

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

CONTRACT AWARD COVERPAGE

TO: SMART BUILDING STRATEGIES LLC	DATE ISSUED:	MAY 3, 2021
22264 PHILANTHROPIC DRIVE	CONTRACT NO:	20-265-RFP-2
ASHBURN, VIRGINIA 20148	CONTRACT TITLE:	CONSTRUCTION COMMISSIONING SERVICES

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

The contract documents consist of the terms and conditions of AGREEMENT No. 20-265-RFP-2, including any attachments or amendments thereto.

EFFECTIVE DATE: MAY 3, 2021

EXPIRES: MAY 2, 2022

RENEWALS: FOUR (4) ONE (1) YEAR RENEWAL OPTIONS REMAINING MAY 3, 2022 TO MAY 2, 2026

COMMODITY CODE(S): 91819

LIVING WAGE: N

ATTACHMENTS:

AGREEMENT No. 20-265-RFP-2

EMPLOYEES NOT TO BENEFIT:

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

VENDOR CONTACT: VAHID KOMPANY **VENDOR TEL. NO.:** (571) 455-7271

EMAIL ADDRESS: VKOMPANY@SBSMAILBOX.COM

COUNTY CONTACT: CYNTHIA WILSON, DES, FDC **COUNTY TEL. NO.:** (703) 228-4438

COUNTY CONTACT EMAIL: CWILSON@ARLINGTONVA.US

PURCHASING DIVISION AUTHORIZATION

Kaylin Schreiber Title: Procurement Officer Date: 4/19/2021

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

AGREEMENT NO. 20-265-RFP-2

THIS AGREEMENT is made, on May 3, 2021, between Smart Building Strategies LLC, 22264 Philanthropic Drive, Ashburn, Virginia 20148 (“Contractor”), a Virginia Limited Liability Company authorized to do business in the Commonwealth of Virginia, and the County Board of Arlington County, Virginia. The County and the Contractor, for the consideration hereinafter specified, agree as follows:

1. CONTRACT DOCUMENTS

The “Contract Documents” consist of:

- This Agreement
- Exhibit A – Scope of Work
- Exhibit B – Contract Pricing
- Exhibit C – County Nondisclosure and Data Security Agreement (Contractor)
- Exhibit D – County Nondisclosure and Data Security Agreement (Individual)

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

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

2. SCOPE OF WORK

The Contractor agrees to perform the services described in the Contract Documents (the “Work”). As detailed in the “Scope of Work” (Exhibit A), the primary purpose of the Work is Construction Commissioning Services. It will be the Contractor’s responsibility, at its sole cost, to provide the specific services set forth in the Contract Documents and sufficient services to fulfill the purposes of the Work. Nothing in the Contract Documents limits the Contractor’s responsibility to manage the details and execution of the Work.

3. PROJECT OFFICER

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

4. CONTRACT TERM

Time is of the essence. The Work will commence on May 3, 2021 and must be completed no later than May 2, 2022 ("Initial Contract Term"), subject to any modifications provided in the Contract Documents. Upon satisfactory performance by the Contractor the County may, through issuance of a unilateral Notice of Award, authorize continuation of the Agreement under the same contract prices for not more than four (4) additional 12-month periods, from May 3, 2022 to May 2, 2026 (each a "Subsequent Contract Term"). The Initial Contract Term and any Subsequent Contract Term(s) are together the "Contract Term".

5. CONTRACT AMOUNT

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

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

6. CONTRACT PRICE ADJUSTMENTS

The Contract Amount/unit price(s) will remain firm until May 2, 2022 ("Price Adjustment Date"). To request a price adjustment, the Contractor or the County must submit a written request to the other party not less than 90 days before the Price Adjustment Date. Increases in the Contract Amount/unit price(s) will not exceed the percentage of change in the U.S. Department of Labor Consumer Price Index, All Items, Unadjusted, Urban Areas ("CPI-U") for the 12 months of statistics available at the time of the Contract's renewal. Only the base rate of the fully burdened hourly rates may be increased. Overhead rates may be increased if new audited overhead rates are approved.

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

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

7. STANDARD OF CARE

The County is entering into this Contract in reliance on the Contractor's experience and abilities with respect to performing the services hereunder. In performing the Work, the Contractor will ensure that it and its agents and employees exercise the degree of skill and care that is normally accepted by members of the same profession currently practicing under similar conditions in the same locality ("Customary Standard of Care"). The Contractor will re-perform, without additional compensation, any services not meeting this Customary Standard of Care.

The Contractor will be responsible for the professional quality, completeness, technical accuracy and coordination of all designs, drawings, specifications, costs estimates and other services or materials provided, regardless of whether such drawings and documents are prepared by the Contractor or the Contractor's consultants. The plans, drawings, specifications and other documents that the Contractor prepares must be free from material errors, complete and appropriate for the purposes intended; and the

project, if constructed in accordance with such plans, drawings, specifications, and other documents, will be structurally sound and complete and a properly functioning facility suitable for the purposes for which it is intended.

The Contractor is responsible for all costs and expenses incurred by the County, including increased construction costs, when such costs and expenses are the result of any violation of this Standard of Care section. The County's review, approval or acceptance of or payment for any services required under this Contract does not release the Contractor from any liability for breach of this Standard of Care.

8. PAYMENT

The County will pay the Contractor monthly according to the provisions of this section. By the tenth day of each month, the Contractor will submit to the Project Officer an invoice describing the total work done during the preceding month, broken out by task. The Project Officer will either approve the invoice or require corrections. The County will pay the Contractor within 45 days after receipt of an approved invoice.

The invoice must be based on an estimated percentage of the total work under each task that was completed during the month, subject to the Project Officer's acceptance of the work and the estimate. If the Contractor has already been paid 90% of the total amount allocated for any task and work under that task is not complete, the County will pay the remaining amount due for that task only upon completion of the task. The County will not pay more than amount allocated for any task, regardless of the number of hours spent or the amount of expenses incurred by the Contractor to complete the task.

The number of the County Purchase Order by which shipments have been made or services have been performed must appear on all invoices.

9. ADJUSTMENTS FOR CHANGE IN SCOPE

The County may order additions, deletions and other revisions in the Work within the general scope of the project. If the Contractor believes that any change is not within the scope of the project or warrants additional compensation, the Contractor must notify the Project Officer as soon as the County requests the change; and the Contractor must then provide written notice of its position to the Project Officer within ten calendar days. The Contractor's notice must detail and document the basis for the claimed amount of additional compensation. The Contractor will not receive any additional compensation pursuant to this paragraph unless the parties execute a written Contract amendment and the County issues a purchase order consistent with the amendment.

10. REIMBURSABLE EXPENSES

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

11. PAYMENT OF SUBCONTRACTORS

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

- a. Pay the subcontractor for the proportionate share of the total payment received from the County attributable to the work performed by the subcontractor under this Contract; or

- b. Notify the County and the subcontractor, in writing, of the Contractor's intention to withhold all or a part of the subcontractor's payment, with the reason for nonpayment.

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

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

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

12. NO WAIVER OF RIGHTS

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

13. NON-APPROPRIATION

All payments by the County to the Contractor pursuant to this Contract are subject to the availability of an annual appropriation for this purpose by the County Board of Arlington County, Virginia ("Board"). In the event that the Board does not appropriate funds for the goods or services provided under this Contract, the County will terminate the Contract, without termination charge or other liability to the County, on the last day of the fiscal year or when the previous appropriation has been spent, whichever event occurs first.

14. ESTIMATED QUANTITIES/NON-EXCLUSIVITY OF CONTRACTOR

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

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

15. COUNTY PURCHASE ORDER REQUIREMENT

County purchases are authorized only if the County issues a Purchase Order in advance of the transaction, indicating that the ordering County agency has sufficient funds available to pay for the purchase. If the Contractor provides goods or services without a signed County Purchase Order, it does so at its own risk

and expense. The County will not be liable for payment for any purchases made by its employees that are not authorized by the County Purchasing Agent.

16. REPLACEMENT OF PERSONNEL AND SUBCONTRACTORS

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

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

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

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

17. EMPLOYMENT DISCRIMINATION BY CONTRACTOR PROHIBITED

During the performance of its work pursuant to this Contract:

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

18. EMPLOYMENT OF UNAUTHORIZED ALIENS PROHIBITED

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

19. DRUG-FREE WORKPLACE TO BE MAINTAINED BY CONTRACTOR

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

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

20. SEXUAL HARRASSMENT POLICY

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

21. SAFETY

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

22. TERMINATION

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

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

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

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

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

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

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

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

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

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

B. TERMINATION FOR THE CONVENIENCE OF THE COUNTY

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

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

23. INDEMNIFICATION

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

24. INTELLECTUAL PROPERTY INDEMNIFICATION

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

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

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

25. COPYRIGHT

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

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

The Contractor may not use subcontractors or third parties to develop or provide input into any copyrightable materials produced pursuant to this Contract without the County's advance written approval and unless the Contractor includes this Copyright provision in any contract or agreement with such subcontractors or third parties related to this Contract.

26. OWNERSHIP OF WORK PRODUCT

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

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

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

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

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

27. DATA SECURITY AND PROTECTION

The Contractor will hold County Information, as defined below, in the strictest confidence and will comply with all applicable County security and network resources policies, as well as all local, state and federal laws and regulatory requirements concerning data privacy and security. The Contractor must develop, implement, maintain, continually monitor and use appropriate administrative, technical and physical security measures to control access to and to preserve the confidentiality, privacy, integrity and availability of all electronically maintained or transmitted information received from or created or maintained on behalf of the County. For purposes of this provision, and as more fully described in this Contract and in the County's Non-Disclosure and Data Security Agreement (NDA), "County Information" includes, but is not limited to, electronic information; documents; data; images; financial records; personally identifiable information; personal health information (PHI); personnel, educational, voting, registration, tax and assessment records; information related to public safety; County networked resources; and County databases, software and security measures that are created, maintained, transmitted or accessed to perform the Work under this Contract.

- (a) **County's Non-Disclosure and Data Security Agreement.** The Contractor and its Designees (Contractor Designees shall include, but shall not be limited to, all Contractor-controlled agents or subcontractors working on-site at County facilities or otherwise performing any work under this Contract) must sign the NDA (Exhibit D) before performing any work or obtaining or permitting access to County networked resources, application systems or databases. The Contractor will make copies of the signed NDAs available to the County Project Officer upon request.

- (b) **Use of Data.** The Contractor will ensure against any unauthorized use, distribution or disclosure of or access to County Information and County networked resources by itself or its Designees. Use of County Information other than as specifically outlined in the Contract Documents is strictly prohibited. The Contractor will be solely responsible for any unauthorized use, reuse, distribution, transmission, manipulation, copying, modification,

access to or disclosure of County Information and for any non-compliance with this provision by itself or by its Designees.

- (c) **Data Protection.** The Contractor will protect the County's Information according to standards established by federal law and Commonwealth of Virginia statutes including but not limited to the Government Data Collection and Dissemination Practices Act, Chapter 38 of Title 2.2 of the Code of Virginia (§ 2.2-3800 and 2.2-3803), Administration of systems including personal information; Internet privacy policy; exceptions, Code of Virginia, § 2.2-3803, and the Virginia Freedom of Information Act § 2.2-3700, et seq., and will adhere to industry best practices including the National Institute of Standards and Technology (NIST) SP 800-53 Security and Privacy Controls for Information Systems and Organizations and the Payment Card Industry Data Security Standard (PCI DSS), as applicable, and no less rigorously than it protects its own data and proprietary or confidential information. The Contractor must provide to the County a copy of its data security policy and procedures for securing County Information and a copy of its disaster recovery plan(s).
- (d) **Security Requirements.** The Contractor must maintain the most up-to-date anti-virus programs, industry-accepted firewalls and other protections on its systems and networking equipment. The Contractor certifies that all systems and networking equipment that support, interact with or store County Information meet the above standards and industry best practices for physical, network and system security requirements. Printers, copiers or fax machines that store County Data into hard drives must provide data-at-rest encryption. The County's Chief Information Security Officer or designee must approve any deviation from these standards. The downloading of County information onto laptops, other portable storage media or services such as personal e-mail, Dropbox etc. is prohibited without the written authorization of the County's Chief Information Security Officer or designee.
- (e) **Conclusion of Contract.** Within 30 days after the termination, cancellation, expiration or other conclusion of the Contract, the Contractor must, at no cost to the County, return all County Information to the County in a format defined by the County Project Officer. The County may request that the Information be destroyed. The Contractor is responsible for ensuring the return and/or destruction of all Information that is in the possession of its subcontractors or agents. The Contractor must certify completion of this task in writing to the County Project Officer.
- (f) **Notification of Security Incidents.** The Contractor must notify the County Chief Information Officer and County Project Officer within 24 hours of the discovery of any unintended access to or use or disclosure of County Information.
- (g) **Subcontractors.** If subcontractors are permitted under this Contract, the requirements of this entire section must be incorporated into any agreement between the Contractor and the subcontractor. If the subcontractor will have access to County Information, each subcontractor must provide to the Contractor a copy of its data security policy and procedures for securing County Information and a copy of its disaster recovery plan(s).

28. ETHICS IN PUBLIC CONTRACTING

This Contract incorporates by reference Article 9 of the Arlington County Purchasing Resolution, as well as all state and federal laws related to ethics, conflicts of interest or bribery, including the State and Local

Government Conflict of Interests Act (Code of Virginia § 2.2-3100 et seq.), the Virginia Governmental Frauds Act (Code of Virginia § 18.2-498.1 et seq.) and Articles 2 and 3 of Chapter 10 of Title 18.2 of the Code of Virginia, as amended (§ 18.2-438 et seq.). The Contractor certifies that its proposal was made without collusion or fraud; that it has not offered or received any kickbacks or inducements from any other offeror, supplier, manufacturer or subcontractor; and that it has not conferred on any public employee having official responsibility for this procurement any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

29. COUNTY EMPLOYEES

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

30. FORCE MAJEURE

Neither party will be held responsible for failure to perform the duties and responsibilities imposed by this Contract if such failure is due to a fire, riot, rebellion, natural disaster, war, act of terrorism or act of God that is beyond the control of the party and that makes performance impossible or illegal, unless otherwise specified in the Contract.

31. AUTHORITY TO TRANSACT BUSINESS

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

32. RELATION TO COUNTY

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

33. ANTITRUST

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

34. REPORT STANDARDS

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

Whenever possible, reports must comply with the following guidelines:

- printed double-sided on at least 30% recycled-content and/or tree-free paper

- recyclable and/or easily removable covers or binders made from recycled materials (proposals with glued bindings that meet all other requirements are acceptable)
- avoid use of plastic covers or dividers
- avoid unnecessary attachments or documents or superfluous use of paper (e.g. separate title sheets or chapter dividers)

35. AUDIT

The Contractor must retain all books, records and other documents related to this Contract for at least five years, or such period of time required by the County's funding partner(s), if any, whichever is greater, after the final payment and must allow the County or its authorized agents to examine the documents during this period and during the Contract Term. The Contractor must provide any requested documents to the County for examination within 15 days of the request, at the Contractor's expense. Should the County's examination reveal any overcharging by the Contractor, the Contractor must, within 30 days of County's request, reimburse the County for the overcharges and for the reasonable costs of the County's examination, including, but not limited to, the services of external audit firm and attorney's fees; or the County may deduct the overcharges and examination costs from any amount that the County owes to the Contractor. If the Contractor wishes to destroy or dispose of any records related to this Contract (including confidential records to which the County does not have ready access) within five years after the final payment, or such period of time required by the County's funding partner(s), if any, whichever is greater, the Contractor must give the County at least 30 days' notice and must not dispose of the documents if the County objects.

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

36. ASSIGNMENT

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

37. AMENDMENTS

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

38. ARLINGTON COUNTY PURCHASING RESOLUTION AND COUNTY POLICIES

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

39. DISPUTE RESOLUTION

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

40. APPLICABLE LAW, FORUM, VENUE AND JURISDICTION

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

41. ARBITRATION

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

42. NONEXCLUSIVITY OF REMEDIES

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

43. NO WAIVER

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

44. SEVERABILITY

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

45. ATTORNEY'S FEES

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

46. SURVIVAL OF TERMS

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

47. HEADINGS

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

48. AMBIGUITIES

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

49. NOTICES

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

TO THE CONTRACTOR:

Vahid Kompany, Director of Operations
Smart Building Strategies LLC
22264 Philanthropic Drive
Arlington, Virginia 20148
Phone: (571) 455-7271
Email: vkompany@sbsmailbox.com

TO THE COUNTY:

Cynthia Wilson, Project Officer
Arlington County, Virginia
1400 N. Uhle Street, Suite 403
Arlington, Virginia 22201
Phone: (703) 228-4438
Email: cwilson@arlingtonva.us

AND

Sharon T. Lewis, LL.M., MPS, VCO, CPPB
County Purchasing Agent
Arlington County, Virginia
2100 Clarendon Boulevard, Suite 500
Arlington, Virginia 22201

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

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

50. ARLINGTON COUNTY BUSINESS LICENSES

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

51. NON-DISCRIMINATION NOTICE

Arlington County does not discriminate against faith-based organizations.

52. LIMITED ENGLISH PROFICIENCY

The Contractor must comply with Executive Order 13166, Title VI of the Civil Rights Act of 1964 and make reasonable efforts to ensure that as part of the services that it provides, adequate communication services, including interpretation and translation, are available to persons who have limited English proficiency. If such services are not included in the Contract's scope of services and pricing, the Contractor will use a County-contracted service provider, and the County will pay the fees.

53. INSURANCE REQUIREMENTS

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

- a. Workers Compensation - Virginia statutory workers compensation (W/C) coverage, including Virginia benefits and employer's liability with limits of \$100,000/100,000/500,000. The County will not accept W/C coverage issued by the Injured Worker's Insurance Fund, Towson, MD.
- b. Commercial General Liability - \$1,000,000 per occurrence, with \$2,000,000 annual aggregate covering all premises and operations and including personal injury, completed operations, contractual liability, independent contractors, and products liability. The general aggregate limit must apply to this Contract. Evidence of contractual liability coverage must be provided with the certificate.
- c. Business Automobile Liability - \$1,000,000 combined single-limit (owned, non-owned and hired).
- d. The Contractor shall carry Errors and Omissions or Professional Liability insurance which will pay for damages arising out of errors or omissions in the rendering, or failure to render services or perform Work under the contract, in the amount of \$2,000,000 per claim.
- e. Additional Insured – The County and its officers, elected and appointed officials, employees and agents must be named as additional insureds on all policies except workers compensation and automotive and professional liability; and the additional insured endorsement must be provided with the certificate.
- f. Cancellation - If there is a material change or reduction in or cancellation of any of the above coverages during the Contract Term, the Contractor must notify the Purchasing Agent immediately and must, with no lapse in coverage, obtain replacement coverage that is consistent with the terms of this Contract. Not having the required insurance throughout the Contract Term is grounds for termination of the Contract.
- g. Claims-Made Coverage - Any "claims made" policy must remain in force, or the Contractor must obtain an extended reporting endorsement, until the applicable statute of limitations for any claims has expired.
- h. Contract Identification - All insurance certificates must state this Contract's number and title.

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

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

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

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

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

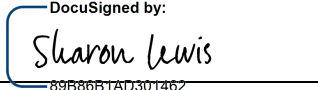
54. COUNTERPARTS

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

WITNESS these signatures:

THE COUNTY BOARD OF ARLINGTON
COUNTY, VIRGINIA

SMART BUILDING STRATEGIES LLC

AUTHORIZED SIGNATURE: 

AUTHORIZED SIGNATURE: 

NAME AND TITLE: Sharon Lewis
Purchasing Agent

NAME AND TITLE: Vahid Kompany
Director of Operations

DATE: 4/26/2021

DATE: 4/26/2021

EXHIBIT A

I. INTRODUCTION TO SCOPE OF WORK

Individual task orders under the resulting contract shall not exceed \$2,500,000 per task order and the sum of all task orders during each contract term shall not exceed \$8,000,000. A County purchase order will be issued for each task prior to the start of work. Commissioning contractors selected will be assigned to specific projects on a rotating basis.; however, the County, at its sole discretion, reserves the right to select contractors out of rotation when deemed to be in the best interests of the County.

II. SCOPE OF WORK

Commissioning services will be required by Arlington County in five (5) phases: pre-design, design, construction, substantial completion, and post completion in accordance with the Associated Air Balance Council (AABC) Commissioning Guideline (ACG), which can be found here www.commissioning.org. Three types of commissioning services to be allowed under this contract. Commissioning of new facilities and buildings and commissioning of existing facilities and buildings to include Retro-Commissioning (Retro-Cx) and Re-Commissioning (Re-Cx). Retro-Commissioning applies to existing buildings and facilities that have been constructed and now in use but haven't been commissioned before. Re-Commissioning applies to existing buildings and facilities that have been commissioned before and time has passed since they been commissioned. In addition to the three types of commissioning, this contract allows for Energy Audits. The Contractor shall provide sufficient qualified personnel and management for any assigned project. Assigned projects may include the following specialized services, or a combination thereof, as determined by the County Project Manager. At the conclusion of each project the Contractor shall provide documented confirmation that the commissioned system(s) are performing as required.

A. Pre-Design Services

The Contractor shall perform the following types of services during the pre-design phase of a project.

1. Determine and develop the scope of Commissioning – both in terms of the systems and equipment to be commissioned and the general process, its benefits, and the costs;
2. Identify the members of the Contractor's Commissioning Team and review their individual roles and responsibilities;
3. Define the County's project commissioning requirements;
4. Conduct facilities and existing buildings design and other building documents reviews to allow for Retro-Commissioning and Re-commissioning site investigations and meetings with the county's appropriate representatives.
5. Conduct site investigative visits, collect site equipment and systems operation information, develop functional performance test procedures (FPTs), conduct equipment and systems FPTs, identify issues and areas of improvement, provide recommendation and possible solutions to the County.
6. Work with the County to formalize possible exiting facilities issues' solutions.

7. Participate in the project planning and assist the County in developing a preliminary Owner's Project Requirements (OPR) that addresses building criteria, the design and selection of building systems, availability and efficiency of proposed equipment, devices and materials, and the cost/benefit of proposed options;
8. Review the design intent document and verify the design intent with the County and design contractor;
9. Prepare the pre-design Commissioning Outline and Plan; and
10. Attend commissioning meetings as needed with project manager and design team.

B. Design Phase Services

The Contractor shall perform the following types of services during the design phase of a project:

1. Assist the County with providing input into the preliminary commissioning scope, and with developing the design contractor's scope of services as it relates to commissioning;
2. Direct the commissioning process by developing a design phase commissioning plan;
3. Attend selected design team meetings and reviews, and comment on the design at various stages of the design. When necessary, provide review and provide comments to update the design intent documents and provide information useful for establishing commissioning test criteria. Provide comments and suggestions for design engineer/architect contractor consideration. Typical design intent information may include:
 - a) Overall building and specific space usage and requirements;
 - b) Incorporate the County's Sustainability Policy Guidelines into the design;
 - c) Potential system performance problems;
 - d) Energy efficiency improvements;
 - e) Operation and maintenance issues; and
 - f) Design indoor environmental conditions including:
 - Temperature, relative humidity and maximum air velocity within the occupied area;
 - outside air ventilation;
 - air changes per hour;
 - space pressures;
 - acceptable tolerances for all conditions; and
 - barrier issues between spaces and occupancy assumptions.
 - g) Makes recommendations to facilitate commissioning and improve building performance.
4. Participate in identifying the consumption and cost goals of the energy systems. Conduct ASHRAE Level II energy audits;

5. Allow for Retro-Cx and Re-Cx design related activities such as review of possible designs to remedy existing issues. Provide comments and answer any questions that the design team may have to provide the best solution for the issue on hand.
6. Identify energy conservation measures (ECMs)
7. Provide recommendations to take advantage of the ECMs, specially the low hanging fruit ECMs.
8. Provide the county team with any ECMs requiring re-design of existing equipment and systems. Assist in review of the possible design solution.
9. Identify building envelope components to be commissioned;
10. Perform detailed review of design package submissions, which occur typically at Schematic design, Design Development, and Construction Document phases, provide written review comments, and follow-up with design contractor to ensure review comments were properly addressed and incorporated into the design;
11. Update / refine Commissioning Outline and Plan;
12. Develop commissioning specifications;
13. Produce standards and strategies for testing all energy systems during the design phase, and clearly specify these requirements in the construction documents;
14. Present final recommendations to the County regarding the performance of the commissioned systems and assemblies;
15. Provide oversight and all necessary documentation, as it relates to Commissioning prerequisites and credits, required for the County's application for a project to qualify for designation by the United States Green Buildings Council (USGBC) "Leadership in Energy and Environmental Design" (LEED) certification program;
16. Review and comment on final design documents and drawings and identify all commissioning issue;
17. Provide assistance to the County for coordinating the inclusion of commissioning requirements in the bid documents;
18. Review and comment on final design documents and drawings as to constructability, cost benefits of options, and to minimize exposure to change orders necessary as it relates to commissioned systems;
19. The CxA building envelop/enclosure commissioning specialist shall work with the County, design team and other involved stakeholders to develop the envelop/enclosure testing matrix. The testing matrix shall include the ASTM tests requirement i.e., sample rate for each test, and other quantitative items;

20. Review and provide comments on the building enclosure assembly details, including review of the U-values for each of the following enclosure system such as:

- roof to wall;
- foundation to wall;
- fenestration;
- wall to floor;
- penetrations; and
- other enclosure features

21. Recommend and provide advice on the number and types of field mock-ups and testing and inspection procedures; and

22. Perform advanced commissioning tasks that may be incorporated for those projects identified by the County to earn Net-Zero Energy ratings. Many of these advanced measures shall be incorporated to achieve energy efficiency required for compliance with Net-Zero Energy buildings.

C. Construction Phase Services

The Contractor shall perform the following types of services during the construction phase of a project:

1. Organize and lead the commissioning process;
2. Review shop drawings and submittals for performance parameters and information affecting the commissioning process. Review building envelop/enclosure material submittals, factory test reports review, and Mockup test results reviews;
3. Update the Commissioning Plan to reflect equipment and controls data from the submittals, and provide commissioning schedule information that the construction contractor can integrate into the project schedule;
4. Schedule and lead commissioning meetings, and deliver regular commissioning progress reports;
5. Establish and maintain a system for tracking issues needing resolution;
6. Perform Retro-Cx and Re-Cx functional performance tests.
7. Perform FPTs after Energy Audit ECMs are implemented to verify that the ECM remedy is yielding the intended results.
8. Review the project schedule periodically to ensure commissioning activities are properly incorporated; provide feedback to the design contractor as needed;

9. Perform on-site inspections during construction, document any deficiencies, and follow-up to ensure corrections were made;
10. Document equipment pre-functional performance test forms. Provide a checklist to the construction personnel to carry out inspections that should typically be done as part of their normal checkout procedure. The CxA Commissioning provider shall perform a static spot-check inspection to verify at a minimum:
 - Equipment location (according to plans and practical requirements);
 - Instrumentation installation per manufacturers' requirement;
 - Drain piping (sloped as specified, and pipes have been pressure tested);
 - Sheaves aligned properly;
 - Connection to power and other utilities; and
 - Safe pipe and duct support for safety and function.
11. Oversee and document Equipment Functional Performance Testing;
12. Monitor correct component and equipment installation, including controls devices such as sensors, actuators, and building automation system (BAS) point-to-point checkouts list and diagrams. Verified as completed. Document all observations;
13. Verify Testing, adjusting and balancing (TAB) report of air and water systems;
14. Witness HVAC equipment and system start-ups as deemed necessary by the Project Manager. Ensure complete documentation of start-ups;
15. Describe and document in clear detail the individual HVAC equipment test procedure, the expected system response, the actual response, and any additional pertinent information;
16. Review building enclosure systems, and provide advice on mock-ups, for random sampling tests to be performed; and
17. Recommend the type and number of tests, who should perform tests, test criteria for acceptance, documentation of tests and who will receive documentation.

D. Substantial Completion Phase Services:

The Contractor shall perform the following types of services during the substantial completion phase:

1. Review and inspect, on a sample basis, the testing, adjusting, and balancing work that has been carried out by the construction contractor;
2. Conduct functional performance testing of sub-systems, systems, and interactions between systems, leading to acceptance of the completed work. Document results of all tests witnessed;
3. Review the training procedure for operations and maintenance (O&M) personnel. Document training completion;

4. Document O&M manual review; and
5. Turnover Commissioning Records, which includes documentation of the HVAC system equipment and device installation, verification issues/checks, air temperature control issues/checks, start-up and test reports of the installed HVAC energy system to the County.

E. Post Completion Phase Services

The Contractor shall perform the following types of services to ready the completed project for occupancy and routine operation:

1. Plan and conduct a Building Commissioning Process as defined in the ACG and produce appropriate reports and documentation to support the building design intent required by the USGBC LEED designation in ASHRAE 90.1-2016 (without amendments);
2. Review the O&M manuals for all commissioned systems and assemblies for completeness and applicability;
3. Assemble written verification that training was conducted for all commissioned features and systems;
4. Prepare a commissioning final report within a reasonable time after occupancy; and
5. Provide follow-up for quality performance during the guarantee period.

The Scope of Work as described above may be provided for any of the following base building systems, if required:

- Domestic water heating and distribution systems;
- HVAC systems and associated controls;
- Building enclosure;
- Domestic water treatment;
- Electrical power distribution systems;
- Lighting control systems;
- Fire alarm systems;
- Security and intrusion detection systems;
- Sprinkler systems;
- Telephone and intercommunication systems; and
- Cable TV and CCTV systems.

F. Commissioning Management Software

Contractor must provide commissioning management software or an online project site that allows for step by step commissioning work flow process completion. This software must allow for both Contractor and construction contractor to complete the appropriate steps and sign off, as well as create and track deficiencies or corrections noted on walks or in the commissioning process.

- a. Software system shall allow for customizable user permissions, checklists, and reports
- b. Software system shall allow for easy photo attachment and upload directly to the site or checklist/report (an example of this software is CxAlloy and can be found here: <https://www.cxalloy.com/>)

Contractor must provide training of software use to appropriate County staff and County service contractors at a County facility after a new system has been installed.

G. Project Proposal and Proposal Negotiation

The County Project Manager will prepare a specific scope of services and project description. The Contractor shall provide a not-to-exceed cost proposal inclusive of all anticipated services and allowance for direct expenses.

The Contractor shall provide a proposal to the County Project Manager within ten (10) Business Days after a request to prepare a proposal. If the Contractor responds with a cost proposal that it not deemed fair and/or reasonable, or; is unable to respond to issued proposal request, or; fails to respond within ten (10) Business Days from receiving the County's task request, the Project Manager is authorized to move to the next firm in rotation. The Contractor shall not charge for a reasonable number of meetings and other costs needed to prepare a proposal.

The Contractor task proposal should include, but not be limited to, the following:

1. The detailed scope of work, terms and conditions, other related special conditions, and management plan.
2. Key personnel assigned to the task.
3. The detailed cost breakdowns of deliverables.
4. The estimated staffing by position title, estimated number of hours for each, billable rates of pay, and total estimated cost for the task. All expenses shall be included in the hourly rate and shall cover salary, benefits, profit, and all other expenses for overhead, insurance, equipment, etc.
5. Identify subcontractors (in accordance with limitations set forth herein) required for the task. Provide detailed information as required in item 4.
6. Reimbursable costs required for the task. Reimbursable costs shall consist of non-employee costs such as postage, copying charges, transportation, etc.
7. A list of any materials or information required from the County to complete the task order scope of services. The Consultant shall be responsible for obtaining information from the County at its own cost and expense for those items that are generally available to the public and are also essential for completion of the task. Those items shall be furnished when available and in the obtainable or accessible form(s).
8. Proposed dates of work commencement and completion.

The County reserves the right to request from the Contractor additional information as determined necessary prior to commencing with negotiations. Within seven (7) calendar days from final negotiations, the Consultant shall prepare and deliver the best and final task proposal to the Project Manager.

The services shall be governed by an hourly fee schedule contained in the overall contract.

Each proposed professional team member shall have the certification required to perform commissioning and experience with the commissioning process on design and construction project. The Contractor may propose to provide some services through sub-contract, subject to prior approval of the County Project Officer. A specific project or task may require the services of a specialized sub-contractor not on the approved hourly fee schedule. The County Project Officer may authorize the use of such specialty sub-contractors at rates comparable to the above list and in concurrence with established rates within the area, if in his or her judgement that service is necessary to the project.

Direct expenses will be those authorized and approved by the County Project Manager and shall be reimbursed upon submission of supporting documentation at actual cost without markup. Direct expenses are those necessary costs and charges incurred for the project including costs of travel, laboratory test and analysis, printing, and reproduction services, etc.

Proposal requests that are declined, not responded to in a timely manner, or not deemed fair and reasonable more than two (2) times in one Fiscal Year (FY) may cause the Contractor to be removed from the Contract.

H. Contractor's Personnel during the Design Phase

The duties of Contractor's personnel during the design phase, whether as a reviewer or otherwise, do not make the Contractor or Contractor's personnel in any way responsible for those duties that belong to the Architect / Engineer or other entities hired to perform work on behalf of the County, and do not relieve the Architect / Engineer or any other entity hired to perform work on behalf of the County of their obligations, duties, and responsibilities,

I. Contractor's Personnel at Construction Site

The presence or duties of Contractor's personnel at a construction site, whether as onsite representatives or otherwise, do not make the Contractor or Contractor's personnel in any way responsible for those duties that belong to the construction contractors or other entities hired to perform work on behalf of the County, and do not relieve the construction contractors or any other entity hired to perform work on behalf of the County of their obligations, duties, and responsibilities, including, but not limited to, all construction methods, means, techniques, sequences, and procedures necessary for coordinating and completing all portions of the construction work in accordance with the construction Contract Documents and any health or safety precautions required by such construction work.

Contractor and Contractor's personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work.

Commissioning Contractor neither guarantees the performance of the construction contractor(s) nor assumes responsibility for construction contractor's failure to perform work in accordance with the construction documents. For this Contract, construction contractors include manufacturers of materials incorporated into the construction work.

J. Commissioning Agents

HVAC Commissioning Agents must be a registered professional mechanical engineer.

Non-HVAC Commissioning Agents must be a registered professional mechanical or electrical engineer. Building Enclosure Commissioning Agents must be a registered Architect or equivalent.

Additionally, both HVAC Commissioning Agent and non-HVAC Commissioning Agents must have specific commissioning training, commissioning certification and experience working with building commissioning services, ASHRAE Guideline 0-2013, ASHRAE Guideline 1.1-2007 and ASHRAE Standard 90.1-2016 for HVAC&R systems, as they relate to energy, water, indoor environmental quality and durability. They must also have experience working with USGBC LEED programs or other approved similar programs.

The Building Enclosure Commissioning Agents must have experience working with ASTM E2947-16 - Standard Guide for Building Enclosure Commissioning, and with USGBC LEED programs or other approved similar sustainable programs.

Smart Building Strategies LLC

Ashburn, Virginia

(571) 455-7271

info@smartbuildingstrategies.com

www.smartbuildingstrategies.com



February 4, 2021

To: Ms. Kaylin Schreiber - Procurement Officer
Office of the Purchasing Agent
2100 Clarendon Boulevard, Suite 500
Arlington, VA 22201
(703) 228-3410
kschreiber@arlington.va.us

RE: Construction Commissioning Services – Negotiation for Award
Proposed Fully Loaded/Burdened
RFP No. 20-265-RFP

Dear Ms. Schreiber,

Smart Building Strategies LLC is pleased to provide it proposed fully loaded/burdened rates for the requested contract labor categories and positions.

The enclosed summary page provides our *proposed fully burdened rates* for the base year (February 2021 through January 2022) and 4 subsequent years with an escalation rate of 2% annually. We also have provided our established commercial rates for your information and comparison. Please also note that our *commercial rates* are calculated based on a 3% annual escalation and higher profit rate.

In addition, we have provided the breakdown of the proposed fully burdened rates by direct rates, overhead, G&A, and profit on the following pages.

Should you have any questions regarding this submission please contact our office at (571) 455-7271 or by email to vkompany@sbsmailbox.com. We stand ready to work with you and your team towards achieving your facilities and projects' commissioning goals.

Sincerely,

Smart Building Strategies LLC

A handwritten signature in black ink, appearing to read 'Vahid Kompany'.

Vahid Kompany, PE, CxA, EMP, LEED AP BD+C
Director of Operations

Proposed Fully Loaded/Burdened Rates
Arlington County 20-265-RFP



Labor Catagories	February-21 January-22	February-22 January-23	February-23 January-24	February-24 January-25	February-25 January-26
Project Manager (PM) (Registered engineer or registered architect)	\$ 146.59	\$ 149.51	\$ 152.51	\$ 155.57	\$ 158.67
Lead Commissioning Agent (CxA) (Registered mechanical engineer & certified commissioning professional)	\$ 121.84	\$ 124.27	\$ 126.74	\$ 129.29	\$ 131.87
Mechanical Commissioning Technician /Assistant (Mechanical engineer & certified commissioning professional)	\$ 94.37	\$ 96.26	\$ 98.19	\$ 100.15	\$ 102.15
Electrical Commissioning Agent (Electrical engineer & certified commissioning professional)	\$ 121.84	\$ 124.27	\$ 126.74	\$ 129.29	\$ 131.87
Electrical Commissioning Technician /Assistant (Electrical engineer & certified commissioning professional)	\$ 94.37	\$ 96.26	\$ 98.19	\$ 100.15	\$ 102.15
Communication Commissioning Agent (Registered engineer & certified commissioning professional)	\$ 121.84	\$ 124.27	\$ 126.74	\$ 129.29	\$ 131.87
Communication Commissioning Technician / Assistant (Engineer & certified commissioning professional)	\$ 94.37	\$ 96.26	\$ 98.19	\$ 100.15	\$ 102.15
Lead Building Enclosure Commissioning Agent (Registered architect or engineer & certified building enclosure commissioning professional)	\$ 121.84	\$ 124.27	\$ 126.74	\$ 129.29	\$ 131.87
Building Enclosure Commissioning Technician / Assistant (Architect or engineer)	\$ 94.37	\$ 96.26	\$ 98.19	\$ 100.15	\$ 102.15
Clerical	\$ 63.99	\$ 65.27	\$ 66.58	\$ 67.91	\$ 69.26

* *NOTES:*

- 1) *Proposed Annual escalation of 2%*
- 2) *Below table provides our established commercial rates for your information only*
- 3) *See following pages for rates breakdown*

SBS Established Commercial Rates (for information)

Labor Category	2021	2022	2023	2024	2025
Program Director	\$ 181.59	\$ 187.04	\$ 192.66	\$ 198.44	\$ 204.40
Energy Engineer/Senior Commissioning Authority/Project Manager	\$ 149.23	\$ 153.71	\$ 158.33	\$ 163.08	\$ 167.98
Project Engineer/ Commissioning Authority	\$ 124.04	\$ 127.77	\$ 131.61	\$ 135.56	\$ 139.63
Field Engineer/ Commissioning Technician	\$ 96.06	\$ 98.95	\$ 101.92	\$ 104.98	\$ 108.13
Administrative Assistant	\$ 65.15	\$ 67.11	\$ 69.13	\$ 71.21	\$ 73.35

Proposed Fully Loaded/Burdened Rates Breakdown
Arlington County 20-265-RFP



February 2021 - January 2022				Proposed Rate	
Labor Categories	Direct Salary	Overhead	G&A	Profit	Rate
		95%	15%	15%	
Project Manager (PM) (Registered engineer or registered architect)	\$ 65.15	\$ 61.89	\$ 9.77	\$ 9.77	\$ 146.59
Lead Commissioning Agent (CxA) (Registered mechanical engineer & certified commissioning professional)	\$ 54.15	\$ 51.44	\$ 8.12	\$ 8.12	\$ 121.84
Mechanical Commissioning Technician /Assistant (Mechanical engineer & certified commissioning professional)	\$ 41.94	\$ 39.84	\$ 6.29	\$ 6.29	\$ 94.37
Electrical Commissioning Agent (Electrical engineer & certified commissioning professional)	\$ 54.15	\$ 51.44	\$ 8.12	\$ 8.12	\$ 121.84
Electrical Commissioning Technician /Assistant (Electrical engineer & certified commissioning professional)	\$ 41.94	\$ 39.84	\$ 6.29	\$ 6.29	\$ 94.37
Communication Commissioning Agent (Registered engineer & certified commissioning professional)	\$ 54.15	\$ 51.44	\$ 8.12	\$ 8.12	\$ 121.84
Communication Commissioning Technician / Assistant (Engineer & certified commissioning professional)	\$ 41.94	\$ 39.84	\$ 6.29	\$ 6.29	\$ 94.37
Lead Building Enclosure Commissioning Agent (Registered architect or engineer & certified building enclosure commissioning professional)	\$ 54.15	\$ 51.44	\$ 8.12	\$ 8.12	\$ 121.84
Building Enclosure Commissioning Technician / Assistant (Architect or engineer)	\$ 41.94	\$ 39.84	\$ 6.29	\$ 6.29	\$ 94.37
Clerical	\$ 28.44	\$ 27.02	\$ 4.27	\$ 4.27	\$ 63.99

February 2022 - January 2023				Proposed Rate	
Labor Categories	Direct 3) See following pages for rates breakdown	Overhead	G&A	Profit	Rate
		95%	15%	15%	
Project Manager (PM) (Registered engineer or registered architect)	\$ 66.45	\$ 63.13	\$ 9.97	\$ 9.97	\$ 149.51
Lead Commissioning Agent (CxA) (Registered mechanical engineer & certified commissioning professional)	\$ 55.23	\$ 52.47	\$ 8.28	\$ 8.28	\$ 124.27
Mechanical Commissioning Technician /Assistant (Mechanical engineer & certified commissioning professional)	\$ 42.78	\$ 40.64	\$ 6.42	\$ 6.42	\$ 96.26
Electrical Commissioning Agent (Electrical engineer & certified commissioning professional)	\$ 55.23	\$ 52.47	\$ 8.28	\$ 8.28	\$ 124.27
Electrical Commissioning Technician /Assistant (Electrical engineer & certified commissioning professional)	\$ 42.78	\$ 40.64	\$ 6.42	\$ 6.42	\$ 96.26
Communication Commissioning Agent (Registered engineer & certified commissioning professional)	\$ 55.23	\$ 52.47	\$ 8.28	\$ 8.28	\$ 124.27
Communication Commissioning Technician / Assistant (Engineer & certified commissioning professional)	\$ 42.78	\$ 40.64	\$ 6.42	\$ 6.42	\$ 96.26
Lead Building Enclosure Commissioning Agent (Registered architect or engineer & certified building enclosure commissioning professional)	\$ 55.23	\$ 52.47	\$ 8.28	\$ 8.28	\$ 124.27
Building Enclosure Commissioning Technician / Assistant (Architect or engineer)	\$ 42.78	\$ 40.64	\$ 6.42	\$ 6.42	\$ 96.26
Clerical	\$ 29.01	\$ 27.56	\$ 4.35	\$ 4.35	\$ 65.27

Proposed Fully Loaded/Burdened Rates Breakdown
Arlington County 20-265-RFP



February 2023 - January 2024				Proposed Rate	
Labor Categories	Direct Salary	Overhead 95%	G&A 15%	Profit 15%	Rate
				Project Manager (PM) (Registered engineer or registered architect)	\$ 67.78
Lead Commissioning Agent (CxA) (Registered mechanical engineer & certified commissioning professional)	\$ 56.33	\$ 53.51	\$ 8.45	\$ 8.45	\$ 126.74
Mechanical Commissioning Technician /Assistant (Mechanical engineer & certified commissioning professional)	\$ 43.64	\$ 41.46	\$ 6.55	\$ 6.55	\$ 98.19
Electrical Commissioning Agent (Electrical engineer & certified commissioning professional)	\$ 56.33	\$ 53.51	\$ 8.45	\$ 8.45	\$ 126.74
Electrical Commissioning Technician /Assistant (Electrical engineer & certified commissioning professional)	\$ 43.64	\$ 41.46	\$ 6.55	\$ 6.55	\$ 98.19
Communication Commissioning Agent (Registered engineer & certified commissioning professional)	\$ 56.33	\$ 53.51	\$ 8.45	\$ 8.45	\$ 126.74
Communication Commissioning Technician / Assistant (Engineer & certified commissioning professional)	\$ 43.64	\$ 41.46	\$ 6.55	\$ 6.55	\$ 98.19
Lead Building Enclosure Commissioning Agent (Registered architect or engineer & certified building enclosure commissioning professional)	\$ 56.33	\$ 53.51	\$ 8.45	\$ 8.45	\$ 126.74
Building Enclosure Commissioning Technician / Assistant (Architect or engineer)	\$ 43.64	\$ 41.46	\$ 6.55	\$ 6.55	\$ 98.19
Clerical	\$ 29.59	\$ 28.11	\$ 4.44	\$ 4.44	\$ 66.58

February 2024 - January 2025				Proposed Rate	
Labor Categories	Direct Salary	Overhead 95%	G&A 15%	Profit 15%	Rate
				Project Manager (PM) (Registered engineer or registered architect)	\$ 69.14
Lead Commissioning Agent (CxA) (Registered mechanical engineer & certified commissioning professional)	\$ 57.46	\$ 54.59	\$ 8.62	\$ 8.62	\$ 129.29
Mechanical Commissioning Technician /Assistant (Mechanical engineer & certified commissioning professional)	\$ 44.51	\$ 42.28	\$ 6.68	\$ 6.68	\$ 100.15
Electrical Commissioning Agent (Electrical engineer & certified commissioning professional)	\$ 57.46	\$ 54.59	\$ 8.62	\$ 8.62	\$ 129.29
Electrical Commissioning Technician /Assistant (Electrical engineer & certified commissioning professional)	\$ 44.51	\$ 42.28	\$ 6.68	\$ 6.68	\$ 100.15
Communication Commissioning Agent (Registered engineer & certified commissioning professional)	\$ 57.46	\$ 54.59	\$ 8.62	\$ 8.62	\$ 129.29
Communication Commissioning Technician / Assistant (Engineer & certified commissioning professional)	\$ 44.51	\$ 42.28	\$ 6.68	\$ 6.68	\$ 100.15
Lead Building Enclosure Commissioning Agent (Registered architect or engineer & certified building enclosure commissioning professional)	\$ 57.46	\$ 54.59	\$ 8.62	\$ 8.62	\$ 129.29
Building Enclosure Commissioning Technician / Assistant (Architect or engineer)	\$ 44.51	\$ 42.28	\$ 6.68	\$ 6.68	\$ 100.15
Clerical	\$ 30.18	\$ 28.67	\$ 4.53	\$ 4.53	\$ 67.91

Proposed Fully Loaded/Burdened Rates Breakdown
Arlington County 20-265-RFP



February 2025 - January 2026				Proposed Rate	
Labor Categories	Direct Salary	Overhead 95%	G&A 15%	Profit 15%	Rate
Project Manager (PM) (Registered engineer or registered architect)	\$ 70.52	\$ 66.99	\$ 10.58	\$ 10.58	\$ 158.67
Lead Commissioning Agent (CxA) (Registered mechanical engineer & certified commissioning professional)	\$ 58.61	\$ 55.68	\$ 8.79	\$ 8.79	\$ 131.87
Mechanical Commissioning Technician /Assistant (Mechanical engineer & certified commissioning professional)	\$ 45.40	\$ 43.13	\$ 6.81	\$ 6.81	\$ 102.15
Electrical Commissioning Agent (Electrical engineer & certified commissioning professional)	\$ 58.61	\$ 55.68	\$ 8.79	\$ 8.79	\$ 131.87
Electrical Commissioning Technician /Assistant (Electrical engineer & certified commissioning professional)	\$ 45.40	\$ 43.13	\$ 6.81	\$ 6.81	\$ 102.15
Communication Commissioning Agent (Registered engineer & certified commissioning professional)	\$ 58.61	\$ 55.68	\$ 8.79	\$ 8.79	\$ 131.87
Communication Commissioning Technician / Assistant (Engineer & certified commissioning professional)	\$ 45.40	\$ 43.13	\$ 6.81	\$ 6.81	\$ 102.15
Lead Building Enclosure Commissioning Agent (Registered architect or engineer & certified building enclosure commissioning professional)	\$ 58.61	\$ 55.68	\$ 8.79	\$ 8.79	\$ 131.87
Building Enclosure Commissioning Technician / Assistant (Architect or engineer)	\$ 45.40	\$ 43.13	\$ 6.81	\$ 6.81	\$ 102.15
Clerical	\$ 30.78	\$ 29.24	\$ 4.62	\$ 4.62	\$ 69.26

* NOTE: Annual escalation of 2% on Direct Salary

EXHIBIT C

NONDISCLOSURE AND DATA SECURITY AGREEMENT
(CONTRACTOR)

The undersigned, an authorized agent of the Contractor and on behalf of Smart Building Strategies LLC (“Contractor”), hereby agrees that the Contractor will hold County-provided information, documents, data, images, records and the like confidential and secure and protect them against loss, misuse, alteration, destruction or disclosure. This includes, but is not limited to, the information of the County, its employees, contractors, residents, clients, patients, taxpayers and property as well as information that the County shares with the Contractor for testing, support, conversion or other services provided under Arlington County Agreement No. 20-265-RFP (the “Project” or “Main Agreement”) or that may be accessed through other County-owned or -controlled databases (all of the above collectively referred to as “County Information” or “Information”).

In addition to the DATA SECURITY obligations set in the County Agreement, the Contractor agrees that it will maintain the privacy and security of County Information, control and limit internal access and authorization for access to such Information and not divulge or allow or facilitate access to County Information for any purpose or by anyone unless expressly authorized. This includes, but is not limited to, any County Information that in any manner describes, locates or indexes anything about an individual, including, but not limited to, his/her (“his”) Personal Health Information, treatment, disability, services eligibility, services provided, investigations, real or personal property holdings and his education, financial transactions, medical history, ancestry, religion, political ideology, criminal or employment record, social security number, tax status or payments, date of birth, address, phone number or anything that affords a basis for inferring personal characteristics, such as finger and voice prints, photographs, or things done by or to such individual, or the record of his presence, registration, or membership in an organization or activity, or admission to an institution.

Contractor also agrees that it will not directly or indirectly use or facilitate the use or dissemination of County information (whether intentionally or by inadvertence, negligence or omission and whether verbally, electronically, through paper transmission or otherwise) for any purpose other than that directly associated with its work under the Project. The Contractor acknowledges that any unauthorized use, dissemination or disclosure of County Information is prohibited and may also constitute a violation of Virginia or federal laws, subjecting it or its employees to civil and/or criminal penalties.

Contractor agrees that it will not divulge or otherwise facilitate the disclosure, dissemination or access to or by any unauthorized person, for any purpose, of any Information obtained directly, or indirectly, as a result of its work on the Project. The Contractor shall coordinate closely with the County Project Officer to ensure that its authorization to its employees or approved subcontractors is appropriate and tightly controlled and that such person/s also maintain the security and privacy of County Information and the integrity of County-networked resources.

Contractor agrees to take strict security measures to ensure that County Information is kept secure; is properly stored in accordance with industry best practices, and if stored is encrypted as appropriate; and is otherwise protected from retrieval or access by unauthorized persons or for unauthorized purposes. Any device or media on which County Information is stored, even temporarily, will have strict security and access control. Any County Information that is accessible will not leave Contractor’s work site or the County’s physical facility, if the Contractor is working onsite, without written authorization of

the County Project Officer. If remote access or other media storage is authorized, the Contractor is responsible for the security of such storage device or paper files.


Contractor will ensure that any laptops, PDAs, netbooks, tablets, thumb drives or other media storage devices, as approved by the County and connected to the County network, are secure and free of all computer viruses, or running the latest version of an industry-standard virus protection program. The Contractor will ensure that all passwords used by its employees or subcontractors are robust, protected and not shared. The Contractor will not download any County Information except as agreed to by the parties and then only onto a County-approved device. The Contractor understands that downloading onto a personally owned device or service, such as personal e-mail, Dropbox, etc., is prohibited.

Contractor agrees that it will notify the County Project Officer immediately upon discovery or becoming aware or suspicious of any unauthorized disclosure of County Information, security breach, hacking or other breach of this agreement, the County's or Contractor's security policies, or any other breach of Project protocols concerning data security or County Information. The Contractor will fully cooperate with the County to regain possession of any Information and to prevent its further disclosure, use or dissemination. The Contractor also agrees to promptly notify others of a suspected or actual breach if requested.

The Contractor agrees that all duties and obligations enumerated in this Agreement also extend to its employees, agents or subcontractors who are given access to County information. Breach of any of the above conditions by Contractor's employees, agents or subcontractors shall be treated as a breach by the Contractor. The Contractor agrees that it shall take all reasonable measures to ensure that its employees, agents and subcontractors are aware of and abide by the terms and conditions of this agreement and related data security provisions in the Main Agreement.

It is the intent of this *NonDisclosure and Data Security Agreement* to ensure that the Contractor has the highest level of administrative safeguards, disaster recovery and best practices in place to ensure confidentiality, protection, privacy and security of County information and County-networked resources and to ensure compliance with all applicable local, state and federal laws or regulatory requirements. Therefore, to the extent that this *NonDisclosure and Data Security Agreement* conflicts with the Main Agreement or with any applicable local, state, or federal law, regulation or provision, the more stringent requirement, law, regulation or provision controls.

At the conclusion of the Project, the Contractor agrees to return all County Information to the County Project Officer. These obligations remain in full force and effect throughout the Project and shall survive any termination of the Main Agreement.

Authorized Signature:  3A8EE4C4675942D...

Printed Name and Title: Vahid Kompany, Director of Operations

Date: 4/26/2021

EXHIBIT D

NONDISCLOSURE AND DATA SECURITY AGREEMENT
(INDIVIDUAL)

I, the undersigned, agree that I will hold County-provided information, documents, data, images, records and the like confidential and secure and protect it against loss, misuse, alteration, destruction or disclosure. This includes, but is not limited to, the information of the County, its employees, contractors, residents, clients, patients, taxpayers, and property as well as information that the County shares with my employer or prime contractor for testing, support, conversion or the provision of other services under Arlington County Agreement No. 20-265-RFP (the "Project" or "Main Agreement") or which may be accessed through County-owned or -controlled databases (all of the above collectively referred to as "County Information" or "Information").

I agree that I will maintain the privacy and security of County Information and will not divulge or allow or facilitate access to County Information for any purpose or by anyone unless expressly authorized to do so by the County Project Officer. This includes, but is not limited to, any County Information that in any manner describes, locates or indexes anything about an individual including, but not limited to, his/her ("his") Personal Health Information, treatment, disability, services eligibility, services provided, investigations, real or personal property holdings, education, financial transactions, medical history, ancestry, religion, political ideology, criminal or employment record, social security number, tax status or payments, date of birth, or that otherwise affords a basis for inferring personal characteristics, such as finger and voice prints, photographs, or things done by or to such individual, or the record of his presence, registration, or membership in an organization or activity, or admission to an institution.

I agree that I will not directly or indirectly use or facilitate the use or dissemination of information (whether intentionally or by inadvertence, negligence or omission and whether verbally, electronically, through paper transmission or otherwise) for any purpose other than that directly authorized and associated with my designated duties on the Project. I understand and agree that any unauthorized use, dissemination or disclosure of County Information is prohibited and may also constitute a violation of Virginia or federal law/s, subjecting me and/or my employer to civil and/or criminal penalties.

I also agree that I will not divulge or otherwise facilitate the disclosure, dissemination or access to or by any unauthorized person for any purpose of the Information obtained directly, or indirectly, as a result of my work on the Project. I agree to view, retrieve or access County Information only to the extent concomitant with my assigned duties on the Project and only in accordance with the County's and my employer's access and security policies or protocols.

I agree that I will take strict security measures to ensure that County Information is kept secure; is properly stored in accordance with industry best practices, and if stored is encrypted as appropriate; and is otherwise protected from retrieval or access by unauthorized persons or for unauthorized purposes. I will also ensure that any device or media on which County Information is stored, even temporarily, will have strict security and access control and that I will not remove, facilitate the removal of or cause any Information to be removed from my employer's worksite or the County's physical facility without written authorization of the County Project Officer. If so authorized, I understand that I am responsible for the security of the electronic equipment or paper files on which the Information is stored and agree to promptly return such Information upon request.

I will not use any devices, laptops, PDAs, netbooks, tablets, thumb drives or other media storage devices (“Device”) during my work on the Project without pre-approval. I will ensure that any Device connected to the County network is free of all computer viruses or running the latest version of an industry-standard virus protection program. I will also ensure that my password, if any, is robust, protected and not shared. I will not download any County Information except as authorized by the County Project Officer and then only onto a County-approved Device. I understand that downloading onto a personally-owned Device or service, such as personal e-mail, Dropbox etc., is prohibited.

I agree that I will notify the County Project Officer immediately upon discovery or becoming aware or suspicious of any unauthorized disclosure of County Information, security breach, hacking or other breach of this agreement, the County’s or Contractor’s security policies, or any other breach of Project protocols concerning data security or County Information. I will fully cooperate with the County to help regain possession of any County Information and to prevent its further disclosure, use or dissemination.

It is the intent of this *NonDisclosure and Data Security Agreement* to ensure that the highest level of administrative safeguards and best practices are in place to ensure confidentiality, protection, privacy and security of County Information and County-networked resources and to ensure compliance with all applicable local, state and federal laws or regulatory requirements. Therefore, to the extent that this *Nondisclosure and Data Security Agreement* conflicts with the underlying Main Agreement or any local, state or federal law, regulation or provision, the more stringent requirement, law, regulation or provision controls.

Upon completion or termination of my work on the Project, I agree to return all County Information to the County Project Officer. I understand that this agreement remains in full force and effect throughout my work on the Project and shall survive my reassignment from the Project, termination of the above referenced Project or my departure from my current employer.

Signed: _____

Printed Name: _____

Date: _____

Witnessed:

Contractor’s Project Manager: _____

Printed Name: _____

Date: _____

TO BE COMPLETED PRIOR TO BEGINNING WORK ON THE PROJECT