



**ALEXANDRIA CITY SCHOOL BOARD
dba ALEXANDRIA CITY PUBLIC SCHOOLS
ALEXANDRIA, VIRGINIA
AND
THE CITY OF ALEXANDRIA, VIRGINIA**

And

BRAILSFORD & DUNLAVEY, INC.

**FOR THE PROVISION OF
PROJECT MANAGEMENT (PM) SERVICES
FOR
PATRICK HENRY PREK – 8 SCHOOL PROJECT**

THIS AGREEMENT (hereinafter “Agreement” or “Contract”) is entered into this 10th day of September 2015, by and between the Alexandria School Board dba Alexandria Public Schools (hereinafter referred to as “ACPS”), a public entity and/or political subdivision of the Commonwealth of Virginia with offices located at 1340 Braddock Place, Alexandria, Virginia 22314 and the CITY of Alexandria, a municipal corporation of the Commonwealth of Virginia (hereinafter referred to as “the CITY”), located at 110 N. Royal Street, Alexandria, Virginia 22314; and Brailsford & Dunlavey, Inc., a District Corporation, duly organized under the laws of The District, who is authorized to do business in the Commonwealth of Virginia with a principal place of business at 1140 Connecticut Ave., NW, Suite 400, Washington, D.C. 20036 (hereinafter referred to as “the Contractor” and collectively with the CITY and ACPS, “the Parties”).

RECITALS

WHEREAS, ACPS and the CITY, through a Competitive Negotiation process, as defined and authorized in the Virginia Public Procurement Act (VPPA), Code of Virginia § 2.2-4300 et seq., and the Code of the City of Alexandria, solicited and received proposals from the offerors for the provision of project management (PM) services for Patrick Henry Elementary PreK – 8 pursuant to a Request For Proposal (“RFP”);

WHEREAS, on July 28, 2015, in response to the Request for Proposals Number 15-06-02, the Contractor submitted a proposal for the provision of Project Management

Services for Patrick Henry PreK – 8 School Project; and

WHEREAS, on September 4, 2015, the Contractor was selected by ACPS and the CITY for the provision of project management services for Patrick Henry PreK-8, subject to the terms and provisions in the Request for Proposals and this Agreement; and

NOW, THEREFORE, IN CONSIDERATION of foregoing and the following covenants, warranties and agreements of the parties hereto, as are hereinafter set forth, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged by each party hereto, the parties agree as follows:

1. AGREEMENT DOCUMENTS

The Agreement Documents are comprised of the following:

- a This Agreement including all properly incorporated amendments;
- b Exhibit A – Scope of Services;
- c Exhibit B – List of Task through Implementation;
- d Exhibit C – Cost of Services;
- e RFP 15-06-02, incorporated herein by reference.

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

The Agreement Documents set forth the entire Contract between ACPS, the CITY and the Contractor. ACPS, the CITY and the Contractor agree that no representative or agent of them has made any representation or promise with respect to the parties' agreement which is not contained in the Agreement Documents.

2. SCOPE OF WORK

The Contractor agrees to perform services described in the Agreement Documents (alternatively, the "Work"). The primary purpose of the Work is to provide project management services for Patrick Henry PreK-8, which is fully described in Exhibit A and B. The Agreement Documents set forth the minimum Work estimated by ACPS, the CITY, and the Contractor shall be responsible, at the Contractor's sole cost, to provide the specific services set forth in the Agreement Documents and sufficient services to fulfill the purposes of the Work. Nothing in the Agreement Documents shall be construed to limit the Contractor's responsibility to manage the details of its Work.

3. CONTRACTING OFFICER TECHNICAL REPRESENTATIVE (COTR)

The performance of the Contractor is subject to the general review and approval of Contracting Officer ("COTR") who shall be appointed by ACPS staff and CITY staff. However, it shall be the responsibility of the Contractor to manage the details of the execution and performance of its work pursuant to the Agreement Documents.

4. STANDARD OF CARE

In the performance or furnishing of services hereunder, the Contractor and all its

agents, shall exercise the degree of skills and care normally accepted as professional practices and procedures by members of the same profession currently practicing under similar conditions in the same locality ("Customary Standards of Care") of its Work under this Contract.

5. RESPONSIBILITY FOR CLAIMS AND LIABILITIES

The CITY and ACPS's review, approval, acceptance or payment for any services required under this Agreement shall not be construed to operate as a waiver by ACPS or the CITY of any rights or any cause of action arising out of the Agreement. The Contractor shall be and remains liable to ACPS and the CITY for the professional quality of the services required under this Agreement within the Customary Standards of Care.

6. AGREEMENT PERIOD

The Contractor's performance under this Agreement shall commence upon execution of this Agreement by an authorized ACPS and CITY representative and will continue until December 31, 2018 through project turnover and closeout ("Agreement Period").

The Contractor understands and agrees that continuity of this award is subject to availability of funding by ACPS and the CITY and satisfactory performance by the Contractor.

7. AGREEMENT COST

The total to be paid to the Contractor is \$1,368,599.00 in accordance with the terms of the Payment and Invoices paragraph, and Exhibit C for the Contractor's completion of services described, and required in the Agreement Documents.

The ACPS Not to Exceed Amount of the Agreement is \$1,183,839.00 (One Million, One Hundred Eighty Three Thousand, Eight Hundred Thirty Nine Dollars).

The CITY's Not to Exceed Amount of the Agreement is \$184,760.00 (One Hundred Eighty Four Thousand, Seven Hundred Sixty Dollars).

8. PAYMENTS AND INVOICES

No Work or delivery of services is authorized until the Contactor receives a valid ACPS Purchase Order encumbering the required funds. Such Purchase Order will be provided to the Contractor by ACPS representative placing the orders. ACPS will not be liable for payment of any purchases made by its employees without appropriate purchase authorization issued by ACPS.

No Work or delivery of services is authorized until the Contactor receives a valid CITY Purchase Order encumbering the required funds. Such Purchase Order will be provided to the Contractor by a CITY representative placing the orders. The CITY will not be liable for payment of any purchases made by its employees without appropriate purchase authorization issued by the CITY.

The Contractor shall submit invoices for the actual services performed and accepted by ACPS. The Contractor shall submit invoices for the actual services performed and accepted by the CITY. The invoices shall include a detailed breakdown of the

services that were performed, including locations(s) and date(s) and all other pertinent information. All invoices shall reference the Agreement and the ACPS or CITY Purchase Order numbers under authority of which the purchase(s) were authorized.

Payment terms will be recorded as net forty-five (45) days after the date of receipt of a correct (as determined by ACPS and the CITY) invoice approved by the parties. Unless otherwise specified by the Agreement Documents, payment shall not be made prior to delivery and acceptance of services.

All invoices shall be sent in duplicate to the following address:

For ACPS:

Tracey A. Armah
1340 Braddock Place, Suite 610
Alexandria, Virginia 22304

For the CITY:

Lynda Barbieristrain
110 North Royal Street, Suite 300
Alexandria, VA 22314

9. AVAILABILITY OF FUNDS

All funds for payment by the Parties under this Agreement are subject to the availability of an annual appropriation for this purpose. In the event of non-appropriation of funds, the Parties will terminate the Agreement, without the termination charge or other liability to the Parties 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 Agreement is spent, whichever event occurs first. If funds are not appropriated at any time for the continuation of this Agreement, cancellation will be accepted by the Contractor on thirty (30) days prior written notice, but failure to give such notice shall be of no effect and the Parties shall not be obligated under this Agreement beyond the date of termination specified by written notice.

10. PAYMENT TO SUBCONTRACTORS

Within seven (7) days after the receipt of amounts paid for work performed by a subcontractor under this Contract, the Contractor shall either:

- i. Pay the subcontractor for the proportionate share of the total payment received attributable to the work performed by the subcontractor under this Contract; or
- ii. Notify ACPS, the CITY and the subcontractor, in writing, of his intention to withhold all or a part of the subcontractor's payment and the reason for non-payment.

The Contractor shall pay interest to the subcontractor on all amounts owed that

remain unpaid beyond the seven day period.

The Contractor shall include in each of its subcontracts a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements as set forth above with respect to each lower-tier subcontractor.

The Contractor's obligation to pay an interest charge to a subcontractor pursuant to this provision may not be construed to be an obligation of ACPS or the CITY.

11. ADDITIONAL SERVICES

The Contractor shall not be compensated for any goods or services provided except those included in the Agreement Documents and paid for by the Agreement Amount, unless those goods or services are covered by a written amendment to this Agreement signed by the Parties.

12. INSURANCE REQUIREMENTS

The Contractor shall provide to ACPS Procurement Office and the CITY's Procurement Office a certificate of insurance indicating that the Contractor has the in force the coverage below prior to the start of any Work under this Contract and upon any contract extension(s). The Contractor agrees to maintain such insurance until the completion of this Contract or as otherwise stated in the Contract Documents.

- Workers Compensation-Virginia Statutory limits Workers Compensation (W/C) coverage including Virginia benefits and employers liability.
- Commercial General Liability (CGL)- \$1,000,000 combined single limit with \$2,000,000 aggregate coverage to include Personal Injury, Completed Operations, Contractual Liability and, where applicable to the services, Products and Independent Contractors. ACPS, and its officers, employees and agents must be additional named insureds on the CGL policy.
- Excess Liability/Umbrella -\$4,000,000 per Occurrence and Aggregate for bodily injury, property damage, personal and advertising injury, and products and completed operations. Limits should include an aggregate per project for construction projects. Higher limits may be required in some cases.
- Automobile Bodily Injury and Property Damage Liability - \$450,000 per incident (Owned, non-owned, or hired, as applicable). Commonwealth of Virginia statutory limit for Uninsured and Underinsured Motorists.

Additional Insured – ACPS, CITY, their officers, elected and appointed officials, employees, and agents shall be named as an additional insured in the Contractor's Commercial General Liability policy and Intellectual Property policy; evidence of the additional insured endorsement shall be typed on the certificate.

Cancellation – If there is a material change or reduction in coverage, nonrenewal of any insurance coverage or cancellation of any insurance coverage required by this

Agreement, the Contractor shall notify ACPS and the CITY immediately. Any policy on which the Contractor has received notification from an insurer that the policy has or will be cancelled or materially changed or reduced must be immediately replaced with another policy consistent with the terms of this Agreement and in such manner that there is no lapse in coverage, and ACPS and the CITY must be immediately notified of the replacement. Not having the required insurance throughout the Agreement Period is considered a material breach of this Agreement and grounds for termination.

Any policy on which the Contractor has received notification from an insurer that the policy has or will be cancelled or materially changed or reduced must be replaced consistent with the terms of this Agreement, and ACPS and the CITY notified of the replacement, in such manner that there is no lapse in coverage.

Contract Identification – The insurance certificate shall state this Agreement title.

No acceptance or approval of any insurance by ACPS and the CITY shall be construed as relieving or excusing the Contractor from liability or obligation imposed upon the Contractor by the provisions of the Contract Documents.

The Contractor shall be responsible for the Work performed under the Contract Documents and every part thereof, and for all materials, tools, equipment, appliances, and property of any description used in connection with the Work. 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 contracted for, and of all damage or injury to any person or property whenever located, resulting from any action, omission, commission or operation under the Contract, or in connection in any way whatsoever with the contracted Work.

The Contractor shall be as fully responsible to ACPS for the acts and omission of its subcontractors and of persons directly employed by it.

Notwithstanding any of the above, the Contractor may satisfy its obligations under this section by means of self-insurance for all or any part of the insurance required, provided that the alternative coverages are submitted to and acceptable to ACPS and the CITY. The Contractor shall also provide its most recent actuarial report and provide a copy of its self-insurance resolution to determine the adequacy of the insurance funding.

13. PROJECT STAFF

ACPS and/or the CITY will, throughout the Agreement Period have the right of reasonable rejection and approval of staff and subcontractors assigned under this Agreement. If ACPS and/or the CITY reasonably rejects staff or subcontractors, the Contractor shall provide replacement staff or subcontractors satisfactory to ACPS and CITY in a timely manner and at no additional cost. The day-to-day supervision and control of the Contractor's employees, and employees of any of its subcontractors, shall be the sole responsibility of the Contractor.

14. RELATIONSHIP OF THE PARTIES

It is the intent of the parties that the Contractor shall be legally considered as an independent contractor; that neither it nor its employees, agents or representatives shall, under any circumstances, be considered servants or agents of the Parties; and the Parties will at no time be legally responsible for any negligence or intentional wrongdoing on the part of the Contractor, its servants or agents, resulting in bodily

injury to any person or property damage to any individual, firm or corporation. The Contractor shall at all times enforce strict discipline and good order among the workers performing under this Contract, and shall not employ for this Work, any person not reasonably proficient in the Work assigned.

15. SAFETY

The Contractor shall comply with, and shall ensure that the Contractor's personnel, agents and subcontractors comply with, all current applicable local, state, and federal policies, regulations and standards relating to safety and health, including by way of illustration and not limitation, the standards of the Virginia Occupational Safety and health program of Department of Labor.

16. RECORDS

The Contractor shall retain all books, records, and other documents relative to the Agreement Documents for five (5) years after its receipt of final payment under this Contract, or until audited by the Commonwealth of Virginia, whichever is sooner. Such records shall include, but not be limited to: all paid vouchers; other reimbursements supported by invoices; ledgers; cancelled checks; deposit slips; bank statements; journals; amendments and change orders to the Agreement Documents; insurance documents; payroll documents; timesheets; memoranda; and correspondence. ACPS or the CITY, its authorized agents, and auditors of the Commonwealth of Virginia shall have full access to and the right to examine all such documents during said period. Records will be available on demand and with reasonable notice during normal working hours.

17. FAITH BASED ORGANIZATIONS

ACPS, the CITY and the Contractor do not discriminate against faith-based organizations.

18. NON-DISCRIMINATION

During the Contract Term, Contractor agrees as follows:

- A. Contractor shall not discriminate against any employee or applicant for employment because of race, color, national origin, sex, disability, age, religion, sexual orientation, marital status, status as a parent, or pregnancy in its programs, age, disability or on 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 Contractor. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- B. Contractor, in all solicitations or advertisements for employees placed by or on behalf of Contractor, shall state that Contractor is an equal opportunity employer.
- C. Notices, advertisements, and solicitations placed in accordance with federal laws, rules, or regulations shall be deemed sufficient for the purpose of meeting the requirements of this Section.

- D. Contractor shall include the provisions of this entire section in every subcontract, sub-consulting agreement and Purchase Order over \$10,000, in order that the provisions above will be binding upon each subcontractor, subcontractor and vendor.
- E. Notice of Required Disability Legislation Compliance: ACPS is required to comply with state and federal disability legislation: The Rehabilitation Act of 1973 Section 504, The Americans with Disabilities Act (ADA) for 1990 Title II and The Virginians with Disabilities Act of 1990. Specifically, ACPS, may not, through its Contractual and/or financial arrangements, directly or indirectly avoid compliance with Title II of the Americans with Disabilities Act, Public Law 101-336, which prohibits discrimination by public entities on the basis of disability. Subtitle A protects qualified individuals with disability from discrimination on the basis of disability in the services, programs, or activities of all State and local governments. It extends the prohibition of discrimination in federally assisted programs established by the Rehabilitation Act of 1973 Section 504 to all activities of State and local governments, including those that do not receive Federal financial assistance, and incorporates specific prohibitions of discrimination on the basis of disability in Titles I, III, and V of the Americans with Disabilities Act. The Virginians with Disabilities Act of 1990 follows the Rehabilitation Act of 1973 Section 504.

19. EMPLOYMENT OF UNAUTHORIZED ALIENS

In accordance with § 2.2-4311.1 of the Code of Virginia, the Contractor acknowledges that it does not, and shall not during the performance of this Contract knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.

20. BACKGROUND CHECK AND SECURITY PROVISIONS AND CRIMES

The Contractor shall inform its employees, representatives and agents that placement in an ACPS school or CITY facility will be contingent upon the results of a criminal background check, background verification as well as a Sex Offender Registry Search in accordance with ACPS policies and procedures for ACPS volunteers and employees. The failure to successfully pass ACPS' background check shall serve as grounds for immediate dismissal or removal of that employee, agent or representative from any program administered on an ACPS site or facility.

The Contractor certifies that neither it, nor any of its employees, workers or suppliers, have been convicted of: (i) a felony or any offense involving the sexual molestation or physical or sexual abuse or rape of a child; or (ii) a crime of moral turpitude.

21. DRUG FREE WORKPLACE

During the performance of this Agreement, the Contractor agrees to: (1) provide a drug-free workplace for the Contractor's employees and volunteers; (2) post in conspicuous places, available to 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 Contractor's workplace, and specifying the actions that will be taken against employees and volunteers for violations of such prohibition; and, (3) state, in all

solicitations or advertisements for employees placed by or on behalf of the Contractor, that the Contractor maintains a drug-free workplace; and (4) include the provisions of the foregoing clause in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

For purposes of this section, “drug-free workplace” means a site for the performance of work done in connection with a specific contract awarded to a contractor by ACPS in accordance with ACPS policies and procedures, the employees of which Contractor are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance period of this Agreement.

22. TERMINATION

A. Termination for Convenience

The performance of work under this Contract may be terminated by ACPS or the CITY in whole or in part whenever it's determined that such termination is in the best interest of the Parties. Any such termination shall be effected by the delivery to the Contractor of a written notice of termination at least fifteen (15) days before the date of termination, specifying the extent to which performance of the work under this contract is terminated and the date upon which such termination becomes effective.

B. Termination for Cause

The Contract shall remain in force for the Agreement Period and until the Parties determine that all of the following requirements and conditions are have been satisfactorily met: acceptance of the Work, and thereafter until the Contractor has met all requirements and conditions relating to the Work under the Agreement Documents, including warranty and guarantee periods. However, the Parties shall have the right to terminate this Agreement sooner if the Contractor is in breach or default or has failed to perform satisfactorily the Work required, as determined by the Parties in their sole discretion.

If ACPS and/or the CITY determine that the Contractor has failed to perform satisfactorily, then ACPS and/or the CITY will give the Contractor written notice of such failure(s) and the opportunity to cure such failure(s) within at least fifteen (15) business days before termination of the Agreement takes effect (“Cure Period”). If the Contractor fails to cure within Cure Period or as otherwise specified in the notice of cure, the Agreement may be terminated for the Contractor’s failure to provide satisfactory performance. Upon such termination, the Contractor may apply for compensation for services satisfactorily performed by the Contractor, allocable to the Agreement and accepted by ACPS and the CITY prior to such termination unless otherwise barred by the Agreement (“Termination Costs”). In order to be considered, such request for Termination Costs, with all supporting documentation, must be submitted to Director of Procurement within fifteen (15) business days after the expiration of the Cure Period. The Parties may accept or reject, in whole or in part, the application for Termination Costs and notify the Contractor of same within a reasonable time thereafter.

C. Termination for Breach and Default

If the Parties terminate the Agreement for default or breach of any Agreement provision or condition, then the termination shall be immediate after the notice from ACPS is mailed to the Contractor (unless ACPS or the CITY in their sole

discretion provides for an opportunity to cure) and the Contractor shall not be permitted to seek Termination Costs.

Upon termination pursuant to paragraph B and C of this section, the Contractor shall be liable to ACPS or the CITY for all costs incurred by ACPS after the effective date of termination, including costs required to be expended by ACPS/CITY to complete the work covered by the Agreement, including costs for delay in completing the Work or the cost of repairing or correcting any unsatisfactory or non-compliant work performed by the Contractor. Such costs shall be either deducted from any amount due to the Contractor or shall be promptly paid by the Contractor.

23. INDEMNIFICATION

To the fullest extent permitted by law, the Contractor covenants for itself, its employees, and subcontractors to save, defend, hold harmless and indemnify the Parties, and all their respective elected and appointed officials, officers, current and former employees, agents, departments, boards, and commissions from and against any and all claims made by third parties or by the Parties for any and all losses, damages, injuries, fines, penalties, costs (including court costs and attorney's fees), charges liability, demands or exposure, however, caused, resulting from, arising out of, or in any way connected with the Contractor's performance or non-performance of the work called for by the Agreement Documents. This duty to save, defend, hold harmless and indemnify shall survive the termination of this Contract. If after, notice by ACPS or the CITY, the Contractor fails or refuses to fulfill its obligations contained in this section, the Contractor shall be liable for and reimburse ACPS or the CITY for any and all expenses, including but not limited to, reasonable attorney's fees incurred and any settlements or payments made. The Contractor shall pay such expense upon demand by ACPS/CITY and failure to do so may result in such amounts being withheld from any amounts due to the Contractor under this Agreement.

24. INTELLECTUAL PROPERTY INDEMNIFICATION

The Contractor warrants and guarantees that no intellectual property rights (including copyright, patent, mask rights, and trademarks) of third parties are infringed or in any manner involved in or related to the services provided hereunder.

The Contractor further covenants to save, defend, hold harmless, and indemnify the Parties, and all their respective officers, officials, departments, agents and employees from and against any and all claims, losses, damages, injuries, fines, penalties, costs, (including court costs and attorney's fees), charges liabilities, or exposure, however, caused, for or on account of any trademark, copyright, patented or unpatented invention, process, or article manufactured or used in the performance of this Contract, including its use, by ACPS/CITY. If the Contractor uses any design, device, method, or material covered by letters patent or copyright, it is mutually agreed and understood, without exception, that the Contract amount includes all royalties, licensing fees, or costs arising from the use of such design, device, method, or materials in any way involved with the Work.

25. CONFIDENTIALITY

All student data is considered to be confidential under this Agreement as well as under the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232g

et seq., and any other federal or state statutes or regulations pertaining to student records, and will only be released in accordance with the applicable laws and regulations. All student data received by the Contractor shall be maintained by the Contractor in a secure location.

The Contractor shall maintain the confidentiality of documents designated as confidential, unless withholding such information would violate the law, create the risk of significant harm to the public or prevent the Contractor from establishing a claim or defense in an adjudicatory proceeding. The Contractor shall require of its subcontractors similar agreements to maintain the confidentiality of information specifically designated as confidential.

26. AUTHORITY TO TRANSACT BUSINESS

The Contractor shall pursuant to Code of Virginia § 2.2-4311.2, be and remain authorized to transact business in the Commonwealth of Virginia during the Agreement Period and any subsequent Agreement Period(s) of this Contract. A contract entered into by a Contractor in violation of this requirement is voidable, without any cost or expense.

27. FORCE MAJEURE

The Contractor shall not be held responsible for failure to perform the duties and responsibilities imposed by this Contract if such failure is due to fires, riots, rebellions, natural disasters, wars, or an act of God beyond control of the Contractor, and outside and beyond the scope of the Contractor's then current, by industry standards, disaster plan, that make performance impossible or illegal, unless otherwise specified in the Contract.

28. ETHICS IN PUBLIC CONTRACTING

This Contract incorporates by reference all Virginia or federal law related to ethics, conflicts of interest, or bribery, including, by way of illustration and not limitation, the Virginia State and Local Government Conflict of Interests Act (Code of Virginia § 2.2-3100 et seq.), the Virginia Governmental Frauds Act (Code of Virginia § 18.2-498.1 et seq.), and Articles 2 and 3 of Chapter 10 of Title 18.2 of the Code of Virginia, as amended (§ 18.2-438 et seq.). The Contractor certifies that its offer was made without collusion or fraud and that it has not offered or received any kickbacks or inducements from any other contractor, supplier, manufacturer, or subcontractor and that it has not conferred on any public employee having official responsibility for this procurement any payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised unless consideration of substantially equal or greater value was exchanged.

29. ANTITRUST

By entering into this Agreement, the Contractor conveys, sells, assigns and transfers all rights, title, and interest in and to all causes of action the Contractor may now have or hereafter acquire under the antitrust laws of the United States or the Commonwealth of Virginia, relating to the goods or services purchased or acquired by ACPS and the CITY under this Agreement.

30. WAIVER

The Parties failure to insist, in any one or more instances, on the performance of any of the Contactor's obligations under the Agreement Documents, or approval of alternatives, variances or substitutions to Contractor's obligations, shall not be construed as a waiver, modification, or relinquishment of such obligation or right with respect to future performance. Likewise, Owners actions or inactions shall not waive, modify or alter Contractor's responsibilities or liability under the Agreement Documents.

31. NO WAIVER OF SOVEREIGN IMMUNITY

Notwithstanding any other provision of this Agreement, nothing in this Agreement or any action taken pursuant to this Agreement shall constitute or to be construed as a waiver of either the sovereign or governmental immunity of ACPS/CITY. The parties intend for this provision to be read as broadly as possible

32. SURVIVAL OF TERMS

In addition to any numbered sections in this Agreement which specifically state that the term or paragraph survives the expiration or termination of this Contract, the following sections if included in this Agreement also survive: INDEMNIFICATION, INDEPENDENT CONTRACTOR; COPYRIGHT; INTELLECTUAL PROPERTY INDEMNIFICATION; and CONFIDENTIALITY.

33. NONEXCLUSIVITY OF REMEDIES

All remedies available under this Agreement are cumulative, and no such remedy shall be exclusive of any other remedy available to the Parties at law or in equity.

34. SEVERABILITY

In the event any one or more of the provisions contained in the Agreement Documents shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of the Agreement Documents, and in lieu of each such invalid, illegal or unenforceable provision, there shall be added automatically as a part of the Agreement Documents a provision as similar in terms to such invalid, illegal or unenforceable provision as may be possible and be valid, legal and enforceable; each part of the Agreement Documents is intended to be severable.

35. APPLICABLE LAW, FORUM, VENUE AND JURISDICTION

This Contract and the work performed hereunder shall be governed in all respects by the laws of the Commonwealth of Virginia and the jurisdiction, forum, and venue for any litigation with respect thereto shall be in the Circuit Court, in Virginia, and in no other court. In performing the Work under this Contract, the Contractor shall comply with applicable federal, state, and local laws, ordinance and regulations.

36. ARBITRATION

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

37. HEADINGS/CAPTIONS

The headings or captions used in the Agreement Documents are inserted for convenience only and shall not be used in interpreting the same.

38. NOT TO BENEFIT

By your signature to this Contract, you agree that no employee of ACPS or the CITY or members of his\her immediate family, including spouse, parents or children has received or will receive, or has been promised, directly or indirectly, any financial benefit, by way of fee, commission, finder's fee or in any other manner, remuneration arising from or directly or indirectly related to this contract.

39. AMENDMENTS

Unless otherwise specified herein, this Agreement shall not be amended except by written amendment executed by persons dully authorized to bind the Contractor and ACPS.

40. FINAL AGREEMENT

The Agreement Documents represent the entire and integrated agreement between ACPS, the CITY and the Contractor and supersede all prior negotiations, representations, or agreements, either written or oral, concerning the subject matter of the Agreement Documents. The Agreement Documents may be amended only by a written instrument executed by an authorized representative of ACPS and the CITY.

41. PERSONNEL AUTHORIZED TO REPRESENT THE PARTIES

Any termination or cancellation notice or any other notice required by this Contract shall be in writing and must be delivered by services rendering and confirming receipt (such as registered or certified mail). Alternatively, notices may be sent via a nationally recognized overnight service, or may be personally served upon the appropriate party. The following individuals shall serve as contacts for the respective parties to receive required notices pursuant to this Contract at the addresses provided:

For Alexandria City Public Schools: Elijah Gross
Director of Planning & Building
Alexandria CITY Public Schools
1340 Braddock Place, 6th Floor
Alexandria, Virginia 22314
Email: Elijah.Gross@acps.k12.va.us

For Alexandria City Public Schools: Sharon T. Lewis
Director of Procurement
Alexandria CITY Public Schools
1340 Braddock Place, 6th Floor
Alexandria, Virginia 22314
Email: sharon.lewis@acps.k12.va.us

For the City of Alexandria:

Titania B. Cross, PE
Deputy Director Facilities
110 N. Royal Street
Alexandria, Virginia 22314
Email: titania.cross@alexandriava.gov

For the City of Alexandria:

Michael F. Hauer
Acting Purchasing Agent
100 North Pitt Street, Suite 301
Alexandria, Virginia 22314
Email: procurement@alexandriava.gov

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