



ARLINGTON COUNTY, VIRGINIA
OFFICE OF THE PURCHASING AGENT
2100 CLARENDON BOULEVARD, SUITE 500
ARLINGTON, VA 22201
(703) 228-3410

REQUEST FOR PROPOSALS NO. 22-DES-RFP-387

ELECTRONIC SEALED PROPOSALS WILL BE RECEIVED BY ARLINGTON COUNTY VIA VENDOR REGISTRY, UNTIL 4:00 P.M. ON THE 4TH DAY OF MARCH 2022.

FOR: CONSTRUCTION MANAGEMENT SERVICES FOR COLUMBIA PIKE MULTIMODAL STREET IMPROVEMENTS AND COLUMBIA PIKE TRANSIT STATIONS PROJECTS

VENDORS ARE REQUIRED TO REGISTER ON [VENDOR REGISTRY](#) IN ORDER TO SUBMIT A RESPONSE TO THIS REQUEST FOR PROPOSAL. NO RESPONSES WILL BE ACCEPTED AFTER THE PROPOSAL DUE DATE AND TIME.

Proposals will not be publicly opened.

NOTICE: ANY OFFEROR ORGANIZED AS A STOCK OR NONSTOCK CORPORATION, LIMITED LIABILITY COMPANY, BUSINESS TRUST OR LIMITED PARTNERSHIP, OR REGISTERED AS A LIMITED LIABILITY PARTNERSHIP, MUST BE AUTHORIZED TO TRANSACT BUSINESS IN THE COMMONWEALTH OF VIRGINIA PRIOR TO SUBMITTING A PROPOSAL (REFER TO AUTHORITY TO TRANSACT BUSINESS SECTION OF THE SOLICITATION FOR FURTHER INFORMATION).

PREPROPOSAL CONFERENCE

A virtual preproposal conference will be held at 10:00 a.m., February 10, 2022, on Microsoft Teams to allow potential Offerors an opportunity to obtain clarification of the specifications and requirements of the solicitation. To join the meeting, please click the following [link](#) or join by dialing +1 347-973-6905 and enter Conference ID 873772952#. ATTENDANCE AT THE PREPROPOSAL CONFERENCE IS OPTIONAL. Minutes of the preproposal conference will be recorded by the County and may be incorporated into the solicitation documents through an Addendum. Interested Offerors are, however, urged to attend.

Arlington County reserves the right to reject any and all proposals, cancel this solicitation, and waive any informalities as defined in the Arlington County Purchasing Resolution.

Arlington County, Virginia
Office of the Purchasing Agent

Sy Gezachew
Procurement Officer
sgezachew@arlingtonva.us

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I. INTRODUCTION TO EVALUATION PROCESS

Arlington County, Virginia, is soliciting proposals from Offerors having experience and abilities in the areas identified in this solicitation. Each proposal must contain evidence of the Offeror's qualifications in the specified areas and in other disciplines directly related to the proposed work. Offerors might also be required to submit profiles and resumes of the staff to be assigned to the project, references, examples of similar work performed and other information that will clearly demonstrate the Offeror's relevant expertise, as specified in the solicitation.

A County Selection Advisory Committee ("SAC") will review and evaluate all written proposals based on the criteria identified in this solicitation. Subsequent evaluations, such as to select firms for negotiation, may include, but are not limited to, review of more detailed proposals and/or oral presentations. Any such subsequent evaluations will be based on the same criteria.

The County reserves the right to accept or reject and to waive any informalities or irregularities in the proposals and to contract as the best interests of the County require in order to obtain the services described in this RFP. Selection of an Offeror's proposal does not mean that all aspects of the proposal are acceptable to the County. The County reserves the right to negotiate terms and conditions with the selected Offeror before executing a contract.

MANDATORY REQUIREMENTS

Note that this solicitation contains qualification requirements that are mandatory for all Offerors. Refer to the Proposal Submittal Elements section of this document for details.

II. INFORMATION FOR OFFERORS

1. SOLICITATION SCHEDULE

RFP No. 22-DES-RFP-387 – TENTATIVE SCHEDULE

RFP ISSUANCE	February 2, 2022
PRE-PROPOSAL CONFERENCE	February 10, 2022, at 10:00 a.m.
QUESTION DEADLINE	February 18, 2022, at 5:00 p.m.
ADDENDUM ISSUANCE (if applicable)	February 24, 2022
PROPOSALS DUE	March 4, 2022, at 4:00 p.m.
CONTRACT AWARD	TBD

2. QUESTIONS AND ADDENDA

OFFERORS MUST BE REGISTERED IN VENDOR REGISTRY TO SUBMIT A QUESTION FOR THIS REQUEST FOR PROPOSALS.

All communications relating to this solicitation must be submitted online using Vendor Registry. For a question to be considered, the question must be entered in the Question Section of the **RFP No. 22-DES-RFP-387**. Prior to the award of a contract resulting from this solicitation, Offerors are prohibited from contacting any County staff other than those assigned to the Office of the Purchasing Agent.

QUESTIONS REGARDING THE ORIGINAL SOLICITATION MUST BE SUBMITTED BY FEBRUARY 18, 2022, AT 5:00 P.M. EASTERN TIME TO BE CONSIDERED FOR ADDENDUM. ALL QUESTIONS RECEIVED BY THE QUESTION DEADLINE WILL BE RESPONDED TO WITHIN VENDOR REGISTRY AND POSTED FOR ALL OFFERORS. THE SYSTEM WILL NOT ACCEPT ANY QUESTIONS AFTER THIS DATE AND TIME.

If any questions or responses require revisions to this solicitation, such revisions will be by formal Addendum only. Offerors are cautioned not to rely on any written, electronic, or oral representations made by any County representative or other person, including the County's technical contact, that appear to change any portion of the solicitation, unless the change is ratified by a written Addendum to this solicitation issued by the Office of the Purchasing Agent.

3. OFFERORS' RESPONSIBILITY TO INVESTIGATE

Before submitting a proposal, each Offeror must make all investigations necessary to ascertain all conditions and requirements affecting the full performance of the contract and to verify any representations made by the County upon which the Offeror will rely. No pleas of ignorance of such conditions and requirements will relieve the successful Offeror from its obligation to comply in every detail with all provisions and requirements of the contract or will be accepted as a basis for any claim for any monetary consideration on the part of the successful Offeror.

4. INTEREST IN MORE THAN ONE PROPOSAL, AND COLLUSION

Reasonable grounds for believing that an Offeror is interested in more than one proposal for a solicitation, including both as an Offeror and as a subcontractor for another Offeror, or that collusion exists between two or more Offerors, will result in rejection of all affected proposals. However, an individual or entity acting only as a subcontractor may be included as a subcontractor on two or more different Offerors' proposals. Offerors rejected under the above provision will also be disqualified if they respond to a re-solicitation for the same work.

5. COMPETITIVE NEGOTIATION FOR PROFESSIONAL SERVICES *(This is considered Professional Services under FTA provisions which are applicable to this Solicitation)*

This solicitation is a competitive negotiation for professional services, as defined in the Arlington County Purchasing Resolution. The content of the proposals and the identity of the offerors are not public record until a Notice of Decision to Award has been issued. The opening of proposals is therefore not public.

6. NOTICE OF DECISION TO AWARD

When the County has made a decision to award a contract(s), the County will post an Award Notice or Intent to Award to [Vendor Registry](#).

7. TRADE SECRETS OR PROPRIETARY INFORMATION

Trade secrets or proprietary information that an Offeror submits in connection with a procurement transaction may be exempted from public disclosure under the Virginia Freedom of Information Act ("VFOIA"). However, the Offeror must invoke VFOIA protection clearly and in writing on the Proposal Form for County review. The Proposal Form must include at least the following: (1) the data or other materials sought to be protected and (2) specific reasons why the material is confidential or proprietary. It is the Offeror's sole responsibility to defend such exemptions if challenged in a court of competent jurisdiction.

8. FINANCIAL STATEMENT

If requested by the County, an Offeror must submit its most recent independent certified public accountant's audit of its finances, including the management letter and other ancillary audit components. If the audited financial statement is not available, the Offeror must submit a written statement explaining the statement's absence and provide other documents (e.g., tax returns) that enable the County to assess the Offeror's financial condition. Failure to submit a financial statement upon request will be grounds for immediate disqualification. If the financial statement is not for the identical organization submitting the offer, the Offeror must submit a written explanation of the relationship and financial responsibility of the organization whose financial statement is provided (e.g., parent-subsidary).

The County will return the financial statement at the conclusion of the award process only upon receipt of a written request signed by an officer of the organization or the same person who signed the original Proposal Form. The County considers a non-public financial statement submitted pursuant to this paragraph to be proprietary information that is not subject to disclosure under VFOIA.

9. DEBARMENT STATUS

The Offeror must indicate on the Proposal Form whether it or any of its principals is currently debarred from submitting proposals to the County or to any other state or political subdivision and whether the Offeror is an agent of any person or entity that is currently debarred from submitting proposals to the County or to any other state or political subdivision. An affirmative response may be considered grounds for rejection of the proposal.

10. CONFLICT OF INTEREST STATEMENT

The Offeror must provide a statement regarding any potential conflict of interest, with the notarized signature of a principal of the Offeror, on the form provided in this solicitation.

11. EQUIVALENT EXPERIENCE AND REFERENCES

If an Offeror is unable to meet the experience and/or reference requirements of this solicitation, the Offeror may submit a resume indicating the qualifying experience and references for previous work by

the proposed project manager. The Project Manager's resume must include a description of the previous project(s) and contact information for the previous employer(s), the project owner(s) and a verifying reference, if different.

Arlington County may request additional information and will determine whether the project manager's experience is an acceptable substitute for all or part of the experience and/or reference requirements of the solicitation.

If a contract is awarded based on documents and information submitted pursuant to this section, the Offeror may not change the named project manager for the duration of the contract unless the County approves a substitute project manager with equivalent qualifications.

12. REPLACEMENT OR AUGMENTATION OF KEY PERSONNEL OR SUBCONTRACTORS

The key personnel and subcontractors in an Offeror's proposal are considered essential to the Offeror's qualifications and may not be replaced or substituted, nor may additional personnel or subcontractors be added, after qualification of the Offeror's proposal unless the County approves the changes in advance in writing.

13. AUTHORITY TO TRANSACT BUSINESS

Any Offeror organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership must be authorized to transact business in the Commonwealth of Virginia as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the Code of Virginia, or as otherwise required by law. The proper and full legal name of the entity and the identification number issued to the Offeror by the Virginia State Corporation Commission must be included on the Proposal Form. Any Offeror that is not required to be authorized to transact business in the Commonwealth must include in its proposal a statement describing why the Offeror is not required to be so authorized. The County may require an Offeror to provide documentation that 1) clearly identifies the complete name and legal form of the entity and 2) establishes that the entity is authorized by the State Corporation Commission to transact business in the Commonwealth of Virginia. Failure of an Offeror to provide such documentation will be a ground for rejection of the proposal or cancellation of any award. For further information refer to the Commonwealth of Virginia State Corporation Commission website at: www.scc.virginia.gov.

14. EXCEPTIONS TO TERMS AND CONDITIONS

The attached draft Contract Terms and Conditions contain a number of mandatory terms, which are marked with an asterisk. Those terms are not negotiable. If an Offeror objects to a mandatory term, the County will consider the proposal non-responsive.

The Offeror must state whether it requests revisions to any of the remaining, non-mandatory terms and, if so, must explain the reason for the request(s) and propose alternative language. An Offeror who does not request a revision in its proposal may not object or request revisions to any contract terms during the negotiation process.

The County will review any request for revisions to non-mandatory terms after the selection of finalists for negotiation. Such requests will not factor into the evaluation of proposals.

15. INSURANCE REQUIREMENTS

Each Offeror must be able to demonstrate proof of the specific coverage requirements and limits applicable to this solicitation. If the Offeror is not able to do so, it may propose alternate insurance coverage in its exceptions to the County's Terms and Conditions.

16. ARLINGTON COUNTY BUSINESS LICENSES

The successful Offeror must comply with the provisions of Chapter 11 ("Licenses") of the Arlington County Code, if applicable. For information on the provisions of that Chapter and its applicability to this solicitation, contact the Arlington County Business License Division, Office of the Commissioner of the Revenue, at 2100 Clarendon Blvd., Suite 200, Arlington, Virginia, 22201, tel. (703) 228-3060, or e-mail business@arlingtonva.us.

17. COVID-19 VACCINATION POLICY FOR CONTRACTORS

Due to the ongoing COVID-19 pandemic, the County has taken various steps to protect the welfare, health, safety, and comfort of the workforce and public at large. As part of these steps, the County has implemented various requirements with respect to health and safety including policies with respect to social distancing, the use of face-coverings and vaccine mandates. To protect the County's workforce and the public at large, all employees and subcontractors of the Contractor who are assigned to this Contract, should be fully vaccinated against COVID-19. Any contractor employee or subcontractor who is not fully vaccinated should follow a weekly testing protocol as established by the Contractor, unless exempt pursuant to a valid reasonable accommodation under state or federal law. By submitting a proposal, the Offeror certifies that it will comply with this provision and will ensure that its subcontractors, if any, do so as well.

18. ESTIMATED QUANTITIES/NON-EXCLUSIVITY OF CONTRACTOR

The contract that will result from this solicitation will not obligate the County to purchase a specific quantity of items or services during the Contract Term. Any quantities that are included in the contract documents are the present expectations of the County for the period of the contract, and the County is under no obligation to buy that, or any, amount as a result of having provided this estimate or of having had any normal or otherwise measurable requirement in the past. The County may require more goods and/or services than the estimated annual amount, and any such additional quantities will not give rise to any claim for compensation other than at the unit prices and/or rates specified in the contract.

The items or services covered by this contract may be or become available under other County contract(s), and the County may determine that it is in its best interest to procure the items or services through such other contract(s). The County does not guarantee that the selected contractor will be the exclusive provider of the goods or services covered by the resulting contract.

19. ELECTRONIC SIGNATURE

If awarded, the Offeror may be required to accept an agreement and sign electronically through the County's e-signature solution, DocuSign.

III. INTRODUCTION TO REQUEST FOR PROPOSAL NO. 22-DES-RFP-387

The intent of this solicitation and resulting agreement is to obtain the services of a qualified contractor to provide construction management services for the Columbia Pike Multi-modal Street Improvements and the Columbia Pike Transit Stations projects. The term shall be One (1) Base Year, with Four (4) One-Year Option Periods.

BACKGROUND/PURPOSE OF SOLICITATION

Arlington County seeks to obtain Construction Management (CM) services for construction of the Columbia Pike Multi-Modal Street Improvements and the Columbia Pike Transit Stations projects. The projects will be planned and designed by the Arlington County Department of Environmental Services. The Construction Management services under this contract will be provided on a task order basis. This task order approach allows the County to issue a task order for construction management services as each segment or project becomes ready for construction. Services will include, but will not be limited to, individual projects, procurement support services, construction management services, support services and project close-out documentation.

COLUMBIA PIKE MULTI-MODAL STREET IMPROVEMENTS

The Columbia Pike Multi-Modal Street Improvements projects began in late 2009 with initial planning and public outreach. Due to the length of Columbia Pike, the County used a segment-by-segment approach to allow the County to identify the street segments that the County has already implemented, implementing, or is in the design phase.

The main elements of the Multi-Modal Street Improvements project include:

1. Standardization of the Columbia Pike cross-section, including widening or narrowing of the street and sidewalks to provide the revised cross-section shown on the plans
2. Undergrounding of the existing overhead utilities
3. Upgrades and relocations to existing underground wet and dry utilities
4. Full depth asphalt reconstruction
5. Signal improvements/modifications
6. Retaining walls
7. Streetlights, landscaping, and street amenities.

The development of plans for the Multi-Modal Street Improvements project and the design effort resulted in a focus on the following distinct segments along Columbia Pike. As noted below, construction of Segments B, E, G and H/I have been completed in recent years since the project began.

<u>Segment/Project</u>	<u>Length (ft)</u>	<u>Limits</u>
Segment A: East	2,890 ft.	Virginia State Rte. 27 to new S. Nash St. Eastern Federal Lands Project Construction commenced in fall 2021
Segment A: West	1,040 ft.	New S. Nash Street to S. Orme St.
Segment B:	870 ft.	S. Orme St. to S. Quinn St. - VDOT construction project completed 2015
Segment C	1,640 ft.	S. Quinn St. to S. Courthouse Rd.

Segment/Project	Length (ft)	Limits
Segment D	2,460 ft.	S. Courthouse Rd. to S. Garfield St.
Segment E:	2,330 ft.	S. Garfield St. to S. Oakland St. - County construction project completed in 2009
Segment F	3,520 ft.	S. Oakland St. to S. Wakefield St.
Segment G:	1,390 ft.	S. Wakefield St. to Four Mile Run - County construction project completed in 2015
Segment H/I:	3,060 ft.	Four Mile Run to S. Jefferson St. - County construction project substantially completed in 2020

As noted below, the design/engineering segments are currently in various stages of the design phase. The segments are being designed separately; however, the County may, at its discretion, combine the segments into one or more projects for bidding and construction. The County anticipates CM services will be provided concurrently on the segments.

The anticipated construction start dates, durations and estimated costs for the remaining segments are as follows:

Segment	Projected Construction Start Date	Current Design Stage	Estimated Construction Duration	Estimated Construction Costs
F	Spring 2022	100% Final Design Submitted for Signatures	42 Months	\$37.3M construction
D	Winter 2022	95% Plans	30 Months	\$18.7M construction
C	Winter 2023	95% Plans	24 Months	\$19.4M construction
A (west)	Spring 2022	100% Final Design Submitted for Signatures	18 Months	\$12.6M construction
A (east)	Fall 2021	100% - Construction Contract Awarded	48 Months	(Federal Project)

Segment A has been split into two phases (east and west). The west phase is from South Orme Street to the western edge of the former Navy Annex property, just east of South Oak Street, and will be constructed by Arlington County. The east phase, from the western edge of the Navy Annex property to the interchange with Washington Boulevard adjacent to the Pentagon Reservation and will be constructed by Eastern Federal Lands Highway Division.

The project requires significant right-of-way acquisitions that are anticipated for completion prior to start of construction.

COLUMBIA PIKE TRANSIT STATIONS

The Columbia Pike Transit Stations project consolidates bus stops along Columbia Pike and provides new transit stations with higher levels of amenities such as new custom shelters, longer platforms with near-level boarding, and passenger real time information. The civil work for the Columbia Pike Transit

Stations will be designed and built concurrently with the Columbia Pike Multi-Modal Street Improvements projects.

The main elements of the Transit Stations projects include:

1. Provision of 9.5” high curbs and detectable warning strips
2. Concrete pavement bus pad
3. Sidewalk reconstruction and landscaping as required
4. Public and private utility adjustments as required
5. Underground electrical for power and communications service
6. Provisions for future off-vehicle fare collection equipment

The project has been divided into five phases. A total of eight station platforms have been built under Phases 1 & 2. Phases 3 through 5 of the projects include the site-specific design and construction of the remaining fourteen additional transit stations. The civil work for these stations will be part of the Multi-Modal Street Improvements project segments F, C, D and A.

Phases 3 through 5 of the transit stations projects will be coordinated with the remaining segments of the Multi-Modal Street Improvements project as detailed below.

Construction Phase	Columbia Pike Multimodal Segment	Transit Station Locations
3	F	S. Taylor Street Westbound S. Taylor Street Eastbound
3	F	S. George Mason Dr Westbound S. George Mason Dr Eastbound
3	F	S. Oakland Street Eastbound
4	D	S Walter Reed Westbound
4	D	S. Barton Street Westbound S. Barton Street Eastbound
4	D	S. Courthouse Road Westbound S. Courthouse Road Eastbound
4	C	S. Scott Street Eastbound S. Scott Street Eastbound
5	A	S. Orme Street Westbound S. Orme Street Eastbound

For the civil work for phases 3 through 5, the work includes new 9.5” curb, transit station platform, shelter concrete pad, underground electrical, sidewalk, and roadway improvements. The right-of-way acquisitions will be accomplished through the Multi-Modal Street Improvements project.

The design (architectural, structural and electrical) for each transit station site has been completed. Site specific civil designs are at a conceptual level of completion, and contract for final site civil designs for Phases 3 through 5 have not been awarded.

The Columbia Pike Transit Stations project are funded in part by grants from the Federal Transit Administration (FTA) and the Virginia Department of Rail and Public Transportation (DRPT) and will have a Disadvantaged Business Enterprise (DBE) participation goal.

Completion of these projects will provide many long-term benefits to County residents: improved utility reliability, an improved streetscape, improved pedestrian access, and consolidated transit station locations. The Columbia Pike Multi-Modal Street Improvement project and all the above transit platform components, such as bus shelter and amenities of the Columbia Pike Transit Stations project may be built under separate construction contracts contingent on grant funding sources.

IV. SCOPE OF SERVICES

The Contractor will provide Construction Management ("CM") services to the County for the Columbia Pike Multimodal Street Improvements and Columbia Pike Transit Stations projects on a task order basis. Work will be divided into individual tasks, with each task order assignment representing a construction project. The County will not provide a field office for the Construction Manager; however, the Construction Manager may have an assigned workspace within the Transportation Bureau.

PROJECT ASSIGNMENT PROCEDURES

As each segment or project becomes ready for construction, the contractor will receive a Scope of Work (SOW) from the County that includes a project description, specifications/requirements and proposed Period of Performance (schedule). Upon receipt of the Scope of Work, the Contractor shall submit a Cost Proposal for review and approval by the Project Officer.

The cost proposal shall include assigned personnel, quantity (hours) for each assigned personnel, hourly rates in accordance with Contract approved Price Schedule, and schedule that includes commencement/completion of the project and deliverables.

The Contractor shall provide full construction management services through all phases of a project (Pre-Construction Phase, Construction Phase, and Construction Close-Out Phase, to ensure the work is performed in accordance with the contract plans, specifications, applicable codes, regulations, and standards.

GENERAL REQUIREMENTS

The Contractor's responsibilities shall include but not be limited to:

1. Monitor safety of contractors, County employees, and the general public. This includes providing access to essential areas for handicapped and emergency vehicle, barring entrance(s) to construction area as indicated on the approved MOT plans and supplemental contract documents, and ensure surrounding facilities and general neighborhood are free from litter and debris;
2. Maintain compliance with the approved maintenance of traffic plans including maintaining access to adjacent properties at all times;
3. Monitor project schedule and costs;
4. Monitor quality of workmanship;
5. Coordinate and advise the Project Officer of construction progress (schedule), unusual disruptions, potential changes, potential change orders;
6. In conjunction with, and following approval from, the Project Officer, initiate actions to mitigate activities that may lead to claims and/or stop work orders, to resolve potential conflicts as promptly as possible;
7. Assist the Project Officer, if required, in reviewing of the Bid Summary transmitted to the Project Officer from the Procurement Officer for the recommendation of award to a contractor; and
8. As required and in conjunction with the Project Officer, attend design project progress meetings; project coordination meetings; and if applicable and/or required, Value Engineering (VE) meetings or proposed contractor substitutions.

9. Conduct regular unannounced field verifications for all Federal Transit Administration (FTA) contract clauses, including but not limited to the Davis-Bacon Act, Buy America, Disadvantaged Business Enterprises (DBE)/Small Business Enterprises (SBE) participation and Civil Rights requirements.
10. As required and in conjunction with the Project Officer, update construction progress reports and information to be prepared by County Community Outreach personnel. Provide review and edits to documents shared by Outreach personnel to ensure information made available to citizens, residents, and all stakeholders is current and accurate.

A. PRE-CONSTRUCTION PHASE

The Contractor's responsibilities shall include but not be limited to:

1. Participation in the project planning and design team to advise the County on the constructability, selection and availability of proposed materials and cost/benefit analysis of proposed options.
2. Prepare cost estimates at various phases in the design process as requested by the County Project Officer. Cost estimates shall be based on equipment and material details and quantities consistent with the level of detail of the design documents (i.e., conceptual, schematic, design development or final design) and shall be presented in the Construction Specifications Institute (CSI) format.

Estimates shall include current market escalation rates to account for the planned construction schedule start date.

3. Review of final design documents and drawings as to constructability, cost benefit of options, and minimizing exposure to change orders through clarifying the design intent and reporting the outcomes of the review to the County.
4. Provide assistance in marketing the project to the construction industry and in the subsequent review of bids and bidder qualifications.
5. Schedule and administer pre-construction meeting, and periodic progress meetings. The contractor Shall submit agenda items to the project officer for periodic progress meetings, make physical arrangement for meetings, and ascertain from the meeting if the work is consistent with contract documents and construction schedules.

B. CONSTRUCTION PHASE

The Contractor's responsibilities shall include but not be limited to:

1. Act as the County's representative in monitoring construction progress, contractor(s) performance, quality assurance and quality control (QA/QC), and other duties as assigned by the Project Officer to ensure on-time project completion, within budget and compliance with contract documents;

2. In conjunction with the County Project Officer, organize, attend and document all project-related meetings, including but not limited to bi-weekly progress meetings;
3. Prepare construction progress meeting agenda which should include, at a minimum, the following:
 - a. Review of previous progress meeting minutes, safety, errors and omissions, work performed to date, upcoming work scheduled, utility coordination (if applicable), adjacent project coordination (if applicable), QA/QC, community outreach issues (if applicable), Submittal Status Report, Requests for Information (RFI) Status Report, potential Change Order(s), Change Order(s), construction field issues (if applicable) and upcoming and next progress meetings schedule;
4. Prepare required Independent Cost Estimates for potential Change Orders;
5. Maintain Change Order log;
6. Prepare, evaluate and make recommendations on potential Change Orders for need, appropriateness, and cost;
7. Perform Change Order negotiations with the general contractor and written responses;
8. Review general contractor-prepared construction schedules, schedule analysis, activity durations, sequence, and critical path issues to determine if forecast projected completion dates are realistic and consistent with scheduling specifications;
9. Analyze general contractor claims for time extension(s); delay claims; critical path impacts; and alternative(s) to reduce schedule and critical path impacts;
10. Provide on-site construction inspection and management personnel as required by the project;
11. Provide daily construction reports to the Project Officer including weather, manpower, equipment, major issues, work completed;
12. Provide monthly project status reports including digital photographs to the County Project Manager;
13. Assist the Project Officer conducting material performance, equipment and systems testing, and coordination with the general contractor (if applicable) for inspection and testing;
14. Observe and review performance tests as required by specifications;
15. Assist the Project Officer with the issuance of short-term notifications and coordination for closures and direct property impacts;
16. Maintain current project record set of documents, including posted drawings and specifications reflecting any modifications, as-built records and drawings, hard copies of all RFIs (including responses), submittals, and other project related correspondence for project completion and close-out process;
17. Review the general contractor record set of drawings on a regular basis throughout the course of the work to verify that all trades are properly recording field changes;
18. Review and make a payment recommendation on all monthly payment applications and submit recommendation to the Project Officer.
19. Receive from the general contractor and maintain logs of relevant information regarding all written RFI and submittals;
20. Maintain electronic and a paper file(s) of all RFIs, responses and submittals as well as coordinate with the appropriate design engineering personnel for review and responses;

INSPECTIONS AND CONSTRUCTION MATERIALS TESTING SERVICES

The Contractor shall provide Inspections and Construction Materials Testing services which shall include the following:

1. Written observations, tests, and inspections provided by the County Project Manager, Construction Manager, general contractor(s), and Civil Engineer.
2. Reports shall include, but not be limited to:
 - a. Date issued
 - b. Project Title, Description, and Permit Number
 - c. Testing laboratory name, address, and telephone number Name of inspector
 - d. Location of observation, test inspection or sampling
 - e. Date and time of observation, test inspection or sampling
 - f. Weather conditions at the time of observation, test, inspection or sampling Results and statement of compliance or non-compliance with plans and specifications, of observation, test, inspection, or sampling
 - g. All reports shall include the seal of the Engineer in Responsible Charge
 - h. Interpretation of test results when requested
3. The Contractor shall be responsible for the hiring of the testing laboratory and shall ensure that the testing laboratory or its employees are not authorized to release, revoke, alter, diminish or increase requirements of the plans, specifications and/or requirements of the [2006 Virginia Uniformed Statewide Building Code \(USBC\)](#); approve, accept, disapprove or reject any portion of the Work performed; or perform any of the general contractor or sub-contractors duties. Testing laboratory and any associated subcontractors shall meet applicable industry standards including [ASTM E-329-93G](#). The Contractor shall provide detail and verification regarding the ability to meet these standards. All testing equipment shall be calibrated at intervals not to exceed 12 months by devices traceable to National Bureau of Standards or accepted values of natural physical constants.
4. All Inspections and Construction Materials Testing shall be performed in accordance with the requirements set forth in the Arlington County Construction Standards and Specifications (latest edition), the [Virginia Department of Transportation Road and Bridge Standards and Specifications](#), 2006 Virginia Uniformed Statewide Building Code (USBC), and the [International Building Code \(IBC\) Chapter 17](#), as applicable.
5. Observations, testing and inspections shall be in accordance with the requirements set forth in Arlington County Construction Standards and Specifications (latest edition), the Virginia Department of Transportation Road and Bridge Standards and Specifications, 2006 Virginia Uniformed Statewide Building Code (USBC), and the International Building Code (IBC) Chapter 17Chapter 17 of the 2009 IBC and pertinent sections of the USBC, as applicable.

C. CLOSEOUT PHASE

1. This section establishes the Procedure for the closeout of a Capital Project. The contractor shall manage under the direction of the Project Officer the project during construction as a representative of the County.
2. In conjunction with the Project Officer, monitor the preparation and completion of "punch list" items for Substantial and Final Completion and close-out.
3. In conjunction with the Project Officer, receive completed as-built drawings, warranties, operation & maintenance manuals, and other submittals required from the general contractor.

V. PROPOSAL REQUIREMENTS

1. GENERAL

FAILURE TO SUBMIT A PROPOSAL WITH A FULLY COMPLETED PROPOSAL FORM USING THE PROPOSAL FORM PROVIDED IN THIS SOLICITATION MAY BE CAUSE FOR REJECTION OF THE PROPOSAL. THE PROPOSAL FORM MUST BE SIGNED BY A PERSON LEGALLY AUTHORIZED TO BIND THE OFFEROR.

The Offeror's proposal must address the Proposal Submittal Elements below, in the order listed, and must not exceed the stated page limitations. The proposal must be on 8 ½" x 11" paper, single-spaced, and the type size must not be less than 10-point.

Proposals and all documents related to this solicitation become the property of the County upon receipt.

2. PROPOSAL SUBMISSION

The submitted Proposal Form must be signed and fully executed. The Proposal Form must be submitted electronically via Vendor Registry no later than the date and time specified in this solicitation. The Vendor Registry system will not accept responses after the close date and time. The County will not accept emailed or faxed proposals.

The Offeror name on the electronic proposal submittal shall be the same as the Contractor/Vendor name as the registration in Vendor Registry for the upload to be considered a valid response. **ONLY ELECTRONIC SUBMISSION IS ALLOWED, NO PROPOSAL SUBMITTED OTHER THAN A VENDOR REGISTRY ELECTRONIC UPLOAD WILL BE ACCEPTED. Arlington County is not responsible for late submissions, missed Addendums, or questions not submitted before the end date and time.**

Timely submission is solely the responsibility of the Offeror. The Vendor Registry System will not accept applications after the publicly posted date and time. A proposal may be rejected if the Proposal Form is not signed in the designated space by a person authorized to legally bind the Offeror.

Proposals and all documents uploaded/submitted to Arlington County by an Offeror become the property of the County upon receipt.

The County may reject any proposal that modifies or supplements the solicitation requirements.

3. OFFEROR'S RESPONSIBILITY FOR ERRORS OR OMISSIONS IN DOCUMENTS

Each Offeror is responsible for having determined the accuracy and/or completeness of the solicitation documents, including electronic documents, upon which it relied in making its proposal and has an affirmative obligation to notify the Arlington County Purchasing Agent immediately upon discovery of an apparent inaccuracy or error in or omission from the solicitation documents.

If the successful Offeror is aware of such an error or omission and has not notified the County Purchasing Agent, the Offeror must perform any work described in such incomplete or missing documents at no additional cost to the County.

4. PROPOSAL STANDARDS

Proposals submitted in response to this solicitation should be accurate and grammatically correct and should not contain spelling errors.

5. EXPENSES INCURRED IN PREPARING PROPOSAL

The County accepts no responsibility for any expense incurred by any Offeror in the preparation or presentation of a proposal or related in any way to an offer.

6. PROPOSALS EVALUATION CRITERIA AND WEIGHTS

The County will evaluate technical proposals that meet the above-stated requirements using the following criteria:

Evaluation Criteria	Points
Experience, Qualification, Past Performance of Prime Firm	40
Team Experience, Personnel Qualification	35
Project Knowledge, Understanding, Project Management, Quality Control Plan	25
Total	100

7. PROPOSAL SUBMITTAL ELEMENTS

The County will not evaluate proposals that do not contain all requested content. Each of the proposal elements should be provided in the order listed.

7.1 EXECUTED FORMS

7.1.1 Proposal Form: original as detailed above.

7.1.2 Contractor Compliance with County COVID-19 Vaccination Policy Certification: included in the RFP document.

7.1.3 Federal Transit Administration (FTA) Certifications:

- Attachment A – Seismic Safety Certificate of Compliance
- Attachment B – Certification Regarding Lobbying Pursuant to 49 CFR Part 20
- Attachment C – Certification Regarding Debarment, Suspension and Other Responsibility Matters

7.1.4 Disadvantaged Business Enterprises (DBE) Forms

- Exhibit E – Intent to Perform as a DBE Subcontractor for a Contract Award OR Exhibit F – Evidence of Good Faith Efforts Form
- Exhibit G – Summary of Subcontractors/Subconsultants/Suppliers

7.1.5 Conflict of Interest Statement: included in the RFP document.

7.1.6 Addendum Acknowledgment Form(s): provided with any RFP addendum(s).

7.2 MANDATORY REQUIREMENTS

The following requirements are mandatory. If the County concludes after its initial review of a submitted proposal that the Mandatory Requirements are not met, the proposal will be considered non-responsive and will not be evaluated further.

- 7.2.1 The Offeror may not take exceptions to mandatory provisions of the draft Contract Terms and Conditions that are attached to this solicitation. Mandatory provisions are marked with an asterisk.

Compliance with this mandatory requirement will be verified against the Offeror's exceptions, if any, to the County's draft Terms and Conditions.

8. EXPERIENCE, QUALIFICATIONS, PAST PERFORMANCE OF PRIME FIRM - 40 Points (5 pages)

The Offeror shall describe its prior work experience and qualifications in providing work similar in size, scope, and complexity to that required by the Scope of Services section over the last ten (10) years. The Offeror shall provide a list of a minimum of three (3) and a maximum of five (5) relevant projects within the last ten (10) years. A minimum of two (2) projects must have completed construction within the five (5) years. A minimum of two (2) projects must have completed construction within the last ten (10) years. The project(s) must show applicable skills, experience, and complexity in accordance with the Scope of Work. Each relevant project must be listed separately and include the following items:

- 8.1 Project name and location
- 8.2 Owner's representative's name, title, address, e-mail, and telephone number
- 8.3 Project description
- 8.4 Project Cost
- 8.5 Individual roles and responsibilities for the project

The contact person listed as a reference **must** be someone having personal knowledge of the Offeror's performance during the term of the project. The contact person must be informed they will be contacted as a reference by the County. More than one person can be listed; however, each individual **must** have personal knowledge of the project. Failure of the listed references to respond to inquiries may impact the evaluation of the Offeror's proposal.

An owner's representative is defined as a firm or individual hired by the owner to oversee the design and construction monitoring, coordination and all associated construction management activities and responsibilities. Consultants or other contractors, who provided services under the referenced project, shall not be acceptable as a reference unless the consultant or contractor was hired as the owner's representative for the project.

9. TEAM EXPERIENCE, PERSONNEL QUALIFICATIONS – 35 Points (5 pages)

The Offeror shall describe the team's prior work experience and qualification in providing work similar in size, scope, and complexity to that described in the Scope of Services section. The Offeror shall provide the following:

- 9.1 Qualifications, experience, and capacity of the firm(s)/team to effectively manage a flexible program in which the magnitude and complexity may vary considerably from

year-to-year; and

- 9.2 Demonstrate the ability to control program overhead costs, experience of the individual firm(s) that constitute the team and their ability to work on programs, projects of varying size, scope, and complexity.
- 9.3 An individual whose qualifications are presented must be committed to the project and available for its duration unless otherwise approved by the Project Officer.
- 9.4 Key Personnel – The Offeror shall provide a resume with detailed information on the experience, qualifications, degrees, certifications of key personnel listed in the RFP that are expected to make the most significant contribution to the contract. Each resume shall include a minimum of three (3) and a maximum of five (5) relevant projects within the past ten (10) years. A minimum of two (2) projects must have completed construction within the last ten (10) years. The projects must show the applicable skills and experience appropriate for requirements described in the Scope of Services section.

One of the key personnel must be a designated Project Manager with experience in managing project(s) of comparable size, scope and complexity as detailed in the Scope of Services section. The work must have been performed by the Project Manager with the offering firm or other firm(s) identified in the Offeror's proposal.

The second key personnel must be a designated Construction Manager with experience managing project(s) of similar size, scope and complexity as detailed in the Scope of Services. The work must have been performed by the Construction Manager with the offering firm or other firm(s) identified in the Offeror's proposal.

Each relevant project(s) for the Project Manager and the Construction Manager, shall be listed separately and include: (1) project name and location; (2) the name, address, title, e-mail, and telephone number of the Owner's representative; (3) project description; (4) project cost; and (5) individual role(s) and responsibilities for the project.

- 9.5 Project Team - The Offeror shall describe the experience of the entire project team that most closely matches the required technical disciplines to complete the work described in the Scope of Services section. Include experience of the prime consultant and all other members of the team, additional personnel, sub-consultants, branch offices, team members and other resources anticipated to be utilized for the work to be performed under the contract.

The Offeror shall demonstrate the applicability of the project team resources to comparable projects, and how the team can provide the experience, expertise and qualified personnel as described in the Scope of Services section to successfully deliver this project. For each firm that constitutes the project team, the Offeror shall provide the following:

- 9.5.1 For each firm that constitutes the project team provide (1) type of expertise necessary for anticipated projects, (2) location availability, (3) how long each

firm provided stated expertise, and (4) how the resources will be made available quickly;

9.5.2 Provide an organizational chart to include respective roles each firm will provide, including key personnel, firm association and responsibilities;

9.5.3 The name, year of related work, experience, education, training, certificates, and professional licenses for each project team personnel to demonstrate competence and experience in work of comparable size and complexity; where Commonwealth of Virginia registration or certification is deemed appropriate, copies of registration(s), certificate(s) must be included in the Offeror's submission and any proposed personnel, sub-contractor, sub-consultant, outside the prime firm must be clearly identified.

9.5.4 List all sub-contractors, sub-consultants anticipated to be utilized with specific relevant experience, role of each consultant/contractor, include primary contact information, office locations for each, and identification of proposed DBE and respective role.

9.6 The Offeror shall provide documentation to substantiate a minimum of seven (7) seven years of experience in providing material testing services for work similar in size, scope and complexity to that described in the Scope of Services. The minimum qualifications for providing testing and inspection services shall include, but not be limited to, the following:

9.6.1 The testing laboratory must meet applicable industry standards, including ASTM E-329 -93G and shall be a Washington Area Council of Engineering Laboratories (WACEL) certified or an approved equivalent; and

9.6.2 All field-testing laboratory Inspectors shall be WACEL certified or an approved equivalent in the disciplines for which they are performing inspection services.

10. PROJECT KNOWLEDGE, UNDERSTANDING, PROJECT MANAGEMENT, QUALITY CONTROL PLAN- 25 Points (5 pages)

The Offeror shall describe their understanding of the Scope of Services and technical requirements to successfully complete assigned projects. The Offeror shall describe their technical methodology and expected level of effort(s) to complete the projects.

The Offeror shall submit a Management Plan that includes a Quality Control/Quality Assurance (QA/QC) Plan to ensure the availability of adequate resources to meet the requirements in the Scope of Work. The Plan must include, at a minimum, the following:

10.1 Overall management philosophy, including reporting hierarchy of staff, and sub-contractors;

10.2 Roles of the Project Manager, Construction Manager and other personnel that will be assigned to the projects;

- 10.3 How the Project Manager and Construction Manager will interface with the Project Manager/Project Officer
- 10.4 Experience in project compliance with Federal, state, local regulations, codes and statutes;
- 10.5 Experience with Federally funded project(s);
- 10.6 Plan must specify firm(s), team locations for main, local and branch offices;
- 10.7 Ability to respond to short notices and tight timelines;
- 10.8 Identify internal processes and procedures to ensure cost effective quality control.

VI. CONTRACT TERMS AND CONDITIONS

THE FOLLOWING AGREEMENT WILL BE EXECUTED BY THE COUNTY AND THE SUCCESSFUL OFFEROR. BLANKS WILL BE COMPLETED DURING CONTRACT NEGOTIATIONS. NON-NEGOTIABLE PROVISIONS THAT ARE REQUIRED BY VIRGINIA LAW OR BY THE ARLINGTON COUNTY PURCHASING RESOLUTION ARE INDICATED BY AN ASTERISK (). THIS AGREEMENT IS SUBJECT TO REVIEW BY THE COUNTY ATTORNEY BEFORE BEING SUBMITTED TO THE SUCCESSFUL OFFEROR FOR SIGNATURE.*

**ARLINGTON COUNTY, VIRGINIA
OFFICE OF THE PURCHASING AGENT
2100 CLARENDON BOULEVARD, SUITE 500
ARLINGTON, VA 22201**

AGREEMENT NO. 22-DES-RFP-387

THIS AGREEMENT is made, on _____, between Contractor's name, Contractor's address _____ ("Contractor") a name of state type of entity authorized to do business in the Commonwealth of Virginia, and the County Board of Arlington County, Virginia ("County"). The County and the Contractor, for the consideration hereinafter specified, agree as follows:

1. CONTRACT DOCUMENTS

The "Contract Documents" consist of:

- This Agreement
- Exhibit A – Scope of Work
- Exhibit B – Contract Pricing
- Exhibit C – Federal Transit Administration (FTA) Clauses and Certifications
- Exhibit D – Disadvantaged Business Enterprises (DBE) Provisions and Forms
- Exhibit E – Intent to Perform as a DBE Subcontractor for a Contract Award
- Exhibit F – Evidence of Good Faith Efforts Form
- Exhibit G – Summary of Subcontractors/Subconsultants/Suppliers
- Exhibit H– Contractor COVID-19 Vaccination Certification
- Exhibit I – Contractor COVID-19 Vaccination Quarterly Compliance Certification

Where the terms and provisions of this Agreement vary from the terms and provisions of the other Contract Documents, the terms and provisions of this Agreement will prevail over the other Contract Documents, and the remaining Contract Documents will be complementary to each other. If there are any conflicts, the most stringent terms or provisions will prevail.

The Contract Documents set forth the entire agreement between the County and the Contractor. The County and the Contractor agree that no representative or agent of either party has made any representation or promise with respect to the parties' agreement that is not contained in the Contract Documents. The Contract Documents may be referred to below as the "Contract" or the "Agreement".

2. SCOPE OF WORK

The Contractor agrees to perform the services described in the Contract Documents (the "Work"). As detailed in the "Scope of Work" (Exhibit A), the primary purpose of the Work is to provide construction management services for the Columbia Pike Multi-modal Street Improvements and the Columbia Pike Transit Stations projects. It will be the Contractor's responsibility, at its sole cost, to provide the specific services set forth in the Contract Documents and sufficient services to fulfill the purposes of the Work. Nothing in the Contract Documents limits the Contractor's responsibility to manage the details and execution of the Work.

3. PROJECT OFFICER

The performance of the Contractor is subject to the review and approval of the County Project Officer, who will be appointed by the Director of the Arlington County department or agency requesting the Work under this Contract.

4. CONTRACT TERM

Time is of the essence. The Work will commence on _____, 20____ and must be completed no later than _____20 ____ ("Initial Contract Term"), subject to any modifications provided in the Contract Documents. Upon satisfactory performance by the Contractor the County may, through issuance of a bilateral Notice of Renewal, authorize continuation of the Agreement under the same contract prices for not more than _____ additional 12-month periods, from _____, 20____ to _____, 20____ (each a "Subsequent Contract Term"). The Initial Contract Term and any Subsequent Contract Term(s) are together the "Contract Term".

5. CONTRACT AMOUNT

The County will pay the Contractor in accordance with the terms of the Payment section below and of Exhibit B for the Contractor's completion of the Work as required by the Contract Documents. The Contractor will complete the Work for the total amount specified in this section ("Contract Amount").

The County will not compensate the Contractor for any goods or services beyond those included in Exhibit A unless those additional goods or services are covered by a fully executed amendment to this Contract. Additional services will be billed at the rates set forth in Exhibit B unless otherwise agreed by the parties in writing.

6. CONTRACT PRICE ADJUSTMENTS

The hourly rates will remain firm until _____ ("Price Adjustment Date"). To request a price adjustment, the Contractor or the County must submit a written request to the other party not less than 90 days before the Price Adjustment Date. Adjustments to the Contract Amount/unit price(s) will not exceed the percentage of change in the U.S. Department of Labor Consumer Price Index, All Items, Unadjusted, Urban Areas ("CPI-U") for the 12 months of statistics available at the time of the Contract's renewal.

Any Contract Amount/unit price(s) that result from this provision will become effective the day after the Price Adjustment Date and will be binding for 12 months. The new Price Adjustment Date will be 12 months after the price adjustment.

If the Contractor and the County have not agreed on a requested adjustment by 30 days before the Price Adjustment Date, the County may not renew the Contract, whether or not the County has previously elected to renew the Contract's term.

7. PAYMENT

The Contractor must submit invoices to the County’s Project Officer or Task Order Officer, who will either approve the invoice or require corrections. The County will pay the Contractor within forty-five (45) days after receipt of an invoice for completed work that is reasonable and allocable to the Contract and that has been performed to the satisfaction of the Project Officer. The number of the County Purchase Order pursuant to which goods or services have been delivered or performed must appear on all invoices.

If the County makes a partial payment, it will retain 5% of the estimate upon which the partial payment is based until completion and final acceptance of the Work.

8. REIMBURSABLE EXPENSES

Only reasonable project-related expenses identified in Exhibit B will be reimbursed. The Contractor will charge allowed reimbursable expenses on a unit-price basis and must provide verified invoices. The total amount paid for project-related expenses will not exceed the amount shown in Exhibit B.

9. * PAYMENT OF SUBCONTRACTORS

The Contractor is obligated to take one of the two following actions within seven days after receipt of payment by the County for work performed by any subcontractor under this Contract:

- a. Pay the subcontractor for the proportionate share of the total payment received from the County attributable to the work performed by the subcontractor under this Contract; or
- b. Notify the County and the subcontractor, in writing, of the Contractor's intention to withhold all or a part of the subcontractor's payment, with the reason for nonpayment.

The Contractor is obligated to pay interest to the subcontractor on all amounts owed by the Contractor to the subcontractor that remain unpaid after seven days following receipt by the Contractor of payment from the County for work performed by the subcontractor under this Contract, except for amounts withheld as allowed in subsection b., above. Unless otherwise provided under the terms of this Contract, interest will accrue at the rate of 1% per month.

The Contractor must include in each of its subcontracts, if any are permitted, a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier subcontractor.

The Contractor's obligation to pay an interest charge to a subcontractor pursuant to this section may not be construed to be an obligation of the County. A Contract modification may not be made for the purpose of providing reimbursement for such interest charge. A cost reimbursement claim may not include any amount for reimbursement for such interest charge.

10. NO WAIVER OF RIGHTS

The County’s approval or acceptance of or payment for any goods or services under this Contract will not waive any rights or causes of action arising out of the Contract.

11. * NON-APPROPRIATION

All payments by the County to the Contractor pursuant to this Contract are subject to the availability of an annual appropriation for this purpose by the County Board of Arlington County, Virginia (“Board”). In

the event that the Board does not appropriate funds for the goods or services provided under this Contract, the County will terminate the Contract, without termination charge or other liability to the County, on the last day of the fiscal year or when the previous appropriation has been spent, whichever event occurs first.

12. ESTIMATED QUANTITIES/NON-EXCLUSIVITY OF CONTRACTOR

This Contract does not obligate the County to purchase a specific quantity of items or services during the Contract Term. Any quantities that are included in the Contract Documents are the present expectations of the County for the period of the Contract; and the County is under no obligation to buy that or any amount as a result of having provided this estimate or of having had any normal or otherwise measurable requirement in the past. The County may require more goods and/or services than the estimated annual quantities, and any such additional quantities will not give rise to any claim for compensation other than at the unit prices and/or rates in the Contract.

The County does not guarantee that the Contractor will be the exclusive provider of the goods or services covered by this Contract. The items or services covered by this Contract may be or become available under other County contract(s), and the County may determine that it is in its best interest to procure the items or services through those contract(s).

13. * COUNTY PURCHASE ORDER REQUIREMENT

County purchases are authorized only if the County issues a Purchase Order in advance of the transaction, indicating that the ordering County agency has sufficient funds available to pay for the purchase. If the Contractor provides goods or services without a signed County Purchase Order, it does so at its own risk and expense. The County will not be liable for payment for any purchases made by its employees that are not authorized by the County Purchasing Agent.

14. REPLACEMENT OF PERSONNEL AND SUBCONTRACTORS

The County has the right reasonably to reject staff or subcontractors whom the Contractor assigns to the project. The Contractor must then provide replacement staff or subcontractors satisfactory to the County in a timely manner and at no additional cost to the County. The day-to-day supervision and control of the Contractor's and its subcontractors' employees is the sole responsibility of the Contractor.

The Contractor may not replace key personnel or subcontractors identified in its proposal, including the approved Project Manager, without the County's written approval. The Contractor must submit any request to remove or replace key personnel or subcontractors to the County Project Officer at least 15 calendar days in advance of the proposed action. The request must contain a detailed justification, including identification of the proposed replacement and his or her qualifications.

If the approved Project Manager must be absent for an extended period, the Contractor must provide an interim Project Manager, subject to the County's written approval.

If the approved Project Manager resigns or is terminated by the Contractor, the Contractor will replace the Project Manager with an individual with similar qualifications and experience, subject to the County's written approval.

15. * EMPLOYMENT DISCRIMINATION BY CONTRACTOR PROHIBITED

During the performance of its work pursuant to this Contract:

- A. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, sexual orientation, gender identity, national origin, age, disability or on any other basis prohibited by state law. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- B. Notices, advertisements, and solicitations placed in accordance with federal law, rule or regulation will be deemed sufficient for meeting the requirements of this section.
- C. The Contractor will state in all solicitations or advertisements for employees that it places or causes to be placed that such Contractor is an Equal Opportunity Employer.
- D. The Contractor will comply with the provisions of the Americans with Disabilities Act of 1990 ("ADA"), which prohibits discrimination against individuals with disabilities in employment and mandates that disabled individuals be provided access to publicly and privately provided services and activities.
- E. The Contractor must include the provisions of the foregoing paragraphs in every subcontract or purchase order of more than \$10,000.00 relating to this Contract so that the provisions will be binding upon each subcontractor or vendor.

16. * EMPLOYMENT OF UNAUTHORIZED ALIENS PROHIBITED

In accordance with §2.2-4311.1 of the Code of Virginia, as amended, the Contractor must not during the performance of this Contract knowingly employ an unauthorized alien, as that term is defined in the federal Immigration Reform and Control Act of 1986.

17. * DRUG-FREE WORKPLACE TO BE MAINTAINED BY CONTRACTOR

During the performance of this Contract, the Contractor must: (i) provide a drug-free workplace for its employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violating such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of more than \$10,000.00 relating to this Contract so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "workplace" means the site(s) for the performance of the work required by this Contract.

18. *SEXUAL HARASSMENT POLICY

If the Contractor employs more than five employees, the Contractor shall (i) provide annual training on the Contractor's sexual harassment policy to all supervisors and employees providing services in the Commonwealth, except such supervisors or employees that are required to complete sexual harassment training provided by the Department of Human Resource Management, and (ii) post the Contractor's sexual harassment policy in (a) a conspicuous public place in each building located in the Commonwealth that the Contractor owns or leases for business purposes and (b) the Contractor's employee handbook.

19. SAFETY

The Contractor must ensure that it and its employees and subcontractors comply with all applicable local, state, and federal policies, regulations and standards relating to safety and health, including the standards of the Virginia Occupational Safety and Health program of the Department of Labor and Industry for General Industry and for the Construction Industry and the applicable Federal Environmental Protection Agency and Virginia Department of Environmental Quality standards.

20. COVID-19 VACCINATION POLICY FOR CONTRACTORS

Due to the COVID-19 pandemic, the County has taken various steps to protect the welfare, health, safety and comfort of the workforce and public at large. As part of these steps, the County has implemented various requirements with respect to health and safety including policies with respect to social distancing, the use of face-coverings and vaccine mandates. All County Contractors, entering County owned, controlled, or leased facilities or facilities operated by a contractor if the services provided at that location are exclusive to Arlington County Government or contractors with public facing responsibilities must adopt these policies for implementation with their employees and subcontractors working on County contracts.

Contractors are required to obtain and maintain the COVID-19 vaccine status of employees or subcontractors, require any unvaccinated or not fully vaccinated employees to follow a weekly testing protocol established by the Contractor to submit to weekly testing, and provide any accommodations as required by law. Contractor should submit the certification of compliance to the Purchasing Agent at the time of contract execution and within five working days of the end of each quarter (see Exhibits ____). In addition, all Contractor and subcontractor employees subject to the requirements of this section must also comply with the County COVID-19 masking and social distancing protocols, as signed at each County location.

It is recognized that the COVID-19 pandemic is an ongoing health crisis. As such, requirements with respect to health and safety, including vaccines and face-coverings may change over time. Contractors are expected to adhere to the County requirements as they evolve in response to the crisis.

For questions, the Contractor may email contractorvaccineinfo@arlingtonva.us.

21. TERMINATION

The County may terminate this Contract at any time as follows: (1) for cause, if, as determined by the County, the Contractor is in breach or default or has failed to perform the Work satisfactorily; or (2) for the convenience of the County.

Upon receipt of a notice of termination, the Contractor must not place any further orders or subcontracts for materials, services, or facilities; must terminate all vendors and subcontracts, except as are necessary for the completion of any portion of the Work that the County did not terminate; and must immediately deliver all documents related to the terminated Work to the County.

Any purchases that the Contractor makes after the notice of termination will be the sole responsibility of the Contractor unless the County has approved the purchases in writing as necessary for completion of any portion of the Work that the County did not terminate.

If any court of competent jurisdiction finds a termination for cause by the County to be improper, then the termination will be deemed a termination for convenience.

A. TERMINATION FOR CAUSE, INCLUDING BREACH AND DEFAULT; CURE

1. Termination for Unsatisfactory Performance. If the County determines that the Contractor has failed to perform satisfactorily, then the County will give the Contractor written notice of such failure(s) and the opportunity to cure them within 15 days or any other period specified by the County ("Cure Period"). If the Contractor fails to cure within the Cure Period, the County may terminate the Contract for failure to provide satisfactory performance by providing written notice with a termination date. The Contractor must submit any request for termination costs, with all supporting documentation, to the County Project Officer within 30 days after the expiration of the Cure Period. The County may accept or reject the request for termination costs, in whole or in part, and may notify the Contractor of its decision within a reasonable time.

In the event of termination by the County for failure to perform satisfactorily, the Contractor must continue to provide its services as previously scheduled through the termination date, and the County must continue to pay all fees and charges incurred through the termination date.

2. Termination for Breach or Default. If the County terminates the Contract for default or breach of any Contract provision or condition, then the termination will be immediate after notice of termination to the Contractor (unless the County provides for an opportunity to cure), and the Contractor will not be permitted to seek termination costs.

Upon any termination pursuant to this section, the Contractor will be liable to the County for costs that the County must expend to complete the Work, including costs resulting from any related delays and from unsatisfactory or non-compliant work performed by the Contractor or its subcontractors. The County will deduct such costs from any amount due to the Contractor; or if the County does not owe the Contractor, the Contractor must promptly pay the costs within 15 days of a demand by the County. This section does not limit the County's recovery of any other damages to which it is entitled by law.

Except as otherwise directed by the County, the Contractor must stop work on the date of receipt the notice of the termination.

B. TERMINATION FOR THE CONVENIENCE OF THE COUNTY

The County may terminate this Contract in whole or in part whenever the Purchasing Agent determines that termination is in the County's best interest. The County will give the Contractor at least 15 days' notice in writing. The notice must specify the extent to which the Contract is terminated and the effective termination date. The Contractor will be entitled to termination costs, plus any other reasonable amounts that the parties might negotiate; but no amount will be allowed for anticipatory profits.

Except as otherwise directed by the County, the Contractor must stop work on the date of receipt of the notice of the termination.

22. INDEMNIFICATION (Note: Virginia law does not permit the County to indemnify others; cross indemnity provisions are not acceptable to the County)

The Contractor covenants for itself, its employees and its subcontractors to save, defend, hold harmless and indemnify the County and all of its elected and appointed officials, officers, current and former employees, agents, departments, agencies, boards and commissions (collectively the "County Indemnitees") from and against any and all claims made by third parties for any and all losses, damages, injuries, fines, penalties, costs (including court costs and attorneys' fees), charges, liability, demands or exposure resulting from, arising out of or in any way connected with the Contractor's acts or omissions, including the acts or omissions of its employees and/or subcontractors, in performance or nonperformance of the Contract. This duty to save, defend, hold harmless and indemnify will survive the termination of this Contract. If the Contractor fails or refuses to fulfill its obligations contained in this section, the Contractor must reimburse the County for any and all resulting payments and expenses, including reasonable attorneys' fees. The Contractor must pay such expenses upon demand by the County, and failure to do so may result in the County withholding such amounts from any payments to the Contractor under this Contract.

23. INTELLECTUAL PROPERTY INDEMNIFICATION

The Contractor warrants and guarantees that in providing services under this Contract neither the Contractor nor any subcontractor is infringing on the intellectual property rights (including, but not limited to, copyright, patent, mask, and trademark) of third parties.

If the Contractor or any of its employees or subcontractors uses any design, device, work or material that is covered by patent or copyright, it is understood that the Contract Amount includes all royalties, licensing fees, and any other costs arising from such use in connection with the Work under this Contract.

The Contractor covenants for itself, its employees and its subcontractors to save, defend, hold harmless, and indemnify the County Indemnitees, as defined above, from and against any and all claims, losses, damages, injuries, fines, penalties, costs (including court costs and attorneys' fees), charges, liability or exposure for infringement of or on account of any trademark, copyright, patented or unpatented invention, process or article manufactured or used in the performance of this Contract. This duty to save, defend, hold harmless and indemnify will survive the termination of this Contract. If the Contractor fails or refuses to fulfill its obligations contained in this section, the Contractor must reimburse the County for any and all resulting payments and expenses, including reasonable attorneys' fees. The Contractor must pay such expenses upon demand by the County, and failure to do so may result in the County withholding such amounts from any payments to the Contractor under this Contract.

24. COPYRIGHT

By this Contract, the Contractor irrevocably transfers, assigns, sets over and conveys to the County all rights, title, and interest, including the sole exclusive and complete copyright interest, in any and all copyrightable works created pursuant to this Contract. The Contractor will execute any documents that the County requests to formalize such transfer or assignment.

The rights granted to the County by this section are irrevocable and may not be rescinded or modified, including in connection with or as a result of the termination of or a dispute concerning this Contract.

The Contractor may not use subcontractors or third parties to develop or provide input into any copyrightable materials produced pursuant to this Contract without the County's advance written

approval and unless the Contractor includes this Copyright provision in any contract or agreement with such subcontractors or third parties related to this Contract.

25. OWNERSHIP OF WORK PRODUCT

This Contract does not confer on the Contractor any ownership rights or rights to use or disclose the County's data or inputs.

All work product, in any form, that results from this Contract is the property of the County and must be provided or returned to the County upon completion, termination, or cancellation of this Contract. The Contractor will not use or allow others to use the work product for any purpose other than performance of this Contract without the written consent of the County.

The work product is confidential, and the Contractor may neither release the work product nor share its contents. The Contractor will refer all inquiries regarding the status of any work product to the Project Officer or to his or her designee. At the County's request, the Contractor will deliver all work product, including hard copies of electronic files, to the Project Officer and will destroy all electronic files.

The Contractor must include the provisions of this section as part of any contract or agreement related to this Contract into which it enters with subcontractors or other third parties.

The provisions of this section will survive any termination or cancellation of this Contract.

26. CONFIDENTIAL INFORMATION

The Contractor and its employees, agents and subcontractors will hold as confidential all County information obtained under this Contract. Confidential information includes, but is not limited to, nonpublic personal information; personal health information (PHI); social security numbers; addresses; dates of birth; other contact information or medical information about a person; and information pertaining to products, operations, systems, customers, prospective customers, techniques, intentions, processes, plans and expertise. The Contractor must take reasonable measures to ensure that all of its employees, agents and subcontractors are informed of and abide by this requirement.

27. * ETHICS IN PUBLIC CONTRACTING

This Contract incorporates by reference Article 9 of the Arlington County Purchasing Resolution, as well as all state and federal laws related to ethics, conflicts of interest or bribery, including the State and Local Government Conflict of Interests Act (Code of Virginia § 2.2-3100 et seq.), the Virginia Governmental Frauds Act (Code of Virginia § 18.2-498.1 et seq.) and Articles 2 and 3 of Chapter 10 of Title 18.2 of the Code of Virginia, as amended (§ 18.2-438 et seq.). The Contractor certifies that its proposal was made without collusion or fraud; that it has not offered or received any kickbacks or inducements from any other offeror, supplier, manufacturer or subcontractor; and that it has not conferred on any public employee having official responsibility for this procurement any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

28. * COUNTY EMPLOYEES

No Arlington County employee may share in any part of this Contract or receive any benefit from the Contract that is not available to the general public.

29. FORCE MAJEURE

Neither party will be held responsible for failure to perform the duties and responsibilities imposed by this Contract if such failure is due to a fire, riot, rebellion, natural disaster, war, act of terrorism or act of God that is beyond the control of the party and that makes performance impossible or illegal, unless otherwise specified in the Contract, provided that the affected party gives notice to the other party as soon as practicable after the force majeure event, including reasonable detail and the expected duration of the event's effect on the party.

30. * AUTHORITY TO TRANSACT BUSINESS

The Contractor must, pursuant to Code of Virginia § 2.2-4311.2, be and remain authorized to transact business in the Commonwealth of Virginia during the entire term of this Contract. Otherwise, the Contract is voidable at the sole option of and with no expense to the County.

31. * RELATION TO COUNTY

The Contractor is an independent contractor, and neither the Contractor nor its employees or subcontractors will be considered employees, servants or agents of the County. The County will not be responsible for any negligence or other wrongdoing by the Contractor or its employees, servants or agents. The County will not withhold payments to the Contractor for any federal or state unemployment taxes, federal or state income taxes or Social Security tax or for any other benefits. The County will not provide to the Contractor any insurance coverage or other benefits, including workers' compensation.

32. ANTITRUST

The Contractor conveys, sells, assigns and transfers to the County all rights, title and interest in and to all causes of action under state or federal antitrust laws that the Contractor may have relating to this Contract.

33. REPORT STANDARDS

The Contractor must submit all written reports required by this Contract for advance review in a format approved by the Project Officer. Reports must be accurate and grammatically correct and should not contain spelling errors. The Contractor will bear the cost of correcting grammatical or spelling errors and inaccurate report data and of other revisions that are required to bring the report(s) into compliance with this section.

Whenever possible, reports must comply with the following guidelines:

- printed double-sided on at least 30% recycled-content and/or tree-free paper
- recyclable and/or easily removable covers or binders made from recycled materials (proposals with glued bindings that meet all other requirements are acceptable)
- avoid use of plastic covers or dividers
- avoid unnecessary attachments or documents or superfluous use of paper (e.g., separate title sheets or chapter dividers)

34. AUDIT

The Contractor must retain all books, records and other documents related to this Contract for at least five years, or such period of time required by the County's funding partner(s), if any, whichever is greater, after the final payment and must allow the County or its authorized agents to examine the documents during this period and during the Contract Term. The Contractor must provide any requested documents to the County for examination within 15 days of the request, at the Contractor's expense. Should the County's examination reveal any overcharging by the Contractor, the Contractor must, within

30 days of County's request, reimburse the County for the overcharges and for the reasonable costs of the County's examination, including, but not limited to, the services of external audit firm and attorney's fees; or the County may deduct the overcharges and examination costs from any amount that the County owes to the Contractor. If the Contractor wishes to destroy or dispose of any records related to this Contract (including confidential records to which the County does not have ready access) within five years after the final payment, or such period of time required by the County's funding partner(s), if any, whichever is greater, the Contractor must give the County at least 30 days' notice and must not dispose of the documents if the County objects.

The Purchasing Agent may require the Contractor to demonstrate that it has the necessary facilities, ability, and financial resources to comply with the Contract and furnish the service, material or goods specified herein in a satisfactory manner at any time during the term of this Contract.

35. ASSIGNMENT

The Contractor may not assign, transfer, convey or otherwise dispose of any award or any of its rights, obligations or interests under this Contract without the prior written consent of the County.

36. AMENDMENTS

This Contract may not be modified except by written amendment executed by persons duly authorized to bind the Contractor and the County.

37. * ARLINGTON COUNTY PURCHASING RESOLUTION AND COUNTY POLICIES

Nothing in this Contract waives any provision of the Arlington County Purchasing Resolution, which is incorporated herein by reference, or any applicable County policy.

38. * DISPUTE RESOLUTION

All disputes arising under this Agreement or concerning its interpretation, whether involving law or fact and including but not limited to claims for additional work, compensation or time, and all claims for alleged breach of contract must be submitted in writing to the Project Officer as soon as the basis for the claim arises. In accordance with the Arlington County Purchasing Resolution, claims denied by the Project Officer may be submitted to the County Manager in writing no later than 60 days after the final payment. The time limit for a final written decision by the County Manager is 30 days. Procedures concerning contractual claims, disputes, administrative appeals and protests are contained in the Arlington County Purchasing Resolution. The Contractor must continue to work as scheduled pending a decision of the Project Officer, County Manager, County Board or a court of law.

39. * APPLICABLE LAW, FORUM, VENUE AND JURISDICTION

This Contract is governed in all respects by the laws of the Commonwealth of Virginia; and the jurisdiction, forum and venue for any litigation concerning the Contract or the Work is in the Circuit Court for Arlington County, Virginia, and in no other court.

40. ARBITRATION

No claim arising under or related to this Contract may be subject to arbitration.

41. NONEXCLUSIVITY OF REMEDIES

All remedies available to the County under this Contract are cumulative, and no remedy will be exclusive of any other at law or in equity.

42. NO WAIVER

The failure to exercise a right provided for in this Contract will not be a subsequent waiver of the same right or of any other right.

43. SEVERABILITY

The sections, paragraphs, clauses, sentences, and phrases of this Contract are severable; and if any section, paragraph, clause, sentence or phrase of this Contract is declared invalid by a court of competent jurisdiction, the rest of the Contract will remain in effect.

44. * ATTORNEY'S FEES

In the event that the County prevails in any legal action or proceeding brought by the County to enforce any provision of this Contract, the Contractor will pay the County's reasonable attorney's fees and expenses.

45. SURVIVAL OF TERMS

In addition to any statement that a specific term or paragraph survives the expiration or termination of this Contract, the following sections also survive: INDEMNIFICATION; INTELLECTUAL PROPERTY INDEMNIFICATION; RELATION TO COUNTY; OWNERSHIP OF WORK PRODUCT; AUDIT; COPYRIGHT; DISPUTE RESOLUTION; APPLICABLE LAW AND JURISDICTION; ATTORNEY'S FEES, AND CONFIDENTIAL INFORMATION.

46. HEADINGS

The section headings in this Contract are inserted only for convenience and do not affect the substance of the Contract or limit the sections' scope.

47. AMBIGUITIES

The parties and their counsel have participated fully in the drafting of this Agreement; and any rule that ambiguities are to be resolved against the drafting party does not apply. The language in this Agreement is to be interpreted as to its plain meaning and not strictly for or against any party.

48. NOTICES

Unless otherwise provided in writing, all legal notices and other communications required by this Contract are deemed to have been given when either (a) delivered in person; (b) delivered by an agent, such as a delivery service; or (c) deposited in the United States mail, postage prepaid, certified, or registered and addressed as follows:

TO THE CONTRACTOR:

TO THE COUNTY:

_____, Project Officer

AND

Dr. Sharon T. Lewis, LL.M, MPS, VCO, CPPB
Purchasing Agent
Arlington County, Virginia
2100 Clarendon Boulevard, Suite 500
Arlington, Virginia 22201
Phone: (703) 228-3294
Email: slewis1@arlingtonva.us

TO COUNTY MANAGER'S OFFICE (FOR PROJECT CLAIMS):

Mark Schwartz, County Manager
Arlington County, Virginia
2100 Clarendon Boulevard, Suite 318
Arlington, Virginia 22201

49. ARLINGTON COUNTY BUSINESS LICENSES

The Contractor must comply with the provisions of Chapter 11 ("Licenses") of the Arlington County Code, if applicable. For information on the provisions of that Chapter and its applicability to this Contract, the Contractor must contact the Arlington County Business License Division, Office of the Commissioner of the Revenue, 2100 Clarendon Blvd., Suite 200, Arlington, Virginia, 22201, telephone number (703) 228-3060.

50. * NON-DISCRIMINATION NOTICE

Arlington County does not discriminate against faith-based organizations.

51. ACCESSIBILITY OF WEB SITE

If any work performed under this Contract results in the design, development, or maintenance of or responsibility for the content or format of any County web sites or for the County's presence on third-party web sites, the Contractor must perform such work in compliance with ADA.

52. INSURANCE REQUIREMENTS

Before beginning work under the Contract or any extension, the Contractor must provide to the County Purchasing Agent a Certificate of Insurance indicating that the Contractor has in force at a minimum the coverage below. The Contractor must maintain this coverage until the completion of the Contract or as otherwise stated in the Contract Documents. All required insurance coverage must be acquired from insurers that are authorized to do business in the Commonwealth of Virginia, with a rating of "A-" or better and a financial size of "Class VII" or better in the latest edition of the A.M. Best Co. Guides.

- a. Workers Compensation - Virginia statutory workers compensation (W/C) coverage, including Virginia benefits and employer's liability with limits of \$500,000/500,000/500,000. The County will not accept W/C coverage issued by the Injured Worker's Insurance Fund, Towson, MD.
- b. Commercial General Liability - \$1,000,000 per occurrence, with \$1,000,000 annual aggregate covering all premises and operations and including personal injury, completed operations, contractual liability, independent contractors, and products liability. The general aggregate limit

must apply to this Contract. Evidence of contractual liability coverage must be typed on the certificate.

- c. Business Automobile Liability - \$1,000,000 combined single-limit (owned, non-owned and hired).
- d. Professional Liability - The Contractor shall carry Errors and Omissions or Professional Liability insurance which will pay for damages arising out of errors or omissions in the rendering, or failure to render services or perform Work under the contract, in the amount of \$2,000,000.
- e. Additional Insured – The County and its officers, elected and appointed officials, employees and agents must be listed as additional insureds on all policies except workers compensation and automotive and professional liability; and the additional insured endorsement must be typed on the certificate.
- f. Cancellation - If there is a material change or reduction in or cancellation of any of the above coverages during the Contract Term, the Contractor must notify the Purchasing Agent immediately and must, with no lapse in coverage, obtain replacement coverage that is consistent with the terms of this Contract. Not having the required insurance throughout the Contract Term is grounds for termination of the Contract.
- g. Claims-Made Coverage - Any “claims made” policy must remain in force, or the Contractor must obtain an extended reporting endorsement, until the applicable statute of limitations for any claims has expired.
- h. Contract Identification - All insurance certificates must state this Contract's number and title.

The County Board of Arlington County, Virginia, is to be named in Additional Name Insured or a Broad Form Contractual Endorsement may be added to the policy as respects any liability that may arise out of or result from the handling of Work on this Project including specifically but without limitation thereto, the indemnity provisions in the Agreement. Such policies will be endorsed to provide that they are primary to an insurance carried by the County Board of Arlington County, Virginia.

The Contractor must disclose to the County the amount of any deductible or self-insurance component of any of the required policies. With the County’s approval, the Contractor may satisfy its obligations under this section by self-insurance for all or any part of the insurance required, provided that the Contractor can demonstrate sufficient financial capacity. In order to do so, the Contractor must provide the County with its most recent actuarial report and a copy of its self-insurance resolution.

The County may request additional information to determine if the Contractor has the financial capacity to meet its obligations under a deductible and may require a lower deductible; that funds equal to the deductible be placed in escrow; a certificate of self-insurance; collateral; or another mechanism to guarantee the amount of the deductible and ensure protection for the County.

The County’s acceptance or approval of any insurance will not relieve the Contractor from any liability or obligation imposed by the Contract Documents.

The Contractor is responsible for the Work and for all materials, tools, equipment, appliances and property used in connection with the Work. The Contractor assumes all risks for direct and indirect damage or injury to the property used or persons employed in connection with the Work and for of all damage or injury to any person or property, wherever located, resulting from any action, omission, commission, or operation under the Contract or in connection in any way whatsoever with the Work. The Contractor's insurance shall be the primary non-contributory insurance for any work performed under this Contract.

The Contractor is as fully responsible to the County for the acts and omissions of its subcontractors and of persons employed by them as it is for acts and omissions of persons whom the Contractor employs directly.

53. COUNTERPARTS

This Agreement may be executed in one or more counterparts and all of such counterparts shall together constitute one and the same instrument. Original signatures transmitted and received via facsimile or other electronic transmission, (e.g., PDF or similar format) are true and valid signatures for all purposes hereunder and shall be effective as delivery of a manually executed original counterpart.

54. GRANT FUNDED PROJECT

This work is funded in part by grants from the Virginia Department of Rail and Public Transportation (DRPT) and regional funding from the Northern Virginia Transportation Authority (NVTA). The Contractor is responsible for ensuring its compliance with all applicable DRPT and NVTA requirements including the following:

- A. The Contractor, their agents and employees shall comply with all covenants and provisions of the Virginia Department of Rail and Public Transportation (DRPT) Master Agreement for the Use of Commonwealth Transportation Funds with the County Board of Arlington County VA dated July 1, 2020 and shall be made expressly a part of any subcontracts executed by the Contractor and shall be binding on all subcontractors, vendors, their agents and employees.
- B. The Contractor shall name NVTA and its Bond Trustee, the Northern Virginia Transportation Commission (NVTC) and its Bond Trustee, the Commonwealth of Virginia, the Commonwealth Transportation Board (CTB), DRPT, the Virginia Department of Transportation and their officers, employees and agents as additional insureds on Any insurance policy issued for the Work to be performed, and present satisfactory evidence of insurance coverage before commencing with any Work, so that they are protected for losses to the extent caused by the negligence or willful misconduct of such entity or person, from third party claims that are directly related to or arise out of: (a) any failure by the Contractor to comply with, to observe or to perform in any material respect any of the covenants, obligations, agreements, terms or conditions in this Task, or any breach by Contractor of its representations or warranties in this Task; (b) any actual or willful misconduct or negligence of the Contractor, its employees or agents in direct connection with the Work; (c) any actual or alleged patent or copyright infringement or other actual or alleged improper appropriation or use of trade secrets, patents, proprietary information, know-how, trademarked or service-marked materials, equipment devices or processes, copyright rights or inventions by the Contractor in direct connection with the Work; (d) inverse condemnation, trespass, nuisance or similar taking of harm to real property committed or caused by the

Contractor, its employees or agents in direct connection with the work; or (e) any assumed liabilities.

- C. The Contractor shall indemnify, defend and hold harmless, NVTC and its Bond Trustee, the Commonwealth of Virginia, the CTB, VDOT, DRPT and their officers, agents, and employees of these entities from and against any all damages, claims, suits, judgments, expenses, actions and costs of every name and description, arising out of or resulting from any act or omission by the Contractor, its subcontractors, agent or employees in the performance of the Work.
- D. The obligations of this Section shall survive the termination or completion of the Contract.

55. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) PROVISIONS AND REQUIREMENTS

This Contract is subject to certain provisions required by the U.S. Department of Transportation as set forth in FTA Circular 4220.1.F, which are attached as Exhibit C. Anything to the contrary notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with any other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any County requests which would cause the County to be in violation of the FTA terms and conditions.

The Contractor agrees to include this clause and Exhibit C in each subcontract financed in whole or in part with the federal assistance provided by the FTA. Contractor further agrees that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

WITNESS these signatures:

THE COUNTY BOARD OF ARLINGTON
COUNTY, VIRGINIA

CONTRACTOR

AUTHORIZED
SIGNATURE: _____

AUTHORIZED
SIGNATURE: _____

NAME: _____

NAME: _____

TITLE: _____

TITLE: _____

DATE: _____

DATE: _____

EXHIBIT C

Required Federal Transit Administration (FTA) Contract Clauses and Certifications

Contract Subject to Federal Financial Assistance/Application of Provisions and Clauses

This project is funded in whole or in part by grants from the Federal Transit Administration (FTA) of the United States Department of Transportation. The award The Contractor/Proposer is required to comply with all terms and conditions prescribed for third-party contracts by the U.S. Department of Transportation, Federal Transit Administration (FTA).

Contractor/Proposer is responsible for ensuring its compliance with all applicable FTA requirements. Additionally, Contractor/Proposer is responsible for ensuring that subcontractors, at as many tiers of the Project as required, perform in accordance with the terms, conditions, and specifications of the contract, including all applicable FTA requirements.

Upon request of the County or FTA, Contractor/Proposer shall provide evidence of the steps it has taken to ensure its compliance with the FTA requirements, as well as evidence of the steps it has taken to ensure subcontractor performance, and/or submit evidence of subcontractor's compliance at all tiers.

The following provisions and required contract clauses will be incorporated by reference in the Contract. Some provisions and clauses require the contractor/proposer to execute and submit certain required certifications with the contract, which are included herein. Failure to execute and submit required certifications with the contract documents may render a contract null and void.

Clauses may not be listed in consecutive numerical order as only those provisions and required clauses that apply to this contract/project have been referenced.

1. FLY AMERICA REQUIREMENTS

49 U.S.C. § 40118

41 CFR Part 301-10

Applicability to Contracts

Applicable to the transportation of persons or property, by air, between a place in the U.S. and a place outside the U.S., or between places outside the U.S., when the FTA will participate in the costs of such air transportation.

Flow Down Requirements

The Fly America requirements flow down from FTA recipients and subrecipients to first tier contractors, who are responsible for ensuring that lower tier contractors and subcontractors are in compliance.

Fly America- The Contractor agrees to comply with 49 U.S.C. 40118 (the “Fly America” Act) in accordance with the General Services Administration’s regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

5. SEISMIC SAFETY REQUIREMENTS

42 U.S.C. 7701 et seq. 49

CFR Part 41

Applicability to Contracts

Applicable to all contracts for the construction of new buildings or additions to existing buildings.

Flow Down

The Seismic Safety requirements flow down from FTA recipients and subrecipients to first tier contractors to assure compliance, with the applicable building standards for Seismic Safety, including the work performed by all subcontractors.

Seismic Safety - The contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 CFR Part 41 and will certify to compliance to the extent required by the regulation. The contractor also agrees to ensure that all work performed under this contract including work performed by a subcontractor is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

The certificate entitled *Seismic Safety- Certificate of Compliance (Attachment A)* must be completed and submitted with your bid/proposal.

6. ENERGY CONSERVATION REQUIREMENTS

42 U.S.C. 6321 et seq.

49 CFR Part 18

Applicability to Contracts

Applicable to all contracts.

Flow Down

The Energy Conservation requirements extend to all third party contractors and their contracts at every tier and subrecipients and their subagreements at every tier.

Energy Conservation - The contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

7. CLEAN WATER REQUIREMENTS

33 U.S.C. 1251

Applicability to Contracts

Applicable to all contracts and subcontracts exceeding \$100,000.

Flow Down

The Clean Water requirements flow down to FTA recipients and subrecipients at every tier.

Clean Water - (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

10. LOBBYING

31 U.S.C. 1352

49 CFR Part 19

49 CFR Part 20

Applicability to Contracts

Applicable to all contracts exceeding \$100,000.

Flow Down

The Lobbying requirements mandate the maximum flow down, pursuant to Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352(b)(5) and 49 C.F.R. Part 19, Appendix A, Section 7.

Mandatory Clause/Language

Clause and specific language therein are mandated by 49 CFR Part 19, Appendix A.

- Lobbying Certification and Disclosure of Lobbying Activities for third party contractors are mandated by 31 U.S.C. 1352(b)(5), as amended by Section 10 of the Lobbying Disclosure Act of 1995, and DOT implementing regulation, "New Restrictions on Lobbying," at 49 CFR § 20.110(d)
- Language in Lobbying Certification is mandated by 49 CFR Part 19, Appendix A, Section 7, which provides that contractors file the certification required by 49 CFR Part 20, Appendix A.
- Use of "Disclosure of Lobbying Activities," Standard Form-LLL set forth in Appendix B of 49 CFR Part 20, as amended by "Government wide Guidance For New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96) is mandated by 49 CFR Part 20, Appendix A.

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

The certificate entitled *Certification Regarding Lobbying (Attachment B)* must be completed and returned with your bid/proposal.

11. ACCESS TO RECORDS AND REPORTS

49 U.S.C. 5325

18 CFR 18.36 (i)

49 CFR 633.17

Applicability to Contracts

Applicable to all contracts as listed below.

Flow Down

FTA does not require the inclusion of these requirements in subcontracts.

Access to Records - The following access to records requirements apply to this Contract:

1. Where the County is not a State but a local government and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 18.36(i), the Contractor agrees to provide the County, the FTA Administrator, the Comptroller General of the United States or any of their authorized

representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C.F.R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.

2. Where the County which is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to the County, the Secretary of the US Department of Transportation and the US Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

3. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

4. The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three (3) years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the County, the FTA Administrator, the US Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).

5. FTA does not require the inclusion of these requirements in subcontracts.

12. FEDERAL CHANGES **49 CFR Part 18**

Applicability to Contracts

Applicable to all contracts.

Flow Down

The Federal Changes requirement flows down appropriately to each applicable changed requirement.

Federal Changes - Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between The County and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

14. CLEAN AIR
42 U.S.C. 7401 et seq
40 CFR 15.61
49 CFR Part 18

Applicability to Contracts

Applicable to all contracts exceeding \$100,000.

Flow Down

The Clean Air requirements flow down to all subcontracts which exceed \$100,000.

Clean Air - (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The Contractor agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

19. NO GOVERNMENT OBLIGATION TO THIRD PARTIES

Applicability to Contracts

Applicable to all contracts.

(1) The County and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the County, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(2) The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

20. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

31 U.S.C. 3801 et seq.
49 CFR Part 31 18 U.S.C. 1001
49 U.S.C. 5307

Applicability to Contracts

Applicable to all contracts.

Flow Down

These requirements flow down to contractors and subcontractors who make, present, or submit covered claims and statements.

Program Fraud and False or Fraudulent Statements or Related Acts.

(1) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

(2) The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

(3) The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

21. TERMINATION
49 U.S.C. Part 18
FTA Circular 4220.1F

Applicability to Contracts

Applicable to all contracts exceeding \$10,000.

Termination for Cause, Including Breach and Default; Cure

The Contract shall remain in force for the Contract Term or Subsequent Contract Term(s) and until the County determines that all requirements and conditions have been satisfactorily met: the County has accepted the Work, and thereafter until the Contractor has met all requirements and conditions relating to the Work under the Contract Documents, including warranty and guarantee periods. However, the County shall have the right to terminate this Contract sooner if the Contractor is in breach or default or has failed to perform satisfactorily the Work required, as determined by the County in its discretion.

If the County determines that the Contractor has failed to perform satisfactorily, then the County will give the Contractor written Notice of such failure/s and the opportunity to cure such failure/s at least fifteen (15) days before termination of the Contract takes effect ("Cure Period"). If the Contractor fails to cure within the Cure Period or as otherwise specified in the Notice, the Contract is terminated for the Contractor's failure to provide satisfactory Contract performance. Upon such termination, the Contractor may apply for compensation for Contract services satisfactorily performed by the Contractor and allocable to the Contract and accepted by the County prior to such termination unless otherwise barred by the Contract ("Termination Costs"). Such request for Termination Costs, with all supporting

documentation, must be submitted to the County Project Officer within fifteen (15) days after the expiration of the Cure Period. The County may accept or reject, in whole or in part, the application for Termination Costs and notify the Contractor of same within a reasonable time thereafter.

If the County terminates the Contract for default or breach of any Contract provision or condition, then the termination shall be immediate after Notice from the County to the Contractor (unless the County in its discretion provides for an opportunity to cure) and the Contractor shall not be permitted to seek Termination Costs.

Upon any termination pursuant to this section, the Contractor shall be liable to the County for all costs incurred by the County after the effective date of termination including costs required to be expended by the County to complete the Work covered by the Contract, including costs of delay in completing the Project or the cost of repairing or correcting any unsatisfactory or non-compliant work. Such costs shall be either subtracted from any amount due the Contractor or shall be promptly paid by the Contractor to the County upon demand by the County. Additionally, and notwithstanding any provision in this Contract to the contrary, the Contractor is liable to the County (and the County shall be entitled to recover) all damages to which the County is entitled by this Contract or by law, including and without limitation, direct damages, indirect damages, consequential damages, delay damages, replacement costs, refund of all sums paid by the County to the Contractor under the Contract and all attorney fees and costs incurred by the County to enforce any provision of this Contract.

Except as otherwise directed by the County, the Contractor shall stop Work on the date of receipt of Notice of the termination or other date specified in the Notice, place no further orders or subcontracts for materials, services, or facilities except as are necessary for the completion of such portion of the Work not terminated, and terminate all vendors and subcontracts and settle all outstanding liabilities and claims.

In the event any termination for cause, default, or breach shall be found to be improper or invalid by any court of competent jurisdiction then such termination shall be deemed to have been a termination for convenience.

Termination for the Convenience of the County

The performance of work under this Contract may be terminated by the Purchasing Agent in whole or in part whenever the Purchasing Agent shall determine that such termination is in the County's best interest. Any such termination shall be effected by the delivery to the Contractor of a written notice of termination at least fifteen (15) days before the date of termination, specifying the extent to which performance of the work under this Contract is terminated and the date upon which such termination becomes effective. The Contractor will be entitled to receive compensation for all Contract services satisfactorily performed by the Contractor and allocable to the Contract and accepted by the County prior to such termination and any other termination costs as negotiated by the parties, but no amount shall be allowed for anticipatory profits.

After receipt of a notice of termination and except as otherwise directed, the Contractor shall stop all work on the date of receipt of the notice of termination or other date specified in the notice; place no further orders or subcontracts for materials, services or facilities except as are necessary for the completion of such portion of the work not terminated; immediately transfer all documentation and paperwork for terminated work to the County; and terminate all vendors and subcontracts and settle all outstanding liabilities and claims.

22. GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

Applicability to Contracts

The provisions of Part 29 apply to all contracts and subcontracts at any level expected to equal or exceed \$25,000 as well as any contract or subcontract (at any level) for Federally required auditing services. 49 CFR 29.220(b).

The certificate entitled *Certification Regarding Debarment, Suspension and Other Responsibility Matters (Attachment C)* must be completed and returned with your bid/proposal.

24. CIVIL RIGHTS REQUIREMENTS

**29 U.S.C. § 623, 42 U.S.C. § 2000
42 U.S.C. § 6102, 42 U.S.C. § 12112
42 U.S.C. § 12132, 49 U.S.C. § 5332
29 CFR Part 1630, 41 CFR Parts 60 et seq.**

Applicability to Contracts

Applicable to all contracts.

Flow Down

The Civil Rights requirements flow down to all third party contractors and their contracts at every tier.

Civil Rights - The following requirements apply to the underlying contract:

(1) **Nondiscrimination** - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(2) **Equal Employment Opportunity** - The following equal employment opportunity requirements apply to the underlying contract:

(a) **Race, Color, Creed, National Origin, Sex** - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment

or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(c) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(3) The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

25. BREACHES AND DISPUTE RESOLUTION

49 CFR Part 18

FTA Circular 4220.1F

Applicability to Contracts

Applicable to all contracts exceeding \$100,000.

Flow Down

The Breaches and Dispute Resolutions requirements flow down to all tiers.

Dispute Resolution

The Contract is governed in part by the applicable provisions of the Arlington County Purchasing Resolution. The time limit for final written decision by the County Manager in the event of a contractual dispute, as that term is defined in the Purchasing Resolution, is thirty (30) days. Procedures for considering contractual claims, disputes, administrative appeals, and protests are contained in the Purchasing Resolution, incorporated herein by reference, and available upon request from the Office of the Purchasing Agent. Pending final determination of any dispute or claim hereunder, the Contractor shall proceed diligently with the performance of the Work under the Contract.

Arbitration

It is expressly agreed that nothing under the Contract shall be subject to arbitration, and any references to arbitration are expressly deleted from the Contract.

28. DISADVANTAGED BUSINESS ENTERPRISE (DBE)

49 CFR Part 26

Applicability to Contracts

Applicable to all DOT-assisted contracting activities.

Disadvantaged Business Enterprises

- a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The County's overall goal for DBE participation is 23.3 %. A separate contract goal has not been established for this procurement.
- b. The contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as The County deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (*see 49 CFR 26.13(b)*).
- c. The contractor will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.
- d. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than seven (7) days after the contractor's receipt of payment for that work from the County. In addition, the Contractor is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed.
- e. The contractor must promptly notify the County, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the County.

30. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS **FTA Circular 4220.1F**

Applicability to Contracts

Applicable to all contracts.

Flow Down

The incorporation of FTA terms has unlimited flow down.

Incorporation of Federal Transit Administration (FTA) Terms - The preceding provisions include, in part, certain Standard Terms and Conditions required by the USDOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by USDOT, as set forth in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse

to comply with any County requests which would cause the County to be in violation of the FTA terms and conditions.

33. ACCESS FOR INDIVIDUALS WITH DISABILITIES

Applicability to Contracts

Applicable to all contracts.

The Contractor agrees to comply with 49 U.S.C. § 5301(d), which states the Federal policy that elderly individuals and individuals with disabilities have the same right as other individuals to use public transportation services and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement transportation accessibility rights for elderly individuals and individuals with disabilities. The Contractor also agrees to comply with all applicable provisions of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability in the administration of programs or activities receiving Federal financial assistance; with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 *et seq.*, which requires that accessible facilities and services be made available to individuals with disabilities; with the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 *et seq.*, which requires that buildings and public accommodations be accessible to individuals with disabilities; and with other laws and amendments thereto pertaining to access for individuals with disabilities that may be applicable. In addition, the Contractor agrees to comply with applicable implementing Federal regulations and any later amendments thereto, and agrees to follow applicable Federal implementing directives, except to the extent FTA approves otherwise in writing.

ATTACHMENT "A"

REQUIRED CERTIFICATIONS

SEISMIC SAFETY-CERTIFICATE OF COMPLIANCE

(To be submitted with a bid/proposal for the construction of new buildings or additions to existing buildings.)

The contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 CFR Part 41 and will certify to compliance to the extent required by the regulation. The contractor also agrees to ensure that all work performed under this contract including work performed by a subcontractor is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

Date _____

Signature _____

Company Name _____

Title _____

ATTACHMENT B

CERTIFICATION REGARDING LOBBYING PURSUANT TO 49 CFR PART 20

APPENDIX A, 49 CFR PART 20--CERTIFICATION REGARDING LOBBYING

(To be submitted with each bid or offer exceeding \$100,000)

Certification for Contracts, Grants, Loans, and Cooperative Agreements

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

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

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)]

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

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

_____ Signature of Contractor's Authorized Official

_____ Name and Title of Contractor's Authorized Official

_____ Date

ATTACHMENT C
CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

(To be submitted with each bid or offer exceeding \$25,000)

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by Arlington County. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to Arlington County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

The prospective participant certifies to the best of its knowledge and belief that it and the principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three year period preceding this proposal been convicted of or had a civil judgment rendered against them or commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction: violation of Federal or State antitrust statute or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

I understand that a false statement on this certification may be grounds for rejection of this proposal or termination of the award. In addition, under 18 USC Sec. 1001, a false statement may result in a fine of up to \$10,000 or imprisonment for up to 5 years, or both.

Typed Name & Title of Authorized Representative

Signature of Authorized Representative

Date

I am unable to certify to the above statements.

EXHIBIT- D
DISADVANTAGED BUSINESS ENTERPRISES (DBE) PROVISIONS

A. DEFINITIONS AND INTERPRETATIONS

The County will utilize the following definitions to identify Disadvantaged Business Enterprise (DBE) Program eligibility standards. The following definitions and any other definitions related to the DBE program have the same meaning as defined in 49 CFR Part 26.

- (1) "Disadvantaged Business Enterprise" or "DBE" means a for profit small business concern:
 - (1) which is at least 51 percent owned by one or more socially or economically disadvantaged individuals, or in the case of a corporation in which 51 percent of the stock is owned by one or more such individuals; and
 - (2) whose management and daily business operation are controlled by one or more of the socially and economically disadvantaged individuals who own it.

- (2) "Small Business Concern" means, with respect to firms seeking to participate as DBEs in USDOT-assisted contracts, a small business as defined pursuant to Section 3 of the Small Business Act and Small Business Administration regulations implementing it (13 CFR Part 121) that also does not exceed the cap on average annual gross receipts specified in section 26.65(b).

- (3) "Socially and Economically Disadvantaged Individual" means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and includes any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:
 - (a) "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;

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

 - (c) "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;

 - (d) "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands, Republic of Palau, the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Tuvalu, Nauru, Federated States of Micronesia, or Hong Kong;

 - (e) "Subcontinent Asian Americans," which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal, or Sri Lanka;

 - (f) Non-minority American Women;

- (g) "Tribally-owned concern" means any concern at least 51 percent owned by an Indian tribe;
 - (h) "Any individual groups whose members are designated as socially and economically disadvantaged by the Small Business Administration (SBA) at such times as the SBA designation becomes effective; and
 - (i) Any individual who the County finds to be socially and economically disadvantaged on a case-by-case basis.
- (3) "USDOT" means the U.S. Department of Transportation including the Federal Transit Administration (FTA).
- (5) "Good Faith Efforts" means efforts to achieve a DBE goal or other requirement that, by their scope, intensity and appropriateness to the objective, can reasonably be expected to fulfill the DBE program requirement.

B. SMALL BUSINESS ENTERPRISE

The County's Division of Transportation has a Small Business Enterprise (SBE) Program as part of its DBE Program. The County provides race-neutral efforts to facilitate participation of small businesses in its procurement process for federally assisted projects through the FTA. Although there is no SBE goal for this procurement, SBE firms are encouraged to participate, and Offerors are encouraged to seek SBE firms as subconsultants/subcontractors.

C. BANKS AND FINANCIAL INSTITUTIONS

The Contractor is encouraged to utilize the services of disadvantaged, minority and woman-owned banks and financial institutions. The identity of such banks is available at: <https://www.occ.treas.gov/topics/consumers-and-communities/minority-outreach/minority-depository-institutions-list.pdf>.

D. CERTIFICATION AND DIRECTORY OF DBES

- (1) All prospective DBEs must be certified through a Unified Certification Program (UCP). The County recognizes certification by the Virginia Department of Small Business and Supplier Diversity (DSBSD) and the Metropolitan Washington Airports Authority (MWAA).
- (2) Each DBE firm will be verified as a certified DBE through one of the UCP Directories listed above and they each maintain online DBE directories of all firms certified. These online directories and appropriate forms to apply for DBE certification are available at the following website addresses:
DSBSD's website: <https://www.sbsd.virginia.gov/certification-division/dbe/>
MWAA's website: <https://www.mwaa.com/topics/local-disadvantaged-business-enterprise>
- (3) The eligibility of a DBE certified joint venture will be determined on a project-by-project basis by the County.
- (4) Offerors are reminded that only certified DBEs may participate in County contracts in such capacities. If Offerors propose using a DBE not currently certified, it is strongly urged that

a UCP be contacted well in advance of the date set for receipt of offers in order to enable review of the proposed DBE's eligibility.

E. DBE Modifications or Substitutions

This Provision applies to all modifications and substitutions under this Contract. The Contractor will be required to comply with this Provision to the extent needed to achieve the DBE goals agreed to at the time of contract award.

- (1) If a prime contractor wishes to terminate or substitute a DBE subcontractor listed as fulfilling its contract goal, and then performs the work of the terminated DBE subcontractor with its own forces, an affiliate, a non-DBE subcontractor or with another DBE subcontractor, it must submit written documentation prior to the termination or substitution of the DBE subcontractor to the Contracting Officer. This will include any changes to items of work, material, services, or DBE firms that differ from those identified on the Intent to Perform as a DBE Subcontractor form(s) (**Exhibit C**) on file with the Contracting Officer. The Offeror/Contractor must provide any and all documentation and information as may be requested with respect to the requested change.
- (2) The Offeror's/Contractor's documentation shall include the specific reasons for the proposed change. Specific reasons that are acceptable include but are not limited to: the DBE was not able to perform; the DBE was unable to produce acceptable work; and/or the DBE has submitted an unreasonable escalation in price. In the case of a DBE subcontractor being substituted by another DBE subcontractor, the Contractor should include the name, address, certification number and principal office of the proposed DBE firm. After providing an opportunity to the County's DBE Specialist to make a recommendation, the Contracting Officer will approve or disapprove the change.
- (3) If the change involves a subcontractor substitution, the Offeror/Contractor must make good faith effort to replace one DBE with another DBE. The substitute DBE firm must be certified by a UCP in order for the Offeror/Contractor to receive credit toward fulfilling its DBE participation goal for the contract. In the event that the Offeror/Contractor is unable to contract with another DBE firm, good faith effort documentation must be provided to the Contracting Officer describing the unsuccessful attempts to locate a substitute DBE. In all situations, the Contractor may not terminate or substitute a DBE subcontractor without the prior written consent of the Contracting Officer.
- (4) The Offeror/Contractor must submit a new Intent to Perform as a DBE Subcontractor form for the substitute DBE firm(s) with the request for change, to verify that the new DBE firm(s) is certified by a UCP. The Contracting Officer shall notify the Offeror/Contractor in writing of his decision as expeditiously as possible. If the contract has been awarded and the Contracting Officer approves the proposed substitution in writing, the Contractor shall provide a copy of the executed subcontract agreement with the proposed DBE firm to the Contracting Officer within ten (10) business days of its receipt of the substitution approval.
- (5) If the change involves a modification, the Contractor must submit, if applicable, the Intent to Perform as a DBE Subcontractor form specified for contract modifications for any DBE

subcontractor affected by this change. This form may be obtained from the Contracting Officer.

- (6) If the Contractor does not comply with this Provision, the County may elect to apply contract remedies as defined in 49 CFR Part 26, or other contract remedies, as appropriate. Additionally, the Contracting Officer may order that the profits from the terminated portion of the DBE subcontract be forfeited by the Contractor.

F. DEMONSTRATION OF GOOD FAITH EFFORT

- (1) If an Offeror does not meet the DBE goal, it shall nevertheless be eligible for award of the contract if it can demonstrate to the Contracting Officer that it has made a good faith effort to meet the DBE goal. The Offeror shall submit to the County the Evidence of Good Faith Efforts Form (Exhibit D) which documents the steps it has taken to solicit participation from DBE firms. This form should be submitted when the initial response to the County's solicitation is due. All contractors, including DBE prime contractors, are required to submit good faith efforts documentation, if necessary. In evaluating an Offeror's good faith effort submission, the County will only consider those documented efforts that occurred prior to the good faith efforts determination.
- (2) In the event that a firm submitted by an Offeror in accordance with the requirements of the Submission of DBE Utilization Forms and Related Documentation provision cannot be certified, the Offeror will be notified and given an opportunity to substitute that firm with a certified DBE firm. The Offeror will have ten (10) calendar days from the date of notification to accomplish the substitution. In the event the Offeror is unable to contract with another substitute DBE firm, the good faith efforts that the Offeror made in attempting to contract with a substitute DBE firm must be documented to the Contracting Officer at the end of the same ten (10) calendar day period.
- (3) The County will look not only at the different kinds of efforts that the Offeror has made, but also the quantity and intensity of those efforts. Efforts that are merely pro forma are not good faith efforts to meet the goal (even if they are sincerely motivated) if, given all relevant circumstances, the Offeror's efforts could not reasonably be expected to produce a level of DBE participation sufficient to meet the goal.
- (4) Offerors are reminded that the issue of whether or not the Offeror has met or exceeded the established goal and/or demonstrated good faith efforts is considered a matter of the Offeror's responsibility. The County will only award contracts to Offerors determined to be responsible. The Contracting Officer, after affording the County's DBE personnel an opportunity to make a recommendation, shall be responsible for determining the sufficiency of an Offeror's good faith effort to meet contract goals.
- (5) An Offeror that the Contracting Officer determines is not responsible may request administrative review and reconsideration under the County's Procurement Regulations. As part of any reconsideration, if requested, the Offeror may elect to meet in person with the County's Purchasing Agent to discuss credit toward meeting the DBE goal or whether the Offeror made adequate good faith efforts.

G. OFFEROR'S DBE OBLIGATION

The Offeror's DBE Obligation is outlined in Section VIII – Federal Transit Administration Clauses provision 28 entitled Disadvantaged Business Enterprise (DBE). The County has established an overall goal of **23.3 percent** race-neutral DBE participation on FTA-assisted contracts.

H. PAYMENT DOCUMENTATION

Concurrently with the submission of each invoice or request for a progress payment under this contract, the Contractor shall provide a breakdown of the amounts paid to DBEs identified by the Contractor to participate in this contract. The breakdown shall be provided on the attached Monthly DBE Subcontractor Progress Report form. As provided elsewhere in this Contract, the County may withhold all or part of any payment otherwise due the Contractor if the Contractor fails to submit the Monthly DBE Subcontractor Progress Report form and/or make prompt payments to its subcontractors, suppliers, materialmen or laborers.

I. SANCTIONS FOR NONCOMPLIANCE WITH THE COUNTY'S DBE PROGRAM PROVISIONS

Failure of the Contractor to carry out the County's DBE program provisions shall constitute a breach of contract and may result in termination of the Contractor for default or such remedy as the County may deem appropriate. The County reserves the right to apply legal and contract remedies available under Federal, state and local law, including but not limited to, responsibility determinations in future contracts, suspension and debarment procedures as outlined in 49 CFR Part 29, and forfeiture of profits as provided for elsewhere. The County will bring to the attention of the U.S. Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that USDOT can take steps provided in 49 CFR Section 26.107.

J. SUBMISSION OF DBE UTILIZATION FORMS AND RELATED DOCUMENTATION

(1) Each Offeror should submit to the County a Summary of Subcontractor/Subconsultant/Suppliers form (**Exhibit E**) subcontractor when the initial response to the County's solicitation is due. If an Offeror does not meet the County's DBE participation goal, the Evidence of Good Faith Efforts form should also be submitted when the initial response to the county's solicitation is due. The submission of this information is considered an issue of responsibility, and the County will not award a contract to any Offeror who has not supplied this documentation.

(2) The Intent to Perform As A DBE Subcontractor form for each proposed subcontractor shall constitute a representation by the Offeror to the County that it believes such firm is ready, willing, and able to perform the work indicated. It shall also represent a commitment by the Offeror that if it is awarded the contract, it will enter into a subcontract with such subcontractor for the work described at the approximate price set forth in the Intent to Perform As A DBE Subcontractor form.

(3) If the DBE Subcontractor participation changes after the forms have been submitted, but prior to award of the contract, the Offeror will be required to immediately notify the Contracting Officer of the changed amount and the reason(s) for the change. The modification and substitutions of DBE firms that occur shall be governed by DBE Modification or Substitutions provision of this Exhibit.

- (4) Except as authorized by the Contracting Officer, the successful Offeror shall enter into formal agreements with the subcontracting firms shown in the submitted Intent to Perform As A DBE Subcontractor form(s) within ten (10) business days after receipt of a contract executed by the County. The successful Offeror (Contractor) shall provide the Contracting Officer a copy of each agreement within three (3) business days of execution.
- (5) If an Offeror is a DBE and lists itself on the Intent to Perform As A DBE Subcontractor form, it is required to perform the work indicated with its own work force.

EXHIBIT E
INTENT TO PERFORM AS A DBE SUBCONTRACTOR FOR A CONTRACT AWARD
All DBE subcontracting firms to be used on this solicitation must fill out this form.

DBE firms participating in Arlington County's contracting opportunities must have "current" certification status with a Unified Certification Program (UCP) prior to award of this contract. If the County determines that the firm is not an eligible DBE firm for Arlington County contracts and subcontracts, the prime contractor will be notified of the ineligibility of the listed firm. The submission of this form is considered an issue of responsibility and the County will not award a contract to any Offeror who has not supplied this documentation.

1. Arlington County Solicitation #: _____
2. Name of **DBE** Subcontracting Firm _____.
3. Has the **DBE** subcontractor been certified as a DBE by a UCP agency? _____
4. The **DBE** subcontractor is prepared to perform the following described work and/or supply the material listed in connection with the above project (where applicable specify "supply" or "install" or both):

and at the following price \$ _____.

BY: _____ DATE: ____/____/____
(Signature of **DBE** subcontracting Owner, President or Authorized Agent)

PHONE: _____
(Print or Type - Name of Signature of Owner, President or Authorized Agent of **DBE** subcontracting firm)

DECLARATION OF PRIME CONTRACTOR

I HEREBY DECLARE AND AFFIRM that I am the _____
(Title of Declarant)
and a duly authorized representative of _____
(Name of Prime Contractor)

to make this declaration and that I have personally reviewed the material and facts set forth in this Intent to Perform As A DBE subcontractor form. To the best of my knowledge, information and belief, the facts and representations contained in this form are true, the owner or authorized agent of the subcontracting firm signed this form in the place indicated, and no material facts have been omitted.

Except as authorized by the Contracting Officer, the undersigned will enter into a formal agreement with the listed DBE subcontracting firm for work as indicated by this form within ten (10) business days after receipt of the contract executed by Arlington County. The undersigned will provide the Contracting Officer a copy of that agreement within three (3) business days of execution.

The Prime Contractor designated the following person as their DBE Liaison Officer:

(Name-Please Print) (Phone)

Pursuant to 49 CFR Section 26.107, any person [entity] who makes a false or fraudulent statement in connection with participation of a DBE in any USDOT-assisted program or otherwise violates applicable Federal statutes and may be referred to the U.S. Department of Transportation, and possibly the U.S. Department of Justice, for prosecution.

Name of Declarant: _____
Signature: _____ Date: _____

**EXHIBIT F
EVIDENCE OF GOOD FAITH EFFORTS FORM
(SUBMIT THIS FORM ONLY IF DBE GOAL CANNOT BE FULFILLED)**

If an Offeror does not meet the County’s DBE participation goal, it shall be eligible for award of the contract if it can demonstrate that it has made a good faith effort to meet the DBE goal. If necessary, the Offeror shall submit this form to document the good faith efforts attempt made in soliciting participation from DBE firms. In order to show that good faith efforts were made, the Offeror must demonstrate the methods it used to seek DBE participation, in accordance with the Regulations Regarding the Determination of Good Faith Efforts Participation.

Arlington County Solicitation #: _____ Current Date: ____/____/____

Project Name: _____

Offeror (Firm): _____ Telephone: _____

Contact Person: _____ E-Mail: _____

Address: _____ City/State/Zip: _____

To determine whether an Offeror has demonstrated good faith efforts to reach the DBE participation goal on the above referenced project, the County will consider, at a minimum, evidence of Good Faith Efforts as described in the table below.

YES (Y)	NO (N)	EVIDENCE OF GOOD FAITH EFFORTS
		PRE-BID MEETING(S): The Offeror attended pre-bid or pre-proposal meetings scheduled by the County to discuss, among other matters, DBE participation opportunities and acknowledged receipt of DBE certified vendor lists.
		ADVERTISEMENT: The Offeror advertised in general circulation, trade association, and/or minority/women-focus media concerning subcontracting opportunities.
		WRITTEN NOTICE(S): The Offeror provided written notice to a reasonable number of DBEs that their interest in the contract was being solicited in sufficient time to allow DBEs to participate
		FOLLOW-UP: The Offeror followed up initial solicitations of interest by contacting DBEs to determine with certainty whether the DBEs were interested.
		SMALL CONTRACTS: The Offeror selected portions of the work to be performed by DBEs in order to increase the likelihood of meeting the DBE goals (including, where appropriate, breaking down the contract into economically feasible subcontracts to facilitate DBE
		INFORMATION: The Offeror provided interested DBEs with adequate information about the plans, specifications, scope of work and requirements of the contract.
		GOOD FAITH NEGOTIATIONS: The Offeror negotiated in good faith with interested DBEs regarding price, using good business judgment and not rejecting reasonable quotes from interested DBE firms.
		ASSISTANCE EFFORTS: The Offeror made efforts to assist interested DBEs in obtaining bonding, lines of credit, insurance, etc., as required by the County or the Offeror.
		ASSISTANCE IN OBTAINING SUPPLIES: The Offeror made efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.

		WRITTEN NOTICE(S): The Offeror obtained written documentation from a bona fide surety company indicating that bonding was denied and for what reason(s), prior to the DBE being rejected as a potential subcontractor for failing to obtain Offeror-required bonding. Documentation furnished by a surety company will be subject to verification by the County.
		COMMUNITY RESOURCES: The Offeror effectively used the services of available minority and women community organizations, contractor groups; local, State, and Federal business assistance offices; and other organizations that provide assistance in the identification of DBEs.
		OTHER – PLEASE EXPLAIN:

I certify that the information contained in this Evidence of Good Faith Efforts Form is true and correct to the best of my knowledge. I further understand that any willful falsification, fraudulent statement or misrepresentation will result in appropriate sanctions which may involve debarment and /or prosecution under applicable State and Federal laws.

Print Name/Title of Person Completing this Form:

Signature: _____ Date: _____

APPENDIX 1 - MONTHLY DBE AND NON-DBE SUBCONTRACTOR PROGRESS REPORT (FOR REFERENCE ONLY)



MONTHLY DBE AND NON-DBE SUBCONTRACTOR PROGRESS REPORT

REPORT FOR MONTH ENDING _____, 20__ / PROGRESS PAYMENT # _____

INSTRUCTIONS: After the award of a contract, this Report must be filed by the 20th of each month to report sub-contractor participation during the preceding month.

- 1) Prime Contractor: _____ 2) Project Name: _____
 3) Contract Number: _____ 4) Contract Amount (as Amended) \$: _____
 5) Total Amount Received to Date: \$ _____ 6) Total Amount Owed: \$ _____ 7) Amount of This Invoice: \$ _____
 8) Total Value of DBE Contracts: \$ _____ 9) Committed DBE %: _____ % 10) Actual DBE Participation % to Date: _____ %

11) Name of Subcontractor	12) DBE (Y/N)	13) Work Status This Reporting Period	14) Description of Work	15) Amount & Date of Last Payment Made to Subcontractor	16) Amount of Subcontract Award	17) Amount Paid to Date	18) % Paid to Date	19) Amount Invoiced this Reporting Period
		<input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Complete						
		<input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Complete						
		<input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Complete						
		<input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Complete						
		<input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Complete						
		<input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Complete						

I certify the information furnished above is correct to the best of my knowledge and represents a current status of the prime contractor's subcontracting activity for the period covered by this report. Further, those subcontractors due payment pursuant to the terms of their subcontracts will be paid within seven (7) days after prime contractor receipt of payment from Arlington County.

Name: _____ Signature: _____ Title: _____ Date: _____

MONTHLY DBE AND NON-DBE SUBCONTRACTOR PROGRESS REPORT INSTRUCTIONS FOR CONTRACTORS HOW TO FILL OUT PROGRESS REPORT FORM

The DBE Subcontractor Progress Report form is to be filled out by the Contractor and submitted with each invoice. The instructions below correspond to each item on the reverse side of the form. Please follow the instructions.

1. **Prime Contractor**
Fill in your company's name.
2. **Project Name**
Fill in the name of the project.
3. **Contract Number**
Fill in the contract number assigned to your project by Arlington County.
4. **Contract Amount (as Amended)**
Fill in dollar amount of original contract plus/minus the dollar amount agreed upon at a later date as a result of contract modifications, if applicable.
5. **Total Amount Received to Date**
Fill in the dollar amount you have received from Arlington County to date.
6. **Total Amount Owed**
Fill in the dollar amount of the contract minus amount paid to you by Arlington County.
7. **Amount of This Invoice**
Fill in the dollar amount of the invoice being submitted to Arlington County this reporting period.
8. **Total Value of DBE Contracts**
State the total committed dollar value to all DBE subcontractors for the duration of the contract.
9. **Committed DBE Percentage**
Fill in the percentage of DBE participation you committed to obtain in the contract.
10. **Actual DBE Participation % to Date**
Dollar amount paid to all DBE firms divided by dollar amount received by Contractor from Arlington County.
11. **Name of Subcontractor**
Name all subcontractors including DBE and Non-DBE Firms (use additional sheets as necessary).
12. **DBE (Y/N)**
State whether the subcontractor is a DBE firm or not.
13. **Work Status This Reporting Period**
Check the box stating whether the subcontractor is actively working on the project, is currently inactive on the project or if they've completed their work on the project.
14. **Description of Work**
State the work performed by the subcontractor.
15. **Amount and Date of Last Payment Made to Subcontractor**
State the amount and date of last payment made to each subcontractor. Submit evidence of payment (i.e. cancelled check, check register, etc.).
16. **Amount of Subcontract Award**
State the committed dollar value to the subcontractor for the duration of the contract.
17. **Amount Paid to Date**
Add all amounts paid to each subcontractor to date.
18. **Percent Paid to Date**
Dollar amount paid to the subcontractor divided by the amount committed to them.
19. **Amount Invoiced this Reporting Period**
Fill in how much of the invoice from this reporting period will be paid to each subcontractor.

EXHIBIT G

SUMMARY OF SUBCONTRACTORS/SUBCONSULTANTS/SUPPLIERS

Offerors shall provide information on all of their prospective subcontractor(s)/subconsultant(s)/ suppliers who submit proposals in support of this solicitation. Use additional sheets as necessary.

Project Name: _____

Name of Prime Contractor: _____

NAMES AND ADDRESSES OF SUBCONTRACTOR(S)/SUBCONSULTANT(S)	TYPE OF WORK TO BE PERFORMED	ETHNICITY & GENDER OF OWNER (PLEASE CIRCLE)	PREVIOUS YEAR'S ANNUAL GROSS RECEIPTS	\$ AMOUNT ON CONTRACT
NAME: ADDRESS: PHONE: FAX: E-MAIL: CONTACT PERSON:	TYPE OF WORK: AGE OF FIRM: IS THE FIRM A CERTIFIED DBE BY A UNIFIED CERTIFICATION PROGRAM? YES <input type="checkbox"/> NO <input type="checkbox"/>	Ethnicity: <input type="checkbox"/> Black American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Native American <input type="checkbox"/> Subcont. Asian American <input type="checkbox"/> Asian Pacific American <input type="checkbox"/> Non-Minority Woman <input type="checkbox"/> Other	<input type="checkbox"/> less than \$500K <input type="checkbox"/> \$500K - \$2 mil. <input type="checkbox"/> \$2 mil. - \$5 mil. <input type="checkbox"/> more than \$5 mil.	
NAME: ADDRESS: PHONE: FAX: E-MAIL: CONTACT PERSON:	TYPE OF WORK: AGE OF FIRM: IS THE FIRM A CERTIFIED DBE BY A UNIFIED CERTIFICATION PROGRAM? YES <input type="checkbox"/> NO <input type="checkbox"/>	Ethnicity: <input type="checkbox"/> Black American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Native American <input type="checkbox"/> Subcont. Asian American <input type="checkbox"/> Asian Pacific American <input type="checkbox"/> Non-Minority Woman <input type="checkbox"/> Other	<input type="checkbox"/> less than \$500K <input type="checkbox"/> \$500K - \$2 mil. <input type="checkbox"/> \$2 mil. - \$5 mil. <input type="checkbox"/> more than \$5 mil.	
NAME: ADDRESS: PHONE: FAX: E-MAIL: CONTACT PERSON:	TYPE OF WORK: AGE OF FIRM: IS THE FIRM A CERTIFIED DBE BY THE UNIFIED CERTIFICATION PROGRAM? YES <input type="checkbox"/> NO <input type="checkbox"/>	Ethnicity: <input type="checkbox"/> Black American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Native American <input type="checkbox"/> Subcont. Asian American <input type="checkbox"/> Asian Pacific American <input type="checkbox"/> Non-Minority Woman <input type="checkbox"/> Other	<input type="checkbox"/> less than \$500K <input type="checkbox"/> \$500K - \$2 mil. <input type="checkbox"/> \$2 mil. - \$5 mil. <input type="checkbox"/> more than \$5 mil.	

Print Name and Title of Person Completing this Form: _____

Signature: _____ Date: _____

EXHIBIT H

CONTRACTOR COVID-19 VACCINATION CERTIFICATION

- I hereby certify that all _____ (Contractor Name) employees and subcontractors who will be working on Contract No. _____ are fully vaccinated against COVID-19, being tested on a weekly basis, or are exempt pursuant to a valid reasonable accommodation under state or federal law.

Please do not include any of your employees' medical documentation, including vaccination records or test results.

Date: _____

Signature: _____

Printed Name: _____

Title: _____

EXHIBIT I

CONTRACTOR COVID-19 VACCINATION QUARTERLY COMPLIANCE CERTIFICATION

By Email: Please complete the report below and return it to: contractorvaccineinfo@arlingtonva.us.

I hereby certify that all _____ (Contractor Name) employees and subcontractors working on Contract No. _____ are fully vaccinated against COVID-19, being tested on a weekly basis, or are exempt pursuant to a valid reasonable accommodation under state or federal law.

Please do not include any of your employees' medical documentation, including vaccination records or test results.

Date: _____

Signature: _____

Printed Name and Title: _____

Company Name: _____

Company Address: _____

VII. ATTACHMENTS AND FORMS

ARLINGTON COUNTY, VIRGINIA
REQUEST FOR PROPOSALS NO. 22-DES-RFP-387

PROPOSAL FORM

ELECTRONIC PROPOSALS WILL BE RECEIVED BY THE COUNTY VIA VENDOR REGISTRY NOT LATER THAN
4:00 P.M., MARCH 4, 2022.

FOR PROVIDING CONSTRUCTION MANAGEMENT SERVICES FOR COLUMBIA PIKE MULTIMODAL STREET
IMPROVEMENTS AND COLUMBIA PIKE TRANSIT STATIONS PROJECTS PER THE SOLICITATION.

THE FULL LEGAL NAME OF THE ENTITY SUBMITTING THIS PROPOSAL MUST BE WRITTEN IN THE SPACE
BELOW. THIS PROPOSAL FORM AND ALL OTHER DOCUMENTS THAT REQUIRE A SIGNATURE MUST BE
FULLY AND ACCURATELY COMPLETED AND SIGNED BY A PERSON WHO IS AUTHORIZED TO BIND THE
OFFEROR, OR THE PROPOSAL MAY BE REJECTED.

SUBMITTED BY:

(legal name of entity)

AUTHORIZED SIGNATURE:

PRINT NAME AND TITLE:

ADDRESS:

CITY/STATE/ZIP:

TELEPHONE NO.:

E-MAIL
ADDRESS:

THIS ENTITY IS INCORPORATED
IN:

THIS ENTITY IS A:

*(check the applicable
option)*

CORPORATION

LIMITED PARTNERSHIP

GENERAL PARTNERSHIP

UNINCORPORATED ASSOCIATION

LIMITED LIABILITY COMPANY

SOLE PROPRIETORSHIP

IS OFFEROR AUTHORIZED TO TRANSACT BUSINESS IN THE
COMMONWEALTH OF VIRGINIA?

YES

NO

IDENTIFICATION NO. ISSUED TO THE ENTITY BY THE
SCC:

*Any Offeror exempt from Virginia State Corporation Commission (SCC) authorization requirement must
include a statement with its proposal explaining why it is not required to be so authorized.*

ENTITY'S DUN & BRADSTREET D-U-N-S NUMBER: *(if available)* _____

HAS YOUR FIRM OR ANY OF ITS PRINCIPALS BEEN DEBARRED FROM SUBMITTING PROPOSALS TO ARLINGTON COUNTY, VIRGINIA, OR ANY OTHER STATE OR POLITICAL SUBDIVISION WITHIN THE PAST THREE YEARS?

YES NO

OFFEROR STATUS: MINORITY OWNED: WOMAN OWNED: NEITHER:

THE UNDERSIGNED UNDERSTANDS AND ACKNOWLEDGES THE FOLLOWING:

THE OFFICIAL COPY OF THE SOLICITATION DOCUMENTS, WHICH INCLUDES ANY ADDENDA, IS THE ELECTRONIC COPY THAT IS AVAILABLE FROM THE VENDOR REGISTRY WEBSITE AT:

[HTTPS://VRAPP.VENDORREGISTRY.COM/BIDS/VIEW/BIDSLIST?BUYERID=A596C7C4-0123-4202-BF15-3583300EE088.](https://vrapp.vendorregistry.com/bids/view/bidslst?buyerid=A596C7C4-0123-4202-BF15-3583300EE088)

POTENTIAL OFFERORS ARE RESPONSIBLE FOR DETERMINING THE ACCURACY AND COMPLETENESS OF ALL SOLICITATION DOCUMENTS THEY RECEIVE FROM ANY SOURCE, INCLUDING THE COUNTY.

1. OFFEROR MUST SUBMIT: ONE ELECTRONIC COMPLETE SIGNED PROPOSAL THAT INCLUDES AS ITS FIRST PAGE THIS PROPOSAL FORM.
2. INDICATE THE NAME AND CONTACT INFORMATION OF THE PERSON WHO CAN RESPOND AUTHORITATIVELY TO QUESTIONS REGARDING THIS PROPOSAL.

NAME (PRINTED): _____ TITLE: _____

E-MAIL ADDRESS: _____ TEL. NO.: _____

TRADE SECRETS OR PROPRIETARY INFORMATION:

Trade secrets or proprietary information submitted by an Offeror in connection with a procurement transaction will not be subject to public disclosure under the Virginia Freedom of Information Act. Pursuant to Section 4-111 of the Arlington County Purchasing Resolution, however, an Offeror seeking to protect submitted data or materials from disclosure must, before or upon submission of the data or materials, identify the data or materials to be protected and state the reasons why protection is necessary.

Please mark one:

No, the proposal that I have submitted does not contain any trade secrets and/or proprietary information.

Yes, the proposal that I have submitted does contain trade secrets and/or proprietary information.

PROPOSAL FORM, PAGE 3 OF 5

If Yes, you must clearly identify below the exact data or materials to be protected and list all applicable page numbers, sections, and paragraphs, of the proposal that contain such data or materials:

State the specific reason(s) why protection is necessary and why the identified information constitutes a trade secret or is proprietary:

If you fail above to identify the data or materials to be protected or to state the reason(s) why protection is necessary, you will not have invoked the protection of Section 4-111 of the Purchasing Resolution. Accordingly, upon the award of a contract, the proposal will be open for public inspection consistent with applicable law.

CERTIFICATION OF NON-COLLUSION: The undersigned certifies that this proposal is not the result of or affected by (1) any act of collusion with another person engaged in the same line of business or commerce (as defined in Virginia Code §§ 59.1-68.6 *et seq.*) or (2) any act of fraud punishable under the Virginia Governmental Frauds Act (Virginia Code §§ 18.2-498.1 *et seq.*).

CONTACT PERSON AND MAILING ADDRESS FOR DELIVERY OF NOTICES

Provide the name and address of the person who is designated to receive notices and other communications regarding this solicitation. Refer to the "Notices" section in the draft Contract Terms and Conditions for information regarding delivery of notices.

NAME: _____

ADDRESS: _____

E-MAIL: _____

OFFEROR'S PRINTED NAME: _____

CONTRACTOR COMPLIANCE WITH COUNTY COVID-19 VACCINATION POLICY CERTIFICATION

I, _____(hereinafter referred to as "Offeror"), certify that I will comply with the COVID-19 Vaccination Policy as a condition of contract award which requires that all contractor employees or subcontractors who will be working on the contract are fully vaccinated against COVID-19, or being tested on a weekly basis, or are exempt pursuant to a valid reasonable accommodation under state or federal law.

Signed: _____ **Date:** _____

Name of Offeror: _____

CONFLICT OF INTEREST STATEMENT

I, whose name is subscribed below, a duly authorized representative and agent of the entity submitting this proposal to Arlington County in response to its Request for Proposal No. 22-DES-RFP-387, and on behalf of the Offeror certify that:

1. Neither the Offeror nor any affiliated entity has, within the past five years, been employed by or represented a deliverer of services that reasonably could be expected to be considered for purchase by the County as a result of this solicitation;
2. if the Offeror is awarded a contract under this solicitation and during the term of that contract prepares an invitation to bid or request for proposal for or on behalf of the County, the Offeror must not (i) submit a bid or proposal for that procurement or any portion thereof or (ii) disclose to any potential bidder or offeror information concerning the procurement that is not available to the public.
3. The Offeror will not solicit or accept any commissions or fees from vendors who ultimately furnish services to the County as a result of any contract award made as a result of this solicitation.

OFFEROR'S NAME: _____

SIGNED BY: _____

PRINTED NAME/TITLE: _____

DATE: _____

NOTARY STATEMENT

COMMONWEALTH OF VIRGINIA/STATE OF _____)

CITY/COUNTY OF _____) to wit:

_____ personally appeared before me this ____ day of _____, 20__ the undersigned a Notary Public in and for the State and County of aforesaid, _____, known to me (or satisfactorily proven) to be the person whose name is subscribed to within the instrument as an agent of the Offeror and acknowledged that he/she has executed the same for the purposes therein contained.

(Seal)

Notary registration number: _____

My commission expires: _____