



COUNTY OF GOOCHLAND, VIRGINIA
CONTRACT FOR CONSTRUCTION AND RELATED SERVICES
GENERAL CONTRACTOR'S FIXED PRICE FORM
("BUILDER'S AGREEMENT")

This contract for construction is entered into by and between:

OWNER: The County of Goochland, Virginia, P.O. Box 10, Goochland, Virginia, 23063-0010, and

GENERAL CONTRACTOR:

This Construction Contract is executed under seal and shall be effective as of the 7th day of January, 2015.

PROJECT IDENTIFICATION INFORMATION:

Project Title: **IFB# 2016-01 ECC/EOC**

Project Description: Construction of a new approximately 8,500 square foot Emergency Communications Center/Emergency Operation Center (ECC/EOC) at 2938 River Road West, Goochland, VA, 23063. Work includes the furnishing of all labor, equipment, tools, materials, testing, transportation, supervision, permits, services and incidentals necessary to complete the project.

ADDRESSES and AUTHORIZED REPRESENTATIVES: The addresses and authorized representatives of the Owner, the General Contractor and any Professional (e.g., Architect or Engineer) working with the County in connection with this Contract are as follows:

OWNER:

Representative: Bob Rivers, Project Manager

Mailing Address: P.O. Box 10, 1800 Sandy Hook Road, Suite 321, Goochland, Virginia, 23063

Telephone: 804/556-5805

Facsimile: 804/556-5676

E-mail: brivers@co.goochland.va.us

Representative: Wanda St. P. Tormey, Purchasing Director

Mailing Address: P.O. Box 10, 1800 Sandy Hook Road, Suite 332, Goochland, Virginia, 23063

Telephone: 804.556.5802

Facsimile: 804.556.5676

E-mail: wtormey@co.goochland.va.us

GENERAL CONTRACTOR:

Representative:

Mailing Address:

Telephone:

Facsimile:

E-mail:

General Contractor's License No.

FEIN/ SSN #:

ARCHITECT

Representative: Corey Clayborne, AIA, LEED AP BD+C, Wiley Wilson Architects

Mailing Address: 6606 West Broad Street, Suite 500, Richmond, VA 23230-1717

Telephone: 804.200.1704

E-mail: cclayborne@wileywilson.com

WHEREAS, the Owner intends to complete the above referenced project pursuant to certain specifications dated August 5, 2015 (the "Project") and is engaging the General Contractor to perform certain labor, supervision and services and to provide certain equipment, goods and materials for the Project; and

WHEREAS, the Owner and General Contractor each acknowledge that they will act in good faith in carrying out their duties and obligations; and

WHEREAS, the Owner's engagement of the General Contractor is based upon the General Contractor's representations to the Owner that it: (i) is experienced in the type of labor and services the Owner is engaging the General Contractor to perform; (ii) is authorized and licensed to perform the type of labor and services for which it is being engaged within the County to perform; (iii) is qualified, willing and able to perform labor and services for the Project; and (iv) has the expertise and ability to provide labor and services which will meet the Owner's objectives and requirements, and which will comply with the requirements of all governmental, public and quasi-public authorities and agencies having or asserting jurisdiction over the Project; and

WHEREAS, the Owner and General Contractor each acknowledge that it has reviewed and familiarized itself with this Contract, including the documents enumerated in Section Two, and agree to be bound by the terms and conditions contained therein.

NOW, THEREFORE, for good and valuable consideration, the parties agree as follows:

SECTION ONE: GENERAL CONTRACTOR'S SCOPE OF WORK

The General Contractor shall furnish or cause to be furnished, and shall pay for out of the Contract Price: all management, supervision, financing, goods, products, materials, equipment, systems, labor, services, permits, licenses, construction machinery, transportation and other facilities necessary for proper execution and completion of the construction of an eight thousand five hundred (8,500) square foot ECC/EOC which includes an adjacent 1,600 square foot secure gated equipment yard for HVAC, emergency generator and other support equipment.

SECTION TWO: THE CONTRACT DOCUMENTS

A. This Contract between the parties is comprised of the following documents which are incorporated herein by reference:

1. The original Invitation for Bid #2016-01 ECC/EOC, dated August 7, 2015, and all addenda thereto;
2. This Contract and all attached documents and appendices;
3. The General Terms and Conditions for Construction Contracts and Instructions to Bidders for the County of Goochland, Virginia, incorporated herein by reference;
4. Plans and Specifications dated as of August 5, 2015 and post-contract modifications thereto, if any, included within the Owner's Invitation for Bids;
5. The bid and all required documents in response to the Invitation to Bid submitted by the General Contractor and the lawful and valid modifications thereto, if any; and
6. Any amendments or modifications executed by the Owner and General Contractor hereafter.

B. Documents not included or expressly contemplated or incorporated by reference in this Section Two do not, and shall not, form any part of this Contract.

SECTION THREE: TIME FOR PERFORMANCE

- A. **Commencement of Construction.** The General Contractor shall commence work on the Project within thirty (30) calendar days after the Notice to Proceed is given.
- B. **Substantial Completion** shall be within three hundred ninety (390) consecutive calendar days after the Notice to Proceed is issued.
- C. **Final Completion** shall be within thirty (30) consecutive calendar days after the date of Substantial completion as determined by the Owner.
- D. **Time Is of The Essence.** The parties hereto mutually understand and agree that time is of the essence in the performance of this Contract and that the Owner will incur damages if the General Contractor's scope of the Work is not completed in accordance with the required dates of Substantial Completion and Final Completion. The General Contractor shall at all times carry out

its duties and responsibilities as expeditiously as possible and shall begin, perform and complete its services so that:

- (1) the Work progresses in accordance with the Commencement of Construction;
 - (2) the Work is complete by the date of Final Completion.
- E. The General Contractor shall, not less than thirty (30) business days after execution of this Contract, prepare and submit a Construction Schedule to the Owner and the Architect, in accordance with the requirements of the General Terms and Conditions (and any applicable Special Conditions) for this Contract.
- F. Liquidated Damages. Article 17 of the "General Terms and Conditions for Construction Contracts" governs the assessment and collection of liquidated damages by the Owner for failure or delay by the General Contractor in the completion of its scope of work. The daily amount of \$700.00 will be due for each and every day after the required date of Substantial Completion until the actual Substantial Completion.

SECTION FOUR: PERSONNEL AND CONSULTANTS

A. The General Contractor shall prepare and attach to this Contract a Personnel Chart which lists by name, job category and responsibility the General Contractor's primary employees who will work on the Project. The General Contractor shall promptly inform the Owner in writing of any proposed replacements, the reasons therefore, and the name(s) and qualification(s) of proposed replacement(s). The Owner shall have the right to reject any proposed replacement. Under no circumstances shall the Owner be required to consent to a proposed replacement under circumstances where such replacement would result in an increase in the Contract Price.

B. The General Contractor shall prepare and attach to this Contract a list of the General Contractor's Subcontractors and Suppliers, listing by name and general Project responsibility each subcontractor and supplier who will be utilized by the General Contractor to provide goods or services with respect to the Project. The General Contractor shall not enter into any agreement(s) with any Subcontractor(s) or Supplier(s) to which the Owner raises a reasonable, timely objection. The General Contractor shall promptly inform the Owner in writing of any proposed replacements, the reasons therefore, and the name(s) and qualification(s) of proposed replacement(s). The Owner shall have the right to reject any proposed replacement. Under no circumstances shall the Owner be required to consent to a proposed replacement under circumstances where such replacement would result in an increase in the Contract Price.

C. The Owner shall prepare and attach to this Contract a list, by name and general project duties, of each consultant retained by the Owner to provide services with respect to the Project. The Owner reserves the right to engage any other consultants which it may deem necessary or desirable.

SECTION FIVE: RELATION TO OWNER

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

SECTION SIX: COMPENSATION OF GENERAL CONTRACTOR

A. The Owner shall pay and the General Contractor shall accept, as full and complete payment for the General Contractor's timely and complete performance of its obligations under this Contract the contact price of _____ 00 cents (\$_____.00). This contract price includes the aggregate amount of all allowances and any unit price items to be furnished or installed.

B. Within ten (10) business days after Notice to Proceed, the General Contractor shall prepare and present to the Owner and the Architect the General Contractor's Schedule of Values.

C. Upon receipt by the Owner of the General Contractor's invoices, properly prepared in accordance with the General Terms and Conditions for this Contract, the Owner shall pay to the General Contractor up to ninety-five percent (95%) of the total amount approved by the Owner, withholding the balance as retainage, unless there is a dispute about the amount of compensation due the General Contractor.

D. If the General Contractor disputes a change order decision, then the General Contractor must give the Owner its written notice of dispute, including the reasons therefore, following the procedures set forth within the General Terms and Conditions for this Contract.

SECTION SEVEN: SPECIFIC INSURANCE REQUIREMENTS

A. The General Contractor shall, within 10 days after Notice of Intent to Award, purchase and maintain, at its own expense, and from a company or companies authorized to do business within the Commonwealth of Virginia, insurance policies containing the following selected types of coverages and minimum limits of liability, protecting from claims which may arise out of or result from the General Contractor's performance or non-performance of services under this Contract, or the performance or non-performance of services under this Contract by anyone directly or indirectly employed by the General Contractor or for whose acts it may be liable:

- i. Comprehensive General Liability, including Premises and Operations; Contractor's Protective Liability; Products Liability including Completed Operations Coverage; and Contractual Liability for this contract:
 - a. Limits: \$5,000,000 per incident / \$5,000,000 Total Bodily Injury (including death) \$5,000,000 per incident / \$5,000,000 Total Property Damage
 - b. General Liability , excluding Products and Completed Operations, shall be on a Per Project basis.
- ii. Comprehensive Automobile Liability, including all Owned Automobiles, Non-Owned Automobiles and Hired Car Coverage:
 - a. Limits: \$5,000,000 per incident / \$5,000,000 Total Bodily Injury (including death) \$5,000,000 per incident / \$5,000,000 Total Property Damage
- iii. Employer's Liability for Participants not covered by Workers Compensation Insurance in an amount not less than \$100,000.
- iv. Professional Liability Insurance with limits of not less than \$1,000,000 per claim and \$3,000,000 in the aggregate. If General Contractor's professional liability coverage is on a "claims-made" basis, the General Contractor shall obtain extended reporting (tail) coverage (with the same liability limits) upon expiration of this Contract for at least three years following the expiration or termination of this Contract.
- v. General Contractor shall not perform any Work on this Project unless General Contractor has obtained, and continues to maintain for the duration of Project, such Workers' Compensation coverage as may be required pursuant to the provisions of Chapter 8 (Code Section 65.2-800 et seq.) of Title 65.2 of the Code of Virginia, 1950, as amended. General Contractor shall not allow any subcontractor to perform any work on the Project unless the subcontractor has obtained, and continues to maintain for the duration of such work, such Worker's Compensation coverage as may be required pursuant to the provisions of Chapter 8 (Code Section 65.2-800 et seq.) of Title 65.2 of the Code of Virginia, 1950, as amended. General Contractor shall include the provisions of this subsection within each of its subcontracts, so as to bind each subcontractor.
- vi. Builders Risk insurance for the amount of the contract.

If General Contractor's professional liability coverage is on a "claims-made" basis, Bidder shall obtain extended reporting (tail) coverage (with the same liability limits) upon expiration of the Agreement for at least three years following the expiration or termination of the Agreement.

The Builders Risk insurance Contractor shall maintain in force, at its own expense, Builder's Risk/Installation Floater for an amount equal to the full amount of the Contract improvements, upon the project and all materials or items which is or will become the property of the County pursuant to the Contract Documents, including but not limited, materials and other items at the work site or stored off-site with the consent of the County. A copy of any applicable Builder's Risk/Installation Floater will be provided to the County, and it shall be the responsibility of the Contractor and each Subcontractor to satisfy itself as to the terms of such coverage, and to determine whether or not at its own cost, to carry any supplemental policy of insurance.

A Certificate of Insurance shall be submitted within ten (10) business days after Notice of Intent to Award and included as a part of this Contract and incorporated herein.

The General Contractor shall furnish to the Owner a binder adding the Owner as an additional insured on all policies except those pertaining to Workers Compensation and including the following language: "The above described policies shall not be canceled, modified, or amended or coverage reduced without the issuing company providing thirty (30) business days advance written notice to the County of Goochland."

Should insurance coverage be changed or cancelled, regardless of the reason, the General Contractor shall furnish evidence of new coverage and submit a new and valid binder evidencing the required insurance. Failure to deliver a new and valid binder will result in suspension of all payments until the new binder is furnished.

All insurance required by this Contract shall be and remain in full force and effect for the life of the Contract.

No Contract shall be binding upon the Owner until all insurance requirements and policies, required herein, have been filed with the Owner (if requested) and all have been approved as to form and sufficiency by the County Attorney.

SECTION EIGHT: SPECIFIC BOND REQUIREMENTS

The General Contractor agrees to provide Owner with payment and performance bonds, approved as to form by the County Attorney, within five business days after execution of this Contract by the Owner. Such bonds shall be included as part of this Contract. The amount of the bond premiums shall be included in the Contract Price.

SECTION NINE: MISCELLANEOUS

A. NO DISCRIMINATION BY GENERAL CONTRACTOR

During the performance of this Contract, the General Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability or any other basis prohibited by 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 General Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. Also, the General Contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that it is an equal opportunity employer.

B. MODIFICATION OF CONTRACT

1. This Contract may be supplemented, modified, or amended by the mutual agreement of the parties hereto, set forth in writing. No supplement, modification or amendment shall be enforceable unless set forth within a writing signed by both the Owner and the General Contractor.

2. Notwithstanding the foregoing, this Contract may not be increased by more than twenty-five percent (25%) of the amount of the contract or \$50,000, whichever is greater, without the advance approval of the County Board of Supervisors. In no event may the amount of any County contract, without adequate consideration, be increased for any purpose, including, but not limited to, relief of a bidder from the consequences of an error in its bid.

C. DRUG-FREE AND FIREARM-FREE_WORKPLACE

During the performance of this Contract, no firearms, controlled substances, or marijuana shall be brought onto the Owner's worksite at any time by any employees or agents of the contractor, subcontractors, or vendors. During the performance of this Contract the General Contractor agrees as follows: (i) to provide a drug-free and firearm-free workplace for its employees; (ii) to post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that firearms and the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the General Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; and (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free and firearm-free workplace; and (iv) include the provisions of the subsection in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor. For the purposes of this subsection, "drug-free and firearm-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a contractor, 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. The General Contractor and all employees or agents of the contractor, subcontractors, or vendors may be subject to a criminal history investigation by the Virginia State Police prior to entering or conducting any work within the existing Sheriff's Office and facilities. The Owner shall bear the cost of any criminal history investigations it may require and may, in its discretion, deny admittance to any person to the existing Sheriff's Office and facilities.

D. PAYMENT OF SUBCONTRACTORS

The General Contractor is obligated to take one of the two following actions within seven business days after receipt of amounts paid to the General Contractor by the Owner for work performed by any subcontractor under this Contract:

(1) Pay the subcontractor for the proportionate share of the total payment received from the Owner attributable to the work performed by the subcontractor under the Contract; or

(2) Notify the Owner and the subcontractor, in writing, of the General Contractor's intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment.

The General Contractor is obligated to provide (i) the subcontractor's social security number if it is an individual or (ii) its federal identification number if it is a proprietorship, partnership, or corporation, in accordance with Section 2.2-4354 of the Code of Virginia. The General Contractor is obligated to pay interest to the subcontractor on all amounts owed by the General Contractor that remain unpaid after seven (7) business days following receipt by the General Contractor of payment from the Owner for work performed by the subcontractor under the Contract, except for amounts withheld as allowed in Subsection (2) above. Unless otherwise provided under the terms of this Contract, interest shall accrue at the rate of one percent (1%) per month. The General Contractor shall include in each of its subcontracts a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier subcontractor. The General Contractor's obligation to pay an interest charge to a subcontractor pursuant to the above provisions may not be construed to be an obligation of the Owner. A Contract modification shall not be made for the purpose of providing reimbursement for such interest charge. A cost reimbursement claim shall not include any amount for reimbursement for such interest charge.

E. GOVERNING LAW

This Contract and the work performed hereunder shall be governed in all respects by the laws of the Commonwealth of Virginia and the venue for any litigation with respect thereto shall be in the Circuit Court for Goochland County, Virginia. The provisions of this subsection shall control over any contrary provisions in the Contract Documents. The General Contractor shall comply with applicable federal, state and local laws and regulations.

F. FORCE MAJEURE

Neither party shall hold the other responsible for damages or delay in performance caused by acts of God, strikes, lockouts, or similar events beyond the control of the other.

G. NO WAIVER OF RIGHTS

No failure on the part of the Owner to enforce any of the terms or conditions set forth in this Contract shall be construed as or deemed to be a waiver of the right to enforce such terms or conditions. No waiver by the Owner of any default or failure to perform by the General Contractor shall be construed as or deemed to be a waiver of any other and/or subsequent default or failure to perform. The acceptance or payment of any rentals, fees and/or charges by the Owner, and/or the performance of all or any part of this Contract by the Owner, for or during any period(s) following a default or failure to perform by the General Contractor, shall not be construed as or deemed to be a waiver by the Owner of any rights hereunder.

H. SEVERABILITY

In the event that any term, provision or condition of this Contract, or the application thereof to any person or circumstances, shall be held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Contract, and the application of any term, provision or condition contained herein to any person or circumstances other than those to which it has been held invalid or unenforceable, shall not be affected thereby.

I. NO PERSONAL LIABILITY

Nothing herein shall be construed to create any personal liability on the part of any elected or appointed official, officer, agent or employee of the Owner.

J. ETHICS IN PUBLIC CONTRACTING

This Contract incorporates by reference any state or federal law related to ethics, conflict of interests, or bribery, including by way of illustration and not limitation, the Virginia Conflict of Interests Act, the Virginia Governmental Frauds Act, and Articles 2 and 3 of Chapter 10 of Title 18.2 of the Code of Virginia, as amended. The General Contractor certifies that its offer is made without collusion or fraud and that it has not offered or received any kickbacks or inducements from any other offeror, supplier, manufacturer, or subcontractor in connection with this solicitation, and that it has not conferred on any public employee

having official responsibility for this solicitation any payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised unless consideration of substantially equal or greater value was exchanged.

K. IMMIGRATION REFORM AND CONTROL ACT OF 1986

The General Contractor certifies that it does not and will not during the performance of the Contract employ illegal alien workers or otherwise violate the provisions of the federal Immigration Reform and Control Act of 1986.

L. AUTHORIZATION TO TRANSACT BUSINESS IN THE COMMONWEALTH

General Contractor 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 or as otherwise required by law. General Contractor 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 this Contract. The Owner may void this Contract if General Contractor fails to remain in compliance with the provisions of this section.

M. INDEMNIFICATION

The Contractor agrees to save, defend, hold harmless, and indemnify the County, and all of its officers, departments, agencies, agents, and employees (collectively the "County") from and against any and all claims, losses, damages, injuries, actions, fines, penalties, costs (including court costs and attorney's fees), charges, liability, or exposure, however caused, resulting from, arising out of, or in any way connected with the Contractor 's negligent or wrongful acts, errors or omissions in the performance or nonperformance of its work called for by the Contract Documents, including such acts, errors or omissions of Contractor's employees, servants or agents

N. HEADINGS

Section, article, and paragraph headings contained within this Contract have been inserted only as a matter of convenience and for reference, and they in no way define, limit, or describe the scope or intent of any term, condition or provision of this Contract.

O. BINDING EFFECT

The terms, provisions and conditions of this Contract shall bind and inure to the benefit of the respective parties hereto and to their representatives, successors, and (where permitted by this Contract) their assigns.

P. ENTIRE AGREEMENT

This Contract represents the entire agreement between the parties, and there are no other agreements or understandings between the parties, either verbal or written, which have not been incorporated herein.

IN WITNESS WHEREOF, the parties do hereby set forth their signatures, representing that the individuals who affix their signatures hereto have been duly authorized to bind each party to the terms and conditions of the foregoing Contract:

OWNER:
County of Goochland

GENERAL CONTRACTOR:
.

By: _____

By: _____

Print Name: Rebecca T. Dickson

Print Name: _____

Title: County Administrator

Title: President

Date: _____

Date: _____

Contract Approved As to Form

Norman B. Sales
County Attorney