

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

CONTRACT AWARD COVERPAGE

TO: J. Fletcher Creamer & Son, Inc. 101 E. Broadway Hackensack, NJ 07601	DATE ISSUED: CONTRACT NO: CONTRACT TITLE:	<u>March 4, 2020</u> <u>20-103-ITB</u> <u>N. Glebe Road PCCP Water Main Rehabilitation</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.

The contract documents consist of the terms and conditions of AGREEMENT No.20-103-ITB including any attachments or amendments thereto.

EFFECTIVE DATE: March 4, 2020

EXPIRES: 270 calendar days from the date of issuance of the Notice to Proceed

RENEWALS: No Renewals

COMMODITY CODE(S): 91350

LIVING WAGE: N

ATTACHMENTS:

AGREEMENT No. 20-103-ITB

EMPLOYEES NOT TO BENEFIT:

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

VENDOR CONTACT: Terrell Maroney

VENDOR TEL. NO.:

(201) 488-9800

EMAIL ADDRESS: Terrell.Maroney@jfcson.us

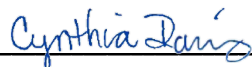
COUNTY CONTACT: Leopoldo Dizon

COUNTY TEL. NO.:

(703) 228-0585

COUNTY CONTACT EMAIL: ldizon@arlingtonva.us

PURCHASING DIVISION AUTHORIZATION



Title Assistant Purchasing Agent

Date March 4, 2020

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

AGREEMENT NO. 20-103-ITB

THIS AGREEMENT is made, on the date of execution by the County, between J. Fletcher Creamer & Son, Inc., 101 E. Broadway, Hackensack, NJ 07601 ("Contractor") a New Jersey 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:

- Agreement No. 20-103-ITB, and all modifications properly incorporated into the Agreement
- Exhibit A – Arlington County Invitation to Bid No. 20-103-ITB, including DES General Conditions, Special Conditions, and Supplementary Specifications, incorporated herein by reference.
- Exhibit B – Specifications, Drawings and Construction Notes, incorporated herein by reference.
- Exhibit C – Price Bid of Contractor

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

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

2. SCOPE OF WORK

The Contractor will furnish all labor, materials, and equipment for the construction of N. Glebe Road PCCP Water Main Rehabilitation (the "Project") and all other work shown, described, and required by the Contract Documents (hereinafter "the Work").

The Work shall be performed according to the standards established by the Contract Documents read together as a single specification. It shall be the Contractor's responsibility, at solely the Contractor's cost, to provide sufficient services to fulfill the purposes of the Work. Nothing in the Contract Documents shall be construed to limit the Contractor's responsibility to manage the details and execution of its Work.

3. PROJECT OFFICER

The performance of the Contractor is subject to the review and approval of the County Project Officer identified in Section 53, Notices, unless the Contractor is otherwise notified in writing.

4. TIME FOR COMPLETION

Work under this Agreement shall achieve Substantial Completion no later than two hundred forty (240) consecutive calendar days after the commencement date given in a Notice to Proceed provided by the County to the Contractor, subject to any modifications made as provided for in the Contract Documents. This two hundred forty (240) day period shall be the Period of Performance for Substantial Completion. No Work shall be deemed Substantially Complete until it meets the requirements of Substantial Completion set forth in the General Conditions. Final Completion of the Work shall be completed no later than thirty (30) calendar days after the date of acceptance of Substantial Completion by the County Project Officer. Work will not reach Final Completion until it meets the requirements set forth in the General Conditions.

AND

Unless otherwise provided, no claims for early completion are allowed.

5. CONTRACT AMOUNT

The County will pay the Contractor in accordance with the terms of the Progress Payments and Retainage and Payment Terms sections below and at the prices shown in Exhibit C, but not more than \$3,732,228.15 for the Contractor's completion of the Work as required by the Contract Documents provided the Work is performed to the satisfaction of and is accepted by the Project Officer. The Contractor will complete the Work for the total amount specified in this section ("Contract Amount") unless such amount is modified as provided in this Agreement. The Contract Amount includes all of the Contractor's costs and fees (profit) and is inclusive of all anticipated or known site conditions, anticipated or known materials, labor, and equipment costs, or any other costs which should reasonably have been expected by the Contract Documents.

6. PROGRESS PAYMENTS AND RETAINAGE

The County will make monthly progress payments to the Contractor upon written application by the Contractor, on the basis of a written estimate of the work performed during the preceding calendar month as approved by the Project Officer. However, 5% of each progress payment will be retained by the County until Final Completion and acceptance of all Work covered by the Agreement.

All material and work covered by partial payments will become the property solely of the County at the time the partial payment is made. However, the Contractor will have the sole responsibility, care and custody for all materials and work upon which payments have been made until Substantial Completion.

When calculating payment for materials on-site, the County shall not pay for materials which are not scheduled for incorporation into the Work within sixty (60) days from the date of application for payment.

7. PAYMENT TERMS

The Contractor must submit invoices to the County's Project Officer, who will either approve the invoice or require corrections. The County will pay the Contractor 45 days after approval of an invoice for completed work which is reasonable and allocable to the Contract. The number of the County Purchase Order pursuant to work has been 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. RELEASE AND REQUEST FOR FINAL PAYMENT

In order to receive final payment upon Final Completion of the Project and before Final Acceptance, the Contractor must submit to the Project Officer a signed original notarized copy of the Arlington County Release and Request for Final Payment form per the General Conditions.

10. LIQUIDATED DAMAGES

Time is of the essence under this Contract. The Work must be completed within the Time for Completion. The County and the Contractor agree that damages for failure to achieve Substantial Completion of the Work by the date specified under Time for Completion are not susceptible to exact determination but that \$1,700 per calendar day is in proportion to the actual loss that the County would suffer from such delay. Therefore, the Contractor will pay the County as liquidated damages \$1,700 per day for each and every day beyond the time for Substantial Completion that the County determines Substantial Completion has not achieved. The County and the Contractor also agree that damages for failure to achieve Final Completion of the Work by the date specified under Time for Completion are not susceptible to exact determination but that \$1,700 per calendar day is in proportion to the actual loss the County would suffer from such delay. Therefore, the Contractor will pay the County as liquidated damages \$1,700 per day for each and every day beyond the time for Final Completion until Final Completion is achieved.

AND

The County will be entitled to deduct liquidated damages against any sums owed by the County to the Contractor under this Contract. The Contractor hereby waives any defense as to the validity of any

liquidated damages on grounds that such liquidated damages are void as penalties or are not reasonably related to actual damages.

11. PERFORMANCE OF WORK BY THE CONTRACTOR

The Contractor shall perform on site, and with its own organization, at least seventy-five percent (75%) of the total direct labor and at least seventy-five percent (75%) of the total work in place to be performed under the Contract. Prior to award, the Contractor must demonstrate to the Project Officer's satisfaction that both of these standards will be met during contract performance. Labor and work to be counted when determining whether the Contractor has met the self-performance requirement shall not include any work that the Contractor performs under the supervision of a subcontractor.

The self-performance percentage may be reduced by an Amendment to the Contract, if during performance of the Work, the Contractor requests a reduction and the Project Officer determines that the reduction would be to the advantage of the County.

12. 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 occurs first.

13. 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.

14. LIEN

It is expressly agreed that after any payment has been made by the County either to the Contractor for work done, or labor or material supplied under the Contract, the County will have a lien upon all material delivered to the site either by the Contractor, or for the Contractor, which is to be used in the performance of the Contract.

15. 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.

16. 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.

17. 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.

18. 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.

19. 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.

20. UNSATISFACTORY WORK

If any of the work done, or material, goods, or equipment provided by the Contractor, is unsatisfactory to the County the Contractor must, upon notice from the County, immediately remove at the Contractor's

expense such unsatisfactory work, material, goods, or equipment and replace the same with work, material, goods, or equipment satisfactory to the County. If the Contractor fails to do so after fifteen (15) days the County shall have the right to remove or replace the rejected work, material, goods, or equipment at the expense of the Contractor and offset the expense and administrative costs against any sums owed to the Contractor. This provision applies during the Contract term and during any warranty or guarantee period. At the Project Officer's discretion, rather than correction or replacement of the work, an appropriate adjustment to the Contract Amount may be made.

21. 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. Upon such termination, the Contractor may apply for compensation for Contract services that the County previously accepted ("Termination Costs"), unless payment is otherwise barred by the Contract. 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, as defined above, 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.

22. 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, vendors, delivery drivers 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.

23. 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.

24. 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.

25. 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.

26. 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.

27. 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.

28. 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.

29. 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.

30. 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.

31. RELATION TO THE 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.

32. 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.

33. REPORT STANDARDS

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

Whenever possible, proposals must comply with the following guidelines:

- printed double-sided on at least 30% recycled-content and/or tree-free paper
- recyclable and/or easily removable covers or binders made from recycled materials (proposals with glued bindings that meet all other requirements are acceptable)
- avoid use of plastic covers or dividers
- avoid unnecessary attachments or documents or superfluous use of paper (e.g. separate title sheets or chapter dividers)

34. 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.

35. 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.

36. AMENDMENTS

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

37. ARLINGTON COUNTY PURCHASING RESOLUTION AND COUNTY POLICIES

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

38. 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.

39. 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.

40. ARBITRATION

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

41. 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.

42. 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.

43. 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.

44. 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.

45. 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; DISPUTE RESOLUTION; APPLICABLE LAW AND JURISDICTION; ATTORNEY'S FEES, AND CONFIDENTIAL INFORMATION.

46. 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.

47. 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.

48. NOTICES

Unless otherwise provided in writing, all legal notices and other formal 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:

J. Fletcher Creamer & Son, Inc.

Joseph T. Walsh

101 E. Broadway

Hackensack, NJ 07601

TO THE COUNTY:

Leopoldo Dizon, Project Officer

2100 Clarendon Boulevard

Suite 813

Arlington, VA 22201

AND

Cynthia Davis, VCO, VCA, Assistant Purchasing Agent

Arlington County, Virginia

2100 Clarendon Boulevard, Suite 500

Arlington, Virginia 22201

49. NON-DISCRIMINATION NOTICE

Arlington County does not discriminate against faith-based organizations.

50. INSURANCE, PAYMENT AND PERFORMANCE BONDS

The Contractor shall maintain the required insurance coverage and payment and performance bonds as set forth in the Invitation to Bid through completion of the Contract, including all warranty and guarantee periods.

56. 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

AUTHORIZED
SIGNATURE: Cynthia Davis

NAME Cynthia Davis

TITLE: Assistant
PURCHASING AGENT

DATE: March 4, 2020

J. FLETCHER CREAMER & SON, INC.

AUTHORIZED
SIGNATURE: Dale A. Creamer

NAME Dale A. Creamer

TITLE: Executive Vice President

DATE: February 21, 2020

ATTACHMENT B - PRICING SHEET

DATE: 12/10/2019

THE UNDERSIGNED CERTIFIES THAT (CONTRACTOR NAME) **J. Fletcher Creamer & Son, Inc.** IS CURRENTLY REGISTERED WITH THE VIRGINIA STATE BOARD OF CONTRACTORS AS REQUIRED BY THE CODE OF VIRGINIA. CERTIFICATE NUMBER **2705034984** WAS ISSUED ON THE _____ DAY OF **9/30/2020**, 20XX. THE UNDERSIGNED FURTHER CERTIFIES THAT THE REGISTRATION FEE AND ALL RENEWAL FEES REQUIRED UNDER LAW HAVE BEEN PAID. THE CONTRACTOR AGREES TO FURNISH ALL NECESSARY LABOR, EQUIPMENT, MATERIALS, AND ALL THINGS NECESSARY TO PERFORM THE WORK AS SET FORTH IN ACCORDANCE WITH THE PLANS AND SPECIFICATIONS. THE CONTRACTOR AGREES TO PERFORM RELATED WORK FOR THE FOLLOWING ITEMS AT THE FOLLOWING STIPULATED PRICES: (ALL PRICES INCLUDE PROVISION AND INSTALLATION).

MASTER ID#		DESCRIPTION	QTY	UNIT	UNIT PRICE	TOTAL
C1 GENERAL EARTH WORK						
02200-C1-SP001	1	Earthwork (Excavation & Backfill Of Access Pits)	1	LS	\$865,000.00	\$865,000.00
02200-C1-00130	2	Aggregate, VDOT #21-A (Compacted in Place per VDOT Standards & Specs)	435	CY	\$42.00	\$18,270.00
						\$0.00
SUBTOTAL						\$883,270.00

C2 CONCRETE WORK						
02750-C2-SP001	3	Remove And Replace Concrete Curb & Gutter To Match Existing Per VDOT	100	LF	\$70.00	\$7,000.00
02611-C2-SP001	4	Remove And Replace 4-Inch Concrete Sidewalk To Match Existing	10	SY	\$450.00	\$4,500.00
						\$0.00
SUBTOTAL						\$11,500.00

C3 ASPHALT WORK						
02600-C3-00010	5	Asphalt Concrete, Planing or Milling (1/2" to 3" Depth)	6708	SY	\$6.00	\$40,248.00
02600-C3-00030	6	Asphalt Concrete, Base Course (VDOT BM-25.0A)	372	TON	\$200.00	\$74,400.00
02600-C3-00070	7	Asphalt Concrete, Surface Course (VDOT SM-9.5D)	130	TON	\$285.00	\$37,050.00
03100-C3-00150	8	Remove and Replace 8" to 10" Reinforced Concrete Paving VDOT Standards PR-3, PR-4, PR-5 and PR-6)	215	CY	\$689.00	\$148,135.00
						\$0.00
SUBTOTAL						\$299,833.00

C6 WATERMAIN WORK						
02550-C6-SP001	9	34-Inch IPS HDPE DR-13.5 Liner Installed Inside Existing 36-Inch PCCP Water Main, Complete With Annular Grout	3350	LF	\$285.00	\$954,750.00
02550-C6-SP002	10	30-Inch Water Main, DIP CI 52 Complete With Polyethylene Encasement And Zinc Coating, Includes Removal Of 36-Inch PCCP Water Main	770	LF	\$940.00	\$723,800.00
02550-C6-SP003	11	8-Inch Water Main, DIP CI 52 Complete With Polyethylene Encasement And Zinc Coating	100	LF	\$350.00	\$35,000.00
02550-C6-SP004	12	16-Inch Water Main, DIP CI 52 Complete With Polyethylene Encasement And Zinc Coating	20	LF	\$467.00	\$9,340.00
02550-C6-SP005	13	24-Inch Water Main, DIP CI 52 Complete With Polyethylene Encasement And Zinc Coating	20	LF	\$750.00	\$15,000.00
02550-C6-SP006	14	Remove/Demolish Existing 24-Inch Cone Valve And Vault, And Replace With Two 30-Inch Butterfly Valve In A Precast Concrete Vaults	1	EA	\$101,000.00	\$101,000.00
02550-C6-SP007	15	Remove/Demolish Existing 20-Inch Tapping Valve And Vault, And Replace With 24-Inch Butterfly Valve In A Precast Concrete Vault	1	EA	\$65,000.00	\$65,000.00
02550-C6-SP008	16	Remove And Replace Blow Off Connection to min 24 Inches Below Grade	1	EA	\$8,500.00	\$8,500.00

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MASTER ID#		DESCRIPTION	QTY	UNIT	UNIT PRICE	TOTAL
02550-C6-SP009	17	Cut And Cap Existing Branch Connections To PCCP Water Main	20	EA	\$2,500.00	\$50,000.00
02550-C6-SP010	18	Concrete Cradle, Piers, And Thrust Blocks To Support New 30-Inch Water Main	1	LS	\$45,000.00	\$45,000.00
02550-C6-SP011	19	Concrete Cradle Or Piers To Support Existing Utilities Smaller Than 20 Inch Outer Diameter Or Width	10	EA	\$1,350.00	\$13,500.00
02550-C6-SP012	20	Concrete Cradle Or Piers To Support Existing Utilities Smaller Than 10 Inch Outer Diameter Or Width	10	EA	\$730.00	\$7,300.00
02550-C6-SP013	21	Sheeting, Shoring, And Bracing	1	LS	\$100,000.00	\$100,000.00
02550-C6-SP014	22	Remove/Demolish Existing Pipe, Valves And Appurtenances	1	LS	\$50,000.00	\$50,000.00
02550-C6-SP015	23	Concrete Thrust Blocks	1	LS	\$5,500.00	\$5,500.00
02550-C6-01300	24	Connect To Existing 36-Inch Water Main	1	EA	\$42,000.00	\$42,000.00
02550-C6-01320	25	Connect To Existing 24-Inch Water Main	1	EA	\$16,500.00	\$16,500.00
02550-C6-00180	26	Connect To Existing 16-Inch Water Main	2	EA	\$9,800.00	\$19,600.00
02550-C6-00200	27	Connect To Existing 8-Inch Water Main	1	EA	\$3,800.00	\$3,800.00
02550-C6-00250	28	Abandon/Remove Existing Fire Hydrant to min 24 Inches Below Grade	3	EA	\$3,300.00	\$9,900.00
02550-C6-00270	29	Install New Fire Hydrant (includes Fire Hydrant, Gate Valve with Valve Box and up to 20 LF 6-inch DIP CL-53 with Polyethylene Encasement and Zinc Coating)	3	EA	\$15,000.00	\$45,000.00
02550-C6-01400	30	Cut & Cap 24-Inch Water Main	1	EA	\$8,000.00	\$8,000.00
02550-C6-00290	31	Cut & Cap 16-Inch Water Main	1	EA	\$7,400.00	\$7,400.00
02550-C6-00530	32	6" x 6" Tap/Sleeve On Iron Pipe, Valve & Valve Box	1	EA	\$6,550.00	\$6,550.00
						\$0.00
SUBTOTAL						\$2,342,440.00

C10 PAVEMENT MARKING AND SIGNAGE WORK

02900-C10-00070	33	Four (4) Inch Longitudinal Solid Line	2000	LF	\$2.00	\$4,000.00
02900-C10-SP001	34	Intersection Signs And Marking	1	LS	\$10,000.00	\$10,000.00
						\$0.00

SUBTOTAL \$14,000.00

C11 LANDSCAPE AND HARDSCAPE RESTORATION WORK

02200-C11-00010	35	Imported Topsoil	6	CY	\$50.00	\$300.00
02801-C11-00060	36	Sod, Tall Fescue/Bluegrass Mixture	20	SY	\$19.00	\$380.00

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2705034984 WAS ISSUED ON THE _____ DAY OF 9/30/20, 20XX. THE UNDERSIGNED FURTHER CERTIFIES THAT THE REGISTRATION FEE AND ALL
RENEWAL FEES REQUIRED UNDER LAW HAVE BEEN PAID. THE CONTRACTOR AGREES TO FURNISH ALL NECESSARY LABOR, EQUIPMENT, MATERIALS, AND ALL THINGS
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WORK FOR THE FOLLOWING ITEMS AT THE FOLLOWING STIPULATED PRICES: (ALL PRICES INCLUDE PROVISION AND INSTALLATION).

MASTER ID#	DESCRIPTION	QTY	UNIT	UNIT PRICE	TOTAL
				SUBTOTAL	\$680.00

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MASTER ID#		DESCRIPTION	QTY	UNIT	UNIT PRICE	TOTAL
C13 EROSION AND SEDIMENT CONTROL WORK						
01500-C13-00060	37	Storm Drain Inlet Protection, Gravel Curb Inlet Application (per Virginia Erosion & Sediment Control Handbook Standard & Specification 3.07)	20	EA	\$139.00	\$2,780.00
						\$0.00

SUBTOTAL \$2,780.00

C16 MOT AND RE-MOBILIZATION WORK						
01000-C16-00010	38	Maintenance of Traffic (MOT)	1	LS	2%	\$71,090.06
01000-C16-00030	39	Mobilization and De-Mobilization (Not To Exceed 5% Total Bid Amount)	1	LS	3%	\$106,635.09
						\$0.00

SUBTOTAL 177,725.15

TOTAL \$3,732,228.15

CONTRACT TOTAL \$3,732,228.15

