

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

**RIDER CONTRACT NO. 19-045**

**THIS CONTRACT** (hereinafter "Contract") is made, on the date of its execution by the County, between Boland Trane Services, Inc., ("Contractor") a Maryland Corporation, authorized to transact business in the Commonwealth of Virginia and the County Board of Arlington County, Virginia ("County"). The County and the Contractor, for the consideration and quantity(ies) specified herein agree as follows:

**1. CONTRACT DOCUMENTS**

The Rider Contract Documents consist of the following:

- Attachment A – HVAC Equipment Services Agreement, dated October 11, 2018
- Attachment B – Arlington County Facilities Management Bureau Equipment List
- Attachment C – Board of Education of Harford County RFP #15-JLP-023w/Addenda  
Nos. One thru Three
- Attachment D – Harford County Public Schools-US Communities Government Purchasing  
Alliance- Contract No. 15-JLP-023
- Attachment E – Harford County Public Schools Contract Renewal No. 1 (October 1, 2018-  
September 30, 2020)
- Attachment F – USC Labor Rate Schedule

Where the terms of this Agreement vary from the terms and conditions of Board of Education of Harford County Contract-RFP #15-JLP—023, the terms and conditions of this Agreement shall prevail.

This Contract Document set forth the entire agreement between the Arlington County and the Contractor. The County and the Contractor agree that no representative or agent of either of them has made any representation or promise with respect to the parties' agreement which is not contained in the Contract Documents.

**2. CONTRACT TERM**

The Contract Term shall commence upon full execution of the Contract by the County and the Contractor and shall expire September 30, 2020 subject to any modifications as provided for in the Contract Documents regarding the Contract Term.

No aspect of the Work shall be deemed complete until it is accepted by the County's Project Officer.

**3. CONTRACT PRICING**

Contract pricing/labor rates shall be based on regional and national rates. The Contractor may submit requests for labor rate increases on an annual basis. The request for rate increases must be submitted in writing Sixty (60) consecutive calendar days prior to the end of the Contract anniversary date.

Rate increases are not automatic. Rate increases must be submitted and approved by the Arlington County Government Purchasing Division Chief.

The Contract shall offer all future product and service introduction at the same pricing as that offered through this Contract.

#### **4. PAYMENT**

Payment will be made by the County to the Contractor within Forty-Five (45) days after receipt by the County Project Officer of an invoice detailing the Work provided by the Contractor, and accepted by the County.

The Project Officer will either approve the invoice or require corrections. The number of the County Purchase Order, pursuant to which authority goods or services have been performed or delivered shall appear on all invoices.

#### **5. SCOPE OF WORK**

The Contractor agrees to provide services described in the Boland HVAC Equipment Service Agreement (Attachment B). Nothing in the Contract Documents shall be construed to limit the Contractor's responsibility to manage the details and execution of the Work.

#### **6. PROJECT OFFICER**

The performance of the Contractor is subject to the review and approval of the County Project Officer ("Project Officer") who shall be appointed by the Director of the Arlington County department or agency which seeks to obtain the Work pursuant to this Contract.

It is the responsibility of the Contractor to manage the details of the execution and performance of its Work pursuant to the Contract Documents.

#### **7. COUNTY PURCHASE ORDER REQUIREMENT**

County purchases are authorized only if a County Purchase Order is issued in advance of the transaction.

A Purchase Order must indicate that the ordering agency has sufficient funds available to pay for the purchase. Such a Purchase Order is to be provided to the Contractor by the ordering agency.

The County will not be liable for payment for any purchases made by its employees without appropriate purchase authorization issued by the Arlington County Government Purchasing Division Chief.

If the Contractor provides goods or services without a signed County Purchase Order, it does so at its own risk and expense.

#### **5. NON-APPROPRIATION**

All funds for 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.

In the event of non-appropriation of funds by the County Board of Arlington County, Virginia for the goods or services provided under this Contract or substitutes for such goods or services which are as advanced or more advanced in their technology, the County will terminate the Contract, without termination charge or other liability to the County, on the last day of the then current fiscal year or when the appropriation made for the then current year for the services covered by this Contract is spent, whichever event occurs first.

If funds are not appropriated at any time for the continuation of this Contract, cancellation will be accepted by the Contractor on Thirty (30) days prior written notice, but failure to give such notice shall be of no effect and the County shall not be obligated under this Contract beyond the date of termination specified in the County's written notice.

#### **6. PAYMENT OF SUB-CONTRACTORS**

The Contractor is obligated to take One (1) of the Two (2) following actions within Seven (7) calendar days after receipt of amounts paid to the Contractor by the County for Work performed by any sub-contractor under this Contract:

- a. Pay the sub-contractor 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 sub-contractor, in writing, of the Contractor's intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment.

The Contractor is obligated to pay interest to the subcontractor on all amounts owed by the Contractor to the subcontractor that remain unpaid after Seven (7) calendar days following receipt by the Contractor of payment from the County for work performed by the sub-contractor under this Contract, except for amounts withheld as allowed in Sub-Section (b), above.

Unless otherwise provided under the terms of this Contract, interest shall accrue at the rate of One Percent (1%) per month.

The Contractor shall include in each of its sub-contracts, if any are permitted, a provision requiring each sub-contractor 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.

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

During the performance of this Contract, the Contractor agrees as follows:

- A. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability or any other basis prohibited by state law related to discrimination in employment except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- B. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an Equal Opportunity Employer.
- C. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

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

E. The Contractor will include the provisions of the foregoing paragraphs in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

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

In accordance with §2.2-4311.1 of the Code of Virginia, 1950, as amended, the Contractor acknowledges that it does not, and shall not during the performance of this Contract for goods and/or services in the Commonwealth, knowingly employ an unauthorized alien as that term is defined in the federal Immigration Reform and Control Act of 1986.

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

During the performance of this Contract, the Contractor agrees to the following:

- (i) Provide a drug-free workplace for the Contractor's employees;  
Post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition;
- (ii) 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
- (iii) Include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

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

#### **10. INDEMNIFICATION**

The Contractor covenants for itself, its employees, and subcontractors to save, defend, hold harmless and indemnify the County, and all of its elected and appointed officials, officers, current and former employees, agents, departments, agencies, boards, and commissions (collectively the "County" for purposes of this section) from and against any and all claims made by third parties or by the County for any and all losses, damages, injuries, fines, penalties, costs (including court costs and attorney's fees), charges, liability, demands or exposure, however caused, resulting from, arising out of, or in any way connected with the Contractor's acts or omissions, including the acts or omissions of its employees and/or subcontractors, in performance or nonperformance of the work called for by the Contract Documents.

This duty to save, defend, hold harmless and indemnify shall survive the termination of this Contract. If, after notice by the County, the Contractor fails or refuses to fulfill its obligations contained in this Section, the Contractor shall be liable for and reimburse the County for any and all expenses, including, but not limited to, reasonable attorneys' fees incurred and any settlements or payments made.

The Contractor shall pay such expenses upon demand by the County, and failure to do so may result in such amounts being withheld from any amounts due to Contractor under this Contract.

#### **11. RELATION TO COUNTY**

The Contractor is an independent Contractor and neither the Contractor nor its employees or sub-contractors will, under any circumstances, be considered employees, servants or agents of the County.

The County will not be legally responsible for any negligence or other wrongdoing by the Contractor, its employees, servants or agents. The County will not withhold payments to the Contractor for any federal or state unemployment taxes, federal or state income taxes, Social Security tax, or any other amounts for benefits to the Contractor. Furthermore, the County will not provide to the Contractor any insurance coverage or other benefits, including workers' compensation, normally provided by the County for its employees.

#### **12. DISPUTE RESOLUTION**

All disputes arising under this Contract, or its interpretation, whether involving law or fact, or extra work, or extra compensation or time, and all claims for breach of contract shall be submitted to the Project Officer for decision at the time of the occurrence or beginning of the Work upon which the claim is based, whichever occurs first.

Any such claim shall state the facts surrounding it in sufficient detail to identify it, together with its character and scope. In accordance with the Arlington County Purchasing Resolution, claims denied by the Project Officer may be submitted to the County Manager in writing no later than Sixty (60) calendar days after Final Payment.

The time limit for final written decision by the County Manager in the event of a contractual dispute, as that term is defined in the Arlington County Purchasing Resolution, is Fifteen (15) days. Procedures for considering contractual claims, disputes, administrative appeals, and protests are contained in the Arlington County Purchasing Resolution, which is incorporated herein by this reference.

A copy of the Arlington County Purchasing Resolution is available upon request from the Office of the Purchasing Agent. The Contractor shall not cause a delay in the Work pending any decision of the Project Officer, County Manager, County Board, or a court of law.

#### **13. APPLICABLE LAW, FORUM, VENUE AND JURISDICTION**

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

#### **14. FORCE MAJEURE**

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

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

## **15. NOTICES**

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

### **TO THE CONTRACTOR:**

Sean Boland  
Boland Services  
30 West Watkins Mill Road  
Gaithersburg, Maryland 20878  
Telephone: 240-306-3298

### **TO THE COUNTY:**

Rami Natour, Construction Management  
Arlington County Government  
Facilities and Maintenance Bureau  
1400 N. Uhle Street  
Suite 602  
Arlington, Virginia 22201  
Telephone: 703-228-0789

### **AND**

Shirley Diamond, Procurement Officer  
Arlington County Government  
Office of the Purchasing Agent  
Suite 500  
2100 Clarendon Boulevard  
Arlington, Virginia 22201  
Telephone: 703-228-3424

## **16. 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.

## **17. INSURANCE REQUIREMENTS**

The Contractor shall provide to the County Purchasing Agent a Certificate of Insurance indicating that the Contractor has in force the coverage types and minimum amounts below prior to the start of any Work under this Contract and upon any contract extension.

Arlington County, and its officers, elected and appointed officials, employees, and agents shall be named as additional insureds on all policies, except Workers Compensation, Auto, and Professional Liability. A copy of the Additional Insured endorsement, or an "Acord" certificate with the additional insured endorsement box checked for all policies that include an additional insured endorsement, must be provided by the Contractor to the County Purchasing Agent prior to the execution of this Contract and any Contract extension. Failure to provide such documentation shall result in cancellation of the award or of the Contract.

The Contractor agrees to maintain such insurance until the completion of this Contract or as otherwise stated in the Contract Documents. All required insurance coverages must be acquired from insurers 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. Insurance Guides, and acceptable to the County. The minimum insurance coverage types and amounts shall be:

**18. 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

BOLAND SERVICES

AUTHORIZED  
SIGNATURE: 

AUTHORIZED  
SIGNATURE: 

NAME: SHIRLEY DIAMOND  
TITLE: PROCUREMENT OFFICER

NAME AND  
TITLE: SEAN BOLAND, Vice President

DATE: 10-23-18

DATE: 10/23/18