

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

NOTICE OF AWARD OF CONTRACT

TO: Midas Utilities, LLC 9200 Edgeworth Dr Capitol Heights, MD 20743	DATE ISSUED: June 6, 2018
	CURRENT CONTRACT NO: <u>18-104-ITB</u>
	CONTRACT TITLE: Sanitary sewer manhole structures and water vaults rehabilitation

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

Your firm is awarded the above referenced contract in accordance with the response submitted by you on February 14<sup>th</sup>, 2018. The contract term covered by this Notice of Award is effective immediately and expires on June 5, 2023.

The contract documents consist of the terms and conditions of Agreement No. 18-104-ITB, including any exhibits, attached or amendments thereto.

CONTRACT PRICING:

- 1) REFER TO CONTRACTOR'S BID (ATTACHED)
- 2) PRICING FIRM FOR CONTRACT TERM

ATTACHMENTS:

- 1) ARLINGTON COUNTY AGREEMENT 18-104-ITB

EMPLOYEES NOT TO BENEFIT:

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

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VENDOR CONTACT: <u>Matthew Moser</u>	TELEPHONE NO.: <u>301-474-4888</u>
	EMAIL ADDRESS: <u>Matt.moser@midascompanies.com</u>

COUNTY CONTACT: <u>Carla Alayon</u>	TELEPHONE NO.: <u>703-228-7730</u>
	EMAIL ADDRESS: <u>calayon@arlingtonva.us</u>

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Issued by:

Igor Scherbakov  
Procurement Officer

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

**AGREEMENT NO. 18-104-ITB**

THIS AGREEMENT is made, on the date of execution by the County, between Midas Utilities, LLC (“Contractor”) a Maryland Corporation with a place of business at 9200 Capitol Heights, MD 20743, authorized to do business in the Commonwealth of Virginia, and the County Board of Arlington County, Virginia (County). The County and the Contractor, for the consideration hereinafter specified, agree as follows:

**1. CONTRACT DOCUMENTS**

The Contract Documents consist of:

- Agreement No. **18-104-ITB** and all modifications properly incorporated into the Agreement
- Attachment A – The Drawings and Construction Notes of Arlington County Invitation to Bid No. **18-104-ITB**
- Attachment B – Arlington County Invitation to Bid No. **18-104-ITB**, including General Conditions, Special Conditions, and Supplementary Specifications
- Attachment C – The Arlington County Department of Environmental Services’ Standards and Specifications, Current Edition
- Attachment D – Unit price bid of the Contractor

Where the terms and provisions of this Agreement vary from the terms and provisions of the other Contract Documents, the terms and provisions of this Agreement shall prevail over the other Contract Documents.

Attachments A, B, and C 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 Attachments A, B, and C shall prevail over Attachment D.

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 of them has made any representation or promise with respect to the parties’ Agreement which is not contained in the Contract Documents. The Contract Documents may be referred to herein as the “Contract” or “Agreement.”

**2. PROJECT OFFICER**

The performance of the Contractor is subject to the general control, review and approval of the County Project Officer, who shall be appointed by the Director of the Arlington County Department of Environmental Services or designee. The Contractor shall not comply with requests and/or orders issued by other than the Project Officer of designee. However, it shall be the responsibility of the Contractor to manage the details of the execution and performance of its Work under this Agreement. Where the term "Engineer" is used in the Contract Documents, it shall be interpreted to mean "Project Officer".

### **3. SCOPE OF WORK**

The Contractor will furnish all labor, materials, and equipment for on-call rehabilitation of sanitary sewer manhole structures and water vaults rehabilitation as required in 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 obligation of the Contractor to obtain clarification from the Project Officer concerning any questions about or conflicts in the specifications, drawings and construction notes in a timely way so as not to delay the progress of the Work. The Contract Documents set forth the minimum Work estimated by the County and the Contractor to be necessary to complete the Work. 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. CONTRACT TERM**

Time is of the essence. Work under this Agreement will commence on the date of the execution of the Agreement by the County and must be completed no later than five (5) calendar years following the commencement date. No work will be deemed complete until it is accepted by the County's Project Officer.

### **5. CONTRACT AMOUNT**

The County will pay the Contractor according to the prices shown in Attachment D in accordance with the Progress Payments paragraph for the Contractor's completion of the Work described and required in the Contract Documents, subject to the terms and conditions of the Agreement and provided the Work is performed to the satisfaction of and is accepted by the Project Officer. The Contractor agrees that it shall complete the Work for the total Contract Amount specified in this section unless such amount is modified as provided in this Agreement. The Contract Amount includes all of the Contractor's costs and fees (profit) and is inclusive of all anticipated or known site conditions, anticipated or known materials, labor, and equipment costs, or any other costs which should reasonably have been expected by the Contract Documents.

### **6. PROGRESS PAYMENTS AND RETAINAGE**

The County will make monthly progress payments to the Contractor upon written application by the Contractor, on the basis of a written estimate of the work performed during the preceding calendar month as approved by the Project Officer. However, in making any progress payment, five percent (5%) of the amount of the estimate upon which the progress payment is based will be retained by the County until final completion and acceptance of all work covered by the Agreement.

### **7. PAYMENT TERMS**

Payment terms will be recorded by the County as net thirty (30) days. The County will pay the Contractor within thirty (30) calendar days after the date of receipt of a correct, as determined by the Project Officer, invoice approved by the Project Officer describing completed work which is reasonable and allocable to the Contract, or the date of receipt of the entire order, or the date of acceptance of the Work which meets the Contract requirements, whichever is later. Payments will be made by the County for goods or services furnished, delivered, inspected, and accepted upon receipt of invoices submitted on the date of delivery of service, subject to applicable payment terms. The number of the County Purchase Order pursuant to which authority services have been performed shall appear on all invoices. Invoices shall be submitted in duplicate. Unless otherwise specified herein, payment shall not be made prior to delivery and acceptance of the entire Work by the County.

#### **8. PAYMENT OF SUBCONTRACTORS**

The Contractor is obligated to take one of the two following actions within seven (7) calendar days after receipt of amounts paid to the Contractor 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 (7) calendar 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 shall accrue at the rate of one percent (1%) per month.

The Contractor shall 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 as those contained herein 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.

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

Upon completion of the Project and before Final Acceptance, the Contractor will submit to the Project Officer a signed copy of the Arlington County Release and Request for Final Payment form per the General Conditions.

#### **10. ADJUSTMENTS FOR CHANGE IN SCOPE**

The County may order changes in the Work within the general scope of the work consisting of additions, deletions or other revisions. No claim may be made by the Contractor that the scope of the project or of the Contractor's services has been changed requiring adjustments to the amount of compensation due the Contractor unless such adjustments have been made by a written amendment to the Contract signed by the County and the Contractor. If the Contractor believes that any particular work is not within the scope of the work or is a material change or otherwise will call for more compensation to the Contractor, the Contractor must notify the Project Officer immediately after the change or event occurs and within ten (10) calendar days thereafter must provide written notice to the Project Officer. The Contractor's notice must provide to the Project Officer the amount of additional compensation claimed, together with the basis therefor and documentation supporting the claimed amount. The Contractor will not be compensated for performing any work unless a proposal complying with this paragraph has been submitted in the time specified above and a written Contract amendment has been signed by the County and the Contractor and a County Purchase Order is issued covering the cost of the services to be provided pursuant to the amendment.

**11. ESTIMATED QUANTITIES/NON-EXCLUSIVITY OF CONTRACTOR**

During the Contract Term, the Contractor will furnish all of the goods or services described in the Contract Documents, if so requested by the County. The County will have no obligation to the Contractor if no, or fewer, items or services are required or requested by the County. Any quantities which are included in the Contract Documents are the present expectations of those who are planning for the County for the period of the Contract. The amount is only an estimate and the Contractor understands and agrees that the County is under no obligation to the Contractor to buy that amount, or any amount as a result of having provided this estimate or of having had any normal or otherwise measurable requirement in the past. The Contractor further understands that the County may require goods and/or services in excess of the estimated annual contract amount and that such excess shall not give rise to any claim for compensation other than at the unit prices and/or rates set forth in this Contract. Further, the items or services covered by this contract may be available or become available under other County contracts, and in analyzing its needs, the County may determine that it is in its best interest to procure the items or services through such another contract. Therefore, the County does not guarantee that the Contractor will be the exclusive provider of the goods or services covered by this contract.

**12. COUNTY PURCHASE ORDER REQUIREMENT**

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

**13. LIEN**

It is expressly agreed that after any payment has been made by the County either to the Contractor or to any subcontractor, laborer, or any other person 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.

**14. EMPLOYMENT DISCRIMINATION BY CONTRACTOR PROHIBITED**

During the performance of its Work pursuant to this Contract, the Contractor agrees as follows:

- a. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state 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 the provisions of this nondiscrimination clause.
- b. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor 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 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 both publicly and privately-provided services and activities.
- e. The Contractor will include the provisions of the foregoing paragraphs in every subcontract or purchase order of over \$10,000.00, so that the provisions will be binding upon each subcontractor or vendor.

**15. EMPLOYMENT OF UNAUTHORIZED ALIENS PROHIBITED**

In accordance with § 2.2-4311.1 of the Code of Virginia, as amended, the Contractor acknowledges that it does not, and shall not during the performance of this Contract for goods and/or services in the Commonwealth, knowingly employ an unauthorized alien as that term is defined in the federal Immigration Reform and Control Act of 1986.

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

During the performance of this Contract, 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 a controlled substance or marijuana 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 of over \$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, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a Contractor by Arlington County in accordance with the Arlington County Purchasing Resolution, the employees of which Contractor are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

**17. PROJECT STAFF**

The County will, throughout the Contract Term and any renewal term, have the right of reasonable rejection and approval of staff or subcontractors assigned to the project by the Contractor. If the County reasonably rejects staff or subcontractors, the Contractor must 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 employees shall be solely the responsibility of the Contractor.

**18. FAILURE TO DELIVER**

In case of failure to deliver goods or services in accordance with the Contract terms and conditions, the County, after due oral or written notice, may procure the goods or services from other sources and hold the Contractor responsible for any resulting additional purchase and administrative costs; provided, that if public necessity requires the use of materials or supplies not conforming to the specifications, they may be accepted and payment therefore shall be made at a reduction in price to be determined solely by the County. This remedy shall be in addition to any other remedies, which the County may have. The County shall be entitled to offset such costs against any sums owed by the County to the Contractor.

**19. UNSATISFACTORY WORK**

If any of the work done, or material, goods, or equipment provided, by the Contractor is unsatisfactory to the County, the Contractor shall, on being notified by 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. In the event the Contractor fails within fifteen (15) calendar days after receipt of written notice to remove improper or unsuitable work, material, goods, or equipment and replace it with suitable and satisfactory work, material, goods, or equipment, the County shall have the right, but not the obligation, to remove or replace the rejected work, material, goods, or equipment at the expense of the Contractor. This paragraph applies during the Contract term and during any warranty or guarantee period. At its discretion, the County shall be entitled to offset such expense against any sums owed by the County to the Contractor under this Contract. If the Project Officer and the County deem it expedient not to require correction or replacement of the work which has not been done in accordance with the Contract, an appropriate adjustment to the Contract Amount may be made therefor.

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

The County shall have the right to terminate this Contract prior to the end of the Contract Term if the Contractor is in breach or default or has failed to perform satisfactorily the Work required, as determined by the County in its discretion.

If the County determines that the Contractor has failed to perform satisfactorily, then the County will give the Contractor written notice of such failure(s) and the opportunity to cure such failure(s) at least fifteen (15) calendar days before termination of the Contract takes effect ("Cure Period"). If the Contractor fails to cure within the Cure Period or as otherwise specified in the notice, the Contract may be terminated for the Contractor's failure to provide satisfactory Contract performance. Upon such termination, the Contractor may apply for compensation for Contract services satisfactorily performed by the Contractor and allocable to the Contract and accepted by the County prior to such termination unless otherwise barred by the Contract ("Termination Costs"). In order to be considered, such request for Termination Costs, with all supporting documentation, must be submitted to the County Project Officer within fifteen (15) calendar days after the expiration of the Cure Period. The County may accept or reject, in whole or in part, the application for Termination Costs and notify the Contractor of same within a reasonable time thereafter.

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

Upon any termination pursuant to this section, the Contractor shall be liable to the County for all costs incurred by the County after the effective date of termination, including costs required to be expended by the County to complete the Work covered by the Contract, including costs of delay in completing the Work or the cost of repairing or correcting any unsatisfactory or non-compliant work performed or provided by the Contractor or its subcontractors. 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. Additionally, and notwithstanding any provision in this Contract to the contrary, the Contractor is liable to the County, and the County shall be entitled to recover, all damages to which the County is entitled by this Contract or by law, including and without limitation, direct damages, indirect damages,

consequential damages, delay damages, replacement costs, refund of all sums paid by the County to the Contractor under the Contract and all attorney fees and costs incurred by the County to enforce any provision of this Contract.

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

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

#### **21. TERMINATION FOR THE CONVENIENCE OF THE COUNTY**

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

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

#### **22. INDEMNIFICATION**

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 the 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 section, 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 Contract.



### **23. INTELLECTUAL PROPERTY INDEMNIFICATION**

The Contractor warrants and guarantees that no intellectual property rights (including, but not limited to, copyright, patent, mask rights and trademark) of third parties are infringed or in any manner involved in or related to the services provided hereunder.

The Contractor further covenants for itself, its employees, and subcontractors to save, defend, hold harmless, and indemnify the County, and all of its officers, officials, departments, agencies, agents, and employees from and against any and all claims, losses, damages, injuries, fines, penalties, costs (including court costs and attorney's fees), charges, liability, or exposure, however caused, for or on account of any trademark, copyright, patented or unpatented invention, process, or article manufactured or used in the performance of this Contract, including its use by the County. If the Contractor, or any of its employees or subcontractors, uses any design, device, work, or materials covered by letters patent or copyright, it is mutually agreed and understood, without exception, that the Contract Amount includes all royalties, licensing fees, and any other costs arising from the use of such design, device, work, or materials in any way involved with the Work. 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 section, 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 Contract.

### **24. COPYRIGHT**

The Contractor hereby irrevocably transfers, assigns, sets over and conveys to the County all right, title and interest, including the sole exclusive and complete copyright interest, in any and all copyrightable works created pursuant to this Contract. The Contractor further agrees to execute such documents as the County may request to effect such transfer or assignment.

Further, the Contractor agrees that the rights granted to the County by this paragraph are irrevocable. Notwithstanding anything else in this Contract, the Contractor's remedy in the event of termination of or dispute over the terms of this Contract shall not include any right to rescind, terminate or otherwise revoke or invalidate in any way the rights conferred pursuant to the provisions of this paragraph. Similarly, no termination of this Contract shall have the effect of rescinding, terminating or otherwise invalidating the rights acquired pursuant to the provisions of this "Copyright" paragraph.

The use of subcontractors or third parties in developing or creating input into any copyrightable materials produced as a part of this Contract is prohibited unless the County approves the use of such subcontractors or third parties in advance and such subcontractors or third parties agree to include the provisions of this paragraph as part of any contract they enter into with the Contractor for work related to work pursuant to this Contract.

### **25. OWNERSHIP AND RETURN OF RECORDS**

This Contract confers no ownership rights to the Contractor nor any rights or interests to use or to disclose the County's data or inputs.

The Contractor agrees that all drawings, specifications, blueprints, data, information, findings, memoranda, correspondence, documents or records of any type, whether written or oral or electronic, and all documents generated by the Contractor or its subcontractors as a result of the County's request for services under this Contract, are the exclusive property of the County ("Record" or "Records"), and all

such Records shall be provided to and/or returned to County upon completion, termination, or cancellation of this Contract. The Contractor shall not use, willingly allow, or cause such materials to be used for any other purpose other than performance of all obligations under the Contract without the written consent of the County. Additionally, the Contractor agrees that the Records are confidential records and neither the Records nor their contents shall be released by the Contractor, its subcontractors, or other third parties; nor shall their contents be disclosed to any person other than the Project Officer or his or her designee. The Contractor agrees that all oral or written inquiries from any person or entity regarding the status of any Record generated as a result of the existence of this Contract shall be referred to the Project Officer or his or her designee for response. At the County's request, the Contractor shall deliver all Records to the Project Officer, including "hard copies" of computer records, and at the County's request, shall destroy all computer records created as a result of the County's request for services pursuant to this Contract.

The Contractor agrees to include the provisions of this section as part of any contract or agreement the Contractor enters into with subcontractors or other third parties for work related to work pursuant to this Contract.

No termination of this Contract shall have the effect of rescinding, terminating or otherwise invalidating this section of the Contract.

#### **26. CONFIDENTIAL INFORMATION**

The Contractor, and its employees, agents, and subcontractors, hereby agree to hold as confidential all County information obtained as a result 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.

#### **27. ETHICS IN PUBLIC CONTRACTING**

This Contract incorporates by reference Article 9 of the Arlington County Purchasing Resolution, as well as any state 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, as amended (§ 18.2-438 et seq.). The Contractor certifies that its offer was made without collusion or fraud and that it has not offered or received any kickbacks or inducements from any other bidder, supplier, manufacturer, or subcontractor and that it has not conferred on any public employee having official responsibility for this procurement any payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised unless consideration of substantially equal or greater value was exchanged.

#### **28. COUNTY EMPLOYEES**

No employee of Arlington County, Virginia, shall be admitted to any share in any part of this Contract or to any benefit that may arise therefrom which is not available to the general public.

### **29. FORCE MAJEURE**

The Contractor shall not be held responsible for failure to perform the duties and responsibilities imposed by this Contract if such failure is due to fires, riots, rebellions, natural disasters, wars, acts of terrorism, or an act of God beyond the control of the Contractor and outside and beyond the scope of the Contractor's then-current, by industry standards, disaster plan that make performance impossible or illegal, unless otherwise specified in the Contract.

The County shall not be held responsible for failure to perform its duties and responsibilities imposed by the Contract if such failure is due to fires, riots, rebellions, natural disasters, wars, acts of terrorism, or an act of God beyond the control of the County that make performance impossible or illegal, unless otherwise specified in the Contract.

### **30. AUTHORITY TO TRANSACT BUSINESS**

The Contractor shall, pursuant to Code of Virginia §§ 2.2-4311.2, be and remain authorized to transact business in the Commonwealth of Virginia during the Initial Term and any Subsequent Contract Term(s) of this Contract. A contract entered into by a Contractor in violation of this requirement is voidable, without cost or expense, at the sole option of the County.

### **31. RELATION TO THE COUNTY**

The Contractor is an independent Contractor, and neither the Contractor nor its employees or subcontractors will, under any circumstances, be considered employees, servants or agents of the County. The County will not be legally responsible for any negligence or other wrongdoing by the Contractor, 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, Social Security tax, or any other amounts for benefits to the Contractor. Furthermore, the County will not provide to the Contractor any insurance coverage or other benefits, including workers' compensation, normally provided by the County for its employees.

### **32. ANTITRUST**

By entering into this Contract, the Contractor conveys, sells, assigns and transfers to the County all rights, title, and interest in and to all causes of action the Contractor may now have or hereafter acquire under the antitrust laws of the United States or the Commonwealth of Virginia, relating to the goods or services purchased or acquired by the County under this Contract.

### **33. REPORT STANDARDS**

Reports or written material prepared by the Contractor in response to the requirements of this Contract or a request of the Project Officer shall, unless otherwise provided for in the Contract, meet standards of professional writing established for the type of report or written material provided, shall be thoroughly researched for accuracy of content, shall be grammatically correct and not contain spelling errors, shall be submitted in a format approved in advance by the Project Officer, and shall be submitted for advance review and comment by the Project Officer. The cost of correcting grammatical errors, correcting report data, or other revisions required to bring the report or written material into compliance with these requirements shall be borne by the Contractor.

When submitting documents to the County, the Contractor shall comply with the following guidelines:

- All submittals and copies shall be printed on **at least thirty percent (30%) recycled-content** and/or tree-free paper;

- All copies shall be double-sided;
- Report covers or binders shall be recyclable, made from recycled materials, and/or easily removable to allow for recycling of report pages (reports with glued bindings that meet all other requirements are acceptable);
- The use of plastic covers or dividers should be avoided; and
- Unnecessary attachments or documents not specifically asked for should not be submitted, and superfluous use of paper (e.g. separate title sheets or chapter dividers) should be avoided.

#### **34. AUDIT**

The Contractor must retain all books, records and other documents related to this Contract for at least five years 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, the Contractor must give the County at least 30 days' notice and must not dispose of the documents if the County objects.

#### **35. ASSIGNMENT**

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

#### **36. AMENDMENTS**

Unless otherwise specified herein, this Contract shall not be modified except by written amendment executed by persons duly authorized to bind the Contractor and the County.

#### **37. ARLINGTON COUNTY PURCHASING RESOLUTION AND COUNTY POLICIES**

Notwithstanding any provision to the contrary herein, no provision of the Arlington County Purchasing Resolution or any applicable County policy is waived in whole or in part.

#### **38. DISPUTE RESOLUTION**

All disputes arising under this Agreement, or its interpretation, whether involving law or fact, extra work or extra compensation or time, and all claims for alleged breach of Contract shall be submitted in writing to the Project Officer for decision at the time of the occurrence or beginning of the work upon which the claim is based, whichever occurs first. Any such claims shall state the facts surrounding it in sufficient detail to identify it together with its character and scope. 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 sixty (60) days after final payment. The time limit for final written decision by the County Manager in the event of a contractual dispute, as that term is defined in the Arlington County Purchasing Resolution, is fifteen (15) days. Procedures for considering contractual claims, disputes, administrative appeals, and protests are contained in the Purchasing Resolution, which is incorporated herein by reference. A copy of the Arlington County Purchasing Resolution is available upon request from the Office of the Purchasing Agent. The Contractor shall not cause a delay in the Work pending any decision of the Project Officer, County Manager, County Board, or a court of law.

**39. APPLICABLE LAW, FORUM, VENUE, AND JURISDICTION**

This Contract and the work performed hereunder shall be governed in all respects by the laws of the Commonwealth of Virginia, and the jurisdiction, forum, and venue for any litigation with respect hereto shall be in the Circuit Court for Arlington County, Virginia, and in no other court. In performing the Work under this Contract, the Contractor shall comply with applicable federal, state, and local laws, ordinances and regulations.

**40. ARBITRATION**

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

**41. NONEXCLUSIVITY OF REMEDIES**

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

**42. NO WAIVER**

The failure of either party to exercise in any respect a right provided for in this Contract shall not be deemed to be a subsequent waiver of the same right or any other right.

**43. SEVERABILITY**

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

**44. NO WAIVER OF SOVEREIGN IMMUNITY**

Notwithstanding any other provision of this Contract, nothing in this Contract or any action taken by the County pursuant to this Contract 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.

**45. SURVIVAL OF TERMS**

In addition to any numbered section in this Agreement which specifically state that the term or paragraph survives the expiration or termination of this Contract, the following sections if included in this Contract also survive: INDEMNIFICATION; RELATION TO THE COUNTY; OWNERSHIP AND RETURN OF RECORDS; AUDIT; COPYRIGHT; INTELLECTUAL PROPERTY INDEMNIFICATION; WARRANTY; AND CONFIDENTIAL INFORMATION.

**46. HEADINGS**

The section headings in this Contract are inserted only for convenience and are not to be construed as part of this Contract or a limitation on the scope of the particular section to which the heading precedes.

**47. AMBIGUITIES**

Each party and its counsel have participated fully in the review and revision of this Agreement. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in interpreting this Agreement. The language in this Agreement shall be interpreted as to its fair meaning and not strictly for or against any party.

**48. NOTICES**

Unless otherwise provided herein, all legal notices and other communications required by this Contract shall be deemed to have been given when made in writing and either (a) delivered in person, (b) delivered by 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:**  
Matthew Moser, CEO  
Midas Utilities, LLC  
9200 Edgeworth Dr  
Capitol Heights, MD 20743

**TO THE COUNTY:**  
Michael E. Bevis, Purchasing Agent  
Arlington County, Virginia  
2100 Clarendon Boulevard, Suite 500  
Arlington, Virginia 22201

**49. NON-DISCRIMINATION NOTICE**

Arlington County does not discriminate against faith-based organizations.

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

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

MIDAS UTILITIES, LLC

AUTHORIZED  
SIGNATURE: 

AUTHORIZED  
SIGNATURE: 

FOR

NAME AND  
TITLE: MICHAEL E. BEVIS  
PURCHASING AGENT

NAME AND  
TITLE: Matthew Moser - Chief Operating Officer

DATE: 06/05/2018

DATE: May 29, 2018

**Midas Trenchless Solutions MH Rehab Experience Record**

Contract Name and Number	Number of MH's	VF of MH Rehab (Cementitious, Epoxy and Grouting)	Dollar Amount of Work	Start Date	Completion Date	Percentage of Work Performed By Own Forces	Client	Client Contact Information	Owner		
PM5218A11 Sligo Creek IDIQ	40	400	\$150,000.00	8/1/15	10/26/15	100%	AM-Liner East 9217 Hampton Overlook Capitol Heights, MD 20743	Sean Merryman 540-336-3912	WSSC		
PM5297A11 Seneca Creek IDIQ	30	300	\$100,000.00	4/1/16	6/1/16						
PM5332A12 Little Falls IDIQ	20	200	\$75,000.00	1/9/15	2/25/16						
PM5180A11 Roads IDIQ	30	300	\$120,000.00	4/27/12	6/20/12						
PM5239A11 Lateral IDIQ	5	50	\$20,000.00	3/16/12	3/30/12		SAK 1405 Benson Court Suite C Arbutus, Maryland 21227	Bob Quackenbush 443-569-1713			
PM5295A11 Western Branch IDIQ	200	2,000	\$1,600,000.00	9/29/15	7/31/16						
PM5218A11 Sligo Creek IDIQ	20	200	\$70,000.00	11/1/15	1/6/16		Anchor 2250 South Dakota Ave., NE Washington, DC 20018	Joe McElwee 202-529-3144			
CI60003A11 Rock Creek IDIQ	15	150	\$50,000.00	7/10/13	9/15/13						
CI6000A11 Paint Branch IDIQ	100	1,000	\$500,000.00	8/13/14	1/30/15						
PM5304A11 Horsepen IDIQ	20	200	\$65,000.00	11/1/14	1/15/15						
PM5337A12 Watts Branch IDIQ	10	100	\$40,000.00	7/6/15	8/30/15						
CI6000A11 Paint Branch IDIQ	70	700	\$280,000.00	3/19/15	9/30/15					IPR 10555 Tucker Street Beltsville, MD 20705	Kevin Toomey 301-717-7332
PM5385A12 Cabin John IDIQ	50	500	\$150,000.00	7/24/14	11/15/14						
PM5295A11 Western Branch IDIQ	20	200	\$70,000.00	9/26/15	7/25/16						
CI5192A11 Oxon Run IDIQ	10	100	\$35,000.00	3/1/16	5/15/16						
PM5337A11 Piscataway IDIQ	10	100	\$35,000.00	7/6/15	12/8/16						
PM5183A11 Roads IDIQ	30	300	\$110,000.00	10/5/12	2/26/16	City of Alexandria 301 King Street Alexandria, VA 22314	Mike Gales 410-952-7686	City of Alexandria			
Holmes Run MH Rehabilitation - 08-109	1100	11,000	\$2,787,000.00	4/25/15	12/30/16				80%		
SC-920 Gwynn Falls	173	1,780	\$1,000,000.00	7/1/15	5/1/2016	100%	SAK 1405 Benson Court Suite C Arbutus, Maryland 21227	Matt Rhoads 443-205-3346	City of Baltimore		
SC-906 West Baltimore	171	1,200	\$850,000.00	8/1/15	5/1/2016						
P0191- One Year Countywide Contract for Rehabilitation of Manholes Inflow and Infiltration Repair	235	1,000	\$950,272.00	3/13/17	3/13/2018	90%	Miami-Dade County, FL	Dalia Abrahante 786-552-4421	Miami-Dade County		
<b>Total</b>	<b>2,359</b>	<b>21,780</b>	<b>\$9,057,272.00</b>								

General Contractor

Subcontractor

ARLINGTON COUNTY, VIRGINIA  
OFFICE OF THE PURCHASING AGENT

INVITATION TO BID NO. 18-104-ITB

B I D F O R M

**SUBMIT TWO (2) FULLY-COMPLETED AND SIGNED BID FORMS TO THE OFFICE OF THE BID CLERK, SUITE 511, 2100 CLARENDON BLVD., ARLINGTON, VIRGINIA 22201 (ONE FORM SHALL CONTAIN AN ORIGINAL LONGHAND SIGNATURE; THE OTHER SHALL BE A PHOTOCOPY OF THE SIGNED ORIGINAL)**

BIDS WILL BE OPENED AT 2:00 P.M., ON FEBRUARY 14TH, 2018

FOR PROVIDING REHABILITATION OF SANITARY SEWER MANHOLE STRUCTURES – PRIMARILY, CEMENTITIOUS & EPOXY RESIN REHABILITATION PROCESS WITH PICTURES SUPPORTING THE PRE- AND POST-CONDITION OF SANITARY SEWER MANHOLES; AND REHABILITATION OF WATER VAULTS INCLUDING CLEANING, PREPARING AND COATING ALL IN VAULT AND EXPOSED PIPELINE APPURTENANCES AND ASSOCIATE ASSEMBLY COMPONENTS. THE CONTRACTOR IS RESPONSIBLE FOR PROVIDING ALL LABOR, SUPERVISION, MATERIALS, EQUIPMENT, TOOLS, TRANSPORTATION, AND SUPPLIES REQUIRED TO COMPLETE THE WORK, FOR UP TO A FIVE-YEAR (5) PERIOD.

THE UNDERSIGNED UNDERSTANDS AND ACKNOWLEDGES THE FOLLOWING:

THE OFFICIAL, TRUE, AND COMPLETE COPY OF THE SOLICITATION DOCUMENTS, WHICH SHALL INCLUDE ALL ADDENDUMS THERETO, IS THE ELECTRONIC COPY OF THE SOLICITATION DOCUMENTS PROVIDED AT THE COUNTY'S WEBSITE ([HTTP://BUDGET.ARLINGTONVA.US/PURCHASING](http://budget.arlingtonva.us/purchasing)).

EACH BIDDER IS RESPONSIBLE FOR DETERMINING THE ACCURACY AND COMPLETENESS OF ALL SOLICITATION DOCUMENTS THEY RECEIVE, INCLUDING DOCUMENTS OBTAINED FROM THE COUNTY AND DOCUMENTS OBTAINED FROM ALL OTHER SOURCES.

The undersigned certifies that (Bidder Name) Midas Utilities, LLC is currently registered with the Virginia State Board of Contractors as required by the Code of Virginia. Certificate Number 2705156401 for a Class A License was issued on the 31st day of March, 2017. The undersigned further certifies that the registration fee and all renewal fees required under law have been paid. The Contractor agrees to furnish all necessary labor, equipment, materials, and all things necessary to perform the work as set forth in accordance with the plans and specifications at the following prices: (All prices include provision and installation).

The undersigned acknowledges receipt of the following Addendums:

ADDENDUM A	DATE: <u>2/9/18</u>	INITIAL: <u>MM</u>
ADDENDUM B	DATE: _____	INITIAL: _____
ADDENDUM C	DATE: _____	INITIAL: _____



Item Number	Description	Unit Measurement	Quantity	Unit Bid Price	Extended Price
A - Sanitary Sewer Manhole Rehabilitation					
MHR-1	Sanitary Sewer Manhole Inspection	V.F.	1100	\$10.00	\$11,000.00
MHR-2	Replace/Reset Manhole Frame and Cover-24"(Paved including VDOT BM-25.0 & VDOT SM-9.5A)	EA	40	\$1,600.00	\$64,000.00
MHR-3	Replace/Reset Manhole Frame and Cover-36" (Paved including VDOT BM-25.0 & SM-9.5A)	EA	5	\$1,900.00	\$9,500.00
MHR-4	Replace/Reset Manhole Frame and Cover-24" (Unpaved including fill dirt, top soil, & grass seed)	EA	10	\$1,000.00	\$10,000.00
MHR-5	Replace/Reset Manhole Frame and Cover- 36" (Unpaved including fill dirt, top soil & grass seed)	EA	5	\$1,200.00	\$6,000.00
MHR-6	Chemical Grouting Sealing- Brick Manhole	GAL	180	\$40.00	\$7,200.00
MHR-7	Chemical Grout Sealing - Precast Manhole Base	GAL	280	\$40.00	\$11,200.00
MHR-8	Chemical Grout Sealing- Precast joint	GAL	180	\$40.00	\$7,200.00
MHR-9	Chimney Seal	EA	120	\$450.00	\$54,000.00
MHR-10	Replace manhole Bolts	EA	20	\$10.00	\$200.00
MHR-11	Plug/Cap Inactive Pipe Connection	EA	5	\$150.00	\$750.00
MHR-12	Repair/Modify Manhole Bench	EA	105	\$350.00	\$36,750.00
MHR-13	Cementitious Reconstruction for 4' Inside Diameter Manhole, 1/2" thick	V.F.	660	\$120.00	\$79,200.00
MHR-14	Additional 1/4" Thick Cementitious Reconstruction for 4' Inside Dia. Manhole	V.F.	165	\$43.00	\$7,095.00
MHR-15	Cementitious Reconstruction for 5' Inside Diameter Manhole, 1/2" thick	V.F.	275	\$145.00	\$39,875.00
MHR-16	Additional 1/4" Thick Cementitious Reconstruction for 5' Inside Dia. Manhole	V.F.	65	\$50.00	\$3,250.00
MHR-17	Cementitious Reconstruction for 6' Inside Diameter Manhole, 1/2" thick	V.F.	165	\$160.00	\$26,400.00
MHR-18	CIP Bag Liner for 4' Inside Dia. Manhole, 150 mils thick	V.F.	50	\$550.00	\$27,500.00
MHR-19	Additional 50 mils thick CIP Bag Liner for 4' Inside Dia. Manhole	V.F.	25	\$600.00	\$15,000.00
MHR-20	CIP Bag Liner for 5' Inside Dia. Manhole, 150 mils thick	V.F.	50	\$600.00	\$30,000.00
MHR-21	Additional 50 mils thick CIP Bag Liner for 5' Inside Dia. Manhole	V.F.	25	\$650.00	\$16,250.00
MHR-22	CIP Bag Liner for 6' Inside Dia. Manhole, 150 mils thick	V.F.	50	\$650.00	\$32,500.00
MHR-23	Additional 50 mils thick CIP Bag Liner for 6' Inside Dia. Manhole	V.F.	25	\$700.00	\$17,500.00
MHR-24	Spray-on Epoxy Liner for 4' Inside Dia. Manhole, 40 mils thick	V.F.	200	\$205.00	\$41,000.00
MHR-25	Additional 25 mils thick Spray-on Epoxy Liner for 4' Inside Dia. Manhole	V.F.	50	\$62.00	\$3,100.00
BIDDER COMPANY NAME <u>Midas Utilities, LLC</u>			ITB No. 18-104-ITB	Bid Form Page 2	

MHR-26	Spray-on Epoxy Liner for 5' Inside Dia. Manhole, 40 mils thick	V.F.	100	\$255.00	\$25,500.00
MHR-27	Additional 25 mils thick Spray-on Epoxy Liner for 5' Inside Dia. Manhole	V.F.	25	\$72.00	\$1,800.00
MHR-28	Spray-on Epoxy Liner for 6' Inside Dia. Manhole, 40 mils thick	V.F.	100	\$275.00	\$27,500.00
MHR-29	Additional 25 mils thick Spray-on Epoxy Liner for 6' Inside Dia. Manhole	V.F.	25	\$84.00	\$2,100.00
MHR-30	Spray-on Polyurethane Liner for 4' Inside Diameter Manhole, 150 mils thick	V.F.	20	\$210.00	\$4,200.00
MHR-31	Additional 25 mils thick Spray-on Polyurethane liner for 4' Inside Dia. Manhole	V.F.	5	\$45.00	\$225.00
MHR-32	Spray-on Polyurethane Liner for 5' Inside Diameter Manhole, 150 mils thick	V.F.	20	\$255.00	\$5,100.00
MHR-33	Additional 25 mils thick Spray-on Polyurethane liner for 5' Inside Dia. Manhole	V.F.	5	\$60.00	\$300.00
MHR-34	Spray-on Polyurethane Liner for 6' Inside Diameter Manhole, 150 mils thick	V.F.	20	\$275.00	\$5,500.00
MHR-35	Additional 25 mils thick Spray-on Polyurethane liner for 6' Inside Dia. Manhole	V.F.	5	\$80.00	\$400.00

SECTION A SUBTOTAL

\$629,095.00

B – Water Vault Rehabilitation

WV-1	Water Vault Inspection	EA	10	\$220.00	\$2,200.00
WV-2	Water pipeline, Appurtenances and Associated Assembly Components Surface Inspection & preparation	EA	10	\$200.00	\$2,000.00
WV-3	Foreman w/ Pick up Truck	HR	320	\$65.00	\$20,800.00
WV-4	Labor Unskilled	HR	960	\$38.00	\$36,480.00
WV-5	Labor Skilled	HR	320	\$42.00	\$13,440.00
WV-6	Black Paint	GAL	40	\$60.00	\$2,400.00

SECTION B SUBTOTAL

\$77,320.00

C – Traffic Maintenance

ALL	Maintenance of Traffic Arterials Only (Requires MOT Plan)	DAY	1	\$2,900.00	\$2,900.00
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SECTION C SUBTOTAL

\$2,900.00

GRAND TOTAL BID PRICE (SUBTOTALS A+B+C):

\$709,315.00

BIDDER COMPANY NAME Midas Utilities, LLC

ITB No. 18-104-ITB

Bid Form Page 3

THE UNDERSIGNED (INITIAL ONE ENTRY) ELECTS\_\_\_\_, DOES NOT ELECT\_\_\_\_, TO USE THE ESCROW PROCEDURES DESCRIBED IN SECTION 11-56.1 OF THE VIRGINIA PUBLIC PROCUREMENT ACT.

TRADE SECRETS OR PROPRIETARY INFORMATION:

Trade secrets or proprietary information submitted by an bidder in connection with a procurement transaction shall not be subject to public disclosure under the Virginia Freedom of Information Act. However, Section 4-111 of the Arlington County Purchasing Resolution states that the bidder must invoke the protection of this section prior to or upon submission of the data or other materials, and must identify the data or other materials to be protected and state the reasons why protection is necessary.

Please mark one:

- No, the bid I have submitted does not contain any trade secrets and/or proprietary information.
- Yes, the bid I have submitted does contain trade secrets and/or proprietary information.

If Yes, you must clearly identify below the exact data or other materials to be protected and list all applicable page numbers of the bid containing such data or materials:

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State the specific reason(s) why protection is necessary:

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If you fail to identify the data or other materials to be protected and state the reasons why protection is necessary in the space provided above, you will not have invoked the protection of Section 4-111 of the Purchasing Resolution. Accordingly, effective upon the award of contract, the bid will be open for public inspection consistent with applicable law.

CONTRACTOR MINIMUM QUALIFICATIONS QUESTIONNAIRE:

1. Has the Contractor been in the sanitary sewer manhole structures inspection/rehabilitation business for at least five (5) years?  YES  NO

On a separate sheet, provide the following information for the three (3) largest manhole inspection/rehabilitation projects the Contractor performed in the last 5 years.

Provide the following information for each project:

- Project Name
- Project description and Contractor scope of work
- Utilities owner
- Utilities owner phone number
- Project manager
- Name, telephone number and email address of project manager
- Project start date and scheduled completion date
- Project start date and actual completion date
- Initial project contract cost and final project cost

2. Has the Contractor been in the water vault inspection/rehabilitation business for at least five (5) years?  YES  NO

On a separate sheet, provide the following information for the three (3) largest water vault inspection/ rehabilitation projects the Contractor performed in the last 5 years.

Provide the following information for each project:

- Project Name
- Project description and Contractor scope of work
- Utilities owner
- Utilities owner phone number
- Project manager
- Name, telephone number and email address of project manager
- Project start date and scheduled completion date
- Project start date and actual completion date
- Initial project contract cost and final project cost

3. In the last five (5) years, has the Contractor completed projects in the amount of \$200,000.00/year?  YES  NO

[This space intentionally left blank]

CERTIFICATION OF NON-COLLUSION: The undersigned certifies that this bid is not the result of, or affected by, any act of collusion with another person (under Virginia Code Section 59.1-68.6 et seq.), engaged in the same line of business or commerce; or any act of fraud punishable under Article 1.1 of the Virginia Governmental Frauds Act (Va. Code §18.2-498.1 et seq.).

CERTIFICATION OF UNDERSTANDING OF THE CONTRACT DOCUMENTS: The undersigned affirms that he has carefully examined all of the Solicitation Documents and that there are no erroneous, contradictory, incomplete or infeasible requirements or directions apparent in the Bid. The undersigned agrees to waive any claims in any way associated with any such erroneous, contradictory, incomplete or infeasible requirements or directions unless such requirements could only reasonably be uncovered during the course of the Work.

**CONTACT PERSON AND MAILING ADDRESS FOR DELIVERY OF NOTICES**

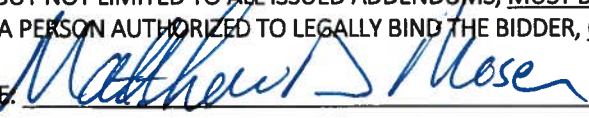
Provide the name and address of the person designated by the Bidder to receive notices and other communications (Refer to section headed Notices in the Contract Terms and Conditions of this solicitation for further details):

NAME: Midas Utilities, LLC

ADDRESS: 9200 Edgeworth Dr  
Capitol Heights, MD 20743

E-MAIL: matt.moser@midascompanies.com

**THE PROPER LEGAL NAME OF THE FIRM OR ENTITY SUBMITTING THIS BID MUST BE WRITTEN IN THE SPACE PROVIDED BELOW. THIS BID FORM, AND ALL OTHER DOCUMENTS REQUIRED BY THE INVITATION TO BID TO BE SUBMITTED WITH THIS BID FORM, INCLUDING, BUT NOT LIMITED TO ALL ISSUED ADDENDUMS, MUST BE FULLY AND ACCURATELY COMPLETED AND SIGNED BELOW BY A PERSON AUTHORIZED TO LEGALLY BIND THE BIDDER, OR THE BID MAY BE REJECTED:**

AUTHORIZED SIGNATURE: 

PRINT NAME AND TITLE: Matthew Moser- Chief Operating Officer

[This space intentionally left blank]

INDICATE THE NAME AND CONTACT INFORMATION OF THE PERSON WHO CAN RESPOND AUTHORITATIVELY TO ANY QUESTIONS REGARDING THIS BID (I.E. PROJECT MANAGER):

NAME (PRINTED): Matthew Moser TEL. NO.: 301-474-4888  
 E-MAIL ADDRESS: matt.moser@midascompanies.com FAX. NO.: 301-850-2762

SUBMITTED BY: (LEGAL NAME OF FIRM)		Midas Utilities, LLC	
ADDRESS: 9200 Edgeworth Dr			
CITY/STATE/ZIP: Capitol Heights, MD 20743			
TELEPHONE NO:	301-474-4888	FACSIMILE NO.:	
VA. CONTRACTOR LICENSE #: 2705156401			
THIS FIRM IS A: • INSERT NAME OF STATE <u>Maryland</u> ___ CORPORATION, ___ GENERAL PARTNERSHIP, <input checked="" type="checkbox"/> LIMITED PARTNERSHIP, ___ UNINCORPORATED ASSOCIATION, ___ LIMITED LIABILITY COMPANY, ___ SOLE PROPRIETORSHIP			
IS FIRM AUTHORIZED TO TRANSACT BUSINESS IN THE COMMONWEALTH OF VA?			Yes
IDENTIFICATION NO. ISSUED TO THE FIRM BY THE SCC:		F1988981	
ANY BIDDER EXEMPT FROM SCC AUTHORIZATION REQUIREMENT SHALL INCLUDE A STATEMENT WITH ITS BID WHY THEY ARE NOT REQUIRED TO BE SO AUTHORIZED			
IS YOUR FIRM CURRENTLY DEBARRED FROM SUBMITTING BIDS TO ARLINGTON COUNTY, VIRGINIA, OR ANY OTHER STATE OR POLITICAL SUBDIVISION?			No
ENTITY'S DUN & BRADSTREET D-U-N-S NUMBER: <i>(if available)</i>		051752483	
BIDDER STATUS:	MINORITY OWNED:	WOMAN OWNED:	NEITHER: <input checked="" type="checkbox"/>

**INSURANCE CHECKLIST**

CERTIFICATE OF INSURANCE MUST SHOW ALL COVERAGE AND ENDORSEMENTS MARKED "X".

**COVERAGES REQUIRED**

**COVERAGE MINIMUM(S)**

- 1. Workers' Compensation ..... Statutory limits of Virginia
- 2. Employer's Liability ..... \$100,000 accident, \$100,000 disease,  
\$500,000 disease policy limit
- 3. Commercial General Liability ..... \$1,000,000 CSL BI/PD each occurrence,  
\$2 Million annual aggregate
- 4. Premises/Operations ..... \$500,000 CSL BI/PD each occurrence,  
\$1 Million annual aggregate
- 5. Automobile Liability ..... \$1 Million BI/PD each accident, Uninsured Motorist
- 6. Owned/Hired/Non-Owned Vehicles ..... \$1 Million BI/PD each accident,  
Uninsured Motorist
- 7. Independent Contractors ..... \$500,000 CSL BI/PD each occurrence,  
\$1 Million annual aggregate
- 8. Products Liability ..... \$500,000 CSL BI/PD each occurrence,  
\$1 Million annual aggregate
- 9. Completed Operations ..... \$500,000 CSL BI/PD each occurrence,  
\$1 Million annual aggregate
- 10. Contractual Liability (Must be shown on Certificate) ..... \$500,000 CSL BI/PD  
each occurrence, \$1 Million annual aggregate
- 11. Personal and Advertising Injury Liability. .... \$1 Million each offense,  
\$1 Million annual aggregate
- 12. Umbrella Liability \$1 Million Bodily Injury, Property Damage and Personal Injury
- 13. Per Project Aggregate
- 14. Professional Liability
  - a. Architects and Engineers.....\$1 Million per occurrence/claim
  - b. Asbestos Removal Liability.....\$2 Million per occurrence/claim
  - c. Medical Malpractice.....\$1 Million per occurrence/claim
  - d. Medical Professional Liability.....\$ Limits as set forth  
in Virginia Code 8.01.581.15
- 15. Miscellaneous E&O ..... \$1 Million per occurrence/claim
- 16. Motor Carrier Act End. (MCS-90) ..... \$1 Million BI/PD each accident, Uninsured  
Motorist
- 17. Motor Cargo Insurance
- 18. Garage Liability ..... \$1 Million Bodily Injury, Property Damage per occurrence
- 19. Garagekeepers Liability ..... \$500,000 Comprehensive, \$500,000 Collision
- 20. Inland Marine-Bailee's Insurance ..... \$
- 21. Moving and Rigging Floater ..... Endorsement to CGL
- 22. Crime and Employee Dishonesty Coverage ..... \$
- 23. Builder's Risk ..... Provide Coverage in the full amount of Contract,  
including any amendments
- 24. XCU Coverage ..... Endorsement to CGL
- 25. USL&H ..... Federal Statutory Limits
- 26. Carrier Rating shall be A.M. Best Co.'s Rating of A-VII or better or equivalent
- 27. Notice of Cancellation, nonrenewal or material change in coverage shall be  
provided to County at least 30 days prior to action.
- 28. The County shall be an Additional Insured on all policies except Workers  
Compensation and Auto and Professional Liability.
- 29. Certificate of Insurance shall show Bid Number and Bid Title.
- 30. OTHER INSURANCE REQUIRED: \_\_\_\_\_

**INSURANCE AGENT'S STATEMENT:**

I have reviewed the above requirements with the bidder named below and have advised the bidder of required coverages not provided through this agency.

AGENCY NAME: Crypta & COMPANY

AUTH. SIGNATURE: 

**BIDDER'S STATEMENT:**

If awarded the Contract, I will comply with all Contract Insurance requirements.

BIDDER NAME: Midas Utilities, LLC

AUTH. SIGNATURE: 

BIDDER COMPANY NAME Midas Utilities, LLC

ITB No. 18-104-ITB

COMMONWEALTH of VIRGINIA

Department of Professional and Occupational Regulation

9960 Mayland Drive, Suite 400, Richmond, VA 23233

Telephone: (804) 367-8500

EXPIRES ON  
03-31-2019

NUMBER  
2705156401

BOARD FOR CONTRACTORS  
CLASS A CONTRACTOR  
\*CLASSIFICATIONS\* H/H



MIDAS UTILITIES INC  
9200 EDGEWORTH DRIVE  
CAPITOL HEIGHTS, MD 20743



*Jan W. DeBoer*  
Jan W. DeBoer, Director

Status can be verified at <http://www.dpor.virginia.gov>

(SEE REVERSE SIDE FOR PRIVILEGES AND INSTRUCTIONS)

DPOR-LIC (05/2015)

(DETACH HERE)



COMMONWEALTH of VIRGINIA  
Department of Professional and Occupational Regulation

CLASS A BOARD FOR CONTRACTORS  
CONTRACTOR

\*CLASSIFICATIONS\* H/H  
NUMBER: 2705156401 EXPIRES: 03-31-2019

MIDAS UTILITIES INC  
9200 EDGEWORTH DRIVE  
CAPITOL HEIGHTS, MD 20743



(FOLD)

Status can be verified at <http://www.dpor.virginia.gov>

DPOR-PC (05/2015)



ARLINGTON COUNTY, VIRGINIA  
OFFICE OF THE PURCHASING AGENT  
INVITATION TO BID NO. 18-104-ITB

ADDENDUM A

Arlington County Invitation to Bid No. 18-104-IT for REHABILITATION OF SANITARY SEWER MANHOLE STRUCTURES is amended as follows:

The following are responses to the questions received:

1. *We are interested in bidding 15-104-ITB. Our firm has only rehabbed one water vault, but we have extensive experience rehabbing manholes. Since 2010 we have rehabbed ~23,300 VLF of manholes. Given our extensive manhole rehab experience will Arlington County deem our manhole rehab experience sufficient in lieu of water vault experience and thereby qualify us to bid 18-104-ITB as a General Contractor?*

COUNTY RESPONSE: Arlington County will accept the bidder's response given the experience listed.

2. *We have examined the documents online, and we do not see any particular product(s) specified. Please let us know if there is a particular product specified.*

COUNTY RESPONSE: We do not specify particular brand-name products. Refer to the bid table and use products commonly used in the industry and compliant with the following standards reference in the solicitation on page 14:

- ASTM F2304-10 Standard Practice for Sealing of Sewers using Chemical Grouting
- ASTM F2454 – 05 Standard Practice for Sealing Lateral Connections and lines from the mainline Sewer Systems by the Lateral Packer Method, Using Chemical Grouting

The balance of the solicitation remains unchanged.

Arlington County, Virginia

Igor Scherbakov  
Procurement Officer  
[ischerbakov@arlingtonva.us](mailto:ischerbakov@arlingtonva.us)

**RETURN THIS PAGE, FULLY COMPLETED AND SIGNED, WITH YOUR BID:**

RECEIPT OF ADDENDUM A IS ACKNOWLEDGED.

FIRM NAME: \_\_\_\_\_

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

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

INVITATION TO BID NO. 18-104-ITB

SEALED BIDS WILL BE RECEIVED IN HAND IN THE OFFICE OF THE BID CLERK, SUITE 511, 2100 CLARENDON BOULEVARD, ARLINGTON, VIRGINIA 22201, UNTIL 2:00 P.M. ON THE 14TH DAY OF FEBRUARY, 2018 FOR:

REHABILITATION OF SANITARY SEWER MANHOLE STRUCTURES – PRIMARILY, CEMENTITIOUS & EPOXY RESIN REHABILITATION PROCESS WITH PICTURES SUPPORTING THE PRE- AND POST-CONDITION OF SANITARY SEWER MANHOLES; AND REHABILITATION OF WATER VAULTS INCLUDING CLEANING, PREPARING AND COATING ALL IN VAULT AND EXPOSED PIPELINE APPURTENANCES AND ASSOCIATE ASSEMBLY COMPONENTS. THE CONTRACTOR IS RESPONSIBLE FOR PROVIDING ALL LABOR, SUPERVISION, MATERIALS, EQUIPMENT, TOOLS, TRANSPORTATION, AND SUPPLIES REQUIRED TO COMPLETE THE WORK, FOR UP TO A FIVE-YEAR (5) PERIOD.

At the time, date and place stated above, bids will be publicly opened.

Bid Surety in the amount of \$10,000 must be submitted with the bid. Performance and Payment Bonds in the amount of \$100,000 will be required of the successful bidder.

YOU MAY DOWNLOAD AN ELECTRONIC COPY OF THE SPECIFICATIONS, DRAWINGS AND CONSTRUCTION NOTES FOR THIS SOLICITATION AT NO COST FROM [WWW.eVA.VIRGINIA.GOV](http://WWW.eVA.VIRGINIA.GOV)

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

Arlington County reserves the right to reject any and all bids, cancel this solicitation, and to waive any informalities or irregularities in procedure. A bidder's submission of a bid indicates acceptance of these terms.

Arlington County, Virginia  
Office of the Purchasing Agent

Igor Scherbakov  
Procurement Officer  
[ischerbakov@arlingtonva.us](mailto:ischerbakov@arlingtonva.us)

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BID FORM1

EXHIBIT A: Manhole Inspection Form

## I. INSTRUCTIONS TO BIDDERS

### **1. ADDITIONAL INFORMATION**

All communications relating to this solicitation shall be submitted via e-mail to Igor Scherbakov in the Office of the Purchasing Agent, at ischerbakov@arlingtonva.us. For a question to be considered, the subject line of the e-mail must state the following: **ITB No. 18-104-ITB Questions**. Questions should be succinct and must include the submitter's name, title, company name, company address, and telephone number. Prior to the award of a contract resulting from this solicitation, bidders are prohibited from contacting any County staff other than those assigned to the Office of the Purchasing Agent.

**NO QUESTIONS WILL BE CONSIDERED IF THEY ARE SUBMITTED AFTER FEBRUARY 6, 2017 AT 5:00 PM.**

If any questions or responses require revisions to this solicitation as it was originally published, such revisions will be by formal Addendum only. Bidders are cautioned that any written, electronic, or oral representations made by any County representative or other person that appear to change materially any portion of the solicitation shall not be relied upon unless subsequently ratified by a written Addendum to this solicitation issued by the Office of the Purchasing Agent.

### **2. COMPETITION INTENDED**

It is the County's intent that this solicitation promotes competition. It shall be the bidder's responsibility to advise Arlington County if any language, requirements or specifications restrict or limit the purchase to a single source. Such notification must be received by the Arlington County Purchasing Agent not later than fifteen (15) calendar days prior to the date and time set for bid opening. A review of such notifications will be made and the bidder notified of the results of the review.

### **3. BID FORM SUBMISSION**

The required Bid Form is provided in the solicitation. One (1) fully-completed Bid Form with an original longhand signature, and a photocopy of the signed original (two (2) copies total), shall be submitted by hand, in a sealed envelope or package, to the Office of the Bid Clerk, Suite 511, 2100 Clarendon Boulevard, Arlington, Virginia, 22201, no later than the date and time deadline specified in the Invitation to Bid above. Timely submission is solely the responsibility of the bidder. Bid Forms received after the specified date and time will be rejected. The exterior of the envelope or package shall indicate the name of the bidder, the scheduled bid opening date and time, and the number of the Invitation to Bid. Bids submitted by facsimile or electronically will not be accepted.

A bidder's failure to submit a bid with a fully-completed Bid Form, using the Bid Form provided in this solicitation, shall be cause for rejection of that bidder's bid. A bid will be rejected if its corresponding Bid Form is not signed in the designated space by a person authorized to legally bind the bidder.

Modification of or additions to the Bid Form may be cause for rejection of the bid; however, Arlington County reserves the right to decide, on a case by case basis, in its sole discretion, whether or not to reject such a bid as nonresponsive. As a precondition to bid acceptance, Arlington County may, in its sole discretion, request that the bidder withdraw or modify any such modifications or additions which do not affect quality, quantity, price, or delivery. Bids and all documents related to this solicitation submitted to Arlington County by a bidder or a prospective bidder shall, upon receipt by Arlington County, become the property of the County.

### **4. BIDDER CERTIFICATION**

Submission of a signed Bid Form is certification by the respective bidder that it is registered with the Virginia State Corporation Commission, if applicable, it is the legal entity authorized to enter into an agreement with the County, and that it will accept any award made to it as a result of the submission.

**5. ERRORS IN EXTENSION**

Where the unit price and the extension price are at variance, the unit price will prevail.

**6. EXCEPTIONS**

Bidders taking exception to any part or section of this solicitation, including, by way of illustration and not limitation, the Contract Documents, Contract Terms and Conditions, General Conditions, Specifications, the Special Conditions, and any attachments or references thereto, shall indicate such exceptions on the Bid Forms. Failure to indicate any exceptions shall be interpreted as the bidder's intent to fully comply with the solicitation as written. However, conditional or qualified bids with such exceptions, unless specifically allowed in the solicitation, are subject to rejection in whole or in part as nonresponsive.

**7. NONCONFORMING TERMS AND CONDITIONS**

If the bidder submits with its bid alternate terms and conditions that do not conform to the terms and conditions in this solicitation, the bid will be subject to rejection for nonresponsiveness. The County reserves the right to permit the bidder to withdraw nonconforming terms and conditions from its bid prior to a determination by the County of nonresponsiveness as a result of the submission of nonconforming terms and conditions.

**8. EXPENSES INCURRED IN PREPARING BID**

Arlington County accepts no responsibility for any expense incurred by any bidder in the preparation and presentation of a bid. All expenses related to a bid are the sole responsibility of the bidder.

**9. BIDDER INVESTIGATIONS**

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

**10. SITE INVESTIGATION AND CONDITIONS AFFECTING THE WORK**

Each bidder acknowledges by submitting a bid that it has taken steps reasonably necessary to ascertain the nature and locations of the Work of the solicitation, 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 stage, tides, or similar physical conditions at the site;
- d. the conformation and conditions of the ground; and
- e. the character of equipment and facilities needed before and during work performance.

Each bidder 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 publicly or otherwise available, as well as from the drawings and specifications made a part of this solicitation. Any failure of a bidder to take the actions described and acknowledged in this paragraph will not relieve the bidder 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 operations. The bidder shall

make all necessary investigations to determine the existence and locations of such utilities. The bidder 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 or as called for in the Contract Documents, then such additional work will be ordered under the terms of the clause entitled "Changes in Work".

The County assumes no responsibility for any conclusions or interpretations made by the bidder 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 the contract, unless that understanding or representation is expressly stated in the Contract.

**11. INCOMPLETE DOCUMENTS**

Each bidder is responsible for having determined the accuracy and/or completeness of the solicitation documents upon which it relied in making its bid, and has an affirmative obligation to notify the Arlington County Purchasing Agent immediately upon discovery of an apparent or suspected inaccuracy, error in, or omission of any pages, drawings, sections, or addenda whose omission from the documents was apparent from a reference or page numbering or other indication in the solicitation documents.

If a potential bidder downloaded an electronic version of the solicitation documents, that potential bidder is responsible for determining the accuracy and/or completeness of the electronic documents.

If the successful bidder proceeds with any activity that may be affected by an inaccuracy, error in, or omission in the solicitation documents of which it is aware but has not notified the Arlington County Purchasing Agent, the bidder hereby agrees to perform any activity described in the missing or incomplete documents at bidder's sole expense and at no additional cost to Arlington County.

**12. ERRONEOUS OR OTHERWISE COMPROMISED REQUIREMENTS**

Each bidder is responsible for having determined the feasibility of the work required, and shall notify the County Purchasing Agent immediately upon any discovery of any apparent erroneous, contradictory, incomplete, or infeasible requirements or directions contained in the Solicitation Documents. If a bidder fails to notify the County of such conditions immediately upon discovery, the bidder assumes all responsibility for any and all work required to satisfy the contract requirements at no additional cost to the County and within the Contract Term.

**13. QUALIFICATION OF BIDDERS**

Each bidder may be required, before the award of any contract, to show to the complete satisfaction of the Purchasing Agent that it has the necessary facilities, ability, and financial resources to comply with the contract and furnish the service, material or goods specified herein in a satisfactory manner. Each bidder may also be required to provide past history and references which will enable the Purchasing Agent to be satisfied as to the bidder's qualifications. Failure to qualify according to the foregoing requirements will result in bid rejection by Arlington County.

**14. DEBARMENT STATUS**

The bidder shall indicate in the space provided on the Bid Form, whether or not it, or any of its principals, is/are currently debarred from submitting bids to Arlington County, Virginia, or any other state or political subdivision, and whether or not it is an agent of any person or entity that is currently debarred from submitting bids to Arlington County, Virginia, or any other state or political subdivision. An affirmative response may be considered grounds for rejection of the bid.

**15. ALTERNATE BID**

Bidders who have other items they wish to offer in lieu of, or in addition to, what is required by this solicitation shall submit a separate bid clearly marked "ALTERNATE BID". Alternate bids will be automatically deemed nonresponsive and will not be considered for award. Such bids will, however, be examined prior to awarding the contract contemplated

herein and may result in either cancellation of all bids in order to permit rewriting of the solicitation to include the alternate item in a rebid or the alternate item may be considered for future requirements.

**16. INFORMALITIES**

Arlington County reserves the right to waive minor defects or variations from the exact requirements of the solicitation in a bid insofar as those defects or variations do not affect the price, quality, quantity, or delivery schedule of the services being procured. If insufficient information is submitted for Arlington County to properly evaluate the bid by a bidder; Arlington County reserves the right to require such additional information as it may deem necessary after the bid opening time and date, provided that the information requested does not change the price, quality, quantity, or delivery schedule for the services being procured.

**17. USE OF BRAND NAMES/SUBSTITUTES**

Unless identified as a "No Substitute" item in the solicitation, the name of a certain brand, make or manufacturer does not restrict bidders to that specific brand, make or manufacturer. The use of the brand, make or manufacturer's identification is intended to convey the general type, style, character, and quality of the article described. When a brand name is specified and followed by the phrase "or approved equal," the brand name product may be substituted if a suitable equivalent is accepted by the County Purchasing Agent. Any article which the County in its sole discretion determines to be the equivalent of the article specified, considering quality, workmanship, economy of operation, and suitability for the intended use, may be accepted and considered for award.

For those items not identified as "No Substitute", and followed by the phrase "or approved equal," the County has established the following procedure for determining the equivalency of a particular item:

Bidder Submission of Proposed Equivalent Item(s):

- 1) Bidder shall submit to the County its proposed item(s) for determination of their equivalency to the Brand Name(s) specified.
- 2) Each proposed item must be described on a separate page, indicating the appropriate specification section number, product or fabrication or installation method to be replaced, and specifics of the proposed item. Attach any technical information, photographs, brochures and the relevant data listed below that supports the proposed item and will permit the County to fairly determine acceptability of the item proposed:
  - a. Reasons why the specified product cannot be provided, if applicable.
  - b. Coordination information, including a list of changes or modifications needed to other parts of the Work that will be necessary to accommodate proposed substitution.
  - c. Detailed comparison of significant qualities of proposed substitution with those of the product specified.
  - d. Product Data, including drawings and descriptions of products and fabrication and installation procedures.
  - e. Samples, where applicable or requested.
  - f. List of similar installations for completed projects with project names and addresses and names and addresses of Architects and owners, if requested.
  - g. Material test reports from a qualified testing agency indicating and interpreting test results for compliance with requirements indicated.
  - h. Statement of impact on the construction schedule. If specified product or method of construction cannot be provided within the Contract Time, include letter from manufacturer, on manufacturer's letterhead, stating lack of availability or delays in delivery.
  - i. Cost information.
  - j. Contractor's certification that proposed substitution complies with requirements in the Contract Documents and is appropriate for applications indicated.

- 3) The County, in its analysis, will consider factors such as relative costs, equivalency of features, serviceability, the design of the item proposed, and/or pertinent performance factors as provided in the project technical specifications.
- 4) All pages of the submission shall be marked with the name, address and contact information of the bidder, and sent to the Office of the Purchasing Agent to arrive prior to the question deadline established in Section I., paragraph I. ADDITIONAL INFORMATION. E-mail transmittals will be accepted at [ischerbakov@arlingtonva.us](mailto:ischerbakov@arlingtonva.us).

County Review of Proposed Equivalent Item(s):

- 1) Approved item(s) will be added to the solicitation, in the form of an Addendum to the solicitation, and forwarded to all bidders of record.
- 2) Bidders whose item(s) have not been approved will be so advised in writing simultaneously with the issuance of the Addendum.

**18. NEW MATERIAL**

Unless otherwise provided for in this solicitation, the bidder represents and warrants that the goods, materials, supplies, or components offered to the County under this bid solicitation are new, not used or reconditioned, and are not of such age or so deteriorated as to impair their usefulness or safety and that the goods, materials, supplies, or components offered are current production models of the respective manufacturer. If the bidder believes that furnishing used or reconditioned goods, materials, supplies or components will be in the County's interest, the bidder shall so notify the County Purchasing Agent in writing no later than fifteen (15) calendar days prior to the date set for opening of bids. The notice shall include the reasons for the request and any benefits which may accrue to the County if the Purchasing Agent authorizes the bidding of used or reconditioned goods, materials, supplies or components.

**19. ARLINGTON COUNTY BUSINESS LICENSES**

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

**20. AUTHORITY TO TRANSACT BUSINESS**

Any bidder organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth of Virginia as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the Code of Virginia, or as otherwise required by law. The proper and full legal name of the firm or entity and the identification number issued to the bidder by the Virginia State Corporation Commission must be written in the space provided on the Bid Form. Any bidder that is not required to be authorized to transact business in Virginia shall include in its bid a statement describing why the bidder is not required to be so authorized. The County may require a firm to provide documentation prior to award which: 1) clearly identifies the complete name and legal form of the firm or entity (i.e. corporation, limited partnership, etc.), and 2) establishes that the firm or entity is authorized by the State Corporation Commission to transact business in the Commonwealth of Virginia. Failure of a prospective and/or successful bidder to provide such documentation shall be grounds for rejection of the bid or cancellation of the award. For further information refer to the Commonwealth of Virginia State Corporation Commission website at: [www.scc.virginia.gov](http://www.scc.virginia.gov).

**21. VIRGINIA CONTRACTOR LICENSE**



For all work that is classified as being performed by "Contractors" as defined by the Virginia State Board for Contractors, a Class A, B, or C License is required. If a bidder fails to obtain this license prior to submission of bid, the bid shall not be considered.

If a contract for performing or managing construction, removal, repair or improvements is for \$120,000 or more, or if the total value of all such construction, removal, repair, or improvements undertaken by the bidder within any twelve month period is \$750,000 or more, the bidder is required under Title 54.1, Chapter 11, Code of Virginia, as amended, to be licensed as a "CLASS A CONTRACTOR."

If a contract for performing or managing construction, removal, repair or improvements is for \$10,000 or more, but less than \$120,000, or if the total value of all such construction, removal, repair, or improvements undertaken by the bidder within any twelve month period is \$150,000 or more, but less than \$750,000, the bidder is required under Title 54.1, Chapter 11, Code of Virginia, as amended, to be licensed as a "CLASS B CONTRACTOR."

If a contract for performing construction, removal, repair or improvements is for \$1,000 or more, but no more than \$10,000 or if the total value of all such construction, removal, repair, or improvements undertaken by the bidder within any twelve month period is less than \$150,000, the bidder is required under Title 54.1, Chapter 11, Code of Virginia, as amended, to be licensed as a "CLASS C CONTRACTOR." Class C Contractors shall not include electrical, plumbing, and heating, ventilation and air conditioning Contractors.

For further information, contact the State Board for Contractors, 2 South Ninth Street, Richmond, VA 23219, (804) 367-8511.

**22. BID WITHDRAWAL PRIOR TO BID OPENING**

No bid can be withdrawn after it is filed with the Bid Clerk unless the bidder makes a request in writing to the Purchasing Agent prior to the time set for the opening of bids.

**23. WITHDRAWAL OF BID FROM CONSIDERATION AFTER BID OPENING**

After the opening of a bid, a bidder may withdraw its bid from consideration if the price of the bid is substantially lower than other bids due solely to a mistake therein, provided the bid is submitted in good faith, the mistake is a clerical mistake as opposed to a judgment mistake, and is actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of the bid, which unintentional error or unintentional omission can be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn. No partial withdrawals of bids will be permitted after the time and date set for the bid opening. The bidder must give notice in writing to the Arlington County Purchasing Agent of a claim of right to withdraw a bid and provide all original work papers, documents and other materials used in the preparation of the bid sought to be withdrawn, within two (2) business days after the date of bid opening. A bid may also be withdrawn if the County fails to award or issue a notice of intent to award the bid within ninety (90) days after the date fixed for opening bids.

**24. PARKING**

At most County government facilities, parking for Contractors' vehicles is not provided by the County. A Contractor is responsible for the payment of any parking charges or fines resulting from illegal parking at any worksite(s).

**25. TRADE SECRETS OR PROPRIETARY INFORMATION**

Trade secrets or proprietary information that is submitted by a bidder or Contractor in connection with a procurement transaction or prequalification application submitted pursuant to subsection 4-101(2) of the Arlington County Purchasing Resolution may be exempted from public disclosure under the Virginia Freedom of Information Act ("VFOIA"). However, the bidder or Contractor must invoke the protection of this subsection prior to or upon submission of the data or other materials, and must identify clearly and in writing, on the Bid Form, the data or other materials sought to be protected

and state the reasons why protection is necessary and falls within the exceptions to the VFOIA. It is the bidder's sole responsibility to defend such exemptions if challenged in a court of competent jurisdiction.

**26. INTEREST IN MORE THAN ONE BID AND COLLUSION**

Multiple bids received in response to this solicitation from an individual, firm, partnership, corporation, affiliate, or association under the same or different names will be rejected. Reasonable grounds for believing that a bidder is interested in more than one (1) bid for a solicitation both as a bidder and as a subcontractor for another bidder will result in rejection of all bids in which the bidder is interested. However, a firm acting only as a subcontractor may be included as a subcontractor for two (2) or more bidders submitting a bid for the work. Any or all bids may be rejected if reasonable grounds exist for believing that collusion exists among any bidders. Bidders rejected under the above provisions shall be disqualified if they respond to a re-solicitation for the same work.

**27. METHOD OF AWARD**

The County will make the award for this solicitation to the lowest responsive and responsible bidder. The lowest bidder will be determined by the Grand Total as calculated on the Bid Form.

**28. INSURANCE REQUIREMENTS**

Each bidder must review the insurance requirements section carefully with its insurance agent or broker prior to submitting a bid to ensure they can provide the specific coverage requirements and limits applicable to this solicitation. If the bidder is not able to meet the insurance requirements of the solicitation, alternate insurance coverage satisfactory to Arlington County may be proposed by the bidder and considered by the County. Written requests for consideration of alternate coverage must be received by the County Purchasing Agent at least ten (10) working days prior to the date set for receipt of bids. If the County denies the request for alternate coverage, the coverage required by the Insurance Requirements section must be provided. If the County permits alternate coverage, an amendment to the Insurance Checklist will be issued prior to the time and date set for receipt of bids. The insurance requirements herein shall neither operate as a limitation of the Contractor's liability to the County nor as a limitation of the Contractor's duty of indemnification, as set forth in this solicitation and any resulting Contract.

**29. SURETY REQUIRED**

A. BID SURETY:

A fully completed and properly executed original Bid Bond, cashier's check, certified check, money order, or cash escrow in the amount of ten thousand dollars (\$10,000) made payable to the Treasurer of Arlington County shall accompany each bid. The Bid Surety of all bidders may be retained until after the award to the successful bidder is made. The Bid Surety of the successful bidder shall be retained until completion of the Contract or the posting of a Performance Bond, whichever occurs sooner. A bid submitted without a bid surety, or with a bid surety in an amount less than the required amount, shall be rejected.

B. FAILURE TO EXECUTE:

The failure to accept an award and file acceptable Performance and Payment Bonds within fifteen (15) days after notice of intent to award shall be just cause for cancellation of the award and the forfeiture of the Bid Surety to the County as liquidated damages. Award may then be made to the next lowest responsive and responsible bidder.

C. PERFORMANCE SURETY:

A fully completed and properly executed original Performance Bond in the amount of one hundred thousand dollars (\$100,000.00) will be required of the successful bidder to ensure satisfactory completion of the work. The bond shall be a corporate surety bond issued by a surety company authorized to do business in the Commonwealth of Virginia and acceptable to the County. Where applicable, the Performance Bond shall be

renewable annually in the original amount through the completion of the Contract, including all warranty and guarantee periods.

D. PAYMENT BOND:

A fully completed and properly executed original Payment Bond in the amount of one hundred thousand dollars (\$100,000.00), conditioned upon the payment of all persons who have and fulfill contracts for the Contractor for performing labor, providing equipment, or providing material in the performance of the work provided for in the Contract, shall be required of the successful bidder. The Bond shall be a corporate surety bond issued by a surety company authorized to do business in the Commonwealth of Virginia and acceptable to the County. Where applicable, the Payment Bond shall be renewable annually in the original amount for the duration of the Contract Term.

**30. EXECUTION OF AGREEMENT**

Within fifteen (15) calendar days after the Agreement forms are presented by the County to the successful Bidder for signature, the Contractor shall deliver to the County Purchasing Agent three (3) copies of the executed Agreement. Within the same fifteen (15) day period, the Contractor shall deliver to the County Purchasing Agent executed performance and payment bonds, if such are required in the solicitation, and the required certificate of insurance. The failure of the Contractor to execute the Agreement and to supply any required bonds and certificate, within the stipulated fifteen (15) day period, or within such extended period as the County Purchasing Agent may grant, shall constitute a default, and the County may award the Contract to the next lowest responsive and responsible bidder or solicit new bids. The County may then charge against the Contractor the difference between the amount of the Contract award and the amount for which a Contract is subsequently executed, up to the total amount of the Contractor's bid security.

**31. NOTICE OF DECISION TO AWARD**

When the County has made a decision to award a contract, an e-mail with a Notice of Decision to Award will be sent to all bidders, using the e-mail address provided in the Bid Form.

**32. BIDDER MINIMUM QUALIFICATIONS**

1. Bidders shall have:
  - a. At least five (5) years of experience in rehabilitation of sanitary sewer manholes, water vaults and its components.
  - b. Successfully completed at least five (5) projects involving the rehabilitation of sanitary sewer manholes, using cementitious and epoxy materials.
  - c. Successfully completed projects related to sanitary sewer manhole and water vaults rehabilitation of a minimum amount of \$200,000.00 per year.
2. Bidders shall document this experience on the pages that follow, and provide a detailed list of recently completed projects that meet the above specified experience requirements. The experience of the Contractor owner(s) may be imputed to a newly formed company/Contractor provided the Contractor owner(s) has/have at least five (5) years of demonstrated experience of reliability and meets the criteria set forth herein.
3. The Qualifications Questionnaire shall be completed by all Bidders. Only the information contained in the Qualifications Questionnaire will be considered in evaluation of the Bidder's qualifications. Attachments (unless specifically requested), company brochures or submittals in any other format will be considered in evaluating the qualifications of the Bidder. Bidder may reproduce sections of the Qualifications Questionnaire form as needed to provide the required information necessary to adequately demonstrate their experience.

4. The County reserves the right to check references furnished and consider the responses received in determining award of this bid. The County will not contact Bidders for clarifications of illegible information, wrong names, wrong phone numbers, or wrong addresses provided by Bidders on the Qualifications Questionnaire. Incomplete submittals or unverifiable information may not be considered in the evaluation.
5. The County reserves the right to inspect the Bidders' equipment, request resumes or past work histories of key personnel or to interview key personnel to be assigned to this contract.

II. SPECIAL CONDITIONS

[NOT USED]

### III. SUPPLEMENTARY SPECIFICATIONS

The Contractor is required to comply with the Terms and Conditions of the current edition of Arlington County DES Construction Standards Specifications and VDOT Virginia Work Area Protection Manual- Standards and Guidelines for Temporary Traffic Control unless otherwise specified in this section.

#### **A. General:**

Arlington County intends to establish a contract for a period of five years to provide a means for on-call rehabilitation of sanitary sewer manhole and water vault including cleaning, preparing and coating all in vault and exposed pipeline appurtenances and associated assembly components.

Arlington County has approximately sixteen thousand (16,000) sanitary sewer manholes in the system and 200 water vaults (6" to 8" water-mains). On average, approximately 200-300 manholes are rehabilitated every year and we are expecting to inspect/rehabilitate about 10-15 water vaults per year.

#### **B. Contractor Minimum Requirements**

Contractor shall provide one (1) crew to the County at all times. There must be a NASSCO qualified manhole inspector at all times, certification must be provided to the County Project Officer. Personnel must have the product application/manufacture certifications of the products being applied.

#### **C. Scope of Work:**

Contractor shall rehabilitate of sanitary sewer manhole structures – primarily using cementitious & epoxy resin rehabilitation process with pictures supporting the pre- and post-condition of sanitary sewer manholes; and rehabilitation of water vaults including cleaning, preparing and coating all in vault and exposed pipeline appurtenances and associate assembly components. The method of rehabilitation will be based on manhole pre-inspection report, and approved for rehabilitation by the County Project Officer.

The Contractor is responsible for providing all labor, supervision, materials (except as detailed in "Materials by the County" below), equipment, tools, transportation, and supplies required to complete the work in accordance with contract specifications, terms, and conditions.

When completed, the rehabilitation will cover the manhole in a continuous watertight condition; all in vault and exposed pipeline appurtenances and associate assembly components should be cleaned and coated with new paint.

#### **D. Inspection**

Before any performance of rehabilitation of the sanitary sewer manholes beings, there must be a NASSCO qualified manhole inspector on site at all times. Additionally, the inspector's certification must be on file with the County Project Officer.

#### **E. Work Hours**

The Contractor may start setting up at 7:00 am daily. The Contractor shall complete all work by 5:30 pm daily. No week-end and holidays work is allowed.

#### **F. Permits**

It's the Contractor's responsibility to have all VDOT permits when work is being performed on a State's maintained roadway. The County Project Officer will inform the Contractor which roadways are State maintained.

## G. Specifications

The Work required under this contract shall be subject to the following requirements:

1. Locate Existing Manhole/Water vault:

- A. Using available records, drawings, land surveying, metal detectors or other technology and techniques, locate, excavate and expose existing manhole.
- B. Arlington County will provide the location of all known water vaults.

2. Maintain sanitary sewer service usage throughout duration of project:

- A. Maximum time without service: 10 hours for property served by sewer.
- B. When Contractor anticipates service interruption longer than 10 hours, Contractor shall install a bypass to sanitary sewer prior to starting the rehabilitation work. The bypass shall be installed at no additional cost to the County.

3. Chemical Grouting:

- A. As specified herein, follow **ASTM F2304**- Standard Practice for Rehabilitation of Sewers Using Chemical Grouting and **ASTM F24254**- Standard Practice for Sealing Lateral Connections and lines the mainline Sewer Systems by the Lateral Packing Method, Using Chemical Grouting.
- C. Protect, store, and handle during transportation and delivery, while stored on-site, and during installation following manufacturer's recommendations.
- D. Leave no residual grout material capable of reducing the pipe diameter or restricting flow greater than 5% of the pipe capacity.
- E. If chemical grout cannot be pumped to refusal within a volume less than or equal to 0.5 gallons per inch of pipe diameter due to latent physical conditions, do not perform additional work until County Project Officer grants authorization.

4. Manhole Chimney Seals: Follow approved submittals:

- A. Provide smooth circular surface following manufacturer's requirements.
- B. Mix, handle, and apply material.

5. Cementitious Reconstruction: Follow approved source of supply submittals:

- A. Mix and handle materials.
- B. Apply materials using rotary spray equipment or spray gun.
- C. Apply beginning at the bottom of the brickwork and work up bottom of the cover frame.
- D. Seal around pipe connections and steps.
- E. Do not allow material to enter sewage flow.
- F. Apply cement to manhole.
- G. Maximum applied thickness 300 mils.

- H. Minimum applied thickness 150 mils.
- I. Confirm with pictures and gauge.
- J. Trowel and brush for a smooth finish.
- K. Cure using curing compound when recommended by manufacturer.
- L. Do not allow flow in manhole or traffic over manhole, until manufacturer's minimum cure times have been achieved.

6. Reset/Replace and Adjust manhole frame and cover:

Follow Arlington County DES Construction Standards Specifications, Section- Sanitary Sewer Standards and Drawing S-2.5, and/or S-3.0, and/or S-3.2

7. Saw Cutting and Pavement Removal/Restoration:

Following Arlington County DES Construction Standards Specifications, Standard Section-02600 and Drawing-R-1.0 and Drawing- R-1.1.

**H. Material Supplied by the County**

The County will provide the Contractor with all manhole frames and covers for all manholes on the rehabilitation list. The Contractor shall use Arlington County DES-WSS (attached) manhole inspection sheet for pre-inspection along with recommendations.

**I. Safety**

1. The Contractor will ensure all crew members (including visitors and supervisors) are wearing the proper Personal Protection Equipment (PPE) (including- hard hat, high visible apparel (i.e. safety vest), steel toe boots, long pants, safety glasses and hearing protection (when needed). Any crew member entering a manhole must have the following PPE (full body safety harness, tripod, and working gas meter).
2. **When Contractor enters a manhole they must have a confined space entry permit on hand with a rescue plan. All participating personnel shall be trained in confined space entry. If the County Project Officer see anyone inside the work zone without all of the proper PPE on correctly or without confined space entry permit, they will stop work until the issue is corrected. If this issue continues, the County Project Officer will remove the parties involved from the County for one (1) week.**

**J. Environmental Protection:**

If a Resource Protection Area (RPA) exists on a worksite, an RPA delineation and a Water Quality Impact Assessment(WQIA)are required and will be permitted by the County. A WQIA may also be required for other projects depending on the nature and location of the proposed activity. The RPA includes:

- A. Tidal wetlands and shores,
- B. Non-tidal wetlands contiguous to tidal wetlands or perennial streams
- C. Natural stream channels
- D. Man-made open stream channels
- E. A minimum 100-foot buffer adjacent to these water bodies  
Steep slopes greater than or equal to 25 percent contiguous to the 100-foot buffer



Contiguous steep slopes greater than or equal to 15 percent in the Potomac Palisades area of the County from Chain Bridge to the County boundary (as well as other such areas as may be designated by the County Board).

**E. Cleanup:**

The Contractor shall ensure all trash (including the “no parking” signs) will be picked up and properly discarded at the end of each work day. Failure in this task will result in the Contractor not working in the County the following workday. The second offense will result in the Contractor not working in the County for one (1) week.

**F. Contractor Performance:**

1. The County reserves the right to inspect all operations under this contract and to withhold payment for any work performed which fail to meet specifications, as determined by the Project Officer. Payments withheld for this reason will be released upon receipt of satisfactory evidence upon site inspection by County Project Officer that the work has been corrected to the County's satisfaction. Inspections shall occur within 48 hours of completion and correction shall be done a reasonable, mutually agreed upon time of notice to Contractor at no additional cost to the County.
2. Failure to correct any deficiency in a reasonable, mutually agreed upon time shall result in cancellation of the Contractor's charge for that portion of the work found deficient. Repeated violations of this provision (more than four call-backs within any calendar month) may result in cancellation of the contract for non-performance. Written notice to the Contractor, (including electronically transmitted written notices such as e-mail and text message), shall be considered adequate and acceptable notice to enforce this provision.
3. Deliverables (invoice, supporting documents {pre & post rehab pictures and reports}) are due at the end of each month.

**G. Work Site Damage:**

1. Any damage to property, whether owned by the County or others, resulting from work performed by the Contractor or its Subcontractors under this Contract shall be repair or replaced to County's satisfaction at the Contractor's expense.
2. The Contractor is responsible for any damages incurred by back-ups into buildings or overflows associated surcharges, related to taking manholes out of service.

**I. Maintenance of Traffic:**

1. The Contractor shall conduct its operation in a manner that will ensure that traffic will be uninterrupted except as approved by the County. At the close of each work day, the area of work shall be confined to the smallest area possible so that the maximum use of the street will be restored and the hazard to traffic reduced to the minimum. No excavation shall remain open within the roadway without the approval of the County except when the excavation can be safely bridged with the use of steel plates or other materials acceptable to the County.
2. When areas of excavation outside of the roadway do remain open, the area shall be barricaded and warning signs shall be posted.
3. At all times the Contractor shall use sufficient workers and traffic control signs and devices necessary to comply with VDOT- Virginia Work Area Protection Manual- Standards and Guidelines for Temporary Traffic Control.

4. During the progress of the work when the street may be obstructed to any extent by construction equipment or construction operations, in addition to the signs and barricades, special workers (flaggers) shall be designated by the Contractor to direct traffic. These workers so designated shall not be assigned to any other duties while engaged in directing traffic.
5. The Contractor has sole responsibility for ensuring that its operations are conducted in a safe manner and not withstanding any other provision to the contrary, shall fully indemnify Arlington County, its officers, agents and employees for any damage or injury related to traffic operations which is caused by negligent or otherwise improper or deficient performance under the contract or nonperformance of the terms of the contract.
6. All personnel, signs, barricades and any other items necessary for the maintenance of traffic and safety shall be provided by the Contractor. In accordance with VDOT- Virginia Work Area Protection Manual- Standards and Guidelines for Temporary Traffic Control.
7. The County must have a hard copy of the flaggers' VDOT Basic Work Zone Control Training and Flagger certifications before any manhole rehabilitation can start. No separate payment shall be made by the County for this work.
8. The plan for the maintenance of traffic during any assignment under this contract shall be in accordance with the above and as directed by the County Project Officer.
9. Residential streets shall have a minimum of signs and cones and/or drums around the work area.
10. Arterial streets shall have a minimum of signs, traffic arrow board, and cones and/or drums around the work area.
11. For any arterial street projects, the Contractor must submit a traffic control plan via email to the County Project Officer.

**J. Traffic Control:**

1. The County will furnish and post temporary "NO PARKING" signs on all assigned streets. The Contractor shall notify the County Project Officer, forty-eight (48) hours prior to commencing work.
2. The County Project Officer will inspect the work zone every day to ensure it is set up in accordance with VDOT- Virginia Work Area Protection Manual- Standards and Guidelines for Temporary Traffic Control. If they find any issues that cannot be corrected quickly, they will either stop the work until the issue is corrected or shutdown for the remainder of the shift.
3. All traffic control devices and signs will be in accordance with VDOT- Virginia Work Area Protection Manual- Standards and Guidelines for Temporary Traffic Control.

**K. Progress of Work:**

1. The County will schedule a pre-construction conference with the Contractor. Two weeks prior to this conference the County will provide to the Contractor an initial list of work assignments.
2. The County Project Officer shall, prior to the start of any work for a given week, submit to the Contractor a proposed weekly schedule of streets in the order that it anticipates working on them.

3. The weekly schedule may be used by the County to notify businesses and residents who may be affected by the work schedule. The County will, whenever possible, in updating the planned work assignments, attempt to make any new assignments in the same geographic area as the original assignments, except for priority work.
4. The County reserves the right to assign the Contractor additional work (non-planned) as needed. The Contractor shall start the work on these additional assignments within 30 days of the notification.
5. The Contractor shall not stop the progress of work on an assignment, unless a written request stating the reasons for such interruption is approved by the County Project Officer.
6. The County Project Officer may verbally request the Contractor to stop work on an assignment temporarily (for a period of up to five days) at any stage. In such case, the Contractor shall stop work immediately and resume operations within two calendar days of notification from the County to resume work.
7. Scheduling of manhole/water vault rehabilitation operations is a shared responsibility of the County Project Officer and Contractor.
8. During the performance of the work, the Contractor shall identify the causes for any delays attributable to conditions deemed to be beyond the Contractor's control. The Contractor should have all proper and working manhole rehabilitation equipment on-site every day.

FOLLOWING THIS PAGE IS THE AGREEMENT THAT WILL BE ENTERED INTO BETWEEN THE COUNTY AND THE CONTRACTOR. THE AGREEMENT IS PART OF THIS SOLICITATION. THIS AGREEMENT IS SUBJECT TO REVIEW BY THE COUNTY ATTORNEY PRIOR TO BEING SUBMITTED FOR CONTRACTOR'S SIGNATURE.

## IV. AGREEMENT AND CONTRACT TERMS AND CONDITIONS

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

### AGREEMENT NO. 18-104-ITB

THIS AGREEMENT is made, on the date of execution by the County, between \_\_\_\_\_ (“Contractor”) a  
\_\_\_\_ [Insert Name of State] \_\_\_\_\_ [Corporation, General Partnership, Limited Liability Company, etc.] authorized to do business  
in the Commonwealth of Virginia, and the County Board of Arlington County, Virginia (County). The County and the  
Contractor, for the consideration hereinafter specified, agree as follows:

#### **1. CONTRACT DOCUMENTS**

The Contract Documents consist of:

- Agreement No. **18-104-ITB** and all modifications properly incorporated into the Agreement
- Attachment A – The Drawings and Construction Notes of Arlington County Invitation to Bid No. **18-104-ITB**
- Attachment B – Arlington County Invitation to Bid No. **18-104-ITB**, including General Conditions, Special Conditions, and Supplementary Specifications
- Attachment C – The Arlington County Department of Environmental Services’ Standards and Specifications, Current Edition
- Attachment D – Unit price bid of the Contractor

Where the terms and provisions of this Agreement vary from the terms and provisions of the other Contract Documents, the terms and provisions of this Agreement shall prevail over the other Contract Documents.

Attachments A, B, and C 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 Attachments A, B, and C shall prevail over Attachment D.

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 of them has made any representation or promise with respect to the parties’ Agreement which is not contained in the Contract Documents. The Contract Documents may be referred to herein as the “Contract” or “Agreement.”

#### **2. PROJECT OFFICER**

The performance of the Contractor is subject to the general control, review and approval of the County Project Officer, who shall be appointed by the Director of the Arlington County Department of Environmental Services or designee. The Contractor shall not comply with requests and/or orders issued by other than the Project Officer of designee. However, it shall be the responsibility of the Contractor to manage the details of the execution and performance of its Work under this Agreement. Where the term "Engineer" is used in the Contract Documents, it shall be interpreted to mean "Project Officer".

#### **3. SCOPE OF WORK**

The Contractor will furnish all labor, materials, and equipment for on-call rehabilitation of sanitary sewer manhole structures and water vaults rehabilitation as required in 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 obligation of the Contractor to obtain clarification from the Project Officer concerning any questions about or conflicts in the specifications, drawings and construction notes in a timely way so as not to delay the progress of the Work. The Contract Documents set forth the minimum Work estimated by the County and the Contractor to be necessary to complete the Work. 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. CONTRACT TERM**

Time is of the essence. Work under this Agreement will commence on the date of the execution of the Agreement by the County and must be completed no later than five (5) calendar years following the commencement date. No work will be deemed complete until it is accepted by the County's Project Officer.

#### **5. CONTRACT AMOUNT**

The County will pay the Contractor according to the prices shown in Attachment D, but not more than \$\_\_\_\_\_ in accordance with the Progress Payments paragraph for the Contractor's completion of the Work described and required in the Contract Documents, subject to the terms and conditions of the Agreement and provided the Work is performed to the satisfaction of and is accepted by the Project Officer. The Contractor agrees that it shall complete the Work for the total Contract Amount specified in this section unless such amount is modified as provided in this Agreement. The Contract Amount includes all of the Contractor's costs and fees (profit) and is inclusive of all anticipated or known site conditions, anticipated or known materials, labor, and equipment costs, or any other costs which should reasonably have been expected by the Contract Documents.

#### **6. PROGRESS PAYMENTS AND RETAINAGE**

The County will make monthly progress payments to the Contractor upon written application by the Contractor, on the basis of a written estimate of the work performed during the preceding calendar month as approved by the Project Officer. However, in making any progress payment, five percent (5%) of the amount of the estimate upon which the progress payment is based will be retained by the County until final completion and acceptance of all work covered by the Agreement.

#### **7. PAYMENT TERMS**

Payment terms will be recorded by the County as net thirty (30) days. The County will pay the Contractor within thirty (30) calendar days after the date of receipt of a correct, as determined by the Project Officer, invoice approved by the Project Officer describing completed work which is reasonable and allocable to the Contract, or the date of receipt of the entire order, or the date of acceptance of the Work which meets the Contract requirements, whichever is later. Payments will be made by the County for goods or services furnished, delivered, inspected, and accepted upon receipt of invoices submitted on the date of delivery of service, subject to applicable payment terms. The number of the County Purchase Order pursuant to which authority services have been performed shall appear on all invoices. Invoices shall be submitted in duplicate. Unless otherwise specified herein, payment shall not be made prior to delivery and acceptance of the entire Work by the County.

#### **8. PAYMENT OF SUBCONTRACTORS**

The Contractor is obligated to take one of the two following actions within seven (7) calendar days after receipt of amounts paid to the Contractor 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 (7) calendar 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 shall accrue at the rate of one percent (1%) per month.

The Contractor shall 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 as those contained herein 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.

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

Upon completion of the Project and before Final Acceptance, the Contractor will submit to the Project Officer a signed copy of the Arlington County Release and Request for Final Payment form per the General Conditions.

#### **10. ADJUSTMENTS FOR CHANGE IN SCOPE**

The County may order changes in the Work within the general scope of the work consisting of additions, deletions or other revisions. No claim may be made by the Contractor that the scope of the project or of the Contractor's services has been changed requiring adjustments to the amount of compensation due the Contractor unless such adjustments have been made by a written amendment to the Contract signed by the County and the Contractor. If the Contractor believes that any particular work is not within the scope of the work or is a material change or otherwise will call for more compensation to the Contractor, the Contractor must notify the Project Officer immediately after the change or event occurs and within ten (10) calendar days thereafter must provide written notice to the Project Officer. The Contractor's notice must provide to the Project Officer the amount of additional compensation claimed, together with the basis therefor and documentation supporting the claimed amount. The Contractor will not be compensated for performing any work unless a proposal complying with this paragraph has been submitted in the time specified above and a written Contract amendment has been signed by the County and the Contractor and a County Purchase Order is issued covering the cost of the services to be provided pursuant to the amendment.

#### **11. ESTIMATED QUANTITIES/NON-EXCLUSIVITY OF CONTRACTOR**

During the Contract Term, the Contractor will furnish all of the goods or services described in the Contract Documents, if so requested by the County. The County will have no obligation to the Contractor if no, or fewer, items or services are required or requested by the County. Any quantities which are included in the Contract Documents are the present expectations of those who are planning for the County for the period of the Contract. The amount is only an estimate and the Contractor understands and agrees that the County is under no obligation to the Contractor to buy that amount, or any amount as a result of having provided this estimate or of having had any normal or otherwise measurable requirement in the past. The Contractor further understands that the County may require goods and/or services in excess of the estimated annual contract amount and that such excess shall not give rise to any claim for compensation other than at the unit prices and/or rates set forth in this Contract. Further, the items or services covered by this contract may be available or become available under other County contracts, and in analyzing its needs, the County may determine that it is in its best interest to procure the items or services through such another contract. Therefore, the County does not guarantee that the Contractor will be the exclusive provider of the goods or services covered by this contract.

## **12. COUNTY PURCHASE ORDER REQUIREMENT**

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

## **13. LIEN**

It is expressly agreed that after any payment has been made by the County either to the Contractor or to any subcontractor, laborer, or any other person 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.

## **14. EMPLOYMENT DISCRIMINATION BY CONTRACTOR PROHIBITED**

During the performance of its Work pursuant to this Contract, the Contractor agrees as follows:

- a. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state 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 the provisions of this nondiscrimination clause.
- b. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor 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 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 both publicly and privately-provided services and activities.
- e. The Contractor will include the provisions of the foregoing paragraphs in every subcontract or purchase order of over \$10,000.00, so that the provisions will be binding upon each subcontractor or vendor.

## **15. EMPLOYMENT OF UNAUTHORIZED ALIENS PROHIBITED**

In accordance with § 2.2-4311.1 of the Code of Virginia, as amended, the Contractor acknowledges that it does not, and shall not during the performance of this Contract for goods and/or services in the Commonwealth, knowingly employ an unauthorized alien as that term is defined in the federal Immigration Reform and Control Act of 1986.

## **16. DRUG-FREE WORKPLACE TO BE MAINTAINED BY CONTRACTOR**

During the performance of this Contract, 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 a controlled substance or marijuana 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 of over \$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, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a Contractor by Arlington County in accordance with the Arlington County Purchasing Resolution, the employees of which Contractor are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

#### **17. PROJECT STAFF**

The County will, throughout the Contract Term and any renewal term, have the right of reasonable rejection and approval of staff or subcontractors assigned to the project by the Contractor. If the County reasonably rejects staff or subcontractors, the Contractor must 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 employees shall be solely the responsibility of the Contractor.

#### **18. FAILURE TO DELIVER**

In case of failure to deliver goods or services in accordance with the Contract terms and conditions, the County, after due oral or written notice, may procure the goods or services from other sources and hold the Contractor responsible for any resulting additional purchase and administrative costs; provided, that if public necessity requires the use of materials or supplies not conforming to the specifications, they may be accepted and payment therefore shall be made at a reduction in price to be determined solely by the County. This remedy shall be in addition to any other remedies, which the County may have. The County shall be entitled to offset such costs against any sums owed by the County to the Contractor.

#### **19. UNSATISFACTORY WORK**

If any of the work done, or material, goods, or equipment provided, by the Contractor is unsatisfactory to the County, the Contractor shall, on being notified by 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. In the event the Contractor fails within fifteen (15) calendar days after receipt of written notice to remove improper or unsuitable work, material, goods, or equipment and replace it with suitable and satisfactory work, material, goods, or equipment, the County shall have the right, but not the obligation, to remove or replace the rejected work, material, goods, or equipment at the expense of the Contractor. This paragraph applies during the Contract term and during any warranty or guarantee period. At its discretion, the County shall be entitled to offset such expense against any sums owed by the County to the Contractor under this Contract. If the Project Officer and the County deem it expedient not to require correction or replacement of the work which has not been done in accordance with the Contract, an appropriate adjustment to the Contract Amount may be made therefor.

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

The County shall have the right to terminate this Contract prior to the end of the Contract Term if the Contractor is in breach or default or has failed to perform satisfactorily the Work required, as determined by the County in its discretion.

If the County determines that the Contractor has failed to perform satisfactorily, then the County will give the Contractor written notice of such failure(s) and the opportunity to cure such failure(s) at least fifteen (15) calendar days before termination of the Contract takes effect ("Cure Period"). If the Contractor fails to cure within the Cure Period or as otherwise specified in the notice, the Contract may be terminated for the Contractor's failure to provide satisfactory Contract performance. Upon such termination, the Contractor may apply for compensation for Contract services satisfactorily performed by the Contractor and allocable to the Contract and accepted by the County prior to such termination unless otherwise barred by the Contract ("Termination Costs"). In order to be considered, such request for Termination Costs, with all supporting documentation, must be submitted to the County Project Officer within fifteen (15) calendar days after the expiration of the Cure Period. The County may accept or reject, in whole or in part, the application for Termination Costs and notify the Contractor of same within a reasonable time thereafter.

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

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

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

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

#### **21. TERMINATION FOR THE CONVENIENCE OF THE COUNTY**

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

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

#### **22. INDEMNIFICATION**

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 the 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 section, 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 Contract.

### **23. INTELLECTUAL PROPERTY INDEMNIFICATION**

The Contractor warrants and guarantees that no intellectual property rights (including, but not limited to, copyright, patent, mask rights and trademark) of third parties are infringed or in any manner involved in or related to the services provided hereunder.

The Contractor further covenants for itself, its employees, and subcontractors to save, defend, hold harmless, and indemnify the County, and all of its officers, officials, departments, agencies, agents, and employees from and against any and all claims, losses, damages, injuries, fines, penalties, costs (including court costs and attorney's fees), charges, liability, or exposure, however caused, for or on account of any trademark, copyright, patented or unpatented invention, process, or article manufactured or used in the performance of this Contract, including its use by the County. If the Contractor, or any of its employees or subcontractors, uses any design, device, work, or materials covered by letters patent or copyright, it is mutually agreed and understood, without exception, that the Contract Amount includes all royalties, licensing fees, and any other costs arising from the use of such design, device, work, or materials in any way involved with the Work. 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 section, 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 Contract.

### **24. COPYRIGHT**

The Contractor hereby irrevocably transfers, assigns, sets over and conveys to the County all right, title and interest, including the sole exclusive and complete copyright interest, in any and all copyrightable works created pursuant to this Contract. The Contractor further agrees to execute such documents as the County may request to effect such transfer or assignment.

Further, the Contractor agrees that the rights granted to the County by this paragraph are irrevocable. Notwithstanding anything else in this Contract, the Contractor's remedy in the event of termination of or dispute over the terms of this Contract shall not include any right to rescind, terminate or otherwise revoke or invalidate in any way the rights conferred pursuant to the provisions of this paragraph. Similarly, no termination of this Contract shall have the effect of rescinding, terminating or otherwise invalidating the rights acquired pursuant to the provisions of this "Copyright" paragraph.

The use of subcontractors or third parties in developing or creating input into any copyrightable materials produced as a part of this Contract is prohibited unless the County approves the use of such subcontractors or third parties in advance and such subcontractors or third parties agree to include the provisions of this paragraph as part of any contract they enter into with the Contractor for work related to work pursuant to this Contract.

### **25. OWNERSHIP AND RETURN OF RECORDS**

This Contract confers no ownership rights to the Contractor nor any rights or interests to use or to disclose the County's data or inputs.

The Contractor agrees that all drawings, specifications, blueprints, data, information, findings, memoranda, correspondence, documents or records of any type, whether written or oral or electronic, and all documents generated by the Contractor or its subcontractors as a result of the County's request for services under this Contract, are the exclusive property of the County ("Record" or "Records"), and all such Records shall be provided to and/or returned to County upon completion, termination, or cancellation of this Contract. The Contractor shall not use, willingly allow, or cause such materials to be used for any other purpose other than performance of all obligations under the Contract

without the written consent of the County. Additionally, the Contractor agrees that the Records are confidential records and neither the Records nor their contents shall be released by the Contractor, its subcontractors, or other third parties; nor shall their contents be disclosed to any person other than the Project Officer or his or her designee. The Contractor agrees that all oral or written inquiries from any person or entity regarding the status of any Record generated as a result of the existence of this Contract shall be referred to the Project Officer or his or her designee for response. At the County's request, the Contractor shall deliver all Records to the Project Officer, including "hard copies" of computer records, and at the County's request, shall destroy all computer records created as a result of the County's request for services pursuant to this Contract.

The Contractor agrees to include the provisions of this section as part of any contract or agreement the Contractor enters into with subcontractors or other third parties for work related to work pursuant to this Contract.

No termination of this Contract shall have the effect of rescinding, terminating or otherwise invalidating this section of the Contract.

## **26. CONFIDENTIAL INFORMATION**

The Contractor, and its employees, agents, and subcontractors, hereby agree to hold as confidential all County information obtained as a result 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.

## **27. ETHICS IN PUBLIC CONTRACTING**

This Contract incorporates by reference Article 9 of the Arlington County Purchasing Resolution, as well as any state 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, as amended (§ 18.2-438 et seq.). The Contractor certifies that its offer was made without collusion or fraud and that it has not offered or received any kickbacks or inducements from any other bidder, supplier, manufacturer, or subcontractor and that it has not conferred on any public employee having official responsibility for this procurement any payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised unless consideration of substantially equal or greater value was exchanged.

## **28. COUNTY EMPLOYEES**

No employee of Arlington County, Virginia, shall be admitted to any share in any part of this Contract or to any benefit that may arise therefrom which is not available to the general public.

## **29. FORCE MAJEURE**

The Contractor shall not be held responsible for failure to perform the duties and responsibilities imposed by this Contract if such failure is due to fires, riots, rebellions, natural disasters, wars, acts of terrorism, or an act of God beyond the control of the Contractor and outside and beyond the scope of the Contractor's then-current, by industry standards, disaster plan that make performance impossible or illegal, unless otherwise specified in the Contract.

The County shall not be held responsible for failure to perform its duties and responsibilities imposed by the Contract if such failure is due to fires, riots, rebellions, natural disasters, wars, acts of terrorism, or an act of God beyond the control of the County that make performance impossible or illegal, unless otherwise specified in the Contract.

## **30. AUTHORITY TO TRANSACT BUSINESS**

The Contractor shall, pursuant to Code of Virginia §§ 2.2-4311.2, be and remain authorized to transact business in the Commonwealth of Virginia during the Initial Term and any Subsequent Contract Term(s) of this Contract. A contract entered into by a Contractor in violation of this requirement is voidable, without cost or expense, at the sole option of the County.

### **31. RELATION TO THE COUNTY**

The Contractor is an independent Contractor, and neither the Contractor nor its employees or subcontractors will, under any circumstances, be considered employees, servants or agents of the County. The County will not be legally responsible for any negligence or other wrongdoing by the Contractor, 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, Social Security tax, or any other amounts for benefits to the Contractor. Furthermore, the County will not provide to the Contractor any insurance coverage or other benefits, including workers' compensation, normally provided by the County for its employees.

### **32. ANTITRUST**

By entering into this Contract, the Contractor conveys, sells, assigns and transfers to the County all rights, title, and interest in and to all causes of action the Contractor may now have or hereafter acquire under the antitrust laws of the United States or the Commonwealth of Virginia, relating to the goods or services purchased or acquired by the County under this Contract.

### **33. REPORT STANDARDS**

Reports or written material prepared by the Contractor in response to the requirements of this Contract or a request of the Project Officer shall, unless otherwise provided for in the Contract, meet standards of professional writing established for the type of report or written material provided, shall be thoroughly researched for accuracy of content, shall be grammatically correct and not contain spelling errors, shall be submitted in a format approved in advance by the Project Officer, and shall be submitted for advance review and comment by the Project Officer. The cost of correcting grammatical errors, correcting report data, or other revisions required to bring the report or written material into compliance with these requirements shall be borne by the Contractor.

When submitting documents to the County, the Contractor shall comply with the following guidelines:

- All submittals and copies shall be printed on **at least thirty percent (30%) recycled-content** and/or tree-free paper;
- All copies shall be double-sided;
- Report covers or binders shall be recyclable, made from recycled materials, and/or easily removable to allow for recycling of report pages (reports with glued bindings that meet all other requirements are acceptable);
- The use of plastic covers or dividers should be avoided; and
- Unnecessary attachments or documents not specifically asked for should not be submitted, and superfluous use of paper (e.g. separate title sheets or chapter dividers) should be avoided.

### **34. AUDIT**

The Contractor must retain all books, records and other documents related to this Contract for at least five years 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, the Contractor must give the County at least 30 days' notice and must not dispose of the documents if the County objects.

**35. ASSIGNMENT**

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

**36. AMENDMENTS**

Unless otherwise specified herein, this Contract shall not be modified except by written amendment executed by persons duly authorized to bind the Contractor and the County.

**37. ARLINGTON COUNTY PURCHASING RESOLUTION AND COUNTY POLICIES**

Notwithstanding any provision to the contrary herein, no provision of the Arlington County Purchasing Resolution or any applicable County policy is waived in whole or in part.

**38. DISPUTE RESOLUTION**

All disputes arising under this Agreement, or its interpretation, whether involving law or fact, extra work or extra compensation or time, and all claims for alleged breach of Contract shall be submitted in writing to the Project Officer for decision at the time of the occurrence or beginning of the work upon which the claim is based, whichever occurs first. Any such claims shall state the facts surrounding it in sufficient detail to identify it together with its character and scope. 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 sixty (60) days after final payment. The time limit for final written decision by the County Manager in the event of a contractual dispute, as that term is defined in the Arlington County Purchasing Resolution, is fifteen (15) days. Procedures for considering contractual claims, disputes, administrative appeals, and protests are contained in the Purchasing Resolution, which is incorporated herein by reference. A copy of the Arlington County Purchasing Resolution is available upon request from the Office of the Purchasing Agent. The Contractor shall not cause a delay in the Work pending any decision of the Project Officer, County Manager, County Board, or a court of law.

**39. APPLICABLE LAW, FORUM, VENUE, AND JURISDICTION**

This Contract and the work performed hereunder shall be governed in all respects by the laws of the Commonwealth of Virginia, and the jurisdiction, forum, and venue for any litigation with respect hereto shall be in the Circuit Court for Arlington County, Virginia, and in no other court. In performing the Work under this Contract, the Contractor shall comply with applicable federal, state, and local laws, ordinances and regulations.

**40. ARBITRATION**

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

**41. NONEXCLUSIVITY OF REMEDIES**

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

**42. NO WAIVER**

The failure of either party to exercise in any respect a right provided for in this Contract shall not be deemed to be a subsequent waiver of the same right or any other right.

**43. SEVERABILITY**

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

**44. NO WAIVER OF SOVEREIGN IMMUNITY**

Notwithstanding any other provision of this Contract, nothing in this Contract or any action taken by the County pursuant to this Contract 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.

**45. SURVIVAL OF TERMS**

In addition to any numbered section in this Agreement which specifically state that the term or paragraph survives the expiration of termination of this Contract, the following sections if included in this Contract also survive: INDEMNIFICATION; RELATION TO THE COUNTY; OWNERSHIP AND RETURN OF RECORDS; AUDIT; COPYRIGHT; INTELLECTUAL PROPERTY INDEMNIFICATION; WARRANTY; AND CONFIDENTIAL INFORMATION.

**46. HEADINGS**

The section headings in this Contract are inserted only for convenience and are not to be construed as part of this Contract or a limitation on the scope of the particular section to which the heading precedes.

**47. AMBIGUITIES**

Each party and its counsel have participated fully in the review and revision of this Agreement. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in interpreting this Agreement. The language in this Agreement shall be interpreted as to its fair meaning and not strictly for or against any party.

**48. NOTICES**

Unless otherwise provided herein, all legal notices and other communications required by this Contract shall be deemed to have been given when made in writing and either (a) delivered in person, (b) delivered by 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:**

**TO THE COUNTY:**

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

**49. NON-DISCRIMINATION NOTICE**

Arlington County does not discriminate against faith-based organizations.

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

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

CONTRACTOR

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

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

NAME AND TITLE: MICHAEL E. BEVIS  
PURCHASING AGENT

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

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

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



V. ARLINGTON COUNTY DES ENGINEERING PROJECT  
GENERAL CONDITIONS

A. INTRODUCTION TO TERMS

1. DEFINITIONS

- a. The term "Award Date" means the date of execution of the Agreement by the Purchasing Agent.
- b. The term "Business Day" shall refer to any day that the County is open for general business.
- c. 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.
- d. The term "Change Order" means a written order to Contractor, signed by the County and the Contractor, which authorizes a change in the Work, or an adjustment in the Contract Amount, and/or the Contract Term issued after execution of the Agreement.
- e. The term "Commencement Date" means the date on which the Contract Term will commence for the Contractor to begin to perform his obligations under the Contract Documents as provided in the Notice to Proceed.
- f. The term "Contract Documents" means the Agreement and all the documents and Attachments identified therein which shall include the Drawings and the Specifications and all modifications thereto properly incorporated in the Contract
  - (1) The term "Agreement" means the completed and signed form of Contract agreement.
  - (2) The term "Contract Drawings" means all drawings and construction notes which show the locations, character, dimensions, and details of the Work pertaining to the Contract.
  - (3) The term "Specifications" means and shall include the Supplementary Specifications, the Special Conditions, the Technical Specifications, and all written agreements and instructions pertaining to the performance of the Work.
    - (a) The term "Technical Specifications" means the applicable technical specifications contained in the current edition of the Arlington County Department of Environmental Services, Standards and Specifications.
    - (b) The term "Supplementary Specifications" means any specifications included in the Contract Documents which modify, nullify, or add to the Technical Specifications for requirements or conditions peculiar to this contract.
    - (c) The term "Special Conditions" means the written statements modifying or supplementing the General Conditions for requirements or conditions peculiar to the Contract.

- g. 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.
- h. The term "Engineer" means the Director, Department of Environmental Services, Arlington County, or designee. The designee may be identified as either the County's appointed Project Officer or a Contractor employed by the County to perform construction services or project oversight.
- i. The term "Final Acceptance" shall mean the date on which the County issues the final payment for the Work.
- j. 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 County determines whether Final Completion has been accomplished after its representatives conduct a final walkthrough inspection of the project to verify the condition after notification by the Contractor. The date of the Final Completion of the Work under the Contract is the date on which Final Completion is accomplished.
- k. "Notice to Proceed" shall mean a written notice given by the County to the Contractor specifying the Commencement Date.
- l. The term "Project" means the entire proposed construction to be executed as stipulated in the Contract Documents.
- m. 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.
- n. 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.
- o. The term "SubContractor", as employed herein, 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.
- p. The term "Work" shall mean the services and tasks performed under this Contract including, but not limited to, furnishing labor, and furnishing and installing materials and equipment required to complete the Project as specified in the Contract Documents.

- q. "Written notice" shall be deemed to have been duly served if a) delivered in person to the individual or to the member of the firm or to an officer of the corporation for whom it is intended, or b) delivered to an agent, such as overnight or similar delivery service, or c) deposited in the United States mail, postage prepaid, certified or registered addressed to the last known address of such other party.

B. DRAWINGS, SPECIFICATIONS AND RELATED DATA

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 other instructions deemed necessary by the Project Officer will be furnished to the Contractor when required for the Work and shall become incorporated into the Contract Documents.
- c. 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.
- d. Where "as shown", "as indicated" "as detailed", or words of similar import are used, it shall be understood that the direction, requirements, permission, approval or acceptance of the Project Officer is intended unless stated otherwise. As used herein, "provide" shall be understood to mean "provide complete in place", that is, "furnish and install".
- e. Materials or work described in words which, so applied, have a well-known technical 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 shall be as binding as if called for by all. Figured dimensions on the plans shall be used in preference to scaling the Drawings. In case of conflict between small and large-scale drawings, the large scale drawings shall govern.

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 report them in writing to the Project officer. If the Contractor proceeds with any work that may be affected by such discrepancies, errors, or omissions, after their discovery, but before their clarification, such work shall be at the Contractor's sole risk and expense and such work may not be the basis of any Claim for Extra Cost.

3. DIFFERING SITE CONDITIONS

The Contractor shall, within twenty-four hours after becoming aware of differing site conditions, and before the conditions are disturbed, give a written 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.

The Project Officer will investigate the site conditions within two (2) business days 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.

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. A limit of five (5) copies each of the Contract Drawings and Specifications will be provided to the Contractor without charge.
5. DOCUMENTS ON THE JOB SITE  
The Contractor shall keep on the site of the project a copy of the Drawings, Specifications, Permits, and all other applicable documents including all authorized revisions, and shall at all times give the County and its authorized representatives access thereto.
6. 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. Upon completion of the project, all copies of the Drawings and Specifications except the signed Contract sets shall be returned to the Project Officer.
7. SUBMITTALS  
Submittals shall be processed per the Specifications unless otherwise specified.
8. TESTS  
Any specified laboratory tests of materials and finished articles shall be made by bureaus, laboratories or agencies approved by the Project Officer and the certified reports of such tests shall be submitted to the Project Officer. All costs in connection with the testing shall be borne by the Contractor. Failure of any material to pass the specified tests or any test performed by the Project Officer, 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 for testing. Samples failing to meet the Contract requirements will automatically void previous approvals of the items tested.
9. SURVEYS AND CONTROLS  
Unless otherwise stated, the County will provide horizontal and vertical reference points necessary for the Contractor to proceed with the Work. The Contractor shall carefully preserve all reference points, and in the case of destruction thereof by the Contractor or due to the negligence of the Contractor or of any subcontractor, the Contractor shall be responsible for expense and damage resulting therefrom and shall be responsible for any mistakes or construction errors that may be caused by the loss or disturbance of such reference points. The Contractor shall be responsible for laying out the Work and shall retain a professional land surveyor licensed in the Commonwealth of Virginia to survey and provide all necessary construction layouts and to establish all control lines, grades, and elevations during construction.
10. AS-BUILT DRAWINGS  
As-built drawings shall be the responsibility of the Contractor. The Contractor shall maintain and mark up one (1) set of prints of the applicable Contract drawings to portray as-built construction. The prints shall be neatly and clearly marked 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 as-built construction. These drawings shall be submitted with every payment request. At the completion of the Project and prior to request for Final Payment, the Contractor shall turn over to the Project Officer a complete set of As-Built drawings.

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

1. STATUS OF PROJECT OFFICER

The Project Officer shall be the County's representative during the construction period. The Project Officer shall have authority to suspend the Work whenever such suspension may be necessary in the responsible opinion of the Project Officer. The Project Officer 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.

2. PROJECT OFFICER'S DECISIONS

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

3. LIMITATION ON COUNTY'S RESPONSIBILITIES

Except as modified by the Contract Documents, 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.

4. DISPUTES

a. All disputes arising under this Contract or its interpretation, whether involving law or fact or both, for extra work, and all claims for alleged breach of Contract shall be submitted in writing to the Project Officer for decision prior to beginning the work on which the claim is based. 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. In any case where the Contractor deems extra compensation is due him for work or materials clearly not covered in the Contract, or not ordered by the Project Officer as additional work not specifically included in the Contract Documents, the Contractor shall notify the Project Officer in writing of the Contractor's intention to make claim for such extra compensation before the Contractor begins the work on which the Contractor bases the claim. If such notification is not given, or the Project Officer is not afforded proper facilities by the Contractor for keeping strict account of actual cost, then the Contractor hereby agrees to waive the claim for such extra compensation.

c. Contractual disputes 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.

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

5. INSPECTION OF WORK

The Engineer 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 Engineer'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 limit or relieve the Contractor's independent duty to inspect the Work.

6. INSPECTION OF MATERIALS

All articles, materials, and supplies purchased by the Contractor for the Work are subject to inspection by the Project Officer 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 the materials.

7. EXAMINATION OF COMPLETED WORK

If the Engineer 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, restoration, and/or replacing shall be at the Contractor's expense.

8. 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. The Contractor may be entitled to an extension of the Contract Term or an increase in the Contract Amount subject to the terms of the Contract Documents. 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.

9. SUPERINTENDENCE BY CONTRACTOR

The Contractor shall keep a competent superintendent and any necessary assistants on the Work at all times during its progress and such persons shall be satisfactory to the Engineer. The superintendent shall not be changed except on the Engineer's determination the superintendent is no longer satisfactory or except with the consent of the Engineer where the superintendent proves to be unsatisfactory to the Contractor and ceases to be in the Contractor's employment. The superintendent shall represent the Contractor in the Contractor's absence and all directions given to him shall be as binding as if given to the Contractor. In general, instructions by the Engineer shall be confirmed in writing, and always upon written request from 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.

10. LANDS BY COUNTY

The County shall provide 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 of the lands, rights-of-way or easements have not been obtained as herein contemplated before construction begins, the Contractor shall begin its work on such lands and rights-of-way as the County may have previously acquired.

11. LANDS BY CONTRACTOR

If the Contractor requires additional land 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, 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 written permission.

12. 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 the opportunity for the delivery and 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 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 Contractors engaged in adjacent work as to the rights of each under the Contract Documents, the Project Officer shall determine the rights of each party.

### 13. SUBCONTRACTS

- a. 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 him.
- b. 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 documents comprising the Contract insofar as such documents are applicable to the work of subcontractors.
- c. 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, or see to the payment of any sums to any subcontractor.

### 14. ELIMINATED ITEMS

The Project Officer may, upon written notice to the Contractor, eliminate 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 for the installation of such item(s) 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. If the County notifies the Contractor of such elimination at least fifteen (15) calendar days prior to scheduled installation of such item(s), then no additional compensation will be made for overhead or anticipated profit.

## 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 workmanship shall be accomplished by persons qualified in the respective trades.

### 2. IBC 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 (USBC); 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), and any other applicable regulations and standards.

The Contractor is not required to ascertain whether the Contract Documents meet ADA design standards and guidelines, or other applicable regulations and standards. 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.

Neither the Arlington County Inspection Services Division, nor any County staff and/or their third party inspection services, are responsible for inspecting the Work to ensure it is completed in accordance with Contract Documents, the ADA, or other applicable requirements.

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 approved by the Engineer, 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. The Contractor shall provide all manufacturer's warranties to the Project Officer by the date of Final Completion. Such defects shall be corrected by the Contractor at no expense to the County.

All work is guaranteed by the Contractor against defects resulting from the use of inferior or faulty materials, or inferior or faulty workmanship, or work not in accordance with the requirements of the Contract Documents for one (1) year from the date of Final Acceptance of the work by the County in addition to and irrespective of any manufacturer's or supplier's warranty. No date other than the date of Final Acceptance shall govern the effective date of the Guaranty, 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 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, ACCEPTANCE AND TITLE OF MATERIALS

Inspection and acceptance by the County will be at the work site in Arlington County, Virginia and within five (5) business days of delivery unless otherwise provided for in the Contract. The County will not inspect, accept, or pay for any materials stored off-site by the Contractor. Title and risk of loss or damage to all items shall be the responsibility of the Contractor until Final Acceptance by the County. 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 advisable to assure that goods or services conform to the specification. 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.

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 subcontractor to warrant that they have good title to, all materials and supplies for which the Contractor invoices for payment.

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. CUTTING, PATCHING, AND DIGGING

The Contractor shall do all cutting, fitting, or patching 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 may direct. The Contractor shall not endanger any work by cutting, digging, or otherwise, and shall not cut or alter the work of any other contract except with the consent of the Project Officer.

10. REJECTED WORK AND MATERIALS

- a. All materials which do not conform to the requirements of the Contract Documents, are not equal to samples approved by the Project Officer, or are in any way unsatisfactory or unsuited to the purpose for which they are intended, shall be rejected. 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 no cost to the County. The fact that the Project Officer 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, 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 Term and during any warranty or guarantee period.
- c. If the Project Officer and County deem 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 therefor.

11. OSHA REQUIREMENTS

The Contractor certifies that all material supplied or used under this Contract meets all Occupational Safety and Health Administration (O.S.H.A.) requirements, both Federal and those of the Commonwealth

of Virginia; 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 federal occupational safety and health requirements, all costs necessary to bring the material into compliance with the requirements shall be borne by the Contractor.

12. 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 Material Safety Data Sheets ("MSDS") required under the Standard for all hazardous materials supplied to the County or used in the performance of the work. Such MSDS 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 MSDS 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 MSDS 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.

13. 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. 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.

14. 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 will not proceed without an Asbestos-Related Work Authorization executed by the County Asbestos Program Manager.

15. 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. 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 also shall reimburse to the County all costs of such goods, equipment, supplies or materials installed. If the Contractor fails to remove and legally dispose of the asbestos-containing goods, equipment or construction materials within ninety (90) days from the date of notice by the County, the County shall remove and dispose of the asbestos-containing goods, equipment or construction materials at the Contractor's expense. The County shall be entitled to offset such expenses against any sums owed by the Contractor to the County under this Contract.

E. LEGAL RESPONSIBILITY AND PUBLIC SAFETY

1. MAINTENANCE OF TRAFFIC

The Contractor shall conduct its operations in a manner that will ensure that all modes of traffic will be uninterrupted except as approved by the County. At the close of each work day, the area of work shall be confined to the smallest area possible, but in no event larger than the area designated in the Construction Documents, so that the maximum use of the street and sidewalk will be restored and the hazard to traffic reduced to the minimum. No excavation shall remain open within the roadway or sidewalk without the approval of the County except when the excavation can be safely bridged with the use of steel plates or other materials acceptable to the County. When areas of excavation do remain open, the area shall be barricaded and warning signs shall be posted. Approved safety barriers may be required.

At all times the Contractor shall use the personnel and traffic control signs and devices necessary to comply with Part VI of the "National Manual on Uniform Traffic Control Devices." During the progress of the work when the street may be obstructed to any extent by construction equipment or construction operations, in addition to the signs and barricades, special workers, equipped with VDOT required "STOP\SLOW" double sided traffic control paddles, shall be designated by the Contractor to direct traffic. These workers so designated shall not be assigned to any other duties while engaged in directing traffic. The Contractor has sole responsibility for ensuring that its operations are conducted in a safe manner and notwithstanding any other provision to the contrary, shall fully indemnify Arlington County, its officers, agents and employees for any damage or injury related to traffic operations which is caused by negligent or otherwise improper or deficient performance under the Contract or nonperformance of the terms of the Contract. All personnel, signs, barricades and any other items necessary for the maintenance of traffic and safety shall be provided by the Contractor. No separate payment shall be made by the County for Maintenance of Traffic, unless otherwise specified.

2. 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 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 person on the worksite and who is, by training or experience, familiar with 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, at the County's request, a copy of the Contractor's written safety policies and safety procedures applicable to the scope of work. Failure to provide this information within seven (7) calendar days of the County's request 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 "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.

3. OVERHEAD HIGH VOLTAGE LINES SAFETY ACT

If any work required herein will be performed within ten (10) 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. 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.

4. 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 the local and State departments of health and where additional accommodations are necessary to maintain a reasonably sanitary environment, then such additional accommodations shall be made as determined by the Project Officer.

5. DAMAGES CAUSED BY WORK

Any damage resulting from work performed under this Contract shall be repaired to the County's satisfaction at the Contractor's expense.

F. PROGRESS AND COMPLETION OF THE WORK

1. NOTICE TO PROCEED

Within thirty (30) calendar days of the Award Date, 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 the Commencement Date and shall be prosecuted regularly, diligently, and uninterruptedly at a rate of progress that will ensure full completion thereof in the shortest length of time consistent with good workmanship.

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 Project Officer will review the schedule to verify compliance with the Contract requirements, and when accepted, such schedules shall govern 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.

4. 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 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.

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.

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: If required by this Contract, the Contractor shall provide to the Project Officer a Schedule of Values for each Lump Sum item in the Contract, and the application for payment will reflect the schedule of values and the amount of work completed in those units.

Otherwise, the application for payment shall reflect the percentage of work completed for each lump sum item.

- 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.

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.

2. PAYMENT FOR MATERIALS ON SITE

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.

3. STIPULATED PRICE ITEMS

Work on 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.



4. PAYMENTS WITHHELD

The Project Officer 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.

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

5. 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 Contract Sum being adjusted accordingly if applicable. All such work shall be executed under the conditions of the original Contract, except that any claim for modification of the Contract Term caused thereby may be adjusted at the time of ordering such change.

The Project Officer 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 order from the County signed by the Project Officer and no claim for an addition to the Contract Sum shall be valid unless so ordered.

- a. Unit Price Items: The County expressly reserves the right, except as may be otherwise specifically limited, to increase or decrease quantities of work for which the Contractor provided a unit price in the bid form as the County deems necessary or desirable to complete the Work covered in this Contract. Increases in such quantities shall be performed by the Contractor at the cost provided in the bid form.
- b. Other Work: Any change in work which is not covered by Unit Prices in the bid form shall be determined in one or more of the following ways: (a) by estimate and acceptance by the County in a lump sum; (b) by cost and fixed fee; or (c) by any other method permitted under the Arlington County Purchasing Resolution.
- c. If none of the aforementioned methods is agreed upon the Contractor shall proceed with the work provided the Contractor receives an order as above per the conditions outlined under Force Account Work below.

6. FORCE ACCOUNT WORK

A Force Account may be used at the County's discretion and only when 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 (ii) 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 i, ii, iii, and iv 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 Engineer 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	Rate Schedule
\$0 - \$10,000	
> \$10,000	10% \$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.

7. CLAIMS FOR EXTRA COST

If the Contractor claims that any instructions by the Project Officer, by drawings or otherwise, will incur the Contractor extra cost under this Contract, then, except in emergencies endangering life or property, the Contractor shall give written notice thereof before proceeding to execute the work. Said notice shall be given promptly enough to avoid delaying the work and in no instance later than ten (10) calendar days after the receipt of such instruction. The Contractor's notice must provide to the Project Officer the amount of additional compensation claimed, together with the basis therefor and documentation supporting the claimed amount. No such claim shall be valid unless so made. If the Project Officer agrees that such instructions involve extra cost to the Contractor, any additional compensation will be determined by one of the methods provided in "Changes in Work" above. The Contractor may not present as Extra Cost any claims which relate to any erroneous, contradictory or incomplete or infeasible requirements or directions in the Contract Documents that Contractor discovered during the bidding process but failed to report to the County, unless such erroneous, contradictory or incomplete or infeasible requirements or directions could only be ascertained upon commencement of the Work.

8. EXTENSIONS OF CONTRACT TERM AND CLAIMS FOR DAMAGES – CONDITIONS OTHER THAN WEATHER

The Contractor's relief for any claim for delay, other than Force Majeure, and which is caused by entities or conditions fully outside the control of the Contractor, subContractors, Suppliers, and any other persons or firms associated in any way with the Contractor, shall be an extension of the Contract Term and/or the Contractor's direct costs which result from the delay.

If the Contractor is entitled to compensation for delay as described above and where there is no change in the Work, the Contractor will be entitled to actual costs incurred as provided in "Force Account Work" above.

No extension of the Contract Term will be granted for any delay unless the Contractor demonstrates the claimed delay directly impacts the critical path of the Work, and any float has been consumed.

The Contractor shall not be entitled to any Contract adjustments (Term or Cost) unless the Contractor notifies the County of the delay and the cause of such delay in writing within two (2) business days of the onset of the delay. The Contractor's complete submittal for a time extension and any claimed damages shall be submitted no later than thirty (30) calendar days after cessation of the delay or within such longer period as the County may agree in writing to allow. The Contractor's full submittal to the County shall specify the nature of the delay claimed by the Contractor, the cause of the delay, the impact of the delay on the Contractor's Work schedule, and all supporting documentation.

The Contractor's sole relief on any claims for delay which is caused by Force Majeure shall be an extension of the Contract Term provided the Contractor gave the Project Officer timely written notice at the inception of such delay.

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).

9. EXTENSIONS OF CONTRACT TERM – WEATHER DELAYS

The Contract Term will not be extended due to inclement weather conditions which are normal, as defined below, for Arlington County. The Contract Term 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 Contract Term 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 Contractor must provide notice of delay to the Project Officer no later than five (5) calendar days after the onset of the delay which satisfies the criteria listed above. A fully documented claim for a time extension under this section shall be submitted no later than thirty (30) calendar days after the cessation of the delay. It shall be the Contractor’s responsibility solely to provide the necessary documentation to satisfy the Project Officer that the Weather Condition(s) claimed were encountered.

The Project Officer will determine the Contractor’s entitlement to an extension of the Contract Term. 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 Contract Term 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 Contract Term 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 Contract Term 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**

Avg 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

**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 claimed under Weather Condition #1 above.

10. RELEASE OF LIENS

The County, before making any payment including Final Payment, shall require the Contractor to furnish a complete release of all liens arising out of this Contract, or receipts in full in lieu thereof, and if required in either case, an affidavit that so far as the Contractor has knowledge or information, the releases and

receipts include all the labor and material for which a lien could be filed. 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.

11. FINAL PAYMENT

After the Contractor has completed all work and corrections to the satisfaction of the Project Officer 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 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: \_\_\_\_\_

## VI. INSURANCE REQUIREMENTS

Review this section carefully with your insurance agent or broker prior to submitting a bid or proposal. See the Insurance Checklist (part of the Bid or Proposal Forms) for specific coverages applicable to this Contract. The term "Contract," as used in this section, shall mean the fully executed Agreement covering the work entered into between the County and the Contractor.

### 1. General

- 1.1 The Contractor shall provide insurance as specified in the Insurance Checklist found on the last page of the bid or proposal form.
- 1.2 The Contract with the Contractor will not be executed by the County until the Contractor has obtained, at its own expense, all of the insurance called for hereunder and such insurance has been approved by the County; additionally, the Contractor shall not allow any subContractor to start work on any subcontract until all insurance required of the subContractor has been so obtained and approved by the Contractor. The Contractor shall submit to the County Purchasing Agent copies of all required endorsements and documentation of coverage consistent with the requirements herein or, alternately, at the County's request, certified copies of the required insurance policies in compliance with the insurance requirements. All endorsements and documentation shall state this Contract's number and title.
- 1.3 The Contractor shall require all subContractors to maintain during the term of this Agreement, Commercial General Liability insurance, Business Automobile Liability insurance, and Workers' Compensation, Employers' Liability insurance, or any other insurance required by the Contract in the same manner and form as specified for the Contractor. The Contractor shall furnish subContractors' evidence of insurance and copies of endorsements to the County Purchasing Agent immediately upon request by the County and/or prior to the subContractor's performance of work related to this Contract.
- 1.4 If there is a material change or reduction in coverage, nonrenewal of any insurance coverage or cancellation of any insurance coverage required by this contract, the Contractor shall notify the Purchasing Agent immediately. It is the Contractor's responsibility to notify the County upon receipt of a notice indicating that the policy will not be renewed or will be materially changed. Any policy on which the Contractor has received notification from an insurer that the policy has or will be cancelled or materially changed or reduced must be immediately replaced with another policy consistent with the terms of this Contract and in such a manner that there is no lapse in coverage, and the County immediately notified of the replacement. Not having the required insurance throughout the Contract Term is considered a material breach of this Contract and grounds for termination. The Contractor shall also obtain an endorsement providing to the County thirty (30) days advance notice of cancellation or nonrenewal (ten days for nonpayment of premium. A copy of that endorsement shall be provided to the County Purchasing Agent prior to the execution of this Contract or any Contract extension thereafter.
- 1.5 No acceptance and/or approval of any insurance by the County shall be construed as relieving or excusing the Contractor, any surety, or any bond, from any liability or obligation imposed under this Agreement.
- 1.6 Arlington County, and its officers, elected and appointed officials, employees, and agents are to be named as additional insureds under all coverages except Workers' Compensation, Professional Liability, and Automobile Liability, and the endorsement must clearly identify the County as an additional insured permitted to enjoy all the benefits under the applicable policy of insurance. The certified policy, if requested, must so state coverage afforded under this paragraph shall be primary as respects the County, its officers, elected and appointed officials,



agents and employees. The following definition of the term "County" applies to all policies issued under the Contract and to all applicable endorsements:

"The County Board of Arlington County and any affiliated or subsidiary Board, Authority, Committee, or Independent Agency (including those newly constituted), provided that such affiliated or subsidiary Board, Authority, Committee, or Independent Agency is either a Body Politic created by the County Board of Arlington County, Virginia, or one in which controlling interest is vested in Arlington County; and Arlington County Constitutional Officers."

- 1.7 The Contractor shall be responsible for the work performed under the Contract Documents and every part thereof, and for all materials, tools, equipment, appliances, and property of any description used in connection with the work. The Contractor assumes all risks for direct and indirect damage or injury to the property or persons used or employed on or in connection with the Work contracted for, and of all damage or injury to any person or property wherever located, resulting from any action, omission, commission or operation under the Contract, or in connection in any way whatsoever with the contracted work.
- 1.8 The insurance coverage required shall remain in force throughout the Contract Term or as otherwise stated in the Contract Documents or these Insurance Requirements. If the Contractor fails to provide acceptable evidence of current insurance within seven (7) days of written notice at any time during the Contract Term, the County shall have the absolute right to terminate the Contract without any further obligation to the Contractor.
- 1.9 Contractual and other liability insurance provided under this Contract shall not contain a supervision, inspection or engineering services exclusion that would preclude the County from supervising or inspecting the work as to the end result. The Contractor shall assume all on-the-job responsibilities as to the control of persons directly employed by it and of the subContractors and any persons employed by the subContractor.
- 1.10 If any policy contains a warranty stating that coverage is null and void (or words to that effect) if the Contractor does not comply with the most stringent regulations governing the work, such policy shall be modified so that coverage shall be afforded in all cases except for the Contractor's willful or intentional noncompliance with applicable government regulations.
- 1.11 All policies shall include the following language: "The insolvency or bankruptcy of the insured or of the insured's estate will not relieve the insurance company of its obligations under this policy."
- 1.12 All policy forms must "Pay on behalf of" rather than "Indemnify" the insured.
- 1.13 Nothing contained in these Insurance Requirements or the Contract Documents shall be construed as creating any contractual relationship between any subContractor and the County. The Contractor shall be as fully responsible to the County for the acts and omissions of its subContractors and of persons employed by them as it is for acts and omissions of persons directly employed by it.
- 1.14 Precaution shall be exercised by the Contractor at all times for the protection of persons, (including employees) and property. All existing structures, utilities, roads, services, trees and shrubbery shall be protected against damage or interruption of service at all times by the Contractor and its subContractors during the term of the Contract, and the Contractor shall be held responsible for any damage to property occurring by reason of its work under the Contract.
- 1.15 For any claims related to this work, The Contractor's insurance shall be deemed primary and non-contributory to all other applicable coverage and in particular with respect to Arlington County, its representatives, officials, employees, and agents. Any insurance or self-insurance maintained by Arlington County shall be excess and

noncontributory of the Contractor's insurance. The Contractor shall waive its right of subrogation for all insurance claims.

- 1.16 If the Contractor does not meet the insurance requirements set forth by the Contract Documents, alternate insurance coverage or self-insurance, satisfactory to the Purchasing Agent, may be considered. Written requests for consideration of alternate coverages including the Contractor's most recent actuarial report and a copy of its self-insurance resolution to determine the adequacy of the insurance funding must be received by the County Purchasing Agent at least ten (10) working days prior to the date set for receipt of bids or proposals. If the County denies the request for alternate coverages, the specified coverages will be required to be submitted. If the County permits alternate coverage, an amendment to the Insurance Requirements will be prepared and distributed prior to the time and date set for receipt of bids or proposals.
- 1.17 All required insurance coverages must be acquired from insurers authorized to do business in the Commonwealth of Virginia and acceptable to the County. The insurers must also have a policyholders' with a rating of "A-VII" in the latest edition of the A.M. Best Co.'s Insurance Reports, unless the County grants specific approval for an exception, in the same manner as described in 1.16 above.
- 1.18 The Contractor shall be responsible for payment of any deductibles applicable to the coverages.
- 1.19 The Contractor must disclose the amount of any deductible or self-insurance component applicable to the General Liability, Automobile Liability, Professional Liability, Intellectual Property or any other policies, if any. The County reserves the right to request additional information to determine if the Contractor has the financial capacity to meet its obligations under a deductible. Thereafter, at its option, the County may require a lower deductible, funds equal to the deductible be placed in escrow, a certificate of self-insurance, collateral, or other mechanism in the amount of the deductible to ensure additional protection for the County.

## 2. Contractor's Insurance:

2.1 The Contractor shall purchase the following insurance coverages, including the terms, provisions and limits shown in the Insurance Checklist.

2.1.1 Commercial General Liability - Such Commercial General Liability policy shall include any or all of the following as indicated on the Checklist:

- i. General aggregate limit is to apply per project;
- ii. Premises/Operations;
- iii. Actions of Independent Contractors;
- iv. Products/Completed Operations to be maintained for five (5) years after completion of the Work;
- v. Contractual Liability, including protection for the Contractor from claims arising out of liability assumed under this Contract;
- vi. Personal Injury Liability including, including but not limited to, coverage for offenses related to employment and copyright infringement;
- vii. Explosion, Collapse, or Underground (XCU) hazards.

2.1.2 Business Automobile Liability, including coverage for any owned, hired, or non-owned motor vehicles, Uninsured Motorists coverage, and automobile contractual liability.

2.1.3 Workers' Compensation - statutory benefits as required by Virginia law or the U.S. Longshoremen's and Harbor Workers' Compensation Act, or other laws as required by labor union agreements, including standard Other States coverage; Employers' Liability coverage. The policy shall not contain any provision or definition which would serve to eliminate third party action over claims, including exclusion for bodily injury to an employee of the insured, employees of the premises owner, or employees of the general Contractor to which the insured is subcontracted; or employees of the insured's subContractor.

2.1.4 General Environmental Remediation Projects

In addition to the Insurance Requirements specified in the general provision or elsewhere in the Contract Documents, the Contractor shall not commence work under this Contract until all insurance as required hereafter has been obtained, and certified copies, naming the County as an additional insured, of such insurance have been submitted and accepted by the Purchasing Agent.

- i. An environmental remediation Contractor or subContractor shall be responsible for purchasing and maintaining Business Automobile Liability insurance and Workers' Compensation insurance as described in 2.1.2 and 2.1.3.
- ii. Acceptance by Arlington County of insurance submitted by the Contractor does not relieve or decrease in any manner the liability of the Contractor for performance of environmental remediation Work under the Contract.

- iii. The Contractor is responsible for any losses, claims, and costs of any kind, which exceed the Contractor's limits of liability, or which may be outside the coverage scope of the policies. The limits and coverage requirements may be revised at the option of the Arlington County Risk Manager. The requirements outlined shall in no way be construed to limit or eliminate the liability of the Contractor, which arises from performance of work under the Contract.

3. Commercial General or other Liability Insurance - Claims-made Basis:

- 3.1 If Commercial General or other liability insurance purchased by the Contractor has been issued on a claims-made basis, the Contractor must comply with the following additional conditions. The limits of liability and the extensions to be included as described in the Insurance Checklist remain the same. The Contractor must either:
- i. Agree to provide insurance, copies of the endorsement and certified documentation evidencing the above coverages and naming the County as an additional insured for a period of five (5) years after final payment under the Contract. Such documentation shall evidence a retroactive date, no later than the beginning of the Contractors or subContractors' work under this Contract, or
  - ii. Purchase an extended (minimum five [5] years) reporting period endorsement for the policy or policies in force during the term of this Contract and evidence the purchase of this extended reporting period endorsement by means of a copy of the endorsement itself. The extended reporting period will begin upon final payment under the Contract.

VII. ATTACHMENTS AND FORMS

ARLINGTON COUNTY, VIRGINIA  
OFFICE OF THE PURCHASING AGENT

INVITATION TO BID NO. 18-104-ITB

B I D F O R M

**SUBMIT TWO (2) FULLY-COMPLETED AND SIGNED BID FORMS TO THE OFFICE OF THE BID CLERK, SUITE 511, 2100 CLARENDON BLVD., ARLINGTON, VIRGINIA 22201 (ONE FORM SHALL CONTAIN AN ORIGINAL LONGHAND SIGNATURE; THE OTHER SHALL BE A PHOTOCOPY OF THE SIGNED ORIGINAL)**

BIDS WILL BE OPENED AT 2:00 P.M., ON FEBRUARY 14TH, 2018

FOR PROVIDING REHABILITATION OF SANITARY SEWER MANHOLE STRUCTURES – PRIMARILY, CEMENTITIOUS & EPOXY RESIN REHABILITATION PROCESS WITH PICTURES SUPPORTING THE PRE- AND POST-CONDITION OF SANITARY SEWER MANHOLES; AND REHABILITATION OF WATER VAULTS INCLUDING CLEANING, PREPARING AND COATING ALL IN VAULT AND EXPOSED PIPELINE APPURTENANCES AND ASSOCIATE ASSEMBLY COMPONENTS. THE CONTRACTOR IS RESPONSIBLE FOR PROVIDING ALL LABOR, SUPERVISION, MATERIALS, EQUIPMENT, TOOLS, TRANSPORTATION, AND SUPPLIES REQUIRED TO COMPLETE THE WORK, FOR UP TO A FIVE-YEAR (5) PERIOD.

THE UNDERSIGNED UNDERSTANDS AND ACKNOWLEDGES THE FOLLOWING:

THE OFFICIAL, TRUE, AND COMPLETE COPY OF THE SOLICITATION DOCUMENTS, WHICH SHALL INCLUDE ALL ADDENDUMS THERETO, IS THE ELECTRONIC COPY OF THE SOLICITATION DOCUMENTS PROVIDED AT THE COUNTY'S WEBSITE ([HTTP://BUDGET.ARLINGTONVA.US/PURCHASING](http://budget.arlingtonva.us/purchasing)).

EACH BIDDER IS RESPONSIBLE FOR DETERMINING THE ACCURACY AND COMPLETENESS OF ALL SOLICITATION DOCUMENTS THEY RECEIVE, INCLUDING DOCUMENTS OBTAINED FROM THE COUNTY AND DOCUMENTS OBTAINED FROM ALL OTHER SOURCES.

The undersigned certifies that (Bidder Name) \_\_\_\_\_ is currently registered with the Virginia State Board of Contractors as required by the Code of Virginia. Certificate Number \_\_\_\_\_ for a Class \_\_\_\_\_ License was issued on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. The undersigned further certifies that the registration fee and all renewal fees required under law have been paid. The Contractor agrees to furnish all necessary labor, equipment, materials, and all things necessary to perform the work as set forth in accordance with the plans and specifications at the following prices: (All prices include provision and installation).

The undersigned acknowledges receipt of the following Addendums:

ADDENDUM A                      DATE: \_\_\_\_\_                      INITIAL: \_\_\_\_\_

ADDENDUM B                      DATE: \_\_\_\_\_                      INITIAL: \_\_\_\_\_

ADDENDUM C                      DATE: \_\_\_\_\_                      INITIAL: \_\_\_\_\_

Item Number	Description	Unit Measurement	Quantity	Unit Bid Price	Extended Price
<b>A - Sanitary Sewer Manhole Rehabilitation</b>					
MHR-1	Sanitary Sewer Manhole Inspection	V.F.	1100		
MHR-2	Replace/Reset Manhole Frame and Cover-24"(Paved including VDOT BM-25.0 & VDOT SM-9.5A)	EA	40		
MHR-3	Replace/Reset Manhole Frame and Cover-36" (Paved including VDOT BM-25.0 & SM-9.5A)	EA	5		
MHR-4	Replace/Reset Manhole Frame and Cover-24" (Unpaved including fill dirt, top soil, & grass seed)	EA	10		
MHR-5	Replace/Reset Manhole Frame and Cover- 36" (Unpaved including fill dirt, top soil & grass seed)	EA	5		
MHR-6	Chemical Grouting Sealing- Brick Manhole	GAL	180		
MHR-7	Chemical Grout Sealing - Precast Manhole Base	GAL	280		
MHR-8	Chemical Grout Sealing- Precast joint	GAL	180		
MHR-9	Chimney Seal	EA	120		
MHR-10	Replace manhole Bolts	EA	20		
MHR-11	Plug/Cap Inactive Pipe Connection	EA	5		
MHR-12	Repair/Modify Manhole Bench	EA	105		
MHR-13	Cementitious Reconstruction for 4' Inside Diameter Manhole, 1/2" thick	V.F.	660		
MHR-14	Additional 1/4" Thick Cementitious Reconstruction for 4' Inside Dia. Manhole	V.F.	165		
MHR-15	Cementitious Reconstruction for 5' Inside Diameter Manhole, 1/2" thick	V.F.	275		
MHR-16	Additional 1/4" Thick Cementitious Reconstruction for 5' Inside Dia. Manhole	V.F.	65		
MHR-17	Cementitious Reconstruction for 6' Inside Diameter Manhole, 1/2" thick	V.F.	165		
MHR-18	CIP Bag Liner for 4' Inside Dia. Manhole, 150 mils thick	V.F.	50		
MHR-19	Additional 50 mils thick CIP Bag Liner for 4' Inside Dia. Manhole	V.F.	25		
MHR-20	CIP Bag Liner for 5' Inside Dia. Manhole, 150 mils thick	V.F.	50		
MHR-21	Additional 50 mils thick CIP Bag Liner for 5' Inside Dia. Manhole	V.F.	25		
MHR-22	CIP Bag Liner for 6' Inside Dia. Manhole, 150 mils thick	V.F.	50		
MHR-23	Additional 50 mils thick CIP Bag Liner for 6' Inside Dia. Manhole	V.F.	25		
MHR-24	Spray-on Epoxy Liner for 4' Inside Dia. Manhole, 40 mils thick	V.F.	200		
MHR-25	Additional 25 mils thick Spray-on Epoxy Liner for 4' Inside Dia. Manhole	V.F.	50		

MHR-26	Spray-on Epoxy Liner for 5' Inside Dia. Manhole, 40 mils thick	V.F.	100		
MHR-27	Additional 25 mils thick Spray-on Epoxy Liner for 5' Inside Dia. Manhole	V.F.	25		
MHR-28	Spray-on Epoxy Liner for 6' Inside Dia. Manhole, 40 mils thick	V.F.	100		
MHR-29	Additional 25 mils thick Spray-on Epoxy Liner for 6' Inside Dia. Manhole	V.F.	25		
MHR-30	Spray-on Polyurethane Liner for 4' Inside Diameter Manhole, 150 mils thick	V.F.	20		
MHR-31	Additional 25 mils thick Spray-on Polyurethane liner for 4' Inside Dia. Manhole	V.F.	5		
MHR-32	Spray-on Polyurethane Liner for 5' Inside Diameter Manhole, 150 mils thick	V.F.	20		
MHR-33	Additional 25 mils thick Spray-on Polyurethane liner for 5' Inside Dia. Manhole	V.F.	5		
MHR-34	Spray-on Polyurethane Liner for 6' Inside Diameter Manhole, 150 mils thick	V.F.	20		
MHR-35	Additional 25 mils thick Spray-on Polyurethane liner for 6' Inside Dia. Manhole	V.F.	5		

**SECTION A SUBTOTAL**

**B – Water Vault Rehabilitation**

WV-1	Water Vault Inspection	EA	10		
WV-2	Water pipeline, Appurtenances and Associated Assembly Components Surface Inspection & preparation	EA	10		
WV-3	Foreman w/ Pick up Truck	HR	320		
WV-4	Labor Unskilled	HR	960		
WV-5	Labor Skilled	HR	320		
WV-6	Black Paint	GAL	40		

**SECTION B SUBTOTAL**

**C – Traffic Maintenance**

ALL	Maintenance of Traffic Arterials Only (Requires MOT Plan)	DAY	1		
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**SECTION C SUBTOTAL**

**GRAND TOTAL BID PRICE (SUBTOTALS A+B+C):**



THE UNDERSIGNED (INITIAL ONE ENTRY) ELECTS\_\_\_\_, DOES NOT ELECT\_\_\_\_, TO USE THE ESCROW PROCEDURES DESCRIBED IN SECTION 11-56.1 OF THE VIRGINIA PUBLIC PROCUREMENT ACT.

TRADE SECRETS OR PROPRIETARY INFORMATION:

Trade secrets or proprietary information submitted by an bidder in connection with a procurement transaction shall not be subject to public disclosure under the Virginia Freedom of Information Act. However, Section 4-111 of the Arlington County Purchasing Resolution states that the bidder must invoke the protection of this section prior to or upon submission of the data or other materials, and must identify the data or other materials to be protected and state the reasons why protection is necessary.

Please mark one:

- ( ) No, the bid I have submitted does not contain any trade secrets and/or proprietary information.
- ( ) Yes, the bid I have submitted does contain trade secrets and/or proprietary information.

If Yes, you must clearly identify below the exact data or other materials to be protected and list all applicable page numbers of the bid containing such data or materials:

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State the specific reason(s) why protection is necessary:

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If you fail to identify the data or other materials to be protected and state the reasons why protection is necessary in the space provided above, you will not have invoked the protection of Section 4-111 of the Purchasing Resolution. Accordingly, effective upon the award of contract, the bid will be open for public inspection consistent with applicable law.

**CONTRACTOR MINIMUM QUALIFICATIONS QUESTIONNAIRE:**

1. Has the Contractor been in the sanitary sewer manhole structures inspection/rehabilitation business for at least five (5) years?  YES  NO

On a separate sheet, provide the following information for the three (3) largest manhole inspection/rehabilitation projects the Contractor performed in the last 5 years.

Provide the following information for each project:

- Project Name
- Project description and Contractor scope of work
- Utilities owner
- Utilities owner phone number
- Project manager
- Name, telephone number and email address of project manager
- Project start date and scheduled completion date
- Project start date and actual completion date
- Initial project contract cost and final project cost

2. Has the Contractor been in the water vault inspection/rehabilitation business for at least five (5) years?  YES  NO

On a separate sheet, provide the following information for the three (3) largest water vault inspection/ rehabilitation projects the Contractor performed in the last 5 years.

Provide the following information for each project:

- Project Name
- Project description and Contractor scope of work
- Utilities owner
- Utilities owner phone number
- Project manager
- Name, telephone number and email address of project manager
- Project start date and scheduled completion date
- Project start date and actual completion date
- Initial project contract cost and final project cost

3. In the last five (5) years, has the Contractor completed projects in the amount of \$200,000.00/year?  YES  NO

[This space intentionally left blank]

CERTIFICATION OF NON-COLLUSION: The undersigned certifies that this bid is not the result of, or affected by, any act of collusion with another person (under Virginia Code Section 59.1-68.6 et seq.), engaged in the same line of business or commerce; or any act of fraud punishable under Article 1.1 of the Virginia Governmental Frauds Act (Va. Code §18.2-498.1 et seq.).

CERTIFICATION OF UNDERSTANDING OF THE CONTRACT DOCUMENTS: The undersigned affirms that he has carefully examined all of the Solicitation Documents and that there are no erroneous, contradictory, incomplete or infeasible requirements or directions apparent in the Bid. The undersigned agrees to waive any claims in any way associated with any such erroneous, contradictory, incomplete or infeasible requirements or directions unless such requirements could only reasonably be uncovered during the course of the Work.

**CONTACT PERSON AND MAILING ADDRESS FOR DELIVERY OF NOTICES**

Provide the name and address of the person designated by the Bidder to receive notices and other communications (Refer to section headed Notices in the Contract Terms and Conditions of this solicitation for further details):

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

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

E-MAIL: \_\_\_\_\_

**THE PROPER LEGAL NAME OF THE FIRM OR ENTITY SUBMITTING THIS BID MUST BE WRITTEN IN THE SPACE PROVIDED BELOW. THIS BID FORM, AND ALL OTHER DOCUMENTS REQUIRED BY THE INVITATION TO BID TO BE SUBMITTED WITH THIS BID FORM, INCLUDING, BUT NOT LIMITED TO ALL ISSUED ADDENDUMS, MUST BE FULLY AND ACCURATELY COMPLETED AND SIGNED BELOW BY A PERSON AUTHORIZED TO LEGALLY BIND THE BIDDER, OR THE BID MAY BE REJECTED:**

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

PRINT NAME AND TITLE: \_\_\_\_\_

[This space intentionally left blank]

INDICATE THE NAME AND CONTACT INFORMATION OF THE PERSON WHO CAN RESPOND AUTHORITATIVELY TO ANY QUESTIONS REGARDING THIS BID (I.E. PROJECT MANAGER):

NAME (PRINTED): \_\_\_\_\_ TEL. NO.: \_\_\_\_\_

E-MAIL ADDRESS: \_\_\_\_\_ FAX. NO.: \_\_\_\_\_

SUBMITTED BY: (LEGAL NAME OF FIRM)					
ADDRESS:					
CITY/STATE/ZIP:					
TELEPHONE NO:			FACSIMILE NO.:		
VA. CONTRACTOR LICENSE #:					
THIS FIRM IS A: • INSERT NAME OF STATE _____ ___ CORPORATION, ___ GENERAL PARTNERSHIP, ___ LIMITED PARTNERSHIP, ___ UNINCORPORATED ASSOCIATION, ___ LIMITED LIABILITY COMPANY, ___ SOLE PROPRIETORSHIP					
IS FIRM AUTHORIZED TO TRANSACT BUSINESS IN THE COMMONWEALTH OF VA?					
IDENTIFICATION NO. ISSUED TO THE FIRM BY THE SCC:					
ANY BIDDER EXEMPT FROM SCC AUTHORIZATION REQUIREMENT SHALL INCLUDE A STATEMENT WITH ITS BID WHY THEY ARE NOT REQUIRED TO BE SO AUTHORIZED					
IS YOUR FIRM CURRENTLY DEBARRED FROM SUBMITTING BIDS TO ARLINGTON COUNTY, VIRGINIA, OR ANY OTHER STATE OR POLITICAL SUBDIVISION?					
ENTITY'S DUN & BRADSTREET D-U-N-S NUMBER: <i>(if available)</i>					
BIDDER STATUS:	MINORITY OWNED:		WOMAN OWNED:		NEITHER:

**INSURANCE CHECKLIST**

**CERTIFICATE OF INSURANCE MUST SHOW ALL COVERAGE AND ENDORSEMENTS MARKED "X".**

**COVERAGES REQUIRED**

**COVERAGE MINIMUM(S)**

- 1. Workers' Compensation .....Statutory limits of Virginia
- 2. Employer's Liability ..... \$100,000 accident, \$100,000 disease,  
\$500,000 disease policy limit
- 3. Commercial General Liability .....\$1,000,000 CSL BI/PD each occurrence,  
\$2 Million annual aggregate
- 4. Premises/Operations .....\$500,000 CSL BI/PD each occurrence,  
\$1 Million annual aggregate
- 5. Automobile Liability .....\$1 Million BI/PD each accident, Uninsured Motorist
- 6. Owned/Hired/Non-Owned Vehicles .....\$1 Million BI/PD each accident,  
Uninsured Motorist
- 7. Independent Contractors .....\$500,000 CSL BI/PD each occurrence,  
\$1 Million annual aggregate
- 8. Products Liability .....\$500,000 CSL BI/PD each occurrence,  
\$1 Million annual aggregate
- 9. Completed Operations .....\$500,000 CSL BI/PD each occurrence,  
\$1 Million annual aggregate
- 10. Contractual Liability (Must be shown on Certificate) .....\$500,000 CSL BI/PD  
each occurrence, \$1 Million annual aggregate
- 11. Personal and Advertising Injury Liability. ....\$1 Million each offense,  
\$1 Million annual aggregate
- 12. Umbrella Liability \$1 Million Bodily Injury, Property Damage and Personal Injury
- 13. Per Project Aggregate
- 14. Professional Liability
  - a. Architects and Engineers.....\$1 Million per occurrence/claim
  - b. Asbestos Removal Liability.....\$2 Million per occurrence/claim
  - c. Medical Malpractice.....\$1 Million per occurrence/claim
  - d. Medical Professional Liability.....\$ Limits as set forth  
in Virginia Code 8.01.581.15
- 15. Miscellaneous E&O .....\$1 Million per occurrence/claim
- 16. Motor Carrier Act End. (MCS-90) .....\$1 Million BI/PD each accident, Uninsured  
Motorist
- 17. Motor Cargo Insurance
- 18. Garage Liability .....\$1 Million Bodily Injury, Property Damage per occurrence
- 19. Garagekeepers Liability .....\$500,000 Comprehensive, \$500,000 Collision
- 20. Inland Marine-Bailee's Insurance .....\$
- 21. Moving and Rigging Floater .....Endorsement to CGL
- 22. Crime and Employee Dishonesty Coverage .....\$
- 23. Builder's Risk .....Provide Coverage in the full amount of Contract,  
including any amendments
- 24. XCU Coverage .....Endorsement to CGL
- 25. USL&H .....Federal Statutory Limits
- 26. Carrier Rating shall be A.M. Best Co.'s Rating of A-VII or better or equivalent
- 27. Notice of Cancellation, nonrenewal or material change in coverage shall be  
provided to County at least 30 days prior to action.
- 28. The County shall be an Additional Insured on all policies except Workers  
Compensation and Auto and Professional Liability.
- 29. Certificate of Insurance shall show Bid Number and Bid Title.
- 30. OTHER INSURANCE REQUIRED: \_\_\_\_\_

**INSURANCE AGENT'S STATEMENT:**

I have reviewed the above requirements with the bidder named below and have advised the bidder of required coverages not provided through this agency.

AGENCY NAME: \_\_\_\_\_ AUTH. SIGNATURE: \_\_\_\_\_

**BIDDER'S STATEMENT:**

If awarded the Contract, I will comply with all Contract insurance requirements.

BIDDER NAME: \_\_\_\_\_ AUTH. SIGNATURE: \_\_\_\_\_

BIDDER COMPANY NAME \_\_\_\_\_

ITB No. 18-104-ITB