



PRE-PROPOSAL CONFERENCE

Solicited Public Private Partnership Request for Proposals for a Master Development Plan and Master Developer for the Original Mount Vernon High School Redevelopment

RFP 2000002301

An optional pre-proposal conference will be held on Thursday, June 8, 2017 at 8333 Richmond Highway, Alexandria, VA in the auditorium at 11:00 am. The purpose of this conference is to allow potential offerors an opportunity to present questions and obtain clarification relative to any facet of this solicitation.

While attendance at this conference will not be a prerequisite to submitting a proposal, offerors who intend to submit a proposal are encouraged to attend, and to bring a copy of the solicitation. Any changes resulting from this conference will be issued in a written addendum to the solicitation.

All questions pertaining to this RFP should be submitted in writing to the [Department of Procurement and Material Management \(DPMM\)](#) prior to the pre-proposal conference.

An optional site visit will also be held on Thursday, June 8, 2017 at 8333 Richmond Highway, Alexandria, VA in the auditorium at 1:30 pm.



FAIRFAX COUNTY

DEPARTMENT OF PROCUREMENT AND MATERIAL MANAGEMENT

12000 GOVERNMENT CENTER PARKWAY, SUITE 427
FAIRFAX, VIRGINIA 22035-0013

VIRGINIA

TELEPHONE: (703) 324-3201 FAX: (703) 324-3228 TTY: 1-800-828-1140

ISSUE DATE: May 26, 2017	SOLICITED PPEA REQUEST FOR PROPOSAL NUMBER: RFP 2000002301	TITLE: Original Mount Vernon High School Redevelopment
DEPARTMENT: Public Works and Environmental Services	DUE DATE/TIME: June 30, 2017 / 4:00 p.m.	CONTRACT SPECIALIST: George Bright george.bright@fairfaxcounty.gov or 703-324-3215

Proposals - In accordance with the following and in compliance with all terms and conditions, unless otherwise noted, the undersigned offers and agrees, if the proposal is accepted, to furnish items or services for which prices are quoted, delivered or furnished to designated points within the time specified. It is understood and agreed that with respect to all terms and conditions accepted by Fairfax County the items or services offered and accompanying attachments shall constitute a contract.

Note: Fairfax County does not discriminate against faith-based organizations in accordance with the *Code of Virginia*, § 2.2-4343.1 or against a bidder or offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment in the performance of its procurement activity.

NAME AND ADDRESS OF FIRM:

Telephone/Fax No.:

E-Mail Address:

Federal Employer Identification No or

Federal Social Security No.(Sole Proprietor)

Prompt Payment Discount: ___% for payment within ___ days/net ___ days

State Corporation Commission (SCC) Identification No.

By signing this proposal, Offeror certifies, acknowledges, understands, and agrees to be bound by the conditions set forth in the General Conditions and Instructions to Bidders as described in Appendix A, the Certification Regarding Ethics in Public Contracting set forth in Appendix B, and by any other relevant certifications set forth in Appendix B.

BUSINESS CLASSIFICATION – Described in Appendix B - CHECK ONE: LARGE (Y) SMALL (B)

MINORITY-OWNED SMALL (X) MINORITY OWNED LARGE (V) WOMEN-OWNED SMALL (C)

WOMEN OWNED LARGE (A) NON PROFIT (9)

CHECK ONE: INDIVIDUAL PARTNERSHIP CORPORATION
State in which Incorporated: _____

Vendor Legally Authorized Signature

Date

Print Name and Title

Sealed proposals subject to terms and conditions of this Request for Proposal will be received by the Fairfax County Purchasing Agent at 12000 Government Center Parkway, Suite 427, Fairfax, Virginia 22035-0013 until the date/time specified above.

AN EQUAL OPPORTUNITY PURCHASING ORGANIZATION (DPSM32) rev

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1. Solicitation Process:

- 1.1 This solicitation is issued under the authority granted to Fairfax County to create a public-private partnership established by the Public-Private Education Facilities and Infrastructure Act of 2002. This solicitation will be conducted in two Parts.
- 1.2 Part 1 – The submissions received in response to Part 1 of the Request for Proposal (RFP) shall establish the qualified offerors providing Conceptual Stage submissions (qualifications and experience, project characteristics, project financing, and project benefit and compatibility).
- 1.3 Part 2 – One or more offerors who's Conceptual Stage proposal is accepted for further review will be invited to submit Detailed Stage Proposal (development strategy and team, assumptions, public & government support, impact on affected local jurisdictions, analysis of financial feasibility, and additional material and information as the County may request).

2. General Information:

- 2.1 The Original Mount Vernon High School (OMVHS) is located on land that was once part of George Washington's Mount Vernon estate. Built in 1939, the school served decades of students and their families, including many of the County's leaders. The building and site boast a rich history:

- Funded through a Public Works Administration grant given to the County.
- Classified as a historic site.
- A 10.6 acre building site.
- Thirty acres of athletic fields and parkland.
- A theater with a capacity for more than 500.
- A newly renovated gymnasium.
- A premier library space.

OMVHS is a classic example of Colonial Revival architecture meant to connect the public with the nation's history. While the building is an important link to the past – as well as the County's own rich history – a rare opportunity exists to transform this important site into a 21st Century campus that serves the surrounding communities. A modern campus will harness innovative models of design, community building, social impact, and business ingenuity to create a thriving environment that serves the Mount Vernon and Lee communities. It will be a destination for residents of the entire region.

The purpose of this solicitation is to enter into a contract with a firm to prepare a Master Development Plan for the Original Mount Vernon High School and George Washington RECenter sites, totaling approximately 42-acres, in accordance with the terms and conditions of the Request for Proposal (RFP).

This RFP seeks qualified firms with a combination of experience and expertise in adaptive reuse, historic structure reuse, public-private partnerships, residential development, and the use of innovative funding mechanisms. The Master Development Plan should envision development to serve the South County region, focused along the Richmond Highway corridor, and create a unique destination that fosters community and offers rich social and economic opportunities for all residents. This solicitation is issued under the authority granted to Fairfax County to create a public-private partnership

established by the Public-Private Education Facilities and Infrastructure Act of 2002, as amended.

The project title is Original Mount Vernon High School Redevelopment and will be conducted in two phases; Phase 1 – Project Planning and Phase 2 – Project Implementation. Upon successful completion of Phase 1, the County may choose to continue with the Master Developer to complete Phase 2 or it may select to re-compete the Phase 2 award for implementation.

2.2 Summary of Key Dates:

The overall schedule for accepting and reviewing proposals is:

<u>RFP Issue Date</u>	<u>May 26, 2017</u>
<u>Pre-proposal conference</u>	<u>June 8, 2017 @ 11:00 am</u>
<u>Site Visit</u>	<u>June 8, 2017 @ 1:30 pm</u>
<u>Closing Date for receipt of written inquiries</u>	<u>June 22, 2017 @ 4:00 pm</u>
<u>Closing Date for proposal submission</u>	<u>June 30, 2017 @ 4:00 pm</u>
<u>Anticipated date of notification of status</u>	<u>July 31, 2017</u>

3. Contract Period:

3.1 The term of contract to be awarded under this RFP is anticipated to run for five years from date of contract award. After the initial term of five (5) years, the County reserves the right to renew the contract by mutual agreement, for five (5) additional years, one (1) year at a time or a combination of the years.

4. Pre-Proposal Conference:

4.1 A pre-proposal conference will be held on Thursday, June 8, 2017 at 11:00 am in the auditorium of the project location at 8333 Richmond Highway, Alexandria, Virginia. Attendees requiring special services are asked to provide their requirements to the Department of Procurement and Materials Management (DPMM) ADA representative at (703) 324-3201 or TTY 1-800-828-1140. Please allow seven (7) working days in advance of the event to make the necessary arrangements.

4.2 The purpose of the pre-proposal conference is to give potential offerors an opportunity to ask questions and to obtain clarification about any aspect of this RFP. Offerors may submit any questions pertaining to the RFP, by June 22, 2017 in writing, prior to the pre-proposal conference to DPMM at george.bright@fairfaxcounty.gov.

4.3 There will also be an optional site visit on Thursday, June 8, 2017 at 1:30 pm at 8333 Richmond Highway, Alexandria, VA. Offerors will be given the opportunity to visit the inside of the Original Mount Vernon High School, George Washington RECenter, and all associated properties included in the RFP. All interested offerors are encouraged to attend.

5. Project Vision and Goals

5.1 Project Vision

As Fairfax County's population continues to increase, its demographics continue to change. The ability of residents to thrive, regardless of income, education, race, and national origin, is central to the County's success. By focusing on building communities of opportunity, creating career pathways, connecting younger generations with older ones, and integrating immigrants into the economy, Fairfax County can put residents on

the path toward reaching their full potential, while securing a bright future for the County.

This campus Development Plan presents a unique opportunity to pursue this vision for Fairfax's future, and demonstrate the County's commitment to these values. The Master Development Plan for this innovative community campus should:

1. Reflect the unique tapestry of the Fairfax County community.
2. Create shared, multi-generational community spaces.
3. Serve as an incubator for non-profits and businesses alike.
4. Be self-sustaining and contribute to the economy of the region.

This vision has been embraced by [Fairfax's Strategic Plan to Facilitate the Economic Success of Fairfax County](#) (ESSP) which recognizes the need to work deliberately to enhance, sustain, and expand economic prosperity and compliments the County's "[One Fairfax](#)" policy initiative.

5.2 Project Goals

Fairfax County's primary goals for OMVHS redevelopment include:

1. Creating value for the County, the community and our partner.
2. Building community through creation of a vibrant place.
3. Delivering services effectively, allowing flexibility to adapt to future needs.
4. Preserving the historic character and integrity of those buildings and aspects of the property deemed to have historic significance.
5. Consistency with the vision of One Fairfax and the Economic Success Strategic Plan.

To achieve this, the reuse and redevelopment should consider provision of:

- Public and private uses and spaces,
- Housing for a broad range of age and income levels,
- Multi-modal access connecting the site to the larger community,
- High quality building and site design complementing the historic nature of the site,
- Open spaces for active and passive recreation and preservation of natural resources,
- Non-profit and incubation spaces,
- Educational facilities and opportunities, public and/or private,
- Complementing, but not imitating, the services provided at the South County Government Center,
- Connecting project employers with local employment referral sources, and providing opportunities to small/local businesses,
- Adaptive reuse of the historic structure, and
- Coordinated and integrated phasing of development

6. Site Characteristics:

6.1. Property Location

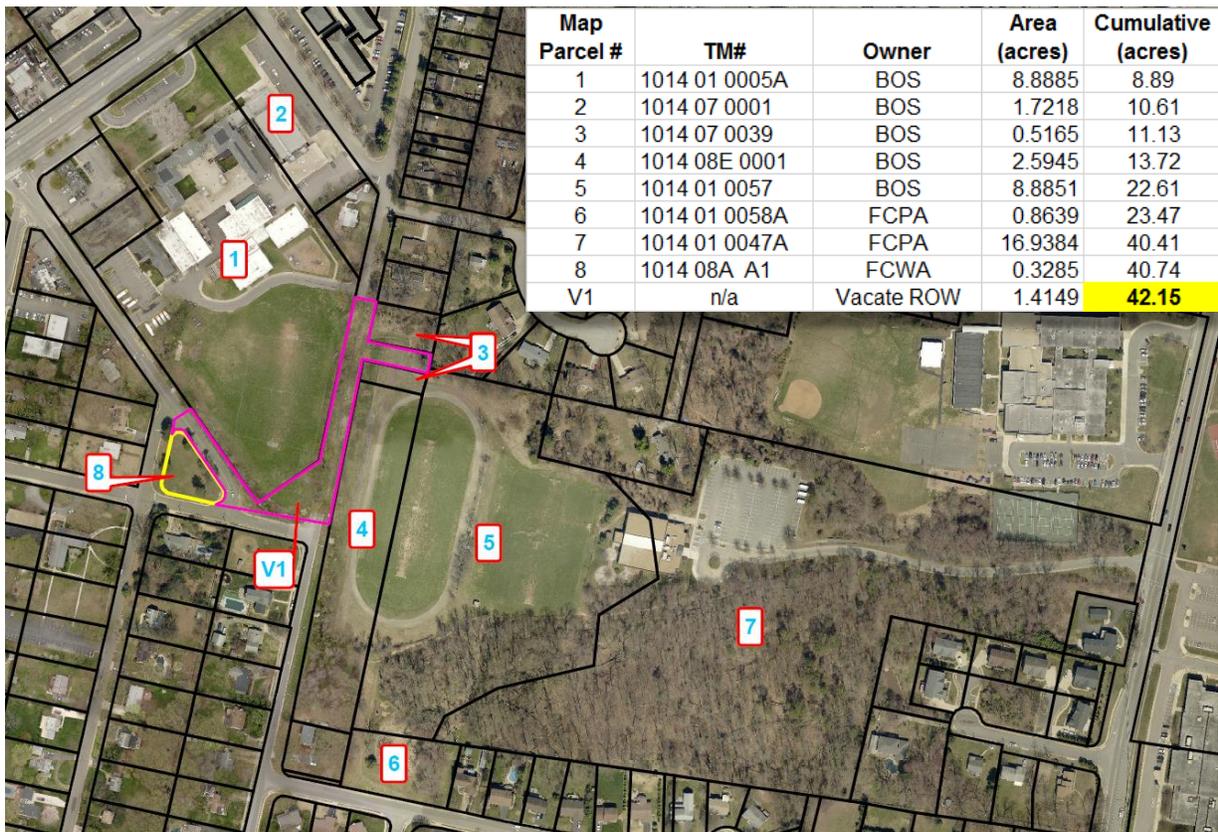
The entrance to the project is located at 8333 Richmond Highway, Alexandria, VA. The overall campus is located in the Mount Vernon Magisterial District, and borders the Lee Magisterial District. The property limits extend southeast to the 8426 Old Mount Vernon Road, Alexandria, VA entrance to the George Washington RECenter and Park. All properties are within Fairfax County's jurisdiction. The properties shown in Figures 1 and 2 contain approximately 42 acres located along the Richmond Highway corridor.

The properties currently house the Original Mount Vernon High School which is primarily vacant (aside from gymnasium users and two non-profit organizations), and the George Washington RECenter.

Figure 1- Properties



Figure 2- Tax Map Parcels



6.2 Site Area Context

The site is in the Alexandria area of southern Fairfax County, which has an advantageous location along the Richmond Highway corridor next to a proposed future Embark Bus

Rapid Transit (BRT) station, described further in Section 6.1. The site is 5.5 miles west of the Huntington Metro Station, 6 miles east of the Fort Belvoir military base, across Richmond Highway from the South County Government Center, and in close proximity to historic Mount Vernon, Old Town Alexandria, and the Potomac River. The Original Mount Vernon High School (OMVHS) facility is 0.7 miles walking distance to the current Mount Vernon High School, which includes a Master Culinary Academy and other specialized educational programs.

6.3 George Washington RECenter and Park

The George Washington RECenter, located at 8426 Old Mt. Vernon Road, is a 20,000 SF recreation facility constructed in 1988 and operated by the Fairfax County Park Authority. The RECenter has a heated indoor 25 meter pool (10 lanes) with poolside spa, beach and wading area, two 1 meter diving boards, saunas, showers, and fully equipped locker rooms. The beach area offers a zero depth water entry. There is a 2,100 SF sundeck accessible from the pool area. There is also a 400 SF multipurpose activity room with kitchen area, which is currently available for community rental. The RECenter is served by a 150 space surface parking lot. The approved park master plan contemplated the provision of an outdoor classroom. The opportunity to provide field lighting was also included in the park master plan. For more information on the approved Park Master Plan, please view www.fairfaxcounty.gov/parks/masterplans/geowashington.gif

In addition to the RECenter, the park area contains two rectangular fields currently in the Community Athletic Use program administered by the Department of Neighborhood and Community Services, four tennis courts that are available for community use, and a number of established and informal trails existing through the site. This site's natural resources include a watercourse across the park, and steep slopes with woody vegetation. This publically-held parkland is within 0.5 miles of the planned Embark BRT station (see Section 6 for description of Embark). The site's below-ground cultural resources have not been fully explored to date. The RECenter property includes an area currently leased for a not yet constructed telecommunications monopole. The approximate location of the proposed monopole facility is depicted below in red. Additional information on the lease and location is available upon request.



6.4 Comprehensive Plan and Existing Zoning

The adopted Comprehensive Plan recommendation for the property can be found in the Area IV, Mount Vernon Planning District, Richmond Highway Corridor Area, South

County Community Business Center, Sub-unit B-2 section of the Plan. The full text can be viewed at the following link on pages 68-70.

<http://www.fairfaxcounty.gov/dpz/comprehensiveplan/area4/mtvernon-richmondhighway.pdf>

The Plan Map identifies the site for public facilities, governmental and institutional uses, the entirety of Sub-unit B-2 is excerpted below:

“Sub-unit B-2

The Old Mount Vernon High School is located on the east side of Richmond Highway between Maury Place and Mohawk Lane. The school should be retained in county ownership and preserved as a local historic site. The building is planned for public facilities use, primarily for educational use. The campus includes a main building that is surrounded by, and attached to, smaller structures. Ancillary institutional uses to support non-profit services may be appropriate in the peripheral buildings. Existing county-owned open space at the rear of the property should be retained as publicly accessible park space, subject to Board of Supervisors’ approval.

Tax Map Parcels 101-4 ((8))(O)1A and 1B, which are located at the northeast corner of Richmond Highway and Mohawk Street adjacent to the Old Mount Vernon High School are planned for institutional use. Uses may include a community recreation center and a performing and visual arts center.

Any design and development plan should be compatible with the historic nature of the Old Mount Vernon High School. These uses are consistent with the Richmond Highway revitalization goals and present an opportunity for a community activity center and adaptive reuse of the site.”

The site is currently zoned C-8; Highway Commercial District, and R-2; Residential District, Two Dwelling Units/Acre. The C-8 portion of the site is along the Richmond Highway frontage, with the majority of the 42 acres zoned R-2. The Zoning Ordinance sets forth the underlying and primary purpose and intent of the districts.

The most appropriate zoning designations to accommodate mixed uses are the PDC, PRM, or PDH planned development districts. The Fairfax County Zoning Ordinance can be found at <http://www.fairfaxcounty.gov/dpz/zoningordinance/>

If changes to the existing zoning were to be proposed by the Master Developer to implement the Master Development Plan, the Master Developer would be responsible for seeking all necessary approvals, including identification of possible proffered contributions and improvements associated with any rezoning application. The County project team will work with the selected developer throughout this process.

6.5 CBC (Community Business Center)

A portion of the site is located within the South County Community Business Center (CBC). The CBC is envisioned to serve as a focal point for community-serving retail, residential, and mixed-use development. A portion of the site is also located within a Commercial Revitalization District.

7. Current Planning Activity:

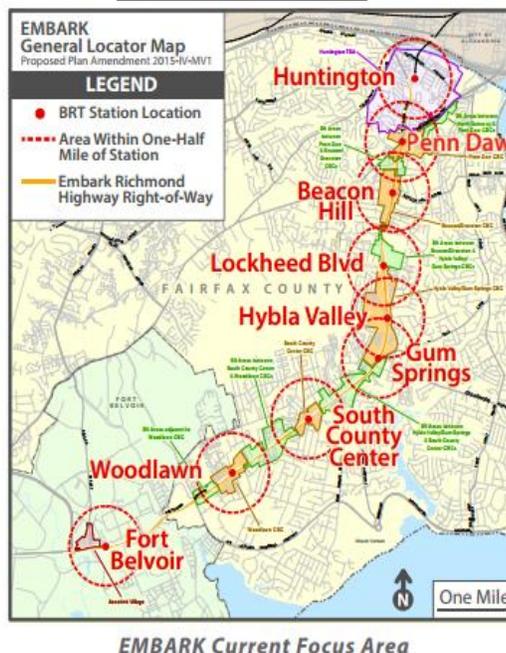
7.1 Embark Bus Rapid Transit

A Multimodal Alternatives Analysis of the Richmond Highway corridor by the Virginia Department of Rail and Public Transportation (DRPT) recommended a program of transportation improvements for Fairfax and Prince William Counties consisting of roadway, pedestrian and bicycle improvements associated with the implementation of a Bus Rapid Transit (BRT) system.

The collective approach to plan and implement these recommendations in Fairfax is called Embark. More information may be found at www.fairfaxcounty.gov/dpz/embarkrichmondhwy/meetings/advisorygroup/2-18-2016/embark_fact_sheet.pdf

Fairfax is currently seeking to create a Bus Rapid Transit (BRT) system for the Richmond Highway Corridor. The system would run from Huntington, terminus of the Metrorail Yellow Line, to Route 123 in Woodbridge in Prince William County. The current Embark Richmond Highway focus area is on the portion of Richmond Highway from Huntington to Fort Belvoir (Figure 3).

Figure 3- EMBARK

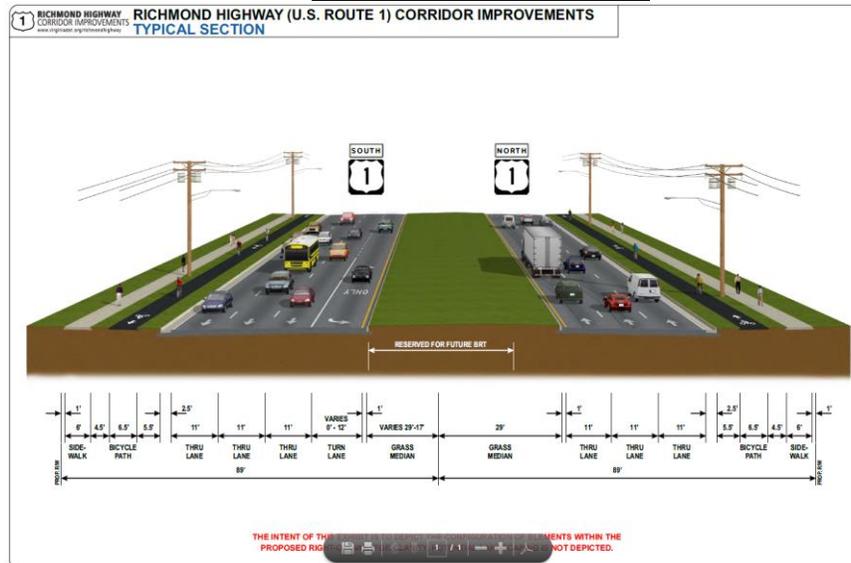


The area included in this RFP may be located as close as 0.25 mi from the proposed South County Center BRT station. In conjunction with the BRT line and the Route 1 Widening Project, the Original Mount Vernon High School redevelopment properties will be served by enhanced bus service, new pedestrian facilities, new bicycle connections, and an improved network to facilitate convenient access for pedestrians and cyclists.

7.2 Richmond Highway (Route 1) – Corridor Improvements Project

Richmond Highway (Route 1) will be widened from four lanes to six lanes from Old Mount Vernon Highway to Napper Road. The road widening project will include pedestrian and bicycle facilities and reserve a center median area for the future BRT. The project is being administered by the Virginia Department of Transportation. A planned typical section is shown in Figure 4 and more information may be found at http://www.virginiadot.org/projects/northernvirginia/richmond_highway.asp

Figure 4 – Typical Section



8. Site History:

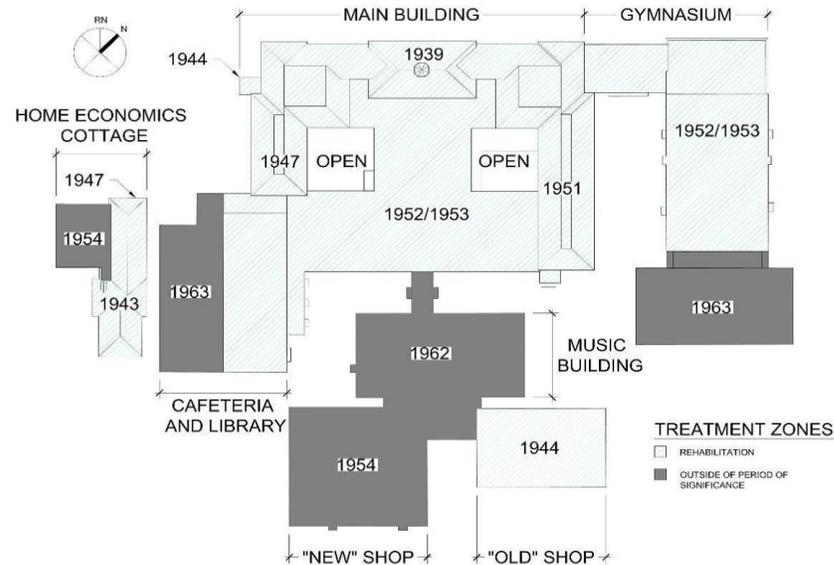
8.1 Original Mount Vernon High School History

The OMVHS is listed in the County's Inventory of Historic Sites and has been determined eligible for listing in the National Register of Historic Places. The county is currently pursuing National Register listing and intends to submit the nomination in 2017. A Historic Structure Report (HSR) was completed in 2016 and can be viewed online here: <http://www.fairfaxcounty.gov/original-mount-vernon-hs/omvhs-high-school-historic-structures-report.pdf>

The Original Mount Vernon High School was constructed as one of two Public Works Administration New Deal Program High Schools built in the county in 1939 during the Great Depression. OMVHS served as the area high school for many years, and produced several notable graduates including former Virginia Senator Chuck Robb.

The 1950s brought additions to the building, many of which are also likely to be considered contributing elements to the historic significance of the structure (Figure 5). It continued to grow and expand to meet the growing needs of the population for thirty plus years, and when it was no longer large enough to accommodate a high school, it became the Walt Whitman Middle School until 1986, when ownership was transferred to the Board of Supervisors. The Board leased the facility to the Islamic Saudi Academy for nearly 30 years. The tenants maintained and performed renovations to the building until they vacated in July 2016.

Figure 5- Historic Considerations (from 2016 HSR)



9. Project Oversight:

9.1 Department of Public Works and Environmental Services:

Department of Public Works and Environmental Services (DPWES)
 Capital Facilities, Building Design and Construction Division,
 Public Private Partnerships Branch
 12000 Government Center Parkway, Suite 449
 Fairfax, Virginia 22035

9.2 Original Mount Vernon High School Redevelopment Steering Committee

The Original Mount Vernon High School Redevelopment Steering Committee ("Committee"), was established by the Mount Vernon and Lee District Supervisors in 2017. The Committee is responsible for monitoring the redevelopment of the BOS and FCPA properties. The Committee continues the work begun by the Original Mount Vernon High School Re-utilization Task Force and provides a nexus between the Task Force's report (<http://www.fairfaxcounty.gov/original-mount-vernon-hs/mount-vernon-hs-task-force-report.pdf>) and implementation from a community perspective. The goal of the Committee is to ensure that the development process is objective and transparent to all County stakeholders and implemented in accordance with all relevant documents, including the final recommendations approved by the Board of Supervisors and the Fairfax County Park Authority. Status reports and updates to the Committee and the community by the Master Developer may be required.

10. Project Phasing:

The Project will be organized into two phases:

Phase 1 – Project Planning. The selected firm will be the Master Developer and will work closely with the County to craft an Original Mount Vernon High School Master Development Plan (Master Development Plan). This will include the business plan for the project and set forth the terms of the Development Agreement. Phase 1 payment is discussed in Section 9.1.2 of this solicitation.

Phase 2 – Project Implementation. The Master Developer will be engaged to implement the Master Development Plan, based on the acquisition of required approvals, and the appropriate transition and transfer of assets. A comprehensive development agreement and entitlement agreement will be established between the County and the Master Developer, aspects of which may include a reciprocal easement agreement, real estate exchange agreement, operating and maintenance agreement, infrastructure development agreement, proffer allocation agreement, and any needed zoning activity as necessary to implement the Master Development Plan.

10.1 Phase 1 – Project Planning

The Master Development Plan process is expected to require approximately 9-12 months of coordinated, intensive effort between the County and the Master Developer. The selected Master Developer will assist the County in preparing an economically feasible development plan, including proposed land uses and densities/intensities, schedule, and a maintenance regime and property management plan. The Master Developer will create a Master Development Plan for all of the included properties (Figure 1). Development of Original Mount Vernon High School will be subject to land use, transportation grid, and design standards currently in development as part of the Embark Richmond Highway Plan Amendment (2015-IV-MV1). Additional information may be found at <http://www.fairfaxcounty.gov/dpz/embarkrichmondhwy/> County staff will work with the selected developer to ensure coordination of these ongoing efforts.

The Master Developer will work with the Department of Planning and Zoning in identifying possible proffered contributions and improvements required as part of the land use application process for the project. These may include items such as road and frontage improvements, storm water management facilities, open space, and infrastructure construction. Existing and planned road, storm water, open space, and infrastructure features are described below.

The Master Developer will assist the County in understanding the relationships between the type and quality of development and development cost. Elements may include innovative approaches that combine high quality – including aesthetics, durability, maintainability and flexibility -- with economical design concepts and construction techniques. The Master Developer will identify environmental impacts and proposed solutions.

Until the full scope of County services and private development are negotiated, the County acknowledges and accepts that the final agreement may result in a variety of financial outcomes.

10.1.1 Phase 1 Deliverables: The Master Development Plan deliverable will be in PDF format and on CD. The Master Development Plan will consist of three main components:

- 1) Development Plan

- a. Site Plan, describing proposed land uses and densities/intensities, and proposed connections throughout the public and private facilities and site
- b. Narrative explaining project vision
- c. Additional drawings/schematic plans as appropriate

2) Financial Plan and Transactional Instruments, including:

- a. Capital budget
- b. Sources and Uses of Funds Table
- c. Detailed Development & Operating Pro Forma
- d. Structure of Public-Private Partnership
- e. Narrative describing financial plan and party obligations

3) Maintenance and Operations Regime and Property Management Plan

10.1.2 Payment: The County intends to negotiate a contract to compensate the selected Master Developer for services rendered. In return, the County will be granted full and unlimited rights to use the Master Development Plan, including the right to provide the Master Development Plan to other developers in the development of this project or other related projects. The County is under no obligation to continue to Phase 2 with the Master Developer.

29..3 Conditions: If the County and Master Developer are unable to reach agreement on the design or cost of the Master Development Plan, or the plan is not otherwise acceptable to the County, or the offeror fails to provide the Master Development Plan within the agreed time, the County may terminate the Master Developer work and work with another Master Developer deemed most advantageous to the County or by soliciting new RFP responses. Therefore, offerors within the competitive group are requested to keep their responses to this RFP valid for 18 months following contract award. The County reserves the right to enter into negotiations with Offerors in the competitive range as may be necessary.

10.2 Phase 2 – Project Implementation

The County desires to have the successful Master Developer implement the approved plan in whole or in phases as mutually agreed to by all parties. Use of other developers for portions of the project will require prior County approval. Once the County approves the Master Development Plan, the Master Developer may be given approval to begin transition toward project implementation. This approval will mark the beginning of Phase 2 of the project. Once the Master Development Plan is accepted, the County expects the transition to project implementation to occur within approximately 90 days. County and selected Master Developer will agree on specific triggers that evidence the Master Developer has begun project implementation. If Master Developer fails to initiate project implementation during the 90 day window, County will have the right to offer the implementation opportunity to another development entity. In the event that County approval to begin project implementation is delayed, the Master Developer will retain exclusive right to the 90 day window for an agreed upon period. The County, in conjunction with other agencies who have a vested interest in the site, will take the lead in developing a lease agreement for the subject site, or portions of the site. The Master Developer will be expected to facilitate implementation in a manner consistent with the approved Master Development Plan and with prudent business practices.

The County expects tasks to be performed by the Master Developer, the County, or both, between submission of the Master Development Plan and payment by the County of the

contract price. The Master Developer will work with the County to identify these tasks, related costs, or any other costs to the Master Developer between the Master Development Plan submission, acceptance and financial closing. The County will work with the Master Developer to jointly determine responsibility for these tasks, a project schedule, and any compensation.

11. Project Requirements and Considerations:

11.1 Preservation of Existing and Creation of New Recreational Programs

The Master Development Plan must take into account the open space and uses currently benefiting the community. The preference is that the Master Developer maintain or enhance the current level of park and recreation uses and its benefits to the public.

The development should take into consideration recreation criteria including 1-2 active lighted recreation fields, 25 yard x 25 yard indoor pool with associated recreation center amenities, and 4 outdoor courts for tennis and pickle ball use, all of which should include a proposal for public access hours. Any and all changes to the existing or development of new recreational components must be approved through the land use and zoning process during the project implementation.

The Fairfax County Park Authority Needs Assessment outlines the Park Authority's service area and needs for recreation and open space within the county, and specifically within this service area. <http://www.fairfaxcounty.gov/parks/parkscout/>

11.2 Preservation of Gymnasium Uses

The continuous access to existing gymnasium services must be maintained throughout the duration of the development project. The gymnasium structure is available for any use as part of the RFP, but access and operation of the second floor gym and room use by Fairfax County must be maintained and accommodated on-site in the Master Development Plan or immediate vicinity. See Figure 6.

Figure 6 - Gymnasium

(Gymnasium shown on right side of Figure in pink)

11.3 Unified Concepts and Consolidation

The redevelopment implementation can be phased over time, with preference given to earlier development timeframes, and should contain a phasing plan with realistic timeframes for the delivery components that are the subject of this RFP, as well as for all elements of the development proposal. The County is open to review development concept proposals from Offerors that consolidate the land area of this RFP with immediately adjacent private parcels. Offerors pursuing consolidation are expected to work directly with private land owners to understand the issues, willingness, terms and conditions, and timelines associated with each property owner regarding the development concept proposal to include their land in a coordinated redevelopment. If proposing a consolidation with adjacent property, Offerors shall provide proof of an option agreement with adjacent landowners or other site control documentation.

11.4 Design

The Comprehensive Plan text and Embark Plan Amendment currently underway will include design and guidance on the transportation network and infrastructure.

The County has prepared documents entitled:

- ADA Compliance Assessment Report,
- Facility Condition Assessment,
- Hazardous Materials Feasibility Study, and,
- Historic Structure Report.

All development concept proposals should be informed by these documents, which will be provided upon request.

11.5 Shared Costs

Subject to future negotiations and mutual agreement with the Offeror, Fairfax County will determine the shared costs of the redevelopment.

11.6 Operations and Maintenance

Subject to future negotiations and mutual agreement with the Offeror, Fairfax County has the right to choose, or not choose, to have the operations and maintenance of the County facilities performed by the Offeror at a rate to be determined.

11.7 Receipt of Market Values

Fairfax County and FCPA currently own the land and buildings included in this RFP. The County will consider options that include retaining ownership of the land and providing a long term unsubordinated ground lease that reflects market value, or other arrangements as may be negotiated. The County preference is to retain ownership of the land, in keeping with the Comprehensive Plan guidance.

11.8 Creation of Comprehensive Pedestrian Friendly Sidewalk and Trail Network

The design shall include a comprehensive internal pedestrian network that connects to existing and future facilities throughout the site, and is integrated with the current Mount Vernon High School, and the future Route 1 widening and BRT station.

11.9 Commitments Toward Fulfillment of One Fairfax Principles

Subject to future negotiations and mutual agreement with the Offeror, Fairfax will seek commitments regarding project construction and operation that will advance the One Fairfax principles, including efforts to target economic opportunities and project benefits to underserved segments of the Fairfax County community. <http://www.fairfaxcounty.gov/news/2016/one-fairfax-resolution.pdf>

12. Proposal Submission Requirements:**12.1 Instructions**

Interested Master Developers are required to comply with the following provisions while preparing their proposals. Where instructions conflict and no order of precedence is specified, the most stringent requirement applies. A reference to, or direction to comply with, a particular Section shall include, as appropriate, all subsections. Any information concerning the RFP given to any prospective Master Developer will be furnished promptly to all other prospective Developers. If the information is necessary in submitting offers, or if the lack of it would be prejudicial to any other prospective Master Developers, the information will be furnished as an amendment to the RFP.

Section	Description	Maximum Page Limit
Part A	Background and Firm / Team Qualifications	15 pages
Part B	Project Strategy	10 pages
Part C	Project Experience and References	N/A
Part D	Resumes of Key Staff	10 pages
Part E	Unique Capabilities	5 pages
Part F	Work Samples	N/A
Part G	Required Statements	N/A
Part H	Cost Proposal – Billing Rates	N/A (Separate Binder)

12.2 Part A – Background and Firm / Team Qualifications:

On behalf of the Fairfax County Board of Supervisors (BOS) and the Fairfax County Park Authority (FCPA), the Department of Public Works and Environmental Services (DPWES) is seeking proposals from interested parties to prepare a Master Development Plan. Offerors should have a proven combination of experience, financial capacity, and expertise in the planning, design, development and construction of master-planned developments. Offerors should demonstrate successful completion of partnerships comprised of mixed-use development, which may include educational and recreation uses, residential development with integrated affordable and work force housing, and other non-residential uses that integrate historic and adaptive reuse, public spaces, and uses in the master plan. Furthermore, the County is seeking firms that have a proven track record of understanding the culture of local government and the challenges involved in uniting public and private-sector cultures to form a collaborative partnership founded on trust and transparency, and are mutually committed to addressing the various stakeholder and community needs. Firms must demonstrate comprehension of the project scope and challenges, prior success in meeting similar challenges, and be able to function effectively in partnership with Fairfax County for an extended period of time. Fairfax County's goal in this RFP is to provide for needed public facilities and services, leverage County assets to create a mixed-use development, support economic success objectives, and create a sense of place and achievement for its residents and businesses.

Each offeror must provide background and general qualifications for the firm and team members describing capability and credentials for establishing the Master Development Plan for the overall site. Applicants must cite specific information about: the firm's reputation, knowledge and working experience in the regional market, similar types of endeavors. Responses should demonstrate: organizational strength and capacity and experience with funding mechanisms utilized by local or county governments, developers, and development partnerships. In addition, please indicate any experience with:

- a. Public / private development relationships,
- b. Experience related to historic buildings and adaptive reuse projects;
and
- c. Experience with county and other regulatory agencies of the type having jurisdiction or participation related to historic preservation, adaptive reuse, and redevelopment sites.

12.3 Part B – Project Strategy:

Provide strategy relevant to the accomplishment of the Master Development Plan. The selected firm must utilize strategies that reflect and understanding of the project background, challenges, and parameters. For the purpose of this RFP, provide an outline of the strategy your team will use to create the Master Development Plan in Phase 1 and implementation in Phase 2. The outline should address:

- a. Milestones and proposed schedule for Phase 1,
- b. Milestones and potential timelines for Phase 1, including community outreach and communication strategy; interaction with County staff, Supervisor's office(s), BOS, oversight groups, stakeholder outreach, and general project communication,
- c. Frequency of meetings between the Master Developer and:
 1. County staff

- 2. Steering Committee / Advisory groups; and
- d. Role that the Master Developer should play in facilitating private development on the site, use of outside consultants, as needed.

12.4 Part C – Project Experience and References:

Provide descriptions of relevant project work including:

- a. Name/address/location of project
- b. Master Development team members including lead developer, project architect, general contractor, lender(s) and equity provider(s)
- c. Site plan, photographs, project renderings
- d. Relevance to this solicitation
- e. Reference names and contact information
- f. Highlight projects that demonstrate an ability to work within budget and schedule constraints
- g. Community outreach initiatives
- h. Evidence of design excellence and inclusion of sustainable design features

- i. Development scope
 - i. Land area (square feet or acres)
 - ii. Square footage of buildings
 - iii. Residential unit mix (market rate units and below market rate units)
 - iv. Non-residential use mix (approx. square footage of each use)
 - v. Parking spaces and orientation (above grade structured, surface, below grade)
 - vi. Construction type (high-rise, mid-rise, low rise)
- j. Development costs (excluding land costs)
 - i. Total project development costs
 - ii. Hard costs by product type (total and \$/SF)
 - iii. Soft costs
 - iv. Development fees
- k. Project Funding Sources and Amounts
- l. Challenges associated with the project
- m. Development structure – if the project was or will be a public-private Partnership, Offerors must provide the following information:
 - i. Whether the project was in response to an open solicitation
 - ii. Total consideration to the government, including, but not limited to:
 - a. Land value amount, methodology for establishing amount (if applicable), timing of payments
 - b. Affordable housing
 - c. Other public benefits – list and identify the cost of each (ie- Public parking, public facilities, etc.)
 - iii. If the project received public financial assistance, provide the following information:
 - a. (ie- tax-exempt bonds, below market debt, guarantees and other types of credit enhancement, grants, Tax Increment Financing, Payments in Lieu of Taxes, etc.)
 - b. Amount of assistance / subsidy
 - c. Timing of assistance - when were the funds contributed (as applicable)
 - d. Initial proposed amount, timing, and terms
 - e. Final negotiated amount, timing, and terms

- n. Any factual measures of success, including, but not limited to:
 - i. Initial budget vs. final cost
 - ii. Project Net Operating Income (NOI) for first stabilized year (and projected year) vs. actual stabilized NOI (and actual year of stabilization)
 - iii. Satisfaction of public entity
 - iv. Schedules and deadlines

12.5 Part D – Resumes of Key Staff

Provide resumes of key staff. Resumes should not exceed two pages in length. Key staff are those persons who would work on the project on a day-to-day capacity during the period of performance. The period of performance is expected to be 9-12 months for Phase 1.

12.6 Part E – Unique Capabilities:

Describe any unique capabilities, experience, tools, or perspective related to the Master Development Plan. This section may expand on items presented in any of the previous sections or introduce new information related to the candidate firm or team.

12.7 Part F – Work Samples

Firms responding to the RFP may submit work samples. Please limit work samples to a maximum of three relevant projects. Please indicate if work samples contain proprietary information and if they are to be returned to the candidate firm.

12.8 Part G – Required Statements

Offerors must submit statements for the following:

- a. Identify the past, current or anticipated contractual or financial relationship of any member of the Development Team (including, but not limited to, the Developer partners or co-ventures) with Fairfax County. The Development Team must also disclose any contractual or financial relationship that may give the appearance of a conflict of interest (or, if applicable, provide a certification that no such contractual or financial relationship exists). Please see the Virginia State and Local Government Conflict of Interest Act, Chapter 31 (§ 2.2-3100 et seq.) of Title 2.2 for additional background.
- b. Describe the Offeror's contact with Fairfax County regulatory staff (representatives' names and meeting dates) regarding Original Mount Vernon High School Redevelopment.
- c. Provide a sworn certification for each member of the Development Team attesting to the fact that the entity is not currently debarred or suspended by any federal, state or local government entity, nor have its principals operated as another entity that was or is so debarred or suspended.
- d. Provide a sworn certification for each firm of the Development Team attesting to the fact that it has not declared bankruptcy, or operated under another entity name which declared bankruptcy, within the past 10 years.
- e. Provide a statement regarding the level of commitment by the Development Team to using small, women-owned, or minority businesses in developing and implementing the Project.

12.9 Part H – Cost Proposal

The Offeror must submit a cost proposal in a separate binder fully supported by cost and pricing data adequate to establish the reasonableness of the proposed fees. The following information should be submitted as part of the business proposal:

- a. Offerors must provide estimated labor hours and total price breakdown for each sequential step described in Part B(a).
- b. Offerors must provide direct labor and audited labor overhead costs for each person proposed in the proposal.
- c. Travel and per diem or subsistence costs, if any supported by breakdown including destination, duration, and purpose.
- d. Breakdown of other expenses such as, for example, clerical support, other overhead costs, and supplies.
- e. Historical Financials
 1. Copies of Offeror's audited financial statements for the past three fiscal years.
- f. Financial Qualifications

Statements regarding the Offeror's financial credit worthiness and past development experience that can be verified, including the names and addresses of at least three (3) commercial or institutional credit references and a letter authorizing each credit reference to respond to inquiries from Fairfax County. At least two (2) of the references should be lending institutions.

Failure to break down cost estimates may render the proposal non-responsive.

13. Copies and Submission:

- 13.1 One (1) original (duly marked) and twelve (12) copies and one (1) electronic copy of the development Concept Proposal, and one (1) original (duly marked) and twelve (12) copies and one (1) electronic copy of the Part H Cost Proposal as described in Section 11, Proposal Submission Requirements, shall be delivered to the following address, together with a disc containing digital copies, in PDF format, of all Proposal materials. Electronically stamped delivery receipts are available.

Department of Procurement and Material Management (DPMM)
12000 Government Center Parkway, Suite 427
Fairfax, Virginia 22035-0013
Telephone: 703-324-3201

- 13.2 Offerors are reminded that changes to the Request for Proposal, in the form of addenda, if applicable, will be issued no later than three (3) days before the closing of the solicitation. All addenda **MUST** be signed and submitted to DPMM, 12000 Government Center Parkway, Suite 427, Fairfax, VA 22035 before the time and date of the closing and must accompany the RFP submittal. Notice of addenda will be posted on eVA, the DPMM current solicitation webpage. Offerors are encouraged to monitor the web page for the most current addenda at:
<http://www.fairfaxcounty.gov/dpmm/>

- 13.3 It is the Offeror's responsibility to clearly identify and to describe the services being offered in response to the Request for Proposal. Offerors are cautioned that organization of their response, as well as thoroughness is critical to the County's evaluation process. The RFP forms must be completed legibly and in their entirety; and all required

supplemental information must be furnished and presented in an organized, comprehensive and easy to follow manner.

- 13.4 Solicitation Number – The proposal shall be marked with the Solicitation number. Every page in the proposal shall have the Solicitation number, the volume number, and the consecutive page number (using Arabic numerals 1, 2, 3.). All volumes shall include the candidate firm identity and the volume number on the cover page. Each volume shall have a transmittal cover letter of no more than one page. This page will not count against the page count for the volume.

14. Fees Required with Submission:

There are no fees required for submission of development concept proposals.

15. Late Proposals:

Proposals received in DPMM after the date and time prescribed shall not be considered and shall be returned to the Offeror.

16. Proposal Evaluation and Selection Process

- 16.1 A Selection Advisory Committee (SAC) has been established to review and evaluate all proposals submitted in response to this RFP. The SAC will conduct a preliminary evaluation of the proposals based on the evaluation factors listed above and in the RFP. Based upon this review, the cost proposals of the highest rated offeror(s) will then be reviewed.
- 16.2 Based on the results of the preliminary evaluation, the highest rated offeror(s) may be invited by the County Purchasing Agent to make oral presentations to the SAC. The SAC will then conduct a final evaluation of the proposals. Negotiations shall then be conducted with one or more offerors so selected. After negotiations have been conducted, the County shall award the contract to the offeror which, in its sole opinion, has made the best proposal.
- 16.3 The County may, at any time, request any additional information it deems relevant and/or necessary for the purposes of its evaluation and decision making process.
- 16.4 The County reserves the right, at its sole discretion, to reject any or all proposals it deems incomplete or unresponsive to the submission requirements.
- 16.5 No Offeror, including any of their representatives, subcontractors, affiliates and interested parties, shall contact any member of the Selection Advisory Committee or any person involved in the evaluation of the proposals. Selection Advisory Committee members will refer any and all calls related to this procurement to the procurement official named in 18.1 below. Failure to comply with this directive may, at the sole discretion
- 16.6 Should the County determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror. The SAC will make appropriate recommendations to the Purchasing Agent and Board of Supervisors, if appropriate, prior to actual award of contract.

16.6 This Solicitation contemplates a real estate development, financial and management business transaction that uses a one-step proposal process to encourage maximum flexibility in proposal development.

16.7 Proposal Evaluation Criteria

The following factors will be considered in the award of this contract:

- a. Background and Firm/Team Qualifications (55 points)
- b. Project Strategy (45 points)
- c. Project Experience and References (20 points)
- d. Proposed Staff and Relevant Experience (20 points)
- e. Unique Capabilities of Firm and Staff (10 points)
- f. Cost Proposal (10 points)

16.8 Proposals which, after discussion and submission of additional clarification and/or supplementary information, are determined to meet the specifications of this Request for Proposal will be classified as "acceptable". Proposals found not to be acceptable will be classified as "unacceptable" and no further discussion concerning same will be conducted.

16.9 The County may cancel this Request for Proposal or reject proposals at any time prior to an award, and is not required to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous.

17. Trade Secrets / Proprietary Information:

17.1 Trade secrets or proprietary information submitted by an Offeror in connection with a procurement transaction shall not be subject to public disclosure under the Virginia Freedom of Information Act (VFOIA); however, Offerors must expressly invoke the protections of this section prior to or upon submission of the data or other materials.

17.2 The Offeror must specifically identify the data or other materials to be protected and state the reasons why protection is necessary. Disposition of material after award(s) should be stated by the Offeror. Any materials not so specifically identified may be subject to disclosure under VFOIA.

18. Americans with Disabilities Act Requirements:

18.1 Fairfax County Government is fully committed to the Americans with Disabilities Act (ADA) which guarantees non-discrimination and equal access for persons with disabilities in employment, public accommodations, transportation, and all County programs, activities and services. Fairfax County government contractors, subcontractors, vendors, and/or suppliers are subject to this ADA policy. All individuals having any County contractual agreement must make the same commitment.

18.2 Fairfax County is committed to a policy of nondiscrimination in all County programs, services, and activities and will provide reasonable accommodations upon request. Offerors requesting special accommodations should call the Department ADA representative at (703) 324-3201 or TTY 1-800-828-1140. Please allow seven (7) working days in advance of the event to make the necessary arrangements.

19. State Corporation Commission Identification Number

Pursuant to *Code of Virginia*, §2.2-4311.2 subsection B, an Offeror organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 is required to include in its proposal the identification number issued to it by the State Corporation Commission (SCC). Any Offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 or as otherwise required by law is required to include in its bid or proposal a statement describing why the Offeror is not required to be so authorized. Any Offeror that fails to provide the required information may not receive an award.

20. Insurance

- 20.1 The contractor is responsible for its work and for all materials, tools, equipment, appliances, and property of any and all description used in connection with the project, whether owned by the contractor or by the County. The contractor assumes all risks of direct and indirect 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.
- 20.2 The Contractor shall, during the continuance of all work under the Contract provide the following:
- a. Maintain statutory Worker's Compensation and Employer's Liability insurance in limits of not less than \$100,000 to protect the Contractor from any liability or damages for any injuries (including death and disability) to any and all of its employees, volunteers, or subcontractors, including any and all liability or damage which may arise by virtue of any statute or law in force within the Commonwealth of Virginia, or which may be hereinafter enacted.
 - b. The contractor agrees to maintain Commercial General Liability insurance in the amount of \$1,000,000 per occurrence/aggregate, to protect the contractor, its subcontractors, and the interest of the County, against any and all injuries to third parties, including bodily injury and personal injury, wherever located, resulting from any action or operation under the contract or in connection with contracted work. The General Liability insurance shall also include the Broad Form Property Damage endorsement, in addition to coverage's for explosion, collapse, and underground hazards, where required.
 - c. The contractor agrees to maintain owned, non-owned, and hired Automobile Liability insurance, in the amount of \$1,000,000 per occurrence/aggregate, including property damage, covering all owned, non-owned borrowed, leased, or rented vehicles operated by the Contractor. In addition, all mobile equipment used by the Contractor in connection with the contracted work will be insured under either a standard Automobile Liability policy, or a Comprehensive General Liability policy.
 - d. The contractor agrees to maintain Professional Liability insurance in the amount of \$1,000,000 per occurrence/aggregate to cover each individual professional staff.
 - e. Liability insurance may be arranged by General Liability and Automobile Liability policies for the full limits required, or by a combination of underlying Liability policies for lesser limits with the remaining limits provided by an Excess or Umbrella Liability policy.
 - f. Rating Requirements:
 1. The Contractor agrees to provide insurance issued by companies admitted within the Commonwealth of Virginia, with the Best's Key Rating of at least A: VI.
 2. European markets including those based in London, and the domestic surplus

lines markets that operate on a non-admitted basis are exempt from this requirement provided that the contractor's broker can provide financial data to establish that a market is equal to or exceeds the financial strengths associated with the A.M. Best's rating of A:VI or better.

- g. Indemnification: Article 63 of the General Conditions and Instructions to Bidders (Appendix A) shall apply.
 - h. The Contractor will provide an original, signed Certificate of Insurance citing the contract number and such endorsements as prescribed herein, and shall have it filed with the County Purchasing Agent and/or Risk Manager before any work is started.
 - i. If the Contractor delivers services from a County-leased facility, the Contractor is required to carry property insurance on all equipment, to include County-owned installed and maintained equipment used by the contractor while in their care, custody and control for use under this contract.
- 20.3. No change, cancellation, or non-renewal shall be made in any insurance coverage without a forty-five day written notice to the County Purchasing Agent and/or Risk Manager. The Contractor shall furnish a new certificate prior to any change or cancellation date. The failure of the Contractor to deliver a new and valid certificate will result in suspension of all payments until the new certificate is furnished.
- 20.4. Precaution shall be exercised at all times for the protection of persons (including employees) and property.

21. Changes:

- 21.1 Fairfax County may, at any time, by written order, require changes in the services to be performed by the Contractor. If such changes cause an increase or decrease in the Contractor's cost of, or time required for, performance of any services under this contract, an equitable adjustment shall be made and the contract shall be modified in writing accordingly. The County Purchasing Agent must approve all work that is beyond the scope of this Request for Proposal.
- 21.2 No services for which an additional cost or fee will be charged by the Contractor shall be furnished without the prior written authorization of the Fairfax County Purchasing Agent.

22. Delays and Suspensions:

- 22.1 The County may direct the Contractor, in writing, to suspend, delay, or interrupt all or any part of the work of this contract for the period of time deemed appropriate for the convenience of the County. The County will extend the Contractor's time of completion by a period of time that in the discretion of the Purchasing Agent is reasonably suited for completion of work. The County may further amend the contract by mutual agreement for any increase in the cost of performance of the contract (excluding profit) resulting solely from the delay or suspension of the contract. No adjustment shall be made under this clause for any delay or interruption resulting from any other cause, including the fault or negligence of the Contractor.

- 22.2 If the County does not direct the Contractor, in writing, to suspend, delay, or interrupt the contract, the Contractor must give the County Purchasing Agent written notice if Fairfax County fails to provide data or services that are required for contract completion by the Contractor. The County may extend the Contractor's time of completion by a period of time that in the discretion of the Purchasing Agent is reasonably suited for completion of work. The County may further amend the contract by mutual agreement for any increase in the cost of performance of the contract (excluding profit) resulting solely from the delay or suspension of the contract. No adjustment shall be made under this clause for any delay or interruption resulting from any other cause, including the fault or negligence of the Contractor.
- 22.3 The Contractor shall continue its work on other phases of the project or contract, if in the sole discretion of the Purchasing Agent such work is not impacted by the County's delay, suspension, or interruption. All changes to the work plan or project milestones shall be reflected in writing as a contract amendment.

23. Access To And Inspection Of Work:

The Fairfax County Purchasing Agent and using agencies will, at all times, have access to the work being performed under this contract wherever it may be in progress or preparation.

24. Project Audits:

- 24.1 The Contractor shall maintain books, records and documents of all costs and data in support of the services provided. Fairfax County or its authorized representative shall have the right to audit the books, records and documents of the contractor under the following conditions:
- a. If the contract is terminated for any reason in accordance with the provisions of these contract documents in order to arrive at equitable termination costs;
 - b. In the event of a disagreement between the contractor and the County on the amount due the Contractor under the terms of this contract;
 - c. To check or substantiate any amounts invoiced or paid which are required to reflect the costs of services, or the Contractor's efficiency or effectiveness under this contract; and,
 - d. If it becomes necessary to determine the County's rights and the contractor's obligations under the contract or to ascertain facts relative to any claim against the Contractor that may result in a charge against the County.
- 24.2 These provisions for an audit shall give Fairfax County unlimited access during normal working hours to the Contractor's books and records under the conditions stated above.
- 24.3 Unless otherwise provided by applicable statute, the contractor, from the effective date of final payment or termination hereunder, shall preserve and make available to Fairfax County for a period of three (3) years thereafter, at all reasonable times at the

office of the Contractor but without direct charge to the County, all its books, records documents and other evidence bearing on the costs and expenses of the services relating to the work hereunder.

- 24.4 Fairfax County's right to audit and the preservation of records shall terminate at the end of three (3) years as stated herein. The Contractor shall include this "Right of Audit and Preservation of Records" clause in all subcontracts issued by it and they shall require same to be inserted by all lower tier subcontractors in their subcontracts, for any portion of the work.
- 24.5 Should the Contractor fail to include this clause in any such contract or lower tier contract, or otherwise fail to insure Fairfax County's rights hereunder, the Contractor shall be liable to Fairfax County for all reasonable costs, expenses and attorney's fees which Fairfax County may have to incur in order to obtain an audit or inspection of or the restoration of records which would have otherwise been available to Fairfax County from said persons under this clause. Such audit may be conducted by Fairfax County or its authorized representative.

25. Data Sources:

The County will provide the Contractor all available data possessed by the County that relates to this contract. However, the Contractor is responsible for all costs for acquiring other data or processing, analyzing or evaluating County data.

26. Safeguards Of Information:

Unless approved in writing by the County Purchasing Agent, the Contractor may not sell or give to any individual or organization any information, reports, or other materials given to, prepared or assembled by the Contractor under the final contract.

27. News Release By Vendors

Unless approved in writing by the County Purchasing Agent, the Contractor may not sell or give to any individual or organization any information, reports, or other materials given to, prepared or assembled by the Contractor under the final contract.

28. Contact for Contractual Matters:

28.1 The person to contact concerning contractual matters pertaining to this Request for Proposal is:

George Bright, Contract Administrator
 Department of Procurement and Materials Management
 Telephone: (703) 324-3215
George.Bright@fairfaxcounty.gov

28.2 Offerors are cautioned not to contact members of the SAC. SAC members will not consider information other than the materials provided by the Contract Administrator, e.g., proposals. If a SAC member is approached by anyone outside the SAC who may have a

material interest in this procurement, it will be immediately reported to the Contract Administrator.

29. Contact for Technical Matters:

The person to contact concerning technical matters pertaining to this Request for Proposal is:

Heather Diez, Project Coordinator
Department of Public Works and Environmental Services
Telephone: (703) 324-5813
heather.diez@fairfaxcounty.gov

VIRGINIA STATE CORPORATION COMMISSION (SCC)
REGISTRATION INFORMATION

The bidder:

is a corporation or other business entity with the following SCC identification number:

_____ **-OR-**

is not a corporation, limited liability company, limited partnership, registered limited liability partnership, or business trust **-OR-**

is an out-of-state business entity that does not regularly and continuously maintain as part of its ordinary and customary business any employees, agents, offices, facilities, or inventories in Virginia (not counting any employees or agents in Virginia who merely solicit orders that require acceptance outside Virginia before they become contracts, and not counting any incidental presence of the bidder in Virginia that is needed in order to assemble, maintain, and repair goods in accordance with the contracts by which such goods were sold and shipped into Virginia from bidder's out-of-state location) **-OR-**

is an out-of-state business entity that is including with this bid/proposal an opinion of legal counsel which accurately and completely discloses the undersigned bidder's current contacts with Virginia and describes why those contacts do not constitute the transaction of business in Virginia within the meaning of § 13.1-757 or other similar provisions in Titles 13.1 or 50 of the Code of Virginia.

Please check the following box if you have not checked any of the foregoing options but currently have pending before the SCC an application for authority to transact business in the Commonwealth of Virginia and wish to be considered for a waiver to allow you to submit the SCC identification number after the due date for bids:

BUSINESS, PROFESSIONAL AND OCCUPATIONAL LICENSE

All firms located or operating in Fairfax County must obtain a Business, Professional and Occupational License (BPOL) as required by Chapter 4, Article 7, of the Code of the County of Fairfax, Virginia. In order for the Department of Tax Administration to determine your BPOL requirement prior to contract award, it is necessary for you to provide the following information:

- If you currently have a Fairfax County business license, please submit a copy with your proposal.
- Do you have an office in:

Virginia	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Fairfax County	<input type="checkbox"/> Yes	<input type="checkbox"/> No
- Date business began/will begin work in Fairfax County

A detailed description of the business activity that will take place in Fairfax County. If business is located outside of Fairfax County, give the percentage of work actually to be done in the County

Signature

Date

Complete and return this form or a copy of your current Fairfax County Business License with your proposal.

CERTIFICATION REGARDING DEBARMENT OR SUSPENSION

In compliance with contracts and grants agreements applicable under the U.S. Federal Awards Program, the following certification is required by all offerors submitting a proposal in response to this Request for Proposal:

1. The Offeror certifies, to the best of its knowledge and belief, that neither the Offeror nor its Principals are suspended, debarred, proposed for debarment, or declared ineligible for the award of contracts from the United States federal government procurement or nonprocurement programs, or are listed in the *List of Parties Excluded from Federal Procurement and Nonprocurement Programs* issued by the General Services Administration.
2. "Principals," for the purposes of this certification, means officers, directors, owners, partners, and persons having primary management or supervisory responsibilities within a business entity (e.g., general manager, plant manager, head of a subsidiary, division, or business segment, and similar positions).
3. The Offeror shall provide immediate written notice to the Fairfax County Purchasing Agent if, at any time prior to award, the Offeror learns that this certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. This certification is a material representation of fact upon which reliance will be placed when making the award. If it is later determined that the Offeror rendered an erroneous certification, in addition to other remedies available to Fairfax County government, the Fairfax County Purchasing Agent may terminate the contract resulting from this solicitation for default.

Printed Name of Representative: _____

Signature/Date: _____/_____

Company Name: _____

Address: _____

City/State/Zip: _____

SSN or TIN No: _____

REQUIRED SUBMITTALS

Offerors must submit statements for the following:

- a. Identify the past, current or anticipated contractual or financial relationship of any member of the Development Team (including, but not limited to, the Developer partners or co-ventures) with Fairfax County. The Development Team must also disclose any contractual or financial relationship which may give the appearance of a conflict of interest (or, if applicable, provide a certification that no such contractual or financial relationship exists). Please see the Virginia State and Local Government Conflict of Interest Act, Chapter 31 (§ 2.2-3100 et seq.) of Title 2.2 for additional background.
- b. Describe the Offeror's contact with Fairfax County regulatory staff (representatives' names and meeting dates) regarding Original Mount Vernon High School Redevelopment.
- c. Provide a sworn certification for each member of the Development Team attesting to the fact that the entity is not currently debarred or suspended by any federal, state or local government entity, nor have its principals operated as another entity that was or is so debarred or suspended.
- d. Provide a sworn certification for each member of the Development Team attesting to the fact that it has not declared bankruptcy, or operated under another entity name which declared bankruptcy, within the past 10 years.
- e. Provide a statement regarding the level of commitment by the Development Team to using small, women-owned, or minority businesses in developing and implementing the Project.

Request for Protection of Trade Secrets or Proprietary Information Pursuant to Article 2, Section 4.D.3 of the Purchasing Resolution and Va. Code Ann. § 2.2-4342(F)

This form is provided as a courtesy to assist vendors desiring to protect trade secrets and proprietary information from disclosure under the Virginia Freedom of Information Act. In order to receive protection, you must (a) invoke the protection prior to or upon submission of the data or other materials, (b) identify the data or other materials to be protected, and (c) state the reason(s) why protection is necessary. Each of these requirements must be met with respect to the particular information for which protection is sought.

- a) Submission of this form with or without other reference to Article 2, Section 4.D.3 of the Purchasing Resolution or Va. Code Ann. § 2.2-4342(F) shall satisfy the invocation requirement with respect to data or other materials clearly identified herein.

- b) Identify the specific data or other material for which protection is sought. Suggested forms of designation include: listing the Proposal Section, Tab, or Page numbers; attaching to this form a copy of the table of contents from your Proposal with the relevant trade secret or proprietary contents highlighted; or identifying herein a document stamp used within the Proposal to designate the relevant materials (e.g. "all portions of the Proposal marked "Proprietary" or "Trade Secret"").

- c) For each distinct section of data or other information identified in response to paragraph b), above, state the reason(s) why protection is necessary. **NOTE:** Your explanation must do more than simply stating the materials are "proprietary," or "trade secrets," or "not publically available." You may attach additional sheets to this form as needed.

Certification Regarding Ethics in Public Contracting

In submitting this bid or proposal, and signing below, Offeror certifies the following in connection with a proposal or contract:

Check one:

1. I have not given any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal or minimal value to any public employee or official have official responsibility for a procurement transaction.

2. I have given a payment, loan, subscription, advance, deposit of money, services or anything of more than nominal or minimal value to a public employee or official have official responsibility for a procurement transaction, but I received consideration in substantially equal or greater value in exchange.

If 2 is selected, please complete the following:

Recipient: _____

Date of Gift: _____

Description of the gift and its value:

Description of the consideration received in exchange and its value:

Printed Name of Bidder/Offeror Representative: _____

Signature/Date: _____ / _____

Company Name: _____

Company Address: _____

City/State/Zip: _____

This certification supplements but does not replace the requirements set forth in paragraph 64 (OFFICIALS NOT TO BENEFIT) of the General Conditions and Instructions to Bidders included in this solicitation.

Rev 8-2013

**COUNTY OF FAIRFAX
COMMONWEALTH OF VIRGINIA**

GENERAL CONDITIONS AND INSTRUCTIONS TO BIDDERS

(Vendor: The general rules and conditions which follow apply to all purchases and become a definite part of each formal solicitation and resulting contract award issued by the DEPARTMENT OF PURCHASING & SUPPLY MANAGEMENT, unless otherwise specified. Bidders or their authorized representatives are expected to inform themselves fully as to the conditions, requirements, and specifications before submitting bids; failure to do so will be at the bidder's own risk and relief cannot be secured on the plea of error.)

Subject to all State and local laws, policies, resolutions, and regulations and all accepted rules, regulations and limitations imposed by legislation of the Federal Government, bids on all solicitations issued by the DEPARTMENT OF PURCHASING & SUPPLY MANAGEMENT will bind bidders to applicable conditions and requirements herein set forth unless otherwise specified in the solicitation.

I. AUTHORITY-The Purchasing Agent has the sole responsibility and authority for negotiating, placing and when necessary modifying every solicitation, contract and purchase order (except for capital construction projects) issued by the County of Fairfax. In the discharge of these responsibilities, the Purchasing Agent may be assisted by assigned buyers. Unless specifically delegated by the County Purchasing Agent, no other County officer or employee is authorized to order supplies or services, enter into purchase negotiations or contracts, or in any way obligate the government of the County of Fairfax for an indebtedness. Any purchase ordered or contract made which is contrary to these provisions and authorities shall be of no effect and void and the County shall not be bound thereby.

2. DEFINITIONS-

AGENCY: Any Department, Agency, Authority, Commission, Board or other unit in the Administrative Service of the County.

BEST VALUE: As predetermined in the solicitation, means the overall combination of quality, price, and various elements of required services that in total are optimal relative to a public body's needs.

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

BIDDER/OFFEROR: Any individual, company, firm, corporation, partnership or other organization bidding on solicitations issued by the Purchasing Agent and offering to enter into contracts with the County. The term "bidder" will be used throughout this document and shall be construed to mean "offeror" where appropriate.

CONSULTANT SERVICES: Any type of services required by the County, but not furnished by its own employees, which is in its nature so unique that it should be obtained by negotiation on the basis of demonstrated competence and qualification for the type of service required and at fair and reasonable compensation, rather than by competitive sealed bidding.

CONTRACTOR: Any individual, company, firm, corporation, partnership or other organization to whom an award is made by the County.

COUNTY: County of Fairfax.

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

INFORMALITY: A minor defect or variation of a bid or proposal from the exact requirements of the invitation to bid or the request for proposal which does not affect the price, quality, quantity or delivery schedule for the goods, services or construction being procured.

INVITATION FOR BID (IFB): A request which is made to prospective suppliers (bidders) for their quotation on goods or services desired by the County. The issuance of an IFB will contain or incorporate by reference the specifications and contractual terms and conditions applicable to the procurement.

OPEN MARKET PROCUREMENT (OMP): A method of competitive bidding for the purchase or lease of goods, non-professional services or for the purchase of insurance, construction, or construction management when the estimated cost thereof shall be less than \$50,000.

PROFESSIONAL SERVICES: Any type of professional service performed by an independent Contractor within the practice of accounting, actuarial services, architecture, dentistry, land surveying, landscape architecture, law, medicine, optometry, pharmacy, or professional engineering (which shall be procured as set forth in the Code of Virginia §2.2-4301 in the definition of competitive negotiation at paragraph 3 (a), and in conformance with the Fairfax County Purchasing Resolution).

PURCHASING AGENT: The Purchasing Agent employed by the Board of Supervisors of Fairfax County, Virginia.

REQUEST FOR PROPOSAL (RFP): A request for an offer from prospective offerors which will indicate the general terms which are sought to be procured from the offeror. The RFP will specify the evaluation factors to be used and will contain or incorporate by reference other contractual terms and conditions applicable to the procurement.

RESPONSIBLE BIDDER/OFFEROR: An individual, company, firm, corporation, partnership or other organization having the capability in all respects to perform fully the contract requirements, and also having the moral and business integrity and reliability which will assure good faith performance, and having been prequalified, if required. (Reference paragraph 24, General Conditions and Instructions to Bidders).

RESPONSIVE BIDDER/OFFEROR: An individual, company, firm, corporation, partnership or other organization having submitted a bid which conforms in all material respects to the invitation for bid or request for proposal.

GENERAL CONDITIONS AND INSTRUCTIONS TO BIDDERS

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

SOLICITATION: The process of notifying prospective bidders that the County wishes to receive bids on a set of requirements to provide goods or services. The notification of County requirements may consist of public advertising (newspaper, County Web Site, or other electronic notification), the mailing of Notices of Solicitation, Invitation for Bid (IFB) or Request for Proposal (RFP), the public posting of notices, issuance of an Open Market Procurement (OMP), or telephone calls to prospective bidders.

STATE: Commonwealth of Virginia.

CONDITIONS OF BIDDING

3. BID FORMS-Unless otherwise specified in the solicitation, all bids shall be submitted on the forms provided, to include the bid Cover Sheet and Pricing Schedule(s), properly signed in ink in the proper spaces and submitted in a sealed envelope or package. The item pages of the Pricing Schedule which do not include any items for which a bid is required need not be included in the submission of a bid.

Should the bid prices and/or any other submissions differ on the copy of the submitted bid, the ORIGINAL copy shall prevail.

4. LATE BIDS & MODIFICATIONS OF BIDS-

- a. Any bid/modification received at the office designated in the solicitation after the exact time specified for receipt of the bid/modification is considered a late bid/modification. A late bid/modification will not be considered for award except under the following conditions only:
 1. It was sent by registered or certified mail not later than the fifth (5th) calendar date prior to the date specified for receipt of the bid/modification; or
 2. The bid/modification was sent by mail and it is determined by the County Purchasing Agent that the late receipt was due solely to mishandling by the County after receipt at the address specified in the solicitation.
- b. If an emergency or unanticipated event or closing interrupts or suspends normal County business operations so that bids cannot be received at the County office designated for receipt of bids by the exact time specified in the solicitation, the due date/time specified for receipt of bids will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal County business operations resume
- c. The official time used for receipt of bids/modifications is the Bid Clerk's time and date stamp clock located in the Department of Purchasing and Supply Management. "No other clocks, calendars or timepieces are recognized. All bidders are responsible to ensure all bids/modifications are received prior to the scheduled due date/time.
- d. A late hand-carried bid, or any other late bid not submitted by mail, shall not be considered for award.

5. WITHDRAWAL OF BIDS-

- a. A bidder for a public construction contract, other than a contract for construction or maintenance of public highways, may withdraw his or her bid from consideration if the price bid was substantially lower than the other bids due solely to a mistake therein, provided the bid was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgment mistake, and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn. If a bid contains both clerical and judgment mistakes, a bidder may withdraw his bid from consideration if the price bid would have been substantially lower than the other bids due solely to the clerical mistake, that was an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid which shall be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn. The bidder shall give notice in writing to the Purchasing Agent of his or her

claim of right to withdraw his or her bid within two (2) business days after the conclusion of the bid opening procedure and shall submit original work papers with such notice.

- b. A bidder for a contract other than for public construction may request withdrawal of his or her bid under the following circumstances:
 - 1. Requests for withdrawal of bids prior to opening of such bids shall be transmitted to the County Purchasing Agent in writing.
 - 2. Requests for withdrawal of bids after opening of such bids but prior to award shall be transmitted to the County Purchasing Agent, in writing, accompanied by full documentation supporting the request. If the request is based on a claim of error, documentation must show the basis of the error. Such documentation may take the form of supplier quotations, vendor work sheets, etc. If bid bonds were tendered with the bid, the County may exercise its right of collection.
- c. No bid may be withdrawn under this paragraph when the result would be the awarding of the contract on another bid of the same bidder or of another bidder in which the ownership of the withdrawing bidder is more than five percent.

GENERAL CONDITIONS AND INSTRUCTIONS TO BIDDERS

- d. If a bid is withdrawn under the authority of this paragraph, the lowest remaining bid shall be deemed to be the low bid.
- e. No bidder who is permitted to withdraw a bid shall, for compensation, supply any material or labor to or perform any subcontract or other work agreement for the person or firm to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted.
- f. If the county denies the withdrawal of a bid under the provisions of this paragraph, it shall notify the bidder in writing stating the reasons for its decision and award the contract to such bidder at the bid price, provided such bidder is a responsible and responsive bidder.
- g. Work papers, documents, and materials submitted in support of a withdrawal of bids may be considered as trade secrets or proprietary information subject to the conditions of the Virginia Freedom of Information Act.

6. ERRORS IN BIDS-When an error is made in extending total prices, the unit bid price will govern. Erasures in bids must be initialed by the bidder. Carelessness in quoting prices, or in preparation of bid otherwise, will not relieve the bidder. Bidders are cautioned to recheck their bids for possible error. Errors discovered after public opening cannot be corrected and the bidder will be required to perform if his or her bid is accepted.

7. MAILING OF BIDS – All bids and proposals submitted in response to a Fairfax County solicitation shall be submitted in a sealed envelope or package identified with the solicitation number, title, and bidders name and address clearly marked on the outside of such envelope or package.

8. COMPLETENESS-To be responsive, a bid must include all information required by the solicitation.

9. ACCEPTANCE OF BIDS/BINDING 90 DAYS-Unless otherwise specified, all formal bids submitted shall be binding for ninety (90) calendar days following bid opening date, unless extended by mutual consent of all parties.

10. CONDITIONAL BIDS-Conditional bids are subject to rejection in whole or in part.

11. BIDS FOR ALL OR PART-Unless otherwise specified by the County Purchasing Agent or by the bidder, the Purchasing Agent reserves the right to make award on all items in the aggregate or on any of the items on an individual basis, whichever is in the best interest of the County. A bidder may restrict his or her bid to consideration in the aggregate by so stating but shall name a single unit price on each item bid. Any bid in which the bidder names a total price for all the articles without quoting a unit price for each and every separate item may not be considered for award.

12. AREA BIDS-For the purchase and delivery of certain goods and services the County may be divided into Areas (e.g., Areas I, II, III, and IV). When such goods and services are included in the Pricing Schedule, bidders may bid on all areas or an individual area. A map showing the areas of the County will be furnished with the solicitation when required.

13. TIME FOR RECEIVING BID-Bids received prior to the time of opening will be securely kept, unopened. The representative of the Purchasing Agent assigned to open them will decide when the specified time has arrived, and no bid received thereafter will be considered, except as provided in paragraph 4, General Conditions and Instructions to Bidders. No responsibility will attach to the Purchasing Agent or his or her representative for the premature opening of a bid not properly addressed and identified. Unless specifically authorized in the solicitation, telegraphic, electronic, or facsimile bids/modifications will not be considered.

14. BID OPENING-All bids received in response to an Invitation for Bid (IFB) will be opened at the date, time and place specified, read publicly, and made available for inspection as provided in paragraph 68, General Conditions and Instructions to Bidders. Tabulations of bids received are posted on the Department of Purchasing & Supply Management Bulletin Board as well as the County's web site: <http://www.fairfaxcounty.gov/dpsm/bidtab.htm>. Proposals received in response to a Request for Proposal (RFP) will be made available as provided in paragraph 68, General Conditions and Instructions to Bidders.

15. OMISSIONS & DISCREPANCIES-Any items or parts of any equipment listed in this solicitation which are not fully described or are omitted from such specification, and which are clearly necessary for the completion of such equipment and its appurtenances, shall be considered a part of such equipment although not directly specified or called for in the specifications.

Should a bidder find discrepancies or ambiguities in, or omissions from, the solicitation, including the drawings and/or specifications, he or she shall notify the Purchasing Agent at least five (5) days prior to the date set for the opening of bids. If necessary, the Purchasing Agent will send a written addendum for clarification to all bidders no later than three (3) days before the date set for opening of bids. Notifications regarding specifications will not be considered if received within five days of the date set for opening of bids.

16. RESPONSE TO SOLICITATIONS-In the event a vendor cannot submit a bid on a solicitation; he or she is requested to return the solicitation cover sheet with an explanation as to why he or she is unable to bid on these requirements.

17. BIDDER INTERESTED IN MORE THAN ONE BID-If more than one bid is offered by any one party, either directly or by or in the name of his or her clerk, partner, or other persons, all such bids may be rejected. A party who has quoted prices on work, materials, or supplies to a bidder is not thereby disqualified from quoting prices to other bidders or firms submitting a bid directly for the work, materials or supplies.

GENERAL CONDITIONS AND INSTRUCTIONS TO BIDDERS

18. TAX EXEMPTION-The County is exempt from the payment of any federal excise or any Virginia sales tax. The price bid must be net, exclusive of taxes. However, when under established trade practice any federal excise tax is included in the list price, a bidder may quote the list price and shall show separately the amount of federal tax, either as a flat sum or as a percentage of the list price, which shall be deducted by the County. Fairfax

County's Federal Excise Tax Exemption Number is 54-74-0127K. Contractors located outside the Commonwealth of Virginia are advised that when materials are picked up by the County at their place of business, they may charge and collect their own local/state sales tax. Materials used in the performance of construction contracts are subject to Virginia Sales/Use Tax as described in Section 630-10-27J of the Virginia Retail Sales and Use Tax Regulations.

19. PROHIBITION AGAINST UNIFORM PRICING-The County Purchasing Agent shall encourage open and competitive bidding by all possible means and shall endeavor to obtain the maximum degree of open competition on all purchase transactions using the competitive sealed bidding, competitive negotiation, or open market methods of procurement. In submitting a bid each bidder shall, by virtue of submitting a bid, guarantee that he or she has not been a party with other bidders to an agreement to bid a fixed or uniform price. Violation of this implied guarantee shall render void the bids of participating bidders. Any disclosure to or acquisition by a competitive bidder, in advance of the opening of the bids, of the terms or conditions of the bid submitted by another competitor may render the entire proceedings void and may require re-advertising for bids.

SPECIFICATIONS

20. QUESTIONS CONCERNING SPECIFICATIONS-Any information relative to interpretation of specifications and drawings shall be requested of the Purchasing Agent, in writing, in ample time before the opening of bids. No inquiries, if received by the Purchasing Agent within five (5) days of the date set for the opening of bids, will be given any consideration. Any material interpretation of a specification, as determined by the County Purchasing Agent, will be expressed in the form of an addendum to the specification which will be sent to all prospective bidders no later than three (3) days before the date set for receipt of bids. Oral answers will not be authoritative.

21. BRAND NAME OR EQUAL ITEMS-Unless otherwise provided in the invitation for bid, the name of a certain brand, make or manufacturer does not restrict bidders to the specific brand, make or manufacturer named; it conveys the general style, type, character, and quality of the article desired, and any article which the County in its sole discretion determines to be the equal of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted.

22. FORMAL SPECIFICATIONS-When a solicitation contains a specification which states no substitutes, no deviation therefrom will be permitted and the bidder will be required to furnish articles in conformity with that specification.

The bidder shall abide by and comply with the true intent of the specifications and not take advantage of any unintentional error or omission, but shall fully complete every part as the true intent and meaning of the specifications and drawings. Whenever the mention is made of any articles, material, or workmanship to be in accordance with laws, ordinances, building codes, underwriter's codes, A.S.T.M. regulations or similar expressions, the requirements of these laws, ordinances, etc., shall be construed as to the minimum requirements of these specifications.

23. FEDERAL SPECIFICATIONS-Any Federal Specifications referred to herein may be obtained from the GSA Federal Supply Service Bureau - Specification Section, 470 East L'Enfant Plaza, S.W., Suite #8100, Washington, D.C. 20407 (Voice: 1-202-619-8925, Fax: 1-202-619-8978).

AWARD

24. AWARD OR REJECTION OF BIDS-The Purchasing Agent shall award the contract to the lowest responsive and responsible bidder complying with all provisions of the IFB, provided the bid price is reasonable and it is in the best interest of the County to accept it. Awards made in response to a RFP will be made to the highest qualified offeror whose proposal is determined, in writing, to be the most advantageous to the County taking into

consideration the evaluation factors set forth in the RFP. The Purchasing Agent reserves the right to award a contract by individual items, in the aggregate, or in combination thereof, or to reject any or all bids and to waive any informality in bids received whenever such rejection or waiver is in the best interest of the County. Award may be made to as many bidders as deemed necessary to fulfill the anticipated requirements of Fairfax County. The Purchasing Agent also reserves the right to reject the bid of a bidder deemed to be a non-responsible bidder.

In determining the responsibility of a bidder, the following criteria will be considered:

- a. The ability, capacity and skill of the bidder to perform the contract or provide the service required;
- b. Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;
- c. The character, integrity, reputation, judgment, experience and efficiency of the bidder;
- d. The quality of performance of previous contracts or services;
- e. The previous and existing compliance by the bidder with laws and ordinances relating to the contract or services;
- f. The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;
- g. The quality, availability and adaptability of the goods or services to the particular use required;
- h. The ability of the bidder to provide future maintenance and service for the use of the subject of the contract;
- i. The number and scope of the conditions attached to the bid;
- j. Whether the bidder is in arrears to the County on debt or contract or is a defaulter on surety to the County or whether the bidder's County taxes or assessments are delinquent; and
- k. Such other information as may be secured by the County Purchasing Agent having a bearing on the decision to award the contract. If an apparent low bidder is not awarded a contract for reasons of non-responsibility, the County Purchasing Agent shall so notify that bidder and shall have recorded the reasons in the contract file.

GENERAL CONDITIONS AND INSTRUCTIONS TO BIDDERS

25. NOTICE OF ACCEPTANCE/CONTRACT DOCUMENTS-A written award (or Acceptance Agreement) mailed (or otherwise furnished) to the successful bidder within the time for acceptance specified in the solicitation shall be deemed to result in a binding contract. The following documents which are included in the solicitation shall be incorporated by reference in the resulting contract and become a part of said contract:

- a. County of Fairfax Solicitation Form/Acceptance Agreement (Cover Sheet) and other documents which may be incorporated by reference, if applicable,
- b. General Conditions and Instructions to Bidders,
- c. Special Provisions and Specifications,
- d. Pricing Schedule,
- e. Any Addenda/Amendments/Memoranda of Negotiations

26. TIE-BIDS – If all bids are for the same total amount or unit price (including authorized discounts and delivery times), and if the public interest will not permit the delay of re-advertisement for bids, the County Purchasing Agent is authorized to award the contract to the resident Fairfax County tie bidder whose firm has its principal place of business in the County, or if there be none, to the resident Virginia tie bidder, or if there be none, to one of the tie bidders by drawing lots in public; or the County Purchasing Agent may purchase the goods or services in the open market except that the price paid shall not exceed the lowest contract bid price submitted for the same goods or services. The decision of the County to make award to one or more such bidders shall be final.

27. PROMPT PAYMENT DISCOUNT-

- a. Unless otherwise specified in the solicitation, prompt payment discounts requiring payment in less than fifteen (15) days will not be considered in evaluating a bid for award. However, even though not considered in the evaluation, such discounts will be taken if payment is to be made within the discount period.
- b. In connection with any discount offered, time will be computed from the date of delivery of the supplies to the carrier when delivery, inspection and acceptance are at the point of origin; or, from date of delivery, inspection and acceptance at destination; or, from date correct invoice or voucher is received in the office specified by the County, if the latter is later than the date of acceptance. In the event the bidder does not indicate a prompt payment discount, it shall be construed to mean NET 30 days.

For the purpose of earning the discount, payment is deemed to be made as of the date of mailing of the County check or issuance of an Electronic Funds Transfer.

28. INSPECTION-ACCEPTANCE-For determining acceptance of supplies in accordance with the provisions of the prompt payment discount paragraph, inspection and acceptance shall be accomplished only after examination (including testing) of supplies and services to determine whether the supplies and services conform to the contract requirements. Acceptance shall occur only after receipt and inspection provided such inspection, as appropriate, is accomplished within a reasonable time.

29. DEFINITE BID QUANTITIES-Where definite quantities are specifically stated, acceptance will bind the County to order quantities specified and to pay for, at contract prices, all such supplies or services delivered that meet specifications and conditions of the contract. However, the County will not be required to accept delivery of any balances unordered, as of the contract expiration date, unless the Contractor furnished the Purchasing Agent with a statement of unordered balances not later than ten (10) days after the termination date of the contract.

30. REQUIREMENT BID QUANTITIES-On "Requirement" bids, acceptance will bind the County to pay for, at unit bid prices, only quantities ordered and delivered. Where the County specifies estimated quantities, the Contractor shall not be required to deliver more than ten (10) percent in excess of the estimated quantity of each item, unless otherwise agreed upon.

CONTRACT PROVISIONS

31. TERMINATION OF CONTRACTS-Contracts will remain in force for full periods specified and/or until all articles ordered before date of termination shall have been satisfactorily delivered and accepted and thereafter until all requirements and conditions shall have been met, unless:

- a. Terminated prior to expiration date by satisfactory deliveries of entire contract requirements, or upon termination by the County for Convenience or Cause.
- b. Extended upon written authorization of the Purchasing Agent and accepted by Contractor, to permit ordering of unordered balances or additional quantities at contract prices and in accordance with contract terms.

32. TERMINATION FOR CONVENIENCE-A contract may be terminated in whole or in part by the County in accordance with this clause whenever the County Purchasing Agent shall determine that such a termination is in the best interest of the County. Any such termination shall be effected by delivery to the Contractor at least five (5) working days prior to the termination date of a Notice of Termination specifying the extent to which performance shall be terminated and the date upon which termination becomes effective. An equitable adjustment in the contract price shall be made for completed service, but no amount shall be allowed for anticipated profit on unperformed services.

GENERAL CONDITIONS AND INSTRUCTIONS TO BIDDERS

33. TERMINATION OF CONTRACT FOR CAUSE-

- a. If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner his or her obligations under this contract, or if the Contractor shall violate any of the covenants, agreements, or stipulations of this contract, the County shall thereupon have the right to terminate, specifying the effective date thereof, at least five (5) days before the effective date of such termination. In such event all finished or unfinished documents, data, studies, surveys, drawings, maps, models, and reports prepared by the Contractor under the contract shall, at the option of the County, become its property and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents.
- b. Notwithstanding the above, the Contractor shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of contract by the Contractor for the purpose of set off until such time as the exact amount of damages due to the County from the Contractor is determined.

34. CONTRACT ALTERATIONS-No alterations in the terms of a contract shall be valid or binding upon the County unless made in writing and signed by the Purchasing Agent or his or her authorized agent.

35. SUBLETTING OF CONTRACT OR ASSIGNMENT OF CONTRACT FUNDS-It is mutually understood and agreed that the Contractor shall not assign, transfer, convey, sublet or otherwise dispose of his or her contractual duties to any other person, firm or corporation, without the previous written consent of the Purchasing Agent. If the Contractor desires to assign his or her right to payment of the contract, Contractor shall notify the Purchasing Agent immediately, in writing, of such assignment of right to payment. In no case shall such assignment of contract relieve the Contractor from his or her obligations or change the terms of the contract.

36. FUNDING-A contract shall be deemed binding only to the extent of appropriations available to each Agency for the purchase of goods and services.

37. DELIVERY/SERVICE FAILURES-Failure of a Contractor to deliver goods or services within the time specified, or within reasonable time as interpreted by the Purchasing Agent, or failure to make replacements/corrections of rejected articles/services when so requested, immediately or as directed by the Purchasing Agent, shall constitute authority for the Purchasing Agent to purchase in the open market articles/services of comparable grade/quality to replace the services, articles rejected, and/or not delivered. On all such purchases, the Contractor shall reimburse the County, within a reasonable time specified by the Purchasing Agent, for any expense incurred in excess of contract prices. Such purchases shall be deducted from the contract quantities if applicable. Should public necessity demand it, the County reserves the right to use or consume articles delivered or services performed which are substandard in quality, subject to an adjustment in price to be determined by the Purchasing Agent.

38. NON-LIABILITY-The Contractor shall not be liable in damages for delay in shipment or failure to deliver when such delay or failure is the result of fire, flood, strike, the transportation carrier, act of God, act of Government, act of an alien enemy or by any other circumstances which, in the Purchasing Agent's opinion, are beyond the control of the Contractor. Under such circumstances, however, the Purchasing Agent may, at his or her discretion, cancel the contract.

39. NEW GOODS, FRESH STOCK-All Contractors, unless otherwise specifically stated, shall provide new commodities, fresh stock, latest model, design or pack.

40. NON-DISCRIMINATION-During the performance of this contract, the Contractor agrees as follows:

- a. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
- b. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.
- c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
- d. The Contractor will include the provisions of the foregoing paragraphs a, b, and c above in every subcontract or purchase order of over \$10,000 so that the provisions will be binding upon each subcontractor or vendor.
- e. Contractor and Subcontractor hereunder shall, throughout the term of this contract, comply with the Human Rights Ordinance, Chapter 11 of the Code of the County of Fairfax, Virginia, as reenacted or amended.

41. SMALL AND MINORITY BUSINESS UTILIZATION-

- a. It is the policy of the County of Fairfax as declared by the Fairfax County Board of Supervisors' adoption of a Small and Minority Business Enterprise Program, April 6, 1981, that Fairfax County and its employees undertake every effort to increase opportunity for utilization of small or minority businesses in all aspects of procurement to the maximum extent feasible.
- b. Where it is practicable for any portion of the awarded contract to be subcontracted to other suppliers, the contractor is encouraged to offer such subcontracting opportunities to small, women and minority businesses.
- c. Where Federal grants or monies are involved it is the policy of Fairfax County, through its agents and employees, to comply with the requirements set forth in the U.S. Office of Management and Budget Circular No. A-102, uniform administrative requirements for Grants and Cooperative Agreements with State and Local Governments, as they pertain to small and minority business utilization.

GENERAL CONDITIONS AND INSTRUCTIONS TO BIDDERS

42. GUARANTEES & WARRANTIES-All guarantees and warranties required shall be furnished by the Contractor and shall be delivered to the Purchasing Agent before final payment on the contract is made. Unless otherwise stated, manufacturer's standard warranty applies.

43. PRICE REDUCTION-If at any time after the date of the bid the Contractor makes a general price reduction in the comparable price of any material covered by the contract to customers generally, an equivalent price reduction based on similar quantities and/or considerations shall apply to this contract for the duration of the contract period (or until the price is further reduced). Such price reduction shall be effective at the same time and in the same manner as the reduction in the price to customers generally. For purpose of this provision, a "general price reduction" shall mean any horizontal reduction in the price of an article or service offered (1) to Contractor's customers generally, or (2) in the Contractor's price schedule for the class of customers, i.e., wholesalers, jobbers, retailers, etc., which was used as the basis for bidding on this solicitation. An occasional sale at a lower price, or sale of distressed merchandise at a lower price, would not be considered a "general price reduction" under this provision. The Contractor shall submit his or her invoice at such reduced prices indicating on the invoice that the reduction is pursuant to the "Price Reduction" provision of the contract documents. The Contractor in addition will within ten days of any general price reduction notify the Purchasing Agent of such reduction by letter. FAILURE TO DO SO MAY REQUIRE TERMINATION OF THE CONTRACT. Upon receipt of any such notice of a general price reduction, all ordering offices will be duly notified by the Purchasing Agent. The Contractor, if requested, shall furnish, within ten days after the end of the contract period, a statement certifying either (1) that no general price reduction, as defined above, was made after the date of the bid, or (2) if

any such general price reductions were made, that as provided above, they were reported to the Purchasing Agent within ten (10) days and ordering offices were billed at the reduced prices. Where one or more such general price reductions were made, the statement furnished by the Contractor shall include with respect to each price reduction (1) the date when notice of any such reduction was issued, (2) the effective date of the reduction, and (3) the date when the Purchasing Agent was notified of any such reduction.

44. CHANGES-Should it become proper or necessary in the execution of this contract to make any change in design, or to make any alterations which will increase the expense, the Purchasing Agent shall determine an equitable adjustment.

No payment shall be made to the Contractor for any extra material or services, or of any greater amount of money than stipulated to be paid in the contract, unless some changes in or additions to the contract requiring additional outlay by the Contractor shall first have been expressly authorized and ordered in writing by contract amendment or otherwise furnished by the Purchasing Agent.

45. PLACING OF ORDERS-Orders against contracts will be placed with the Contractor on a Purchase Order (or Procurement Card) executed and released by the Purchasing Agent or his or her designee. The Purchase Order must bear the appropriate contract number and date. Where Blanket Purchase Agreements (BPAs) have been executed and a Blanket Purchase Order has been released by the Purchasing Agent, telephonic orders may be placed directly with the Contractor by authorized personnel in the ordering Agency.

DELIVERY PROVISIONS

46. SHIPPING INSTRUCTIONS - CONSIGNMENT-Unless otherwise specified in the solicitation each case, crate, barrel, package, etc., delivered under the contract must be plainly stenciled or securely tagged, stating the Contractor's name, purchase order number, and delivery address as indicated in the order. Where shipping containers are to be used, each container must be marked with the purchase order number, name of the Contractor, the name of the item, the item number, and the quantity contained therein. Deliveries must be made within the hours of 8:00 AM - 3:00 PM. Deliveries at any other time will not be accepted unless specific arrangements have been previously made with the receiver at the delivery point. No deliveries will be accepted on Saturdays, Sundays and holidays, unless previous arrangements have been made. It shall be the responsibility of the Contractor to insure compliance with these instructions for items that are drop-shipped.

47. RESPONSIBILITY FOR SUPPLIES TENDERED-Unless otherwise specified in the solicitation, the Contractor shall be responsible for the materials or supplies covered by the contract until they are delivered at the designated point, but the Contractor shall bear all risk on rejected materials or supplies after notice of rejection. Rejected materials or supplies must be removed by and at the expense of the Contractor promptly after notification of rejection, unless public health and safety require immediate destruction or other disposal of rejected delivery. If rejected materials are not removed by the Contractor within ten (10) days after date of notification, the County may return the rejected materials or supplies to the Contractor at his or her risk and expense or dispose of them as its own property.

48. INSPECTIONS-Inspection and acceptance of materials or supplies will be made after delivery at destinations herein specified unless otherwise stated. If inspection is made after delivery at destination herein specified, the County will bear the expense of inspection except for the value of samples used in case of rejection. Final inspection shall be conclusive except in regard to latent defects, fraud or such gross mistakes as to amount to fraud. Final inspection and acceptance or rejection of the materials or supplies will be made as promptly as practicable, but failure to inspect and accept or reject materials or supplies shall not impose liability on the County for such materials or supplies as are not in accordance with the specifications.

49. COMPLIANCE-Delivery must be made as ordered and in accordance with the solicitation or as directed by the Purchasing Agent when not in conflict with the bid. The decision of the Purchasing Agent as to reasonable

compliance with delivery terms shall be final. Burden of proof of delay in receipt of goods by the purchaser shall rest with the Contractor. Any request for extension of time of delivery from that specified must be approved by the Purchasing Agent, such extension applying only to the particular item or shipment affected. Should the Contractor be delayed by the County, there shall be added to the time of completion a time equal to the period of such delay caused by the County. However, the Contractor shall not be entitled to claim damages or extra compensation for such delay or suspension. These conditions may vary for construction contracts. See Special Provisions for the individual solicitation.

GENERAL CONDITIONS AND INSTRUCTIONS TO BIDDERS

50. POINT OF DESTINATION-All materials shipped to the County must be shipped F.O.B. DESTINATION unless otherwise stated in the contract or purchase order. The materials must be delivered to the "Ship to" address indicated on the purchase order.

51. ADDITIONAL CHARGES-Unless bought F.O.B. "shipping point" and Contractor prepays transportation, no delivery charges shall be added to invoices except when express delivery is authorized and substituted on orders for the method specified in the contract. In such cases, difference between freight or mail and express charges may be added to invoice.

52. METHOD AND CONTAINERS-Unless otherwise specified, goods shall be delivered in commercial packages in standard commercial containers, so constructed as to ensure acceptance by common or other carrier for safe transportation to the point of delivery. Containers become the property of the County unless otherwise specified by bidder.

53. WEIGHT CHECKING-Deliveries shall be subject to re-weighing over official sealed scales designated by the County. Payments shall be made on the basis of net weight of materials delivered. Normal shrinkage may be allowed in such instances where shrinkage is possible. Net weights only, exclusive of containers or wrapping, shall be paid for by the County.

54. DEMURRAGE AND RE-SPOTTING-The County will be responsible for demurrage charges only when such charges accrue because of the County's negligence in unloading the materials. The County will pay railroad charges due to the re-spotting of cars, only when such re-spotting is ordered by the County.

55. REPLACEMENT-Materials or components that have been rejected by the Purchasing Agent, in accordance with the terms of a contract, shall be replaced by the Contractor at no cost to the County.

56. PACKING SLIPS OR DELIVERY TICKETS-All shipments shall be accompanied by Packing Slips or Delivery Tickets and shall contain the following information for each item delivered:

1. The Purchase Order Number,
2. The Name of the Article and Stock Number (Supplier's),
3. The Fairfax County Identification Number (FCIN), if specified in the order,
4. The Quantity Ordered,
5. The Quantity Shipped,
6. The Quantity Back Ordered,
7. The Name of the Contractor.

Contractors are cautioned that failure to comply with these conditions shall be considered sufficient reason for refusal to accept the goods.

BILLING

57. BILLING-Billing for the Fairfax County Public Schools and for County agencies: Unless otherwise specified on the contract or purchase order (PO), invoices are to be submitted, in DUPLICATE, for each purchase order immediately upon completion of the shipment or services. If shipment is made by freight or express, the original Bill of Lading, properly receipted, must be attached to the invoice. Invoices should be mailed to the "BILL TO" address on the PO or to the appropriate address specified in the contract.

PAYMENTS

58. PAYMENT-Payment shall be made after satisfactory performance of the contract, in accordance with all of the provisions thereof, and upon receipt of a properly completed invoice. Fairfax County reserves the right to withhold any or all payments or portions thereof for Contractor's failure to perform in accordance with the provision of the contract or any modifications thereto.

59. PARTIAL PAYMENTS-Unless otherwise specified, partial payments will be made upon acceptance of materials or services so invoiced if in accordance with completion date. However, up to 5 percent (5%) of the value of the entire order may be retained until completion of contract.

60. PAYMENT FOR EQUIPMENT, INSTALLATION, AND TESTING-When equipment requires installation (which shall also be interpreted to mean erection and/or setting up or placing in position, service, or use) and test, and where such installation or testing is delayed, payment may be made on the basis of 50% of the contract price when such equipment is delivered on the site. A further allowance of 25% may be made when the equipment is installed and ready for test. The balance shall be paid after the equipment is tested and found to be satisfactory. If the equipment must be tested, but installation is not required to be made by the Contractor or if the equipment must be installed but testing is not required, payment may be made on the basis of 75% at the time of delivery and the balance shall be paid after satisfactory test or installation is completed.

GENERAL CONDITIONS AND INSTRUCTIONS TO BIDDERSGENERAL

61. GENERAL GUARANTY-Contractor agrees to:

- a. Save the County, its agents and employees harmless from liability of any nature or kind for the use of any copyrighted or uncopyrighted composition; secret process, patented or unpatented; invention; article or appliance furnished or used in the performance of a contract for which the Contractor is not the patentee, assignee, licensee or owner.
- b. Protect the County against latent defective material or workmanship and to repair or replace any damages or marring occasioned in transit or delivery.
- c. Furnish adequate protection against damage to all work and to repair damages of any kind to the building or equipment, to his or her own work or to the work of other contractors, for which his or her workers are responsible.
- d. Pay for all permits, licenses and fees and give all notices and comply with all laws, ordinances, rules and regulations of the County.
- e. Protect the County from loss or damage to County owned property while it is in the custody of the Contractor.

62. SERVICE CONTRACT GUARANTY-Contractor agrees to:

- a. Furnish services described in the solicitation and resultant contract at the times and places and in the manner and subject to conditions therein set forth provided that the County may reduce the said services at any time.

- b. Enter upon the performance of services with all due diligence and dispatch, assiduously press to its complete performance, and exercise therein the highest degree of skill and competence.
- c. All work and services rendered in strict conformance to all laws, statues, and ordinances and the applicable rules, regulations, methods and procedures of all government boards, bureaus, offices and other agents.
- d. Allow services to be inspected or reviewed by an employee of the County at any reasonable time and place selected by the County. Fairfax County shall be under no obligation to compensate Contractor for any services not rendered in strict conformity with the contract.
- e. Stipulate that the presence of a County Inspector shall not lessen the obligation of the Contractor for performance in accordance with the contract requirements, or be deemed a defense on the part of the Contractor for infraction thereof. The Inspector is not authorized to revoke, alter, enlarge, relax, or release any of the requirements of the contract documents. Any omission or failure on the part of the Inspector to disapprove or reject any work or material shall not be construed to be an acceptance of any such defective work or material. Notification of an omission or failure will be documented by the Purchasing Agent.

63. INDEMNIFICATION-Contractor shall indemnify, keep and save harmless the County, its agents, officials, employees and volunteers against claims of injuries, death, damage to property, patent claims, suits, liabilities, judgments, cost and expenses which may otherwise accrue against the County in consequence of the granting of a contract or which may otherwise result therefrom, if it shall be determined that the act was caused through negligence or error, or omission of the Contractor or his or her employees, or that of the subcontractor or his or her employees, if any; and the Contractor shall, at his or her own expense, appear, defend and pay all charges of attorneys and all costs and other expenses arising therefrom or incurred in connection therewith; and if any judgment shall be rendered against the County in any such action, the Contractor shall, at his or her own expense, satisfy and discharge the same. Contractor expressly understands and agrees that any performance bond or insurance protection required by this contract, or otherwise provided by the Contractor, shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County as herein provided.

64. OFFICIALS NOT TO BENEFIT-

- a. Each bidder or offeror shall certify, upon signing a bid or proposal, that to the best of his or her knowledge no Fairfax County official or employee having official responsibility for the procurement transaction, or member of his or her immediate family, has received or will receive any financial benefit of more than nominal or minimal value relating to the award of this contract. If such a benefit has been received or will be received, this fact shall be disclosed with the bid or proposal or as soon thereafter as it appears that such a benefit will be received. Failure to disclose the information prescribed above may result in suspension or debarment, or rescission of the contract made, or could affect payment pursuant to the terms of the contract.
- b. Whenever there is reason to believe that a financial benefit of the sort described in paragraph "a" has been or will be received in connection with a bid, proposal or contract, and that the Contractor has failed to disclose such benefit or has inadequately disclosed it, the County Executive, as a prerequisite to payment pursuant to the contract, or at any other time, may require the Contractor to furnish, under oath, answers to any interrogatories related to such possible benefit.
- c. In the event the bidder or offeror has knowledge of benefits as outlined above, this information should be submitted with the bid or proposal. If the above does not apply at time of award of contract and becomes known after inception of a contract, the bidder or offeror shall address the disclosure of such facts to the Fairfax County Purchasing Agent, 12000 Government Center Parkway, Suite 427, Fairfax, Virginia 22035-0013. Relevant Invitation/Request for Proposal Number (see cover sheet) should be referenced in the disclosure.

65. LICENSE REQUIREMENT-All firms doing business in Fairfax County, shall obtain a license as required by Chapter 4, Article 7, of The Code of the County of Fairfax, Virginia, as amended, entitled "Business, Professional

and Occupational Licensing (BPOL) Tax." Questions concerning the BPOL Tax should be directed to the Department of Tax Administration, telephone (703) 222-8234 or visit: http://www.fairfaxcounty.gov/dta/business_tax.htm. The BPOL Tax number must be indicated in the space provided on the Cover Sheet, "Fairfax License Tax No." when appropriate.

GENERAL CONDITIONS AND INSTRUCTIONS TO BIDDERS

66. AUTHORIZATION TO CONDUCT BUSINESS IN THE COMMONWEALTH: A contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the *Code of Virginia* or as otherwise required by law. Any business entity described above that enters into a contract with a Fairfax County pursuant to the Fairfax County Purchasing Resolution shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the contract. Fairfax County may void any contract with a business entity if the business entity fails to remain in compliance with the provisions of this section.

67. COVENANT AGAINST CONTINGENT FEES-The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For violation of this warranty, the County shall have the right to terminate or suspend this contract without liability to the County or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

68. VIRGINIA FREEDOM OF INFORMATION ACT-All proceedings, records, contracts and other public records relating to procurement transactions shall be open to the inspection of any citizen, or any interested person, firm or corporation, in accordance with the Virginia Freedom of Information Act except as provided below:

- a. Cost estimates relating to a proposed procurement transaction prepared by or for a public body shall not be open to public inspection.
- b. Any competitive sealed bidding bidder, upon request, shall be afforded the opportunity to inspect bid records within a reasonable time after the opening of all bids but prior to award, except in the event that the County decides not to accept any of the bids and to reopen the contract. Otherwise, bid records shall be open to public inspection only after award of the contract. Any competitive negotiation offeror, upon request, shall be afforded the opportunity to inspect proposal records within a reasonable time after the evaluation and negotiations of proposals are completed but prior to award except in the event that the County decides not to accept any of the proposals and to reopen the contract. Otherwise, proposal records shall be open to the public inspection only after award of the contract except as provided in paragraph "c" below. Any inspection of procurement transaction records under this section shall be subject to reasonable restrictions to ensure the security and integrity of the records.
- c. Trade secrets or proprietary information submitted by a bidder, offeror or Contractor in connection with a procurement transaction or prequalification application submitted pursuant to the prequalification process identified in the Special Provisions, shall not be subject to the Virginia Freedom of Information Act; however, the bidder, offeror or Contractor shall (i) invoke the protections of this section prior to or upon submission of the data or other materials, (ii) identify the data or other materials to be protected, and (iii) state the reasons why protection is necessary.

- d. Nothing contained in this section shall be construed to require the County, when procuring by "competitive negotiation" (Request for Proposal), to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous to the County.

BIDDER/CONTRACTOR REMEDIES

69. INELIGIBILITY-

- a. Any person or firm suspended or debarred from participation in County procurement shall be notified in writing by the County Purchasing Agent.
1. The Notice of Suspension shall state the reasons for the actions taken and such decision shall be final unless the person or firm appeals within thirty (30) days of receipt of the Notice by instituting legal action as provided in the Code of Virginia.
 2. The Notice of Debarment shall state the reasons for the actions taken and the decision shall be final unless the person or firm appeals within thirty (30) days of receipt of the notice by instituting legal action as provided in the Code of Virginia.
- b. The County Purchasing Agent shall have the authority to suspend or debar a person or firm from bidding on any contract for the causes stated below:
1. Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;
 2. Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a County Contractor;
 3. Conviction under the state or federal antitrust statutes arising out of the submission of bids or proposals;
 4. Violation of contract provisions, as set forth below, of a character which is regarded by the County Purchasing Agent to be so serious as to justify suspension or debarment action:
 - (a) failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or
 - (b) a recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts; provided, that failure to perform or unsatisfactory performance caused by acts beyond the control of the Contractor shall not be considered to be a basis for suspension or debarment;

GENERAL CONDITIONS AND INSTRUCTIONS TO BIDDERS

5. Any other cause the County Purchasing Agent determines to be so serious and compelling as to affect responsibility as a Contractor, such as debarment by another governmental entity for any cause listed herein, or because of prior reprimands;
 6. The Contractor has abandoned performance or been terminated for default on any other Fairfax County project;
 7. The Contractor is in default on any surety bond or written guarantee on which Fairfax County is an obligee.
- c. If, upon appeal, it is determined that the action taken by the County Purchasing Agent was arbitrary or capricious, or not in accordance with the Constitution of Virginia, statutes or regulations, the sole relief available to the person or firm shall be restoration of eligibility. The person or firm may not institute legal action until all statutory requirements have been met.

70. APPEAL OF DENIAL OF WITHDRAWAL OF BID-

- a. A decision denying withdrawal of a bid submitted by a bidder or offeror shall be final and conclusive unless the bidder appeals the decision within ten (10) days after receipt of the decision by instituting legal action as provided in the Code of Virginia. The bidder or offeror may not institute legal action until all statutory requirements have been met.
- b. If no bid bond was posted, a bidder refused withdrawal of bid under the provisions of Article 2, Section 4 a.9, of the Fairfax County Purchasing Resolution, prior to appealing, shall deliver to the County a certified check or cash bond in the amount of the difference between the bid sought to be withdrawn and the next low bid. Such security shall be released only upon a final determination that the bidder was entitled to withdraw the bid.
- c. If, upon appeal, it is determined that the decision refusing withdrawal of the bid was arbitrary or capricious, the sole relief shall be withdrawal of the bid.

71. APPEAL OF DETERMINATION OF NONRESPONSIBILITY-

- a. Any bidder who, despite being the apparent low bidder, is determined not to be a responsible bidder for a particular County contract shall be notified in writing by the County Purchasing Agent. Such notice shall state the basis for the determination, which shall be final unless the bidder appeals the decision within ten (10) days of receipt of the notice by instituting legal action as provided in the Code of Virginia. The bidder may not institute legal action until all statutory requirements have been met.
- b. If, upon appeal, it is determined that the decision of the County Purchasing Agent was arbitrary or capricious and the award for the particular County contract in question has not been made, the sole relief available to the bidder shall be a finding that the bidder is a responsible bidder for the County contract in question. Where the award has been made and performance has begun, the County may declare the contract void upon a finding that this action is in the best interest of the public. Where a contract is declared void, the performing Contractor shall be compensated for the cost of performance up to the time of such declaration. In no event shall the performing Contractor be entitled to lost profits.

72. PROTEST OF AWARD OR DECISION TO AWARD-

- a. Any bidder or offeror may protest the award or decision to award a contract by submitting a protest in writing to the County Purchasing Agent, or an official designated by the County of Fairfax, no later than ten (10) days after the award or the announcement of the decision to award, whichever occurs first. Any potential bidder or offeror on a contract negotiated on a sole source or emergency basis who desires to protest the award or decision to award such contract shall submit such protest in the same manner no later than ten days after posting or publication of the notice of such contract as provided in Article 3, Section 4, of the Fairfax County Purchasing Resolution. However, if the protest of any actual or potential bidder or offeror depends in whole or in part upon information contained in public records pertaining to the procurement transaction which are subject to inspection under Article 2, Section 4d of the Fairfax County Purchasing Resolution, then the time within which the protest must be submitted shall expire ten days after those records are available for inspection by such bidder or offeror under Article 2, Section 4d, or at such later time as provided herein. No protest shall lie for a claim that the selected bidder or offeror is not a responsible bidder or offeror. The written protest shall include the basis for the protest and the relief sought. The County Purchasing Agent shall issue a decision in writing within ten (10) days of the receipt of the protest stating the reasons for the action taken. This decision shall be final unless the bidder or offeror appeals within ten (10) days of receipt of the written decision by instituting legal action as provided in the Code of Virginia.

- b. If prior to award it is determined that the decision to award is arbitrary or capricious, then the sole relief shall be a finding to that effect. The County Purchasing Agent shall cancel the proposed award or revise it to comply with the law. If, after an award, it is determined that an award of a contract was arbitrary or capricious, then the sole relief shall be as hereinafter provided. Where the award has been made but performance has not begun, the performance of the contract may be declared void by the County. Where the award has been made and performance has begun, the County Purchasing Agent may declare the contract void upon a finding that this action is in the best interest of the County. Where a contract is declared void, the performing Contractor shall be compensated for the cost of performance at the rate specified in the contract up to the time of such declaration. In no event shall the performing Contractor be entitled to lost profits.
- c. Pending final determination of a protest or appeal, the validity of a contract awarded and accepted in good faith in accordance with this article shall not be affected by the fact that a protest or appeal has been filed.
- d. An award need not be delayed for the period allowed a bidder or offeror to protest, but in the event of a timely protest, no further action to award the contract will be taken unless there is a written determination that proceeding without delay is necessary to protect the public interest or unless the bid or offer would expire.

GENERAL CONDITIONS AND INSTRUCTIONS TO BIDDERS

73. CONTRACTUAL DISPUTES-

- a. Any dispute concerning a question of fact as a result of a contract with the County which is not disposed of by agreement shall be decided by the County Purchasing Agent, who shall reduce his decision to writing and mail or otherwise forward a copy to the Contractor within ninety (90) days. The decision of the County Purchasing Agent shall be final and conclusive unless the Contractor appeals within six (6) months of the date of the final written decision by instituting legal action as provided in the Code of Virginia. A Contractor may not institute legal action, prior to receipt of the County Purchasing Agent's decision on the claim, unless the County Purchasing Agent fails to render such decision within the time specified.
- b. Contractual claims, whether for money or other relief, shall be submitted in writing no later than sixty days after final payment; however, written notice of the Contractor's intention to file such claim shall have been given at the time of the occurrence or beginning of the work upon which the claim is based. Nothing herein shall preclude a contract from requiring submission of an invoice for final payment within a certain time after completion and acceptance of the work or acceptance of the goods. Pendency of claims shall not delay payment of amounts agreed due in the final payment.

74. LEGAL ACTION-No bidder, offeror, potential bidder or offeror, or Contractor shall institute any legal action until all statutory requirements have been met.

75. COOPERATIVE PURCHASING-The County may participate in, sponsor, conduct or administer a cooperative procurement agreement on behalf of or in conjunction with one or more other public bodies, or public agencies or institutions or localities of the several states, of the United States or its territories, or the District of Columbia, for the purpose of combining requirements to increase efficiency or reduce administrative expenses in any acquisition of goods and services. Except for contracts for architectural and engineering services, a public body may purchase from another public body's contract even if it did not participate in the request for proposal (RFP) or invitation for bid (IFB), if the RFP or IFB specified that the procurement was being conducted on behalf of other public bodies. Nothing herein shall prohibit the assessment or payment by direct or indirect means of any administrative fee that will allow for participation in any such arrangement.

76. PROFESSIONAL AFFILIATION-The Department of Purchasing & Supply Management holds membership in the National Institute of Governmental Purchasing, Inc., a non-profit, educational and technical organization that includes among its goals and objectives the study, discussion, and recommendation of improvements in

governmental purchasing and the interchange of ideas and experiences on local state, and national governmental purchasing problems.

77. DRUG FREE WORKPLACE-During the performance of a 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 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 conjunction with a specific contract awarded to a Contractor in accordance with this section, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

78. IMMIGRATION REFORM AND CONTROL ACT: Contractor agrees that it does not, and shall not during the performance of the contract for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the Federal Immigration Reform and Control Act of 1986.

APPROVED:

/S/ Elizabeth Teare

COUNTY ATTORNEY

/S/ Cathy A. Muse

COUNTY PURCHASING AGENT