

ATTACHMENT A - AGREEMENT
AGREEMENT
BETWEEN CITY AND CONTRACTOR
Goods and Services

This Agreement is by and between the City of Fairfax, Virginia (City) and _____ (Contractor).

City and Contractor hereby agree as follows:

ARTICLE 1 - THE PROJECT

The Project is described in the Project Manual.

ARTICLE 2 – SUBSTITUTIONS

Substitutions include changes in products, materials, and methods from those required in the Project Manual. Substitution requests shall be made within 14 days of Notice of Award and in writing using CSI Form 13.1A or another standard document of the Contractor. The City will review proposed substitutions and notify the Contractor within 14 days of said proposal.

ARTICLE 3 - CONTRACT TIMES

3.01. Time of the Essence

Time for completion is of the essence of the Contract.

3.02. Days to Achieve Substantial Completion and Final Payment

- A. The Project will be substantially completed as stated in the Bid Quotation Form. Final Completion shall be within 45 days of Substantial Completion.
- B. The Project Schedule shall be submitted to the City within 7 days of Notice to Proceed.

3.03. Liquidated Damages

- A. Contractor and City recognize that time is of the essence as stated in Paragraph 3.01 above, and that City will suffer financial loss if the Work is not completed within the times specified in the Bid Quotation Form plus any extensions thereof allowed. Liquidated Damages shall be as stated in the Bid Quotation Form.

ARTICLE 4 - CONTRACT PRICE

City shall pay Contractor for completion of the Work in an amount equal to the prices stated in the Award of the Base Bid or Alternative Base Bid as determined by the City.

The final Contract Price will be based on actual quantities for unit prices and each lump sum price.

Modifications in price or schedule may be requested by the Contractor or City using normal and customary modifications procedures such as Proposed Change Orders (by Contractor) and Construction Change Directives (by City).

ARTICLE 5 - PAYMENT PROCEDURES

5.01. Contractor shall submit and City will process Progress Payments in accordance with the following schedule:

Products delivered to the City
Substantial Completion of Delivery or Project
Final Completion of Delivery or Project

A. *Progress Payments; Retainage:* City shall make progress payments based on the Contractor's Applications for Payment. An Alternative schedule may be provided by the City upon mutual agreement. All such payments will be measured by the Contractor's Schedule of Values (and in the case of Unit Price Work based on the number of units completed).

1. Prior to Substantial Completion, progress payments will include a retainage of 5 percent by the City.
2. Upon Substantial Completion, City shall hold 2.0% retainage plus such amounts as City may withhold in accordance with documented punch list items to be completed.

B. *Final Payment.* Upon final completion and acceptance of the Work City shall pay the remainder of the Contract Price, including approved Change Orders and all retainage.

ARTICLE 6 - INTEREST

6.01.30 days after presentation of the Application for Payment to City, the amount recommended (subject to any City setoffs) will become due. All moneys not paid when due shall bear interest not greater than the simple interest rate of 1 percent per month as normally assessed by the Contractor.

ARTICLE 7 - CONTRACTOR'S REPRESENTATIONS

- 7.01. To induce City to enter into this Agreement, Contractor makes the following representations:
- A. Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Bid Quotation Form.
 - B. Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 - C. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.
 - D. Contractor has carefully studied all reports and drawings made available by City.
 - E. Contractor is aware of the general nature of conflicting work to be performed by City and others at the Site that relates to the Work as indicated in the Contract Documents.
 - F. Contractor will manage the Project, to include (1) Standard of Care for the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, including any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Project Manual; and (3) Contractor's safety precautions and protection of the public.
 - G. Based on the information and observations referred to above, Contractor does not consider that further examinations, investigations, explorations, tests, studies, or data are necessary for it to enter into this Contract for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.
 - H. Prior to execution of this Agreement Contractor has given City written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by City is acceptable to Contractor.
 - I. The Contract Documents are generally enough to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 8 - CONTRACT DOCUMENTS

- 8.01. The Contract Documents consist of the following:

- A. This Agreement
- B. Contractor's Bid Quotation Form
- C. Performance and Payment Bonds
- D. Insurance
- E. General Terms and Conditions of the Contract between City and Contractor
- F. Project Manual, including Supplemental Provisions, if any
- G. Addenda numbers 1 through _____ inclusive
- K. Attachments to this Agreement
- L. The following, which may be delivered, prepared, or issued after the Effective Date of this Agreement and are not attached hereto:
 - 1. Notice to Proceed.
 - 2. All Work Change Directives, and Change Orders amending, modifying or supplementing the Contract Documents.

8.02. The documents listed in Paragraph 8.01 above are incorporated by reference to this Agreement and provided separately.

8.03. The Contract Documents may only be amended, modified, or supplemented as mutually agreed in writing.

ARTICLE 9 - MISCELLANEOUS

9.01. Submittals to the City shall first be approved by the Contractor. Submittals may be issued by email attachments or use of construction software such as Procure.

9.02. Progress Meetings shall consist of a Start-Up Meeting and other meetings as requested by the Contractor or City based on the need for subsequent meetings, but not more than monthly.

9.03. Provide temporary facilities such as storage sheds, sanitary facilities, and fencing to protect materials, supplies and products during the Work. A field office is not required. Keep combustible materials separately. Provide daily waste disposal. Protect workers, the City, and public from unsafe conditions.

9.04. City and Contractor each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.

9.05. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon City and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

ARTICLE 10 – NOTICES

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

TO THE CONTRACTOR:

Refer to Bid Quotation Form of the Contractor

TO THE CITY:

[Project Owner – *example, department head*]

Department of [name]

City of Fairfax

10455 Armstrong Street, Suite [number]

Fairfax, Virginia 22030

AND

Lyn Guzman

Acting City Purchasing Agent

City of Fairfax

10455 Armstrong Street, Suite 312

Fairfax, Virginia 22030

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year first aforesaid.

CONSENTED AND AGREED TO BY:

CONTRACTOR

CITY OF FAIRFAX, VIRGINIA

By: _____
Signature of Authorized
Agent or Principal

By: _____
Robert A. Stalzer
City Manager

Name of Authorized
Agent of Principal

Date: _____

Date: _____

APPROVED AS TO FORM

By: _____
Brian A. Lubkeman
City Attorney

[INTENTIONALLY LEFT BLANK]