



**Agreement**

**Contract Title: Industrial Cleaning & Restorative Services**

Contract **31FY19-1**, for the provision of Industrial Cleaning & Restorative Services (“the Work”) is entered into as of the date the Purchasing Agent signs this Agreement, this 25<sup>th</sup> Directly day of NOVEMBER, 2019; by and between **Charmay, Inc. dba, Service Master NCR**, located at **7551 Fordson Road Alexandria, VA 22306**, hereinafter called “Contractor” and Arlington County School Board, operating as Arlington Public School hereinafter called “APS” or “Owner”.

APS and the Contractor, having given adequate consideration, agree that the Contractor will perform the Work to assist APS in accordance with the Contract which shall consist of the following documents: all of which are incorporated into and are part of the Contract, and which, in the event of a conflict, shall be given precedence in the order listed, with any Amendment or Modification having precedence over preceding provisions. In the event of a conflict within a Contract Document at the same level of precedence, that provision requiring the higher quality of performance or quantity shall prevail. In the event of a conflict which is not resolved by the foregoing, the Owner shall determine the provision having precedence.

- 1 Agreement #31FY19-1 and all modifications properly incorporated into the Agreement
- 2 Attachment A- Scope of Work
- 3 Attachment B- Fee Schedule
- 4 Attachment C- Contractor Certification Regarding Criminal Convictions
- 5 Attachment D- Non-Disclosure and Data Security Agreements
- 6 Attachment E- Contract Terms and Conditions
- 7 Attachment F- Special Terms and Conditions
- 8 Attachment G- Certificate of Insurance
- 9 Attachment H- - School Listing

The following are incorporated by reference:

- 10 The Request for Proposal (RFP) documents, and
- 11 The Proposal Response from the Contractor

1. **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.
2. **Contract Term:**
  - 2.1 The initial term of this Contract shall commence on the date the Contract is fully executed by the APS Procurement Director/Purchasing Agent and expiring on the last day of the twelfth (12<sup>th</sup>) month following execution of the Contract by the APS Procurement Director/Purchasing Agent, unless otherwise terminated as provided in the Contract Documents. This duration shall be referred to as the “Contract Term”.

- 2.2 This Contract may be renewed for a term not to exceed one (1) year by written notice given by APS at any time prior to thirty (30) Days after expiration of the preceding term. APS, at its sole discretion, has the right, but is under no obligation, to exercise this right to renewal not to exceed four (4) additional one-year periods at the same terms and conditions for a maximum cumulative duration of five (5) years. (“Renewal Contract Terms”).
- 2.3 The Contract unit prices will remain firm for the Contract Term. Unit price increases for Renewal Contract Terms shall only be considered by the Purchasing Agent upon receipt of a written request from the Contractor substantiating to the satisfaction of the Purchasing Agent increased cost of performance over the preceding Contract Term/Renewal Contract Term. Any increases approved by the Purchasing Agent shall be limited to an amount not to exceed the percentage of movement of the U.S. Department of Labor, Consumer Price Index, All Items, Unadjusted, US City Average (CPI-U) [Series ID CUUR0000SA0] for the twelve (12) month period ending three (3) months prior to end of the expiring Contract Term/Renewal Contract Term. The Contract unit prices changed as a result of this formula will become effective on the commencement date of the Renewal Contract Term and shall be binding on the Contractor for the ensuing Renewal Contract Term.
- 2.4 Unless directed otherwise by APS, any Work in progress at the time of expiration of a Contract Term/Renewal Contract Term may continue and be completed under the terms of the Contract in existence at the time the Purchase Order for the Work was issued, but must be completed no later than six (6) months following expiration of the Contract T/Renewal Contract Term in which the Purchase Order was issued.
- 2.5 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.
- 2.6 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.

3. **Direction to Proceed:**

- 3.1 For each specific task to be performed by Contractor under this Contract, the Procurement 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 Procurement 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 Procurement 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 Procurement 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 Procurement 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.

3.2 Notwithstanding the foregoing, if the circumstances are such that there is not sufficient time for issuance of a Purchase Order, APS through the Procurement 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.

4. **Estimated Quantities; No Guaranteed Minimum:**

During the Initial Contract Term or any Subsequent Contract Term, the Contractor will furnish all of the goods or services described in the Contract Documents of Contractor by APS. The Contractor understands and agrees that there are no guaranteed minimum purchases and that APS has no obligation to the Contractor if no, or fewer, items or services than any quantities estimated are required or requested by APS. Any quantities which are included in the Contract Documents are the reasonable present expectations of those who are planning for APS for the period of the Contract. The amount is only an estimate and the Contractor understands and agrees that APS is under no obligation to the Contractor to buy that amount, or any amount as a result of having provided this estimate or of having had any normal or otherwise measurable requirement in the past. The Contractor further understands that APS may require goods and/or services in excess of the estimated annual Contract amount and that such excess shall not give rise to any claim for compensation other than at the unit prices and/or rates set forth in this Contract

5. **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.

6. **Assignments:**

6.1 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.

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

7. **Governing Law:**

This Contract, the Proposal 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 Proposal Documents, or the Contract Documents shall be in the state courts of Arlington County, Virginia.

8. **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.

The Work shall be performed in accordance with the above-referenced Contract Documents and is the complete agreement between APS and the Contractor and may not be altered except by written amendment signed by APS and the Contractor in compliance with the requirements of the Contract Documents.

The signatures of APS and the Contractor, or their authorized representatives, are set out below in acknowledgment and acceptance of this Contract.

IN WITNESS WHEREOF, APS and Contractor have executed this Agreement as of the date written above.

**ACCEPTANCE:**

**ARLINGTON PUBLIC SCHOOLS**

Authorized  
Signature:



Printed Name

David J. Webb, C.P.M.

Title:

Director/Procurement Agent

Date:

November 25, 2019

**CHARMAY, INC. dba SERVICE MASTER  
NCR**

Authorized  
Signature:



Printed Name:

CHRIS COFFIN

Title:

DIRECTOR OF PRODUCTION

Date:

15 NOVEMBER 2019

**Attachments:**

- Attachment A- Scope of Work
- Attachment B- Fee Schedule
- Attachment C- Contractor Certification Regarding Criminal Convictions
- Attachment D- Non-Disclosure and Data Security Agreements
- Attachment E- Contract Terms and Conditions
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**Attachment A**  
**Scope of Services**

**A. INTRODUCTION**

Contractor shall provide Industrial Cleaning & Restorative Services (the “Work”) at thirty-seven (37) schools and office buildings throughout the County of Arlington, Virginia. The Contractor will provide personnel equipped and trained in appropriate procedures for the Work. The Contractor shall provide all personnel, materials, equipment, and supplies to administer the Work. The Contractor is an independent Contractor and the personnel are to be furnished by the Contractor, the personnel shall remain its employees, and not those of APS.

The Work includes industrial and heavy-duty carpet, hard flooring and upholstery cleaning under non-emergency and emergency situations to include, but not be limited to: mold, flood, fire, sewage backup or viral or other health conditions present in the facility. Offerors who are certified through the Institute or Inspection, Cleaning and Restoration Certification (IICRC) or other relevant organizations should provide proof. The Work would be requested on an as needed basis to respond to these situations and others requiring this level of cleaning and restoration.

**B. GENERAL**

Response time for water damage and sewage damage projects is a return telephone call within one (1) hour, a supervisor onsite within two (2) hours and equipment setup and running within six (6) hours of the initial telephone call on business days. Add two (2) hours to each time listed above for incidents that occur on the weekends or timeframes outside of business hours.

Response time for mold projects is a return telephone call within one (1) hour, an estimator onsite within twenty-four (24) hours on business days and a remediation estimate and schedule within an additional twenty-four (24) hours. However, estimates for projects over 5,000 sq. feet may take longer and timeframes shall be agreed upon between the Contractor and the Project Manager depending on the complexity of the project. Incidents that occur on the weekends or timeframes outside of business hours will remain the same as business hours.

The Contractor will assign an account manager who will be the main contact for project communications and status. The Offeror agrees to make schools a priority over commercial and residential projects. Quarterly or bi-monthly meetings shall be held during initial set-up.

All projects shall be completed in compliance with IICRC S520 Standard and Reference Guide for Professional Mold Remediation and IICRC S500 Standard and Reference Guide for Professional Water Damage Restoration as approved by APS.

Qualified Offerors are encouraged to submit a Proposal for (the “Work”) on an as needed basis to respond to these situations and others requiring this level of cleaning and restoration. Safety Material Data Sheets shall be furnished by the Contractor prior to work beginning.

A Communications Document (Com Doc) shall be utilized for each project. The Com Doc shall be completed and sent to APS within twenty-four (24) hours of each site visit. The Com Doc will have a bullet list of the daily events, to include date, time location, type and quantity of equipment delivered / picked up and general activities, e.g. HEPA vacuumed walls, floors, mopped floors, cleaned contents with organic, plant based and safe for children anti-microbial, etc.

**A. Carpet Cleaning-Water /Sewer Damage and Related Situations:**

Projects of less than 3,000 sq.ft. shall be supervised by IICRC certified Water Restoration Technician and projects above 3,000 sq.ft. shall be supervised by IICRC certified Applied Structural Drying technician or comparable.

1. Clean and preserve the integrity of the carpet by using the most appropriate method which may include but not limited to extraction, steam extraction, rotary brush, mobile plant, and/ or extra spotting treatment.
2. Process shall include at a minimum:
  - 2.1. Assess the damage;
  - 2.2. Extract the water and remove unsalvageable carpet and related material;
  - 2.3. Dry the affected areas and isolate the unaffected areas;
  - 2.4. Monitor the process daily to ensure that drying is taking place and to prevent further moisture related damage.

**B. Carpet Cleaning-Fire Damage and Related Situations:**

All fire restoration projects shall be supervised by IICRC certified Fire and Smoke Restoration Technician and projects above 3,000 sq.ft. shall be supervised by a IICRC certified Applied Structural Drying technician or comparable.

1. Apply proven interventions to halt and when possible reverse the effects of this damage and eliminate unwanted odors and reclaim carpet, floors and upholstered furniture whenever possible.
2. Process shall include at a minimum:
  - 2.1. Assess the damage;
  - 2.2. Provide pre-cleaning;
  - 2.3. Control corrosion and humidity;
  - 2.4. Remove smoke and soot;
  - 2.5. Eliminate odor and deodorize;
  - 2.6. Clean carpet, floor and upholstery thoroughly;
  - 2.7. Monitor the process until task is complete.

**C. Hard Flooring Cleaning:**

1. Clean and return flooring to its original appearance by safely removing years of residue and soil build up.
2. Process shall include at a minimum:
  - 2.1. Assess damage;
  - 2.2. Strip, clean and seal all types of hard flooring: tile linoleum, etc.;
  - 2.3. Protect and enhance the beauty of hard floor surfaces;
  - 2.4. Monitor the process until task is complete.

**D. Upholstery Cleaning:**

1. Clean and return upholstery to its original appearances. Upholstery cleaning chemicals must be hypoallergenic due to the increased contact with skin. All cleaning and protecting products used on upholstery must always be tested to avoid damage to upholstery.

2. Process shall include at a minimum:
  - 2.1. Assess the damage;
  - 2.2. Vacuum area thoroughly;
  - 2.3. Provide pre-treating cleaning;
  - 2.4. Agitate heavily soiled areas;
  - 2.5. Clean and extract dirt from furniture;
  - 2.6. Dry vacuum excess moisture;
  - 2.7. Speed dry with air movers;
  - 2.8. Apply protectors and deodorizers;
  - 2.9. Monitor the process until task is complete.

**E. Mold Remediation:**

1. Apply proven interventions to halt and when possible reverse the effects of this damage and eliminate unwanted odors and spores as well as minimize contamination of adjacent spaces.
2. Clean and preserve the integrity of the building using the most appropriate method which will include containment, negative air, specialized cleaning, HEPA vacuuming, content manipulation and mold removal and prevention.

Projects greater than 3,000 sq. ft. are to be directed by an industrial hygienist; however, the Contractor assigned supervisor shall be certified as an IICRC Applied Microbial Restoration Technician or comparable on all projects.

- 2.1. Service and clean duct work if requested;
- 2.2. Determine and recommend industry standard requirements for containment, negative air/ air scrubbers dehumidifiers, placement as well as monitoring of the equipment;
- 2.3. Maintain containment at approximately 0.02 increase of water column, confirm with an electronic pressure meter and demonstrate if requested;
- 2.4. Demonstrate with a particle counter that discharge air from air scrubbers and dehumidifiers recirculated indoors is clean;
- 2.5. Calibrate particle counter and pressure meters as required by manufacturer or annually;
- 2.6. Identification and removal of contaminated contents, drywall, furnishings, etc.
- 2.7. Apply organic, plant based and safe for children anti-microbials as discussed or directed by APS or hygienist;
- 2.8. Provide photo documentation of contents to be thrown away and provide to APS in a Timely manner;
- 2.9. Recommend ways to speed up the process and to pass clearance testing;
- 2.10. Monitor the process until task is complete.

**F. Structural Drying:**

Projects of less than 3,000 sq. ft. shall be supervised by IICRC Certified Water Restoration Technician and projects above 3,000 sq. ft. shall be supervised by IICRC Certified Applied Structural Drying Technician or comparable.

1. Apply proven interventions to halt the spread of water and humidity and possible mold contamination.
2. Remove bulk water as soon as possible to limit damage;
3. Determine the limits of water soaked contents and building materials;
4. Determine IICRC or industry standard requirements (as approved by APS) for dehumidifiers

and air-mover quantities as well as specialty drying equipment required to dry walls, cabinets and furnishings;

5. Clean and preserve the integrity of the building using the most appropriate methods;
6. Demonstrate with a particle counter that discharge air from air scrubbers and dehumidifiers recirculated indoors is clean;
7. Monitor the process until task is complete.

**G. Reconstruction:**

1. Water or mold damaged building materials that have been demolished are to be reinstalled under this contract, if requested;
2. New materials shall be of similar type and quality and shall be installed in a professional manner.

**H. Specialized Cleaning:**

Specialized cleaning and disinfecting will be required following pest extermination, bacterial or viral infection outbreaks, and/ or other unpredictable events. The Contractor will use the most appropriate and effective means of cleaning and disinfection after consultation with APS or the National Center for Disease Control.

**I. Carpet, flooring, and Upholstery Cleaning-Heavy Duty Usage, and/ or Extremely Soiled.**

This service will be requested when the situation cannot be adequately cleaned by standard cleaning methods.

**J. Quality Control Plan:**

1. Develop and implement a complete quality plan (QCP). The QCP shall be a system for identifying and correcting deficiencies in the quality of services before the level of performance becomes unacceptable. This plan is very important to the success of the Contract.

The plan shall include, but is not limited to the following:

- 1.1 An inspection system which is tailored to APS should cover all services referenced in the ITB.
  - 1.2 A checklist for use during performance of the work. The checklist must be signed and dated to indicate the time the inspection was completed. It is not permissible for the person performing the work to inspect and accept that work.
  - 1.3 Identify employees by title and type of inspection who are authorized to complete inspections.
  - 1.4 A file of inspection reports conducted must include the corrective action taken. These inspection reports shall be made available to APS upon request.
2. Failure to implement the approved plan and pursue it diligently throughout the term of the Contract may be grounds for cancellation of Contract.

**K. Contractor Training Program:**

1. Develop and/ or provide a specific training program related to the Scope of Work identified in the RFP.

This program should include but not limited to the following:

- 1.1 Initial general training and proposed specific training;
- 1.2 In service training and updates;



1.3 Specialized training.

2. All training shall comply with Federal, State, Local and OSHA requirements. The Contractor must maintain a current log of all employees who have completed the training and make records available to the APS upon request.

**C. OPERATIONAL REQUIREMENTS**

A. Estimating Software:

Contractor must use estimating software to outline the specific items necessary to restore the property.

Acceptable estimate software:

1. Xactimate

B. Uniforms:

1. All personnel are required to wear a uniform and photo identification card, both of which shall clearly identify personnel as employees of the Contractor. This requirement shall apply upon entering APS property and at all times while on duty. The Contractor will provide the uniforms to all personnel working in the facility.

C. Consulting Services:

1. Contractor's staff must be available for consultation with APS staff on an as-needed basis between 8:00 A. M. and 5:00 P.M., Monday through Friday.

D. Quarterly Meetings:

1. APS reserve the right to schedule quarterly meetings at no additional cost to APS, APS will provide a 30 days' notice.

E. Project Progress Communication

1. During assigned work with APS, Contractor shall provide project progress communications in brief bulleted format by the COB the next day.

**END OF SCOPE OF SERVICES**

**Attachment B**

**Fee Schedule**

	Unit	Regular Hours Cost/Unit	After Hours Cost/Unit
<b>Water/Sewage Damage</b>			
Emergency Service Call	EA	\$ 120.52	\$180.79
Equipment setup, take down, and monitoring	HR	\$ 43.46	\$62.27
Haul debris - per pickup truck load	EA	\$ 111.90	\$111.90
Personal protective equipment	EA	\$ 16.09	\$16.09
Equipment decontamination	EA	\$ 28.28	\$28.28
Water extraction & remediation technician	HR	\$ 43.46	\$65.27
Hazardous waste/mold cleaning technician	HR	\$ 52.11	\$88.95
Contents evaluation and/or supervisor/admin	HR	\$ 45.19	\$67.87
Provide box, packing paper & tape - medium size	EA	\$ 2.39	\$2.39
Evaluate, pack & inventory misc. items - per med box	EA	\$ 9.96	\$9.96
Inventory, packing, boxing and moving charge	HR	\$ 32.13	\$32.13
Content manipulation	HR	\$ 28.64	\$43.02
Equipment monitoring	HR	\$ 43.46	\$65.27
Air mover	DAY	\$ 21.95	\$21.95
Dehumidifier - Large	DAY	\$ 60.71	\$60.71
Dehumidifier - Xlarge	DAY	\$ 89.78	\$89.74
Dehumidifier - Large Low Grain	DAY	\$ 60.71	\$60.71
Dehumidifier - Xlarge Low Grain	DAY	\$ 89.78	\$89.78
Specialty drying equipment High pressure air to dry cabi	DAY	\$ 119.70	\$119.70
Drill holes for wall cavity drying	EA	\$ 0.40	\$0.56
Baseboard - detach	LF	\$ 0.86	\$1.31
Water extraction from carpeted floor	SF	\$ 0.41	\$0.61
Water extraction from carpeted floor - heavy	SF	\$ 0.49	\$0.73
Water extraction from carpeted floor - Category 2 water	SF	\$ 0.65	\$0.98
Water extraction from carpeted floor - Cat 2 water - heav	SF	\$ 0.73	\$1.16
Water extraction from hard surface floor - Cat 3 water	SF	\$ 0.62	\$0.99
Water extraction from carpeted floor - Cat 3 water - heav	SF	\$ 1.23	\$1.78
Water extraction from hard surface floor	SF	\$ 0.20	\$0.29
Water extraction from hard surface floor - Cat 3 water	SF	\$ 0.62	\$0.99
Apply anti-microbial	SF	\$ 0.21	\$0.29
Block and pad furniture in room	EA	\$ 36.21	\$54.34
Clean floor	SF	\$ 0.31	\$0.31
Clean floor - heavy	SF	\$ 0.47	\$0.47
Clean and deodorize carpet truck mount	SF	\$ 0.51	\$0.77
Clean and deodorize carpet portable unit	SF	\$ 0.43	\$0.65
Deodorize building - hot thermal fog	CF	\$ 0.05	\$0.05

<b>Mold</b>			
Emergency Service Call If requested by APS	EA	\$ 120.52	\$180.79
Structure inspection	EA	\$ 213.75	\$299.25
Commercial supervision/project management	HR	\$ 51.27	\$73.83
Hazardous waste/mold cleaning supervisory/admin	HR	\$ 61.09	\$95.80
Drywall installer/finisher	HR	\$ 77.99	\$112.31
Finish carpenter	HR	\$ 74.60	\$107.44
Painter	HR	\$ 97.24	\$140.03
HEPA vacuuming - hourly charge	HR	\$ 54.78	\$93.12
HEPA vacuuming - detailed	SF	\$ 0.63	\$0.90
Haul debris - per pickup truck load	EA	\$ 111.90	\$111.90
Negative air fan/air scrubber	DAY	\$ 103.70	\$103.70
Add HEPA filter (for negative air exhaust fan)	EA	\$ 160.32	\$160.32
Add for HEPA filter (for canister/backpack vacuum)	EA	\$ 44.90	\$44.90
Equipment decontamination - per piece of equipment	EA	\$ 27.43	\$27.43
Containment barrier/airlock/decontamination chamber	SF	\$ 0.60	\$0.86
Containment barrier - tension post - per day	DAY	\$ 2.82	\$2.82
Peel & zipper	EA	\$ 12.52	\$12.52
Protect - cover with plastic	SF	\$ 0.22	\$0.38
Clean register - heat/AC	EA	\$ 4.11	\$5.94
Clean the walls and ceiling	SF	\$ 0.27	\$0.39
Clean the walls and ceiling - heavy	SF	\$ 0.32	\$0.48
Additional cost for high wall or ceiling - over 14'	SF	\$ 0.05	\$0.08
Clean floor or roof joist system	SF	\$ 0.70	\$1.00
Clean floor or roof joist system - heavy	SF	\$ 0.98	\$1.41
Tear out wet drywall, cleanup, bag - up to 4' - cat 3	LF	\$ 5.37	\$7.42
Tear out wet drywall, cleanup, bag - cat 3	SF	\$ 1.00	\$1.44
Tear out wet non-salvageable glued carpet, cut/bag - cat 3	SF	\$ 1.08	\$1.60
Tear out non-salvageable floating floor & bag - cat 3	SF	\$ 1.97	\$2.93
Tear out and bag wet insulation - cat 3	SF	\$ 0.85	\$1.24
Tear out non-salvageable wood floor & bag - cat 3	SF	\$ 3.82	\$5.94
Apply anti-microbial agent	SF	\$ 0.22	\$0.30
Deodorize building - hot thermal fog	CF	\$ 0.05	\$0.07

<b>Carpets</b>			
Clean carpet cove - heavy	LF	\$ 0.28	\$0.39
Clean and deodorize carpet	SF	\$ 0.34	\$0.49
Clean and deodorize carpet - heavy staining	SF	\$ 0.43	\$0.62
Clean carpet - cleaning charge per step	EA	\$ 3.49	\$5.03
Clean carpet - cleaning charge per step - heavy	EA	\$ 4.88	\$7.03

<b>Upholstery Cleaning</b>			
Clean bench - fabric	LF	\$ 14.21	\$20.46
Clean chair	EA	\$ 9.09	\$13.08
Clean chair - large	EA	\$ 16.89	\$24.32
Clean loveseat - plain fabric	LF	\$ 26.69	\$38.43
Clean sofa	LF	\$ 27.11	\$39.04
Clean rug up to 144 square feet	SF	\$ 93.86	\$135.16

<b>Fire Damage</b>			
Cleaning technician Fire damage	HR	\$ 43.46	\$65.27
Clean ductwork - interior (per register)	EA	\$ 26.26	\$37.81
Hydroxyl generator - odor counteractant - 2 optics	DAY	\$ 153.90	\$153.90
Hydroxyl generator - odor counteractant - 3 optics	DAY	\$ 202.27	\$202.27
Deodorize building - ozone & hydroxyl treatment	CF	\$ 0.04	\$0.05
Deodorize building - ozone treatment	CF	\$ 0.03	\$0.05
Clean and deodorize carpet	SF	\$ 0.34	\$0.49
Clean and deodorize carpet - heavy staining	SF	\$ 0.43	\$0.62
HEPA vacuuming	HR	\$ 43.28	\$66.43
HEPA vacuuming - detailed	SF	\$ 54.78	\$78.88
Additional cost for high wall or ceiling - over 14'	SF	\$ 0.05	\$0.08
Additional cost for high wall or ceiling - 11' to 14'	SF	\$ 0.04	\$0.05
Clean with pressure/chemical spray	SF	\$ 0.26	\$0.37
Clean with pressure/chemical spray - heavy	SF	\$ 0.39	\$1.62
Clean register - heat/AC	EA	\$ 4.11	\$5.93
Sandblasting	SF	\$ 0.89	\$1.28
Dry ice blasting	SF	\$ 2.89	\$4.16
Soda blasting	SF	\$ 1.79	\$2.57
Vacuuming	SF	\$ 0.06	\$0.09
Vacuuming - heavy	SF	\$ 0.13	\$0.20
Clean carpet shampoo machine	EA	\$ 14.12	\$20.32
Clean carpet shampoo machine - heavy	EA	\$ 19.20	\$27.65
Clean vacuum cleaner - upright	EA	\$ 18.52	\$26.65
Clean vacuum cleaner - upright - heavy	EA	\$ 23.49	\$33.83

<b>Commercial Kitchen Equipment</b>			
Commercial kitchen cleaning technician and supplies	HR	\$ 43.46	\$65.27
<b>Construction Material and Rental Equipment</b>			

InstaScope for basic inspection includes exterior control sample and two interior samples (up to 300 square feet each)		\$332.50	\$332.50
Additional Samples		\$71.25	\$71.25

<b>Construction Material and Rental Equipment</b>		
Construction Materials, i.e., drywall paint, etc..		21.00%
Rental equipment, i.e., lifts, generators etc.		21.00%
Commercial duct cleaning		21.00%

**END OF FEE SCHEDULE**

ATTACHMENT C



CONTRACTOR CERTIFICATION  
REGARDING CRIMINAL CONVICTIONS

This form must be completed by an authorized official for any organization contracting to provide services under a contract with the Arlington Public Schools or any of its schools or departments, or any subcontractor under such contractor.

The completed form from the Contractor is a condition precedent to the award of the Contract.

As the official authorized to enter into this Contract on behalf of my organization, I certify that:

1. No employee of the organization who will be in direct contact with students on school property during regular school hours or during school-sponsored activities during the performance of this Contract 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 Virginia 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 Virginia 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.

I understand that a materially false statement regarding this certification is a Class 1 misdemeanor and that conviction of such misdemeanor shall result in the revocation of this Contract and of any related license that I may hold. I declare under penalty of perjury that the foregoing statements are true and correct.

Charmay, Inc (dba ServiceMaster NCR)

Name of Firm

7551 Fordson Road

Alexandria, VA 22306

Address of Firm

703-212-7000

Telephone

  
Signature

Director of Production, Training & Safety

Name and Title (please type or print)

April 12, 2019

Date

## ATTACHMENT D

### NON-DISCLOSURE AND DATA SECURITY AGREEMENT

The undersigned, an authorized agent of the Contractor and on behalf of Charmay, Inc (dba ServiceMaster NCR) (Contractor) hereby agree that the Contractor will hold Arlington Public Schools (APS) provided information, documents, data, images, records and the like (hereafter "Information") confidential and secure and to protect it against loss, misuse, alteration, destruction or disclosure. This includes but is not limited to the Information of the APS, its employees, contractors, residents, clients, patients, taxpayers and property as well as Information that the APS shares with Contractor for testing, support, conversion or other services provided under APS (the "Work" or "APS Contract" as applicable) or which may be accessed through other APS owned or controlled databases (all of the above collectively referred to herein as "Information" or "APS Information").

In addition to the Data Security obligations set in the APS Contract, the Contractor agrees that it will maintain the privacy and security of the APS Information, control and limit internal access and authorization for access to such Information and not divulge or allow or facilitate access to APS Information for any purpose or by anyone unless expressly authorized. This includes but is not limited to Information that in any manner describes, locates or indexes anything about an individual including, but not limited to, his/her (hereinafter "his") Personal Health Information, treatment, disability, services eligibility, services provided, investigations, real or personal property holdings, and his education, financial transactions, medical history, ancestry, religion, political ideology, criminal or employment record, social security number, tax status or payments, date of birth, address, phone number or that affords a basis of inferring personal characteristics, such as finger and voice prints, photographs, or things done by or to such individual, and the record of his presence, registration, or membership in an organization or activity, or admission to an institution (also collectively referred to herein as "Information" or "APS Information").

Contractor also agree that it will not directly or indirectly use or facilitate the use or dissemination of Information (whether intentionally or by inadvertence, negligence or omission verbally, electronically, through paper transmission or otherwise) for any purpose other than that directly associated with its work under the Work. Contractor acknowledges that any unauthorized use, dissemination or disclosure of Information is prohibited and may also constitute a violation of Virginia or federal laws, subjecting it or its employees to civil and/or criminal penalties.

The Contractor agrees that it will not divulge or otherwise facilitate the disclosure, dissemination or access to or by any unauthorized person, for any purpose, of any Information obtained directly, or indirectly, as a result of its work on the Work. Contractor shall coordinate closely with the APS Project Officer to ensure that its authorization to its employees or approved subcontractors is appropriate, tightly controlled and that such person/s also maintain the security and privacy of Information and the integrity of APS networked resources.

Contractor agrees to take strict security measures to ensure that Information is kept secure, properly stored, that if stored that it is encrypted as appropriate, stored in accordance with industry best practices and otherwise protected from retrieval or access by unauthorized persons or unauthorized purpose. Any device or media on which Information is stored, even temporarily, will have strict security and access control. Any Information that is accessible will not leave the Contractor's work site or the APS' physical facility, if working onsite, without written authorization of the APS Project Officer. If remote access or other media storage is authorized, Contractor is responsible for the security of such storage device or paper files.

Contractor will ensure that any laptops, PDAs, netbooks, tablets, thumb drives or other media storage devices, as approved by the APS, and connected to the APS network are secure and free of all computer viruses, or running the latest version of an industry standard virus protection program. Contractor will ensure that all passwords used by its employees or subcontractors are robust, protected and not shared. No information may be downloaded expect as agreed to by the parties and then only onto an APS approved device. Downloading onto a personally owned device is prohibited. Contractor agrees that it will notify the APS Project Officer immediately upon discovery, becoming aware or suspicious of any unauthorized disclosure of Information, security breach, hacking or other breach of this Agreement, the APS Contract, APS policy, Contractor's security policies, or any other breach of Work protocols. The Contractor will fully cooperate with the APS to regain possession of any Information and to prevent its further


disclosure, use or dissemination. The Contractor also agrees, if requested, to promptly notify others of a suspected or actual breach.

Contractor agrees that all duties and obligations enumerated in this agreement also extend to its employees, agents or subcontractors who are given access to APS Information. Breach of any of the above conditions by Contractor's employees, agents or subcontractors shall be treated as a breach by Contractor. Contractor agrees that it shall take all reasonable measures to ensure its employees, agents and subcontractors are aware of and abide by the terms and conditions of this Agreement and related data security provisions in the APS Contract.

It is the intent of this *Non-Disclosure and Data Security Agreement* to ensure that the Contractor has the highest level of administrative safeguards, disaster recovery and best practices are in place to ensure confidentiality, protection, privacy and security of APS Information and APS networked resources and to ensure compliance with all applicable local, state and federal law or regulatory requirements. Therefore, to the extent that this *Non-Disclosure and Data Security Agreement* conflicts with the APS Contract or with any applicable local, state, or federal law, regulation or provision, the more stringent APS Contract requirement, law, regulation or provision shall control.

At the conclusion of the Work, Contractor agrees to return all APS Information to the APS Project Officer. These obligations remain in full force and effect throughout the Work and shall survive any termination of the APS Contract.

Authorized Signature: \_\_\_\_\_



Printed Name and Title: Christopher Coffin, Director of Production, Training & Safety

Date: April 12, 2019

**ATTACHMENT E**  
**GENERAL 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 Request for Proposal Documents and Contract Documents associated therewith.

**1. DEFINITIONS:**

- 1.1 ADDENDUM:** A change to the Request for Proposal Documents or Contract Documents issued by the Owner prior to the Proposal Due Date.
- 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 INTENTIONALLY OMITTED.**
- 1.4 INTENTIONALLY OMITTED.**
- 1.5 INTENTIONALLY OMITTED.**
- 1.6 INTENTIONALLY OMITTED.**
- 1.7 INTENTIONALLY OMITTED.**
- 1.8 INTENTIONALLY OMITTED.**
- 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 INTENTIONALLY OMITTED.**
- 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 8:00 A.M. through 5:00 P.M., Monday through Friday, excluding 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 Procurement 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 INTENTIONALLY OMITTED.**
- 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 Procurement Director/Purchasing Agent unless otherwise stated specifically.
- 1.31 PRICING SCHEDULE:** The pricing information appearing as Attachment B to the Agreement 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 of 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 Procurement 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 PROCUREMENT DIRECTOR/PURCHASING AGENT:** The employee of APS authorized to act on behalf of the Owner in this Contract. The Procurement 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 Procurement Director/Purchasing Agent. It shall be the responsibility of the Offeror, and thereafter the Contractor, to establish the authority to act regarding any communication or action by any person other than the Procurement Director/Purchasing Agent. Use of the term Procurement 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 OFFEROR:** 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 OFFEROR:** A person or entity who or which has submitted a Proposal that conforms in all material respects to the Request for Proposal.
- 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, service 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 Procurement 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 actually 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 APS Procurement 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 Procurement 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 Procurement Director/Purchasing Agent approves the proposed substitute, a Change Order approving the change will be issued by the Procurement 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 APS Procurement 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 Procurement 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:

Doug Marting Project Manager  
Environmental Services  
2770 South Taylor Street  
Arlington, VA 22206  
Telephone: (703) 228-7739  
doug.martin@apsva.us

**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 confirm locations of existing utilities by performing such tests or other measures as may be required, including but not limited to compliance with all Commonwealth of Virginia Miss Utility laws, at the Contractor's sole expense and no increase to the Contract Price. If the Contractor discovers, or in the exercise of reasonable care should have discovered, circumstances at the Project Site which the Contractor contends may cause Work beyond that contemplated by the applicable Purchase Order, the Contractor shall give Notice to the Owner of such circumstances before commencing Work affected thereby and shall await Owner's written instructions, which shall include a statement of whether or not the Owner agrees that such circumstance will cause extra Work and how that extra Work is to be compensated. If the Contractor proceeds with the affected Work prior to receipt of the Owner's written instructions, 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.
- D. 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.
- E. The Contractor shall confine the Work to areas of the Project Site permitted by the Contract Documents and shall comply with all applicable laws, ordinances, permits related to the Project Site.
- F. 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.
- G. Contractor workers shall not be present in any building owned or controlled by Owner without an Owner employee present. In the event the Contractor desires to perform Work outside Normal Working Hours or on Holidays in a building owned or controlled by Owner, Contractor shall notify the Owner in writing at least two (2) working days prior to the intended Work. Upon approval from the Owner, which Owner may in its sole discretion decline to grant, the Work can be scheduled and the Owner will provide an employee to deactivate the building security system and remain present while Contractor workers are present. The cost for Owner employee support for Contractor Work outside Normal Working Hours or on a Holiday shall be paid by the Contractor to the Owner at a rate of \$40 per hour per Owner employee required to remain present while the Contractor's workers are present. The cost of custodial support for Sunday or Holiday Work shall be paid by the Contractor to the Owner at a rate of \$70 per hour per Owner employee required to remain present while the Contractor workers are present. The Owner shall submit employee time sheets to the Contractor for review and verification.
- H. 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. WARRANTIES:**

- A. The Contractor warrants to the Owner that all materials and equipment furnished under the Contract will be new unless otherwise specified, free of defects, of the latest model, of the best quality, and in strict compliance with the requirements of the Contract Documents.
- B. The Contractor warrants to the Owner that all workmanship will be of the best quality and in strict compliance with the requirements of the Contract Documents.
- C. All materials and equipment furnished under the Contract shall be free and clear of all liens or other claims of any type by any third parties.
- D. All workmanship, materials or equipment not conforming to the foregoing standards may be deemed defective. APS has no obligation to pay the Contractor for Work, materials or equipment rejected as defective until satisfactory correction has been accomplished by Contractor.
- E. All Warranties shall be in effect for the entirety of the Warranty Period, or the manufacturer's standard warranty, whichever is longer. In the event corrective Work is required during the Warranty Period, the Warranty on the repaired Work shall extend for one (1) year from the date of completion of the repairs. The Warranty shall include all parts, labor, transportation, and any other costs necessary to keep the product in good operating condition, but shall not be applicable to damage caused by Owner's misuse of the item or due to normal wear and tear. If seasonal limitations prevent any required performance testing of the completed Work, the Warranty Period for such Work shall begin after the performance tests have been successfully performed.

**15. CORRECTION OF DEFECTIVE WORK BEFORE AND DURING WARRANTY PERIOD:**

- A. In the event the Work, or any portion thereof, is determined during the Warranty Period to be defective, incomplete or to have been improperly performed, the Contractor shall, within three (3) Days after written notice from the Owner, commence to remove all defective and deteriorated Work and materials and replace it at the Contractor's expense with Work and materials in accordance with the requirements of the Contract Documents and to complete all incomplete Work in accordance with the Contract Documents within a reasonable time period.
- B. In the event the Contractor fails to commence the removal, replacement, completion or correction of such Work within three Days after the date of written notice from the Owner and to complete such Work within a reasonable time period thereafter, the Owner will cause such Work to be performed by other Contractors and the Contractor will be obligated to pay the Owner all costs incurred in the performance of such Work plus an administrative fee of ten percent (10%) within thirty (30) Days following submission by Owner to Contractor of such demand for payment.
- C. The Contractor's Warranty obligations shall remain in full force and effect regardless of whether the Warranty Work was performed by the Contractor or by the Owner.

- D. Defects or nonconformities which are remedied as a result of Warranty obligations shall subject the remedied portion of the Work to an extended Warranty Period of one (1) year from the date upon which such defect or nonconformity was fully remedied or from the date of Final Completion of the Project as a whole, whichever is later, whether such Warranty Work was performed by the Contractor or by the Owner. Any repetitive defect, failure or malfunction identified within the Warranty Period shall remain under Warranty until it has been fully corrected and has performed without defect, failure or malfunction for a period of one (1) year.

**16. 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. The Contractor will ensure that no Work shall be performed in occupied areas on a Project Site during school hours unless express written approval has been granted by the Owner and proper safety precautions have been exercised to isolate the area of the Work.
- D. Tobacco products, alcoholic beverages, illegal drugs, and weapons are prohibited on the Project Site and will constitute grounds for immediate removal of any employee of the Contractor or of any Subcontractor from the Project Site. Sexual harassment, profanity, and inappropriate behavior are not permitted on the Project Site and will constitute grounds for immediate removal of any employee of the Contractor or of any of its Subcontractors.
- E. No Smoking Policy on Arlington Public Schools' property: Contractors and Subcontractors, including their employees or agents, performing Work on APS property shall abide by the no smoking policies applicable to the property.
- F. 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.
- G. 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 C to its Proposal 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
  3. 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
  4. 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.

**17. 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.

**18. 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.

**19. 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.

**20. 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.

**21. 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.

**22. 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.

**23. PAYMENT TO CONTRACTOR:**

A. Invoices unless otherwise specified in the Contract or in the Purchase Order shall be submitted immediately upon completion of the shipment or services. If shipment is made

by freight or express, the original Bill of Lading properly received, must be attached to the invoices. Mail invoices, as applicable, to:

Arlington Public Schools  
Syphax Education Center  
Office of Accounting  
2110 Washington Blvd  
Arlington, Virginia 22204

- 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 of 5%. 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 Proposal Due Date 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 Proposal. 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 Procurement 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 Procurement 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 Proposal Due Date, or (2) if any such

general price reductions were made, that as provided above, they were reported to the Procurement 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 Procurement Director/Purchasing Agent was notified of any such reduction.

**24. 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.

**25. 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.

**26. 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.

**27. 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.

**28. 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.

**29. 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.

**30. 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.

**31. 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 Procurement 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 Procurement Director/Purchasing Agent a written itemization of the actual additional compensation claimed, with all supporting documentation.
- C. The Procurement 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 Procurement Director/Purchasing Agent to issue a final decision shall be deemed a final decision to deny the claim as of the ninetieth (90<sup>th</sup>) 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.

**32. 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.

**33. 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.

**34. 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 affected 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.

**35. 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.

**36. 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 Procurement 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 coverages 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 APS Procurement Director/Purchasing Agent.
  5. Contract Identification – The insurance certificate shall state the Contract number and title.
  6. Business Automobile Liability - \$1,000,000 Combined Single Limit (Owned, Non-owned, and Hired). Contractor must assure that the required coverage is maintained by the Contractor (or third-party owner of such motor vehicle.)
- 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.

**37. DEFAULT AND TERMINATION:**

- A. Contractor’s Default
  1. The following shall constitute Event of Default by Contractor:
    - 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.

**38. 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.

**39. 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.

**40. 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 workers or otherwise violate the provisions of the Federal Immigration Reform and Control Act of 1986.

**41. 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.

**42. 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.

**43. 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 proposals 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.

**44. HIPAA COMPLIANCE:**

Contractor shall be responsible for determining the applicability of, and shall comply with as applicable, all legislative and regulatory requirements of privacy, security and electronic transaction components of the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

**45. 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.

**46. 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 Offeror, 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.

**47. 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.

**48. 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.

**49. STUDENT DATA USAGE AND PRIVACY AGREEMENT:**

As a condition of awarding a Contract for Work that requires the Contractor to have access to student data, the Contractor is required to sign the Student Data Usage and Privacy Agreement (SDUPA).

**50. 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.

**51. 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.

**52. 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

**53. 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.

**54. 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.

**55. 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**

## ATTACHMENT F

### SPECIAL TERMS AND CONDITIONS

#### **1. SITE INSPECTION:**

- 1.1 The Contractor is expected to become familiar with and take into consideration site conditions which may affect the Work, and to check all dimensions at the site.
- 1.2 The Contractor must acquaint himself thoroughly as to the character and nature of the Work to be done. The Contractor furthermore must make a careful examination of the site of the Work and inform himself fully as to the difficulties to be encountered in performance of the Work, the facilities for delivering, storing and placing materials and equipment and other conditions relating to construction and labor.
- 1.3 For Extra Work, the Contractor shall examine the premises and the site and compare them with the drawings and specifications. He shall familiarize himself with the existing conditions such as obstructive area levels and any problems related to erecting the required systems.
- 1.4 No plea of ignorance of conditions that exist or may hereafter exist on the site of the Work, or difficulties that may be encountered in the investigations and examinations, will be accepted as an excuse for any failure or omission on the part of the Contractor to fulfill in every detail all the requirements of the Contract documents and to complete the Work for the consideration set forth therein, or as a basis for any claim whatsoever.
- 1.5 Insofar as possible, the Contractor, in carrying out his Work, must employ such methods or means as will not cause interruption of or interference with the Work of any other Contractor, or APS personnel at the site.

#### **2. USE OF PREMISES:**

- 2.1 On or about the premises and adjacent areas, the Contractor shall cause all apparatus storage of materials, and activities of workmen to be confined to the limits indicated by law, ordinances, permits and the directions of the Owner's representative, and shall not encumber or permit the premises or adjacent areas to be encumbered with such materials or apparatus. The Work site shall be kept in such orderly fashion as will not duly interfere with the progress of the Work or the Work of any other Contractor.
- 2.2 The Contractor shall be responsible for repairing or replacing any Work damaged by his operations within twenty (20) days after notification by the Owner's representative that damage has occurred.
- 2.3 It will be the responsibility of the Contractor to report to the Project Engineer any damages found prior to any Work at the site.

#### **3. CLEANING UP:**

The Contractor shall at all times keep the premises and adjacent areas free from accumulations of waste material or rubbish. At the completion of the Work, he shall cause to be removed from and about the premises and adjacent areas, all rubbish, tools used for Work and surplus materials and shall have the area "Broom Clean" and ready for use. In case of a dispute Arlington Public Schools may remove rubbish or otherwise clean up, and may charge the Contractor either by deduction

from amounts unpaid to the Contractor, or by other means with such cost as the Project Engineer shall determine to be fair and equitable.

**4. OWNER'S REPRESENTATIVE:**

4.1 The Owner's representative for questions following Contract award is:  
Doug Martin Program Manager, Environmental Services  
2770 South Taylor Street  
Arlington, VA 22206  
Telephone: (703) 228-7739  
[doug.martin@apsva.us](mailto:doug.martin@apsva.us)

4.2 Whenever the term "Engineer", "Project Engineer", "Project Manager" or similar terms are used, in preceding or subsequent paragraphs of this Contract, it shall refer to the Owner's representative for Contract coordination.

**5. ADDENDA AND INTERPRETATIONS:**

No interpretation of the meaning of the plans, specifications or other Contract documents will be made to the Contractor orally.

**6. EXTENSION OF TIME: NO WAIVER:**

6.1 If the Contractor shall be delayed in the completion of his Work by reason of unforeseeable causes beyond his control and without his fault of negligence, including but not restricted to acts of God or the public enemy; acts of neglect to the Owner, acts or neglect of any other Contractor, fires, floods, epidemics, quarantine restrictions, strikes, riots, civil commotions, or freight embargoes, the period hereinabove specified for the completion of his Work shall be extended by such time as shall be fixed by the Owner.

6.2 No such extension of time shall be deemed a waiver by the Owner or his right to terminate the Contract for abandonment or delay by the Contractor as herein provided to relieve the Contractor from full responsibility for performance of his obligations hereunder.

**7. PROTECTION OF WORK AND PROPERTY:**

The Contractor shall at all times safely guard the Owner's property from injury or losses in connection with this Contract. He shall at all times safely guard and protect his own Work and that of adjacent property (as provided by law and the Contract documents) from damage. The Contractor shall replace or make good any such damage, loss or injury unless such be caused directly by errors contained in the Contract documents or by the Owner or by his duly authorized representatives. All passageways, guard fences, lights and other facilities required for protection by local authorities or local conditions must be provided and maintained.

**8. POWER OF CONTRACTOR TO ACT IN EMERGENCY:**

8.1 In case of an emergency which threatens loss or injury of property and/or safety of life, the Contractor will be allowed to act without previous instructions from the Engineer as he sees fit. He shall notify the Engineer thereof immediately thereafter.

8.2 Any compensation claimed by the Contractor due to such extra Work shall be submitted to the Engineer for approval.

8.3 Where the Contractor has not taken action but has notified the Engineer of an emergency threatening injury to persons or damage to the Work, or any adjoining property, upon authorization from the Engineer to prevent such threatened injury or damage, he shall act as instructed or authorized by the Engineer. The amount of reimbursement claimed by the Contractor shall be at the rates listed in the Pricing Schedule.

**9. ACCEPTANCE OF FINAL PAYMENT CONSTITUTES RELEASE:**

The acceptance by the Contractor of the final payment shall be and shall operate as a release to the Owner of all claims and of all liability to the Contractor for all things done or furnished in connection with this Work and for every act and neglect of the Owner and others relating to or arising out of this Work, excepting the Contractor's claims for interest upon the final payment if this payment be improperly delayed. No payment, however, final or otherwise, shall operate to release the Contractor or his sureties from any obligations under this Contract or the Performance Bond.

**10. PLANS AND SPECIFICATIONS - INTERPRETATIONS:**

The Contractor shall keep at the site of the Work, one copy of the plans and specifications signed and identified by the Engineer and shall at all times give the Engineer and other representatives of the Owner access thereto. Anything shown on the plans and not mentioned in the specifications, or mentioned in the specifications and not shown in the plans, shall have the same effect as if shown or mentioned respectively in both. In case of any conflict or inconsistency between the plans and specifications the decision of the Engineer shall govern. Also, any discrepancy between the figures and drawings shall be submitted by the Contractor to the Engineer whose decision thereon shall be conclusive.

**11. SUPERINTENDENCE BY CONTRACTOR:**

At the site of the Work the Contractor shall employ a construction superintendent or foreman who shall have full authority to act for the Contractor. It is understood that such representative shall be acceptable to the Engineer and shall be one who can be continued in that capacity for the particular job involved, unless he ceases to be on the Contractor's payroll.

**12. REPRESENTATIONS OF CONTRACTOR:**

12.1 The Contractor represents and warrants:

12.1.1 that he is financially solvent and that he is experienced in and competent to perform the type of Work or to furnish the plans, materials, supplies or equipment to be so performed or furnished by him; and

12.1.2 that he is familiar with all Federal, State, municipal and department laws, ordinances and regulations, which may in any way affect the Work of those employed therein, including but not limited to any special acts relating to the Work or to the project of which it is a part; and

12.1.3 that such temporary and permanent Work required by the Contract Documents as is to be done by him can be satisfactorily constructed and used for the purpose of which it is intended and that such construction will not injure any person, or damage any property; and

12.1.4 that he has carefully examined the plans, the specifications and the site of the Work

and that from his own investigations, he has satisfied himself as to the nature and location of the Work, the character, quality, quantity of surface and subsurface materials likely to be encountered, and character of equipment and other facilities needed for the performance of the Work, the general and local conditions and all other materials which may in any way affect the Work or its performance.

**13. OWNER'S RIGHT TO STOP WORK OR TERMINATE CONTRACT:**

13.1 If:

13.1.1 the Contractor shall be adjudged bankrupt or make an assignment for the benefit of creditors; or

13.1.2 a receiver or liquidator shall be appointed for the Contractor or for any of his property and shall not be dismissed within twenty (20) days, or after such an appointment, or the proceedings in connection therewith shall not be stayed on appeal within the said twenty (20) days: or

13.1.3 the Contractor shall refuse or fail, after Notice of Warning from the Engineer, to supply enough properly skilled workmen or proper materials; or

13.1.4 the Contractor shall refuse or fail to prosecute the Work or any part thereof with such diligence as will insure its completion within the period herein specified (or any duly authorized extension thereof) or shall fail to complete the Work within said period; or

13.1.5 the Contractor shall fail to make prompt payment to persons supplying labor or materials for the Work; or

13.1.6 the Contractor shall fail or refuse to regard laws, ordinances, or the instructions of the Engineer, or otherwise be guilty of a substantial violation of any provision of this Contract, then and in any such event, the Owner, without prejudice to any other rights or remedy it may have, may by seven (7) days' notice to the Contractor, terminate the employment of the Contractor and his right to proceed either as to the entire Work or (at the option of the Owner) to any portion thereof as to which delay shall have occurred, and may take possession of the Work and complete the Work by Contract or otherwise as the Owner may deem expedient.

13.1.6.1 In such case, the Contractor shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the compensation to be paid the Contractor hereunder shall exceed the expense of so completing the Work (including compensation for additional managerial, administrative and inspection services and any damages for delay) such excess shall be paid to the Contractor. If such expenses shall exceed such unpaid balance, the Contractor and his sureties shall be liable to the Owner for such excess. If the right of the Contractor to proceed with the Work is terminated, the Owner may take possession of and use such materials appliances, supplies, plans and equipment as may be on the site of the Work, and necessary therefore, for completing the Work. If the Owner does not so terminate the right of the Contractor to proceed, the Contractor



shall continue the Work.

**14. WEATHER CONDITIONS:**

In the event of temporary suspension of Work or during inclement weather, or whenever the Engineer shall direct, the Contractor will cause his Subcontractors to protect carefully his, and their materials and Work against damage or injury from the weather. If, in the opinion of the Engineer, any Work or materials have been damaged or injured by reason of failure on the part of the Contractor or any of his Subcontractors to so protect his Work, such Work and materials shall be removed and replaced at the expense of the Contractor.

**15. ALL WORK SUBJECT TO CONTROL OF ENGINEER:**

In the performance of the Work, the Contractor shall abide by all orders, directions and requirements of the Engineer and at such times and places, by such methods and in such manner and sequence as he may require. The Engineer shall determine the amount, quality, acceptability and fitness of all parts of the Work, shall interpret the plans, specifications, Contract Documents, and any extra work orders and shall decide all other questions in connection with the Work. The Contractor shall employ no plans, equipment, materials, methods or men to which the engineer objects and shall remove no plant, materials, equipment or other facilities from the site of the Work without the Engineer's permission. The Engineer shall confirm in writing, any oral order, direction, requirement or determination.

**16. ENGINEER'S CONTROL NOT LIMITED:**

The enumeration herein or elsewhere in the Contract Documents of particular instances in which the opinion, judgment, discretion or determination of the Engineer shall control or in which the Work shall be performed to his satisfaction or subject to his approval or inspection, shall not imply that only matters similar to those enumerated, shall be so governed and performed, but without exception, all Work shall be so governed and so performed.

**17. PROVISIONS REQUIRED BY LAW DEEMED INSERTED:**

Each and every provision of laws and clauses required by law to be inserted in this Contract shall be deemed to be inserted herein and hereby incorporated by reference and the Contract shall be read and enforced as though it were included herein and if through mistake or otherwise, any such provision is not inserted or not correctly inserted, then upon the application of either party the Contract shall forthwith be physically amended to make such insertion.

**18. CORRESPONDENCE:**

All communications between the parties hereto relating to details, progress and coordination of the Work shall be through the Engineer and shall be deemed binding only when in writing.

**19. STORAGE OF MATERIALS:**

Materials shall be stored so as to insure the preservation of their quality and fitness for the Work. When considered necessary, they shall be placed on wooden platforms or other hard clean surfaces and not on the ground and shall be placed under cover when directed. Stored materials shall be located so as to facilitate proper inspection. Equipment which is delivered crated shall remain crated until ready for installation. Lawns, grass plots or other private property shall not be used for storage purposes without the written permission of the Owner or lessee.

**20. WORKMANSHIP:**

20.1 Only first-class Work shall be performed and all materials furnished in carrying out this Contract shall be of character and quality required by the specifications. Where no standard is specified for such Work or materials, they shall be the best of their respective kinds. Any unsatisfactory Work done or materials furnished at whatever time they may be discovered shall be immediately removed and satisfactorily replaced by the Contractor when notified to do so by the Engineer.

20.2 If the Contractor shall neglect or refuse to remove such unsatisfactory Work or materials within forty-eight (48) hours after the receipt of the above-mentioned notice, or if he shall not make satisfactory progress in doing so, the Engineer may cause said Work or materials to be removed and satisfactorily replaced by Contractor or otherwise and the expense thereof shall be charged to the Contractor. Such expense shall be deducted from any monies due or to become due the Contractor under the Contract. Upon completion of the Contract the entire Work shall be delivered to the Owner perfect and complete in satisfactory working condition.

20.3 The Contractor expressly undertakes at his own expense:

20.3.1 to effect all cutting, fitting or patching of his Work required to make same conform to the plans and specifications and except with consent of the Engineer not to cut or otherwise alter the Work of any other Contractor, and

20.3.2 to place upon the Work or any part thereof only such loads as are consistent with the safety of that portion of the Work.

**21. INCOMPETENT OR DISORDERLY EMPLOYEES:**

If any person employed on the Work by the Contractor shall appear to the Engineer to be incompetent or to act in a disorderly or improper manner, such person shall be removed immediately on the requisition of the Engineer, and shall not again be re-employed except on written consent of the Engineer.

**22. CHANGES AND ALTERATIONS:**

The Owner reserves the right through its Engineer to make such alterations in the installation of items of Work shown on the plans, as may be necessitated by conditions found during construction that in the judgment of the Engineer appear advisable. The Contractor shall not claim forfeiture of Contract by reasons of such changes by the Owner's Engineer. If such changes increase the amount of the Work or materials, the Contractor will be paid according to the quantity of Work actually done at the prices established for such Work under the Contract. If such alterations or changes diminish the quantity of Work to be done, they shall not constitute a claim for damages or for loss of anticipated profits in the Work which may be dispensed with, and the Work as constructed shall be paid for in accordance with the Contract.

**23. STANDARD PRODUCTS:**

All materials, supplies, and articles furnished shall, wherever it is specified, and otherwise practicable, be the standard products of recognized, reputable manufacturers. The standard products of manufacturers other than those specified, will be accepted when it is proved to be the satisfaction of the Engineer, that they are equal in strength, durability, usefulness and convenience for the purpose intended. Any changes required in the detail and dimensions indicated on the

drawings, for the substitution of standard products other than those provided for, shall be properly made as approved by the Engineer and at the expense of the Contractor.

**24. REJECTION OF INFERIOR MATERIAL:**

It is definitely understood and agreed that an inspection and approval of the materials by the Engineer shall not in any way subject the Owner to pay for the said materials or any portion thereof, even though incorporated in the Work if said materials shall in fact turn out to be undone or unfit to be used in the Work nor shall such inspection be considered as any waiver of objection to the Work on account of the unsoundness of the material used.

**25. EXAMINATION OF DEFECTIVE WORK:**

If the Engineer shall so require, the Contractor shall at any time during the continuance of this Contract pull down or undo any part of the Work and make such openings therein as may be required and enable the Engineer to make proper inspection and the Contractor shall make good again the Work so pulled down, undone or opened to the said Engineer's satisfaction. If the Work should be found faulty, in any respect the whole of the expenses incurred shall be defrayed by the Contractor, but if the Work should be found not faulty by the Engineer, the expenses thereby incurred shall be defrayed by the Owner.

**26. NECESSARY DETAILS NOT SPECIFICALLY MENTIONED:**

It is understood and agreed that any and all Work may be called for in the specifications and not shown on the plans, or shown on the plans and not called for in the specification, shall be furnished and executed by the Contractor as if designated in both these ways, and should any Work or material be required which is not denoted in the plans and specifications either directly or indirectly, but which is, nevertheless, necessary for the proper carrying out of the intent thereof, it is understood and agreed that the same is implied and required and that the Contractor shall furnish such materials as fully as if they were completely delineated and prescribed.

**27. ERRORS:**

The Contractor shall make no claim against the Owner because of the estimate, tests or representations of any kind affecting the Work made by any officer or agent of the Owner may prove to be in any respect erroneous.

**28. COMMENCEMENT AND COMPLETION OF WORK:**

28.1 The Contractor shall advise the Owner's representative a minimum of three (3) working days in advance of the date Work is to commence.

28.2 Any Work scheduled for weekends will be arranged forty-eight (48) hours in advance.

28.3 ALL WORK SHALL BE FINALLY COMPLETED WITHIN THE TIMEFRAME NOTED IN EACH JAF.

**29. PERMITS AND LICENSES:**

The Contractor shall, without additional expense to APS, be responsible for obtaining any necessary licenses and permits, and for complying with any applicable Federal, State, and municipal laws, codes, and regulations, in connection with the prosecution of the Work. He shall be similarly responsible for all damages to persons or property that occur as a result of his fault or

negligence. He shall take proper safety and health precautions to protect the Work, the workers, the public and the property of others. He shall also be responsible for all materials delivered and Work performed until completion and acceptance of the entire construction Work, except for any completed unit of construction thereof which theretofore may have been accepted.

**30. CONSTRUCTION SAFETY:**

30.1 The Contractor shall include a list of all the following safety violations which have become final in the three (3) years prior to the offer of this Contract:

30.1.1 willful violations, violations for failure to abate, or repeated violations, for which the Offeror was cited by: (a) the United States Occupational Safety and Health Administration; (b) the Virginia Occupational Safety and Health Administration; or (c) the occupational safety and health plan of any other state; or

30.1.2 serious construction safety violations for which the Offeror was cited by the United States Occupational Safety and Health Administration or the Virginia Occupational Safety and Health Administration following a report or notification to the Offeror, his agent or employee of such hazard or potential violation by an APS inspector.

30.1.3 If the Contractor has received or been the subject of no such violations in the previous three years, then the Contractor shall so indicate by sworn affidavit.

30.1.3.1 The sworn affidavit shall consist of a notarized written statement from the Contractor stating they have received no violations listed in 30.1.1 and 30.1.2 above from the United States Occupational Safety and Health Administration, the Virginia Occupational Safety and Health Administration or the occupational safety and health plan of any other state, in the three (3) years prior to the Proposal Opening date. **This statement shall be notarized and included as part of your Proposal.**

30.2 No APS construction Contract, as discussed above, shall be awarded to any Contractor who has been the subject of any citations for the violations listed in paragraphs 30.1.1 and 30.1.2 above which have become final in the three years prior to the offer of this Contract.

30.3 Any vendor precluded from the award of any APS construction Contract by the provisions of this resolution may appeal to the School Superintendent or his designated representative for an exemption. Such appeal shall be in writing and must be submitted at least seven (7) days within being notified of the preclusion of Contract award. The vendor may include in the appeal any facts surrounding the violation which may be relevant to the appeal, as well as any safety measures or safety training programs instituted since the violation which precluded the award of an APS construction Contract.

30.4 No Contractor or Subcontractor contracting for any part of the Contract Work shall require any laborer, mechanic, or other person employed in the performance of the Contract to Work in surroundings or under working conditions which are hazardous or dangerous to his safety, as determined under construction safety standards promulgated by the U.S. Department of Labor or the Virginia Department of Labor and Industry.

30.5 No Contractor awarded an APS construction Contract shall knowingly employ or Contract with any person, company, or corporation for services pursuant to that Contract if such person, company, or corporation could not have been awarded such Contract due to the restrictions in paragraphs 30.1.1 and 30.1.2 above.

30.6 Offeror shall submit a written, comprehensive safety and health plan along with their Proposal. **Failure to submit a written plan will result in your Proposal being found Non-responsive.**

**31. WARRANTY:**

All material provided to APS shall be fully guaranteed by the Contractor against factory defects. The Contractor at no expense to APS will correct any defects, which may occur as the result of either faulty material or workmanship by the manufacturer within the period of the manufacturer's standard warranty, which the Contractor shall make available on demand. All Work is guaranteed by the Contractor against defects resulting from against any latent defects, design, materials, workmanship, installation, fraud, or such gross mistakes, as may amount to fraud, for one year from the date of final acceptance of the Work by APS in addition to and irrespective of any manufacturer's or supplier's warranty. No date other than the date of final acceptance may be established to govern the effective date of the guaranty, unless that date is agreed upon by APS and the Contractor in a signed writing.

**END OF SPECIAL TERMS AND CONDITIONS**

**ATTACHMENT G**

**CERTIFICATE OF INSURANCE**

Certificate of Insurance must show all coverage and endorsements indicated by "X"

COVERAGES REQUIRED		LIMITS (FIGURES DENOTE MINIMUMS)
X	1 Workers' Compensation	Statutory limits of Virginia (if applicable)
X	2 Employer's Liability	\$100,000 accident, \$100,000 disease, \$500,000 disease policy limit (if applicable)
X	3 Commercial General Liability(CGL)	\$ 500,000 CSL BI/PD each occurrence, \$1 Million annual aggregate
	4 Premises/Operations	\$500,000 CSL BI/PD each occurrence Million annual aggregate
X	5 Automobile Liability	\$\$100,000 per person/ \$300,000 per accident, Uninsured Motorist
	6 Owned/Hired/Non-Owned Vehicles	\$1 Million BI/PD each accident, Uninsured Motorist
	7 Independent Contractors	\$500,000 CSL BI/PD each occurrence, \$1 Million annual aggregate
X	8 Products Liability	\$500,000 CSL each occurrence, \$1 Million annual aggregate
	9 Completed Operations	\$500,000 CSL BI/PD each occurrence, \$1 Million annual aggregate
	10 Contractual Liability (Must be shown on Certificate)	\$500,000 CSL BI/PD each occurrence
	11 Personal and Advertising Injury Liability	\$1 Million ca. offense, \$1 Million annual aggregate
	12 Umbrella Liability	\$1 Million Bodily Injury, Property Damage and Personal Injury
	13 Per Project Aggregate	\$1 Million per occurrence/claim
	14 Professional Liability	
	15 Miscellaneous E&O	\$1 Million per occurrence/claim
	16 Motor Carrier Act End. (MCS-90)	\$1 Million BI/PD each accident, Uninsured Motorist
	17 Motor Cargo Insurance	
	18 Garage Liability	\$1 Million Bodily Injury, Property Damage per occurrence
	19 Garage keepers Liability	\$500,000 Comprehensive, \$500,000 Collision
	20 Inland Marine-Baillie's Insurance	\$
	21 Moving and Rigging Floater	Endorsement to CGL
	22 Dishonesty Bond	\$
	23 Builder's Risk	Provide Coverage in the full amount of Contract
	24 XCU Coverage	Endorsement to CGL
	25 USL&H	Federal Statutory Limits
X	26 Carrier Rating shall be Best's Rating of B or better or its equivalent	
X	27 Notice of Cancellation, nonrenewal or material change in coverage shall be provided to APS at least 30 days prior to action	
X	28 APS shall be an Additional Insured on all policies except Workers Compensation, Professional Liability, and Automobile Liability	
X	29 Certificate of Insurance shall show Solicitation Number and Title	
	30 Intellectual Property Infringement Insurance	
	31 Cyber Liability Insurance	\$500,000 CSL each occurrence, \$1 Million annual aggregate

**INSURANCE AGENT'S STATEMENT:**

I have reviewed the above requirements with the Offeror named below and have advised the Offeror of required coverages not provided through this agency.

AGENCY NAME: Ahart, Frinzi & Smith

AUTH. SIGNATURE: Jill C. Roth

**OFFEROR'S STATEMENT:**

If awarded the Contract, I will comply with contract insurance requirements.

OFFEROR NAME: Cadis Affin

AUTH. SIGNATURE: [Signature]

## ATTACHMENT I

### SCHOOL LISTING

ID	School	Hours of Operation	Address
1	Abingdon Elementary School	8 a.m. to (12:16) 2:41 p.m.	3035 S. Abingdon Street
2	Arlington Career Center	7 a.m. to 10 p.m. weekdays 8 a.m. to 2 p.m. weekends	816 Walter Reed Drive
3	Arlington Community High School	8 a.m. to 9: 10 p.m.	800 S. Walter Reed Drive
4	Arlington Science Focus School	9 a.m. to (1:26) 3:41 p.m.	1501 N. Lincoln Street
5	Arlington Traditional School	8:25 a.m. to (12:51) 3:06 p.m.	855 N. Edison Street
6	Ashlawn Elementary School	9 a.m. to (1:26) 3:41 p.m.	5950 8 <sup>th</sup> Road North
7	Barcroft Elementary School	9 a.m. to (1:26) 3:41 p.m.	625 S. Wakefield Street
8	Barrett Elementary School	8:25 a.m. to (12:51) 3:06 p.m.	4401 N. Henderson Road
9	Campbell Elementary School	8 a.m. to (12:26) 2:41 p.m.	737 S. Carlin Springs Road
10	Carlin Springs Elementary School	8 a.m. to (12:16) 2:41 p.m.	5995 5 <sup>th</sup> Road S.
11	Claremont Immersion Elementary School	8 a.m. to (12:26) 2:41 p.m.	4700 S. Chesterfield Road
12	Discovery Elementary School	9 a.m. to (1:26) 3:41 p.m.	5241 36 <sup>th</sup> Street North
13	Drew Model School	9 a.m. to (1:26) 3:41 p.m.	3500 S. 23 <sup>rd</sup> Street
14	Glebe Elementary School	9 a.m.-3:41 p.m.	1770 N. Glebe Road
15	Gunston Middle School	7:50 a.m. to (11:54 a.m.) 2:24 p.m.	2700 S. Lang Street
16	H-B Woodlawn Secondary Program	9:24 a.m. to (1:36) 4:06 p.m.	4100 N. Vacation Lane
17	Henry Elementary School	9 a.m. -3:41 p.m.	701 S. Highland Street
18	Hoffman Boston Elementary School	9 a.m. to (1:26) 3:41 p.m.	1415 S. Queen Street
19	Jamestown Elementary School	9 a.m. to (1:26) 3:41 p.m.	3700 N Delaware Street
20	Jefferson Middle School	7:50 a.m. (11:54 am) 2:24 p.m.	125 S. Old Glebe Road
21	Keumore Middle School	7:50 a.m. (11:54 am) 2:24 p.m.	200 S. Carlin Springs Road
22	Key Immersion School	9 a.m. (1:26) 3:41 p.m.	2300 Key Boulevard
23	Langston High School Continuation Program		2121 N. Culpaper
24	Long Branch Elementary	8:25 a.m. (12:51) 3:06 p.m.	33 N. Fillmore Street
25	McKinley Elementary School	9 a.m. (1:26) 3:41 p.m.	1030 N. McKinley Road
26	New Directions Alternative Program		2847 Wilson Boulevard
27	Nottingham Elementary School	9 a.m.-3:41 p.m.	5900 Little Falls Road
28	Oakridge Elementary School	9 a.m. (1:26) 3:41 p.m.	1414 24 <sup>th</sup> Street South
29	Randolph Elementary School	8:25 a.m. (12:51) 3:06 p.m.	1306 S. Quincy Street
30	Stratford Program	9:24 (1:30) 4:06 p.m.	1644 N. McKinley Street
31	Swanson Middle School	7:50 a.m. (11:54 a.m.) 2:24 p.m.	5800 Washington Boulevard
32	Taylor Elementary School	9 a.m. (1:26) 3:41 p.m.	2600 N. Stuart Street
33	Tuckahoe Elementary School	9 a.m. (1:26) 3:41 p.m.	6550 26 <sup>th</sup> Street North
34	Wakefield High School	8:19 a.m. (12:21) 3:01 p.m.	1325 S. Dinwiddie Street
35	Washington-Lee High School	8:19 a.m. (12:21) 3:01 p.m.	1301 N. Stafford Street
36	Williamsburg Middle School	7:50 a.m. -2:20 p.m.	3600 N. Harrison Street
37	Yorktown High School	8:19 a.m. (12:21) 3:01 p.m.	5200 Yorktown Boulevard
38	Alice West Fleet Elementary School	New School Opening 2019	125 S. Old Glebe Road
39	The Heights Secondary School	New School Opening 2019	1601 Wilson Boulevard
40	Syphax Education Building		2110 Washington Boulevard
41	Facilities & Operations Center		2770 S. Taylor Road

Times appearing in parenthesis ( ) indicate early release times.