

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

NOTICE OF AWARD OF CONTRACT

TO: TEMPORARY SOLUTIONS, INC. 10550 LIDON LAKE PLAZA SUITE 200 MANASSAS, VA 20109	DATE ISSUED: _____ CURRENT CONTRACT NO: _____ CONTRACT TITLE: _____	June 26, 2014 760-14-1LW <u>Temporary staffing solutions</u>
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THIS IS A NOTICE OF AWARD OF CONTRACT AND NOT AN ORDER. NO WORK IS AUTHORIZED UNTIL THE VENDOR RECEIVES A VALID COUNTY PURCHASE ORDER ENCUMBERING CONTRACT FUNDS.

Your firm is awarded the above referenced contract. The contract term covered by this Notice of Award is effective IMMEDIATELY and expires on AUGUST 31, 2017.

The contract documents consist of CITY OF ALEXANDRIA CONTRACT AND ANY AMENDMENTS THERETO and this Notice of Award.

ATTACHMENTS:

1. Rider Agreement 760-14-1
2. City of Alexandria Notice of Award (Exhibit A)
3. Pricing Sheet (Exhibit B)


EMPLOYEES NOT TO BENEFIT:

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

VENDOR CONTACT: Gary Hoffman TELEPHONE NO.: 703-459-9376
EMAIL: GHOFFMAN@EEIHR.COM
COUNTY CONTACT: REFER TO PURCHASE ORDER

CONTRACT AUTHORIZATION

DISTRIBUTION


IVETTE GONZALEZ CPEB
Procurement Officer

6/26/14
Date

BID FOLDER: 1

RIDER AGREEMENT NO. 760-14-1LW

THIS AGREEMENT (hereinafter "Agreement") is made, on the date of its execution by the County, between Temporary Solutions, Inc. ("Contractor"), a Virginia 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 or specified in a County Purchase Order referencing this Agreement, agree as follows:

1. CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Exhibit A City of Alexandria Notice of Award for temporary staffing services, and Exhibit B Pricing sheet, together with any exhibits and amendments issued or applicable thereto (collectively, "Contract Documents" or "Contract"). This Agreement rides a contract awarded to the Contractor by City of Alexandria and extended by the Contractor to the County on the same terms and conditions as the Contractor's agreement City of Alexandria, and substituting the phrases "County Board of Arlington County" or "Arlington County", as appropriate, for the phrase City of Alexandria wherever that phrase [those phrases] appear(s) in the Contract Documents. Where the terms of this Agreement vary from the terms and conditions of the other Contract Documents, the terms and conditions of this Agreement shall prevail.

The Contract Documents set forth the entire agreement between the County and the Contractor. The County and the Contractor agree that no representative or agent of either 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 Contractor's provision of goods and/or services for the County ("Work") shall commence upon execution of the Agreement by the County and shall be completed no later than July 1, 2014, subject to any modifications as provided for in the Contract Documents. Upon satisfactory performance by the Contractor and with the concurrence of the Contractor, the County may authorize continued operations of the Contractor under the same contract unit prices for not more than three (3) additional twelve (12) month periods from July 1, 2014 to August 31, 2017 each such period shall be referred to as a "Subsequent Contract Term".

2. CONTRACT TERM

The Contractor's provision of goods and services for the County ("Work") shall commence on, upon the execution of the Agreement by the County, and shall be completed no later than August 31, 2017 ("Contract Term"), 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

The County will pay the Contractor in accordance with the terms of the Payment paragraph below, at the unit prices set forth in Exhibit B for Work provided by the Contractor, as described and required in the Contract Documents, and accepted by the County.

4. PAYMENT

Payment will be made by the County to the Contractor within thirty (30) 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 perform the goods and/or services described in the Contract Documents (hereinafter "the Work"). The primary purpose of the Work is to provide temporary staffing services.

The Contract Documents set forth the minimum Work estimated by the County and the Contractor to be necessary to complete the Work. It shall be the Contractor's responsibility, at the Contractor's sole cost, to provide the specific Work set forth in the Contract Documents sufficient to fulfill the purposes of the Work. Nothing in the Contract Documents shall be construed to limit the Contractor's responsibility to manage the details and execution of 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. However, it shall be 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 County Purchasing Agent. If the Contractor provides goods or services without a signed County Purchase Order, it does so at its own risk and expense.

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 SUBCONTRACTORS

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

- a. Pay the subcontractor for the proportionate share of the total payment received from the County attributable to the work performed by the subcontractor under this Contract; or
- b. Notify the County and the subcontractor, in writing, of the Contractor's intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment.

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

The Contractor shall include in each of its subcontracts, if any are permitted, a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements 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 (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, 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 subcontractors will, under any circumstances, be considered employees, servants or agents of the County. The County will not be legally responsible for any negligence or other wrongdoing by the Contractor, its employees, servants or agents. The County will not withhold payments to the Contractor for any federal or state unemployment taxes, federal or state income taxes, Social Security tax, or any other amounts for benefits to the Contractor. Furthermore, the County will not provide to the Contractor any insurance coverage or other benefits, including workers' compensation, normally provided by the County for its employees.

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) 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)

c. ADDITIONAL COMPLIANCE REQUIREMENTS

At all times during the term of the Contract, the Contractor shall:

1. Post the current wage rate, in English and Spanish, in a prominent place at its offices and each location where its employees perform services under this Contract (refer to Exhibit C);
2. Provide, within five (5) days of an employee's request, a written statement of the then current required wage rate (using the same form provided in Item 1) above;
3. Include the provisions of this clause in all subcontracts for work performed under this Contract; and
4. Submit to the Purchasing Agent, within five (5) working days of the end of each quarter, quarterly payroll reports, and a completed Arlington County Contractor Living Wage Quarterly Compliance Report (refer to Exhibit C.) Include copies of at least four (4) payroll reports for each quarter and two (2) copies of a payroll check for each employee working during the quarter.

d. CONTRACTOR RECORD KEEPING

The Contractor shall keep and preserve records which show wages and benefits provided to each employee assigned to perform services under this Contract for a period of three (3) years after the expiration or earlier termination of this Contract. The Contractor shall permit the County's Purchasing Agent, or authorized representative, to examine and make copies of such records at reasonable times and without unreasonable interference with the business of the Contractor.

e. VIOLATIONS

Violation of this clause, as determined by the Purchasing Agent, shall be grounds for termination of this Contract and debarment of the Contractor from consideration for future awards of County contracts.

WITNESS these signatures:

THE COUNTY BOARD OF ARLINGTON
COUNTY, VIRGINIA

TEMPORARY SOLUTIONS, INC.

AUTHORIZED
SIGNATURE:



AUTHORIZED
SIGNATURE:



NAME: RICHARD D. WARREN, JR.
TITLE: PURCHASING AGENT

NAME AND
TITLE: Gala Johnson / VP of Marketing and Contracts

DATE:

6/17/14

DATE:

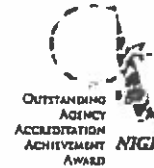
6-17-2014





(703) 746-4944

FINANCE DEPARTMENT
PURCHASING DIVISION
Suite 301 – Banker's Square
100 North Pitt Street
Alexandria, Virginia 22314



Fax: (703) 838-6493

**CONTRACT
FOR
TEMPORARY STAFFING SERVICES
FOR THE
HUMAN RESOURCES SERVICES DEPARTMENT**

THIS CONTRACT (the "Contract") is made this 20th day of Aug, 2012 between the CITY OF ALEXANDRIA, a Municipal Corporation of Virginia, by the Purchasing Division (hereinafter called the "City") and

Ms. Lovey Hammel
President
Temporary Solutions, Inc.
10550 Linden Lake Plaza
Suite 200
Manassas, Virginia 20109

(Hereinafter called the "Contractor"):

WITNESSETH

WHEREAS, the City requested proposals to obtain the services of qualified firms to provide Temporary Staffing Services for the City's Human Resources Department;

WHEREAS, Temporary Solutions, Inc. submitted a response, dated March 29, 2012, to provide temporary staffing services; and

WHEREAS, the City desires to obtain, and Temporary Solutions, Inc. desires to provide temporary staffing services for the City's Department of Human Resources.

NOW, THEREFORE, for and in consideration of the payments set forth in Article 11 below, and the mutual promises contained herein, the parties agree as follows:

1.0 DEFINITIONS

1.01 The following documents are incorporated herein by reference and are made a part of this Contract:

Exhibit I - Request for Proposals (RFP) Number 00000173 dated March 2, 2012;
Exhibit II - Addendum #1 dated March 27, 2012; and
Exhibit III – Temporary Solutions, Inc.'s proposal response to RFP Number 00000173 dated March 29, 2012.

The Contract or Contract Documents shall also consist of the following:

- A. The signed Contract, which specifically identifies all other Contract Documents associated with the Work;
- B. These General Conditions of the Contract;
- C. All Change Orders issued subsequent to the execution of the Contract.

This Contract with Exhibits I through III and Contract Documents A through H shall constitute the whole and entire agreement between the parties. Where there is a conflict between the requirements of this contract and the requirements of Exhibits I through III, the requirements of this contract shall govern.

- 1.02 City:** The City of Alexandria, its authorized representatives and employees.
- 1.03 City Purchasing Agent:** The Director of the Division of Purchasing of the Finance Department of the City of Alexandria, or their designated representative, who shall serve as the City's Chief Contracting Officer.
- 1.04 Contracting Officer's Technical Representative (COTR):** The City representative, appointed by the Purchasing Agent who serves as the technical representative for purposes of administering the Contract.
- 1.05 Work:** The Services required to be delivered by the Contractor pursuant to this Contract.
- 1.06 Change Order:** A written order to the Contractor, signed by the City, which authorizes a change in the Work, an adjustment to the Contract Sum, and/or an adjustment to the Time(s) for Performance.
- 1.07 Contract Sum:** The total amount payable to the Contractor for performance of the Work. The Contract Sum is stated in the Proposal and shall include any adjustments granted by Change Order.

- 1.08 **Contractor:** The individual, firm or organization, which contracts with the City to perform the Work. As employed herein, the term "Contractor" may refer to an individual, an organization, or to the Contractor's authorized representative.
- 1.09 **Acceptance (Services):** When used with respect to Services, Acceptance shall mean approval of Contractor's invoice for such Services by the COTR.
- 1.10 **Time(s) for Performance:** The date(s) on which Goods are required to be delivered and/or Services are required to be provided, in accordance with the Contract Documents.
- 1.11 **Final Payment:** The payment of the balance of the Contract Sum, following the Acceptance of all Goods and Services delivered pursuant to this Contract.
- 1.12 **Notice:** As defined in Paragraph 17.

2.0 THE CITY

- 2.01 **Authority of the Purchasing Agent:** The Purchasing Agent shall be the Chief Contracting Officer for the City, who is authorized to execute this Contract and any Change Orders issued pursuant to Article 10. No Notices to the City shall be effective unless a copy is delivered to the Purchasing Agent in accordance with the terms of the Contract.
- 2.02 **Authority of the Contracting Officer's Technical Representative (COTR):** The Contract shall be administered by Nancy Stephens, Human Resources Department 703 746.3779 or designated representative, who shall be referred to in the Contract Documents as "COTR."
- 2.03 **Additional City Representatives:** The COTR may designate one or more additional representatives to coordinate with the Contractor and/or to inspect the Work performed by the Contractor.

3.0 THE CONTRACTOR

- 3.01 **Licensure:** To the extent required by the Commonwealth of Virginia or the City of Alexandria, the Contractor shall be duly licensed to perform the services required to be delivered pursuant to this Contract.
- 3.02 **Key Persons:** If any "Key Persons" are identified in Contractor's Proposal, those Key Persons shall be directly involved in the performance of Contractor's Work hereunder. No Key Person shall be changed without the written consent of City unless such Key Person becomes unavailable to perform his or her duties because of death, disability or termination of employment; provided however, that a Key Person shall be removed at City's request. If a Key Person is no longer capable of performing in the capacity described in the Proposal, or is removed by the City, the City and the Contractor shall agree on a mutually acceptable substitute.

Contractor's Representative: Gala Johnson, 703.361.2220 x 235
gjohnson@eeihr.com

4.0 TERMS FOR PERFORMANCE

- 4.01 The Work.** The services required to be delivered pursuant to this Contract shall be in strict accordance with the Specifications included as part of the Contract Documents.

All persons performing services pursuant to the Contract shall be duly qualified to perform those services and shall hold any licenses required by law for persons performing such Services.

- 4.02 Time for Performance:** Time is of the essence of this Contract. The Contractor shall perform all Services at the time(s) and in the manner(s) specified in the Contract Documents.

- 4.03 Period of Performance:** The term of this contract shall be effective from the date this contract executed through August 31, 2017. Any renewal options requested by the City will be included in the performance period.

5.0 INSPECTION, ACCEPTANCE AND REJECTION

- 5.01 Quality Assurance:** Contractor and its subcontractors shall provide and maintain a quality assurance system acceptable to the City covering services under this Contract and will render to the City only those services that conform to the Contract Documents. Contractor will keep records evidencing performance and will make these records available to the City during Contract.

- 5.02 Acceptance:** All services to be delivered hereunder shall be subject to final acceptance by the City.

- 5.03 Rejection:** The City shall give notice of rejection of services performed hereunder within a reasonable time after receipt of such services. Acceptance by the City shall not waive any rights that the City might otherwise have at law or by express reservation in this Contract with respect to any nonconformity.

- 5.04 No Waiver of Defects:** COTR's failure to discover, or reject defective work or work not in accordance with the Contract Documents shall not be deemed an acceptance thereof nor a waiver of the City's rights to a proper execution of the work or any part of it.

- 5.05 Acceptance of Defective or Nonconforming Work:** The City reserves the right to accept any defective work or work not in compliance with the Contract Documents; provided, however, that in such event the contract sum shall be reduced by an appropriate and equitable amount to account for such defect or noncompliance

6.0 SAMPLES

- 6.01 Samples:** Samples of services items may be required by the City for review and must be furnished free of expense to the City. The samples furnished must be identical in all respects to the services proposed and/or specified in the Contract.
- 6.02 Return of Samples:** Samples of services submitted, may, upon request made at the time the sample is furnished, be returned at Contractor's expense.

7.0 CHANGES

- 7.01 Change Orders:** The City may order changes in the work consisting of additions, deletions, or modifications, the contract sum and the time for performance being adjusted accordingly. Such changes shall be authorized only by written Change Orders signed by the Purchasing Agent.

8.0 PAYMENTS TO CONTRACTOR

Contractor shall provide temporary staffing services for the following amount:

Temporary Staff Positions	Fee
See Attached List	See Attached List

- 8.01 Payment for Services:** The Contract requires the Contractor to perform services, and the Contractor shall submit its invoice for the services performed on or before the 15th day of the following month. The invoice shall bill for the services at the rate specified in the Contract. The COTR shall verify that the services have been performed in accordance with the Contract and, if appropriate, will approve the invoice and process it for payment.
- 8.02** The Contractor shall submit original invoices to the Procurement Director's Technical Representative which clearly describe and itemize the equipment, supplies or Services provided. In addition, invoices shall contain, at a minimum, the following information:
 - A. The date of the Contract;
 - B. The Contract Number;
 - C. The price in accordance with the price stated in the Contract;

The City reserves the right to determine whether the invoice is clear or properly itemized. However, if abbreviations or jargon are used on the invoice, the Contractor shall provide a key printed directly on the invoice to explain the abbreviation or jargon.

8.03 Time for Payments: In accordance with Section 3-3-56 of the Code of the City of Alexandria, payments are due and payable forty-five (45) days after: (a) the date of the City's receipt of services; or (b) the COTR's receipt of the Contractor's valid invoice, whichever is later. Within 30 days after receipt of the invoice the City shall give the Contractor notice of any impropriety, which would prevent payment by the required payment date.

9.0 TERMINATION OR SUSPENSION

9.01 Non-Appropriation of Funds: This Contract is conditioned upon an annual appropriation made by the City Council of the City of Alexandria of funds sufficient to pay the compensation due the Contractor under this Contract. If such an appropriation is not made in any fiscal year, and the City lacks funds from other sources to pay the compensation due under this Contract, the City will be entitled, at the beginning of or during such fiscal year, to terminate this Contract. In that event, the City will not be obligated to make any payments under this Contract beyond the amount properly appropriated for Contract payments in the immediately prior fiscal year. The City will provide the Contractor written Notice of termination of this Contract due to the non-appropriation of funds at least fifteen (15) calendar days before the effective date of the termination. However, the City's failure to provide such Notice will not extend this Contract into a fiscal year in which funds for Contract payments have not been appropriated.

9.02 Termination for Convenience: The City shall have the right to terminate this Contract at its own convenience for any reason by giving fifteen (15) days prior written Notice of termination to the Contractor. In such event, the Contractor shall be paid an amount equal to the lesser of: (1) the actual cost of any Work, labor or materials actually performed or in place and the actual cost of any labor, equipment or materials ordered in good faith which could not be canceled, less the salvage value thereof, plus 10%, or (2) the pro rata percentage of completion based upon any schedule of payments set forth in the Contract Documents, plus the actual cost of any labor, equipment or materials ordered in good faith which could not be canceled, less the salvage value thereof. Each subcontract shall contain a similar termination provision for the benefit of the Contractor and the City. The Contractor shall not be entitled to receive anticipated profits on unperformed portions of the Work. The City shall have the right to employ an independent accounting firm to verify any amounts claimed by the Contractor to be due under this Paragraph. The City shall have the right of audit (and Contractor shall have the obligations) stated in Paragraph 21, insofar as they pertain to amounts claimed to be due hereunder.

9.03 Termination for Default: The City of Alexandria may, by written Notice to the Contractor, terminate the whole or any part of the Contract in any one of the following circumstances:

- A. If the Contractor fails to deliver the Goods or perform the Services within the Time(s) for Performance specified in this Contract, and does not cure such failure within a period of ten (10) days after receipt of Notice from the Procurement Director or his designee;
- B. If the Contractor fails to perform any of the other provisions of this Contract, fails to make progress so as to endanger performance of this Contract in accordance with its terms, and does not cure such failure within a period of ten (10) days after receipt of Notice from the Procurement Director or his designee; or
- C. Without further notice, if the Contractor defaults in the performance of its duties pursuant to paragraphs (A) and/or (B) above more than twice within any consecutive twelve (12) month period, whether or not the Contractor subsequently cures such earlier defaults.

In the event the City terminates this Contract in whole or in part as indicated above, the City may purchase from other vendors Goods or Services similar to those terminated. The defaulting Contractor shall be liable to the City for any excess costs for such similar Goods or Services.

10.0 CLAIMS AND DISPUTES

10.01 Claims: Contractual claims shall be submitted in writing not later than sixty (60) days after the date of final payment. No claim shall be considered by the City (and will be deemed to have been waived), unless the Contractor gives written notice of an intention to file such a claim at the time of the occurrence of the event giving rise to the claim or at the beginning of the work upon which the claim is based. Written notice of the Contractor's intention to file a claim pursuant to this Paragraph 10.01 shall not be sufficient unless Contractor complies with each of the following:

- A. The Contractor shall, within five (5) days after the occurrence of the event giving rise to such claim or the beginning of the work upon which the claim is based, deliver to the Purchasing Agent and the COTR written notice specifying that the Contractor has sustained or is sustaining injury, and detailing the basis of the claim against the City.
- B. Within twenty (20) days after delivering such Notice, the Contractor shall deliver to the Purchasing Agent and the COTR a sworn affidavit incorporating an itemized breakdown of the nature and amounts of any damages it has incurred or is incurring. This itemized breakdown shall be made to the fullest extent possible; otherwise the claim shall be deemed waived.
- C. The Purchasing Agent or their designee shall make a determination of the claim within fifteen (15) days after receipt of the itemized breakdown described in Subparagraph B above, which decision shall be the final determination of the City.

- 10.02 No Claims Against City Officials:** The Contractor shall make no claim whatsoever against any elected official, appointed official, authorized representative or employee of the City for, or on account of, anything done or omitted to be done in connection with this Contract.
- 10.03 Disputes:** Disputes shall be resolved in accordance with Sections 3-3-107 and 3-3-108 of the Code of the City of Alexandria, as it may be amended from time to time.
- 10.04 Exhaustion of Administrative Procedures:** The City and the Contractor agree that no claim or controversy arising under this Contract at any time during or after the performance of the work shall be brought before any court without first having been submitted to the procedures outlined above, and that failure to comply with such procedures shall be deemed a waiver of such claim.
- 10.05 Contractor to Continue Work During Pendency of Dispute:** Unless ordered by the City to suspend all or a portion of its Services hereunder, the Contractor shall proceed with the performance of the work without any interruption or delay during the pendency of any dispute resolution procedures.

11.0 INSURANCE

- 11.01 Insurance Required:** Prior to beginning work under this Contract, the Contractor shall furnish to the Purchasing Agent a certificate or certificates of insurance, showing that the Contractor has obtained, at its own expense, all insurance coverage listed in the "City of Alexandria, Virginia, Insurance Checklist." These certificates of insurance shall list the City of Alexandria as an additional insured in the amounts and types of insurance listed in the "City of Alexandria, Virginia, Insurance Checklist."

12.0 INDEMNITY

- 12.01** The Contractor hereby assumes all liability for and agrees to indemnify and hold harmless the City and its officers, authorized representatives and employees against any and all claims, losses, costs, damages, penalties, liabilities and fees (including reasonable attorneys' fees) and expenses resulting from any material breach of the representations, warranties and covenants of the Contractor contained in the Contract Documents or from any injuries to persons or property caused by the negligence or alleged negligence of the Contractor or its Subcontractors, employees, or authorized representatives, or in any other manner arising out of the performance of this Contract.

13.0 EQUAL EMPLOYMENT OPPORTUNITY

- 13.01 Discrimination Prohibited:** The Contractor agrees not to discriminate against any employee or applicant for employment on account of race, color, sex, religion, ancestry, national origin, marital status, age, sexual orientation, disability, when such person is a qualified person with a disability, or any other basis prohibited by state law relating 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.

- 13.02 **Affirmative Action:** The Contractor agrees to implement an affirmative action employment program as defined in Section 12-4-3 of the Code of the City of Alexandria to ensure nondiscrimination in employment under guidelines to be developed by the Human Rights Commission of the City of Alexandria and approved by the City Council of the City of Alexandria.
- 13.03 **EOE Statement:** To include in all solicitations or advertisements for employees placed by or on behalf of the Contractor the words "Equal Opportunity Employer" or a symbol, approved by the commission, meaning same.
- 13.04 **Notice to Labor Unions:** To notify each labor organization or representative of employees with which the Contractor is bound by a collective bargaining agreement or other contract of the Contractor's obligations pursuant to this equal employment opportunity clause.
- 13.05 **Reports to the City:** To submit to the City Manager and the City's Human Rights Administrator, upon request, no more frequently than annually, regular equal employment opportunity reports on a form to be prescribed by the City's Human Rights Administrator with the approval of the City Manager, except that the administrator may request more frequent special reports of particular employers provided the commission has found such employers to have violated any provision of Chapter 4, of Title 12 of the Code of the City of Alexandria.
- 13.06 **Compliance with Federal Requirements Sufficient:** 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 Paragraph.
- 13.07 **Accommodation of Disabled Workers:** To make reasonable accommodation to the known physical or mental limitations of an otherwise qualified person with a disability who is an applicant or employee unless the Contractor can demonstrate that the accommodation would impose an undue hardship on the operation of its business.
- 13.08 **Reasonable Accommodations:** That for the purpose of this paragraph reasonable accommodation may include (i) making facilities used by employees readily accessible to and usable by persons with a disability and (ii) job restructuring, part-time or modified work schedules, acquisitions or modification of equipment or devices, the provision of readers or interpreters and other similar actions.
- 13.09 **Undue Hardship:** That in determining whether an accommodation would impose an undue hardship on the operation of the Contractor's business, factors to be considered include but are not limited to the following:

- A. The overall size of the Contractor's business with respect to the number of employees, the number and type of facilities and size of budget;
- B. The type of the Contractor's operation, including the composition and structure of the Contractor's work force; and
- C. The nature and cost of the accommodation needed.

13.10 Refusal to Employ: That it may not deny any employment opportunity to a qualified person with a disability who is an employee or applicant if the basis for the denial is the need to make reasonable accommodation to the physical or mental limitations of the employee or applicant.

13.11 Subcontracts: To include the provisions in Paragraphs 16.01 through 16.10 of this Article in every subcontract so that such provisions will be binding upon each subcontractor.

13.12 Non-compliance: That in the event of the Contractor's noncompliance with any provision of this Equal Employment Opportunity clause, upon a finding of such noncompliance by the City's Human Rights Commission and certification of such finding by the City Manager, the City Council of the City of Alexandria may terminate or suspend or not renew, in whole or in part, this Contract.

14.0 SMALL AND MINORITY AND WOMEN-OWNED BUSINESS OUTREACH

14.01 The City of Alexandria is committed to increase the opportunity for utilization of small, minority and women owned business in all aspects of procurement and have adopted a policy for increasing that participation. This policy is set forth in Sections 3-3-111 and 12-4-6 of the Code of the City of Alexandria. The City reserves the right to make multiple awards if the Purchasing Agent determines that such awards are in the best interest of the City and its SMBE program.

15.0 ETHICS IN PUBLIC CONTRACTING

15.01 The provisions of law set forth in Article IV of the Virginia Public Procurement Act, entitled "Ethics in Public Contracting," Va. Code §§ 2.2-4367 et seq., the State and Local Government Conflict of Interest Act, Va. Code §§ 2.2-3100, et seq., the Virginia Governmental Frauds Act, Va. Code §§ 18.2-498.1 et seq., Articles 2 and 3 of Chapter 10, Title 18.2 of the Code of Virginia, as amended, and Article I of Chapter 3, Title 3 of the Code of the City of Alexandria, all as the same may be amended from time to time, are incorporated herein by reference. The Contractor shall incorporate the above clause in its contracts with each subcontractor.

16.0 DRUG-FREE WORKPLACE

- 16.01 Drug-Free Workplace:** During the performance of this Contract, the Contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.
- 16.02 Definition:** For the purposes of this Paragraph, "drug-free workplace" means a site for the performance of work done in connection with this Contract awarded to Contractor, in accordance with Chapter 3, Title 3, of the Code of the City of Alexandria, the employees of which are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of this Contract.

17.0 NOTICE

- 17.01 Written Notice:** All Notices required by the terms of this Contract shall be in writing. For purposes of this Paragraph, "writing" shall include facsimile transmissions and electronic mail, provided that reasonable care is used to ensure that the Notice is received by its intended recipient.
- 17.02 Notices to Contractor:** Written notices may be served on the Contractor by certified mail, courier, facsimile transmission or electronic mail to the Contractor's office at the project or to the business address of the Contractor as stated in the Contract documents.
- 17.03 Notices to City:** Written notices may be served on the City by certified mail, courier, facsimile transmission or electronic mail to the COTR, with a copy to the Purchasing Agent.

18.0 SERVICE CONTRACT WAGES

- 18.01 Living Wage:** If applicable, the Contractor shall comply with provisions of Section 3-3-31.1 of the Code of the City of Alexandria during the performance of this Contract. All Contractor employees working on City-owned or City-occupied property shall be paid an hourly wage no less than the hourly wage rate published on the City's world-wide web site at the time of Contract execution (the "Living Wage").

- 18.02 Option Periods:** For each option period for which the Contract is renewed, Contractor's employees' wages shall be adjusted to correspond to the Living Wage rate posted on the City's World Wide Web site as of the date of the Change Order authorizing the option period. Prior to renewal, the Contractor shall submit, on a form acceptable to the Purchasing Agent, or designee, the names of all employees who will be affected by the Living Wage requirements of this Article, their positions, their wage rates prior to the renewal date, their wage rates in conformance with the Living Wage at renewal, and the change in total direct labor costs as a result of the Living Wage changes. No Contract shall be renewed until this information is submitted and approved by the Purchasing Agent. The cost of any such increase in wages, together with applicable labor burdens, shall, shall be added to the Contract Sum, in addition to any increase otherwise allowed pursuant to Paragraph 10.03.
- 18.03 Complaints by Aggrieved Employees:** Within six (6) months of the Contractor's failure to comply with the Living Wage requirements of this provision, an aggrieved employee may file a complaint with the City's Purchasing Agent. If the Purchasing Agent determines that the Contractor has paid its employees a wage rate less than that required by the Contract, the Contractor shall be liable to the employees for the amount of the unpaid wage, plus interest at the judgment rate. The Contractor shall not discharge, reduce the compensation of, or otherwise retaliate against any employee who files a compliant with the City's Purchasing Agent, or takes any other action to enforce the requirements of this clause.
- 18.04 Additional Compliance Requirements:** At all times during the term of the Contract, the Contractor shall:
- A. Post the current wage rate in English and Spanish at a prominent place at its offices and each location where its employees perform services under this Contract;
 - B. Provide, within five (5) days of an employees' request, a written statement of the then current required wage rate;
 - C. Include the provisions of this clause in all subcontracts for work to be performed by subcontractors on City-owned or City-occupied property, so that provisions of this clause are binding upon subcontractors;
 - D. Comply with all applicable federal, state and City laws, rules and regulations, including, but not limited to the U.S. Fair Labor Standards Act of 1938, as amended, the U.S. Occupational Safety and Health Act of 1970, as amended, the U.S. Employee Retirement Income Security Act, as amended, and Chapter 3 of Title 40.1 of the Code of Virginia, 1950, as amended (for the purposes of this Contract, the annual schedule of City holidays published by the City Manager's Office shall be used); and

- E. Submit, within five (5) working days of the end of each period, quarterly and annual payroll reports in a form approved by the Purchasing Agent to include copies of at least four (4) payroll reports for each quarter and two (2) copies of a payroll check for each employee working during the quarter.
- 18.05 Contractor Record Keeping:** The Contractor shall keep and preserve records, which show wages and benefits provided to each employee assigned to perform services under this Contract for a period of three (3) years after the expiration or earlier termination of this Contract. The Contractor shall permit the City's Purchasing Agent, or authorized representative, to examine, and make copies of, such records at reasonable times and without unreasonable interference with the business of the Contractor.
- 18.06 Violations:** Violation of any law, rule, regulation, or provision of this clause, as determined by the Purchasing Agent, shall be grounds for termination of this Contract and debarment of the Contractor.
- 19.0 MISCELLANEOUS PROVISIONS**
- 19.01 Governing Law:** This Contract is governed by the applicable provisions of the Code of the City of Alexandria, and the laws of the Commonwealth of Virginia.
- 19.02 Successors, Assigns and Legal Representatives:** This Contract shall not be assigned, sublet or transferred, in whole or in part, by operation of law or otherwise, by either of the parties hereto except with the prior written consent of the other. Unless specifically stated to the contrary in any written consent to an assignment, no assignment shall operate to release or discharge the assignor from any duty or responsibility under this Contract.
- 19.03 Entire Agreement:** The Contract Documents constitute the entire agreement among the parties pertaining to the work and supersedes all prior and contemporaneous agreements and understandings of the parties in connection therewith.
- 19.04 Royalties and Patents:** The Contract Sum includes all royalties and costs arising from patents, trademarks, and copyrights in any way involved in the work. Whenever the Contractor is required or desires to use any design, device, material or process covered by letters of patent or copyright, the Contractor shall indemnify and save harmless the City, its officers, agents and employees from any and all claims for infringement by reason of the use of any such patented design, device, tool, material, equipment, or process to be performed under this Contract, and shall indemnify the City, its officers, agents, authorized representatives, and employees for any costs, expenses and damages which may be incurred by reason of any such infringement at any time during the prosecution and after the completion of the Work.

- 19.05 Severability:** Should any provision of this Contract be declared invalid for any reason, such decision shall not affect the validity of any other provisions, which other provisions shall remain in force and effect as if this Contract had been executed with the invalid provision(s) eliminated, and it is hereby declared the intention of the parties that they would have executed the other provisions of this Contract without including therein such provision(s) which may for any reason hereafter be declared invalid.
- 19.06 Survival:** Any provision of this Contract which contemplates performance subsequent to any termination or expiration of this Contract, including, without limitation, the provisions of Articles 7 (Warranty); 13 (Claims and Disputes); 15 (Indemnity), and 21 (Audit and Price Adjustment), shall survive any termination or expiration of this Contract and shall remain in full force and effect according to their terms.
- 19.07 Non-Waiver:** The failure of Contractor or the City to exercise any right, power or option arising under this Contract, or to insist upon strict compliance with the terms of this Contract, shall not constitute a waiver of the terms and conditions of this Contract with respect to any other or subsequent breach thereof, nor a waiver by Contractor or City of their rights at any time thereafter to require exact and strict compliance with all the terms thereof.
- 19.08 Headings:** Numbered topical headings, articles, paragraphs, subparagraphs or titles in this Contract are inserted for the convenience of organization and reference and are not intended to affect the interpretation or construction of the terms thereof.

20.0 SIGNATORIES

The parties agree that they shall be bound by the contents of this Contract.

TEMPORARY SOLUTIONS, INC.
10550 LINDEN LAKE PLAZA
SUITE 200
MANASSAS, VIRGINIA 20109

CITY OF ALEXANDRIA,
A MUNICIPAL CORPORATION
OF VIRGINIA

BY: *Lawrence L. Hammon*
TITLE: *President*
DATE: *8/10/2012*

BY: *Michael F. Hauer*
for
TITLE: Acting Purchasing Agent
DATE: *8/20/12*