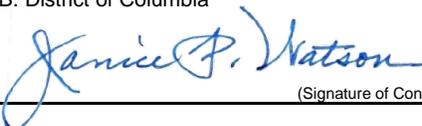


<b>AMENDMENT OF SOLICITATION / MODIFICATION OF CONTRACT</b>			1. Contract Number	Page of Pages	
				1	6
2. Amendment/Modification Number A004	3. Effective Date April 19, 2019	4. Requisition No.	5. Solicitation Caption Outside Counsel for Climate Change Litigation		
6. Issued by: Office of the Attorney General Support Services Division/Procurement Unit 441 4 <sup>th</sup> Street NW, Suite 1100 South Washington, DC 20001-2714		Code CB0JPW	7. Administered by (If other than line 6) Office of the Attorney General Public Advocacy Division 441 4 <sup>th</sup> Street NW, Suite 600 North Washington, DC 20001-2714		
8. Name and Address of Contractor (No., street, city, state and zip code)		Code	Facility Code	X	9A. Amendment of Solicitation No. <b>DCCB-2019-R-0011</b>
					9B. Dated (See Item 11) February 28, 2019
					10A. Modification of Contract/Order No.
					10B. Dated (See Item 13)
<b>11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS</b>					
<input checked="" type="checkbox"/> The above numbered solicitation is amended as set forth in item 14. The hour and date specified for receipt of Offers <input type="checkbox"/> is extended. <input checked="" type="checkbox"/> is not extended. <b>Offerors must acknowledge receipt of this amendment</b> 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 <u>one</u> copy of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or email which includes a reference to the solicitation and amendment number(s). FAILURE OF YOUR ACKNOWLEDGMENT 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 email, provided each letter or electronic communication 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)					
<b>13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACT/ORDERS. IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.</b>					
	A. This change order is issued pursuant to (Specify Authority): 27 DCMR, Chapter 36, Contract Modifications 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 data 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)				
<b>E. IMPORTANT:</b> Contractor <input type="checkbox"/> is not <input type="checkbox"/> is required to sign this document and return to the issuing office.					
14. Description of Amendment/Modification (Organized by UCF Section headings, including solicitation/contract subject matter where feasible.)  Request for Proposals No. <b>DCCB-2019-R-0011</b> for Outside Counsel for Climate Change Litigation, as amended, is hereby further amended as follows:  A. Section B.3, PRICE SCHEDULE, is revised as set forth on pages 2 and 3.  B. Sections F.1, F.2 and L.1.2 are revised as set forth on the following pages.  C. Responses to additional questions raised by prospective offerors are provided on pages 5 and 6.					
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		
			Janice Parker Watson		
15B. Name of Contractor		15C. Date Signed	16B. District of Columbia		16C. Date Signed
					4/19/2019
(Signature of person authorized to sign)				(Signature of Contracting Officer)	

**B.3 PRICE SCHEDULE - REVISED**

**B.3.1 BASE PERIOD – Nine (9) Years from Date of Award**

<b>Contract Line Item No. (CLIN)</b>	<b>Services</b>	<b>Percentage of Gross Recovery and Any Attorney’s Fee Award to District</b>	<b>Not to Exceed Total</b>
<b>0001</b>	All Legal Services as described in Section C, Statement of Work with Settlement:		
<b>0001A</b>	Prior to Discovery		<b>\$25,000,000.00</b>
<b>0001B</b>	After Commencement of Discovery, but Prior to Trial		<b>\$45,000,000.00</b>
<b>0001C</b>	After Commencement of Trial		<b>\$65,000,000.00</b>
<b>0002</b>	Reimbursable Costs	N/A	<b>Ceiling \$5,000,000.00</b>
<b>Not-to-Exceed Contract Amount</b>			<b>\$30,000,000.00 \$50,000,000.00 \$70,000,000.00</b>

**B.3.2 OPTION PERIOD ONE (1) (YEARS TEN AND ELEVEN)**

<b>Contract Line Item No. (CLIN)</b>	<b>Services</b>	<b>Percentage of Gross Recovery and Any Attorney’s Fee Award to District</b>	<b>Not to Exceed Total</b>
<b>1001</b>	All Legal Services as described in Section C, Statement of Work with Settlement:		
<b>1001A</b>	Prior to Discovery		<b>\$25,000,000.00</b>
<b>1001B</b>	After Commencement of Discovery, but Prior to Trial		<b>\$45,000,000.00</b>
<b>1001C</b>	After Commencement of Trial		<b>\$65,000,000.00</b>
<b>1002</b>	Reimbursable Costs	N/A	<b>Ceiling \$5,000,000.00</b>
<b>Not-to-Exceed Contract Amount</b>			<b>\$30,000,000.00 \$50,000,000.00 \$70,000,000.00</b>

**B.3.3 OPTION PERIOD TWO (2) (YEARS TWELVE AND THIRTEEN)**

<b>Contract Line Item No. (CLIN)</b>	<b>Services</b>	<b>Percentage of Gross Recovery and Any Attorney's Fee Award to District</b>	<b>Not to Exceed Total</b>
<b>2001</b>	All Legal Services as described in Section C, Statement of Work with Settlement:		
<b>2001A</b>	Prior to Discovery		<b>\$25,000,000.00</b>
<b>2001B</b>	After Commencement of Discovery, but Prior to Trial		<b>\$45,000,000.00</b>
<b>2001C</b>	After Commencement of Trial		<b>\$65,000,000.00</b>
<b>2002</b>	Reimbursable Costs	N/A	<b>Ceiling \$5,000,000.00</b>
<b>Not-to-Exceed Contract Amount</b>			<b>\$30,000,000.00</b> <b>\$50,000,000.00</b> <b>\$70,000,000.00</b>

**B.3.4 GRAND TOTAL**

<b>GRAND TOTAL NOT-TO-EXCEED CONTRACT AMOUNT</b>	<b>\$30,000,000.00*</b> <b>\$50,000,000.00*</b> <b>\$70,000,000.00*</b>
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**\*The Grand Total of this contract is not-to-exceed \$30,000,000.00 if settlement occurs prior to discovery, \$50,000,000.00 if settlement occurs after commencement of discovery but prior to trial, and \$70,000,000 if settlement occurs after commencement of trial. .**

**There is a single contingency fee for the total Gross Recovery regardless of whether recovery occurs in the base period or the option periods, if exercised.**

**B.3.5 REIMBURSABLE COSTS**

Reimbursable Costs may be paid under this contract. The ceiling for such costs is \$5,000,000.00, which may be modified as determined reasonable and necessary in the course of investigation and litigation. See Sections C.5.3 and G.3, COST REIMBURSEMENT CEILING.

Contractor shall be responsible for all costs and expenses incurred throughout the investigation and litigation. The District will reimburse reasonable costs and expenses only if Contractor secures monetary recovery for the District. Copies will be reimbursed at actual costs. In the event there is no recovery, the District will not owe any costs or expenses incurred by the Contractor. The District understands and agrees, however, that it may incur internal costs attributable to efforts of its own personnel in overseeing and aiding in the investigation and litigation. Any such internal costs will not be reimbursed by Contractor to the District.

If Contractor is hired for multiple matters against multiple defendants under one contract, Contractor will only be entitled to fees, costs, and expenses for a matter against a defendant that Contractor is successful in assisting the District in obtaining a recovery against, and Contractor will not be entitled to fees, costs, or expenses for any matter against a defendant where there is no recovery by the District. Notwithstanding any other provision in this agreement, in no event will the District be required to pay costs out of any fund other than monies recovered in this litigation.

**SECTION F - PERIOD OF PERFORMANCE** is revised as follows:

**F.1 TERM OF CONTRACT**

The term of the contract shall be for a base period of nine (9) years from date of award specified on the cover page of this contract or settlement of the litigation, whichever comes first.

**F.2 CONTINUATION BEYOND THE EXPIRATION OF BASE PERIOD**

- F.2.1** If the Contractor has filed a lawsuit and that lawsuit has not been decided ninety (90) days prior to the expiration of the base period (year nine) or has been decided and is subject to appeal, the District may extend the Contract for up to two (2) additional two-year option periods, 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 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. In no event shall any such extension of the Contract entitle the Contractor to additional fees.
- F.2.3** The contingent fees 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 thirteen (13) years or the life of the litigation, whichever is greater.

Section L is revised as follows:

**L.1.2 SELECTION OF NEGOTIATION PROCESS**

In accordance with 27 DCMR § 5035, after evaluation of the proposals using only the criteria stated in the RFP and in accordance with weightings provided in the RFP, the CO may elect to proceed with any method of negotiations, discussions or award of the contract without negotiations. If the CO elects to proceed with discussions, the CO may negotiate with the highest ranked Offeror in accordance with D.C. Code § 2–354.03(h)(2).

<b>Question:</b>	<b>Response:</b>
1. Section B.3 sets forth a \$1,000,000 ceiling on costs for the life of any contract issued. It further states that this ceiling “may be modified as determined reasonable and necessary in the course of investigation and litigation.” Based on our experience with comparable multi-year, complex actions involving wide-ranging discovery against a large corporate defendant and requiring retention of numerous experts, costs will exceed \$1,000,000 if the matter proposed proceeds to litigation (perhaps significantly so).	OAG is hereby raising the ceiling to \$5,000,000 over the life of the contract. See revised Section B.
2 Will OAG consider and accept an offer that proposes, and is contingent upon, an increase in the Not to Exceed amount of \$25,000,000.00 for “All Legal Services as described in Section C, Statement of Work,” if the offer were deemed most advantageous to the District?	OAG is hereby changing the not to exceed amount of legal fees to \$25,000,000 <u>prior to discovery</u> , \$45,000,000 <u>after commencement of discovery but prior to trial</u> , and \$65,000,000 <u>after commencement of trial</u> . See revised section B3.
3. Will OAG consider and accept an offer that proposes, and is contingent upon, an increase in the Not to Exceed amount of \$1,000,000.00 for “Reimbursable Costs,” if the offer were deemed most advantageous to the District?	See response to Question 1.
4. Will OAG consider and accept an offer that proposes, and is contingent upon, a term that provides for a contingency fee award based upon a calculation of the value to District of Columbia of non-monetary awards achieved through litigation, settlement or judgement, if the offer were deemed most advantageous to the District?	No.

<b>Question:</b>	<b>Response:</b>
5. Will OAG consider and accept an offer that proposes, and is contingent upon, a change in the contingency fee award calculation that provides a different recovery to the Contractor for amounts awarded as attorney fees attributable to the Contractor’s work as oppose to other monetary awards, if the offer were deemed most advantageous to the District?	No. The definition of gross recovery includes any attorney fee award. The contingency fee is taken for the gross recovery which would include a fee award.
6. Section F.2.4 states that the total duration of the contract “shall not exceed nine (9) years.” If litigation is filed and remains pending 9 years after the contract commences, will the contract automatically terminate? Is the District open to a provision under which, if litigation is filed, the term of the contract would be the full duration of the litigation?	Section F.1 is herein revised and F.2 is further amended to provide a base period of up to nine (9) years and up to two (2) additional two-year extensions.
7. Will OAG consider and accept an offer that proposes, and is contingent upon, a term that provides for a longer contract base period and option periods in view of the potential for the proposed litigation to last for a longer period of time, if the offer were deemed most advantageous to the District?	See response to Question 6.
8. We would like to propose that we be hired as co-counsel to focus on: (1) antitrust claims pursuant to D.C. and federal law (in addition to the Consumer Protection Procedures Act) and (2) settlement negotiations. I was one of the lawyers who finalized the Tobacco Master Settlement Agreement. I believe that an analogous structure can bring a similar result in the petroleum industry and that such an agreement should be explored early on. We do have sufficient funding to undertake this work on a contingent fee basis. May we submit a proposal for these services?	Proposals in response to this Solicitation must be responsive to all the requirements and will be rated and ranked as set forth in Section M. OAG does not hire co-counsel. The contract, naming the successful Offeror, will be publicly posted on the OAG website after award..