

ARLINGTON COUNTY, VIRGINIA

STANDARD FORM AGREEMENT No. 17-286-SS

THIS AGREEMENT ("Agreement") is made on the date of execution by the County between the COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA ("County") and MSC EQUIPMENT INC, a Virginia corporation licensed to do business in the Commonwealth of Virginia ("Contractor") (collectively the "parties").

1. The Contractor agrees to provide the following goods or services:

Provision of one (1) Aries PE3510 camera and one (1) TR3300 transporter, provision of service and parts for this equipment on as-needed basis for five years.

2. The Contractor understands and agrees that the County will have no obligation to the Contractor if no goods or services are required.

3. The Contractor's provision of these goods or services shall be subject to review and approval by the County's Project Officer ("Project Officer") assigned by the Director of the County's Department of Environmental Services .

4. The Contractor shall provide the goods or service designated in Paragraph 1 and any attachments beginning on June 1, 2017, and, unless terminated as provided below, shall continue May 31, 2022.

5. For services rendered or goods provided by the Contractor and accepted by the Project Officer, the County shall pay the Contractor in accordance with pricing set in Attachment B. The County shall not pay the Contractor any other sum under this Agreement. Payment to the Contractor shall be net thirty (30) days from receipt by the County of a correct invoice from the Contractor. An invoice's correctness will be determined by the Project Officer.

6. It is understood and agreed by the parties that the Contractor is an independent contractor separate from the County, and the County will not withhold from the compensation paid to the Contractor any federal or Virginia unemployment taxes, federal or Virginia income taxes, Social Security tax, or any other amounts for benefits to the Contractor or its agents or employees; further, the County will not provide any insurance coverage or other benefits normally provided by the County for its general employees to the Contractor.

7. The Contractor is obligated to take one of the two following actions within seven (7) days after receipt of amounts paid to the Contractor by the County for work performed by any subcontractor under this Agreement:

- 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 Agreement; 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 any subcontractor on all amounts owed by the Contractor to the subcontractor that remain unpaid after seven (7) days following receipt by the Contractor of payment from the County for work performed by the subcontractor under this Agreement, except for amounts withheld as allowed in section b., above. Unless otherwise provided under the terms of this Agreement, interest shall accrue at the rate of one percent (1%) per month.

The Contractor shall include in each of its subcontracts a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements as those contained in this Agreement with respect to each lower-tier subcontractor.

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

8. This Agreement may be terminated upon written notice to the Contractor fifteen (15) days before the date of termination by the Arlington County Purchasing Agent whenever the Purchasing Agent shall determine that such termination is in the County's best interest. The Contractor will be entitled to receive compensation for all Contract goods or services satisfactorily performed by the Contractor and accepted by the County prior to such termination notice.

9. The County shall have the right to terminate this Agreement if the Contractor fails to provide satisfactory goods or services, in the sole determination of the Project Officer. In the event of such termination, the County will give the Contractor written notice forty-eight (48) hours before the effective date and time of termination. Such notice shall be effective upon being mailed by the County to the Contractor. In the event this Agreement is terminated by the County due to the Contractor's failure to provide satisfactory goods or services, the Contractor shall be entitled to receive compensation only for goods or services satisfactorily performed and accepted by the Project Officer prior to the mailing by the County of such termination notice. Upon any termination pursuant to this section, the Contractor shall be liable to the County for all costs incurred by the County after the effective date of termination including costs required to be expended by the County to complete the Work covered by the Contract, including costs of delay in completing the Project or the cost of repairing or correcting any unsatisfactory or non-compliant work. Such costs shall be either deducted from any amount due the Contractor or shall be promptly paid by the Contractor to the County upon demand by the County.

10. It is mutually understood and agreed that time is of the essence and the Contractor agrees that failure to provide timely service under this Agreement shall render this Agreement null and void, and the County will be relieved of all obligations hereunder.

11. The Contractor shall provide the insurance coverages marked with an "X" below before the start of work and shall provide a certificate of insurance evidencing such coverages.

- Workers Compensation-Standard Virginia Workers Compensation Policy.
- Commercial General Liability (CGL)- \$500,000 combined single limit with \$1,000,000 aggregate coverage to include Personal Injury, Completed Operations, Contractual Liability and, where applicable to the services, Products and Independent Contractors. "The County Board of Arlington County, Virginia, and its officers, employees and agents" must be additional named insureds on the CGL policy.
- Automobile Bodily Injury and Property Damage Liability - \$500,000 Combined Single Limit (Owned, non-owned, or hired, as applicable)

OR

The Hold Harmless Agreement, attached, is made a part of this Agreement.

12. The Contractor agrees as follows:

- a) The Contractor will not discriminate against any employee or applicant for employment

because of race, religion, color, sex, sexual orientation, national origin, age, disability or any other basis prohibited by Virginia or federal law related to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth this nondiscrimination clause.

- b) The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that it is an Equal Opportunity Employer.
- c) Notices, advertisements and solicitations placed in accordance with federal law, rule, or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
- d) The Contractor shall include the provisions of the foregoing paragraphs a), b), and c) in every subcontract or Purchase Order in excess of \$10,000.00, so that the provisions will be binding upon each subcontractor and/or supplier.

13. The Contractor will comply with the provisions of the Americans with Disabilities Act of 1990, which prohibits discrimination against individuals with disabilities in employment and mandates their full participation in publicly- and privately-provided services and activities.

14. During the performance of this Agreement, the Contractor agrees to (i) provide a drug-free workplace for the Contractor's 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 marijuana or any other controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of 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 in excess of \$10,000.00, so that the provisions will be binding upon each subcontractor or supplier. For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with this Agreement.

15. In accordance with § 2.2-4311.1 of the Code of Virginia, the Contractor acknowledges that it does not, and shall not during the performance of this Agreement, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.

16. This Agreement is governed, in part, by all applicable provisions of the Arlington County Purchasing Resolution, which is hereby incorporated by reference into this Agreement. The time limit for decision by the County Manager in Contractual Disputes, as that term is used in the Purchasing Resolution, is fifteen (15) days.

17. This Agreement shall not be effective until a valid County Purchase Order is issued to the Contractor covering the amount of the Agreement.

18. All funds for payments by the County under this Agreement are subject to the availability of an annual appropriation for this purpose by the County Board of Arlington County. In the event of nonappropriation of funds by the County Board for Arlington County for the goods and/or services provided under this Agreement or substitutes for such goods or services which are as advanced or more advanced in their technology, the County will terminate the Agreement, without termination charge or other liability to the County, on the last day of the then-current fiscal year or when the appropriation made for the then-current year for the services covered by this Agreement is spent, whichever event occurs first. If funds are not appropriated at any time for the continuation of this Agreement, cancellation will be accepted by the Contractor on thirty (30) days prior written notice, but failure to give such notice shall be of no effect and the County shall not be obligated under this Agreement beyond the date of termination specified in the County's written notice.

19. This Agreement incorporates by reference Article 9 of the Arlington County, Virginia, Purchasing Resolution, as well as any Virginia or federal law related to ethics, conflicts of interest, or bribery, including, by way of illustration and not limitation, 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 (§ 18.2-438 et seq.), as amended.

20. No employee of the County shall be admitted to any share or part of this Agreement or to any benefit that may arise therefrom.

21. The County does not discriminate against faith-based organizations.

22. The Contractor and its employees, agents, and subcontractors, hereby agree to hold as confidential all County information obtained as a results of its Work under this Contract. Confidential information includes, but is not limited to, nonpublic personal information, personally identifiable health information, social security numbers, addresses, dates of birth, other contact information or medical information about a person, information pertaining to products, operations, systems, customers, prospective customers, techniques, intentions, processes, plans, expertise and any information entrusted to any affiliate of the parties. The Contractor shall take reasonable measures to ensure that all of its employees, agents, and subcontractors are informed of, and abide by, this requirement.

23. The Contractor agrees to comply with the provisions of Chapter 11 of the Arlington County Code covering business licenses insofar as those provisions may apply to this Agreement.

24. The Contractor shall be and remain authorized to transact business in the Commonwealth of Virginia during the term of this Agreement.

25. This Agreement shall be governed in all respects by the laws of the Commonwealth of Virginia and no other state, and the jurisdiction and venue for any litigation with respect thereto shall be in the Circuit Court for Arlington County, Virginia, and in no other court or jurisdiction.

26. The Contractor covenants for itself, its employees, and 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" for purposes of this section) from and against any and all claims made by third parties or by the County for any and all losses, damages, injuries, fines, penalties, costs (including court costs and attorney's fees), charges, liability, demands or exposure, however caused, resulting from, arising out of, or in any way connected with the Contractor's acts or omissions, including the acts or omissions of its employees and/or subcontractors, in performance or nonperformance of its work called for by the Contract Documents. This duty to save, defend, hold harmless and indemnify shall survive the termination of this Contract. If, after notice by the County, the Contractor fails or refuses to fulfill its obligations contained in this paragraph, the Contractor shall be liable for and reimburse the County for any and all expenses, including but not limited to, reasonable attorneys fees incurred and any settlements or payments made. The Contractor shall pay such expenses upon demand by the County and failure to do so may result in such amounts being withheld from any amounts due to Contractor under this Agreement.

27. Notwithstanding any other provision of this Agreement, nothing in this Agreement or any action taken by the County pursuant to this Agreement shall constitute or be construed as a waiver of either the sovereign or governmental immunity of the County. The parties intend for this provision to be read as broadly as possible.

28. All notices and other communications hereunder shall be deemed to have been given when made in writing and either (a) delivered in person, (b) delivered to an agent, such as an overnight or similar delivery service, or (c) deposited in the United States mail, postage prepaid, certified or registered, addressed as follows:

TO THE CONTRACTOR:

William Alley
MSC Equipment Inc
1077 Mechants Lane
Oilville, VA 23129

TO THE COUNTY:

Valerie Cooper

AND

Michael E. Bevis, Purchasing Agent
Arlington County, Virginia
2100 Clarendon Boulevard, Suite 500
Arlington, Virginia 22201

29. The Contractor agrees to retain all books, records and other documents related to this Contract for at least five (5) years after final payment. The County or its authorized agents shall have full access to and the right to examine any of the above documents during this period and during the Initial Contract Term and any Subsequent Contract Term. If the Contractor wishes to destroy or dispose of records (including confidential records to which the County does not have ready access) within five (5) years after final payment, the Contractor shall notify the County at least thirty (30) days prior to such disposal, and if the County objects, shall not dispose of the records.

30. This Agreement expressly incorporates any and all attachments and/or exhibits referenced hereinabove by reference. Where the terms and provisions of this Agreement vary from the terms and provisions of any attachments or exhibits, the terms and provisions of this Agreement shall take precedence.

31. The Contractor shall comply with all applicable legislative and regulatory requirements of privacy, security, and electronic transaction components of the Health Insurance portability and Accountability Act of 1996 ("HIPAA"). If applicable, the Contractor shall be designated a business associate pursuant and will be required to execute an Arlington County Business Associate Agreement pursuant to 45 C.F.R. §164.502(e) and §164.504(e).

32. The Contractor shall not assign, transfer, convey, sublet or otherwise dispose of this Agreement, or of any or all of its right, title or interest therein, without prior written consent of the County.

33. This Agreement shall not be amended except by written amendment executed by persons duly authorized to bind the Contractor and the County.

34. All remedies available to the County under this Agreement are cumulative and no remedy hereunder shall be exclusive of any other remedy available to the County at law or in equity.

35. The sections, paragraphs, sentences, clauses and phrases of this Agreement are severable, and if any phrase, clause, sentence, paragraph or section of this Agreement shall be declared invalid by a valid judgment or decree of a court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Agreement.

36. SOFTWARE LICENSE TERMS

Any software license to be executed by the County with the Contractor shall contain the following terms:

A. LICENSE GRANT

In connection with the transfer of possession of the software package provided pursuant to this Contract, the Contractor hereby grants to Arlington County a non-exclusive perpetual license to use the software program(s) (Software) and user manuals, technical manuals, and other information (Documentation) for the software package.

B. OWNERSHIP

The Contractor will provide the County with a software license, but title to the Software and Documentation, all copies thereof and all rights therein, including all rights in patents, copyrights, and trade secrets applicable thereto, shall remain vested in the Contractor, regardless of the form or media in or on which the original and other copies of the Software and Documentation may subsequently exist. Nothing contained herein shall be deemed to convey any title or ownership interest in the program module(s), Software or Documentation to the County.

The County agrees not to disclose, transfer, provide or otherwise make available in any form, except as otherwise provided in the Contract Documents, the software package or any portion thereof, to any person other than employees of the County without the prior written consent of the Contractor, and any such disclosure or transfer shall be consistent with the use in a single-user computer system.

The County agrees not to reverse compile or disassemble the Software.

The County agrees that it will not, in any form, export, re-export, resell, ship, or divert or cause to be exported, re-exported, resold, shipped, or diverted, directly or indirectly, the Software and Documentation or any direct product thereof without first obtaining the requisite license or approval from the Contractor.

C. COPYING RIGHTS

The County may make copies of the Software and Documentation, as required for backup or modification purposes in support of its use of the Software and Documentation, but the County must include existing copyright notices on any such copies, or modifications. Such notice(s) may appear in several forms, including machine-readable form, and the County agrees to reproduce such notices(s) in each form in which it appears, to the extent it is physically possible to do so.

D. TERM

The term of this license agreement is for as long as the County uses the Software for its intended purpose. This license may be terminated by the County without further liability upon thirty (30) days prior written notice. The Contractor may terminate this license if the County is in default of any of the terms and conditions of this Agreement, and termination is effective if the County fails to correct such default within thirty (30) days after written notice thereof by the Contractor.

E. SOFTWARE WARRANTY AND MAINTENANCE

The Contractor warrants that the software will conform to the requirements and specifications as set forth herein. The Contractor warrants the operation of all Software for the term of this Contract and will provide all revisions, updates, upgrades, and minor releases to both the

Software and supporting Documentation during that warranty term as long as this Contract remains effective.

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE AFFIXED THEIR SIGNATURES.

THE COUNTY BOARD OF ARLINGTON
COUNTY, VIRGINIA

MSC EQUIPMENT INC

SIGNED: _____

SIGNED: _____

PRINTED NAME: MICHAEL E. BEVIS

PRINTED NAME: _____

PRINTED TITLE: PURCHASING AGENT

PRINTED TITLE: _____

DATE: _____

DATE: _____

ARLINGTON COUNTY AGREEMENT 17-286-SS

ATTACHMENT B
SCOPE OF WORK AND PRICING SCHEDULE

I. PROVISION OF EQUIPMENT

QTY	DESCRIPTION	UNIT PRICE
1 (EA)	ARIES TR3300 PATHFINDER TRANSPORTER WITH CONTROLLER AND INTERCONNECT CABLE	\$12,980.00
1 (EA)	ARIES PE3510 PATHFINDER CAMERA, SELF CLEANING, PAN/TILT/ZOOM, HORIZONTAL NTSC, COMPONENTS KIT	\$20,550.00

DELIVERY TERMS: FOB Arlington County, VA. Shipping costs for initial equipment delivery is included in the line item pricing

SHIP TO: Attn: Mark Gundersen
Water, Sewer & Streets Bureau
Department of Environmental Services
Arlington County Government
4200 28th St S
Arlington, VA 22206

II. SERVICE AND REPAIR:

Contractor shall provide service and repair to the equipment listed above on as-needed basis over the term of the contract. At the time when repair is required, Arlington County Project Officer will contact the Contractor with description of the malfunction identified or maintenance service requested. Contractor shall provide a not-to exceed cost estimate for Project Officer review, including the breakdown of the estimated cost of labor, parts, and shipping. Upon acceptance of the quote, Project Officer will ship the equipment to MSC or Aries facility, as designated on the quote. Any increase in the repair cost must be approved in writing by the Project officer. The following price schedule will apply:

Aries Service rates:

Parts billed at current list price (Contractor shall make list price confirmation documentation available to Project Office upon request)

Labor billed at \$123.00 per hour

MSC Service rates:

Parts billed current list price (Contractor shall make list price confirmation documentation available to Project Office upon request)

Labor billed at \$90.00 per hour

No additional charges other than the categories listed above shall be billed (such as Shop charges, disposal charge, etc).

in default of any of the terms and conditions of this Agreement, and termination is effective if the County fails to correct such default within thirty (30) days after written notice thereof by the Contractor.

E. SOFTWARE WARRANTY AND MAINTENANCE

The Contractor warrants that the software will conform to the requirements and specifications as set forth herein. The Contractor warrants the operation of all Software for the term of this Contract and will provide all revisions, updates, upgrades, and minor releases to both the Software and supporting Documentation during that warranty term as long as this Contract remains effective.

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE AFFIXED THEIR SIGNATURES.

THE COUNTY BOARD OF ARLINGTON
COUNTY, VIRGINIA

MSC EQUIPMENT INC

SIGNED: Igor Schabanov
FOR

SIGNED: William L. Atten

PRINTED NAME: MICHAEL E. BEVIS

PRINTED NAME: William L. Atten

PRINTED TITLE: PURCHASING AGENT

PRINTED TITLE: President

DATE: 6/5/2017

DATE: 6/5/17