
C. The following applicable language is from section 4.9a-c of federal grant National Fish & Wildlife Grant for Fort Dupont Watershed Restoration (DC):

a) This award and related subawards and contracts over the simplified acquisition threshold and all employees working on this award and related subawards and contracts over the simplified acquisition threshold are subject to the whistleblower rights and remedies in the pilot program on award recipient employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (P.L. 112.239).

b) Recipients, and their subrecipients and contractors awarded contracts over the simplified acquisition threshold related to this award, shall inform their employees in writing, in the predominant language of the workforce, of the employee whistleblower rights and protections under 41 U.S.C. 4712.

c) The recipient shall insert this clause, including this paragraph (c), in all subawards and contracts over the simplified acquisition threshold related to this award.

I.16 TRAFFICKING IN PERSONS

The DB Contractor, its employees and Subcontractors and their employees may not engage in severe forms of trafficking of persons during the period of time that the award is in effect; procure a commercial sex act during the period of time that the Contract is in effect; or use forced labor in the performance of subawards under this Contract.

I.16.1 Pursuant to section 106(a) of the Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. 7104(g)) (codified at 2 C.F.R. Part 175), DOEE & the Contractor shall comply with the below provisions. Further, DOEE shall flow down these provisions in all subaward and contracts, including a requirement that Subrecipients similarly flow down these provisions all lower-tiered subawards and subcontracts. The provision is cited herein:

a. Trafficking in persons.

1. Provisions applicable to a recipient that is a private entity.
   i. You as the recipient, your employees, subrecipients under this award, and subrecipients’ employees may not—

   a. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
   b. Procure a commercial sex act during the period of time that the award is in effect; or
   c. Use forced labor in the performance of the award or subawards under the award.
ii. The District may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity —

1.1. Is determined to have violated a prohibition in paragraph a.1 of this award term; or
1.2. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either—
   1. Associated with performance under this award; or
   2. Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, “OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement),” as implemented at 2 CFR 200.213.

2. Provision applicable to a recipient other than a private entity. The District may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity
   i. Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or
   ii. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either—
      a. Associated with performance under this award; or
      b. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, “OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement),” as implemented at 2 CFR 200.213.

3. Provisions applicable to any recipient
   i. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this section.
   ii. Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:
      a. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and
      b. Is in addition to all other remedies for noncompliance that are available to us under this award.1.2.1. You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.

4. Definitions. For purposes of section I.16:
   i. “Employee” means either:
      a. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or
      b. Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a...
volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.  

ii. “Forced labor” means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.  

iii. “Private entity”:
   a. Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25.  
   b. Includes:
      1. A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).  
      2. A for-profit organization.  

iv. “Severe forms of trafficking in persons,” “commercial sex act,” and “coercion” have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102).

I.17 The DB Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.)

I.18 LOBBYING

The DB Contractor shall comply with lobbying restrictions found under Section J.19 and J.20 in pursuant to 40 CFR Part 34.
### SECTION J
### LIST OF ATTACHMENTS

The following list of attachments is incorporated into the solicitation by reference:

<table>
<thead>
<tr>
<th>Attachment Number</th>
<th>Document</th>
</tr>
</thead>
<tbody>
<tr>
<td>J.4</td>
<td>N/A</td>
</tr>
<tr>
<td>J.5</td>
<td>N/A</td>
</tr>
<tr>
<td>J.8</td>
<td>N/A</td>
</tr>
<tr>
<td>J.9</td>
<td>N/A</td>
</tr>
<tr>
<td>Attachment Number</td>
<td>Document</td>
</tr>
<tr>
<td>-------------------</td>
<td>----------</td>
</tr>
<tr>
<td>J.12</td>
<td>Payment Bond available as an attachment.</td>
</tr>
<tr>
<td>J.14</td>
<td>N/A</td>
</tr>
<tr>
<td>J.16</td>
<td>DB Contractor Payment Schedule attached</td>
</tr>
<tr>
<td>J.17</td>
<td>Price Breakdown Table attached</td>
</tr>
<tr>
<td>J.19</td>
<td>Certification Regarding Lobbying</td>
</tr>
<tr>
<td>J.20</td>
<td>Design Build Agreement attached</td>
</tr>
</tbody>
</table>
J.16 APPLICABLE DOCUMENTS – Contractor Payment Schedule

The following list of attachments is incorporated into the solicitation by reference.

<table>
<thead>
<tr>
<th>Deliverable</th>
<th>Months after Notice to Proceed</th>
<th>Anticipated Payment</th>
<th>Cumulative Payment</th>
<th>Retainage (10% of Payment Amount)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pre-design Project Area investigation</td>
<td>1 month</td>
<td>$50,000.00</td>
<td>$50,000.00</td>
<td>$5,000.00</td>
</tr>
<tr>
<td>Concept Project Designs Completed</td>
<td>1.5 months</td>
<td>$40,000.00</td>
<td>$90,000.00</td>
<td>$4,000.00</td>
</tr>
<tr>
<td>Semi-final Project Designs Completed</td>
<td>2 months</td>
<td>$40,000.00</td>
<td>$130,000.00</td>
<td>$4,000.00</td>
</tr>
<tr>
<td>Final Project Designs Completed/Permitted</td>
<td>3.5 months</td>
<td>$40,000.00</td>
<td>$170,000.00</td>
<td>$4,000.00</td>
</tr>
<tr>
<td>Construction Mobilization</td>
<td>4 month</td>
<td>$100,000.00</td>
<td>$270,000.00</td>
<td>$10,000.00</td>
</tr>
<tr>
<td>Excavation Completed</td>
<td>4.5 months</td>
<td>$100,000.00</td>
<td>$370,000.00</td>
<td>$10,000.00</td>
</tr>
<tr>
<td>LID Installation Completed</td>
<td>5.5 months</td>
<td>$100,000.00</td>
<td>$470,000.00</td>
<td>$10,000.00</td>
</tr>
<tr>
<td>Landscaping Completed</td>
<td>6 months</td>
<td>$51,325.00</td>
<td>$521,325.00</td>
<td>$5,132.50</td>
</tr>
<tr>
<td>As-Built Plans Competed</td>
<td>6 months</td>
<td>$4,000.00</td>
<td>$425,325.00</td>
<td>$400.00</td>
</tr>
<tr>
<td>Educational Signs Installed</td>
<td>6 months</td>
<td>$4,000.00</td>
<td>$525,325.00</td>
<td>$400.00</td>
</tr>
<tr>
<td>LID Maintenance Completed</td>
<td>14 months</td>
<td>$6,000.00</td>
<td>$528,325.00</td>
<td>$600.00</td>
</tr>
<tr>
<td><strong>Total Design-Build Price</strong></td>
<td></td>
<td><strong>$534,325.00</strong></td>
<td><strong>$534,325.00</strong></td>
<td><strong>$53,432.50</strong></td>
</tr>
</tbody>
</table>
### J.17 APPLICABLE DOCUMENTS - Price Breakdown

<table>
<thead>
<tr>
<th>ITEM/LINE NO.</th>
<th>DESCRIPTION</th>
<th>ITEM TOTAL (U.S. Dollars)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0001</td>
<td>Professional Services and Permitting including, but not limited to, project and construction management; design services; community outreach; permitting activities and compliance; and Quality Assurance/Quality Control.</td>
<td>$ 169,000.00</td>
</tr>
<tr>
<td>0002</td>
<td>Construction/Installation Services including, but not limited to mobilization; traffic control; site demolition; excavation, grading and earthwork; removal and disposal; underdrains, cleanouts, underdrain connections and risers; curbs and inlets; LID retrofits including Stone, Bioretention Media, Geotextile, and Paving Materials; landscaping; and as built Plans.</td>
<td>$ 418,114.00</td>
</tr>
<tr>
<td>0003</td>
<td>Post-Construction Services, including, but not limited to, Educational Sign Design and installation; maintenance of LID retrofits and vegetation.</td>
<td>$ 13,500.00</td>
</tr>
<tr>
<td>0004</td>
<td>Bond Premiums</td>
<td>$ 19,615.00</td>
</tr>
<tr>
<td>0005</td>
<td>Insurance Premiums</td>
<td>$ 20,300.00</td>
</tr>
<tr>
<td></td>
<td><strong>Total Lump Sum for Price Breakdown</strong></td>
<td><strong>$ 640,529.00</strong></td>
</tr>
</tbody>
</table>