AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT

1. CONTRACT ID CODE

PAGE 1 OF PAGES 1

2. AMENDMENT/MODIFICATION NO. 0329

3. EFFECTIVE DATE See Block 16C

4. REQUISITION/PURCHASE REQ. NO.

5. PROJECT NO. *(If applicable)*

6. ISSUED BY CODE 00601

Richland Operations Office
U.S. Department of Energy
Richland Operations Office
P.O. Box 550, MSIN A7-80
Richland WA 99352

7. ADMINISTERED BY *(If other than Item 6)* CODE 00601

Richland Operations Office
U.S. Department of Energy
Richland Operations Office
P.O. Box 550, MSIN A7-80
Richland WA 99352

8. NAME AND ADDRESS OF CONTRACTOR *(No., street, county, State and ZIP Code)*

CH2M HILL PLATEAU REMEDIATION COMPANY
Attn: ROGER CORMAN
PO BOX 1600
RICHLAND WA 99352-1676

CODE 805603128 FACILITY CODE

(x) 9A. AMENDMENT OF SOLICITATION NO.

9B. DATED *(SEE ITEM 11)*

x 10A. MODIFICATION OF CONTRACT/ORDER NO. DE-AC06-08RL14788

10B. DATED *(SEE ITEM 13)* 06/19/2008

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 extended, ☐ is not extended.
Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods: (a) By completing Items 8 and 15, and returning _____ copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. 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 telegram or letter, provided each telegram or letter 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)*
See Schedule

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

CHECK ONE	
	A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: *(Specify authority)* THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.
	B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES *(such as changes in paying office, appropriation date, etc.)* SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b).
X	C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF: Clause I.102, FAR 52.243-2, Changes Cost Reimbursement
	D. OTHER *(Specify type of modification and authority)*

E. IMPORTANT: Contractor ☐ is not, ☒ is required to sign this document and return 1 copies to the issuing office.

14. DESCRIPTION OF AMENDMENT/MODIFICATION *(Organized by UCF section headings, including solicitation/contract subject matter where feasible.)*

The purpose of this Modification is to definitize change proposal 030 238 1409 submitted to RL by CHPRC on November 13, 2013, (CHPRC-1304163A R1), "100-NR-2 Aquifer Barrier Expansion." Contract Revisions are detailed on Page 2 of this modification.
Period of Performance: 06/19/2008 to 09/30/2018

Except as provided herein, all terms and conditions of the document referenced in Item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.

15A. NAME AND TITLE OF SIGNER *(Type or print)*
Vicki Bogenberger, VP Business Services

16A. NAME AND TITLE OF CONTRACTING OFFICER *(Type or print)*
J. Jeff Short

15B. CONTRACTOR/OFFEROR *(Signature of person authorized to sign)*

15C. DATE SIGNED

16B. UNITED STATES OF AMERICA *(Signature of Contracting Officer)*

16C. DATE SIGNED 3/26/14

NSN 7540-01-152-8070
Previous edition unusable

STANDARD FORM 30 (REV. 10-83)
Prescribed by GSA
FAR (48 CFR) 53.243

SF30 BLOCK 14 CONTINUATION:

B. Based on negotiations of CHPRC's cost proposal CP 030 238 1409 Aquifer Barrier Expansion, the below negotiated cost and fee are hereby established:

Cost:	$ 5,400,000
Fee:	$ 240,000
Total:	$ 5,640,000

C. The above cost ($5,400,000) will be added to Contract Section B, Table B.4-1, on the line item titled "CLIN 3 Estimated Contract Cost" and will be allocated over fiscal years 2014 through 2018 as shown in the table below:

FY 2014	FY 2015	FY2016	FY2017	FY2018
$2,133,661	$37,066	$81,408	$3,058,360	$89,505

D. The above Fee (240,000) will be added to Contract Section B, Table B.4-1, on the line item titled "Available Fee" and will be allocated over fiscal years as shown in the table below:

FY 2014	FY 2015	FY2016	FY2017	FY2018
	$100,000		$140,000	

The completion criterion for earning this fee is as follows:

1. Performance Measures (PM) FY2015 ($100,000):
   a. Objective: "Complete 500 ft 100-NR-2 aquifer zone barrier expansion and demobilization by 3/31/15 in accordance with the specifications in the interim 100-NR-2 RD/RAWP Rev. 0, as amended by TPA change Notice(s)."
   b. PM Criteria: "The Contractor will provide a performance measure completion notice to assess performance versus the metrics outlined in the interim 100-NR-2 RD/RAWP Rev. 0, as amended by TPA change notice(s). This will include appropriate field-related production materials (e.g. volume injected, total gallons, number of locations, etc.)."

2. PM FY2017 ($140,000):
   a. Objective: "Complete 900 feet of 100-NR-2 barrier reinjection and demobilization by 9/28/17 in accordance with the specifications in the interim 100-NR-2 RD/RAWP Rev. 0, as amended by TPA change Notice(s)."
   b. PM Criteria: "The Contractor will provide a performance measure completion notice to assess performance versus the metrics outlined in the interim 100-NR-2 RD/RAWP Rev. 0, as amended by TPA change notice(s). This will include appropriate field-related production materials (e.g. volume injected, total gallons, number of locations, etc.)."

3. The above PMs will be incorporated into the Contract Section J, Attachment J.4 "Performance Evaluation and Measurement Plan," Performance Measures Table, <u>in a future Contract modification</u>.

E. In accordance with Contract Clause B.14, a commensurate amount of workscope is hereby moved from Table B.4-1 to Table B.4-2 (CLIN 7). Consistent with existing practice, the amount transferred to CLIN 7 does not include general and administrative expense which was part of the above negotiated cost. Accordingly, the parties agree to move $4,325,262 from Table B.4-1, line titled "CLIN 3 Estimated Contract Cost," fiscal years 2017 and 2018 (see below); to CLIN 7, line titled "Total Contract Cost." This workscope is identified as work breakdown structure no. 030.03.11.01, "Decommissioning Non-Tank Farm Wells."

FY 2014	FY 2015	FY2016	FY2017	FY2018
			$3,564,262	$761,000

F. In accordance with Contract Clause B.14, fee in the amount of $240,000 is hereby moved from Table B.4-1 "Available Fee," column titled "FY 2018," to Table B.4-2 (CLIN 7), line titled "Total Available Fee."

G. A redline/strikeout copy of Tables B.4-1 and B.4-2 are attached to demonstrate the above revisions. Note that the starting values for the revisions to Table B.4-1 and B.4-2 are from Modification No. 326.

H. Replacement Contract pages B-7 and B-8 are attached to this modification.

I. This modification does not obligate additional funds to the contract. Accordingly, work under the contract, such as that described herein, must be performed within the amount of funds which have been incrementally allotted to the contract in accordance with Clause I.81 - FAR 52.232-22 - Limitation of Funds (Apr 1984).

J. Contractor Statement of Release: In consideration of the modification agreed to herein as complete equitable adjustment for CHPRC Change Proposal CP 030 238 1409, the Contractor hereby releases the Government from any and all liability under this contract for further equitable adjustment attributable to such facts or circumstances giving rise to CHPRC Change Proposal CP 030 238 1409.

There are no other changes to the terms and conditions of the contract.

End of Modification 329

Table B.4-1, Contract Cost and Contract Fee

Contract Period	Element	FY 2008					
Transition Period	Estimated Contract Cost	$3,307,735					
Base Period		**FY 2009**	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**	**Total Base Period**
CLIN 1	Estimated Contract Cost	$264,907,169	$194,150,760	$199,658,737	$191,649,688	$192,616,918	$1,042,983,272.09
CLIN 2	Estimated Contract Cost	$64,388,719	$45,606,756	$26,441,959	$68,039,035	$53,219,749	$257,696,218
CLIN 3	Estimated Contract Cost	$93,042,127	$88,062,385	$96,403,918	$66,781,356	$129,232,811	$473,522,598
CLIN 4	Estimated Contract Cost	$0	$0	$0	$0	$0	$0
CLIN 5	Estimated Contract Cost	$69,188,987	$77,325,292	$104,808,485	$83,428,750	$34,029,971	$368,781,486
Total Base Period	Estimated Contract Cost	$491,527,003	$405,145,192	$427,313,099	$409,898,830	$409,099,450	$2,142,983,574
	Available Fee	$22,875,910	$19,412,118	$17,852,099	$18,134,034	$14,092,235	$96,040,685
	Contract Price	$514,402,913	$424,557,310	$445,165,198	$428,032,863	$423,191,684	$2,239,024,258
CLIN 6	Estimated Contract Cost	$158,591,307	$554,872,119	$574,791,707	$18,789,227	$0	$1,307,044,360
Total Recovery Act	Estimated Contract Cost	$158,591,307	$554,872,119	$574,791,707	$18,789,227	$0	$1,307,044,360
	Available Fee	$3,771,414	$15,852,276	$52,847,425	$0	$0	72,471,115
	Contract Price	$162,362,721	$570,724,395	$627,639,132	$18,789,227	$0	$1,379,515,475
Total Base Period including Recovery Act	Estimated Contract Cost	$650,118,310	$960,017,310	$1,002,104,807	$428,688,057	$409,099,450	$3,450,027,934
	Available Fee	$26,647,324	$35,264,395	$70,699,523	$18,134,034	$14,092,235	$168,511,800
	Contract Price	$676,765,634	$995,281,705	$1,072,804,330	$446,822,090	$423,191,684	$3,618,539,733
Option Period		**FY 2014**	**FY 2015**	**FY 2016**	**FY 2017**	**FY 2018**	**Total Option Period**
CLIN 1	Estimated Contract Cost	$198,262,977	$202,207,607	$204,495,068	$202,604,730	$181,853,250	$989,423,632
CLIN 2	Estimated Contract Cost	$54,888,220	$47,340,956	$18,594,618	$0	$0	$120,823,794
CLIN 3	Estimated Contract Cost	$145,042,267 ~~$142,908,606~~	$146,372,323 ~~$146,335,257~~	$164,932,609 ~~$164,851,201~~	$122,153,356 ~~$122,659,257~~	$132,593,805 ~~$133,265,300~~	$711,094,360 ~~$710,019,621~~
CLIN 4	Estimated Contract Cost	$0	$0	$6,100,299	$20,366,263	$17,059,249	$43,525,811
CLIN 5	Estimated Contract Cost	$33,345,793	$32,605,226	$46,592,653	$18,610,813	$18,964,074	$150,118,559
Total Option Period	Estimated Contract Cost	$431,539,257 ~~$429,405,596~~	$428,526,112 ~~$428,489,046~~	$440,715,246 ~~$440,633,838~~	$363,735,161 ~~$364,241,063~~	$350,470,379 ~~$351,141,873~~	$2,014,986,155 ~~$2,013,911,417~~
	Available Fee	$13,110,000	$11,368,400 ~~$11,270,000~~	$12,000,000	$10,761,950 ~~$10,620,350~~	$12,540,000 ~~$12,780,000~~	$59,985,350
	Contract Price	$442,515,596	$439,759,046	$452,633,838	$374,861,413	$363,921,873	$2,073,896,767
Total: Transition, Base & Option Periods	Total Contract Cost	$5,468,321,824 ~~$5,467,247,086~~					
	Total Available Fee	$228,497,150					
	Total Contract Price	$5,696,818,974 ~~$5,695,744,235~~					

Table B.4-2, Deferred Work		
CLIN 7	**Total Contract Cost**	$1,274,470,681 ~~$1,270,145,419~~
	Total Available Fee	$45,840,135 ~~$45,600,135~~
Total: Base & Option Periods	**Total Contract Price**	$1,320,310,816 ~~$1,315,745,554~~

TOTAL ESTIMATED VALUE		
All CLINs	**Total Estimated Cost**	$6,742,792,505 ~~$6,737,392,504~~
Total: Base & Option Period and Deferred Work	**Total Estimated Fee**	$274,337,285 ~~$274,097,285~~
	Total Contract Value	$7,017,129,790 ~~$7,011,489,789~~

B.5 CHANGES TO CONTRACT COST AND CONTRACT FEE

(a) Funding.

(1) DOE intends to obligate funding to the Contract in accordance with the *Contract Price* shown by fiscal year in Table B.4-1, *Contract Cost and Contract Fee.* The Contractor shall not be entitled to an equitable adjustment to *Available Fee* if the obligated funding by fiscal year is within 10% of the amount shown in Table B.4-1.

(2) If DOE does not obligate funding within the parameters detailed in paragraph (a)(1) above, the Contracting Officer may initiate a change or consider a request for an equitable adjustment to the *Contract Price*, and/or Schedule in accordance with the Section I Clause entitled, *FAR 52.243-2, Changes – Cost Reimbursement, Alternates II, III, and IV.*

(b) Performance Risk.

(1) Changes to *Total Available Fee* will accurately reflect the corresponding changes to the Contract with respect to performance risk as determined by DEAR 915.404-4-70, *DOE Structured Profit and Fee System*, and implementation by the profit-analysis factors defined in FAR 15.404-4, *Profit.* Accordingly, changes to the Contract resulting in an increase or decrease to the Contractor's performance risk as defined in FAR 15.404-4(d)(1), shall cause a proportionate increase or decrease to the *Total Available Fee.*

(2) If performance risk changes, the Contracting Officer may initiate a change or consider a request for equitable adjustment to *Contract Price* and/or Schedule in accordance with the Section I Clause entitled, *FAR 52.243-2, Changes – Cost Reimbursement, Alternates II, III, and IV.*

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TOTAL ESTIMATED VALUE		
All CLINs	**Total Estimated Cost**	$6,742,792,505
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Total: Base & Option Period and Deferred Work	**Total Contract Value**	$7,017,129,790

B.5 CHANGES TO CONTRACT COST AND CONTRACT FEE

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(2) If DOE does not obligate funding within the parameters detailed in paragraph (a)(1) above, the Contracting Officer may initiate a change or consider a request for an equitable adjustment to the *Contract Price*, and/or Schedule in accordance with the Section I Clause entitled, *FAR 52.243-2, Changes – Cost Reimbursement, Alternates II, III, and IV.*

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(2) If performance risk changes, the Contracting Officer may initiate a change or consider a request for equitable adjustment to *Contract Price* and/or Schedule in accordance with the Section I Clause entitled, *FAR 52.243-2, Changes – Cost Reimbursement, Alternates II, III, and IV.*

PART I – THE SCHEDULE

SECTION B

SUPPLIES OR SERVICES AND PRICES/COSTS

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B.1 TYPE OF CONTRACT

This is a performance-based Cost-Plus-Award Fee Contract to continue the environmental clean-up of select portions of the U.S. Department of Energy (DOE) Hanford Site. The Contractor has the responsibility for determining the specific methods and approaches for accomplishing the identified work. This Contract applies performance-based contracting approaches and expects the Contractor to implement techniques that emphasize safe, efficient, and measurable results.

B.2 ITEM(S) BEING ACQUIRED

(a) The Contractor shall, in accordance with the terms of this Contract, provide the personnel, materials, supplies, and services and do all things necessary for, or incident to, providing its best efforts to perform all requirements of this Contract.

(b) The Contract consists of six (6) Contract Line Items authorized in accordance with the Section B Clause entitled, *DOE Authorization of Work*:

(1) *Contract Line Item Number (CLIN) 1*:

(i) Waste Treatment and Disposal. Perform activities necessary for safe and secure underwater storage of cesium and strontium capsules, and storage of spent nuclear fuel (SNF); liquid waste storage and treatment; waste storage and disposal; and overall facility operations;

(ii) Groundwater/Vadose Zone Project. Perform groundwater and ecological sampling and monitoring, well installation, well maintenance, borehole logging;

(iii) Facility and Waste Site Minimum-safe/Surveillance and Maintenance (S&M). Perform activities necessary for Hanford Site structures and waste sites identified in the Section J Attachment entitled, *Supplemental Work Description Tables*; and

(iv) Fast Flux Test Facility (FFTF). Maintain FFTF in a safe and compliant manner and perform near-term shutdown activities.

(2) *CLIN 2:*

Plutonium Finishing Plant (PFP) Closure. Provide safe and compliant storage of special nuclear material (SNM) at PFP until it has been removed from the PFP complex; operate and maintain the PFP facilities and associated waste sites, structures, operating systems and equipment, and monitoring systems in a safe, compliant, and energy-efficient manner within the authorization envelope; maintain radiological control and access control to ensure personnel safety; remove SNM from PFP and transport to an assigned location; demolish PFP complex facilities to slab-on-grade condition; and prepare, package, and disposition waste streams, as required.

(3) *CLIN 3:*

(i) Waste Treatment and Disposal. Perform low level waste (LLW) and mixed low level waste (MLLW) treatment, transuranic (TRU) waste certification support, waste retrieval;

(ii) Groundwater, Soil, and Facility Regulatory/Other Decision Documents. Characterize assigned waste sites and facilities, complete analysis of remediation options, and prepare required regulatory and other decision documents necessary to implement remedial actions;

(iii) Groundwater/Vadose Zone Project. Perform on-going and new remedy operations including 200 West pump & treat start-up, operations and maintenance, and well decommissioning;

(iv) Operate the Environmental Restoration Disposal Facility (ERDF);

(v) Geographical Zone Remediation. Remediate U Plant and Non-Radioactive Dangerous Waste Landfill (NRDWL)/BC Control geographical zones; and

(vi) Updated estimates-to-complete for high priority activities.

(4) *CLIN 4:*

(i) Remediate and close other specified geographical zones;
(ii) Transfer cesium and strontium capsules from Waste Encapsulation and Storage Facility (WESF) to dry storage; and

(iii) Design and construct alternate transuranic package transporter (TRUPACT) loadout capability.

(5) *CLIN 5:*

100 K Area. Maintain the 100K Area in a safe and compliant manner; dewater K East Basin; demolish K East Basin; place K East reactor in an interim safe storage (ISS) configuration, and remediate and close selected portions of the 100K Area.

(c) The Section J Attachment entitled, *Supplemental Work Description Tables,* provides additional definition of the workscope in each CLIN.

(d) *CLIN 6:*

The contractor shall, in accordance with the terms of this contract, provide the personnel, materials, supplies, and services and do all things necessary for, or incident to, providing its best efforts to perform the Recovery Act work. The work, as identified by activities to be performed under the following WBS elements, is assigned to CLIN 6, as shown in Table B.4-1, *Contract Cost and Contract Fee*:

(1) WBS 011, Nuclear Material Stabilization and Disposition PFP:

(i) Disposition process equipment, glove boxes, and laboratory hoods from 234-5Z facility,

(ii) Disposition low-level and TRU waste, and

(iii) Prepare ancillary facilities for demolition.

(2) WBS 013, Solid Waste Stabilization and Disposition:

(i) Continue retrieving and re-packaging contact handled Transuranic (TRU) waste,

(ii) Initiate retrieval and disposition of remote-handled TRU waste (including large package waste),

(iii) Continue building backlog of waste for shipments to the Waste Isolation Pilot Plant, and begin shipping in March 2010,

(iv) Support installation and utilization by the Central Characterization Project of a High Energy Real Time Radiography unit at the Hanford site,

(v) Continue treatment of current backlog of legacy mixed, low-level waste,

(vi) Complete activities required to support disposition and deliver plutonium 238 drums to shipper,

(vii) Prepare and submit analysis/recommendations for wastes with uncertain disposition path including strontium and cesium capsules; initiate disposition of these wastes as directed by DOE, and

(viii) Support increased disposal capabilities at the Environmental Restoration Disposal Facility and Integrated Disposal Facility.

(3) WBS 030, Soil and Groundwater Remediation, Groundwater/Vadose Zone:

(i) Accelerate construction of the pump and treat facility, expand current pump and treat operations, and install additional wells in the 100 D/H Areas,

(ii) Accelerate construction of the pump and treat system for groundwater contaminants in both 200 West Area operable units,

(iii) Accelerate completion of remedial investigations, treatability tests, cleanup decisions, and groundwater well decommissioning in the Central Plateau Area, and

(iv) Continue groundwater remediation and well drilling to support overall reduction of active clean-up of the Hanford Site

(4) WBS 040, Nuclear Facility D&D - Remainder of Hanford:

(i) 200 North Area:

(A) Demolish spent fuel transfer storage facilities,

(B) Remediate waste sites, and

(C) Dispose of locomotive and rail cars.

(ii) Complete cleanup of B/C Control Area,

(iii) Initiate remediation of other waste sites in the Central Plateau,

(iv) U Plant Zone:

(A) Demolish 5 remaining ancillary facilities,

(B) Disposition Cell 30 tank contents, and

(C) Clear canyon deck and grout-fill cells.

(v) Complete demolition of up to 15 facilities in the Central Plateau Inner Zone,

(vi) Prepare and submit an evaluation of utilization of a landfill for non-hazardous waste debris,

(vii) Complete demolition of DOE facilities and clean-up debris areas on the Arid Lands Ecology Reserve, and

(viii) Complete remediation activities for North Slope and prepare applicable closure documentation for ALE and North Slope.

(ix) Disposition near-term personnel hazards associated with asbestos.

(5) WBS 041, Nuclear Facility D&D – River Corridor, 100 K Area:

(i) Remediate waste sites along the river in the 100 K Area,

(ii) Accelerate D&D of 100 K ancillary facilities,

(iii) Accelerate 100 K waste site remediation,

(iv) Complete Reactor disposition study/engineering, and

(v) Accelerate ISS of both reactors 105KE and 105KW and initiate preparations for 105KE disposition.

(e) *CLIN 7*: Table, B.4-2, *Deferred Work*, contains estimated cost and fee of previously

priced work scope for which there is insufficient funding and accordingly is not authorized pursuant to the clause of this section entitled, *DOE Authorization of Work.* Activities include:

(1) *Hanford Federal Facility Agreement and Consent Order* (also known as the Tri-Party Agreement (TPA)) Milestone M-91 upgrades to T Plant;

(2) Expand and install closure barriers at the Environmental Restoration Disposal Facility (ERDF);

(3) 618-10 and 618-11 Burial Grounds. Initiate and complete field remediation and other waste disposition activities for the 618-10 and 618-11 burial grounds, in the event that these activities are not completed under the River Corridor Closure Contract;

(4) Remediate and close specified waste sites, structures, and geographical zones;

(5) Design the Fuel Preparation Facility;

(6) Complete procurement, construction, and acceptance testing of the K Basin Sludge Treatment System; treatment of K Basin sludge; demolish K West basin, place K West reactor in an ISS configuration, and selected activities related to remediation and closure of the remainder of the 100K Area ;

(7) Selected decision document activities;

(8) *S*elected Waste Treatment and Disposal activities for transuranic (TRU) waste certification support, waste retrieval; and

(9) *S*urface and geophysical logging portion of selected groundwater monitoring activities and remedies.

Performance parameters and metrics and the crosswalk of these work activities to the applicable subsection of Section C, Statement of Work, is provided in the Section J Attachment entitled, *Supplemental Work Description Tables.*

B.3 OBLIGATION AND AVAILABILITY OF FUNDS

(a) Obligation of Funds. Pursuant to the Section I Clause entitled, FAR 52.232-22, Limitation of Funds, total funds in the amount of $2,311,166,214.61 have been allotted for obligation and are available for payment of services provided from the effective date of this Contract through April 10, 2014.

(b) Pursuant to the clause in Section I, entitled “Limitation of Funds,” total funds in the amount of $1,375,998,168.34 are obligated herein and made available for payment of allowable costs and fee earned related only to the Recovery Act work from the effective date of modification A037 through the period of performance for the Recovery Act work, contained in Section F.

B.4 CONTRACT COST AND CONTRACT FEE

This Section establishes the estimated Total Contract Cost and Contract Fee. Within Table B.4-1:

(a) *Contract Period* is defined as the *Transition Period, Base Period*, and *Option Period* (if exercised) described in the Section F Clause entitled, *Period of Performance.*

(b) Estimated *Contract Cost* is defined as all costs initially proposed by the Contractor.

(c) *Available Fee* is defined as the maximum amount of fee that may be earned under the Contract by Contract period.

(d) *Contract Price* in Table B.4-1 is the sum of Estimated *Contract Cost* and *Available Fee,* in each year of Contract performance.

(e) *Total Contract Cost* is defined as the cumulative Estimated *Contract Cos*t for all Contract periods.

(f) *Total Available Fee* is defined as the cumulative *Available Fee* for all Contract periods.

(g) *Total Contract Price* is defined as the sum of *Total Contract Cost* and *Total Available Fee.*

(h) *Contract Line Item Number (CLIN)* references a specific category of work as defined in the Section C, *Statement of Work*. Proposed costs shall be appropriately categorized into the individual CLINs in Table B.4-1.

(i) Estimated *Contract Cost, Contract Price, and Available Fee* by Fiscal Year and by CLIN will be adjusted annually by the Contracting Officer upon approval of the *Performance Measurement Baseline,* and whenever changes affecting the table are made under the Section I Clause entitled, *Changes – Cost Reimbursement*.

Amounts are rounded to whole dollars. Individual rows may not add precisely due to rounding. Table B.4-1 *Available Fee* rows by period (Base/Option) will not add precisely until all fee is distributed within the specified period. Unallocated *Available Fee* by period is shown in the Section J Attachment entitled, *Performance Evaluation and Measurement Plan*.

Table B.4-1, Contract Cost and Contract Fee							
Contract Period	**Element**	**FY 2008**					
Transition Period	**Estimated Contract Cost**	$3,307,735					
Base Period		**FY 2009**	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**	**Total Base Period**
CLIN 1	**Estimated Contract Cost**	$264,907,169	$194,150,760	$199,658,737	$191,649,688	$192,616,918	$1,042,983,272.09
CLIN 2	**Estimated Contract Cost**	$64,388,719	$45,606,756	$26,441,959	$68,039,035	$53,219,749	$257,696,218
CLIN 3	**Estimated Contract Cost**	$93,042,127	$88,062,385	$96,403,918	$66,781,356	$129,232,811	$473,522,598
CLIN 4	**Estimated Contract Cost**	$0	$0	$0	$0	$0	$0
CLIN 5	**Estimated Contract Cost**	$69,188,987	$77,325,292	$104,808,485	$83,428,750	$34,029,971	$368,781,486
Total Base Period	**Estimated Contract Cost**	$491,527,003	$405,145,192	$427,313,099	$409,898,830	$409,099,450	$2,142,983,574
	Available Fee	$22,875,910	$19,412,118	$17,852,099	$18,134,034	$14,092,235	$96,040,685
	Contract Price	$514,402,913	$424,557,310	$445,165,198	$428,032,863	$423,191,684	$2,239,024,258
CLIN 6	**Estimated Contract Cost**	$158,591,307	$554,872,119	$574,791,707	$18,789,227	$0	$1,307,044,360
Total Recovery Act	**Estimated Contract Cost**	$158,591,307	$554,872,119	$574,791,707	$18,789,227	$0	$1,307,044,360
	Available Fee	$3,771,414	$15,852,276	$52,847,425	$0	$0	72,471,115
	Contract Price	$162,362,721	$570,724,395	$627,639,132	$18,789,227	$0	$1,379,515,475
Total Base Period including Recovery Act	**Estimated Contract Cost**	$650,118,310	$960,017,310	$1,002,104,807	$428,688,057	$409,099,450	$3,450,027,934
	Available Fee	$26,647,324	$35,264,395	$70,699,523	$18,134,034	$14,092,235	$168,511,800
	Contract Price	$676,765,634	$995,281,705	$1,072,804,330	$446,822,090	$423,191,684	$3,618,539,733
Option Period		**FY 2014**	**FY 2015**	**FY 2016**	**FY 2017**	**FY 2018**	**Total Option Period**
CLIN 1	**Estimated Contract Cost**	$198,262,977	$202,207,607	$204,495,068	$202,604,730	$181,853,250	$989,423,632
CLIN 2	**Estimated Contract Cost**	$54,888,220	$47,340,956	$18,594,618	$0	$0	$120,823,794
CLIN 3	**Estimated Contract Cost**	$145,042,267	$146,372,323	$164,932,609	$122,153,356	$132,593,805	$711,094,360
CLIN 4	**Estimated Contract Cost**	$0	$0	$6,100,299	$20,366,263	$17,059,249	$43,525,811
CLIN 5	**Estimated Contract Cost**	$33,345,793	$32,605,226	$46,592,653	$18,610,813	$18,964,074	$150,118,559
Total Option Period	**Estimated Contract Cost**	$431,539,257	$428,526,112	$440,715,246	$363,735,161	$350,470,379	$2,014,986,155
	Available Fee	$13,110,000	$11,368,400	$12,000,000	$10,761,950	$12,540,000	$59,985,350
	Contract Price	$442,515,596	$439,759,046	$452,633,838	$374,861,413	$363,921,873	$2,073,896,767
Total: Transition, Base & Option Periods	**Total Contract Cost**	$5,468,321,824					
	Total Available Fee	$228,497,150					
	Total Contract Price	$5,696,818,974					

Table B.4-2, Deferred Work		
CLIN 7	**Total Contract Cost**	$1,274,470,681
	Total Available Fee	$45,840,135
Total: Base & Option Periods	**Total Contract Price**	$1,320,310,816

TOTAL ESTIMATED VALUE		
All CLINs	**Total Estimated Cost**	$6,742,792,505
Total: Base & Option Period and Deferred Work	**Total Estimated Fee**	$274,337,285
	Total Contract Value	$7,017,129,790

B.5 CHANGES TO CONTRACT COST AND CONTRACT FEE

(a) Funding.

(1) DOE intends to obligate funding to the Contract in accordance with the *Contract Price* shown by fiscal year in Table B.4-1, *Contract Cost and Contract Fee*. The Contractor shall not be entitled to an equitable adjustment to *Available Fee* if the obligated funding by fiscal year is within 10% of the amount shown in Table B.4-1.

(2) If DOE does not obligate funding within the parameters detailed in paragraph (a)(1) above, the Contracting Officer may initiate a change or consider a request for an equitable adjustment to the *Contract Price*, and/or Schedule in accordance with the Section I Clause entitled, *FAR 52.243-2, Changes – Cost Reimbursement, Alternates II, III, and IV*.

(b) Performance Risk.

(1) Changes to *Total Available Fee* will accurately reflect the corresponding changes to the Contract with respect to performance risk as determined by DEAR 915.404-4-70, *DOE Structured Profit and Fee System*, and implementation by the profit-analysis factors defined in FAR 15.404-4, *Profit*. Accordingly, changes to the Contract resulting in an increase or decrease to the Contractor's performance risk as defined in FAR 15.404-4(d)(1), shall cause a proportionate increase or decrease to the *Total Available Fee.*

(2) If performance risk changes, the Contracting Officer may initiate a change or consider a request for equitable adjustment to *Contract Price* and/or Schedule in accordance with the Section I Clause entitled, *FAR 52.243-2, Changes – Cost Reimbursement, Alternates II, III, and IV*.

B.6 BASIS FOR TOTAL AVAILABLE FEE

The cost basis for *Total Available Fee* shall be the *Total Contract Cost*, excluding:

(a) Pass-through funding provided to other contractors for Hanford Site services identified in the Section J Attachment entitled, *Hanford Site Services and Interface Requirements Matrix*;

(b) Costs associated with Work-for-Others performed under the Section I Clause entitled, *DEAR 970.5217-1, Work-for-Others Program*; and

(c) Costs associated with sponsorship, management, administration and/or contributions for any defined benefit pension plan.

Employee benefit plan costs shall be included in the *Contract Price* by fiscal year and by Contract period shown in Table B.4-1, *Contract Cost and Contract Fee*.

B.7 FEE STRUCTURE

(a) The Contracting Officer reserves the unilateral discretion to determine the amount of the *Available Fee* for the *Base Period* and *Option Period* (if exercised), for each fiscal year as described in this Clause; and as adjusted in the Section B Clause entitled, *Changes to Contract Cost and Contract Fee*. The Contractor will have the opportunity to earn 100% of the *Available Fee* within a Contract period for work authorized in accordance with the Section B Clause entitled, *DOE Authorization of Work* and as adjusted in the Section B Clause entitled, *Changes to Contract Cost and Contract Fee*.

(b) The *Available Fee* shown in Table B.4-1, *Contract Cost and Contract Fee*, can be earned through objective fee components and/or subjective fee components. The performance measures for these components and *Available Fee* for the period allocated to the fiscal year are provided in the Section J Attachment entitled, *Performance Evaluation and Measurement Plan* (PEMP). The PEMP may contain annual and multi-year performance measures.

(1) *Available Fee* for the period allocated to annual performance measures may only be earned in that fiscal year. Allocated *Available Fee* for the fiscal year not earned in the fiscal year for an annual performance measure is unavailable and not payable to the Contractor. The Contractor forfeits any rights to unearned fee. The Contracting Officer reserves the unilateral discretion to determine how any unearned fee will be utilized.

(2) *Available Fee* for the period allocated to fiscal years for multi-year performance measures may be earned incrementally or upon final fee determination. Allocated *Available Fee* not earned for a multi-year performance measure is unavailable and not payable to the Contractor. The Contractor forfeits any rights to unearned fee. The Contracting Officer reserves the unilateral discretion to determine how any unearned fee will be utilized.

(3) *Provisional Fee* is defined as *Available Fee* that is paid contingently during an annual performance period. *Provisional Fee* may become earned fee upon the final fee determination.

(4) *Incremental Fee* is defined as *Available Fee* that the Contractor may earn by achieving a specific, fee-bearing, performance measure event.

(5) Individual performance measures may require the Contractor to exceed approved baseline performance to earn 100% of the fee allocated to that performance measure.

(c) The Contracting Officer will prepare and issue performance measures prior to the start of each fiscal year. The Contracting Officer may provide draft performance measures for Contractor review and input; however, the Contracting Officer reserves the unilateral discretion to issue the performance measures without Contractor review.

B.8 FEE DETERMINATION AND PAYMENT

(a) Fee earned under this Contract will be paid in accordance with the specific criteria defined in the PEMP and the Clauses in Section B. Monthly provisional payments of fee may be authorized by the Contracting Officer and will be made in accordance with paragraph (b) of this Clause.

(b) For annual performance measures that do not have specific, incremental, fee-bearing performance measure events, the Contractor may request Contracting Officer approval to execute a monthly draw of *Provisional Fee* payments from the Special Financial Institution Account. The Contractor may request a monthly *Provisional Fee* payment of up to 7.5% of fee allocated to such performance measures, subject to a maximum payment of 80% of fee allocated to such performance measures, and also subject to withholding by DOE as described in paragraphs (e) and (f) of this Clause.

(c) The Contractor shall request Contracting Officer acceptance of a specific, incremental, fee-bearing performance measure event. Following Contracting Officer acceptance of a specific, incremental, fee-bearing performance measure event, the Contractor may request Contracting Officer approval to execute a draw of *Incremental Fee* from the Special Financial Institution Account, subject to withholding by the Contracting Officer as described in paragraphs (e) and (f) of this Clause and the Section B Clause entitled, *Fee Reductions*.

(d) At the end of each year of Contract performance, the Fee Determining Official will make a final *Fee Determination* using the PEMP described in the Section B Clause entitled, *Fee Structure*. In the event that fee overpayment results from the *Provisional Fee* payments provided for in this Clause, the Contractor shall reimburse the unearned fee overpayment within 30 days of notification, to the Contracting Officer payable with interest in accordance with the Section I Clause entitled, *FAR 52.232-17*, *Interest*.

(e) Withholding of *Incremental* and *Provisional Fee* Payments for adverse Contract Performance.

(1) Withholding of *Incremental* and *Provisional Fee* Payments. If the Contractor demonstrates adverse performance, the Contracting Officer reserves the unilateral discretion to withhold *Incremental* and *Provisional Fee* Payments. Withheld Fee Payments are not subject to interest for the amount(s) of the withheld fee payment(s) under 5 CFR 1315, *Prompt Payment.*

(2) Release of Withheld *Incremental* and *Provisional Fee* Payments. The Contracting Officer may release withheld *Incremental* and *Provisional Fee* Payments and resume making *Incremental* and *Provisional Fee* Payments when the Contractor demonstrates sustained recovery in performance.

(f) Withholding of *Incremental* and *Provisional Fee* Payments for bankruptcy or other issues with guarantor company(ies)[1].

(1) Withholding of *Incremental* and *Provisional Fee*. In order to assure the Contractor's ability to repay any *Incremental* and *Provisional Fee* Payments that are determined to be in excess of the total fee earned, the Contracting Officer reserves the unilateral discretion to discontinue *Incremental* and *Provisional Fee* payments, in the event that a guarantor company files bankruptcy, is acquired by other owners, or impacted by other events that arise with the Contractor's guarantor company(ies) that can jeopardize DOE's ability to recover excess *Incremental Payment* and *Provisional Fee* Payments. Withheld Fee Payments are not subject to interest for the amount(s) of the withheld fee payment(s) under 5 CFR 1315, *Prompt Payment.*

(2) Release of Withheld *Incremental* and *Provisional Fee* Payments. Following receipt of evidence that bankruptcy or other issues do not affect the ability of the Contractor to continue to perform the obligations under the Contract, the Contracting Officer may release all *Incremental* and *Provisional Fee* Payments and resume making *Incremental* and *Provisional Fee* Payments.

B.9 FEE REDUCTIONS

(a) All earned fee in each year of Contract performance is subject to reductions imposed by the terms and conditions of this Contract, including, but not limited to:

(1) Section B Clause entitled, *Fee Determination and Payment*;

(2) Section B Clause entitled, *Small Business Subcontracting Fee Reduction*;

(3) Section B Clause entitled, *DEAR 970.5215-3, Conditional Payment of Fee, Profit, and Other Incentives – Facility Management Contracts (Alternate II) [DEVIATION]*;

(4) Section B Clause entitled, *Conditional Payment of Fee (CPOF) DOE Richland Operations Office Site-Specific Performance Criteria/Requirements*;

[1] Guarantor Company(ies) is defined as the company(ies) executing the performance guarantee (s) in Section H Clause entitled, *Performance Guarantee Agreement.*

(5) Section E Clause entitled, *FAR 52.246-3, Inspection of Supplies – Cost Reimbursement*;

(6) Section E Clause entitled, *FAR 52.246-5, Inspection of Services – Cost Reimbursement*;

(7) Section H Clause entitled, *Key Personnel*;

(8) Section I Clause entitled, *FAR 52.203-10, Price or Fee Adjustment for Illegal or Improper Activity;*

(9) Section I Clause entitled, *FAR 52.215-11, Price Reduction for Defective Cost or Pricing Data – Modifications;*

(10) Section I Clause entitled, *FAR 52.215-13, Subcontractor Cost or Pricing Data – Modifications; and*

(11) Section I *Clause* entitled, *FAR 52.243-2, Changes – Cost Reimbursement.*

(b) The maximum fee reduction in any one (1) year of Contract performance is the allocated *Available Fee*, as defined in the Section J Attachment entitled, *Performance Evaluation and Measurement Plan*, that can be earned in the year the event occurred.

B.10 SMALL BUSINESS SUBCONTRACTING FEE REDUCTION

(a) For the purpose of implementing this Clause, the percentage goals established in the Section J Attachment entitled, *Small Business Subcontracting Plan*, will remain in effect for the duration of the Contract, except as modified in accordance with the Section B Clause entitled, Changes to *Contract Cost and Contract Fee*. The Contractor shall submit annual updates to the narrative elements of the *Small Business Subcontracting Plan* by December 31 of each year.

(b) The Contractor's performance in meeting small business performance percentage goals in accordance with the Section H Clause entitled, *Self-Performed Work*, providing meaningful involvement for small businesses, and entering into the required Mentor-Protégé Agreement(s), will be evaluated after the:

(1) Three year period concluding at the end of the 3rd year of Contract performance;

(2) Two year period concluding at the end of the 5th year of Contract performance; and, if the *Option Period* is exercised;

(3) If the *Option Period* is exercised – two year period concluding at the end of the 7th year of Contract performance; and

(4) At the end of the Contract period of performance.

(c) The Contracting Officer will consider the Contractor's performance in meeting small business percentage goals and entering into the required Mentor-Protégé Agreement(s) when making a decision on the *Option Period* authorization.

(d) If the Contractor has not met any or all of the subcontracting goals, has failed to provide meaningful involvement for small business, and/or has failed to enter into the required Mentor-Protégé Agreement(s) during the above specified periods, the Contracting Officer may reduce the earned fee by an amount up to 10% of total earned fee in each period of the four (4) multi-year periods described above.

(e) At Contract completion, the total amount of fee reduction for failure to meet its subcontracting goals shall be offset by any amount of liquidated damages assessed in accordance with the Section I Clause entitled, *FAR 52.219-16*, *Liquidated Damages – Subcontracting Plan*. The fee reduction amount will be a unilateral determination by the Contracting Officer and a permanent reduction in the earned fee under this Contract.

(f) Any reduction for failure to meet the requirements of the Section H Clause entitled, *Mentor-Protégé Program,* shall be in addition to any liquidated damages assessed in accordance with the Section I Clause entitled, *FAR 52.219-16*, *Liquidated Damages – Subcontracting Plan*. The fee reduction amount will be a unilateral determination by the Contracting Officer and a permanent reduction in the earned fee under this Contract.

B.11 ALLOWABILITY OF SUBCONTRACTOR FEE

(a) If the Contractor is part of a teaming arrangement as described in FAR Subpart 9.6, *Contractor Team Arrangements,* the team shall share in the *Total Available Fee* as shown in Table B.4-1. Separate additional subcontractor fee is not an allowable cost under this Contract for individual team members, or for a subcontractor, supplier, or lower-tier subcontractor that is a wholly-owned, majority-owned, or affiliate of any team member.

(b) The subcontractor fee restriction in paragraph (a) does not apply to members of the Contractor's team that are: (1) small business(es); (2) Protégé firms as part of an approved Mentor-Protégé relationship under the Section H Clause entitled, *Mentor-Protégé Program*; (3) subcontractors under a competitively awarded firm-fixed price or firm-fixed unit price subcontract; or (4) commercial items as defined in FAR Subpart 2.1, *Definitions of Words and Terms*.

B.12 DEAR 970.5215-3, CONDITIONAL PAYMENT OF FEE, PROFIT, AND OTHER INCENTIVES – FACILITY MANAGEMENT CONTRACTS (ALTERNATE II) (JAN 2004) [DEVIATION]

(a) General.

(1) The payment of earned fee, fixed fee, profit, or share of cost savings under this Contract is dependent upon:

(i) The Contractor's or contractor employees' compliance with the terms and conditions of this Contract relating to environment, safety, health and quality (ESH&Q), which includes worker safety and health, including performance under an approved Integrated Safety Management System (ISMS); and

(ii) The Contractor's or contractor employees' compliance with the terms and conditions of this Contract relating to the safeguarding of Restricted Data and other classified information.

(2) The ESH&Q performance requirements of this Contract are set forth in its ESH&Q terms and conditions, including the DOE-approved Contractor ISMS or similar document. Financial incentives for timely mission accomplishment or cost effectiveness shall never compromise or impede full and effective implementation of the ISMS and full ESH&Q compliance.

(3) The performance requirements of this Contract relating to the safeguarding of Restricted Data and other classified information are set forth in the Section I Clause entitled, *FAR 52.239-1, Privacy or Security Safeguards (AUG 1996)*, and *DEAR 970.5204-2, Laws, Regulations, and DOE Directives*, as well as in other terms and conditions.

(4) If the Contractor does not meet the performance requirements of this Contract relating to ESH&Q or to the safeguarding of Restricted Data and other classified information during any performance evaluation period established under the Contract, otherwise earned fee, fixed fee, profit or share of cost savings may be unilaterally reduced by DOE.

(b) Reduction Amount.

(1) The amount of earned fee, fixed fee, profit, or share of cost savings that may be unilaterally reduced will be determined by the severity of the performance failure pursuant to the degrees specified in paragraphs (c) and (d) of this Clause.

(2) If a reduction of earned fee, fixed fee, profit, or share of cost savings is warranted, unless mitigating factors apply, such reduction shall not be less than 26% nor greater than 100% of the amount of earned fee, fixed fee, profit, or the Contractor's share of cost savings for a first degree performance failure, not less than 11% nor greater than 25% for a second degree performance failure, and up to 10% for a third degree performance failure.

(3) In determining the amount of the reduction and the applicability of mitigating factors, DOE will consider the Contractor's overall performance in meeting the ESH&Q or security requirements of the Contract. Such consideration will include performance against any site specific performance criteria/requirements that provide additional definition, guidance for the amount of reduction, or guidance for the applicability of mitigating factors. In all cases, DOE will consider mitigating factors that may warrant a reduction below the applicable range (see *48 CFR 970.1504-1-2*). The mitigating factors include, but are not limited to, the following ((v), (vi), (vii) and (viii) apply to ESH&Q only).

(i) Degree of control the Contractor had over the event or incident.

(ii) Efforts the Contractor had made to anticipate and mitigate the possibility of the event in advance.

(iii) Contractor self-identification and response to the event to mitigate impacts and recurrence.

(iv) General status (trend and absolute performance) of: ESH&Q and compliance in related areas; or of safeguarding Restricted Data and other classified information and compliance in related areas.

(v) Contractor demonstration to the Contracting Officer's satisfaction that the principles of industrial ESH&Q standards are routinely practiced (e.g., Voluntary Protection Program, ISO [International Organization for Standardization] 14000, *Environmental Management System Standards*).

(vi) Event caused by "Good Samaritan" act by the Contractor (e.g., off-site emergency response).

(vii) Contractor demonstration that a performance measurement system is routinely used to improve and maintain ESH&Q performance (including effective resource allocation) and to support DOE corporate decision-making (e.g., policy, ESH&Q programs).

(viii) Contractor demonstration that an Operating Experience and Feedback Program is functioning that demonstrably affects continuous improvement in ESH&Q by use of lessons-learned and best practices inter- and intra-DOE sites.

(4) (i) The amount of fee, fixed fee, profit, or share of cost savings that is otherwise earned by a Contractor during an evaluation period may be reduced in accordance with this Clause if it is determined that a performance failure warranting a reduction under this Clause occurs within the evaluation period.

(ii) The amount of reduction under this Clause, in combination with any reduction made under any other clause in the Contract, shall not exceed the amount of fee, fixed fee, profit, or the Contractor's share of cost savings that is otherwise earned during the evaluation period.

(iii) For the purposes of this clause, earned fee, fixed fee, profit, or share of cost savings for the evaluation period shall mean the amount determined by DOE or fee determination official as otherwise payable based on the Contractor's performance during the evaluation period. Where the Contract provides for financial incentives that extend beyond a single evaluation period, this amount shall also include: any provisional amounts determined otherwise payable in the evaluation period; and, if provisional payments are not provided for, the allocable amount of any incentive determined otherwise payable at the conclusion of a subsequent evaluation period. The allocable amount shall be the total amount of the earned incentive divided by the number of evaluation periods over which it was earned.

(iv) The Government will effect the reduction as soon as practicable after the end of the evaluation period in which the performance failure occurs. If the Government is not aware of the failure, it will effect the reduction as

soon as practical after becoming aware. For any portion of the reduction requiring an allocation the Government will effect the reduction at the end of the evaluation period in which it determines the total amount earned under the incentive. If at any time a reduction causes the sum of the payments the Contractor has received for fee, fixed fee, profit, or share of cost savings to exceed the sum of fee, fixed fee, profit, or share of cost savings the Contractor has earned (provisionally or otherwise), the Contractor shall immediately return the excess to the Government. (What the Contractor "has earned" reflects any reduction made under this or any other Clause of the Contract.)

(v) At the end of the Contract:

(A) The Government will pay the Contractor the amount by which the sum of fee, fixed fee, profit, or share of cost savings the Contractor has earned exceeds the sum of the payments the Contractor has received; or

(B) The Contractor shall return to the Government the amount by which the sum of the payments the Contractor has received exceeds the sum of fee, fixed fee, profit, or share of cost savings the Contractor has earned. (What the Contractor "has earned" reflects any reduction made under this or any other Clause of the Contract.)

(c) Environment, Safety, Health and Quality (ESH&Q). Performance failures occur if the Contractor does not comply with the Contract ESH&Q terms and conditions, including the DOE-approved Contractor ISMS. The degrees of performance failure under which reductions of earned or fixed fee, profit, or share of cost savings will be determined are:

(1) First Degree: Performance failures that are most adverse to ESH&Q. Failure to develop and obtain required DOE approval of an ISMS is considered first degree. The Government will perform necessary review of the ISMS in a timely manner and will not unreasonably withhold approval of the Contractor's ISMS. The following performance failures or performance failures of similar import will be considered first degree.

(i) Type A accident (defined in DOE Order 225.1A, *Accident Investigations*); and

(ii) Two (2) Second Degree performance failures during an evaluation period.

(2) Second Degree: Performance failures that are significantly adverse to ESH&Q. They include failures to comply with an approved ISMS that result in an actual injury, exposure, or exceedence that occurred or nearly occurred but had minor practical long-term health consequences. They also include breakdowns of the Safety Management System. The following performance failures or performance failures of similar import will be considered second degree:

(i) Type B accident (defined in DOE Order 225.1A).

(ii) Non-compliance with an approved ISMS that results in a near miss of a Type A or B accident. A near miss is a situation in which an inappropriate action occurs, or a necessary action is omitted, but does not result in an adverse effect.

(iii) Failure to mitigate or notify DOE of an imminent danger situation after discovery, where such notification is a requirement of the Contract.

(3) Third Degree: Performance failures that reflect a lack of focus on improving ESH&Q. They include failures to comply with an approved ISMS that result in potential breakdown of the System. The following performance failures or performance failures of similar import will be considered third degree:

(i) Failure to implement effective corrective actions to address deficiencies/non-compliances documented through: external (e.g., Federal) oversight and/or reported per ~~DOE Order 232.1A~~ [DOE Manual 232.1A, *Occurrence Reporting and Processing of Operations Information*] requirements; or internal oversight ~~of DOE Order 440.1A~~[10 CFR 830, 10 CFR 835, 10 CFR 850, and 10 CFR 851] requirements.

(ii) Multiple similar non-compliances identified by external (e.g., Federal) oversight that in aggregate indicate a significant programmatic breakdown.

(iii) Non-compliances that either have, or may have, significant negative impacts to the worker, the public, or the environment or that indicate a significant programmatic breakdown.

(iv) Failure to notify DOE upon discovery of events or conditions where notification is required by the terms and conditions of the Contract.

(d) Safeguarding Restricted Data and Other Classified Information. Performance failures occur if the Contractor does not comply with the terms and conditions of this Contract relating to the safeguarding of Restricted Data and other classified information. The degrees of performance failure under which reductions of fee, profit, or share of cost savings will be determined are as follows:

(1) First Degree: Performance failures that have been determined, in accordance with applicable law, DOE regulation, or directive, to have resulted in, or that can reasonably be expected to result in, exceptionally grave damage to the national security. The following are examples of performance failures or performance failures of similar import that will be considered first degree:

(i) Non-compliance with applicable laws, regulations, and DOE directives actually resulting in, or creating a risk of, loss, compromise, or unauthorized disclosure of Top Secret Restricted Data or other information classified as Top Secret, or any classification level of information in a Special Access Program (SAP), information identified as sensitive compartmented information (SCI), or high risk nuclear weapons-related data.

(ii) Contractor actions that result in a breakdown of the safeguards and security management system that can reasonably be expected to result in the loss, compromise, or unauthorized disclosure of Top Secret Restricted Data, or other information classified as Top Secret, any classification level of information in a SAP, information identified as SCI, or high risk nuclear weapons-related data.

(iii) Failure to promptly report the loss, compromise, or unauthorized disclosure of Top Secret Restricted Data, or other information classified as Top Secret, any classification level of information in a SAP, information identified as SCI, or high risk nuclear weapons-related data.

(iv) Failure to timely implement corrective actions stemming from the loss, compromise, or unauthorized disclosure of Top Secret Restricted Data or other information classified as Top Secret, any classification level of information in a SAP, information identified as SCI, or high risk nuclear weapons-related data.

(2) Second Degree: Performance failures that have been determined, in accordance with applicable law, DOE regulation, or directive, to have actually resulted in, or that can reasonably be expected to result in, serious damage to the national security. The following are examples of performance failures or performance failures of similar import that will be considered second degree:

(i) Non-compliance with applicable laws, regulations, and DOE directives actually resulting in, or creating risk of, loss, compromise, or unauthorized disclosure of Secret Restricted Data or other information classified as Secret.

(ii) Contractor actions that result in a breakdown of the safeguards and security management system that can reasonably be expected to result in the loss, compromise, or unauthorized disclosure of Secret Restricted Data, or other information classified as Secret.

(iii) Failure to promptly report the loss, compromise, or unauthorized disclosure of Restricted Data or other classified information regardless of classification (except for information covered by paragraph (d)(1)(iii) of this Clause).

(iv) Failure to timely implement corrective actions stemming from the loss, compromise, or unauthorized disclosure of Secret Restricted Data or other classified information classified as Secret.

(3) Third Degree: Performance failures that have been determined, in accordance with applicable law, regulation, or DOE directive, to have actually resulted in, or that can reasonably be expected to result in, undue risk to the common defense and security. In addition, this category includes performance failures that result from a lack of Contractor management and/or employee attention to the proper safeguarding of Restricted Data and other classified information. These performance failures may be indicators of future, more severe performance failures and/or conditions, and if identified and corrected early would prevent

serious incidents. The following are examples of performance failures or performance failures of similar import that will be considered third degree:

(i) Non-compliance with applicable laws, regulations, and DOE directives actually resulting in, or creating risk of, loss, compromise, or unauthorized disclosure of Restricted Data or other information classified as Confidential.

(ii) Failure to promptly report alleged or suspected violations of laws, regulations, or directives pertaining to the safeguarding of Restricted Data or other classified information.

(iv) Failure to identify or timely execute corrective actions to mitigate or eliminate identified vulnerabilities and reduce residual risk relating to the protection of Restricted Data or other classified information in accordance with the Contractor's Safeguards and Security Plan or other security plan, as applicable.

(iv) Contractor actions that result in performance failures which unto themselves pose minor risk, but when viewed in the aggregate indicate degradation in the integrity of the Contractor's safeguards and security management system relating to the protection of Restricted Data and other classified information.

(e) Minimum requirements for specified level of performance.

(1) At a minimum the Contractor must perform the following:

(i) The requirements with specific incentives which do not require the achievement of cost efficiencies in order to be performed at the level of performance set forth in Section C, *Statement of Work*, work authorization directive(s), or similar document unless an otherwise minimum level of performance has been established in the specific incentive;

(ii) All of the performance requirements directly related to requirements specifically incentivized which do not require the achievement of cost efficiencies in order to be performed at a level of performance such that the overall performance of these related requirements is at an acceptable level; and

(iii) All other requirements at a level of performance such that the total performance of the Contract is not jeopardized.

(2) The evaluation of the Contractor's achievement of the level of performance shall be unilaterally determined by the Government. To the extent that the Contractor fails to achieve the minimum performance levels specified in Section C, *Statement of Work*, work authorization directive(s), or similar document, during the performance evaluation period, the DOE Operations/Field Office Manager, or designee, may reduce any otherwise earned fee, fixed fee, profit, or shared net savings for the performance evaluation period. Such reduction shall not result in

the total of earned fee, fixed fee, profit, or shared net savings being less than 25% of the total available fee amount. Such 25% shall include base fee, if any.

(f) Minimum requirements for cost performance.

(1) Requirements incentivized by other than cost incentives must be performed within their specified cost constraint and must not adversely impact the costs of performing unrelated activities.

(2) The performance of requirements with a specific cost incentive must not adversely impact the costs of performing unrelated requirements.

(3) The Contractor's performance within the stipulated cost performance levels for the performance evaluation period shall be determined by the Government. To the extent the Contractor fails to achieve the stipulated cost performance levels, the DOE Operations/Field Office Manager, or designee, may reduce in whole or in part any otherwise earned fee, fixed fee, profit, or shared net savings for the performance evaluation period. Such reduction shall not result in the total of earned fee, fixed fee, profit or shared net savings being less than 25% of the total available fee amount. Such 25% shall include base fee, if any.

B.13 CONDITIONAL PAYMENT OF FEE (CPOF) DOE RICHLAND OPERATIONS OFFICE SITE-SPECIFIC PERFORMANCE CRITERIA/REQUIREMENTS

This Clause supplements Section B Clause entitled, *DEAR 970.5215-3, Conditional Payment of Fee, Profit, and Other Incentives – Facility Management Contracts (Alternate II) [Deviation]* by establishing Site specific Environment, Safety, Health, and Quality (ESH&Q), and security performance criteria/requirements. Performance failures relating to the performance criteria set forth in this Clause will be processed in accordance with DEAR 970.5215-3. Site-specific performance criteria/requirements for ESH&Q, and Safeguards and Security are as follows:

(a) Environment, Safety, Health, and Quality

(1) First Degree: Performance failures relating to the criteria set forth in this Clause will be processed in accordance with DEAR 970.5215-3, Alternate II [Deviation].

(2) Second Degree: Performance failures relating to the criteria set forth in this Clause will be processed in accordance with DEAR 970.5215-3, Alternate II [Deviation].

(3) Third Degree: Performance failures that reflect a lack of focus on ESH&Q or failures to comply with an approved ISMS that may result in a negative impact to the public, worker, or environment. The following performance failures, or events of similar import, are examples of performance failures that are considered third degree:

(i) Multiple similar non-compliances identified by external oversight (e.g., Federal) that in the aggregate indicate a significant programmatic breakdown.

(ii) Non-compliances or adverse performance trends that either have or may have negative impact to the public, worker, or environment or that indicate a programmatic breakdown.

(iii) Failure to notify the Contracting Officer upon discovery of events or conditions where notification is required by the terms and conditions of the Contract.

(iv) Failure to report required data accurately and in a timely manner.

(v) Failure to implement continuous improvement in ESH&Q performance through effective utilization of ISMS processes, including timely submittal of meaningful performance objectives, measurements and commitments.

(b) Safeguards and Security

(1) First Degree: Performance failures that have been determined, in accordance with applicable law, regulation, or DOE directive, to have resulted in, or that can reasonably be expected to result in, exceptionally grave damage to the national security. The following are examples of performance failures or performance failures of similar import that will be considered first degree:

(i) Theft, loss or diversion of category I or II special nuclear material (SNM); adversarial attacks or acts of sabotage that result in significant consequences to the safety or security of personnel, facilities, or the public due to a failure or inadequacy of performance by the Contractor.

(ii) Receipt of an overall rating of Unsatisfactory on any DOE Safeguards and Security survey, audit, and/or inspection.

(iii) Failure to implement corrective action(s) in response to any first degree performance failure.

(2) Second Degree: Performance failures that have been determined, in accordance with applicable law, regulation, or DOE directive, to have actually resulted in, or that can reasonably be expected to result in, serious damage to the national security. The following are examples of performance failures or performance failures of similar import that will be considered second degree:

(i) Theft, loss or diversion of Category III SNM that is due to a failure or inadequacy of performance by the Contractor.

(ii) Inventory differences of Category I/II/III SNM beyond alarm limits where there is no evidence that the difference is created by loss, theft, or diversion.

(iii) Any amount of SNM found in a dangerous/hazardous or unapproved storage environment, or unapproved mode of transportation/transfer.

(iv) Failure to implement corrective action(s) in response occurrence of any second degree performance failure.

(3) Third Degree: Performance failures that have been determined, in accordance with applicable law, regulation, or DOE directive, to have actually resulted in, or that can reasonably be expected to result in, undue risk to the common defense and security, and/or jeopardizes protection of the facility or Site security interests. The following are examples of performance failures or performance failures of similar import that will be considered third degree:

(i) Loss, theft, diversion, or unauthorized disclosure of information classified as Confidential.

(ii) Negligent weapons and firearms-related incidents involving protective force operations/personnel (e.g., unauthorized weapons discharge, personal wounding).

(iii) Evidence that SNM data has been manipulated or falsified.

(iv) Inventory differences of Category IV SNM beyond alarm limits where there is no evidence that the difference is created by loss, theft, or diversion.

(v) Loss, theft, or diversion of Category IV quantities of SNM that is due to a failure or inadequacy of performance by the contractor.

(vi) Five (5) or more incidents that involve a potential compromise of classified information and/or unsecured classified repository, in any three (3) -month period, of any type.

(vii) Receipt of any topical area rating of Unsatisfactory on any DOE Safeguards and Security survey, audit, and/or inspection.

(viii) Failure to implement corrective action(s) in response to any third degree performance failure.

(ix) Non-compliant or adverse cyber security performance that indicates serious cyber security program degradation (e.g., negative mission impacts or compromise of sensitive information [Sensitive Unclassified Information, Personally Identifiable Information, Unclassified Controlled Nuclear Information], etc.).

B.14 DOE AUTHORIZATION OF WORK

DOE will authorize work as follows:

(a) The Contractor is authorized to conduct work in accordance with the approved *Performance Measurement Baseline,* and subject to the limitations of the Section B Clause entitled, *Obligation and Availability of Funds*.

(b) Prior to the completion of the *Transition Period*, DOE will provide workscope direction that will be in effect from the initiation of the *Base Period* until DOE approval of the Contractor's initial *Performance Measurement Baseline* submittal.

(c) DOE reserves the unilateral discretion to modify the PEMP to allocate fee to the associated work.

(d) If the Contracting Officer does not authorize the Contractor to proceed with a work activity, the Contractor shall not be entitled to allowable costs, opportunity to earn fee, partial termination costs, and any other similar items for that activity, and shall not be entitled to an equitable adjustment to fee for any other Contract requirement.

B.15 OTHER COSTS AND PROJECTS

Other Costs and Projects is for identifying work which is within the scope of this contract but is not included in Table B.4-1, Contract Cost and Fee. Work performed under this clause has a different funding source(s) from the rest of contract and is unrelated to the fee structure and payment methods identified in the preceding sections. This work is typically done under a Work for Others arrangement or a Request for Services (RFS). Under Work For Others, the project is conducted through a cost recovery (no fee) arrangement under Contract Clause I.142, DEAR 970.5217-1, *Work for Others Program* (Jan 2005). An RFS is completed on a case by case basis and may or may not receive a fixed fee depending on the arrangement for each individual request. Currently, $ 9,532,028.12 has been authorized for work under this arrangement including fixed fee of $12,531.37. The CO shall unilaterally revise the authorized cost and fee through Contract Modification to reflect the approved amounts for work authorized.

From the effective date of Contract Modification 164 and forward, when the Contracting Officer determines that there is fee entitlement for work performed under this clause, the amount of fee will be determined as follows:

- When the reasonable cost estimate for the work is $500,000 or greater, fee will be negotiated on a case by case basis.

- When the reasonable cost estimate for the work is less than $500,000, fee has been pre-negotiated as a percentage of the reasonable estimated cost of the work: 6.5% for Administrative Services and 7.5% for Field Work. Field Work is defined as any services that require skilled labor working outside of an office in a field environment. Administrative Services covers all other labor categories.