

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**

**STANDARD CONTRACT PROVISIONS**

**FOR USE WITH**

**DISTRICT OF COLUMBIA GOVERNMENT  
SUPPLIES AND SERVICES CONTRACTS**

**November 2004**

**OFFICE OF CONTRACTING AND PROCUREMENT  
ROOM 700 SOUTH  
441 4<sup>th</sup> STREET, NW  
WASHINGTON, D.C. 20001**

STANDARD CONTRACT PROVISIONS

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**1. Covenant Against Contingent Fees:**

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the District will have the right to terminate the contract without liability or in its discretion to deduct from the contract price or consideration or otherwise recover, the full amount of the commission, percentage, brokerage, or contingent fee.

**2. Shipping Instructions – Consignment:**

Unless otherwise specified in this Invitation for Bids/Request for Proposals, each case, crate, barrel, package, etc., delivered under this contract must be plainly stencil marked or securely tagged, stating the Contractor's name, contract number and delivery address as noted in the contract. In case of carload lots, the Contractor shall tag the car, stating Contractor's name and contract number. Any failure to comply with these instructions will place the material at the Contractor's risk. Deliveries by rail, water, truck or otherwise, must be within the working hours and in ample time to allow for unloading and if necessary, the storing of the materials or supplies before closing time. Deliveries at any other time will not be accepted unless specific arrangements have been previously made with the contact person identified in the contract at the delivery point.

**3. Patents:**

The Contractor shall hold and save the District, its officers, agents, servants, and employees harmless from liability of any nature or kind, including costs, expenses, for or on account of any patented or unpatented invention, article, process, or appliance, manufactured or used in the performance of this contract, including their use by the District, unless otherwise specifically stipulated in the contract.

**4. Quality:**

Contractor's workmanship shall be of the highest grade, and all materials provided under this Contract shall be new, of the best quality and grade, and suitable in every respect for the purpose intended.

**5. Inspection Of Supplies:**

- (a) Definition. "Supplies," as used in this clause, includes, but is not limited to raw materials, components, intermediate assemblies, end products, and lots of supplies.
- (b) The Contractor shall be responsible for the materials or supplies covered by this contract until they are delivered at the designated point, but the Contractor shall bear all risk on rejected materials or supplies after notification of rejection. Upon the Contractor's failure to cure within ten (10) days after date of notification, the District may return the rejected materials or supplies to the Contractor at the Contractor's risk and expense.
- (c) The Contractor shall provide and maintain an inspection system acceptable to the District covering supplies under this contract and shall tender to the District for acceptance only supplies that have been inspected in accordance with the inspection system and have been found by the Contractor to be in conformity with contract requirements. As part of the system, the Contractor shall prepare records evidencing all inspections made under the system and the outcome. These records shall be kept complete and made available to the District during contract performance and for as long afterwards as the contract requires. The District may perform reviews and evaluations as reasonably necessary to ascertain compliance with this paragraph. These reviews and evaluations shall be conducted in a manner that will not unduly delay the contract work. The right of review, whether exercised or not, does not relieve the Contractor of the obligations under this contract.
- (d) The District has the right to inspect and test all supplies called for by the contract, to the extent practicable, at all places and times, including the period of manufacture, and in any event before acceptance. The District will perform inspections and tests in a manner that will not unduly delay the work. The District assumes no contractual obligation to perform any inspection and test for the benefit of the Contractor unless specifically set forth elsewhere in the contract.
- (e) If the District performs inspection or test on the premises of the Contractor or subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, without additional charge, all reasonable facilities and assistance for the safe and convenient performance of these duties. Except as otherwise provided in the contract, the District will bear the expense of District inspections or tests made at other than Contractor's or subcontractor's premises; provided, that in case of rejection, the District will not be liable for any reduction in the value of inspection or test samples.

- (1) When supplies are not ready at the time specified by the Contractor for inspection or test, the Contracting Officer may charge to the Contractor the additional cost of inspection or test.
  - (2) Contracting Officer may also charge the Contractor for any additional cost of inspection or test when prior rejection makes re-inspection or retest
- (f) The District has the right either to reject or to require correction of nonconforming supplies. Supplies are nonconforming when they are defective in material or workmanship or otherwise not in conformity with contract requirements. The District may reject nonconforming supplies with or without disposition instructions.
- (g) The Contractor shall remove supplies rejected or required to be corrected. However, the Contracting Officer may require or permit correction in place, promptly after notice, by and at the expense of the Contractor. The Contractor shall not tender for acceptance corrected or rejected supplies without disclosing the former rejection or requirement for correction, and when required, shall disclose the corrective action taken.
- (h) If the Contractor fails to remove, replace, or correct rejected supplies that are required to be replaced or corrected within ten (10) days, the District may either (1) by contract or otherwise, remove, replace or correct the supplies and charge the cost to the Contractor or (2) terminate the contract for default. Unless the Contractor corrects or replaces the supplies within the delivery schedule, the Contracting Officer may require their delivery and make an equitable price reduction. Failure to agree to a price reduction shall be a dispute.
- (i) If this contract provides for the performance of District quality assurance at source, and if requested by the District, the Contractor shall furnish advance notification of the time (i) when Contractor inspection or tests will be performed in accordance with the terms and conditions of the contract, and (ii) when the supplies will be ready for District inspection.
- (j) The District request shall specify the period and method of the advance notification and the District representative to whom it shall be furnished. Requests shall not require more than 2 business days of advance notification if the District representative is in residence in the Contractor's plant, nor more than 7 business days in other instances.
- (k) The District will accept or reject supplies as promptly as practicable after delivery, unless otherwise provided in the contract. District failure to inspect and accept or reject the supplies shall not relieve the Contractor from responsibility, nor impose liability upon the District, for non-conforming supplies.
- (l) Inspections and tests by the District do not relieve the Contractor of responsibility for defects or other failures to meet contract requirements discovered before acceptance. Acceptance shall be conclusive, except for latent defects, fraud, gross mistakes amounting to fraud, or as otherwise provided in the contract.
- (m) If acceptance is not conclusive for any of the reasons in subparagraph (l) hereof, the District, in addition to any other rights and remedies provided by law, or under provisions

of this contract, shall have the right to require the Contractor (1) at no increase in contract price, to correct or replace the defective or nonconforming supplies at the original point of delivery or at the Contractor's plant at the Contracting Officer's election, and in accordance with a reasonable delivery schedule as may be agreed upon between the Contractor and the Contracting Officer; provided, that the Contracting Officer may require a reduction in contract price if the Contractor fails to meet such delivery schedule, or (2) within a reasonable time after receipt by the Contractor of notice of defects or noncompliance, to repay such portion of the contract as is equitable under the circumstances if the Contracting Officer elects not to require correction or replacement. When supplies are returned to the Contractor, the Contractor shall bear the transportation cost from the original point of delivery to the Contractor's plant and return to the original point when that point is not the Contractor's plant. If the Contractor fails to perform or act as required in (1) or (2) above and does not cure such failure within a period of 10 days (or such longer period as the Contracting Officer may authorize in writing) after receipt of notice from the Contracting Officer specifying such failure, the District will have the right to return the rejected materials at Contractor's risk and expense or contract or otherwise to replace or correct such supplies and charge to the Contractor the cost occasioned the District thereby.

**6. Inspection Of Services:**

- (a) Definition. "Services" as used in this clause includes services performed, workmanship, and material furnished or utilized in the performance of services.
- (b) The Contractor shall provide and maintain an inspection system acceptable to the District covering the services under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the District during contract performance and for as long afterwards as the contract requires.
- (c) The District has the right to inspect and test all services called for by the contract, to the extent practicable at all times and places during the term of the contract. The District will perform inspections and tests in a manner that will not unduly delay the work.
- (d) If the District performs inspections or tests on the premises of the Contractor or subcontractor, the Contractor shall furnish, without additional charge, all reasonable facilities and assistance for the safety and convenient performance of these duties.
- (e) If any of the services do not conform to the contract requirements, the District may require the Contractor to perform these services again in conformity with contract requirements, at no increase in contract amount. When the defects in services cannot be corrected by performance, the District may require the Contractor to take necessary action to ensure that future performance conforms to contract requirements and reduce the contract price to reflect value of services performed.
- (f) If the Contractor fails to promptly perform the services again or take the necessary action to ensure future performance in conformity to contract requirements, the District may (1) by contract or otherwise, perform the services and charge the Contractor any cost incurred by the District that is directly related to the performance of such services, or (2) terminate the contract for default.

**7. Waiver:**

The waiver of any breach of the contract will not constitute a waiver of any subsequent breach thereof, or a waiver of the contract.

**8. Default:**

- (a) The District may, subject to the provisions of paragraph (c) below, by written notice of default to the Contractor, terminate the whole or any part of this contract in any one of the following circumstances:
- (1) If the Contractor fails to make delivery of the supplies or to perform the services within the time specified herein or any extension thereof; or
  - (2) If the Contractor fails to perform any of the other provisions of this contract, or so fails to make progress as to endanger performance of this contract in accordance with its terms, and in either of these two circumstances does not cure such failure within a period of ten (10) days (or such longer period as the Contracting Officer may authorize in writing) after receipt of notice from the Contracting Officer specifying such failure.
- (b) In the event the District terminates this contract in whole or in part as provided in paragraph (a) of this clause, the District may procure, upon such terms and in such manner as the Contracting Officer may deem appropriate, supplies or service similar to those so terminated, and the Contractor shall be liable to the District for any excess costs for similar supplies or services; provided, that the Contractor shall continue the performance of this contract to the extent not terminated under the provisions of this clause.
- (c) Except with respect to defaults of subcontractors, the Contractor shall not be liable for any excess costs if the failure to perform the contract arises out of causes beyond the control and without the fault or negligence of the Contractor. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the District or Federal Government in either their sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the failure to perform must be beyond the control and without fault or negligence of the Contractor. If the failure to perform is caused by the default of the subcontractor, and if such default arises out of causes beyond the control of both the Contractor and the subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for any excess cost for failure to perform, unless the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery schedule.
- (d) If this contract is terminated as provided in paragraph (a) of this clause, the District, in addition to any other rights provided in this clause, may require the Contractor to transfer title and deliver to the District, in the manner and to the extent directed by the Contracting Officer, (i) completed supplies, and (ii) such partially completed supplies and materials, parts, tools, dies, jigs, fixtures plans, drawing information, and contract rights (hereinafter called "manufacturing materials") as the Contractor has specifically produced or specifically acquired

for the performance of such part of this contract as has been terminated; and the Contractor shall, upon direction of the Contracting Officer, protect and preserve property in possession of the Contractor in which the District has an interest. Payment for completed supplies delivered to and accepted by the District will be at the contract price. Payment for manufacturing materials delivered to and accepted by the District will be at the contract price. Payment for manufacturing materials delivered to and accepted by the District and for the protection and preservation of property shall be in an amount agreed upon by the Contractor and Contracting Officer; failure to agree to such amount shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes". The District may withhold from amounts otherwise due the Contractor for such completed supplies or manufacturing materials such sum as the Contracting Officer determines to be necessary to protect the District against loss because of outstanding liens or claims of former lien holders.

- (e) If, after notice of termination of this contract under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provisions of this clause, or that the default was excusable under the provisions of this clause, the rights and obligations of the parties shall, if the contract contains a clause providing for termination of convenience of the District, be the same as if the notice of termination had been issued pursuant to such clause. See Clause 20 for Termination for Convenience of the District.
- (f) The rights and remedies of the District provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.
- (g) As used in paragraph (c) of this clause, the terms "subcontractor(s) means subcontractor(s) at any tier.

**9. Indemnification:**

The Contractor agrees to defend, indemnify and hold harmless the District, its officers, agencies, departments, agents, and employees (collectively the "District") from and against any and all claims, losses, liabilities, penalties, fines, forfeitures, demands, causes of action, suits, costs and expenses incidental thereto (including cost of defense and attorneys' fees), resulting from, arising out of, or in any way connected to activities or work performed by the Contractor, Contractor's officers, employees, agents, servants, subcontractors, or any other person acting for or by permission of the Contractor in performance of this Contract. The Contractor assumes all risks for direct and indirect damage or injury to the property or persons used or employed in performance of this Contract. The Contractor shall also repair or replace any District property that is damaged by the Contractor, Contractor's officers, employees, agents, servants, subcontractors, or any other person acting for or by permission of the Contractor while performing work hereunder.

The indemnification obligation under this section shall not be limited by the existence of any insurance policy or by any limitation on the amount or type of damages, compensation or benefits payable by or for Contractor or any subcontractor, and shall survive the termination of this Contract. The District agrees to give Contractor written notice of any claim of indemnity under this section. Additionally, Contractor shall have the right and sole authority to control the defense or settlement of such claim, provided

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that no contribution or action by the District is required in connection with the settlement. Monies due or to become due the Contractor under the contract may be retained by the District as necessary to satisfy any outstanding claim which the District may have against the Contractor.

**10. Transfer:**

No contract or any interest therein shall be transferred by the parties to whom the award is made; such transfer will be null and void and will be cause to annul the contract.

**11. Taxes:**

- (a) The Government of the District of Columbia is exempt from and will not pay Federal Excise Tax, Transportation Tax, and the District of Columbia Sales and Use Taxes.
- (b) Tax exemption certificates are no longer issued by the District for Federal Excise Tax. The following statement may be used by the supplier when claiming tax deductions for Federal Excise Tax exempt items sold to the District.

“The District of Columbia Government is Exempt from Federal Excise Tax – Registration No. 52-73-0206-K, Internal Revenue Service, Baltimore, Maryland.”

Exempt From Maryland Sales Tax, Registered With The Comptroller Of The Treasury As Follows:

- a) Deliveries to Glenn Dale Hospital – Exemption No. 4647
- b) Deliveries to Children’s Center – Exemption No. 4648
- c) Deliveries to other District Departments or Agencies – Exemption No. 09339

“The District of Columbia Government is Exempt from Sales and Use Tax – Registration No. 53-600, The District of Columbia Office of Tax and Revenue.”

**12. Appointment of Attorney:**

- (a) The bidder/offeror or contractor (whichever the case may be) does hereby irrevocably designate and appoint the Clerk of the District of Columbia Superior Court and his successor in office as the true and lawful attorney of the Contractor for the purpose of receiving service of all notices and processes issued by any court in the District of Columbia, as well as service of all pleadings and other papers, in relation to any action or legal proceeding arising out of or pertaining to this contract or the work required or performed hereunder.
- (b) The bidder/offeror or contractor (whichever the case may be) expressly agrees that the validity of any service upon the said Clerk as herein authorized shall not be affected either by the fact that the contractor was personally within the District of Columbia and otherwise subject to personal service at the time of such service upon the said Clerk or by the fact that the contractor failed to receive a copy of such process, notice or other paper so served upon the said Clerk provided the said Clerk shall have deposited in the United States mail, registered and postage prepaid, a copy of such process, notice, pleading or other paper addressed to the bidder/offeror or contractor at the address stated in this contract.

**13. District Employees Not To Benefit:**

Unless a determination is made as provided herein, no officer or employee of the District will be admitted to any share or part of this contract or to any benefit that may arise therefrom, and any contract made by the Contracting Officer or any District employee authorized to execute contracts in which they or an employee of the District will be personally interested shall be void, and no payment shall be made thereon by the District or any officer thereof, but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit. A District employee shall not be a party to a contract with the District and will not knowingly cause or allow a business concern or other organization owned or substantially owned or controlled by the employee to be a party to such a contract, unless a written determination has been made by the head of the procuring agency that there is a compelling reason for contracting with the employee, such as when the District's needs cannot reasonably otherwise be met. (DC Procurement Practices Act of 1985, D.C. Law 6-85, D.C. Official Code, section 2-310.01, and Chapter 18 of the DC Personnel Regulations)

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

**14. Disputes:**

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

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

- (a) All claims by a Contractor against the District arising under or relating to a contract shall be in writing and shall be submitted to the Contracting Officer for a decision. The contractor's claim shall contain at least the following:
  - (1) A description of the claim and the amount in dispute;
  - (2) Any data or other information in support of the claim;
  - (3) A brief description of the Contractor's efforts to resolve the dispute prior to filing the claim; and
  - (4) The Contractor's request for relief or other action by the Contracting Officer.
- (b) The Contracting Officer may meet with the Contractor in a further attempt to resolve the claim by agreement.

- (c) For any claim of \$50,000 or less, the Contracting Officer shall issue a decision within sixty (60) days from receipt of a written request from a Contractor that a decision be rendered within that period.
- (d) For any claim over \$50,000, the Contracting Officer shall issue a decision within ninety (90) days of receipt of the claim. Whenever possible, the Contracting Officer shall take into account factors such as the size and complexity of the claim and the adequacy of the information in support of the claim provided by the Contractor.
- (e) The Contracting Officer's written decision shall do the following:
  - (1) Provide a description of the claim or dispute;
  - (2) Refer to the pertinent contract terms;
  - (3) State the factual areas of agreement and disagreement;
  - (4) State the reasons for the decision, including any specific findings of fact, although specific findings of fact are not required and, if made, shall not be binding in any subsequent proceeding;
  - (5) If all or any part of the claim is determined to be valid, determine the amount of monetary settlement, the contract adjustment to be made, or other relief to be granted;
  - (6) Indicate that the written document is the contracting officer's final decision; and
  - (7) Inform the Contractor of the right to seek further redress by appealing the decision to the Contract Appeals Board.
- (f) Any failure by the Contracting Officer to issue a decision on a contract claim within the required time period will be deemed to be a denial of the claim, and will authorize the commencement of an appeal to the Contract Appeals Board as authorized by D.C. Official Code § 2-309.04.
- (g)
  - (1) If a Contractor is unable to support any part of his or her claim and it is determined that the inability is attributable to a material misrepresentation of fact or fraud on the part of the Contractor, the Contractor shall be liable to the District for an amount equal to the unsupported part of the claim in addition to all costs to the District attributable to the cost of reviewing that part of the Contractor's claim.
  - (2) Liability under paragraph (g)(1) shall be determined within six (6) years of the commission of the misrepresentation of fact or fraud.
- (h) The decision of the Contracting Officer shall be final and not subject to review unless an administrative appeal or action for judicial review is timely commenced by the Contractor as authorized by D. C. Official Code § 2-309.04.
- (i) Pending final decision of an appeal, action, or final settlement, a Contractor shall proceed diligently with performance of the contract in accordance with the decision of the Contracting Officer.

C. Claims by the District against a Contractor

- (a) Claim as used in Section C of this clause, means a written demand or written assertion by the District seeking, as a matter of right, the payment of money in a sum certain, the adjustment of contract terms, or other relief arising under or relating to this contract. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant.
- (b) (1) All claims by the District against a Contractor arising under or relating to a contract shall be decided by the Contracting Officer.  
(2) The Contracting Officer shall send written notice of the claim to the Contractor. The Contracting Officer's written decision shall do the following:
  - (a) Provide a description of the claim or dispute;
  - (b) Refer to the pertinent contract terms;
  - (c) State the factual areas of agreement and disagreement;
  - (d) State the reasons for the decision, including any specific findings of fact, although specific findings of fact are not required and, if made, shall not be binding in any subsequent proceeding;
  - (e) If all or any part of the claim is determined to be valid, determine the amount of monetary settlement, the contract adjustment to be made, or other relief to be granted;
  - (f) Indicate that the written document is the Contracting Officer's final decision; and
  - (g) Inform the Contractor of the right to seek further redress by appealing the decision to the Contract Appeals Board.
- (3) The decision shall be supported by reasons and shall inform the Contractor of its rights as provided herein.
- (4) The authority contained in this clause shall not apply to a claim or dispute for penalties or forfeitures prescribed by statute or regulation which another District agency is specifically authorized to administer, settle, or determine.
- (5) This clause shall not authorize the Contracting Officer to settle, compromise, pay, or otherwise adjust any claim involving fraud.
- (c) The decision of the Contracting Officer shall be final and not subject to review unless an administrative appeal or action for judicial review is timely commenced by the Contractor as authorized by D.C. Official Code §2-309.04.
- (d) Pending final decision of an appeal, action, or final settlement, the Contractor shall proceed diligently with performance of the contract in accordance with the decision of the Contracting Officer.

**15. Changes:**

The Contracting Officer may, at any time, by written order, and without notice to the surety, if any, make changes in the contract within the general scope hereof. If such change causes an increase or decrease in the cost of performance of this contract, or in the time required for performance, an equitable adjustment shall be made. Any claim for adjustment under this paragraph must be asserted within ten (10) days from the date the change is offered; provided, however, that the Contracting Officer, if he or she determines that the facts justify such action, may receive, consider and adjust any such claim asserted at any time prior to the date of final settlement of the contract. If the parties fail to agree upon the adjustment to be made, the dispute shall be determined as provided in the Disputes clause at Section 18. Nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

**16. Termination For Convenience Of The District:**

- (a) The District may terminate performance of work under this contract in whole or, from time to time, in part if the Contracting Officer determines that a termination is in the District's interest. The Contracting Officer shall terminate by delivering to the Contractor a Notice of Termination specifying the extent of termination and effective date.
- (b) After receipt of a Notice of Termination, and except as directed by the Contracting Officer, the Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this clause:
  - (1) Stop work as specified in the notice.
  - (2) Place no further subcontracts or orders (referred to as subcontracts in this clause) for materials, services, or facilities, except as necessary to complete the continued portion of the contract.
  - (3) Terminate all contracts to the extent they relate to the work terminated.
  - (4) Assign to the District, as directed by the Contracting Officer, all rights, title and interest of the Contractor under the subcontracts terminated, in which case the District will have the right to settle or pay any termination settlement proposal arising out of those terminations.
  - (5) With approval or ratification to the extent required by the Contracting Officer, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts. The approval or ratification will be final for purposes of this clause.
  - (6) As directed by the Contracting Officer, transfer title and deliver to the District (i) the fabricated or unfabricated parts, work in process, completed work, supplies, and other materials produced or acquired for the work terminated, and (ii) the completed or partially completed plans, drawings, information, and other property that, if the contract has been completed, would be required to be furnished to the District.
  - (7) Complete performance of the work not terminated.

- (8) Take any action that may be necessary, or that the Contracting Officer may direct, for the protection and preservation of the property related to this contract that is in the possession of the Contractor and in which the District has or may acquire an interest.
  - (9) Use its best efforts to sell, as directed or authorized by the Contracting Officer, any property of the types referred to in subparagraph (6) above; provided, however, that the Contractor (i) is not required to extend credit to any purchaser and (ii) may acquire the property under the conditions prescribed by, and at prices approved by, the Contracting Officer. The proceeds of any transfer or disposition will be applied to reduce any payments to be made by the District under this contract, credited to the price or cost of the work, or paid in any other manner directed by the Contracting Officer.
- (c) After the expiration of ninety (90) days (or such longer period as may be agreed to) after receipt by the Contracting Officer of acceptable inventory schedules, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality of termination inventory not previously disposed of excluding items authorized for disposition by the Contracting Officer. The Contractor may request the District to remove those items or enter into an agreement for their storage. Within fifteen (15) days, the District will accept title to those items and remove them or enter into a storage agreement. The Contracting Officer may verify the list upon removal of the items, or if stored, within forty five (45) days from submission of the list, and shall correct the list, as necessary, before final settlement.
- (d) After termination, the Contractor shall submit a final termination settlement proposal to the Contracting Officer in the form and with the certification prescribed by the Contracting Officer. The Contractor shall submit the proposal promptly, but no later than one year from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this one year period. However, if the Contracting Officer determines that the facts justify it, a termination settlement proposal may be received and acted on after one year or any extension. If the Contractor fails to submit the proposal within the time allowed, the Contracting Officer may determine, on the basis of information available, the amount, if any, due to the Contractor because of the termination and shall pay the amount determined.
- (e) Subject to paragraph (d) above, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount to be paid because of the termination. The amount may include a reasonable allowance for profit on work done. However, the agreed amount, whether under this paragraph (e) or paragraph (f) below, exclusive of costs shown in subparagraph (f)(3) below, may not exceed the total contract price as reduced by (1) the amount of payment previously made and (2) the contract price of work not terminated. The contract shall be amended, and the Contractor paid the agreed amount. Paragraph (f) below shall not limit, restrict, or affect the amount that may be agreed upon to be paid under this paragraph.
- (f) If the Contractor and the Contracting Officer fail to agree on the whole amount to be paid because of the termination work, the Contracting Officer shall pay the

Contractor the amounts determined by the Contracting Officer as follows, but without duplication of any amounts agreed on under paragraph (e) above:

- (1) The contract price for completed supplies or services accepted by the District (or sold or acquired under subparagraph (b)(9) above) not previously paid for, adjusted for any saving of freight and other charges.
- (2) The total of :
  - (i) The costs incurred in the performance of the work terminated, including initial costs and preparatory expense allocable thereto, but excluding any costs attributable to supplies or services paid or to be paid under subparagraph (f)(1) above;
  - (ii) The cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the contract if not included in subparagraph (f)(1) above; and
  - (iii) A sum, as profit on subparagraph f(1) above, determined by the Contracting Officer to be fair and reasonable; however, if it appears that the Contractor would have sustained a loss on the entire contract had it been completed, the Contracting Officer shall allow no profit under this subparagraph (iii) and shall reduce the settlement to reflect the indicated rate of loss.
- (3) The reasonable cost of settlement of the work terminated, including-
  - (i) Accounting, legal, clerical, and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data;
  - (ii) The termination and settlement of subcontractors (excluding the amounts of such settlements); and
  - (iii) Storage, transportation, and other costs incurred, reasonably necessary for the preservation, protection, or disposition of the termination inventory.
- (g) Except for normal spoilage, and except to the extent that the District expressly assumed the risk of loss, the Contracting Officer shall exclude from the amounts payable to the Contractor under paragraph (f) above, the fair value as determined by the Contracting Officer, of property that is destroyed, lost, stolen, or damaged so as to become undeliverable to the District or to a buyer.
- (h) The Contractor shall have the right of appeal, under the Disputes clause, from any determination made by the Contracting Officer under paragraphs (d), (f) or (j), except that if the Contractor failed to submit the termination settlement proposal within the time provided in paragraph (d) or (j), and failed to request a time extension, there is no right of appeal. If the Contracting Officer has made a determination of the amount due under paragraph (d), (f) or (j), the District will pay the Contractor (1) the amount determined by the Contracting Officer if there is no right of appeal or if no timely appeal has been taken, or (2) the amount finally determined on an appeal.

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- (i) In arriving at the amount due the Contractor under this clause, there shall be deducted:
  - (1) All unliquidated advances or other payments to the Contractor under the termination portion of the contract;
  - (2) Any claim which the District has against the Contractor under this contract; and
  - (3) The agreed price for, or the proceeds of sale of, materials, supplies, or other things acquired by the Contractor or sold under the provisions of this clause and not recovered by or credited to the District.
- (j) If the termination is partial, the Contractor may file a proposal with the Contracting Officer for an equitable adjustment of the price(s) of the continued portion of the contract. The Contracting Officer shall make any equitable adjustment agreed upon. Any proposal by the Contractor for an equitable adjustment under this clause shall be requested within ninety (90) days from the effective date of termination unless extended in writing by the Contracting Officer.
- (k) (1) The District may, under the terms and conditions it prescribes, make partial payments and payments against costs incurred by the Contractor for the terminated portion of the contract, if the Contracting Officer believes the total of these payments will not exceed the amount to which the Contractor shall be entitled.
  - (2) If the total payments exceed the amount finally determined to be due, the Contractor shall repay the excess to the District upon demand together with interest computed at the rate of 10 percent (10%) per year. Interest shall be computed for the period from the date the excess payment is received by the Contractor to the date the excess payment is repaid. Interest shall not be charged on any excess payment due to a reduction in the Contractor's termination settlement proposal because of retention or other disposition of termination inventory until 10 days after the date of the retention or disposition, or a later date determined by the Contracting Officer because of the circumstances.
- (l) Unless otherwise provided in this contract or by statute, the Contractor shall maintain all records and documents relating to the terminated portion of this contract for 3 years after final settlement. This includes all books and other evidence bearing on the Contractor's costs and expenses under this contract. The Contractor shall make these records and documents available to the District, at the Contractor's office, at all reasonable times, without any direct charge. If approved by the Contracting Officer, photographs, micrographs, or other authentic reproductions may be maintained instead of original records and documents.

**17. Recovery Of Debts Owed The District:**

The Contractor hereby agrees that the District may use all or any portion of any consideration or refund due the Contractor under the present contract to satisfy, in whole or part, any debt due the District.

**18. Retention and Examination Of Records:**

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

The Contractor shall retain all records, financial records, supporting documents, statistical records, and any other documents (including electronic storage media) pertinent to the contract for a period of three (3) years after termination of the contract, or if an audit has been initiated and audit findings have not been resolved at the end of three (3) years, the records shall be retained until resolution of the audit findings or any litigation which may be based on the terms of the contract.

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

The Contracting Officer, the Inspector General and the District of Columbia Auditor, or any of their duly authorized representatives shall, until three years after final payment, have the right to examine any directly pertinent books, documents, papers and records of the Contractor involving transactions related to the contract.

**19. Non-Discrimination Clause:**

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

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

- (a) employment, upgrading or transfer;
  - (b) recruitment, or recruitment advertising;
  - (c) demotion, layoff, or termination;
  - (d) rates of pay, or other forms of compensation; and
  - (e) selection for training and apprenticeship.
- (3) The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Agency, setting forth the provisions in subsections (b)(1) and (b)(2) concerning non-discrimination and affirmative action.
  - (4) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment pursuant to the non-discrimination requirements set forth in subsection (b)(2).
  - (5) The Contractor agrees to send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the contracting agency, advising the said labor union or workers' representative of that contractor's commitments under this nondiscrimination clause and the Act, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
  - (6) The Contractor agrees to permit access to his books, records and accounts pertaining to its employment practices, by the Chief Procurement Officer or designee, or the Director of Human Rights or designee, for purposes of investigation to ascertain compliance with this chapter, and to require under terms of any subcontractor agreement each subcontractor to permit access of such subcontractors' books, records, and accounts for such purposes.
  - (7) The Contractor agrees to comply with the provisions of this chapter and with all guidelines for equal employment opportunity applicable in the District of Columbia adopted by the Director of the Office of Human Rights, or any authorized official.
  - (8) The Contractor shall include in every subcontract the equal opportunity clauses, subsections (b)(1) through (b)(9) of this section, so that such provisions shall be binding upon each subcontractor or vendor.
  - (9) The Contractor shall take such action with respect to any subcontract as the Contracting Officer may direct as a means of enforcing these provisions, including sanctions for noncompliance; provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Contractor may request the District to enter into such litigation to protect the interest of the District.

**20. Definitions:**

The terms Mayor, Chief Procurement Officer, Contract Appeals Board and District will mean the Mayor of the District of Columbia, the Chief Procurement Officer of the District of Columbia or his/her alternate, the Contract Appeals Board of the District of Columbia, and the Government of the District of Columbia respectively. If the Contractor is an individual, the term Contractor shall mean the Contractor, his heirs, his executor and his administrator. If the Contractor is a corporation, the term Contractor shall mean the Contractor and its successor.

**21. Health And Safety Standards:**

Items delivered under this contract shall conform to all requirements of the Occupational Safety and Health Act of 1970, as amended (“OSHA”), and Department of Labor Regulations under OSHA, and all Federal requirements in effect at time of bid opening/proposal submission.

**22. Appropriation Of Funds:**

The District’s liability under this contract is contingent upon the future availability of appropriated monies with which to make payment for the contract purposes. The legal liability on the part of the District for the payment of any money shall not arise unless and until such appropriation shall have been provided.

**23. Buy American Act:**

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

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

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

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

(b) The Contractor shall deliver only domestic end products, except those-

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

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

**24. Service Contract Act of 1965:**

- (a) Definitions. “Act,” as used in this clause, means the Service Contract Act of 1965, as amended (41 U.S.C. 351, *et seq.*).
  - (1) “Contractor,” as used in this clause, means the prime Contractor or any subcontractor at any tier.
  - (2) “Service employee,” as used in this clause, means any person (other than a person employed in a bona fide executive, administrative, or professional capacity as defined in 29 CFR 541) engaged in performing a District contract not exempted under 41 U.S.C. 356, the principal purpose of which is to furnish services in the United States, as defined in section 22.1001 of the Federal Acquisition Regulation. It includes all such persons regardless of the actual or alleged contractual relationship between them and a contractor.
- (b) Applicability. To the extent that the Act applies, this contract is subject to the following provisions and to all other applicable provisions of the Act and regulations of the Secretary of Labor (20 CFR part 4). All interpretations of the Act in Subpart C of 29 CFR 4 are incorporated in this contract by reference. This clause does not apply to contracts or subcontracts administratively exempted by the Secretary of Labor or exempted by 41 U.S.C. 356, as interpreted in Subpart C of 29 CFR 4.
- (c) Compensation.
  - (1) Each service employee employed in the performance of this contract by the Contractor or any subcontractor shall be paid not less than the minimum monetary wages and shall be furnished fringe benefits in accordance with the wages and fringe benefits determined by the Secretary of Labor or the Secretary's authorized representative, as specified in any wage determination attached to this contract.
  - (2) If a wage determination is attached to this contract, the Contractor shall classify any class of service employees not listed in it, but to be employed under this contract (i.e., the work to be performed is not performed by any classification listed in the wage determination) so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed class of employees shall be paid the monetary wages and furnished the fringe benefits as are determined pursuant to the procedures in this paragraph. This conforming procedure shall be initiated by the Contractor prior to the performance of contract work by the unlisted class of employee.
    - (a) The Contractor shall submit Standard Form (SF) 1444, Request for Authorization of Additional Classification and Rate, to the Contracting Officer no later than 30 days after the unlisted class of employee performs any contract work. The Contracting Officer shall review the proposed classification and rate and

promptly submit the completed SF 1444 (which must include information regarding the agreement or disagreement of the employees' authorized representatives or the employees themselves together with the agency recommendation), and all pertinent information to the Wage and Hour Division, Employment Standards Administration (ESA), Department of Labor. The Wage and Hour Division will approve, modify, or disapprove the action or render a final determination in the event of disagreement within 30 days of receipt or will notify the Contracting Officer within 30 days of receipt that additional time is necessary;

- (b) The final determination of the conformance action by the Wage and Hour Division shall be transmitted to the Contracting Officer who shall promptly notify the Contractor of the action taken. Each affected employee shall be furnished by the Contracting Officer with a written copy of such determination or it shall be posted as a part of the wage determination;
- (c) The process of establishing wage and fringe benefit rates that bear a reasonable relationship to those listed in a wage determination cannot be reduced to any single formula. The approach used may vary from wage determination to wage determination depending on the circumstances. Standard wage and salary administration practices which rank various job classifications by pay grade pursuant to point schemes or other job factors may, for example, be relied upon. Guidance may also be obtained from the way different jobs are rated under Federal pay systems (Federal Wage Board Pay System and the General Schedule) or from other wage determinations issued in the same locality. Basic to the establishment of any conformable wage rate(s) is the concept that a pay relationship should be maintained between job classifications based on the skill required and the duties performed;
- (d) In the case of a contract modification, an exercise of an option, or extension of an existing contract, or in any other case where a Contractor succeeds to a contract under which the classification in question was previously conformed pursuant to this clause, a new conformed wage rate and fringe benefits may be assigned to the conformed classification by indexing (*i.e.*, adjusting) the previous conformed rate and fringe benefits by an amount equal to the average (mean) percentage increase (or decrease, where appropriate) between the wages and fringe benefits specified for all classifications to be used on the contract which are listed in the current wage determination, and those specified for the corresponding classifications in the previously applicable wage determination. Where conforming actions are accomplished in accordance with this paragraph prior to the performance of contract work by the unlisted class of employees, the Contractor shall advise the Contracting Officer of the action taken but the other procedures in this clause need not be followed;

- (e) No employee engaged in performing work on this contract shall in any event be paid less than the currently applicable minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended;
  - (f) The wage rate and fringe benefits finally determined under this clause shall be paid to all employees performing in the classification from the first day on which contract work is performed by them in the classification. Failure to pay the unlisted employees the compensation agreed upon by the interested parties or finally determined by the Wage and Hour Division retroactive to the date such class of employees commenced contract work shall be a violation of the Act and this contract;
  - (g) Upon discovery of failure to comply with this clause, the Wage and Hour Division shall make a final determination of conformed classification, wage rate, and/or fringe benefits which shall be retroactive to the date such class or classes of employees commenced contract work.
- (3) If the term of this contract is more than 1 year, the minimum wages and fringe benefits required for service employees under this contract shall be subject to adjustment after 1 year and not less often than once every 2 years, under wage determinations issued by ESA.
  - (4) The Contractor can discharge the obligation to furnish fringe benefits specified in the attachment or determined under paragraph (2) of this clause by furnishing any equivalent combinations of bona fide fringe benefits, or by making equivalent or differential cash payments, in accordance with Subpart B and C of 29 CFR 4.
- (d) Minimum wage: In the absence of a minimum wage attachment for this contract, the Contractor shall not pay any service or other employees performing this contract less than the minimum wage specified by section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 206). Nothing in this clause shall relieve the Contractor of any other legal or contractual obligation to pay a higher wage to any employee.
  - (e) Successor contracts: If this contract succeeds a contract subject to the Act under which substantially the same services were furnished and service employees were paid wages and fringe benefits provided for in a collective bargaining agreement, then, in the absence of a minimum wage attachment to this contract, the Contractor may not pay any service employee performing this contract less than the wages and benefits, including those accrued and any prospective increases, provided for under that agreement. No Contractor may be relieved of this obligation unless the limitations of 29 CFR 4.1c(b) apply or unless the Secretary of Labor or the Secretary's authorized representative:
    - (1) Determines that the agreement under the predecessor was not the result of arms-length negotiations; or
    - (2) Finds, after a hearing under 29 CFR 4.10, that the wages and benefits provided for by that agreement vary substantially from those prevailing for

similar services in the locality or determines, as provided in 29 CFR 4.11, that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations. Where it is found in accordance with the review procedures provided in 29 CFR 4.10 and 4.11 and parts 6 and 8 that some or all of the wages and fringe benefits contained in a predecessor Contractor's collective bargaining agreement are substantially at variance with those which prevail for services of a character similar in the locality, and that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations, the Department will issue a new or revised wage determination setting forth the applicable wage rates and fringe benefits. Such determination shall be made part of the contract or subcontract, in accordance with the decision of the Administrator, the Administrative Law Judge, or the Board of Service Contract Appeals, as the case may be, irrespective of whether such issuance occurs prior to or after the award of a contract or subcontract (53 Comp. Gen. 401 (1973)). In the case of a wage determination issued solely as a result of a finding of substantial variance, such determination shall be effective as of the date of the final administrative decision.

- (f) Notification to employees: The Contractor shall notify each service employee commencing work on this contract of a minimum wage and any fringe benefits required to be paid, or shall post a notice of these wages and benefits in a prominent and accessible place at the worksite, using such poster as may be provided by the Department of Labor.
- (g) Safe and sanitary working conditions: The Contractor shall not permit services called for by this contract to be performed in buildings or surroundings or under working conditions provided by or under the control or supervision of the Contractor that are unsanitary, hazardous, or dangerous to the health or safety of service employees. The Contractor shall comply with the health standards applied under 29 CFR Part 1925.
- (h) Records: The Contractor shall maintain for 3 years from the completion of work, and make available for inspection and transcription by authorized ESA representatives, a record of the following:
  - (1) For each employee subject to the Act:
    - (a) Name and address;
    - (b) Work classification or classifications, rate or rates of wages and fringe benefits provided, rate or rates of payments in lieu of fringe benefits, and total daily and weekly compensation;
    - (c) Daily and weekly hours worked; and
    - (d) Any deductions, rebates, or refunds from total daily or weekly compensation.
  - (2) For those classes of service employees not included in any wage determination attached to this contract, wage rates or fringe benefits determined by the interested parties or by ESA under the terms of

paragraph (c)(3) of this clause. A copy of the report required by paragraph (e) of this clause will fulfill this requirement.

- (3) Any list of the predecessor Contractor's employees which had been furnished to the Contractor as prescribed by this clause. The Contractor shall also make available a copy of this contract for inspection or transcription by authorized representatives of the Wage and Hour Division. Failure to make and maintain or to make available these records for inspection and transcription shall be a violation of the regulations and this contract, and in the case of failure to produce these records, the Contracting Officer, upon direction of the Department of Labor and notification to the Contractor, shall take action to cause suspension of any further payment or advance of funds until the violation ceases. The Contractor shall permit authorized representatives of the Wage and Hour Division to conduct interviews with employees at the worksite during normal working hours.
- (i) Pay periods: The Contractor shall unconditionally pay to each employee subject to the Act all wages due free and clear and without subsequent deduction (except as otherwise provided by law or regulations, 29 CFR part 4), rebate, or kickback on any account. These payments shall be made no later than one pay period following the end of the regular pay period in which the wages were earned or accrued. A pay period under this Act may not be of any duration longer than semi-monthly.
- (j) Withholding of payments and termination of contract: The Contracting Officer shall withhold from the prime Contractor under this or any other District contract with the prime contractor any sums the Contracting Officer, or an appropriate officer of the Labor Department, decides may be necessary to pay underpaid employees. In the event of failure to pay any employees subject to the Act all or part of the wages or fringe benefits due under the Act, the Contracting Officer may, after authorization or by direction of the Department of Labor and written notification to the Contractor, take action to cause suspension of any further payment or advance of funds until such violations have ceased. Additionally, any failure to comply with the requirements of this clause may be grounds for termination for default. In such event, the District may enter into other contracts or arrangements for completion of the work, charging the Contractor in default with any additional cost.
- (k) Subcontracts: The Contractor agrees to insert this clause in all subcontracts.
- (l) Contractor's report:
  - (1) If there is a wage determination attachment to this contract and any classes of service employees not listed on it are to be employed under the contract, the Contractor shall report promptly to the Contracting Officer the wages to be paid and the fringe benefits to be provided each of these classes, when determined under paragraph (c) of this clause.
  - (2) If wages to be paid or fringe benefits to be furnished any service employees under the contract are covered in a collective bargaining agreement effective at any time when the contract is being performed, the Contractor shall provide to the Contracting Officer a copy of the

agreement and full information on the application and accrual of wages and benefits (including any prospective increases) to service employees working on the contract. The Contractor shall report when contract performance begins, in the case of agreements then in effect, and shall report subsequently effective agreements, provisions, or amendments promptly after they are negotiated.

- (m) Contractor's Certification: By entering into this contract, the Contractor (and officials thereof) certifies that neither it (nor he or she) nor any person or firm who has a substantial interest in the Contractor's firm is a person or firm ineligible to be awarded District contracts by virtue of the sanctions imposed under section 5 of the Act. No part of this contract shall be subcontracted to any person or firm ineligible for award of a District contract under section 5 of the Act. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.
- (n) Variations, tolerances, and exemptions involving employment: Notwithstanding any of the provisions in paragraphs (c) through (l) of this clause, the following employees may be employed in accordance with the following variations, tolerances, and exemptions authorized by the Secretary of Labor.
  - (1)(i) In accordance with regulations issued under Section 14 of the Fair Labor Standards Act of 1938 by the Administrator of the Wage and Hour Division, ESA (29 CFR 520, 521, 524, and 525), apprentices, student learners, and workers whose earning capacity is impaired by age or by physical or mental deficiency or injury, may be employed at wages lower than the minimum wages otherwise required by section 2(a)(1) or 2(b)(1) of the Service Contract Act, without diminishing any fringe benefits or payments in lieu of these benefits required under section 2(a)(2) of the Act.
  - (ii) The Administrator will issue certificates under the Act for employing apprentices, student-learners, handicapped persons, or handicapped clients of sheltered workshops not subject to the Fair Labor Standards Act of 1938, or subject to different minimum rates of pay under the two acts, authorizing appropriate rates of minimum wages, but without changing requirements concerning fringe benefits or supplementary cash payments in lieu of these benefits.
  - (iii) The Administrator may also withdraw, annul, or cancel such certificates under 29 CFR 525 and 528.
- (2) An employee engaged in an occupation in which the employee customarily and regularly receives more than \$30 a month in tips shall be credited by the employer against the minimum wage required by section 2(a)(1) or section 2(b)(1) of the Act, in accordance with regulations in 29 CFR 531. However, the amount of credit shall not exceed 40 percent of the minimum rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 as amended.

**25. Cost and Pricing Data:**

- (a) This paragraph and paragraphs b through e below shall apply to contractors or offerors in regards to: (1) any procurement in excess of \$100,000, (2) any contract awarded through competitive sealed proposals, (3) any contract awarded through sole source procurement, or (4) any change order or contract modification. By entering into this contract or submitting this offer, the Contractor or offeror certifies that, to the best of the Contractor's or offeror's knowledge and belief, any cost and pricing data submitted was accurate, complete and current as of the date specified in the contract or offer.
- (b) Unless otherwise provided in the solicitation, the offeror or Contractor shall, before entering into any contract awarded through competitive sealed proposals or through sole source procurement or before negotiating any price adjustments pursuant to a change order or modification, submit cost or pricing data and certification that, to the best of the Contractor's knowledge and belief, the cost or pricing data submitted was accurate, complete, and current as of the date of award of this contract or as of the date of negotiation of the change order or modification.
- (c) If any price, including profit or fee, negotiated in connection with this contract, or any cost reimbursable under this contract, was increased by any significant amount because (1) the Contractor or a subcontractor furnished cost or pricing data that were not complete, accurate, and current as certified by the Contractor, (2) a subcontractor or prospective subcontractor furnished the Contractor cost or pricing data that were not complete, accurate, and current as certified by the Contractor, or (3) any of these parties furnished data of any description that were not accurate, the price or cost shall be reduced accordingly and the contract shall be modified to reflect the reduction.
- (d) Any reduction in the contract price under paragraph c above due to defective data from a prospective subcontractor that was not subsequently awarded, the subcontract shall be limited to the amount, plus applicable overhead and profit markup, by which (1) the actual subcontract or (2) the actual cost to the Contractor, if there was no subcontract, was less than the prospective subcontract cost estimate submitted by the Contractor; provided that the actual subcontract price was not itself affected by defective cost or pricing data.
- (e) Cost or pricing data includes all facts as of the time of price agreement that prudent buyers and sellers would reasonably expect to affect price negotiations significantly. Cost or pricing data are factual, not judgmental, and are therefore verifiable. While they do not indicate the accuracy of the prospective Contractor's judgment about estimated future costs or projections, cost or pricing data do include the data forming the basis for that judgment. Cost or pricing data are more than historical accounting data; they are all the facts that can be reasonably expected to contribute to the soundness of estimates of future costs and to the validity of determinations of costs already incurred.
- (f) The following specific information should be included as cost or pricing data, as applicable:
  - (1) Vendor quotations;

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- (2) Nonrecurring costs;
  - (3) Information on changes in production methods or purchasing volume;
  - (4) Data supporting projections of business prospects and objectives and related operations costs;
  - (5) Unit – cost trends such as those associated with labor efficiency;
  - (6) Make or buy decisions;
  - (7) Estimated resources to attain business goals;
  - (8) Information on management decisions that could have a significant bearing on costs.
- (g) If the offeror or contractor is required by law to submit cost or pricing data in connection with pricing this contract or any change order or modification of this contract, the Contracting Officer or representatives of the Contracting Officer shall have the right to examine all books, records, documents and other data of the Contractor (including computations and projections) related to negotiating, pricing, or performing the contract, change order or modification, in order to evaluate the accuracy, completeness, and currency of the cost or pricing data. The right of examination shall extend to all documents necessary to permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used. Contractor shall make available at its office at all reasonable times the materials described above for examination, audit, or reproduction until three years after the later of:
- (1) final payment under the contract;
  - (2) final termination settlement; or
  - (3) the final disposition of any appeals under the disputes clause or of litigation or the settlement of claims arising under or relating to the contract.

**26. Multiyear Contract:**

If this contract is a multiyear contract, then the following provision is made part of this contract:

If funds are not appropriated or otherwise made available for the continued performance in a subsequent year of a multiyear contract, the contract for the subsequent year shall be terminated, either automatically or in accordance with the termination clause of the contract. Unless otherwise provided for in the contract, the effect of termination is to discharge both the District and the Contractor from future performance of the contract, but not from the existing obligations. The Contractor shall be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of the supplies or services delivered under the contract.

**27. Termination Of Contracts For Certain Crimes And Violations:**

- (a) The District may terminate without liability any contract and may deduct from the contract price or otherwise recover the full amount of any fee, commission, percentage, gift, or consideration paid in violation of this title if:
  - (1) The Contractor has been convicted of a crime arising out of or in connection with the procurement of any work to be done or any payment to be made under the contract; or
  - (2) There has been any breach or violation of:
    - (A) Any provision of the Procurement Practices Act of 1985, as amended, or
    - (B) The contract provision against contingent fees.
- (b) If a contract is terminated pursuant to this section, the Contractor:
  - (1) May be paid only the actual costs of the work performed to the date of termination, plus termination costs, if any; and
  - (2) Shall refund all profits or fixed fees realized under the Contract.
- (c) The rights and remedies contained in this are in addition to any other right or remedy provided by law, and the exercise of any of them is not a waiver of any other right or remedy provided by law.

05-2103 DC,DISTRICT-WIDE

WAGE DETERMINATION NO: 05-2103 REV (02) AREA: DC,DISTRICT-WIDE

HEALTH AND WELFARE LEVEL - INSURANCE ONLY \*\*OTHER WELFARE LEVEL WD:05-2104

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REGISTER OF WAGE DETERMINATIONS UNDER THE SERVICE CONTRACT ACT ADMINISTRATION By direction of the Secretary of Labor		U.S. DEPARTMENT OF LABOR EMPLOYMENT STANDARDS  WAGE AND HOUR DIVISION WASHINGTON D.C. 20210  Wage Determination No.: 2005-  2103 Revision No.: 2 Date Of Revision:
William W.Gross                      Division of Director                                  Wage Determinations 11/07/2006		

States: District of Columbia, Maryland, Virginia

Area: District of Columbia Statewide  
Maryland Counties of Calvert, Charles, Frederick, Montgomery, Prince George's, St Mary's  
Virginia Counties of Alexandria, Arlington, Fairfax, Falls Church, Fauquier, King George, Loudoun, Prince William, Stafford

\*\*Fringe Benefits Required Follow the Occupational Listing\*\*

OCCUPATION CODE - TITLE	MINIMUM WAGE RATE
01000 - Administrative Support And Clerical Occupations	
01011 - Accounting Clerk I	13.79
01012 - Accounting Clerk II	15.49
01013 - Accounting Clerk III	17.32
01020 - Administrative Assistant	21.45
01040 - Court Reporter	17.49
01051 - Data Entry Operator I	12.67

01052 - Data Entry Operator II  
13.82  
01060 - Dispatcher, Motor Vehicle  
16.50  
01070 - Document Preparation Clerk  
12.75  
01090 - Duplicating Machine Operator  
12.75  
01111 - General Clerk I  
13.72  
01112 - General Clerk II  
15.32  
01113 - General Clerk III  
18.74  
01120 - Housing Referral Assistant  
20.84  
01141 - Messenger Courier  
10.23  
01191 - Order Clerk I  
14.74  
01192 - Order Clerk II  
16.29  
01261 - Personnel Assistant (Employment) I  
15.45  
01262 - Personnel Assistant (Employment) II  
17.49  
01263 - Personnel Assistant (Employment) III  
20.84  
01270 - Production Control Clerk  
20.78  
01280 - Receptionist  
12.29  
01290 - Rental Clerk  
15.45  
01300 - Scheduler, Maintenance  
15.45  
01311 - Secretary I  
16.11  
01312 - Secretary II  
17.61  
01313 - Secretary III  
20.84  
01320 - Service Order Dispatcher  
15.82  
01410 - Supply Technician  
21.45  
01420 - Survey Worker  
17.49  
01531 - Travel Clerk I  
11.69  
01532 - Travel Clerk II  
12.57  
01533 - Travel Clerk III  
13.50

01611 - Word Processor I  
13.76  
01612 - Word Processor II  
15.45  
01613 - Word Processor III  
17.49  
05000 - Automotive Service Occupations  
05005 - Automobile Body Repairer, Fiberglass  
24.49  
05010 - Automotive Electrician  
19.43  
05040 - Automotive Glass Installer  
18.31  
05070 - Automotive Worker  
18.31  
05110 - Mobile Equipment Servicer  
15.74  
05130 - Motor Equipment Metal Mechanic  
20.48  
05160 - Motor Equipment Metal Worker  
18.31  
05190 - Motor Vehicle Mechanic  
20.48  
05220 - Motor Vehicle Mechanic Helper  
16.81  
05250 - Motor Vehicle Upholstery Worker  
17.88  
05280 - Motor Vehicle Wrecker  
18.31  
05310 - Painter, Automotive  
19.43  
05340 - Radiator Repair Specialist  
18.31  
05370 - Tire Repairer  
14.43  
05400 - Transmission Repair Specialist  
20.48  
07000 - Food Preparation And Service Occupations  
07010 - Baker  
13.18  
07041 - Cook I  
11.88  
07042 - Cook II  
13.18  
07070 - Dishwasher  
9.76  
07130 - Food Service Worker  
10.25  
07210 - Meat Cutter  
16.07  
07260 - Waiter/Waitress  
8.59  
09000 - Furniture Maintenance And Repair Occupations  
09010 - Electrostatic Spray Painter

18.05  
09040 - Furniture Handler  
12.55  
09080 - Furniture Refinisher  
18.05  
09090 - Furniture Refinisher Helper  
13.85  
09110 - Furniture Repairer, Minor  
16.01  
09130 - Upholsterer  
18.05  
11000 - General Services And Support Occupations  
11030 - Cleaner, Vehicles  
9.67  
11060 - Elevator Operator  
9.79  
11090 - Gardener  
15.70  
11122 - Housekeeping Aide  
10.89  
11150 - Janitor  
10.89  
11210 - Laborer, Grounds Maintenance  
11.81  
11240 - Maid or Houseman  
10.41  
11260 - Pruner  
10.89  
11270 - Tractor Operator  
14.19  
11330 - Trail Maintenance Worker  
11.81  
11360 - Window Cleaner  
11.31  
12000 - Health Occupations  
12010 - Ambulance Driver  
16.06  
12011 - Breath Alcohol Technician  
16.06  
12012 - Certified Occupational Therapist Assistant  
19.99  
12015 - Certified Physical Therapist Assistant  
19.99  
12020 - Dental Assistant  
16.90  
12025 - Dental Hygienist  
40.68  
12030 - EKG Technician  
24.34  
12035 - Electroneurodiagnostic Technologist  
24.34  
12040 - Emergency Medical Technician  
16.06  
12071 - Licensed Practical Nurse I

17.15  
12072 - Licensed Practical Nurse II  
19.18  
12073 - Licensed Practical Nurse III  
21.38  
12100 - Medical Assistant  
14.23  
12130 - Medical Laboratory Technician  
16.96  
12160 - Medical Record Clerk  
14.96  
12190 - Medical Record Technician  
16.47  
12195 - Medical Transcriptionist  
14.96  
12210 - Nuclear Medicine Technologist  
28.69  
12221 - Nursing Assistant I  
9.37  
12222 - Nursing Assistant II  
10.53  
12223 - Nursing Assistant III  
12.18  
12224 - Nursing Assistant IV  
13.68  
12235 - Optical Dispenser  
15.15  
12236 - Optical Technician  
13.10  
12250 - Pharmacy Technician  
14.32  
12280 - Phlebotomist  
13.68  
12305 - Radiologic Technologist  
27.61  
12311 - Registered Nurse I  
24.92  
12312 - Registered Nurse II  
31.22  
12313 - Registered Nurse II, Specialist  
31.22  
12314 - Registered Nurse III  
37.77  
12315 - Registered Nurse III, Anesthetist  
37.77  
12316 - Registered Nurse IV  
45.28  
12317 - Scheduler (Drug and Alcohol Testing)  
17.57  
13000 - Information And Arts Occupations  
13011 - Exhibits Specialist I  
17.98  
13012 - Exhibits Specialist II  
23.33

13013 - Exhibits Specialist III  
28.07  
13041 - Illustrator I  
18.73  
13042 - Illustrator II  
23.42  
13043 - Illustrator III  
28.82  
13047 - Librarian  
24.54  
13050 - Library Aide/Clerk  
11.38  
13054 - Library Information Technology Systems Administrator  
22.15  
13058 - Library Technician  
17.88  
13061 - Media Specialist I  
15.99  
13062 - Media Specialist II  
17.88  
13063 - Media Specialist III  
19.94  
13071 - Photographer I  
14.67  
13072 - Photographer II  
17.18  
13073 - Photographer III  
21.52  
13074 - Photographer IV  
26.05  
13075 - Photographer V  
29.15  
13110 - Video Teleconference Technician  
15.99  
14000 - Information Technology Occupations  
14041 - Computer Operator I  
15.45  
14042 - Computer Operator II  
17.49  
14043 - Computer Operator III  
19.50  
14044 - Computer Operator IV  
21.67  
14045 - Computer Operator V  
24.00  
14071 - Computer Programmer I (1)  
21.60  
14072 - Computer Programmer II (1)  
25.66  
14073 - Computer Programmer III (1)  
27.62  
14074 - Computer Programmer IV (1)  
27.62  
14101 - Computer Systems Analyst I (1)

27.62  
14102 - Computer Systems Analyst II (1)  
27.62  
14103 - Computer Systems Analyst III (1)  
27.62  
14150 - Peripheral Equipment Operator  
15.45  
14160 - Personal Computer Support Technician  
21.67  
15000 - Instructional Occupations  
15010 - Aircrew Training Devices Instructor (Non-Rated)  
34.39  
15020 - Aircrew Training Devices Instructor (Rated)  
40.64  
15030 - Air Crew Training Devices Instructor (Pilot)  
46.05  
15050 - Computer Based Training Specialist / Instructor  
31.26  
15060 - Educational Technologist  
27.99  
15070 - Flight Instructor (Pilot)  
46.05  
15080 - Graphic Artist  
23.02  
15090 - Technical Instructor  
21.70  
15095 - Technical Instructor/Course Developer  
26.54  
15110 - Test Proctor  
17.31  
15120 - Tutor  
17.31  
16000 - Laundry, Dry-Cleaning, Pressing And Related Occupations  
16010 - Assembler  
8.71  
16030 - Counter Attendant  
8.71  
16040 - Dry Cleaner  
11.10  
16070 - Finisher, Flatwork, Machine  
8.71  
16090 - Presser, Hand  
8.71  
16110 - Presser, Machine, Drycleaning  
8.71  
16130 - Presser, Machine, Shirts  
8.71  
16160 - Presser, Machine, Wearing Apparel, Laundry  
8.71  
16190 - Sewing Machine Operator  
11.90  
16220 - Tailor  
12.63  
16250 - Washer, Machine

9.44  
19000 - Machine Tool Operation And Repair Occupations  
    19010 - Machine-Tool Operator (Tool Room)  
18.95  
    19040 - Tool And Die Maker  
23.05  
21000 - Materials Handling And Packing Occupations  
    21020 - Forklift Operator  
16.25  
    21030 - Material Coordinator  
20.54  
    21040 - Material Expediter  
20.54  
    21050 - Material Handling Laborer  
12.65  
    21071 - Order Filler  
13.21  
    21080 - Production Line Worker (Food Processing)  
16.25  
    21110 - Shipping Packer  
14.46  
    21130 - Shipping/Receiving Clerk  
14.46  
    21140 - Store Worker I  
9.96  
    21150 - Stock Clerk  
14.35  
    21210 - Tools And Parts Attendant  
16.99  
    21410 - Warehouse Specialist  
16.25  
23000 - Mechanics And Maintenance And Repair Occupations  
    23010 - Aerospace Structural Welder  
23.35  
    23021 - Aircraft Mechanic I  
22.24  
    23022 - Aircraft Mechanic II  
23.35  
    23023 - Aircraft Mechanic III  
24.52  
    23040 - Aircraft Mechanic Helper  
15.10  
    23050 - Aircraft, Painter  
21.29  
    23060 - Aircraft Servicer  
17.82  
    23080 - Aircraft Worker  
18.09  
    23110 - Appliance Mechanic  
20.60  
    23120 - Bicycle Repairer  
14.43  
    23125 - Cable Splicer  
24.77

23130 - Carpenter, Maintenance  
20.36  
23140 - Carpet Layer  
18.70  
23160 - Electrician, Maintenance  
24.85  
23181 - Electronics Technician Maintenance I  
21.36  
23182 - Electronics Technician Maintenance II  
22.80  
23183 - Electronics Technician Maintenance III  
24.02  
23260 - Fabric Worker  
17.90  
23290 - Fire Alarm System Mechanic  
21.46  
23310 - Fire Extinguisher Repairer  
16.50  
23311 - Fuel Distribution System Mechanic  
22.81  
23312 - Fuel Distribution System Operator  
19.38  
23370 - General Maintenance Worker  
19.01  
23380 - Ground Support Equipment Mechanic  
22.24  
23381 - Ground Support Equipment Servicer  
17.82  
23382 - Ground Support Equipment Worker  
18.09  
23391 - Gunsmith I  
16.50  
23392 - Gunsmith II  
19.18  
23393 - Gunsmith III  
21.46  
23410 - Heating, Ventilation And Air-Conditioning Mechanic  
20.99  
23411 - Heating, Ventilation And Air Contditioning Mechanic (Research  
Facility)  
22.12  
23430 - Heavy Equipment Mechanic  
21.46  
23440 - Heavy Equipment Operator  
21.46  
23460 - Instrument Mechanic  
21.46  
23465 - Laboratory/Shelter Mechanic  
20.36  
23470 - Laborer  
14.27  
23510 - Locksmith  
19.17  
23530 - Machinery Maintenance Mechanic

21.46  
23550 - Machinist, Maintenance  
21.52  
23580 - Maintenance Trades Helper  
15.10  
23591 - Metrology Technician I  
21.46  
23592 - Metrology Technician II  
22.61  
23593 - Metrology Technician III  
23.72  
23640 - Millwright  
23.30  
23710 - Office Appliance Repairer  
20.36  
23760 - Painter, Maintenance  
20.36  
23790 - Pipefitter, Maintenance  
22.76  
23810 - Plumber, Maintenance  
20.99  
23820 - Pneudraulic Systems Mechanic  
21.46  
23850 - Rigger  
21.46  
23870 - Scale Mechanic  
19.18  
23890 - Sheet-Metal Worker, Maintenance  
21.46  
23910 - Small Engine Mechanic  
20.05  
23931 - Telecommunications Mechanic I  
24.43  
23932 - Telecommunications Mechanic II  
25.75  
23950 - Telephone Lineman  
22.21  
23960 - Welder, Combination, Maintenance  
21.46  
23965 - Well Driller  
21.46  
23970 - Woodcraft Worker  
21.46  
23980 - Woodworker  
16.50  
24000 - Personal Needs Occupations  
24570 - Child Care Attendant  
11.58  
24580 - Child Care Center Clerk  
16.15  
24610 - Chore Aide  
9.58  
24620 - Family Readiness And Support Services Coordinator  
12.95

24630 - Homemaker  
16.75  
25000 - Plant And System Operations Occupations  
25010 - Boiler Tender  
24.06  
25040 - Sewage Plant Operator  
20.08  
25070 - Stationary Engineer  
24.06  
25190 - Ventilation Equipment Tender  
16.76  
25210 - Water Treatment Plant Operator  
20.08  
27000 - Protective Service Occupations  
27004 - Alarm Monitor  
17.19  
27007 - Baggage Inspector  
11.51  
27008 - Corrections Officer  
18.75  
27010 - Court Security Officer  
21.42  
27030 - Detection Dog Handler  
16.67  
27040 - Detention Officer  
18.75  
27070 - Firefighter  
21.58  
27101 - Guard I  
11.51  
27102 - Guard II  
16.67  
27131 - Police Officer I  
23.94  
27132 - Police Officer II  
26.60  
28000 - Recreation Occupations  
28041 - Carnival Equipment Operator  
12.35  
28042 - Carnival Equipment Repairer  
13.30  
28043 - Carnival Equipment Worker  
8.40  
28210 - Gate Attendant/Gate Tender  
12.68  
28310 - Lifeguard  
11.29  
28350 - Park Attendant (Aide)  
14.18  
28510 - Recreation Aide/Health Facility Attendant  
10.35  
28515 - Recreation Specialist  
17.57  
28630 - Sports Official

11.29  
28690 - Swimming Pool Operator  
15.32  
29000 - Stevedoring/Longshoremen Occupational Services  
29010 - Blocker And Bracer  
20.55  
29020 - Hatch Tender  
20.55  
29030 - Line Handler  
20.55  
29041 - Stevedore I  
19.18  
29042 - Stevedore II  
21.64  
30000 - Technical Occupations  
30010 - Air Traffic Control Specialist, Center (HFO) (2)  
33.82  
30011 - Air Traffic Control Specialist, Station (HFO) (2)  
23.32  
30012 - Air Traffic Control Specialist, Terminal (HFO) (2)  
25.68  
30021 - Archeological Technician I  
16.92  
30022 - Archeological Technician II  
18.85  
30023 - Archeological Technician III  
23.53  
30030 - Cartographic Technician  
24.62  
30040 - Civil Engineering Technician  
22.19  
30061 - Drafter/CAD Operator I  
17.77  
30062 - Drafter/CAD Operator II  
19.87  
30063 - Drafter/CAD Operator III  
22.15  
30064 - Drafter/CAD Operator IV  
25.66  
30081 - Engineering Technician I  
18.80  
30082 - Engineering Technician II  
21.11  
30083 - Engineering Technician III  
23.61  
30084 - Engineering Technician IV  
29.26  
30085 - Engineering Technician V  
35.26  
30086 - Engineering Technician VI  
43.30  
30090 - Environmental Technician  
21.22  
30210 - Laboratory Technician

20.42  
30240 - Mathematical Technician  
24.62  
30361 - Paralegal/Legal Assistant I  
20.03  
30362 - Paralegal/Legal Assistant II  
24.82  
30363 - Paralegal/Legal Assistant III  
30.35  
30364 - Paralegal/Legal Assistant IV  
36.73  
30390 - Photo-Optics Technician  
24.62  
30461 - Technical Writer I  
20.25  
30462 - Technical Writer II  
24.77  
30463 - Technical Writer III  
29.97  
30491 - Unexploded Ordnance (UXO) Technician I  
21.49  
30492 - Unexploded Ordnance (UXO) Technician II  
26.00  
30493 - Unexploded Ordnance (UXO) Technician III  
31.17  
30494 - Unexploded (UXO) Safety Escort  
21.49  
30495 - Unexploded (UXO) Sweep Personnel  
21.49  
30620 - Weather Observer, Combined Upper Air Or Surface Programs (3)  
20.13  
30621 - Weather Observer, Senior (3)  
21.80  
31000 - Transportation/Mobile Equipment Operation Occupations  
31020 - Bus Aide  
10.90  
31030 - Bus Driver  
15.95  
31043 - Driver Courier  
12.71  
31260 - Parking and Lot Attendant  
8.67  
31290 - Shuttle Bus Driver  
13.89  
31310 - Taxi Driver  
13.98  
31361 - Truckdriver, Light  
13.89  
31362 - Truckdriver, Medium  
17.09  
31363 - Truckdriver, Heavy  
18.40  
31364 - Truckdriver, Tractor-Trailer  
18.40

99000 - Miscellaneous Occupations  
    99030 - Cashier  
10.03  
    99050 - Desk Clerk  
9.78  
    99095 - Embalmer  
21.77  
    99251 - Laboratory Animal Caretaker I  
10.47  
    99252 - Laboratory Animal Caretaker II  
10.85  
    99310 - Mortician  
27.25  
    99410 - Pest Controller  
13.74  
    99510 - Photofinishing Worker  
11.29  
    99710 - Recycling Laborer  
14.50  
    99711 - Recycling Specialist  
17.02  
    99730 - Refuse Collector  
12.86  
    99810 - Sales Clerk  
11.13  
    99820 - School Crossing Guard  
11.37  
    99830 - Survey Party Chief  
19.16  
    99831 - Surveying Aide  
11.91  
    99832 - Surveying Technician  
18.21  
    99840 - Vending Machine Attendant  
11.46  
    99841 - Vending Machine Repairer  
14.88  
    99842 - Vending Machine Repairer Helper  
11.46

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ALL OCCUPATIONS LISTED ABOVE RECEIVE THE FOLLOWING BENEFITS:

HEALTH & WELFARE: \$3.01 per hour or \$120.40 per week or \$521.73 per month

VACATION: 2 weeks paid vacation after 1 year of service with a contractor or successor; 3 weeks after 5 years, and 4 weeks after 15 years. Length of service includes the whole span of continuous service with the present

contractor or successor, wherever employed, and with the predecessor contractors in the performance of similar work at the same Federal facility. (Reg. 29 CFR 4.173)

HOLIDAYS: HOLIDAYS: A minimum of ten paid holidays per year, New Year's Day, Martin Luther King Jr's Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day. (A contractor may substitute for any of the named holidays another day off with pay in accordance with a plan communicated to the employees involved.)  
(See 29 CFR 4174)

THE OCCUPATIONS WHICH HAVE PARENTHESES AFTER THEM RECEIVE THE FOLLOWING BENEFITS (as numbered):

1) Does not apply to employees employed in a bona fide executive, administrative, or professional capacity as defined and delineated in 29 CFR 541. (See CFR 4.156)

2) APPLICABLE TO AIR TRAFFIC CONTROLLERS ONLY - NIGHT DIFFERENTIAL: An employee is entitled to pay for all work performed between the hours of 6:00 P.M. and 6:00 A.M. at the rate of basic pay plus a night pay differential amounting to 10 percent of the rate of basic pay.

3) WEATHER OBSERVERS - NIGHT PAY & SUNDAY PAY: If you work at night as part of a regular tour of duty, you will earn a night differential and receive an additional 10% of basic pay for any hours worked between 6pm and 6am. If you are a full-time employed (40 hours a week) and Sunday is part of your regularly scheduled workweek, you are paid at your rate of basic pay plus a Sunday premium of 25% of your basic rate for each hour of Sunday work which is not overtime (i.e. occasional work on Sunday outside the normal tour of duty is considered overtime work).

HAZARDOUS PAY DIFFERENTIAL: An 8 percent differential is applicable to employees employed in a position that represents a high degree of hazard when

working with or  
in close proximity to ordnance, explosives, and incendiary materials.  
This  
includes work such as screening, blending, dying, mixing, and pressing  
of sensitive  
ordnance, explosives, and pyrotechnic compositions such as lead azide,  
black powder  
and photoflash powder. All dry-house activities involving propellants  
or  
explosives. Demilitarization, modification, renovation, demolition, and  
maintenance  
operations on sensitive ordnance, explosives and incendiary materials.  
All  
operations involving regrading and cleaning of artillery ranges.

A 4 percent differential is applicable to employees employed in a  
position that  
represents a low degree of hazard when working with, or in close  
proximity to  
ordnance, (or employees possibly adjacent to) explosives and incendiary  
materials  
which involves potential injury such as laceration of hands, face, or  
arms of the  
employee engaged in the operation, irritation of the skin, minor burns  
and the  
like; minimal damage to immediate or adjacent work area or equipment  
being used.  
All operations involving, unloading, storage, and hauling of ordnance,  
explosive, and  
incendiary ordnance material other than small arms ammunition. These  
differentials  
are only applicable to work that has been specifically designated by the  
agency for  
ordnance, explosives, and incendiary material differential pay.

**\*\* UNIFORM ALLOWANCE \*\***

If employees are required to wear uniforms in the performance of this  
contract  
(either by the terms of the Government contract, by the employer, by the  
state or  
local law, etc.), the cost of furnishing such uniforms and maintaining  
(by  
laundering or dry cleaning) such uniforms is an expense that may not be  
borne by an  
employee where such cost reduces the hourly rate below that required by  
the wage  
determination. The Department of Labor will accept payment in accordance  
with the  
following standards as compliance:

The contractor or subcontractor is required to furnish all employees  
with an  
adequate number of uniforms without cost or to reimburse employees for

the actual cost of the uniforms. In addition, where uniform cleaning and maintenance is made the responsibility of the employee, all contractors and subcontractors subject to this wage determination shall (in the absence of a bona fide collective bargaining agreement providing for a different amount, or the furnishing of contrary affirmative proof as to the actual cost), reimburse all employees for such cleaning and maintenance at a rate of \$3.35 per week (or \$.67 cents per day). However, in those instances where the uniforms furnished are made of "wash and wear" materials, may be routinely washed and dried with other personal garments, and do not require any special treatment such as dry cleaning, daily washing, or commercial laundering in order to meet the cleanliness or appearance standards set by the terms of the Government contract, by the contractor, by law, or by the nature of the work, there is no requirement that employees be reimbursed for uniform maintenance costs.

The duties of employees under job titles listed are those described in the "Service Contract Act Directory of Occupations," Fifth Edition, April 2006, unless otherwise indicated. Copies of the Directory are available on the Internet. A links to the Directory may be found on the WHD home page at <<http://www.dol.gov/esa/whd/>> or through the Wage Determinations On-Line (WDOL) Web site at <<http://wdol.gov/>>.

REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND WAGE RATE  
{Standard Form  
1444 (SF 1444)}

Conformance Process:

The contracting officer shall require that any class of service employee which is not listed herein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination), be classified by the contractor so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed classes of employees shall be paid the monetary wages and

furnished the fringe benefits as are determined. Such conforming process shall be initiated by the contractor prior to the performance of contract work by such unlisted class(es) of employees. The conformed classification, wage rate, and/or fringe benefits shall be retroactive to the commencement date of the contract. {See Section 4.6 (C)(vi)}

When multiple wage determinations are included in a contract, a separate SF 1444 should be prepared for each wage determination to which a class(es) is to be conformed.

The process for preparing a conformance request is as follows:

- 1) When preparing the bid, the contractor identifies the need for a conformed occupation) and computes a proposed rate).
- 2) After contract award, the contractor prepares a written report listing in order proposed classification title), a Federal grade equivalency (FGE) for each proposed classification), job description), and rationale for proposed wage rate), including information regarding the agreement or disagreement of the authorized representative of the employees involved, or where there is no authorized representative, the employees themselves. This report should be submitted to the contracting officer no later than 30 days after such unlisted class(es) of employees performs any contract work.
- 3) The contracting officer reviews the proposed action and promptly submits a report of the action, together with the agency's recommendations and pertinent information including the position of the contractor and the employees, to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, for review. (See section 4.6(b)(2) of Regulations 29 CFR Part 4).
- 4) Within 30 days of receipt, the Wage and Hour Division approves, modifies, or disapproves the action via transmittal to the agency contracting officer, or notifies the contracting officer that additional time will be required to process the request.

5) The contracting officer transmits the Wage and Hour decision to the contractor.

6) The contractor informs the affected employees.

Information required by the Regulations must be submitted on SF 1444 or bond paper.

When preparing a conformance request, the "Service Contract Act Directory of Occupations" (the Directory) should be used to compare job definitions to insure that duties requested are not performed by a classification already listed in the wage determination. Remember, it is not the job title, but the required tasks that determine whether a class is included in an established wage determination. Conformances may not be used to artificially split, combine, or subdivide classifications listed in the wage determination.

# YOUR LETTERHEAD

## EQUAL EMPLOYMENT OPPORTUNITY (EEO) POLICY STATEMENT

\_\_\_\_\_ SHALL NOT DISCRIMINATE AGAINST ANY EMPLOYEE OR APPLICANT FOR EMPLOYMENT BECAUSE OF RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, OR PHYSICAL HANDICAP.

\_\_\_\_\_ AGREES TO AFFIRMATIVE ACTION TO ENSURE THAT APPLICANTS ARE EMPLOYED, AND THAT EMPLOYEES ARE TREATED DURING EMPLOYMENT, WITHOUT REGARD TO THEIR RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, OR PHYSICAL HANDICAP. THE AFFIRMATIVE ACTION SHALL INCLUDE, BUT NOT BE LIMITED TO THE FOLLOWING: (A) EMPLOYMENT, UPGRADING, OR TRANSFER; (B) RECRUITMENT OR RECRUITMENT ADVERTISING; (C) DEMOTION, LAYOFF, OR TERMINATION; (D) RATES OF PAY, OR OTHER FORMS OF COMPENSATION; AND (E) SELECTION FOR TRAINING AND APPRENTICESHIP.

\_\_\_\_\_ AGREES TO POST IN CONSPICUOUS PLACES THE PROVISIONS CONCERNING NON-DISCRIMINATION AND AFFIRMATIVE ACTION.

\_\_\_\_\_ SHALL STATE THAT ALL QUALIFIED APPLICANTS WILL RECEIVE CONSIDERATION FOR EMPLOYMENT PURSUANT TO SUBSECTION 1103.2 THROUGH 1103.10 OF MAYOR'S ORDER 85-85; "EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS IN CONTRACTS."

\_\_\_\_\_ AGREES TO PERMIT ACCESS TO ALL BOOKS PERTAINING TO ITS EMPLOYMENT PRACTICES, AND TO REQUIRE EACH SUBCONTRACTOR TO PERMIT ACCESS TO BOOKS AND RECORDS.

\_\_\_\_\_ AGREES TO COMPLY WITH ALL GUIDELINES FOR EQUAL EMPLOYMENT OPPORTUNITY APPLICABLE IN THE DISTRICT OF COLUMBIA.

\_\_\_\_\_ SHALL INCLUDE IN EVERY SUBCONTRACT THE EQUAL OPPORTUNITY CLAUSES, SUBSECTION 1103.2 THROUGH 1103.10 SO THAT SUCH PROVISIONS SHALL BE BINDING UPON EACH SUBCONTRACTOR OR VENDOR.

\_\_\_\_\_  
AUTHORIZED OFFICIAL AND TITLE

\_\_\_\_\_  
AUTHORIZED SIGNATURE

\_\_\_\_\_  
FIRM/ORGANIZATION NAME

\_\_\_\_\_  
DATE

# YOUR LETTERHEAD

## ASSURANCE OF COMPLIANCE WITH EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS

MAYOR'S ORDER 85-85, EFFECTIVE JUNE 10, 1985, AND THE RULES IMPLEMENTING MAYORS ORDER 85-85, 33 DCR 4952, (PUBLISHED AUGUST 15, 1986), "ON COMPLIANCE WITH EQUAL OPPORTUNITY REQUIREMENTS IN DISTRICT GOVERNMENT CONTRACTS," ARE HEREBY INCLUDED AS PART OF THIS BID/PROPOSAL. THEREFORE, EACH BIDDER/OFFEROR SHALL INDICATE BELOW THEIR WRITTEN COMMITMENT TO ASSURE COMPLIANCE WITH MAYOR'S ORDER 85-85 AND THE IMPLEMENTING RULES. FAILURE TO COMPLY WITH THE SUBJECT MAYOR'S ORDER AND THE IMPLEMENTING RULES SHALL RESULT IN REJECTION OF THE RESPECTIVE BID/PROPOSAL.

I, \_\_\_\_\_, THE AUTHORIZED REPRESENTATIVE OF \_\_\_\_\_, HEREINAFTER REFERRED TO AS "THE CONTRACTOR," CERTIFY THT THE CONTRATOR IS FULLY AWARE OF ALL OF THE PROVISIONS OF MAYOR'S ORDER 85-85, EFFECTIVE JUNE 10, 1985, AND OF THE RULES IMPLEMENTING MAYOR'S ORDER 85-85, 33 DCR 4952. I FURTHER CERTIFY AND ASSURE THAT THE CONTRACTOR WILL FULLY COMPLY WITH ALL APPLICABLE PROVISIONS OF THE MAYOR'S ORDER AND IMPLEMENTING RULES IF AWARDED THE D.C. GOVERNMENT REFERENCED BY THE CONTRACT NUMBER ENTERED BELOW. FURTHER, THE CONTRACTOR ACKNOWLEDGES AND UNDERSTANDS THAT THE AWARD OF SAID CONTRACT AND ITS CONTINUATION ARE SPECIFICALLY CONDITIONED UPON THE CONTRACTOR'S COMPLIANCE WITH THE ABOVE -CITED ORDER AND RULES.

\_\_\_\_\_  
CONTRACTOR

\_\_\_\_\_  
NAME

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
CONTRACT NUMBER

\_\_\_\_\_  
DATE



**SECTION D – EMPLOYMENT DATA**

Employment at this establishment – Report all permanent, temporary, or part-time employees including apprentices and on-the-job trainees unless specifically excluded as set forth in the instructions. Enter the appropriate figures on all lines and in all columns. Blank spaces will be considered as zero. *In columns 1, 2, and 3, include ALL employees in the establishment including those in minority groups*

JOB CATEGORIES	TOTAL EMPLOYEES IN ESTABLISHMENT			MINORITY GROUP EMPLOYEES								
	Total Employees Including Minorities (1)	Total Male Including Minorities (2)	Total Female Including Minorities (3)	MALE				FEMALE				
				Black (4)	Oriental (5)	American Indian (6)	Spanish Surname American (7)	Black (8)	Oriental (9)	American Indian (10)	Spanish Surname American (11)	
Officials and Managers												
Professionals												
Technicians												
Sales Workers												
Office and Clerical												
Craftsman (Skilled)												
Operative (Semi-Skilled)												
Laborers (Unskilled)												
Service Workers												
TOTAL												
Total employ reported in previous report												

(The trainee below should also be included in the figures for the appropriate occupation categories above)

Formal On-The-Job Trainee	White collar	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
	Production											

- |  |                                 |   |
|--|---------------------------------|---|
| 1. How was information as to race or ethnic group in Section D obtained?<br>a. Visual Survey<br>b. Employment Record | c. Other Specify _____<br>_____ | 2. Dates of payroll period used<br>3. Pay period of last report submitted for this establishment. _____ |
|--|---------------------------------|---|

Section E – REMARKS Use this Item to give any identification data appearing on last report which differs from that given above, explain major changes in composition or reporting units, and other pertinent information.

**Section F - CERTIFICATION**

- Check One
- All reports are accurate and were prepared in accordance with the instructions (check on consolidated only)
  - This report is accurate and was prepared in accordance with the instructions.

Name of Authorized Official	Title	Signature	Date
Name of person contact regarding This report (Type of print)	Address (Number and street)	City and State	Zip Code Telephone Number Extension

INFORMATION CITED HEREIN SHALL BE HELD IN CONFIDENCE.

DEPARTMENT OF HUMAN RIGHTS AND LOCAL BUSINESS DEVELOPMENT  
CONTRACT COMPLIANCE UNIT

**SUBCONTRACT SUMMARY FORM**

This SUMMARY form is to be completed by the PRIME contractor.

BID NO.: \_\_\_\_\_ CCB NUMBER: \_\_\_\_\_ of \_\_\_\_\_ pages

\* NOTE: The standard for minority subcontracting is 25% of the TOTAL contract dollar amount to be subcontracted.

AMOUNT OF PRIME CONTRACT: \$ \_\_\_\_\_  
AMOUNT OF ALL SUBCONTRACTS: \$ \_\_\_\_\_ equals \_\_\_\_\_% OF THE PRIME CONTRACT.

NAME OF PRIME CONTRACTOR: \_\_\_\_\_ ADDRESS: \_\_\_\_\_

TELEPHONE NO. \_\_\_\_\_

PROJECT NAME: \_\_\_\_\_ PROJECT DESCRIPTIONS: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

WARD NO.: \_\_\_\_\_

**SECTION II LIST ALL SUBCONTRACTORS THAT WILL BE UTILIZED ON THE ABOVE PROJECT**

1. NAME OF SUBCONTRACTOR 2. ADDRESS 3. CONTACT PERSON 4. MBDC CERT. NO.	5. PHONE NO.	1. IS THIS A *MINORITY SUB? ____ YES ____ NO 2. TRADE OR BUSINESS PRODUCT THAT SUB WILL PROVIDE.	1. \$ AMOUNT OF SUBCONTRACT equals( = ) 2. _____% (percent) OF TOTAL PRIME CONTRACT.
1. _____ 2. _____ 3. _____ 4. _____	5. _____	1. MINORITY SUBCONTRACTOR ____ YES ____ NO	1. \$ _____ equals( = ) 2. _____%
1. _____ 2. _____ 3. _____ 4. _____	5. _____	1. MINORITY SUBCONTRACTOR ____ YES ____ NO	1. \$ _____ equals( = ) 2. _____%
1. _____ 2. _____ 3. _____ 4. _____	5. _____	1. MINORITY SUBCONTRACTOR ____ YES ____ NO	1. \$ _____ equals( = ) 2. _____%
1. _____ 2. _____ 3. _____ 4. _____	5. _____	1. MINORITY SUBCONTRACTOR ____ YES ____ NO	1. \$ _____ equals( = ) 2. _____%
1. _____ 2. _____ 3. _____ 4. _____	5. _____	1. MINORITY SUBCONTRACTOR ____ YES ____ NO	1. \$ _____ equals( = ) 2. _____%
1. _____ 2. _____ 3. _____ 4. _____	5. _____	1. MINORITY SUBCONTRACTOR ____ YES ____ NO	1. \$ _____ equals( = ) 2. _____%
1. _____ 2. _____ 3. _____ 4. _____	5. _____	1. MINORITY SUBCONTRACTOR ____ YES ____ NO	1. \$ _____ equals( = ) 2. _____%
1. _____ 2. _____ 3. _____ 4. _____	5. _____	1. MINORITY SUBCONTRACTOR ____ YES ____ NO	1. \$ _____ equals( = ) 2. _____%
1. _____ 2. _____ 3. _____ 4. _____	5. _____	1. MINORITY SUBCONTRACTOR ____ YES ____ NO	1. \$ _____ equals( = ) 2. _____%
1. _____ 2. _____ 3. _____ 4. _____	5. _____	1. MINORITY SUBCONTRACTOR ____ YES ____ NO	1. \$ _____ equals( = ) 2. _____%
1. _____ 2. _____ 3. _____ 4. _____	5. _____	1. MINORITY SUBCONTRACTOR ____ YES ____ NO	1. \$ _____ equals( = ) 2. _____%

TOTAL DOLLAR AMOUNT SUBCONTRACTED TO \*MINORITY BUSINESS ENTERPRISES. \$ \_\_\_\_\_

PERCENT OF PRIME CONTRACT. \_\_\_\_\_%

\*D.C. LAW 1-95, as amended, defines a MINORITY BUSINESS ENTERPRISE as a business of which more than 50% is owned by members of a minority, and of which more than 50% of the net profit or loss accrues to members of a minority.

SOLICITATION NO: \_\_\_\_\_

**PROJECTED GOALS AND TIMETABLES FOR FUTURE HIRING**

MINORITY GROUP EMPLOYES GOALS								TIMETABLES	
JOB CATEGORIES	MALE				FEMALE				
	BLACK	ASIAN	AMERICAN INDIAN	HISPANIC	BLACK	ASIAN	AMERICAN INDIAN	HISPANIC	
OFFICIALS & MANAGERS									
PROFESSIONALS									
TECHNICIANS									
SALES WORKERS									
OFFICE AND CLERICAL									
CRAFTSMANS (SKILLELD)									
OPERATIVE (SEMI-SKILLED)									
LABORERS (UNSKILLED)									
SERVICE WORKERS									
TOTALS									
NAME OF AUTHORIZED OFFICIAL:				TITLE:				SIGNATURE:	
FIRM NAME:						TELEPHONE NO:		DATE:	
INDICATE IF THE PRIME UTILIZES A <u>“MINORITY FINANCIAL INSTITUTION”</u> _____ Yes      _____ No  NAME:  ADDRESS:  TYPE OF ACCOUNT/S:									

**District of Columbia Register**  
**GOVERNMENT OF THE DISTRICT OF COLUMBIA**

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**ADMINISTRATIVE ISSUANCE SYSTEM**

SUBJECT: Compliance with Equal Opportunity Obligations in Contracts

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by Section 422 of the District of Columbia self-government and Government Reorganization Act of 1973 as amended, D.C. Code section 1-242 (1981-Ed.), it is hereby ORDERED that Commissioner's Order No. 73-51, dated February 28, 1973, is hereby rescinded and reissued in its entirety to read as follows:

1. Establishment of Policy: There is established a policy of the District of Columbia Government to:
  - (a) provide equal opportunity in employment for all persons with respect to any contract by and with the Government of the District of Columbia.
  - (b) prohibit discrimination in employment because of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, family responsibilities, matriculation, political affiliation, or physical handicap;
  - (c) provide equal opportunity to all persons for participation in all District of Columbia Government contracts, including but not limited to lease agreements, Industrial Revenue Bond financing, and Urban Development Action grants;
  - (d) provide equal opportunity to minority business enterprises in the performance of District of Columbia Government contracts in accordance with Mayor's Orders, District of Columbia laws, and rules and regulations promulgated by the Minority Business Opportunity Commission; and
  - (e) promote the full realization of equal employment through affirmative, continuing programs by contractors and subcontractors in the performance of contracts with the District of Columbia Government.
2. Delegation of Authority: The Director of the Office of Human Rights (hereinafter "Director") is delegated the authority vested in the Mayor to implement the provisions of this order as set forth herein, and any rules, regulations, guidelines, and procedures adopted pursuant thereto.
3. Responsibilities: The Director of the Office of Human Rights shall be responsible for establishing and ensuring agency compliance with the policy set forth in this Order, any rules, regulations, and procedures that may be adopted by the Office of Human Rights pursuant to this Order, and any other equal opportunity provisions as may be added as a part of any contract.
4. Powers and Duties: The Director of the Office of Human Rights shall have the following powers and duties:
  - (a) to establish standards and procedures by which contractors and subcontractors who perform under District of Columbia Government contracts shall comply with the equal opportunity provisions of their contracts; to issue all orders, rules, regulations, guidelines, and procedures the Director may deem necessary and proper for carrying out and implementing the purposes of this Order;
  - (b) to assume equal opportunity compliance jurisdiction over any matter pending before a contracting agency where the Director considers it necessary or appropriate for the achievement of the purposes of

this Order, keep the contracting agency informed of all actions taken, and act through the contracting agency to the extent appropriate and practicable;

- (c) to examine the employment practices of any District of Columbia Government contractor or subcontractor, or initiate the examination by the appropriate contracting agency to determine whether or not the contractual provisions specified in any rules and regulations adopted pursuant to this Order have been violated, and notify the contracting agency of any action taken or recommended;
- (d) to monitor and evaluate all District of Columbia Government agencies, including those independent agencies and commissions not required to submit the Affirmative Action Programs of their contractors to the Office of Human Rights for approval, to ensure compliance with the equal opportunity obligations in contracts;
- (e) to use his or her best efforts to cause any labor union engaged in work under District of Columbia Government contracts, any referral, recruiting or training agency, or any other representative of workers who are or may be engaged in work under contracts and subcontracts to cooperate in and to comply with the implementation of the purposes of this Order;
- (f) to notify, when appropriate, the concerned contracting agencies, the Office of Federal Contract Compliance Programs, the U.S. Department of Justice, or other appropriate Federal, State, and District agencies, whenever the Director has reason to believe that practices of any contractor, labor organization, lending institution, insurance firm, or agency violate provisions of Federal, State, or District, laws;
- (g) to enter, where the determinations are made by Federal, State, or District agencies, into reciprocal agreements with those agencies to receive the appropriate information;
- (h) to hold hearings, public or private, as necessary to obtain compliance with any rules, regulations, and procedures promulgated pursuant to this Order, and to issue orders relating thereto. No order to terminate or cancel a contract, or to withhold from any contractor further District of Columbia Government contractors shall be issued without affording the contractor an opportunity for a hearing. Any order to terminate or cancel a contract or to withhold from any contractor further District of Columbia Government contracts shall be issued in accordance with rules, and regulations pursuant to the Administrative Procedure Act, as amended and;
- (i) to grant waivers from the minimum standards for the employment of minorities and women in Affirmative Action Programs in exceptional cases, as circumstances may warrant.

5. Duties of Contracting Agencies: Each contracting agency shall have the following duties:

- (a) the initial responsibility for ensuring that contractors and subcontractors are in compliance with any rules, regulations, and procedures promulgated pursuant to this Order;
- (b) to examine the employment practices of contractors and subcontractors in accordance with procedures established by the Office of Human Rights, and report any compliance action to the Director of the Office of Human Rights;
- (c) to comply with the terms of this Order and of the orders, rules, regulations, guidelines, and procedures of the Office of Human Rights issued pursuant thereto in discharging their responsibility for securing contract compliance; and
- (d) to secure compliance with any rules, regulations, and procedures promulgated pursuant to this Order before or after the execution of a contract by methods, of conference, conciliation and persuasion. No enforcement proceedings shall be initiated, nor shall a contract be cancelled or terminated in whole or in part, unless such methods have first been attempted.

6. Procedures: The procedures to be followed in implementing this Order shall be those set forth in

Orders, rules, regulations, and guidelines as may be promulgated by the Office of Human Rights.

7. Severability: If any section, subsection, sentence, clause, phrase, or portion of the provisions in this Order is for any reason declared by any court of competent jurisdiction to be invalid or unconstitutional, such section, subsection, sentence, clause, phrase, or portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining provisions of this order.
8. Effective Date: This Order shall become effective immediately.

Signed by Marion Barry, Jr.  
Mayor

ATTEST: Signed by Clifton B. Smith  
Secretary of the District of Columbia

## OFFICE OF HUMAN RIGHTS

### NOTICE OF FINAL RULEMAKING

The Director of the Office of Human Rights hereby gives notice of the adoption of the following final rules governing standards and procedures for equal employment opportunity applicable to contractors and subcontractors under District of Columbia Government Contracts. Notice of Proposed Rulemaking was published for public comment in the D.C. Register on April 11, 1986 at 33 DCR 2243. Based on some the comments received and upon further review by the Office of Human Rights, minor revisions were made in the rules at the following subsections: 1104.1, 1104.2, 1104.4, 1104.13, 1104.17(e) (5), 1104.28, 1107.1, 1199.1, and at page 15 the definition of minority was written out in addition to citing its D.C. Code. None of the revisions change the intent of the proposed final rules. Final action to adopt these final rules was taken on August 4, 1986, and will be effective upon publication of this notice in the Register.

#### **CHAPTER 11 EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS IN CONTRACTS**

##### 1100 PURPOSE

1100.1 These rules shall govern standards and procedures to be followed by contractors and subcontractors performing under District of Columbia Government contracts for goods and services, including construction contracts, for the purpose of assuring equal employment opportunity for minorities and women.

1100.2 These rules establish requirements for contractors and subcontractors regarding their commitment to observe specific standards for the employment of minorities and women and to achieve affirmative action obligations under District of Columbia contracts. These rules are not intended nor shall be used to discriminate against any qualified applicant for employment or employee.

##### 1101 SCOPE

1101.1 Except as hereinafter exempted, the provisions of this chapter shall apply to all District of Columbia Government contracts subject to Mayor's Order No. 85-85, and any rules, regulations, and procedures promulgated pursuant to that Mayor's Order.

##### 1102 COVERAGE

1102.1 The provisions of this chapter shall govern the processing of any matter before the Office Human Rights involving the following:

- (a) Discrimination in employment on grounds of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, family responsibilities, matriculation, political affiliation, or physical handicap by any District of Columbia Government contractor; and
- (b) Achievement of affirmative action obligations under District of Columbia contracts.

##### 1103 CONTRACT PROVISIONS

1103.1 Each contract for goods and services, including construction contracts, except construction subcontracts for standard commercial supplies or raw materials, shall include as express contractual provisions the language contained in subsections 1103.2 through 1103.10.

1103.2 The contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, family responsibilities, matriculation, political affiliation, or physical handicap.

- 1103.3 The contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, family responsibilities, matriculation, political affiliation, or physical handicap. The affirmative action shall include, but not be limited to the following:
- (a) Employment, upgrading, or transfer;
  - (b) Recruitment or recruitment advertising;
  - (c) Demotion, layoff, or termination;
  - (d) Rates of pay, or other forms of compensation; and
  - (e) Selection for training and apprenticeship.
- 1103.4 The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Agency, setting forth the provisions in subsections 1103.2 and 1103.3 concerning non-discrimination and affirmative action.
- 1103.5 The contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment pursuant to the non-discrimination requirements set forth in subsection 1103.2
- 1103.6 The contractor agrees to send to each labor union or representative of workers with which it has a collective bargaining agreement, or other contract or understanding, a notice to be provided by the Contracting Agency, advising each labor union or workers' representative of the contractor's commitments under this chapter, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- 1103.7 The contractor agrees to permit access to all books, records, and accounts, pertaining to its employment practices, by the Director and the Contracting Agency for purposes of investigation to ascertain compliance with this chapter, and to require under terms of any subcontractor agreement each subcontractor to permit access of such subcontractors, books, records, and accounts for such purposes.
- 1103.8 The contractor agrees to comply with the provisions of this chapter and with all guidelines for equal employment opportunity applicable in the District of Columbia adopted by the Director, or any authorized official.
- 1103.9 The prime contractor shall include in every subcontract the equal opportunity clauses, subsections 1103.2 through 1103.10 of this section, so that such provisions shall be binding upon each subcontractor or vendor.
- 1103.10 The prime contractor shall take such action with respect to any subcontractor as the Contracting Officer may direct as a means of enforcing these provisions, including sanctions for non-compliance; provided, however, that in the event the prime contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the prime contractor may request the District to enter into such litigation to protect the interest of the District.
- 1104 **AFFIRMATIVE ACTION PROGRAM**
- 1104.1 Each apparent low bidder for a construction contract shall complete and submit to the Contracting Agency, prior to the execution of any contract in the amount of twenty-five thousand dollars (\$25,000) or more, and each contractor covered under subsection 1105.1, an Affirmative Action Program to ensure equal opportunity which shall include specific standards for the utilization of minorities and women in the trades, crafts and skills to be used by the contractor in the performance of the contract.

- 1104.2 Each apparent low bidder or offeror for a non-construction contract shall complete and submit to the Contracting Agency, prior to the execution of any contract in the amount of ten thousand dollars (\$10,000) or more, and each contractor covered under subsection 1105.2 , an Affirmative Action Program to ensure equal opportunity which shall include specific standards for the utilization of minorities in the job categories specified in subsection 1108.4.
- 1104.3 To ensure equal opportunity each Affirmative Action Program shall include the following commitments:
- (a) With respect to construction contracts, each contractor shall certify that it will comply with the provisions of this chapter, and submit a personnel utilization schedule for all the trades the contractor is to utilize, indicating the actual numbers of minority and female workers that are expected to be a part of the workforce performing under the contract; and
  - (b) With respect to non-construction contracts, each contractor shall certify that it will comply with the provisions of this chapter, and shall submit a personnel utilization schedule indicating by craft and skill, the minority composition of the workforce related to the performance of the work under the contract. The schedule shall include all workers located in the facility from which the goods and services are produced and shall include the same information for other facilities which have a significant relationship to the performance of work under the contract.
- 1104.4 If the experience of the contractor with any local union from which it will secure employees indicates that the union will not refer sufficient minorities or women to meet minority or female employment commitments, the contractor shall, not less than ten (10) days prior to the employment of any person on the project subject to the jurisdiction of that local union, do the following:
- (a) Notify the District of Columbia Department of Employment Services and at least two (2) minority and two (2) female referral organizations of the contractor's personnel needs, and request referral of minority and female workers; and
  - (b) Notify any minority and female workers who have been listed with the contractors as awaiting vacancies.
- 1104.5 If, within five (5) working days prior to commencement of work, the contractor determines that the Department of Employment Services or the minority or female referral organizations are unable to refer sufficient minorities or women to meet its commitments, the contractor may take steps to hire, by referral or otherwise, from the local union membership to fill the remaining job openings, provided that it notifies the local union of its personnel needs and of its employment commitments. Evidence of the notification shall be provided to the Contracting Agency.
- 1104.6 The contractor shall have standing requests for additional referrals of minority and female workers with the local union, the Department of Employment Services, and the other referral sources, until such time as the contractor has met its minority and female employment commitments.
- 1104.7 If the contractor desires to lay off some of its employees in a given trade on a construction site, it shall ensure that the required number of minority and female employees remain on the site to meet the minority and female commitments.
- 1104.8 No contractor shall refuse employment to any individual who has minimal facility to speak English except where the contractor can demonstrate that the facility to speak English is necessary for the performance of the job.

- 1104.9 No union with which the contractor has a collective bargaining agreement shall refuse to refer minority and female employees to such contractor.
- 1104.10 To the extent that contractors have delegated the responsibility for some of their employment practices to some other organization or agency which prevents them from meeting their equal opportunity obligations, those contractors shall not be considered to be in compliance with this chapter.
- 1104.11 The obligations of the contractor shall not be reduced, modified, or subject to any provision in any collective bargaining agreement with labor organization which provides that the labor organizations shall have the exclusive or primary opportunity to refer employees.
- 1104.12 When any contractor employs a minority person or woman in order to comply with this chapter, those persons shall be advised of their right to seek union membership, the contractor shall provide whatever assistance may be appropriate to enable that person to obtain membership, and the contractor shall notify the appropriate union of that person's employment.
- 1104.13 The contractor shall not discharge, refuse to employ, or otherwise adversely affect any minority person or woman because of any provision in any collective bargaining agreement, or any understanding, written or oral that the contractor may have with any labor organization.
- 1104.14 If at any time, because of lack of cooperation or overt conduct, a labor organization impedes or interferes with the contractor's Affirmative Action Program, the contractor shall notify the Contracting Agency and the Director immediately, setting forth the relevant circumstances.
- 1104.15 In any proceeding involving a disagreement between a labor organization and the contractor over the implementation of the contractor's Affirmative Action Program, the Contracting Agency and the Office of Human Rights may become a party to the proceeding.
- 1104.16 In determining whether or not a contractor is utilizing minorities and females pursuant to Section 1108, consideration shall be given to the following factors:
- (a) The proportion of minorities and women employed in the trades and as laborers in the construction industry within the District of Columbia;
  - (b) The proportion of minorities and women employed in the crafts or as operatives in non-construction industries within the District of Columbia;
  - (c) The number and ratio of unemployed minorities and women to total unemployment in the District of Columbia;
  - (d) The availability of qualified and qualifiable minorities and women for employment in any comparable line of work, including where they are now working and how they may be brought into the contractor's workforce;
  - (e) The effectiveness of existing training programs in the area, including the number who complete training, the length and extent of training, employer experience with trainees, and the need for additional or expanded training programs; and
  - (f) The number of additional workers that could be absorbed into each trade or line of work without displacing present employees, including consideration of present employee shortages, projected growth of the trade or line of work, and projected employee turnover.
- 1104.17 The contractor's commitment to specific standards for the utilization of minorities and females as required under this chapter shall include a commitment to make every good faith effort to meet

those standards. If the contractor has failed to meet the standards, a determination of “good faith” shall be based upon the contractor’s documented equal opportunity efforts to broaden its equal employment program which shall include, but may not necessarily be limited to, the following requirements:

- (a) The contractor shall notify the community organizations that the contractor has employment opportunities available and shall maintain records of the organizations’ responses;
- (b) The contractor shall maintain a file of the names and addresses of each minority and female worker referred to it and what action was taken with respect to each referred worker. If that worker was not sent to the union hiring hall for referral or if the worker was not employed by the contractor, the contractor’s file shall be documented and the reasons therefore;
- (c) The contractor shall notify the Contracting Agency and the Director when the union or unions with which the contractor has a collective bargaining agreement has not referred to the contractor a minority or female worker originally sent to the union by the contractor for union registration, or the contractor has other information that the union referral process has impeded the contractor’s efforts to meet its goals;
- (d) The contractor shall participate in training programs related to its personnel needs;
- (e) The contractor shall disseminate its EEO policy internally by doing the following:
  - (1) Including it in any organizational manual;
  - (2) Publicizing it in company newspapers, annual report, etc.;
  - (3) Conducting staff, employee, and union representatives meetings to explain and discuss the policy;
  - (4) Posting; and
  - (5) Reviewing the policy with minority and female employees.
- (f) The contractor shall disseminate its EEO policy externally by doing the following:
  - (1) Informing and discussing it with all recruitment sources;
  - (2) Advertising in news media, specifically including news media directed to minorities and women;
  - (3) Notifying and discussing it with all known minority and women’s organizations; and
  - (4) Notifying and discussing it with all subcontractors and suppliers.

- 1104.18 The contractor shall make specific recruitment efforts, both written and oral, directed at all minority and women’s training organizations within the contractor’s recruitment area.
- 1104.19 The contractor shall encourage present employees to assist in the recruitment of minorities and women for employment.
- 1104.20 The contractor shall validate all qualifications, selection requirements, and tests in accordance with the guidelines of the Equal Employment Opportunity Commission.

- 1104.21 The contractor shall make good faith efforts to provide after school, summer and vacation employment to minority youths and young women.
- 1104.22 The contractor shall develop on-the-job training opportunities, and participate and assist in any association or employer group training programs relevant to the contractor's employee needs.
- 1104.23 The contractor shall continually inventory and evaluate all minority and female personnel for promotion opportunities.
- 1104.24 The contractor shall make sure that seniority practices, job classifications, qualifications, etc. do not have a discriminatory effect on minorities and women.
- 1104.25 The contractor shall make certain that all facilities and company activities are nonsegregated.
- 1104.26 The contractor shall continually monitor all personnel activities to ensure that its EEO policy is being carried out.
- 1104.27 The contractor may utilize minority banking facilities as depositories for funds which may be involved, directly or indirectly, in the performance of the contract.
- 1104.28 The contractor shall employ minority and female workers without respect to union membership in sufficient numbers to meet the minority and female employment standards, if the experience of the contractor with any labor union from which it will secure employees does not indicate that it will refer sufficient minorities and females to meet its minority and female employment standards.
- 1104.29 The contractor shall ensure that all of its employees as well as those of its subcontractors are made knowledgeable about the contractor's equal opportunity policy.
- 1104.30 [Reserved]
- 1104.31 Each contractor shall include in all bid invitations or other pre-bid communications, written or otherwise, with respect to prospective subcontractors, the standards, as applicable, which are required under this chapter.
- 1104.32 Whenever a contractor subcontracts a portion of the work in any trade, craft or skill it shall include in the subcontract, its commitment made under this chapter, as applicable, which shall be adopted by its subcontractors who shall be bound thereby and by the regulations of this chapter to the full extent as if it were the prime contractor.
- 1104.33 The prime contractor shall give notice to the Director and the Contracting Agency of any refusal or failure of any subcontractor to fulfill its obligations under this chapter.
- 1104.34 Failure of compliance by any subcontractor shall be treated in the same manner as a failure by the prime contractor.
- 1105 EXEMPTIONS
- 1105.1 Prospective construction contractors shall be exempt from submitting Affirmative Action Programs for contracts amounting to less than twenty-five thousand dollars (\$25,000); provided, that when a construction contractor accumulates contracts amounting to twenty-five thousand dollars (\$25,000) or more within a period of twelve (12) months that contractor shall be required to submit an Affirmative Action Program for each contract executed thereafter.
- 1105.2 Prospective non-construction contractors shall be exempt from submitting Affirmative Action Programs for contracts amounting to less than ten thousand dollars (\$10,000); provided, that when

a non-construction contractor accumulates contracts amounting to ten thousand dollars (\$10,00) or more during a period of twelve (12) months that contractor shall be required to submit an Affirmative Action Program for each contract executed thereafter.

1106 NONRESPONSIBLE CONTRACTORS

1106.1 If a bidder or offeror fails either to submit a complete and satisfactory Affirmative Action Program or to submit a revised Affirmative Action Program that meets the approval of the Director, as required pursuant to this chapter, the Director may direct the Contracting Officer to declare the bidder or offeror to be nonresponsible and ineligible for award of the contract.

1106.2 Any untimely submission of an Affirmative Action Program may, upon order of the Director, be rejected by the Contracting Officer.

1106.3 In no case shall there be any negotiation over the provision of specific utilization standards submitted by the bidder or offeror after the opening of bids or receipt of offer and prior to award.

1106.4 If any directive or order relating to nonresponsibility is issued under this section, the Director shall afford the bidder or offeror a reasonable opportunity to be heard in opposition to such action in accordance with subsection 1118.1, or in support of a request for waiver under section 1109.

1107 NOTICE OF COMPLIANCE

1107.1 Each Contracting Agency shall include, or require the contract bidder or offeror to include, in the invitation for bids or other solicitation used for a D.C. Government-involved contract, a notice stating that to be eligible for consideration, each bidder or offeror shall be required to comply with the provisions of this chapter for the trades, crafts and skills to be used during the term of the performance of the contract whether or not the work is subcontracted.

1108 MINIMUM STANDARDS FOR MINORITY AND FEMALE EMPLOYMENT

1108.1 The minimum standards for the utilization of minorities in the District of Columbia Government construction contracts shall be forty-two percent (42%) in each trade for each project, and an aggregate workforce standard of six and nine-tenths percent (6.9%) for females in each project. Any changes in Federal standards pertaining to minority group and female employment in Federally-involved construction contracts shall be taken into consideration in any review of these requirements.

1108.2 The construction contractor's standards established in accordance with subsection 1108.1 shall express the contractor's commitment of the forty -two percent (42%) of minority personnel who will be working in each specified trade on each of the contractor's District of Columbia Government projects, and the aggregate standard of six and nine-tenths percent (6.9%) for the employment of females in each District of Columbia Government contract.

1108.3 The hours for minority and female workers shall be substantially uniform throughout the entire length of the construction contract for each trade used, to the effect that the same percentage of minority workers in the trades used shall be working throughout the length of work in each trade on each project, and the aggregate percentage in each project for females.

1108.4 The minimum standard for the utilization of minorities in non-construction contracts shall be twenty-five percent (25%) in each of the following nine (9) job categories:

- (a) Officials and managers;
- (b) Professionals;

- (c) Technicians;
- (d) Sales workers;
- (e) Office and clerical workers;
- (f) Craftpersons (Skilled);
- (g) Operative (Semi-skilled);
- (h) Laborers (Unskilled); and
- (i) Service workers.

1108.5 With respect to non-construction contracts the contractor's standards established in accordance with subsection 1108.4 shall express the contractor's commitment of the twenty-five percent (25%) of minority personnel who will be working in each specified craft or skill in each contract.

1109 WAIVERS

1109.1 The Director may grant a waiver to a prospective contractor from the requirement to submit a set of minimum standards for the employment of minorities and women in a particular contract, if before the execution of the contract and approval of the Affirmative Action Program, the contractor can document and otherwise prove it is unable to meet the standards in the performance of the contract.

1110 SOLICITATION OF CONTRACT

1110.1 Each solicitation for contract covered by section 1104 shall contain a statement that contractors shall comply with the minimum standards established pursuant to these rules for ensuring equal opportunity.

1110.2 The contract solicitation shall require that each bidder or offeror certify that it intends to meet the applicable minimum standards in section 1108 in order to be considered for the contract.

1111 PRIOR TO EXECUTION OF CONTRACT

1111.1 Upon being designated the apparent low bidder or offeror, that contractor shall submit a detailed Affirmative Action Program that sets forth the following:

- (1) The composition of its current total workforce; and
- (2) The composition of the workforce by race, color, national origin, and sex to be used in the performance of the contract and that of all known subcontractors that will be utilized to perform the contract.

1111.2 The apparent low bidder or offeror shall submit an Affirmative Action Program in accordance with section 1104 describing the actions it will take to ensure compliance with this chapter which shall be subject, prior to the execution of any contract, to the approval of the Director.

1111.3 If the Office of Human Rights does not act within ten (10) working days after the receipt of the Affirmative Action Program sent for approval, the Contracting Agency may proceed on its own determination to execute the contract.

- 1111.4 The apparent low bidder or offeror shall submit an Affirmative Action Program within a period of time to specified by each Contracting Agency, but which shall not exceed ten (10) working days after becoming the apparent contractor.
- 1111.5 The apparent low bidder or offeror shall furnish all information and reports to the Contracting Agency as required by this chapter, and shall permit access to all books or records pertaining to its employment practices or worksites.
- 1111.6 No contract subject to section 1104 shall be executed by the Contracting Agency, if the apparent low bidder or offeror does not submit an Affirmative Action Program, or if the Program has been disapproved in writing by the Director.
- 1111.7 If there is disagreement between the contractor and the Contracting Officer as to the adequacy of the Affirmative Action Program, the matter shall be referred to the Director for a decision.
- 1112 AFTER EXECUTION OF CONTRACT
- 1112.1 Each contractor shall maintain throughout the term of the contract the minimum standards for the employment of minorities and women, as set forth in the approved Affirmative Action Program.
- 1112.2 Each contractor shall require that each subcontractor, or vendor under the contract comply with the provision of the contract and the Affirmative Action Program.
- 1112.3 Each contractor shall furnish all information as required by this chapter, and permit access to all books and records pertaining to the contractor's employment practices and work sites by the Director and the Contracting Agency for purposes of investigation to ascertain compliance with this chapter.
- 1113 MONITORING AND EVALUATION
- 1113.1 The Director shall, from time to time, monitor and evaluate all District of Columbia Government agencies, including those independent agencies and commissions not required to submit the Affirmative Action Program of their contractors, to ensure compliance with the equal opportunity obligations in contracts, as provided for in this chapter.
- 1114 AFFIRMATIVE ACTION TRAINING PROGRAM
- 1114.1 Each contractor, in fulfilling its affirmative action responsibilities under a contract with the District of Columbia Government, shall be required to have, as part of its Affirmative Action Program, an existing training program for the purpose of training, upgrading, and promotion of minority and female employees or to utilize existing programs. Those programs shall include, but not be limited to, the following:
- (a) To be consistent with its personnel requirements, the contractor shall make full use of the applicable training programs, including apprenticeship, on-the job training, and skill refinement training for journeymen. Recruitment for the program shall be designed to provide for appropriate participation by minority group members and women;
  - (b) The contractor may utilize a company-operated skill refinement training program. This program shall be formal and shall be responsive to the work to be performed under the contract;
  - (c) The contractor may utilize formal private training institutions that have as their objective training and skill refinement appropriate to the classification of the workers employed. When training is provided by a private organization the following information shall be supplied:

- (1) The name of the organization;
- (2) The name, address, social security number, and classification of the initial employees and any subsequent employees chosen during the course of the contract; and
- (3) The identity of the trades, and crafts or skills involved in the training.

1114.2 If the contractor relies, in whole or in part, upon unions as a source of its workforce, the contractor shall use its best efforts, in cooperation with unions, to develop joint training programs aimed toward qualifying more minorities and females for membership in the union, and increasing the skills of minority and female employees so that they may qualify for higher paying employment.

1114.3 Approval of training programs by the Contracting Agency shall be predicated, among other things, upon the quality of training, numbers of trainees and trades, crafts or skills involved, and whether the training is responsive to the policies of the District of Columbia and the needs of the minority and female community. Minority and female applicants for apprenticeship or training should be selected in sufficient numbers as to ensure an acceptable level of participation sufficient to overcome the effects of past discrimination.

#### 1115 COMPLIANCE REVIEW

1115.1 The Director and the Contracting Agency shall review the contractor's employment practices during the performance of the Contract. Routine or special reviews of contractors shall be conducted by the Contracting Agency or the Director in order to ascertain the extent to which the policy of Mayor's Order No. 85 -85, and the requirements in this chapter are being implemented and to furnish information that may be useful to the Director and the Contracting Agency in carrying out their functions under this chapter.

1115.2 A routine compliance review shall consist of a general review of the practices of the contractor to ascertain compliance with the requirements of this chapter, and shall be considered a normal part of contract administration.

1115.3 A special compliance review shall consist of a comprehensive review of the employment practices of the contractor with respect to the requirements of this chapter, and shall be conducted when warranted.

#### 1116 ENFORCEMENT

1116.1 If the contractor does not comply with the equal opportunity clauses in a particular contract, including subsections 1103.2 through 1103.10 of this chapter, that contract may be cancelled in whole or in part, and the contractor may be declared by the Director or the Contracting Officer to be ineligible for further District of Columbia Government Contracts subject to applicable laws and regulations governing debarment.

1116.2 If the contractor meets its goals or if the contractor can demonstrate that it has made every good faith effort to meet those goals, the contractor will be presumed to be in compliance with this chapter, and no formal sanction shall be instituted unless the Director otherwise determines that the contractor is not providing equal employment opportunity.

1116.3 When the Director proceeds with a formal hearing she or he has the burden of proving that the contractor has not met the requirements of this chapter, but the contractor's failure to meet its goals shall shift to it the requirement to come forward with evidence to show that it has met the good faith requirements of this chapter.

1117 COMPLAINTS

1117.1 The Director may initiate investigations of individual instances and patterns of discriminatory conduct, initiate complaints thereupon and keep the Contracting Agency informed of those actions.

1117.2 If the investigation indicates the existence of an apparent violation of the non-discrimination provisions of the contract required under section 1103 of this chapter the matter may be resolved by the methods of conference, conciliation, mediation, or persuasion.

1117.3 If an apparent violation of the non-discrimination provisions of the contract required under section 1103 of this chapter is not resolved by methods of conference, conciliation, mediation, or persuasion, the Director of the Contracting Officer may issue a notice requiring the contractor in question to show cause, within thirty (30) days, why enforcement proceedings or other appropriate action should not be initiated.

1117.4 Any employee of any District of Columbia Government contractor or applicant for employment who believes himself or herself to be aggrieved may, in person or by an authorized representative, file in writing, a complaint of alleged discrimination with the Director.

1118 HEARINGS

1118.1 In the event that a dispute arises between a bidder, offeror or prospective contractor and the Director or the Contracting Officer as to whether the proposed program of affirmative action for providing equal employment opportunity submitted by such bidder, offeror or prospective contractor complies with the requirements of this chapter and cannot be resolved by the methods of conference, conciliation, mediation, or persuasion, the bidder, offeror or prospective contractor in question shall be afforded the opportunity for a hearing before the Director.

1118.2 If a case in which an investigation by the Director or the Contracting Agency has shown the existence of an apparent violation of the non-discrimination provisions of the contract required under section 1103 is not resolved by the methods specified in subsection 1117.2, the Director may issue a notice requiring the contractor in question to show cause, within thirty (30) days, why enforcement proceedings or other appropriate action should not be initiated. The contractor in question shall also be afforded the opportunity for a hearing before the Director.

1118.3 The Director may hold a hearing on any complaint or violation under this chapter, and make determinations based on the facts brought before the hearing.

1118.4 Whenever the Director holds a hearing it is to be held pursuant to the Human Rights Act of 1977, a notice of thirty (30) working days for the hearing shall be given by registered mail, return receipt requested, to the contractor in question. The notice shall include the following:

- (a) A convenient time and place of hearing;
- (b) A statement of the provisions in this chapter or any other laws or regulations pursuant to which the hearing is to be held; and
- (c) A concise statement of the matters to be brought before the hearing.

1118.5 All hearings shall be open to the public and shall be conducted in accordance with rules, regulations, and procedures promulgated pursuant to the Human Rights Act of 1977.

1119 SANCTIONS

- 1119.1 The Director, upon finding that a contractor has failed to comply with the non-discrimination provisions of the contract required under section 1103, or has failed to make a good faith effort to achieve the utilization standards under an approved Affirmative Action Program, may impose sanctions contained in this section in addition to any sanction or remedies as may be imposed or invoked under the Human Rights Act of 1977.
- 1119.2 Sanctions imposed by the Director may include the following:
- (a) Order that the contractor be declared ineligible from consideration for award of District of Columbia Government contracts or subcontracts until such time as the Director may be satisfied that the contractor has established and will maintain equal opportunity policies in compliance with this chapter; and
  - (b) Direct each Contracting Officer administering any existing contract to cancel, terminate, or suspend the contract or any portion thereof, and to deny any extension, modification, or change, unless the contractor provides a program of future compliance satisfactory to the Director.
- 1119.3 Any sanction imposed under this chapter may be rescinded or modified upon reconsideration by the Director.
- 1119.4 An appeal of any sanction imposed by order of the Director under this chapter may be taken pursuant to applicable clauses of the affected contract or provisions of law and regulations governing District of Columbia Government contracts.
- 1120 NOTIFICATIONS
- 1120.1 The Director shall forward in writing notice of his or her findings of any violations of this chapter to the Contracting Officer for appropriate action under the contract.
- 1120.2 Whenever it appears that the holder of or an applicant for a permit, license or franchise issued by any agency or authority of the Government of the District of Columbia is a person determined to be in violation of this chapter the Director may, at any time he or she deems that action the Director may take or may have taken under the authority of this chapter, refer to the proper licensing agency or authority the facts and identities of all persons involved in the violation for such action as the agency or authority, in its judgement, considers appropriate based upon the facts thus disclosed to it.
- 1120.3 The Director may publish, or cause to be published, the names of contractors or unions which have been determined to have complied or have failed to comply with the provisions of the rules in this chapter.
- 1121 DISTRICT ASSISTED PROGRAMS
- 1121.1 Each agency which administers a program involving leasing of District of Columbia Government owned or controlled real property, or the financing of construction under industrial revenue bonds or urban development action grants, shall require as a condition for the approval of any agreement for leasing, bond issuance, or development action grant, that the applicant undertake and agree to incorporate, or cause to be incorporated into all construction contracts relating to or assisted by such agreements, the contract provisions prescribed for District of Columbia Government contracts by section 1103, preserving in substance the contractor's obligation under those provision.
- 1199 DEFINITIONS

1199.1

The following words and phrases set forth in this section, when used in this chapter, shall have the following meanings ascribed:

**Contract** – any binding legal relationship between the District of Columbia and a contractor for supplies or services, including but not limited to any District of Columbia Government or District of Columbia Government assisted construction or project, lease agreements, Industrial Revenue Bond financing, and Urban Development Action grant, or for the lease of District of Columbia property in which the parties, respectively, do not stand in the relationship of employer and employee.

**Contracting Agency** – any department, agency, or establishment of the District of Columbia which is authorized to enter into contracts.

**Contracting Officer** – any official of a contracting agency who is vested with the authority to execute contracts on behalf of said agency.

**Contractor** – any prime contractor holding a contract with the District of Columbia Government. The term shall also refer to subcontractors when the context so indicates.

**Director** – the Director of the Office of Human Rights, or his or her designee.

**Dispute** – any protest received from a bidder or prospective contractor relating to the effectiveness of his or her proposed program of affirmative action for providing equal opportunity.

**Minority** – Black Americans, Native Americans, Asian Americans, Pacific Islander Americans, and Hispanic Americans. In accordance with D.C. Code, Section 1-1142(1) (Supp. 1985).

**Subcontract** – any agreement made or executed by a prime contractor or a subcontractor where a material part of the supplies or services, including construction, covered by an agreement is being obtained for us in the performance of a contract subject to Mayor's Order No. 85-85, and any rules, regulations, and procedures issued pursuant thereto.

**Subcontractor** – any contractor holding a contract with a District prime contractor calling for supplies or services, including construction, required for the performance of a contract subject to Mayor's Order No. 85-85, and any rules, regulations, and procedures promulgated pursuant thereto.

**ATTACHMENT J.5 TAX CERTIFICATION**

TAX CERTIFICATION AFFIDAVIT

Date \_\_\_\_\_, 200\_\_

Name of Organization/Entity: \_\_\_\_\_

Address: \_\_\_\_\_

Principal Officers:	Name	Soc. Sec. No.	Title

Business Telephone No.: \_\_\_\_\_

Finance and Revenue Registration No.: \_\_\_\_\_

Federal Identification No.: \_\_\_\_\_

DUNS No.: \_\_\_\_\_ Contract No.: \_\_\_\_\_

Unemployment Insurance Account No.: \_\_\_\_\_

I hereby certify that:

- 1. I have complied with the applicable tax filing and licensing requirements of the District of Columbia.
- 2. The following information is true and correct concerning tax compliance for the following taxes for the past five (5) years:

District:		Current	Not Current
Sales and Use		( )	( )
Employment Withholding		( )	( )
Hotel Occupancy		( )	( )
Corporation Franchise		( )	( )
Unincorporated Franchise		( )	( )
Personal Property		( )	( )
Professional License		( )	( )
Arena/Public Safety Fee		( )	( )
Vendor Fee		( )	( )

- 3. If not current, as checked in item 2, I am in compliance with a payment agreement with the Department of Finance and Revenue.  
 Yes     No

Attach copy of the Agreement.

If outstanding liabilities exists and no agreement has been made, please attach a listing of all such liabilities.

The Department of Finance and Revenue also requires:

(A) Copies of FR-532 (Notice of Registration) or a copy of an FR-500 (Combined Registration Form)

(B) Copies of canceled checks for the last tax period(s) filed for each tax liability; i.e., sales and use, employer withholding, etc.

The District of Columbia Government is hereby authorized to verify the above information with appropriate Government authorities. The penalty for making false statements is a fine of not more than \$1,000.00, imprisonment for not more than 180 days, or both, as prescribed by D.C. Official Code §22-2405. The penalty for false swearing is a fine of not more than \$2,500.00, imprisonment for not more than three (3) years, or both, as prescribed in D.C. Official Code §22-2404.

Signature of Person Authorized to Sign This Document \_\_\_\_\_

Title \_\_\_\_\_

Print Name \_\_\_\_\_

Notary: DISTRICT OF COLUMBIA, ss:

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_ Month and Year

Notary Public \_\_\_\_\_

My Commission Expires \_\_\_\_\_

**FIRST SOURCE EMPLOYMENT AGREEMENT**

Contract Number: \_\_\_\_\_

Contract Amount: \_\_\_\_\_

Project Name: \_\_\_\_\_

Project Address: \_\_\_\_\_ Ward: \_\_\_\_\_

Nonprofit Organization with 50 Employees or Less: (Yes) \_\_\_\_ (No) \_\_\_\_

This First Source Employment Agreement, in accordance with D. C. Law 14-24, D.C. Law 5-93, and Mayor's Order 83-265 for recruitment, referral, and placement of District of Columbia residents, is between the District of Columbia Department of Employment Services, hereinafter referred to as DOES, and \_\_\_\_\_, hereinafter, referred to as EMPLOYER. Under this Employment Agreement, the EMPLOYER will use DOES as its first source for recruitment, referral, and placement of new hires or employees for the new jobs created by this project and will hire 51% District of Columbia residents for all new jobs created, as well, as 51% of apprentices employed in connection with the project shall be District residents registered in programs approved by the District of Columbia Apprenticeship Council.

**I. GENERAL TERMS**

- A. The EMPLOYER will use DOES as its first source for the recruitment, referral and placement of employees.
- B. The EMPLOYER shall require all contractors and subcontractors, with contracts totaling \$100,000 or more, to enter into a First Source Employment Agreement with DOES.
- C. DOES will provide recruitment, referral and placement services to the EMPLOYER subject to the limitations set out in this Agreement.
- D. DOES participation in this Agreement will be carried out by the Office of the Director, with the Office of Employer Services, which is responsible for referral and placement of employees, or such other offices or divisions designated by DOES.

- E. This Agreement shall take effect when signed by the parties below and shall be fully effective for the duration of the contract and any extensions or modifications to the contract.
- F. This Agreement shall not be construed as an approval of the EMPLOYER'S bid package, bond application, lease agreement, zoning application, loan, or contract/subcontract.
- G. DOES and the EMPLOYER agree that for purposes of this Agreement, new hires and jobs created (both union and nonunion) include all EMPLOYER'S job openings and vacancies in the Washington Standard Metropolitan Statistical Area created as a result of internal promotions, terminations, and expansions of the EMPLOYER'S workforce, as a result of this project, including loans, lease agreements, zoning applications, bonds, bids, and contracts.
- H. For purposes of this Agreement, apprentices as defined in D.C. Law 2-156, as amended, are included.
- I. The EMPLOYER shall register an apprenticeship program with the D.C. Apprenticeship Council for construction or renovation contracts or subcontracts totaling \$500,000 or more. This includes any construction or renovation contract or subcontract signed as the result of, but is not limited to, a loan, bond, grant, Exclusive Right Agreement, street or alley closing, or a leasing agreement of real property for one (1) year or more.
- J. All contractors who contract with the Government of the District of Columbia to perform information technology work with a single contract or cumulative contracts of at least \$500,000, let within any twelve (12) month period shall be required to register an apprenticeship program with the District of Columbia Apprenticeship Council.
- K. The term "information technology work" shall include, but is not limited to, the occupations of computer programmer, programmer analyst, desktop specialist, technical support specialist, database specialist, network support specialist, and any other related occupations as the District of Columbia Apprenticeship Council may designate by regulation.

## II. RECRUITMENT

- A. The EMPLOYER will complete the attached Employment Plan, which will indicate the number of new jobs projected, salary range, hiring dates, and union requirements. The EMPLOYER will notify DOES of its specific need for new employees as soon as that need is identified.

- B. Notification of specific needs, as set forth in Section II.A. must be given to DOES at least five (5) business days (Monday - Friday) before using any other referral source, and shall include, at a minimum, the number of employees needed by job title, qualification, hiring date, rate of pay, hours of work, duration of employment, and work to be performed.
- C. Job openings to be filled by internal promotion from the EMPLOYER'S current workforce need not be referred to DOES for placement and referral.
- D. The EMPLOYER will submit to DOES, prior to starting work on the project, the names, and social security numbers of all current employees, including apprentices, trainees, and laid-off workers who will be employed on the project.

### III. REFERRAL

DOES will screen and refer applicants according to the qualifications supplied by the EMPLOYER.

### IV. PLACEMENT

- A. DOES will notify the EMPLOYER, prior to the anticipated hiring dates, of the number of applicants DOES will refer. DOES will make every reasonable effort to refer at least two qualified applicants for each job opening.
- B. The EMPLOYER will make all decisions on hiring new employees but will in good faith use reasonable efforts to select its new hires or employees from among the qualified persons referred by DOES.
- C. In the event DOES is unable to refer the qualified personnel requested, within five (5) business days (Monday - Friday) from the date of notification, the EMPLOYER will be free to directly fill remaining positions for which no qualified applicants have been referred. Notwithstanding, the EMPLOYER will still be required to hire 51% District residents for the new jobs created by the project.
- D. After the EMPLOYER has selected its employees, DOES will not be responsible for the employees' actions and the EMPLOYER hereby releases DOES, and the Government of the District of Columbia, the District of Columbia Municipal Corporation, and the officers and employees of the District of Columbia from any liability for employees' actions.

## V. TRAINING

DOES and the EMPLOYER may agree to develop skills training and on-the-job training programs; the training specifications and cost for such training will be mutually agreed upon by the EMPLOYER and DOES and set forth in a separate Training Agreement.

## VI. CONTROLLING REGULATIONS AND LAWS

- A. To the extent this Agreement is in conflict with any labor laws or governmental regulations, the laws or regulations shall prevail.
- B. DOES will make every effort to work within the terms of all collective bargaining agreements to which the EMPLOYER is a party.
- C. The EMPLOYER will provide DOES with written documentation that the EMPLOYER has provided the representative of any involved collective bargaining unit with a copy of this Agreement and has requested comments or objections. If the representative has any comments or objections, the EMPLOYER will promptly provide them to DOES.

## VII. EXEMPTIONS

- A. Contracts, subcontracts or other forms of government-assistance less than \$100,000.
- B. Employment openings the contractor will fill with individuals already employed by the company.
- C. Job openings to be filled by laid-off workers according to formally established recall procedures and rosters.
- D. Suppliers located outside of the Washington Standard Metropolitan Statistical Area and who will perform no work in the Washington Standard Metropolitan Statistical Area.

## VIII. AGREEMENT MODIFICATIONS, RENEWAL, MONITORING, AND PENALTIES

- A. If, during the term of this Agreement, the EMPLOYER should transfer possession of all or a portion of its business concerns affected by this Agreement to any other party by lease, sale, assignment, merger, or otherwise, the EMPLOYER as a condition of transfer shall:
  - 1. Notify the party taking possession of the existence of the EMPLOYER'S Agreement.
  - 2. Notify the party taking possession that full compliance with this Agreement is required in order to avoid termination of the project.

3. EMPLOYER shall, additionally, advise DOES within seven (7) business/calendar days of the transfer. This advice will include the name of the party taking possession and the name and telephone of that party's representative.
- B. DOES shall monitor EMPLOYER'S performance under this Agreement. The EMPLOYER will cooperate in DOES' monitoring effort and will submit a Contract Compliance Form to DOES monthly.
  - C. To assist DOES in the conduct of the monitoring review, the EMPLOYER will make available payroll and employment records for the review period indicated.
  - D. If additional information is needed during the review, the EMPLOYER will provide the requested information to DOES.
  - E. With the submission of the final request for payment from the District, the EMPLOYER shall:
    1. Document in a report to the Contracting Officer its compliance with the requirement that 51% of the new employees hired by the project be District residents; or
    2. Submit a request to the Contracting Officer for a waiver of compliance with the requirement that 51% of the new employees hired by the project be District residents and include the following documentations:
      - a. Material supporting a good faith effort to comply;
      - b. Referrals provided by DOES and other referral sources; and
      - c. Advertisement of job openings listed with DOES and other referral sources.
  - F. The Contracting Officer may waive the requirement that 51% of the new employees hired by the project be District residents, if the Contracting Officer finds that:
    1. A good faith effort to comply is demonstrated by the contractor;
    2. The EMPLOYER is located outside the Washington Standard Metropolitan Statistical Area and none of the contract work is performed inside the Washington Standard Metropolitan Statistical Area;

The Washington Standard Metropolitan Statistical Area includes the District of Columbia, the Virginia Cities of Alexandria, Falls Church, Manassas, Manassas Park, Fairfax, and Fredericksburg; the Virginia Counties of Fairfax, Arlington, Prince William, Loudoun, Stafford, Clarke, Warren, Fauquier, Culpeper, Spotsylvania, and King George; the Maryland Counties of Montgomery, Prince Georges, Charles, Frederick, and Calvert; and the West Virginia Counties of Berkeley and Jefferson.

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

G. Willful breach of the First Source Employment Agreement by the EMPLOYER, or failure to submit the Contract Compliance Report, or deliberate submission of falsified data, may be enforced by the Contracting Officer through imposition of penalties, including monetary fines of 5% of the total amount of the direct and indirect labor costs of the contract.

H Nonprofit organizations with 50 or less employees are exempted from the requirement that 51% of the new employees hired on the project be District residents.

I. The EMPLOYER and DOES, or such other agent as DOES may designate, may mutually agree to modify this Agreement.

J. The project may be terminated because of the EMPLOYER'S non-compliance with the provisions of this Agreement.

IX. Is your firm a certified Local, Small, Disadvantaged Business Enterprise (LSDBE)?  
 YES NO  
 If yes, certification number: \_\_\_\_\_

X. Do you have a registered Apprenticeship program with the D.C. Apprenticeship Council?  
 YES NO  
 If yes, D.C. Apprenticeship Council Registration Number: \_\_\_\_\_

XI. Indicate whether your firm is a subcontractor on this project: YES NO  
 If yes, name of prime contractor: \_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_

\_\_\_\_\_  
 Signature Dept. of Employment Services

\_\_\_\_\_  
 Signature of Employer

\_\_\_\_\_  
 Name of Company

\_\_\_\_\_  
 Address

\_\_\_\_\_  
 Telephone

\_\_\_\_\_  
 E-mail

**EMPLOYMENT PLAN**

NAME OF FIRM \_\_\_\_\_

ADDRESS \_\_\_\_\_

TELEPHONE NUMBER \_\_\_\_\_ FEDERAL IDENTIFICATION NO. \_\_\_\_\_

CONTACT PERSON \_\_\_\_\_ TITLE \_\_\_\_\_

E-mail: \_\_\_\_\_ TYPE OF BUSINESS: \_\_\_\_\_

ORIGINATING DISTRICT AGENCY \_\_\_\_\_

CONTRACTING OFFICER: \_\_\_\_\_ TELEPHONE NUMBER: \_\_\_\_\_

TYPE OF PROJECT \_\_\_\_\_ FUNDING AMOUNT \_\_\_\_\_

PROJECTED START DATE \_\_\_\_\_ PROJECT DURATION \_\_\_\_\_

NEW JOB CREATION PROJECTIONS (Attach additional sheets, as needed.) Please indicate the new position(s) your firm will create as a result of this project.

	JOB TITLE	# OF JOBS F/T P/T	SALARY RANGE	UNION MEMBERSHIP REQUIRED NAME LOCAL#	PROJECTED HIRE DATE
A					
B					
C					
D					
E					
F					
G					
H					
I					
J					
K					





## LIVING WAGE ACT FACT SHEET

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

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

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

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

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

7. Tenants or retail establishments that occupy property constructed or improved by receipt of government assistance from the District of Columbia; provided, that the tenant or retail establishment did not receive direct government assistance from the District;
8. Employees of nonprofit organizations that employ not more than 50 individuals and qualify for taxation exemption pursuant to section 501(c)(3) of the Internal Revenue Code of 1954, approved August 16, 1954 (68A Stat. 163; 26 U.S.C. § 501(c)(3));
9. Medicaid provider agreements for direct care services to Medicaid recipients, provided, that the direct care service is not provided through a home care agency, a community residence facility, or a group home for mentally retarded persons as those terms are defined in section 2 of the Health-Care and Community Residence Facility, Hospice, and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code § 44-501); and
10. Contracts or other agreements between managed care organizations and the Health Care Safety Net Administration or the Medicaid Assistance Administration to provide health services.

## Enforcement

The Department of Employment Services (DOES) and the D.C. Office of Contracting and Procurement (OCP) share monitoring responsibilities.

If you learn that a contractor is not paying at least the living wage you should report it to the Contracting Officer.

If you believe that your employer is not paying you at least the required living wage, you may file a complaint with the DOES Office of Wage – Hour, located at 64 New York Avenue, N.E., Room 3105, (202) 671-1880.

For questions and additional information, contact the Office of Contracting and Procurement at (202) 727-0252 or the Department of Employment Services on (202) 671-1880.

**Please note:** *This fact sheet is for informational purposes only as required by Section 106 of the Living Wage Act. It should not be relied on as a definitive statement of the Living Wage Law or any regulations adopted pursuant to the law.*



Government of the District of Columbia  
Anthony A. Williams, Mayor

Department of Employment Services  
Gregory P. Irish, Director

## **H.\_ WAY TO WORK AMENDMENT ACT OF 2006**

**H.\_.1** Except as described in H.\_. 8 below, the Contractor shall comply with Title I of the Way to Work Amendment Act of 2006, effective June 8, 2006 (D.C. Law 16-118, D.C. Official Code §2-220.01 *et seq.*) (“Living Wage Act of 2006”), for contracts for services in the amount of \$100,000 or more in a 12-month period.

**H.\_.2** The Contractor shall pay its employees and subcontractors who perform services under the contract no less than the current living wage published on the OCP website at [www.ocp.dc.gov](http://www.ocp.dc.gov).

**H.\_.3** The Contractor shall include in any subcontract for \$15,000 or more a provision requiring the subcontractor to pay its employees who perform services under the contract no less than the current living wage rate.

**H.\_.4** The Department of Employment Services may adjust the living wage annually and the OCP will publish the current living wage rate on its website at [www.ocp.dc.gov](http://www.ocp.dc.gov).

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

**H.\_.6** The Contractor shall maintain its payroll records under the contract in the regular course of business for a period of at least three (3) years from the payroll date, and shall include this requirement in its subcontracts for \$15,000 or more under the contract.

**H.\_.7** The payment of wages required under the Living Wage Act of 2006 shall be consistent with and subject to the provisions of D.C. Official Code §32-1301 *et seq.*

**H.\_.8** The requirements of the Living Wage Act of 2006 do not apply to:

- (1) Contracts or other agreements that are subject to higher wage level determinations required by federal law;
- (2) Existing and future collective bargaining agreements, provided, that the future collective bargaining agreement results in the employee being paid no less than the established living wage;
- (3) Contracts for electricity, telephone, water, sewer or other services provided by a regulated utility;
- (4) Contracts for services needed immediately to prevent or respond to a disaster or eminent threat to public health or safety declared by the Mayor;
- (5) Contracts or other agreements that provide trainees with additional services including, but not limited to, case management and job readiness services; provided that the trainees do not replace employees subject to the Living Wage Act of 2006;
- (6) An employee under 22 years of age employed during a school vacation period, or enrolled as a full-time student, as defined by the respective institution, who is in high school or at an accredited institution of higher education and who works less than 25 hours per week; provided that he or she does not replace employees subject to the Living Wage Act of 2006;
- (7) Tenants or retail establishments that occupy property constructed or improved by receipt of government assistance from the District of Columbia; provided, that the tenant or retail establishment did not receive direct government assistance from the District;
- (8) Employees of nonprofit organizations that employ not more than 50 individuals and qualify for taxation exemption pursuant to section 501(c)(3) of the Internal Revenue Code of 1954, approved August 16, 1954 (68A Stat. 163; 26 U.S.C. § 501(c)(3));

(9) Medicaid provider agreements for direct care services to Medicaid recipients, provided, that the direct care service is not provided through a home care agency, a community residence facility, or a group home for mentally retarded persons as those terms are defined in section 2 of the Health-Care and Community Residence Facility, Hospice, and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code § 44-501); and

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

**H.9** The Mayor may exempt a contractor from the requirements of the Living Wage Act of 2006, subject to the approval of Council, in accordance with the provisions of Section 109 of the Living Wage Act of 2006.

# **DRAFT “THE LIVING WAGE ACT OF 2006” DRAFT**

Title I, D.C. Law No. 16-118, (D.C. Official Code §§ 2-220.01-.11)

Effective June 9, 2006, recipients of new contracts or government assistance shall pay affiliated employees and subcontractors who perform services under the contracts no less than the current living wage **\$11.75** per hour.

## **The requirement to pay a living wage applies to:**

- All recipients of contracts in the amount of \$100,000 or more; and, all subcontractors of these recipients receiving \$15,000 or more from the funds received by the recipient from the District of Columbia, and,
- All recipients of government assistance in the amount of \$100,000 or more; and, all subcontractors of these recipients of government assistance receiving \$50,000 or more in funds from government assistance received from the District of Columbia.

**Contract**” means a written agreement between a recipient and the District government.

**Government assistance**” means a grant, loan or tax increment financing that result in a financial benefit from an agency, commission, instrumentality, or other entity of the District government.

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

Certain exceptions may apply where contracts or agreements are subject to wage determinations required by federal law which are higher than the wage required by this Act; contracts for electricity, telephone, water, sewer other services delivered by regulated utility; contracts for services needed immediately to prevent or respond to a disaster or eminent threat to the public health or safety declared by the Mayor; contracts awarded to recipients that provide trainees with additional services provided the trainee does not replace employees; tenants or retail establishments that occupy property constructed or improved by government assistance, provided there is no receipt of direct District government assistance; Medicaid provider agreements for direct care services to Medicaid recipients, provided that the direct care service is not provided through a home care agency, a community residential facility or a group home for mentally retarded persons; and contracts or other agreements between managed care organizations and the Health Care Safety Net Administration or the Medicaid Assistance Administration to provide health services.

Exceptions are provided for employees under 22 years of age employed during a school vacation period, or enrolled as a full-time student who works less than 25 hours per week, provided that other employees are not replaced, and for employees of nonprofit organizations that employ at more than 50 individuals.

Each recipient and subcontractor of a recipient shall provide this notice to each affiliate employee covered by its notice, and shall also post this notice concerning these requirements in a conspicuous site in the place of business.

All recipients and subcontractors shall retain payroll records created and maintained in the regular course of business under District of Columbia law for a period of at least 3 years.

This is a summary of the “Living Wage Act of 2006”. For the complete text go to:

[www.does.dc.gov](http://www.does.dc.gov) or [www.ocp.dc.gov](http://www.ocp.dc.gov)

To file a complaint contact: Department of Employment Services

Office of Wage-Hour

64 New York Avenue, N.E., Room 3105, Washington, D.C. 20002

(202) 671-1880

**J.8 Reserved**

# **J.9 DPR Recreation Centers w/ AMA Acreage by Wards**

## Ward 4

NAME	ADDRESS	DPRID	AMA_Acre
Hamilton St. Playground	13th & 14th Sts., to Hamilton & Gallatin Sts., NW	DPR00493	1.73
Upshur Recreation	14th St. & Arkansas Ave., NW	DPR01012	7.19
Lafayette Rec	Broad Branch Rd., between Quesada & 33rd Sts., NW	DPR00473	9.29
Emery Recreation	Georgia Ave. & Madison St., NW	DPR01072	9.48
Rudolph Playground	Ingraham & Hamilton Sts., to 2nd & 3rd Sts., NW	DPR00517	4.62
Lamond Playground	Kansas Ave., between Underwood & Tuckerman Sts., NW	DPR00685	2.58
Fort Stevens Rec (Playground)	Luzon Ave., between Van Buren & 13th Sts., NW	DPR00631	8.82
Riggs Rd. Playground	Riggs Rd. & Nicholson St., NE	DPR00665	4.79
Raymond Playground	Spring Rd., between Quincy & 9th Sts., NW	DPR00486	2.52
Petworth Playground	Taylor St., between 8th & 9th Sts., NW	DPR00710	0.90
Takoma Rec (Coolidge Rec. Ctr.)	Van Buren & Sheridan Sts., to 3rd & 5th Sts., NW	DPR00445	16.60
Takoma Playground	Van Buren St., between 3rd & 4th Sts., NW	DPR00377	4.51
			73.03

## Ward 5

NAME	ADDRESS	DPRID	AMA_Acre
N. Michigan Park Rec	13th & Emerson Sts., NE	DPR01005	16.32
Brentwood Village Playground	15th & Downing Sts., NE	DPR00673	1.26
Dwight A. Moseley Athletic Center	18th & Perry Sts., NE	DPR00476	8.83
Langdon Park	18th St. & Mills Ave., to Hamlin & Franklin Sts., NE	DPR00446	19.59
Arboretum Recreation	24th St. & Rand Pl., NE	DPR01023	2.40
Edgewood Playground	Douglas St., between Franklin St. & Lincoln Rd., NE	DPR00534	5.10
Fort Lincoln Park	Ft. Lincoln Dr. & 31st Pl., NE	DPR01070	17.04
Harry Thomas Rec Ctr.	Lincoln Rd. & 2nd St., to R & T Sts., NE	DPR00464	4.50
Joe Cole Rec Center	Montello Ave. & Morse St., NE	DPR00708	1.48
New York Ave. Daycare	New York Ave. & 1st St., NW	DPR01106	2.34
Turkey Thicket Rec. Ctr.	Shepherd St. & Michigan Ave., NE	DPR00496	10.77
Trinidad Playground	Trinidad Ave., at Childress St., NE	DPR00615	5.28
			94.90

## Ward 6

NAME	ADDRESS	DPRID	AMA_Acre
Watkins Rec. Ctr.	13th St., between D & E Sts., SE	DPR00611	0.36
Watkins Rec. Ctr.	13th St., between D & E Sts., SE	DPR00611	2.81
Rosedale Recreation	17th & Gales Sts., NE	DPR01018	4.80
Joy Evans Therapeutic Rec	6th St., between L & M Sts., SE	DPR00019A	0.79
Rumsey Aquatic Center	7th St. & N. Carolina Ave., NE	DPR01037	0.65
Sherwood Rec Center	9th & 10th Sts., to F & G Sts., NE	DPR00552	1.95
Payne Playground	C St., between 14th & 15th Sts. SE	DPR00649	-0.44
King-Greenleaf Recreation Center	Canal St., between 1st & N Sts., SW	DPR00293	0.08
King-Greenleaf Recreation Center	Canal St., between M & N Sts., SW	DPR00006P	2.02
King-Greenleaf Recreation Center	Canal St., between N & O Sts., SW	DPR00006Q	2.80
Virginia Ave. Playground	L St., between 9th & 11th Sts., SE	DPR00126	2.61
King-Greenleaf Recreation Center	SW Corridor of Delaware Ave. & N St., NW	DPR00634	1.19
Randall Rec. Ctr.	west of S. Capitol St., between G & K Sts., SW	DPR00484	8.49
			28.11

## RECREATION CENTERS AND ADMINISTRATION BUILDINGS

### Ward 1

NAME	ADDRESS	DPRID	AMA_Acre
Girard Recreation	15th & Girard Sts., NW	DPR01014	1.26
DPR Headquarters	16th & Lamont Sts., NW	DPR00579	3.26
Parkview Recreation	17th St., between Otis & Princeton Pls., NW	DPR01019	1.41
Marie Reed Courts	18th St. & Kalorama Rd., NW	DPR01022	0.26
Banneker Rec. Ctr.	Georgia Ave. & Euclid St., NW	DPR00506	12.03
Kalorama Park	Kalorama Rd., between Columbia Rd. & 19th St., NW	DPR00655	3.10
Harrison Playground	U & V Sts., to 13th & 14th Sts., NW	DPR00640	1.34
			22.67

### Ward 2

NAME	ADDRESS	DPRID	AMA_Acre
Stead Playground	15th & 16th Sts., to P & Church Sts., NW	DPR00660	1.58
Francis Rec	25th & N Sts., NW	DPR01024	14.72
Rose Park Rec Center	26th and O Sts., NW	DPR00360	2.61
Kennedy Recreation	P St., between 6th & 7th Sts., NW	DPR01110	3.75
Shaw Rec	Rhode Island Ave. & 11th St., NW	DPR01127	2.99
Georgetown Playground	Volta Pl. & Q St., to 33rd & 34th Sts., NW	DPR00472	2.57
			28.22

### Ward 3

NAME	ADDRESS	DPRID	AMA_Acre
Hearst Rec Ctr.	37th St. & Idaho Ave., NW	DPR00527	6.46
Friendship Playground	45th St., between Van Ness & Warren Sts., NW	DPR00613	2.25
Friendship Playground	45th St., Van Ness & Massachusetts Ave., NW	DPR00613A	8.77
Guy Mason Recreation	Calvert & 36th Sts., NW	DPR01055	4.41
Stoddert Recreation	Calvert St., between 39th & 41st Sts., NW	DPR01056	7.07
Chevy Chase Community Center	Connecticut Ave. & McKinley St., NW	DPR01063	0.86
Hardy Rec Ctr	Foxhall Rd. & Q St., NW	DPR00709	4.76
Chevy Chase Playground	Livingston St., between 41st St. & Western Ave., NW	DPR00431	3.60
Macomb Recreation	Macomb St., between 34th & 35th Sts., NW	DPR01085	1.23
Palisades Playground	Potomac & Arizona Aves., NW	DPR00504	13.77
			53.18

## Ward 7

NAME	ADDRESS	DPRID	AMA_Acre
Benning Stoddert Rec. Ctr.	100 Stoddert Pl., SE	DPR00706	13.27
DC Therapeutic Rec Ctr.	3030 G St., SE	DPR00405	4.54
Fort Davis	41st St., between Ft. Davis St. & Ft. Davis Pl., SE	DPR00713	4.47
Deanwood Playground	49th & Quarles Sts., NE	DPR00666	5.37
Benning Park	51st & Fitch Sts., SE	DPR00692	8.49
Hillicrest Rec. Ctr.	Alabama Ave., west of 32nd St., SE	DPR00627	16.92
Kenilworth Park	Anacostia Ave. & Polk St., NE	DPR01044	29.67
Evans Rec	East Capitol & Blaine Sts., to 55th St. & 57th Pl., SE	DPR01067	5.02
Ridge Rec. Ctr.	Ridge Rd. & Burns St., SE	DPR00405	10.76
			98.51

## Ward 8

NAME	ADDRESS	DPRID	AMA_Acre
Anacostia Fitness Center	1800 Anacostia Dr., SE	DPR01021	13.78
Congress Heights Playground	7th St., south of Alabama Ave., SE	DPR00632	4.23
Douglass Rec. Ctr.	Douglass Rec Ctr. (Ft. Stanton Park to St. Elizabeth Hospital)	DPR00519	5.24
Barry Farm Playground	Martin Luther King Jr. Blvd., between Howard & Sumner Rds.	DPR00474	7.64
Bald Eagle Hill	Nichols & Southern Aves., SW	DPR00561	4.36
Fort Stanton Park	north of Erie St., between Pearson Pl. & 16th St., SE	DPR00412	10.84
Fort Greble Rec Center	South Capitol & 2nd Sts., SE & SW	DPR00421	6.12
			52.20

# WARD 1

AREA	ZONE	NAME	LOCATION	USE TYPE	PropID	Acre	Sq Feet
16	04	Banneker	Georgia Ave. & Euclid St., NW	REC CENTER GROUNDS	DPR0508	13.202	575,077
17	04	Columbia Heights	16th & Girard Sts., NW	REC CENTER GROUNDS	DPR2014	1.527	66,516
15	04	DPR Headquarters	16th & Lamont Sts., NW	ADMINISTRATION	DPR0579	3.358	148,275
17	04	Harrison	U & V Sts., to 13th & 14th Sts., NW	REC CENTER GROUNDS	DPR0640	1.375	59,890
17	04	Kalorama	Kalorama Rd., between Columbia Rd. & 19th St., NW	REC CENTER GROUNDS	DPR0655	3.149	137,186
17	04	Marie Reed	18th St. & Kalorama Rd., NW	REC CENTER GROUNDS	DPR2021	1.541	67,130
16	04	Parkview	17th St., between Olis & Princeton Pls., NW	REC CENTER GROUNDS	DPR2018	1.578	68,748
					7	25.730	1,120,823

# WARD 2

AREA	ZONE	NAME	LOCATION	USE TYPE	PropID	Acre	Sq Feet
19	06	Francis	25th & N Sts., NW	REC CENTER GROUNDS	DPR1639	16.300	710,040
13	03	Georgetown	Volta Pl. & Q St., to 33rd & 34th Sts., NW	REC CENTER GROUNDS	DPR0472	2.637	114,865
18	05	Kennedy	P St., between 6th & 7th Sts., NW	REC CENTER GROUNDS	DPR2092	3.790	165,078
13	03	Rose Park	Along Rock Creek, between National Zoological Park & Theodore Roosevelt Bridge	REC CENTER GROUNDS	DPR0360	2.644	115,190
18	05	Shaw	Rhode Island Ave. & 11th St., NW	REC CENTER GROUNDS	DPR2120	2.981	129,855
17	04	Stead	15th & 16th Sts., to P & Church Sts., NW	REC CENTER GROUNDS	DPR0660	1.612	70,233
					6	29.965	1,305,261

# WARD 3

AREA	ZONE	NAME	LOCATION	USE TYPE	PropID	Acre	Sq Feet
02	01	Chevy Chase Community Center	Connecticut Ave. & McKinley St., NW	REC CENTER GROUNDS	DPR2053	1.177	51,294
02	01	Chevy Chase Rec Center	Livingston St., between 41st St. & Western Ave., NW	REC CENTER GROUNDS	DPR0431	3.619	157,638
05	02	Friendship	45th St., Van Ness & Massachusetts Ave., NW	REC CENTER GROUNDS	DPR0613A	11.107	483,810
12	03	Guy Mason	Calvert & 36th Sts., NW	REC CENTER GROUNDS	DPR2048	4.571	199,099
14	03	Hardy	Foxhall Rd. & Q St., NW	REC CENTER GROUNDS	DPR0709	4.829	210,338
07	02	Hearst	37th St. & Idaho Ave., NW	REC CENTER GROUNDS	DPR0527	6.494	282,872
07	02	Macomb	Macomb St., between 34th & 35th Sts., NW	REC CENTER GROUNDS	DPR2071	1.319	57,447
10	03	Pallsades	Potomac & Arizona Aves., NW	REC CENTER GROUNDS	DPR0504	13.874	604,368
12	03	Stoddert	Calvert St., between 39th & 41st Sts., NW	REC CENTER GROUNDS	DPR2049	7.397	322,219
					9	54.386	2,369,076

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### WARD 4

AREA	ZONE	NAME	LOCATION	USE_TYPE	PropID	Acres	Sq Feet
24	09	Emery	Georgia Ave. & Madison St., NW	REC CENTER GROUNDS	DPR2061	9.543	415,684
22	09	Fort Stevens	Luzon Ave., between Van Buren & 13th Sts., NW	REC CENTER GROUNDS	DPR0631	8.956	390,139
24	09	Hamilton	13th & 14th Sts., to Hamilton & Gallatin Sts., NW	REC CENTER GROUNDS	DPR0493	1.768	76,558
02	01	Lafayette	Broad Branch Rd., between Quesada & 33rd Sts., NW	REC CENTER GROUNDS	DPR0473	9.304	405,284
23	09	Lamond	Kansas Ave., between Underwood & Tuckerman Sts., NW	REC CENTER GROUNDS	DPR0685	2.601	113,317
27	10	Patworth	Taylor St., between 8th & 9th Sts., NW	REC CENTER GROUNDS	DPR0710	1.131	49,268
25	09	Raymond	Spring Rd., between Quincy & 8th Sts., NW	REC CENTER GROUNDS	DPR0486	2.551	111,128
26	10	Riggs LaSalle	Riggs Rd. & Nicholson St., NE	REC CENTER GROUNDS	DPR0665	4.804	209,270
27	10	Rudolph	Ingraham & Hamilton Sts., to 2nd & 3rd Sts., NW	REC CENTER GROUNDS	DPR0517	5.382	234,434
23	09	Takoma Aquatic Center	Van Buren & Sheridan Sts., to 3rd & 5th Sts., NW	REC CENTER GROUNDS	DPR0445	16.737	729,057
23	09	Takoma Rec	Van Buren St., between 3rd & 4th Sts., NW	REC CENTER GROUNDS	DPR0377	4.547	198,072
25	09	Upshur	14th St. & Arkansas Ave., NW	REC CENTER GROUNDS	DPR2013	7.514	327,315
					12	74.828	3,259,527

### WARD 5

AREA	ZONE	NAME	LOCATION	USE_TYPE	PropID	Acres	Sq Feet
32	11	Arboretum	24th St. & Rand Pl., NE	REC CENTER GROUNDS	DPR2022	2.452	106,808
31	11	Brentwood	15th & Downing Sts., NE	REC CENTER GROUNDS	DPR0873	1.293	56,329
29	10	Dwight A. Moseley	18th & Parry Sts., NE	REC CENTER GROUNDS	DPR0478	8.808	383,689
30	10	Edgewood	Douglas St., between Franklin St. & Lincoln Rd., NE	REC CENTER GROUNDS	DPR0534	5.686	247,703
28	11	Fort Lincoln	Fl. Lincoln Dr. & 31st Pl., NE	REC CENTER GROUNDS	DPR2059	17.202	749,325
30	10	Harry Thomas	Lincoln Rd. & 2nd St., to R & T Sts., NE	REC CENTER GROUNDS	DPR0464	4.543	197,902
32	11	Joe Cole	Montello Ave. & Morse St., NE	REC CENTER GROUNDS	DPR0708	1.743	75,934
31	11	Langdon Park	18th St. & Mills Ave., to Hamilton & Franklin Sts., NE	REC CENTER GROUNDS	DPR0446	20.009	871,588
18	05	New York Ave Daycare	New York Ave. & 1st St., NW	REC CENTER GROUNDS	DPR2088	2.423	105,549
28	11	North Michigan Park	13th & Emerson Sts., NE	REC CENTER GROUNDS	DPR2007	16.382	713,606
32	11	Trinkidad	Trinidad Ave., at Childress St., NE	REC CENTER GROUNDS	DPR0615	5.342	232,719
29	10	Turkey Thicket	Shepherd St. & Michigan Ave., NE	REC CENTER GROUNDS	DPR0498	10.776	469,407
					12	96.661	4,210,569

### WARD 6

AREA	ZONE	NAME	LOCATION	USE_TYPE	PropID	Acres	Sq Feet
34	12	Joy Evans	6th St., between L & M Sts., SE	REC CENTER GROUNDS	DPR0019A	0.948	41,315
20	05	King-Greenleaf	Canal St., between M & N Sts., SW	REC CENTER GROUNDS	DPR0068P	7.486	326,078
34	12	Payne	C St., between 14th & 15th Sts., SE	REC CENTER GROUNDS	DPR0849	0.436	19,011
20	05	Randall	west of S. Capitol St., between G & K Sts., SW	REC CENTER GROUNDS	DPR0484	8.760	381,588
33	12	Rosedale	17th & Gates Sts., NE	REC CENTER GROUNDS	DPR2017	5.019	218,635
34	12	Rumsey Aquatic Center	7th St. & N. Carolina Ave., NE	REC CENTER GROUNDS	DPR2034	1.154	50,273
33	12	Sherwood	9th & 10th Sts., to F & G Sts., NE	REC CENTER GROUNDS	DPR0552	1.986	86,521
34	12	Virginia Avenue	L St., between 9th & 11th Sts., SE	REC CENTER GROUNDS	DPR0126	2.633	114,588
34	12	Watkins	13th St., between D & E Sts., SE	REC CENTER GROUNDS	DPR0611	3.172	138,181
					9	31.595	1,376,301

# WARD 7

AREA	ZONE	NAME	LOCATION	USE TYPE	PropID	Acre	Sq Feet
41	14	Benning Park	51st & Fitch Sts., SE	REC CENTER GROUNDS	DPR0692	8.911	388,184
40	14	Benning Stoddert	100 Stoddert Pl., SE	REC CENTER GROUNDS	DPR0706	13.553	590,390
39	14	DC Therapeutic	3030 G St., SE	REC CENTER GROUNDS	DPR2001	5.195	226,301
36	13	Deanwood	49th & Quarles Sts., NE	REC CENTER GROUNDS	DPR0666	5.429	236,490
37	13	Evans Rec	East Capitol & Blaine Sts., to 55th St. & 57th Pl., SE	REC CENTER GROUNDS	DPR2056	4.996	217,616
42	07	Fort Davis	41st St., between Ft. Davis St. & Ft. Davis Pl., SE	REC CENTER GROUNDS	DPR0713	4.772	207,898
44	07	Hillcrest	Alabama Ave., west of 32nd St., SE	REC CENTER GROUNDS	DPR0713	4.772	207,898
35	13	Kenilworth-Parkside	Anacostia Ave. & Polk St., NE	REC CENTER GROUNDS	DPR0827	17.151	747,094
40	14	Ridge	Ridge Rd. & Burns St., SE	REC CENTER GROUNDS	DPR2040	30.231	1,316,866
37	13	Watts Branch	42nd St. & Hunt Pl., to 63rd St. & Southern Ave., NE	REC CENTER GROUNDS	DPR0405	11.010	479,609
					DPR0810	3.700	159,110
					10	104.950	4,569,569

# WARD 8

AREA	ZONE	NAME	LOCATION	USE TYPE	PropID	Acre	Sq Feet
43	07	Anacostia Fitness Center	1800 Anacostia Dr., SE	REC CENTER GROUNDS	DPR2020	14.019	610,657
49	08	Bald Eagle	Nichols & Southern Aves., SW	REC CENTER GROUNDS	DPR0561	4.515	196,673
45	07	Barry Farm	Martin Luther King Jr. Blvd., between Howard & Summer Rds.,	REC CENTER GROUNDS	DPR0474	8.338	363,195
47	08	Congress Heights	7th St., south of Alabama Ave., SE	REC CENTER GROUNDS	DPR0632	4.274	186,158
46	08	Douglass	Douglass Rec Ctr. (Ft. Stanton Park to St. Elizabeth Hospital)	REC CENTER GROUNDS	DPR0519	5.499	239,525
49	08	Fort Greble	South Capitol & 2nd Sts., SE & SW	REC CENTER GROUNDS	DPR0421	6.142	267,552
45	07	Fort Stanton	north of Erie St., between Pearson Pl. & 16th St., SE	REC CENTER GROUNDS	DPR0412	11.082	482,748
47	08	DC TENNIS AND LEARNING CENTER	Mississippi Ave., between 1st St. & Southern Ave., SE	REC CENTER GROUNDS	DPR0501	2.600	114,668
					8	56.468	2,461,207

$$\frac{18}{22} = \frac{31}{71}$$

# **J.10 DPR Landscaping Standards for Properties**

**Landscaping Standards**  
**for**  
**DC Department of Parks & Recreation**  
**Properties**

**Department of Parks and Recreation**  
**Office of Design and Planning**

**January 2003**

**(Updated August 20, 2004)**

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## **1.0 Introduction**

### **1.1 Purpose and Intent of the Landscaping Standards**

These Landscaping Standards are intended to provide guidance and support in the design of sites owned and/or operated by the D.C. Department of Parks and Recreation. Besides obvious aesthetic benefits, landscape standards help to:

- Establish minimum regulations that protect public landscape resources while allowing for flexibility.
- Contribute to the community's quality of life by increasing the amount and quality of appropriate landscaping.
- Provide for the conservation and protection of water resources through the appropriate use of plant materials for the District's climate.
- Promote the design and development of landscapes that can be easily maintained with existing available resources.

### **1.2 Applicability**

The Landscaping Standards apply to any landscape design project implemented on DPR owned parcels. Any park renovation and new construction shall adhere to these standards where applicable.

#### **1.2.1 Included Work**

The following improvements are covered by these standards:

- Landscaping
- Hardscaping
- Installation of site furniture
- Removal of dead or old vegetation
- Selective pruning of overgrown vegetation
- Construction of retaining walls lower than 3', low walls and fences
- Installation of lighting fixtures
- Installation of decorative rocks and boulders

#### **1.2.2 Work Not Included**

The following work will be considered on a case-by-case basis only:

- Interventions in sensitive ecosystems (such as riparian buffer and stream banks planting)

- Construction or renovation of playground(s). (*Separate standards for the construction of playgrounds and the installation of play equipment are under development.*)
- Other work not indicated in Section 1.2.1 above

### **1.3 Compliance and Enforcement**

Projects implemented on property owned and/or operated by the D.C. Department of Parks and Recreation (DPR) must be completed in compliance with the standards in this document. Landscape architects must submit their proposed work for written approval by DPR (the Director or his/her designee). Any work completed that has not received written approval from DPR and is found to be not in compliance with these standards will be corrected at the sole cost of the landscape architect.

### **1.4 Site Design Package Submittal Requirements**

Prior to the acceptance of a proposed project, a scope of work and a Final Site Design Plan shall be prepared and submitted to the Director or his designee for review and approval.

The process and deliverables related to a site's design shall be considered a part of the overall project. The following deliverables shall be part of the overall project documents, but shall be submitted directly to DPR (the Director or his/her designee) for approval. Approval of project documents by the D.C. Department of Consumer and Regulatory Affairs (DCRA) or any other body does not constitute compliance with these landscaping standards.

There will be three separate reviews by DPR prior to final approval of the site design: program and concept plan review; preliminary site development plan review; and final site development plan review (which will include a review of final landscaping plan and Planting Schedule).

The Site Design Plan must be prepared by an experienced landscape architect in compliance with any and all District of Columbia licensing requirements existent at the time of the contract, or by a design professional with equal experience and qualifications. Similarly, the landscape plan shall be prepared by an experienced landscape architect, or by a landscape professional with equal experience and qualifications.

Standards, specifications, regulations and special provisions of the Department of Public Works (DPW) and the District Department of Transportation (DDOT), when applicable, shall be followed unless otherwise specified. Plans shall be submitted by DPR to these or other agencies for review and approval when deemed necessary.

#### **1.4.1 Program and Concept Plan**

For each park improvement project, a program outline explaining the project and a concept plan must be submitted to the Director or his/her designee for review and approval. The concept plan shall provide DPR with a clear understanding of the improvement program prior to the preparation of a detailed, comprehensive Site Design Plan. The proposal shall include a preliminary cost estimate. The plans submitted for review and approval shall be drawn to a scale no smaller than 1"=20'.

A Site Design Plan is not required if the work to be done is of routine nature and is so limited in scope as to not require detailed plans and specifications for its proper execution. However, a written explanation of the scope of work in the form of a Program and Concept Plan is still required. Only the Director or his designee is invested with authority to waive the requirements of formal plans.

#### **1.4.2 Preliminary Site Design Plan**

Following the approval of the concept plan, a Preliminary Site Design Plan (PSDP) and drawings incorporating the elements of the program shall be submitted to DPR's Director or his/her designee for review and approval. The PSDP shall be accompanied by an existing conditions drawing, showing in detail all existing trees and other vegetation and all existing improvements. The PSDP shall include an initial list of plantings being considered for the project. The plans submitted for review and approval shall be drawn to a scale no smaller than 1"=20'.

#### **1.4.3 Final Site Design Plan**

A Final Site Design Plan (FSDP) incorporating comments from DPR regarding the preliminary site design must be submitted to the Director or his/her designee for review and approval. The FSDP shall be accompanied by any other plan(s) or drawing(s) covering in detail the existing conditions and the proposed work to be carried out. The minimum content of the FSDP shall include: plantings, details, utilities, grading, drainage, materials, and layout plan. Submittals must meet DPR requirements and standards prior to commencing site construction. The plans submitted for review and approval shall be drawn to a scale no smaller than 1"=20'.

##### **1.4.3.1 Landscaping Plan**

A Landscaping Plan shall accompany the FSDP and specify, by name, the plant materials to be installed as part of the project. The Landscaping Plan shall include a narrative describing the staging of relevant site work and storage plans for equipment and materials during implementation. The plan submitted for review and approval shall be drawn to a scale no smaller than 1"=20'.

#### **1.4.3.2 Planting Schedule**

The Landscaping Plan must be accompanied by a Planting Schedule detailing, for each species:

- The botanical and common names;
- The total quantities;
- The spacing;
- If container, B&B, bare root, or pots are requested;
- The caliper at planting.

#### **Modifications**

Only the design professional whose seal or signature is affixed to the Site Design Plan(s) and Landscaping Plan(s) or his/her designee may make modifications to the Site Design Plan(s). Modifications shall be reviewed and approved by the Director or his/her designee.

#### **1.4.4 Alternative Compliance**

Project conditions associated with individual sites may justify approval of alternative methods of compliance with the present landscaping standards. The Director or his designee shall have the discretion to allow, on a case-by-case basis, alternate means of compliance with the requirements of the landscaping standards.

#### **1.4.5 Effective Date**

The Landscape Standards shall take effect on January 1, 2003.

## **2.0 Landscaping Standards**

Landscape architects and other design professionals shall consult with DPR regarding these and any other relevant District site design requirements (i.e., Department of Health requirements for retention pond use to mitigate run-off and city forest conservation standards developed subsequent to DPR's Landscaping Standards).

### **2.1 Design Guidelines**

These guidelines are provided to ensure that minimum standards are considered and met by landscape architects designing DPR properties. DPR is willing to consider appropriate alternatives on a case-by-case basis.

#### **2.1.1 General**

The Director or his designee shall review submittals for approval and comments for compliance with the following standards and criteria:

- The proposed improvements shall promote the general welfare and protect the public health, safety and morale by making the city a more attractive and desirable place in which to live.
- The proposed project shall encourage the stabilization, conservation and protection of the use and value of neighboring areas and open spaces.
- The design or improvements shall provide for the safe and efficient movement of pedestrian and vehicular traffic.
- The design shall be in accordance with the principles of CPTED (Crime Prevention Through Environmental Design).

#### **2.1.2 Design Principles**

Designs for DPR projects shall incorporate the principles related to accessibility, safety and health, soil conservation and erosion control, irrigation, maintenance, and aesthetics outlined in this section.

##### **2.1.2.1 Accessibility**

*Vehicular Access.* Access to the site for maintenance and emergency vehicles as well as for pedestrians shall not be obstructed as a result of the proposed improvements.

*Pedestrian Circulation.* Pedestrian circulation patterns on the site should be analyzed and if required construction of walkways should be considered as part of the park improvements. Proposed walkways shall provide a barrier-free access to the park in accordance with ADA standards.

*Emergency Apparatus.* Improvements shall not restrict access to emergency apparatus such as fire hydrants.

### 2.1.2.2 Safety and Health

*Visibility/Screening.* Existing vegetation that will remain and proposed plant materials shall not screen any views from outside or within the site. Hedges shall be planted and maintained as not to form a continuous visual and/or physical barrier, except where planned as part of CPTED strategy. Vegetation should not detract from adequate surveillance.

In addition, plant materials and other site features shall not interfere with the ability of pedestrians to have an adequate view of paths and surrounding areas to ensure their safety. Location and size of plants at maturity shall not create hiding opportunities or create enclosed areas where illegal activities could take place.

*Visibility at Intersections.* Type and size of plant material at maturity shall be considered prior to planting within a traffic safety sight area formed by the intersection of streets, pedestrian rights-of way, public or private parking lot entrances and exits, or driveways.

Proper spacing should provide clear and unobstructed vision of intersections from approaching vehicles.

*Lighting.* Size of plant material at maturity shall be considered prior to planting where future conflicts with street/sidewalk lighting might arise. Plant materials should be spaced so that they do not interfere with the adequate lighting of the site or adjacent street(s).

*Toxicity of Plant Material.* Toxicity shall ultimately guide the choice of plant material. Toxic plant material shall not be installed on any DPR owned parcels. It is the responsibility of the landscape designer to research the proposed plant material for its potential toxicity. Toxic plants shall be removed at once and shall be replaced by a non-toxic species.

*Drainage.* Proposed plans shall not result in increased run-off to adjacent sites. Proposed planting beds and other landscape features shall not interfere with the general drainage pattern of the site and/or create drainage problems. Where such problems may arise as a result of the proposed improvements, mitigation measures, such as underground drainage, must be included in the plan.

Planting beds shall be designed to take advantage of, and properly manage, the surface drainage accumulating on and flowing onto the site. However, site improvements shall not create mosquito and other insects breeding environments such as water retention areas where rain and runoff water ponds. Under no circumstances shall a low area pond at a depth of more than 6" for any amount of time.

### 2.1.2.3 Soil Conservation and Erosion Control

*Soil Conservation.* Existing soil shall be conserved on-site and measures to limit the loss of soil shall be taken during construction activities.

*Erosion Control.* Eroding soil can be very disruptive to the health and quality of streams and other bodies of water. Construction methods shall comply with all federal and state erosion and sediment control regulations.

Improvements shall not create erosion problems and excessive runoff, or exacerbate existing soil and erosion problems. Existing erosion problems must be addressed as part of the improvement project mainly by the use of plants materials, such as low-growing herbaceous and woody plants. All berms shall be planted with ground cover or sod, or shall be seeded to avoid future erosion problems.

### 2.1.2.4 Irrigation

*Water Efficiency.* Efficient use of water shall be a primary guiding principle of any landscaping project. Improvements to any DPR-owned property should involve the use of plants that have minimal irrigation requirements. This generally implies the use of native plants and/or plants that are well adapted to the Washington, DC area climate. This also implies the use of appropriate planting and maintenance techniques.

Drought resistant landscapes shall however be designed and maintained to function in a visually pleasing manner in compliance with the present Landscaping Standards.

High water use plants and landscape features, such as fountains and ponds, are not acceptable under the present Landscaping Standards.

*Pervious and Impervious Surfaces.* The proposed landscape design shall limit impervious surfaces such as concrete and asphalt surfaces and maximize the use of pervious surfaces. Pervious surfaces include planting beds, lawn and natural areas, and some brick paving (though this often becomes impervious over time). Use of loose fill material surfacing (i.e., gravel) will be considered on a case-by-case basis only.

### 2.1.2.5 Maintenance

*Costs.* Cost of maintenance and replacement will be considered in the decision by DPR to accept or refuse a project. Due to limited human and financial resources, DPR gives priority to low maintenance projects.

*Vandalism.* Proposed improvements shall minimize opportunities for vandalism.

All site furniture and other features shall be permanently installed as part of the project so as to prevent movement and theft. In addition, site furniture and other features shall be sturdy and appropriate for public use in unsupervised urban public spaces.

Decorative rocks shall not be smaller than 1/3 cubic yard in size. Loose river rocks or other stones that can be easily thrown are generally not appropriate for use in public spaces.

#### **2.1.2.6 Aesthetics**

All improvements shall be designed and maintained to be visually pleasing. No offending material shall be installed as part of the project. Perception of offense is sufficient to qualify an element as "offending material".

## **2.2 Plant Material Standards**

The selection of plant material shall include an assortment of deciduous and evergreen trees, deciduous and evergreen shrubs, perennials, and ground covers in order to provide at least three seasons of visual interest. Annuals can be used on a limited basis and only where a commitment is made by a Friends or Adopt-a-Park group to provide appropriate care and maintenance of them.

### **2.2.1 General**

Proposed plant materials must meet plant material standards as published by the American Nursery and Landscape Association in "American Standard for Nursery Stock" – latest edition. Plant materials shall be on the city-approved plant list. See Appendix B for a list of acceptable trees, shrubs, and other plants. Plant materials not appearing on the city-approved plant list will be considered on a case-by-case basis. Wild-harvested plant material shall not be used.

Plant selection shall emphasize drought tolerant plant species. All required plant material shall be cold hardy to USDA Classification Zone 6b or colder. Plant materials shall not require winter protection. Attention shall be given to appearance, height, spread, growth rate, moisture requirements, potential root damage, disease and, pest susceptibility, climate adaptability, soil type slope, function, and maintenance requirements.

Growth of plant material at maturity shall be considered prior to planting, where future conflicts such as views, signs, overhead and underground utilities, security lighting, fire access, drainage easement and traffic circulation, might arise.

#### **Controlled or Prohibited Plant Materials**

No invasive plant material shall be installed as part of the project. The USDA Invasive Plant Species List is to be used as a guide. Vegetable gardens must be part of authorized community gardens.

### 2.2.2 Trees

Trees should have the body and fullness that is typical of the species. Trees shall be planted so that at maturity they do not interfere with service lines and traffic safety sight areas.

To avoid the establishment of monocultures, when more than five new trees are required at a site, more than one species must be specified. Existing street trees shall be considered when determining the choice of new trees.

Trees planted near public sidewalks or curbs shall be of appropriate species and installed in a manner that prevents physical damage to sidewalks, curbs, gutters and other public improvements. Site Plan(s) shall specify appropriate species for these conditions, including reference to root structure.

*Deciduous Trees.* As a general requirement, deciduous trees shall be clean, require little maintenance and pruning, be structurally strong, and be insect and disease resistant. Fast-growing species shall be avoided, as they tend to be weaker and more prone to wind damage. Short-lived, brittle trees, trees prone to insects damage and diseases, and trees that are considered a nuisance in the Washington, DC area, such as Black Willow, Cottonwood and Chinese Tallow shall not be planted. A complete list of approved trees is provided in Appendix B.

At planting, deciduous trees must have a trunk caliper of at least two (2) inches measured at 6" above the root ball. Multi-trunk trees must have a trunk caliper of one (1) inch and no more than 5 main trunks.

Shade and canopy trees shall be a minimum of 12' overall height with a minimum of 4 ½ feet of clear trunk. Small trees shall have a minimum planting height of 8'. All small trees shall have a minimum of 30 inches of clear trunk at the time of planting.

*Evergreen Trees.* Evergreen trees should have the body and fullness that is typical of the species. Landscape architects shall consider the location, pedestrian traffic, and maintenance needs of trees on the site to ensure that trees are sturdy enough to survive the degree of human contact likely in the proposed location.

### 2.2.3 Shrubs

Shrubs should have the body and fullness that is typical of the species. Shrubs classified as "spreading type" shall have a minimum preferred height of 12" and those classified as "upright type" shall have a minimum preferred height of 24", when measured immediately after planting. The planting of shrubs taller than 48" at maturity shall be approved by the Director or his designee. In addition, the use of shrubs that propagate by suckers should be limited to areas where such a growth habit won't create future problems.

All proposed shrubs should be furnished in 3-gallon containers, or balled and burlapped. In high traffic areas and in smaller planting beds, this is a requirement.

#### **2.2.4 Perennials**

All perennials shall be in one-gallon containers.

#### **2.2.5 Groundcovers**

Consideration shall be given to the level of pedestrian traffic and potential damage to groundcover when determining the size of the pots in which the groundcover will be furnished.

#### **2.2.6 Sod**

Sod shall be clean, free of crabgrass, common bluegrass, dandelion, and other weeds, and free of noxious pests or fungus. Sod shall be Tall Fescue containing 3% or less Midnight Bluegrass or other high quality Bluegrass. Rolls shall be no less than 18" wide.

### **2.3 Planting Beds Preparation**

*Size of Tree Pits.* Tree pits shall be at least twice the width of the root ball and no less than 75 cubic feet and no less than 3' deep. In addition, a minimum of 100 square feet of non-paved area is required for each proposed tree to be located in a paved area. (Existing large trees might require as much as 900 square feet of non-paved area to allow for adequate watering.) Planting plan should provide planting detail.

*Size of Planting Beds.* Planting beds for shrubs and perennials must be at least 2' deep (at least 6" deeper than pot depth) and, where allowed by available space, of a minimum of 300 square feet. Planting beds may be combined with street tree planting where appropriate and with the approval of DDOT. Planting plan should provide planting detail.

*Soil.* Soil should be provided by a dependable and controlled source. Soil shall not be obtained from natural areas. Imported soil shall be free of toxins and non-degradable rubbish.

*Soil Amendment.* Soil samples shall be taken and analyzed where improvements are proposed. Soil amendments shall be made to meet the following minimum requirements.

- 45%-77% silt; 0-25% clay; 25%-33% sand.
- 3 to 5% soil organic content
- pH 5.5 to 7.0 – amend soil as required to achieve this pH range

*Fertilization.* All plantings shall be properly fertilized at the time of installation with at least a minimum of 25 % organic 6-6-6 with trace elements or better fertilizer.

*Topsoil.* Topsoil shall be clean and free of construction debris, weeds, rocks, noxious pests and diseases. The topsoil for planting areas shall be amended with appropriate organic material. All soil used shall be suitable for the intended plant material. Native topsoil present on the site and removed during construction shall be stockpiled on-site and reused to cover some of the landscaped areas.

## **2.4 Planting Standards**

### **2.4.1 Plant Materials**

*Trees.* Trees shall be planted in accordance with the planting detail 12.0 – 1 Tree Planting Detail. See Appendix D.

*Shrubs.* Shrubs shall be planted in accordance with the planting detail 12.0 – 2 Shrub Planting Detail. See Appendix E.

*Perennials, Annuals, and Ground Covers.* Perennials, annuals, and ground covers shall be planted in accordance with planting detail 12.0 – 3 Flower Bed Planting Detail. Ground cover shall be planted in such manner as to present 75% coverage of the planting bed surface to achieve full coverage faster at time of planting. See Appendix F.

*Sod.* Sod shall be laid immediately upon delivery. Sub-grade of sodded areas shall be leveled and smooth, free of stones, sticks, roots, and other matter prior to the placement of sod. At least 3" of topsoil shall be in place prior to laying sod; sod shall not be used just to cover up poor soil conditions.

In general, sod strips shall be aligned with tightly fitted joints and no overlap of butts or sides. Rows shall be staggered so that seams are offset. Immediately after installation, roll and water the new sod thoroughly to prevent wilting.

### **2.4.2 Spacing**

Generally, plant spacing shall be appropriate to the species used and adjusted to plant size at maturity. See Appendices D, E and F for spacing guidelines.

### **2.4.3 Mulching**

All landscaped areas not covered by sod, pavement or decorative stones shall be mulched to a depth of 3" as shall all tree rings and tree groves, existing or new. All other planting beds shall be mulched to a depth of 2".

Keep mulch away from trunk of trees, stem, crown or neck of shrubs, and crown of perennials.

Mulch installation shall comply with the following requirements:

- Mulch shall be drop-shipped directly to the site on the day mulching is to be performed. At no time shall piles of mulch be left overnight on site unless approved by the Director or his designee.
- All mulched areas shall be left smooth and leveled to maintain a uniform surface and appearance. Adjacent areas shall be left clean and free of debris and mulch at the end of each workday.
- Type of mulch: double-shredded hardwood bark.

#### **2.4.4 Weed Barriers**

Landscaping fabric can be used along with mulch as a weed-control measure. Landscaping fabric shall be a lightweight porous 100% polypropylene non-woven fabric. Plastic sheet is not permitted as weed barrier.

#### **2.4.5 Staking**

Properly planted trees according to the ISA planting standards will not require staking. Staking is only necessary in instances of extreme grade or whether patterns of the particular planting environs. Should staking be required, standards established and recommended by the ISA will be followed. Two options are offered: Type One entails a simple installation of three wooden tree stakes outside the tree ring at a slight outward angle 2-5 Degrees out from tree ring. The guying line will NOT be attached to the tree itself but attached to the three tree stakes to form a circular perimeter around the tree and at no point can touch the tree. The material can either be the Nylon ARBORTIE ® or Polylock Chain as found in most arborist supply companies. The second Type is using two wooden stakes outside the tree ring but attached as to gently wrap once around the trunk and secured at the top of both stakes (See attached links).  
[http://www.wtsherrill.com/iwwidb.pvx?:multi\\_item\\_submit](http://www.wtsherrill.com/iwwidb.pvx?:multi_item_submit)  
<http://www.amleo.com/index/item.cgi?cmd=view&Words=3105>

#### **2.4.6 Tree Grates**

Where trees are planted in high traffic paved areas, they shall have a protective tree grate. Tree grates shall be cast iron with a natural finish. Particular design considerations include the size of tree opening and the ability to enlarge it with tree growth. The choice of tree grate is left to the designer. Tree grates shall be either black or matching the standard color for trash receptacles and benches. Vertical tree guards shall not be used and tree grates shall not impinge upon ADA accessibility.

### **2.5 Existing Vegetation**

Except for the eradication of nuisance vegetation, and for the removal of old, diseased, seriously infested, or dead vegetation, the removal of existing trees and shrubs is not allowed without the prior approval of the Director or his designee. As a general rule, no deciduous tree 6" in caliper or greater and no evergreen tree over 8' should be removed.

Trees classified as noxious weeds, such as Siberian Elm (*ulmus pumila*), Russian Olive (*eleagnus angustifolia*), Tree of Heaven (*ailanthus altissima*), Mulberry (*morus alba*, *morus rubra*), or Salt Cedar (*tamarix chinensis*), that are smaller than 12" in caliper are exempt from this requirement. If such trees are larger than 12" in caliper, the approval of the Director or his/her designee is required prior to removing the tree. Most nuisance trees should go, but it will not be possible in all the cases.

### **2.5.1 Protection of Existing Vegetation**

Existing trees and shrubs to remain or to be transplanted and relocated shall be protected from damage during the implementation phase of the project. Protection extends to the root systems of all existing vegetation. No excavated soil shall be piled, no materials or equipment shall be stored, no wash-out of equipment (such as concrete mixers) shall occur, and no machinery shall be driven within the drip line of existing trees and shrubs. Use of barriers to keep equipment and materials as far away as possible from the root zones of trees is required, with a 42" construction fence erected around the drip line (this is especially important for large trees).

Damaged vegetation shall be removed promptly in order to prevent insect infestation of healthy vegetation. Work includes the removal of the stump and the root system.

### **2.5.2 Transplantation of Existing Vegetation**

Transplantation of existing vegetation is recommended only for species of high ecological, economical, or symbolic value. A written recommendation by a qualified arborist shall support the preference of the Friends-of group to transplant a tree based on factors such as value, species, size, shape, location, site conditions, cost of operation, cost of post-transplant care, and other risk factors that could impact the survival of the tree.

Transplantation and relocation of existing trees and shrubs has to occur on the same site and be approved by the Director or his designee. Trees and shrubs to be relocated shall be healthy and free from serious insect or parasite infestation. In addition, vegetation to be relocated shall be selected from areas with adequate soil conditions for successful relocation. Relocation shall be performed during the recommended season for each species.

If transplantation results in the death of the transplanted tree or shrub within a one-year period, an equivalent replacement plant material shall be provided by the Friends-of Group. Replacement deciduous trees shall be 2" caliper or greater, and replacement evergreen trees shall be 6' tall or greater at time of planting.