



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

**AGREEMENT NO. 21-DES-RFP-239**

THIS AGREEMENT is made, on the date of execution by the County, between Turner Construction Company, 11413 Isaac Newton Square, South, Reston, Virginia 20190 ("Contractor") a New York corporation authorized to do business in the Commonwealth of Virginia, and the County Board of Arlington County, Virginia. The County and the Contractor, for the consideration hereinafter specified, agree as follows:

**1. CONTRACT DOCUMENTS**

The Contract Documents consist of:

- Agreement No. 21-DES-RFP-239, and all modifications properly incorporated into the Agreement
- Exhibit A – Scope of Work
- Exhibit B – Contractor’s Pricing for Preconstructions Services
- Exhibit C – Arlington County Construction General Conditions
- Exhibit D – Guaranteed Maximum Price (GMP) Amendment, once executed, to include Drawings, Specifications and Construction Notes (initially the Permit/GMP Set and subsequently the final Construction Documents)
- Exhibit E – Architect’s Scope of Services
- Exhibit F – Submittal Price Clarification

Where the terms and provisions of this Agreement vary from the terms and provisions of the other Contract Documents, the order of precedence of the Contract Documents shall be as follows:

Exhibits A, C, D, and E are considered complementary documents, what is in one shall be considered as in all; where the terms of these Contract Documents vary the most stringent shall apply; and Exhibits A, C, D, and E shall prevail over Exhibit B and F.

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. 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 the Contract.

The County has authorized the consultant identified below to act as the County representative for specific purposes to perform specified duties and responsibilities, and to have the rights and authorities as assigned in connection with completion of the Work in accordance with the Contract Documents until such time as the County may notify the Contractor otherwise:

Stantec Architecture, Inc. (the “Architect”)

The County will notify the Contractor after contract award of the specific roles and responsibilities of the Architect.

**3. SCOPE OF WORK**

The Project shall proceed in two phases: The Preconstruction Phase and the Construction Phase.

During the Preconstruction Phase, the Contractor shall provide the preconstruction services that are necessary to properly advance the Project, including, but not limited to those preconstruction services outlined in Exhibit A (Scope of Services) with the goal of developing an acceptable Guaranteed Maximum Price Proposal for the Project.

During the Construction Phase, if awarded in the form of the GMP contract amendment, the Contractor will furnish all labor, materials, supervision, equipment and other services necessary for the construction of the ART Operations and Maintenance Facility (the "Project") and all other work shown, described, and required by the Contract Documents (hereinafter "the Work").

The Work shall be performed according to the standards established by the Contract Documents read together as a single specification. It shall be the Contractor's responsibility, at solely the Contractor's cost, to provide sufficient services to fulfill the purposes of the Work. Nothing in the Contract Documents shall be construed to limit the Contractor's responsibility to manage the details and execution of its Work.

**4. STANDARD OF CARE**

The Contractor shall perform all services under this Agreement at a level, and as judged by a standard of care, that is consistent with the standards and quality prevailing among construction management and general contracting firms of superior knowledge, skill and experience engaged in projects of similar size and complexity. The Contractor shall carry out and complete the services in an efficient, economical and timely manner, as expeditiously as is consistent with the level of skill and care required hereby and in the interests of the County.

**5. TIME FOR COMPLETION**

The Preconstruction Phase shall run concurrently with the design of the Project and has an expected duration of *four hundred fifteen (415) calendar days*. At no additional cost to the County, the County may, in its sole discretion, increase the duration of the Preconstruction Phase by up to One Hundred Eighty (180) days by giving written notice to the Contractor of such election. The County may exercise such extension in one or more notices provided the total of all such extensions does not exceed 180 days.

Work under Construction Phase shall achieve Substantial Completion no later than eight hundred eighty (880) calendar days from the date of execution by the County of the GMP Amendment, subject to any modifications made as provided for in the Contract Documents. Such period shall be the Period of Performance for Substantial Completion. No Work shall be deemed Substantially Complete until it meets the requirements of Substantial Completion set forth in the General Conditions. Final Completion of the Work shall be achieved by the Contractor no later than thirty (30) calendar days after the date of acceptance of Substantial Completion by the County Project Officer. Work will not reach Final Completion until it meets the requirements set forth in the General Conditions. **Unless otherwise provided, no claims for early completion are allowed.**

**6. CONTRACT AMOUNT**

The Construction Management Fee and a General Conditions Fee for Construction Services are set forth in Exhibit B (Contractor's Pricing), and are premised on the Project Budget of \$40,000,000 million, which budget

is inclusive of Cost of the Work as well as the Contractor's Construction Management Fee and General Conditions Fee, and on the schedule set forth in paragraph 5. above.

The Contractor's compensation for the Preconstruction Phase services shall be 10% of the Construction Management Fee, which is set forth in Exhibit B. During the Preconstruction Phase the Contractor shall develop a GMP Proposal for the Project as contemplated in Exhibit A (Scope of Services). The County and the Contractor shall negotiate the terms of such GMP Proposal, and, upon approval by the County of a GMP, the parties will sign an amendment hereto in substantially the form of Exhibit D (Form of GMP Amendment). The Guaranteed Maximum Price for the Project shall be the maximum amount payable to the Contractor to achieve Final Completion of the Work as required by the Contract Documents provided the Work is performed to the satisfaction of and is accepted by the Project Officer, and shall include the Construction Management Fee, the General Conditions Fee and the Cost of the Work, as defined in Exhibit A (Scope of Services). The County is not obligated to accept the GMP. If the County does not accept the GMP, the Contract will be terminated at the end of Preconstruction Phase.

The County will pay the Contractor for its services under this Agreement in accordance with the terms of the Progress Payments and Retainage and Payment Terms sections below.

**7. PROGRESS PAYMENTS AND RETAINAGE**

The County will make progress or partial payments to the Contractor in accordance with the contract documents. However, 5% of each progress payment will be retained by the County until Final Completion and acceptance of all Work covered by the Agreement. Other than the Construction Management Fee, retainage shall apply to all aspects of all requests for progress payments.

All material and work covered by partial payments will become the property solely of the County at the time the partial payment is made. However, the Contractor will have the sole responsibility, care and custody for all materials and work upon which payments have been made until Final Acceptance.

**8. PAYMENT TERMS**

The Contractor must submit invoices to the County's Project Officer, who will either approve the invoice or require corrections. Each invoice must certify that the invoice submitted is a true and accurate accounting of the work performed and goods and/or services provided and must be signed and attested to by the Contractor or authorized designee. The County will pay the Contractor within forty-five (45) days after approval of an invoice for completed work which is reasonable and allocable to the Contract. The number of the County Purchase Order pursuant to work has been performed must appear on all invoices.

**9. REIMBURSABLE EXPENSES**

The County will not reimburse the Contractor for any expenses under this Contract. The amount in Exhibit B includes all costs and expenses of providing the services described in this Contract.

**10. 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.

#### **11. RELEASE AND REQUEST FOR FINAL PAYMENT**

In order to receive final payment upon Final Completion of the Project and before Final Acceptance, the Contractor must submit to the Project Officer a signed original notarized copy of the Arlington County Release and Request for Final Payment form per the General Conditions.

#### **12. SELF-PERFORMANCE BY THE CONTRACTOR**

The Contractor shall not perform work with its own forces unless the Project Officer provides written authorization for the Contractor to perform any portion of the Work as self-performed work; provided, however, that in no event shall the Contractor self-perform more than 10% of the construction work (measured by cost of the work). All work which the Contractor is not authorized to self-perform shall be performed by subcontractors of the Contractor which the Contractor shall procure by competitive sealed bidding or competitive negotiations as specified in the Contract Documents.

As used in this section, self-performed work shall mean trade work performed by employees of (1) the Contractor; (2) any entity comprising the Contractor; (3) any entity that controls, is controlled by or is under common control with the Contractor; or (4) any entity that controls, is controlled by, or is under common control with any entity that is part of the Contractor.

#### **13. LIQUIDATED DAMAGES**

Time is of the essence under this Contract. The Contractor acknowledges that the County is engaging the Contractor to provide an extensive level of preconstruction support services so as to minimize the potential for cost overruns, schedule delays or the need for extensive value engineering/re-design late in the Project and that the reports required during Preconstruction under this Agreement are key to realizing the value of such services. If the Contractor fails to deliver any of the reports required, the Contractor shall be subject to liquidated damages in an amount of \$1,038 per day after receiving written notice from the Project Officer of failure to submit such report. A list of such deliverables is included in Exhibit A to the Agreement.

If contracted, the Construction Services Work must be completed within the Time for Completion. The County and the Contractor agree that damages for failure to achieve Substantial Completion of the Work by the date specified under Time for Completion are not susceptible to exact determination but that \$7,867 per calendar

day is in proportion to the actual loss that the County would suffer from such delay. Therefore, the Contractor will pay the County as liquidated damages \$7,867 per day for each and every day beyond the time for Substantial Completion that the County determines Substantial Completion has not been achieved. The County and the Contractor also agree that damages for failure to achieve Final Completion of the Work by the date specified under Time for Completion are not susceptible to exact determination but that \$712 per calendar day is in proportion to the actual loss the County would suffer from such delay. Therefore, the Contractor will pay the County as liquidated damages \$712 per day for each and every day beyond the time for Final Completion until Final Completion is achieved.

The County will be entitled to deduct liquidated damages against any sums owed by the County to the Contractor under this Contract. The Contractor hereby waives any defense as to the validity of any liquidated damages on grounds that such liquidated damages are void as penalties or are not reasonably related to actual damages. Liquidated Damages shall be the County's sole and exclusive remedy for delay.

**14. 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.

**15. LIEN**

It is expressly agreed that after any payment has been made by the County to the Contractor for work done, or labor or material supplied under the Contract, the County will have a lien upon all material delivered to the site either by the Contractor or any subcontractor, or for the Contractor, which is to be used in the performance of the Contract. Upon County's request, the Contractor shall provide a bill of sale stating that the County is the owner of the materials and equipment purchased by the Contractor under this Contract.

**16. 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, national origin, age or 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.

**17. 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.

**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. 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.

**20. 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 the Agreement 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.

**21. FAILURE TO DELIVER**

If the Contractor fails to deliver the Work in accordance with the Contract terms and conditions, the County, after notice to the Contractor, may procure the Work from other sources and hold the Contractor responsible for any resulting additional purchase and administrative costs. The County shall be entitled to offset such costs against any sums owed by the County to the Contractor. However, if public necessity requires the use of nonconforming materials or supplies, they may be accepted at a reduction in price to be determined solely by the County.

**22. UNSATISFACTORY WORK**

If any of the work done, or material, goods, or equipment provided by the Contractor, is unsatisfactory to the County the Contractor must, upon notice from the County, immediately remove at the Contractor's expense such unsatisfactory work, material, goods, or equipment and replace the same with work, material, goods, or equipment satisfactory to the County. If the Contractor fails to do so after fifteen (15) days the County shall have the right to remove or replace the rejected work, material, goods, or equipment at the expense of the Contractor and offset the expense and administrative costs against any sums owed to the Contractor. This provision applies during the Contract term and during any warranty or guarantee period. At the Project Officer's discretion, rather than correction or replacement of the work, an appropriate adjustment to the Contract Amount may be made.

**23. TERMINATION FOR CAUSE, INCLUDING BREACH AND DEFAULT; CURE**

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, as defined above, 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.

**24. 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, vendors, delivery drivers and/or subcontractors, in performance or nonperformance of the Contract, but only to the extent of the Contractor's employees, vendors, delivery drivers and/or subcontractors negligence. 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.

The Contractor agrees to defend, indemnify, and hold harmless County from any and all damages, costs, claims, expenses, suits, losses, liabilities, or obligations of any kind including without limitation, environmental assessments, evaluations, remediations, fines, penalties, and clean-up costs which may be asserted against or imposed upon, or incurred by County arising from Contractor's discharge or disposal of any hazardous or toxic materials, trash, debris, refuse, waste or other materials ("Materials") related in any way to contractor's operations herein but only to the extent of the Contractor's employees, vendors, delivery drivers and/or subcontractors, negligence.

**25. 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.

**26. 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.

**27. 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.

**28. 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.

**29. 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 bid 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.

**30. 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.

**31. 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.

**32. 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.

**33. RELATION TO THE 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.

**34. 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.

**35. 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)

**36. AUDIT**

The Contractor must provide to the County the complete findings and all components of an independent certified public accountant's audit of its finances and program operation within two months after the close of Contractor's fiscal year. If a management letter was not prepared with the audit, the Contractor must so certify in writing as part of the audit report to the County. The Contractor must allow the County to review its records as the County deems necessary for audit purposes within 15 calendar days of the County's receipt of the findings. All accounts of the Contractor are subject to 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.

**37. 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.

**38. AMENDMENTS**

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

**39. 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.

**40. 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.

**41. 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.

**42. ARBITRATION**

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

**43. 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.

**44. 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.

**45. 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.

**46. 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.

**47. 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 AND RETURN OF RECORDS; AUDIT; COPYRIGHT; DISPUTE RESOLUTION; APPLICABLE LAW AND JURISDICTION; ATTORNEY'S FEES, AND CONFIDENTIAL INFORMATION.

**48. 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.

**49. 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.

**50. 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:**

Darien C. Grant, Vice President & General Manager  
Turner Construction Company  
11413 Isaac Newton Square, South  
Reston, VA 20190  
Email: [dgrant@tcco.com](mailto:dgrant@tcco.com)

**TO THE COUNTY:**

John Mir, Project Officer  
DES – Facilities Design and Construction  
1400 N Uhle St. Suite 403  
Arlington, Virginia 22201

**AND**

Sharon T. Lewis, LL.M, MPS, VCO, CPPB  
Purchasing Agent

Arlington County, Virginia  
2100 Clarendon Boulevard, Suite 500  
Arlington, Virginia 22201

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

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

**51. NON-DISCRIMINATION NOTICE**

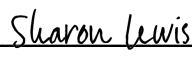
Arlington County does not discriminate against faith-based organizations.

**52. INSURANCE, PAYMENT AND PERFORMANCE BONDS**

As a condition of executing the GMP Amendment, the Contractor will be required to furnish payment and performance bonds in the amount of the GMP. The Contractor shall maintain the required insurance coverage and payment and performance bonds through completion of the Contract, including all warranty and guarantee periods.

WITNESS these signatures:

**THE COUNTY BOARD OF ARLINGTON  
COUNTY, VIRGINIA**

AUTHORIZED SIGNATURE:   
DocuSigned by:  
89B86B1AD301462...

NAME: SHARON T. LEWIS  
TITLE: PURCHASING AGENT

DATE: 2/25/2021

**TURNER CONSTRUCTION COMPANY**

AUTHORIZED SIGNATURE:   
DocuSigned by:  
AC727024DF4C41E...

NAME DARIEN GRANT  
TITLE: VICE PRESIDENT & GENERAL MANAGER

DATE: 2/22/2021

**EXHIBIT A**  
**SCOPE OF SERVICES**

**PROJECT DESCRIPTION**

Work shall be performed in accordance with the Scope of Services of this solicitation. The Construction Manager (CM) shall provide all expertise, labor and resources in connection with the razing of the existing building and structures and construction of ART Operation and Maintenance Facility (AOMF) on two parcels of land with extensive site work and coordination. The proposed new AOMF will be located at 2629 and 2635 Shirlington Road, Arlington, VA.

The CM will be required to work with the Department of Environmental Services (“DES”) Facilities Design & Construction Bureau (“FD&C”), DES Transit Bureau (“Transit”), ART Operator (“Operator”) and the Architect to:

- i. Advance the design for the Project in a manner consistent with the Project budget, the schedule, and the programmatic and other requirements for the Project;
- ii. Develop a Guaranteed Maximum Price (“GMP”) proposal based on the GMP/Permit Set prepared by the Architect; and
- iii. Upon acceptance by the County of any GMP Proposal, the Contractor shall demolish the existing building and structures and construct the new AOMF based on the approved design, including performing all hazardous materials abatement and selective and bulk demolition necessary.

The new AOMF will include site development, Operation /Dispatch and Administration facility and Maintenance facility. The County requires the Project to be designed to attain minimum LEED Silver status.

- Site Development:
  - Stream Channel and Shirlington Rd crossing improvements
  - Demolishing of the existing building and concrete pad
  - Surface parking for 68 ART buses,
  - Structured parking for 110 personal vehicles
  - Yard/green areas
  - Site drainage and SWM
  - Covered storage space
- Operation/dispatch and Administration Facility:
  - Transit Operation/Dispatch
  - Transit Administration
  - Bus Operator support areas
  - Building support areas
- Maintenance facility to perform maintenance for a fleet of 110 buses:
  - Maintenance administration
  - Seven Repair and one chassis wash bay for 40 ft. buses
  - Shop Equipment
  - Parts Storage
  - Maintenance personal support areas



The existing site (“Site”) includes three parcels of land:

- Parcel A (2.53 Acres) – With an existing concrete pad
- Parcel B (0.94 Acres) – With an existing building
- Parcel C (0.05 Acres) – Vacant

The Project will include razing of one (1) existing building and a concrete pad. The existing building located at 2635 Shirlington Rd. (Parcel B) will be removed and replaced with the new ART operation center and private vehicle parking structure. In addition, a concrete pad located at 2629 Shirlington Rd. (Parcel A) will also be razed.

Parcel A currently serves as ART’s existing bus parking and dispatch facility. The County’s intent is to relocate the buses to another temporary facility during construction. However, the County may decide, during the design of the facilities and prior to the establishment of the GMP, to phase the project to provide parking at the Site for all or some of the existing bus fleet.

The budget for hard costs, Construction Manager fees and general conditions is \$40 million (the “Project Budget”).

The Contractor shall plan activities based upon the following draft Project schedule, which the County will adjust based on the actual award date:

Design Award*	October 2020*
CMAR Construction Award	February 2021
Conceptual and Schematic Design and Community Process	October 2020* – April 2021
Design Development through Construction Documents	May 2021– January 2022
Permitting	December 2021 – April 2022
Construction	May 2022 – November 2024

\*Confirmed dates. All other dates are tentative and subject to change.

## A1. GENERAL INTENT

**A1.1 Contractor’s Duties.** The Contractor’s work shall be divided into two phases: (i) the Preconstruction Phase; and (ii) the Construction Phase.

**Phase 1: Preconstruction Phase.** During the Preconstruction Phase, the Contractor will be required to work with the County and the Architect (i) to advance the design for the Project in a manner consistent with the budget available for hard costs, construction management fees and general conditions (Design-to-Budget), and the schedule, programmatic and other requirements for the Project; and (ii) to develop a guaranteed maximum price (“GMP”) proposal based on the Permit/GMP Set

**Phase 2: Construction Phase.** If the County accepts the GMP proposal in the form of an amendment to the Contract, the Contractor shall provide all of the labor, materials, supervision, equipment and other services necessary to raze the existing structures and construct the approved design of the Arlington Transit (ART) Operations and Maintenance Facility (AOMF), including performing all hazardous materials abatement and selective and bulk demolition necessary, in accordance with the Contract Documents, no later the end of the period of performance for Substantial Completion.

**A1.2 Cost Plus Fixed Fee with Incentive Type Contract.** It is the intent of the parties to establish a Guaranteed Maximum Price contract with certain incentives. As such, only those costs outlined in Section A5.1.1 shall be reimbursable as a Cost of the Work, it being understood that the cost of all items not included in the Cost of the Work are included in the Construction Management Fee, and the General Conditions Fee. The GMP shall be developed as set forth in Article A3 herein.

**A2. PRECONSTRUCTION PHASE SCOPE OF WORK**

**A2.1 Preconstruction Phase Scope of Work.** During the Preconstruction Phase, the Contractor shall work with the Architect to develop a design for the Project as defined in the attached Architect’s Scope of Services (Exhibit E). The County’s objective is to develop a design for the Project that meets its programmatic needs, that is consistent with the Design-to-Budget as defined in Exhibit E and other requirements for the Project, and that can be constructed prior to the end of the Time for Completion. During the course of the Preconstruction Phase, the Contractor shall meet regularly with the County and the Architect. The Architect will make interim submissions of the design in order for the County to review and provide input regarding the design. Such interim submissions shall also serve as the basis for periodic cost estimates and opportunities to review the design for constructability and schedule implications by the Contractor. In addition, the Contractor shall engage in value engineering as well as the other services detailed below.

**A2.2 Baseline Schedule.** Within 14 days after Preconstruction Notice to Proceed (NTP), the Contractor shall prepare and submit a baseline schedule for the Project (the “Baseline Schedule”). The Baseline Schedule shall be subject to review and approval by the Project Officer, and the Contractor shall incorporate any adjustments to the Baseline Schedule as may be reasonably requested by the Project Officer. The Baseline Schedule shall be prepared in a critical path method and be developed in a sufficient level of detail so as to permit the County, the Architect and the Contractor to properly plan the Project and shall show: (i) key design milestones and bid packages; (ii) County and Architect’s review and approval time; (iii) release dates for long lead items; (iv) release dates for key subcontractors; and (v) substantial and final completion dates. The Baseline schedule must also be submitted in Primavera 6 native format and shall be updated by the Contractor, at a minimum, on a bi-weekly basis during preconstruction and weekly during construction.

**A2.3 Preliminary Budget Estimate.** Within 14 calendar days after NTP, the Contractor shall prepare a detailed cost estimate of the selected option (the “Preliminary Budget Estimate”). Such estimate shall be prepared on a Construction Specifications Institute (CSI) format “system” basis that identifies the key building systems or functions and allocates an estimated cost for each such system. The Construction Management Fee, General Conditions Fee, and contingencies shall each be broken out in separate line items. The primary purpose of the Preliminary Budget

Estimate is to aid the County in understanding the costs associated with key elements of the Project so as to better prioritize and manage the use of the funding allocated to this Project. The Preliminary Budget Estimate should include the County's and the Architect's proposed changes during the Schematic Design phase of the Project.

- A2.4 Value Engineering Memorandum.** To the extent that the Preliminary Budget Estimate exceeds the Design-to-Budget or the Contractor believes that there are value engineering ideas that could materially reduce the Project's overall cost without adversely impacting the Project's intended functionality, the Contractor shall prepare and submit a memorandum that outlines potential value engineering ideas. If the value engineering ideas are insufficient to return the Project to budget, the Contractor shall provide suggestions as to program scope that could be reduced, the nature of each such reduction, and the likely savings associated with each such program reduction. Such memorandum shall be submitted to the Project Officer no later than 30 calendar days after the Preconstruction NTP. The Contractor shall meet with the County and the Architect as necessary to reach agreement on which, if any, of the value engineering options that should be pursued. To the extent the County directs the Contractor to proceed with one or more of the value engineering options, the Contractor shall revise its Preliminary Budget Estimate to reflect the inclusion of such items.
- A2.5 Constructability/Single Manufacturer/Long-Lead Time Memorandum.** Within 14 calendar days following the County's NTP, the Contractor shall prepare and submit a memorandum that identifies key construction concerns related to the Project, which memorandum shall include (i) an assessment of constructability and phasing issues; (ii) identify any items where the design is predicated on a single manufacturer and, if so, identify at least Two (2) comparable products; and (iii) long-lead delivery items that could adversely affect the Baseline Schedule. To the extent any such items are identified, the memorandum shall make recommendations for addressing such items.
- A2.6 Active Collaboration.** The Contractor shall attend the design review meetings and any other meetings specified herein or specified in Exhibit A with the County and the Architect twice a month to review and discuss the design for the Project and the status of the design effort. The Architect will distribute meeting minutes associated with such meetings no later than two (2) business days after the conclusion of each such meeting.
- A2.7 Schematic Design Review and Budget Estimate.** Following the Architect's submission of the schematic design, while the schematic design submission is under review by the County, the Contractor shall also review the design and update the Preliminary Budget Estimate based on the schematic design submission (the "Schematic Design Budget Estimate"). The Schematic Design Budget Estimate shall be prepared in a format similar to the Preliminary Budget Estimate and shall show variances from the Preliminary Budget Estimate. The Schematic Design Budget Estimate shall be submitted within fourteen (14) calendar days of the submission of the initial schematic design submission. The Contractor shall attend a comment review meeting with the Project Officer and the Architect to review, discuss and resolve issues related to the schematic design documents. To the extent the Project Officer directs any changes to the initial schematic design, the Contractor shall update the Schematic Design Budget Estimate to reflect such changes in order that the updated Schematic Design Budget Estimate reflects the approved schematic design.

- A2.8 Updated Constructability/Single Manufacturer/Long-Lead Time Memorandum – Schematic Design.** Concurrently with the Schematic Design Budget Estimate, the Contractor shall update the memorandum identifying key construction concerns related to the Project. Such memorandum shall: (i) assess the constructability issues related to the Project, including site logistics; (ii) identify any items where the design is predicated on a single manufacturer and, if so, identify at least two (2) comparable products; and (iii) identify any long-lead delivery items that could adversely affect the Baseline Schedule. To the extent any such long-lead items are identified, the memorandum shall make recommendations for addressing such items.
- A2.9 Value Engineering – Schematic Design.** To the extent that the Schematic Design Budget Estimate exceeds the Design-to-Budget, or the Contractor believes that there are value engineering ideas that could materially reduce the Project’s overall cost without adversely impacting the Project’s intended functionality, the Contractor shall prepare and submit a memorandum that outlines potential value engineering ideas. Such memorandum shall be submitted to the Project Officer no later than seven (7) calendar days after the Schematic Design Budget Estimate submission. If the value engineering ideas are insufficient to return the Project to budget, the Contractor shall provide suggestions as to program scope that could be reduced, the nature of each such reduction, and the likely savings associated with each such program reduction. The Contractor shall meet with the County and the Architect as necessary to reach agreement on which, if any, of the value engineering options should be pursued. To the extent the County directs the Contractor to proceed with one or more of the value engineering options, the Contractor shall revise its Schematic Design Budget Estimate to reflect the inclusion of such items.
- A2.10 Interim Design Development Review – Design Development.** The Architect will produce a set of design development documents and shall conduct an on-board progress review meeting with the County and Contractor to review the 50% and 75% Design Development submissions and obtain feedback and input regarding its direction. For clarifications or additional feedback, the Contractor shall conduct an “over the shoulder” review of such documents with the Architect. Within seven (7) calendar days after completing these reviews, the Contractor shall prepare and submit to the Project Officer a memorandum that outlines the results of the “over the shoulder” review. Such memorandum shall identify items of concern to the Contractor that represent departures from the approved scope of the schematic design or that could otherwise adversely impact the Project’s budget or schedule.
- A2.11 GMP Basis Document & Construction Administration Memorandum.** During the Design Development Phase, the Contractor and the Architect shall meet and confer with the Project Officer as necessary regarding the level of detail required by the Contractor in the Permit/GMP Set in order to provide a GMP to the County without excessive contingencies due to lack of information. The parties shall agree upon the number of trade subcontractor bid packages that will be required and the specific contents of each. This deliverable shall be coordinated with the Contractor’s purchasing strategy for the trade subcontracts and shall be consistent with the then approved Project Baseline Schedule. In addition, the Architect, the County and the Contractor shall discuss the manner in which construction administration services shall be handled (the “Construction Administration Plan”). The Construction Administration Plan shall specifically address: (i) turn-around time for submittals; and (ii) such other matters as the Architect and the Contractor consider relevant to the orderly administration of the Project. The level of detail

required in the Permit/GMP Set and the Construction Administration Plan shall be memorialized in a memorandum signed by the Architect and the Contractor (the "GMP Basis Document & CA Memo") and must be submitted for review and approval by the Project Officer within 30 days from completion of the 50% design development submission review.

**A2.12 Design Development Review and Budget Estimate.** Following the Architect's submission of the design development documents while the design development submission is under review by the County, the Contractor shall review the design and update the Schematic Design Budget Estimate based on the design development submission (the "Design Development Budget Estimate"). The Design Development Budget Estimate shall be prepared in a format similar to the Schematic Design Budget Estimate and shall show variances from the Schematic Design Budget Estimate. The Design Development Budget Estimate shall be submitted within fourteen (14) calendar days of the Architect's submission of the initial design development documents. The Contractor shall attend a comment review meeting with the Project Officer and the Architect to review, discuss and resolve issues related to the design development documents. To the extent the Project Officer directs any changes to the design development submission, the Contractor shall update the Design Development Budget Estimate to reflect such changes in order that the updated Design Development Budget Estimate reflects the approved design development documents.

**A.2.13 Updated Constructability/Single Manufacturer/Long-Lead Time Memorandum – Design Development.** Concurrently with the Design Development Budget Estimate, the Contractor shall update the memorandum identifying key construction concerns related to the Project. Such memorandum shall: (i) assess the constructability issues related to the Project, including site logistics; (ii) identify any items where the design is predicated on a single manufacturer and, if so, identify at least two (2) comparable products; and (iii) identify any long-lead delivery items that could adversely affect the Baseline Schedule. To the extent any such long-lead items are identified, the memorandum shall make recommendations for addressing such items.

**A2.14 Value Engineering – Design Development.** To the extent that the Design Development Budget Estimate exceeds the Design-to-Budget, or the Contractor believes that there are value engineering ideas that could materially reduce the Project's overall cost without adversely impacting the Project's intended functionality, the Contractor shall prepare and submit a memorandum that outlines potential value engineering ideas. Such memorandum shall be submitted to the Project Officer no later than seven (7) calendar days after the Design Development Budget Estimate submission. If the value engineering ideas are insufficient to return the Project to budget, the Contractor shall provide suggestions as to program scope that could be reduced, the nature of each such reduction, and the likely savings associated with each such program reduction. The Contractor shall meet with the County and the Architect as necessary to reach agreement on which, if any, of the value engineering options should be pursued. To the extent the County directs the Contractor to proceed with one or more of the value engineering options, the Contractor shall revise its Design Development Budget Estimate to reflect the inclusion of such items.

**A2.15 Interim Construction Document Review – Construction Documents.** The Architect will prepare a set of construction documents based on the approved design development documents and any approved value engineering. The Contractor shall conduct an "on-board" review with the

Architect and the County to review the 50% and 75% Construction Document submission and obtain feedback and input regarding the design direction. For clarifications or additional feedback, the Contractor shall conduct an “over the shoulder” review of such documents with the Architect. Within Seven (7) calendar days after completing these reviews, the Contractor shall prepare and submit to the Project Officer a memorandum that outlines the results of the “over the shoulder” review. Such memorandum shall identify items of concern to the Contractor that represent departures from the approved scope of the design development documents or that could otherwise adversely impact the Project’s budget or schedule. The Contractor shall also attempt to identify any conflicts or discrepancies between packages being prepared by other disciplines that are likely to have significant cost or schedule impact. Such “over the shoulder” reviews may need to be conducted more than once if multiple bid packages are required or if the design effort of the various disciplines are advanced at different rates.

**A2.16 Permit/GMP Set.** The Architect shall produce a set of 75% Construction Documents, after incorporating the County and Architect’s review comments, to be used for permitting and well as the development of the GMP by the Contractor (such set, the “Permit/GMP Set”) as outlined in Article A3 below. The Permit/GMP Set shall be code compliant and permit ready and contain the level of detail established in the GMP Basis Document & CA Memo.

**A2.17 Completion of Construction Documents.** Following the negotiation of the GMP for the Project and the receipt of comments from the permit review process, the Architect shall complete the Construction Documents. The Architect shall conduct an on-board design review meeting with the County and the Contractor fourteen (14) calendar days prior to submission of the final Construction Documents to the County. The Contractor shall review such set and confirm within seven (7) calendar days that any comments received from the permit review process as well as any value engineering strategies or other design changes that result from the GMP negotiations with the Contractor are incorporated into the construction documents.

**A3. GUARANTEED MAXIMUM PRICE (GMP) FORMATION**

**A3.1 GMP Development.** The Contractor will provide the County with a GMP Proposal based on the Permit/GMP Set, as defined above, and that such GMP proposal shall be based on competitive trade subcontractor bids. The GMP Proposal shall be developed as outlined in this Article A3.

**A3.2 GMP Components.** The GMP is comprised of the maximum amount payable by the County for:

- A. the Cost of the Work for full and complete performance of the Work in strict accordance with the Contract Documents;
- B. a Construction Management Fee for the Contractor; and
- C. a General Conditions Fee.

**A3.3 Bidders List Development.** Within forty-five (45) days after completion of Schematic Design, the Contractor shall submit to the Project Officer for its review and approval a written submission on the proposed subcontractor bidding procedures. These procedures shall include: (i) a list of proposed trade packages; (ii) a list of trade subcontractors that will be invited to bid on each such package; and (iii) a narrative description of the process. The work shall be awarded to the

lowest responsive and responsible bidder, unless agreed by the County otherwise in advance. At least three (3) potential subcontractors shall be identified for each trade package.

- A3.4 Management of the Bidding Process.** The Contractor shall manage the trade bidding process in accordance with the approved bidding procedures and shall use commercially reasonable best efforts to obtain at least three (3) qualified and bona fide bids for each trade package in excess of \$100,000. The Contractor shall carefully document its procedures for making available bid packages to potential bidders, the contents of each bid package, discussions with bidders at any pre-bid meetings, bidders' compliance with bid requirements, all bids received, the Contractor's evaluations of all bids, and the basis for the Contractor's recommendation as to which bidders should be chosen. The County shall be afforded access to all such records at all reasonable times so that, among other things, it may independently confirm the Contractor's adherence to all Contract requirements.
- A3.5 Bid Tabs Preparation.** The Contractor shall provide the Project Officer with an analysis of the bids received as well as a copy of each such bid. To the extent that the Contractor's award recommendation is based on scoping adjustments to the bids of the subcontractors, the Contractor shall clearly identify the scoping adjustment and the need for such adjustments. In general, the bid tab shall be presented in tabular format that compares the bids received and any other relevant information (i.e. exclusions, past performance history, etc.) and provide the basis for the Contractor's recommendation.
- A3.6 Value Engineering.** To the extent that the trade bids received by the Contractor indicate that the costs of constructing the Project will exceed the established budget, the Contractor shall work with the Architect to develop value engineering strategies in an effort to return the costs of constructing the Project to budget. The Contractor shall meet with the Architect and the County to review such strategies. Upon any approval by the Project Officer of any such value engineering strategies, the Contractor shall obtain revised pricing based on such approved value engineering strategies. The Contractor shall update the bid tabulations to reflect the value engineered costs and submit such updated bid tabulations to the Project Officer.
- A3.7 Submission of GMP Proposal.** Based on the trade bids received, the Contractor shall develop and submit a GMP Proposal. The GMP Proposal shall include the following elements:
- A.** A list of Drawings, Specifications, addenda; and General, Supplementary and other Conditions on which the Guaranteed Maximum Price is based.
  - B.** A list of Unit Prices and Allowance items as well as a statement of their basis.
  - C.** A list of any assumptions and clarifications made in preparing the GMP, noting in particular any exclusions. The assumptions and clarifications shall take precedence over the drawings and specifications. The Contractor shall prepare a separate memorandum that highlights any differences between the then approved drawings and the modifications made in the assumptions and clarifications. Such memorandum shall specifically address any changes in the Project's aesthetics, functionality or performance.

- D. The proposed GMP, including a statement of the detailed cost estimate organized by trade categories, Allowances, Contractor's Contingency, and other items and the fee that comprise the GMP.
- E. An update to the Project's Baseline Schedule to which the Contractor will agree to be bound. This update shall be prepared in the same level of detail and in the same manner as the Baseline Schedule.

**A.3.8 Negotiation of GMP.** The County and the Contractor shall meet to negotiate the terms of the GMP Proposal. Unless the County accepts the GMP Proposal in writing and so notifies the Contractor, the GMP Proposal shall not be deemed accepted by the County. The GMP shall be subject to review and approval by the County Board and shall not be effective until so approved. If accepted, the GMP shall be memorialized in the form of the amendment attached hereto as Exhibit D (Form of GMP Amendment).

**A.3.9 Failure to Execute GMP Amendment.** In the event the County and the Contractor are unable to agree on a GMP for the Project, the Contractor shall forfeit one half of the Cost of Preconstruction Services. In the event the County elects not to proceed with construction of the Project for reasons other than failure to agree upon a GMP, the Contractor shall be paid the full amount of the Cost of Preconstruction Services provided all Preconstruction services have been timely and adequately performed.

#### **A4. CONSTRUCTION PHASE SCOPE OF WORK**

**A.4.1 Construction Phase.** Construction Phase of the Project shall commence upon execution by the County of the GMP Amendment, and the executed GMP Amendment shall serve as Notice to Proceed with the Construction Phase.

**A.4.2 On Site Management.** The Contractor shall provide on-site management and superintendence during all working hours.

**A.4.2.1 Site Office.** Throughout the Project, the Contractor shall provide and maintain a fully equipped construction office on the Project site.

**A.4.2.2 Supervision.** Throughout the Project, the construction office shall be manned by personnel competent to oversee the work at all times while construction is underway. Such personnel shall maintain full-time, on-site construction supervision and provide daily inspections, quality control, monitoring, coordination of various trades, record drawings, and daily work log.

**A.4.2.3 Weekly Progress Meetings.** Throughout the Project, the Contractor shall conduct weekly progress meetings following a Contractor-generated agenda with the County and key trade subcontractors. The Contractor shall draft and circulate meeting minutes within two (2) business days of such meetings.

**A.4.3 Abatement & Raze.** The Project includes the abatement and removal of any and all hazardous materials found within the existing building as well as razing the existing facility. The County will provide to the Contractor a hazardous materials survey for the existing building prior to



development of the GMP Amendment. In order to raze the existing facility, if any abatement will be required, the Contractor shall not commence any such abatement without authorization from the Project Officer. Further, the Contractor shall seek and obtain an authorization for any required abatement in a timely manner so as not to delay the Work. If any notices to governmental authorities are required, the Contractor shall also give those notices at the appropriate times.

**A4.4 Site Safety Generally.** The Contractor shall provide a safe and efficient site, with controlled access. As part of this obligation, the Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Project.

**A4.4.1 Safety Plan.** Prior to the start of construction activities, the Contractor shall prepare a safety plan for the Construction Phase conforming to OSHA 29 CFR 1926 (such plan, the "Safety Plan") and in accordance with Paragraph E.3 of Exhibit C (DES Facilities Design and Construction Bureau Construction General Conditions). The Safety Plan shall be submitted to the Project Officer, and the Contractor shall incorporate such comments as the County may reasonably request. Once such plan has been approved, the Contractor shall comply with it at all times during construction.

**A4.4.2 Safety Barriers/Fences.** As part of its responsibility for Project safety, the Contractor shall install such fences and barriers as may be necessary to separate the construction areas of the site from adjacent areas.

**A4.4.3 Site Security.** The Contractor shall be responsible for site security and shall be required to provide such watchmen as are necessary to protect the site from unwanted intrusion.

**A4.4.4 Exculpation.** The right of the County to comment on the Safety Plan and the nature and location of the required fences and barriers shall in no way absolve the Contractor from their obligation to maintain a safe site or adhere to the Baseline Schedule.

**A4.5 Workhours; Coordination with DPR and Community.**

**A4.5.1 Workhours.** The Contractor shall comply with all applicable requirements regarding workhours generally, noise, and other requirements that may impose limitations regarding working hours, and neither it nor its subcontractors shall undertake work on the Project site other than at the times and sound level permitted by any applicable requirements, laws, or local ordinances.

**A4.5.2 Parking.** The Contractor shall organize its work in such a manner so as to minimize the impact of its operations on the surrounding community. To the extent that the number of workers on the site is likely to have an adverse impact on neighborhood parking, as determined by the County, the Contractor shall develop a parking plan for those individuals working on the site that is reasonably acceptable to the County. The delays in approving the parking plan shall in no way absolve the Contractor from their obligation to maintain a safe site or adhere to the Baseline Schedule.

**A4.5.3 Wheel Washing Stations.** The Contractor shall provide wheel washing stations on site so as to prevent the accumulation of dirt and other refuse on the streets surrounding the Project site.

**A4.5.4 Outreach Plan.** The Contractor shall keep the County informed of the construction activities and their potential impact on the community. In addition, the Contractor shall, no later than 60 days prior to construction mobilization, submit a plan of outreach activities to the Project Officer informing the community of any impacts from the Project (the "Outreach Plan"). The Outreach Plan shall be submitted prior to its implementation and shall be subject to the County's review and approval.

**A4.6 Quality Control.**

**A4.6.1 Quality Control Plan.** Within forty-five (45) days after execution of the GMP Amendment, the Contractor shall develop a quality control plan for the Project (the "Quality Control Plan"). A draft of the Quality Control Plan shall be submitted to the Project Officer and shall be subject to the County's review and approval. The Quality Control Plan shall be tailored to the specific products/type of construction activities contemplated in the construction documents, and in general, shall include a table of contents, quality control team organization, duties/responsibilities of quality control personnel, submittal procedures and forms, inspection procedures and forms, deficiency correction procedures, documentation process, and a list of any other specific actions or procedures that will be required for key elements of the work.

**A4.6.2 Implementation.** During the Construction Phase, the Contractor shall perform regular quality control inspections and create reports based on such inspections. These quality control reports shall be provided to the Project Officer electronically on a monthly basis. The Contractor shall incorporate a quality control section in the progress meetings to discuss outstanding deficiencies, testing/inspections, and upcoming Work. The not less than monthly quality control report shall include a detailed summary of the steps that are being employed to provide quality construction and workmanship. The monthly report should specifically address issues raised during the month and outline the steps that are being used to address such issues.

**A4.6.3 Corrective Action Plan.** The County has the right to direct the Contractor to revise the provisions of its Quality Control Plan if, in the reasonable judgment of the County, the craftsmanship of the Work being installed fails to comply with generally applicable industry standards, requirements set forth in the Specifications that are reasonably related to the quality of craftsmanship, or any provisions set forth in the Contract Documents. In the event that the County determines that any of the events specified in the preceding sentence have occurred, the County shall provide the Contractor with written notice of such event and the Contractor shall be required to provide the County with a corrective action plan that is reasonably designed to address the concerns raised in such notice within three (3) days after receipt of such notice. If the County and the Contractor are unable to agree on the terms of such corrective action plan within five (5) days after the issuance of the notice (i.e. within 48 hours after the receipt of the proposed corrective action plan), the County shall have the right to direct such corrective action measures as the County, in its reasonable judgment, deems necessary. Such

directive may include adjustments to the procedural provisions set forth in the Quality Control Plan and/or impose additional requirements on the manner in which Work is being installed. Provided the notice provisions of this Section are complied with, the cost of any such corrective action directed under this Section shall not justify an adjustment to the GMP or the period of performance for Substantial Completion.

**A4.7 Final Completion & Project Close-Out.** The Contractor shall achieve Final Completion of the Project, as defined in the General Conditions, within 30 days of the end of the period of performance for Substantial Completion.

**A4.7.1 Punch List.** Promptly after the Project reaches Substantial Completion, the Architect shall develop a punch list. Once the punch list is prepared, the Contractor shall inspect the work along with representatives from the County. The punch list shall be revised to reflect additional work items that are discovered during such inspection. The Contractor shall correct all punch list items no later 30 days after substantial completion is achieved.

**A4.7.2 Training.** The Contractor shall provide training to County staff on all of the building systems. The Contractor shall be required to schedule such training sessions and shall use commercially reasonable efforts to ensure all such training occurs prior to the date of Substantial Completion.

**A4.7.3 Warranties & Manuals.** The Contractor shall prepare and submit the following documentation: (i) a complete set of product manuals (O&M), training videos, warranties, etc.; (ii) attic stock; (iii) an equipment schedule; (iv) a proposed schedule of maintenance for the new building; (v) environmental, health and safety documents for the new building; (vi) all applicable inspection certificates/permits (boiler, elevator, emergency evacuation plans, health inspection, etc.) for the new building; and (vii) a complete set of the Contractor's Project files.

**A4.7.4 Eleven Month Walk.** The Contractor must schedule a joint inspection of the Project during the eleventh month after Substantial Completion is achieved. During such inspection, the Contractor and a representative of the County shall walk the Project to identify any necessary warranty work.

**A4.7.5 Support for Initial Heating & Cooling Season.** The Contractor and its mechanical subcontractor shall provide support to the County during system start-up and in initial operation for the first heating and cooling season after Substantial Completion is achieved.

**A4.8 Administrative Matters.**

**A4.8.1 Monthly Report.** The Contractor shall provide written reports to the Project Officer, on the progress of the entire Work at least monthly from Preconstruction NTP until Final Completion of the Project. The monthly report shall include: (i) an updated schedule analysis, including any plans to correct defective or deficient Work or recover delays; (ii) an updated cost report; (iii) a monthly review of cash flow; (iv) a quality control report; and (v) progress photos.

**A4.8.2 Project Management Information System (PMIS).** The County's intention is for the Contractor to utilize e-Builder®, the County's designated Electronic Project Management Information System (PMIS). The County reserves the right to waive this requirement and allow the Contractor to utilize their own preferred PMIS with the County's approval.

**A5. COMPENSATION**

**A5.1** Other than the Construction Management Fee and the General Conditions Fee, the Contractor's sole compensation for the Work shall be reimbursement of the Cost of the Work, as defined in Section A5.1.1 herein, at cost and without mark-up of any kind. The County shall have no obligation to reimburse the Contractor for Cost of the Work that together with the Construction Management Fee and the General Conditions Fee exceed the GMP established in the GMP Amendment.

**A5.1.1 Cost of the Work.** The Cost of the Work consists of the following, which shall be reimbursable at cost and without mark-up of any kind:

1. Payments made by the Contractor to subcontractors and suppliers, but only in accordance with the subcontracts and supply agreements;
2. All amounts due to the Contractor under the terms of the County's written authorization for the Contractor to perform any portion of the Work as self-performed work. If an authorization for the Contractor to engage in self-performed work is not on a fixed-price basis, then, as to that Work, the following costs shall be within the Cost of the Work:
  - a. **Labor.** Properly documented wages actually paid to Project foremen, construction workers, and other personnel in the direct employ of the Contractor, while engaged in approved self-performed work, together with contributions, assessments, payroll taxes, or fringe benefits required by law or applicable collective bargaining agreements.
  - b. **Incorporated Materials.** The cost, net of trade discounts, of all materials, products, supplies and equipment incorporated into the self-performed work, including, without limitation, costs of transportation and handling.
  - c. **Unincorporated Materials.** The cost of materials, products, supplies and equipment not actually installed or incorporated into the self-performed work, but required to provide a reasonable allowance for waste or spoilage, subject to the Contractor's agreement to turn unused excess materials over to the County at the completion of the Project or, at the County's option, to sell the material and pay the proceeds to the County or give the County a credit in the amount of the proceeds against the Cost of the Work.
3. Royalty and license fees paid for use of a design, process or product, if its use is required by this Contract or has been approved in advance by the County;

4. Fees for obtaining all required approvals or permits associated with the abatement, demolition, utilities abandonment, and utility relocation, as well as all trade permit and the building permit fee;
5. All fees and other costs necessarily incurred to carry out testing and inspections required by the Contract or applicable laws, or otherwise to maintain proper quality assurance. The costs the Contractor incurs to schedule and coordinate any additional testing and inspections the County may require shall be reimbursable unless the additional testing establishes that the Work tested was defective or otherwise failed to satisfy contract requirements, in which case the Contractor shall pay the costs, without reimbursement;
6. All bonds to jurisdictional agencies (utilities, storm water management, land disturbance, and grading); and
7. All performance and payment bonds and general liability insurance attributable to the Project.

**A5.1.2 Non-Reimbursable Costs.** The following are some, but not all of, the costs that shall not be reimbursable:

1. **General Conditions Costs.** The Contractor's general conditions costs, including, but not limited to, the following, shall be included in the General Conditions Fee:
  - a. The cost of Construction Staff. The term Construction Staff shall mean the Project Executive, project managers and superintendents assigned to the project, administrative staff assigned on a full-time basis to the Project site, and professional staff performing scheduling, cost estimating and accounting services;
  - b. Fringe Benefits associated with Construction Staff;
  - c. Payroll taxes and payroll insurance associated with Construction Staff;
  - d. Staff costs associated with obtaining permits and approvals;
  - e. Out-of-house consultants;
  - f. The field office for the Contractor including but not limited to: (i) trailer purchase and/or rent; (ii) field office installation, relocation and removal; (iii) utility connections and charges during the Construction Services Phase; (iv) furniture; (v) office supplies;
  - g. Office equipment including, but not limited to: (i) computer hardware and software; (ii) fax machines; (iii) copying machines; (iv) telephone installation, system and use charges; (v) job radios;
  - h. Local delivery and overnight delivery costs; and

- i. First aid facility.
2. Fees for any permits or licenses the Contractor requires to conduct its general business operations.
3. Capital expenses and interest on capital employed for the Work.
4. The cost of home or regional offices, it being understood that compensation for such costs is included in the Construction Management Fee.
5. Sales or use taxes.
6. Costs due to the errors or omissions of the Contractor or its subcontractors or suppliers at all tiers, negligent or otherwise.
7. Costs due to breach of Contract by the Contractor or its subcontractors or material suppliers at all tiers, including, without limitation, costs arising from defective or damaged Work or its correction, disposal of materials or equipment erroneously supplied, and repairs to property damaged by the Contractor or its subcontractors or material suppliers at all tiers.
8. Any costs incurred in performing work of any kind before Notice to Proceed, unless specifically authorized by the County.

**A5.1.3 Cost of Preconstruction Services.** The Cost of Preconstruction Services shall be paid at the conclusion of the Preconstruction Phase, which shall not be deemed complete unless and until the GMP Amendment is executed by the parties. In the event a GMP Amendment is not executed, the terms of Paragraph A3.8 of this Exhibit A (Scope of Services) shall apply.

**A5.1.4 General Conditions Fee.** The Contractor's General Conditions Fee shall be paid in equal monthly installments over the period of performance for Substantial Completion and shall be subject to retainage as outlined in the Agreement. The General Conditions Fee shall not be increased or decreased as a result of Change Orders or Change Directive unless such Changes (i) extend the period of performance for Substantial Completion; and (ii) the Contractor can demonstrate to the satisfaction of the County that such additional Cost of General Conditions are reasonable, necessary, and not due to any fault of the Contractor, its Subcontractors, materialmen, consultants or anyone making claims thereunder.

**A5.1.5 Construction Management Fee.** The Contractor's Construction Management Fee shall be as set forth in Exhibit B (Contractor's Pricing), and 10% of the Construction Management Fee shall be allocated to the Preconstruction Phase of the Project (such amount, the "Cost of Preconstruction Services"). The Contractor acknowledges and agrees that 40% of the Construction Management Fee (the "At Risk Portion") is at risk.

**A5.1.5.1 At Risk Portion of Construction Management Fee.**

1. If the County and the Contractor agree upon a GMP that is equal to or less than the Design-to-Budget amount that was established by the County after the Contractor's first budget estimate 30 days after the receipt of the GMP set, the Contractor shall earn 25% of the At-Risk Portion of the Construction Management Fee. In the event this milestone is achieved, then this portion of the At-Risk Portion shall be paid on a monthly basis in equal installments over the then-remaining life of the Project through Substantial Completion.
2. If the Contractor achieves Substantial Completion of the Project on or before the period of performance for Substantial Completion established in the GMP Amendment or adjusted thereafter, the Contractor shall earn 25% of the At-Risk Portion of the Construction Management Fee. The Contractor shall lose entitlement to such portion of the Construction Management Fee even if Substantial Completion is not achieved due to the fault of the Contractor, the Architect, the Code Official, events of force majeure or otherwise. In the event this milestone is achieved, then this portion of the At-Risk Portion shall be paid in the first progress payment that is due after Substantial Completion of the Project occurs.
3. The Contractor shall be eligible to earn up to 25% of the At Risk Portion of the Construction Management Fee based on the level of design quality that is incorporated in the GMP when measured relative to the original design intent desired by the County (as such design intent was reflected in the concept design in terms of aesthetics, function and program elements) and the level of funding allocated to the Project (such amount the "Design Quality Incentive"). The portion of the Design Quality Incentive to which the Contractor shall be entitled shall be determined by the Project Officer based on his/her reasonable assessment of the extent to which the Contractor was able to incorporate the design intent in light of the level of funding allocated to the Project and then current market conditions. The Project Officer shall consider and discuss in good faith any comments provided by the Contractor with regard to the proposed determination. In the event the Project Officer and the Contractor cannot agree on the appropriate allocation of the Design Quality Incentive, the Project Officer's determination shall prevail. Any portion of the Design Quality Incentive to which the Project Officer determines that the Contractor is entitled shall be paid in equal monthly installments over the then-remaining life of the Project through Substantial Completion.
4. The Contractor shall be eligible to earn up to 25% of the At-Risk Portion of the Construction Management Fee based on the level of construction quality of the Project as (such amount the "Construction Quality Incentive"). Upon Final Completion of the Project, the portion of the Construction Quality Incentive to which the Contractor shall be entitled will be determined by the Project Officer based on his/her reasonable assessment of quality of the workmanship exhibited by the Work. The Project Officer shall share his/her proposed determination regarding the quality of the work with the Contractor. The Project Officer shall consider and discuss in good faith any comments provided by the Contractor with regard to the proposed determination. In the event the Project Officer and the Contractor cannot agree on the appropriate allocation of the Construction Quality Incentive, the Project Officer's

determination shall prevail. At a minimum, the Project Officer’s obligation to consult with the Contractor shall include the obligation to walk the Project with Contractor and, if the Contractor so desires, an independent construction professional engaged by the Contractor. Any portion of the Construction Quality Incentive to which the Project Officer determines that the Contractor is entitled shall be paid in the first progress payment that is due after Final Completion of the Project occurs.

In making the determinations set forth in this subparagraph 4 and subparagraph 3 above, the Project Officer shall award 100% of the available incentive if the Project Officer determines that the Contractor’s efforts were very good or better, at least 67% of the available incentive if the Project Officer determines that the Contractor’s efforts were good, at least 33% of the available incentive if the Project Officer determines that the Contractor’s efforts were fair.

**A5.1.5.2 Not At Risk Portion of Construction Management Fee.** The Not At Risk portion of the Construction Management Fee is the 50% of the Construction Management Fee remaining after deduction of the Preconstruction Services Fee and the At Risk portion of the Construction Management Fee. The Not At Risk portion of Construction Management Fee will be paid proportionately with the progress of construction pursuant to Progress Payments paragraph.

**A5.1.5.3 Changes to the Construction Management Fee.** The Construction Management Fee shall not be increased or decreased as a result of Change Orders or Change Directives unless such Changes (i) extend the period of performance for Substantial Completion from that contemplated in the GMP Amendment; or (ii) the County makes additions to the scope provided for in the GMP Amendment that either individually or in the aggregate cause the GMP to exceed the Project Budget by more than ten percent (10%).

**A5.1.6 Progress Payments.** The Contractor shall be paid its compensation in a series of progress payments and a final payment, for Work completed in accordance with the Contract, and for which proper Applications for Payment have been submitted and approved. The amount of each progress payment shall be as follows:

The Costs of Work Completed to Date			
Plus	(Cost of Work for Pay Period / Current approved estimated Cost of Work through completion)	x	(Not At Risk Portion of the Construction Management Fee)
Plus	Any subset of the At-Risk Portion of the Construction Management Fee to which the County has determined the Contractor to be entitled		
Plus	the applicable portion of General Conditions Fee		
Minus	Applicable Retainage		
Minus	Amounts previously paid by the County		



In the event the Project schedule has been extended, the monthly portions of the General Conditions Fee and the Not At Risk Construction Management Fee will be recalculated so the then remaining unpaid portion of both fees are spread evenly over the then-remaining duration of the Construction Phase.

**A6. DIVERSION OF KEY PERSONNEL**

**A6.1 Identification of Key Personnel.** The following individuals shall be considered Key Personnel: (i) the Project Executive; (ii) the Preconstruction Services Manager; (iii) the lead Superintendent; (iv) the Project Manager(s) who will supervise the construction, Mechanical/Electrical/Plumbing (MEP) trades, structural work, and exterior improvements; and (vii) the Quality Control Manager. It is understood that in certain cases one individual may serve in more than one role and that the role of the Preconstruction Services Manager ends once the GMP has been negotiated and at that point the Preconstruction Services Manager shall cease to become Key Personnel.

The County requires that the project manager(s) who will oversee the work during the Construction Phase have substantial involvement during the pre-construction phase in order to facilitate continuity throughout the project.

**A6.2 Liquidated Damages.** If the Contractor removes or reassigns one of the Key Personnel (excluding, however, instances where such personnel become unavailable due to death, disability, or employee's voluntary separation from the employment of the Contractor or any affiliate of the Contractor) the Contractor shall pay to the County the sum of \$10,000 as liquidated damages, to include instances when the County requests that a Key Personnel be removed for unsatisfactory performance. In addition, the County shall have the right, to be exercised in its sole discretion, to remove, replace or to reduce the scope of services of the Contractor in the event that a member of the Key Personnel has been removed or replaced by the Contractor.

The Contractor must submit any request to remove or replace Key Personnel 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 any of the Key Personnel must be absent for an extended period, the Contractor must provide an interim Key Personnel, subject to the County's written approval.

If any of the approved Key Personnel resigns or is terminated by the Contractor, the Contractor will replace those Key Personnel with an individual with similar qualifications and experience, subject to the County's written approval.

The Key Personnel are identified below:

1. Project Executive – Derek Brown
2. Preconstruction Services Manager – Mike Whearty
3. Lead Superintendent – Pete Kapsidelis
4. Project Manager(s) – Nick Sevier
5. Quality Control Manager – Angela Pederson

## **A7. DELIVERABLES**

### **A7.1 Preconstruction Deliverables**

1. Baseline Project Schedule (Section A2.2)
2. Preliminary Budget Estimate (Section A2.3)
3. Value Engineering Memorandum – Concept Design (Section A2.4)
4. Constructability/Sole Source/Long-Lead Time Memorandum (Section A2.5)
5. Schematic Design Budget Estimate (Section A2.7)
6. Updated Constructability/Sole Source/Long-Lead Time Memorandum (Section A2.8)
7. Value Engineering Options (Section A2.9)
8. Memorandum on 50% and 75% Design Development Over the Shoulder Design Reviews (Section A2.10)
9. Construction Administration Plan (Section A2.11)
10. Design Development Budget Estimate (Section A2.12)
11. Updated Constructability/Sole Source/ Long-Lead Time Memorandum Design Development Constructability/Sole Source/Long Lead Time Memorandum (Section A2.13)
12. Design Development Value Engineering Options (Section A2.14)
13. Memorandum on 50% and 75% Construction Document packages Over the Shoulder Design Reviews (Section A2.15)

### **A7.2 GMP Formation Deliverables**

1. Bidders List (Section A3.3)
2. Bid Tabulation (Section A3.5)
3. Value Engineering Update (Section A3.6)
4. GMP Proposal (Section A3.7)

### **A7.3 Construction Phase Deliverables**

1. Weekly Progress Meeting Minutes (Section A4.2.3)
2. Safety Plan (Section A4.4.1)
3. Outreach Plan (Section A4.5.4)
4. Quality Control Plan (Section A4.6.1)
5. Building systems training for County staff (Section A4.7.2)
6. Warranties and Manuals (Section A4.7.3)
7. Monthly Reports (Section A4.8.1)

**EXHIBIT B**  
**CONTRACTOR'S PRICING FOR PRECONSTRUCTION SERVICES**

The Offeror's cost proposal is as follows:

A. The Construction Management Fee is: \$520,000

The Offeror acknowledges and understands that the Construction Management Fee a firm, fixed price and other than as permitted in the Scope of Services will not be subject to further adjustment. The Offeror further acknowledges that ten percent (10%) of the Construction Management Fee shall be allocated to the Offeror's preconstruction phase scope of work. Further, the Offeror acknowledges that forty percent (40%) of the Construction Management Fee shall be at risk, and the Offeror shall only be entitled to such portion as set forth in the Scope of Services.

B. The General Conditions Fee is: \$1,972,907

The Offeror's General Conditions Fee is a firm, fixed price and consists of the following elements:

Cost of construction staff \$1,302,694

Fringe Benefits associated with field staff costs \$381,834

Payroll taxes and payroll insurance associated with field staff costs \$85,390

Staff costs associated with obtaining permits and approvals \$5,000

Out-of-house consultants \$Trade Directs

Travel, Living and Relocation expenses \$13,077

Job vehicles \$w/above

Field office for CM, including, but not limited to: \$74,573

Trailer purchase and/or rental

Field office installation, relocation and removal

Utility connections and charges during the Construction Services phase

Furniture

Field offices for the Library and its Program Manager

Office supplies

Office equipment including but not limited to: \$29,060

Computer hardware and software

Copy machines

Telephone installation, system and uses charges

Job radios (cell phones)	<u>\$w/above</u>
Local delivery and overnight delivery costs	<u>\$7,265</u>
Field computer network	<u>\$62,955</u>
First aid facility	<u>\$4,359</u>
Progress photos	<u>\$Trade Directs</u>
Printing cost for drawings, bid packages, etc.	<u>\$3,200</u>
Other (Please Itemize)	<u>\$0</u>

Define/clarify Trade directs in your proposed cost proposal.

Turner's response: Regarding the line items in our Price Proposal identified as "Trade Directs," we intend to competitively procure this scope with Direct Work. As discussed on December 15<sup>th</sup>, an example would be an exterior wall consultant.

**EXHIBIT C**  
**ARLINGTON COUNTY DES FACILITIES DESIGN AND CONSTRUCTION**  
**CMAR CONSTRUCTION GENERAL CONDITIONS**

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**A. INTRODUCTION TO TERMS**

- 1) The term "Agreement" means the completed and signed Form of Contract Agreement.
- 2) The term "Award Date" means the date of execution of the Agreement by the Purchasing Agent.
- 3) The term "Business Day" shall refer to any day that the County is open for general business.
- 4) The term "Calendar Day" means any day of twenty-four hours measured from midnight to the next midnight. Included are weekends and holidays. When the term "Day" is used it shall be assumed to refer to a Calendar Day unless otherwise specified.
- 5) The term "Change Order" means a written order to the Contractor, signed by the Project Officer and the Contractor, which authorizes a change in the Work, and/or adjustment to the Contract Amount and/or an adjustment to the Time for Completion. A Change Order once signed by all the parties is incorporated into and becomes part of the Contract.
- 6) The term "Commencement Date" means the date on which the Time for Completion will commence for the Contractor to begin to perform his obligations under the Contract Documents as provided in the Notice to Proceed.
- 7) The term "Construction Change Directive" means a written order issued by the County directing a change in the Work prior to agreement on adjustment, if any, in the Contract Amount or Contract Time, or both.
- 8) The term "Contract Documents" means the Agreement and all the documents and Exhibits and/or Attachments identified therein which shall include the Drawings and the Specifications, and all modifications including amendments and subsequent Change Orders thereto properly incorporated in the Contract.
- 9) The terms "County" and "Contractor" shall mean the respective parties to the Contract. They shall be treated throughout the Contract Documents as though each were of the singular number and masculine gender. Only one Contractor is recognized as a party to this Contract.
- 10) The term "Critical Path Method or CPM" means a step-by-step project management technique for process planning that defines critical and non-critical tasks with the goal of preventing time-frame problems and process bottlenecks. An activity on the critical path cannot be started until its predecessor activity has been completed. is delayed then the entire project is delayed.
- 11) The term "Delay" means an event or condition that results in a work activity starting or being completed later than originally planned.
- 12) The term "Drawings" means all drawings pertaining to the Contract, including the Contract Drawings and Construction Notes which show and describe the locations, character, dimensions, and details of the Work to be performed under the contract.
- 13) The term "Final Acceptance" shall mean the date on which the County issues the final payment for

the Work.

- 14) The term "Final Completion" shall mean the condition when the County agrees that all the Work has been fully completed in accordance with the Contract Documents and is acceptable. The date of the Final Completion of the Work under the Contract is the date on which Final Completion is accomplished.
- 15) The term "Float" shall represent the amount of time that a task in a project network or sequence can be delayed without causing a delay to subsequent tasks ("free float") or project completion date ("total float"). Float shall belong to the County and shall be used for the successful completion of the Project within the Time for Completion.
- 16) The term "Notice to Proceed" shall mean a written notice issued by the County to the Contractor stating the Commencement Date. The Notice to Proceed will specify the Time for Completion of the Contract.
- 17) The term "Project" means the entire proposed construction to be executed as stipulated in the Contract Documents
- 18) The term "Project Officer" means the County Project Officer assigned by the Director of the County Department responsible for the project, or the Director's designee. When a designee to act on behalf of the Project Officer is used by the County, the name of the designee and the duties and authority of such designee will be identified in the Contract Documents or in a written notice to the Contractor from the Project Officer responsible for the project. The designee may be a professional architect or engineer, or other person employed by the County to perform construction services administration, design services, or project oversight.
- 19) The term "Punch List" means unfinished items of the construction of the Project, which unfinished items of construction are minor or insubstantial details of construction, mechanical adjustment or decoration remaining to be performed, the non-completion of which would not materially affect use of the Project, and which are capable of being completed within the time specified for Final Completion after Substantial Completion has been achieved.
- 20) The term "Request for Information" (RFI) means a request originated by the Contractor requesting clarification or additional information from the Project Officer and/or Architect/Engineer concerning information in the construction documents where the Contractor believes there is insufficient information or a conflict in the documents. RFI's shall be submitted by the Contractor sufficiently in advance of the Work to provide time for assessment and response without delay of the Work. Responses to RFI's shall not be construed as authorization for a Change Order.
- 21) The term "Schedule of Values" means a listing of the Contractor's total contract value by Construction Specifications Institute (CSI) divisions, including Division 1, Contractor's General Conditions.
- 22) The term "Site" refers to that portion of the property on which the Work is to be performed or which has otherwise been set aside for use by the Contractor.



- 23) The terms "Special Conditions" mean the written statements modifying or supplementing the Technical Specifications or General Conditions for requirements or conditions peculiar to the Contract.
- 24) The term "Specifications" means and shall include the Technical Specifications, the Special Conditions and all written agreements and instructions pertaining to the performance of the Work.
- 25) When used, the term "Stipulated Price Item" means and includes an item of Work, unanticipated or of unknown quantity at the time of issuance of the solicitation for a Bid and determined to be executed, based on the actual field conditions during the progress of Work under the Contract. The Unit Price for the "Stipulated Price Item", as identified in the "Stipulated Price Items" section of the Bid Form, is predetermined by the County as the current reasonably workable rate for the Item inclusive of all necessary labor, equipment, materials, overheads (provision and installation), and the contractor's profit.
- 26) The term "Subcontractor" shall include only those having a direct contract with the Contractor, and it shall include those who furnish material worked to a special design according to the plans and specifications for this Work but shall not include those who merely furnish material not so worked.
- 27) The term "Substantial Completion" shall mean the condition when the County agrees that the Work, or a specific portion thereof, is sufficiently complete, in accordance with the Contract Documents, so that it can be utilized by the County for the purposes for which it was intended. The date of Substantial Completion of the Work under the Contract is the milestone date on which Substantial Completion condition is accomplished.
- 28) The term "Technical Specifications" means that part of the Contract Documents that describe the quality of materials, method of installation, standard of workmanship, and the administrative and procedural requirements for the performance of the Work under the contract.
- 29) The term "Time for Completion" shall mean the time period set forth in the Agreement.
- 30) The term "Work" shall mean the services performed under this Contract including, but not limited to, furnishing labor, and furnishing and installing materials and equipment required to complete the Project specified in the Contract Documents.

**B. DRAWINGS, SPECIFICATIONS, RELATED DATA AND RECORDS KEEPING**

1. INTENT OF THE DRAWINGS AND SPECIFICATIONS
  - a. It is understood that, except as otherwise specifically stated in the Contract Documents, the Contractor shall provide and pay for all materials, labor, tools, equipment, water, water haulage, light power, transportation, superintendence, temporary construction of all kinds, and other services and facilities of every nature whatsoever that are necessary to execute and deliver the Work, complete and usable within the scope of the Contract with all parts in working order, and all connections properly made.
  - b. The general character and scope of the Work are illustrated by the Drawings and listed in the Specifications. Any additional drawings and or other instructions deemed necessary by the Project Officer or designee will be furnished to the Contractor when required for the Work and

shall be incorporated into the Contract Documents.

- c. Where "as shown", "as indicated", "as detailed", or words of similar import are used, it shall be understood that direction, requirements, permission, or review of Project Officer or designee is intended unless stated otherwise. As used herein, "provide" shall be understood to mean "provide complete in place", that is, "furnish and install."
- d. Unless otherwise specifically noted, the word "similar" where it occurs in the Drawings, shall be interpreted in its general sense and not as meaning identical, and all details shall be worked out in relation to their locations and their connection with other parts of the Work.
- e. Materials or work described in words which, so applied, have a well-known technical, construction industry, or trade meaning, shall be held to refer to the recognized technical or trade meaning.
- f. The Contract Documents are complementary, and what is called for by any one document shall be as binding as if called for by all documents. In case of conflicting variance between the Contract Documents, the Order of Precedence stated in the Agreement shall govern. Figured dimensions on the plans shall be used; drawings shall not be scaled.

2. DISCREPANCIES AND ERRORS

If the Contractor discovers any discrepancies between the Drawings and Specifications and the site conditions or any errors or omissions in the Drawings or Specifications, the Contractor shall at once, but in no event later than three calendar days after discovery of the discrepancy or error, report them in writing to the Project Officer or designee. If the Contractor proceeds with any work that may be affected by such discrepancies, errors, or omissions, after their discovery, but before a clarification is provided, such work shall be at the Contractor's risk and expense. Issues affecting critical path activities shall be made known to the Project Officer or designee within one business day after discovery.

3. DIFFERING SITE CONDITIONS

The Contractor shall immediately, and before the conditions are further disturbed, give notice to the Project Officer of subsurface or latent physical conditions at the site which differ materially from those indicated in this Contract, or previously unknown physical conditions discovered at the site of an unusual nature and which differ materially from those ordinarily expected to be encountered at the site. Such notice shall be followed by a written notice provided within 48 hours of discovery.

The Project Officer will investigate the site conditions promptly after receiving the notice. If the conditions do materially differ to the extent that an increase or decrease would result in the Contractor's cost of the Work, or the time required for performing any part of the Work under the contract, an equitable adjustment may be made under this clause and the Contract modified in writing accordingly.

No request by the Contractor for an adjustment to the Contract under this clause shall be allowed, unless the Contractor has given the written notice required. If the Contractor proceeds with any work that may be affected by such differing site conditions before giving notice to the Project

Officer as set forth herein, such work shall be at the Contractor's sole risk and expense.

No request by the Contractor for an adjustment to the contract for differing site conditions shall be allowed if made after Final Payment under the Contract.

4. COPIES FURNISHED

Except as provided for otherwise, copies of the Drawings and Specifications reasonably necessary for the execution of the Work will be furnished to the Contractor. One electronic copy of the Contract Drawings and Specifications will be provided by the Project Officer or designee to the Contractor.

5. USE OF CADD FILES

The Contractor may request Electronic CADD files related to the Work or the Project. The CADD files will be provided by the County only if the Contractor completes the Arlington County Electronic CADD Drawing Release Form, which form is then incorporated by reference into this Contract. Use of CADD files is at the Contractor's own risk and in no way alleviates Contractor's responsibility for the Work to conform to the Plans and Specifications.

6. DOCUMENTS ON THE JOBSITE

The Contractor shall keep on the site of the Project a copy of the Drawings and Specifications updated to include all authorized revisions and RFI responses and shall at all times give the County and its authorized representatives access thereto. The Contractor shall mark up the Drawings on a daily basis in red. The drawings shall be submitted to the County at Substantial Completion as the Record marked up set.

7. OWNERSHIP OF DRAWINGS AND SPECIFICATIONS

All Drawings and Specifications and copies thereof furnished by the County are the property of the County and shall not be used on other projects. All copies of the Drawings and Specifications except the signed Contract sets shall be returned to the Project Officer or designee at Final Completion.

8. SUBMITTALS

- a. The term "submittals", as used herein, shall include fabrications, erection and setting drawings, manufacturers' standard drawings, schedules, descriptive literature, catalogs, brochures, performance and test data, wiring and control diagrams, and other descriptive data pertaining to the materials and equipment as required to demonstrate compliance with the Contract requirements.
- b. Unless other specified in the Specifications the Contractor shall submit for the review of the Project Officer or designee a listing of all submittals required by the Specifications or requested by the Project Officer or designee within fifteen (15) calendar days after receipt of the Notice to Proceed. This listing shall include due dates for each required submittal, coordinated with the project schedule such that adequate time is allotted for review and potential resubmittals, fabrication and delivery without causing delay. The Contractor bears all risk for delay associated with submittals not received in a timely manner.
- c. Submittals shall be submitted in such number of copies as established in the Specifications. Each submission shall be accompanied by a letter of transmittal, listing the contents of the

submission and identifying each item by reference to specification section or drawing. All submittals shall be clearly labeled with the name of the project and such information as may be necessary to enable their complete review by the Project Officer or designee. Catalog plates and other similar material that cannot be so labeled conveniently shall be bound in suitable covers bearing the identifying data.

- d. Submittals shall be accompanied by all required certifications and other such supporting material and shall be submitted in sequence or groups that all related items can be checked together. When submittals cannot be checked because a submission is not complete, or because submittals on related items have not been received by the Project Officer or designee, then such submittals will be returned without action or will be held, not checked, until the missing material is received. Incomplete or defective submittals shall not be considered to have been submitted. Failure to deliver submittals within the specified time will not be grounds for additional time or compensation.
  - e. Submittals shall have been reviewed by the Contractor and coordinated with all other related or affected work before they are submitted for review and acceptance and shall bear the Contractor's certification that the Contractor has checked and approved them as complying with all relevant information in the Contract Documents. Submittals submitted without such certification and coordination will be returned to the Contractor without action and will not be considered as a formal submission.
  - f. If shop drawings show variations from the Drawings and Specifications because of standard shop practice or other reasons, the Contractor shall make specific mention of such variation in the Contractor's letter of transmittal in order that, if acceptable, suitable action may be taken for proper adjustment; otherwise the Contractor will not be relieved of the responsibility for executing the work in accordance with the Drawings and Specifications even though shop drawings have been accepted.
  - g. The Project Officer or designee shall review the shop drawings with reasonable promptness. Review and/or acceptance of shop drawings will be general for conformance with the design concept of the Project and compliance with the information given in the Contract Documents, and will not include quantities, detailed dimensions, nor adjustments of dimensions to actual field conditions. Acceptance shall not be construed as permitting any departure from Contract requirements, as authorization of any increase in price nor as relieving the Contractor of the responsibility for any error in details, dimensions or otherwise that may exist. Review is not intended to relieve the contractor of full responsibility for the accuracy and completeness of the plans and calculations, or for the complete compliance with the contract documents. Contractor is solely responsible for the means and methods of the construction, including temporary items proposed for use.
9. SAMPLES  
The Contractor shall submit to the Project Officer or designee, all samples required by the Specifications or requested by the Project Officer or designee. Samples shall be submitted in single units only, unless the Contractor desires additional units for the Contractor's own use. Each sample shall bear a label indicating what the material represented, the name of the producer and the title of the Project. Acceptance of a sample shall be only for conformance with the design concept of

the Project and compliance with the information given in the Contract Documents, and only for the characteristics or use named in such acceptance. Such acceptance shall not be construed to change or modify any Contract requirements or the Contract Price. Materials and equipment incorporated in the Work shall match the accepted samples. The Contractor shall be responsible for researching the availability of the specified product in the dimensions and colors specified at no additional cost to the County. Failure of the Contractor to identify specified products that are not commercially produced within the time required for submittal transmittal in order to meet the project schedule shall not be entitled to additional time or compensation.

10. TESTS

Any specified tests of materials and finished articles shall be made by bureaus, laboratories or agencies approved by the Project Officer or designee and the certified reports of such tests shall be submitted to the Project Officer or designee. All tests shall be in compliance with the Specifications. All costs in connection with the testing and test failures shall be borne by the Contractor. Failure of any material to pass the specified tests or any test performed by the Project Officer or designee, will be sufficient cause for refusal to consider, under this Contract, any further materials of the same brand or make of that material. Samples of various materials delivered on the site or in place may be taken by the Project Officer or designee for testing. Samples failing to meet the Contract requirements will automatically void previous acceptance of the items tested. The Contractor will not be compensated for additional time and/or cost incurred in finding an acceptable replacement or the removal and replacement of the defective item.

11. MATERIALS AND EQUIPMENT LIST

- a. Unless otherwise specified in the Specifications, within thirty (30) days of the Commencement Date the Contractor shall submit to the Project Officer or designee a complete list of materials and equipment proposed for use in connection with the Project. Partial lists submitted from time to time will not be considered unless specifically approved by the Project Officer or designee.
- b. After any material or piece of equipment has been approved through submittal process, no change in brand or make will be permitted unless satisfactory written evidence is presented to prove that the manufacturer cannot make scheduled delivery of the accepted material, or that material delivered has been rejected and the substitution of a suitable material is an urgent necessity, or that other conditions have become apparent which indicate that acceptance of such other material is in the best interest of the County. The Contractor is solely responsible for the cost and time required to obtain and install a suitable replacement.

12. STANDARDS, SUBSTITUTIONS

- a. Any material specified by reference to the number, symbol or title of a specific standard, such as a Commercial Standard, a Federal Specification, a Trade Association Standard, or other similar standard, shall comply with the requirements in the latest revision of the standards or specification and any amendment or supplement, except as limited to type, class or grade, or as modified in such reference. The standard referred to, except as modified in the Specifications, shall have full force and effect as though printed in the Specifications.
- b. Reference in the Specifications or on the Drawings to any article, device, product, material,

fixture, form or type of construction by name, make or catalog number shall be interpreted as establishing a standard of quality and shall not be construed as eliminating from competition other products of equal or better quality by other approved manufacturers. Otherwise, applications for acceptance of substitutions for the specified items will be considered only upon request of the Contractor, not of individuals, trades or suppliers, and only for a specific purpose; no blanket acceptance will be granted. No acceptance of a substitution shall be valid unless it is in written form and signed by the Project Officer or designee.

- c. If any proposed substitution will affect a correlated function, adjacent construction or the work of other contractors, then the necessary changes and modifications to the affected work shall be considered as an essential part of the proposed substitution, to be accomplished by the Contractor without additional expense to the County or an extension of the contract time, if and when accepted. Detail drawings and other information necessary to show and explain the proposed modifications shall be submitted with the request for acceptance of the substitution.

### 13. SURVEYS AND CONTROLS

Unless otherwise specified, the Contractor shall establish all baselines for the location of the principal component parts of the Work, establish a suitable number of benchmarks adjacent to the Work, and develop all detail surveys necessary for construction by a professional land surveyor licensed in the Commonwealth of Virginia. The Contractor shall carefully preserve benchmarks, reference points and stakes, and in the case of destruction thereof by the Contractor or due to the Contractor's negligence or the negligence of any subcontractor or supplier, the Contractor shall be responsible for expense and damage resulting therefrom and shall be responsible for any mistakes that may be caused by the loss or disturbance of such benchmarks, reference points and stakes. The Contractor shall within 30 days of NTP perform a full site survey to verify all control points shown on the drawings against existing conditions within the site limits. Any discrepancies found during this effort shall be made known immediately to the Project Officer. Failure to perform this survey and provide proof and acceptance of Project datum, control points, and existing benchmarks will not give rise to any extensions to contract time or amount. The cost of all necessary surveying services shall be considered incidental to the work and, unless otherwise specified, shall be included in the cost of the Work.

### 14. RECORD DRAWINGS

Record drawings shall be the responsibility of the Contractor. The Contractor shall maintain and mark up one set of prints of the applicable Contract Drawings to portray record construction. The prints shall be neatly and clearly marked in red to show all variations between the Work actually provided and that indicated on the Contract Drawings, and all utilities encountered in the Work. All drafting shall conform to good drafting practice and shall include such supplementary notes, legends and details as may be necessary for legibility and clear portrayal of the record construction. These drawings shall be marked promptly upon any approved change to the Work or discovery of any undocumented utility or obstruction and shall be submitted to the Project Officer or designee in sufficient time to be approved no later than thirty (30) calendar days after the Substantial Completion Date. The final record drawings approved by the Project Officer or designee shall be submitted in paper copy and .pdf format electronic files prior to Final Completion. Unless otherwise required under the Contract Documents, incorporation of red-lined changes into CADD format shall be the responsibility of the Architect and/or Engineer of Record, with the exception being any documents prepared by the Contractor in CADD, the record version of which shall also

be provided to the County in CADD format by the Contractor. Final payments will be held until the complete set of red-line drawings are submitted to and approved by the Project Officer.

**C. COUNTY, COUNTY PROJECT OFFICER, AND CONTRACTOR RELATIONS**

**1. STATUS OF COUNTY PROJECT OFFICER OR DESIGNEE**

The Project Officer or designee shall be the County's representative during the construction period. All Contractor instructions or requests shall be issued from or submitted through the Project Officer or designee. The Project Officer or designee shall have authority to suspend the Work whenever such suspension may be necessary in the responsible opinion of the Project Officer or designee to ensure the proper execution of the Contract. The Project Officer or designee shall also have authority to reject all work and materials that do not conform to the Contract and to decide questions that arise in the execution of the Work.

The County Project Officer or designee will, within a reasonable time, make decisions on all matters relating to the execution and progress of the Work.

**2. LIMITATION ON COUNTY'S RESPONSIBILITIES**

The County shall not supervise, direct, or have control or authority over, nor be responsible for: The Contractor's means, methods, techniques, sequences or procedures of construction; the safety precautions and programs related to safety, or the Contractor's failure to perform or furnish the Work in accordance with the Contract Documents.

**3. DISPUTES**

a. All disputes or claims arising under this Contract or its interpretation, whether involving law or fact or both, or extra work, and all claims for alleged breach of Contract shall be submitted in writing to the Project Officer or designee as set forth in these General Conditions. Such claims must set forth in detail the amount of the claim and shall state the facts surrounding it in sufficient detail to identify it together with its character and scope.

b. Claims denied by the Project Officer shall be processed in accordance with the procedures outlined in Sections 7-107, Contractual Disputes and 7-108, Legal Actions of the Arlington County Purchasing Resolution and the Dispute Resolution paragraph in the Agreement.

c. The Contractor shall not cause a delay in the work pending a decision of the Project Officer or designee, County Manager, County Board, or court, except by prior written approval of the Project Officer or designee.

**4. INSPECTION OF WORK**

The Project Officer or designee and representatives of any public authority having jurisdiction shall, at all times, have access to the Work while in progress. The Contractor shall provide suitable facilities for such access and for proper observation of the Work and shall conduct all special tests required by the Specifications, the Project Officer or designee's instructions, and any laws, ordinances or the regulations of any public authority applicable to the work. Nothing in this section shall abrogate or otherwise limits or relieves the Contractor's independent duty to inspect the Work.

5. INSPECTION OF MATERIALS

All articles, materials, and supplies purchased by the Contractor for the Work are subject to inspection upon delivery to the site and during manufacturing or fabrication. The County reserves the right to return for full credit, at the risk and expense of the Contractor, all or part of the articles, materials, or supplies furnished contrary to Specifications and instructions. Nothing in this section shall abrogate or otherwise limit or relieve the Contractor's independent duty to inspect materials.

6. EXAMINATION OF COMPLETED WORK

If the Project Officer or designee requests it, the Contractor, at any time before acceptance of the Work, shall remove or uncover such portions of the finished work as may be directed. After examination, the Contractor shall restore said portions of the work to the standard required by the Specifications. Should the work thus exposed or examined prove acceptable, then the uncovering or removing, and the replacing of the covering or making good of the parts removed shall be paid for as extra work but should the work so exposed or examined prove unacceptable, then the uncovering, removing and replacing shall be at the Contractor's expense.

7. RIGHT TO SUSPEND WORK

The County shall have the authority to suspend the Work, in whole or in part, for such periods and such reasons as the County may deem necessary or desirable. Any such suspension shall be in writing to the Contractor and the Contractor shall obey such order immediately and not resume the Work until so ordered in writing by the County. No such suspension of the Work shall be the basis for a claim by the Contractor for any increase in the Contract Amount provided that the suspension is for a reasonable time under the circumstances then existing. If the suspension of Work is caused by the County's belief that non-conforming work is being installed, and subsequent investigation proves that the Work was non-conforming, the Contractor shall not be awarded additional time or costs.

8. RIGHT TO CARRY OUT THE WORK

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a 10-day period after receipt of written notice from the County or such shorter time as may be reasonable under the circumstances, to commence and continue correction of such default or neglect with diligence and promptness, the County may, without prejudice to other remedies the County may have, correct such deficiencies. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor the reasonable cost of correcting such deficiencies, including the County's expenses, and any additional architect or engineering costs necessary by Contractor's default, neglect or failure. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the County upon demand.

9. CONTRACTOR MANAGEMENT PERSONNEL

The Contractor shall keep a competent superintendent and any necessary assistants on the Site at all times during progress of the Work and such persons shall be satisfactory to the Project Officer or designee. The superintendent or project manager shall not be changed except with the Project Officer or designee's consent. If the Project Officer determines that the superintendent or project manager is no longer satisfactory, then the superintendent or project manager must be replaced within 15 days of the Project Officer's written notice with a replacement superintendent or project



manager with equal or superior qualifications and subject to Project Officer approval.

The superintendent and project manager shall represent the Contractor and all directions given to such persons shall be as binding as if given to the Contractor. The Contractor shall at all times enforce strict discipline and good order among the workers performing under this Contract and shall not employ on the Work any person not reasonably proficient in the Work assigned. Persons permitted to perform Work under Contractor, or any subcontractor, or sub-subcontractor, shall meet all employment eligibility, safety training, security or drug/alcohol testing requirements required by law or by the County. Any person not complying with all such requirements shall be immediately removed from the Site.

10. DRUG-FREE POLICY

The Contractor is responsible for ensuring that the Site remains a drug-free site. Contractor will require that employees undergo random drug/alcohol screening on a quarterly interval. Any employee who fails the test must be removed from the Site immediately. Random screening shall be performed by a third party licensed to do so in the Commonwealth of Virginia. The Contractor shall provide its random testing policy and schedule to the Project Officer within 30 days of Notice to Proceed. The Contractor will include this provision in every subcontract relating to this Contract. Any infraction by an employee of the Drug-Free policy shall be reported to the Project Officer within 24 hours.

11. LANDS BY COUNTY

The County shall provide access to the lands shown on the Drawings upon which the Work under the Contract is to be performed and to be used for rights of way and for access. In case all the lands, rights-of-way or easements have not been obtained as herein contemplated before construction begins, then the Contractor shall begin its work on such lands and rights-of-way that the County has acquired access to. No additional time or compensation shall be awarded to the Contractor for modifying work location and sequence provided other locations are available for work.

Contractor shall verify the acquisition of all off-site easements and Rights-of- Way prior to the start of off-site construction. Restore all off-site easements to the conditions existing prior to the start of work.

12. LANDS BY CONTRACTOR

If the Contractor requires additional land or lands for temporary construction facilities and for storage of materials and equipment other than the areas available on the site or right-of-way, or as otherwise furnished by the County, then the Contractor shall provide such other lands and access thereto entirely at the Contractor's own expense and without liability to the County. The Contractor shall not enter upon private property for any purpose without prior written permission of all of the persons and entities who own the property. The Contractor shall provide copies of all agreements to the County and shall include language in the agreement indemnifying and holding the County harmless for any damages, repairs, restoration or fees associated with the use of the property.

Upon termination of the agreement, the Contractor shall provide to the County a fully executed

release from the property owner.

**13. PROTECTION OF WORK AND PROPERTY**

- a. The Contractor shall continuously maintain and protect all of its Work from damage and shall protect the County's property from damage or loss arising in connection with this Contract until Substantial Completion. After Substantial Completion, the maintenance or protection of any incomplete or remedial Work identified on the punch list that requires maintenance or protection in order to allow for the final completion and acceptance of such Work shall be the responsibility of the Contractor until Final Completion. The Contractor shall make good any such damage or loss, except such as may be caused by agents or employees of the County. Failure to adequately protect the Work shall not be grounds for additional compensation for any maintenance and/or repairs to such Work.
- b. The Contractor shall not place upon the Work, or any part thereof, any loads which are not consistent with the design strength of that portion of the Work.
- c. The Contractor shall be responsible for the preservation of all public and private property, trees, monuments, etc., along and adjacent to the street and/or right-of-way, and shall use every precaution to prevent damage to pipes, conduits and other underground structures, curbs, pavements, etc., except those to be removed or abandoned in place and shall protect carefully from disturbance or damage all monuments and property marks until an authorized agent has witnessed or otherwise referenced their location and shall not remove them until directed. Any damage which occurs by reason of the operations under this Contract, whether shown or not on the approved construction plans, shall be completely repaired or replaced to the County's satisfaction by the Contractor at the Contractor's expense.
- d. Prior to commencing construction activity at the Site, the Contractor shall videotape the Site and an additional fifty (50) feet outside the perimeter of the Site. Contractor shall submit a copy of high-resolution digital recording on a DVD or flash drive to the County. The recording shall be stable, continuous, and contain all items within the limits of Work. Submission of the DVD to the County shall be a condition precedent to any obligation of the County to consider an Application for Payment. The DVD shall be the property of the County, and the County shall be permitted to reproduce such DVD's and use the same for any purpose without limitation or claim of ownership or compensation from any party. Contractor shall incorporate the cost of the preconstruction survey in the bid amount or the unit prices of the bid items, as applicable. No additional payment will be made by the County.
- e. The Contractor shall shore, brace, underpin, secure, and protect, as may be necessary, all foundations and other parts of existing structures adjacent to, adjoining, and in the vicinity of the site that may be affected in any way by excavations or other operations connected with the work required under this Contract. The Contractor shall be responsible for giving any and all required notices to owners or occupants of any adjoining or adjacent property or other relevant parties before commencement of any work. Contractor shall provide all engineering (signed and sealed) for items listed in this section per the Specifications. The Contractor shall indemnify and hold the County harmless from any damages on account of settlements or loss of all damages for which the County may become liable in consequence of such injury or

damage to adjoining and adjacent structures and their premises.

- f. In an emergency affecting the safety of life or of the Work, or of adjoining property, the Contractor, without special instruction or authorization from the Project Officer or designee, or the County, is hereby permitted to act, at the Contractor's discretion, to prevent such threatened loss or injury, and the Contractor shall so act without appeal, if so instructed or authorized.

14. SEPARATE CONTRACTS

- a. The County reserves the right to let other contracts in connection with this Project. The Contractor shall afford other contractors' reasonable access to the Project including storage of their materials and the execution of their work and shall properly connect and coordinate its work with the work of other such contractors.
- b. If any part of the Contractor's work depends, for proper execution or results, upon the work of any other contractor, the Contractor shall inspect and promptly report to the Project Officer or designee any defects in such work that renders it unsuitable for such proper execution and results. The Contractor's failure to so inspect and report shall constitute an acceptance of the other contractor's work as fit and proper for the reception of the Contractor's work, except as to defects which may develop in other contractor's work after its execution.
- c. If the Contractor or any of the Contractor's subcontractors or employees cause loss or damage to any separate contractor on the Work, the Contractor agrees to settle or make every effort to settle or compromise with such separate contractor. If such separate contractor sues the County on account of any loss so sustained, the County shall notify the Contractor, who shall indemnify and save the County harmless against any expense, claim or judgment arising therefrom, including reasonable attorney's fees.
- d. In case of a dispute arising between two or more separate contractors engaged on adjacent work as to the respective rights of each under their respective contracts, the Project Officer shall determine the rights of the parties.

15. SUBCONTRACTS

- a. Unless otherwise specified, the Contractor shall, within fifteen (15) calendar days after the execution of the Contract by the County, provide to the Project Officer or designee, in writing, the names of all subcontractors proposed for the principal parts of the Work and for such others as requested by the Project Officer or designee, and shall not employ any subcontractors that the Project Officer or designee may object to as incompetent or unfit after an appropriate determination of the subcontractor's ability. No proposed subcontractor will be disapproved except for cause.
- b. The Contractor shall make no substitutions for any subcontractor previously selected/approved unless first submitted to the County for approval.
- c. The Contractor shall be as fully responsible to the County for the acts and omissions of the Contractor's subcontractors as the Contractor is for the acts and omissions of persons directly employed by the Contractor.

- d. The Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the Work to bind subcontractors to the Contractor by the terms of the General Conditions of the Contract, Special Provisions and other Contract Documents comprising the Contract insofar as such documents are applicable to the work of subcontractors.
- e. Nothing contained in the Contract shall be construed to create any contractual relation between any subcontractor and the County, nor shall it establish any obligation on the part of the County to pay to or see to the payment of any sums to any subcontractor. The County will not discuss, negotiate or otherwise engage in any contractual disputes with any subcontractor.
- f. If requested by the County, the Contractor shall replace any subcontractor at no cost to the County within 30 days of the Project Officers written notice or as otherwise specified. No additional time or compensation will be provided in the event a subcontractor is removed due to non-compliance of the requirements outlined within the Contract.

16. ELIMINATED ITEMS

If any item(s) in the Contract are determined to be unnecessary for the proper completion of the Work contracted, the Project Officer or designee may, upon written notice to the Contractor, eliminate such item(s) from the Contract. Payment will not be made for such item(s) so eliminated; except that the Contractor will be compensated for the actual cost of any work performed and the net cost of materials purchased before the item(s) was eliminated from the Contract, including freight and tax costs, as evidenced by invoice. No additional compensation will be made for overhead or anticipated profit. The County will receive the full unit price credit for work eliminated prior to production or installation.

17. COUNTY ORDINANCES

The Contractor shall comply with all applicable County ordinances, including but not limited to: *The Noise Control, Erosion & Sediment Control, Storm Water Management, and Chesapeake Bay Preservation ordinances (Chapters 15, 57, 60, and 61 of the County Code).*

**D. MATERIALS AND WORKMANSHIP**

1. MATERIALS FURNISHED BY THE CONTRACTOR

Unless otherwise specified, all materials and equipment incorporated in the Work under the Contract shall be new. All work shall be accomplished by persons qualified in the respective trades.

2. IBC AND VUSBC REQUIREMENTS

The Contractor certifies that all material supplied or used under this Contract meets all current International Building Code (IBC) requirements and the requirements of the Virginia Uniform Statewide Building Code (VUSBC); and further certifies that, if the material delivered or used in the performance of the work is found to be deficient in any of the applicable state or national code requirements, all costs necessary to bring the material into compliance with the requirements shall be borne by the Contractor. The County shall be entitled to offset such costs against any sums owed by the County to the Contractor under this Contract.

3. ADA COMPLIANCE

The Contractor shall ensure that all Work performed under this Agreement is completed in accordance with the Contract Documents, including Work intended to meet the accessibility requirements of the Americans with Disabilities Act (ADA).

The Contractor is not required to ascertain whether the Contract Documents meet ADA design standards and guidelines. However, should the Contractor discover any non-conformity with such requirements, the Contractor shall immediately inform the County and its design consultant, if applicable, to allow for corrective action.

The Contractor shall defend and hold the County harmless from any expense or liability arising from the Contractor's non-compliance in meeting its obligations herein. The Contractor shall be responsible for all costs related to permitting delays, redesign, corrective Work, and litigation relating to such non-compliance.

4. MANUFACTURER'S DIRECTIONS

Manufactured articles, material, and equipment shall be applied, installed, connected, erected, used, cleaned, and conditioned in accordance with the manufacturer's directions as accepted by the Project Officer or designee, unless herein specified to the contrary.

5. WARRANTY

All material provided to the County shall be fully guaranteed by the Contractor against manufacturing defects within the period of the manufacturer's standard warranty. Such defects shall be corrected by the Contractor at no expense to the County. The Contractor shall provide all manufacturers' warranties to the Project Officer by the date of Final Completion.

All Work is guaranteed by the Contractor against defects resulting from the use of inferior or faulty materials. The Contractor warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects or inferior or faulty workmanship or work not in accordance with the Contract Documents for one (1) year from the date of Substantial Completion or as set forth in the Specifications of the work by the County in addition to and irrespective of any manufacturer's or supplier's warranty.

No date other than Substantial Completion or as set forth in the Specifications shall govern the effective date of the Warranty, unless that date is agreed upon by the County and the Contractor in advance and in a signed writing.

The Contractor shall promptly correct any defective work or materials after receipt of a written notice from the County to do so. If the Contractor fails to proceed promptly or use its best efforts and due diligence to complete such compliance as quickly as possible, the County may have the materials or work corrected and the Contractor and its Sureties shall be liable for all expenses and costs incurred by the County.

Nothing contained in this section shall be construed to establish a period of limitations with respect to other obligations the Contractor may have under this Contract.

6. INSPECTION AND ACCEPTANCE OF MATERIALS

Inspection and acceptance by the County will be at the work site in Arlington County, Virginia and

within ten (10) calendar days of delivery unless otherwise provided for in the Contract Documents. The County will not inspect, accept, or pay for any materials stored or delivered off-site by the Contractor, except as provided by the Payment for Stored Materials clause of these General Conditions and other requirements of the Contract Documents. The County's right of inspection shall not be deemed to relieve the Contractor of its obligation to ensure that all articles, materials and supplies are consistent with Specifications and instructions and are fit for their intended use. The County reserves the right to conduct any tests or inspections it may deem appropriate before acceptance. The Contractor shall be responsible for maintaining all materials and supplies in the condition in which they were accepted until they are used in the work.

The Contractor is to coordinate its work and request inspections in such a manner as to minimize the cost to the County without impacting the overall schedule of the Project within reason. All costs associated with re-inspection shall be borne by the Contractor.

7. CONTRACTOR'S TITLE TO MATERIALS

No materials or supplies for the work shall be purchased by the Contractor or any subcontractor subject to any chattel mortgage or under a conditional sale or other agreement by which an interest is retained by the seller. The Contractor warrants that it has good title to, and that it will require all subcontractors to warrant that they have good title to, all materials and supplies for which the Contractor invoices for payment. The County may request proof of title or payment prior to acceptance of the Contractor's invoice.

8. TITLE TO MATERIALS AND WORK COVERED BY PARTIAL PAYMENTS

All material and work covered by partial payments made by the County will become the property solely of the County at the time the partial payment is made. However, risk of loss or damage to all items shall be the responsibility of the Contractor until Final Acceptance by the County. This provision will not be construed as relieving the Contractor from having sole responsibility for all materials and work upon which payments have been made and for the restoration of any damaged work or replacement or repair at the County's option of any damaged materials. This provision will not be construed as a waiver of the County's right to require fulfillment of all terms of the Agreement, including full rights under the terms of the Warranty provisions of the Agreement, nor shall payment indicate acceptance of the materials or work.

9. CONNECTING WORK

The Contractor shall do all cutting, patching, or digging of the Contractor's work that may be required to make its several parts come together properly and fit it to receive or be received by work of other contractors as shown upon or reasonably implied by the Drawings and Specifications for the completed Project and shall make good after them as the Project Officer or designee may direct. This work will be performed in a workmanlike manner utilizing proper care and equipment to achieve proper line and grade. The Contractor shall not endanger any work by cutting, patching, or digging, or otherwise, and shall not cut or alter the work of any other contract except with the prior written consent of the Project Officer or designee.

10. REJECTED WORK AND MATERIALS

a. Any of the Work or materials, goods, or equipment which do not conform to the requirements of the Contract Documents or are not equal to samples accepted by the Project Officer or

designee or are in any way unsatisfactory or unsuited to the purpose for which they are intended, shall be rejected and replaced immediately so as not to cause delay to the Project or work by others. Any defective work, whether the result of poor workmanship, use of defective materials, damage through carelessness or any other cause, shall be removed and the work shall be re-executed by the Contractor at the Contractor's expense. The fact that the Project Officer or designee may have previously overlooked such defective work shall not constitute acceptance of any part of it.

- b. If the Contractor fails to proceed at once with the replacement of rejected material and/or the correction of defective workmanship when notified to do so by the Project Officer or designee, the County may, by contract or otherwise, replace such material or correct such workmanship and charge the cost to the Contractor. This clause applies during the Contract and during any warranty or guarantee period.
- c. The Contractor shall be responsible for managing, addressing within a timely manner, and formally closing out all notices of non-compliance issued by the inspector of record, Arlington County Inspection Services, or the Design Team. The Contractor shall be solely liable for any costs or time associated with the corrective action to address any notices of non-compliance. The Contractor must work directly with the entity issuing the notice of non-compliance.
- d. If the Project Officer or designee deems it expedient not to require correction of work which has been damaged or not done in accordance with the Contract, an appropriate adjustment to the Contract Price may be made.

11. PROHIBITION AGAINST ASBESTOS CONTAINING MATERIALS

No goods or equipment provided to the County or construction material installed shall contain asbestos. If a Contractor or supplier provides or installs any goods, equipment, supplies, or materials that contain asbestos in violation of this prohibition, the Contractor shall be responsible for all costs related to the immediate removal and legal disposal of the goods, equipment or materials containing asbestos and replacement with County-approved alternate. The Contractor shall be responsible for all goods, equipment, supplies or materials installed or provided by any of its employees, agents or subcontractors in connection with the work under this contract. The Contractor shall also reimburse to the County all costs of such goods, equipment, supplies or materials installed if not corrected by the Contractor.

**E. LEGAL RESPONSIBILITY AND PUBLIC SAFETY**

1. SITE INVESTIGATION AND CONDITIONS AFFECTING THE WORK

The Contractor acknowledges that it has taken steps reasonably necessary to ascertain the nature and locations of the work of the Contract, and that it has investigated and satisfied itself as to the general and local conditions and factors which can affect the Work or its cost, including but not limited to:

- a. conditions bearing upon transportation, disposal, handling, and storage of materials;
- b. the availability of labor, water, electric power, and roads;
- c. uncertainties of weather, river stages, tides, or similar physical conditions at the site;
- d. the information and conditions of the ground; and
- e. the character of equipment and facilities needed before and during work performance.

The Contractor, by executing the Contract, represents that it has reviewed and understands the Contract Documents and has notified the County of and obtained clarification of any discrepancies which have become apparent during the bidding period. During the Contract, the Contractor must promptly notify the County in writing of any apparent errors, inconsistencies, omissions, ambiguities, construction impracticalities or code violations discovered as a result of the Contractor's review of the Contract Documents including any differences between actual and indicated dimensions, locations and descriptions, and must give the County timely notice in writing of same and of any corrections, clarifications, additional Drawings or Specifications, or other information required to define the Work in greater detail or to permit the proper progress of the Work. The Contractor must provide similar notice with respect to any variance between its review of the Site and physical data and Site conditions observed. If the Contractor performs any Work involving an apparent error, inconsistency, ambiguity, construction impracticality, omission or code violation in the Contract Documents of which the Contractor is aware, or which could reasonably have been discovered, without prompt written notice to the County and request for correction, clarification or additional information, as appropriate, the Contractor does so at its own risk and expense and all related claims are specifically waived.

The Contractor also acknowledges that it has satisfied itself as to the character, quality, and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site, including all exploratory work done by the County, as well as from the Drawings and Specifications made a part of this Contract. Unless otherwise specified, all existing structures, materials and obstructions that interfere with the new construction shall be removed and disposed of as part of this Contract. Any failure of the Contractor to take the actions described and acknowledged in this paragraph will not relieve the Contractor from responsibility for estimating properly the difficulty and cost of successfully performing the Work without additional expense to the County.

The locations of existing utilities, including underground utilities, which may affect the Work, are indicated on the Drawings or in the Specifications insofar as their existence and location were known at the time of preparation of the drawings. However, nothing in these Drawings or Specifications shall be construed as a guarantee that such utilities are in the location indicated or that they actually exist, or that other utilities are not within the area of the operations. The Contractor shall make all necessary investigations to determine the existence and locations of such utilities. Should uncharted or incorrectly charted utilities be encountered during performance of the Work, notify the Project Officer or designee immediately for instructions. The Contractor will be held responsible for any damage to and maintenance and protection of existing utilities and structures, of both public and private ownership. However, if it is determined that such existing utility lines or structures require relocation or reconstruction or any other work beyond normal protection, then such additional work will be ordered under the terms of the clause entitled "Changes in Work." At all times, cooperate with the County and utility companies to keep utility services and facilities in operation.

The County assumes no responsibility for any conclusions or interpretations made by the Contractor based on the information made available by the County. The County assumes no responsibility for any understanding reached or representation made concerning conditions which can affect the Work by any of its officers or agents before the execution of this Contract, unless that understanding, or representation is expressly stated in this Contract.



2. PUBLIC CONVENIENCE

The Contractor shall at all times so conduct its Work as to ensure the least possible obstruction to traffic (vehicular, bicycle and pedestrian) and inconvenience to the general public, County employees, and the residents in the vicinity of the Work. Traffic shall be maintained in accordance with the approved MOT plan. No road, street or sidewalk shall be closed to the public except with the permission of the Project Officer or designee and or proper governmental authority. Fire hydrants on or adjacent to the Work shall be kept accessible to firefighting equipment at all times. Temporary provisions shall be made by the Contractor and included in the cost of the Work to ensure the use of sidewalks, trails, and transit facilities compliant with all applicable ADA and other regulations, as well as the proper functioning of all gutters, drainage inlets, drainage ditches, and irrigation ditches, which shall not be obstructed except as approved by the Project Officer or designee.

3. SAFETY AND ACCIDENT PREVENTION

The Contractor shall comply with, and ensure that the Contractor's employees and subcontractors comply with, all current applicable local, state and federal policies, regulations and standards relating to safety and health, including, by way of illustration and not limitation, the U.S. Department of Labor's Occupational Safety and Hazard Administration (OSHA) Construction Industry Regulations, 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, the Federal Environmental Protection Agency Standards and the applicable standards of the Virginia Department of Environmental Quality.

The Contractor shall provide, or cause to be provided, all technical expertise, qualified personnel, equipment, tools and material to safely accomplish the Work specified to be performed by the Contractor and subcontractor(s).

The Contractor shall identify to the County Project Officer at least one on-site person who is the Contractor's competent, qualified, and authorized safety officer on the worksite and who is, by training or experience, familiar with and trained in policies, regulations and standards applicable to the work being performed. The competent, qualified and authorized person must be capable of identifying existing and predictable hazards in the surroundings or working conditions which are unsanitary, hazardous or dangerous to employees, shall be capable of ensuring that applicable safety regulations are complied with, and shall have the authority and responsibility to take prompt corrective measures, which may include removal of the Contractor's personnel from the work site.

The Contractor shall provide to the County, within 7 days of issuance of the Notice to Proceed, a copy of the Contractor's written safety policies and safety procedures applicable to the scope of work. Failure to provide this information within may result in cancellation of the Contract.

The Contractor shall exercise proper precaution at all times for the protection of persons and property and shall be responsible for all injury to persons and damage to property either on or off the site, which occur as a result of the Contractor's prosecution of the Work.

The Contractor shall take or cause to be taken such additional safety and health measures as the

County may determine to be reasonably necessary. Machinery, equipment, and all hazards shall be guarded in accordance with the safety provisions of the current version of "Manual of Accident Prevention" published by the Associated General Contractors of America, Inc., to the extent that such provisions are not in conflict with applicable local laws. The Contractor is directed to the "Rules and Regulations Governing Construction, Demolition and All Excavation" and adopted by the Safety Codes Commission of Virginia, 1966, or latest edition, covering requirements for shoring, bracing, and sheet piling of trench excavations.

4. HAZARDOUS MATERIALS

Arlington County is subject to the Hazard Communication Standard, 29 CFR §1910.1200 (Standard). The Contractor agrees that it will provide or cause to be provided Safety Data Sheets (SDS) required under the Standard for all hazardous materials supplied to the County or used in the performance of the work. Such SDS shall be delivered to the County no later than the time of actual delivery of any hazardous materials to the County or use of such material in the performance of work under the Contract by the Contractor or its subcontractors, whichever occurs first. Container labeling meeting the requirements of the Standard shall be appropriately affixed to the shipping or internal containers. The County reserves the right to refuse shipments of hazardous materials not appropriately labeled, or when SDS have not been received prior to or at the time of receipt of the shipment for use by the County or for use by the Contractor in the performance of the Contract, or whenever the material is delivered in a manner inconsistent with any applicable law or regulation. Any expenses incurred due to the refusal or rejection of SDS are the responsibility of the Contractor. The Contractor shall comply with all federal, state, and local laws governing the storage, transportation, and use of toxic and hazardous materials. The Contractor shall maintain onsite an up to date SDS binder for all material used and delivered to the Project. The County Project Officer or his designee shall be allowed access to the SDS book at all times.

5. HAZARDOUS WASTE

Hazardous Waste Generator/Hazardous Waste Disposal: The County Board of Arlington County, Virginia and the Contractor shall be listed as Co-generators. The Contractor shall assume all the duties pertaining to the Waste Generator, including signing the Waste Shipment Record ("WSR") and manifest. The Contractor shall supply the County Project Officer with the executed original Owner's Copy of the WSR, as required by applicable regulatory agencies within 35 days from the time the waste was accepted by the initial waste transporter, and prior to request for final payment. A separate WSR shall be submitted for each shipment to the disposal site.

Delayed Waste Shipment Records: The Contractor shall report in writing to the EPA Region III office within 45 days if an executed copy of the WSR is not received from the operator of the disposal site. The report to the EPA regional office shall include a copy of the original WSR and a cover letter signed by the Contractor stating the efforts taken to locate the hazardous waste shipment and the results of those efforts.

Temporary Hazardous Waste Storage Prohibited: The Contractor shall not temporarily store hazardous waste unless pre-approved by the County in writing. If so approved, hazardous waste stored off-site in a temporary facility shall be monitored and records shall be kept on the number of containers, size, and weight. The Contractor shall inform the County when the hazardous waste is to be transported to the final disposal site. The County has the right to inspect the temporary

site at any time. The Contractor shall submit copies of all relevant manifests, Waste Shipment Record(s), and landfill receipts to the County Project Officer prior to the request for final payment. All paperwork shall be signed by the Contractor and disposal site operator as required.

6. ASBESTOS

Whenever and wherever during the course of performing any work under this Contract the Contractor discovers the presence of asbestos or suspects that asbestos is present, the Contractor shall stop work immediately, secure the area, notify the County Project Officer immediately and await positive identification of the suspect material. During the downtime in such a case, the Contractor shall not disturb any surrounding surfaces but shall protect the area with suitable dust covers. Work shall not proceed without an Asbestos-Related Work Authorization executed by the County Asbestos Program Manager.

7. CROSSING UTILITIES

When construction crosses highways, railroads, streets, waterways, or utilities under the jurisdiction of State, County, City, or other public agency, public utility, or private entity, the Contractor shall secure written permission where necessary from the proper authority before executing such new construction. A copy of such written permission must be filed with the County before any work is started. The Contractor shall be required to furnish a release from the proper authority before Final Acceptance of the Work.

8. OVERHEAD HIGH VOLTAGE LINES SAFETY ACT

If any work required herein will be performed within ten feet of an overhead high voltage line, the provisions of Virginia Statute 59.1-406, et. seq., "Overhead High Voltage Line Safety Act" (Act) shall apply. The "person or contractor responsible for the work to be done", as that term is used in the Act, will be interpreted to mean the Contractor. The Contractor shall notify the owner or operator of the high voltage line in the manner prescribed in Section 59.1-411 of the Act in sufficient time prior to the time work is to be commenced to avoid any delays in the work. The County will not pay for lost time, profits, or permit any extension of the work for any delays caused by the failure of the Contractor to make such arrangements in a timely manner. All costs for the work shall be paid by the Contractor. The County shall reimburse the Contractor for the actual reasonable cost paid to the owner or operator of the high voltage line by the Contractor on presentation to the County by the Contractor of original invoices from the owner or operator of the high voltage line in the same manner as for other Contractor invoices submitted for work performed. Retention, if applicable to the Contract, shall not be withheld from the payment to the Contractor by the County for this work. No processing, administrative, or other charges above the actual amount charged by the owner or operator of the high voltage line shall be paid to the Contractor by the County.

9. SANITARY PROVISIONS

The Contractor shall provide and maintain such sanitary accommodations for the use of the Contractor's employees and those of its subcontractors as may be necessary to comply with the requirements and regulations of OSHA and of the local and State departments of health.

10. SITE CLEAN-UP AND WASTE DISPOSAL

The Contractor shall frequently remove and properly dispose of all refuse, rubbish, scrap materials, and debris from the site resulting from the Contractor's operations during the performance of this

contract. The Contractor shall ensure the work site presents a neat and orderly appearance at all times. The Contractor shall isolate any and all dumpsters, trash cans and recycling bins provided for the Project from public use until Final Acceptance.

Unless otherwise stated, the Contract Amount and any unit prices shall include all costs and fees for removal and disposal of all waste and debris, whether disposed of at a County site or at any other location.

The Contractor shall remove all surplus material, false work, temporary structures including foundations thereof, and debris resulting from the Contractor's operations at work completion and before Final Acceptance. The County shall reserve the right to remove the surplus material, false work, temporary structures including foundations and debris. The County will restore the site to a neat, orderly condition if the Contractor fails to do so. The County shall be entitled to offset such cost against any sums owed by the County to the Contractor under this Contract.

11. STORMWATER POLLUTION PREVENTION PLAN (SWPPP)

When the Project includes an approved SWPPP, the Contractor shall strictly abide by this plan which includes: A Pollution Prevention (P2) Plan, an Erosion and Sediment Control (E&S) Plan, and a Stormwater Management Plan. If the Contractor proposes to deviate from this approved plan, it shall be the Contractor's responsibility to coordinate and obtain approval from the County Project Officer prior to implementing any changes.

No separate payment shall be made by the County for SWPPP implementation, with the exception of E&S items as specified on the E&S plans or listed as pay items. The Contractor shall not be entitled to any additional payment for changes to the SWPPP which are the result of the Contractor's work schedule or resource allocation, weather delays, or other factors not controlled by the County.

**F. PROGRESS AND COMPLETION OF THE WORK**

1. NOTICE TO PROCEED

The Contractor shall be given written Notice to Proceed with the Work. Such Notice to Proceed shall state the date on which the Work is to be commenced, and every calendar day thereafter shall be counted in computing the actual Time for Completion.

2. TIME FOR COMPLETION

It is hereby understood and mutually agreed by and between the Contractor and the County that the Commencement Date, the rate of progress, and the Time for Completion of the Work to be done hereunder are essential conditions of the Contract. The Contractor agrees that the Work shall be started promptly upon receipt of a written Notice to Proceed in accordance with the accepted schedule. The Work shall be prosecuted regularly, diligently, and uninterruptedly at a rate of progress that will ensure full completion of the Project within the Time for Completion specified in the Contract Documents.

3. SCHEDULE OF COMPLETION

Unless otherwise specified, the Contractor shall within 10 business days after the Award Date, or prior to the pre-construction meeting, whichever occurs first, submit schedules which show the order in which the Contractor proposes to carry on the Work, with dates for starting and

completing the various activities of the Work. The Contractor shall submit an updated schedule monthly with the request for partial payment. Review and acceptance by the County of the Contractor's schedule of completion shall in no way relieve the Contractor of its responsibility to complete the Work within the contract time. If the Work falls behind the schedule, the County may require the Contractor to prepare and submit, at no extra cost to the County, a recovery schedule indicating by what means the Contractor intends to regain compliance with the schedule. The recovery schedule must be submitted to the County for review by the date indicated in the County's written demand.

4. CONDITIONS FOR COMPLETION

- a. **SUBSTANTIAL COMPLETION:** The Work will be considered Substantially Complete when all of the following conditions have been met and accepted by the Project Officer, and a Certificate of Substantial Completion has been issued:
1. The Contractor has provided formal notice that the Work is substantially complete, and the Project Officer has agreed that the condition of the Work warrants a Substantial Completion inspection;
  2. The Contractor has provided a Punch List and that list has been reviewed and approved by the Project Officer. Failure to include an item on the Punch List does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents;
  3. Final test reports as required by the Contract and certificates of inspection and approval required for use and occupancy;
  4. Fire Marshal's report, if applicable;
  5. Approval forms and transfer documents for all utilities;
  6. All life safety systems, including fire alarms, visual and audios alarms, fire detectors and fire alarm annunciator system, sprinkler systems, and all mechanical and electrical systems are complete and working in an automatic mode, and the County has been adequately trained in the operation of the systems;
  7. The HVAC system Testing and Balancing Report and build air quality test results as required for LEED certification have been accepted by the Project Officer;
  8. Operation and Maintenance Manuals have been submitted for review;
  9. All documents and verification of training required in accordance with any Commissioning Plan;
  10. Mark-ups of construction drawings showing the Record or "Record" condition have been submitted for review and approval by the Project Officer;
  11. Entrances and egress pathways have been constructed and can remain clear of construction activities;

12. A Certificate of Occupancy has been issued for the space by the County's Inspection Services Division;
  13. All Commissioning has performed and completed to the satisfaction of the Project Officer;  
and
  14. Schedule to complete the Punch List and value of Work not yet complete.
- b. Upon the Contractor providing notice that the Work is substantially complete, the Project Officer or designee will invite all relevant parties to perform an inspection of the Work, and any noted deficiencies or incomplete items not indicated on the Contractor's punch list will be added. All punch list items, whether generated by the Contractor or any other party on behalf of the County, shall be completed within thirty (30) days of the date of Substantial Completion, unless otherwise agreed to by the County due to seasonal or other extenuating circumstances.
- c. FINAL COMPLETION: The Work will be considered Finally Complete when all of the following conditions have been met and accepted and a Final Completion Notice has been issued by the Project Officer:
1. The Contractor has provided formal notice that the Work is complete, and the Project Officer has agreed that the condition of the Work warrants a Final Completion inspection;
  2. All construction deficiencies and punch list items have been closed and all construction deficiencies corrected and accepted by the Project Officer;
  3. All spare parts and attic stock have been delivered, stored in an orderly manner in a space designated by the Project Officer and a complete inventory list has been verified and accepted by the Project Officer;
  4. All warranties and manufacturer certificates and contact information for parties providing warranties have been delivered and accepted by the Project Officer;
  5. All final Operating and Maintenance manuals have been delivered and approved and accepted by the Project Officer;
  6. All final Record Drawings in .pdf format on a CD delivered and accepted by the Project Officer;
  7. All commissioning has been completed and any open construction items in the commissioning agent's report have be closed and accepted by the Project Officer; and
  8. All LEED documents and submittals, if applicable, to be provided by the Contractor or sub-contractors have been submitted and accepted by the Project Officer.
5. USE OF COMPLETED PORTIONS  
The County shall have the right to take possession of and use any completed or partially completed

portions of the Work, notwithstanding that the time for completing the entire Work or such portions may not have expired; but taking such possession and use shall not be deemed an acceptance of any work not done in accordance with the Contract Documents. If the Contractor claims that such prior use increases the cost or delays, the completion of remaining work, or causes refinishing of completed work, the Contractor may submit a claim for compensation or extension of time, or both.

**G. MEASUREMENT AND PAYMENT**

**1. PAYMENTS TO CONTRACTOR**

The County will make partial payments, less retainage, to the Contractor monthly on the basis of the Contractor's written estimate of the work performed during the preceding calendar month as approved by the Project Officer or designee.

The Contractor's application for payment shall indicate the amount of work completed to date in a format consistent with the accepted bid and as indicated below:

- a. Lump Sum: For lump sum contracts, the Contractor shall provide to the Project Officer a Schedule of Values, and the application for payment will reflect the Schedule of Values and the amount of work completed in those units.

For contracts that include multiple lump sum line items, the application for payment shall reflect the percentage of work completed for each lump sum item. If requested by the Project Officer, the Contractor shall provide a Schedule of Values for each lump sum line item in the contract.

- b. Unit Price: The schedule of unit prices in the accepted bid shall be used as the basis for preparing the estimates, and each partial payment shall represent the total value of all units of work completed, computed at the unit prices stated in the Contract, less the aggregate of previous payments.

At the discretion of the Project Officer, payments may alternatively be based on actual quantities and site measurements taken in the field by County staff using the Contract Unit Prices.

If Stipulated Price Items are included in the contract, Work on such Stipulated Price Items shall be carried out only upon written order by the Project Officer. The payment for a Stipulated Price Item shall be made by the County to the Contractor at the related unit price specified in the 'Stipulated Price Items' section of the Bid Form on the same basis as the payment for any other regular Bid Item.

In addition to the amount of work completed to date, the application for payment shall indicate the aggregate of all previous payments for each line item, the retainage previously withheld, and the total payment requested this period.

The Contractor's application for payment will not be reviewed or processed unless an updated schedule is attached. The pay application shall also contain a certification by the Contractor that due and payable amounts have been paid by the Contractor, including payments to

subcontractors, for work which previous payment was received by the Contractor from the County.

2. PAYMENT FOR STORED MATERIALS

When requested in writing by the Contractor, payment allowances may be made for material secured for use on the Project and secured at the project site. Such payments will only be made for materials scheduled for incorporation into the work within sixty (60) days.

Payment for materials stored offsite may be considered at the discretion of the Project Officer. Any such request shall be made in writing, and the Contractor shall provide photographs of materials stored offsite, bills of sale, and proof of insurance on the premises at which off-site materials are stored with the application for payment.

Payment for stored materials may also be subject to additional requirements contained elsewhere in the Contract Documents.

3. PAYMENTS WITHHELD

The Project Officer or designee may withhold or, on account of subsequently discovered evidence, nullify the whole or a part of any certificate for payment to the extent necessary to protect the County from loss on account of defective work not remedied or withhold payment for violation of any contract term or condition not remedied after sufficient notice given to the Contractor.

Any such withholding shall not result in any liability to the Contractor for damages.

4. COUNTY ORDERED CHANGES IN WORK

The County, without invalidating the Contract, may order extra Work or make changes by addition, deletion or revision in the Work, with the total Contract Amount being adjusted accordingly if applicable. Any change that will increase the Contract Amount more than 10% will require notice to sureties and require that Performance and Payment Bonds be increased by the Contractor. The increased Performance and Payment Bonds must be sent to the County's Office of the Purchasing Agent within 15 calendar days of the County's approval of such change. All such work shall be executed under the conditions of the original Contract, except that modification of the Time for Completion caused thereby shall be made at the time of approving such change.

a. The Project Officer or designee shall have authority to make minor changes in the Work by verbal order when such changes do not involve extra cost and are not inconsistent with the purpose of the Project. Otherwise, except in an emergency endangering life or property, no extra Work or change shall be made unless in pursuance of a written Construction Change Directive or Change Order and no claim for an addition to the Contract Amount or Contract Time shall be valid unless so ordered.

b. The Contractor shall review any County requested or directed change and shall respond in writing within 14 days after receipt of the proposed change stating the effect of the proposed change upon Contractor's work, including any increase or decrease in Contract time and price. The Contractor shall furnish the County an itemized breakdown of the quantities and prices used in computing the proposed change. The Contractor shall also furnish any sketches, drawings, and or pictures to properly explain the change or impact to the Project Officer. It is



the sole responsibility of the Contractor to provide adequate change order backup to satisfy the Project Officer.

- c. The value of any such extra work or change shall be proposed by the Contractor in one or more of the following ways: (a) by estimate in a lump sum; (b) by cost and fixed fee; (c) by unit price additions or deletions of quantities stated in the unit price contract; or (d) by any other method permitted under the Arlington County Purchasing Resolution. The Project Officer will determine the method appropriate based on the nature of the changes.
- d. If none of the aforementioned methods is agreed upon the Contractor shall proceed with the work without delay under force account, provided the Contractor receives a Construction Change Directive. In such case, the Contractor shall keep and present in such form as the Project Officer or designee may direct, a correct account of the cost, together with vouchers. The Project Officer or designee shall be permitted to verify such records on a daily basis and may require such additional records as are necessary to determine the cost of the change to the Work. The Project Officer or designee shall certify to the amount due to the Contractor, including a reasonable lump sum allowance for overhead and profit. A complete accounting of the extra cost shall be made within 14 days after completion of the work involved in the claim. Refer to Paragraph G.5, *Force Account Work*, below for a description of allowable costs when work is performed under force account.
- e. A cost proposal for a change in the Work shall provide a complete breakdown itemizing the estimated quantities and costs of labor, materials, and equipment (base cost) required in addition to any markup used. The allowable percentage markups for overhead and profit for a non-force account change to the Work performed by the Contractor's own forces or performed by the Subcontractor shall be negotiated based on the nature, size, and complexity of the Work involved but shall not exceed the percentages for each category listed below.
  - 1) Subcontractor's markup for overhead and profit for the work it performs in a change to the Work shall be a maximum of fifteen (15%).
  - 2) Contractor's markup for overhead and profit on the Subcontractor's base cost in a change to the Work shall be a maximum of ten percent (10%).
  - 3) Contractor's markup for overhead and profit (including bonds and insurance) for work it performs in a change to the Work shall be a maximum of fifteen percent 15%.
  - 4) The markup for overhead and profit of a sub-subcontractor at any tier on a change to the Work it performs shall be a maximum of fifteen percent (15%). The Contractor and all intervening tiers of subcontractors' markup on such sub-subcontractor's base cost in the change to the Work shall not exceed a total of ten percent (10%).
- f. Base Cost is defined as the total of labor, material, and equipment costs, it does not include markup for overhead and profit. The labor costs include only the costs of employees directly constructing or installing the change in the Work and exclude the costs of employees coordinating or managing the work.
- g. The allowable percentage markups for overhead and profit stated above shall compensate the

Contractor, subcontractor, and sub-subcontractor for all other costs associated with or relating to the change to the Work including by way of illustration and not limitation, general conditions, supervision, field engineering, coordination, insurance, bond(s), use of small tools, incidental job costs, and all other general and administrative home and field office expenses.

- h. Allowable costs for changes in the Work shall not include home office expenses including payroll costs for the Contractor's officers, executives, administrators, project managers, estimators, clerks' timekeepers, and other administrative personnel employed by the Contractor, whether at the Site or in the Contractor's principal or branch office for general administration of the Work. These costs are deemed overhead included in the percentage markups in Subsection (e) above.
- i. If the change to the Work also changes the Time for Completion by adding days to perform the Work, an itemized accounting of the following Site direct overhead expenses for the change to the time may be considered as allowable costs for compensation in addition to the base cost indicated above:
  - 1) site superintendent's pro-rata salary
  - 2) temporary site office trailer expense
  - 3) temporary site utilities including basic telephone service, electricity, heat, water, and sanitary/toilet facilities.

All other direct and indirect overhead expenses are considered covered by and included in Subsection (e) markups above. In no case shall subcontractor extended overhead be submitted or considered. The County does not have a direct contractual relationship with any subcontractor or supplier and therefore will not direct, discuss or negotiate with subcontractors employed by the Contractor.

- j. If Contractor requests an extension to the Time for Completion due to changes in the Work, it must provide to the Project Officer adequate documentation substantiating its entitlement for the time extension. The documentation must demonstrate an anticipated actual increase in the time required to complete the Work beyond that allowed by the Contract as adjusted by prior changes to the Work, not just an increase or decrease in the time needed to complete a portion of the total Work. In the event a Critical Path Method (CPM) schedule is required by the Contract, no extension to the Time for Completion shall be granted unless the additional or change to the Work increases the length of the critical path beyond the Time for Completion as demonstrated on the approved CPM schedule or bar chart schedule. Any Float belongs to Arlington County. A written statement in addition to a CPM analysis shall be prepared explaining how no other sequence of work activities could have been performed to decrease the impact or eliminate the impact altogether. If requested by the Project Officer, the Contractor must provide alternate documentation detailing the claim to the County's satisfaction.

5. FORCE ACCOUNT WORK

A Force Account may be used at the County's discretion and only when either 1) agreement on the valuation of a change cannot be made using the methods described in the preceding paragraph,

*County Ordered Changes in the Work*, or 2) the County cannot firmly establish an applicable and acceptable estimate for the cost of the work because the level of effort necessary to perform and complete the work cannot be reasonably estimated or anticipated but can only be determined by performing the work. Because of the significant burden on the County to monitor and control the work, Force Account work is not a preferred method, and it shall be the responsibility of the Contractor to provide all necessary documentation and justification of costs. The rates for labor, equipment and materials to be used in cases of work performed on a force account basis will be compensated as documented below. No costs other than those explicitly listed below shall be allowed:

- a. Labor: Before any Force Account work begins, the Contractor shall submit for approval to the Project Officer the proposed hourly rates and associated labor costs (benefits and payroll burden) for all laborers and forepersons to be engaged in the work. The number of laborers and forepersons engaged in the work will be subject to regulation by the Project Officer and shall not exceed the number that the Project officer deems most practical and economical for the work. For all labor and forepersons in direct charge of the force account work, excluding general superintendence, compensation will be as follows:
  - 1) Certified Pay Rate: The Contractor will receive the actual rate of wage or scale as set forth in his most recent payroll for each classification of laborers, and forepersons who are in direct charge of the specific operation. The time allowed for payment will be the number of hours such workers are actually engaged in the work. If overtime work is authorized by the County, payment will be at the normal overtime rate set forth in the Contractor's most recent payroll.
  - 2) Benefits: The Contractor will be entitled to receive the actual cost for any fringe benefits that are regularly provided to the classes of laborers and forepersons engaged in the work and that are not included in the certified pay rate.
  - 3) Payroll Burden: The Contractor will be entitled to receive the actual cost for all costs associated with required payroll taxes and payroll benefits not covered in 2) above, including:
    - Social Security Tax
    - Medicare Tax
    - Unemployment Tax
    - Worker's Compensation Insurance
    - Contractor's Public Liability Insurance
    - Contractor's Property Damage Liability Insurance
  - 4) If the Contractor is unable to provide the necessary documentation for Benefits and Payroll Burden as identified above, the Contractor will be entitled to an additive of 20% of the Certified Hourly Pay Rate as full and final compensation for Benefits and Payroll Burdens
  - 5) Overhead and Profit: The Contractor will be entitled to an additive of 10% on all properly documented and approved costs established in paragraphs 1), 2), 3), and 4) above for all administrative, overhead, and profit associated with labor costs.

- 6) Subsistence and lodging allowances may be allowed by the Project Officer at the actual and documented costs for lodging and meals if the following conditions are met and the applicable rates and authorization for such costs are established prior to beginning the work. No additives for overhead, administrative, profit, or any other costs will be permitted for subsistence and lodging.
- i. The specific Force Account work is outside the scope of the original contract, requires mobilization of a separate crew not intended to be used on the original contract, and the Contractor's base location is more than 50 miles from the work site, or
  - ii. Forces which have been working on the Contract will be used for the Force Account work and have been routinely staying overnight during the life of the Project, and the Force Account Work will warrant an extension of the contract time, and the distance from the Contractor's base location to the work site is more than 50 miles
- b. Materials: The Contractor will receive the actual cost of materials accepted by the Project Officer that are delivered and used for the work including taxes, transportation, and handling charges paid by the Contractor, not including labor and equipment rentals as herein set forth, to which 15 percent (15%) of the cost will be added for administration and profit. The Contractor shall make every reasonable effort to take advantage of trade discounts offered by material suppliers. Any discount received shall pass through to the County. Salvageable temporary construction materials will be retained by the County, or their appropriate salvage value shall be credited to the County, at the County's discretion.
- c. Equipment: For all equipment other than small tools, the Contractor will be entitled to rental rates as established herein and agreed to in writing before the work is begun. Transportation costs directly attributable to Force Account work will be as stated below. Small tools will be considered any equipment which has a new cost of \$1000 or less and will not be eligible for any compensation. The Contractor shall provide the Project Officer a list of all equipment to be used in the work. For each piece of equipment, the list shall include the serial number; date of manufacture; location from which equipment will be transported; and, for rental equipment, the rental rate and name of the company from which it is rented. The number and types of equipment engaged in the work will be subject to regulation by the Project Officer as deemed to be the most practical and economical for the work. No compensation will be allowed for equipment which is inoperable due to mechanical failure. Compensation for equipment shall be as follows:
- 1) Hourly Base Equipment Rental Rates (Owned Equipment) – For equipment authorized for use in the Force Account work that is owned by the Contractor, the Contractor shall be entitled to an Hourly Base Rental Rate as detailed in the following paragraphs. The Hourly Base Rental Rate for Contractor owned equipment will not exceed 1/176 of the monthly rates of the schedule shown in the *Rental Rate Blue Book* modified in accordance with the *Rental Rate Blue Book* rate adjustment tables that are current at the time the force account

is authorized. The rates for equipment not listed in the *Rental Rate Blue Book* schedule shall not exceed the hourly rate being paid for such equipment by the Contractor at the time of the force account authorization. In the absence of such rates, prevailing rates being paid in the area where the authorized work is to be performed shall be used.

- 2) Hourly Base Equipment Rental Rates (Rented Equipment) – If the Contractor does not possess or have readily available equipment necessary for performing the force account work and such equipment is rented from a source other than a company that is an affiliate of the Contractor, payment will be based on actual invoice rates when the rates are reasonably in line with established rental rates for the equipment in question and are approved by the Project Officer.
- 3) Hourly Operating Rates – Hourly Operating Rates shall be as established in the Blue Book estimated operating cost per hour. This operating cost will be full compensation for fuel, lubricants, repairs, servicing (greasing, fueling, and oiling), small tools, and any and all incidentals. If rental rates for the equipment being used in the work are not listed in the Blue Book or otherwise readily available, the Hourly Operating Cost will be 15% of the established Hourly Base Rental Rate. If invoices for Rental Equipment include the furnishing of fuel, lubricants, repair, and servicing, then the Contractor will not be entitled to any Hourly Operating costs for that equipment.
- 4) Equipment Usage - Equipment usage will be measured by time in hours of actual time engaged in the performance of the work. The Contractor shall be entitled to the applicable Hourly Base Equipment Rental Rate and Hourly Operating Rate for all approved Equipment Usage.
- 5) Equipment Standby – Standby time is defined as the period of time equipment authorized for Force Account work by the Project Officer is available on-site for the work but is idle for reasons not the fault of the Contractor or normally associated with the efficient and necessary use of that equipment in the overall operation of the work at hand. Hourly rates for Contractor owned equipment on standby, will be at 50 percent (50%) of the rate paid for equipment performing work. Operating costs will not be allowed for equipment on Standby. When equipment is performing work less than 40 hours for any given week and is on standby, payment for standby time will be allowed for up to 40 hours, minus hours performing work. Payment for Standby will be allowed only for working days. Payment for Standby will not be made for the time that equipment is on the Project in excess of 24 hours prior to its actual performance in the force account work.
- 6) Transporting Costs – When it is necessary to obtain equipment exclusively for Force Account work from sources beyond the Project limits and the Project Officer authorizes the transporting of such equipment to the Project site, the cost of transporting the equipment will be allowed as an expense. Where the transport requires the use for a hauling unit, the allowable expense will consist only of the actual cost incurred for the use of the hauling equipment, or the applicable Blue Book cost, whichever is less. When equipment is transferred under its own power, the allowable Transporting cost shall be 50% of the Hourly Base Equipment Rental Rate.

- 7) Overhead and Profit – The Contractor shall be entitled to an additive of 10% on all appropriate and approved Equipment Rental, Operating, and Transporting costs as defined above.
- d. Subcontracting: The Contractor shall receive the cost of work performed by a subcontractor as determined in (a), (b), and (c) above. In addition, the Contractor will be allowed an allowance per the schedule below for administrative costs and profit.

Total Cost of Subcontract Work: Rate Schedule	
\$0 - \$10,000	10%
> \$10,000	\$1,000 + 5 % above \$10,000

- e. Other Costs: The Contractor shall not be entitled to any costs associated with Force Account Work other than those specifically identified in this section.
- f. Statements: Payments will not be made for work performed on a force account basis until the Contractor has furnished the Project Officer duplicate itemized statements of all costs of such work detailed as follows:
  - 1. Payroll indicating name, classification, date, daily hours, total hours, rate, and extension of each laborer, foreperson
  - 2. Designation, dates, daily hours, total hours, rental rate, and extension for each unit of equipment
  - 3. Quantities of materials, prices, and extensions
  - 4. Transportation of materials
  - 5. Statements shall be accompanied and supported by invoices for all materials used and transportation charges. However, if materials used on the Force Account work are not specifically purchased for such work but are taken from the Contractor's stock, then in lieu of the invoices, the Contractor shall furnish an affidavit certifying that such materials were taken from his stock; that the quantity claimed was actually used; and that the price, transportation, and handling claimed represented his actual cost.

6. CLAIMS FOR EXTRA COST

If the Contractor claims that any event will give rise to a claim for an increase in the Contract Amount or that any instructions from the Project Officer, by drawings or otherwise, will incur him extra cost under the Contract, then, except in emergencies endangering life or property, it shall give the Project Officer written notice thereof no later than seven (7) days of the event or instruction. The Contractor thereafter must provide to the Project Officer a full cost proposal within thirty (30) calendar days detailing the amount of additional compensation claimed, together with the basis therefore and documentation supporting the claimed amount. No such claims shall be valid unless so made. If the Project Officer agrees that such event or instructions involve extra cost to the Contractor, any additional compensation will be determined by one of the methods provided in the Changes in Work paragraph of these General Conditions as selected by the Project Officer. All pricing and supporting documentation requirements of the Changes in the Work clause shall apply to claims for extra cost deemed valid under this paragraph.

7. DAMAGES FOR DELAY; EXTENSION OF TIME OTHER THAN FOR WEATHER

The Contractor's relief for any claim for delay which is unreasonable or caused by the acts and omissions of the County, or due to causes within the County's control, shall be an extension of the Time for Completion and/or the Contractor's direct costs which result from the delay, but only to the extent any damages for delay were actually caused by the County. The Contractor must give the Project Officer written notice of such delay and damages at the time they were incurred but in no event later than seven (7) calendar days following the perceived onset of the delay. The Contractor's written notice shall specify the nature the delay claimed by the Contractor, the cause of the delay, and the anticipated impact of the delay on the Contractor's work schedule. The Contractor thereafter must provide to the Project Officer a full claim within thirty (30) calendar days after cessation of the delay detailing the amount of additional contract time or compensation claimed, together with the basis therefor and documentation supporting the claim.

If the Contractor is entitled to compensation for delay which is unreasonable, or caused by the acts and omissions of the County, or due to causes within the County's control, and where there is no change in the Work, an itemized accounting of the following direct site overhead expenses will be considered as allowable costs to be used in determining the compensation due the Contractor: site superintendent prorata salary, temporary site office expense, temporary site facilities, and temporary site utilities including basic telephone service, electricity, heat, water, and sanitary/toilets. A fifteen percent (15%) markup of these expenses will be allowed to compensate the Contractor for home office and other direct or indirect overhead expenses.

If the Contractor submits a claim for damages pursuant to this Section, the Contractor shall be liable to the County for a percentage of all costs incurred by the County in investigating, analyzing, negotiating and litigating the claim, which percentage shall be equal to the percentage of the Contractor's total delay claim that is determined through litigation to be false or to have no basis in law or fact (Virginia Code §2.2-4335).

The Contractor's sole relief on any claims for delay which is reasonable, or not caused by the acts or omissions of the County, or due to causes not within the County's control, or Force Majeure, shall be an extension of the Time for Completion provided the Contractor gave the Project Officer timely written notice at the inception of such delay.

No extension of the Time for Completion or additional compensation, if applicable, will be granted for any delay unless the Contractor demonstrates the claimed delay directly impacts the Critical Path of the accepted CPM schedule or bar chart schedule, whichever is applicable, and any float has been consumed. Claims for compensation for direct costs which result from delay must be substantiated by adequate documentation clearly showing that the Work delayed was on the critical path of the approved CPM schedule or on the sequence of Work on the approved bar chart schedule, as modified, and that the additional costs incurred by the Contractor are directly attributable to the delay in the Work claimed.

8. TIME EXTENSIONS FOR WEATHER

The Contractor's sole relief on any claims for delay which is caused by abnormal weather shall be an extension of the Time for Completion provided the Contractor gave the Project Officer written notice no later than seven (7) calendar days after the onset of such delay and provided the weather

affected the Critical Path. A fully documented claim for a time extension under this Section must be submitted no later than thirty (30) calendar days after the cessation of the delay. It shall be the Contractor’s responsibility to provide the necessary documentation to satisfy the Project Officer that the weather conditions claimed were encountered, which may include daily reports by the Contractor, copies of notification of weather days to the Project Officer, NOAA backup, and pictures from each day claimed.

The Time for Completion will not be extended due to inclement weather conditions which are normal, as defined below, for Arlington County. The Time for Completion includes an allowance for workdays (based on five (5) day workweek) which according to historical data may not be suitable for construction work. The Contractor may request extension to the Time for Completion if it can demonstrate unusual and disruptive weather conditions per the requirements below:

- a. That one or more of the Weather Conditions listed below was encountered; and,
- b. The occurrence of the Weather Condition(s) resulted in an inability to prosecute work which would have otherwise been performed on the day(s) the Weather Condition(s) occurred; and,
- c. The work which was not able to be completed was on the Critical Path and could not be completed **only** due to the Weather Condition(s) claimed.

The Project Officer will determine the Contractor’s entitlement to an extension of the Time for Completion. A time extension of no more than one (1) day will be granted for one (1) day of lost work which satisfies the requirements above, regardless of the number of Weather Conditions encountered. The Contractor’s sole relief shall be an extension of the Time for Completion and no claim for an increase in Contract Amount will be allowed.

The Weather Conditions listed below will be the only basis for consideration by the County, based upon the requirements listed above, as an extension of the Time for Completion due to inclement weather or weather-related site conditions.

**Weather Condition #1: Unusually Heavy Precipitation** - Figure 1 illustrates the anticipated monthly inclement weather due to precipitation (Rain Days). If the number of days with precipitation in excess of 0.10”, as recorded at Washington Reagan National Airport, exceeds the anticipated Rain Days, the Contractor will be entitled to an extension of one (1) day on the Time for Completion for every day in excess of the Rain Days illustrated in Figure 1. The anticipated value of Rain Days for partial months at the beginning and end of the Contract shall be evaluated on a pro-rated basis.

**FIGURE 1**

Average days with precipitation of 0.1” or more

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
7	6	7	6	8	6	7	6	6	5	6	6

Weather days are not exclusive to the individual months that they represent in Figure 1. If weather days are not used in a previous month(s) they can be used to offset weather delays in subsequent months. This will be reviewed on a case-by-case basis and is subject to reconciliation at the end of the Project.



**Condition #2: Temperature** – The Contractor may be entitled to an additional day for every day that the recorded high temperature at Washington Reagan National Airport is 32 degrees Fahrenheit or less, that has not already been incurred under Weather Condition #1 above. This condition does not apply to vertical construction as defined by the Arlington County Vertical Construction Standards.

9. RELEASE OF LIENS

The County, before making final payment, shall require the Contractor to furnish a complete release of all liens arising out of this Contract. The Contractor may, if any subcontractor refuses to furnish a release or receipt in full, furnish a bond satisfactory to the County, to indemnify him against any lien. If any lien remains unsatisfied after all payments have been made, the Contractor shall refund to the County all money that the latter may be compelled to pay in discharging such lien. However, the County may make payments in part or in full to the Contractor without requiring the releases or receipts, and the payments so made shall not impair the obligations of any Surety or Sureties on any bond or bonds furnished under this Contract.

10. FINAL PAYMENT

After the Contractor has completed all work and corrections to the satisfaction of the Project Officer or designee and delivered all maintenance and operating instructions, schedules, quantities, bonds, certificates of inspection maintenance record documents, and other items required as final payment submittal documents, the Contractor may make application for final payment following the procedure for progress payments. The Final Application for Payment shall be accompanied by all documents required in the Contract, including a complete and signed and notarized copy of the Final Payment Release Form as follows:

**RELEASE AND REQUEST FOR FINAL PAYMENT**

CONTRACT NUMBER: \_\_\_\_\_ CONTRACTOR NAME: \_\_\_\_\_

FINAL PAYMENT AMOUNT: \_\_\_\_\_

The Contractor hereby requests final payment in the amount indicated on the above referenced Contract. The Contractor agrees that its acceptance of final payment releases and forever discharges Arlington County and its officers, employees, servants and agents from any and all actions, claims, demands and liability of whatever nature now existing or which may hereafter arise as a result of or in connection with the above referenced Contract.

The Contractor certifies that all of the debts for labor, materials, and equipment incurred in connection with the above referenced Contract have been fully paid.

AUTHORIZED SIGNATURE DATE: \_\_\_\_\_

The date of Final Acceptance is the date on which the County issues the final payment for the work performed.

COMMONWEALTH OF VIRGINIA COUNTY  
OF ARLINGTON

On this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, personally appeared \_\_\_\_\_, who acknowledged himself/herself to be \_\_\_\_\_ in the above instrument, and that he/she, as such \_\_\_\_\_, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing his/her name by himself/herself as \_\_\_\_\_.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

**EXHIBIT D**  
**GUARANTEED MAXIMUM PRICE (GMP) AMENDMENT**

**THIS GUARANTEED MAXIMUM PRICE AMENDMENT** ("Amendment") is entered into by and between the County Board of Arlington County, Virginia (the "County"), and name of Contractor, (the "Contractor") pursuant to Agreement No. 21-DES-RFP-239 (the "Agreement"), dated \_\_\_\_\_, between the County and the Contractor, for Construction Manager At Risk (CMAR) Services for Arlington Transit (ART) Operations and Maintenance Facility to establish a Guaranteed Maximum Price (GMP) and Time for Completion of Construction Services as set forth below.

**1. GUARANTEED MAXIMUM PRICE**

Subject to additions and deductions which may be made only in accordance with the Agreement, the Contractor represents, warrants and guarantees to the County that the total maximum cost to be paid by the County for Contractor's complete performance under the Agreement, including, but not limited to, Final Completion of all Work, and all fees, compensation and reimbursements to Contractor, shall not exceed the total amount of \_\_\_\_\_ dollars (\$\_\_\_\_\_) ("Guaranteed Maximum Price"). Costs which would cause the Guaranteed Maximum Price (as may be adjusted pursuant to the Contract Documents) to be exceeded shall be paid by the Contractor without reimbursement by the County.

**2. GUARANTEED MAXIMUM PRICE COMPONENTS**

The Guaranteed Maximum Price is comprised of the maximum amount payable by the County for:

- A. the Cost of the Work, as defined in the Contract Documents, for full and complete performance of the Work in strict accordance with the Contract Documents;
- B. a Construction Management Fee for the Contractor, as defined in the Contract Documents, in the amount of \_\_\_\_\_ dollars (\$\_\_\_\_\_); and
- C. a General Conditions Fee, as defined in the Contract Documents, in the amount of \_\_\_\_\_ dollars (\$\_\_\_\_\_).

The Guaranteed Maximum Price is further broken down into line items and categories as specified in Attachments \_\_\_\_ to this Amendment.

**3. BASIS FOR THE GMP**

The GMP is for the performance of the Work in accordance with the Contract Documents and the following Attachments to this Amendment:

- A. Attachment \_\_\_\_: List of Drawings, Specifications, addenda and General, Supplementary and other Conditions of the Contract on which the Guaranteed Maximum Price is based.
- B. Attachment \_\_\_\_: A list of Unit Prices and Allowance items as well as a statement of their basis.
- C. Attachment \_\_\_\_: Assumptions and Clarifications made in preparing the Guaranteed Maximum Price, noting in particular any exclusions. The Assumptions and Clarifications shall take precedence over the Drawings and Specifications but shall be subordinate to the Agreement and the terms of this Amendment.

- D. Attachment \_\_\_\_: The proposed Guaranteed Maximum Price, including a statement of the detailed cost estimate organized by trade categories, Allowances, Contractor's Contingency, and any other items, as well as the Construction Management Fee and General Conditions Fee that comprise the Guaranteed Maximum Price.
- E. Attachment \_\_\_\_: A Construction Phase Schedule, which shall include, but not be limited to, the Substantial and Final Completion Dates upon which the proposed Guaranteed Maximum Price is based, and a schedule of issuance of the Construction Documents upon which the Substantial and Final Completion Dates are based (the "Project Schedule").

**4. INCOMPLETE DRAWINGS AND SPECIFICATIONS**

The Contractor and the County acknowledge that the Drawings and Specifications are not complete and, as of the date hereof, that such Drawings and Specifications have reached the level of approximately \_\_\_\_\_% of the total design effort. The Contractor, however, has been actively involved in the design process and hereby represents that it has a sufficient understanding of the Project to agree to a Guaranteed Maximum Price to fully complete the Project. The Contractor hereby acknowledges that the GMP Drawings and Specifications provides sufficient detail and information to provide a firm Guaranteed Maximum Price and that the Guaranteed Maximum Price proposed therein is intended to represent the Contractor's offer to fully complete the Project. The Contractor and the County agree to work together to complete the Drawings and Specifications as provided in the Contract Documents, consistent with the Guaranteed Maximum Price premises and assumptions, and with Project Schedule.

**5. DESIGN INTENT; INFERABLE WORK**

The GMP Drawings and Specifications include various clarifications and assumptions that are intended to further define the scope of Work that will be required to complete design. The Contractor has included within the Guaranteed Maximum Price sufficient amounts to cover aspects of the Work that are not shown on the GMP Drawings and Specifications.

**6. COST OVERRUNS**

Subject to additions or deductions, which may be made in accordance with the Contract, the Contractor shall be solely liable and responsible for and shall pay any and all costs, fees and other expenditures in excess of the Guaranteed Maximum Price for and/or relating to the Work, without entitlement to reimbursement from the County. The Contractor shall not be entitled to any fee, payment, compensation or reimbursement under this Agreement or relating to the Work or Project other than as expressly provided in the Agreement.

**7. ALLOWANCES**

The Guaranteed Maximum Price includes specific "Unit Price Allowance Amounts" for certain items as shown on the Schedule of Values and budgeted in the Guaranteed Maximum Price ("Allowance Items"). The only Allowance Items shall be those specifically identified as such in the Schedule of Values and in the Guaranteed Maximum Price. The Allowance Amounts represent all Costs of the Work of the Allowance Items, including, without limitation, costs of materials, labor, handling, transportation, loading and unloading and installation, as determined by the Contractor.

**8. CONTRACTOR'S CONTINGENCY**

The Guaranteed Maximum Price includes Contractor's Contingency. The Contractor's Contingency is a sum of money unassociated with any specific work to allow the Contractor to be compensated for costs and expenses, other than those which are to be included in the Construction Management Fee, in order to (i)

accommodate market changes and/or estimating errors, delays and/or expediting; or (2) any causes which do not entitle the Contractor to an adjustment of the GMP, in order to complete the Project within the Guaranteed Maximum Price. The Contingency is for the exclusive use of the Contractor. Any unused Contingency will be returned to the County upon final completion of the project.

**9. CONTRACTOR'S RESPONSIBILITIES**

The Contractor has been, and will continue to be, an active participant in the design process. Given such participation, the Contractor represents that it is familiar with the scope and quality of those aspects of the Project that have not yet been fully designed and has taken such scope and quality matters into consideration in preparing each component of the Guaranteed Maximum Price. The Contractor agrees to work with the County in managing the construction and design work to complete the design process. If necessary, the Contractor shall work with the Architect to facilitate redesign or value engineering necessary or advisable for certain aspects of the Project in order to bring the cost of undesigned Work within or below the respective allowances, budgeted or allocated amounts included in the Guaranteed Maximum Price for such Work. Once the Drawings and Specifications are complete, it is recognized by the Contractor and the County that the scope of the Guaranteed Maximum Price may include Work not expressly indicated in the Contract Documents, but which is reasonably inferable from the Contract Documents, and such Work shall be performed without any increase in the Guaranteed Maximum Price or extension of Contract Time, except if and to the extent otherwise expressly provided in the Agreement.

WITNESS these signatures:

**THE COUNTY BOARD OF ARLINGTON  
COUNTY, VIRGINIA**

**TURNER CONSTRUCTION COMPANY**

AUTHORIZED  
SIGNATURE: \_\_\_\_\_

AUTHORIZED  
SIGNATURE: \_\_\_\_\_

NAME AND TITLE: SHARON T. LEWIS  
PURCHASING AGENT

NAME: \_\_\_\_\_  
TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

## EXHIBIT E

### ARCHITECT'S SCOPE OF SERVICES

The Work under this contract shall consist of providing all expertise, labor and resources for complete architectural and engineering design, Arlington County E-Plan Permit submittal, and construction administration services for the Arlington Transit (ART) Operations and Maintenance Facility at 2629 and 2635 Shirlington Road owned by Arlington County using the Construction Manager at Risk (CMAR) project delivery method (the "Project"). Work shall be performed in accordance with this Scope of Work.

The Work shall consist of, but not be limited to, the planning and design of a new bus operation and maintenance facility as described below. The design shall meet or exceed Arlington County Infrastructure Design Standards, as outlined in Arlington County's Policy on Integrated Facility Sustainability.

The work will include public meetings with County commissions for design reviews and approvals. The work will also include design review meetings with Transit Advisory Committee, community meetings, online feedback, on site- engagement and identifying and working with stakeholders.

The facility shall be designed based on County's sustainability priorities as stated in this Scope of Work.

The County will use the Construction Manager at Risk (CMAR) Project delivery method in lieu of the 'design-bid-build' process to complete construction of the Project. The County anticipates the award of the CMAR contract prior to the start of the Schematic Design Phase. CMAR pre-construction services will include participation in regular design reviews with the A&E Contractor and County staff to address constructability, cost estimating, and project scheduling. The CMAR Scope of Work will include development of construction cost estimates at completion of the Conceptual Design, Schematic Design, Design Development, construction permit submittal, approved permit set, up to the agreed upon Guaranteed Maximum Price (GMP) for construction of the Project. The CMAR will provide recommendations to County staff on design modifications to maintain the construction budget and improve constructability or schedule. The successful Offeror will be required to Work cooperatively with the CMAR, as directed by the County Project Officer and to modify the design to reconcile CMAR recommendations. The County anticipates negotiating a GMP with the CMAR prior to the completion of the construction drawings.

The construction budget estimated value is approximately \$40 million. Upon award of the Design Contract and issuance of a Notice to Proceed (NTP), the successful Offeror shall assist the County in verifying/developing values for individual cost elements of the design. The successful Offeror shall plan activities based upon the following draft Project schedule, which the County will adjust based on the actual award date:

Design Award	September 2020
CMAR Construction Award	Nov-Dec 2020
Conceptual and Schematic Design and Community Process	September 2020 – April 2021
Design Development through Construction Documents	April 2021 – January 2022
Permitting	Dec 2021 – April 2022
Construction	May 2022 – October 2024
Furniture, Fixtures & Equipment and Relocation	September 2024 – October 2024

### **THE PROJECT**

The Project site includes the following three parcels of land as shown on the attached plan Exhibit A which are separated by a private road (CubeSmart Road) and a concrete stormwater channel:

- Parcel A (2.53 Acres) 2629 Shirlington Road– The current ART Bus parking lot, which includes an existing raised concrete pad
- Parcel B (0.94 Acres) 2635 Shirlington Road – Vacant, with an existing building
- Parcel C (0.05 Acres) has no address – Vacant

The design for the site development shall include the following elements:

- Stormwater channel and Shirlington Road crossing improvements
- Demolishing of the existing building and concrete pad
- Surface parking for 68 buses
- Embedded conduit and related provisions for potential future electric-powered buses battery charging
- Structured parking for 110 personal vehicles
- Yard/green areas
- Site drainage and Stormwater Management
- Covered storage space

The design of the Operations/Dispatch and Administration Facility shall include the following elements:

- Transit operations/dispatch
- Transit administration
- Bus operator support areas
- Building support areas

The design of the Type II Maintenance Facility, which shall be used to perform maintenance for a fleet of 110 Compressed Natural Gas (CNG) buses, shall include the following elements:

- Maintenance administration

- Seven repair bays and one steam bay for an existing fleet of 78 buses which range in length from 31' to 42'
- Shop equipment
- Parts storage
- Maintenance personal support areas

**A. GENERAL REQUIREMENTS**

The Contractor's Work shall conform to the following requirements during all phases of the Work:

1. **General:** The services to be provided by the Contractor shall be performed in the phases described hereinafter and shall include, but not be limited to:
  - Participation in community engagement and County Commission meetings;
  - Architectural, civil engineering, structural engineering, mechanical engineering; electrical engineering, traffic engineering and landscape design;
  - Cost estimating and cost estimating review;
  - Construction Administration services;
  - Sustainable documentation and,
  - All other services required in accordance with generally accepted architectural and engineering practices consistent with the terms of this solicitation, specifically identified, described or referenced herein.
2. **Project Delivery Method:** The Contractor understands that the County intends to deliver the Project through the Construction Management at Risk delivery method and further understands that the County intends to engage a Construction Manager at Risk (CMAR) Contractor, at mid-point of the Schematic Design Phase, to work with the Contractor throughout the design process reviewing design documents, conducting constructability reviews and preparing construction cost estimates to ensure that the design developed by the Contractor is consistent with the County's program, budget and schedule.

In coordination with CMAR Contractor, the Contractor will develop a set of partially complete construction documents that will serve as the basis of a Guaranteed Maximum Price (GMP) to be provided by the CMAR Contractor for the construction of the Project. The Contractor shall work in a cooperative and integrated manner with the CMAR Contractor throughout all phases of the Project.

3. **Project Delivery:** GMP/Permit documents as defined in Section B.4.a.3 shall be complete and ready for GMP determination and construction permit submittals not later than Four Hundred Forty-Four (444) calendar days from the Notice to Proceed.

Contractor shall assist the CMAR Contractor to prepare a baseline project schedule that includes all project phases as well as control points that shall be adhered to such as, budget check points and milestones for County approvals and submission approvals.



4. **Temporary Parking:** Parcel A currently serves as ART's existing main bus parking facility parking approximately 60 buses. The County's intent is to relocate the buses to another temporary facility during construction. The County may decide, during the design phase, but prior to the completion of GMP/Permit documents, to phase the project to provide parking at the Site for all or some of the existing bus fleet (Approximately 60 buses).
5. **Construction Budget:** As outlined in Section B, the County and Contractor will establish the Construction Budget Value ("Design-to-Budget") to complete the Project. Such Design-to-Budget shall cover hard costs and CMAR Contractor's fees and General Conditions.

Throughout the Work, the Contractor shall use "best efforts" to advance the design for the Project in a manner consistent with the Design-to-Budget. Only the Project Officer shall have the authority to adjust the Design-to-Budget. Any such adjustment to the Design-to-Budget shall only be effective if such adjustment is made in writing and is signed by the Project Officer.

For the avoidance of doubt and as more fully set forth herein, the Contractor further understands and agrees that it will manage its Work in accordance with the Design-to-Budget Requirements set forth herein

6. **Public Engagement:** Engagement with the public, commissions, and committees will be required by the Contractor as part of the Project. The Contractor will lead the process, work with County staff to develop a Public Engagement Schedule, define the goals/objectives for the County Board submission process, and prepare graphic and narrative materials.

The Contractor will conduct Three (3) community meetings. The first meeting shall be presentation of the proposed concept drawings depicting site and building arrangements. The design concepts shall include colored elevations and perspective drawings provided in Attachment B to this solicitation and other conceptual level graphic drawings, as required, to clearly illustrate the character and form of the building with site and vehicle parking.

Other meetings will occur during other phases of the Project.

The Contractor shall also conduct Three (3) meetings with the County's Public Facilities Review Committee (PFRC) to present site arrangement and building exterior design concepts showing building massing and exterior finishes.

In the first meeting, the Contractor shall present the concepts resulting from the community engagement process detailed above.

The second and third meetings shall occur during the Schematic and Design Development Phases. In these meetings the Contractor shall present modifications requested by the PFRC to obtain PFRC approval.

Additional public engagement meetings, if required, must be authorized in writing by the County as Additional Services.

The Contractor shall also attend Two (2) meetings (TBD) with the County's Transit Advisory Committee (TAC) during the Schematic and Design Development Phases for design presentations at the time and place to be determined by the County. **Technology System:** The Project requires many and diversified communication services to meet ART operational and administrative needs. The Contractor shall coordinate the planning of the in- building communications and outside networks connections with the following persons to provide ART with the most efficient and productive use of available and future communication services:

- Project Officer;
  - County Transit Bureau (Transit);
  - ART Operations and Maintenance Contractor (Operator), and
  - County Department of Technology Services (DTS).
7. **Pre-Construction Meetings:** During the design phase, the Contractor shall prepare agendas, conduct and take minutes of progress review meeting with the Project Officer, Transit, Operator, DTS, other County departments, and CMAR Contractor as required during the various design phases.

The Contractor shall prepare and distribute draft meeting minutes within Two (2) business days after any meetings. The Contractor shall send draft meeting minutes to the Project Officer and project team via e-mail. The Project Officer and project team shall review and provide comments to the draft meeting minutes within Two (2) business days after receipt of the minutes.

Thereafter, the Contractor shall finalize the draft minutes, incorporating Project Officer and project team comments. These meetings will be held in County offices or other location as determined by the Project Officer.

The CMAR Contractor will be required to conduct "over-the shoulder meetings" with the Contractor at the Contractor's office when deemed necessary and the Contractor shall cooperate with the CMAR Contractor to achieve the objectives of these meetings.

8. **Construction Meetings:** During construction, the CMAR Contractor will prepare agendas, conduct the weekly construction progress meetings, prepare/distribute meeting minutes as well as review the foregoing with the Project Officer, Transit, Operator, DTS, other County departments and the Contractor.

Agenda topics shall include, as applicable, the following:

- Work in process;
- Defective or non-compliant Work,
- Schedule;
- Change Order (proposed, approved);
- Coordination activities with outside entities;

- Budget;
- Other business;
- Action item(s);
- Next meeting, and
- Safety report.

The Contractor shall provide the CMAR Contractor with related agenda items and shall review and comment on the minutes. The Construction Progress Meetings will be conducted at the Project Site Office or other locations as may be determined by the County.

## **8. WORK PHASES**

The Contractor shall complete the Work in the following phases:

### **1. PHASE I – CONCEPT DESIGN/PROGRAMMING VERIFICATION**

In collaboration with the County, the Contractor shall review the County's proposed Project Conceptual Design/Programming (Attachment B1-B5) and verify that it meets the County's programming and spatial and functional requirement and required and preferred space adjacencies. Program alternates offered by the Contractor or requested by the Project Officer may be included in the draft revised Project Concept Design/Program document. This Phase shall include the following:

- a. Kick-off Meeting: Conduct a Kick-off Meeting and site visit prior to the review and verification effort to introduce project team; review/confirm project scope, schedule, develop overall project goals and objectives, confirm County Project requirements; review Contractor services, review the Project cost estimate; establish the quality of materials, equipment, aesthetics desired and other factors pertinent to the Project.**
- b. User Group Meeting: The purpose of the User Group meetings is to ascertain the operating characteristics of the proposed facilities, special operating conditions or methods that may impact the programming and design of the facilities and to verify the building programming in order to mitigate programming changes in later phases.**
- c. Upon Project schedule/objectives review, the Contractor shall consult with the Project Officer for clarifications, missing documents, drawings, data and other information that will support programming, planning, design and documentation efforts.**
- d. Code and Zoning Requirements and County SD standards: Review the Project Zoning Requirement Summary (Attachment B6), identify any other zoning requirement, meet with and analyze the requirements of Arlington County Code and participate in consultations with such authorities to ensure that the Project's Concept Design meets all applicable code requirements. Identify all state, local and federal jurisdictional permit and approval processes for the project. <https://building.arlingtonva.us/resource/zoning-amendments/>**

Analyze information provided and develop Project Documents capturing Transit

requirements ensuring compliance with Arlington County Infrastructure Design Standards, and other applicable standards. <https://building.arlington.us/resources/design-standards-guidelines/>

- e. **Site Survey:** The County has provided for the Contractor's review the ALTA survey of the Project (Attachment C). Subsequent Civil Engineering services throughout the remainder of this Agreement shall be provided by the Contractor. The Contractor shall not rely on County provided site documents but must verify by on-site observations information contained therein.
- f. **Utilities:** Review and verify the proposed site utility connections and relocation of existing utility lines resulting from building construction. Verify the proposed changes/connections with the County Water Sewer Streets (WSS) Division, Dominion Power and Washington Gas.
- g. **Storm Water Channel Improvements –** The Channel improvements requires submission of a Standard Joint Permit Application (JPA) to DEQ/USACE to obtain a Wetlands Permit for Development Activities (WP4) from DEQ and State Programmatic General Permit (SPGP) from the Corps. The Contractor shall prepare and submit the necessary application to the necessary application to the entity below:

DEQ/USACE.

<https://www.deq.virginia.gov/Programs/Water/WetlandsStreams/Regulations.aspx>

<https://www.deq.virginia.gov/Programs/Water/WetlandsStreams/Permits.aspx>

- h. **Optional Task –** The County may, prior to the Contract award or the start of this Phase, enter into an agreement with the owners of the CubeSmart Road to either acquire the road or shift the road toward the Storm Water channel by a land swap or easements.

The County may also require that the Channel improvements be modified to move the Resource Protection Area (RPA) away from the maintenance building to allow moving the building to the west (refer to the Conceptual Narrative, Attachment B5, for RPA status).

Upon notice from the County's Project Officer the Contractor shall propose, if applicable, a revised site arrangement for Parcel A to improve site circulation on both sides of the proposed Maintenance Facility.

- i. **Design-to-Budget –** The Contractor shall review the construction cost estimate for the proposed Conceptual Design (Attachment B8) and confirm that it includes all the project costs and propose the Design-to-Budget amount for County approval. Should the County proceed with the Optional Task (Section B.1.h.), the

Contractor shall estimate the additional cost impact to be included in the Design-to Budget.

- j. Prior to the beginning of the Schematic Design phase, the Contractor shall prepare for the County's approval, a draft of the revised Project Concept Design/ Program Document that identifies all changes agreed with the County. The Document shall include the alternate arrangements presented during the public process and the selected arrangement. The Document shall be presented in written form as mutually agreed upon.

The Contractor shall provide Five (5) bound copies and one (1) electronic file of draft and final Project Program Document and drawings. The Project Officer shall provide comments within Five (5) working days of receipt. The Contractor shall address County comments within Five (5) working days and shall ensure additional County comments questions are included issuance in the final Document.

- k. The Contractor shall not proceed with the Schematic Design Phase until the Project Officer approves the Concept Design / Programming Phase. The approval will include marked-up review drawings signed by the Project Officer and the NTP for the Schematic Design Phase is issued.

The County will issue the NTP within Five (5) business days of receipt of the complete and final Concept Design / Programming Phase deliverables; time beyond the Five (5) days will result in an equivalent extension of the design completion period.

## 2. PHASE II – SCHEMATIC DESIGN (SD)

The Contractor shall complete the Schematic Design Documents to further develop the Concept Design/Programming. The Schematic Design shall include the following:

- a. Prepare site evaluation and assessment documents:
  - i. **Boundary and Topographic Survey:** The County has provided an Alta Survey of the three parcels, topographic and utility location survey, see Attachment C. The Contractor shall perform additional boundary, topographic and utility location survey for the site as required. The survey shall be provided to the County in hard copy and electronic formats.
  - ii. The County has completed the Phase I and Phase II Environmental Site Assessment (ESA). (Attachment D). The Contractor shall perform a hazmat survey of the existing building on Parcel A as recommended by ESA. Further studies, if needed, will be authorized in writing by the County as Additional Services.
  - iii. **Geotechnical Investigation:** The Contractor shall perform a Geotechnical Investigation that clearly outlines the number and depth of borings to adequately characterize sub- surface conditions to assist in the structural design of the

buildings, drive lanes, stream channel improvements and surface parking areas. At a minimum 21 borings shall be assumed:

- Ten (10) for Parcels A;
- Eight (8) for Parcel B, and
- Three (3) for Parcel C.

Additional borings, if required, will be authorized in writing by the County as Additional Services.

- iv. **Traffic Impact / Signalization Study:** The Contractor shall perform a traffic study to investigate impacts to traffic flow including impacts to multi-modal forms of transportation. All drawings and reports shall be submitted in electronic format (pdf and Word) conforming to the guidelines established by the Manual for Uniform Traffic Control Devices (MUTCD), shall be coordinated with the architectural base plan and shall be subject to approval by the County Traffic Engineering Bureau.
  
- b. **Review and address County's comments on the proposed Conceptual Design. (Exhibit B-7)**
  
- c. **Develop building arrangement, identify actual space program square footages, including interior layouts showing program, program support spaces, core building services and circulation.**
  
- d. **Develop parking and site design, integrate with bus turning and movement, building design with personnel access and circulation as appropriate. Verify basis for parking spaces provided.**
  
- e. **Define the mechanical, electrical and plumbing (MEP) systems under consideration, identify recommended system(s) and system alternatives for review and selection. Upon Project Officer's approval, prepare outline specifications for major systems and building materials.**
  
- f. **Evaluate the proposed Maintenance Building major equipment consideration, identify recommended equipment, equipment alternatives for review and selection. Upon Project Officer's approval, prepare outline specifications for the major equipment and support systems.**
  
- g. **Create and/or update 2-D, 3-D renderings that depict the site and building layout, design, and elevations as they are confirmed Schematic Design Phase completion.**
  
- h. **Further develop Conceptual Design of outdoor spaces, show specific space allocations, surface level parking and bus circulation arrangements if applicable.**

- i. The Contractor shall provide Three (3) sets of full-size progress prints, Three (3) sets of half-size prints and 2-D, 3-D renderings in pdf format to the Project Officer. Provide CAD source file prior to the final Schematic Design phase review with the Project Officer, CMAR Contractor, Transit and Operator review.
- j. The Contractor shall review CMAR construction cost estimate to ensure consistency with the design and ensure the design remains within the project budget.

To the extent that the CMAR Contractor's cost estimate is over the Design-to-Budget, the Contractor shall, without additional compensation, work with the County and CMAR Contractor to develop Value Engineering strategies to return the Project to the Design-to- Budget.

To avoid doubt, any required re-design or Value Engineering required to conform to the Design- to-Budget shall be performed without additional compensation.

- k. As noted above, the Contractor shall not proceed with the Design Development Phase until Project Officer approval of the Schematic Design phase is received. The approval shall include the marked-up review drawings and signed by the Project Officer.

The County will issue the NTP within five (5) business days of receipt of the approved Schematic Design Phase deliverables. Time beyond Five (5) business days will result in an equivalent extension of the Design Completion period.

**3. PHASE III – DESIGN DEVELOPMENT(DD)**

The Contractor shall complete the Design Development Phase following receipt of the NTP from the Project Officer to include the following:

- a. Based on the approved Schematic Design Documents and any adjustments authorized by the Project Officer in the program, schedule or construction budget, prepare for approval by the Project Officer Design Development Documents. The documents shall consist of drawing as well as other documents to fix, describe size, architectural character, civil, structural, mechanical, electrical systems, materials and such other elements as required.
- b. HVAC systems shall provide ventilation levels, per the International Mechanical Code. The Project Officer shall provide the Contractor with the intended building occupant loads and occupancy patterns
- c. The Contractor shall design, in coordination with the Project Officer and County Fire Department, a safety exhaust system with audible and visual alarms to detect and remove natural gas if the concentration exceeds certain thresholds/set points.

- d. The Contractor shall review infrastructure requirements for electric busses. The infrastructure shall include empty conduit runs under the bus parking areas for future charging stations, transformer pad sizes, electric panels spaces, feeder conduits for future electric bus charging and possible space and provision for a generator future bus charging station.
- e. Building Energy Use and Cost Analysis Tool (DOE2) Analysis of the Developed Design: Provide DOE2 digital model analysis of building enclosure and systems to verify required LEED criterion will be achieved.
- f. The Contractor shall prepare outline specifications setting forth the basic requirements of the facility and including catalog cuts of systems' basic equipment.
- g. The Contractor shall coordinate with the Project Officer and utility companies any changes to the proposed utility connections and relocations resulting from the design development of the Project.
- h. The County shall be responsible for permit fee payments or fee waiver directly with the appropriate utility companies or authorities.
- i. The Contractor shall develop design for outdoor areas, amenities in accordance with all applicable standards and regulations, to include, but not be limited to American Society for Testing and Materials (ASTM) standards and County standards.

Site design shall include best Storm Water Management (SWM) practices as established by the County's current SWM guidelines. To the extent required, site irrigation systems shall also be included in the Design Development documents.

- j. The Contractor shall submit three (3) full size sets, three (3) half size sets of progress prints and One (1) electronic pdf file set for review meetings with the Project Officer, Transit, Operator and CMAR Contractor at 50% and 75% of the Design Development drawings. During the County review of the interim submittals, the Contractor shall continue working on the Design Development drawings.
- k. The Contractor shall review the CMAR Contractor's construction cost estimate to ensure the estimate is consistent with the design and project budget.

If the CMAR Contractor's cost estimate is over the Design-to-Budget, the Contractor shall, without additional compensation, in conjunction with the Project Officer and CMAR Contractor develop value engineering strategies to return the project within the Design-to- Budget.

- l. Prior to the Project Officer's approval of Design Development Phase, a comment/review meeting shall be scheduled with the Project Officer, County stakeholders and CMAR Contractor to discuss and resolve all Design Development comments.



- m. The Contractor shall not proceed with the Construction Document Phase until the Project Officer has approved the Design Development Phase deliverables with marked up-up Design Development drawings signed by the Project Officer.

The Project Officer will issue the Notice to Proceed (NTP) within Five (5) business days of approval of the Design Development Phase deliverables. Time beyond Five (5) working days shall result in an equivalent extension of the Design Completion period.

#### **4. PHASE IV – CONSTRUCTION DOCUMENTS (CD) PHASE**

The Contractor shall complete the Construction Document Phase following receipt of the NTP from the Project Officer to include the following:

##### **a. Construction Documents**

1. Based on the approved Design Development Documents (DD) including, further adjustments in the Scope or quality of the Project authorized by the Project Officer, the Contractor shall prepare Construction Documents (CD). The Drawings and Specifications shall set forth, in detail, project construction requirements that are in compliance with all federal, state and local codes, regulations including requirements specified in Paragraph 6 of the Contract, Code and Regulatory Compliance.
2. The Contractor shall submit Three (3) full size and Three (3) half-size progress print sets and an electronic pdf set of the Construction Documents at Fifty Percent (50%) and Seventy-Five Percent (75%) for review. During the County review of the interim submittals, the Contractor shall continue working on the Construction Document drawings.
3. Upon the receipt of the Seventy-Five Percent (75%) review comments, the Contractor shall prepare GMP/Permit set of documents based on the Seventy-Five Percent (75%) completed CD documents.
4. The Contractor shall schedule Two (2) coordination meetings with the Project Officer, Transit, Operator and CMAR Contractor during development of the CDs, at Ninety Percent (90%) an on-board progress review meeting and a coordination meeting Two (2) weeks prior to final submission of the CDs. The Contractor shall reconcile all permit, County and CMAR Contractor review comments into the One Hundred Percent (100%) Construction Document set prior to the start of construction. Reproduction requirements shall be as follows:
  - i. One (1) complete full-size paper copy of the Construction Plans;
  - ii. Original and One (1) copy of the Specifications with Arlington County Construction General Conditions;
  - iii. All required permits obtained from CPHD-ISD for building, including trade permits;

- iv. Two (2) USB devices, each containing One Hundred Percent (100%) Construction Documents (including mechanical, electrical and plumbing plans and specifications),

Drawing files shall be in Autodesk® AutoCAD 2018 or later, and specifications shall be in MS Word. In addition, the files shall be downloaded into e-Builder®.

b. Permit

1. The Contractor shall submit, obtain approval of, and secure the required Building and Plan permits from the following entities:

- Community Housing and Planning Department Inspection Services Division (CHPD- ISD);
- Zoning Division of CPHD;
- Department of Environmental Services Development Services Division (DES) and
- All other required County Departments (Fire, Water, Health, Parks and Recreation, etc.).

The Contractor shall submit plans electronically to DES for utility permit review within 15 calendar days after Design Development approval by the Project Officer.

2. The Contractor shall schedule and attend post-submission meetings with CPHD-ISD (ISD) and Zoning for building permit review.
3. The Contractor shall respond to review comments from the reviewing agencies and advise the Project Officer resolution and completion of review comments and schedule a review comment meeting with the Project Officer and CMAR Contractor.

c. Guaranteed Maximum Price (GMP) Determination

1. The CMAR Contractor will provide a Guaranteed Maximum Price Proposal based on the GMP/Permit Documents and competitive trade/sub-contractor bids. The Contractor shall assist the County in the review and analysis of bid prices.
2. If trade bids exceed the Design-to-Budget value, the Contractor shall participate in a Value Engineering/Design Charrette with the CMAR Contractor. The Charrette shall incorporate design changes and Value Engineering proposals agreed upon with the Project Officer for an agreed GMP.
3. The County shall negotiate a GMP construction contract based on the GMP/Permit set. As required, the Contractor shall provide technical support during the GMP negotiations, including attending the GMP negotiations, providing a GMP cost review and preparing and distribution of the GMP plan set.

**5. PHASE V – CONSTRUCTION ADMINISTRATION AND CLOSE-OUT**

Upon the County's issuance of the Notice to Proceed to the CMAR Contractor for construction, the

Contractor shall provide the following services:

- a. **Consultations:** The Contractor shall consult and advise the Project Officer on all technical matters and act as the County's representative with the CMAR Contractor on all such matters. Instructions to the CMAR Contractor will be issued through the Project Officer or the Contractor, where the Contractor shall have authority to act on behalf of the County on technical matters, to the extent provided in this Agreement and in the General Conditions of the Construction Contract except as otherwise provided in writing.
- b. **Requests for Information (RFI), Interpretations and Clarifications:** The Contractor shall provide all necessary interpretations and clarifications of the Construction Documents and submit responses to RFI's and make recommendations to the Project Officer regarding Change Orders. Responses shall not adversely affect other elements of the Project without the County's express approval. All such responses shall be submitted to the Project Officer within seven (7) calendar days of the request.
- c. **Change Orders:** The Contractor shall assist the Project Officer in reviewing the CMAR Contractor's proposed changes and costs and preparing and issuing Change Orders. Technical issues affecting the architectural integrity, structural, fire, life safety systems or outdoor facilities, or which affect the integrity or operation of the mechanical, plumbing, or electrical systems shall be reviewed and approved by the Contractor before a Change Order is issued.
- d. **Shop Drawings:** The Contractor shall review and approve (with or without Conditions), reject or take other appropriate action on Shop Drawings and other submittals required of the CMAR Contractor. The Contractor shall track and update the shop drawing submittal log.

The Contractor shall review the shop drawings for conformance with the Project Design concept and Construction Contract Documents compliance. Such reviews, approvals or other actions shall not extend to means, methods, techniques, sequences or construction procedures or safety precautions and programs incident thereto. The Contractor shall evaluate and determine the acceptability of any equal materials or equipment proposed by the CMAR Contractor. Shop drawings and submittals shall be returned by the Contractor to the County with review comments no less than 14 calendar days after receipt of the drawings and submittals by the Contractor, unless written notice of extended review duration is provided by the Project Officer.

- e. **Civil, Structural and Special Inspections:** The Contractor shall provide services relating to proper installation of structural systems, including the review of applicable inspection and test reports by the County's Testing and Inspection entity.
- f. **MEP Systems and Maintenance Equipment:** The Contractor shall provide the services relating to proper installation of all the systems, including the review of applicable inspection and test reports by the County's Testing and Inspection entity and Commissioning Agent.
- g. **Periodic Site Visits and Inspection of Work in progress:** A Contractor representative, having knowledge of the Work underway, shall visit the site at regular intervals as appropriate for the stage of construction and as requested by the County's Project Officer. Said site visits/inspections shall be to observe and report on the Work performance and progress in accordance with the Construction Documents.

During periodic visits to the site the Contractor shall, at a minimum, spot check Work installed and Work in progress for compliance with the codes and installation/workmanship standards listed therein. The Contractor shall observe commissioning of Work performed by others for Quality Assurance (QA). The Contractor shall conduct a maximum of 36 site visits during the construction phase. Site visits may also occur simultaneously with the Progress Meetings.

- h. **Progress meetings:** Attend weekly progress meetings held weekly on-site during construction.
- i. **Supplemental Inspections and Tests:** For Work not in compliance with the CMAR Construction Contract Documents, the Contractor shall, with the Project Officer's approval, require additional or supplemental inspection or testing.

The Contractor shall receive, review all certificates of inspections, testing and approvals required by laws, rules and regulations and determine whether their content complies with the requirements for approval by the appropriate issuing agency. The Contractor shall also determine whether the results certified indicate compliance with the Construction Contract Documents.

- j. **Defective Work:** During site visits and based on its observation, the Contractor may disapprove or reject the CMAR Contractor's Work, or any portion thereof, if the Contractor believes that such Work does not conform to the CMAR Construction Contract Documents, including the approved shop drawings or other submittals.

The Contractor may also recommend that the Project Officer reject any Work which it believes will not result in a completed Project that conforms generally to the CMAR Construction Contract Documents or that it believes will compromise the integrity of the design as reflected in the CMAR Construction Contract Documents. The Contractor shall also immediately report any observed construction safety violations to the Project Officer.

- k. **CMAR Contractor Applications for Payment:** The Contractor shall provide payment/invoice request(s) advice to the County and recommend, in writing, payment approval of the CMAR Contractor invoice(s).

Such recommendations will constitute a written representation by the Contractor to the County, based on the Contractor's observations and review, that the Work has progressed to the point indicated and that, to the best of the Contractor's present knowledge, information and belief, the quality of such Work is in accordance with the CMAR Construction Contract Documents (subject to an evaluation of such Work as a functioning whole prior to or upon completion, and the results of any subsequent tests called for in the recommendation).

The Contractor's unit-price recommendations for payment shall include final determinations of quantities and classifications of such Work subject to any subsequent adjustments allowed by the CMAR Construction Contract Documents and approved by the County.

- l. **Punch-List Inspection:** Prior to scheduling a Substantial Completion and punch-list inspection, the Contractor shall verify that the Project is ready for such an inspection and advise the Project Officer in writing of same.

At a minimum, the Contractor's licensed professional architect, mechanical engineer, electrical engineer and landscape architect shall be present at the Punch-List inspection unless absent on an express written waiver by the County. The Contractor shall produce and maintain the Punch-List and conduct a maximum of Four (4) site visits for the combined Punch-List Inspection and Final Completion Inspection activities as defined in Item n. below.

- m. **Closeout Services:** The Contractor shall provide Project Close-Out services including, but not limited to, review and approval of the schedule of values and payment requests; air and water Test and Balance reports for HVAC systems per the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Guideline 1-1989; and maintenance equipment testing.

The Contractor shall receive and review operations and maintenance (O&M) instructions, user training, schedules, guarantees & warranties, bonds and certificates of inspection of Third-Party inspection, as well as tests and approvals which are to be assembled by CMAR Contractor in accordance with the CMAR Construction Contract Documents. The foregoing shall be transmitted to the County with written comments.

- n. **As Built Drawing Mark Ups:** The Contractor shall receive and review the "As Built" Drawing Mark-Ups from the CMAR Contractor and transfer said data to the "Record Drawings."

Prepare Record Drawings and label with "RECORD DRAWINGS- CONTRACT NO.: 20-031- RFP" on each page of the documents. Prepare and submit the Record Drawings in electronic media in a form and program acceptable to the Project Officer.

- o. **Final Completion Inspection.** The Contractor shall conduct a Final Completion Inspection to confirm the completed Work is in compliance with the Construction Contract and is acceptable to the Contractor and the County.

The Contractor shall notify the County of such inspection in sufficient time for the Project Officer, County Facilities Management Bureau and Operator representatives to participate in the inspection.

If the Final Completion Inspection is successful, the Contractor shall recommend, in writing, Final Acceptance and Final Payment to the CMAR Contractor. Give written notice to the County and CMAR Contractor that the Work is acceptable.

The Contractor may, however, accept some portions of the Work and reject others or may accept some or all of the Work, subject to certain conditions. Written notice shall be provided to the County and CMAR Contractor of the results of such inspections.

The Contractor shall conduct a maximum of four (4) site visits for the combined Punch- List Inspection as defined in paragraph I above and Final Completion Inspection activities.

### **C. SUSTAINABLE DESIGN AND LEED REQUIREMENTS**

1. The Contractor shall assist the Project Officer with the development of Project Registration under the United States Building Council (USGBC) Leadership Energy and Environmental Design (LEED) rating system to ensure the Project Registration and Certification are achieved.
2. The Contractor shall design the Project based on the following Guiding Principles that clearly define County's sustainability priorities in order to build well-functioning, easy to maintain buildings and facilities with low energy demands and excellent indoor environmental quality:
  - a. **Function -** Achieve high performing and efficient building operations with systems and components that are easy to use and maintain. Ensure the building operates as intended and reduce long-term operating costs:
    1. Prioritize simple, passive solutions over mechanical solutions for energy use reduction and Storm Water management.
    2. Minimize use of complicated sensor and control systems.
    3. Design and locate building systems for ease of access and maintenance.
    4. Ensure building systems are compatible with the building programming, fully functional and operate as intended before the building is accepted.

5. As new facilities are acquired or built, facilities maintenance budgets should be reassessed and planned.
- b. **Energy-** Use integrated design and passive strategies to minimize heating, cooling, and lighting loads and reduce long-term operating costs:
  1. Prioritize the building thermal envelope and right-size mechanical equipment.
  2. Use building orientation and daylight devices to evenly distribute daylight.
  3. Avoid elements that are solely aesthetic that increase energy use.
  4. Optimize solar PV exposure and vegetated roof space.
  5. Efficient space utilization.
- c. **Human Experience -** Support occupant health and well-being with:
  1. Fresh air and ventilation
  2. Humidity control
  3. Selection of low-toxicity materials
  4. Evenly distributed daylight and minimal glare
- d. **Durability -** Select quality materials, systems, and equipment to reduce maintenance, operations, and replacement costs:
  1. County buildings and facilities should be built to last and be flexible in their design to support occupant and community needs as they change over time.
  2. Select materials that are easy to maintain and durable for the intended use and expected life of the building
  3. Assist in Commissioning all building systems starting at the design phase and test the building enclosure for air and water infiltration

2. Energy Use Intensity (EUI) targets

Following the Guiding Principles listed above, the office building shall target a 25% improvement over the ASHRAE 90.1-2010 energy standard and operating Energy Use intensity (EUI) of 28 kbtu/s.f./year or lower. The maintenance facility shall target a 25% improvement over the ASHRAE 90.1-2010 energy standard and operating Energy Use intensity (EUI) of 95 kbtu/s.f./year or lower.

3. Green Building Certification

a. Maintenance Building

The proposed maintenance building is ineligible for EarthCraft Light Commercial (ECLC) certification and is therefore expected to achieve at least LEED Silver certification. Water and energy efficiency shall be a primary focus of the design team

beginning in the schematic design integrative process meeting. A commissioning agent will be hired by County during design development and participate in a minimum of one design development and two construction document reviews prior to bid documents being issued. Solar photovoltaics, solar thermal hot water, and exhaust energy recovery shall be evaluated at each design phase for costs and benefits to the project's goals. Due to the unique requirements of the Maintenance Facility, additional modeling may need to be carried out.

**b. Office Building/Parking Deck Complex**

Earthcraft Light Commercial (ECLC) Certification may be used in lieu of LEED certification for the Office Building/Parking Deck. Water and energy efficiency shall also be a primary focus of the design team beginning in the schematic design integrative process meeting, with more aggressive energy targets set for the office building. Indoor air quality, thermal comfort, lighting and daylighting, quality views, and acoustics shall be evaluated at each design phase for costs and benefits to the project's goals.

**D. SUBMISSION REQUIREMENTS**

The application for the building, civil engineering plan and land disturbing activity (LDA) permits shall be submitted to Arlington County e-Plan Review portal. This submission is an electronic plan submission. The Contractor use of this portal will include but not limited to submission of plans and construction related documents electronically, access to review status, access to comments and marked up plans, use the portal to provide responses to comments and marked up plans, have access to approved plans and download and print approved plan sets for inspections. This will include all documents and revisions as needed to obtain a building permit from the County's Inspection Services Division (ISD) and to provide basis for negotiation of the CMAR Contractor's GMP.

Required drawing standards/format: Autodesk® AutoCAD 2018 or later.

**1. PROJECT MANAGEMENT INFORMATION SYSTEM (PMIS)**

The County's intention is for the Contractor to utilize e-Builder®, the County's designated Electronic Project Management Information System (PMIS) per section 1.2.3.2 of the Arlington County Infrastructure Design and Construction Standard version 2016.01.04:

<https://topics.arlingtonva.us/wp-content/uploads/sites/21/2013/12/Infrastructure-Design-and-Construction-Standards-Building-Design.pdf>

The County reserves the right to waive this requirement and allow the Contractor to utilize their own preferred PMIS with the County's approval.

- a. Document transmittal, Requests for Information, Submittals, Change Order's (CO's), Invoices and other functions as directed by the County Project Officer will be administered, issued and stored in the e-Builder® PMIS. The Contractor is required to



perform these transmittal and submittal functions using the e-Builder® PMIS.

- b. Use of the e-Builder® PMIS will not replace or change any contractual responsibilities of the Contractor. The system has been implemented to enhance and expedite team communication
- c. The County will provide eight (8) hours of e-Builder training specific to the role of the Contractor. The training will be held at a location in Arlington County, to be determined by the County. The County will provide the Contractor at least two e-Builder® licenses and training.
- d. Information concerning the system can be obtained by contacting e-Builder. e-Builder support's contact information is provided on the PMIS home screen.
- e. Standards for Digital Submission All Contractor Project correspondence shall be digitally- generated in Microsoft Word 2016 or later shall be submitted in the following file formats which use the .doc and Adobe Acrobat .pdf extension formats either created electronically or digitized (pdf) so that it can be stored and tracked by the e-Builder PMIS. This includes, but not limited to:
  - i. Request for Information (RFI's) and attachments
  - ii. Submittals
  - iii. Change Orders
  - iv. Payment Applications
  - v. Meeting Minutes
  - vi. Daily Construction Reports
  - vii. Action Items
  - viii. Project Schedules (Design, Construction, etc.
  - ix. Punch Lists
  - x. Incident Reports
  - xi. Agenda
  - xii. Construction Photographs

The Contractor shall use e-Builder® PMIS to transmit each RFI to the County. RFI responses from the County and action is transmitted to the Contractor through e-Builder®.

The Contractor shall use e-Builder® PMIS to transmit each submittal to the County. Submittal responses by the County will be transmitted to the Contractor through e-Builder®.

The Contractor shall use e-Builder® PMIS to transmit each proposed Change Order (PCO) and Change Order (CO) to the County. PCO and CO responses by the County will be transmitted to the Contractor through e-builder.

The Contractor shall use e-Builder® PMIS to transmit each payment application to the County. The County's payment application review status will be transmitted to the Contractor through e- builder.

2. File Types:

- a. Architectural, Mechanical, and Electrical plans shall be submitted in .pdf format. Layers should be flattened and made into a single image to reduce filesize
- b. Specifications, renderings, photos, presentations, and other supplemental information can be submitted in the following formats: .pdf, .jpg, .xls (.pdf is preferred) and should be consolidated into as few separate files as possible.
- c. PowerPoint (.ppt) presentations and any other supplemental material should be converted to .pdf format prior to submittal. 3D models can be submitted as 3D-pdf files.

3. File Make Up:

- a. All architectural, structural, mechanical, electrical and plumbing plans shall be in one file so that the user may scroll through the file and can view all pages without opening another file. For larger projects, separate .pdf files for architectural, mechanical, and electrical plans may be submitted.
- b. All sheets shall be properly oriented so that the top of the drawing appears at the top of the monitor.
- c. Plans which are only available in paper form should be scanned at a resolution of 300 dpi.

4. Means of submission:

- a. The Final Project Documents shall be submitted on USB drive, in addition to transmittal through Builder® PMIS
- b. All documents shall be submitted in Adobe® Acrobat® .pdf extension formats and comply with the following:
  - i. **Document Navigation:** A table of contents (TOC), hypertext links and bookmarks to provide navigation through PDF documents. Include a hypertext linked TOC and bookmarks in documents.
  - ii. **Initial View Settings:** Set the Navigation Tab to open to "Bookmarks Panel and Page." This sets the initial document view when the file is opened.
  - iii. **Page Numbering:** The page numbers for the document and the PDF file are to be the same, with the initial page of the document numbered as page one. There is an exception when a document is split because of its size and the second or subsequent file is numbered consecutively to that of the first or preceding file.

E. COMPENSATION

The Contractor will be paid on a lump sum basis in accordance with the "Payment" paragraph in this

Contract based on the percentage of completion of the Phases.

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The Contractor will be reimbursed for the following allowable expenses, per the "Reimbursable Expenses", paragraphs of this Agreement, up to the maximum amounts allowed:

1. Electronic or hard copy reproduction of materials in excess of the quantities specified herein.
2. Courier or delivery charges associated with delivery of shop drawings, documents or other materials applicable to the Work more than the quantities specified herein.
3. Meeting expenses specifically requested by the Project Officer more than the meetings specified herein. Expenses incurred in connection with travel to and from meetings will not be reimbursed.

**F. ADDITIONAL SERVICES**

The County may determine the need for additional work by the Contractor. Upon a request from the County, the Contractor shall prepare a cost proposal for any such Work based on the additional Scope of Services provided by the County. No Additional Services shall be performed unless a written amendment to this Agreement has been executed by both parties. Additional Services may include, but not limited to, the following:

1. Substantial change in the overall design, after written approval of any stage of the design or after work is under construction.
2. Drawing revisions for substitutions requested by CMAR Contractor and approved by the County Project Officer, submitted after approval of the construction documents.
3. The Contractor's participation in a Value Engineering Study over and above what is required.
4. Operations and Maintenance Training if required. The Contractor shall coordinate training provided by the CMAR Contractor for County and Operator maintenance staff, on the operation and maintenance of the building systems and associated equipment, as well as any outdoor equipment.
5. Soil borings in quantities greater than stated in the negotiated Contract.
6. Extension of construction beyond the duration shown in the Contract Documents resulting in the County requiring extended staff assignments for construction administration services, or requests from the County for a greater number of Periodic Site Visits or attending a greater number of Construction Progress Meetings than those listed in Task 7, items e. and f., respectively. The following construction delays are not a basis for a compensable extension of construction administration services: Force Majeure, weather conditions or suspension of construction by the County.
7. Provision of cost estimates, if the County is unable to award the CMAR contract by the SD Phase.
8. Additional Commission, Committee, and Community meetings.

**EXHIBIT B-1**

**CONCEPTUAL SITE  
DRAWINGS**

**(Document Issued Separately)**

**EXHIBIT B-2**

**CHANNEL IMPROVEMENT**  
**DRAWINGS**

**(Document Issued Separately)**

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**EXHIBIT B-3**

**CONCEPTUAL  
ARCHITECTURAL DRAWINGS**

**(Document Issued Separately)**

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**EXHIBIT B-4**

**CONCEPTUAL PROGRAM**

**(Documents to be Issued Separately)**

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**EXHIBIT B-5**

**CONCEPTUAL NARRATIVE**

**(Document Issued Separately)**

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**EXHIBIT B-6**

**ZONING REQUIREMENTS**

**(Document Issued Separately)**

**Contract No. 20-031-RFP  
ART Maintenance Facility Design**

**EXHIBIT B-7**

**REVIEW COMMENTS**

**(Document Issued Separately)**

**Contract No. 20-031-RFP  
ART Maintenance Facility Design**

**EXHIBIT B-8**

**PROJECT COST ESTIMATE**

**{Document Issued Separately}**

**Contract No. 20-031-RFP  
ART Maintenance Facility Design**

**EXHIBIT C**

**ALTA SURVEY**

**Document Issued Separately**

**Contract No. 20-031-RFP  
ART Maintenance Facility Design**

**EXHIBIT D**

**ENVIRONMENTAL ASSESSMENT-PHASES I, II**

**(Document Issued Separately)**

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**EXHIBIT F**  
**SUBMITTAL PRICE CLARIFICATIONS**

4. Price Proposal Clarifications:

- a) The general conditions (construction staff cost) budget above includes costs for project staff (accounting, cost control staff and purchasing) that will not be stationed on-site but will be supporting the project from the local office.
- b) To ensure delivery of the most economical GMP, all out of house consultants (3<sup>rd</sup> party consultants) costs including scheduling, job signage, progress photos, industrial hygienist, QC, safety, commissioning, permit expeditor, photography and other requirements not specifically identified in the price proposal will be procured in the direct work once the scope of the Work is definitized by the contract documents.
- c) This proposal assumes that the Construction Management Fee (Item "A") of this proposal is the Not At Risk Portion of the Construction Management Fee as defined in the RFP, and that as per the RFP, the balance includes the 40% that shall be earned as Award Fee and the remaining 10% is the Preconstruction services fee.
- d) The proposal is based on an estimated project budget of \$40 Million.
- e) This proposal is based on an estimated schedule duration of 22 months to Substantial Completion.