



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

CONTRACT AWARD COVERPAGE

TO: Caron East, Inc. 429 North Mechanic Street Cumberland, Maryland 21502	DATE ISSUED: August 17,2022	<hr/>
	CONTRACT NO: 22-DES-SLA-711	<hr/>
	CONTRACT TITLE: Topcon Land Survey Software Subscription	<hr/>

THIS IS A NOTICE OF AWARD OF CONTRACT AND NOT AN ORDER. NO WORK IS AUTHORIZED UNTIL THE VENDOR RECEIVES A VALID COUNTY PURCHASE ORDER ENCUMBERING CONTRACT FUNDS.

The contract documents consist of the terms and conditions of AGREEMENT No. 22-DES-SLA-711 including any attachments or amendments thereto.

EFFECTIVE DATE: August 17, 2022

EXPIRES: August 14, 202

RENEWALS: THIS IS THE FIRST YEAR AWARD NOTICE OF A POSSIBLE FIVE-YEAR CONTRACT.

COMMODITY CODE(S): 93831

LIVING WAGE: N

ATTACHMENTS:

AGREEMENT No.22-DES-SLA-711

EMPLOYEES NOT TO BENEFIT:

NO COUNTY EMPLOYEE SHALL RECEIVE ANY SHARE OR BENEFIT OF THIS CONTRACT NOT AVAILABLE TO THE GENERAL PUBLIC.

VENDOR CONTACT: Jimmy Wallen

VENDOR TEL. NO.: (301) 471-8300

EMAIL ADDRESS: jimmy@caroneast.com

COUNTY CONTACT: Robert Franca (DES AND ENG)

COUNTY TEL. NO.: (703) 228-7496

COUNTY CONTACT EMAIL: rfranca@ARLINGTONVA.US

PURCHASING DIVISION AUTHORIZATION

Sy Gezachew

Title : Procurement Officer

Date August 17, 2022

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

AGREEMENT NO. 22-DES-SLA-711

THIS AGREEMENT is made, on 8/17/2022, between **Caron East, Inc.** 429 North Mechanic Street, Cumberland, Maryland 21502 ("Contractor"), a Maryland Corporation 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 – Identification of Software/Training and Contract Pricing
- Exhibit B – Magnet Collage Terms and Conditions

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 provide licensing of the "Software" (Exhibit A) identified in the Contract Documents (the "Work"). 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

The subscription to use the Software will commence on August 15, 2022, for one-year ("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 for not more than four additional 12-month periods, from August 14, 2023, to August 15, 2027 (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 A for the subscription to use the Software and for four hours of related training.

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 A unless otherwise agreed by the parties in writing.

6. PAYMENT

The Contractor must submit invoices to the County's Project 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 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.

7. * 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.

8. 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.

9. * 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. Upon such termination, the County shall cease use of the Software.

10. 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).

11. * 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.

12. 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.

13. * 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.

14. * 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.

15. * 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.

16. *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.

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, must be fully vaccinated against COVID-19. Any contractor employee or subcontractor who is not fully vaccinated should be following a weekly testing protocol as established by the Contractor, unless exempt pursuant to a valid reasonable accommodation under state or federal law.

18. 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.

Upon issuance of a notice of termination the County must cease all use of the Software.

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.

19. INDEMNIFICATION

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.

20. INTELLECTUAL PROPERTY INDEMNIFICATION

The Contractor warrants and guarantees that: 1) the use of the Software by the County as contemplated by the parties will not infringe any intellectual property rights (including, but not limited to, copyright, patent, mask and trademark) of third parties; and 2) 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.

21. COUNTY DATA

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

22. 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.

23. * 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.

24. * 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.

25. 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.

26. * 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.

27. * 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.

28. 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)

29. 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.

30. 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.

31. AMENDMENTS

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

32. * 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.

33. * 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.

34. * 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.

35. ARBITRATION

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

36. NONEXCLUSIVITY OF REMEDIES

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

37. 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.

38. 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.

39. * 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.

40. 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.

41. 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.

42. 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.

43. 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:

Jimmy Wallen
Caron East Inc.
7750 Wellingford Dr. Suite 301
Manassas, VA 20109
Email: jimmy@caroneast.com

TO THE LICENSOR

Brice Walker, VP
Topcon Positioning Systems, Inc.
7400 National Dr.
Livermore, CA 94550
Email: bwalker@topcon.com

AND

John Doyle, VP Legal
Topcon Positioning Systems, Inc.
7400 National Dr.
Livermore, CA 94550
Email: jdoyle@topcon.com

TO THE COUNTY:

Robert Franca, Project Officer
Arlington County, Virginia
2100 Clarendon Boulevard, Suite 813
Arlington, Virginia 22201
Phone: (703) 228-7496
Email: rfranca@arlingtonva.us

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

44. 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, or e-mail business@arlingtonva.us.

45. * NON-DISCRIMINATION NOTICE

Arlington County does not discriminate against faith-based organizations.

46. 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).
- a. 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.
- b. 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.
- c. 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.
- d. Contract Identification - All insurance certificates must state this Contract's number and title.

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.

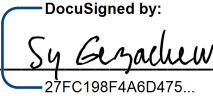
47. COUNTERPARTS

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.

WITNESS these signatures:

THE COUNTY BOARD OF ARLINGTON
COUNTY, VIRGINIA

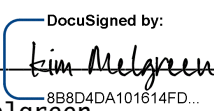
CARON EAST, INC.

AUTHORIZED
SIGNATURE:  DocuSigned by:
27FC198F4A6D475...

NAME: Sy Gezachew

TITLE: PROCUREMENT OFFICER

DATE: 8/17/2022

AUTHORIZED
SIGNATURE:  DocuSigned by:
8B8D4DA101614FD...

NAME: Kim Melgreen

TITLE: Administrative Assistant

DATE: 8/17/2022



Date: 7/20/2022

For: Arlington County
2100 Clarendon Blvd.
Arlington, VA 22201
Attn: Bob Franca

We are pleased to provide the following quotation:

QTY		DESCRIPTION	UNIT PRICE	TOTAL PRICE
		Year 1 2022		
1	1032019-01	SUBS,Magnet CollageScan+Web Intro 1 Year Subscription	\$1,800.00	\$1,800.00
		Year 2 2023		
1	1032019-01	SUBS,Magnet CollageScan+Web Intro 1 Year Subscription	\$1,854.00	\$1,854.00
		Year 3 2024		
1	1032019-01	SUBS,Magnet CollageScan+Web Intro 1 Year Subscription	\$1,909.60	\$1,909.60
		Year 4 2025		
1	1032019-01	SUBS,Magnet CollageScan+Web Intro 1 Year Subscription	\$1,966.89	\$1,966.89
		Year 5 2026		
1	1032019-01	SUBS,Magnet CollageScan+Web Intro 1 Year Subscription	\$2,025.90	\$2,025.90
		Training		
4	Training	On-Line Training from Topcon (Per Hour)	\$200.00	\$800.00
			Total Package	\$10,356.39
			Sales Tax	0.00
			Shipping/Handling/Insur	0.00
			Total Price	\$10,356.39

Quote by: Jimmy Wallen
Sales Representative for Caron East Inc.
7750 Wellingford Dr.
Manassas, VA 20109
Email: jimmy@caroneast.com
Mobile: 301-471-8300

EXHIBIT - B
Topcon Positioning System
Magnet Collage
Terms and Conditions

IMPORTANT: Please read carefully before installing and activating the Software (as defined below). Installing the Software will be considered acceptance of the terms and conditions contained herein. If you do not accept any such terms and conditions, please do not install the Software.

SOFTWARE LICENSE AGREEMENT

This License Agreement (this “Agreement”) is between you and Topcon online (electronic form) for Topcon’s MAGNET Collage software and related documentation (collectively, the “Software”). The Software consists of various modules for processing data acquired by 3D measuring instruments (“Module”) and a viewer function for viewing and displaying the processed data (“Viewer”). The Software can be purchased on a kit base with separate use rights for a single Module or plural Modules together with the Viewer. You can download the Software data containing all Modules and the Viewer and install on your single computer. Immediately after installation, only the free Viewer can be used. This Agreement applies to all parts of the Software.

After purchasing the kit(s) corresponding to the Module(s) you need, accessing the license activation server managed and operated by Topcon’s subsidiary in U.S., and registering as a user, you can use the serial number you receive at the time of your purchase and activate the Software corresponding to the Module kit(s) purchased. At the time of activation, the computer information you use for the Software operation will be collected and your user information and serial number will be recorded, and the purchased Module kit(s) can be used. If you wish to change your computer during the license period, you will need to go through Topcon’s change procedures.

1. Types of License

There are two types of license for the Software (other than the Viewer), “Perpetual License Version” and “Subscription Version” depending on the license period (each with one year maintenance included). “Perpetual License Version” is a perpetual license, and “Subscription Version” is a one-year license from activation. “Perpetual License Version” has an additional kit that adds a Module and a maintenance kit that utilizes paid maintenance service after the one-year free maintenance period expires. “Subscription Version” comes with a “Subscription Renewal Kit” which renews the existing term for an additional year.

2. Use License

(1) You may use the Software only on a single computer on which you have installed and activated

the Software. Subject to compliance with this Agreement, you will have non-exclusive rights to use the Software commencing from activation. You may use the Module or Modules after purchasing the kit or kits corresponding to such Module or Modules and activate it or them.

(2) You may make one backup copy of the Software in a machine-readable form only for archive purposes. You must reproduce the copyright, trademark and other proprietary notices of the original copy on such backup copy.

3. Intellectual Property and Restrictions

(1) Copyrights, patents, trademarks, trade secret, and other intellectual property rights in or to the Software are the property of Topcon and its licensors, including without limitation, the third parties stated in Section 4 below. The Software is protected by those intellectual property rights and applicable copyright treaties. In order to protect trade secrets contained in the Software, you must hold secret the Software and not disclose to any third party.

(2) You may not copy the Software except as set forth in Section 2 (2) above.

(3) You may not install the Software or its copies on networks or other media to enable use at multiple computers at any given point in time.

(4) You may not modify, alter or translate the Software in whole or in part, or reverse engineer, decompile, disassemble, or otherwise convert the Software into a human readable form (such act, collectively, "Modification"). In the event of any failure of the Software due to a Modification, Topcon will not bear any responsibility for any damage caused by such Modification.

(5) You may not remove or eliminate the copyright, trademark and other intellectual property right notices on the Software.

(6) You may not, without obtaining Topcon's prior written consent, transfer, loan or sublicense the Software and the acquired serial number to third parties or create any security interest on the Software.

4. Third-Party Technology

(1) Your right to use the third-party technology described in the attachment to this Agreement is governed by the terms of the third-party technology license specified in the same attachment and not under this Agreement.

(2) Your right to use the third-party technology not described in the attachment to this Agreement is governed by the terms of this Agreement.

5. Limited Warranty and Liability

(1) Topcon provides the Software "as-is" and "as available", with no warranty of satisfactory quality, functionality or fitness for intended purpose (including results obtained from use).

(2) Topcon does not warrant that the Software is bug, error or defect free, uninterrupted, or compatible with particular hardware or software.

(3) NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT UNDER NO CIRCUMSTANCE SHALL TOPCON, ITS EMPLOYEES, OFFICERS OR DIRECTORS, AGENTS,

SUCCESSORS OR ASSIGNS BE LIABLE TO YOU UNDER ANY CONTRACT, STRICT LIABILITY, TORT (INCLUDING NEGLIGENCE) OR OTHER LEGAL OR EQUITABLE THEORY, FOR ANY DIRECT, SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES OR COSTS, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, LOSS OF DATA OR PROGRAM OR OTHER INTANGIBLE DAMAGES ARISING OUT OF, OR RELATING IN ANY WAY TO, THE SUBJECT MATTER OF THIS AGREEMENT, REGARDLESS OF WHETHER YOU HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT FOR CLAIMS OF INTELLECTUAL PROPERTY INDEMNIFICATION, TOPCON'S LIABILITY UNDER THIS AGREEMENT TO YOU FOR ANY REASON SHALL BE LIMITED TO: 100% OF THE AMOUNT PAID FOR THE "PERPETUAL LICENSE VERSION" AND 100% OF THE AMOUNT PAID FOR THE "SUBSCRIPTION VERSION" FOR ONE YEAR IMMEDIATELY PRIOR TO THE CLAIMED CAUSE OF ACTION

6. Maintenance Service

During the effective period of maintenance service, you may download any version-up and revision-up of the Software at no charge from the website designated by Topcon. Topcon will provide a version-up and revision-up of the Software on an availability basis.

7. Personal Information and Privacy

By entering into this Agreement, you agree that Topcon may hold and collect personal information about you including your name, e-mail address and/or credit card information. You agree that Topcon may provide this information to employees and companies working on behalf of Topcon, for example, filling orders, shipping packages, sending postal mail and e-mail, deleting duplicate information from customer lists, data analysis, marketing assistance, processing credit card

payments, and providing customer service. Topcon or individuals performing such business may access personal information necessary to fulfill the business but may not use the information for any other purposes unless otherwise permitted under applicable law.

8. Export Restrictions

(1) The Software and data created thereby are regulated by Japanese and U.S. export control regulations. You may need permission from the Japanese and U.S. governments to export, re-export or disclose. You must comply with such restrictions. As of February 1, 2016, countries for which a US export license is required are North Korea, Iran, Syria, Sudan and Cuba. Since embargoed countries are subject to change, please check the following website.

URL: <http://www.bis.doc.gov/policiesandregulations/ear/index.htm>

(2) You agree that you are not a resident or citizen of any countries on the current U.S. prohibited export list and do not intend to use the Software for purposes of design, manufacturing, and development of weapons of mass destruction, nuclear weapons, chemical weapons, and biological weapons.

Attachment
Third Party Technology

=====
NovAtel Waypoint Software Development Kit
=====

This product incorporates software (Software) which is developed and solely owned by NovAtel, Inc.

You may not:

- use the Software on more than one computer simultaneously;
- attempt to disable or work around any software licensing security mechanisms that are part of the Software;
- modify or prepare derivative works of the Software;
- use the software in connection with computer-based services business;
- use the Software in a manner that permits automated internet based post-processing;
- reverse engineer decompile, disassemble, or otherwise attempt to derive or access any of the Software source code and/or human readable embodiment.

=====
Autodesk Recap Library
=====

MINIMUM TERMS AND CONDITIONS OF SOFTWARE APPLICATION END-USER LICENSE

1. Licensee grants to End-User(s) a non-exclusive license to use the Software Application for End-User's internal business operations under the terms stated in this Agreement.
2. End-User(s) shall not alter, reverse engineer, disassemble or decompile the Software Application. End-User(s) shall not copy the Licensed Software except: (i) as necessary to read the Software Application from the media into the memory of a computer solely for the purpose of executing it on a single machine (whether a stand-alone computer or a workstation component of a multi-terminal system), or (ii) to create an archival copy. End-User(s) agree that any such copies of the Software Application shall contain the same proprietary notices which appear on and in the Software Application.
3. End-User(s) shall not install, access or otherwise copy or use the Software Application except as expressly authorized by this Agreement. End-User(s) shall not distribute, rent, loan, lease, sell, sublicense, or otherwise transfer all or any portion of the Software Application, or any rights granted in this Agreement, to any other person without the prior written consent of Licensee. End-User(s) shall not install or access, or allow the installation or access of, the Software Application over the Internet, including, without limitation, use in connection with a Web hosting or similar service, or make the Software Application available to third parties via the Internet on End-User's computer system or otherwise. End-User(s) shall not modify, translate, adapt, arrange, or create derivative works based on the Software Application for any purpose. End-User(s) may not use or export the Software Application outside of the country of purchase for any reason. End-User(s) shall not assign, give or transfer the Software Application to another individual or entity. End-User is prohibited from (a) timesharing, service bureau, subscription service or rental use of the Software Application or (b) passing title to the Software Application any other individual or (c) publication

of any results of benchmark tests run on the Software Application. End-User shall permit Licensee to audit its use of the Software Application and report such use to Autodesk. End-User(s) acknowledge that the Software Application is the confidential information of Licensee and its suppliers, and End-User(s) agree that under no circumstances may End-User(s) disclose the Software Application to any third party. Title to and ownership of the intellectual property rights associated with the Software Application and any copies remain with Licensee and its suppliers.

4. Upon termination of End-User license agreement for the Software Application, End-User shall discontinue use and destroy or return to Licensee all copies of the Software Application and the Software Application Documentation.
5. End-User(s) are hereby notified that Autodesk, Inc., Autodesk Asia Pte Ltd., and Autodesk Development SARL (collectively, "Autodesk") are third-party beneficiaries to this Agreement to the extent that this Agreement contains provisions which relate to End-User(s)' use of the Software Application. Such provisions are made expressly for the benefit of Autodesk and are enforceable by Autodesk in addition to Licensee.
6. consequential damages of any nature, including without limitation, lost business profits, or liability or injury to third persons, whether foreseeable or not, regardless of whether Licensee or its suppliers have been advised of the possibility of such damages.