Invitation to Bid

Arlington Public Schools
Procurement Office

Invitation to Bid #30FY19

ITB Title: Wilson Construction Project Parking

ITB Number: #30FY19

ITB Issue Date: December 04, 2018

Bid Closing Date/Time: December 18, 2018, Prior to 2:00 P.M. (Local Prevailing Time)

Bid Opening Date/Time: Promptly Following Bid Closing

This is Arlington County School Board, operating as Arlington Public Schools (“APS” or “Owner”) Invitation to Bid #30FY19 (“ITB”) for the establishment of a Term Contract for the provision of Garage Parking Spaces during the Construction of Wilson (“Work”). Sealed Bids must be received and time stamped, or signed in, by a member of the APS Procurement Office (Procurement Office) prior to the date and time stated above (collectively the “Bid Closing”) and will be opened and publicly announced promptly following expiration of the Bid Closing (“Bid Opening”). If the Bid Opening is to take place at a location other than where the Bids are to be received, that location will be announced upon expiration of the Bid Closing. Bidders are responsible for ensuring that the Procurement Office receives its Bid submission prior to the Bid Closing. The Procurement Office is located on the 4th floor of the Syphax Education Center, 2110 Washington Blvd., Arlington, Virginia 22204 (“Syphax”). Bidders may be asked to sign in at the 4th Floor Reception Desk before being allowed to proceed to the Procurement Office. Bidders must allow sufficient time to clear the sign in process to complete the Bid submission process prior to Bid Closing. Visitor parking is available on Levels B1 and B2 of the parking garage.

Delivery to, or receipt by, any office other than the Procurement Office shall not be deemed receipt by the Procurement Office until received in the Procurement Office. Bidders assume all risk of delivery to the correct office.

The time a Bid is received shall be determined by the time stamped on the Bid receipt by the time clock in the Procurement Office. In the event this time clock is not functioning; the time shall be determined by the time displayed on the atomic clock located in the Procurement Technician’s work station. The time on the atomic clock will be written on the Bid receipt by hand by Procurement Office personnel. Bids received after the Bid Closing shall not be considered. If Syphax is closed for any reason at the scheduled time of the Bid Closing, the Bid Closing and the Bid Opening shall automatically be extended to the same time as originally stated on the next business day Syphax is open.

All Bids must be submitted on the enclosed pages bearing the caption Bid Form (collectively “Bid Form”) or a copy thereof. All pages of the Bid Form must be submitted and all blanks in the Bid Form must be completed or noted as not applicable.

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notation of “not applicable” or “N/A” shall be used only if the information requested is not a required or mandatory element of the Bid. A person authorized to bind the Bidder in contractual matters must sign the Bid Form. Mandatory provisions of this ITB are indicated by the inclusion of the words "shall" or "must" to identify the Bidder's obligations. Failure to comply with any requirement stated as mandatory either in this ITB or in the Instructions to Bidders shall result in rejection of the Bid as non-responsive, except to the extent the failure or omission either is not a mandatory statutory requirement or does not affect price, quantity, quality or time.

1.0 PURPOSE:
1.1. The purpose of this ITB is to solicit between fifty and one hundred and seventy (50-170) parking spaces per month within one half (½) of a mile radius of Wilson Secondary located at 1601 Wilson Boulevard, Arlington, VA 22209.

1.2. This solicitation is being issued to establish a Term Contract for "as required" parking services for provision of the Work, herein during the term of any Contract awarded from this solicitation. Further detail regarding the Scope of Work and the Specifications applicable to the Work are set forth in the Contract Documents. The right is reserved to APS to make multiple awards if, following evaluation of the Bids, APS determines in its sole discretion that it would be in the best interests of APS to do so. In the event, multiple awards are made, no minimum percentage of the Work is guaranteed to any Contractor. When multiple awards are made, preference will be given to the Bidder submitting the lowest Bid Evaluation Total in ordering performance, subject to the reasonable discretion of APS in achieving prompt, efficient and acceptable performance.

1.3. The labor rates and any materials costs specified in the Bid Form shall include all direct and indirect overhead costs, benefits, insurance, transportation, materials, equipment, and other general and administrative cost or markup of any type.

2.0 BID DOCUMENTS:
The Bid Documents for this solicitation consist of this Invitation to Bid, the Instructions to Bidders, all Addenda issued prior to the Bid Closing, and the Bid Form. The Contract Documents are as defined in the form Agreement included with this solicitation. All provisions of the Bid Documents and of the Contract Documents shall apply to this solicitation, and submission of a Bid shall be the Bidder’s confirmation of the acceptance thereof and agreement to comply therewith.

3.0 PRE-BID CONFERENCE:
A non-mandatory pre-Bid conference (“Conference”) will be held for this ITB on Friday, December 07, 2018, at 10:00 A.M. (Local Prevailing Time). The Conference will take place in Room 416, located on the 4th Floor at Syphax, to discuss the Work and answer general questions. Attendance at the Conference is encouraged.

Minutes of the Conference, including but not limited to questions and answers presented at the Conference, will be issued in writing by the Procurement Office as an Information Item and distributed in the same manner as an Addenda.

4.0 TAXES:
APS is exempt from the payment of any federal excise taxes Tax. The price Bid must be net, exclusive of federal excise taxes. However, when under established trade practice any federal excise tax is included in the list price the Bidder may quote the list price and shall show separately the amount of federal tax, either as a flat sum or as percentage of the list price, which shall be deducted by APS in evaluating the Bid. The APS Federal Excise Tax Number is 54-6001128. Bidders located outside the Commonwealth of Virginia may charge and collect their own local/state sales tax when the Invitation to Bid or Instructions to Bidders provide that the goods are to be picked up by APS at Bidder’s out of Virginia place of business.

5.0 CONTRACT TERM:
5.1. The Contract Term of any Contract awarded shall commence on the date the Contract is fully executed by the Director/Purchasing Agent and expiring on the last day of the Project which is estimated to be on September 1, 2019, unless otherwise stated in the Contract. Work will commence on January 1, 2019.

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5.2. APS, at its sole discretion, may, but is not required to, extend any Contract Term for a period of not more than six (6) months to allow for completion of Work in progress at the time of scheduled expiration of the Contract Term. If the Contract Term is not extended, all Work shall terminate at the expiration of the Contract Term.

5.3. For additional provisions regarding the Contract Term, the Bidder is directed to the Agreement provided with this solicitation and all Contract Documents referenced therein.

6.0 CERTIFICATION REGARDING CRIMINAL CONVICTIONS:
Not Applicable

7.0 NONDISCRIMINATION REQUIREMENTS:
7.1. APS does not discriminate against faith based organizations in the solicitation or award of Contracts.

7.2. APS does not discriminate against a Bidder because of race, religion, color, sex, national origin, age, disability, status as a service disabled veteran, or any other basis prohibited by state law relating to discrimination in employment.

7.3. APS does encourage the inclusion in the procurement process of small businesses, businesses owned by women, minorities and service disabled veterans, and employment services organizations, all as provided by Va. Code Ann. § 2.2-4310.

8.0 REJECTION OF BIDS; WAIVER OF INFORMALITIES:
APS reserves the right to cancel this solicitation, to reject all Bids, and to waive informalities in Bids.

9.0 COOPERATIVE CONTRACT FOR USE BY OTHER PUBLIC BODIES:
This procurement is being conducted by APS not only for its benefit but for the benefit of any other public body eligible to participate in use of the services herein solicited by means of cooperative procurement as provided by, and to the extent permitted by, §2.2-4304 of the Virginia Public Procurement Act.

10.0 REQUEST FOR COMMENTS:
Following the award of any Contract or Contracts, or the cancellation of this solicitation, all Bidders or potential Bidders are invited to provide to APS written comments regarding the manner in which this solicitation was conducted and any suggested modifications to that process which might make future solicitations by APS more efficient, more productive, and more attractive to potential Bidders.

END OF INVITATION TO BID
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INSTRUCTIONS TO BIDDERS

1. **MEANING OF TERMS:**
   All terms used in the Invitation to Bid, these Instructions to Bidders, the Bid Form, or any Addenda shall have the meanings established by the Contract Documents.

2. **FAILURE TO COMPLY WITH MANDATORY REQUIREMENTS:**
   Mandatory provisions of this ITB are indicated by the inclusion of the words "shall" or "must" to identify the Bidder's obligations. Failure to comply with these requirements or with any other requirements stated as mandatory either in this ITB or in the Instructions to Bidders shall result in rejection of the Bid as non-responsive, except to the extent the failure or omission either is not a mandatory statutory requirement or does not affect price, quantity, quality or time.

3. **BIDDER REGISTRATION, LICENSING AND CERTIFICATION:**
   3.1. To be eligible to Bid and to perform any Contract which may be awarded, a Bidder is required to be qualified to do business in Virginia in the name in which the Bid is being submitted, including but not limited to any required filings of applicable fictitious name authorizations.
   
   3.2. To be eligible to Bid and to perform any Contract which may be awarded, a Bidder is required to have in effect all licenses and trade certifications required by federal or state law or regulation, or by Arlington County, Virginia ordinance or regulation to perform the services which are the subject of this solicitation.
   
   3.3. A Bidder shall submit with the Bid Form copies of all registrations, licenses or certifications required by the Invitation to Bid. Each such license or certification shall show on its face that it is current and valid.
   
   3.4. See “Submission of Bids” below for additional requirements regarding Bidder’s registration licensing and certification.
   
   3.5. The Bid Form provides for identification of the Bidder’s State Corporation Commission Identification Number and for explanation of any reason the Bidder is not required to be authorized to transact business in the Commonwealth of Virginia.
   
   3.6. These are mandatory provisions in the Bid Form and failure to complete these sections properly shall make the Bid non-responsive.

4. **EXAMINATION OF BID DOCUMENTS:**
   4.1. Each Bidder shall thoroughly examine the Bid Documents. The Bidder’s failure or omission to examine any Bid Document shall not relieve the Bidder from any obligations with respect to its Bid or to any Contract which may result therefrom. Each Bidder shall be responsible for the discovery and resolution by inquiry of any ambiguity, discrepancy, error, omission or conflict in the Bid Documents and Contract Documents which in the exercise of reasonable care a reasonably competent Contractor in the field of work involved reasonably should have discovered, all of which shall be included in the Bidder’s Bid Evaluation Total.

5. **BIDDER’S QUESTIONS:**
   5.1. All questions regarding this solicitation, other than those submitted at the Conference, must be submitted in writing via email, addressed to: Dyanna McMullen, Senior Procurement Specialist, at dyanna.mcmullen@apsva.us, and Jennifer XU, Project Manager, at jennifer.xu@apsva.us received by 5:00 P.M. local time, December 10, 2018.
   
   5.2. The Procurement Office will issue written answers to all questions timely submitted. If Conference is conducted, the Procurement Office will issue written answers to all questions raised at the Conference as an Information Item. Information Items shall be posted on the APS website (www.apsva.us) and shall be posted on eVA, www.eva.virginia.gov Virginia’s online electronic procurement system. It is the responsibility of each
Bidder to access this information.

5.3. Modification of the Bid Documents shall be accomplished only by written Addendum issued by APS. If the answer to a question modifies the Bid Documents, it will be incorporated in and published as an Addendum. No answer to a question as an Information Item shall be deemed to be an Addendum.

6. ADDENDA:
6.1. The Bid Documents shall be modified only by written Addendum issued by APS.

6.2. All Addenda shall be deemed to be a part of the Bid Documents.

6.3. All Addenda shall be posted on the APS website (www.apsva.us) and shall be posted on eVA, Virginia’s online electronic procurement system. It is the responsibility of each Bidder to access this information.

6.4. The Bidder shall identify on the Bid Form in the space provided all Addenda received by the Bidder and which are included in the Bid, or the Bidder can include a copy of all Addenda with its Bid. It shall be the responsibility of each Bidder to confirm prior to submission of a Bid that it has received all Addenda. Failure of a Bidder to in fact have done so shall not relieve the Bidder from the requirements of the Bid, including all Addenda issued. Failure to comply with this requirement does not automatically make a Bid non-responsive. By submitting a Bid, the Bidder agrees that it is bound by its Bid and that it will accept any Contract awarded even if it did not obtain all Addenda before submitting a Bid.

7. INFORMATION ITEMS:
7.1. All questions received timely, including those at the Conference, shall be addressed by written Information Item.

7.2. The Bid Documents shall not be modified by an Information Item.

7.3. All Information Items shall be posted on the APS website (www.apsva.us) and shall be posted on eVA, Virginia’s online electronic procurement system. It is the responsibility of each Bidder to access this information.

8. SUBMISSION OF BIDS:
8.1. Bids must be received and time stamped or signed in at the Procurement Office prior to the Bid Closing stated in the Invitation to Bid. The Procurement Office is located at:

Arlington Public Schools
Syphax Education Center
Procurement Office, 4th Floor
2110 Washington Blvd.
Arlington, Virginia 22204

Submission of Bids electronically or by facsimile will not be accepted.

8.2. The Bid Form, and all required additional documents referenced therein shall be submitted in a sealed, opaque envelope containing the following information on the outside of the envelope.

Bid in Response to Arlington Public Schools Invitation to Bid No. #30FY19
Bid Closing Date and Time
Bidder’s Name as appearing on the Bid Form
It is preferred that the mailing label, as found below, be used:

PLEASE COMPLETE THE LABEL BELOW AND ATTACH IT TO THE OUTSIDE OF THE ENVELOPE:

[Label content]

Sealed Bid

ITB No. 30FY19—Title: Wilson Construction Project Parking

Bid Closing Date/Time: December 18, 2018 prior to 2:00 P.M.

From:
Name of Bidder: ________________________________
Address of Bidder: ________________________________

Deliver To: Arlington Public Schools
Syphax Education Center
Procurement Office
Attn: Dyanna McMullen
2110 Washington Blvd., 4th Floor
Arlington, VA 22204

8.3. Delivery to, or receipt by, any office other than the Procurement Office shall not be deemed receipt by the Procurement Office until received in the Procurement Office.

8.4. The time a Bid is received shall be determined by the time stamped on the Bid receipt by the time clock in the Procurement Office. In the event this time clock is not functioning; the time shall be determined by the time displayed on the atomic clock located in the Procurement Technician’s work station. The time on the atomic clock will be written on the Bid receipt by hand by Procurement Office personnel.
8.5. The Procurement Office is located on the 4th floor of the Syphax Education Center, 2110 Washington Blvd., Arlington, Virginia 22204 (“Syphax”). Bidders may be asked to sign in at the 4th Floor Reception Desk before being allowed to proceed to the Procurement Office. Bidders must allow sufficient time to clear the sign in process to complete the Bid submission process prior to Bid Closing. Visitor parking is available on Levels B1 and B2 of the parking garage.

8.6. Bidders are responsible for ensuring that the Procurement Office receives their Bid submission prior to the Bid Closing. Sealed Bids received by the Procurement Office prior to the Bid Closing, will be opened and publicly announced promptly after the Bid Closing unless the envelope fails to comply with any mandatory requirements stated in the Invitation to Bid or the Instructions to Bidders. Bids received after the Bid Closing shall not be considered.

8.7. If Syphax is closed for any reason at the scheduled time of the Bid Closing the Bid Closing and the Bid Opening shall automatically be extended to the same time as originally stated on the next business day Syphax is open.

8.8. All Bids must be submitted on the Bid Form provided with the Bid Documents or a copy thereof. For purposes of this provision, a copy is an exact duplicate of the attached Bid Form reproduced in any manner with no modification, additions or deletions.

8.8.1 All blanks in the Bid Form must be completed or noted as not applicable. A notation of “not applicable” or “N/A” shall be used only if the information requested is not a required or mandatory element of the Bid. It is mandatory that everything in the Bid Form is completed. A price must be entered for each line item to be considered for award.

8.8.2 Bid amounts shall be stated both in writing and in figures if the blanks in the Bid Form so provide, and shall state the same amount. If there is a variance between the written amount and the numerical amount, the written amount shall prevail.

8.8.3 Include only one price for each line item for which a price is to be provided.

8.8.4 If there is a variance between a unit price and an extension price, the unit price will prevail.

8.8.5 All entries shall be typed or handwritten in ink or other form of permanent marker; pencil shall not be used.

8.8.6 In the event, there are any erasures or other modifications to previously written or typed entries, all such erasures or other modifications shall be initialed by the person signing the Bid and a brief explanation included in the margin on the same page.

8.8.7 Each signature appearing on the Bid Form shall be handwritten, shall indicate such person’s authority to bind the Bidder, and shall be accompanied by the name of the signatory and the signatory’s title either typed or printed legibly. A person authorized to bind the Bidder in contractual matters must sign the Bid Form.

8.8.7.1 If the Bidder is a corporation, the legal name of the corporation on file with the Virginia State Corporation Commission shall be set forth above the signature line, together with the signature of the officer or officers authorized to sign Contracts on behalf of the corporation.

8.8.7.2 If the Bidder is a limited liability company, registered limited liability partnership, or limited partnership, the legal name of the firm on file with the Virginia State Corporation Commission shall be set forth above the signature line, together with the signature of the
Instructions to Bidders

8.8.7.3 If the Bidder is a partnership, the name of the partnership as stated in the partnership agreement.

8.8.7.4 If the Bidder is submitting a Bid under a trade name, the Bidder shall be identified on the signature line in the true name of the entity doing business as the trade name by the person authorized to sign Contracts on behalf of the firm.

8.8.8. The Bidder shall provide, in the space provided or directed in the Bid Form, (i) its Social Security number if an individual, or (ii) its federal employer identification number if a business entity other than an individual.

8.9. Any Bid received after the Bid Closing, whether by mail or otherwise, will not be considered and will be returned, unopened, without regard to the date of transmission.

8.10. Each Bidder must use the attached Bid Form for submitting its Bid. The Bidder shall return two (2) copies of the Bid Form, duly signed with the corporate seal impressed, if applicable, keeping all remaining pages for the Bidder’s files. For purposes of this provision, a copy is an exact duplicate of the attached Bid Form reproduced in any manner with no modifications, additions or deletions. By executing and submitting the Bid Form, the Bidder acknowledges that it has read all Bid Documents, understands them, and agrees to be bound by all terms and conditions therein.

8.11. Submission of Proprietary Information. The Virginia Public Procurement Act provides limitations on the right of a Bidder to assert that information submitted as part of a Bid is proprietary information or contains trade secrets which are not subject to public disclosure. For any information, the Bidder seeks to exclude from public disclosure, the burden shall be on the Bidder to comply with all applicable requirements of the Virginia Public Procurement Act. Any documentation related to such attempt to preserve the limitation of public disclosure of any information shall be submitted as a part of the Bid submission but as a separate Attachment properly marked and paginated to clearly establish the intent of such submission.

8.12. Any quantities set forth in the Bid Form or elsewhere in this solicitation are estimates only, and are given for the information of Bidders and for the purpose of Bid evaluation. They do not indicate the actual quantity that will be ordered since the actual volume will depend upon requirements that develop during the Contract Period.

9. CONTRACT AWARD:

9.1. If an award is made, APS will make the award for this solicitation to as many Bidders as deemed necessary to fulfill the anticipated requirements of APS. The award, if made, will be made first to the lowest responsible Bidder submitting the lowest responsive Bid based on the lowest Bid Evaluation Total amount in the Bid Evaluation Formula set forth in the Bid Form. If APS deems it necessary or in its best interests to make award to more than one Bidder, the additional awards will be made to responsible Bidders submitting responsive Bids in ascending order starting with the second lowest Bid Evaluation Total and continuing until, in the sole discretion of APS, sufficient awards have been made to fulfill the anticipated requirements. In the event multiple awards are made, no minimum percentage of the Work is guaranteed to any Contractor. When multiple awards are made, preference will be given to the Bidder submitting the lowest Bid Evaluation Total in ordering performance, subject to the reasonable discretion of APS in achieving prompt, efficient and acceptable performance.

9.2. Award of any Contract shall not create any minimum or guaranteed quantity of goods or services to be ordered by APS during the term of the Contract, which quantities shall be at the sole discretion of APS.
9.3. If the lowest responsive Bid from a responsible Bidder projects to a price in excess of available funds based upon anticipated needs for the initial Contract term, the right is reserved to APS to negotiate with the apparent low Bidder to obtain a pricing structure which will result in the anticipated needs for the initial Contract term being within available funds. Such negotiation may include consideration of value engineering, substitution of materials or equipment, modification of unit pricing, and such other modifications of the proposed scope of Work or other Contract requirements which are consistent with the Work as initially solicited and with the public needs APS has a duty to satisfy. APS and the apparent low Bidder will discuss all such proposed means for reduction of the cost of anticipated needs for a period not to exceed sixty (60) days from the Bid Opening, and if unable to reach agreement within that time all Bids shall be rejected and the solicitation shall be cancelled.

9.4. In the case of a tie Bid if there is only one award:

9.4.1. Preference shall be given to goods and services provided by a Bidder domiciled in Arlington County, if such a choice is available.

9.4.2. If none of the tied Bidders are domiciled in Arlington County, preference shall be given to Bidders domiciled in Virginia when tied with Bidders not domiciled in Virginia.

9.4.3. If the tie is not resolved through application of either of the foregoing procedures, the tie shall be decided by lot.

10. WITHDRAWAL OF BIDS:

10.1. All Bids submitted as of the Bid Closing shall remain in effect for a minimum of ninety (90) Days following the Bid Opening if not permitted to be withdrawn as provided in these Instructions. If APS fails to either issue notice of intent to award, make an award, or request an extension of Bids prior to the expiration of such ninety (90) Day period, this solicitation shall be deemed cancelled. APS may request an extension of Bids prior to the expiration of such ninety (90) Day period for a time stated in the request. No Bidder shall be required to consent to such extension and, if the Bidder declines to consent to the extension request, its Bid will be deemed withdrawn at the end of the ninetieth (90th) Day after the Bid Opening and will not be considered further. For purposes of this circumstance only, the restrictions set forth below on withdrawal of a Bid are not applicable. The Bid of any Bidder who agrees to the extension request shall remain in effect for the period stated in the Owner’s extension request.

10.2. A Bidder may make a written request to the Director/Purchasing Agent to withdraw its Bid at any time prior to the Bid Opening. The request must be time stamped as received by the Director/Purchasing Agent prior to the Bid Closing.

10.3. After the Bid Opening, a Bidder may make a written request to the Director/Purchasing Agent to withdraw its Bid. The written request must be time stamped as received by the Director/Purchasing Agent no later than 5:00 P.M. local time on the first full business day following the Bid Opening.

10.4. Whether the request to withdraw a Bid is made before or after the Bid Closing, a Bidder may request withdrawal of its Bid from consideration only if the price bid was substantially lower than the other bids due solely to a clerical or arithmetical mistake therein, as opposed to a judgment mistake, and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of the Bid, which can be clearly shown by objective evidence drawn from inspection of the Bidder’s original work papers, documents and materials used in preparation of the Bid. The Bidder shall provide the original work papers, documents, and materials within the same time as required for the notice seeking withdrawal of the Bid.

10.5. If the Director/Purchasing Agent denies the written request to withdraw a Bid, the Bidder shall be notified in
writing stating the reasons for the decision. Award of the Contract, if any award is made, shall be made to the Bidder at the Bid price if the Bidder is a responsible Bidder submitting the lowest responsive Bid.

10.6. No Bid may be withdrawn when the result would be the awarding of the Contract on another Bid of the same Bidder or of another Bidder in which the ownership of the withdrawing Bidder is more than five percent.

10.7. If a Bid is permitted to be withdrawn, it shall not be considered in determining the lowest responsive Bid.

10.8. No Bidder who is permitted to withdraw a Bid shall, for compensation, supply any material or labor to or perform any subcontract or other work agreement for the person or firm to whom the Contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn Bid was submitted.

11. **AWARD OF CONTRACT:**

11.1. A notice of intent to award the Contract or Contracts or notice of Contract award for this solicitation shall be posted on a public bulletin board located in Syphax.

11.2. The Contract Term of any Contract awarded shall commence on the date the Contract is fully executed by the Director/Purchasing Agent and expiring on the last day of the Project which is estimated to be on September 1, 2019, unless otherwise stated in the Contract.

11.3. APS, at its sole discretion, may, but is not required to, extend any Contract Term for a period of not more than six (6) months to allow for completion of Work in progress at the time of scheduled expiration of the Contract Term. If the Contract Term is not extended, all Work shall terminate at the expiration of the Contract Term.

11.4. The Contract unit prices will remain firm for the Contract Term and any Contract Term extension.

11.5. Submission of a Bid by any Bidder to which an award is made, if made, is a certification that the Bidder has exercised due diligence to become familiar with the anticipated conditions at all Project Sites, become familiar with local conditions under which the Work is to be performed, and has examined all Contract Documents.

11.6. All funds for payments by APS under any Contract awarded are subject to the availability of an annual appropriation for this purpose by the Arlington County School Board (School Board). In the event of non-appropriation of funds by the School Board for the goods or services provided under the Contract, APS will terminate the Contract, without termination charge or other liability to APS, 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. APS will endeavor to provide reasonable Notice of such termination, but no formal notice of such termination is required of APS, and APS shall not order any goods or services to be provided after such termination date.

11.7. The form of Contract to be signed by APS and any Bidder to which an award is made, if made, shall be the form included in these Bid Documents and identified as “Agreement”. Two (2) copies of the Agreement shall be signed by both the Owner and the Contractor.

12. **MINIMUM QUALIFICATIONS OF BIDDERS:**

12.1. Bidders must have previous experience in providing these services to commercial accounts under Contract.

12.2. Parking facilities must be situated within a one half (½) mile radius of Wilson Secondary located at 1601 Wilson Boulevard, Arlington, VA 22209.

13. **BID SECURITY:**

No Bid security is required for this solicitation. However, by submitting a Bid the Bidder agrees that if the Contract is awarded to Bidder and Bidder fails to execute the Contract and proceed with performance of the Contract, Bidder will
pay to APS the difference between the cost of performance during the Initial Contract Term by the next low responsive, responsible Bidder and what would have been paid to the Bidder for the same Work.

14. **PERFORMANCE AND PAYMENT BONDS:**
No performance bond or payment bond is required for any Contract awarded based upon this solicitation.

15. **QUOTATION LIMITATION:**
Bidders shall offer only one item and price for each line item Bid. However, only the single line item and price in the Bid Form will be considered in calculating the Bid Evaluation Total as set forth in the Bid Evaluation Formula and making any award.

16. **EMPLOYMENT OF ILLEGAL ALIENS:**
All Bidders are informed that any Contract which may be issued as a result of this solicitation will contain a provision by which the Contractor shall be required to confirm that it does not, and shall not during the performance of the Contract, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986, in compliance with Va. Code Ann. § 2.2-4311.1.

17. **CERTIFICATION REGARDING CRIMINAL CONVICTIONS: Not Required**
17.1. As a condition of awarding a Contract for the provision of Work that requires the Contractor or its employees to have direct contact with students on school property during regular school hours or during school-sponsored activities, the Contractor shall provide certification that all persons who will provide such services have not (i) been convicted of a felony or of any offense involving the sexual molestation or physical or sexual abuse or rape of a child; (ii) as more particularly set forth in Va. Code Ann. Section 18.2-370.4 no person shall perform any part of the Work on the property of an existing elementary or secondary school who has been convicted of rape, forcible sodomy or object sexual penetration, all of a child under 13, during the commission of abduction, in the course of entering a dwelling with intent to commit murder, rape, robbery, arson, larceny, assault and battery, or any felony, or of aggravated malicious wounding; and (iii) as more particularly set forth in Va. Code Ann. Section 18.2-370.5, no person shall perform any part of the Work on the property of an existing elementary or secondary school during school hours or during school-related or school sponsored activities who has been convicted of a sexually violent offense.

17.2. The Contractor certification shall also cover its employees, its Subcontractors and employees thereof, assigned to the Work after Contract award. The Contractor upon demand from APS, shall provide all information which allowed for the Contractor’s certification and which supports that the certification remains current.

17.3. The Contractor shall submit to the Owner a completed Contractor Certification Regarding Criminal Convictions on the form provided by the Owner as a mandatory attachment to its Bid.

18. **CONTRACTOR PROHIBITED IN ASSISTING PERSON FOR NEW JOB IF ENGAGED IN MISCONDUCT WITH MINOR**
As a condition of being awarding a Contract, or Contract Renewal, the Contractor acknowledges it is prohibited from assisting the elected and appointed officials of APS, its officers, current and former employees, agents, departments, agencies, boards, and commissions employee, and contractors, including all levels of subcontractors, in obtaining a new job if the Contractor knows or has probable cause to believe that the elected and appointed officials of APS, its officers, current and former employees, agents, departments, agencies, boards, and commissions employee, and contractors, including all levels of subcontractors, engaged in sexual misconduct regarding a minor or student in violation of law.

19. **ADDITIONS/DELETIONS:**
APS reserves the right to add similar items/services or delete items/services specified in any resultant Contract as requirements change during the period of the Contract. APS and the Contractor will mutually agree to prices for items/services to be added to the Contract. In the absence of agreement, APS shall set the price based on the most
comparable previously established unit price. Invoices and payments shall be made based on the price established by APS, with all rights reserved to Contractor to pursue any claim disputing the price. Change orders will be issued for all additions or deletions.

20. NEWS RELEASES BY CONTRACTORS:
As a matter of policy, APS does not endorse the products or services of a Contractor. Contractor will not make news releases concerning any resultant Contract from this solicitation without the prior written approval of APS, which approval APS is under no obligation to grant. No news release shall be issued by Contractor regarding any Contract without the prior approval by the Director/Purchasing Agent of the content and format.

21. BIDDER INTERESTED IN MORE THAN ONE BID:
If more than one Bid is offered by or on behalf of one party, either directly or by any affiliate or representative, all such Bids shall be rejected. A party who has quoted prices on work, materials, or supplies to a Bidder is not thereby disqualified from quoting prices to other Bidders or firms submitting a Bid directly for the work, materials or supplies.

22. OFFICIALS NOT TO BENEFIT:
22.1. By signing the Bid, the Bidder certifies, that to the best of his or her knowledge no APS official or employee having official responsibility for the procurement transaction, or member of his or her immediate family, has received or will receive any financial benefit of more than nominal or minimal value relating to the award of this Contract. If such a benefit has been received or will be received, this fact shall be disclosed with the Bid or as soon thereafter as it appears that such a benefit will be received. If such a benefit is discovered at any time after award of the Contract, it shall be disclosed immediately to APS. Failure to disclose the information prescribed above may result in suspension or debarment, or rescission of the Contract made, or could affect payment pursuant to the terms of the Contract.

22.2. Whenever there is reason to believe that a financial benefit of the sort described in paragraph 22.1 has been or will be received in connection with a Bid or Contract, and that the Contractor has failed to disclose such benefit or has inadequately disclosed it, the Director/Purchasing Agent, as a prerequisite to payment pursuant to the Contract, or at any other time, may require the Contractor to furnish, under oath, answers to any interrogatories related to such possible benefit.

22.3. In the event the Bidder has knowledge of benefits as outlined above, this information should be submitted with the Bid. If the above does not apply at time of award of Contract and becomes known after inception of a Contract, the Bidder shall address the disclosure of such facts to the Director/Purchasing Agent, 2110 Washington Blvd., Arlington VA 22204. Relevant Invitation to Bid Number (see page 1) should be referenced in the disclosure.

23. EXPENSES INCURRED IN PREPARING BID:
APS shall have no liability for any expense incurred by any Bidder in the preparation and presentation of a Bid. All expenses related to a Bid are the sole responsibility of the Bidder.

END OF INSTRUCTIONS TO BIDDERS
SCOPE OF WORK

Arlington Public Schools (APS) is soliciting Bids from qualified Bidders for a parking facility located within one-half (½) of a mile from Wilson Secondary located at 1601 Wilson Boulevard, Arlington, VA 22209. The Contractor shall be responsible for the management of the garage, assignment of parking spaces, and the issuance of parking decals, (the “Work”). APS is located at the Syphax Education Center at Sequoia Plaza, 2110 Washington Blvd., Arlington, Virginia 22204, Department of Facilities & Operations and the Office of Design & Construction is the lead group utilizing and deploying the Work.

1.1 Contractor shall provide parking spaces each month for between fifty and one hundred and seventy (50-170) vehicles within one-half (½) of a mile radius of Wilson Secondary.

1.2 Contractor shall operate the DPA in a first-class manner, providing paved flat lots or parking decks.

1.3 Parking facilities shall be clean and well lighted.

1.4 Parking facilities should accommodate vehicles with a height clearance of at least 7 feet.

1.5 The parking facilities shall be well maintained and free of potholes and other imperfections that could damage vehicles.

1.6 Parking can be located at more than one (1) location within the radius.

1.7 Operational hours during the Contract; ideally begin at 6:00 am daily and concluding by 7:00 pm, Sunday through Saturday, including Holidays.

1.8 The Contractor shall provide parking decals or proximity cards and is responsible for the distribution, monitoring and collection of decals and proximity cards throughout the project.

1.9 The Contractor shall provide instructions and after hour contact phone number in case of an emergency for each location.

1.10 Contractor shall provide signage and maps identifying parking spaces allotted for Contract.

1.11 Contractor must identify the method to be utilized when entering and exiting parking facility.

2.0 MATERIALS:

2.1 Contractor(s) shall include all material cost in the prices, provided under the Contract.

END OF SCOPE OF WORK
BID FORM
Arlington Public Schools
Procurement Office

---

Invitation No. #30FY19

Issue Date: December 04, 2018

Bid Closing Date/Time: December 18, 2018 prior to 2:00 P.M. Local Prevailing Time

Bid Opening Date/Time: Promptly Following Bid Closing

Title: Wilson Construction Project Parking

---

FULL LEGAL NAME OF BIDDER (Company Name)

Remittance Address (If different):

ADDRESS

PHONE: (   )   FAX: (   )   DATE:

TAX ID NUMBER (EIN/SSN):   EMAIL ADDRESS:

---

GENERAL INSTRUCTIONS:
The Bidder is directed to review the Invitation to Bid, the Instructions to Bidders, and all Contract Documents to understand the requirements for submitting a responsive Bid. All Bids must be submitted on this BID FORM or a copy thereof as defined in the Instructions to Bidders. All blanks in this Bid Form must be completed or noted as not applicable. A notation of “not applicable” or “N/A” shall be used only if the information requested is not a required or mandatory element of the Bid. Include only one (1) price for each line item for which a price is required. A person authorized to bind the Bidder in contractual matters must sign the Bid Form. Failure to comply with these requirements, or with any other requirements stated as mandatory either in the Invitation to Bid or in the Instructions to Bidders, shall result in rejection of the Bid as non-responsive unless, in the sole discretion of APS, the omission does not affect price, quantity, quality or time. The Owner has no authority to waive failure to comply with requirements made mandatory by applicable law.

A Bid not received prior to the Bid Closing as defined in the Invitation to Bid will not be considered. The time a Bid is received shall be determined as stated in the Invitation to Bid.

The apparent low Bidder(s) will be determined by the Bid Evaluation Total set forth in the Bid Evaluation Formula.

Bid Form - 15
BID FORM

PAYMENT TERMS:
APS requires that a minimum of thirty (30) Days after receipt of an approved invoice by APS shall be allowed for payment. Discounts for prompt payment will not be considered in the evaluation of Bids nor in any decision to award or not to award. However, any offered discount will become part of any Contract with Bidder which may result from this solicitation and will be taken if payment is made within the discount period offered in the Bid. In connection with any discount offered for prompt payment, time shall be computed from the date of the invoice. For the purpose of earning the discount, payment shall be considered to have been made on the date that appears on the payment check or the date on which an electronic funds transfer for the payment was made. If Bidder provides a prompt payment discount, the terms thereof are as follows:

PROMPT PAYMENT TERMS: ____________________________
(PLEASE NOTE: COD TERMS ARE NOT ACCEPTABLE)

RECEIPT OF ADDENDA:
Receipt of Addenda listed below is acknowledged and the Bid incorporates all requirements of these Addenda:

No. Date ________ No. ______ Date ________ No. ______ Date ________

CHECK WHICH OF THE FOLLOWING CATEGORIES ARE APPLICABLE TO BIDDER:
All categories appearing below are as defined in Va. Code Ann. § 2.2-4310

<table>
<thead>
<tr>
<th>Category</th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Small Business</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Women Owned Business</td>
<td>YES</td>
<td>NO</td>
</tr>
<tr>
<td>Minority Owned Business</td>
<td>YES</td>
<td>NO</td>
</tr>
<tr>
<td>Service Disabled Veteran Owned Business</td>
<td>YES</td>
<td>NO</td>
</tr>
<tr>
<td>Employment Service Organization</td>
<td>YES</td>
<td>NO</td>
</tr>
<tr>
<td>None of the Above</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

REFERENCES:
The Bidder must provide at least three (3) commercial or public body references which demonstrate satisfactory performance on past and current Contracts of a similar size, nature, and number of locations. All references must be for work performed within the last three (3) years preceding Bid Closing. For commercial references, provide the firm name, contact name, telephone number, facsimile and email address. For public body references, include the same information but instead of the firm name include the public body and the department or agency with which the Bidder Contracted. The required information shall be included in the spaces below:

<table>
<thead>
<tr>
<th>Firm Name/Public Body-Department</th>
<th>Contact Name</th>
<th>Telephone Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Bid Form - 16
BID FORM

TYPE OF BUSINESS:
INDICATE BY PLACING A CHECK HERE IF A FAITH-BASED ORGANIZATION AS DESCRIBED IN VA. CODE ANN. § 2.2-4343.1. ________________

Arlington Public Schools does not discriminate against Faith Based Organizations. The purpose of requiring this information is to permit APS compliance with Va. Code Ann. § 2.2-4343.1.H.

CHECK ONE OF THE FOLLOWING:

_____ Individual Trading in Own Name  _____ Individual Trading Under Trade Name

_____ Partnership  _____ Limited Partnership

_____ Corporation  _____ Limited Liability Company

_____ Registered Limited Liability Partnership  _____ Joint Venture

_____ Other (explain in the space available or indicate an incorporated attachment if additional sheets are necessary)

________________________________________________________________________

________________________________________________________________________

If doing business under a trade name, both the legal name of the Bidder and the doing-business-as trade name shall appear as the party submitting this Bid in the signature section below. If the Bidder is a joint venture, all members of the joint venture shall sign the Bid Form.

STATE CORPORATION COMMISSION (SCC) IDENTIFICATION NUMBER:
If the Bidder is a stock or nonstock corporation, a limited liability company, a partnership, or a limited partnership, or any other form of entity organized or authorized to transact business in the Commonwealth of Virginia pursuant to Title 13.1 or Title 50 of the Virginia Code, the Bidder shall provide the identification number issued to it by the Virginia State Corporation Commission in the following space:

Virginia State Corporation Commission  Identification Number: ____________________________ (Note: The State Corporation Commission Identification Number is not the Bidder’s federal tax identification number.)

If the Bidder is not required to be authorized to transact business in the Commonwealth of Virginia as a foreign business entity under Title 13.1 or Title 50 of the Virginia Code or as otherwise required by law, the Bidder shall provide in the following space a statement describing why the Bidder is not required to be so authorized:

________________________________________________________________________

________________________________________________________________________

Please attach additional sheets if you need to explain in further detail why such Bidder is not required to be authorized to transact business in Virginia.
BID FORM

DEBARMENT STATUS:
The Bidder shall indicate, in the space provided below, whether or not it, or any of its principals, is/are currently debarred from submitting bids or proposals to Arlington Public Schools, Virginia, to any Virginia state agency or department, to any Virginia public body, or to any other public body at the federal, state or other level in any other state, and whether or not it is an agent of any person or entity that is currently debarred from submitting bids or proposals due to any of the above. An affirmative response may be considered grounds for rejection of the Bid. This statement shall also apply to any Subcontractor(s) the Bidder intends to use in the performance of a resulting Contract.

Please mark one:

( ) Yes  ( ) No, Is the Bidder, or any officer, director, project manager, procurement manager, chief financial officer, partner or owner currently debarred from doing federal, state or local government work for any reason?

( ) Yes  ( ) No, Has the Bidder, or any officer, director, project manager, procurement manager, chief financial officer, partner or owner ever been debarred from doing federal, state or local government work for any reason?

NUMBER OF YEARS IN BUSINESS:
How many years has the Bidder been in the business of providing the Work? __________

How many years has the Bidder been in business under its present business name? ________________
**BID FORM**

**PRICING SCHEDULE**

Award will be made to a minimum of one (1) Bidder who is responsible and provides the lowest responsive Bid Evaluation Total. If there is a variance between a Unit Price and the Extended Price, the Unit Price will prevail.

The Bidder understands and agrees that the quantities listed below are for evaluation purposes only and APS is under no obligation to buy any amount as a result of having being awarded a Contract.

<table>
<thead>
<tr>
<th>ITEM No.</th>
<th>DESCRIPTION</th>
<th>UNIT OF ISSUE</th>
<th>UNIT PRICE</th>
<th>ESTIMATED QUANTITY</th>
<th>EXTENDED PRICE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Monthly Parking Rate Per Space (157 Spaces) January-February, 2019</td>
<td>Each</td>
<td>$157</td>
<td>157</td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td>Monthly Parking Rate Per Space (170 Spaces) March-September, 2019</td>
<td>Each</td>
<td>$170</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>ITEM No.</th>
<th>DESCRIPTION</th>
<th>UNIT OF ISSUE</th>
<th>UNIT PRICE</th>
<th>QUANTITY</th>
<th>EXTENDED PRICE</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.</td>
<td>Proximity Access Cards</td>
<td>Each</td>
<td>$157</td>
<td>157</td>
<td></td>
</tr>
<tr>
<td>4.</td>
<td>Additional Proximity Access Cards</td>
<td>Each</td>
<td>$13</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Bid Evaluation Total $
BID FORM

BID EVALUATION FORMULA

THE AWARD, IF MADE, WILL BE TO A MINIMUM OF ONE (1) BIDDER WHO IS RESPONSIBLE AND PROVIDES THE LOWEST RESPONSIVE BID EVALUATION TOTAL. IF THERE IS A VARIANCE BETWEEN A UNIT PRICE AND THE EXTENDED PRICE, THE UNIT PRICE WILL PREVAIL.

If APS deems it necessary or in its best interests to make award to more than one (1) Bidder, the additional awards will be made to responsible Bidders submitting responsive Bids in ascending order starting with the second (2) lowest Bid Evaluation Total and continuing until, in the sole discretion of APS, sufficient awards have been made to fulfill the anticipated requirements. In the event, multiple awards are made, no minimum percentage of the Work is guaranteed to any Contractor. When multiple awards are made, preference will be given to the Bidder submitting the lowest Bid Evaluation Total in ordering performance, subject to the reasonable discretion of APS in achieving prompt, efficient and acceptable performance.

BID EVALUATION TOTAL  $________________________
BID FORM

In compliance with this Invitation to Bid and subject to all conditions thereof and attached hereto, the undersigned offers and agrees, if this Bid be accepted within ninety (90) Days from the date of Bid Opening, to enter into a Contract with the Owner in the form of the Agreement included as part of the solicitation on the terms of this Bid and to furnish any and all of the items upon which the prices are quoted, at the price set opposite each item, delivered at the points as specified and as scheduled in any Purchase Order issued by Owner.

The Bidder certifies that it has not combined, conspired or agreed to intentionally rig, alter or otherwise manipulate, or to cause to be rigged, altered or otherwise manipulated this Bid for the purpose of allocating purchases or sales to or among persons, raising or otherwise fixing the prices of the goods or services, or excluding other persons from dealing with APS.

My signature certifies that the Bidder has no business or personal relationships with any other companies or persons that could be considered as a conflict of interest or potential conflict of interest to APS, and that there are no principals, officers, agents, employees, or representatives of the Bidder that have any business or personal relationships with any other companies or persons that could be considered as a conflict of interest or a potential conflict of interest to APS, pertaining to any and all goods, or services to be purchased or performed relating to any Contract with APS resulting from this solicitation and Bid.

Submission of this Bid constitutes an offer which, if accepted by APS as provided in the Bid Documents, binds the Bidder to execute and perform the Contract. If Bidder refuses to execute and perform any Contract awarded to Bidder by APS in response to this Bid, Bidder is liable to APS for the cost of procurement and for any increased cost in obtaining the goods or services which are the subject of this Bid.

SIGNATURE: __________________________________________
(Person signing must be authorized to bind the Bidder in contractual matters)

NAME: __________________________________________
(Type or Print)
Date: __________________________

TITLE: __________________________________________
(Required for all Bidders other than an individual person)

EMAIL: __________________________________________
(Required for all Bidders other than an individual person)

TELEPHONE: __________________________________________
(Required for all Bidders other than an individual person)

[Add additional signature blocks as necessary to comply with the requirements of the Invitation to Bid, the Instructions to Bidders, or this Bid Form.]
AGREEMENT

Contract Title: Wilson Construction Project Parking

This Contract 30FY19 is made and entered into this ______ day of ____________, 2018, the date the Agreement is fully executed by the Director/Purchasing Agent, by and between Arlington County School Board, operating as Arlington Public Schools (“APS” or “Owner”) and ______________________________ (“Contractor”), whose address is ___________.

In consideration of the mutual stipulations, agreements and covenants contained herein, the parties hereby agree as follows:

1. **Scope of Work:**
The Scope of Work for this Contract generally is described as to provide as requested by APS the services and availability of Wilson Construction Project Parking (“the Work”), as set forth in greater detail in Attachment A, Scope of Work.

2. **Contract Price:**
The Contract Price shall be as set forth in Attachment B – Pricing Schedule.

3. **Contract Documents:**
The documents which form the entire Contract between APS and the Contractor (“Contract Documents”) are as defined either in this Contract, in the Instructions to Bidders, or in the Terms and Conditions and are as set forth below.

   3.1 In the case of a conflict, the order of precedence shall be as follows:

   3.1.1 Agreement #30FY19 and all modifications properly incorporated in the Agreement
   3.1.2 Attachment A – Scope of Work
   3.1.3 Attachment B – Pricing Schedule
   3.1.4 Attachment C – Terms and Conditions
   3.1.5 Attachment F – Sample Purchase Order
   3.1.6 Attachment H – Certificate(s) of Insurance
   3.1.7 ITB/Associated Documents

   3.2 All provisions required by law to be included in this Contract or otherwise applicable to this Contract shall be deemed to be a part of this Contract, whether actually set forth herein or not.

   3.3 The Contract Documents are complementary and what is called for by one is as binding as if called for by all. If the Contractor finds a conflict, error, ambiguity or discrepancy in the Contract Documents, it shall immediately, in writing call such conflict, error, ambiguity or discrepancy to the attention of the Owner before
proceeding with the Work affected thereby. The Owner will promptly resolve the matter in writing. Work
done by the Contractor after such conflicts, errors, ambiguities or discrepancies are discovered, or in the
exercise of reasonable care reasonably should have been discovered, prior to written resolution thereof by the
Owner shall be done at the Contractor’s expense and risk. Any Work that may reasonably be inferred from the
Contract Documents as being required to produce the intended result shall be supplied whether or not it is
specifically called for. Work, materials or equipment described in words which so applied have a well-known
technical or trade meaning shall be deemed to refer to such recognized standards.

3.4 The Contractor will be held to a standard of strict compliance with the requirements of the Contract Documents
in the performance of the Work, for giving Notice of any type to the Owner, and for making any submittal
required for any purpose. The Contractor acknowledges and agrees that all time requirements set forth in the
Contract Documents for any purpose are of the essence.

4. Definitions:
All words and terms shall have the meanings and terms assigned to them in the Contract Documents, unless a different
meaning is clear from the context.

5. Contract Term:
5.1. The Contract Term shall commence on the date the Contract is fully executed by the
Director/Purchasing Agent and expiring on the last day of the Project which is estimated to be on
September 1, 2019, unless otherwise stated in the Contract.

5.2. APS, at its sole discretion, may, but is not required to, extend any Contract Term for a period of not more than
six (6) months to allow for completion of Work in progress at the time of scheduled expiration of the Contract
Term. If the Contract Term is not extended, all Work shall terminate at the expiration of the Contract Term.

5.3 The Contract unit prices will remain firm for the Contract Term and any Contract Extension Term.

5.4. All funds for payments by APS under any Contract awarded are subject to the availability of an annual
appropriation for this purpose by the APS. In the event of non-appropriation of funds by the APS for the
goods or services provided under the Contract, APS will terminate the Contract, without termination charge or
other liability to APS, 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. APS will
endeavor to provide reasonable Notice of such termination, but no formal notice of such termination is required
of APS, and APS shall not order any goods or services to be provided after such termination date.

5.5. APS has the right to terminate this Contract for convenience at any time, or for default, all pursuant to the
provisions of the Terms and Conditions.

6. Direction to Proceed:
6.1. For each specific task to be performed by Contractor under this Contract, the Director/Purchasing Agent will
issue a Purchase Order. The Purchase Order will define the location of the Work to be performed and will
define or, where specific definition cannot be provided, will estimate, the scope of the Work to be performed,
the dates within which that Work is to be performed, and the price for that Work (collectively “Purchase Order
Work”). A sample Purchase Order form is attached as Attachment F. Contractor shall not commence any
Work until a written Purchase Order has been issued by the Director/Purchasing Agent, and if it does so APS
will be under no obligation to make payment for any Work performed prior to the issuance of the required
Purchase Order. No employee or agent of APS other than the Director/Purchasing Agent or his properly
authorized designee has authority to make any purchases or otherwise bind APS contractually. If a Purchase
Order is issued by anyone other than the Director/Purchasing Agent, it shall be the responsibility of the
Contractor to confirm the authority of that person to bind APS. Provided, however, if the Contractor has
received from the Director/Purchasing Agent prior written confirmation of a person’s authority to bind APS, the Contractor may rely upon all Purchase Orders issued by that person within the scope of the stated authority as authorized.

6.2. Notwithstanding the foregoing, if the circumstances are such that there is not sufficient time for issuance of a Purchase Order, APS through the Director/Purchasing Agent or his authorized designee may direct the Contractor to proceed by less formal writing or electronic communication, to be replaced by a Purchase Order by 5:00 P.M. on the next regular APS working Day following issuance of such Owner directive. Further, if emergency conditions exist which necessitate that the Contractor act to avoid or mitigate damage to person or property, the Contractor shall proceed and give written Notice to APS of such emergency Work by 5:00 P.M. on the next regular APS Working Day following commencement of such emergency Work.

7. Payment Procedures:
Contractor shall submit invoices for its Work, and such invoices will be processed by APS, all in accordance with the provisions of the Terms and Conditions.

8. Assignments:
8.1. This Contract is not assignable by Contractor without the express written consent of APS, and APS shall be under no obligation to grant such consent. Sale, assignment or transfer of a controlling interest in the Contractor shall be deemed an assignment for purposes of this provision and shall be grounds for termination of this Contract if consent of APS is not obtained. It is understood by APS that Contractor may use Subcontractors for performance of parts of the Work. However, it is expected that Contractor will be performing the Work, and subcontracting of all or substantially all of the Work under any Purchase Order shall be deemed an assignment subject to the restrictions of this section.

8.2. Contractor acknowledges that, if so stated in the Bid Documents, this Contract is subject to the cooperative procurement provisions of Va. Code Ann. § 2.2-4304.

9. Governing Law:
This Contract, the Bid Documents, and the Contract Documents shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia without reference to conflict of laws principles. The exclusive jurisdiction, forum and venue for any litigation with respect to this Contract, the Bid Documents, or the Contract Documents shall be in the state courts of Arlington County, Virginia.

10. Binding Agreement:
The Owner and the Contractor each binds itself, its successors and assigns to the other, its successors and assigns, in respect of all covenants, terms, conditions and obligations contained in each of the Contract Documents.
CONTRACTOR
[Insert Contractor Name]

By: ____________________________
   (Name Printed)

Title: ____________________________

Date: ____________________________

Email: ____________________________

Telephone: ____________________________

ARLINGTON PUBLIC SCHOOLS

By: ____________________________
   David J. Webb, C.P.M.
   Director/Purchasing Agent

Date: ____________________________

Attachments:
Attachment A  Scope of Work
Attachment B  Pricing Schedule
Attachment C  Terms and Conditions
Attachment D  Sample Purchase Order
Attachment E  Certificate of Insurance
Sample Purchase Order
Arlington Public Schools

SUPPLIER: SLATE ROCK & GRAVEL COMPANY
301 COBBLESTON WAY
BEDROCK, AZ 86001

<table>
<thead>
<tr>
<th>Line</th>
<th>Supplier Part</th>
<th>Item Description</th>
<th>Due Date</th>
<th>Quantity</th>
<th>UOM</th>
<th>Unit Price</th>
<th>Amount</th>
</tr>
</thead>
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<td></td>
<td>20-AUG-2018</td>
<td>100</td>
<td>Dollar</td>
<td>$1.00</td>
<td>$100.00</td>
</tr>
</tbody>
</table>

Authorized by: [Signature]
David J. Webb, C.P.M.  Director of Purchasing

Purchase Order: 1901740
Original Order Date: 21-AUG-2018
Change Order Number: 0
Change Date: 
Buyer/Phone: Fred Flinstone
Requisition/Ph#/Email: Barney Rubble
703-228-6123
barney.rubble@apsva.us
FEIN: 54-6001128
Website: https://www.apsva.us/purchasing-office/

This PURCHASE ORDER NUMBER shown above must appear on all invoices, packing slips & related correspondence. For questions regarding the order, contact the REQUISITIONER shown above.

Ship To: Arlington Public Schools
Procurement Office
2110 Washington Blvd
Arlington, VA 22204

The Purchase Order Terms and Conditions found on the Arlington Public Schools Procurement Office Website, at the link provided below, are incorporated in, and become part of, this contract. It is the responsibility of the Supplier to carefully read and understand the Purchase Order Terms and Conditions.

The Purchase Order Terms and Conditions have been amended effective August 17, 2018.


IMPORTANT: There have been a number of recent incidents where scammers are pretending to be school representatives and ordering thousands of dollars of goods. Purchases by APS are authorized only if an APS Purchase Order is issued in advance of the transaction, indicating that the ordering agency has sufficient funds available to pay for the purchase. Vendors providing goods or services without a signed APS Purchase Order, do so at their own risk.

Purchase Order Total: $100.00
TERMS AND CONDITIONS

These Terms and Conditions are applicable to the Contract between Arlington Public Schools and Contractor resulting from the solicitation identified above, and to all Bid Documents and Contract Documents associated therewith.

1. DEFINITIONS:

1.1. ADDENDUM: A change to the Bid Documents or Contract Documents issued by the Owner prior to Bid Closing.

1.2. APS: Arlington Public Schools, the owner of the property upon which the Work is to be performed or the entity for which the Work is to be performed. See also “Owner.”

1.3. APPARENT LOW BIDDER: The responsible Bidder submitting the lowest responsive Bid.

1.4. INTENTIONALLY OMITTED:

1.5. BID: The offer of a Bidder to provide specific goods or services at specified prices and/or other conditions specified in the solicitation.

1.6. BIDDER: Any individual, company, firm, corporation, partnership or other organization bidding on solicitations issued by the Director/Purchasing Agent and offering to enter into Contracts with APS. The term "Bidder" will be used throughout the Bid Documents and the Contract Documents and shall be construed to mean "offeror" where appropriate.

1.7. BID CLOSING: The time and date set by the Invitation to Bid for the deadline for receipt of Bids.

1.8. BID OPENING: The time and date set by the Invitation to Bid for the opening of Bids.

1.9. CHANGE ORDER: A written order to the Contractor, signed by the Owner, which authorizes a change in the Work, and any resulting adjustment to the Contract Price and/or the Contract Time. A Unilateral Change Order is a Change Order signed only by the Owner addressing any Modification to the Contract Sum or the Contract Time to which the Owner agrees. A Mutual Change Order is a Change Order signed by both the Owner and by the Contractor reflecting agreement on all terms, conditions and requirements set forth therein. A Unilateral Change Order may be converted to a Mutual Change Order upon agreement being reached between the parties. Change Orders shall be initiated and processed as set forth in the Changes provisions of these Terms and Conditions. A Unilateral Change Order or a Mutual Change Order may affect the Contract, an individual Purchase Order, or both, depending on its terms.

1.10. COMPLETE OR COMPLETION: Work for which a Purchase Order has been issued will not be deemed complete until the subject of the Work is functioning as intended, cleanup has been completed, any required or applicable inspections or governmental approvals have been accomplished, and the Work is accepted by the Owner. More specific requirements for Completion may be set forth in the Scope of Work or the Purchase Order.

1.11. CONTRACT: The signed Contract between Owner and Contractor is the Contract.

1.12. CONTRACT DOCUMENTS: The Contract Documents and the order of precedence in the event of a conflict therein are as defined in the Contract.
1.13. **CONTRACT PERIOD:** See “Contract Time.”

1.14. **CONTRACT PRICE:** The total amount payable to the Contractor for performance of the Work. The Work under this Contract will involve multiple discrete Projects. The Contract Price is stated in the Purchase Order for the particular Work included in a discrete Project and shall include any adjustments granted in accordance with the provisions of the Contract Documents. The Contract Price may be determined based on unit prices or rates and quantities as provided in the Contract. May also be referred to as “Contract Sum.”

1.15. **CONTRACT SUM:** See “Contract Price.”

1.16. **CONTRACT TIME:** The period allotted in the Purchase Order for Completion of the Work directed by that Purchase Order, together with any extension of time granted in accordance with the provisions of the Contract Documents. May also be referred to as “Contract Period.”

1.17. **CONTRACTOR:** The individual, firm, or organization which Contracts with the Owner to perform the Work. As employed herein, the term "Contractor" may refer to an individual, firm or organization, or to the Contractor's authorized representative.

1.18. **DAY:** The term "day" or “Day” shall mean "calendar day" unless otherwise noted. When any provision in the Contract Documents establishes a time within which an action must be taken or a right must be exercised, if the last Day falls on a Saturday, Sunday, or holiday recognized by Arlington Public Schools, or on a day when Arlington Public Schools administrative offices are closed for any other reason, the deadline thereby established shall be extended to the first Arlington Public Schools Working Day thereafter when the Arlington Public Schools administrative offices are open.

1.19. **DRAWINGS:** The term “Drawings” or “Plans” shall mean any drawing, plan, sketch, photograph or similar document intended to provide to the Contractor graphic instruction or guidance regarding the Work to be performed.

1.20. **GENDER AND PLURAL:** Whenever the Contract so admits or requires, all references to one number shall be deemed to extend to and include the other number, whether singular or plural, and the use of any gender shall be applicable to all genders. The terms “his” or “hers” or “he” or “she” shall include “its” if the referenced party is an entity rather than a person.

1.21. **GOODS:** All material, equipment, supplies, printing, and automated data processing/information technology hardware and software.

1.22. **HOLIDAY:** Holidays recognized by the Owner which shall not be considered Normal Working Hours are as follows: New Year’s Eve Day, New Year’s Day, Martin Luther King, Jr. Day, Presidents Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day and the following Friday, Christmas Eve Day, and Christmas Day. In the event, any of the days designated as a Holiday fall on a Saturday, the Holiday shall be the preceding Friday; in the event, any of the days designated as a Holiday fall on a Sunday, the Holiday shall be the following Monday.

1.23. **INFORMALITY:** A minor defect or variation of a Bid or proposal from the exact requirements of the Invitation to Bid or the Request for Proposal which does not affect the price, quality, quantity or delivery schedule for the goods and services being procured.

1.24. **INVITATION TO BID (ITB):** A request which is made to prospective Bidders for their Bids on goods or services desired by APS. The issuance of an ITB will contain or incorporate by reference the specifications and
contractual terms and conditions applicable to the procurement.

1.25. **MODIFICATION:** Any written change to any provision of the Contract Documents after the Contract has been awarded by any means provided by the Contract Documents.

1.26. **NORMAL WORKING HOURS:** Unless otherwise specified in the Purchase Order Normal Working Hours shall be 6:00 A.M. through 7:00 P.M., Sunday through Saturday, including Holidays. See also Working Day.

1.27. **NOTICE:** Notice or the obligation to notify or inform shall mean written notice. Written notice shall be deemed to have been duly served if:

   A. Written Notice to Contractor shall be deemed to have been fully served if delivered by mail, courier, e-mail, or facsimile transmission to the Contractor's office at the Project Site or to the business address of the Contractor as stated in its Proposal; or if delivered in person to the Contractor's foreman or superintendent for the Project, or to any officer or director of the Contractor.

   B. Written Notice to APS shall be deemed to have been fully served if delivered by mail, express mail or hand delivered to the office of the Director/Purchasing Agent, Arlington Public Schools, Syphax Education Center, 2110 Washington Blvd, Arlington, Virginia 22204.

   C. Attempted Notice given in any manner other than as designated herein shall not satisfy any Notice requirement.

1.28. **NOTICE OF INTENT TO AWARD:** A writing issued by the Owner which states the Owner’s intent to award the Apparent Low Bidder a Contract to execute the Work. The Notice of Intent to Award will be publicized as provided in the Bid Documents.

1.29. **NOTICE TO PROCEED:** See Purchase Order.

1.30. **OWNER:** APS and employees authorized to represent APS. Reference to Owner requiring action by Owner or Notice to Owner shall be deemed to mean the Director/Purchasing Agent unless otherwise stated specifically.

1.31. **PRICING SCHEDULE:** The pricing information appearing as Attachment B to the Contract setting the unit prices, rates, or other means of agreed pricing for performance of Work by the Contractor.

1.32. **PROJECT:** The goods and/or services provided or performed by the Contractor at any location as directed by Purchase Order, in accordance with the Contract Documents; collectively all the goods and services contemplated by the Contract; synonymous with the term “Work” as the context may require.

1.33. **PROJECT SITE OR SITE:** The location at which any goods or services are provided, delivered or performed by Contractor under this Contract.

1.34. **PURCHASE ORDER:** A written directive issued by the Director/Purchasing Agent or authorized designee directing the performance of a particular item or items of Work to be performed in accordance with the Pricing Schedule. A Purchase Order shall serve as the Contractor’s Notice to Proceed with the specified portion of the Work as specified in the Purchase Order.

1.35. **DIRECTOR/PURCHASING AGENT:** The employee of APS authorized to act on behalf of the Owner in this Contract. The Director/Purchasing Agent may designate in writing others to act on his behalf, and such designation shall state any limitations on the authority of such designee. Contractor shall not rely upon and
Owner shall not be bound by any statement or representation made on behalf of APS by any person not
designated to the Contractor in writing as authorized to so act on behalf of the Director/Purchasing Agent. It
shall be the responsibility of the Bidder, and thereafter the Contractor, to establish the authority to act regarding
any communication or action by any person other than the Director/Purchasing Agent. Use of the term
Director/Purchasing Agent in the Contract Documents shall be deemed to include such properly authorized
designee within the scope of that designee’s authorization.

1.36. **RESPONSIBLE BIDDER:** A person who has the capability, in all respects, to perform fully the Contract
requirements and the moral and business integrity and reliability that will assure good faith performance, and
who has been prequalified, if required.

1.37. **RESPONSIVE BIDDER:** A person or entity who or which has submitted a Bid that conforms in all material
respects to the Invitation to Bid.

1.38. **SERVICES:** means any work performed by an independent Contractor wherein the service rendered does not
consist primarily of acquisition of equipment or materials, or the rental of equipment, materials and supplies.

1.39. **SPECIFICATIONS:** Written details provided to the Contractor by the Owner providing performance
requirements, data instructions and guidance for performance of the Work.

1.40. **SUBCONTRACTOR:** Any individual, firm or organization other than an employee of the Contractor, who
Contracts with the Contractor to furnish or who actually furnishes labor, materials, services or equipment, or
any combination thereof to the Contractor in connection with the Work.

1.41. **SUB-SUBCONTRACTOR:** Any individual, firm or organization, other than an employee of the
Contractor or of a Subcontractor, who Contracts with a Subcontractor to furnish, or who actually furnishes
labor, materials, services or equipment, or any combination thereof to a Subcontractor. The Contractor shall be
responsible for the performance of the Work by any person or entity below the level of Sub-subcontractor.

1.42. **WARRANTY PERIOD:** All warranties and guarantees against any defect in the Work shall apply from the
date of Completion of the Work and shall continue for a period of one (1) year thereafter. Provided, however,
in the event the Contract Documents require a Warranty in excess of one (1) year, the longer term shall apply
as applicable.

1.43. **WORK:** Everything explicitly or implicitly required to be furnished or performed to complete performance of
any Purchase Order.

1.44. **WORK ORDER:** A written directive to the Contractor issued on or after issuance of the Purchase Order the
Effective Date of the Agreement and signed by the Director/Purchasing Agent ordering an addition, deletion,
or revision in the Work described in a Purchase Order issued when in the sole discretion of the Owner the
terms thereof do not impact the Contract Price or the Contract Time, or when in the sole discretion of the
Owner the circumstances do not allow sufficient time for issuance of a Change Order.

1.45. **WORKING DAY:** See Normal Working Hours.

2. **INDEPENDENT CONTRACTOR:**
In the performance of this Contract and for all purposes related to APS, Contractor shall be an independent Contractor
and neither the Contractor nor any of its employees will under any circumstances, be considered servants or agents of
APS. Under no circumstances shall APS (i) be responsible for any failing or wrongdoing by the Contractor, its servants
or agents; (ii) be under any obligation to withhold from the Contract payments to the Contractor or otherwise any
federal or state unemployment taxes, federal or state income taxes, Social Security tax, or any other amounts for
benefits of any kind; or (iii) provide any insurance coverage or other benefits, including but not limited to workers’ compensation, to any employees or agents of Contractor.

3. **INTENT OF THE CONTRACT DOCUMENTS:**
The intent of the Contract Documents is to include all items necessary for the proper management, execution and completion of the Work, including without limitation, all labor, materials, equipment and furnishings required in connection therewith, whether or not specifically identified in the Contract Documents. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all. Any doubt as to whether any work is within the scope of the Contract shall be resolved in favor of an interpretation that the work is within the scope of the Contract. Use of the term “include” or “including” shall be deemed to mean “include without limitation,” “including but not limited to,” and similar expansive intent.

4. **DRAWINGS AND SPECIFICATIONS:**
   A. Drawings or Specifications as necessary for performance of the Work will be identified in and provided with any Purchase Order issued by the Owner.
   
   B. Any Specification provided shall serve to amplify the requirements of materials and assemblies. The mention in any Specification of any article or operation requires that the Contractor shall provide all such items indicated on, or reasonably inferred from, any Drawings provided to the Contractor, furnishing for such purpose all labor, materials and equipment required in connection therewith. Omission of any article, operation or detail does not relieve the Contractor of the responsibility for completion of the Work reasonably intended by any explanatory or informational documents provided by the Owner with a Purchase Order.
   
   C. The Contractor shall notify the Owner of discrepancies found in the Drawings or Specifications before materials are fabricated or Work performed.
   
   D. The Contractor shall adhere to written dimensions though differing from scale measurements. In the absence of dimensions or in case of doubt as to the proper measurement, consult the Owner. Actual field dimensions where applicable are to be verified by the Contractor in the field prior to proceeding.

5. **CONTRACT INTERPRETATIONS:**
The Contractor may request Contract interpretations in writing from the Owner. Such requests for interpretations must be submitted sufficiently in advance of the date upon which the interpretation is required by the Contractor to allow the Owner to issue the interpretation so as not to delay the Work. Contractor shall be responsible for any delay resulting from failure to submit a request for interpretation in a timely manner. Written interpretations so requested shall be issued by the Owner in a manner commensurate with the timely execution of the Work, shall be consistent with the intent of the Contract Documents, and shall be in accordance with established time requirements for performance of the Work, but Owner shall be under no obligation to expedite its review and analysis of the question raised or to issue a response if the Contractor does not submit the request for interpretation in a timely manner.

6. **COPIES AND OWNERSHIP OF CONTRACT DOCUMENTS:**
   A. The Contractor will be provided with either electronic or hard copies of any Drawings, Specifications, or other documents referenced in a Purchase Order.
   
   B. All Drawings, Specifications, or similar technical data provided to the Contractor by the Owner are the property of the Owner, and the Contractor may not use such information for any purpose not relating to performance of the Work.

7. **GENERAL REVIEW OF CONTRACT DOCUMENTS:**
   A. The Contractor shall perform all Work and shall furnish, at its own cost and expense, all labor, materials, equipment, and other facilities, except as herein otherwise provided, as may be necessary and proper for
performing and completing the Work. The Contractor shall be responsible for the entire Work until Completion of all Work has been achieved.

B. Unless otherwise provided herein, the Work shall be performed in accordance with the best modern practice and with materials and workmanship of highest quality.

C. Supervision and Coordination of the Work: The Contractor shall supervise and direct the Work and coordinate the Work with that of separate Contractors using Contractor’s best skill and attention. Unless otherwise provided in the Contract Documents, the Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract; provided, however, that the Contractor shall employ adequate and safe procedures, methods, structures and equipment. No approval or failure to exercise its right of approval by Owner shall relieve the Contractor of its obligation to accomplish the result intended by the Contract, or create a cause of action for damages against the Owner, or provide a defense by the Contractor in any case of action by the Owner against the Contractor.

D. The Contractor shall study and review the Contract Documents and shall compare them with each other and with such information made available by the Owner. The Contractor shall be responsible for giving Notice to the Owner of any errors, inconsistencies or omissions discovered or which in the exercise of due diligence as a reasonably competent Contractor reasonably should have been discovered by it.

E The Contractor shall be responsible for all costs or delays resulting from the Contractor’s or a Subcontractor’s failure to obtain and review Contract Documents provided or made available by the Owner.

8. SUBSTITUTIONS:
A. The name of a certain brand, make, or manufacturer in the Contract Documents is to denote the quality standard of the article desired. The reference to a certain brand, make or manufacturer is to convey to the general style, type, character and quality of article desired. If the Contractor desires to provide or use any other brand, make of materials, device, or equipment, it may do so only if it submits sufficient information to satisfy the Director/Purchasing Agent that the proposed substitute is the equal of that specified in quality, workmanship, design and economy of operation, and is suitable for the purpose intended.

B. To obtain approval of a substitute as equal, the Contractor shall submit to the Director/Purchasing Agent all substantiating data upon which the Contractor relies to establish the substitute as an equal. If a sample is requested by the Owner, it shall be provided at the Contractor’s expense within seven (7) Days of the request and may be subjected to such testing, examination or analysis, including but not limited to destructive testing, as the Owner in its discretion deems necessary. If the Director/Purchasing Agent approves the proposed substitute, a Change Order approving the change will be issued by the Director/Purchasing Agent. Provided, however, the Contractor shall be fully responsible for all costs or other consequences related to or arising from implementation of the use of the substitute, including but not limited to any adjustments or revisions which might be required to existing improvements, facilities or operations. Contractor shall not proceed with use of the substitute until the Change Order approving its use has been issued by Owner.

C. Notwithstanding the foregoing, if the identification of a certain brand, make or manufacturer is designated as “required” or “no substitutes permitted” or any similarly clear language, there shall be no substitutions permitted.

9. CHANGES IN THE WORK:
A. Any change to an existing Purchase Order must be approved by written Change Order issued by the Director/Purchasing Agent prior to the changed Work being performed. APS has no obligation to pay for any changed or extra Work not directed by written Change Order issued by the Director/Purchasing Agent.
B. If the Owner issues a Purchase Order which the Contractor deems to be beyond the scope of the Work so as to entitle the Contractor to compensation or to additional time for performance of the Work beyond the terms set forth in the Purchase Order, the Contractor shall so Notify the Owner within seven (7) Days following issuance of the Purchase Order. If no agreement is reached between the Owner and the Contractor regarding such Work within ten (10) Days after the Contractor gives such Notice, or if the Owner directs the Contractor to proceed immediately, the Contractor shall proceed with the Work as directed and pursue such remedies as it deems appropriate within the claims provisions set forth in these Terms and Conditions. The expiration of such ten (10) Day period, or direction by the Owner to proceed, shall be deemed the occurrence date for any claim the Contractor wishes to pursue related to the Work ordered by the Purchase Order. Performance of and payment for the Work directed by the Purchase Order thereafter shall be governed by the Claims for Damages provisions of these Terms and Conditions.

10. **ADMINISTRATION OF CONTRACT:**
The Owner’s Project Manager shall provide administration of the Contract in accordance with the Contract, Contract Documents and Work.

The Owner’s Project Manager for this Contract is:
Jennifer Xu, Project Manager
APS Facilities & Operations Department
2770 South Taylor Street
Arlington, VA 22206
Telephone: (703) 228-6621

11. **TIME OF START AND COMPLETION:**
A. Time is of the essence for any Purchase Order issued under this Contract. The Contractor shall commence Work within ten (10) days after receipt of the Purchase Order, or such lesser time as may be directed in the Purchase Order under circumstances requiring immediate attention. Time being of the essence with respect to this Contract, the Contractor shall prosecute the Work diligently, using such means and methods of performance, scheduling and resources as will secure its full Completion in accordance with the requirements of the Contract Documents, and will Complete the Work within the time stated in the Purchase Order.

B. APS may cancel any Purchase Order, or any part thereof, without obligation to Contractor other than to pay for acceptable Work in place, if completion is not achieved at the time specified in the Purchase Order.

12. **SITE VISITS:**
The Owner shall have access to Work in process on the Project Site at all times to determine the progress and to assess the quality of the Work. Except as may be required to comply with specific requirements of the Contract Documents, the Owner shall not have control over or charge of and shall not be responsible for means, methods, techniques, procedures, sequences or safety measures employed in connection with the Work, nor for the failure of the Contractor, Subcontractors, or Sub-subcontractors to perform the Work in accordance with the Contract Documents.

13. **USE OF SITE AND SITE INFORMATION:**
A. The Contractor shall be responsible for inspection of existing conditions as satisfactory to receive subsequent Work. If existing conditions exist on the Project Site which in the opinion of the Contractor will require Work in excess of that anticipated by the Scope of Work and Price as set forth in the Purchase Order, the Contractor shall give Notice of such conditions and not proceed with the Work until receiving written direction from the Owner. If the Owner agrees that the existing conditions require Work in excess of that anticipated by the Scope of Work and Price as set forth in the Purchase Order, a Change Order to the Purchase Order will be issued stating the impact as agreed by Owner. If the Owner does not agree that the existing conditions require Work in excess of that anticipated by the Scope of Work and Price as set forth in the Purchase Order, the Contractor shall proceed with the Work. If the Contractor disagrees with the Owner’s determination, the
Contractor may submit a claim as provided in these Terms and Conditions. If the Contractor proceeds with such Work before receiving such written direction from the Owner, such action shall be deemed a failure to comply with this condition precedent for pursuit of any claim and such Work shall be at Contractor’s expense.

B. The Owner shall make available to the Contractor such information as the Owner has in its possession describing the physical characteristics, legal limitations and utility locations for the Project Site; provided, however, that the provisions of such information shall not relieve the Contractor from its obligation to inspect for itself and determine the Project Site conditions. The Owner makes no representations whatsoever concerning the quality or contents of any information so provided and the Contractor relies on such information solely at its own risk.

C. The Contractor shall be responsible for damages to property caused by or resulting from performance of the Work. The Contractor shall repair to proper working order or replace, to the satisfaction of APS, any property so damaged.

D. The Contractor shall be responsible for all safety and security procedures required to protect Work in process and the safety of the public until the Work is accepted by Owner.

E. The Contractor shall maintain its Work area in a clean and orderly state and shall exercise dust control when required. If in the Owner’s sole discretion, the Project Site requires cleaning or excess material removal, in total or in part, the Owner may direct the Contractor to conduct the necessary cleaning and removal. Should the Contractor fail to accomplish the directed cleaning within three (3) business days, the Owner reserves the right to use outside sources to conduct the cleaning or maintenance and to charge the Contractor for all costs incurred by the use of the outside sources, plus a markup of ten percent (10%) to cover administrative costs.

14. CHARACTER AND COMPETENCY:
A. The Contractor and all of its Subcontractors for the duration of the Contract are required to comply with all laws regarding authorization to do business in Virginia, licensing, and other regulatory requirements as applicable; to be financially stable; and to provide for performance of the Work a sufficient work force, all of whom are qualified for and experienced in the Work.

B. The Owner, upon written Notice to the Contractor, and in the Owner’s, sole discretion, shall have the right to direct the Contractor and its Subcontractors to remove an employee permanently from the Project for any reason. Any individual who is removed from the Project pursuant to this Section may not return without specific permission of the Owner.

C. Drug-Free Workplace. For the purposes of this Contract “drug-free workplace” means a Project Site in connection with a specific Purchase Order. All, the employees, Subcontractors and other representatives of Contractor of whom 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 on any Project Site. During the performance of this Contract, the Contractor agrees to:

1. Provide a drug-free workplace for the Contractor’s employees;

2. 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;

3. State in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free work place; and
4. 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.

D. Contractor Certification Regarding Criminal Convictions. By signing this Contract, the Contractor affirms the continuing accuracy of the Contractor Certification Regarding Criminal Convictions submitted as Attachment A to its Bid and that it will remain in force throughout the performance of any Work under the Contract. The Contractor acknowledges that its Contractor Certification Regarding Criminal Convictions is applicable not only to Contractor but also to all Subcontractors and Sub-subcontractors. Contractor shall upon demand from APS provide to APS all information which allowed for the Contractor’s certification and which supports that the certification remains current, and further certifies that:

1. No employee of the organization who will be in the presence of students on school property during regular school hours or during school-sponsored activities during the performance of any Purchase Order has been convicted of a felony or of any offense involving the sexual molestation, physical or sexual abuse or rape of a child; and

2. As more particularly set forth in Va. Code Ann. Section 18.2-370.4, no employee who has been convicted of rape, forcible sodomy or object sexual penetration, all of a child under 13, during the commission of abduction, in the course of entering a dwelling with intent to commit murder, rape, robbery, arson, larceny, assault and battery, or any felony, or of aggravated malicious wounding will enter upon the property of an existing elementary or secondary school in the performance of the Work; and

3. As more particularly set forth in Va. Code Ann. Section 18.2-370.5, no employee who has been convicted of a sexually violent crime shall enter upon the property of any existing elementary or secondary school during school hours or during school-related or school sponsored activities in the performance of the Work.

E. Contractor Prohibited in Assisting Person for New Job if Engaged in Misconduct with Minor. As a condition of being awarding a Contract, or Contract renewal, the Contractor acknowledges it is prohibited from assisting the elected and appointed officials of APS, its officers, current and former employees, agents, departments, agencies, boards, and commissions employee, contractors, including all levels of subcontractors, in obtaining a new job if the Contractor knows or has probable cause to believe that the elected and appointed officials of APS, its officers, current and former employees, agents, departments, agencies, boards, and commissions employee, contractors, including all levels of subcontractors, engaged in sexual misconduct regarding a minor or student in violation of law.

15. PERMITS, FEES AND NOTICES:
A. The Contractor shall comply with all local, state and federal laws, regulations, rules or ordinances applicable to this Contract and the Work to be performed hereunder. The Contractor shall also obtain, at its expense, all permits, inspections, licenses, fees and other authorizations necessary for the prosecution of the Work.

B. The Contractor shall be responsible for giving all notices and complying with all laws, ordinances, rules, regulations and directives of any public authority bearing on the performance of the Work. Should the Contractor determine that the Contract Documents, or any of them, do not conform with such laws, ordinances, rules, regulations and directives in any respect, it shall promptly inform the Owner of such fact in writing. Any required changes shall be made by suitable approved Modification. If the Contractor performs any Work when it knew or in the exercise of reasonable care should have known it to be in conflict with such laws, ordinances, rules or regulations without satisfying its Notice obligations to Owner, such action shall be deemed a failure of this condition precedent to a claim and the Contractor shall accept all responsibility and bear all cost relating thereto.
16. **RISK OF LOSS:**
All Work, materials and equipment provided by Contractor shall remain the property of Contractor until accepted by Owner as in compliance with the requirements of the Contract Documents, and all risk of loss prior to acceptance by Owner shall be borne by Contractor.

17. **TESTS AND INSPECTIONS:**
A. Unless otherwise provided in the Contract Documents, the Contractor shall be responsible for scheduling, compliance and costs associated with all tests or inspections required by local authorities having jurisdiction over the Project. The Contractor shall give the Owner Notice immediately in the event of failure of any test or inspection. In calling for inspections, the Contractor certifies that the Work being called for inspection meets the Contract and all code requirements for completeness and quality and shall bear all expense arising from any failed inspection, whether incurred by Owner, Contractor, or any third party.

B. Irrespective of any third party inspections, the Contractor remains responsible for any after discovered defects in Work and is fully responsible for any delays and costs associated with such defective, insufficient or non-compliant Work.

18. **REJECTION OF WORK:**
The Owner shall have the authority to reject Work that does not conform to the requirements of the Contract Documents. All costs associated with correction of rejected Work shall be borne by the Contractor.

19. **OWNER'S RIGHT TO STOP WORK/RIGHT TO CORRECT DEFICIENCIES:**
If the Contractor does not correct non-complying Work, or is consistent in not supplying and/or furnishing labor, material, and equipment necessary to Work performance, then the Owner has the right to order the Contractor to stop the Work until such time as the cause of the order has been corrected. Should the Contractor default, fail to perform the Work, or improperly perform the Work, the Owner has the right, after three (3) days written notice, to correct the deficiencies. The Contractor shall pay to the Owner the Owner’s cost of correcting the deficiencies, including any charges for special inspections or tests, plus a markup of ten percent (10%) to cover administrative costs. The Owner's exercise of the right to correct deficiencies shall in no way prejudice or limit any other remedy that the Owner may have.

20. **INDEMNIFICATION:**
The Contractor covenants to save, defend, hold harmless, and indemnify the Owner, Arlington School Board, and all of its elected and appointed officials, officers, employees, agents, departments, agencies, boards, and commissions from and against any and all claims, losses, damages, injuries, fines, penalties, costs (including court costs, and attorney's fees, and all reasonable and customary costs of litigation), charges, liability, or exposure, however caused, resulting from, arising out of, or in any way connected with the Contractor's acts or omissions in performance or nonperformance of the Work. This indemnification obligation shall survive the termination of this Contract.

21. **PAYMENT TO CONTRACTOR:**
A. Invoices unless otherwise specified in the Contract or in the Purchase Order shall be submitted monthly. Mail invoices, as applicable, to:

Arlington Public Schools
Syphax Education Center
Finance Office
2110 Washington Blvd., 4th Floor
Arlington, Virginia 22204

OR (alternative address if necessary)
Arlington Public Schools
Department of Facilities and Operations
2770 South Taylor Street
Arlington, VA 22206

B. Upon receipt of an invoice, the Owner shall review the Work to determine if the invoice is consistent with the Work in place. The Contractor shall submit such additional information as may be reasonably requested by the Owner to substantiate the amount billed.

C. Payments will be made within thirty (30) days after the later of receipt of an invoice by APS or receipt of additional documentation as requested by APS of all amounts within the invoice approved for payment. All payments shall be net of any prompt payment discount. In connection with any prompt payment discount, time shall be computed from the date of the invoice. For the purpose of earning the discount, payment shall be considered to have been made on the date that appears on the payment check or the date on which an electronic funds transfer for the payment was made.

D. APS is exempt from the payment of any federal excise tax or Virginia Sales Tax. The APS Federal Excise Tax Number is 54-6001128. Contractors located outside the Commonwealth of Virginia may charge and collect their local and or state sales tax when the Purchase Order calls for materials to be picked up by APS at the Contractor’s place of business outside Virginia.

E. Notwithstanding the foregoing, no more than ninety (90%) of the Contract Price stated in the Purchase Order shall be paid until the Owner is satisfied that the Work is Complete.

F. **Price Reduction.** If at any time after the date of Bid Opening the Contractor makes a general price reduction in the comparable price of any goods or service covered by the Contract to customers generally, an equivalent price reduction based on similar quantities and/or considerations shall apply to the Contract for the duration thereof, including any extensions. Such price reduction shall be effective at the same time and in the same manner as the reduction in the price to customers generally. For purpose of this provision, a “general price reduction” shall mean any horizontal reduction in the price of a good or service offered (1) to Contractor’s customers generally, or (2) in the Contractor’s price schedule for the class of customers, i.e., wholesalers, jobbers, retailers, etc, which was used as the basis for Contractor’s Bid. An occasional sale at a lower price, or sale of distressed merchandise at a lower price, would not be considered a “general reduction” under this provision. The Contractor shall submit its invoice at such reduced prices indicating on the invoice that the reduction is pursuant to the “Price Reduction” provision of the Contract Documents. The Contractor, in addition, will within ten (10) days of any general price reduction, Notify the Director/Purchasing Agent of such reduction by letter. FAILURE TO DO SO MAY LEAD TO TERMINATION OF THE CONTRACT. Upon receipt of any such Notice of a general price reduction all ordering offices will be duly notified by the Director/Purchasing Agent. The Contractor, if requested, shall furnish, within ten (10) days after the expiration or termination of the Contract a statement certifying either (1) that no general price reduction, as defined above, was made after the date of the Bid Opening, or (2) if any such general price reductions were made, that as provided above, they were reported to the Director/Purchasing Agent within ten (10) days, and ordering offices were billed at the reduced prices. Where one or more such general price reductions were made, the statement furnished by the Contractor shall include with respect to each price reduction (1) the date when notice of any such reduction was issued, (2) the effective date of the reduction, and (3) the date when the Director/Purchasing Agent was notified of any such reduction.

22. **AUDIT:**
The Owner and its authorized representatives shall have access to all records necessary to perform a complete audit of the Contractor for the purposes of verifying that the certified cost or pricing data submitted were accurate, complete and
current. The Owner shall, until the expiration of five (5) years from the date of final payment under this Contract, have the right to examine and copy those books, records, documents, papers and other supporting data which involve transactions related to this Contract or which permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used therein (the "Records"), and the Contractor hereby covenants to maintain the Records in good order for such time and to deliver promptly the Records to the Owner upon request. There shall be no charge to Owner for conducting any such audit.

23. **AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK:**
   A. The Contractor shall not enter into any Subcontract with any Subcontractor who is suspended or debarred from participating in any contracting programs by the Commonwealth of Virginia or by any public body within the Commonwealth of Virginia, nor by the United States government or by any other state or public body within any other state.
   B. The Contractor shall not enter into any Subcontract with any Subcontractor who or which is not qualified to do business in Virginia in compliance with applicable law or does not have in effect all licenses and trade certifications required by federal, state or local law to perform the services or to provide the goods which are the subject of the Subcontract.
   C. Upon request, the Contractor promptly shall file with the Owner a copy of any one or more of its Subcontracts. The Owner has the right to reject any Subcontractor it finds not to be qualified to perform the Work.
   D. No action by the Owner shall relieve the Contractor of any of its responsibilities, duties and liabilities under the Contract Documents. The Contractor shall be responsible to the Owner for the acts, defaults, or omissions of the Contractor’s Subcontractors and of its Subcontractors' officers, authorized representatives and employees.
   E. Nothing contained in the Contract Documents or in any Subcontract shall operate to, or otherwise have the effect of, creating a contractual relationship between the Owner and any Subcontractor.

24. **SUBCONTRACTOR AND SUB-SUBCONTRACTOR AGREEMENTS:**
Work performed by a Subcontractor or a Sub-subcontractor shall be defined by a signed agreement between a Subcontractor and the Contractor, or between a Sub-subcontractor and a Subcontractor, as applicable. Each such agreement shall:
   A. Not contain a provision which purports to negate, conflict with or otherwise compromise the requirements of the Contract Documents.
   B. Not contain a provision which purports to adversely affect the rights of the Owner as such rights are defined in the Contract Documents.
   C. Contain appropriate provisions to give the Contractor the same power to terminate the Subcontract that the Owner may exercise to terminate the Contractor under the provisions of these Contract Documents. The Contractor shall bear all additional expenses due to its exercising of its rights under this paragraph.
   D. Contain appropriate provisions which bind the Subcontractor to the terms and conditions of this Contract insofar as they are applicable to the Work of the Subcontractor.
   E. Contain a requirement that the Subcontractor shall be bound by and subject to the provisions of the payment requirements of the Contractor to the Subcontractor in regard to payments due by the Subcontractor made to its Sub-Subcontractors.
   F. Require timely processing of applications for payment and of claims for additional costs, damages, or time in
order that the Contractor may in turn promptly process such applications or claims in conformance with the Contract Documents.

G. Contain a provision to the effect that the Owner and its authorized representatives will, until three years from the date of final payment under the Subcontract, have access to and the right to examine and copy those books, records, documents, papers and other supporting data which involve transactions related to the Subcontract.

H. Contain the same Character and Competency requirements as appear in these Terms and Conditions and require the completion by the Subcontractor and its Sub-subcontractors of the Contractor Certification Regarding Criminal Activity and Employee Certification Regarding Criminal Activity.

I. Waive the rights of either party against the other in regard to claims for fire or other peril covered by the property insurance required by these Terms and Conditions. Such waiver shall not exclude either party from rightful access to the proceeds of such insurance.

25. RESPONSIBILITY FOR THOSE PERFORMING THE WORK:
The Contractor shall be responsible and accountable to the Owner for the acts and omissions of the Contractor’s employees in connection with the performance of the Work and for any Subcontractors or other persons performing any of the Work under a Contract with the Contractor or a Contract with a Subcontractor or Sub-subcontractor.

26. PAYMENT OF SUBCONTRACTORS:
A. Within seven (7) days after receipt of payment from the Owner, the Contractor shall:

1. Pay each Subcontractor an amount equal to the percentage of the Work attributable to such Subcontractor; or

2. Notify the Owner and the Subcontractor in writing of the intention to withhold all or part of the amount due a Subcontractor and state the reason for such withholding.

3. In the event the Contractor fails to submit a timely Application for Payment, and that failure is due exclusively to the actions of the Contractor, the Subcontractor shall have the right to be paid by the Contractor upon demand of the amounts due.

4. The Contractor shall pay interest on amounts owed to the Subcontractor which remain unpaid seven (7) days after the Contractor's receipt of payment from the Owner. Interest on such amounts shall accrue at the rate of one percent (1.0%) per month. Amounts owed the Subcontractor which have been withheld as permitted herein shall not accrue interest.

B. Information concerning percentages of completion of work performed by a Subcontractor as shown in an Application for Payment may be made available to that Subcontractor at the sole discretion of the Owner.

C. Insurance proceeds received by the Contractor under the insurance policies required by these Terms and Conditions shall be equitably distributed to the Subcontractors affected by the insured loss.

D. The Contractor’s obligation to pay an interest charge to a Subcontractor is not an obligation of the Owner. A Contract Modification shall not be made for the purpose of providing reimbursement for the interest charge. A cost reimbursement claim shall not include any amount for reimbursement for the interest charge.

27. OWNER'S RIGHT TO AWARD SEPARATE CONTRACTS:
A. The Owner has the right to award separate Contracts of the same or a similar nature on the same or similar Project Sites, or for other work on the same Project Sites.
B. When separate Contracts are awarded, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Contract for construction.

C. At no additional cost to the Owner, the Contractor shall coordinate the Work with the activities of each separate Contractor with the intent of each Contractor being able to complete its Work in the most time efficient and cost efficient manner under the circumstances.

D. If part of the Contractor's Work depends for proper execution or results upon construction or operations by a separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly report to the Owner in writing any apparent discrepancies or defects in such construction or operations performed by a separate Contractor that would render it unsuitable for such proper execution and results. Failure of the Contractor to report such apparent discrepancies and/or defects shall constitute an acknowledgment that the separate Contractors' completed or partially completed construction is fit and proper to receive the Contractor's Work, except as to defects not then reasonably discoverable.

28. **ROYALTIES AND PATENTS:**
The Contract Price 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 Owner and Owner’s Representative, their 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 the Contract, and shall indemnify the Owner, 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. If a Purchase Order contains a direction requiring use of any design, device, material or process which is subject to patent, trademark or copyright protection which Contractor contends was not contemplated by and included in the Pricing Schedule, the Contractor shall give Notice thereof to Owner prior to proceeding with the Work and await direction from the Owner. If the Contractor proceeds with the Work without giving such Notice or without receiving direction from the Owner, the Contractor shall be responsible for all royalties and costs as provided in this paragraph.

29. **CLAIMS FOR DAMAGES:**
If the Contractor wishes to make a claim, whether for extra compensation, damages or other relief, by reason of any act or omission of the Owner or its agents or representative or other causes beyond the reasonable control of the Contractor, the Contractor shall comply with the requirements set forth below. Strict compliance with all claims submission requirements set forth below or in any other provision of the Contract Documents shall be a condition precedent to the Contractor’s right to pursue any claim or to recover or prevail thereon. All time requirements set forth as claims submission requirements shall be deemed to be of the essence. Compliance with all claims submission requirements shall not, however, create any presumption of validity of any claim.

A. The Contractor must at the time of the discovery of the occurrence of the event giving rise to the claim and before beginning any work on which the claim is based deliver to the Director/Purchasing Agent a written statement identifying itself as a Notice of claim, stating the circumstances of the occurrence, specifying the additional work contemplated as being required, state why such work is not already included within the scope of the Contract Documents, and to the extent reasonably foreseeable estimate the anticipated amount of the claim.

B. If the Owner within five (5) Working Days following receipt of such Notice of claim does not direct the Contractor otherwise, the Contractor shall proceed with the Work which is the subject of the claim and within ten (10) calendar days after completion of the Work for which additional compensation is claimed shall submit in writing to the Director/Purchasing Agent a written itemization of the actual additional compensation claimed, with all supporting documentation.
C. The Director/Purchasing Agent shall make a determination within ninety (90) Days after receipt of the submission described in Subparagraph B above, which decision shall be the final determination of the Owner. Failure by the Director/Purchasing Agent to issue a final decision shall be deemed a final decision to deny the claim as of the ninetieth (90th) Day. A final decision by the Owner shall be a condition precedent to institution by the Contractor of any judicial claim for relief on the claim. The Contractor’s right to seek judicial appeal of denial of a claim is barred if no suit is filed within six (6) months following the Owner’s final decision. No consideration by the Owner of any additional submissions by the Contractor in support of any claim shall extend this six (6) month limitation.

D. The Contractor shall comply with all directions and decisions of the Owner and shall proceed diligently with the performance of the Contract and with any disputed Work pending final resolution of any claim or dispute. “Final resolution” shall include the exhaustion of all judicial proceedings.

E. No claim whatsoever shall be made by the Contractor against any officer, authorized representative or employee of the Owner for, or on account of, anything done or omitted to be done in connection with this Contract.

F. Failure of the Owner at any time to require compliance with any term or condition of the Contract Documents or of any claims submissions requirements shall not be deemed a waiver of such term, condition, or requirement, or a waiver of the subsequent enforcement thereof.

G. In the event the Contractor makes a claim for additional compensation other than for damages related to delay which results in litigation, if the Owner substantially prevails in such litigation the Contractor shall indemnify and hold the Owner harmless from any and all reasonable attorneys’ fees, litigation costs of all types, and expert witness fees and costs, arising from or related to such claim and litigation.

H. If additional compensation is granted as to any claim, either by consent of the Owner or by judicial decision, the Contractor shall not be entitled to recover any interest on any amounts claimed to be due from the Owner which are the subject of a good faith dispute by the Owner which are paid within thirty (30) Days following final resolution of such dispute. Interest shall accrue on any claim not paid within such thirty (30) Days at the legal rate of six percent (6%) per annum simple interest commencing on the date of such final resolution.

I. No claims provision in this Agreement waives the Owner’s sovereign immunity or waives the ability of the Owner to invoke sovereign immunity where sovereign immunity may be applicable.

30. UNCOVERING OF WORK:
A. If a portion of the Work is covered contrary to the Owner’s request or to the requirements contained in the Contract Documents, the Contractor shall, at its own expense and upon the written request of the Owner, uncover and replace such Work without an adjustment to the Contract Time or Contract Price.

B. If a portion of the Work has been covered which the Owner and/or Arlington County Inspector has not specifically requested to observe prior to its being covered and is, under the Contract Documents, allowed to be covered without observation of the Owner or applicable law or regulation, the Owner and/or Arlington County Inspector may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, costs of uncovering and replacement shall be charged to the Owner and paid to the Contractor. If such Work is not in accordance with the Contract Documents, the Contractor shall pay the costs of uncovering and replacing such Work.

31. CORRECTION OF WORK:
The Contractor shall promptly correct any Work which fails to conform to the requirements of the Contract Documents.
(the "Rejected Work"), whether observed before or after Substantial Completion and whether or not fabricated, installed or completed. The Contractor shall bear all costs associated with the correction of any Rejected Work, including additional testing and inspections and compensation for the Owner’s Representative's services and expenses made necessary thereby. Nothing contained herein shall affect the Owner's right to correct non-conforming Work pursuant to the provisions of the Contract Documents.

32. **ACCEPTANCE OF DEFECTIVE OR NON-CONFORMING WORK:**
The Owner may accept any defective or non-conforming Work; provided, however, that in such event the Purchase Order Price shall be reduced by an appropriate and equitable amount to account for such defect or nonconformity. Such adjustment shall be effected whether or not final payment has been made. Any such acceptance shall not constitute a waiver of approval of the performance requirements of the Contract Documents.

33. **FORCE MAJEURE:**
A. The Contractor shall not be held responsible for any failure of performance under this Contract if such failure is due to fires, riots, rebellions, natural disasters, wars or an act of God beyond the contemplation or control of Contractor and outside the scope of the Contractor’s then-current disaster plan that makes performance impossible or illegal, unless otherwise specified in the Contract Documents.

B. APS shall not be held responsible for any failure of performance under this Contract if such failure is due to fires, riots, rebellions, natural disasters, wars or an act of God beyond the control of APS that makes performance impossible or illegal, unless otherwise specified in the Contract Documents.

34. **CONTRACTOR'S INSURANCE:**
A. Prior to commencing any Work, and as a condition precedent to any obligation of the Owner to make any payment to the Contractor, the Contractor shall provide a Certificate of Insurance to the Director/Purchasing Agent confirming that the Contractor has in force the coverage required below prior to the start of any Work under the Contract, and shall maintain such insurance until the expiration or termination of the Contract. All required insurance must be provided by insurers authorized to do business in the Commonwealth of Virginia and acceptable to APS. The minimum insurance coverage shall be:

1. Workers Compensation – Virginia Statutory Workers Compensation (W/C) coverage including Virginia benefits and employer’s liability at the state statutory limits. For construction Contracts, if any Subcontractors are involved, the Subcontractor will have workers’ compensation insurance in accordance with §§ 2.2-4332 and 65.2-800 et seq. of the *Code of Virginia*. The bidder or Offeror further certifies that the Contractor and any Subcontractors will maintain these insurance coverage during the entire term of the Contract and that all insurance coverage will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission. Coverage is compulsory for employers of three or more employees, to include the employer. Contractors who fail to notify the Commonwealth of increases in the number of employees that change their workers’ compensation requirements under the *Code of Virginia* during the course of the Contract shall be in noncompliance with the Contract. APS will not accept W/C coverage issued by the Injured Workers Insurance Fund of Towson, Maryland.

2. Commercial General Liability - $1,000,000 per occurrence with $2,000,000 general aggregate covering all premises and operations and including Personal Injury, Completed Operations, Contractual Liability, Independent Contractors, and Products Liability. The general aggregate limit shall apply to this Contract. Evidence of Contractual Liability coverage shall be typed on the certificate.

3. Additional Insured – Arlington Public Schools and Arlington County School Board shall be named as additional insureds in the Contractor’s Commercial General Liability policy; confirmation of the
Additional Insured shall be typed on the certificate.

4. Cancellation – A thirty (30) day notice of cancellation or non-renewal in writing shall be furnished by the Contractor’s insurance carrier(s) or insurance agent(s) to Director/Purchasing Agent.


6. Business Automobile Liability – Vehicle insurance policy must meet the following minimum amount of coverage:

   $100,000/$300,000/$1000,000:
   - For injury to one person in any single accident: $100,000
   - For injury to two or more persons in any single accident: $100,000 per person, up to $300,000 maximum total per accident.
   - For property damage in any one vehicle accident: $100,000.

Each insurance policy offered as fulfillment of the requirements of this section shall contain a clause to the effect that the insurance carrier may not cancel the policy except upon thirty (30) day's written notice to the County Manager, or his designee, as well as other notices as may be required by law to be given to the policy holder.

If an insurance policy offered as fulfillment of the requirement of this section is cancelled, then the Certificate-holder shall not permit any contractor’s or subcontractor’s vehicles to be operated that was covered by such policy, certificate or permit until other insurance is furnished as required by this section.

If judgment is rendered against the Vehicle Owner or Driver, or both, in any court of competent jurisdiction by reason of any accident for which an insurance policy is provided in this section, then the Vehicle Owner shall within twenty-four (24) hours after the rendition of such judgment, whether appealed or not, maintain the total amount of insurance required by this section or any other provision of law, whichever is greater, so that no reduction in insurance coverage results from such judgment.

B. The Contractor assumes all risks for direct and indirect damage or injury to the property or persons used or employed on or in connection with the Work, and for all damage or injury to any person or property wherever located, resulting from any action, omission, commission or operation under the Contract, or in connection in any way whatsoever with the Work, until final acceptance of the Work by APS.

C. No acceptance or approval of any insurance by APS shall be construed as relieving or excusing the Contractor from any liability of obligation under the Contract Documents.

D. The Contractor shall be responsible for the Work and every part thereof, and for all materials, tools, equipment, appliances, and property of any description used in connection with the Work.

E. The Contractor shall be as fully responsible to APS for the acts and omissions of its Subcontractors and of persons employed by them as it is for acts and omissions of persons directly employed by Contractor.

35. DEFAULT AND TERMINATION:
A. Contractor’s Default

1. The following shall constitute Event of Default by Contractor:

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a. If the Contractor fails to begin the Work when required to do so; or

b. If, at any time during the progress of the Work, the Owner determines that the Contractor is not prosecuting the Work with reasonable speed and diligence, or is delaying the Work unreasonably or unnecessarily; or

c. If the force of workmen or the quality or quantity of material furnished is not sufficient to ensure completion of the Work within the specified time and in accordance with the Contract Documents; or

d. If the Contractor fails to make prompt payments to suppliers or to Subcontractors for Work performed in connection with the Contract; or

e. If the Contractor fails in any manner of substance to observe the provisions of this Contract.

2. Upon the occurrence of an Event of Default by Contractor, the Owner may declare the Contractor in default, in whole or in part, and give to the Contractor three (3) Days written Notice to cure such default. If Contractor fails to cure such default within such three (3) day period, or within such longer time as the Owner, in its sole discretion, may prescribe, the Owner shall have the right to do any one or more of the following in any combination:

a. Have the defaulted Work performed by others and charge the Contractor the cost thereof, plus an administrative fee of ten percent (10%);

b. Supplement Contractor’s workforce and charge the Contractor the cost thereof, plus an administrative fee of ten percent (10%);

c. Repair or replace any defective Work and charge the Contractor the cost thereof, plus an administrative fee of ten percent (10%);

d. Withhold payments due the Contractor and use such payments to satisfy any claims for moneys owed by the Contractor in connection with the Contract, in accordance with any provisions of the Contract Documents;

e. Terminate the Contractor’s performance of the Contract in whole or in part.

3. Without prejudice to any other rights or remedies the Owner may have, the Owner shall have the right to terminate the Contract immediately upon written notice to the Contractor or, in the Owner’s sole discretion, exercise any other rights available to it for default, upon the occurrence of any of the following:

a. Institution of legal proceedings by others than the Owner in such manner as to interfere with the progress of the Work and to potentially subject the Owner to the peril of litigation or outside claims; or

b. Adjudication of the Contractor as a bankrupt or an assignment for the benefit of creditors by Contractor, the dissolution of the Contractor, or if a sole proprietorship the death or determination of incompetence of the Contractor; or

c. Entry of an order in any proceeding instituted by or against the Contractor granting an
extension of the time of payment, composition, adjustment, modification, settlement or satisfaction of its debts or liabilities; or

d. Appointment of a receiver or trustee for the Contractor or the Contractor's property; or

e. Assignment of the Contract or any part thereof without the prior written consent of the Owner; or

f. Assignment by the Contractor of any rights, moneys, or claims hereunder in whole or in part, otherwise than as herein specified; or

g. Abandonment of the Work to be done under this Contract.

4. Immediately, but no later than three (3) days after receipt of Notice that it is in default hereunder, the Contractor shall discontinue all further operations in connection with the Work, or such specified part thereof, and shall immediately vacate the Project Site, or such specified part thereof, leaving untouched all plant, materials, equipment, tools, supplies and job site records.

5. In the event the Owner declares the Contractor in default in accordance with the provisions of the Contract Documents with respect to a portion of the Work but not the Work as a whole, the Contractor shall discontinue such portion of the Work declared in default, shall continue performing the remainder of the Work in strict conformity with the terms of the Contract and shall not hinder or interfere with any other Contractor or persons whom the Owner may engage to complete the Work for which the Contractor was declared in default. The expense of such completion, plus an administrative fee of ten percent (10%), shall be paid by the Contractor to the Owner as provided in the Contract Documents.

B. Termination for Failure of Funding: All funds for payments by APS under this Contract are subject to the availability of an annual appropriation for this purpose by the Arlington County School Board. In the event of non-appropriation of funds for the goods or services provided under this Contract, APS will terminate this Contract, without termination charge or other liability to APS, on the last day of the then current fiscal year or when the appropriation made for the 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. APS will exert reasonable effort to give thirty (30) Days prior written notice, but failure to give such Notice shall be of no effect and APS shall not be obligated under this Contract beyond the date of termination.

C. Termination for Convenience: Notwithstanding any other rights of the Owner to terminate this Contract, the Owner shall have the right to terminate this Contract, in whole or in part, at its own convenience for any reason by giving seven (7) 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 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%. Each subcontract shall contain a similar termination provision for the benefit of the Contractor and the Owner. The Contractor shall not be entitled to receive anticipated profits on unperformed portions of the Work. The Owner shall have the right to employ an independent accounting firm to verify any amounts claimed by the Contractor to be due under this Paragraph. In the event a termination by the Owner for default, in whole or in part, subsequently is determined to have been without sufficient justification, such termination shall be deemed a termination for convenience and the Contractor’s remedies shall be limited as provided in this Paragraph.

36. HAZARDOUS SUBSTANCES:
A. No materials or equipment containing asbestos or any other hazardous material recognized and identified by
the State of Virginia Department of Environmental Quality shall be utilized in the construction of the Project.
In the event a substitute product is needed and time does not allow for the mandated submittal process, the
Contractor shall confirm these materials do not contain asbestos or any other hazardous material as noted above
in writing to the Owner or Owner’s Representative and will provide the MSDS sheets to the Owner and
Owner's Representative prior to being allowed to install the product on the Project.

B. In the event the Contractor encounters unforeseen hazardous substances in the performance of the Work, such
as but not limited to asbestos or lead paint, the Contractor shall immediately suspend Work with the exception
of such actions as may be necessary to secure the Site for purposes of public safety, immediately Notify the
Owner, and take no further action until receiving written direction from the Owner.

37. CONFLICT OF INTEREST:
The Contractor shall comply with all requirements and provisions of Va. Code Ann. § 2.2-4367 through § 2.2-4377,
Ethics in Public Contracting; the State and Local Government Conflict of Interests Act (§ 2.23100, et seq.), the Virginia
Governmental Frauds Act (§ 18.2-498.1 et seq.), and Articles 2 (§ 18.2-438, et seq.), and 3 (§ 18.2-446, et seq.) of
Chapter 10 of Title 18.2.

38. IMMIGRATION REFORM AND CONTROL ACT OF 1986:
The Contractor certifies that it does not and will not during the performance of the Contract employ illegal alien

39. 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 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 non-
discrimination 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 include the provisions of the foregoing paragraphs A, B, and C in every Subcontract of
over $10,000.00, so that the provisions will be binding upon each Subcontractor or vendor.

E. Nothing contained in this provision shall be deemed to require the Contractor to grant preferential treatment to,
or discriminate against, any individual or any group because of race, color, religion, sex or national origin on
account of an imbalance which may exist with respect to the total number or percentage of persons of any race,
color, religion, sex or national origin employed by such Contractor in comparison with the total number or
percentage of persons of such race, color, religion, sex or national origin in any community or in the state.

40. ASSURANCES OF COMPLIANCE:
The Contractor shall comply with Section 504 of the Rehabilitation Act of 1973, as amended and Title VI of the Civil
Rights Act.
41. SMALL, MINORITY, WOMEN OWNED AND SERVICE DISABLED VETERANS BUSINESS ENTERPRISES AND EMPLOYMENT SERVICES ORGANIZATIONS:

A. The Arlington County Human Rights Ordinance, the Virginia Public Procurement Act, and relevant Federal and State Laws, orders and regulations, require Arlington Public Schools to ensure that its procurement practices are non-discriminatory and promote equality of opportunity for Small and Minority Business Enterprises.

B. In seeking Subcontractors, suppliers and vendors necessary to perform the Work, the Contractor shall encourage the participation of small businesses, women-owned businesses, minority-owned businesses and service disabled veteran-owned businesses as follows:

1. At a minimum, for any portion of the Work the Contractor is not going to perform with its own forces, the Contractor shall contact the Commonwealth of Virginia Department of Minority Business Enterprise to obtain a list of certified businesses in these categories available to perform such work or provide such materials or equipment. The Contractor shall directly solicit bids from at least one certified business in each category to perform such work or provide such materials or equipment, but shall not be obligated to give any preference to any such business in the award of Subcontracts or materials/equipment supply Subcontracts.

2. Identification and direct solicitation of other such businesses by other means is strongly encouraged.

3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by such businesses.

4. Establishing delivery schedules, where the requirements of the Contract permit, which encourage participation of such businesses.

C. As used in this section:

1. “Minority individual” means an individual who is a citizen of the United States or a legal resident alien and who satisfies one or more of the following definitions:

   a. “African American” means a person having origins in any of the original peoples of Africa and who is regarded as such by the community of which this person claims to be a part.

   b. “Asian American” means a person having origins in any of the original peoples of the far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands, including but not limited to Japan, China, Vietnam, Samoa, Laos, Cambodia, Taiwan, Northern Mariana Islands, the Philippines, a U.S. territory of the Pacific, India, Pakistan, Bangladesh or Sri Lanka and who is regarded as such by the community of which this person claims to be a part.

   c. “Hispanic American” means a person having origins in any of the Spanish speaking peoples of Mexico, South or Central America, or the Caribbean Islands or other Spanish or Portuguese cultures and who is regarded as such by the community of which this person claims to be a part.

   d. “Native American” means a person having origins in any of the original peoples of North America and who is regarded as such by the community of which this person claims to be a part or who is recognized by a tribal organization.

2. “Minority-owned business” means a business that is at least 51 percent owned by one or more
minority individuals who are United States citizens or legal resident aliens, or in the case of a corporation, partnership, or limited liability company or other entity, at least 51 percent of the equity ownership interest in the corporation, partnership, or limited liability company or other entity is owned by one or more minority individuals who are United States citizens or legal resident aliens, and both the management and daily business operations are controlled by one or more minority individuals.

3. “Service disabled veteran” means a veteran who (i) served on active duty in the United States military ground, naval or air service, (ii) was discharged or released under conditions other than dishonorable, and (iii) has a service-connected disability rating fixed by the United States Department of Veterans Affairs.

4. “Service disabled veteran-owned business” means a business that is at least 51 percent owned by one or more service disabled veterans or, in the case of a corporation, partnership, or limited liability company or other entity, at least 51 percent of the equity ownership interest in the corporation, partnership, or limited liability company or other entity is owned by one or more individuals who are service disabled veterans and both the management and daily business operations are controlled by one or more individuals who are service disabled veterans.

5. “Small business” means a business, independently owned and controlled by one or more individuals who are United States citizens or legal resident aliens, and together with affiliates has 250 or fewer employees, or annual gross receipts of $10,000,000 or less averaged over the previous three years. One or more of the individual owners shall control both the management and daily business operations of the small business.

6. “Women-owned business” means a business that is at least 51 percent owned by one or more women who are United States citizens or legal resident aliens, or in the case of a corporation, partnership, or limited liability company or other entity, at least 51 percent of the equity ownership interest in the corporation, partnership, or limited liability company or other entity is owned by one or more women who are United States citizens or legal resident aliens, and both the management and daily business operations are controlled by one or more women.

7. “Employment Service Organization” means an organization that provides community-based employment services to individuals with disabilities that is an approved Commission on Accreditation of Rehabilitation Facilities (CARF) accredited vendor of the Department for Aging and Rehabilitative Services.

42. GOVERNING LAW:
The Contract Documents shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia, without reference to conflict of laws principles, 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 the Work under this Contract, the Contractor shall comply with applicable federal, state, and local laws, ordinances and regulations.

43. SUCCESSORS, ASSIGNS AND LEGAL REPRESENTATIVES:
This Agreement 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 or as otherwise provided in the Contract Documents. Owner shall be under no obligation to agree to any requested assignment, sublet or transfer. Owner will not consent to any requested assignment, sublet or transfer to any entity who was an unsuccessful Bidder, who was deemed not to be qualified, or who was or is deemed not to be responsible. 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 Agreement.

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44. **NON-ENDORSEMENT CLAUSE FOR CONTRACTS & AGREEMENTS:**
Arlington Public Schools may be identified as a “Participant” in the Goods or Services with the following statement added, “This shall not constitute an endorsement of any products or services”. For further information, please contact the Arlington Public Schools School and Community Relations office.

45. **ADVERTISING AND USE OF PROPRIETARY MARKS OR LOGOS:**
Contractor shall not use the name of Arlington Public Schools (APS) or refer to APS, directly or indirectly, in any press release or formal advertisement without receiving prior written consent of APS. In no event may Supplier use a proprietary mark of APS without receiving the prior written consent of APS.

46. **CONFIDENTIAL INFORMATION:**
The Contractor, and its employees, agents, and Subcontractors, hereby agree to hold as confidential all APS information obtained as a result of its Work under this Contract. Confidential information includes, but is not limited to, nonpublic personal information, personally identifiable health information, social security numbers, addresses, dates of birth, other contact information or medical information about a person, information pertaining to products, operations, systems, customers, prospective customers, techniques, intentions, processes, plans, expertise and any information entrusted to any affiliate of the parties. The Contractor shall take reasonable measures to ensure that all of its employees, agents, and Subcontractors are informed of, and abide by, this requirement.

47. **APS EMPLOYEES:**
No employee of APS shall be admitted to any share in any part of this Contract or to any benefit that may arise therefrom which is not available to the general public.

48. **SURVIVAL OF TERMS:**
Any provision of this Contract which by its terms or as necessary to carry out its purpose or intent is intended to survive the expiration or termination of this Contract shall so survive.

49. **ARBITRATION:**
It is expressly agreed that nothing under the Contract shall be subject to arbitration, and that any references to arbitration are expressly deleted from the Contract.

50. **ADA COMPLIANCE:**
Compliance with the Americans with Disabilities Act of 1990 (“ADA”) shall be the sole responsibility of the Contractor. The Contractor shall defend and hold APS harmless from any expense or liability arising from the Contractor’s non-compliance therewith. The Contractor’s responsibilities related to ADA compliance shall include, but not be limited to, the following:

A. Access to Programs, Services and/or Facilities: The Contractor shall ensure its programs; services and facilities are accessible to persons with disabilities. If a particular facility or program is not accessible, the Contractor shall provide equivalent services in an accessible alternate location or manner to ensure that persons with disabilities are not denied access to services.

B. Effective Communication: The Contractor, upon request, shall provide appropriate aids and services leading to effective communication for qualified persons with disabilities so they can participate equally in the Contractor’s programs, services, and activities, including qualified sign language interpreters, documents in Braille, and other ways of making information and communications accessible to people who have speech, hearing, or vision impairments, as required by the ADA.

C. Modifications to Policies and Procedures: The Contractor shall make the necessary modifications to its policies and procedures to ensure that people with disabilities have an equal opportunity to enjoy the
Contractor’s programs, services, and activities, as may be required by the ADA. For example, individuals with service animals are welcomed in the Contractor’s offices or facilities, even where pets are generally prohibited.

D. The Contractor shall not place a surcharge on a person with a disability or any group of individuals with disabilities to cover the cost of providing auxiliary aids/services or reasonable modifications of policy.

E. Employment: The Contractor shall not discriminate on the basis of disability in its hiring or employment practices.

F. Responding to inquiries from the U.S. Department of Labor.

51. ENTIRE AGREEMENT:
The Contract Documents constitute the entire agreement between the parties pertaining to the Work and supersedes all prior and contemporaneous agreements, statements and understandings of the parties in connection therewith.

END OF TERMS AND CONDITIONS