The Honorable Phil Mendelson  
Chairman  
Council of the District of Columbia  
John A. Wilson Building  
1350 Pennsylvania Avenue, N.W.  
Suite 504  
Washington, D.C. 20004

Reference: Change Order No. 5 to the Agreement for Design-Build Services for McMillan Sand Filtration Site Life Safety and Historic Stabilization and Restoration  
Contract Number: DCAM-16-CS-0142  
Contractor: Gilbane Building Company

Dear Chairman Mendelson:

Pursuant to D.C. Official Code § 1-204.51(b), the Department of General Services ("DGS" or the "Department") hereby submits to the Council of the District of Columbia for its review and approval the attached Change Order No. 5, (the "Change Order") to the Agreement for Design-Build Services for McMillan Sand Filtration Site Life Safety and Historic Stabilization and Restoration (DCAM-16-CS-0142) (the "Contract") with Gilbane Building Company (the "Contractor").

The underlying Contract authorizes the Contractor to provide design-build services for an initial phase (the "Initial Phase") of the redevelopment of the McMillan Sand Filtration Site bounded by Michigan Avenue NW, 1st Street NW, Channing Street NW, and North Capitol Street NW (the "Project"). The Initial Phase consisted of design and preconstruction work for the full stabilization and restoration scope for the historic assets located in the north and south service courts. The underlying Contract was deemed approved by Council on July 7, 2017 (CA22-0223) for an Initial Phase Target Guaranteed Maximum Price ("GMP") in amount not to exceed $18,000,000.00. Change Order No. 1, executed on January 23, 2018, authorized the Contractor to use a portion of an existing owner’s allowance, which amount was included within the Initial Phase Target GMP previously approved by Council. Change Order No. 2, executed on June 26,
2018, established a final value for the Initial Phase GMP in the amount of $9,792,088, (the “Initial Phase Final GMP”) which amount was included within the Initial Phase Target GMP previously approved by Council. Change Order No. 3, a zero-dollar change order executed on June 28, 2018, extended the Contract’s Administrative Term. Change Order No. 4, executed on July 15, 2019, established an Owner-directed allowance in the amount of $2,807,912 (the “Owner-Directed Allowance”) and authorized the Contractor to use certain Contract allowances, all of which were included in the Initial Phase Target GMP previously approved by Council. Change Order No. 4 also clarified that the Contract’s not-to-exceed amount is the sum of the Initial Phase Final GMP and the Owner-Directed Allowance, an amount equal to $12,600,000. Change Order Nos. 1 through 4 did not increase the Contract’s Initial Phase Target GMP previously approved by Council.

The Department now seeks Council approval to execute proposed Change Order No. 5. If approved, Change Order No. 5 will (i) authorize the Contractor to proceed with the next phase of the Project which includes demolition design and selective demolition of underground cell structures across seven parcels at the McMillan Site (the “Demolition Phase”); and (ii) establish a GMP for the Demolition Phase in the amount of $17,920,551.00, increasing the total Contract not-to-exceed amount from $12,600,000 to $30,520,551.00. As proposed Change Order No. 5 would increase the Contract value by more than $1 million, Council approval is required for this contract action.

In addition to proposed Change Order No. 5, attached are: (i) a contract summary; (ii) a fiscal certification; (iii) a legal sufficiency review and certification; and (iv) a Clean Hands certification for the Contractor.

If you have any questions regarding this matter, please feel free to contact Keith A. Anderson, the Department’s Director, or George G. Lewis, the Department’s Chief of Contracts and Procurement, at (202) 727-2800.

Sincerely,

Muriel Bowser

Encl/sures
Pursuant to section 202(c) of the Procurement Practices Reform Act of 2010, as amended, D.C. Official Code § 2-352.02(c), the following contract summary is provided:

COUNCIL CONTRACT SUMMARY
(Standard and multiyear)

Change Order No. 5 to the Agreement for Design-Build Services for McMillan Sand Filtration Site Life Safety and Historic Stabilization and Restoration

(A) Contract Number: DCAM-16-CS-0142 (the “Contract”)

Proposed Contractor: Gilbane Building Company (the “Contractor”)

Increased Value per Change Order No. 5: $12,520,551.00

Total Contract NTE Amount: $30,520,551.00

Unit and Method of Compensation: Progress Payments on a Monthly Basis


Please note: Change Order No. 5 must be executed by October 14, 2019 in order to timely complete the Project.

Type of Contract: Cost Plus Fixed Fee with a Guaranteed Maximum Price

Source Selection Method: Competitive Request for Proposal

(B) For a contract containing option periods, the contract amount for the base period and for each option period. If the contract amount for one or more of the option periods differs from the amount for the base period, provide an explanation of the reason for the difference:
(C) The goods or services to be provided, the methods of delivering goods or services, and any significant program changes reflected in the proposed contract:

The Department of General Services (the "Department") previously engaged the Contractor to provide design-build services to redevelop the McMillan Sand Filtration Site (the "Project") bounded by Michigan Avenue NW, 1st Street NW, Channing Street NW, and North Capitol Street NW (the "McMillan Site"). As initially contemplated by the Department, the Project included demolition design and selective demolition of underground cell structures across seven parcels at the McMillan Site; Parcel 6 site preparation; design and construction in Parcel 6 of roads, sidewalks, hardscape, and utilities; design and construction of Parcel 6 vertical improvements such as a Community Center of approximately 17,500 gross square feet of floor area, a playground, a park, and a plaza. The Project also included design and construction of off-site improvements such as sidewalks, hardscape, street lights, and landscaping abutting Parcel 6; stabilization and restoration of Parcel 6 historic assets, including part of sand filtration cell 28; stabilization and restoration for Parcel 7 historic assets; and design and construction of Parcel 7 hardscape and utility stub-outs to historic assets.

After award of the underlying competitive solicitation, but prior to the commencement of work on the Project, various parties appealed to the District of Columbia Court of Appeals, the approval of a planned unit development ("PUD") application which was required for the Project and had previously been granted by the Zoning Commission of the District of Columbia as well as the clearance of the permits for the Project by the District of Columbia Mayor's Agent for Historic Preservation (the "Litigation Matters"). As such, the Department found it most advantageous to the District to enter into a contract with the Contractor, authorizing a limited scope of the entire Project (the "Initial Phase") pending the resolution of the Litigation Matters which effectively stayed the land use and entitlements for the Project. The Initial Phase comprised of the full stabilization and restoration of the historic assets located in the north and south service courts. The underlying Contract also provided a target Guaranteed Maximum Price of $18,000,000 for the Initial Phase ("Initial Phase Target GMP"). The underlying Contract was previously approved by the Council as CA22-0223 on July 7, 2017.

Change Order No. 1, executed on January 23, 2018, authorized the Contractor to use a portion of an existing Owner's allowance, which amount was included within the Initial Phase Target GMP previously approved by Council. Change Order No. 2, executed on June 26, 2018, established a final value for the Initial Phase GMP in the amount of $9,792,088, (the "Initial Phase Final GMP") which amount was included within the Initial Phase Target GMP previously approved by Council. Change Order No. 3, a zero-dollar change order executed on June 28, 2018, extended the Contract's Administrative Term. Change Order No. 4, executed on July 15, 2019, established an Owner-directed allowance in the amount of $2,807,912 (the "Owner-Directed Allowance") and authorized the Contractor to use certain previously-established Contract allowances, all of which were included in the Initial Phase Target GMP previously approved by Council. Change Order No. 4 also clarified that the Contract's not-to-exceed amount is the sum of the Initial Phase Final GMP and the
Owner-Directed Allowance, an amount equal to $12,600,000. Change Order Nos. 1 through 4 did not increase the Contract's Initial Phase Target GMP previously approved by Council.

In the summer of 2019, some of the Litigation Matters which affect the subsequent phase of the Project were resolved. As such, the Department now seeks Council approval to execute proposed Change Order No. 5. If approved, Change Order No. 5 will (i) authorize the Contractor to proceed with the next phase of the Project which includes demolition design and selective demolition of underground cell structures across seven parcels at the McMillan Site (the “Demolition Phase”); and (ii) establish a GMP for the Demolition Phase in the amount of $17,920,551.00 (the “Demolition Phase GMP”), increasing the total Contract not-to-exceed amount from $12,600,000 to $30,520,551.00. Council previously approved a Contract Target GMP amount of $18,000,000.00, and none of Change Order Nos. 1 through 4 caused the Contract to exceed that approved amount. Change Order No. 5 represents an increase to the previously approved Contract amount of $12,520,551.00. As proposed Change Order No. 5 would increase the Contract value by more than $1 million, Council approval is required for this contract action.

(D) The selection process, including the number of offerors, the evaluation criteria, and the evaluation results, including price, technical or quality, and past performance components:

The underlying Contract was competitively bid and previously submitted to the Council and approved by the Council (CA22-0223) on July 7, 2017.

(E) A description of any bid protest related to the award of the contract, including whether the protest was resolved through litigation, withdrawal of the protest by the protestor, or voluntary corrective action by the District. Include the identity of the protestor, the grounds alleged in the protest, and any deficiencies identified by the District as a result of the protest:

The Contract award was not protested.

(F) The background and qualifications of the proposed contractor, including its organization, financial stability, personnel, and performance on past or current government or private sector contracts with requirements similar to those of the proposed contract:

The Contractor was founded in 1873 and is one of the largest construction firms in the country with annual revenues over $4.4 billion. The Contractor has performed well on a variety of major construction projects in the District. The Department has reviewed the Contractor’s staffing plan for this project and found it sufficient. The Contractor has also been determined responsible in accordance with 27 DCMR 4706.1.

(G) A summary of the subcontracting plan required under section 2346 of the Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005, as amended, D.C. Official Code § 2-218.01 et seq. (“Act”), including a certification that the subcontracting plan meets the minimum requirements of the Act and the dollar volume of the portion of the contract to be subcontracted, expressed both in total dollars and as a percentage of the total contract amount:
The Contractor is not a Local, Small, or Disadvantaged Business Enterprise certified by the District's DSLBD. The Contractor has certified that it will subcontract at least 35% of the Contract value. Change Order No. 5, if approved, will establish a GMP for the Demolition Phase in the amount of $17,920,551, increasing the total Contract not-to-exceed value from $12,600,000 to $30,520,551. The Contractor submitted a revised subcontracting plan that meets the minimum requirements of the Act as follows:

<table>
<thead>
<tr>
<th>Contract Dollar Value</th>
<th>$30,520,551.00</th>
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</thead>
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<tr>
<td>Subcontracting Requirement %</td>
<td>35%</td>
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<tr>
<td>Subcontracting Plan Required Dollar Value</td>
<td>$12,572,192.85</td>
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<tr>
<td>Subcontracting Plan Actual Dollar Value</td>
<td>$13,784,798.00</td>
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</table>

(H) Performance standards and the expected outcome of the proposed contract:

The Contractor is required to provide all management, personnel, design services, hazardous material abatement, supervision, labor, materials, equipment and other services necessary to substantially complete the Initial and Demolition Phases of the Project. Forty percent (40%) of the Design-Build Fee for the Demolition Phase and each subsequent phase of the Project will be at risk, and the Contractor will earn the at-risk portion based on its performance within four individual metrics: (1) commencement of the demolition efforts by a date certain; (2) completing the Demolition Phase on-time; (3) agreement on a final GMP for the entire Project by a date certain and on-budget; and (4) filing the permit application necessary for the vertical development of the Project by a date certain. If one or more of the aforementioned metrics are not met, the Design-Build Fee may be reduced by up to forty percent (40%). Additionally, the Department may withhold payments to the Contractor based on defects in any application for payment or performance on the Project. In general, the Contractor's performance will be monitored by DGS staff and DGS’ designated Program Manager.

(I) The amount and date of any expenditure of funds by the District pursuant to the contract prior to its submission to the Council for approval:

N/A

(J) A certification that the proposed contract is within the appropriated budget authority for the agency for the fiscal year and is consistent with the financial plan and budget adopted in accordance with D.C. Official Code §§ 47-392.01 and 47-392.02:

The value of proposed Change Order No. 5 is within the appropriated budget authority for the agency for the fiscal year and is consistent with the financial plan and budget adopted in accordance with D.C. Official Code §§ 47-392.01 and 47-392.02. The applicable Fiscal Sufficiency certification accompanies this Council Package.

(K) A certification that the contract is legally sufficient, including whether the proposed contractor has any pending legal claims against the District:
Proposed Change Order No. 5 has been deemed legally sufficient by the Department’s Office of the General Counsel, and the Contractor does not appear to have any currently pending legal claims against the District.

(L) A certification that Citywide Clean Hands database indicates that the proposed contractor is current with its District taxes. If the Citywide Clean Hands Database indicates that the proposed contractor is not current with its District taxes, either: (1) a certification that the contractor has worked out and is current with a payment schedule approved by the District; or (2) a certification that the contractor will be current with its District taxes after the District recovers any outstanding debt as provided under D.C. Official Code § 2-353.01(b):

The Citywide Clean Hands database indicates that the Contractor is current with its District taxes. The relevant certification is attached.

(M) A certification from the proposed contractor that it is current with its federal taxes, or has worked out and is current with a payment schedule approved by the federal government:

The Contractor has certified that it is in compliance with federal tax laws.

(N) The status of the proposed contractor as a certified local, small, or disadvantaged business enterprise as defined in the Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005, as amended; D.C. Official Code § 2-218.01 et seq.:

The Contractor is not a certified Local, and Resident Owned Business Enterprise.

(O) Other aspects of the proposed contract that the Chief Procurement Officer considers significant:

N/A

(P) A statement indicating whether the proposed contractor is currently debarred from providing services or goods to the District or federal government, the dates of the debarment, and the reasons for debarment:

The Contractor is not debarred from providing services to the Government of the District of Columbia or the Federal Government according to the Office of Contracts and Procurement’s Excluded Parties List and the Federal Government’s Excluded Parties List.

(Q) Any determination and findings issues relating to the contract’s formation, including any determination and findings made under D.C. Official Code § 2-352.05 (privatization contracts):

N/A

(R) Where the contract, and any amendments or modifications, if executed, will be made available online:
Contract award information is available on the Department’s website. Copies of contract documents will be made available upon request.

(S) Where the original solicitation, and any amendments or modifications, will be made available online:

The original solicitation and any amendments were posted on the Department’s website.
CERTIFICATE OF CLEAN HANDS

GILBANE BUILDING COMPANY
7 JACKSON WALKWAY
PROVIDENCE, RI 02903-3623

EIN :*****5530

As reported in the Citywide Clean Hands system, the above referenced individual or entity has no outstanding liability with the District of Columbia. As of the date herein, you have complied with the following official DC code and therefore are issued this Certificate of Clean Hands.

TITLE 47. TAXATION, LICENSING, PERMITS, ASSESSMENTS AND FEES
CHAPTER 28. GENERAL LICENSE LAW
SUBCHAPTER II. CLEAN HANDS BEFORE RECEIVING A LICENSE OR PERMIT
§ 47-2862. Prohibition against issuance of license or permit.

Authorized By Marc Aronin
Chief, Collection Division

Date: Wednesday this 28th day of August 2019 09:53 AM

Tracking#: 1107947

This document is a certified, complete and true copy.
Memorandum

To: Keith A. Anderson
   Director

From: Massimo Marchiori
   Agency Fiscal Officer

Reference: Change Order No. 5 to the Agreement for Design-Build Services for McMillan Sand Filtration Site Life Safety and Historic Stabilization and Restoration (Contract Number: DCAM-16-CS-0142)

Date: October 1, 2019

Subject: Fiscal Sufficiency Certification

In my capacity as the Agency Fiscal Officer of the Department of General Services (the “Department”), I hereby certify that Change Order No. 5 to the Agreement for Design-Build Services for the McMillan Sand Filtration Site Life Safety and Historic Stabilization and Restoration (the “Project”) (DCAM-16-CS-0142) (the “Contract”) with Gilbane Building Company in the amount of Seventeen Million Nine Hundred Twenty Thousand Five Hundred Fifty One Dollars ($17,920,551.00) is consistent with the Department’s current budget and that adequate funds are available in the budget for the expenditure.

The underlying Contract was deemed approved by Council on July 7, 2017 (CA22-0223) for a Target Guaranteed Maximum Price (“GMP”) for the initial phase of the Project (the “Initial Phase”) in amount not to exceed $18,000,000.00. Change Order No. 1, executed on January 23, 2018, authorized the Contractor to use a portion of an existing owner’s allowance, which amount was included within the Initial Phase Target GMP previously approved by Council. Change Order No. 2, executed on June 26, 2018, established a final value for the Initial Phase GMP in the amount of $9,792,088, (the “Initial Phase Final GMP”) which amount was included within the Initial Phase Target GMP previously approved by Council. Change Order No. 3, a zero-dollar change order executed on June 28, 2018, extended the Contract’s Administrative Term. Change Order No. 4, executed on July 15, 2019, established an Owner-Directed Allowance in the amount of $2,807,912 and authorized the Contractor to use certain Contract allowances, all of which were included in the Target Initial Phase GMP previously approved by Council. Change Order No. 4 also clarified that the Contract’s not-to-exceed amount is the sum of the Initial Phase Final GMP and the Owner-Directed Allowance, an amount equal to $12,600,000. Change Order Nos. 1 through 4 did not increase the Contract’s Initial Phase Target GMP previously approved by Council. Change Order No. 5 in the amount of $17,920,551.00 establishes a GMP for the Demolition Phase of the Project and will increase the total Contract not-to-exceed amount from $12,600,000 to $30,520,551.00.

The Department of General Services (DGS – Implementing AGY) has $761,264.00 in the Deputy Mayor for Planning and Economic Development (DMPED - Owner AGY) cumulative capital budget allotment.
Fiscal Sufficiency Certification

The remaining $17,159,287 is part of the Mayor’s “proposed” DMPED FY 2020 thru FY 2025 CIP. Per the “proposed” plan, McMillan Site Development – AMS11C, will receive 17,619,591.00 in FY 2020. This amount is subject to Council and Congressional approval.

($761,264.00+$17,159,287.00=$17,920,551.00)

The SOAR/PASS funding attributes are attached/below:

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<tr>
<th>Project Name</th>
<th>Project Number</th>
<th>AY</th>
<th>Fund Detail</th>
<th>Imp AGY</th>
<th>Owner AGY</th>
<th>RQ/PO</th>
<th>Amount</th>
<th>Comments</th>
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<td>McMillan Site</td>
<td>AMS11C</td>
<td>05</td>
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<td>DGS</td>
<td>DCPS</td>
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</tr>
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<td>0300</td>
<td>DGS</td>
<td>DMPED</td>
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<td>See attached</td>
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<td>Redevelopment</td>
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<tr>
<td>Total</td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td>$17,920,551</td>
<td></td>
</tr>
</tbody>
</table>

Massimo Marchiori
Agency Fiscal Officer
Department of General Services

(Handwritten signature for MM)
MEMORANDUM

TO: Alana Intrieri  
Director, Office of Policy and Legislative Affairs

FROM: Cameron Gore  
General Counsel

SUBJECT: Legal Sufficiency Certification

Change Order No. 5 to the Agreement for Design-Build Services for McMillan Sand Filtration Site Life Safety and Historic Stabilization and Restoration  
Contract Number: DCAM-16-CS-0142  
Contractor: Gilbane Building Company

DATE: October 1, 2019

This is to certify that this Office has reviewed the above-referenced proposed Contract Change Order and has found it to be legally sufficient, subject to submission of: (i) any required materials to Council for approval; (ii) Council’s approval of the same; and (iii) a Fiscal Certification issued by the Department of General Services’ Agency Fiscal Officer.

Please feel free to contact me at (202) 727-2800 with any questions.

Cameron Gore  
General Counsel, Department of General Services
## MODIFICATION OF CONTRACT

<table>
<thead>
<tr>
<th>2. Modification Number</th>
<th>3. Effective Date</th>
<th>4. Requisition/Purchase Request No.</th>
<th>5. Caption</th>
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<tbody>
<tr>
<td>Change Order No. 5</td>
<td>See Block 16C</td>
<td>Net Applicable</td>
<td>McMillian Sand Filtration Site Life Safety and Historic Stabilization and Restoration</td>
</tr>
</tbody>
</table>

6. Issued By:  
Department of General Services  
Contracting and Procurement Division  
1250 U Street, NW 3rd Floor  
Washington, DC 20009  
Hares Sayed

8. Name and Address of Contractor (No. Street, city, county, state and ZIP Code)  
Gilbane Building Company  
1100 North Glebe Road, Suite 1000  
Arlington, VA 22201

### 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 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 1 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)

**X**

### 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.

C. This supplemental agreement is entered into pursuant to authority of:

**X**

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

Contract No. DCAM-16-CS-0142 for the McMillian Sand Filtration Site Life Safety and Historic Stabilization and Restoration is hereby modified as follows:

1. The Contract is modified to authorize additional scope of work for the Demolition Phase and to establish the final Demolition Guaranteed Maximum Price ("GMP") in the amount of Seventeen Million Nine Hundred Twenty Thousand Five Hundred Fifty One Dollars ($17,920,551.00) as described in Attachment A The Contract Not-to-Exceed Amount is therefore increased from $12,600,000.00 by $17,920,551.00 to $30,520,551.00.

2. RELEASE: It is mutually agreed that in exchange for this Change Order and other consideration, the Contractor hereby releases, waives, settles and holds the Department harmless from any and all actual or potential claims or demands for delays, disruptions, additional work, additional time, additional cost, contract extensions, compensations or liability under any theory, whether known or unknown, that the Contractor may have now or in the future against the Department arising from or out of, as a consequences or result of, relating to or in any manner connected with this Change Order, the above-referenced Project, and the Contract work.

3. All other terms and conditions remain unchanged.

15A. Name and Title of Signer (Typewritten)

15B. Name of Contractor

15C. Date Signed

16A. Name of Contracting Officer

16B. District of Columbia

16C. Date Signed

16D. Name of Contracting Officer

16E. Date Signed

16F. Name of Contracting Officer

16G. Date Signed