AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT	1. Contract Number	Page of Pages 1

2. Amendment/Modification Number	3. Effective Date	4. Requisition/Purchase Request No.	5. Solicitation Caption:
No. 5	SEE BLOCK 16C		

6. Issued By: Code	7. Administered By (If other than line 6)
Office of Conracting and Procurement Road and Highway Structures District Department of Transportation 2000 14th Street, N.W. 6th Floor Washington, D.C. 20009	

8. Name and Address of Contractor (No. Street, city, country, state and ZIP Code)	(X)	9A. Amendment of Solicitation No.
		DCKA-2009-R-0085
		9B. Dated (See Item 11)
		5/29/2009
		10A. Modification of Contract/Order No.
		10B. Dated (See Item 13)
Code Facility		

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

[ ] The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers [X] is extended. [ ] is not extended. Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods: (a) By completing Items 8 and 15, and returning _____ copies of the amendment: (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or fax which includes a reference to the solicitation and amendment number. FAILURE OF YOUR ACKNOWLEDGEMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by letter or fax, provided each letter or telegram makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.

12. Accounting and Appropriation Data (If Required)

13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS, IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14

[ ]	A. This change order is issued pursuant to: (Specify Authority) The changes set forth in Item 14 are made in the contract/order no. in item 10A.
[ ]	B. The above numbered contract/order is modified to reflect the administrative changes (such as changes in paying office, appropriation date, etc.) set forth in item 14, pursuant to the authority of 27 DCMR, Chapter 36, Section 3601.2.
[ ]	C. This supplemental agreement is entered into pursuant to authority of:
[ ]	D. Other (Specify type of modification and authority)

E. IMPORTANT: Contractor [ ] is not, [X] is required to sign this document and return _____ copies to the issuing office.

14. Description of amendment/modification (Organized by UCF Section headings, including solicitation/contract subject matter where feasible.)

This addendum is amended to provide Attachments J.1.1, and J.2.3 through J.2.12 that are not available on OCP's website. These attachments are either supplemental contract provisions or forms which must be filled out and submitted with the proposal.

The proposal submission date is extended from July 15 to July 17, 2009.

Except as provided herein, all terms and conditions of the document referenced in Item (9A or 10A) remain unchanged and in full force and effect

15A. Name and Title of Signer (Type or print)		16A. Name of Contracting Officer Kathy Hatcher	
15B. Name of Contractor (Signature of person authorized to sign)	15C. Date Signed	16B. District of Columbia Kathy D Hatcher (Signature of Contracting Officer)	16C. Date Signed 7/10/2009

ATTACHMENTS – J.1.1

LABOR STANDARDS CLAUSES FOR SERVICE CONTRCTS EXCEEDING $2,500.00 SERVICE CONTRACT ACT OF 1965 AS AMENDED

REV. Oct. 86

LABOR STANDARDS CLAUSES FOR SERVICE CONTRACTS EXCEEDING $2,500.00 SERVICE CONTRACT ACT OF 1965, AS AMENDED

(a) This contract is subject to the Service Contract Act of 1965, as amended (41 U.S.C., 351 et seq.) and is subject to the following provisions and to all other applicable provisions of the Act and regulations of the Secretary of Labor issued thereunder (29 CFR, Part 4).

(b) (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 authorized representative, as specified in any wage determination attached to this contract.

(2) (i) If there is such a wage determination attached to this contract, the contracting officer shall require that any class of service employee which is not listed therein 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 class of employees shall be paid the monetary wages and furnished the fringe benefits as are determined pursuant to the procedures in this section. (The information collection requirements contained in the following paragraphs of this section have been approved by the Office of Management and Budget under OMB control number 1215-0150.)

(ii) Such conforming procedures shall be initiated by the contractor prior to the performance of contract work by such unlisted class of employee. A written report of the proposed conforming action, including information regarding the agreement of disagreement of the authorized representative of the employees involved or, where there is no authorized representative, the employees themselves, shall be submitted by the contractor to the contracting officer no later than 30 days after such unlisted class of employees performs any contract work. The contracting officer shall review the proposed action and promptly submit a report of the action, together with the agency's recommendation and all 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. 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.

(iii) 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 contractor with a written copy of such determination or it shall be posted as a part of the wage determination.

(iv) (A) 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 difference 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.

(B) 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 a contract under which the classification in question was previously conformed pursuant to this section, a new conformed wage rate and fringe benefits may be assigned to such 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 paragraph (b)(2)(ii) of this section need not be followed.

(C)N the currently applicable minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended.

(v) The wage rate and fringe benefits finally determined pursuant to paragraphs (b)(2), (i) and (ii) of this section 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 such unlisted employees the compensation agreed upon by the interested parties and/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.

(vi) Upon discovery of failure to comply with paragraphs (b)(2), (i) through (v) of this section, 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 of employees commenced contract work.

(3) If, as authorized pursuant to section 4(d) of the Service Contract Act of 1965, as amended, the term of this contract is more than 1 year, the minimum monetary wages and fringe benefits required to be paid or furnished thereunder to service employees shall be subject to adjustment after 1 year and not less often than once every 2 years, pursuant to wage determinations to be issued by the Wage and Hour Division, Employment Standards Administration of the

Department of Labor as provided in such Act.

(c) The contractor or subcontractor may discharge the obligation to furnish fringe benefits specified in the attachment or determined conformably thereto by furnishing any equivalent combinations of bona fide fringe benefits, or by making equivalent or differential payments in cash in accordance with the applicable rules set forth in Subpart D of 29 CFR, Part 4, and not otherwise.

(d) (1) In the absence of a minimum wage attachment for this contract, neither the contractor nor any subcontractor under this contract shall pay any person performing work under the contract (regardless of whether they are service employees) less than the minimum wage specified by section 6(a)(1) of the Fair Labor Standards Act of 1938. Nothing in this provision shall relieve the contractor or any subcontractor of any other obligation under law or contract for the payment of a higher wage to any employee.

(2) If the contract succeeds a contract, subject to the Service Contract Act of 1965, as amended, under which substantially the same services were furnished in the same locality and service employees were paid wages and fringe benefits provided for in a collective bargaining agreement, in the absence of the minimum wage attachment for this contract setting forth such collectively bargained wage rates and fringe benefits, neither the contractor nor any subcontractor under this contract shall pay any service employee performing any of the contract work (regardless of whether or not such employee was employed under the predecessor contract), less than the wages and fringe benefits provided for in such collective bargaining agreements, to which such employee would have been entitled if employed under the predecessor contract, including accrued wages and fringe benefits and any prospective increases in wages and fringe benefits provided for under such agreement. No contractor or subcontractor under this contract may be relieved of the foregoing obligatietary of Labor or his authorized representative finds, after a hearing as provided in '4.10 of 29 CFR, Part 4 that the wages and/or fringe benefits provided for in such agreement are substantially at variance with those which prevail for services of a character similar in the locality, or determines, as provided in '4.11 of 29 CFR, Part 4, 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/or 4.11 and Parts 6 and 8 that some or all of the wages and/or 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/or 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 administration decision.

(e) The contractor and any subcontractor under this contract shall notify each service employee commencing work on this contract of the minimum monetary wage and any fringe benefits required to be paid pursuant to this contract, or shall post the wage determination attached to this contract. The poster provided by the Department of Labor (Publication WH 1313) shall be posted in a prominent and accessible place at the work-site. Failure to comply with this requirement is a violation of section 2(a)(4) of the Act and of this contract. (Approved by the Office of Management and Budget under OMB control number 1215-0150.)

(f) The contractor or subcontractor shall not permit any part of the 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 or subcontractor which are unsanitary or hazardous or dangerous to the health or safety of service employees engaged to furnish these services, and the contractor or subcontractor shall comply with the safety and health standards applied under 29 CFR, Part 1925.

(g) (1) The contractor and each subcontractor performing work subject to the Act shall make and maintain for 3 years from the completion of the work records containing the information specified in paragraphs (g)(1), (i) through (vi) of this section for each employee subject to the Act and shall make them available for inspection and transcription by authorized representatives of the Wage and Hour Division, Employment Standards Administration of the U.S. Department of Labor. (Sections 4.6(g)(1), (i) through (iv) approved by the Office of Management and Budget under OMB control number 1215-0017 and sections 4.6(g)(1), (v) and (vi) approved under OMB control number 1215-0150.)

(i) Name and address and social security number of each employee.

(ii) The correct work classification or classifications, rate or rates of monetary wages paid and fringe benefits provided, rate or rates of fringe benefit payments in lieu thereof, and total daily and weekly compensation of each employee.

(iii) The number of daily and weekly hours so worked by each employee.

(iv) Any deductions, rebates, or refunds from the total daily or weekly compensation of each employee.

(v) A list of monetary wages and fringe benefits for those classes of service employees not included in the wage determination attached to this contract but for which such wage rates or fringe benefits have been determined by the interested parties or by the Administrator or authorized representative pursuant to the labor standards clause in paragraph (b) of this section. A copy of the report required by the clause in paragraph (b)(2)(ii) of this section shall be deemed to be such a list.

(vi) Any list of the predecessor contractor's employees which had been furnished to the contractor pursuant to '4.6(1)(2).

(2) The contractor shall also make available a copy of this contract for inspection or transcription by authorized representatives of the Wage and Hour Division.

(3) Failure to make and maintain or to make available such records for inspection and transcription shall be a violation of the regulations and this contract, and in the case of failure to produce such records, the contracting officer, upon direction of the Department of Labor and notification of the contractor, shall take action to cause suspension of any further payment or advance of funds until such violation ceases.

(4) The contractor shall permit authorized representatives of the Wage and Hour Division to conduct interviews with employees at the work-site during normal working hours.

(h) 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. Such payments shall be made no later than one pay period following the end of the regular pay period in which such wages were earned or accrued. A pay period under this Act may not be of any duration longer than semi-monthly.

(i) The contracting officer shall withhold or cause to be withheld from the Government prime contractor under this or any other Government contract with the prime contractor such sums as an appropriate official of the Department of Labor requests or such sums as the contracting officer decides may be necessary to pay underpaid employees employed by the contractor or subcontractor. 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 agency 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 these clauses relating to the Service Contract Act of 1965, may be grounds for termination of the right to proceed with the contractor work. In such event, the Government may enter into other contracts or arrangements for completion of the work, charging the contractor in default with any additional cost.

(j) The contractor agrees to insert these clauses in this section relating to the Service Contract Act of 1965 in all subcontracts subject to the Act. The term "contractor" as used in these clauses in any subcontract, shall be deemed to refer to the subcontractor, except in the term "Government prime contractor".

(k) (1) As used in these clauses, the term "service employee" means any person engaged in the performance of this contract other than any person employed in a bona fide executive, administrative, or professional capacity, as those terms are defined in Part 541 of Title 29, Code of Federal Regulations, as of July 30, 1976, and any subsequent revision of those regulations. The term "service employee" includes all such persons regardless of any contractual relationship that may be alleged to exist between a contractor or subco contracts pursuant to section 2(a)(5) of the Act and is

for *informational purposes only*:

The following classes of service employees expected to be employed under the contract with the Government would be subject, if employed by the contracting agency, to the provisions of 5 U.S.C. 5332 and would, if so employed, be paid not less than the following rates of wages and fringe benefits;

Employee Class	Monetary wage-fringe benefits

(l) (1) If wages to be paid or fringe benefits to be furnished any service employees employed by the Government prime contractor or any subcontractor under the contract are provided for in a collective bargaining agreement which is or will be effective during any period in which the contract is being performed, the government prime contractor shall report such fact to the contracting officer, together with full information as to the application and accrual of such wages and fringe benefits, including any prospective increases, to service employees engaged in work on the contract, and a copy of the collective bargaining agreement. Such report shall be made upon commencing performance of the contract, in the case of collective bargaining agreements effective at such time, and in the case of such agreements or provisions or amendments thereof effective at a later time during the period of contract performance, such agreements shall be reported promptly after negotiation thereof. (Approved by the Office of Management and Budget under OMB control number 1215-0150.)

(2) Not less than 10 days prior to completion of any contract being performed at a Federal facility where service employees may be retained in the performance of the succeeding contract and subject to a wage determination which contains vacation or other benefit provisions based upon length of service with a contractor (predecessor) or successor ('4.173 of Regulations, 29 CFR, Part 4), the incumbent prime contractor shall furnish to the contracting officer a certified list of the names of all service employees on the contractor's or subcontractor's payroll during the last month of contract performance. Such list shall also contain anniversary dates of employment on the contract either with the current or predecessor contractors of each such service employee. The contracting officer shall turn over such list to the successor contractor at the commencement of the

succeeding contract. (Approved by the Office of Management and Budget under OMB control number 1215-0150.)

(m) Rulings and interpretations of the Service Contract Act of 1965, as amended, are contained in Regulations, 29 CFR, Part 4.

(n) (1) By entering into this contract, the contractor (and officials thereof) certifies that neither it (nor he or she) nor any person or firm ineligible to be awarded Government contracts by virtue of the sanctions imposed pursuant to section 5 of the Act.

(2) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract pursuant to section 5 of the Act.

(3) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(o) Notwithstanding any of the clauses in paragraphs (b) through (m) of this section relating to the Service Contract Act of 1965, the following employees may be employed in accordance with the following variations, tolerances, and exemptions, which the Secretary of Labor, pursuant to section 4(b) of the Act prior to its amendment by Public Law 92-473, found to be necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business:

(1) Apprentices, student-learners, and workers whose earning capacity is impaired by age, 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 cash payments in lieu thereof required under section 2(a)(2) of that Act, in accordance with the conditions and procedures prescribed for the employment of apprentices, student-learners, handicapped persons, and handicapped clients of sheltered workshops under section 14 of the Fair Labor Standards Act of 1938, in the regulations issued by the Administrator (29 CFR, Parts 520, 521, 524 and 525).

(2) The Administrator will issue certificates under the Service Contract Act for the employment of 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 case payments in lieu thereof), applying procedures prescribed by the applicable regulations issued under the Fair Labor Standards Act of 1938 (29 CFR, Parts 520, 521, 524 and 525).

(3) The Administrator will also withdraw, annul, or cancel such certificates in accordance with the regulations in Parts 525 and 528 of Title 29 of the Code of Federal Regulations.

(p) Apprentices will be permitted to work at less than the predetermined rate for the work

they perform when they are employed and individually registered in a bona fide apprenticeship program registered with a State Apprenticeship Agency which is recognized by the U.S. Department of Labor, or if no such recognized agency exists in a State, under a program registered with the Bureau of Apprenticeship and Training, Employment and Training Administration, U.S. Department of Labor. Any employee who is not registered as an apprentice in an approved program shall be paid the wage rate and fringe benefits contained in the applicable wage determination for the journeyman classification of work actually performed. The wage rates paid apprentices shall not be less than the wage rate for their level of progress set forth in the registered program, expressed as the appropriate percentage of the journeyman's rate contained in the applicable wage determination. The allowable ratio of apprentices to journeymen employed on the contract work in any craft classification shall not be greater than the ratio permitted to the contractor as to his entire work force under the registered program.

(q) An employee engaged in an occupation in which he or she customarily and regularly receby the employer against the minimum wage required by section 2(a)(1) or section 2(b)(1) of the Act in accordance with section 3(m) of the Fair Labor Standards Act and Regulations, 29 CFR, Part 531; *Provided, however,* That the amount of such credit may not exceed $1.24 per hour beginning January 1, 1980, and $1.34 per hour after December 31, 1980. To utilize this proviso:

(1) The employer must inform tipped employees about this tip credit allowance before the credit is utilized;

(2) The employees must be allowed to retain all tips (individually or through a pooling arrangement and regardless of whether the employer elects to take a credit for tips received);

(3) The employer must be able to show by records that the employee received at least the applicable Service Contract Act minimum wage through the combination of direct wages and tip credit (approved by the Office of Management and Budget under OMB control number 1215-0017).

(4) The use of such tip credit must have been permitted under any predecessor collective bargaining agreement applicable by virtue of section 4(c) of the Act.

(r) *Disputes concerning labor standards.* Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with procedures of the Department of Labor set forth in 29 CFR, Parts 4, 6 and 8. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

ATTACHMENT – J.2.3

NON-COLLUSION AFFIDAVIT

INVITATION NO.: DCKA-2009-R-0085

CAPTION: WEIGH-IN-MOTION (WIM) REPAIR AND MAINTENANCE PROJECT

NON-COLLUSION AFFIDAVIT

I, the undersigned depose and certify that I am the _____
TITLE

_____ of the _____
COMPANY

That I am authorized to make this affidavit on behalf of said company; and that said company has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive proposal submittal in connection with proposed contract.

_____
Signature of Official

_____
Date

ATTACHMENT – J.2.4

CERTIFICATION OF ELIGIBILITY

CERTIFICATION OF ELIGIBILITY

INVITATION NO.: DCKA-2009-R-0085

PROJECT NAME: WEIGH-IN-MOTION (WIM) REPAIR AND MAINTENANCE PROJECT

_____, being
(President or Authorized Official of Bidder)
duly sworn (or under penalty of perjury under the laws of the United States), certifies that, except as noted below, (the Company) or any person associated therewith in the capacity of (owner, partner, director, officer, principal investigator, project director, manager, auditor, or any position involving the administration of federal funds):

is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility under any Federal, District or State statutes;

has not been suspended, debarred, voluntarily excluded or determined ineligible by an Federal, District or state agency within the past three (3) years;

does not have a proposed debarment pending; and

has not been indicted, convicted, or had a civil judgment rendered against (it) by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.

Exceptions will not necessarily result in denial of award, but will be considered in determining acceptability of offeror. For any exception noted, indicate below to whom it applies, initiating agency, and dates of action. Providing false information may result in criminal prosecution or administrative sanctions.

_____

_____

_____

_____
Contractor

_____
Date

_____
President or Authorized Official

_____
Title

The penalties for making false statements are prescribed in the Program Fraud Civil Remedies Act of 1986 (Public Law 99-509, 31 U.S.C. 3801-3812).

Subscribed and sworn before me this ____day _____

At_____
City and State

_____
Notary Seal

_____
Notary Public

ATTACHMENT – J.2.5

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION, LOWER TIER COVERED TRANSACTION

CERTIFICATION REGARDING DEBARMENT SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION LOWER TIER COVERED TRANSACTION

INVITATION NO.: DCKA-2009-R-0085

PROJECT NAME: WEIGH-IN-MOTION (WIM) REPAIR AND MAINTENANCE PROJECT

_____, being
(President or Authorized Official of Bidder)
duly sworn (or under penalty of perjury under the laws of the United States), certifies that, except as noted below, (the Company) or any person associated therewith in the capacity of (owner, partner, director, officer, principal investigator, project director, manager, auditor, or any position involving the administration of federal funds):

is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility under any Federal, District or State statutes;

has not been suspended, debarred, voluntarily excluded or determined ineligible by an Federal, District or state agency within the past three (3) years;

does not have a proposed debarment pending; and

has not been indicted, convicted, or had a civil judgment rendered against (it) by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.

Exceptions will not necessarily result in denial of award, but will be considered in determining acceptability of offeror. For any exception noted, indicate below to whom it applies, initiating agency, and dates of action. Providing false information may result in criminal prosecution or administrative sanctions.

_____

_____

_____

_____
Contractor

_____
Date

_____
President or Authorized Official

_____
Title

The penalties for making false statements are prescribed in the Program Fraud Civil Remedies Act of 1986 (Public Law 99-509, 31 U.S.C. 3801-3812).

Subscribed and sworn before me this _____day _____

At_____
City and State

_____
Notary Seal

_____
Notary Public

ATTACHMENT J.2.6

DISCLOSURE OF LOBBYING ACTIVITIES

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB

0346-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure)

1. **Type of Federal Action:**	2. **Status of Federal Action:**	3. **Report Type:**
a. contract	a. bid/offer/application	a. initial filing
b. grant	b. initial award	b. material change
c. cooperative agreement	c. post-award	**For Material Change Only:**
d. loan		year _____ quarter _____
e. loan guarantee		date of last report _____
f. loan insurance		

4. **Name and Address of Reporting Entity:**	5. **If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:**
Prime Subawardee	**Congressional District**, if known:
Tier_____, if known:	
Congressional District, if known:	

6. **Federal Department/Agency:**	7. **Federal Program Name/Description:**
	CFDA Number, if applicable: _____

8. a. **Name and Address of Lobbing Entity** (if individual, last name, first name, MI):	b. **Individuals Performing Services** (including address if different from No. 10a) (last name, first name, MI):
(attach Continuation Sheet(s) SF-LLL-A, if necessary)	

8. **Federal Action Number**, if known:	9. **Award Amount**, if known: $_____

11. **Amount of Payment** (check all that apply):	13. **Type of Payment** (check all that apply):
$ _____ actual planned	a. retainer
	b. one-time fee
	c. commission
	d. contingent fee
	e. deferred
	f. other; specify: _____

12. **Form of Payment** (check all that apply):
a. cash
b. in-kind; specify: nature _____
value _____

14. **Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment indicated in Item 11:**
(attach Continuation Sheet(s) SF-LLL-A, if necessary)

15. **Continuation Sheet(s) SF-LLL-A attached:** Yes No

16. Information requested through the form is authorized by order 31 U.S.C., section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when the transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C., 1352. This information will be reported to the Congress semi-annually and will b available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.	**Signature:** _____ **Print Name:** _____ **Title:** _____ **Telephone No.:** _____ **Date:** _____

Federal Use Only

Authorized for Local Reproduction
Standard Form - LLL

DISCLOSURE OF LOBBYING ACTIVITIES
CONTINUATION SHEET

0346-0046

Approved by OMB

Reporting Entity: _____ **Page** _____ **of** _____

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Standard Form - LLL-A

ATTACHMENT J.2.7

EQUAL OPPORTUNITY-NON SEGREGATED FACILITIES CERTIFICATE

INVITATION NO.: DCKA-2009-R-0085

PROJECT NAME: WEIGH-IN-MOTION (WIM) REPAIR AND MAINTENANCE PROJECT

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATE

Bidder represents that he [ ] has [ ] has not participated in a contract or subcontract subject to in substance either the equal opportunity provisions in Article 6 of LABOR PROVISIONS, STANDARD CONTRACT PROVISIONS, 1973, or Section 202 of Executive Order 11246 of 3 CFR; that he [] has [] has not filed all required compliance reports under any such contract or subcontract; and that representations indicating submission of required compliance reports signed by proposed subcontractors will be obtained prior to subcontract awards.

NONSEGREGATED FACILITIES CERTIFICATE

Bidder represents that he does not and will not maintain or provide for his employees any segregated facility at any of his establishments; that he does not and will not permit his employees to perform their services at any location under his control where segregated facilities are maintained; and that he will obtain and retain identical certifications from proposed subcontractors prior to award of subcontracting exceeding $10,000.00.

"Segregated facilities" shall mean any waiting room, work area, wash and rest room, eating area, time clock, locker room and other storage or dressing area, parking lot drinking fountain, recreation or entertainment area, transportation and housing facility, provided for employees which is segregated by explicit directive or is segregated on the basis of race, creed, color, or national origin, because of habit, local custom or otherwise.

Penalty for violations or making false statements is prescribed in 18 USC 1001.

_____
Company

_____
Signature of Official

_____ _____
Date Title

ATTACHMENT J.2.8

PAYMENT TO SUBCONTRACTORS AND SUPPLIERS CERTIFICATE

INVITATION NO.: DCKA-2009-R-0085

PROJECT NAME: WEIGH-IN-MOTION (WIM) REPAIR AND MAINTENANCE PROJECT

PAYMENT TO SUBCONTRACTORS AND SUPPLIERS CERTIFICATE

The Contractor, prior to receiving a progress payment, shall submit to the Contracting Officer, certification that the contractor has made and will make timely payments to his subcontractors and suppliers within seven (7) business days of receipt of such payment by DDOT for work performed by subcontractors/suppliers.

The certification must be accompanied by a list of all subcontractors and suppliers who will receive payment from the invoice and the dollar amount. Payment will not be made until the Prime Contractor submits this information.

Certification shall be made on the following standard form.

To: Contracting Officer
District Department of Transportation
Reeves Center, 6th Floor
2000 14th Street, NW
Washington, DC 20009

I hereby certify:

I have made and/or will make timely payments to all my subcontractors and suppliers within seven (7) business days of receipt of such payment by DDOT for work performed by the subcontractors/suppliers. The subcontractors and suppliers are listed herein:

_____
Contractor/Company Name

_____
Signature of Official

_____ _____
Date Title

FAP
DC

ATTACHMENT J.2.9

CERTIFICATION FOR GRANTS, LOANS, & COOPERATIVE AGREEMENTS

CERTIFICATION
FOR GRANTS, LOANS
AND COOPERATIVE AGREEMENTS
DISTRICT OF COLUMBIA DEPARTMENT OF TRANSPORTATION

INVITATION NO.: DCKA-2009-R-0085

PROJECT NAME: WEIGH-IN-MOTION (WIM) REPAIR AND MAINTENANCE PROJECT

The undersigned certifies, to the best of his or her knowledge and belief, that:

No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, and contracts and subcontracts under grants, subgrants, loans and cooperative agreements) which exceed $100,000.00 and that all such subrecipients shall certify and disclose accordingly.

This certification is material representation of fact upon which reliance was placed when this award was made. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, US Code. Any person who fails to file that required certification shall be subject to a civil penalty of not less than $10,000.00 and not more than $100,000.00 for each such failure.

_____ _____

Title of Official Company

_____ _____

Date Signature of Official

A bidder's failure to submit this certification or submission of a false certification may render his/her bid non-responsive.

(FAP)

ATTACHMENT – J.2.10

PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISE & NON-DISADVANTAGED BUSINESS ENTERPRISE FIRMS (FOR FEDERAL-AID CONTRACTS WITHOUT DBE CONTRACT GOAL ONLY)

For Fed-Aid Contract without DBE Contract Goal Only

PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISE AND NON-DISADVANTAGED BUSINESS ENTERPRISE FIRMS

Policy: In accordance with 49 CFR Part 26, it is the policy of the US Department of Transportation (DOT) to ensure nondiscrimination in the award and Administration of DOT assisted contracts in the Department's highway, transit and airport financial assistance programs. Therefore, the DBE requirements contained in the above cited regulation are applicable on this contract and shall be complied with by all contractors.

DBE Obligation: The prime contractor agrees to ensure that DBEs, as defined in 49 CFR Part 26, have the maximum opportunity to participate in the performance of subcontracts on this federally-funded contract and that he/she shall not discriminate on the basis of race, color, national origin, age, sex or handicapped in the prosecution of this contract.

All bidders are required to submit a written certification that they have read, understand and will comply with these requirements (*see DBE and Non-DBE Certification found in Bid Forms and Proposals*). **A bidder's failure to submit this certification or submission of a false certification may render the bid non-responsive.**

Definitions - The following definitions apply to this contract:

A. "Disadvantaged business" means a small business concern, (a) which is at least fifty-one percent (51%) owned by one or more socially and economically disadvantaged individuals or in the case of any publicly owned business, at least fifty-one percent (51%) of the stock of which is owned by one or more socially and economically disadvantaged individuals; and (b) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

B. "Small business concern" means a small business as defined pursuant to Section (3) of the Small Business Act, as amended, including all applicable and relevant rules and regulations promulgated pursuant thereto.

C. "Socially and economically disadvantaged individuals" means those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who are:

(1) "Black Americans", which includes persons having origins in any of the Black racial groups of Africa;

(2) "Hispanic Americans", which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

(3) "Native Americans", which includes persons who are American Indian, Eskimos, Aleuts, or Native Hawaiians;

(4) "Asian-Pacific Americans", which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, Burma, Thailand, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, and the Northern Marianas;

(5) "Asian-Indian Americans", which includes persons, whose origins are from India, Pakistan, and Bangladesh;

(6) Women (of all races); and

(7) "Any other minorities or individuals found to be economically and socially disadvantaged by the Small Business Administration under Section 8(a) and 8(d) of the Small Business Act, as amended, (15 U.S.C. 637(a)).

The Contracting Officer shall make a rebuttable prerogative that individuals in the above groups are socially and economically disadvantaged. This prerogative shall be based on criteria set forth in 49 CFR Part 26. The Contracting Officer also may determine, on a case-by-case basis, that individuals who are not members of one of the above groups are socially and economically disadvantaged.

Prompt Payment: The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract within 7 days from the receipt of each payment the prime contractor receives from DDOT. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the recipient. This clause applies to both DBE and non-DBE subcontractor.

Goals:

Open Market: The District Department of Transportation has established an **Annual DBE Overall Goal of 21.46%** for FY2009. While no specific contract goal has been established, prime contractors are encouraged to utilize certified DBE firms to perform work in this project. Please provide the information requested with regard to potential DBE and Non-DBE firms as requested in the "DBE and Non-DBE Certification" found in Bid Forms and Proposals.

Bidders are advised that each proposed DBE participant must be DBE certified by the **METROPOLITANT WASHINGTON UNIFIED CERTIFICATION PROGRAM (MWUCP)** at the time of the bid opening.

DBE Directory:

Information pertaining to the list of certified DBEs may be obtained by visiting **http://dbe.ddot.dc.gov** or **www.wmata.com** or by contacting:

Mrs. Glenda Payne, EO Specialist
DC Department of Transportation (DDOT)
Civil Rights Division
2000 14th Street, N.W., 5th Floor
Washington, DC 20009
Office: (202) 671-0479
Email: glenda.payne@dc.gov

Mr. Korey Gray, DBE Program Assistant
Washington Metropolitan Area Transit Authority (WMATA)
600 Fifth Street, NW
Washington, DC 20001
Office: (202) 962-1854
Email: kgray@wmata.com

ATTACHMENT – J.2.11

GENERAL PROVISIONS
(FEDERALLY FUNDED AGREEMENT)

GENERAL PROVISIONS

(Federally Funded Agreements)

February 19, 1981

REVISED 3/2/2001

ATTACHMENT B

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GENERAL PROVISIONS

1. DEFINITIONS:

The terms "Mayor" and "Contract Appeals Board" shall mean the Mayor of the District of Columbia and the Contract Appeals Board of the District of Columbia. The term "Contracting Officer" shall mean the contracting Officer of the District of Columbia District Department of Transportation or his Authorized Representative. The term "DC DDOT" shall mean the District of Columbia District Department of Transportation. The term "U.S. DOT" shall mean the United States Department of Transportation. The term "FHWA" shall mean the Federal Highway Administration of the U.S. DOT. The term "Consultant" shall mean, the Consultant, an individual, association, joint venture, corporation or any other like term, and its heirs, its executors and its administrators or successors.

2. PROPRIETARY RIGHTS:

A. PATENT RIGHTS: The parties to this Agreement agree that all rights accruing from discoveries or inventions resulting from work described herein shall be the sole property of the Consultant. The Consultant agrees and hereby grants to the District, all state highway departments and the United States an irrevocable, non-exclusive, non-transferable and royalty-free license to practice each invention in the manufacture, use and disposition of any article, material or method that may be developed as a part of the work under this Agreement.

B. COPYRIGHTS: Copyrights resulting from work described herein shall be the sole property of the Consultant. The Consultant agrees and does hereby grant to the District, all state highway departments and United States a royalty-free, non-exclusive and irrevocable right to reproduce, publish or otherwise use and to authorize others to use the work for Government purposes.

3. PATENTS AND COPYRIGHT INFRINGEMENT:

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

4. CHANGES:

The Contracting Officer may, at any time by a written order and without notice to the sureties, make changes in the work and services to be performed under this Agreement and within the general scope thereof. If such changes cause an increase or decrease in the cost of performing the work and services under this Agreement or in the time required for its performance, an equitable adjustment shall be made and this Agreement shall be modified in writing accordingly. Any claim under this Provision must be made in writing to the Contracting Officer within ten (10) consecutive calendar days from the date the change is ordered. Provided, however, the Contracting Officer, if he determines that the facts justify such action, may receive, consider and adjust any such claim made at any time prior to the date of final settlement of this Agreement. If the parties fail to agree upon the adjustment to be made, the dispute shall be determined as provided in Provision 14 hereof. Nothing provided in this Provision shall excuse the Consultant from proceeding with the prosecution of the work so changed.

5. INDEMNIFICATION AGREEMENT:

The District shall have an absolute right of indemnity against any and all claims or liability arising from or based on, or as a consequence or result of, any negligent act, error, omission or fault of the Consultant, its employees, or its subconsultants, in the performance of, or in connection with any services required, contemplated or performed under the contract; any and all claims or liability arising from or based on, or as a consequence or result of, any act of approval, inspection, supervision, or acceptance, or any failure to approve, inspect, supervise, or accept, by the District and any of its officers, agents, servants and employees, where such act or failure to act causes or contributes to any negligent act, error, omission or fault of the Consultant, its employees, or its subconsultants, in the performance of, or in connection with any services required, contemplated or performed under the contract. Monies due or to become due the Consultant under this contract, may be retained by the District as necessary to satisfy any outstanding claim which the District may have against the Consultant.

6. APPOINTMENT OF ATTORNEY:

A. The Consultant shall designate and appoint a person, located within the District, whether the Consultant himself, an individual, a partnership or corporation or member thereof, an attorney, attorney-in-fact, agent, or representative, who shall receive service of all notices and process issued by any court or agency of the District and all pleadings or other papers related to any legal action or proceedings arising out of, or pertaining to, this Agreement or the work required by, or performed hereunder.

B. The Consultant expressly agrees that the validity of any service upon the person or entity designated pursuant to Section 1 hereof shall not be affected either by the fact that the said Consultant was personally within the District and otherwise subject to personal service at the time of such service upon the designated person or entity or by the fact that the Consultant failed to receive a copy of such process, notice, pleading or other paper so served upon the designated person or entity.

C. The Consultant shall immediately inform the Contracting Officer in writing of any change in the designation required by Section 1 hereof, whether such change is in the designee, the address or telephone numbers.

7. EMPLOYMENT OF DISTRICT EMPLOYEES:

The Consultant shall not, without written permission from the Contracting Officer, engage the services of any person or persons in the employment of the District for any work required by the terms of this Agreement for the period of this Agreement.

8. POST-GOVERNMENT EMPLOYMENT CONFLICT OF INTEREST:

A. Pursuant to Public Law 95-521, as amended, no former employee of the United States or Government of the District of Columbia:

1. Shall knowingly represent the Consultant before any Government agency through personal appearance or communication in connection with a matter involving specific parties to this Agreement where the former Government employee participated personally and substantially in the matter while in Government employ.

2. Shall, within two (2) years after terminating Government employment, knowingly represent the Consultant before any Government agency through personal appearance or communication in connection with a matter involving specific parties to this Agreement, where the matter was pending under the official responsibility of the former employee within one (1) year prior to termination of Government service.

B. Pursuant to Public Law 95-591, as amended, no former senior level officer or former senior level employee of the United States Government or the District of Columbia Government, named in or designated by the Director of the Office of Government Ethics under Section 207(d) of Title 18 USC:

1. Shall, within two (2) years after terminating Government employment, knowingly represent or aid, counsel, advise, consult or assist in representing any other person by personal presence at any formal or informal appearance before any Government agency in connection with a matter involving specific parties, where the former employee participated personally and substantially in that matter while in Government employ.

2. Shall, within one (1) year after terminating Government employment, knowingly act as an agent or attorney for or otherwise represent anyone in any formal or informal appearance before or, with the intent to influence, make any written or oral communication on behalf of anyone to (1) his or her former Department or agency or any of its officers or employees, or (2) in connection with any particular Government matter, whether or not involving a specific party, which is pending before such Department or agency or in which it has a direct and substantial interest.

9. LAWS TO BE OBSERVED:

The Consultant at all times shall observe and comply with all laws, regulations, orders and decrees of the United States and of the District, and shall indemnify and save harmless the District and all of its officers, agents and servants against any and all claims or liability arising from or based on the violation of any such law, regulation, order or decree, whether by the Consultant or any employee or agent of the Consultant associated with him, including any person, firm or corporation having the status of an independent contractor engaged by the Consultant in the performance of, or in connection with the work required by this Agreement.

10. WAIVER:

No action or non-action of the District shall be construed as a waiver of any provision or any breach of this Agreement unless the same has been expressly declared and recognized as a waiver by the Contracting Officer in writing. No waiver so declared and recognized as such in writing by the Contracting Officer shall operate as a waiver of any other provision of subsequent breaches of the same or other provisions of this Agreement.

11. PERFORMANCE BY THE CONSULTANT:

Except as otherwise expressly provided In this Agreement, none of the work or services required by this Agreement to be performed by the Consultant shall be performed by anyone other than Consultant or regular salaried employees of the Consultant, including subconsultants, without express written consent of the Contracting officer, and any violation of this Provision shall entitle the Contracting Officer to reduce the compensation otherwise payable to the Consultant whether or not the Contracting Officer terminates this Agreement or any part hereof for violation of this Provision or for any other reason.

12. TERMINATION FOR THE CONVENIENCE OF THE GOVERNMENT:

The District reserves the right to terminate this contract in whole or In part, for the convenience of the Government in accordance with the provisions of Chapter 37 of the D.C. Procurement Regulations, Title 27 DCMR (July, 1988).

13. AUTHORITY OF THE CONTRACTING OFFICER:

The Contracting Officer represents that he or she has the authority to take any action provided for herein on behalf of the District, including approval, certification, acceptance and changes within the scope of the work.

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) calendar 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) calendar 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 this paragraph (f) 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 his or her 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 District 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. OFFICIALS NOT TO BENEFIT:

No Member or no Delegate to Congress nor Resident Commissioner nor officer nor employee of the District shall be admitted to any share or part of the Agreement or to any benefit that may arise therefrom, and any contract entered into by any Contracting Officer in which he or any officer or employee of the District shall 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 the Agreement if made with a corporation for its general benefit.

16. COVENANT AGAINST CONTINGENT FEES:

The Consultant warrants that he has not employed any person to solicit or secure this Agreement upon any agreement for a bonus, commission, percentage, brokerage or contingent fee. Breach of this warranty shall give the Contracting Officer the right to terminate this Agreement, or, in his discretion, to deduct from the Agreement price or consideration the amount of such bonus, commission, percentage, brokerage or contingent fees. This warranty shall not apply to commissions payable by the Consultant upon contract or sales secured or made through bonafide established commercial or selling agencies maintained by the Consultant for the purpose of securing business.

17. CONSULTANT'S WARRANTY AGAINST DEBARMENT:

The Consultant, in compliance with Section 29.510 of the debarment regulation (49 CFR 29), shall certify at the time of the bid opening that he/she or anyone associated therewith in any capacity of (owner, partner, director, officer, principal investigator, project director, manager, auditor, or any position involving the administration of federal funds) is not suspended, debarred or voluntarily excluded from or otherwise determined ineligible to receive award of or performance on D.C. or Federally-funded projects.

If at any time the Consultant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances, he/she shall provide immediate written notification to the Contracting Officer.

Furthermore, the Consultant agrees that he/she shall not knowingly subcontract any company or person which/who is debarred, suspended, declared ineligible or voluntarily excluded from participation on D.C. or Federally-funded projects.

The Consultant, when subcontracting, or when soliciting for subcontractors, further agrees to certification regarding debarment, and to include the clause titled 'Certification Regarding Debarment, Suspensions, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction' without modification in all lower tier covered transactions.

Finally, this General Provision serves to apprise the Consultant that if he/she knowingly subcontracts with a company or person which/who is suspended, debarred, ineligible or voluntarily excluded from participation on D.C. or federally-funded projects, in addition to other remedies available to the District of Columbia and Federal Government, the contracting Officer may terminate the contract for Cause of Default.

The foregoing requirements apply as well to their full extent to suppliers, vendors, materialmen, et al. The Consultant shall comply with this General Provision by submitting with his/her Agreement a completed and notarized Certification."

18. NON-ASSIGNABILITY, DEATH OR DISABILITY:

This Agreement is for the services of the Consultant and is not assignable by him. Where the services of a partnership are engaged as Consultants, each partner shall be held fully responsible for, and shall actively participate in all work provided for herein from date of execution of this Agreement until the services have been completed and accepted by the District; provided, however, that the death, incapacitation or retirement of one or more of the partners shall not, of itself, be deemed to incapacitate the other or remaining partner,, provided the remaining partners are, in the judgment of the Contracting Officer, able and competent to carry out the terms of this Agreement, in which latter event no reduction shall be made in the compensation on account of such death, incapacitation or retirement. In the event one or more of the remaining partners is determined by the District to not be competent to carry out the terms of this Agreement, the District may reduce compensation in proportion to the number of partners thus deemed not competent to complete the Agreement.

19. DOCUMENTATION:

The Consultant shall, where appropriate, document the results of his work to the satisfaction of the District and the FHWA. This may include preparation of progress and final reports, plans, specifications and estimates, or similar evidence of attainment of agreement objectives.

20. SUBCONTRACTS.

The Consultant shall be required to perform all work not subcontracted under General Provision 27, Section D (Goal for DBE Participation) except specialized services or other tasks specifically exempted in this Agreement, provided, however, that governmental recipients of 23 U.S.C. 104(f) or 402 funds may subcontract as necessary to accomplish approved work program activities.

All subcontracts exceeding $10,000 in cost shall incorporate all required provisions of these General Provisions by reference thereto.

21. COST PRINCIPLES:

Cost principles contained in 41 CFR 1-15 (Federal Procurement Regulations) and Subpart 1-15.2, as modified by subpart 1-15.102, apply to this Agreement.

22. AUDIT INSPECTION AND RETENTION OF RECORDS:

The Consultant shall permit the authorized representatives of the District, the U.S. DOT and the Comptroller General of the United States to inspect and audit all data and records of the Consultant relating to performance or transactions under the Agreement until the expiration of three (3) years after final payment.

The Consultant further agrees that the District, the U.S. DOT and the Comptroller General of the United States or any of their duly authorized representatives shall, until the expiration of three (3) years after final payment under any subcontract, have access to and the right to examine any directly pertinent books, documents, papers and records of such subconsultant.

With respect to records which relate to (1) appeals under the "Disputes" clause of this contract, (2) litigation or the settlement of claims arising out of the performance of this contract, or (3) costs and expenses of this contract as to which exception has been taken by the Comptroller General or any of his duly authorized representatives, the periods of access and examination described above shall continue until such appeals, litigation, claims or exceptions have been finally resolved.

23. CLEAN AIR AND WATER:

The standards, orders or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857(h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738 and Environmental Protection Agency (EPA) regulations (40 CFR Part 15), prohibiting the use of facilities Included on the EPA List of Violating Facilities under non-exempt Federal contracts, grants or loans, are applicable to this contract and to each subcontract hereunder, where such amounts are in excess of $100,000.
The Consultant shall report any notices of violation to the Contracting Officer and to the U.S. EPA Assistant Administrator for Enforcement. (EN-329).

24. EQUAL OPPORTUNITY OBLIGATION:

During the performance of this Agreement, the Consultant shall comply with, Mayor's Order 85-85 dated June 10, 1985 and implementing guidelines published as Chapter 11 in DISTRICT OF COLUMBIA REGISTER, dated August 15,1986.

25. NON-DISCRIMINATION REQUIREMENTS:

During the performance of this Agreement, the Consultant agrees as follows:

A. Compliance with Regulations. The Consultant shall comply with the regulations of the U.S. DOT relative to non-discrimination in federally-assisted programs of the U.S. DOT (49 CFR Part 21 appendix H and 23 CFR 710.405(b), hereinafter referred to as "the Regulations"), which are incorporated by reference and made part of this Agreement.

B. Non-Discrimination. The Consultant, in fulfilling the provisions and requirements of this Agreement, after execution thereof and prior to completion of its terms and conditions by the said Consultant, shall not

discriminate on the grounds of race, color, religion, age, sex or national origin in the selection and retention of contractors and subcontractors, including procurements of materials and leases of equipment, The Consultant shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations.

C. Solicitations for Subcontracts, Including Procurements of Materials and Equipment

In all solicitations either by competitive bidding or negotiations made by the Consultant for work under this Agreement to be performed under a contract and/or a subcontract, including procurements of materials or equipment, each potential subcontractor or supplier shall be notified by the Consultant of his obligations under this Agreement and the Regulations relative to non-discrimination on the grounds of race, color, religion, age, sex or national origin.

D. Information and Reports. The Consultant shall provide all information and reports required by the Regulations or orders and instructions issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the District or the FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Consultant shall so certify. to the District or the FHWA, as appropriate, and shall set forth what efforts he has made to obtain the information.

E. Sanctions for Noncompliance. In the event of the Consultant's noncompliance with the non-discrimination provisions of this Agreement, the District shall impose such sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:

1. Withholding of payments to the Consultant under this Agreement until the Consultant complies; and/or
2. Cancellation, termination or suspension of this Agreement in whole or in part.

F. Incorporation of Provisions. The Consultant shall include the provisions of sections (1) through (6) in every contract and subcontract, including procurement of materials and leases of equipment, unless exempted by the Regulations or orders and instructions issued pursuant thereto. The Consultant shall take such action with respect to any contract and subcontract or procurement as the District or the FHWA may direct as a means of enforcing such provisions, including sanctions for noncompliance. Provided, however, that in the event the consultant becomes involved in, or is threatened with, litigation with a contractor or subcontractor or supplier as a result of such direction, the Consultant shall notify the District of the litigation in writing. The Consultant may request the District to enter into such litigation to protect the interests of the District, and in addition, the Consultant may request the United States to enter into such litigation to protect the interests of the United States.

26. EQUAL EMPLOYMENT OPPORTUNITY .RESPONSIBILITIES:

A. General: The requirements of Executive Order 11246, entitled "Equal Employment Opportunity", as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60) shall apply to the Consultant and to each subcontract hereunder, where such amounts are in excess of $10,000. The requirements set forth herein supplement these orders.

B. Equal Employment Opportunity Policy: The Consultant shall accept as his operating policy the following statement which is designed to further the provision of equal employment opportunity to all persons and to promote the full realization of equal employment opportunity through a positive continuing program:

"It is the policy of this Consultant to assure that applicants are employed, and that employees are treated during employment, without regard to race, religion, color, age, sex or national origin. Such action shall include: employment, upgrading, demotion or transfer; rates of pay or other forms of compensation; and selection for training, including apprenticeship, preapprenticeship and/or on-the-job training."

C. Equal Employment Opportunity Officer: The Consultant shall designate and make known to the Contracting Officer an equal employment opportunity officer (hereinafter referred to as the EEO Officer) who shall be capable of effectively administering and promoting an active contractor program of equal employment opportunity and who shall be assigned adequate authority and responsibility to do so.

D. Dissemination of Policy: All members of the Consultant's staff who are authorized to hire, supervise, promote and discharge employees, or who recommend such action, or who are substantially involved In such action shall be made fully cognizant of, and shall implement the Consultant's equal employment opportunity policy and contractual responsibilities. To ensure that the above Agreement will be met, the following actions shall be taken as a minimum:

1. Periodic meetings of supervisory and personnel office employees shall be conducted before the start of work and then not less often than once every six (6) months, at which time the Consultant's equal employment opportunity policy and its implementation shall be reviewed and explained. The meeting shall be conducted by the EEO Officer or other knowledgeable company official.
2. All new supervisory or personnel office employees shall be given a thorough indoctrination by the EEO Officer or other knowledgeable company official covering all major aspects of the Consultant's equal employment opportunity obligations within thirty (30) days following their reporting for duty with the Consultant.
3. The EEO Officer or knowledgeable company official shall instruct all employees engaged in the direct recruitment of employees for the project relative to the methods following by the Consultant in locating and hiring minority group employees.

In order to make the Consultant's equal employment opportunity policy known to all employees, prospective employees and potential sources of employees, i.e., employment agencies, labor unions (where applicable), schools, college placement officers, etc., the Consultant shall take the following actions:

a. Notices and posters setting forth the Consultant's equal employment opportunity policy shall be placed in areas readily accessible to employees, applicants for employment and potential employees.

b. The Consultant's equal employment opportunity policy and the procedures to implement such policy shall be brought to the attention of employees by means of meetings, employee handbooks or other appropriate means.

E. Recruitment: When advertising for employees, the Consultant shall include in all advertisements for employees the notation: "An Equal Opportunity Employer". He shall insert all such advertisements in newspapers or other publications having a large circulation among minority groups in the area from which the project workforce would normally be derived.

The Consultant shall, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minority group applicants, including, but not limited to, state employment agencies, schools, colleges and minority group organizations. To meet this requirement, the Consultant shall, through his EEO Officer, identify sources of potential minority group employees and establish with such identified sources procedures whereby minority group applicants may be referred to the Consultant for employment consideration.

The Consultant shall encourage his present employees to refer minority group applicants for employment by posting appropriate notices or bulletins in areas accessible to all such employees. In addition, information and procedures with regard to referring minority group applicants shall be discussed with employees.

F. Personnel Actions: Wages, working conditions and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff and termination, shall be taken without regard to race, religion, color, age, sex or national origin. The following shall be followed:

1. The Consultant shall periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

2. The Consultant shall periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the Consultant shall promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective actions shall include all affected persons.

3. The Consultant shall investigate all complaints of alleged discrimination made to the Consultant in connection with his obligations under this Agreement, shall attempt to resolve such complaints and shall take corrective action. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the Consultant shall inform every complainant of all the complainant's avenues of appeals.

G. Training and Promotion: The Consultant shall assist in locating, qualifying and increasing the skills of minority group employees and applicants for employment. Consistent with his manpower requirements and as permissible under Federal and District regulations, the Consultant shall make full use of training programs, i.e., preapprenticeship, apprenticeship and/or on-the-job training programs for the Consultant's geographical area. The Consultant shall advise employees and applicants for employment of available training programs and entrance requirements for each. The Consultant shall periodically review the training and promotion potential of minority group employees and shall encourage eligible employees. to apply for such training and promotion.

H. Unions: If the Consultant relies in whole or in part upon unions as a source of his workforce, he shall use his best efforts to obtain the cooperation of such unions to increase minority group opportunities within the unions, and to effect referrals by such unions of minority group employees. Actions by the Consultant shall include the procedures set forth below:

1. Use his best efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minority group members for membership in the unions and increasing the skills of minority group employees so that they may qualify for higher paying employment.

2. Use his best efforts to incorporate an equal employment opportunity clause into all union agreements to the ends that such unions will be contractually bound to refer applicants without regard for race, religion, color, age, sex or national origin.

3. In the event a union is unable to refer applicants as required by the Consultant within the time limit set forth in the union agreement, the Consultant shall, through his recruitment procedures, fill the employment vacancies without regard to race, religion, color, age, sex or national origin, making full efforts to obtain qualified minority group persons.

I. Records and Reports: The Consultant shall beep records as necessary to determine compliance with the Consultant's equal employment opportunity obligations. The records shall be designed to indicate:

1. The number of minority and non-minority group members employed in each work classification on the project.

2. The progress and efforts being made in cooperation with unions to increase minority group employment opportunities (applicable only to consultants who rely in whole or in part on unions as a source of their workforce).

3. The progress and efforts being made in locating, hiring, training, qualifying and upgrading minority group employees.

Such records shall be retained for a period of three (3) years following completion of work under this Agreement and shall be available at reasonable times and places for inspection by authorized representatives of the DC DDOT and the FHWA. The Consultant shall submit a monthly report to DC DDOT for the first three (3) months after work under this Agreement begins, and thereafter upon request, for the duration of the project, indicating the number of minority and non-minority group employees currently engaged in each work classification required by this Agreement.

27. DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION

A. Policy - It is the policy of the U.S. Department of Transportation that DBEs, as defined in 49 CFR Part 26 shall have the equal opportunity to participate in the performance of contracts financed in whole or in part with Federal funds. Consequently, the DBE requirements contained in the above cited regulation are applicable on this contract and shall be complied with by all consultants.

B. DBE Obligation- The prime consultant agrees to ensure that DBEs, as defined in 49 CFR Part 26, have the maximum opportunity to participate in the performance of subcontracts on this federally-funded contract and that he/she shall not discriminate on the basis of race, color, national origin, age, sex or handicap in the prosecution of this contract

All offerors are required to submit a written certification that they have read, understand and will comply with these requirements.

C. Definitions - The following definitions apply to this contract:

1. "Disadvantaged business" means a small business concern, (a) which is at least fifty-one percent (51%) owned by one or more socially and economically disadvantaged individuals or in the case of any publicly owned business, at least fifty-one percent (51%) of the stock of which is owned by one or more socially and economically disadvantaged individuals; and (b) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.
2. "Small business concern" means a small business as defined pursuant to Section (3) of the Small Business Act, as amended, including all applicable and relevant rules and regulations promulgated pursuant thereto.
3. "Socially and economically disadvantaged individuals who are citizens of the United States (or lawfully admitted permanent residents) and who are:

    a. "Black Americans", which includes persons having origins in any of the Black racial groups of Africa;
    b. "Hispanic Americans", which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
    c. "Native Americans", which includes persons who are American Indian, Eskimos, Aleuts, or Native Hawaiians;
    d. "Asian-Pacific Americans" which includes persons whose origins are from Japan, China Taiwan, Korea, Vietnam, Laos, Cambodia, Burma, Thailand, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, and the Northern Marianas;
    e. "Asian-Indian Americans", which includes persons who origins are from India, Pakistan and Bangladesh
    f. Women (of all races); and

g. "Any other minorities or individuals found to be economically and socially disadvantaged by the Small Business Administration under Section 8(a) and 8(d) of the Small Business Act, as amended, (15 U.S.C. 637(a)).

The Contracting Officer shall make a rebuttable prerogative that individuals in the above groups are socially and economically disadvantaged. This prerogative shall be based on criteria set forth in 49 CFR Part 26. The Contracting Officer also may determine, on a case-by-case basis, that individuals who are not members of one of the above groups are socially and economically disadvantaged.

D. Goal

The District Department of Transportation will establish a yearly overall goal for DBE participation. DDOT will institute contract goals only in the event that the overall yearly goal cannot be met utilizing the race neutral method of procurement. While no specific contract goal has been established, offerors are encouraged to utilize DBE firms to perform work on this project.

Specific information from your firm and all firms, both DBE and non-DBE from which quotations were received or discussions were held in conjunction with this solicitation is required . Please provide the information requested with regard to potential DBE and non-DBE firms as requested in the DBE/Subcontractor (DBE and non-DBE) certification form which should be made a part of your response to the request for qualifications.

A complete DBE plan containing a list of the DBE firms to be used on this project will be submitted with the proposal. This list should contain the name and address of each DBE firm, amount of award and area of work to be performed.

Furthermore, offerors are advised that they will be required to provide proof of actual payment to DBE firms utilized on this project by providing cancelled checks for each payment made.

Offerors are advised that each proposed DBE participant must have a valid certification at the time of proposal submission.

E. Good Faith Efforts (If Contract Goals are Found Necessary)

On any project on which contract goals have been established, all offerors who submit proposals shall document steps taken to obtain DBE participation, including, but not limited to, the following listed efforts as well as any others from 49 CFR Part 26, Appendix A - Guidance Concerning Good Faith Efforts and shall make this documentation and other pertinent records available to the Contracting Officer and his representative.

a. Publishing of advertisements in area newspapers, various trade association publications and minority-oriented publications for at least fifteen (15) days.
b. Written notification to a reasonable number of specific DBEs soliciting their interest in sufficient time to allow them to respond
c. Follow-up to determine which DBEs were genuinely interested
d. Negotiations with DBEs for specific sub bids, including at a minimum:
    i. The names, addresses and telephone numbers of DBEs with whom negotiations occurred.
    ii. A description of information provided to solicited DBEs describing plans and specifications for various portions of the project proposed for DBE participation and opportunities provided to the DBE firms for entering into consulting

agreements. This statement also shall explain what efforts were made to assist firms contacted to obtain necessary technical and financial assistance.

iii. A statement explaining the lack of additional DBE subconsulting agreements. This statement shall explain the reasons for the DBE exclusions.

This documentation must be made available, upon request, to DDOT, Construction Contract Branch, 2000 - 14th Street, N.W., 6th Floor, Washington, DC 20009.

DBE Directory

Information pertaining to lists of certified DBEs may be obtained by contacting:

DC District Department of Transportation
Construction Contract Branch
2000 14th St. NW 6th Floor
Washington, DC 20009
202/671-2270

28. TAXES:

The Government of the District of Columbia is exempt from, and will not pay, Federal Excise Taxes and DC Sales and Use Tax. BIDDERS MUST EXCLUDE SUCH TAXES, AS WELL AS STATE AND CITY TAXES FROM THEIR BIDS.

29. DEFAULT:

A. The District may, subject to the provisions in Chapter 37 of the D. C. Procurement Regulations, 27 DCMR (July 1988), and paragraph C. below, by written notice of default to the Consultant, terminate the whole or any part of this contract in any of the following circumstances:

1. If the Consultant fails to make satisfactory delivery of the supplies or to satisfactorily perform the services within the time specified herein or any extension thereof; or
2. If the Consultant fails to satisfactorily perform any of the other provisions of this contract, or so fails to make satisfactory 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.
3. If the consultant fails or refuses to go forward with the work in accordance with the directions of the Contracting Officer; or
4. If the Consultant expresses through word or conduct an intention not to complete the work in a timely manner; or
5. If the Consultant fails to perform any of the other provisions of the contract.

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 services similar to those so terminated, and the Consultant shall be liable to the District for any excess costs of reprocuring said similar supplies or services, provided the Consultant shall continue the performance of this contract to the extent not terminated under the provisions of this clause.

C. The Consultant 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 Consultant. 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 the fault or negligence of the Consultant.

D. If this contract is terminated as provided in paragraph A. of this clause, the District, in addition to any other rights provided by applicable law or regulation, may require the Consultant to transfer title and deliver to the District, in the manner and to the extent directed by the Contracting Officer, (1) completed supplies and (2) such partially completed supplies and materials, parts, tools, dies, jig,, fixtures, plans, drawings information and contract rights (hereinafter called "manufacturing materials") as the Consultant has specifically produced or specifically acquired for the performance of such part of this contract as has been terminated; and the Consultant shall, upon direction of the Contracting Officer, protect and preserve property in the possession of the Consultant in which the District has an interest. Payment for completed supplies delivered to and accepted by the District shall 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 Consultant and Contracting Officer; failure to agree to such amount shall be a dispute concerning within the meaning Of the clause of this contract entitled "DISPUTES". The District may withhold from amounts otherwise due the Consultant 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 Consultant 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 be the same as if the contract had been terminated for the convenience of the District. The Consultant shall submit a settlement proposal in accordance with Chapter 37 of the D. C. Procurement Regulations, 27 DCMR (July 1988). Failure to agree to, or the amount of, the settlement shall constitute a dispute within the meaning of the clause of this contract entitled "DISPUTES".

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, regulation or this contract.

ATTACHMENT – J.2.12

COST/PRICE DISCLOSURE CERTIFICATION

COST / PRICE DISCLOSURE CERTIFICATION

RFP Number: _____ Closing Date: _____

Caption: _____ Total Proposed Amount: _____

The undersigned _____
_____
(please print name and title of offeror's authorized signatory) hereby certifies that, to the best of my knowledge, the cost and pricing data (i.e. at the time of price agreement this certification represents that all material facts of which prudent buyers and sellers would reasonably expect to affect price negotiations in any significant manner) submitted was accurate, complete, and current as of _____ (date of RFP closing or conclusion of negotiations as appropriate) . The undersigned further agrees that it is under a continuing duty to update cost or pricing data through the date that negotiations, if any, with the District are completed. The undersigned further agrees that the price, including profit or fee, will be adjusted to exclude any significant price increases occurring because the cost or pricing data was inaccurate, incomplete or not current. (See D.C. Procurement Regulations, 27 DCMR, Section 1624; and Section 25 of the Standard Contract Provisions for Use with District of Columbia Government Supply and Services Contracts, November, 2004, as amended).

Signed: _____ Date: _____
Title: _____

Company: _____

Address: _____

_____

DUNS #: _____

Phone: _____

Fax: _____

COST/PRICE DATA REQUIREMENTS

1. GENERAL INFORMATION:

1.1 Offerors submitting cost/price proposals, in response to a District Request For Proposal (RFP), sole source procurement, change order, or contract modification exceeding $100,000 in total value, must include a complete cost and pricing data breakdown (i.e., data that is verifiable and factual) for all costs identified in the proposal, and relevant to the performance of the contract. The requirement for submission of cost or pricing data is met when all accurate cost or pricing data reasonably available to the Offeror has been submitted, either actually, or by specific identification, to the District. If not available at the time of submission, as later information comes into the Offeror's possession, it should be promptly submitted to the District in a manner that clearly demonstrates its relationship to, and effect on, the Offeror's cost/price proposal. This requirement continues up to the date of final agreement on price and/or other issues, as agreed upon between the parties.

1.2 There is a clear distinction between submitting cost or pricing data and merely making available books, records and other documents without identification or context. By submitting a cost/price proposal, the Offferor, if selected for negotiation, grants the Contracting Officer, or an authorized representative, the right to examine, at any time before award, those books, records, documents, and other types of factual information, regardless of form or whether such supporting information is specifically referenced or included in the proposal as a basis for pricing, that will permit an adequate evaluation of the proposed cost/price.

1.3 The cost/price proposal will represent the offeror's understanding of the RFP's requirements and the offeror's ability to organize and perform those requirements effectively and efficiently. The evaluation of the Offeror's cost/price proposal will be based on an analysis of the realism and completeness of the cost data, the conformity of the cost to the offeror's technical data and the proposed allocation of labor-hours and skill sets. Pertinent cost information, including but not limited to Defense Contract Auditing Agency (DCAA) and/or the Department of Labor (DOL) recommended rates for direct labor, overhead, general and administrative expense (G&A), etc., as necessary and appropriate, must be used to arrive at the most probable cost to be incurred by the Offeror. If the District considers the proposed costs to be unrealistic, the Offeror should adjust its proposed costs accordingly. Any inconsistency, whether real or apparent, between promised performance and cost or price should be explained in the cost/price proposal. The burden of proof for cost credibility rests with the Offeror.

1.4 The Offeror must submit its cost/price proposal in hard copy as well as on a diskette, which is in a format (i.e. MS Office, Lotus 1-2-3, etc.) specified and/or provided by the Agency Contracting Officer in the solicitation package. All cost/price proposals should provide a cost summary by all cost elements, cross-referenced to supporting documentation. See Table No. (1.4).

1.5 The following information shall be included in this section, for the prime contractor and each proposed subcontractor:

(a) A properly completed "Cost/Price Disclosure Certification.'

(a) Identification of any estimates, along with the rationale and methodology used to develop them, including judgmental factors used in projecting future costs, based on known data, and the timing, nature and extent of any material contingencies.

I Disclosure of any other activities or likely events which could materially impact specific costs (i.e., existing large material and supply inventories, management/ownership changes, new technologies, collective bargaining agreements, etc.)

(d) Disclosure of any and all awarded and pending contracts with the District of Columbia, including contract number(s), amount, type (fixed price, cost reimbursement, etc.), agency, and a brief description of services.

(3) Source of approval and the latest date of approval of the offeror's Accounting system.

Table (1.4)

Example Cost Summary Format

Cost Item	Task 1			Task 2			Task 3			Task 4, etc.		
Direct Labor Categories • Employee A • Employee B • Employee C Total Labor Hours	R	H	D	R	H	D	R	H	D	R	H	
Total Labor Dollars												
Fringe Benefit												
Labor Overhead *												
Total Direct Labor												
Other Direct Costs • Equip. & Supplies • Materials • Travel • Other												
Subcontractors • Sub A • Sub B												
ODC Overhead *												
Total ODC & Subcontractors												
G&A												
Fee/Profit												
Total Price												

H = Hours R = Rate D = Dollars (Rate X Hours = Dollars)

Note:Provide cost information similar to the above format for each option/out-year

* *Note: Small, field-based trade providers typically have a labor or combined overhead cost components. Larger, more diversified providers may have separate labor, and/or ODC or combined overhead component.*

2. SUPPORTING COST DATA:

2.1 The Offeror shall provide, for each cost element, a narrative description, in sufficient detail, to demonstrate price reasonableness, credibility and reliability. The Offeror shall provide its assumptions and methodologies used to estimate each cost element (significant item and quantity estimates, labor hour expenditure patterns and mix, etc.). The following information shall be included in this section:

2.1.1. The Offeror's total estimated costs plus its fee (if applicable) for providing all of the requirements of the RFP, as proposed in their technical proposal. Offerors should support their best estimates of all costs (direct, indirect, profit, etc.) to be incurred in the performance of the contract.

2.1.2. When proposing multiyear/option year pricing, the estimated proposed costs shall include a breakdown of all cost elements for the base year as well as each option/out-year. Labor, other direct costs, indirect costs and profit shall each be clearly identifiable. If different from the Defense Contract Auditing Agency (DCAA) or Department Of Labor (DOL) recommended rates, the Offeror shall provide a thorough explanation for the variation(s) of rates.

2.1.3. The Cost Summary Format (Table1.4) provides a format for the Offeror to submit to the District a pricing proposal of estimated cost by line item, along with supporting documentation that is adequately cross-referenced and suitable for cost realism analysis. A cost-element breakdown shall be attached for each proposed line item and must reflect any other specific requirements established by the Contracting Officer. When more than one contract line item is proposed, a summary of the total amount covering all line items must be furnished for each cost element.

2.1.4. If the Offeror has an agreement with a federal, state, or municipal government agency on the use of a Forward Pricing Rates Agreement (FPRA) or other rate agreement for labor, fringe benefits, overhead and/or general and administrative expense, the Offeror must identify the agreement, provide a copy and describe its nature, terms and duration.

3. SPECIFIC COST ELEMENTS:

A well-supported cost/price proposal reduces the effort needed for review and facilitates informed negotiations. The following are the minimum criteria that constitute an acceptable cost/price proposal:

3.1 **Direct labor:** A task-phased annual breakdown of labor rates and labor hours by category or skill level, including the basis for the rates and hours estimated (i.e., payroll registers, wage determinations, collective bargaining agreements, historical experience, engineering estimates, etc.).

3.1.1 The Offeror shall use the following Table No. (3.1.1) to exhibit its total labor hours by prime contractor and subcontractor(s). A separate table should be completed for each year (base and out-years).

Table (3.1.1)
Annual Labor Summary

Item	Task 1	Task 2	Task 3	Task 4	Base Year Total
Labor Category, Prime • Employee A • Employee B • Employee C Labor Category, Sub. • Employee D • Employee E • Employee F Labor Category, Consultant • Employee G • Employee H					
Total Labor Hours by Task					

Note: Do not include wage rates in this table

3.1.2 A standard of 40 hours/week, 1,920 hours/year is recommended. If another standard is used, it should be precisely defined. Any deviation from the above labor-hour projection without substantiation may form the basis to reject the response to the RFP. The proposed labor-hours shall include prime contractor, subcontractor and consultant hours.

3.1.3 The Offeror shall also submit Table No. (3.1.4.b), depicting the labor mix percentages as proposed for the base year as well as the out-years and should match the personnel experience requirements specified in the RFP, Section **(to be referenced by the Contract Specialist),** under Personnel Experience. All of the RFP Key positions must be included within the Senior Staff categories. To provide a better understanding of this format, Table No. (3.1.4.a) is provided as an example.

3.1.4 The Offeror shall describe how the hourly direct labor rate was derived and indicate whether these rates are subject to any collective bargaining agreement(s), the Service Contract Act (SCA), Davis-Bacon, or any other special agreement which controls the labor rate indicated. When proposing price escalation for option/out-years, the Offerors must follow instructions provided under Economic Price Adjustments, Section H, of this RFP.

Table (3.1.4.a)

Summary of Proposed Annual labor Mix Category (with examples)

NAME (Note1)	LABOR MIX (Note 2)	OFFEROR'S LABOR CATEGORY (Note 3)	PERCENT OF TIME ON CONTRACT (Note 4)	PLANNED SOW ASSIGNMENT (Note 5)	STATUS (Note 6)
Able, Jackson	Sr. Staff Level 1	Program Director	PT/10%	N/A	PCE/E
Black, William E.	Sr. Staff Level 1	Psychiatrist	PT/20%	C.3	PCE/E
White, Pamela A.	Sr. Staff Level 2	Clinic Manager	PT/50%	C.4.1	PCE/P
Green, Robert T	Sr. Staff Level 3	Counseling Supvs.	PT/50%	C.4.2	PCE/P
Ross, Allen	Jr. Staff Level 1	Counselor	FT/100%	C.4.3	PCE/E

Note 1: Last name, first name, middle initial, grouped by task as specified in SOW. Attach resume for each name on list. The names on this list and the resumes are to be in the same order.

Note 2: Staff levels in each Labor Mix should be classified by the level of expertise and years of experience.

Note 3: Offerors internal labor category.

Note 4: State whether the individual is employed full time (FT) or part time (PT) and the planned percentage of the named person's production time that is to be applied as a direct charge to the contract.

Note 5: Identify by SOW paragraph(s) and task number, the major tasks to which the individual is expected to be assigned.

Note 6: Enter PCE if individual is to be a prime contractor employee; enter SCE if the individual is to be a subcontractor employee; enter CON if individual is to be a consultant. Enter E if employee as of the date of this proposal; enter P if the individual is a pending employee as of date of the proposal. Signed Commitment Agreements are required for all individuals with P status. A copy of each agreement is to be inserted behind the resume section in the technical proposal.

Table (3.1.4.b)

Summary of Proposed Annual labor Mix Category

NAME (Note1)	LABOR MIX (Note 2)	OFFEROR'S LABOR CATEGORY (Note 3)	PERCENT OF TIME ON CONTRACT (Note 4)	PLANNED SOW ASSIGNMENT (Note 5)	STATUS (Note 6)
Labor Category, Prime • Employee A • Employee B • Employee C • Employee D Labor Category, Sub. • Employee E • Employee F • Employee G Labor Category, Consultant • Employee H Employee I					

Last name, first name, middle initial, grouped by task as specified in SOW. Attach resume for each name on list. The names on this list and the resumes are to be in the same order.

Note 2: Staff levels in each Labor Mix should be classified by the level of expertise and years of experience.

Note 3: Offerors internal labor category.

Note 4: State whether the individual is employed full time (FT) or part time (PT) and the planned percentage of the named person's production time that is to be applied as a direct charge to the contract.

Note 5: Identify by SOW paragraph(s) and task number, the major tasks to which the individual is expected to be assigned.

Note 6: Enter PCE if individual is to be a prime contractor employee; enter SCE if the individual is to be a subcontractor employee; enter CON if individual is to be a consultant. Enter E if employee as of the date of this proposal; enter P if the individual is a pending employee as of date of the proposal. Signed Commitment Agreements are required for all individuals with P status. A copy of each agreement is to be inserted behind the resume section in the technical proposal.

3.2 **Indirect Costs:** The Offeror shall indicate it's proposed Fringe, Overhead and General & Administrative rates for each applicable fiscal or calendar year (as appropriate). The Offeror shall indicate if these rates are subject to a Forward Pricing Rate Agreement. If the proposed Indirect Rates differ from the Forward Pricing Rate Agreement, the Offeror shall provide an explanation. The Offeror shall provide its actual indirect rates for overhead, G&A and fringe benefits for at least the past three (3) years and shall explain the basis for any significant rate difference between the prior three year period and the rates proposed now.

3.3 **Other Direct Costs:** Other Direct Costs consists of materials, travel, reproduction, postage, telephone, supplies for the prime and all subcontracted effort. This includes all other direct costs associated with performance of the contract. Travel costs shall be in accordance with GSA Joint Travel Regulations for airfare, hotel, and per diem allowances. All other direct costs should be specifically identified and explained. If an allocated portion of a Direct cost is also included in an Offeror's indirect rate (such as General and Administrative), the Offeror should state so and list the types of expenses included in the indirect rate.

3.3.1 The Offeror should identify types, quantities, and costs of all materials and supplies proposed including a non-loaded priced listing of individual materials or supplies ordered, or a consolidated and priced bill of materials for the entire proposal. A thoroughly documented bill of materials includes part numbers, description, unit costs, quantity required, extended cost (including delivery charges) and basis for the proposed cost (price quotation, prior buy, signed purchase orders, etc.) plus any other non-recurring costs. Deliverable materials are items delivered as a part of the work product. Examples of this are copies and binders delivered to the Government as a report or software ordered for and installed on a computer in a District Government office.

3.3.2 The Offeror shall use the following Table (3.3.2) to exhibit its total other direct costs (ODC) by prime and subcontractor(s). A separate table should be completed for each year (base and out-years).

Table (3.3.2)

Other Direct Costs (ODC) Summary

Item	Task 1	Task 2	Task 3	Task 4	Base Year Total
Supplies and Materials Office Equipment Travel • Airfare • Hotel • Meals & Incidentals • Ground Transportation Telecommunications Occupancy • Rent • Utilities • Building Maintenance Transportation Client Care Cost • Food • Medical • Clothing • Personal Hygiene Other					
Total ODC by Task					

Note: *State each individual cost element being proposed. Describe in the narrative section of the cost proposal, how each cost element is derived and why it is being proposed. (Not all cost elements in the table above will apply to each solicitation. The above table should be tailored to the requirements of the RFP.)*

3.4 **Subcontracting Costs:** Each subcontract must be addressed separately. For any subcontract exceeding $25,000 the cost/price proposal must show the names, quantities, prices, deliverables, basis for selection, and degree of competition used in the selection process. The subcontractor's cost or pricing data should be included along with the prime Offeror's proposal. If available, the Offeror should also include the results of its review and evaluation of the subcontract proposals. The Offeror shall provide copies of any cost or price analyses of the subcontractor costs proposed.

3.5 **Start-up Costs:** As appropriate, the Offeror shall identify all start up costs associated with this effort.

3.6 **Other Historical Data:** All offerors with current or past experience (within three to five years) for similar requirements, as described herein, must submit, as a part of their cost data, the following:

(a) Contract Number.

(b) Government agency (federal, state, District, municipal) the contract was awarded by.

(c) Name and phone number of the Contracting Officer.

(d) Name and phone number of the Contract Administrator.

(e) Name and phone number of the Contracting Officer's Representative (if applicable) and the Contract Administrator.

(f) Period of Performance of the Contract.

(g) Total amount of contract(s)

In addition to the above data, the following table (No. 3.6) will be completed and submitted with the cost data:

Table (3.6)

Format for Historical Data

	Proposed Contract			**Delivered Contract ***		
	Number Of Hours**	Contract Value	Average Hr Rate	Number Of Hours**	Contract Value	Average Hr Rate
Direct Labor						
Loaded Labor***						

* Should include any increased scope officially added to contract.
** If provided different number of hours, the difference should be explained.
*** Loaded labor should include all loading and profit. If significant material (i.e., greater than 5%) is included in the contract, data shall be presented both with and without material cost.

In addition, any other data the offeror believes is necessary should be provided in this section.

Note: For data submitted in the above table for "delivered Contract", the Offeror shall indicate the date as of which, the submitted data is current.