

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

CONTRACT AWARD COVERPAGE

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|--------------------------------|-----------------|--|
| TO: POWERSECURE SERVICE | DATE ISSUED: | OCTOBER 1, 2021 |
| 4068 STIRRUP CREEK PARKWAY | CONTRACT NO: | 22-DES-ITB-347 |
| DURHAM, NORTH CAROLINA 27703 | CONTRACT TITLE: | INSPECTION, MAINTENANCE, AND REPAIR OF GENERATOR EQUIPMENT |

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

The contract documents consist of the terms and conditions of AGREEMENT No. **22-DES-ITB-347** including any attachments or amendments thereto.

EFFECTIVE DATE: OCTOBER 1, 2021

EXPIRES: SEPTEMBER 30, 2023

RENEWALS: THREE (3) TWELVE (12) MONTH PERIOD RENEWALS FROM OCTOBER 1, 2023 TO SEPTEMBER 30, 2026 **COMMODITY CODE(S):**

LIVING WAGE: N

ATTACHMENTS:

AGREEMENT No. 22-DES-ITB-347

EMPLOYEES NOT TO BENEFIT:

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

VENDOR CONTACT: STEVEN COLFACK

VENDOR TEL. NO.:

(800) 437-4474

EMAIL ADDRESS: STEVEN.COLFACK@POWERSECURE.COM

COUNTY CONTACT: CHRIS PEEK (DES-WPCB)

COUNTY TEL. NO.:

(703) 228-6895

COUNTY CONTACT EMAIL: CPEEK@ARLINGTONVA.US

PURCHASING DIVISION AUTHORIZATION

VANESSA MOOREHEAD Title **PROCUREMENT OFFICER** Date **10/1/2021**

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

AGREEMENT NO. 22-DES-ITB-347

THIS AGREEMENT is made, on **October 1, 2021**, between **PowerSecure Service, 4068 Stirrup Creek Pkwy, Durham, North Carolina, 27703** (“Contractor”) a Delaware corporation authorized to do business in the Commonwealth of Virginia, and the County Board of Arlington County, Virginia. The County and the Contractor, for the consideration hereinafter specified, agree as follows:

1. CONTRACT DOCUMENTS

The “Contract Documents” consist of this Agreement, Exhibit A – Scope of Services, Exhibit B - Bid of the successful Bidder (hereinafter “Contractor”) and Arlington County (hereinafter “County”) Invitation to Bid No. 22-DES-ITB-347, Exhibit C – Contractor COVID-19 Vaccination Certification, and Exhibit D – Contractor COVID-19 Vaccination Quarterly Compliance Certification.

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”), more particularly described in the Scope of Services included with the Invitation to Bid. The primary purpose of the Work is maintenance, inspection, and repair of generator equipment and systems. The Contract Documents set forth the minimum work estimated by the County and the Contractor to be necessary to complete the Work. It will be the Contractor’s responsibility, at its sole cost, to provide the 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 **October 1, 2021** and must be completed no later than **September 30, 2023**, two (2) base years (“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 three (3) additional 12-month periods, from **October 1, 2023** to **September 30, 2026** (each a “Subsequent Contract Term”). The Initial Contract Term and any Subsequent Contract Term(s) are together the “Contract Term”.

5. CONTRACT PRICING

Unless otherwise provided in the Contract Documents, the Contractor shall provide the goods and services covered in the County's Invitation to Bid No. 22-DES-ITB-347 at the prices provided in the bid of the Contractor.

6. CONTRACT PRICING WITH OPTIONAL PRICE ADJUSTMENTS

The Contract Amount/unit price(s) will remain firm until **September 31, 2023** two (2) years) ("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. Adjustments to 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.

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. PAYMENT TERMS

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

8. 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.

9. 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.

10. 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.

11. 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).

12. 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.

13. DELIVERY

All goods are purchased F.O.B. destination in Arlington County as described in the specifications. Transportation, handling, and all related charges are included in the unit prices or discounts that the Contractor submitted with its bid.

14. WARRANTY

The Contractor guarantees against and will correct at its expense factory defects that occur during the manufacturer's standard warranty period. The Contractor will provide all manufacturers' warranties at the time of delivery.

All work is guaranteed by the Contractor against defects resulting from the use of inferior or faulty materials or workmanship for one (1) year from the date of final acceptance of the work by the County. No date other than the date of final acceptance shall govern the effective date of the Guaranty, unless that date is agreed upon by the County and the Contractor in advance and in a signed writing.

15. INSPECTION, ACCEPTANCE, TITLE, AND RISK OF LOSS

The County will inspect all materials at the delivery location within ten days of delivery and may test the goods at its sees fit before accepting them.

The Contractor warrants that it has good title to and will require all subcontractors to warrant that they have good title to, all delivered goods.

The Contractor bears title and risk of loss or damage to all delivered goods until the County accepts them.

Neither the Contractor nor any subcontractor may retain any interest in the goods after the County accepts them.

16. DAMAGE TO PROPERTY

Any damage, as determined by the Project Officer, to the real or personal property, whether owned by the County or others, resulting from the Work performed under this Contract shall be timely repaired or replaced to the County's satisfaction at the Contractor's expense. The County will perform the repairs unless the County agrees that such repairs will be made by the Contractor. Any such Contractor repairs will be made within ten (10) days of the date of damage to the satisfaction of the County. All costs of the repair performed by the County shall be deducted from the Contractor's final payment.

17. CLEANING UP

The Contractor shall remove, as frequently as necessary, all refuse, rubbish, scrap materials and debris from any and all work sites to the extent that the trash is the result of the Contractor's operations, to the end that any and all work sites shall present a neat, orderly, and workmanlike appearance at all times. At completion of the Work, but before final acceptance, the Contractor shall remove all surplus material, falsework, temporary structures including foundations thereof, and debris of every nature resulting from the Contractor's operations or resulting from any activity on the site related to the Contractor's operations and put the site in a neat, orderly condition; if the Contractor fails to do so, the County shall have the right to remove the surplus material, falsework, temporary structures including foundations thereof, and debris, put the site in a neat, orderly condition, and charge the cost to the Contractor. The County shall be entitled to offset such cost against any sums owed by the County to the Contractor under this Contract.

18. DISPOSAL OF PACKING MATERIALS, TRASH AND DEBRIS

The Contractor must, at its expense and without using any County waste containers, immediately remove and legally dispose of off-site all packing materials, trash, and debris ("Waste"). Otherwise, the County will contract a third party to dispose of the Waste and will deduct the expense from the final payment to the Contractor.

The County will deduct from the final payment the expense to repair any damage to County-owned or controlled property that the Contractor or its agents cause, unless the County agrees that the Contractor can make the repairs, in which case the Contractor must make the repairs at its expense within ten days of the damage and to the satisfaction of the County.

19. OSHA REQUIREMENTS

The Contractor certifies that all material supplied or used under this Contract meets all federal and state Occupational Safety and Health Administration (“OSHA”) requirements. If the material does not meet the OSHA requirements, the Contractor will bear all costs necessary to bring the material into compliance.

20. HAZARDOUS MATERIALS

The Contractor must comply with all federal, state, and local laws governing the storage, transportation, and use of toxic and hazardous materials. The County is subject to the Hazard Communication Standard, 29 CFR § 1910.1200 (“Standard”). The Contractor will provide, no later than delivery or first use of the materials, Material Safety Data Sheets (“MSDS”) for all hazardous materials supplied to the County or used in the performance of the Work. The Contractor will also ensure that all shipping and internal containers bear labels that meets the requirements of the Standard. The County may refuse shipments of hazardous materials that are not appropriately labeled or for which the Contractor has not timely provided MSDS. The Contractor must pay any expenses that it or the County incurs as a result of the County’s refusal of goods under this section or rejection of MSDS.

21. HAZARDOUS WASTE GENERATOR/HAZARDOUS WASTE DISPOSAL

The County and the Contractor shall be listed as co-generators. The Contractor assumes all duties pertaining to the waste generator, including signing the Waste Shipment Record (“WSR”) and manifest. The Contractor shall supply the County Project Officer with the executed original Owner’s Copy of the WSR, as required by applicable regulatory agencies within thirty-five (35) days from the time the waste was accepted by the initial waste transporter, and prior to request for final payment. A separate WSR shall be submitted for each shipment to the disposal site.

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

Temporary Hazardous Waste Storage Prohibited: The Contractor shall not temporarily store hazardous waste unless pre-approved by the County. If so approved, hazardous waste stored off-site in a temporary facility shall be monitored and records shall be kept on the number of containers, size, and weight. The Contractor shall inform the County when the hazardous waste is to be transported to the final disposal site. The County has the right to inspect the temporary site at any time. The Contractor shall submit copies of all relevant manifests, WSRs, and landfill receipts to the County Project Officer prior to the request for final payment. All paperwork shall be signed by the Contractor and disposal site operator as required.

22. PROHIBITION AGAINST ASBESTOS-CONTAINING MATERIALS

No goods, equipment, or material that the Contractor or its subcontractor provides, or installs may contain asbestos. The Contractor must remove any asbestos-containing goods, equipment and material at its sole cost, which includes worker protection and legal disposal, and must reimburse the County for the replaced

goods, equipment and material. The County may offset these costs and reimbursement against any amounts that it owes the Contractor.

23. SAFETY

The Contractor shall comply with, and ensure that the Contractor's employees and subcontractors comply with, all current applicable local, state and federal policies, regulations and standards relating to safety and health, including, by way of illustration and not limitation, the standards of the Virginia Occupational Safety and Health program of the Department of Labor and Industry for General Industry and for the Construction Industry, the Federal Environmental Protection Agency standards and the applicable standards of the Virginia Department of Environmental Quality.

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

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

The Contractor shall provide to the County, at the County's request, a copy of the Contractor's written safety policies and safety procedures applicable to the scope of work. Failure to provide this information within seven (7) days of the County's request may result in cancellation of the contract.

24. FAILURE TO DELIVER

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

25. UNSATISFACTORY WORK

The Contractor must within 15 days of written notice from the County remove and replace, at its expense, any goods that the County rejects as unsatisfactory. Otherwise, the County may choose to remove or replace the rejected goods at the Contractor's expense. The County may offset the costs against any amounts that it owes the Contractor. The County may also decide not to remove or replace the unsatisfactory goods and instead to adjust the Contract Amount to account for the unsatisfactory performance. This paragraph applies throughout the Contract Term and any warranty or guarantee period.

26. PROJECT STAFF

The County has the right to reasonably 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 employees and its subcontractors is the sole responsibility of the Contractor.

27. SUPERVISION BY CONTRACTOR

The Contractor shall at all times enforce strict discipline and good order among the employees and subcontractors performing under this Contract and shall not employ on the Work any person not reasonably proficient in the work assigned.

28. 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.

29. 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.

30. 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.

31. *SEXUAL HARASSMENT POLICY

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

32. 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.

33. INDEMNIFICATION

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

34. INTELLECTUAL PROPERTY INDEMNIFICATION

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

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

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

35. 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.

36. OWNERSHIP AND RETURN OF RECORDS

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

All drawings, specifications, blueprints, data, information, findings, memoranda, correspondence, documents or records of any type, whether written, oral or electronic, and all documents generated by the Contractor or its subcontractors as a result of this Contract (collectively "Records") are the exclusive 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 willingly cause or allow such materials to be used for any purpose other than performance of this Contract without the written consent of the County.

The Records are confidential, and the Contractor will neither release the Records nor share their contents. The Contractor will refer all inquiries regarding the status of any Record to the Project Officer or to his or her designee. At the County's request, the Contractor will deliver all Records, including hard copies of electronic records, to the Project Officer and will destroy all electronic Records.

The Contractor agrees to 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.

37. CONFIDENTIAL INFORMATION

The Contractor and its employees, agents and subcontractors will hold as confidential all County information obtained under this Contract. Confidential information includes, but is not limited to, nonpublic personal information; personal health information (PHI); social security numbers; addresses; dates of birth; other contact information or medical information about a person; and information pertaining to products, operations, systems, customers, prospective customers, techniques, intentions, processes, plans and expertise. The Contractor must take reasonable measures to ensure that all of its employees, agents and subcontractors are informed of and abide by this requirement.

38. ETHICS IN PUBLIC CONTRACTING

This Contract incorporates by reference Article 9 of the Arlington County Purchasing Resolution, as well as all state and federal laws related to ethics, conflicts of interest or bribery, including the State and Local Government Conflict of Interests Act (Code of Virginia § 2.2-3100 et seq.), the Virginia Governmental Frauds Act (Code of Virginia § 18.2-498.1 et seq.) and Articles 2 and 3 of Chapter 10 of Title 18.2 of the Code of Virginia, as amended (§ 18.2-438 et seq.). The Contractor certifies that its bid was made without collusion or fraud; that it has not offered or received any kickbacks or inducements from any other offeror, supplier, manufacturer or subcontractor; and that it has not conferred on any public employee having official responsibility for this procurement any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

39. 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.

40. 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.

41. 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.

42. 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.

43. 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.

44. REPORT STANDARDS

The Contractor must electronically 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.

45. 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.

46. 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.

47. AMENDMENTS

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

48. 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.

49. 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

50. 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.

51. ARBITRATION

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

52. 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.

53. 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.

54. 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.

55. NO WAIVER OF SOVEREIGN IMMUNITY

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

56. 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.

57. SURVIVAL OF TERMS

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

58. 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.

59. 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.

60. NOTICES

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

TO THE CONTRACTOR:

PowerSecure Services
Steven Colfack, Product Support Sales Representative
4068 Stirrup Creek Parkway
Durham, North Carolina 27703
Telephone: 1-800-437-4474
Email: Steven.colfack@powersecure.com

TO THE COUNTY:

Chris Peek, Project Officer
Water Pollution Control Plant
3402 S. Glebe Road #2325
Arlington, Virginia 22202
Telephone: (703) 228-3405
Email: cpeek@arlingtonva.us

AND

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

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

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

61. 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.

62. NON-DISCRIMINATION NOTICE

Arlington County does not discriminate against faith-based organizations.

63. 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 typed on the certificate.
- c. Business Automobile Liability - \$1,000,000 combined single-limit (owned, non-owned and hired).
- d. Professional Errors & Omissions - \$1,000,000 per occurrence/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 typed on 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.

64. MATERIAL CHANGES

The Contractor shall notify Purchasing Agent within seven days of any material changes in its operation that relate to any matter attested regarding certifications on its bid form.

65. 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.

66. COVID-19 VACCINATION POLICY FOR CONTRACTORS

Due to the COVID-19 pandemic, the County has taken various steps to protect the welfare, health, safety and comfort of the workforce and public at large. As part of these steps, the County has implemented various requirements with respect to health and safety including policies with respect to social distancing, the use of face-coverings and vaccine mandates. All County Contractors, entering County owned, controlled, or leased facilities or facilities operated by a contractor if the services provided at that location are exclusive to Arlington County Government or contractors with public facing responsibilities must adopt these policies for implementation with their employees and subcontractors

working on County contracts.

Contractors are required to obtain and maintain the COVID-19 vaccine status of employees or subcontractors, require any unvaccinated or not fully vaccinated employees to follow a weekly testing protocol established by the Contractor to submit to weekly testing, and provide any accommodations as required by law. Contractor should submit the certification of compliance to the Purchasing Agent within five working days of the end of each quarter (see **Exhibit B**). In addition, all Contractor and subcontractor employees subject to the requirements of this section must also comply with the County COVID-19 masking and social distancing protocols, as signed at each County location.

It is recognized that the COVID-19 pandemic is an ongoing health crisis. As such, requirements with respect to health and safety, including vaccines and face-coverings may change over time. Contractors are expected to adhere to the County requirements as they evolve in response to the crisis.

For questions, Offerors may email contractorvaccineinfo@arlingtonva.us.

WITNESS these signatures:

THE COUNTY BOARD OF ARLINGTON
COUNTY, VIRGINIA

POWERSECURE SERVICES

AUTHORIZED DocuSigned by:
SIGNATURE: Vanessa Moorehead
392AD72EA7BC414...

AUTHORIZED DocuSigned by:
SIGNATURE: Steven Howard
6AE9111AEB0F495...

NAME: VANESSA MOOREHEAD

NAME: STEVEN COLFACK

TITLE: PROCUREMENT OFFICER

TITLE: PRODUCT SUPPORT SALES REPRESENTATIVE

DATE: 10/4/2021

DATE: 10/4/2021

EXHIBIT A
SCOPE OF SERVICES

I. INSPECTION AND MAINTENANCE

Arlington County is requesting bids for the provision of inspection and maintenance of its standby generator system including cooling system, selective catalytic reduction (SCR) system, bi-fuel system, and components at the Arlington County Water Pollution Control Plant (WPCP).

Work shall be performed on the following equipment and systems located at the Arlington County WPCP's Standby Generator Facility (SGF) located at 3408 S. Glebe Rd., Arlington, VA 22202. All services shall be performed in compliance with the applicable industry standards and all federal, state, and local laws, ordinances, and regulations. Onsite work shall be performed in accordance with the WPCP's Contractor Safety Standard, included in Exhibit K.

GENERATOR 1

| | |
|-------------------------|----------------------|
| ENGINE | Caterpillar – Diesel |
| ENGINE MODEL NUMBER | 3516 |
| ENGINE SERIAL NUMBER | SBK00844 |
| SIZE OF FUEL TANK | 500 GALLONS |
| GENERATOR | Caterpillar |
| GENERATOR MODEL NUMBER | 3500C |
| GENERATOR SERIAL NUMBER | G2F0098 |
| SERVICE | Standby |
| PHASE | 3 |
| KVA | 3125 |
| KW | 2500 |
| VOLTS | 4160 |
| AMPS | 434 |

GENERATOR 2

| | |
|-------------------------|----------------------|
| ENGINE | Caterpillar – Diesel |
| ENGINE MODEL NUMBER | 3516 |
| ENGINE SERIAL NUMBER | SBK01369 |
| SIZE OF FUEL TANK | 500 GALLONS |
| GENERATOR | Caterpillar |
| GENERATOR MODEL NUMBER | 3500C |
| GENERATOR SERIAL NUMBER | G2F00097 |
| SERVICE | Standby |
| PHASE | 3 |
| KVA | 3125 |
| KW | 2500 |

| | |
|-------|------|
| VOLTS | 4160 |
| AMPS | 434 |

GENERATOR 3

| | |
|-------------------------|----------------------|
| ENGINE | Caterpillar – Diesel |
| ENGINE MODEL NUMBER | 3516 |
| ENGINE SERIAL NUMBER | SBK00845 |
| SIZE OF FUEL TANK | 500 GALLONS |
| GENERATOR | Caterpillar |
| GENERATOR MODEL NUMBER | 3500C |
| GENERATOR SERIAL NUMBER | G2F00096 |
| SERVICE | Standby |
| PHASE | 3 |
| KVA | 3125 |
| KW | 2500 |
| VOLTS | 4160 |
| AMPS | 434 |

GENERATOR COOLING SYSTEM

| | |
|----------------|---------------------------------|
| SYSTEM | IEA Inc., Stacked dual circuit |
| SYSTEM MODEL | HC119S02 |
| PUMP | ITT Series 1531 3BC Centrifugal |
| PUMP FLOW, GPM | 300 |
| PUMP HP | 7.50 |
| PUMP RPM | 1750 |
| PUMP VOLTS | 480 |

SELECTIVE CATALYTIC REDUCTION (SCR) SYSTEM

| | |
|-----------------------------|-------------|
| SYSTEM | MIRATECH |
| SYSTEM MODEL | CBL ACIS IQ |
| AIR COMPRESSOR MODEL | CA75 |
| REACTANT BOOSTER PUMP MODEL | VPN75 |
| DOSING BOX MODEL | SEN60 |
| REACTANT INJECTOR MODEL | DEN75.600 |
| SAMPLE PROBE MODEL | FP600 |

BI-FUEL SYSTEM

| | |
|------------|---|
| CONTROLLER | Preferred Instruments Plant Wide Controller |
|------------|---|

PARALLELING GEAR AND MASTER CONTROLS

| | |
|-------------------|-----------------------|
| SYSTEM | NexGear |
| CONTROLLER | GE Fanuc RX3i |
| INTERFACE | GE Fanuc Quickpanel |
| LOAD SHARE MODULE | Woodward EasyGen 3200 |
| SWITCHGEAR | Square D Masterclad |

Routine Generator Inspection and Maintenance

1. Generator Inspection and Maintenance Services:
Contractor shall provide the following Generator Maintenance Services for each generator:
 - a. Two (2) site visits per year, the first within one (1) month of the contract or annual renewal execution date and the second approximately six (6) months after, in conjunction with the scheduled generator runs, which includes the following:
 - (1) Visual inspection of the general condition of the generator set
 - (2) Visual inspection of the air filter condition and oil filter for leaks
 - (3) Verification and top off of all fluid levels (unscheduled fluid replacement is at County cost)
 - (4) Visual inspection of all belts and hoses
 - (5) Visual inspection for loose or broken fittings and leaks of any kind
 - (6) Inspection of engine starting battery physical and operating condition
 - (7) Check and adjust engine block heaters for proper operation; and
 - (8) The County will start and operate engines under load for a minimum of thirty (30) minutes for the Contractor to verify:
 - (a) Oil Pressure
 - (b) Crankcase Oil Levels
 - (c) Frequency and Voltage Control
 - (d) Abnormal Leaks and Noises; and
 - (e) Battery Starting Voltages.
 - (9) After shutdown of the engines under load the Contractor shall:
 - (a) Verify Battery Charger Operation; and
 - (b) Correct Shutdown Operations.
 - b. One (1) sampling and testing of engine lubricating oil per year
 - c. One (1) oil change per two (2) years for each unit based on annual Contractor oil sampling. Oil changes that are required more frequently than once every two (2) years will be invoiced as a time and materials charge
 - d. One (1) belt change every three years
2. The Contractor must submit an Inspection Report to the Project Officer within seven (7) days after each inspection.
3. The Contractor shall follow the Generator Operation and Maintenance Manual included in Exhibit E for maintenance requirements. The recommended fluids for Contractor to use for the Diesel Engine are included in Exhibit F. "Or equivalent" requests must be submitted in accordance with the Use of Brand Name/Or Equivalent Bids clause

included in Section I of the ITB.

Routine Inspection of Ancillary Systems

Bi-Annual Inspection of Paralleling Switchgear Controls, Environmental Controls –Generator Cooling, SCRs, and Bi-Fuel System Controls:

Contractor shall inspect these systems during the routine generator inspections to ensure that they are in good working order. A sample checklist of the items that must be inspected on a bi-annual basis is included as Exhibit L. Contractor may choose to use this form or their own, as long as their form includes the minimum information requested in Exhibit L. The Contractor must submit this checklist to the Project Officer within seven (7) calendar days after each inspection.

Additional Maintenance Services

1. Contractor shall provide complete maintenance and service for Generator Paralleling Switchgear Controls, Generator Cooling, SCRs, and Bi-fuel Systems on an as-needed basis. When required maintenance is identified during the bi-annual inspections or by the maintenance schedules in Exhibit E and I, the Contractor shall notify County when service is required and scheduled, including SCR routine maintenance as described in Exhibit I page 3.

The Contractor shall provide meter or other testing, calibration and certifications as required by the County and billed under the unit rates listed in Hourly Rates table for the actual work time.

The 5KV Paralleling Switchgear System information and drawings are included in Exhibit G. Generator Cooling System drawings and information are included in Exhibit H. Required SCR System Maintenance is included in Exhibit I. Bi- fuel system panel drawings and controller datasheet are included in Exhibit J.

2. Maintenance is required on an ongoing basis to call the generators into service when needed (anticipated to be run approximately one (1) to two (2) times per month) and to ensure compliance with state mandated air quality permit conditions. The SGF shall be maintained such that two (2) of the three (3) generators shall always be in READY STANDBY mode and available to come online instantly. In anticipation of use, the County may direct Contractor to place all three generators in READY STANDBY mode and be available to come online instantly.

II. DEFINITIONS

- A. Inspection Report: A document prepared by the Contractor which details the parts, processes and operations inspected for each individual Generator. It provides a detailed diagnostic of the entire unit, its function and performance at the time of the inspection and may include the Contractor’s recommendations regarding the type and frequency of necessary maintenance, parts and components that need to be repaired or replaced.
- B. Services Report: A document prepared by the Contractor which details the parts, processes, and operations the Contractor has cleaned, calibrated, adjusted, repaired or replaced for each individual Generator Unit. It includes a signed statement by the Contractor confirming the fact that the unit was tested by the Contractor and

considered to be in working order at the time the work was completed. The Report shall be used for both scheduled and emergency maintenance, repairs and/or parts replacement work.

- C. Scheduled Services: All services scheduled forty-eight (48) hours or more in advance. Unscheduled Services: All services scheduled forty-eight (48) hours or less in advance.
- D. Emergency Services: All services commencing within four (4) hours or less from notification by the Project Officer or his/her designee

III. COUNTY PROJECT OFFICER

All Contractor instructions or requests shall be issued from or submitted through the designated County Project Officer or the Project Officer's designee.

IV. CONTRACTOR PERSONNEL

The Contractor shall provide a replacement employee at the request of the County Project Officer for any reasonable reason the County Project Officer, in his/her sole - judgement, deems necessary.

V. SERVICE TIME

The Contractor shall perform all non-emergency inspection, scheduled maintenance, repair or part replacement work between the hours of 6:00 a.m. and 3:00 p.m., Monday through Friday.

VI. PRICING

- A. Hourly Rate: All maintenance, repair and parts replacement work shall be bill at the fixed hourly rate quoted on the bid form. The fixed hourly rate shall be fully burdened, which includes all costs incurred on transportation to and from the work location, tools, equipment needed, insurance, and technician wages.
- B. The hourly rate offered shall remain fixed for the duration of the contract.
- C. All replacement parts procured by the Contractor and used in any subsequent repairs throughout the duration of the contract shall be reimbursed at cost by the County and must be accompanied by a receipt, and when applicable, by the manufacturer's warranty documentation. The Contractor shall not have any reimbursement recourse for the cost of the replaced part(s) without a valid and true receipt for the purchase and a complete set of applicable warranty documentation.

VII. SERVICES ORDERING PROCESS

- 1. Scheduled Maintenance, Repairs and Replacement of Parts Services/Work Orders:
 - a. The bi-annual service shall not be considered complete unless it is accompanied by a written Inspection Report which shall include, but not limited to:
 - i. A checklist of all the equipment inspected and verified to be in working order (a separate checklist for each generator)

- ii. The ancillary systems checklist; and
 - iii. The Contractor shall submit a copy of the corresponding Inspection Report with each invoice for the respective annual maintenance services.
- b. If, upon completion of bi-annual service the Contractor discovers a malfunction or if the Contractor determines the need for additional maintenance, repairs or for the replacement of parts beyond what is defined in Section I above, the Inspection Report shall include a description of the work and a complete list of the parts to be repaired or replaced. The Contractor shall also prepare and submit to the Project officer:
- i. A proposal describing the work to be performed
 - ii. A complete list of the equipment parts to be repaired or replaced
 - iii. The estimated cost each part to be repaired or replaced; and
 - iv. The maximum estimated not to exceed labor hours necessary to complete the work which shall be expressed solely as:

| Unit Name / Make / Serial Number | Technician Rate/Hour | Maximum Hours | Total |
|----------------------------------|----------------------|---------------|-------|
| | | | |

- c. If the County decides to move forward with the additional work, the Project Officer shall provide a Purchase Order (separate from the bi-annual service PO) based on the Contractor’s maintenance, repairs and replacement of parts proposal and estimate, and shall provide a copy of such Purchase Order to the Contractor. The Contractor shall not perform any work prior to the receipt of a Purchase Order.
 - d. Upon receipt of the Purchase Order the Contractor and the Project Officer shall schedule the times and dates of the proposed work.
 - e. For each visit to the WPCP, the Project Officer shall provide the name and contact information of the WPCP individual (if other than the Project Officer) assigned to meet the Contractor personnel at the gate, escort and always observe the Contractor personnel while on WPCP property, without exception until the Contractor personnel complete the work and exit the WPCP property.
 - f. Any maintenance, repair or replacement of parts services shall not be considered complete unless it is accompanied by a written Service Report which shall include, but not limited to:
 - i. A checklist of all the equipment maintained, repaired, or replaced, verified to be in working order (a separate checklist for each generator).
 - g. The Contractor shall submit a copy of the corresponding Service Report with each invoice for the respective services.
2. Emergency Service Work/On-Call Repairs and Replacement of Parts:
- a. The Contractor shall provide twenty-four (24) hour on-call and emergency repair services. For all Emergency Service Work calls the Contractor shall respond and provide onsite technical services within a maximum of four (4) hours from the time it is notified.
 - b. When responding to an Emergency Service Work notification, the Contractor shall:
 - i. evaluate the nature of the service needed; and
 - ii. provide a (hand-written) Emergency Service Work Order Form. This Form shall at a minimum include:

1. Date and time Contractor was notified of the emergency
 2. Date and time of arrival on site
 3. A list of the parts needed to be repaired
 4. A list and estimated cost of the parts to be replaced
 5. An estimate of the total labor hours (technician hours) needed to repair and/or replace; and
 6. The name and signature of the Contractor's technician drafting the Form.
- c. The Contractor shall present the Project Officer with the completed Emergency Services Work Order Form and the Project Officer shall either reject, change, or approve it. If the Project Officer approves the Work Order Form, he/she shall sign and date it.
 - d. Any Emergency Services Work Order Form signed by the Project Officer shall be considered a Notice to Proceed. A formal Purchase Order will be provided within two business days after the Project Officer signs an Emergency Services Work Order Form.
 - e. All Emergency Service Work shall not be considered complete unless it is accompanied by a written Service Report which shall include at a minimum:
 - i. Unit part repaired or replaced
 - ii. Statement that the generator system is verified to be in working order; and
 - iii. Signed and dated by the technician.
 - f. If the Contractor is unable to or fails to respond within the required timeframe, the County reserves the right to obtain the service elsewhere. If the Contractor is unable to or fails to respond within the required timeframe on two (2) or more occasions during any three (3) month period, the County may terminate the contract for default.
3. Remote Access Prohibited:
 - a. For both routine and emergency services, remote connection to the system to initiate troubleshooting is not permitted.
 4. Software Needed to Complete the Work
 - a. The Contractor is responsible for ownership of all software(s) necessary to maintain the control elements described in the Scope of Work. Wherever possible the County will ensure that controller programs and configurations are unlocked and accessible, but the County does not provide the software required for access.

VIII. MATERIAL

All parts and materials used or furnished under this contract shall be new and manufacturer's recommended or authorized replacement parts. Use of used parts or materials is prohibited. Prior approval of the Project Officer is required on a case-by-case basis when rebuilt parts are proposed for use.

IX. INVOICING

The accuracy of billing information is a critical factor for County operations. The Contractor must provide to the County accurate billing information. The Contractor agrees that failure to provide to the County the correct billing information may result

in payment delay until such information is corrected by the Contractor. The County will not pay any penalty fees for delay of payments due to incorrect billing information on invoices submitted by Contractor to the County.

1. The invoice shall be prepared on standard company letterhead and shall, at a minimum, include the following information:
 - a. The Contractor's invoice number
 - b. County Department Name (ex: Department of Environmental Services, Water Pollution Control Plant)
 - c. Contract Number
 - d. Purchase Order Number
 - e. Service Response Date
 - f. Service Response Location (address)
 - g. Name of County Representative ordering the service
 - h. Line Item Number corresponding with the Bid Form Line Item
 - i. Item Description (abbreviated or detailed) corresponding with the Line Item Description on the Bid Form
 - j. Number of Units per Line Number (Hours); and
 - k. Contractor's signature (or statement attesting to the accuracy of the billing information).

2. All invoices must be accompanied by corresponding supporting documentation as follows:
 - a. For scheduled inspections the Contractor must also submit:
 - i. A copy of the Inspection Report
 - b. For scheduled maintenance, repairs or replacement of parts work the Contractor must also submit:
 - i. A copy of the Services Report; and
 - ii. Copy of all receipts of replacement parts bought and installed, with markup calculation
 - c. For unscheduled/emergency maintenance, repairs or replacement of parts work the Contractor must also submit:
 - i. A copy of the signed Emergency Services Work Order Form;
 - ii. A copy of the Services Report; and
 - iii. Copy of all receipts of replacement parts bought and installed, with markup calculation.

ARLINGTON COUNTY, VIRGINIA

INVITATION TO BID NO. 22-DES-ITB-347

B I D F O R MSUBMIT ONE FULLY COMPLETED AND SIGNED BID FORM ELECTRONICALLY VIA VENDOR REGISTRY

BIDS WILL BE OPENED AT 4:00 P.M., ON SEPTEMBER 10, 2021

FOR PROVIDING INSPECTION, MAINTENANCE, AND REPAIR OF GENERATOR EQUIPMENT AND SYSTEMS PER THE TERMS, CONDITIONS AND SPECIFICATIONS OF THIS SOLICITATION

THE FULL LEGAL NAME OF THE ENTITY SUBMITTING THIS BID MUST BE WRITTEN IN THE SPACE BELOW. THIS BID FORM AND ALL OTHER DOCUMENTS THAT REQUIRE A SIGNATURE MUST BE FULLY AND ACCURATELY COMPLETED AND SIGNED BY A PERSON WHO IS AUTHORIZED TO BIND THE BIDDER, OR THE BID MAY BE REJECTED.

SUBMITTED BY:*(legal name of entity)*

PowerSecure Service

AUTHORIZED SIGNATURE:*Steven Colfack***PRINT NAME AND TITLE:**

Steven Colfack - Product Support Sales Representative

ADDRESS:

4068 Stirrup Creek Pkwy,

CITY/STATE/ZIP:

Durham, NC 27703

TELEPHONE NO.:

800-437-4474

E-MAIL**ADDRESS:**

Steven.colfack@powersecure.com

THIS ENTITY IS INCORPORATED IN:**THIS ENTITY IS A:***(check the applicable option)*CORPORATION LIMITED PARTNERSHIP GENERAL PARTNERSHIP UNINCORPORATED ASSOCIATION LIMITED LIABILITY COMPANY SOLE PROPRIETORSHIP **IS BIDDER AUTHORIZED TO TRANSACT BUSINESS IN THE COMMONWEALTH OF VIRGINIA?**YES NO **IDENTIFICATION NO. ISSUED TO THE ENTITY BY THE SCC:**

Any Offeror exempt from Virginia State Corporation Commission (SCC) authorization requirement must include a statement with its proposal explaining why it is not required to be so authorized.

BID FORM, PAGE 2 OF 8

ENTITY'S DUN & BRADSTREET D-U-N-S NUMBER: *(if*

101162688

HAS YOUR FIRM OR ANY OF ITS PRINCIPALS BEEN DEBARRED FROM SUBMITTING BIDS TO ARLINGTON COUNTY VIRGINIA, OR ANY OTHER STATE OR POLITICAL SUBDIVISION WITHIN THE PAST THREE YEARS?

YES NO

HAS YOUR FIRM DEFAULTED ON ANY PROJECT IN THE LAST THREE YEARS?

YES NO

HAS YOUR FIRM HAD ANY TYPE OF BUSINESS, CONTRACTING OR TRADE LICENSE, REGISTRATION OR CERTIFICATION REVOKED OR SUSPENDED IN THE PAST THREE YEARS?

YES NO

YES NO

HAS YOUR FIRM AND ITS PRINCIPALS/OWNERS BEEN CONVICTED OF ANY CRIME RELATING TO ITS CONTRACTING BUSINESS IN THE PAST TEN YEARS?

HAS YOUR FIRM BEEN FOUND IN VIOLATION OF ANY LAW APPLICABLE TO ITS CONTRACTING BUSINESS (LICENSING LAWS, TAX LAWS, WAGE AND HOUR LAWS, PREVAILING WAGE LAWS, ENVIRONMENTAL) WHERE THE RESULT OF SUCH VIOLATION WAS THE PAYMENT OF A FINE, BACK PAY DAMAGES, OR ANY OTHER PENALTY IN THE AMOUNT OF \$5000 OR MORE?

YES NO

BIDDER STATUS: MINORITY OWNED: WOMAN OWNED: NEITHER:

THE UNDERSIGNED UNDERSTANDS AND ACKNOWLEDGES THE FOLLOWING:

THE OFFICIAL COPY OF THE SOLICITATION DOCUMENTS, WHICH INCLUDES ANY ADDENDA, IS THE ELECTRONIC COPY THAT IS AVAILABLE FROM THE VENDOR REGISTRY WEBSITE AT: [HTTPS://VRAPP.VENDORREGISTRY.COM/BIDS/VIEW/BIDSLST?BUYERID=A596C7C4-0123-4202-BF15-3583300EE088](https://vrapp.vendorregistry.com/bids/view/bidslst?buyerid=A596C7C4-0123-4202-BF15-3583300EE088).

VENDORS ARE REQUIRED TO REGISTER ON [VENDOR REGISTRY](#) IN ORDER TO SUBMIT A RESPONSE TO THIS INVITATION TO BID. **NO RESPONSES WILL BE ACCEPTED AFTER THE BID DUE DATE AND TIME.**

POTENTIAL BIDDERS ARE RESPONSIBLE FOR DETERMINING THE ACCURACY AND COMPLETENESS OF ALL SOLICITATION DOCUMENTS THEY RECEIVE FROM ANY SOURCE, INCLUDING THE COUNTY.

BID FORM, PAGE 3 OF 8**MANDATORY REQUIREMENTS:**

- Attend the mandatory Prebid Conference as specified.
- Bid all items on the Pricing Schedule.
- Submit the following items with their bid submission:
 - Resumes and certifications of the Bidder's Project Manager(s) and other key staff intended to be assigned to work on County property under this contract, including their name, title, and prior relevant experience. Key staff shall include technicians with applicable certification(s) to perform the described work. Helpers and assistants working under the supervision of key staff need not be included.
 - At least three (3) references for similar work, all of which must be within the past three (3) years. The references shall be for scheduled and emergency (on-call) inspection, maintenance, repair, and part replacement services for generators similar to what is described in and required by this solicitation and be 2MW or greater in size. Include contact name and e-mail address of the contact person, the organization name, dates of service and a brief description of the work performed. Invalid phone numbers and/or e-mail addresses will not be considered a valid reference. References shall be provided using the reference form included in the Bid Form.
 - List of any subcontractors intended to be used for work under this Contract, and the Work and overall percentage of Work they are intended to perform provided in the Subcontractor table below.

RECOMMENDED QUALIFICATION:

Bidders are strongly encouraged to hold an EGSA certification; however, this is not a mandatory requirement. Please submit proof of this certification if obtained.

PRICING SCHEDULE (BIDDERS ARE REQUIRED TO BID ON ALL ITEMS TO BE DEEMED RESPONSIVE)**ANNUAL MAINTENANCE**

| Line Item | DESCRIPTION | ANNUAL COST |
|-----------|--|-------------|
| 1 | Bi-Annual Generator System Inspection and Maintenance | \$ 18,000 |
| 2 | Bi-Annual Paralleling Switchgear Controls, Environmental Controls – Generator Cooling, SCRs, and Bi-Fuel System Inspection and Maintenance | \$ 20,000 |

HOURLY RATES

| Line Item | DESCRIPTION | REGULAR HOURLY RATE | OVERTIME HOURLY RATE (OVER 8 CONSECUTIVE HOURS OF WORK) |
|-----------|-----------------|---------------------|---|
| 3 | Project Manager | \$ 180 | \$ 270 |

| | | | |
|---|---|--------|--------|
| 4 | Generator and Bi-Fuel System Technician | \$ 240 | \$ 360 |
| 5 | Generator and Bi-Fuel System Technician Helper | \$ 180 | \$ 270 |
| 6 | Selective Catalytic Reduction (SCR) System Technician | \$ 240 | \$ 360 |

AWARD SCHEDULE

Using the Annual Costs (Line Items 1-2) and the Regular Hourly Rates (Line Items 3-6) complete the pricing schedule below. In accordance with the Method of Award section, award will be made to the lowest responsive, responsible bidder based on Grand Total. Quantities listed for the Hourly Rates are estimates only and do not guarantee any amount of work during the Contract period.

| Line Item Description | Unit of Measure | Unit Cost | Quantity | Extended Cost |
|---|-----------------|-----------|----------|---------------------|
| Bi-Annual Generator System Inspection and Maintenance | Annual | \$ | 1 | \$ 18,000 |
| Bi-Annual Selective Catalytic Reduction (SCR) System Inspection and Maintenance | Annual | \$ | 1 | \$ 20,000 |
| Project Manager | Regular Hour | \$ 180 | 10 | \$ 1800 |
| Generator and Bi-Fuel System Technician | Regular Hour | \$ 240 | 64 | \$ 15,360 |
| Generator and Bi-Fuel System Technician Helper | Regular Hour | \$ 180 | 64 | \$ 11,520 |
| Selective Catalytic Reduction (SCR) System Technician | Regular Hour | \$ 240 | 24 | \$ 5,760 |
| GRAND TOTAL | | | | \$ 72,440.00 |

MATERIALS

All charges for materials shall be at Contractor's cost-plus markup. Bidder must complete the table below to indicate the Markup for all parts used for repair and service beyond routine maintenance.

| Part Vendor | Markup (%) |
|-------------|------------|
| Caterpillar | 30 |
| IEA Inc. | 30 |
| Miratech | 30 |
| Woodward | 30 |
| GE | 30 |
| Square D | 30 |
| Other Parts | 30 |

BID FORM, PAGE 5 OF 8

SUBCONTRACTOR PARTICIPATION

| Subcontractor Name | Description of Work Intended to Be Performed |
|--------------------|--|
| Carter CAT | Major repair Genset |
| Miratech | SCR Repairs |
| Siemens | Switchgear (Medium-Voltage) |
| | |

The undersigned acknowledges receipt of the following Addenda:

ADDENDUM NO. 1 DATE: 9/10/21 INITIAL: SEC

ADDENDUM NO. 2 DATE: _____ INITIAL: _____

ADDENDUM NO. 3 DATE: _____ INITIAL: _____

TRADE SECRETS OR PROPRIETARY INFORMATION:

Trade secrets or proprietary information submitted by a Bidder in connection with a procurement transaction will not be subject to public disclosure under the Virginia Freedom of Information Act. Pursuant to Section 4-111 of the Arlington County Purchasing Resolution, however, a Bidder seeking to protect submitted data or materials from disclosure must, before or upon submission of the data or materials, identify the data or materials to be protected and state the reasons why protection is necessary.

Please mark one:

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

Yes, the bid that I have submitted does contain trade secrets and/or proprietary information.

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

EXHIBIT C
CONTRACTOR COVID-19 VACCINATION CERTIFICATION

(SEPARATE ATTACHMENT)

EXHIBIT D

CONTRACTOR COVID-19 VACCINATION QUARTERLY COMPLIANCE CERTIFICATION

By Email: Please complete the report below and return it to: contractorvaccineinfo@arlingtonva.us.

- I hereby certify that all **POWERSECURE SERVICES** employees and subcontractors working on Contract No. **22-DES-ITB-347** are fully vaccinated against COVID-19, being testes on a weekly basis, or are exempt pursuant to a valid reasonable accommodation under state or federal law.

Please do not include any of your employees' medical documentation, including vaccination records or test results.

Date: _____

Signature: _____

Printed Name and Title: _____

Company Name: _____