

OLD DOMINION UNIVERSITY STANDARD CONTRACT

Contract No.: 25-ODU-03-CCC

This contract entered into by and between Branche Industries, Inc. hereinafter called the "Contractor" and Old Dominion University, called the "University".

I. WITNESSETH that the Contractor and the University, in consideration of the mutual covenants, promises and agreements herein contained, agree as follows:

II. PERIOD OF PERFORMANCE: The contract period shall commence on upon final contract acceptance and execution, as evidenced by the latest execution date on the contract signature page, and will be in effect through September 30, 2025. Where contract commencement date is in conflict with final execution date, final execution date shall prevail.

Upon mutual agreement between both the Contractor and the University, this contract and subsequent period(s) of performance may be renewed for up to four (4) additional one (1) year periods.

The Contractor agrees that as part of this agreement, Contractor's response to the University's IFB #25-ODU-03-CCC, including any and all associated terms and conditions, scope of service, and related pricing for same shall remain in effect throughout any and all "periods of performance", unless otherwise modified in writing.

III. CONTRACT AGREEMENT:

The contract agreement shall consist of the following documents:

- A. This signed form;
- B. Contractor's "Pricing Schedule", as specified in section IX;
- C. Any associated purchase order issued as award acceptance for specific services per project request; and,
- D. Where this Agreement is silent, the University's original Invitation for Bid and, all associated attachments and addenda shall control.

IV. SCOPE OF SERVICES: As required by the University, the Contractor shall provide the services to the University in accordance with Contractor's response to the University's Invitation for Bid (IFB) #25-ODU-03-CCC, specifically as described in each project work order.

A. GENERAL

1. Contractor shall furnish all materials, equipment, labor, and supplies to perform all work as specified in all future work requests, and in accordance with these specifications.

2. The work may include, but not necessarily be limited to: mobilization; maintenance of traffic; construction stake-out; coordination with the University and the University's representatives on site; erosion and sediment control; demolition; grading; raising / lowering of manholes, valve covers, hand holes, or drop inlets; aggregate base and aggregate subbase course; asphalt course; storm drain installation; pavement markings and striping; curb painting; hot sealer application; seal coating application; pot hole repair; relocation or addition of wheel stops; installation or removal of signage; installation of curb and gutter; seeding; site restoration and clean-up; and all incidental work needed to perform complete and useable pavement maintenance and repairs.

3. The following reference specifications and standard detail drawings (latest editions) shall be applicable to this project:

- a. Department of Transportation (VDOT) Road and Bridge Specifications;
- b. VDOT Road and Bridge Standards;
- c. Manual on Uniform Traffic Control Devices;
- d. Virginia Work Area Protection Manual;
- e. Virginia Erosion and Sediment Control Handbook;
- f. Virginia American Society for Testing and Materials (ASTM) specifications;
- g. American Association;

- h. All other applicable local, state, and federal codes to render a safe, complete, and useable lot.
4. The Contractor shall familiarize themselves with the above standards and specifications, as well as these project specifications, and submit to the Project Manager in written form any questions or proposed revisions for his interpretation or approval. Failure to comply with the standard drawings and specifications shall constitute shutdown of job and removal of unsatisfactory work at the Contractor's expense until all requirements are satisfied as directed by the University's Contract Administrator.
 5. The Contractor shall examine the plans provided and the site before submitting a proposal and shall familiarize himself with the scope and working conditions of the project.
 6. Upon notification of a University's Work Order, the Contractor shall visit the site of the proposed work to acquire a full understanding of the nature and scope of the project to be accomplished. The Contractor shall furnish the Contract Administrator with a written price quote of the costs to be billed at the contracted prices. The quote shall detail a listing and description of the major items of material, parts, and equipment, the total cost of materials, parts, supplies and equipment, and a target date for completion with the estimated number of labor hours to complete the project.
- Work shall begin within five (5) working days of receipt of the purchase order or as scheduled by the University's representative. The typical work schedule shall be performed during the period of 7:00 am until 4:00 PM, Monday through Friday, unless otherwise approved by the director of Parking Services of Old Dominion University or his designee.
7. The University standard size for a parking stall is 8 ½ feet by 18 feet.
 8. All products used shall be certified in writing by the Contractor to be free of asbestos.
 9. The University shall not reimburse the Contractor for time or mileage to and from the job site. This includes going to and from the supply houses.
 10. The contractor shall be responsible to assure that all materials used are compatible with existing materials and equipment of the work site involved. All materials shall be new and unused. In addition, the University reserves the right to provide materials, supplies, and accessories from any surplus the University may have inventory.
 11. Questions regarding the contract or project related issues shall be addressed in writing to:

Sean Freeman
Transportation & Parking Services
Old Dominion University – Main Campus
Elkhorn Ave.
Norfolk, Virginia 23529
Phone: 757-683-5915
Email: sfreeman@odu.edu

Zachary Pearce
Transportation & Parking Services
Old Dominion University – Medical Campus
Parking Garage A
Norfolk, Virginia 23529
Phone: 757-683-3445
Email: zpearce@odu.edu

B. SPECIFIC – All specification and standard shall comply with Virginia Department of Transportation (VDOT) Road and Bridge Specifications, current Edition, and City of Norfolk Codes and Standards.

1. Specification section that shall be included and incorporated in this contract as follows:
Sections: 02300 - Earthwork;
02640 – Utility Adjustments;
02741 – Hot Mix Asphalt;
03300 – Concrete; and
10436 – Signage.
2. Snow Removal: Contractor may be required to provide snow removal services to the campus locations, broken down by zones, areas, square footage, and/or linear foot at the University, service shall include, be not limited to the following:

- a. The contractor shall furnish all necessary labor, equipment, and materials to remove snow and/or ice from sidewalks, parking lots and other designated areas as requested on the grounds of Old Dominion University Campuses to include the Medical Campus;
- b. The contractor shall be responsible for the repairs of curbing, parking bumpers, asphalt, paving, etc. if it is found that damage to such areas were caused by the extreme negligence on the part of the Contractor while performing snow and /or ice removal;
- c. The University's Contract Administrator will determine the necessity for snow and/or ice removal and notify the contractor. The contractor shall be on site within two (2) hours;
- d. It is desired that the Contractor have available for snow and/or ice removal the following types of equipment:
 - 1) Motor Grader;
 - 2) Farm Tractor with Blade;
 - 3) Dump Truck with Blade;
 - 4) Skid Steer Loader;
 - 5) Dump Truck;
 - 6) Sand Spreader;
 - 7) Front End Loader;
 - 8) Grounds men.
- e. All snow and/or ice removal equipment used under this Contract shall be operated and maintained in a safe and mechanically reliable condition;
- f. White sand shall be provided by the Contractor as necessary;
- g. Grounds men shall be used to shovel snow and/or ice from sidewalks, steps and entranceways.
- h. The Contractor shall stock-pile snow on grass areas adjacent to parking lots as designated by the Agency's authorized representative;
- i. All work performed for snow and/or ice removal shall be supported by daily job tickets prepared by the Contractor. Each job ticket shall reflect the daily job site activity for each location to include the time of arrival and departure for each piece of equipment used, the number of grounds men on the job, and types and quantities of materials used at the job site. The job ticket shall be approved daily by the Agency's authorized representative or his designee at the job sites and a copy provided to that employee.
- j. The original approved job ticket (s) and the Contractor's materials invoice(s) shall be submitted with the invoice as supporting documentation for equipment hours billed.

V. REPORTING AND DELIVERY REQUIREMENTS: UTILIZATION OF SMALL BUSINESSES AND BUSINESSES OWNED BY WOMEN AND MINORITIES: The following reports shall be submitted as indicated:

- A. **PERIODIC PROGRESS REPORTS/INVOICES:** The Contractor shall provide a report on involvement of small businesses and businesses owned by women and minorities on a quarterly basis to the Contract Officer. This report will specify the actual dollars contracted to be spent to date with such businesses, actual dollars expended to date with such businesses, and the total dollars planned to be contracted with such businesses on this contract. This information shall be provided separately for small businesses, women-owned businesses and minority businesses.
- B. **FINAL ACTUAL INVOLVEMENT REPORT:** The Contractor shall submit to the Contract Officer, within 10 days of contract completion, a report on the actual dollars spent with small businesses and businesses owned by women and minorities during the performance of the contract. At a minimum, this report shall include for each firm contracted with and for each such business class (i.e., small, women-owned) a comparison of the total actual dollars spent on this contract with the planned involvement of the firm and business class as specified in the bid, and the actual percent of the total estimated contract value.

VI. TERMS AND CONDITIONS:

- A. **ADVERTISING:** Contractor agrees that that no indication of such sales or services to the University will be used in product literature or advertising during the contract term of this contract for supplies, equipment, or services resulting from this contract.
- B. **APPLICABLE LAWS AND COURTS:** This contract shall be governed in all respects by the laws of the Commonwealth of Virginia and any litigation with respect thereto shall be brought in the courts of the Commonwealth. The agency and the Contractor are encouraged to resolve any issues in controversy arising from the award of the contract or any contractual dispute using Alternative Dispute Resolution (ADR) procedures (*Code of Virginia*, § 23-38.90). The Contractor shall comply with all applicable federal, state and local laws, rules and regulations and policies of the University.

C. **APPLICABLE LEGISLATION AND MANUAL:** This contract is subject to the provisions of the Commonwealth of Virginia, specifically § 23-38.90 of the Code of Virginia and its associated Rules Governing the Procurement of Goods, Services, Insurance and Construction ("the Rules") and the Purchasing Manual for Universities of Higher Education and their Contractors and any revisions thereto, which are hereby incorporated into this contract in their entirety. A copy of the manual is accessible on the Internet at www.odu.edu/procurement under "Information for Contractors".

D. **ASSIGNMENT OF CONTRACT:** Any resulting contract shall not be assignable in whole or in part without the written consent of the University.

E. **AVAILABILITY OF FUNDS:** The University shall be bound hereunder only to the extent of the funds available or which may hereafter become available during each subsequent fiscal year and/or contract term, as applicable, and any requirement by Contractor for any total or partial compensation or payment by the University of unpaid fees, whether current of future, for lost profit and/or as liquidated damages in the event of early termination of the then current term if for other than breach by the University is prohibitive.

F. **AUDIT:** Contractor agrees that they shall retain all books, records, and other documents relative to this contract for five (5) years after final payment, or until audited by the Commonwealth of Virginia, whichever is sooner. The University, its authorized agents, and/or state auditors shall have full access to and the right to examine any of said materials during said period.

G. **CHANGES TO THE CONTRACT:** During the term of this contract, including any and all applicable extensions and/or renewals, changes may be made to the contract in any of the following ways:

1. The parties may agree in writing to modify the scope of the contract. An increase or decrease in the price of the contract resulting from such modification shall be agreed to by the parties as a part of their written contract to modify the scope of the contract.

2. The University may request and issue change orders within the general scope of the contract at any time by written notice to the Contractor. Changes within the scope of the contract include, but are not limited to, things such as services to be performed, the method of packing or shipment, and the place of delivery or installation. The Contractor shall comply with the notice upon receipt. The Contractor shall be compensated for any additional costs incurred as the result of such order and shall give the University a credit for any savings. Said compensation shall be determined by one of the following methods:

- a. By mutual agreement between the parties in writing; or

- b. By agreeing upon a unit price or using a unit price set forth in the contract, if the work to be done can be expressed in units, and the Contractor accounts for the number of units of work performed, subject to the University's right to audit the Contractor's records and/or to determine the correct number of units independently; or

- c. By ordering the Contractor to proceed with the work and keep a record of all costs incurred and savings realized. A markup for overhead and profit may be allowed if provided by the contract. The same markup shall be used for determining a decrease in price as the result of savings realized. The Contractor shall present the University with all vouchers and records of expenses incurred and savings realized. The University shall have the right to audit the records of the Contractor as it deems necessary to determine costs or savings. Any claim for an adjustment in price under this provision must be asserted by written notice to the University within thirty (30) days from the date of receipt of the written order from the University. If the parties fail to agree on an amount of adjustment, the question of an increase or decrease in the contract price or time for performance shall be resolved in accordance with the procedures for resolving disputes provided by the Disputes Clause of this contract or, if there is none, in accordance with the disputes provisions of the Commonwealth of Virginia *Purchasing Manual for Universities of Higher Education and their Contractors*. Neither the existence of a claim nor a dispute resolution process, litigation or any other provision of this contract shall excuse the Contractor from promptly complying with the changes ordered by the University or with the performance of the contract generally.

H. **DEFAULT:** In case of failure to deliver goods or services in accordance with the contract terms and conditions, the University, after due oral or written notice, may procure them from other sources and hold the Contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which the University may have.

I. **DISCOUNTS:**

1. **Prompt Payment Discounts:** The University will pay within 30 days after acceptance. A prompt payment discount offered for prompt payment of (20) calendar days or longer will be calculated.

2. **Special Educational Or Promotional Discounts:** The Contractor shall extend any special educational or promotional sale prices or discounts immediately to the University during the term of the contract. Such notice shall also advise the duration of the specific sale or discount price.

J. **DRUG-FREE WORKPLACE:** (*the Rules §11.*)

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

For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a Contractor, the employees of who 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.

K. **EMPLOYMENT DISCRIMINATION:** (*the Rules §10.*)

During the performance of this contract, the Contractor agrees to:

1. Not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor, and to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of the above nondiscrimination clause.
2. State in all solicitations or advertisements for employees placed by or on behalf of the Contractor, that such Contractor is an equal opportunity employer.
3. Certify all notices, advertisements and solicitations shall be placed in accordance with federal law, rule or regulation deemed sufficient for the purpose of meeting these requirements.
4. Include the provisions of foregoing paragraphs 1., 2., and 3. in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or Contractor.

L. **ENVIRONMENTAL LIABILITY:** Any costs or expenses associated with environmentally related violations of the law, the creation or maintenance of a nuisance, or releases of hazardous substances, including, but not limited to, the costs of any cleanup activities, removals, remediations, responses, damages, fines, administrative or civil penalties or charges imposed on the Contractor, whether because of actions or suits by any governmental or regulatory agency or by any private party, as a result of the storage, accumulation, or release of any hazardous substances, or any noncompliance with or failure to meet any federal, state or local standards, requirements, laws, statutes, regulations or the law of nuisance by Contractor (or by its agents, officers, employees, subcontractors, consultants, sub consultants, or any other persons, corporations or legal entities employed, utilized, or retained by Contractor) in the performance of this Contract or related activities, shall be paid by Contractor. This paragraph shall survive the termination, cancellation or expiration of this Contract.

M. **EXCLUSIVITY:** The University reserves the right to procure goods or services covered under this contract from a third party when, in the University's sole discretion, it is deemed to be in the University's best interest.

N. **EXTRA CHARGES NOT ALLOWED:** The bid price shall be for complete installation ready for the University's use, and shall include all applicable freight and installation charges; extra charges will not be allowed.

O. **FORCE MAJEURE:** Neither party will be responsible for any losses resulting from delay or failure in performance resulting from any cause, event, or occurrence beyond the control and without the negligence of the parties. Such events, occurrences, or causes include, without limitation: war, strikes or labor disputes, civil disturbances, government orders, pandemics, fires, natural disasters, and acts of God.

P. **FINAL INSPECTION:** At the conclusion of the work, the Contractor shall demonstrate to the authorized University representative that the work is fully operational and in compliance with contract specifications and codes. Any deficiencies shall be promptly and permanently corrected by the Contractor at the Contractor's sole expense prior to final acceptance of the work.

Q. **GUARANTEE OF WORK:**

1. Except as otherwise specified, all work shall be guaranteed by the Contractor against defects resulting from the use of inferior materials, equipment, or workmanship for one (1) year from the date of final acceptance of the entire project by the owner in writing. Equipment and facilities, which have seasonal limitations on their operation, shall be guaranteed for one (1) full year from the date of seasonally appropriate tests and acceptance, in writing, by the owner.

2. If, within the guarantee period, defects are noticed by the owner which require repairs or changes in connection with the guaranteed work, those repairs or changes being in the opinion of the owner rendered necessary as the result of the use of materials, equipment or workmanship, which are defective, or inferior or not in accordance with the terms of the contract, then the Contractor shall, promptly upon receipt of notice from the owner, such notice being given not more than two weeks after the guarantee period expires, and without expense to the owner:
 - i. Place in satisfactory condition in every particular all of such guaranteed work and correct all defects therein;
 - ii. Make good all damage to the structure, site, equipment, or contents thereof, which is the result of the use of materials, equipment, or workmanship which are inferior, defective, or not in accordance with the terms of the contracts; and
 - iii. Make good any work, materials, equipment, contents of structures, and/or disturbance of the site in fulfilling any such guarantee.
3. In any case, where in fulfilling the requirements of the contract or any guarantee embraced in or required thereby, the Contractor disturbs any work guaranteed under contract, he shall restore such work to a condition satisfactory to the owner and guarantee such restored work to the same extent as it was guaranteed under such other contract.
4. If the Contractor, after notice, fails to proceed promptly to comply with the terms of the guarantee, the University may have the defects corrected and the Contractor and his surety shall be liable for all expense incurred.
5. All special guarantees applicable to definite parts of the work that may be stipulated in the specifications or other papers forming a part of the contract shall be subject to the term of this section during the first year of the life of such special guarantee.
6. Nothing contained in this section shall be construed to establish a period of limitation with respect to any other obligation which the Contractor might have under the contract documents. This paragraph relates only to the specific obligation of the Contractor contained in this section to correct the work and does not limit the time within which his obligation to comply with the contract documents may be sought to be enforced, nor of the time within which proceedings may be commenced to establish the Contractor's liability with respect to his other obligations under this contract.
7. In the event the work of the Contractor is to be modified by another Contractor, either before or after the final inspection, the first Contractor shall remain responsible in all respects under the guarantee of work and under any other warranties provided in the contract or by law. However, the Contractor shall not be responsible for any defects in material or workmanship introduced by the Contractor modifying its work. Both the first Contractor and the Contractor making the modifications shall each be responsible solely for the work done by each. The Contractor modifying the earlier work shall be responsible for any damage to or defect introduced into the work which he is modifying. If any Contractor shall claim that another Contractor has introduced defects of materials and/or workmanship into the work of the first, it shall be the burden of the Contractor making the claim to clearly demonstrate the nature and extent of such introduced defects and the responsibility of the other Contractor. Any Contractor modifying the work of another shall have the same burden if he asserts defects to have been caused by the Contractor whose work he is modifying.

R. **INDEMNIFICATION:** Contractor agrees to indemnify, defend and hold harmless the University, its officers, agents, and employees from any claims, damages and actions of any kind or nature, whether at law or in equity, arising from or caused by the use of any materials, goods, or equipment of any kind or nature furnished by the Contractor/any services of any kind or nature furnished by the Contractor, provided that such liability is not attributable to the sole negligence of the University or to failure of the University to use the materials, goods, or equipment in the manner already and permanently described by the Contractor on the materials, goods or equipment delivered.

S. **PAYMENT PROVISIONS:**

1. By the University:
 - a. Prompt Payment: (the Rules §42.)
 - i. The University shall promptly pay for the completely delivered goods or services by the required payment date.
 - ii. Payment shall be deemed to have been made when offset proceedings have been instituted, as authorized under the Virginia Debt Collection Act (§ 2.2-4800 et seq.) of the Code of Virginia.

- iii. Separate payment dates may be specified for contracts under which goods or services are provided in a series of partial deliveries or executions to the extent that such contract provides for separate payment for such partial delivery or execution.
- b. **Defect Or Impropropriety In The Invoice Or Goods And/Or Services Received: (the Rules §43.)**
In instances where there is a defect or impropriety in an invoice or in the goods or services received, the University shall notify the Contractor of the defect or impropriety, if the defect or impropriety would prevent payment by the payment date. The notice shall be sent within 15 days after receipt of the invoice or the goods or services.
- c. **Date Of Postmark Deemed To Be Date Payment Is Made: (the Rules §44.)**
In those cases where payment is made by mail, the date of postmark shall be deemed to be the date payment is made for purposes of these Rules.
- d. **Interest Penalty: Exceptions: (the Rules §44.)**
 - i. Interest shall accrue, at the rate determined pursuant to subsection ii., on all amounts owed by the University to a Contractor that remain unpaid after seven days following the payment date. However, nothing in this section shall affect any contract providing for a different rate of interest, or for the payment of interest in a different manner.
 - ii. The rate of interest charged the University pursuant to subsection i. shall be the base rate on corporate loans (prime rate) at large United States money center commercial banks as reported daily in the publication entitled The Wall Street Journal. Whenever a split prime rate is published, the lower of the two rates shall be used. However, in no event shall the rate of interest charged exceed the rate of interest established pursuant to § 58.1-1812 of the Code of Virginia.
 - iii. Notwithstanding subsection i., no interest penalty shall be charged when payment is delayed because of disagreement between the University and a Contractor regarding the quantity, quality or time of delivery of goods or services or the accuracy of any invoice received for the goods or services. The exception from the interest penalty provided by this subsection shall apply only to that portion of a delayed payment that is actually the subject of the disagreement and shall apply only for the duration of the disagreement.
 - iv. This section shall not apply to retainage on construction contracts that provides for progress payments, during the period of time prior to the date the final payment is due. Nothing contained herein shall prevent a Contractor from receiving interest on such funds under an approved escrow agreement.
 - v. Notwithstanding subsection i., no interest penalty shall be paid to any debtor on any payment, or portion thereof, withheld pursuant to the Comptroller's Debt Setoff Program, as authorized by the Virginia Debt Collection Act (§ 2.2-4800 et seq.) of the Code of Virginia, commencing with the date the payment is withheld. If, as a result of an error, a payment or portion thereof is withheld, and it is determined that at the time of setoff no debt was owed to the Commonwealth, then interest shall accrue at the rate determined pursuant to subsection 2. on amounts withheld that remains unpaid after seven days following the payment date.

2. **To Contractor:**

Under this contract, Contractor is hereby obligated:

- i. To submit all invoices for goods/services ordered, delivered and accepted directly to:
 - a) Old Dominion University
Accounts Payable
Rollins Hall, Room 2005
Norfolk, Virginia 23529; or
 - b) invoice@odu.edu
- ii. All invoices shall include:
 - a) Contractor Name, 'Remit To' Address, FEIN, or Social Security Number (Individual Contractor);
 - b) Invoice Number, Invoice Date, Payment Terms and Discounts, and Payment Due Date;
 - c) Purchase Order Number;
 - d) University Contact;
 - e) Description of provided goods/services;
 - f) Quantity Delivered per line item;
 - g) Unit and Extended Cost per line item; and
 - h) Total Amount Due
- iii. Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 30 days, however.
- iv. All goods or services provided shall be billed by the Contractor at the agreed to contract price.
- v. **Unreasonable Charges.** Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are

placed. In such cases, Contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges which appear to be unreasonable will be researched and challenged, and that portion of the invoice held in abeyance until a settlement can be reached. Upon determining that invoiced charges are not reasonable, the University shall promptly notify the Contractor, in writing, as to those charges which it considers unreasonable and the basis for the determination. A Contractor may not institute legal action unless a settlement cannot be reached within thirty (30) days of notification. The provisions of this section do not relieve the University of its prompt payment obligations with respect to those charges which are not in dispute.

vi. When applicable, Contractor shall deliver to the University, on or before request for final payment, evidence and certification of compliance (subject only to insubstantial shortfalls and to shortfalls arising from subcontractor default) with the SWAM procurement plan. Final payment under the contract in question may be withheld until such certification is delivered and, if necessary, confirmed by the agency or University, or other appropriate penalties may be assessed in lieu of withholding such payment.

3. To Subcontractors: *(the Rules §45.)*

Under this contract, Contractor shall be obligated:

- i. To pay the subcontractor(s) within seven (7) days of the Contractor's receipt of payment from the University for the proportionate share of the payment received for work performed by the subcontractor(s) under the contract; or
- ii. To notify the University and the subcontractor(s), in writing, of the Contractor's intention to withhold payment and the reason.
- iii. To pay the subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the contract) on all amounts owed by the Contractor that remain unpaid seven (7) days following receipt of payment from the University, except for amounts withheld as stated in (2) above. The date of mailing of any payment by U. S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier Contractor performing under the primary contract. A Contractor's obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of the University.

T. **SEVERABILITY:** The provisions of this contract shall be deemed to be severable, and should any or more of such provisions be declared or adjudged to be invalid or unenforceable, the remaining provisions shall be unaffected thereby and shall remain in full force and effect.

U. **TERMINATION WITH CAUSE:**

1. In the event that the Contractor shall for any reason or through any cause be in default of the terms of the contract, the University may give the Contractor written notice of such default by certified mail/return receipt requested.
2. Prior to termination of the contract, the University shall give the Contractor and its surety ten (10) calendar day's written notice, during which the Contractor and/or his surety may rectify the cause of the termination. If rectified to the satisfaction of the University within said ten (10) days, the University may rescind the notice of termination. If Contractor does not, the termination for cause shall become effective at the end of the ten-day (10) notice period.
3. In the alternative, the University may postpone the effective date of the termination notice, at its sole discretion, if it should receive reassurances from the Contractor and/or its surety that the causes of termination will be remedied in a time and manner which the University finds acceptable. If at any time more than ten (10) days after the notice of termination, the University determines that Contractor and/or its surety has not or is not likely to rectify the causes of termination in an acceptable manner or within the time allowed, then the University may immediately terminate the contract for cause by giving written notice to the Contractor and its surety. In no event shall termination for cause terminate the obligations of the Contractor's surety on its payment and performance bonds.
4. Notice of terminations, whether initial or given after a period of postponement, may be served upon the Contractor and the surety by mail or any other means at their last known places of business in Virginia or elsewhere, by delivery to any officer or management/supervisory employee of either wherever they may be found, or, if no such officer, employee or place of business is known or can be found by reasonable inquiry within three (3) days, by posting the notice at the job site. Failure to accept or pick up registered or certified mail addressed to the last known address shall be deemed to be delivery.
5. Upon termination, the Contractor shall withdraw its personnel and equipment, cease performance of any further work under the contract, and turn over to the University any work in process for which payment has been made.
6. The University shall take possession of the premises and of all materials, tools, and appliances thereon and finish the work by whatever method it may deem expedient. In such case the Contractor shall not be entitled to receive any further payment. If the expense of finishing the work, including compensation for additional managerial and administrative services shall exceed the unpaid balance of the contract price, the Contractor shall pay the difference to the University, together with any other expenses of terminating the contract and having it completed by others.

7. In the event of violations of law, safety or health standards and regulations, the contract may be immediately cancelled and terminated by the University and provisions herein with respect to opportunity to cure default shall not be applicable.

V. **TERMINATION BY UNIVERSITY FOR CONVENIENCE:**

1. The University may terminate any resulting contract at any time for convenience, in whole or in part, upon giving the Contractor notice of such termination. Upon such termination, the Contractor shall immediately cease work and remove from the project site all of its labor forces and materials that the University elects not to purchase or to assume in the manner hereinafter provided. Upon such termination, the Contractor shall take such steps as University may require to assign to the University the Contractor's interest in all subcontracts and purchase orders designated by University. After all such steps have been taken to University's satisfaction, the Contractor shall receive as full compensation for termination and assignment the following:

- i. All amounts due for work performed subsequent to the latest Request for Payment through the date of termination;
- ii. Reasonable compensation for the actual cost of demobilization incurred by the Contractor as a direct result of such termination;
- iii. The Contractor shall not be entitled to any compensation for lost profits or for any other type of contractual compensation or damage other than those provided by the preceding sentence; and
- iv. Upon payment of the forgoing, University shall have no further obligations to the Contractor of any nature.

2. In no event shall termination for the convenience of the University terminate the obligations of the Contractor's surety on its payment and performance bonds.

W. **TESTING AND INSPECTION:** The University reserves the right to conduct any test/inspection it may deem advisable to assure goods and services conform to the specifications.

X. **WAIVER:** No failure of the University to exercise any right or power given to it by law or by any resulting contract, or to insist upon strict compliance by Contractor with any of the provisions of this contract, and no custom or practice of the parties at variance with the terms hereof, shall constitute a waiver of the University's right to demand strict compliance with the terms of this contract.

VII. SPECIAL TERMS AND CONDITIONS:

A. **ACCESS TO WORK:** The University, the University's inspectors and other testing personnel, and inspectors from the Department of Labor and Industry shall have access to the work at all times. The Contractor shall provide proper facilities for access and inspection.

B. **AS BUILT DRAWINGS:** The contractor shall provide the University a clean set of reproducible "as built" drawings and wiring diagrams, marked to record all changes made during installation or construction. The contractor shall also provide the University with maintenance manuals, parts lists and a copy of all warranties for all equipment. All "as built" drawings and wiring diagrams, maintenance manuals, parts lists and warranties shall be delivered to the University upon completion of the work and prior to final payment.

C. **ASBESTOS:**

1. Whenever and wherever during the course of performing any work under this contract, the Contractor discovers the presence of asbestos or suspects that asbestos is present, he shall stop the work immediately, secure the area, notify the building owner and await positive identification of the suspect material. During the downtime in such a case, the Contractor shall not disturb any surrounding surfaces but shall protect the area with suitable dust covers. In the event the Contractor is delayed due to the discovery of asbestos or suspected asbestos, then a mutually agreed extension of time to perform the work shall be allowed the Contractor but without additional compensation due to the time extension.

2. It is considered a conflict of interest to have an employee/employer relationship with an asbestos project monitor working on a project performed by the asbestos contractor or asbestos RFS contractor, or a financial interest in the firm of which the project monitor is an employee.

3. It is considered a violation of the Virginia Asbestos Licensing Regulations for the Contractor to have a financial interest with a laboratory utilized by the Contractor for asbestos sample analysis. The Contractor is still responsible for performing personal monitoring of his employees per OSHA requirements in 29 CFR 1926.58, Subpart F.

4. It is considered a conflict of interest and a violation of the Virginia Asbestos Licensing Regulations for an asbestos Contractor or asbestos RFS contractor to enter into a contract to perform an asbestos project if the inspection or project design was performed by individuals employed by, compensated by or financially affiliated with the asbestos Contractor or asbestos RFS contractor without providing a disclosure form disclosing the asbestos Contractor's or asbestos RFS contractor's relationship with the inspector, RFS inspector or project designer.

5. The Contractor, if not licensed as an asbestos abatement Contractor or a RFS Contractor in accordance with § 54.1-514, Code of Virginia, shall have all asbestos related work performed by subcontractors who are duly licensed as asbestos Contractors or RFS Contractors as appropriate for the work required.

D. **AUTHORIZED CONTRACT PARTICIPATION:** In accordance with the *University's Rules Governing Procurement of Goods, Services, Insurance and Construction ("Rules Document")*, specifically §6, Cooperative Procurement, it is the intent of this contract to allow any public body, public or private health or educational University's, or **Old Dominion University's** affiliated agencies and/or corporations, access and use of any subsequent contract(s), as authorized by the Contractor(s).

Participation in this cooperative procurement is strictly voluntary. If authorized by the Contractor(s), any resultant contract(s) may be extended to the entities as indicated above to purchase at contract prices in accordance with contract terms and conditions. The Contractor(s) shall notify **Old Dominion University** in writing of any entities accessing the contract. No modification of this contract or execution of a separate contract is required to participate. The Contractor(s) will provide semi-annual usage reports for all entities accessing the contract(s). Participating entities shall place their own orders directly with the Contractor(s), and shall fully and independently administer their use of the contract(s), including contractual disputes, invoicing and payments, without direct administration from **Old Dominion University**. **Old Dominion University** shall not be held liable for any costs or damages incurred by any other participating entity as a result of any authorization by the Contractor(s) to extend participation and use of the contract(s). It is understood and agreed that **Old Dominion University** is not responsible for the acts or omissions of any entity, and will not be considered in default of the contract(s) no matter the circumstances.

Use of this contract does not preclude any participating entity from using other contracts or competitive processes as the need may be.

D. **AVAILABILITY OF MATERIALS:** If material specified is not available on the present market, alternate materials may be proposed by the Contractor for approval by the University.

E. **CONTRACT AND RENEWAL TERM:**

1. The initial term of any resulting contract shall be for a one (1) year period, commencing from the date of award and expiring on **September 30, 2025**;
2. Any resulting contract may be renewed by the University for four (4) successive one-year periods under the terms and conditions of the original contract except as stated in 3.a. and 3.b. below. Cost considerations may be negotiated only at the time of renewal. Written notice of the University's intention to renew shall be given approximately 90 days prior to the expiration date of each contract period.
3.
 - a. If the University elects to exercise the option to renew the contract for an additional one-year period, the contract price(s) for the additional one year shall not exceed the contract price(s) of the original contract by the lesser of (1) the percentage increase/decrease of the Consumer Price Index (CPI) for All Urban Wage Earner and Clerical Workers (CPI-W), All U.S. Items, for base period 1982-84=100, for the previous twelve (12) month period, or (2) not to exceed 5%.
 - b. If during any subsequent renewal periods, the University elects to exercise the option to renew the contract, the contract price(s) for the subsequent renewal period shall not exceed the contract price(s) of the previous renewal period by the lesser of (1) the percentage increase/decrease of the Consumer Price Index (CPI) for All Urban Wage Earner and Clerical Workers (CPI-W), All U.S. Items, for base period 1982-84=100, for the previous twelve (12) month period, or (2) not to exceed 5%.

F. **COMPANY PERSONNEL STANDARDS:**

1. Contractor shall provide trained personnel who shall be qualified to properly maintain/performance/test for services specified herein. If any of the Contractor's personnel are not satisfactory in the performance of services to be furnished hereunder in a proper manner and satisfactory to the University, the Contractor shall remove any such personnel and replace them with satisfactory personnel.
2. Contractor shall use all reasonable care, consistent with its rights to manage and control its operations, not to employ any persons or use any labor or have any equipment or permit any condition to exist which shall or may cause or be conducive to pose any liability to the general

public as well as any activity to be construed as a nuisance. The University retains the right to require the Contractor to halt all work activities until such conditions are resolved.

G. **CONTRACTOR'S RIGHT TO STOP WORK OR TERMINATE THE CONTRACT:** If the work should be stopped under any order of any court or other public authority for a period of ninety (90) days through no fault of the Contractor or of anyone employed by him, or if the owner should fail to pay to the contractor within thirty (30) days when no dispute exists as to the sum, then the contractor may, upon ten (10) calendar days written notice to the owner, stop work or terminate the contract and recover from the owner payment for the cost of the work actually performed, together with overhead and profit thereon, but profit shall be recovered only to the extent that the contractor can demonstrate that he would have had profit on the entire contract if he had completed the work. The contractor may not receive profit or any other type of compensation for parts of the work not performed. The contractor may recover the cost of physically closing down the job site, but no other costs of termination. The owner may offset any claims it may have against the contractor against the amounts due to the contractor.

When applicable, in no event shall termination of the contract by the contractor terminate the obligations of the contractor's surety on its payment and performance bonds.

H. **CONTRACTOR'S TITLE TO MATERIALS:** No materials or supplies for the work shall be purchased by the Contractor or by any subcontractor subject to any chattel mortgage or under a conditional sales or other agreement by which an interest is retained by the seller. The Contractor warrants that he has clear title to all materials and supplies for which he invoices for payment.

I. **DELIVERY AND STORAGE:** It shall be the responsibility of the Contractor to make all arrangements for delivery, unloading, receiving and storing materials in the building during installation. The University will not assume any responsibility for receiving these shipments. Contractor shall check with the University and make necessary arrangements for security and storage space in the building during installation.

J. **DELIVERY / SERVICE NOTIFICATION:** The University shall be notified four (4) Hours prior to any delivery / service requirements so that personnel may be available to allow access to the building / lots and verify items received. Notification shall be made to:

Parking Services:

<u>Sean Freeman</u> Name	<u>757-683-5915</u> Phone	<u>SFreeman@odu.edu</u> e-mail
<u>Zach Pearce</u> Name	<u>757-683-3445</u> Phone	<u>zpearce@odu.edu</u> e-mail

I. **INSPECTION OF JOB SITE:** Contractor certifies that they have inspected the job site and are aware of the conditions under which the work must be accomplished. Claims, as a result of failure to inspect the job site, will not be considered by the University.

J. **INSURANCE:** By signing this contract the Contractor certifies it will have the following insurance coverage at the time the contract is awarded and through the term of each contract renewal period. For construction contracts, if any subcontractors are involved, the subcontractor will have workers' compensation insurance in accordance with §§ 2.2-4332 and 65.2-800 et seq. of the *Code of Virginia*. The Contractor further certifies that the Contractor and any subcontractors will maintain these insurance coverage's during the entire term of the contract and that all insurance coverage's will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

MINIMUM INSURANCE COVERAGES AND LIMITS REQUIRED FOR MOST CONTRACTS:

1. **Workers' Compensation** - The Contractor will maintain workers' compensation coverage in compliance with the laws of the Commonwealth of Virginia. The coverage must have statutory limits and be with an insurer licensed to conduct business in the Commonwealth of Virginia. The insurer must have an A. M. Best rating of A- or better. As an alternative, it is acceptable for the Contractor to be insured by a group self insurance association that is licensed by the Virginia Bureau of Insurance. Coverage is compulsory for employers of three or more employees, to include the employer. Contractors who fail to notify the Commonwealth of increases in the number of employees that change their workers' compensation requirements under the Code of Virginia during the course of the contract shall be in noncompliance with the contract.
2. **Employers Liability Insurance** - The Contractor will also carry employers liability insurance with a limit of at least \$1,000,000 bodily injury by accident/\$1,000,000 bodily injury by disease policy limit/\$1,000,000 bodily injury by disease each employee.
3. **Commercial General Liability** - The Contractor will maintain a general liability policy with \$1,000,000 combined single limits. Coverage is to be on an occurrence basis with an insurer licensed to conduct business in the Commonwealth of Virginia. The insurer must have an A.M. Best rating of A- or better. The insurer must list the member locality as an additional insured. The endorsement must be issued by the insurance company. The contract must state the insurance provided in the additional insured endorsement is primary without contribution from other insurance available to the additional insured. A notation on the certificate of insurance referencing the additional insured status is not sufficient.
4. **Automobile Liability** - The Contractor will maintain automobile liability insurance with limits of at least \$1,000,000. The coverage is to be written with a symbol "1". The insurer must be licensed to conduct business in the Commonwealth of Virginia. The insurer must have an A. M. Best rating of A- or better.
5. If contract is awarded to the Contractor, the Contractor's Certificate of Insurance must (i) specify the specific University project, (ii) name both **the Commonwealth of Virginia and Old Dominion University** as "additional insureds", and (iii) mark/notate in the 'addl insd' column for each type of insurance coverage listed EXCEPT WORKERS COMPENSATION and PROFESSIONAL LIABILITY INSURANCE .

K. **INSURANCE and Licensing:** During the performance of this contract, including renewal periods, Contractor shall maintain the type of insurance coverage and minimum limits specified in the IFB, specifically those types and limits specified in section **VI. Special Terms and Conditions**, and a "Class A" license, registration through the Commonwealth's Department of Professional on Occupational Regulation (DPOR).

L. **MATERIAL SAFETY DATA SHEETS (MSDS):** Contractor shall at the time of each delivery, provide to the University appropriate MSDS for each chemical and/or compound ordered. Payment will not be made on any chemical and/or compound received until the using agency receives current MSDS.

M. **MISS UTILITIES:** Contractor shall contact Miss Utilities a minimum of forty-eight (48) hours prior to excavation to have all existing underground utilities located, and shall be responsible for any damage to underground utilities during the performance of this contract.

N. **NEW EQUIPMENT:** Unless otherwise expressly stated in this solicitation, any equipment furnished under the contract shall be new, unused equipment.

O. **PRIME CONTRACTOR RESPONSIBILITIES:** The Contractor shall be responsible for completely supervising and directing the work under this contract and all subcontractors that he may utilize, using his best skill and attention. Subcontractors who perform work under this contract shall be responsible to the prime Contractor. The Contractor agrees that he is as fully responsible for the acts and omissions of his subcontractors and of persons employed by them as he is for the acts and omissions of his own employees.

P. **PRODUCT SUBSTITUTION:** During the term of this contract, the Contractor is not authorized to substitute any item for that product identified in the solicitation without the prior written consent of the contracting officer whose name appears on the front of the original solicitation, or their designee.

Q. **PROTECTION OF PERSONS AND PROPERTY:**

1. The Contractor expressly undertakes, both directly and through its subcontractor(s), to take every precaution at all times for the protection of persons and property which may come on the building site or be affected by the Contractor's operation in connection with the work.
2. The Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the work.

3. The provisions of all rules and regulations governing safety as adopted by the Safety Codes Commission of the Commonwealth of Virginia, issued by the Department of Labor and Industry under Title 40.1 of the *Code of Virginia* shall apply to all work under this contract.

4. The Contractor shall continuously maintain adequate protection of all its work from damage and shall protect the University's property from injury or loss arising in connection with this contract. Contractor shall make good any such damage, injury, or loss, except such as may be directly due to errors in the contract documents or caused by agents or employees of the University, and shall adequately protect adjacent property to prevent any damage to it or loss of use and enjoyment by the University. Contractor shall provide and maintain all passageways, guard fences, lights, and other facilities for protection required by public authority, local conditions, any of the contract documents or erected for the fulfillment of his obligations for the protection of persons and property.

5. In an emergency affecting the safety or life of persons or of the work, or of the adjoining property, the Contractor, without special instruction or authorization from the University, shall act, at his discretion, to prevent such threatened loss or injury. Also, should he, to prevent threatened loss or injury, be instructed or authorized to act by the University, he shall so act immediately, without appeal. Any additional compensation or extension of time claimed by the Contractor on account of any emergency work shall be determined as provided by paragraph G., of the General Terms and Conditions.

R. **QUALIFIED REPAIR PERSONNEL:** All warranty or maintenance services to be performed on the items specified in this solicitation shall be performed by qualified technicians properly authorized by the manufacturer to perform such services. The University reserves the right to require proof of certification prior to award and at any time during the term of the contract.

S. **REPAIR PARTS:** In the event that the performance of maintenance services under the contract results in a need to replace defective parts, such items may only be replaced by new parts. In no instance shall the contractor be permitted to replace defective items with refurbished, remanufactured, or surplus items without prior written authorization of the University. The installation of any repair part shall require the approval of the University prior to replacement / installation of part(s).

T. **SERVICE REPORTS:** Upon completion of any maintenance call, the Contractor shall provide the University with a signed service report that includes, at a minimum: a general statement as to the problem, action taken, any materials or parts furnished or used, and the number of hours required to complete the repairs.

U. **SIGNS, TRAFFIC CONTROL AND HIGHWAY PERMIT:** Unless otherwise specified, Contractor shall be responsible for providing any and all signing and traffic control as required by the University when working in the University's rights-of-way, including any and all traffic control plans, and associated permits.

V. **SUBCONTRACTS:** No portion of the work shall be subcontracted without prior written consent of the University. In the event that the Contractor desires to subcontract some part of the work specified herein, the Contractor shall furnish the University the names, qualifications and experience of their proposed subcontractors. The Contractor shall, however, remain fully liable and responsible for the work to be done by its subcontractor(s) and shall assure compliance with all requirements of the contract.

W. **SUPERINTENDENCE BY CONTRACTOR:**

1. The Contractor shall have a competent foreman or superintendent, satisfactory to the University, on the job site at all times during the progress of the work. The Contractor shall be responsible for all construction means, methods, techniques, sequences, and procedures for coordinating all portions of the work under the contract except where otherwise specified in the contract documents, and for all safety and worker health programs and practices. The Contractor shall notify the University, in writing, of any proposed change in superintendent including the reason therefore prior to making such change.

2. The Contractor shall, at all times, enforce strict discipline and good order among the workers on the project, and shall not employ on the work any unfit person, anyone not skilled in the work assigned to him, or anyone who will not work in harmony with those employed by the Contractor, the subcontractors, the University or the University's separate Contractors and their subcontractors.

3. The University may, in writing, require the Contractor to remove from the work any employee the University deems to be incompetent, careless, not working in harmony with others on the site, or otherwise objectionable.

T. **USE OF PREMISES AND REMOVAL OF DEBRIS:**

1. The Contractor shall:

a. Perform his contract in such a manner as not to interrupt or interfere with the operation of any existing activity on the premises or with the work of any Contractor;

- b. Store his apparatus, materials, supplies, and equipment in such orderly fashion at the site of the work as will not unduly interfere with the progress of his work or the work of any other Contractor; and
 - c. Place upon the work or any part thereof only such loads as are consistent with the safety of that portion of the work.
2. The Contractor expressly undertakes, either directly or through his subcontractor(s), to affect all cutting, filling, or patching of his work required to make the same conform to the drawings and specifications, and, except with the consent of the University, not to cut or otherwise alter the work of any other Contractor. The Contractor shall not damage or endanger any portion of the work or premises, including existing improvements, unless called for by the contract.
3. The Contractor expressly undertakes, either directly or through his subcontractor(s), to clean up frequently all refuse, rubbish, scrap materials, and debris caused by his operations, to the end that at all times the site of the work shall present a neat, orderly, and workmanlike appearance. No such refuse, rubbish, scrap material, and debris shall be left within the completed work nor buried on the building site, but shall be removed from the site and properly disposed of in a licensed landfill or otherwise as required by law.
4. The Contractor expressly undertakes, either directly or through his subcontractor(s), before final payment, to remove all surplus material, false work, temporary structures, including foundations thereof, plants of any description and debris of every nature resulting from his operations and to put the site in a neat, orderly condition; to thoroughly clean and leave reasonably dust free all finished surfaces including all equipment, piping, etc., on the interior of all buildings included in the contract; and to thoroughly clean all glass installed under the contract including the removal of all paint and mortar splatters and other defacements. If a Contractor fails to clean up at the completion of the work, the University may do so and charge for costs thereof to the Contractor.
5. During and at completion of the work, the Contractor shall prevent site soil erosion, the runoff of silt and/or debris carrying water from the site, and the blowing of debris off the site in accordance with the applicable requirements and standards of the *Virginia Erosion and Sediment Control Handbook*, latest edition, and of the contract documents.
6. The Contractor shall not operate or disturb the setting of any valves, switches or electrical equipment on the service lines to the building except by proper previous arrangement with the University. The Contractor shall give ample advance notice of the need for cut-offs which will be scheduled at the convenience of the University.

U. **WARRANTY:** All materials and equipment shall be fully guaranteed against defects in material and workmanship for a period of one year following date of delivery / service. Should any defect be noted by the University, the University will notify the Contractor of such defect or non-conformance. Notification will state either (1) that the Contractor shall replace or correct, or (2) the University does not require replacement or correction, but an equitable adjustment to the contract price will be negotiated. If the Contractor is required to correct or replace, it shall be at no cost to the University and shall be subject to all provisions of this clause to the same extent as materials initially delivered. If the Contractor fails or refuses to replace or correct the deficiency, the office issuing the purchase order may have the materials corrected or replaced with similar items and charge the Contractor the costs occasioned thereby or obtain an equitable adjustment in the contract price.

V. **WORK SITE DAMAGES:** Any damage to existing utilities, equipment or finished surfaces resulting from the performance of this contract shall be repaired to the University's satisfaction at the Contractor's expense.

W. **WORK ESTIMATES (TIME AND MATERIAL CONTRACTS):** Under this time and material contract, the Contractor shall furnish the University with a non-binding written estimate of the total costs to complete the work required. The estimate must include the labor category(ies), the Contractor's hourly rates specified in the contract, and the total material cost. Material costs shall be billed at Contractor's actual invoice costs (Contractor shall furnish copies of all invoices for materials) or discount off the list price, whichever is specified in the contract. If the University determines that the estimated price is not fair and reasonable, the University has the right to ask the Contractor to reevaluate the estimate. If the revised estimate is determined to be not fair and reasonable, the University reserves the right to obtain additional quotes from other Contractors. A work order will be issued to the Contractor, as the authority to proceed with the work, which will incorporate the Contractor's estimate and the terms and conditions of the contract. The Contractor and his/her personnel shall log in with the designated contract administrator each day before and after work to confirm labor hours.

VIII. PAYMENT METHOD:

- A. In most cases, the University shall issue eVA 'Direct Orders' for required performance and delivery against any resulting contract.
- B. The Contractor shall be paid when (i) requested work is completed, (ii) the requested work is approved and accepted by the University, and (iii) Contractor has submitted to the Office of Finance/Accounts Payable a proper invoice for the approved, accepted and completed work.
- C. The Contractor shall not receive payment for work found by the University to be unsatisfactory, or performed in violation of federal, state, or local laws, codes, ordinances, rules or regulations.
- D. Progress Payments:
If requested in writing by the Contractor and approved in writing by the University, progress payments may be made under the following circumstances:
1. When total contract cost for all materials and services exceed \$25,000;
 2. When project completion time is anticipated to exceed sixty (60) days;
 3. Payments will only be made for:
 - a) Purchased materials and/or equipment related to the project that has been delivered on site and/or stored off-site;
 - b) Those same materials and/or equipment that has a total value of at least 10% of the project cost, not to exceed 75%; and
 - c) Materials and/or equipment that have satisfied i. and ii. above, and that have all proper invoicing and required documentation, as approved by the University's Contract Administrator or appropriate Project Manager.
 - d) Regardless of completion time frame and/or amount of expense outlay incurred by the Contractor, shall not be paid more than once every 30 days.

Note: It shall be the responsibility of the selected Contractor to safeguard those materials and/or equipment that have been "prepaid" by the University, and shall also certify at the completion of the project that same was either (i) used during the performance and completion of the project, or (ii) turned over as property to the University.

- E. Charge Cards Payments:
1. In an effort to increase administrative efficiency and streamline the invoice and payment process, the University may elect to process those contracted goods/services less than \$5,000, as applicable, via use of the University's Small Purchase Charge Card ("PCARD").
 2. In those instances deemed to be in "its best interest", the University may elect to process transactions via its 'Gold' PCARD, not to exceed transactions up to \$50,000 per order, or monthly transactions up to \$250,000 accumulative, unless otherwise approved and/or stipulated.

IX. PRICING SCHEDULE:

- a. The price shall be fixed for the current contract term. The price for future project orders will be quoted using the unit pricing as shown in Exhibit A.
- b. Unit price / rates shall not be greater than the rates charged in the basic contract.
- c. Pricing as shown in Exhibit A shall include all Contractor's profit and overhead.

Price List – See Exhibit A

The University reserves the right to add additional services, materials, etc., or remove units as requested by other using departments or agencies. Price and service for additional units will be negotiated at the time of request. All future add-on requests shall require prior approval by the contract administrator and procurement officer in the University's Procurement Services Office.

IN WITNESS WHEREOF, the University has caused this contract to be duly executed intending to be bound thereby.

UNIVERSITY:

By: _____

Signature, Chad A. Reed

Title: Vice President for Administration & Finance

Date: _____

12/11/2024

Note: This public body 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.

Exhibit A

Parking Lots & Garage Maint. - Contract #25-ODU-03-CCC					Branche Industries, Inc.	
Item	Description				Unit Price	Total
Labor, Equipment and Materials		Qty.	Unit			
1.A.	Machine: <100 tons	75	Ton		125.00	9,375.00
B.	Machine: >100 tons	165	Ton		110.00	18,150.00
C.	Hand: <100 tons	35	Ton		150.00	5,250.00
D.	Hand: ≥100 tons	105	Ton		100.00	10,500.00
2.A.	Machine: <100 tons	75	Ton		150.00	11,250.00
B.	Machine: >100 tons	165	Ton		120.00	19,800.00
C.	Hand: <100 tons	35	Ton		175.00	6,125.00
D.	Hand: >100 tons	105	Ton		100.00	10,500.00
3.A.	Concrete Sidewalk, <500 SF	450	SF		9.00	4,050.00
B.	>500 SF	550	SF		9.00	4,950.00
4.A.	Machine: <100 tons	75	Ton		75.00	5,625.00
B.	Machine: >100 tons	165	Ton		75.00	12,375.00
C.	Hand: <100 tons	35	Ton		100.00	3,500.00
D.	Hand: >100 tons	105	Ton		85.00	8,925.00
5	Excavation & Site Prep	200	CY		80.00	16,000.00
6	Raise/lower, manhole lids, etc.	4	Ea.		200.00	800.00
7	Topsoil, Seeding, Fertilizer	100	SY		20.00	2,000.00
8.A.	Milling 2" of asphalt <100SY	75	SY		35.00	2,625.00
B.	>100 SY	165	SY		15.00	2,475.00
9	Undercut	1000	CY		10.00	10,000.00
10	Select fill	1000	CY		35.00	35,000.00
11	Paint Striping (4")	1000	LF		1.00	1,000.00
12	Thermoplastic Striping (4")	1000	LF		2.50	2,500.00
13	Paint Characters (12")	100	Ea.		5.00	500.00
14	Thermoplastic (12")	1000	LF		10.00	10,000.00
15	Composite Speed Bump	1	Ea.		600.00	600.00
16.A.	Hot tar to cracks < 1", <100 LF	85	LF		3.00	255.00
B.	>100 LF	135	LF		3.00	405.00
17.A.	Seal Coating, <800 SY	500	SY		4.00	2,000.00
B.	>800 SY	1600	SY		2.00	3,200.00
18.A	Remove & Dispose of Existing Wheel Stops	1	Ea.		200.00	200.00
B.	Relocate Existing Wheel Stops	1	Ea.		250.00	250.00
C.	Provide New Wheel Stops	1	Ea.		150.00	150.00
D.	Install New Wheel Stops	1	Ea.		150.00	150.00
19.A.	Remove & Dispose of Existing Signage with Concrete Footing	1	Ea.		200.00	200.00

Parking Lots & Garage Maint. - Contract #25-ODU-03-CCC						
Item	Description				Branche Industries, Inc.	
Labor, Equipment and Materials		Qty.	Unit	Unit Price	Total	
B.	Relocate Existing Signage	1	Ea.	300.00	300.00	
C.	Provide new Stop Signs	1	Ea.	150.00	150.00	
D.	Provide new One Way Signs	1	Ea.	150.00	150.00	
E.	Provide New No Parking Signs	1	Ea.	150.00	150.00	
F.	Provide Handicapped Signs	1	Ea.	150.00	150.00	
G.	Provide Motorcycle Parking Signs	1	Ea.	150.00	150.00	
H.	Install Signs	1	Ea.	150.00	150.00	
20.A	Curb & Gutter (10' Minimum) (VDOT CG-6), Removed & Replaced In Kind	200	LF	50.00	10,000.00	
B.	Concrete Curb (10' Minimum) (VDOT CG-2), Removed & Replaced In Kind	200	LF	50.00	10,000.00	
21	Grading	1000	SY	3.00	3,000.00	
22.A.	Saw Cutting	1	FT	10.00	10.00	
23	Mobilization	2	Ea.	500.00	1,000.00	
24	Traffic Control	1	Day	200.00	200.00	
Unit Price Based		Qty.				
25.A.	Concrete	1	CY	300.00	300.00	
B.	Stone, #57	1	TN	90.00	90.00	
C.	Concrete Disposal	1	CY	40.00	40.00	
D.	Asphalt Disposal	1	TN	100.00	100.00	
26.A.	Backhoe	1	CY	125.00	125.00	
B.	Excavator	1	TN	150.00	150.00	
C.	Dump Truck	1	HR	110.00	110.00	
D.	Dump Truck w/ Blade for SR	1	HR	300.00	300.00	
E.	Roller	1	HR	50.00	50.00	
F.	Grader	1	HR	100.00	100.00	
G.	Tractor with Box	1	HR	75.00	75.00	
H.	Skid Steer Loader	1	HR	125.00	125.00	
I.	Front End Loader	1	HR	150.00	150.00	
J.	Power Broom	1	HR	75.00	75.00	
K.	Air Compressor	1	HR	30.00	30.00	
L.	Jack Hammer	1	HR	25.00	25.00	
M.	Sand Spreader	1	HR	75.00	75.00	
N.	Blower	1	HR	25.00	25.00	
27.A.	Superintendent	1	HR	75.00	75.00	
A.1	Superintendent, Overtime	1	HR	112.50	112.50	
B.	Equipment Operator	1	HR	70.00	70.00	
B.1	Equipment Operator, Overtime	1	HR	105.00	105.00	

Parking Lots & Garage Maint. - Contract #25-ODU-03-CCC					
Item	Description			Branche Industries, Inc.	
Labor, Equipment and Materials		Qty.	Unit	Unit Price	Total
C.	Laborer Skilled	1	HR	50.00	50.00
C.1	Laborer Skilled, Overtime	1	HR	75.00	75.00
D.	Labor Unskilled	1	HR	35.00	35.00
D.1	Labor Unskilled, Overtime	1	HR	52.50	52.50
E.	Grounds Men for Snow Removal	1	HR	100.00	100.00
E.1.	Grounds Men, Overtime	1	HR	150.00	150.00
CONTACT: PHONE NO.:				John Branche 757-420-4343	