



Agreement #28FY18
COVER PAGE

Arlington Public Schools
Purchasing Office

RFP TITLE: POOL PAK, DECTRON, LIEBERT, MISCELLANEOUS HVAC REPAIR AND OTHER SERVICES

This Contract is entered into this 20th day of November, 2017; by and between Shapiro & Duncan Inc., located at 1426 Rothgeb Drive, Rockville, MD. 20850, hereinafter called "Contractor" and Arlington County School Board operating as Arlington Public Schools hereinafter called "APS"; and shall terminate on October 31, 2018. This duration shall be referred to as the "Contract Term." APS reserves the right, in its sole discretion, to renew the Contract for an additional one year term. This option to renew may be exercised by APS up to but not more than for four (4) additional one year terms ("Renewal Contract Term").

APS and the Contractor, having given adequate consideration, agree that the Contractor will perform all **POOL PAK, DECTRON, LIEBERT, MISCELLANEOUS HVAC REPAIR AND OTHER SERVICES** (hereinafter "the Work"), in accordance with the Contract; which shall consist of:

CONTRACT DOCUMENTS: This Contract shall consist of the following, all of which are incorporated into and are a part of the Contract, and which, in the event of a conflict, shall be given precedence in the order listed, with any Addendum or Modification having precedence over preceding provisions:

1. Agreement 28FY18, and all modifications properly incorporated into the Agreement
2. Exhibit A – Scope of Services
3. Exhibit B – Pricing Schedule
4. Exhibit C – General Terms and Conditions
5. Exhibit D – Contractor Certification Regarding Criminal Convictions
6. Exhibit E – Non-Disclosure and Data Security Agreement
7. Exhibit F – Job Authorization Form
8. Exhibit G – Equipment List
9. Exhibit H – Certificate(s) of Insurance
10. Exhibit I – Negotiated Items List

The following are incorporated by reference:

11. The Request for Proposal (RFP) documents;
12. The proposal Response from Shapiro and Duncan, Inc.

Where the terms and provisions of this Agreement vary from the terms and provisions of the other Contract Documents, the terms and provisions of this Agreement shall prevail over the other Contract Documents.

The Contract Documents set forth the entire Agreement between APS and the Contractor. APS and the Contractor agree that no representative or agent of either of them has made any representation or promise with respect to this Agreement which is not contained in the Contract Documents. The Contract Documents are referred to herein below as the "Contract".

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, APS shall

determine the provision having precedence.

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

SHAPIRO & DUNCAN, INC.

Authorized
Signature:

David J. Webb

Authorized
Signature:

[Signature]

Printed Name

David J. Webb, C.P.M.

Printed Name:

Mans Kharan

Title:

Director/Purchasing Agent

Title:

HVAC SERVICE SALES

Date:

November 20, 2017

Date:

11-20-17

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EXHIBIT A
SCOPE OF SERVICES

A. SCOPE OF WORK:

Work performed by the Contractor is for quarterly preventative maintenance services at Discovery Elementary, Wakefield High School, Wakefield High School Pool, Washington-Lee High School Pool, Yorktown High School and Yorktown High School Pool and for the maintenance, repair and restoration, of HVAC systems, dehumidification systems, PoolPak, gas monitoring equipment, swimming pool systems, and other HVAC work necessary to correct indoor air problems including new work on existing systems. The Discovery Elementary and Wakefield High School currently utilize an E-Top (Extended Transition to Operations) system. Current systems have been maintained by in-house employees or the warranty periods are expiring from being new installations in new buildings.

1. QUARTERLY INSPECTIONS AT A FIXED PRICE

The Contractor shall make four (4) regularly scheduled maintenance inspections each year of the equipment listed in Exhibit G – Equipment List, to check for leaks, defects, and improper operation, during normal working hours. Quarterly inspections will be done in the months of January, April, July and October or on the months specified by the Contract Administrator, James Meikle, Director of Maintenance Services, or designee. Contractor will review any problems, trends or concerns APS has with the equipment operations. Upon completion of the service, the Contractor will provide a report, listing work performed and any additional recommended corrective action with pricing. The Contractor will maintain equipment to keep utility and repair cost as low as possible, while preserving equipment reliability and equipment life. The comfort of occupant is recognized as a primary consideration.

Tasks to be performed at each inspection:

- a. Inspect/replace air filters (new filters will be provided by APS)
- b. Inspect/replace belt(s)
- c. Inspect/adjust belt tension
- d. Inspect rotating components such as fans, motors, shafts & report problems
- e. Inspect/lubricate motor bearings
- f. Inspect/lubricate fan shaft bearings
- g. Inspect overall condition of equipment and report any unusual problems
- h. Inspect electrical section
- i. Inspect thermostat
- j. Clean y-strainer
- k. Clean cooling tower via pressure sprayer. Customer provides water
- l. Check that equipment is functional for application and the season in which it is operating
- m. Inspect/flush condensate line where clean out exists at unit. Clean out access provided by others.
- n. Inspect/clean humidifier pans. Bottles not included.
- o. Inspect/chemically clean air-cooled condensers
- p. Perform glycol concentration test.
- q. Check system for refrigerant leaks (visual).
- r. Inspect unit controls
- s. Inspect coils for water and oil leaks and chemically clean
- t. Check compressor crankcase heater
- u. Inspect condensate pump
- v. Check condensate pump
- w. Inspect (gas) heat exchanger and burner section (where reasonably accessible)
- x. Replace oil.

2. EQUIPMENT TO BE MAINTAINED ON A TIME AND MATERIAL BASIS/OTHER WORK

Other work is defined as, and will be less than \$50,000.00:

- a. Maintaining, servicing, expanding, replacing exact same sized system, entire HVAC systems, fixtures, piping or electronic devices.
 - b. Complete re-piping of a system, room or building in addition to replacing fixtures or lines to an existing system.
 - c. Any other work involved in the maintenance, servicing, replacement of exact same size, of an entire HVAC system or fixtures and piping.
 - d. Any other work greater than \$50,000.00 is not covered by this contract and will be subject to a separate solicitation.
3. RELATED WORK
- When a job assignment requires that the Contractor cut holes in surfaces (such as walls, floors, and ceilings) composed of plaster, drywall, tile, masonry, wood or other such materials, the Contractor shall notify the Contract Administrator or designee so that arrangements can be made for others to repair the affected surface, or the decision can be made to permit the Contractor to subcontract the work at a fixed price.

B. SPECIAL PROVISIONS

1. ADD/DELETE
During the contract term, APS shall have the right to add or delete facilities or HVAC systems and equipment to be served as may be considered necessary or desirable. In the event facilities or HVAC systems and equipment are added, the annual price for four quarterly inspections and preventative maintenance program will be agreed upon by APS and the Contractor will be determined by Part B of the pricing sheet, Other Work on a Time and Material Basis (Exhibit B – Pricing Schedule). No payment will be made for facilities or HVAC systems and equipment deleted. A contract modification will be done for any additional facilities but will be priced at the current rates in the resulting contract.
2. ASBESTOS
During the course of performing any work under this Contract the Contractor discovers the presence of asbestos or suspects that asbestos is present, the Contractor shall stop work immediately, secure the area, notify APS's Contract Administrator or designee immediately and await positive identification of the suspect material. During the downtime in such a case, the Contractor shall not disturb any surrounding surfaces but shall protect the area with suitable dust covers. In the event the Contractor is delayed due to the discovery of asbestos or suspected asbestos, then a mutually agreed extension of time to perform the work shall be allowed to the Contractor but without additional compensation due to the time extension.
3. CLEANING UP
The Contractor shall remove, as frequently as necessary, all refuse, rubbish, scrap materials and debris from the site to the extent they are the result of the Contractor's operations to the end that the site of the work shall present a neat, orderly, and workmanlike appearance at all times. At completion of the work, but before final acceptance, the Contractor shall remove all surplus material, false work, temporary structures including foundations thereof, and debris of every nature resulting from the Contractor's operations or resulting from any activity on the site related to the Contractor's operations and put the site in a neat, orderly condition; if the Contractor fails to do so, APS shall have the right to remove the surplus material, false work, temporary structures including foundations thereof, and debris, put the site in a neat, orderly condition, and charge this cost to the Contractor.
4. CODES AND STANDARDS
All work performed under this Contract shall be in strict accordance with all applicable codes and industry standards.
5. CONTRACTOR SERVICE REPORT/SERVICE TICKET/WORK ORDER
Contractor will supply an internal Contractor service report, service ticket, or work order which will show the date of service, when technician(s) arrived and departed, a brief description of work completed and the

equipment/materials used. This service report will have a space for APS's on-site facility operational staff to sign. The service report will be submitted with the invoice for payment.

6. CONTRACTOR'S TITLE TO MATERIALS

No materials or supplies for the work shall be purchased by the Contractor or any subcontractor subject to any chattel mortgage or under a conditional sale or other agreement by which an interest is retained by the seller. The Contractor warrants that it has good title to, and that it will require all subcontractors to warrant that they have good title to, all materials and supplies for which the Contractor invoices for payment.

7. CONTRACTOR'S RESPONSE TO WORK REQUESTED/EMERGENCY RESPONSE

The Contractor must be available twenty-four (24) hours a day, seven (7) days a week to respond to requests by the Contractor Administrator or designee for emergency repairs. The Contractor shall arrive at the job site, with all tools and equipment necessary for the emergency service, within the hours indicated below when notified of an emergency. The Contract Administrator or designee will determine what is a critical emergency, general emergency, or regular work.

- Critical Emergencies: Critical emergencies are those incidents which require quick repair and pose an immediate detrimental impact on the function of electrical systems, components or dependent services. The Contractor must be required to respond on-site within two (2) hours of the emergency call being made to the Contractor.
- General Emergencies: General emergencies are breakage which require quick repair, but do not pose an immediate HVAC problem. The Contractor must be required to respond on-site within four (4) hours of the call being made to the Contractor.
- Regular Work Response: The Contractor must respond with a Not to Exceed Estimate (NTE) using the Job Authorization Form (JAF) (Exhibit F), within three (3) business days of a call for service. To be acceptable by the Contract Administrator or designee, all work must be completed within thirty (30) days of acceptance of Purchase Order.

8. COST OF SERVICES

All work including quarterly Inspections shall be performed based on pricing in Exhibit B – Pricing Schedule. The prices shall include all labor and material costs needed to accomplish the work. See "Materials".

9. COSTS IN EXCESS OF ESTIMATE

All work not included in the quarterly inspections shall be covered by a detailed, written JAF indicating the estimated cost for the work.

10. DISPOSAL OF PACKING MATERIALS

The Contractor shall be responsible for all costs associated with the immediate removal of all-packing materials and cartons and legal disposal of such materials off-site. No building containers shall be used for such trash or debris. Failure to adhere to this requirement will result in APS contracting for removal and disposal of packing material and cartons left by the Contractor. By accepting award, the Contractor agrees that all costs to APS for removal and disposal of packing materials and cartons left by the Contractor will be deducted from the final payment due to the Contractor. In like manner, any damage to walls, floors, carpeting or any other part of the building caused by the contractor or the Contractor's agents during service provision, delivery, setup or equipment installation shall be repaired or caused to be repaired by APS at the Contractor's expense with all costs of the repair deducted from the Contractor's final payment unless such repairs are made by the Contractor within ten days of the date of damage to the satisfaction of APS.

11. ESTIMATES

The Contractor must prepare and submit a JAF, (Exhibit F) to the Contract Administrator or designee for approval prior to performing work in accordance with contract prices, which will contain the following:

- a. Brief description of the work to be performed
- b. Number of labor hours and types of labor
- c. Material cost estimate
- d. Estimated completion date
- e. Contract number
- f. Signature verifying estimate

No request will be considered for compensation in addition to the price submitted in the "Job Authorization Form" unless modified in writing by the Contract Administrator or designee.

If the JAF, Not-To-Exceed (NTE) estimates are determined to be excessive in cost or completion date, APS may solicit as per the APS Purchasing Resolution.

12. MATERIALS

The Contractor understands and agrees that payment to the Contractor for materials used in the performance of any work under this Contract on a cost-plus-a-percentage-of-cost basis is specifically prohibited. The price for all materials provided to APS in the performance of any time and materials contract will be reimbursed to the Contractor in the following manner.

- a. APS will reimburse the Contractor on completion and acceptance of each assigned job and on only those materials and parts actually used in the performance of the job. The Contractor's request for payment shall be supported by details of materials and parts used in the performance of the job. APS will only pay the exact cost of the materials parts during the initial term of the contract. During the renewal years of the Contract, APS will pay a % mark-up equal to the CPI-U for July (Series ID CUUR0000SAO) for each Contract Renewal Term.
- b. The Contractor agrees that APS may, at its option and sole discretion, provide materials and parts to the Contractor for installation by the Contractor.

13. OSHA REQUIREMENTS

The Contractor certifies that all material supplied or used under this Contract meets all Occupational Safety and Health Administration (O.S.H.A.) requirements, both federal and those of the State of Virginia; and further certifies that, if the material delivered or used in the performance of the work is found to be deficient in any of the applicable state or federal occupational safety and health requirements, all costs necessary to bring the material into compliance with the requirements shall be borne by the Contractor.

14. PERMITS

APS will be responsible for obtaining all necessary permits to perform specific work as required and will be responsible for scheduling inspections and adhering to National, State of Virginia, Arlington County and Municipal code requirements for work requiring permits.

15. PERSONNEL

The Contractor must have a minimum of four (4) full time (forty (40) hours per week) HVAC mechanics with the capability of servicing and repairing HVAC and dehumidification equipment and electronic control devices. One (1) of the four (4) full time HVAC and dehumidification mechanics must be certified in Liebert equipment servicing and repair. One (1) of the four (4) full time HVAC and dehumidification mechanics must be certified in Pool-Pak servicing and repair. One (1) of the four (4) full time HVAC and dehumidification mechanics must be certified in Dectron equipment servicing and repair. Contractor's personnel can be certified in more than one manufacturers' equipment. Names and certifications are to be provided under the applicable Tabs. Contractor shall also have one (1) contact, Project Manager, with certifications applicable to tasks they are reviewing/submitting by JAF whether it be for Liebert, Dectron or Pool-Pak equipment and be Virginia Department of Professional and Occupational Regulation Tradesmen for HVAC.

The Project Manager shall be certified on all of the HVAC equipment or the Contractor can provide multiple Project Managers. Details of which equipment shall be included in the Experience of Key Personnel. Project Manager shall have a minimum of five (5) years of experience in the industry and hold certifications for the same minimum period of time.

HVAC Mechanics must each have a minimum of three (3) years of experience and hold certifications for the same minimum period of time.

The Contractor's employees must wear uniforms provided by the Contractor. Uniforms must bear the Contractor's emblem and employee's name, they must be maintained in a serviceable, and neat condition at all times. Each employee of the Contractor (regardless of labor classification) must carry a photograph identification badge provided by the Contractor to identify their personnel while on APS work sites. The photo on the badge must have been taken within two years of the contract award date and pertinent information on the photo I.D. badge must include the employee's full name, company name, address, phone number the employee's identification number and the signature of the employee's supervisor. The Contractor's personnel must be able to communicate clearly in the English language.

The Contractor shall not substitute the project manager for the duration of the contract unless the substitute project manager has equivalent qualification approved by APS.

16. PERSONNEL REQUIREMENTS AND COSTS

- a. Personnel working on Pool Pak, Liebert or Dectron and all connected equipment shall be certified by Pool Pak, Liebert or Dectron and equipped with all tools required to perform the job.
- b. All personnel used by the Contractor to perform under this Contract shall be licensed and certified as required by the Virginia Department of Professional and Occupational Regulation. Personnel not licensed and certified shall not be assigned to perform under this Contract. The Contract Administrator or designee may reject any of Contractor's service personnel who, in the discretion of the Contract Administrator or designee are not adequately qualified to perform the work.
- c. Whenever the Contractor intends to use more than one technician or one helper on a job, the Contract Administrator or designee requesting the services must be notified before the start of work. The Contract Administrator's or designee approval must be received in writing on the JAF. Failure to obtain advance written approval from the Contract Administrator or designee will result in deduction of all labor charges in excess of those performed by one technician and one helper (laborer) for the job.
- d. No overtime work is authorized unless approved in advance by the Contract Administrator or designee. Written approval of overtime by the Contract Administrator or designee must be included on the Job Authorization Form prior to the start of overtime work. Failure to obtain written approval will result in payment of straight time only for the Contractor's personnel involved in the work.
- e. All work tickets shall be reviewed by the Contract Administrator or designee before final invoices are approved and processed for payment. The original Job Authorization Form (JAF) signed by both Contractor and Contract Administrator or designee shall be attached to the final invoice.

17. QUANTITIES

During the Contract term, the Contractor will furnish all of the items or services described in the Scope of Services.

18. SERVICE FACILITY

The Contractor may be called upon to demonstrate evidence of a service facility, as well as an adequate supply of HVAC, dehumidification and gas monitoring supplies and equipment to provide both regular and emergency HVAC services as described in the specifications. The facility shall be owned or leased by the Contractor and such ownership or lease must be effective during the entire term of the Contract. The facility may be inspected prior to award or any time during the contract period.

19. SUBCONTRACTING

For work related to the intent of this contract, subcontractors may be utilized. The Contractor shall not utilize any subcontractor which does not have in place a valid and current Virginia Contractor's License applicable to the work to be performed. No Subcontractors will be authorized without the prior approval of the Contract Administrator or designee. Should the Contractor require the use of Subcontractor(s) in the performance of work activities under this Contract, the Contractor will submit to the Contract Administrator or designee the name of the Subcontractor and three (3) examples of projects of similar size and scope to which the Subcontractor is proposed to perform. APS reserves the right to reject any Subcontractor that does not provide qualified examples. No more than 50% of the aggregate estimated value of the Contract will be permitted to be subcontracted. All work subcontracted will be issued via a Job Authorization Form (JAF).

20. SUPPLIES, MATERIALS AND EQUIPMENT

Billable supplies, materials and equipment supplied by the Contractor shall be at Contractor's cost from the MSRP or Catalogue Price as designated on the Pricing Sheet. Contractor's cost is the MSRP or Catalogue Price (as designated from the Contractor's Pricing Sheet) to the Contractor from the supplier (F.O.B. Contractor's Facility). Contractor's charges for materials shall be based on established MSRP or Catalogue Price in effect when material is furnished. No cost will be allowed for sales tax, delivery, or shipping charges. APS reserves the right to furnish any or all materials for work performed under this contract.

21. TOOLS AND EQUIPMENT

The Contractor must have a minimum of four (4) company vehicles for the delivery of services. All vehicles, tools and equipment, considered to be normal and customary to the trade and utilized in the performance of the work shall be furnished by the Contractor, at no additional cost to APS. The equipment used shall be of sufficient type, capacity and quality to safely and efficiently perform the work as specified.

No payment will be made for equipment rental unless specific approval is obtained before the fact and the rate is mutually agreed to by the Contractor and Contract Administrator or designee; no payment for normal and customary tools, etc., as stated above. The JAF (Exhibit F) shall reflect such agreements.

All equipment is subject to inspection and approval by the Contract Administrator or designee. Such approval may require on-site demonstration of the capability of any proposed equipment at no cost to APS. The Contractor shall maintain the same control, procedures and quality throughout the contract term, including any renewals.

The Contractor must own, or have in their possession a signed lease agreement for all tools and equipment necessary for performing HVAC, dehumidification and gas monitoring services as specified by APS.

22. TRAVEL TIME

APS will reimburse the Contractor for time spent on the job only. Travel time between jobs, time spent in obtaining additional supplies or equipment (other than the minimal time necessary to obtain supplies from the contractor's on-site truck) shall be at the Contractor's expense. On the job time shall commence when the Contractor's personnel arrive at the work site and report to the Contract Administrator or designee. Time of arrival and departure shall be indicated on the Contractor's service report/service ticket/work order. No fuel surcharges will be allowed.

23. **UNSATISFACTORY WORK**
If any of the work done or material or equipment provided by the Contractor is unsatisfactory to APS, the Contractor shall, on being notified by APS, immediately remove at the Contractor's expense such unsatisfactory work or material or equipment and replace the same with work or material or equipment satisfactory to APS and, in the event the Contractor fails within fifteen (15) days after receipt of written notice to remove improper or unsuitable work or material or equipment and replace it with suitable and satisfactory work or material or equipment, APS shall have the right to remove the rejected work or material or equipment and replace it with proper work or material or equipment at the expense of the Contractor. The paragraph applies during the Contract term and during any warranty or guarantee period.
24. **UNUSUAL EQUIPMENT REQUIREMENTS**
Standard tools of the trade and trade consumables shall be available to the Contractor's personnel from their service vehicle. If the project assignment requires the use of equipment and/or services not covered by this Contract or normally associated with the provision of HVAC preventive maintenance services, including by way of illustration and not limited to, back hoes, trenching and asphalt patching, the estimated costs of the additional equipment and /or services shall be identified in the Contractor's written proposal for the job. If APS accepts the use of the additional equipment and/or Services, the Contractor will be reimbursed only for the actual amount of the cost of such equipment and/or services with no addition mark up. APS reserves the right to have others provide the additional equipment and/or services.
25. **WORK SITE DAMAGES**
Any damage to APS property resulting from work performed under this Contract shall be repaired to the satisfaction of APS at the Contractor's expense.
26. **REPLACEMENT OR AUGMENTATION OF KEY PERSONNEL AND SUBCONTRACTORS**
The key personnel and sub-contractors submitted by the Contractor in its Proposal in order to qualify, are considered essential to the Contractor's qualifications and may not be replaced, substituted or augmented without prior written approval of Arlington Public Schools. A request to replace or substitute any key personnel or subcontractor must be submitted to and approved by APS prior to substitution or augmentation.
27. **HOURS OF OPERATION**
Normal work hours for APS are Monday thru Friday, excluding holidays, between the hours of 7:00 AM and 4:00 PM. Overtime is any work time performed outside the hours of 7:00 AM to 4:00 PM, Monday thru Friday and must be approved by Facilities and Operations, in advance of performing the work.

END OF SCOPE OF SERVICES

EXHIBIT B
PRICING SCHEDULE

Item #	Description	ANNUAL PRICES FOR FOUR QUARTERLY INSPECTIONS AND PREVENTATIVE MAINTENANCE PROGRAM				
		Year 1 (Nov. 2017- Oct. 2018)*	Year 2 (Nov. 2018- Oct. 2019)	Year 3 (Nov. 2019- Oct. 2020)	Year 4 (Nov. 2020- Oct. 2021)	Year 5 (Nov. 2021- Oct. 2022)
				CPI-U†	CPI-U†	CPI-U†
1	DISCOVERY ELEMENTARY SCHOOL	\$ 56,722	\$ 51,444			
2	WAKEFIELD HIGH SCHOOL ONLY	\$ 98,376	\$ 102,887			
3	WAKEFIELD HIGH SCHOOL POOL	\$ 8,856	\$ 4,311			
4	WASHINGTON LEE HIGH SCHOOL POOL	\$ 9,468	\$ 4,311			
5	YORKTOWN HIGH SCHOOL	\$ 96,500	\$ 100,935			
6	YORKTOWN HIGH SCHOOL POOL	\$ 8,110	\$ 4,311			
Total for all quarterly preventative maintenance inspections		\$278,082	\$268,198			

* Four (4) quarterly inspections per location will be required for Year 1 (School Year 2017-2018 through October 31, 2018).

† Annual Prices for Four (4) Quarterly Inspections and Preventative Maintenance Program for Contract Renewal Terms 2 through 4 shall be determined based on the movement of the U.S. Department of Labor, Consumer Price Index, All Items, Unadjusted, US City Average (CPI-U) for the twelve month period ending July 31 [Series ID CUUR0000SA0] of each Contract Renewal Term commencing from the date of the renewal.

Labor Category	HOURLY RATE PER LABOR CATEGORY				
	Year 1 (School Year 2017-2018)*	Year 2 (School Year 2018-2019)	Year 3 (School Year 2019-2020)	Year 4 (School Year 2020-2021)	Year 5 (School Year 2021-2022)
		CPI-U†	CPI-U†	CPI-U†	CPI-U†
PROJECT MANAGER	\$ 120.00				
HVAC MECHANIC	\$ 120.00				
HVAC / DEHUMIDIFICATION MECHANIC	\$ 120.00				
HVAC MECHANICS HELPER	\$ 75.00				
PROJECT MANAGER OVERTIME RATE	\$ 180.00				
HVAC MECHANIC OVERTIME RATE	\$ 180.00				
HVAC/DEHUMIDIFICATION MECHANIC OVERTIME RATE	\$ 180.00				
HVAC MECHANICS HELPER OVERTIME RATE	\$112.50				

† Hourly Labor Rates Per Labor Category for Contract Renewal Terms 1 through 4 shall be determined based on the movement of the U.S. Department of Labor, Consumer Price Index, All Items, Unadjusted, US City Average (CPI-U) for the twelve month period ending July 31 [Series ID CUUR0000SA0] of each Contract Renewal Term commencing from the date of the renewal.

MATERIALS AND PARTS

APS will offer mark-up on parts in contract renewal years. The percent of the mark-up will be the same as the CPI-U [Series ID CUUR0000SA0] movement (increase or decrease) for Hourly Labor Rates.

EXHIBIT C
GENERAL TERMS AND CONDITIONS FOR RFP 28FY18

1. CONTRACT DOCUMENTS

The Contract Documents consist of:

- Agreement #28FY18, and all modifications properly incorporated into the Agreement
- Exhibit A – Scope of Services
- Exhibit B – Pricing Schedule
- Exhibit C – General Terms and Conditions
- Exhibit D – Contractor Certification Regarding Criminal Convictions
- Exhibit E – Non Disclosure and Data Security Agreement (Contractor)
- Exhibit F – Job Authorization Form
- Exhibit G – Equipment List
- Exhibit H – Certificate(s) of Insurance
- Exhibit I – Negotiated Items list

The following are incorporated by reference:

- The Request For Proposal (RFP) documents, and
- The proposal Response from the Contractor

Where the terms and provisions of this Agreement vary from the terms and provisions of the other Contract Documents, the terms and provisions of this Agreement shall prevail over the other Contract Documents.

The Contract Documents set forth the entire Agreement between APS and the Contractor. APS and the Contractor agree that no representative or agent of either of them has made any representation or promise with respect to this Agreement which is not contained in the Contract Documents. The Contract Documents may be referred to herein below as the "Contract" or "Agreement."

2. SCOPE OF WORK

The Contractor agrees to perform the services described in the Contract Documents (hereinafter the "Work"). The primary purpose of the Work is to obtain the services of qualified Contractors to assist APS. The Contract Documents set forth the minimum work estimated by APS and the Contractor to be necessary to complete the Work. It shall be the Contractor's responsibility, at the Contractor's sole cost for the compensation set forth in the Contract, to provide the specific services set forth in the Contract Documents and sufficient services to fulfill the purposes of the Work. Nothing in the Contract Documents shall be construed to limit the Contractor's responsibility to manage the details and execution of its Work.

3. STANDARD OF CARE

In the performance of the Work, the Contractor and all its agents shall exercise the highest degree of skill and care normally accepted as the highest level of practices and procedures by members of the same profession for comparable work in the Counties of Arlington, Fairfax, Loudoun and Prince William and the City of Alexandria, Virginia.

4. RESPONSIBILITY OF THE CONTRACTOR

The Contractor shall be responsible for the quality, technical accuracy, and the coordination of all deliverables and other services furnished by the Contractor under this Agreement. The Contractor shall, without additional compensation, correct, or revise any errors or deficiencies that significantly affect the work product, as determined by the Project Officer, which are discovered within a twelve-month period of final completion of Work.

5. **RESPONSIBILITY FOR CLAIMS AND LIABILITIES**

APS' review, approval, or acceptance of, or payment for, any services or deliverables required under the Contract shall not be construed to operate as a waiver by APS of any rights or of any cause of action arising out of the Contract. The Contractor shall be and remains liable to APS for the accuracy and competency of deliverables, plans, specifications, or other documents.

6. **CONTRACT TERM**

The Contract Term shall commence from the date the Director of Purchasing fully executes the Contract and shall terminate on October 31, 2018.

The contract may be renewed, one (1) year at a time ("Renewal Contract Term"), at the sole discretion of APS, at any time prior to thirty (30) days following expiration of the Contract Term, and such Renewal Contract Term shall be effective immediately upon expiration of the latest Renewal Contract Term. APS shall have this right of renewal for up to but not more than four (4) Renewal Contract Terms, making a maximum of five (5) Contract Terms.

7. **PAYMENT**

Contractor will be paid upon Acceptance of the submission of a complete invoice satisfactory to the Project Officer which meets the requirements of this section and other applicable provisions of the Contract. APS will pay the Contractor within thirty (30) calendar days after the date of receipt of a correct (as determined by the Project Officer) invoice approved by the APS Project Officer. The number of the issued Purchase Order shall appear on all invoices.

8. **PROJECT OFFICER**

The performance of the Contractor is subject to the review and approval of the APS Project Officer ("Project Officer") who shall be appointed by the Director of the APS Office requesting the Work. It shall be the responsibility of the Contractor to manage the details of the execution and performance of its Work under the Contract Documents.

9. **ADJUSTMENTS FOR CHANGE IN SCOPE**

APS may order changes in the Work within the general scope of the Work consisting of additions, deletions or other revisions. No claim may be made by the Contractor that the scope of the project or of the Contractor's services has been changed requiring adjustments to the amount of compensation due the Contractor unless such adjustments have been made by a written amendment to the Contract signed by APS and the Contractor.

10. **ADDITIONAL SERVICES**

The Contractor shall not be compensated for any goods or services provided except those included in the Task Work Order unless those goods or services are covered by a written amendment to this Agreement or to the applicable Task Work Order, signed by APS and the Contractor and an APS purchase order is issued covering the expected cost of such goods or services.

APS may determine the need for additional work by the Contractor. Upon a request from APS, the Contractor shall prepare a cost proposal for any such work. No additional services shall be performed unless a written amendment to this Agreement or the applicable Task Work Order has been executed by both parties.

Additional services agreed upon by the parties will be billed at the rates set forth in Exhibit B – Pricing Schedule.

11. **REIMBURSABLE EXPENSES/TRAVEL-RELATED EXPENSES**

Reimbursable expenses include expenses incurred by the Contractor (including consultants) in the interest of the project, as identified in the following sub-paragraphs. A maximum of three percent (3%) markup may be applied to reimbursable expenses, except for expense of reproduction, postage, and handling of drawings, specifications, and other documents, to which no markup may be applied.

11.1 The following expenses incurred by the Contractor, and its Sub Contractors and consultants, in performing its responsibilities under the Contract will be reimbursed:

- 11.1.1 Reproduction, incurred by the Contractor using the APS authorized reproduction service providers, postage, and handling of drawings, specifications, and other documents, as required for formal submission to APS or the County offices.
- 11.1.2 Models requested by the APS.
- 11.1.3 Long distance travel, as authorized by APS. Long distance travel is considered to be travel in excess of the states of Virginia, Maryland and the District Columbia. In these circumstances, travel expenses will be reimbursed in accordance with the GSA Per Diem Rates for Arlington County, Virginia.
- 11.2 Expenses incurred by the Contractor, and its Sub Contractors and consultants, which will not be reimbursed include, but are not limited to:
 - 11.2.1 Transportation (mileage, parking, bike or car rental) within the states of Virginia, Maryland and the District of Columbia and unauthorized out of Arlington County or long distance travel; communications and Internet connectivity; meals and entertainment.
 - 11.2.2 Those expenses identified at 11.1 above are to be included in the Contractor's Lump Sum Price, Not to Exceed Price and Loaded Hourly Rates.
- 11.3. If a Contractor has expenses which they deem to be reimbursable in nature outside the items noted above, the Contractor shall bring these items to the attention of APS prior to the final negotiation of the Contractors fees and also provide justification for consideration to APS for approval on such expenses.

12. PAYMENT OF SUBCONTRACTORS

The Contractor is obligated to take one of the two following actions within seven (7) calendar days after receipt of amounts paid to the Contractor by APS for work performed by any subcontractor under this Contract:

- a. Pay the subcontractor for the proportionate share of the total payment received from APS attributable to the work performed by the subcontractor under this Contract; or
- b. Notify APS and the subcontractor, in writing, of the Contractor's intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment.

The Contractor is obligated to pay interest to the subcontractor on all amounts owed by the Contractor that remain unpaid after seven (7) calendar days following receipt by the Contractor of payment from APS for work performed by the subcontractor under this Contract, except for amounts withheld as allowed in b., above. Unless otherwise provided under the terms of the subcontract, interest shall accrue at the rate of one percent (1%) per month.

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 with respect to each lower-tier subcontractor.

The Contractor's obligation to pay an interest charge to a subcontractor pursuant to the above provisions may not be construed to be an obligation of APS. A Contract modification may not be made for the purpose of providing reimbursement for such interest charge. A cost reimbursement claim may not include any amount for reimbursement for such interest charge.

13. NON-APPROPRIATION

All funds for payments by APS under this Contract are subject to the availability of an annual appropriation for this purpose by APS School Board. In the event of non-appropriation of funds by APS School Board for the goods or services provided under this Contract or substitutes for such goods or services which are as advanced or more advanced in their technology, 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. If funds are not appropriated at any time for the continuation of this Contract, cancellation will be accepted by the Contractor on thirty (30) calendar 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 specified in APS's written notice.

14. ARLINGTON PUBLIC SCHOOLS PURCHASE ORDER REQUIREMENT

APS purchases are authorized only if an APS Purchase Order is issued in advance of the transaction, indicating that the ordering school or department has sufficient funds available to pay for the purchase. Such a Purchase Order is to be provided to the Contractor by the order agency. APS will not be liable for payment for any purchases made by its employees without appropriate purchase authorization issued by APS Purchasing Agent. Contractors providing goods or services without a signed APS Purchase Order do so at their own risk and expense.

15. REPLACEMENT OR AUGMENTATION OF KEY PERSONNEL AND SUBCONTRACTORS

The key personnel and sub-contractors submitted by the Contractor in its Proposal and thereafter accepted by APS are considered essential to the Contractor's qualifications. The Contractor may not replace, substitute or augment any key personnel or sub-contractor without prior written approval of APS. A request to replace or substitute any key personnel or subcontractor for any reason, shall be provided to the APS Project Officer at least fifteen (15) calendar days in advance of such proposed replacement or substitution and the request shall contain sufficient justification, including identification of the proposed replacement or substitute and their qualifications, in sufficient detail to permit evaluation by APS.

Additionally, the Contractor shall not remove or replace the approved Project Manager without written approval of APS. In cases of the approved Project Manager's prolonged illness or other extended leave of absence, Contractor shall provide an interim Project Manager whose continued work on the project shall be subject to approval by APS.

In the event of the Project Manager's resignation or termination from the Contractor's employment, the Contractor shall replace the Project Manager with an individual with similar qualifications and experience and only with APS' prior written approval.

16. PROJECT STAFF

APS has the right of reasonable rejection and approval of staff or subcontractors assigned to the project by the Contractor. If APS reasonably rejects staff or subcontractors, the Contractor must provide replacement staff or subcontractors satisfactory to APS in a timely manner and at no additional cost to APS. 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.

17. SUPERVISION BY CONTRACTOR

The Contractor shall at all times enforce strict discipline and good order among the workers performing under this Contract, and shall only employ on the work persons reasonably proficient in the work assigned.

18. 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 any other basis prohibited by state law related 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 nondiscrimination 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 comply with the provisions of the Americans with Disabilities Act of 1990 which prohibits discrimination against individuals with disabilities in employment and mandates their full participation in both publicly and privately provided services and activities.
- E. The Contractor will include the provisions of the foregoing paragraphs in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontract or vendor.

19. EMPLOYMENT OF UNAUTHORIZED ALIENS PROHIBITED

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

20. DRUG-FREE WORKPLACE TO BE MAINTAINED BY CONTRACTOR

During the performance of the work pursuant to this Contract, the Contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the 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 APS in accordance with the APS Purchasing Resolution, 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 of the contract.

21. TERMINATION FOR CAUSE, INCLUDING BREACH AND DEFAULT; CURE

The Contract shall remain in force for the initial Contract Term or any Renewal Contract Term(s) and until APS determines that all of the following requirements and conditions have been satisfactorily met: APS has accepted the Work, and thereafter until the Contractor has met all requirements and conditions relating to the Work under the Contract Documents, including warranty and guarantee periods. However, APS shall have the right to terminate this Contract sooner if the Contractor is in breach or default or has failed to perform satisfactorily the Work required, as determined by APS in its discretion.

If APS determines that the Contractor has failed to perform satisfactorily, then APS will give the Contractor written notice of such failure(s) and the opportunity to cure such failure(s) within at least fifteen (15) days before termination of the Contract takes effect ("Cure Period"). If the Contractor fails to cure within the Cure Period or as otherwise specified in the notice, the Contract may be terminated for the Contractor's failure to provide satisfactory Contract performance. Upon such termination, the Contractor may apply for compensation for Contract services satisfactorily performed by the Contractor, allocable to the Contract and accepted by APS prior to such termination unless otherwise barred by the Contract ("Termination Costs"). In order to be considered, such request for Termination Costs, with all supporting documentation, must be submitted to APS Project Officer within fifteen (15) calendar days after the expiration of the Cure Period. APS 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. No Termination Costs shall be payable to Contractor until APS has determined all costs related to or arising from Contractor's default, including but not limited to costs of delay, re-procurement, correction and completion. If such costs to APS are less than the Termination Costs, the difference will be paid to Contractor by APS. If such costs to APS exceed the Termination Costs, Contractor shall pay the difference to APS within thirty (30) days following issuance by APS of the statement of the amount due.

Additionally, and notwithstanding any provision in this Contract to the contrary, the Contractor is liable to APS, and APS shall be entitled to recover, all damages to which APS is entitled by this Contract or by law, including, and

without limitation, direct damages, indirect damages, consequential damages, delay damages, replacement costs, refund of all sums paid by APS to the Contractor under the Contract and all reasonable attorney fees and costs, including but not limited to normal and customary costs of litigation and witness fees incurred by APS to enforce any provision of this Contract.

Except as otherwise directed by APS in the notice, the Contractor shall stop work on the date of receipt of notice of the termination or other date specified in the notice, place no further orders or subcontracts for materials, services, or facilities except as are necessary for the completion of such portion of the Work not terminated, and terminate all vendors and subcontracts and settle all outstanding liabilities and claims. Any purchases after the date of termination contained in the notice shall be the sole responsibility of the Contractor.

In the event any termination for cause, default, or breach shall be found to have been without sufficient justification or otherwise improper or invalid by any court of competent jurisdiction then such termination shall be deemed to have been a termination for convenience.

22. TERMINATION FOR THE CONVENIENCE OF ARLINGTON PUBLIC SCHOOLS

The performance of Work under this Contract may be terminated by the Purchasing Agent in whole or in part whenever the Purchasing Agent shall determine that such termination is in APS' best interest. Any such termination shall be effected by the delivery to the Contractor of a written notice of termination at least fifteen (15) calendar days before the date of termination, specifying the extent to which performance of the Work is terminated and the date upon which such termination becomes effective. The Contractor will be entitled to receive compensation for all Contract services satisfactorily performed by the Contractor and allocable to the Contract and accepted by APS prior to such termination and any other direct costs established by the Contractor as having been caused by the termination, but no amount shall be allowed for anticipatory profits.

After receipt of a notice of termination and except as otherwise directed, the Contractor shall stop all work on the date of receipt of the notice of termination or other date specified in the notice; place no further orders or subcontracts for materials, services or facilities except as are necessary for the completion of such portion of the work not terminated; immediately transfer all documentation and paperwork for terminated work to APS; and terminate all vendors and subcontracts and settle all outstanding liabilities and claims.

23. INDEMNIFICATION (NOTE: Virginia law does not permit a public body to contract for the indemnification of others; cross indemnity provisions are not acceptable) The Contractor covenants for itself, its employees, and subcontractors to save, defend, hold harmless, and indemnify APS, and all of its elected and appointed officials, officers, current and former employees, agents, Offices, agencies, boards, and commissions (collectively "APS" for purposes of this section) from and against any and all claims made by third parties or by APS for any and all losses, damages, injuries, fines, penalties, costs (including costs of litigation as defined above 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 acts or omissions or errors in performance or nonperformance of its Work called for by the Contract Documents, whether such act or omission or error is attributable to Contractor, subcontractor, any material supplier, or anyone directly or indirectly employed by them, called for by the Contract Documents. This duty to save, defend, hold harmless and indemnify shall survive the termination of this Contract.

If any action or proceeding relating to the indemnification required by this Section is brought against APS, then upon written notice from APS to the Contractor, Contractor shall at Contractor's expense, resist or defend such action or proceeding by counsel approved by APS in writing, such approval not to be unreasonably withheld, but no approval of counsel shall be required where the cause of action is resisted or defended by counsel of any insurance carrier obligated to resist or defend same.

If, after Notice by APS, the Contractor fails or refuses to save, defend, hold harmless and/or indemnify APS, the Contractor shall be liable for and reimburse APS for any and all expenses, including but not limited to, reasonable costs as defined above and attorney's fees incurred and settlements or payments made. The Contractor shall pay such expenses upon demand by APS and failure to do so may result in such amounts being withheld from any amounts due to Contractor under this Contract.

Contractor understands and agrees that it is Contractor's responsibility to provide indemnification to APS pursuant to this section. The provision of insurance, while anticipated to provide a funding source for this indemnification, is in addition to any indemnification requirements and the failure of Contractor's insurance to fully fund any indemnification shall not relieve the Contractor of any obligation assumed under this indemnification.

24 INTELLECTUAL PROPERTY INDEMNIFICATION

The Contractor warrants and guarantees that no intellectual property rights (including, but not limited to, copyright, patent, mask rights and trademark) of third parties are infringed or in any manner involved in or related to the services provided hereunder.

The Contractor further covenants for itself, its employees, and subcontractors to save, defend, hold harmless, and indemnify APS, and all of its officers, officials, Offices, agencies, agents, and employees from and against any and all claims, losses, damages, injuries, fines, penalties, costs (including costs as defined above and attorney's fees), charges, liability, 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 APS. If the Contractor, or any of its employees or subcontractors, uses any design, device, work, or materials covered by letters patent or copyright, it is mutually agreed and understood, without exception, that the Contract Amount includes all royalties, licensing fees, and any other costs arising from the use of such design, device, work, or materials in any way involved with the Work. This duty to save, defend, hold harmless and indemnify shall survive the termination of this Contract. If, after Notice by APS, the Contractor fails or refuses to fulfill its obligations contained in this section, the Contractor shall be liable for and reimburse APS for any and all expenses, including but not limited to, reasonable costs as defined above and attorney's fees incurred and any settlements or payments made. The Contractor shall pay such expenses upon demand by APS and failure to do so may result in such amounts being withheld from any amounts due to Contractor under this Contract.

25 COPYRIGHT

The Contractor hereby irrevocably transfers, assigns, sets over and conveys to APS all right, title and interest, including the sole exclusive and complete copyright interest, in any and all copyrightable works created pursuant to this Agreement. The Contractor further agrees to execute such documents as APS may request to effect such transfer or assignment.

Further, the Contractor agrees that the rights granted to APS by this paragraph are irrevocable. Notwithstanding anything else in this Agreement, the Contractor's remedy in the event of termination of or dispute over the terms of this Agreement shall not include any right to rescind, terminate or otherwise revoke or invalidate in any way the rights conferred pursuant to the provisions of this paragraph. Similarly, no termination of this Agreement shall have the effect of rescinding, terminating or otherwise invalidating the rights acquired pursuant to the provisions of this "Copyright" paragraph.

The use of subcontractors or third parties in developing or creating input into any copyrightable materials produced as a part of this Agreement is prohibited unless APS approves the use of such subcontractors or third parties in advance and such subcontractors or third parties agree to include the provisions of this paragraph as part of any contract they enter into with the Contractor for work related to work pursuant to this Agreement.

26 OWNERSHIP AND RETURN OF RECORDS

This Contract confers no ownership rights to the Contractor nor any rights or interests to use or disclose APS' data or inputs.

The Contractor agrees that all drawings, specifications, blueprints, data, information, findings, memoranda, correspondence, documents or records of any type, whether written or oral or electronic, and all documents generated by the Contractor or its subcontractors as a result of APS' request for services under this Contract, are the exclusive property of APS ("Record" or "Records"), and all such Records shall be provided to and/or returned to APS upon completion, termination, or cancellation of this Contract. The Contractor shall not use, willingly allow, or cause such materials to be used for any other purpose other than performance of all obligations under the Contract

without the written consent of APS. Additionally, the Contractor agrees that the Records are confidential records and neither the Records nor their contents shall be released by the Contractor, its subcontractors, or other third parties; nor shall their contents be disclosed to any person other than the Project Officer or his or her designee. The Contractor agrees that all oral or written inquiries from any person or entity regarding the status of any Record generated as a result of the existence of this Contract shall be referred to the Project Officer or his or her designee for response. At APS' request, the Contractor shall deliver all Records to the Project Officer, including "hard copies" of computer records, and at APS's request, shall destroy all computer records created as a result of APS' request for services pursuant to this Contract.

The Contractor agrees to include the provisions of this section as part of any contract or agreement the Contractor enters into with subcontractors or other third parties for work related to work pursuant to this Contract. No termination of this Contract shall have the effect of rescinding, terminating or otherwise invalidating this section of the Contract.

27 **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, proprietary systems, 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.

28 **HIPPA COMPLIANCE**

The Contractor shall comply with all applicable legislative and regulatory requirements of the Health Insurance Portability and Accountability Act of 1996, as amended ("HIPPA"). Pursuant to 45 C. F. R. §164.502(e) and §164.504(e), the Contractor shall be designated a Business Associate pursuant and will be required to execute an APS Business Associate Agreement. If Contractor engages a subcontractor or subcontractors in the performance of the Scope of Services under any resulting Contract, the Contractor shall enter into an agreement with each of its subcontractors pursuant to 45 C. F. R. §164.3082(b) and the Health Information Technology for Economic and Clinic Health (HITECH) Act §13401 that is appropriate and sufficient to require each subcontractor to protect the Protected Health Information (PHI) to the same extent required of Contractor under APS's Business Associate Agreement and in a form approved by APS. HITECH defines PHI as individually identifiable and maintained by a covered health care provider, health plan, or health care clearinghouse. See 45 C.F.R 160.103 and 164.501. The Contractor shall ensure that its subcontractors notify the Contractor, immediately, of any breaches in security regarding the PHI.

The Contractor takes full responsibility for any failure to execute the appropriate agreements with its subcontractors to comply with the existing and or future regulations of HIPPA and/or HITECH, and shall indemnify APS in accordance with the Indemnification clause in this Section.

29. **DATA SECURITY**

The Contractor agrees that it shall hold all APS data obtained or accessed as a result of its work under this Contract confidential in accordance with the Nondisclosure and Data Security Agreement attached hereto. If individual employees or subcontractors of the Contractor are performing work under this Contract on APS-owned property, then such individual employees or subcontractors shall be required to sign a separate Nondisclosure and Data Security Agreement, which shall be incorporated by reference into this Contract, prior to performing any work or being allowed access to APS data.

The Contractor shall hold APS Information in the strictest confidence and comply with all applicable APS security and network resources policies as well as all local, state and federal laws or regulatory requirements concerning data privacy and security. The Contractor shall develop, implement, maintain, continually monitor and use appropriate administrative, technical and physical security measures to preserve the confidentiality, privacy,

integrity and availability of all electronically maintained or transmitted APS Information received from, created or maintained on behalf of APS and strictly control access to APS Information. For purposes of this provision, and as more fully described in this Contract and APS's Non-Disclosure and Data Security Agreement (NDA), "APS Information" (also referred to as "APS Data" or "data") includes, but is not limited to, electronic information, documents, data, images, and records including, but not limited to, financial records, personally identifiable information, Personal Health Information (PHI), personnel, educational, voting, registration, tax or assessment records, information related to public safety, APS networked resources, and APS databases, software and security measures which is created, maintained, transmitted or accessed to perform the work under this Contract.

- A. APS' Non-Disclosure and Data Security Agreement (NDA). The Contractor shall require that an authorized Contractor designee, and all key employees, agents or subcontractors working on-site at APS facilities or otherwise performing non-incident work under this Contract, sign the NDA (attached as an Exhibit hereto) prior to performing any work or permitting access to APS networked resources, application systems or databases under this Contract. A copy of the signed NDAs shall be available to APS Project Officer upon request.
- B. Use of Data. The Contractor shall ensure that the use, distribution, disclosure or access ("use") to APS Information and APS networked resources shall not occur in an unauthorized manner. Use of APS Information for other than as specifically outlined in this Contract is strictly prohibited, unless such other use is agreed to in writing by the parties. The Contractor will be solely responsible for any unauthorized use, reuse, distribution, transmission, manipulation, copying, modification, access or disclosure of APS Information and any non-compliance with this DATA SECURITY AND PROTECTION provision or any NDA.
- C. Data Protection. The Contractor agrees that it will protect APS Information according to standards established by the National Institute of Standards and Technology, including 201 CMR 17.00, Standards for the Protection of Personal Information of Residents of the Commonwealth and the Payment Card Industry Data Security Standard (PCI DSS), as applicable, and no less rigorously than it protects its own data, proprietary and/or confidential information. The Contractor shall provide to APS a copy of its data security policy and procedures for securing APS Information and a copy of its disaster recovery plan/s. The Contractor shall provide, if requested by APS, on an annual basis, results of an internal Information Security Risk Assessment provided by an outside firm.
- D. Data Sharing. Except as otherwise specifically provided for in this Contract, the Contractor agrees that it shall not share, disclosure, sell or grant access to APS Information to any third party without the express written authorization of the APS Chief Information Security Officer or designee.
- E. Security Requirements. The Contractor shall maintain the most up to date anti-virus, industry accepted firewalls and/or other protections on its systems and networking equipment. The Contractor certifies that all systems and networking equipment that support, interact or store APS Information meet the above standards and industry best practices for physical, network and system security requirements. Printers, copiers or fax machines that store APS Data into hard drives must provide data at rest encryption. Significant deviation from these standards must be approved by the APS Chief Information Security Officer or designee, the downloading of APS information onto laptops or other portable storage medium is prohibited without the express written authorization of the APS Chief Information Security Officer or designee.
- F. Data Protection Upon Conclusion of Contract. Upon termination, cancellation, expiration or other conclusion of this Contract, the Contractor shall return all APS Information to APS unless APS requests that such data be destroyed. This provision shall also apply to all APS Information that is in the possession of subcontractors or agents of the Contractor. The Contractor shall complete such return or destruction not less than thirty (30) calendar days after the conclusion of this Agreement and shall certify completion of this task, in writing, to APS Project Officer.

- G. Notification of Security Incidents. The Contractor agrees to notify the APS Chief Information Officer and APS Project Officer within twenty-four (24) hours of the discovery of any unintended access to, use or disclosure of APS Information.
- H. Subcontractors. To the extent the use of subcontractors is permitted under this Contract, the requirements of this entire section shall be incorporated into any subcontractor agreement entered into by the Contractor and any data sharing shall be compliant with these security and protection requirements and the NDA. In the event of data sharing, subcontractors shall provide to the Contractor a copy of their data security policy and procedures for securing APS Information and a copy of their disaster recovery plans.

30. ETHICS IN PUBLIC CONTRACTING

This Contract incorporates by reference Article 9 of the APS Purchasing Resolution, as well as any state 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 is made without collusion or fraud and that it has not offered or received any kickbacks or inducements from any other Offeror, supplier, manufacturer, or subcontractor and that it has not conferred on any public employee having official responsibility for this purchase 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.

31. ARLINGTON PUBLIC SCHOOLS EMPLOYEES

No employee of Arlington Public Schools, Virginia, shall be admitted to any share in any part of this Contract or to any benefit that may arise there from which is not available to the general public.

32. 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, acts of terrorism, 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. APS shall not be held responsible for failure to perform its duties and responsibilities imposed by the Contract if such failure is due to fires, riots, rebellions, natural disasters, wars, acts of terrorism, or an act of God beyond control of APS that make performance impossible or illegal, unless otherwise specified in the Contract.

33. 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 initial Term and any Renewal Contract Term(s). A contract entered into by a Contractor in violation of this requirement is voidable, without any cost or expense, at the sole option of APS.

34. RELATION TO ARLINGTON PUBLIC SCHOOLS

The Contractor will be legally considered as an independent contractor and neither the Contractor nor its employees will, under any circumstances, be considered employees, servants or agents of APS. APS will not be legally responsible for any negligence or other wrongdoing by the Contractor, its employees, servants or agents. APS will not withhold payments to the Contractor for any federal or state unemployment taxes, federal or state income taxes, Social Security tax, or any other amounts for benefits to the Contractor. Furthermore, APS will not provide to the Contractor any insurance coverage or other benefits, including workers' compensation, normally provided by APS for its employees.

35. ANTITRUST

By entering into this Contract, the Contractor conveys, sells, assigns and transfers to APS 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 APS under this Contract.

36. REPORT STANDARDS

Reports or written material prepared by the Contractor in response to the requirements of this Contract or request of the Project Officer shall, unless otherwise provided for in the Contract, meet standards of professional writing established for the type of report or written material provided, shall be thoroughly researched for accuracy of content, shall be grammatically correct and not contain spelling errors, shall be submitted in a format approved in advance by the Project Officer, and shall be submitted for advance review and comment by the Project Officer. The cost of correcting grammatical errors, correcting report data, or other revisions required to bring the report or written material into compliance with these requirements shall be borne by the Contractor.

When submitting documents to APS, The Contractor shall comply with the following guidelines:

- All submittals and copies shall be printed on **at least thirty percent (30%) recycled-content** and/or tree-free paper;
- Report cover or binder shall be recyclable, made from recycled materials, and/or easily removable to allow for recycling of report pages (reports with glued bindings that meet all other requirements are acceptable);
- The use of plastic covers or dividers should be avoided; and
- Unnecessary attachments or documents not specifically asked for should not be submitted, and superfluous use of paper should be avoided.

37. AUDIT

The Contractor agrees to retain all books, records and other documents related to this Contract for at least five (5) years after final payment. APS or its authorized agents shall have full access to and the right to examine any of the above documents during this period and during the initial Contract Term or any Renewal Contract Term. If the Contractor wishes to destroy or dispose of records (including confidential records to which APS does not have ready access) within five (5) years after final payment, the Contractor shall notify APS at least thirty (30) days prior to such disposal, and if APS objects, shall not dispose of the records.

38. ASSIGNMENT

The Contractor shall not assign, transfer, convey, sublet, or otherwise dispose of any award, or any or all of its rights, obligations, or interests under this Contract, without the prior written consent of APS.

39. AMENDMENTS

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

40. ARLINGTON PUBLIC SCHOOLS PURCHASING RESOLUTION AND APS POLICIES

Notwithstanding any provision to the contrary herein, no provision of the Arlington Public Schools Purchasing Resolution or any applicable APS policy is waived in whole or in part.

41. DISPUTE RESOLUTION

All disputes arising under this Agreement, or its interpretation, whether involving law or fact, or extra work, or extra compensation or time, and all claims for alleged breach of Contract shall be submitted in writing to the Project Officer for decision at the time of the occurrence or beginning of the work upon which the claim is based, whichever occurs first. Such claims shall state the facts surrounding it in sufficient detail to identify it together with its character and scope. Claims denied by the Project Officer may be submitted to APS Superintendent or designee in writing no later than sixty (60) days after final payment in accordance with the Arlington Public Schools Purchasing Resolution.

The time limit for final written decision by APS Superintendent or designee in the event of a contractual dispute, as that term is defined in the Arlington Public Schools Purchasing Resolution, is thirty (30) days. Procedures for considering contractual claims, disputes, administrative appeals, and protests are contained in the Arlington Public Schools Purchasing Resolution, incorporated herein by reference. A copy of the Arlington Public Schools Purchasing Resolution is available upon request from the Office of the Purchasing Agent. The Contractor shall not

cause a delay in the Work pending a decision of the Project Officer, APS Superintendent or designee, School Board, or a court of competent jurisdiction.

42. **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 for Arlington County, Virginia, and in no other court. In performing the Work under this Contract, the Contractor shall comply with applicable federal, state, and local laws, ordinances and regulations.

43. **ARBITRATION**

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

44. **NONEXCLUSIVITY OF REMEDIES**

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

44. **NO WAIVER**

The failure of either party to exercise in any respect a right provided for in this Contract shall not be deemed to be a subsequent waiver of the same right or any other right.

45. **SEVERABILITY**

The sections, paragraphs, sentences, clauses and phrases of this Contract are severable, and if any phrase, clause, sentence, paragraph or section of this Contract shall be declared invalid by the valid judgment or decree of a court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Contract.

46. **NO WAIVER OF SOVEREIGN IMMUNITY**

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

47. **SURVIVAL OF TERMS**

It is the intent of the parties that any provision of the Contract Documents which by its content is intended to survive the expiration or termination of this Contract, whether or not specifically so stated. Without in any way limiting the foregoing, the following sections if included in this Contract also survive: INDEMNIFICATION; RELATION TO ARLINGTON PUBLIC SCHOOLS; OWNERSHIP AND RETURN OF RECORDS; AUDIT; COPYRIGHT; INTELLECTUAL PROPERTY INDEMNIFICATION; CONFIDENTIAL INFORMATION, AND DATA SECURITY AND PROTECTION.

48. **HEADINGS**

The section headings in this Contract are inserted only for convenience and are not to be construed as part of this contract or a limitation on the scope of the particular section to which the heading refers.

49. **AMBIGUITIES**

Each party and its counsel have participated fully in the review and revision of this Agreement. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in interpreting this Agreement. The language in this Agreement shall be interpreted as to its fair meaning and not strictly for or against any party.

50. **NOTICES**

Unless otherwise provided herein, all notices and other communications hereunder shall be deemed to have been given when made in writing and either (a) delivered in person, (b) delivered to 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: Thomas Klara
Shapiro & Duncan, Inc.
Service Sales Representative
14620 Rothgeb Drive
Rockville, MD 20850

TO APS PROJECT MANAGER: James Meikle
Director
Arlington Public Schools
Maintenance Services
2770 South Taylor Street
Arlington, Virginia 22206

AND TO: Kenneth R. Lawson, CPPB, VCO
Buyer
Purchasing Office
Finance & Management Services
Arlington Public Schools
1426 N. Quincy Street,
Arlington, Virginia 22207

51. **NON-DISCRIMINATION NOTICE***
APS does not discriminate against faith-based organizations.

52. **INSURANCE REQUIREMENTS**
The Contractor shall provide to the APS Purchasing Agent a Certificate of Insurance indicating that the Contractor has in force the coverages below prior to the start of any Work under this Contract and upon any contract extension. The Contractor agrees to maintain such insurance until the completion of this Contract or as otherwise stated in the Contract Documents. All required insurance coverage's must be acquired from insurers authorized to do business in the Commonwealth of Virginia, rating of "A-" or better and a financial size of "Class VII" or better in the latest edition of A.M. Best Co., and acceptable to APS. The minimum insurance coverage shall be:

- A. Workers Compensation - Virginia Statutory Workers Compensation (W/C) coverage including Virginia benefits and employers liability with limits of \$100,000/100,000/500,000.
- B. Professional Liability and/or/Miscellaneous Errors and Omissions - The Contractor shall carry Professional Liability/and/or/Miscellaneous Errors and Omissions insurance which will pay for damages arising out of errors or omissions in the rendering, or failure to render professional services under the contract, in the amount of \$1,000,000.
- C. Commercial General Liability - \$1,000,000 combined single limit coverage 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.
- D. Business Automobile Liability - \$1,000,000 Combined Single Limit (Owned, non-owned and hired).
- E. Arlington Public Schools, its officers, elected and appointed officials, employees and agents, are to be named as additional insureds under all coverages except Workers' Compensation, Errors and Omissions,

and Automobile Liability, and the certificate of insurance, or the certified policy, if requested, must so state. Coverage afforded under this paragraph shall be primary as respects APS, its officers, elected and appointed officials, agents and employees. The following definition of the term "APS" applies to all policies issued under the Contract:

"APS School Board and any affiliated or subsidiary Board, Authority, Committee, or Independent Agency (including those newly constituted), provided that such affiliated or subsidiary Board, Authority, Committee, or Independent Agency is either a Body Politic created by the School Board of Arlington Public Schools, Virginia, or one in which controlling interest is vested in Arlington Public Schools"

- F. Cancellation - All insurance policies required by this Contract shall be endorsed to include the following provision: "It is agreed that this policy is not subject to cancellation or non-renewal until thirty (30) days prior written notice has been given to the Purchasing Agent, Arlington Public Schools, Virginia." If there is a material change or reduction in coverage the Contractor shall notify the Purchasing Agent immediately upon Contractor's notification from the insurer. 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 with another policy consistent with the terms of this Contract, and APS notified of the replacement, in such a manner that there is no lapse in coverage. Not having the required insurance throughout the Contract Term is grounds for termination of the Contract.
- G. Any insurance coverage that is placed as a "claims made" policy must remain valid and in force, or the Contractor must obtain an extended reporting endorsement consistent with the terms of this Contract, until the applicable statute of limitations has expired, such date as determined to begin running from the date of the Contractor's receipt of final payment.
- H. Contract Identification - The insurance certificate shall state this Contract's number and title.
- I. Intellectual Property Infringement Insurance.

The Contractor must disclose the amount of any deductible or self-insurance component applicable to the General Liability, Automobile Liability, Professional Liability, Intellectual Property or any other policies required herein, if any. APS reserves the right to request additional information to determine if the Contractor has the financial capacity to meet its obligations under a deductible. Thereafter, at its option, APS may require a lower deductible, funds equal to the deductible be placed in escrow, a certificate of self-insurance, collateral, or other mechanism in the amount of the deductible to ensure protection for APS.

The Contractor shall require all subcontractors to maintain during the term of this Contract, Commercial General Liability insurance, Business Automobile Liability insurance, and Workers' Compensation insurance in the same form and manner as specified for the Contractor. The Contractor shall furnish subcontractors' certificates of insurance to APS immediately upon request by APS.

No acceptance or approval of any insurance by APS shall be construed as relieving or excusing the Contractor from any 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 wherever 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 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 it.

Notwithstanding any of the above, the Contractor may NOT satisfy its obligations under this section by means of self-insurance for all or any part of the insurance required.

53. ACCESSIBILITY OF WEB SITE*

If any work performed under this Contract results in design, development, maintenance or responsibility for content and/or format of any APS websites, or APS' presence on other party websites, the Contractor shall perform such work in compliance with the requirements set forth in the U.S. Office of Justice document entitled "Accessibility of State and Local Government Websites to People with Disabilities." The document is located at: <http://www.ada.gov/websites2.htm>.

54. ARLINGTON COUNTY BUSINESS LICENSE

The Contractor must comply with the provisions of Chapter 11 (Business Licenses) of the Arlington County Code. For further information on the provisions of this chapter and its applicability to this contract, contact the Arlington County Business License Division, Commissioner of the Revenue of Arlington, Virginia, Telephone Number (703) 228-3060.

55. SUBCONTRACTS

The Contractor shall not enter into any subcontract with any subcontractor who has been suspended or debarred from participating in contracting programs by any agency of the United States Government or of the State in which the work under this contract is to be performed.

The Contractor shall be as fully responsible for the acts or omissions of its subcontractors, and of persons either directly or indirectly employed by them as for the acts or omissions of persons directly employed by the Contractor.

The Contractor shall insert appropriate clauses in all subcontracts to bind subcontractors to the terms and conditions of this contract insofar as they are applicable to the work of subcontractors.

Nothing contained in this contract shall create any contractual relationship between any subcontractor and APS.

56. CONTRACTOR CERTIFICATION REGARDING CRIMINAL CONVICTIONS

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

56.2 The Contractor shall also certify for its employees, its Subcontractors and employees thereof, assigned to the Work after Contract award. The Contractor upon demand from APS shall provide all information which allowed for the certification.

57. PRICE ADJUSTMENTS

The contract unit prices will remain firm from date the Purchasing Agent fully executes the Contract through October 31, 2019. The unit prices for ensuing contract years shall be based on the movement of the U.S. Department of Labor, Consumer Price Index, All Items, Unadjusted, US City Average (CPI-U) [Series ID CUUR0000SA0]. If the price is increased after October 31, 2019, the unit price may be increased only upon approval of a written request

to the Purchasing Agent. Upon receipt of the Contractor's request, the Contract unit prices shall be limited by the Purchasing Agent up to an amount equal to the percentage of movement of the CPI-U for the twelve (12) month period ending in the month of July of each Contract year effective. The Contract unit prices changed as a result of this formula will become effective on November 1 of each Contract year commencing from the date of the renewal of the contract and shall be binding on the Contractor for the ensuing contract year.

APS, at its discretion, may extend a contract renewal term for a period of not more than six months.

Notice of intent to renew will be given to the Contractor in writing by the APS Purchasing Office, normally 60 days before the expiration date of the current contract. (This notice shall not be deemed to commit APS to a contract renewal.)

58. FAILURE TO DELIVER

In case of failure to deliver goods or services in accordance with the contract terms and conditions, APS, after due oral or written notice, may procure the goods or services from other sources and hold the Contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which APS may have; provided that if public necessity requires the use of materials or supplies not conforming to the specifications, they may be accepted and payment therefore shall be made at a reduction in price to be determined solely by APS.

59. ADVERTISING AND USE OF PROPRIETARY MARKS OR LOGOS

Contractor shall not use the name of Arlington Public Schools (APS) or any Authorized User or refer to APS or any Authorized User, directly or indirectly, in any press release or formal advertisement without receiving prior written consent of APS or such Authorized User. In no event may Supplier use a proprietary mark of APS or an Authorized User without receiving the prior written consent of APS or the Authorized User.

60. EXTENSION OF CONTRACT TERM

The APS Purchasing Office, at its sole and absolute discretion, may extend the final Contract term or final Contract renewal term of the resultant Contract for a period of not more than six months, unless specifically stated otherwise in the solicitation.

END OF CONTRACT TERMS AND CONDITIONS

EXHIBIT D
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.

Shapiro & Duncan, Inc.

Name of Firm

14620 Rothgeb Drive Rockville, MD 20850

Address of Firm

(301) 315-6260

Telephone



Signature

Tom Klara, HVAC Service Sales Representative

Name and Title (please type or print)

8/7/2017

Date

EXHIBIT E
NON-DISCLOSURE AND DATA SECURITY AGREEMENT (CONTRACTOR)

The undersigned, an authorized agent of the Contractor and on behalf of Shapiro & Duncan, Inc. (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 "Project" 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 Project. 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 Project. 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 except 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 Project 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 Project, Contractor agrees to return all APS information to the APS Project Officer. These obligations remain in full force and effect throughout the Project and shall survive any termination of the APS Contract.

Authorized Signature: Tom Klara

Printed Name and Title: Tom Klara, HVAC Services Sales Representative

Date: 8/7/2017

EXHIBIT F
JOB AUTHORIZATION FORM

ALL WORK TO BE PERFORMED IN ACCORDANCE WITH TERMS AND CONDITIONS OF:

Contract No.: 28FY18 Contractor: Shapiro & Duncan Inc.

Contract Administrator: _____ Total Cost Not to Exceed: \$ _____

Task: _____

DESCRIPTION OF WORK

Contract Administrator's Designee: _____ Phone Number: _____

Job No.: _____ Date of Issuance to the Contractor: _____

Location: _____

REQUIREMENTS: _____

	Regular Rate	Labor Hours	Overtime Rate	Labor Hours	Total Labor Cost
Project Manager	\$ _____ /hr	_____	\$ _____ /hr	_____	\$ _____
HVAC Mechanic	\$ _____ /hr	_____	\$ _____ /hr	_____	\$ _____
HVAC/Dehumidification Mechanic	\$ _____ /hr	_____	\$ _____ /hr	_____	\$ _____
HVAC Mechanic's Helper	\$ _____ /hr	_____	\$ _____ /hr	_____	\$ _____

Days after receipt of Notice to Proceed: _____

Special Problems or Potential Delays:

Subcontract Cost \$ _____ Actual Cost (Labor) \$ _____ Actual Cost (Material) \$ _____
Attach Documentation

Contract Administrator's Signature _____ Date _____ Contractor's Signature _____ Date _____

EXHIBIT G
EQUIPMENT LIST

Wakefield Pool

Dectron Model # RSH-364-7
Serial Number - 2012030037

Lochinvar Pool Heater Qty 2, Model #CPN-0992
Serial #'s L12H00244823 and # I12H00243004.

Washington-Lee Pool

APS UNIT NAME- PDU 2
Dectron Model # DSH-182-7
Serial No. A2007100019

APS UNIT NAME PDU 1
Dectron Model # DSH-182-7
Serial No. A2007090026

APS UNIT NAME ERU-7
Circulaire - Model # TMP-120HP-X2Y2
Serial No. E2007100012

Yorktown Pool

APS UNIT NAME- Pool Pak 1
Make: Poolpak Technologies Corporation
Model No. SWHP300SR-22E-CKH-410A
Serial No. PPK110601

INNOVENT ERU OA-2-2
Make: Innovent Air Handling Equipment LLC.
Model No. E-RHXC-1/SP-14000-FC/HW/CW/HW/FR/VS-1-C
Serial No. 209034FR22

EXHIBIT H
CERTIFICATE(S) OF INSURANCE



SHAP&DU-01

CWHQOLERY

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
11/16/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Preferred Insurance Services, Inc 4035 Ridge Top Road, Suite 150 Fairfax, VA 22030	CONTACT NAME Certificate Department	
	PHONE TAC. No. Ext: (703) 667-5940	FAX TAC. No: (703) 991-4838
	E-MAIL Address: certs@preferins.com	
INSURED Shapiro & Duncan, Inc. 14620 Rothgeb Drive Rockville, MD 20850	INSURER(S) AFFORDING COVERAGE	
	INSURER A - Zurich American Insurance Company	NAIC # 16535
	INSURER B - Continental Casualty Company	20443
	INSURER C - Indian Harbor Insurance Company	36940
	INSURER D	
	INSURER E	

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDITIONAL INFO	POLICY NUMBER	POLICY EFF. DATE	POLICY EXP. DATE	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR		GLD 0187991-00	10/01/2017	07/01/2018	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Per occurrence) \$ 1,000,000 MED EXP (Per occ and person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMMODITY \$ 2,000,000
	GENL AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROTECT <input type="checkbox"/> LOC OTHER					
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input checked="" type="checkbox"/> RENTED AUTOS ONLY	<input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	BAP 0187990-00	10/01/2017	07/01/2018	COMBINED SINGLE LIMIT (Per accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB DED <input checked="" type="checkbox"/> RETENTION \$ 0	<input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE	6050203140	10/01/2017	07/01/2018	EACH OCCURRENCE \$ 20,000,000 AGGREGATE \$ 20,000,000
A	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE (EXCLUDED) (See Exclusions) (Mandatory if W/C) YES: OTHER WORK DESCRIPTIONS OF OPERATIONS below	Y/N N/A	WC 0187980-00	10/01/2017	07/01/2018	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E1 - EACH ACCIDENT \$ 1,000,000 E2 - DISEASE - (A) EMPLOYEE \$ 1,000,000 E3 - DISEASE - (B) POLICY LIMIT \$ 1,000,000
C	Pollution		CEO744673501	10/01/2017	07/01/2019	2,000,000/2,000,000
C	Professional		CEO744673501	10/01/2017	07/01/2019	3,000,000/3,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ADDENDUM 001, Additional Services Schedule, may be attached if more space is required):
RE: Site-Contract 20PY10 POOL, PAK, DECTHON, LIEBERT, MISCELLANEOUS HVAC REPAIR AND OTHER SERVICES, in Arlington County, VA

CERTIFICATE HOLDER Arlington Public Schools Purchasing Office 1426 N. Quincy St. Arlington, VA 22207	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE <i>Federal M. Sauer</i>
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ACORD 25 (2016/03)

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AGENCY CUSTOMER ID: SHAP&DU-01

CWHOOLERY

LOC #: 1

ADDITIONAL REMARKS SCHEDULE

Page 1 of 1

AGENCY Preferred Insurance Services, Inc		NAMED INSURED Shapiro & Duncan, Inc. 14520 Rothgeb Drive Rockville, MD 20850 Montgomery	
POLICY NUMBER SEE PAGE 1		EFFECTIVE DATE: SEE PAGE 1	
CARRIER SEE PAGE 1	NAIC CODE SEE P 1		

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: ACORD 35 FORM TITLE: Certificate of Liability Insurance

Coverages**INLAND MARINE:**

- Carrier: Selective Insurance, - Installation Floater - Limit \$4,000,000, Ded \$10,000
- Carrier: Selective Insurance, - Stored Material - Limit \$4,000,000, Ded \$10,000
- Carrier: Selective Insurance, - Leased/Rented - Limit \$650,000, Ded \$5,000

PROFESSIONAL & POLLUTION LIABILITY:

Carrier: Indian Harbor Insurance, CPL742031301 - Professional Liability/Pollution Liability - Retention \$100,000, Professional retro date 12/15/14. Pollution retro date: N/A, Occurrence

EXCESS LIABILITY:

Carrier: Continental Casualty (CNA), 6050203140 - Retention - Zero

EXHIBIT I
NEGOTIATED ITEMS LIST

Negotiations Items for SHAPIRO and DUNCAN – Third Round

Request for Proposals (RFP) #28FY18 POOL PAK, DECTRON, LIEBERT, MISCELLANEOUS HVAC REPAIR AND OTHER SERVICES

-
- AK 2. SHAPIRO and DUNCAN agrees to the following **contract renewal incentive program** for the duration of the effective contract periods. Rebate amounts will be issued to APS **within 30 days** of renewal by contract amendment as executed by the Purchasing Agent or his/her designee **OR** invoice credits will be noted on the first invoice following the renewal of contract by contract amendment executed by the Purchasing Agent or his/her designee.

Renewal Period	Rebate Incentive to APS
1 st Year Contract Renewal School Year 2018-2019	1% of Annual Quarterly Inspections and Preventative Maintenance Fees for Renewal School Year 2018-2019
2 nd Year Contract Renewal School Year 2019-2020	1% of Annual Quarterly Inspections and Preventative Maintenance Fees for Renewal School Year 2019-2020
3 rd Year Contract Renewal School Year 2020-2021	1% of Annual Quarterly Inspections and Preventative Maintenance Fees for Renewal School Year 2020-2021
4 th Year Contract Renewal School Year 2021-2022	1% of Annual Quarterly Inspections and Preventative Maintenance Fees for Renewal School Year 2021-2022

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- AK 3. SHAPIRO and DUNCAN has reviewed and agrees to the **Contract Terms and Conditions** as negotiated and attached herein.
-

**EXHIBIT B
PRICING SCHEDULE**

ANNUAL PRICES FOR FOUR QUARTERLY INSPECTIONS AND PREVENTATIVE MAINTENANCE PROGRAM						
Item #	Description	Year 1 (School Year 2017-2018)*	Year 2 (School Year 2018-2019)	Year 3 (School Year 2019-2020)	Year 4 (School Year 2020-2021)	Year 5 (School Year 2021-2022)
				CPI-U†	CPI-U†	CPI-U†
1	DISCOVERY ELEMENTARY SCHOOL	\$ 56,722	\$ 51,444			
2	WAKEFIELD HIGH SCHOOL ONLY	\$ 98,376	\$ 102,887			
3	WAKEFIELD HIGH SCHOOL POOL	\$ 8,856	\$ 4,311			
4	WASHINGTON LEE HIGH SCHOOL POOL	\$ 9,468 ⁰²	\$ 4,311			
5	YORKTOWN HIGH SCHOOL	\$ 96,500	\$ 100,935			
6	YORKTOWN HIGH SCHOOL POOL	\$ 8,110	\$ 4,311			
Total for all quarterly preventative maintenance inspections		\$278,082	\$268,198			

* Four (4) quarterly inspections per location will be required for Year 1 (School Year 2017-2018 through October 31, 2018).

† Annual Prices for Four Quarterly Inspections and Preventative Maintenance Program for Contract Years 3 through 5 shall be determined based on the movement of the U.S. Department of Labor, Consumer Price Index, All Items, Unadjusted, US City Average (CPI-U) for the twelve month period ending July 31 [Series ID CUUR0000SA0] of each contract year commencing from the date of the renewal.

HOURLY RATE PER LABOR CATEGORY					
Labor Category	Year 1 (School Year 2017-2018)*	Year 2 (School Year 2018-2019)	Year 3 (School Year 2019-2020)	Year 4 (School Year 2020-2021)	Year 5 (School Year 2021-2022)
		CPI-U	CPI-U	CPI-U	CPI-U
PROJECT MANAGER	\$ 120.00				
HVAC MECHANIC	\$ 120.00				
HVAC / DEHUMIDIFICATION MECHANIC	\$ 120.00				
HVAC MECHANICS HELPER	\$ 75.00				
PROJECT MANAGER OVERTIME RATE	\$ 180.00				
HVAC MECHANIC OVERTIME RATE	\$ 180.00				
HVAC/DEHUMIDIFICATION MECHANIC OVERTIME RATE	\$ 180.00				
HVAC MECHANICS OVERTIME RATE	\$112.50				

† Hourly Labor Rates Per Labor Category for Contract Years 2 through 5 shall be determined based on the movement of the U.S. Department of Labor, Consumer Price Index, All Items, Unadjusted, US City Average (CPI-U) for the twelve month period ending July 31 [Series ID CUUR0000SA0] of each contract year commencing from the date of the renewal.

EXHIBIT C
GENERAL TERMS AND CONDITIONS

1. **CONTRACT DOCUMENTS**

The documents which form the entire Contract between APS and the Contractor ("Contract Documents") consist of the following:

1. Agreement #28FY18, and all modifications properly incorporated into the Agreement
2. Exhibit A – Scope of Services
3. Exhibit B – Pricing Schedule
4. Exhibit C – General Terms and Conditions
5. Exhibit D – Contractor Certification Regarding Criminal Convictions
6. Exhibit E – Certificate(s) of Insurance
7. Exhibit J – Negotiated Items List

The following are incorporated by reference:

8. The Request for Proposal (RFP) Documents, and
9. The Proposal Response from Shapiro and Duncan, Inc.

Where the terms and provisions of this Agreement vary from the terms and provisions of the other Contract Documents, the terms and provisions of this Agreement shall prevail over the other Contract Documents.

The Contract Documents set forth the entire Agreement between APS and the Contractor. APS and the Contractor agree that no representative or agent of either of them has made any representation or promise with respect to this Agreement which is not contained in the Contract Documents. The Contract Documents may be referred to herein below as the "Contract" or "Agreement."

56. **PRICE ADJUSTMENTS**

The contract unit prices will remain firm from date the Purchasing Agent fully executes the Contract through October 31, 2019. The unit prices for ensuing contract years shall be based on the movement of the U.S. Department of Labor, Consumer Price Index, All Items, Unadjusted, US City Average (CPI-U) [Series ID CUUR0000SA0]. If the price is increased after twelve months, the unit price may be increased only upon approval of a written request to the Purchasing Agent. Upon receipt of the Contractor's request, the contract unit prices shall be limited by the Purchasing Agent up to an amount equal to the percentage of movement of the CPI-U for the twelve (12) month period ending in the month of July of each contract year effective. The contract unit prices changed as a result of this formula will become effective on November 1 of each contract year commencing from the date of the renewal of the contract and shall be binding on the Contractor for the ensuing contract year.

APS, at its discretion, may extend a contract renewal term for a period of not more than six months.

Notice of intent to renew will be given to the Contractor in writing by the APS Purchasing Office, normally 60 days before the expiration date of the current contract. (This notice shall not be deemed to commit APS to a contract renewal.)

ACKNOWLEDGEMENT AND AGREEMENT OF:

Organization:

Shapiro and Duncan Inc.

Title:

Service Ethics Rep. Representative

Authorized
Signature:



Date:

11-14-17

Printed Name:

Tom Klara