

**GLOUCESTER COUNTY SOCIAL SERVICES EXPANSION
COUNTY OF GLOUCESTER, VIRGINIA**

DOCUMENT 000500 – FORM OF AGREEMENT

COUNTY OF GLOUCESTER, VIRGINIA

Gloucester County Social Services Expansion
Invitation For Bid No. 21-004-CJ

AGREEMENT

THIS AGREEMENT is by and between The County of Gloucester, Virginia, 6489 Main Street, Gloucester, Virginia 23061 (hereinafter called OWNER) and

(hereinafter called CONTRACTOR).

WITNESSETH: OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1 - WORK

1.01 CONTRACTOR shall at its own cost and expense furnish all labor, services, tools, materials, equipment and incidentals necessary to complete all Work as specified or indicated in the Contract Documents to construct the Gloucester County Social Services Expansion in Gloucester County, Virginia, as shown and specified in the project manual and drawings by Hudson + Associates Architects, PLLC, dated May 8, 2020, and generally described in Specification Section 011000 "Summary of Work."

ARTICLE 2 - ARCHITECT

2.01 The Project has been designed by Hudson + Associates Architects, PLLC, who is hereinafter called ARCHITECT and who is to act as OWNER's representative, assume all duties and responsibilities and have the rights and authority assigned to ARCHITECT in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

2.02 OWNER has designated the Gloucester County Administrator to execute the OWNER's responsibilities. The Gloucester County Administrator may designate other parties to execute some or all of the OWNER's responsibilities.

ARTICLE 3 - CONTRACT TIMES

3.01 Time of the Essence

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- A. All time limits for Milestones, if any, Substantial Completion and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.
- 3.02 Days/Dates to Achieve Substantial Completion and Final Payment
- A. The Contractor shall have access to the site commencing with the Notice to Proceed.
- B. **The Contractor shall**, upon award of Contract, plan for execution of all work by preparing and submitting shop drawings, ordering and receiving materials, and having labor and material ready prior to commencing work at the site. The Contractor shall have limited access to the existing Social Services facility prior to commencement of work in the field as needed to investigate and verify existing conditions, take measurements, and pre-mobilize.
- C. **All Work** shall commence as soon as practical and work expeditiously to complete this project with minimal interference to the Owner and its operations. All work shall be substantially complete and ready for the Owner's use not later than 240 calendar days after receiving the award of Contract and Notice to Proceed. Final completion shall be achieved, including all punchlist items and delivery of O&M and warranties 300 calendar days after receiving the award of Contract and Notice to Proceed.
- D. **Substantial Completion shall be defined** as the point of construction completion that the Owner may occupy and use the facility in which work is performed for its **full** intended use. Note that this includes receipt of a Final Inspection Approval issued by the Gloucester County Building Official attesting that the building may be occupied and used by staff and the public. **This project shall not be considered Substantially Complete without fulfillment of all final inspections and issuance of Final Approval by the Gloucester County Building Official.**

ARTICLE 4 - LIQUIDATED AND SPECIAL DAMAGES

4.01 Liquidated Damages

- A. OWNER and CONTRACTOR recognize that time is of the essence of this Agreement and OWNER will suffer financial loss, apart from the costs described in paragraph 4.02.A, if the Work is not substantially completed within the time specified in Article 3 for Substantial Completion, plus any extensions thereof allowed in accordance with Section 8.3 of the General Conditions. OWNER and CONTRACTOR also recognize the delays, expense and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by OWNER if the Work is not substantially completed on time. Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay OWNER Five Hundred (\$500) U.S. dollars for each day that expires after the time specified in Article 3 for Substantial Completion (adjusted for any changes thereof made in accordance with Section 8.3 of the General Conditions) until the Work is substantially complete. An additional Five Hundred (\$500) U.S. dollars for each day that expires after the time specified in Article 3 for Final Completion (adjusted for any changes thereof made in accordance with Section 8.3 of the General Conditions)

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until the Work is finally complete, for a total of One Thousand (\$1,000) U.S. dollars for Work not complying with Substantial and Final Completion requirements.

4.02 Special Damages:

- A. In addition to the amount provided for liquidated damages, CONTRACTOR shall pay OWNER the actual costs reasonably incurred by OWNER for architectural, engineering, and inspection forces employed for the Work for each day that expires after number of days specified in Article 3 for Substantial Completion (adjusted for any changes thereof made in accordance with Section 8.3 of the General Conditions) until the Work is substantially complete.
- B. After Substantial Completion, if CONTRACTOR shall neglect, refuse or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by OWNER, CONTRACTOR shall pay OWNER the actual costs reasonably incurred by OWNER for architectural, engineering, and inspection forces employed for the Work for each day that expires after the time specified in Article 3 for Work to be completed and ready for final payment (adjusted for any extensions thereof made in accordance with Section 8.3 of the General Conditions) until the Work is completed and ready for final payment.

4.03 OWNER may deduct liquidated damages and special damages as determined by the provisions of this Article 4 from progress payments due CONTRACTOR under this Agreement.

ARTICLE 5 - CONTRACT SUM

5.01 OWNER shall pay CONTRACTOR the Contract Sum in current funds for performance of the Contract. The Contract Sum shall be: (\$ _____)
(use figures)
_____ Dollars and _____ Cents
(use words) (use words)

5.02 The Contract Sum is inclusive of, and based upon, award the following bid options, if any, which are described in the Contract Documents and are hereby accepted by OWNER. Pending Award bid items are **not** included in the Contract Sum, but may be added by future contract modification at the bid price up to 180 calendar days after bids are received.

Bid Option #1: Provide Operable Panel Partition at Conference Room

AWARDED or PENDING AWARD

_____ Dollars and
(use words)
_____ Cents (\$ _____).
(use words) (use figures)

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Bid Option #2: Replace Existing Carpeting

AWARDED or PENDING AWARD

_____ Dollars and
(use words)
_____ Cents (\$_____)
(use words) (use figures)

Bid Option #3: Re-Roof Existing Building, with existing Shingles to Remain

AWARDED or PENDING AWARD

_____ Dollars and
(use words)
_____ Cents (\$_____)
(use words) (use figures)

Bid Option #4: Re-Roof Existing Building, with Existing Shingles to be Removed

AWARDED or PENDING AWARD

_____ Dollars and
(use words)
_____ Cents (\$_____)
(use words) (use figures)

5.03 The Contract Sum is inclusive of the following unit price items, if any, which are described in the Contract Documents and are hereby made part of the Contract in the specified Allowance for Quantity at the bid unit price. Additional quantity in excess of the allowance quantity are **not** included in the Contract Sum, but may be added by future contract modification at the bid unit price throughout duration of the Contract.

Unit Price Item #1: Replacement of Suspended Acoustical Panel Ceiling Panels

_____ Dollars and
(use words)
_____ Cents per SF (\$_____/SF).
(use words) (use figures)

ARTICLE 6 - PAYMENT PROCEDURES

6.01 Submittal and Processing of Payments

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- A. CONTRACTOR shall submit Applications for Payment in accordance with Article 9 of the General Conditions. Applications for Payment will be processed as provided in the General Conditions.

6.02 Progress Payments; Retainage

- A. OWNER shall make monthly progress payments on account of the Contract Sum on the basis of CONTRACTOR's Applications for Payment. CONTRACTOR's Applications for Payment will be due on the 10th day of the month. All progress payments will be on the basis of the progress of the Work measured by the schedule of values provided for in Section 9.2 of the General Conditions. A progress payment will not be made whenever the value of the Work completed since the last previous progress payment is less than \$5,000.

1. Prior to Substantial Completion

- a. Progress payments will be made in the amount of 95 percent of the Work completed, (with the balance being retainage), less the aggregate of payments previously made and less such amounts as ARCHITECT shall determine, or OWNER may withhold, in accordance with Section 9.5 of the General Conditions; and
- b. 95 percent of the cost of materials and equipment not incorporated in the Work but suitably stored (with the balance being retainage).

- 2. Upon Substantial Completion, OWNER shall pay an amount sufficient to increase total payments to CONTRACTOR to 100 percent of the Work completed, less such amounts as ARCHITECT shall determine in accordance with Section 9.5 of the General Conditions and less 200 percent of ARCHITECT'S estimate of the value of Work to be completed or corrected as shown on the tentative list of items to be completed or corrected attached to the certificate of Substantial Completion.

6.03 Final Payment:

- A. Upon final completion and acceptance of the Work in accordance with section 9.10 of the General Conditions, OWNER shall pay the remainder of the Contract Sum as recommended by ARCHITECT as provided in said section 9.10.

ARTICLE 7 - INTEREST

- 7.01 All moneys not paid when due hereunder shall bear interest at the maximum rate allowed by law at the location of the Project.

ARTICLE 8 - CONTRACTOR'S REPRESENTATIONS

- 8.01 As part of the inducement for OWNER to enter into this Agreement CONTRACTOR makes the following representations:

- A. CONTRACTOR has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.

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- B. CONTRACTOR has visited the Site and become familiar with and is satisfied as to the general, local and Site conditions that may affect cost, progress, and performance for the Work.
- C. CONTRACTOR is familiar with and is satisfied as to all federal, state and local Laws and Regulations that may affect cost, progress and performance of the Work.
- D. CONTRACTOR has carefully studied all reports of explorations and tests of subsurface conditions at or contiguous to the Site (except Underground Facilities) which have been identified in the Supplementary Conditions as provided in section 3.7.4 of the General Conditions.
- E. CONTRACTOR has obtained and carefully studied (or assumes responsibility for having done so) all additional or supplementary examinations, investigations, explorations, tests, studies and data concerning conditions at or contiguous to the Site which may affect cost, progress or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences and procedures of construction to be employed by CONTRACTOR, including applying the specific means, methods, techniques, sequences, and procedures of construction expressly required by the Contract Documents to be employed by CONTRACTOR, and safety precautions and programs incident thereto.
- F. CONTRACTOR does not consider that any further examinations, investigations, explorations, tests, studies or data are necessary for the performance of the Work at the Contract Sum, within the Contract Times and in accordance with the other terms and conditions of the Contract Documents.
- G. CONTRACTOR is aware of the general nature of work to be performed by OWNER and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. CONTRACTOR has correlated the information known to CONTRACTOR, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents and all additional examinations, investigations, explorations, tests, studies and data with the Contract Documents.
- I. CONTRACTOR has given ARCHITECT written notice of all conflicts, errors, ambiguities, or discrepancies that CONTRACTOR has discovered in the Contract Documents and the written resolution thereof by ARCHITECT is acceptable to CONTRACTOR.
- J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work.

ARTICLE 9 - CONTRACT DOCUMENTS

9.01 The Contract Documents consist of the following:

- A. This Agreement (9 pages).

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- B. Bid Bond (AIA Document A310-2010).
 - C. Contractor's Qualification Statement (AIA Document A305-1986).
 - D. General Conditions (AIA Document A201-2007).
 - E. Supplementary Conditions (24 pages).
 - F. Specifications, as listed in the table of contents of the Project Manual.
 - G. The Drawings comprising a set entitled Gloucester County Social Services Expansion, Gloucester, Virginia, Invitation for Bid No. 21-004-CJ dated May 8, 2020.
 - H. Addenda consisting of Numbers____ to _____, inclusive.
 - I. The following, which may be delivered or issued on or after the Effective Date of the Agreement, and are not attached hereto:
 - 1. Notice of Award
 - 2. Notice to Proceed
 - 3. Written Amendments
 - 4. Construction Change Directives
 - 5. Change Order(s)
- 9.02 The documents listed in paragraph 9.01 above are attached to this Agreement (except as expressly noted otherwise above). Documents not attached are incorporated by reference. There are no Contract Documents other than those listed in this Article 9.
- 9.03 The Contract Documents may only be amended, modified or supplemented as provided in Article 7 of the General Conditions.

ARTICLE 10 - MISCELLANEOUS

10.01 Terms

- A. Terms used in this Agreement will have the meanings indicated in the General Conditions.

10.02 Assignment of Contract

- A. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, monies that may become due and monies that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

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10.03 Successors and Assigns

- A. OWNER and CONTRACTOR each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.

10.04 Severability

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

10.05 Waiver

- A. The waiver by the OWNER of any breach or violation of any term, covenant, or condition of this Agreement or of any Law or Regulation shall not be deemed to be a waiver of any other term, covenant, condition, or Law or Regulation or of any subsequent breach or violation of the same or of any other term, covenant, condition, or Law or Regulation. The subsequent payment of any monies or fee by the OWNER which may become due hereunder shall not be deemed to be a waiver of any preceding breach or violation by CONTRACTOR of any term, covenant, condition of this Agreement, or of any applicable Law or Regulation.

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IN WITNESS WHEREOF, the OWNER and CONTRACTOR have executed this Agreement on the hereinafter-identified day and year, which is the *Effective Date of the Agreement*.

This Agreement will be effective on _____, _____.

OWNER:

By: _____

Attest _____

Address for giving notices:

(As a public body, OWNER has attached evidence of authority to sign and resolution or other documents authorizing execution of Agreement.)

Approved as to form:

Designated Representative:

Name: _____

Title: _____

Address: _____

Phone: _____

Fax: _____

CONTRACTOR:

By: _____

[CORPORATE SEAL]

Attest _____

Address for giving notices:

License No. _____

Agent for service of process: _____

(If CONTRACTOR is a corporation, partnership, or limited liability company, attach evidence of authority to sign.)

Designated Representative:

Name: _____

Title: _____

Address: _____

Phone: _____

Fax: _____

++END OF AGREEMENT++