

AWARD/CONTRACT		1. Reserved for later use		Page of Pages			
				1	23		
2. Contract Number DCEB-2014-C-0002		3. Effective Date See Box 20C		4. Requisition/Purchase Request/Project No.			
5. Issued By: Government of the District of Columbia Office of the Deputy Mayor for Planning and Economic Development Office of Contracts 1100 4 th Street, S.W., Suite E500 Washington, D.C. 20024		Code		6. Administered by (if other than line 5) Government of the District of Columbia Office of the Deputy Mayor for Planning and Economic Development 1350 Pennsylvania Avenue, N.W., Suite 317 Washington, D.C. 20004 Attn: Lina Feng			
7. Name and Address of Contractor (No. street, city, county, state and Zip Code) Kellogg Consulting Group 2130 P Street, N.W., Suite 1011 Washington, D.C.		8. Delivery <input type="checkbox"/> FOB Origin <input checked="" type="checkbox"/> Other (See Section F.2)		9. Discount for prompt payment			
Code		Facility		10. Submit invoices to the Address shown in (2 copies unless otherwise specified) <input type="checkbox"/> Item Section G.2.1			
11. Ship to/Mark For		Code		12. Payment will be made by			
Code		Facility		Code			
SAME AS BLOCK 6				14. Accounting and Appropriation Data			
13. Reserved for future use							
15A. Item	15B. Supplies/Services	15C. Qty.	15D. Unit	15E. Unit Price	15F. Amount		
001	Creative Economy Strategy Consulting Services			See Sec. B	\$ 190,000.00		
Total Amount of Contract					\$190,000.00		
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Contracting Officer will complete Item 17 or 18 as applicable							
17. <input checked="" type="checkbox"/> CONTRACTOR'S NEGOTIATED AGREEMENT (Contractor is required to sign this document and return 1 copy to issuing office.) Contractor agrees to furnish and deliver all items, perform all the services set forth or otherwise identified above and on any continuation sheets, for the consideration stated herein. The rights and obligations of the parties to this contract shall be subject to and governed by the following documents: (a) this award/contract, (b) the solicitation, if any, and (c) such provisions, representations, certifications, and specifications, as are attached or incorporated by reference herein. (Attachments are listed herein.)				18. <input type="checkbox"/> AWARD (Contractor is not required to sign this document.) Your offer on Solicitation Number _____, including the additions or changes made by which additions or changes are set forth in full above, is hereby accepted as to the items listed above and on any continuation sheets. This award consummates the contract which consists of the following documents: (a) the Government's solicitation and your offer, and (b) this award/contract. No further contractual document is necessary.			
19A. Name and Title of Signer (Type or print) <i>Sarah Kellogg, Principal</i>				20A. Name of Contracting Officer Jacque McDonald, CPPO, CPPB, SPSM, MBA, MST Director of Contracts, Procurement and Grants			
19B. Name of Contractor <i>Sarah Kellogg</i> <small>(Signature of person authorized to sign)</small>		19C. Date Signed <i>12-17-13</i>		20B. District of Columbia <i>[Signature]</i> <small>(Signature of Contracting Officer)</small>		20C. Date Signed <i>1-13-14</i>	
★ ★ ★ Government of the District of Columbia				Office of the Deputy Mayor for Planning and Economic Development			

SECTION B: CONTRACT TYPE, SUPPLIES OR SERVICES AND PRICE/COST

B.1 The Government of the District of Columbia, Office of the Deputy Mayor for Planning and Economic Development (“DMPED”) (the “District”) has a need for a contractor to provide research and analysis, interviews, and economic modeling around the Creative Economy.

B.2 The period of performance shall be one year from the date of award of the contract.

B.3 PRICE SCHEDULE – FIRM FIXED PRICE

B.3.1 BASE YEAR – (Date of Award through One Year)

Contract Line Item No. (CLIN)	Item Description	Total Price
0001	Creative Economy Strategy Consulting Services	\$190,000.0

B.3.2 OPTION YEAR ONE - (Date of Award through One Year thereafter)

Contract Line Item No. (CLIN)	Item Description	Total Price
1001	Creative Economy Strategy Consulting Services	\$190,000.00

SECTION C: SPECIFICATIONS/WORK STATEMENT

C.1 SCOPE OF WORK:

The Government of the District of Columbia, Office of the Deputy Mayor for Planning and Economic Development (“DMPED”) (the “District”) has a need for a contractor to provide research and analysis, conduct stakeholder interviews and focus groups, and provide economic modeling for the District of Columbia’s Creative Economy Strategy.

C.2 DEFINITIONS

Executive Committee: Core leadership team of the Creative Economy Strategy that includes Deputy Mayor Victor Hoskins, Director Lionell Thomas (DC Commission on the Arts and Humanities), and others. This group oversees the development of the Creative Economy Strategy.

Strategy Advisory Group (SAG): The SAG includes key stakeholders from public, private, and nonprofit sectors that are related to the creative industries. This group will provide critical input and feedback throughout the development of the Creative Economy Strategy.

C.3 BACKGROUND

The District is seeking a consultant to serve as an advisor for the creation of a creative economy strategy. The Creative Economy team’s chief consultant is George Washington University’s Business professor Doug Guthrie. George Washington University has been a major benefactor of the District’s Five-Year Economic Development Strategy. This work is directly related to aforesaid strategy and will enable the District to release the Creative Economy Strategy report in March of 2014.

C.4 REQUIREMENTS

C.4.1 The Contractor shall serve as advisor to the Office of the Deputy Mayor for Planning and Economic Development (DMPED) in the creation of a Creative Economy Strategy.

C.4.2 The Contractor shall assemble and organize a team of MBA and graduate students from George Washington University and Howard University (at a minimum) to conduct research and analysis, interviews and economic modeling around the Creative Economy.

C.4.3 The Contractor shall conduct interviews (including but not limited to focus group formats) with at least 90 civic and business leaders between December 2013 and March 2014 (interview list to be provided and approved by DMPED). Detailed notes and insights from interviews are to be managed by the Contractor (to be shared with DMPED when requested) and used to guide the report’s recommendations. Interviews shall be conducted with a DMPED representative present, unless otherwise stated by DMPED. [Due: December 2013 and ongoing until all interviews and focus groups are completed]

C.4.4 The Contractor shall research and write a report that provides a more detailed understanding of the nature and requirements of the Creative Economy in Washington, D.C., as well as recommendations and economic models showing how best to grow the creative sector. The report will examine how D.C.'s "natural resource" of young knowledge workers can be engaged to stay in the District to help build the Creative Economy. It will also examine how the convergence of the creative industries and other sectors drive innovation and economic growth, and make recommendations on how best to incite convergence and opportunities associated with cross-sector relationships between the creative and technology sectors.

The Contractor shall produce a final detailed report outlining strategies and recommendations for the Creative Economy in Washington, D.C. [Due: March 31, 2014] that includes the following components:

C.4.4.1 Definition of the creative economy outlining major industries.

C.4.4.2 Heat maps of creative subsectors and inventory list of District's creative assets (major companies, organizations, and individuals).

C.4.4.3 Asset analysis of key trends and data on the creative subsectors in DC and identify best practices on the creative economy throughout U.S. and abroad.

C.4.4.4 Assessment of areas of strength, weakness, and opportunity for District's creative subsectors based on a data-driven approach using asset analysis and interview insights. Strategic opportunities at the convergence of the technology sector and creative economy are to be highlighted.

C.4.4.5 High-level creative industry strategies (visionary in nature) and supporting initiatives that are strongly linked to research, interviews, and analysis.

C.4.4.6 Implementation and funding strategies for proposed initiatives.

C.4.5 The Contractor shall assume all costs for the design and printing of 4,000 copies of the final Creative Economy Strategy report in March 2014, prior to its public release.

C.4.6 The Contractor shall collaborate with DMPED to lead three presentations for the Executive Committee and Strategy Advisory Group of the Creative Economy Strategy. The three presentations will serve as progress updates as well as feedback sessions. Feedback from the Executive Committee and Strategy Advisory Group during these presentations shall be incorporated into the final strategy report.

C.4.7 The Contractor shall conduct weekly calls with DMPED to discuss project progress.

SECTION D: PACKAGING AND MARKING

- D.1** The packaging and marking requirements for this contract shall be governed by clause number (2), Shipping Instructions-Consignment, of the Government of the District of Columbia's Standard Contract Provisions for use with Supplies and Services Contracts, dated March 2007. (Attachment J.1)

SECTION E: INSPECTION AND ACCEPTANCE

- E.1** The inspection and acceptance requirements for this contract shall be governed by clause number six (6), Inspection of Services, of the Government of the District of Columbia's Standard Contract Provisions for use with Supplies and Services Contracts, dated March 2007. (Attachment J.1)

SECTION F: PERIOD OF PERFORMANCE AND DELIVERABLES

F.1 TERM OF CONTRACT

The term of the contract shall be for a period of one year from the date of award.

F.2 OPTION TO EXTEND THE TERM OF THE CONTRACT

F.2.1 The District may extend the term of this contract for a period of one (1) one-year option period, or successive fractions thereof, by written notice to the Contractor before the expiration of the contract; provided that the District will give the Contractor preliminary written notice of its intent to extend at least thirty (30) days before the contract expires. The preliminary notice does not commit the District to an extension. The exercise of this option is subject to the availability of funds at the time of the exercise of this option. The Contractor may waive the thirty (30) day preliminary notice requirement by providing a written waiver to the Contracting Officer prior to expiration of the contract.

F.2.2 If the District exercises this option, the extended contract shall be considered to include this option provision.

F.2.3 The price for the option period shall be as specified in the Section B of the contract.

F.2.4 The total duration of this contract, including the exercise of any options under this clause, shall not exceed two (2) years.

F.3 DELIVERABLES

The Contractor shall perform the activities required to successfully complete the District’s requirements and submit each deliverable to the CA identified in section G.9.2 in accordance with the following:

Item	Deliverable	Due Date
F.3.1	Documented interviews with at least 90 civic and business leaders between December 2013 and March 2014 (interview list to be provided and approved by DMPED). Detailed notes and insights from interviews are to be managed by the Contractor (to be shared with DMPED when requested) and used to guide the report’s recommendations. Interviews shall be conducted with a DMPED representative present, unless otherwise stated by DMPED.	12/31/2013 and ongoing until all interviews and focus groups are completed
F.3.2	Definition of the creative economy outlining major industries. (C.4.4.1)	1/10/2014
F.3.3	Heat maps of creative subsectors and inventory list of District’s creative assets (major companies, organizations, and individuals). (C.4.4.2)	1/27/2014

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 Creative Economy Strategy Consulting Services

F.3.4	Analysis of key trends and data on the creative subsectors in DC and identify best practices on the creative economy throughout U.S. and abroad. (C.4.4.3)	2/17/2014
F.3.5	Assessment of areas of strength, weakness, and opportunity for District's creative subsectors based on a data-driven approach using asset analysis and interview insights. Strategic opportunities at the convergence of the technology sector and creative economy are to be highlighted. (C.4.4.4)	2/17/2014
F.3.6	High-level creative industry strategies (visionary in nature) and supporting initiatives that are strongly linked to research, interviews, and analysis. (C.4.4.5)	2/17/2014
F.3.7	Implementation and funding strategies for proposed initiatives.	2/17/2014
F.3.8	Creative Economy Strategy that includes feedback from the Executive Committee and SAG. (C.4.6)	3/15/2014
9	The Contractor shall perform the activities required above, and submit the report by March 31, 2014 to the Contract Administrator (CA) identified in section G.9.2. (C.4.6)	3/31/2014

SECTION G: CONTRACT ADMINISTRATION

G.1 INVOICE PAYMENT

G.1.1 The District will make payments to the Contractor, upon the submission of proper invoices, at the prices stipulated in this contract, for supplies delivered and accepted or services performed and accepted, less any discounts, allowances or adjustments provided for in this contract.

G.1.2 The District will pay the Contractor on or before the 30th day after receiving a proper invoice from the Contractor.

G.2 INVOICE SUBMITTAL

G.2.1 The Contractor shall submit proper invoices on a monthly basis or as otherwise specified in Section G.4. Invoices shall be prepared and electronically submitted (emailed) to **dmpedinvoices@dc.gov** with a concurrent electronic copy to the CA specified in Section G.9 below.

G.2.2 To constitute a proper invoice, the Contractor shall submit the following information on the invoice:

G.2.2.1 Contractor's name, federal tax ID and invoice date (date invoices as of the date of mailing or transmittal);

G.2.2.2 Contract number, purchase order number and invoice number;

G.2.2.3 CA name

G.2.2.4 Description, price, quantity and the date(s) that the supplies or services were delivered or performed;

G.2.2.5 Other supporting documentation or information, as required by the Contracting Officer;

G.2.2.6 Name, title, telephone number and complete mailing address of the responsible official to whom payment is to be sent;

G.2.2.7 Name, title, phone number of person preparing the invoice;

G.2.2.8 Name, title, phone number and mailing address of person (if different from the person identified in G.2.2.6 above) to be notified in the event of a defective invoice; and

G.2.2.9 Authorized signature.

G.3 FIRST SOURCE AGREEMENT REQUEST FOR FINAL PAYMENT

Reserved

G.4 PAYMENTS

G.4.1 For services performed and accepted in the contract period, the District will make payments to the Contractor in accordance with the following payment schedule:

\$100,000.00 on or after December 31, 2013

\$ 90,000.00 on or after February 15, 2014

G.4.2 For services performed in the contract option years, payment will be made on partial deliveries of goods and services accepted by the District if:

- a) The amount due on the deliveries warrants it; or
- b) The Contractor requests it and the amount due on the deliveries is in accordance with the following:
 - "Payment will be made on completion and acceptance of each item for which the price is stated in the Schedule in Section B".
- c) Presentation of a properly executed invoice.

G.5 ASSIGNMENT OF CONTRACT PAYMENTS

G.5.1 In accordance with 27 DCMR 3250, the Contractor may assign to a bank, trust company, or other financing institution funds due or to become due as a result of the performance of this contract.

G.5.2 Any assignment shall cover all unpaid amounts payable under this contract, and shall not be made to more than one party.

G.5.3 Notwithstanding an assignment of contract payments, the Contractor, not the assignee, is required to prepare invoices. Where such an assignment has been made, the original copy of the invoice must refer to the assignment and must show that payment of the invoice is to be made directly to the assignee as follows:

"Pursuant to the instrument of assignment dated _____, make payment of this invoice to (name and address of assignee)."

G.6 THE QUICK PAYMENT CLAUSE

G.6.1 Interest Penalties to Contractors

G.6.1.1 The District will pay interest penalties on amounts due to the Contractor under the Quick Payment Act, D.C. Official Code §2-221.01 *et seq.*, for the period beginning on the day after the required payment date and ending on the date on which payment of the amount is made. Interest shall be calculated at the rate of 1% per month. No interest penalty shall be paid if payment for the completed delivery of the item of property or service is made on or before:

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

G.6.1.2 Any amount of an interest penalty which remains unpaid at the end of any 30-day period shall be added to the principal amount of the debt and thereafter interest penalties shall accrue on the added amount.

G.6.2 Payments to Subcontractors

G.6.2.1 The Contractor must take one of the following actions within seven (7) days of receipt of any amount paid to the Contractor by the District for work performed by any subcontractor under this contract:

- a) Pay the subcontractor for the proportionate share of the total payment received from the District that is attributable to the subcontractor for work performed under the contract; or
- b) Notify the District and the subcontractor, in writing, of the Contractor's intention to withhold all or part of the subcontractor's payment and state the reason for the nonpayment.

G.6.2.2 The Contractor must pay any subcontractor or supplier interest penalties on amounts due to the subcontractor or supplier beginning on the day after the payment is due and ending on the date on which the payment is made. Interest shall be calculated at the rate of 1% per month. No interest penalty shall be paid on the following if payment for the completed delivery of the item of property or service is made on or before:

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

G.6.2.3 Any amount of an interest penalty which remains unpaid by the Contractor at the end of any 30-day period shall be added to the principal amount of the debt to the subcontractor and thereafter interest penalties shall accrue on the added amount.

G.6.2.4 A dispute between the Contractor and subcontractor relating to the amounts or entitlement of a subcontractor to a payment or a late payment interest penalty under the Quick Payment Act does not constitute a dispute to which the District of Columbia is a party. The District of Columbia may not be interpleaded in any judicial or administrative proceeding involving such a dispute.

G.6.3 Subcontract requirements

G.6.3.1 The Contractor shall include in each subcontract under this contract a provision requiring the subcontractor to include in its contract with any lower-tier subcontractor or supplier the payment and interest clauses required under paragraphs (1) and (2) of D.C. Official Code §2-221.02(d).

G.7 CONTRACTING OFFICER (CO)

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

Jacque McDonald, CPPO, CPPB, SPSM, MBA, MST
Director, Contracts, Procurement and Grants
Office of the Deputy Mayor for Planning and Economic Development
1100 4th Street, S.W., Suite E500
Washington, D.C. 20024
Telephone (202) 724-8111
Email: jacque.mcdonald@dc.gov

G.8 AUTHORIZED CHANGES BY THE CONTRACTING OFFICER

G.8.1 The CO is the only person authorized to approve changes in any of the requirements of this contract.

G.8.2 The Contractor shall not comply with any order, directive or request that changes or modifies the requirements of this contract, unless issued in writing and signed by the CO.

G.8.3 In the event the Contractor effects any change at the instruction or request of any person other than the CO, the change will be considered to have been made without authority and no adjustment will be made in the contract price to cover any cost increase incurred as a result thereof.

G.9 CONTRACT ADMINSTRATOR (CA)

G.9.1 The CA is responsible for general administration of the contract and advising the CO as to the Contractor's compliance or noncompliance with the contract. The CA has the responsibility of ensuring the work conforms to the requirements of the contract and such other responsibilities and authorities as may be specified in the contract. These include:

G.9.1.1 Keeping the CO fully informed of any technical or contractual difficulties encountered during the performance period and advising the CO of any potential problem areas under the contract;

G.9.1.2 Coordinating site entry for Contractor personnel, if applicable;

G.9.1.3 Reviewing invoices for completed work and recommending approval by the CO if the Contractor's costs are consistent with the negotiated amounts and progress is satisfactory and commensurate with the rate of expenditure;

G.9.1.4 Reviewing and approving invoices for deliverables to ensure receipt of goods and services. This includes the timely processing of invoices and vouchers in accordance with the District's payment provisions; and

G.9.1.5 Maintaining a file that includes all contract correspondence, modifications, records of inspections (site, data, equipment) and invoice or vouchers.

G.9.2 The address and telephone number of the CA is:

Lina Feng
Office of the Deputy Mayor for Planning and Economic Development
1350 Pennsylvania Avenue, Suite 317
Washington, D.C. 20004
Telephone: (202) 701-4984
Email: lina.feng@dc.gov

G.9.3 The CA shall NOT have the authority to:

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

G.9.4 The Contractor will be fully responsible for any changes not authorized in advance, in writing, by the CO; may be denied compensation or other relief for any additional work performed that is not so authorized; and may also be required, at no additional cost to the District, to take all corrective action necessitated by reason of the unauthorized changes.

SECTION H: SPECIAL CONTRACT REQUIREMENTS

H.1 HIRING OF DISTRICT RESIDENTS AS APPRENTICES AND TRAINEES

H.1.1 For all new employment resulting from this contract or subcontracts hereto, as defined in Mayor's Order 83-265 and implementing instructions, the Contractor shall use its best efforts to comply with the following basic goal and objectives for utilization of bona fide residents of the District of Columbia in each project's labor force:

H.1.1.1 At least fifty-one (51) percent of apprentices and trainees employed shall be residents of the District of Columbia registered in programs approved by the District of Columbia Apprenticeship Council.

H.1.2 The Contractor shall negotiate an Employment Agreement with the Department of Employment Services ("DOES") for jobs created as a result of this contract. The DOES shall be the Contractor's first source of referral for qualified apprentices and trainees in the implementation of employment goals contained in this clause.

H.2 DEPARTMENT OF LABOR WAGE DETERMINATIONS

The Contractor shall be bound by the Wage Determination No. 2005-2103, Revision No. 13, dated June 19, 2013, issued by the U.S. Department of Labor in accordance with the Service Contract Act, 41 U.S.C. §351 *et seq.*, and incorporated herein as Section J.2. The Contractor shall be bound by the wage rates for the term of the contract subject to revision as stated herein and in accordance with Section 24 of the SCP. If an option is exercised, the Contractor shall be bound by the applicable wage rates at the time of the option. If the option is exercised and the CO obtains a revised wage determination, the revised wage determination is applicable for the option periods and the Contractor may be entitled to an equitable adjustment.

H.3 PUBLICITY

The Contractor shall at all times obtain the prior written approval from the CO before it, any of its officers, agents, employees or subcontractors, either during or after expiration or termination of the contract, make any statement, or issue any material, for publication through any medium of communication, bearing on the work performed or data collected under this contract.

H.4 FREEDOM OF INFORMATION ACT

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

maintained by the Contractor pursuant to the contract, the CA will forward a copy to the Contractor. In either event, the Contractor is required by law to provide all responsive records to the CA within the timeframe designated by the CA. The FOIA Officer for the agency with programmatic responsibility will determine the releasability of the records. The District will reimburse the Contractor for the costs of searching and copying the records in accordance with D.C. Official Code §2-532 and Chapter 4 of Title 1 of the *D.C. Municipal Regulations*.

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

Reserved

H.6 SECTION 504 OF THE REHABILITATION ACT OF 1973, as amended.

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

H.7 AMERICANS WITH DISABILITIES ACT OF 1990 (ADA)

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

H.8 WAY TO WORK AMENDMENT ACT OF 2006

- H.8.1** Except as described in H.8.8 below, the Contractor shall comply with Title I of the Way to Work Amendment Act of 2006, effective June 8, 2006 (D.C. Law 16-118, D.C. Official Code §2-220.01 *et seq.*) (“Living Wage Act of 2006”), for contracts for services in the amount of \$100,000 or more in a 12-month period.
- H.8.2** The Contractor shall pay its employees and subcontractors who perform services under the contract no less than the current living wage published on the OCP website at www.ocp.dc.gov.
- H.8.3** The Contractor shall include in any subcontract for \$15,000 or more a provision requiring the subcontractor to pay its employees who perform services under the contract no less than the current living wage rate.
- H.8.4** The DOES may adjust the living wage annually and the OCP will publish the current living wage rate on its website at www.ocp.dc.gov.
- H.8.5** The Contractor shall provide a copy of the Fact Sheet attached as J.4 to each employee and subcontractor who performs services under the contract. The Contractor shall also post the Notice attached as J.3 in a conspicuous place in its place of business. The Contractor shall include in any subcontract for \$15,000 or more a provision requiring the subcontractor to post the Notice in a conspicuous place in its place of business.

- H.8.6** The Contractor shall maintain its payroll records under the contract in the regular course of business for a period of at least three (3) years from the payroll date, and shall include this requirement in its subcontracts for \$15,000 or more under the contract.
- H.8.7** The payment of wages required under the Living Wage Act of 2006 shall be consistent with and subject to the provisions of D.C. Official Code §32-1301 *et seq.*
- H.8.8** The requirements of the Living Wage Act of 2006 do not apply to:
- (1) Contracts or other agreements that are subject to higher wage level determinations required by federal law;
 - (2) Existing and future collective bargaining agreements, provided, that the future collective bargaining agreement results in the employee being paid no less than the established living wage;
 - (3) Contracts for electricity, telephone, water, sewer or other services provided by a regulated utility;
 - (4) Contracts for services needed immediately to prevent or respond to a disaster or eminent threat to public health or safety declared by the Mayor;
 - (5) Contracts or other agreements that provide trainees with additional services including, but not limited to, case management and job readiness services; provided that the trainees do not replace employees subject to the Living Wage Act of 2006;
 - (6) An employee under 22 years of age employed during a school vacation period, or enrolled as a full-time student, as defined by the respective institution, who is in high school or at an accredited institution of higher education and who works less than 25 hours per week; provided that he or she does not replace employees subject to the Living Wage Act of 2006;
 - (7) Tenants or retail establishments that occupy property constructed or improved by receipt of government assistance from the District of Columbia; provided, that the tenant or retail establishment did not receive direct government assistance from the District;
 - (8) Employees of nonprofit organizations that employ not more than 50 individuals and qualify for taxation exemption pursuant to section 501(c)(3) of the Internal Revenue Code of 1954, approved August 16, 1954 (68A Stat. 163; 26 U.S.C. § 501(c)(3));
 - (9) Medicaid provider agreements for direct care services to Medicaid recipients, provided, that the direct care service is not provided through a home care agency, a community residence facility, or a group home for mentally retarded persons as those terms are defined in section 2 of the Health-Care and Community Residence Facility, Hospice, and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code § 44-501); and
 - (10) Contracts or other agreements between managed care organizations and the Health Care Safety Net Administration or the Medicaid Assistance Administration to provide health services.
- H.8.9** The Mayor may exempt a contractor from the requirements of the Living Wage Act of 2006, subject to the approval of Council, in accordance with the provisions of Section 109 of the Living Wage Act of 2006.

SECTION I: CONTRACT CLAUSES

I.1 APPLICABILITY OF STANDARD CONTRACT PROVISIONS

The Standard Contract Provisions for use with District of Columbia Government Supplies and Services Contracts dated March 2007 (“SCP”) are incorporated as part of the contract. To obtain a copy of the SCP go to www.ocp.dc.gov, click on “Opportunities and Support/OCP Solicitations/Required Solicitation Documents”.

I.2 CONTRACTS THAT CROSS FISCAL YEARS

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

I.3 CONFIDENTIALITY OF INFORMATION

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

I.4 TIME

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

I.5 RIGHTS IN DATA

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

I.5.2 The term “Technical Data”, as used herein, means recorded information, regardless of form or characteristic, of a scientific or technical nature. It may, for example, document research, experimental, developmental or engineering work, or be usable or used to define a design or process or to procure, produce, support, maintain, or operate material. The data may be graphic or pictorial delineations in media such as drawings or photographs, text in specifications or related performance or design type documents or computer printouts. Examples of technical data include research and engineering data, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information, and computer software documentation. Technical data does not include computer software or financial, administrative, cost and pricing, and management data or other information incidental to contract administration.

I.5.3 The term “Computer Software”, as used herein means computer programs and computer databases. “Computer Programs”, as used herein means a series of instructions or statements in

a form acceptable to a computer, designed to cause the computer to execute an operation or operations. "Computer Programs" include operating systems, assemblers, compilers, interpreters, data management systems, utility programs, sort merge programs, and automated data processing equipment maintenance diagnostic programs, as well as applications programs such as payroll, inventory control and engineering analysis programs. Computer programs may be either machine-dependent or machine-independent, and may be general purpose in nature or designed to satisfy the requirements of a particular user.

I.5.4 The term "computer databases", as used herein, means a collection of data in a form capable of being processed and operated on by a computer.

I.5.5 All data first produced in the performance of this Contract shall be the sole property of the District. The Contractor hereby acknowledges that all data, including, without limitation, computer program codes, produced by Contractor for the District under this Contract, are works made for hire and are the sole property of the District; but, to the extent any such data may not, by operation of law, be works made for hire, Contractor hereby transfers and assigns to the District the ownership of copyright in such works, whether published or unpublished. The Contractor agrees to give the District all assistance reasonably necessary to perfect such rights including, but not limited to, the works and supporting documentation and the execution of any instrument required to register copyrights. The Contractor agrees not to assert any rights in common law or in equity in such data. The Contractor shall not publish or reproduce such data in whole or in part or in any manner or form, or authorize others to do so, without written consent of the District until such time as the District may have released such data to the public.

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

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

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

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

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

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

RESTRICTED RIGHTS LEGEND

Use, duplication, or disclosure is subject to restrictions stated in Contract No. _____ with (Contractor's Name); and

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

I.5.8 In addition to the rights granted in Section I.5.6 above, the Contractor hereby grants to the District a nonexclusive, paid-up license throughout the world, of the same scope as restricted rights set forth in Section I.5.6 above, under any copyright owned by the Contractor, in any work of authorship prepared for or acquired by the District under this contract. Unless written approval of the CO is obtained, the Contractor shall not include in technical data or computer software prepared for or acquired by the District under this contract any works of authorship in which copyright is not owned by the Contractor without acquiring for the District any rights necessary to perfect a copyright license of the scope specified in the first sentence of this paragraph.

I.5.9 Whenever any data, including computer software, are to be obtained from a subcontractor under this contract, the Contractor shall use this clause, I.5, Rights in Data, in the subcontract, without alteration, and no other clause shall be used to enlarge or diminish the District's or the Contractor's rights in that subcontractor data or computer software which is required for the District.

I.5.10 For all computer software furnished to the District with the rights specified in Section I.5.5, the Contractor shall furnish to the District, a copy of the source code with such rights of the scope specified in Section I.5.5. For all computer software furnished to the District with the restricted rights specified in Section I.5.6, the District, if the Contractor, either directly or through a successor or affiliate shall cease to provide the maintenance or warranty services provided the District under this contract or any paid-up maintenance agreement, or if Contractor should be declared bankrupt or insolvent by a court of competent jurisdiction, shall have the right to obtain, for its own and sole use only, a single copy of the then current version of the source code supplied under this contract, and a single copy of the documentation associated therewith, upon payment to the person in control of the source code the reasonable cost of making each copy.

I.5.11 The Contractor shall indemnify and save and hold harmless the District, its officers, agents and employees acting within the scope of their official duties against any liability, including costs and expenses, (i) for violation of proprietary rights, copyrights, or rights of privacy, arising out of the publication, translation, reproduction, delivery, performance, use or disposition of any data furnished under this contract, or (ii) based upon any data furnished under this contract, or based upon libelous or other unlawful matter contained in such data.

I.5.12 Nothing contained in this clause shall imply a license to the District under any patent, or be construed as affecting the scope of any license or other right otherwise granted to the District under any patent.

I.5.13 Paragraphs I.5.6, I.5.7, I.5.8, I.5.11 and I.5.12 above are not applicable to material furnished to the Contractor by the District and incorporated in the work furnished under contract, provided that such incorporated material is identified by the Contractor at the time of delivery of such work.

I.6 OTHER CONTRACTORS

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

I.7 SUBCONTRACTS

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

I.8 INSURANCE

A. **GENERAL REQUIREMENTS.** The Contractor shall procure and maintain, during the entire period of performance under this contract, the types of insurance specified below. The Contractor shall have its insurance broker or insurance company submit a Certificate of Insurance to the CO giving evidence of the required coverage prior to commencing performance under this contract. In no event shall any work be performed until the required Certificates of Insurance signed by an authorized representative of the insurer(s) have been provided to, and accepted by, the CO. All insurance shall be written with financially responsible companies authorized to do business in the District of Columbia or in the jurisdiction where the work is to be performed and have an A.M. Best Company rating of A-VIII or higher. The Contractor shall require all of its subcontractors to carry the same insurance required herein. The Contractor shall ensure that all policies provide that the CO shall be given thirty (30) days prior written notice in the event the stated limit in the declarations page of the policy is reduced via endorsement or the policy is canceled prior to the expiration date shown on the certificate. The Contractor shall provide the CO with ten (10) days prior written notice in the event of non-payment of premium.

1. **Commercial General Liability Insurance.** The Contractor shall provide evidence satisfactory to the CO with respect to the services performed that it carries \$1,000,000 per occurrence limits; \$2,000,000 aggregate; Bodily Injury and Property Damage including, but not limited to: premises-operations; broad form property damage; Products and Completed Operations; Personal and Advertising Injury;

contractual liability and independent contractors. The policy coverage shall include the District of Columbia as an additional insured, shall be primary and non-contributory with any other insurance maintained by the District of Columbia, and shall contain a waiver of subrogation. The Contractor shall maintain Completed Operations coverage for five (5) years following final acceptance of the work performed under this contract.

2. Automobile Liability Insurance. The Contractor shall provide automobile liability insurance to cover all owned, hired or non-owned motor vehicles used in conjunction with the performance of this contract. The policy shall provide a \$1,000,000 per occurrence combined single limit for bodily injury and property damage.
3. Workers' Compensation Insurance. The Contractor shall provide Workers' Compensation insurance in accordance with the statutory mandates of the District of Columbia or the jurisdiction in which the contract is performed.

Employer's Liability Insurance. The Contractor shall provide employer's liability insurance as follows: \$500,000 per accident for injury; \$500,000 per employee for disease; and \$500,000 for policy disease limit.

4. Umbrella/Excess Liability Insurance. The Contractor shall provide Umbrella/Excess liability (which is excess over employer's liability, general liability, and automobile liability) insurance as follows: \$2,000,000 per occurrence. **The policy must name the District as an additional insured, contain a waiver of subrogation, and state that coverage is primary and non-contributory.**

- B. **DURATION.** The Contractor shall carry all required insurance until all contract work is accepted by the District, and shall carry the required General Liability; any required Professional Liability; and any required Employment Practices Liability insurance for five (5) years following final acceptance of the work performed under this contract.
- C. **LIABILITY.** These are the required minimum insurance requirements established by the District of Columbia. **HOWEVER, THE REQUIRED MINIMUM INSURANCE REQUIREMENTS PROVIDED ABOVE WILL NOT IN ANY WAY LIMIT THE CONTRACTOR'S LIABILITY UNDER THIS CONTRACT.**
- D. **CONTRACTOR'S PROPERTY.** Contractor and subcontractors are solely responsible for any loss or damage to their personal property, including but not limited to tools and equipment, scaffolding and temporary structures, rented machinery, or owned and leased equipment. **A waiver of subrogation shall apply in favor of the District of Columbia.**
- E. **MEASURE OF PAYMENT.** The District shall not make any separate measure or payment for the cost of insurance and bonds. The Contractor shall include all of the costs of insurance and bonds in the contract price.
- F. **NOTIFICATION.** The Contractor shall immediately provide the CO with written notice in the event that its insurance coverage has or will be substantially changed, canceled or not renewed, and provide an updated certificate of insurance to the CO.

- G. **CERTIFICATES OF INSURANCE.** The Contractor shall submit certificates of insurance giving evidence of the required coverage as specified in this section prior to commencing work. Evidence of insurance shall be submitted to:

**Office of the Deputy Mayor for Planning
and Economic Development
Office of Contracts and Procurement
1100 4th Street SW, Suite E500
Washington, DC 20024**

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

I.9 EQUAL EMPLOYMENT OPPORTUNITY

In accordance with the District of Columbia Administrative Issuance System, Mayor's Order 85-85 dated June 10, 1985, the forms for completion of the Equal Employment Opportunity Information Report are incorporated herein as Section J.6. An award cannot be made to any offeror who has not satisfied the equal employment requirements.

I.10 ORDER OF PRECEDENCE

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

- (1) An applicable Court Order, if any
- (2) Contract document
- (3) Standard Contract Provisions
- (4) Contract attachments other than the Standard Contract Provisions
- (5) Proposal dated October 10, 2013

I.11 CONTRACTS IN EXCESS OF ONE MILLION DOLLARS

Any contract in excess of \$1,000,000 shall not be binding or give rise to any claim or demand against the District until approved by the Council of the District of Columbia and signed by the CO.

I.12 GOVERNING LAW

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

SECTION J: ATTACHMENTS

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

Attachment Number	Document
J.1	Government of the District of Columbia Standard Contract Provisions for Use with the Supplies and Services Contracts (March 2007) available at www.ocp.dc.gov click on "Opportunities and Support/OCP Solicitations/Required Solicitation Documents"
J.2	U.S. Department of Labor Wage Determination No. 2005-2103, Revision No. 13, dated June 19, 2013
J.3	Way to Work Amendment Act of 2006 - Living Wage Notice (2010) available at www.ocp.dc.gov click on "Opportunities and Support/OCP Solicitations/Required Solicitation Documents"
J.4	Way to Work Amendment Act of 2006 - Living Wage Fact Sheet (2010) available at www.ocp.dc.gov click on "Opportunities and Support/OCP Solicitations/Required Solicitation Documents"
J.5	Kellogg Consulting Group's Price Proposals, dated October 10, 2013
J.6	Equal Employment Opportunity and Mayor's Order 85-85 Available at www.ocp.dc.gov click on "Opportunities and Support/OCP Solicitations/Required Solicitation Documents"
J.7	Bidders/Offerors Certification Available at www.ocp.dc.gov click on "Opportunities and Support/OCP Solicitations/Required Solicitation Documents"