TO: CONNEXIONZ LIMITED
    1 SHOW PLACE
    ADDINTGTON, CHRISTCHURCH
    NEW ZELAND, 8005

DATE ISSUED: MARCH 30, 2012

CONTRACT NO: 225-11

CONTRACT TITLE: DES - BUS TRACKING SYSTEM SUPPORT

THIS IS A NOTICE OF RENEWAL OF CONTRACT AND NOT AN ORDER. NO WORK IS AUTHORIZED UNTIL THE VENDOR RECEIVES A VALID COUNTY PURCHASE ORDER ENCUMBERING CONTRACT FUNDS.

This is your notice that the above referenced contract has been renewed. The contract term covered by this Notice of Renewal is effective APRIL 1, 2012 and expires on MARCH 31, 2016.

This is the SECOND year of a possible FIVE year contract.

The contract documents consist of the terms and conditions of Agreement No. 225-11 including any exhibits attached or amendments thereto.

CONTRACT PRICING:
1) REFER TO ATTACHED AMENDMENT 1, EXHIBIT B, OF AGREEMENT NO. 225-11
2) PRICE ADJUSTMENTS FOR EXTENSION OPTIONS BASED ON CPI-U FOR THE MONTH OF NOVEMBER

ATTACHMENTS:
1) AGREEMENT NO. 225-11, AMENDMENT NO. 1
2) AGREEMENT NO. 225-11
3) EXHIBIT C (SOFTWARE AGREEMENT AND HARDWARE WARRANTY) TO AGREEMENT NO. 225-11

EMPLOYEES NOT TO BENEFIT:
NO COUNTY EMPLOYEE SHALL RECEIVE ANY SHARE OR BENEFIT OF THIS CONTRACT NOT AVAILABLE TO THE GENERAL PUBLIC.

VENDOR CONTACT: RHOD PICKAVANCE
VENDOR PAYMENT TERMS: NET 30 DAYS

COUNTY CONTACT: STEVEN YAFFE

TELEPHONE NO.: 703-593-8776
EMAIL ADDRESS: RHOD.PICKAVANCE@CONNEXIONZ.CO.NZ

TELEPHONE NO.: 703-228-3690
EMAIL ADDRESS: SYAFFE@ARLINGTONVA.US

CONTRACT AUTHORIZATION

[Signature]
Mr. Ashley Barnes
Procurement Officer

DISTRIBUTION

VENOR: 1
BID FOLDER: 2

Date: 3-30-12
ARLINGTON COUNTY, VIRGINIA
AGREEMENT NO. 225-11

AMENDMENT NUMBER 1

This Amendment Number 1 ("Amendment") is made on the date of execution of the Amendment by the County and amends Agreement Number 225-11 dated June 8, 2011 ("Main Agreement," and made between Connexions Limited ("Contractor") and the County Board of Arlington County, Virginia ("County").

Whereas the County and the Contractor desire to amend the Work called for and the amounts to be paid under the Main Agreement, as amended (if applicable), the Contractor and the County, in consideration of the promises and other good and valuable consideration specified in this Amendment, amend the Main Agreement as follows:

DELETE PARAGRAPH NO. 3, CONTRACT TERM IN ITS ENTIRETY AND REPLACE WITH THE FOLLOWING:

3. CONTRACT TERM

The Work shall continue from the date of execution of this Amendment by the County and shall be completed no later than March 31, 2016 ("Contract Term"), subject to any modifications as provided for in the Contract Documents.

DELETE PARAGRAPH NO. 5, CONTRACT EXTENSION WITH PRICE ADJUSTMENT NEGOTIATED UP TO CPI-U IN ITS ENTIRETY AND REPLACE WITH THE FOLLOWING:

5. PRICE ADJUSTMENTS

The Contract unit price(s) shall remain firm for the first twelve (12) months of the Contract Term. The Contract unit price(s) for each ensuing year shall be submitted by the Contractor to the Project Officer ninety (90) days prior to the anniversary date of the Agreement. All prices shall be negotiated and approved by Arlington County in writing prior to new prices going into effect.

Increases in the price(s) for ensuing years shall not exceed the percentage of change in the U.S. Department of Labor, Consumer Price Index, All Items, Unadjusted, Urban Areas (CPI-U) for the twelve (12) month period ending in November of each Contract Year.

If the Contractor and the County do not agree on a price using the procedure set forth above by the thirtieth (30th) day prior to the end of the initial Contract Term or the end of ensuing renewal term or terms, the County will terminate the Contract whether or not the County has previously elected to extend the term. The Contract unit price(s) changed as a result of this procedure shall become effective on the anniversary date of the Contract and shall be binding on the Contractor for the ensuing renewal term or terms.

DELETE PARAGRAPH NO. 13, REQUIREMENTS CONTRACT (ESTIMATED QUANTITIES) IN ITS ENTIRETY AND REPLACE WITH THE FOLLOWING:

13. REQUIREMENTS CONTRACT (ESTIMATED QUANTITIES)

During the Contract Term the Contractor will furnish all of the items or services described in the Contract Documents if so requested by the County. The Contractor understands and agrees that this is a

1
1

AGREEMENT No. 225-11
AMENDMENT No. 1
requirements contract and the County will have no obligation to the Contractor if no, or fewer, items or services are required or requested by the County. Any quantities which are included in the Contract Documents are the present expectations of those who are planning for the County for the period of the Contract. The amount is only an estimate and the Contractor understands and agrees that the County is under no obligation to the Contractor to buy that amount, or any amount, as a result of having provided this estimate or of having had any normal or otherwise measurable requirement in the past. The Contractor further understands that the County may require goods and/or services in excess of the estimated annual contract amount and that such excess shall not give rise to any claim for compensation other than at the unit prices set forth in this Contract.

DELETE PARAGRAPH NO. 15, PROJECT STAFF IN ITS ENTIRETY AND REPLACE WITH THE FOLLOWING:

15. **PROJECT STAFF**

The County will, throughout Contract Term have the right of reasonable rejection and approval of staff or subcontractors assigned to the project by the Contractor. If the County reasonably rejects staff or subcontractors pursuant to this section, the Contractor must provide replacement staff or subcontractors satisfactory to the County in a timely manner and at no additional cost to the County. The day-to-day supervision and control of the Contractor’s employees, and employees of any of its subcontractors, shall be the sole responsibility of the Contractor.

PARAGRAPH NO. 21, HARDWARE WARRANTY AND MAINTENANCE, SHALL BE AMENDED AS FOLLOWS:

The Contractor represents and warrants that all goods provided by it to the County pursuant to this Contract, will be new except for the rehabilitated BusPak Units.

DELETE PARAGRAPH NO. 23, TERMINATION FOR CAUSE, INCLUDING BREACH AND DEFAULT; CURE IN ITS ENTIRETY AND REPLACE WITH THE FOLLOWING:

23. **TERMINATION FOR CAUSE, INCLUDING BREACH AND DEFAULT; CURE**

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

If the County determines that the Contractor has failed to perform satisfactorily, then the County will give the Contractor written notice of such failure(s) and the opportunity to cure such failure(s) within at least fifteen (15) days before termination of the Contract takes effect ("Cure Period"). If the Contractor fails to cure within the Cure Period or as otherwise specified in the notice, the Contract may be terminated for the Contractor’s failure to provide satisfactory Contract performance. Upon such termination, the Contractor or may apply for compensation for Contract services satisfactorily performed by the

2

**Amendment No. 229-11**

**Amendment No. 1**
Contractor, allocable to the Contract and accepted by the County prior to such termination unless otherwise elected by the Contractor ("Termination Costs"). In order to be considered, such request for Termination Costs, with all supporting documentation, must be submitted to the County Project Officer within fifteen (15) days after the expiration of the Cure Period. The County may accept or reject, in whole or in part, the application for Termination Costs and notify the Contractor of some within a reasonable time thereafter.

If the County terminates the Contract for default or breach of any Contract provision or condition, then the termination shall be immediate after notice from the County to the Contractor (unless the County in its discretion provides for an opportunity to cure) and the Contractor shall not be permitted to seek Termination Costs.

Upon any termination pursuant to this section, the Contractor shall be liable to the County for all costs incurred by the County after the effective date of termination, including costs required to be expended by the County to complete the Work covered by the Contract, including costs of delay in completing the Work or the cost of repairing or correcting any unsatisfactory or non-compliant work performed or provided by the Contractor or its subcontractors. Such costs shall be either deducted from any amount due the Contractor or shall be promptly paid by the Contractor to the County upon demand by the County. Additionally, notwithstanding any provision in this Contract to the contrary, the Contractor is liable to the County, and the County shall be entitled to recover, all damages to which the County is entitled by this Contract or by law, including, and without limitation, direct damages, indirect damages, consequential damages, delay damages, replacement costs, refund of all sums paid by the County to the Contractor under the Contract and all attorney fees and costs incurred by the County to enforce any provision of this Contract.

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

In the event any termination for cause, default, or breach shall be found to be improper or invalid by any court of competent jurisdiction then such termination shall be deemed to have been a termination for convenience.

DELETE PARAGRAPH NO. 35, AUDIT IN ITS ENTIRETY AND REPLACE WITH THE FOLLOWING:

36. **Audit**

The Contractor agrees to retain all books, records and other documents related to this Contract for at least five (5) years after final payment. The County or its authorized agents shall have full access to and the right to examine any of the above documents during this period and during the Contract Term. If the Contractor wishes to destroy or dispose of records (including confidential records to which the County does not have ready access) within five (5) years after final payment, the Contractor shall notify the County at least thirty (30) days prior.
EXHIBIT B SHALL BE DELETED IN ITS ENTIRETY AND REPLACED WITH THE ATTACHED AMENDED EXHIBIT B.

All other terms and conditions of the Main Agreement, as amended (if applicable) shall remain in full force and effect.

WITNESS THESE SIGNATURES:

THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA

CONNECTIONS LIMITED

SIGNED BY: Ashley Bank
PRINT NAME: Richard D. Warren, Jr. PRINT NAME: R.W. Carruthers
AND TITLE: Purchasing Agent AND TITLE: Chief Executive Officer

DATE: 3-30-12 DATE: March 29, 2012
## CONTRACT RATES

<table>
<thead>
<tr>
<th>Cost Category</th>
<th>Unit Cost</th>
<th>Payment Frequency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annual Software and Device Licenses</td>
<td>$4,500</td>
<td>ONE TIME</td>
</tr>
<tr>
<td>General User Licensing</td>
<td>$2,000</td>
<td>ONE TIME</td>
</tr>
<tr>
<td>Hardware Device Licenses</td>
<td>$19,150</td>
<td>ONE TIME</td>
</tr>
<tr>
<td>Routine System Monitoring Maintenance/Support</td>
<td>$43,203</td>
<td>QUARTERLY</td>
</tr>
<tr>
<td>Communications Infrastructure Monitoring &amp; Dispatch Access Maintenance/Support</td>
<td>$10,600</td>
<td>QUARTERLY</td>
</tr>
<tr>
<td>Data Radio Channel Infrastructure</td>
<td>$12,000</td>
<td>QUARTERLY</td>
</tr>
<tr>
<td>Voice Radio Channel Infrastructure</td>
<td>$7,200</td>
<td>QUARTERLY</td>
</tr>
<tr>
<td>Annual and Quarterly Minimum Payment Commitment</td>
<td>$98,653</td>
<td>$24,663.25</td>
</tr>
<tr>
<td>Training</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Remote Training</td>
<td>$1,000</td>
<td>AS NEEDED</td>
</tr>
<tr>
<td>On-Site Training</td>
<td>$9,000</td>
<td>AS NEEDED</td>
</tr>
<tr>
<td>Group Training with other clients</td>
<td>$5,000</td>
<td>AS NEEDED</td>
</tr>
<tr>
<td>Software Support</td>
<td></td>
<td></td>
</tr>
<tr>
<td>New Systems Development</td>
<td>$18,750</td>
<td>AS NEEDED</td>
</tr>
<tr>
<td>Labor Rate per Hour</td>
<td>$200</td>
<td>AS NEEDED</td>
</tr>
<tr>
<td>Parts Replacement</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Busfinders</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Furnish BusFinders</td>
<td>$4,260</td>
<td>AS NEEDED</td>
</tr>
<tr>
<td>Replace glass</td>
<td>$95.00</td>
<td>AS NEEDED</td>
</tr>
<tr>
<td>Replace module</td>
<td>$2,860.00</td>
<td>AS NEEDED</td>
</tr>
<tr>
<td>Decal change and install (Labor and travel)</td>
<td>$340.00</td>
<td>AS NEEDED</td>
</tr>
<tr>
<td>Decal configuration and programming</td>
<td>$110.00</td>
<td>AS NEEDED</td>
</tr>
<tr>
<td><strong>BusPacks</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>--------------</td>
<td>------</td>
<td>--------</td>
</tr>
<tr>
<td>Furnish and Install New BusPak Units</td>
<td>$4,360</td>
<td>AS NEEDED</td>
</tr>
<tr>
<td>Furnish Rehabilitated BusPak Units</td>
<td>$2,860</td>
<td>AS NEEDED</td>
</tr>
<tr>
<td>Replacement batteries</td>
<td>$80.00</td>
<td>AS NEEDED</td>
</tr>
<tr>
<td>Replacement options board</td>
<td>$250.00</td>
<td>AS NEEDED</td>
</tr>
<tr>
<td>Replacement charger board</td>
<td>$250.00</td>
<td>AS NEEDED</td>
</tr>
<tr>
<td>Replacement GPS receiver</td>
<td>$525.00</td>
<td>AS NEEDED</td>
</tr>
<tr>
<td>Replacement Antenna</td>
<td>$525.00</td>
<td>AS NEEDED</td>
</tr>
<tr>
<td>Install New or Rehabilitated BusPack Unit</td>
<td>$300</td>
<td>AS NEEDED</td>
</tr>
<tr>
<td>Rehabilitate BusPack Unit (labor only)</td>
<td>$400</td>
<td></td>
</tr>
<tr>
<td>Decommission retiring bus</td>
<td>$200.00</td>
<td>AS NEEDED</td>
</tr>
<tr>
<td>Credit allowance for parts salvage</td>
<td>-$650.00</td>
<td>AS NEEDED</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Mobile Radios</strong></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Furnish and Install new Motobro Radio</td>
<td>$1270.00</td>
<td>AS NEEDED</td>
</tr>
<tr>
<td>Hand Portable Radio Battery Replacement</td>
<td>$115</td>
<td>AS NEEDED</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Communications</strong></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Connexionz Base Station Replacement Modem</td>
<td>$3,500</td>
<td>AS NEEDED</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Other Subcontractor Charges</strong></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Incomplete service call due to vehicle not on-site as arranged</td>
<td>$250</td>
<td>AS OCCURS</td>
</tr>
<tr>
<td>Minimum call-out rate during normal business hours</td>
<td>$150</td>
<td>AS OCCURS</td>
</tr>
<tr>
<td>Minimum call-out rate outside normal business hours</td>
<td>$210</td>
<td>AS OCCURS</td>
</tr>
</tbody>
</table>
ARLINGTON COUNTY, VIRGINIA
OFFICE OF THE PURCHASING AGENT
2100 CLARENDON BOULEVARD, SUITE 500
ARLINGTON, VA 22201

AGREEMENT NO. 225-11

THIS AGREEMENT (hereinafter “Agreement” or “Contract”) is made, on the date of execution by the County, between Connexions Limited, 1 Show Place, Addington, Christchurch, New Zealand 8005 (“Contractor”), a Limited Liability Company authorized to do business in the Commonwealth of Virginia, and the County Board of Arlington County, Virginia ("County"). The County and the Contractor, for the consideration hereinafter specified, agree as follows:

1. CONTRACT DOCUMENTS
The contract documents consist of this Agreement, Exhibit A (Scope of Work), Exhibit B (Contract Rates) and Exhibit C (Software Licensing Agreement & Hardware Warranty), ("Contract Documents").

Where the terms and provisions of this Agreement vary from the terms and provisions of the other Contract Documents, the terms and provisions of this Agreement shall prevail over the other Contract Documents and the remaining Contract Documents shall be complementary to each other and if there are any conflicts the most stringent terms or provisions shall prevail.

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

2. SCOPE OF WORK
The Contractor agrees to perform the services described in the Contract Documents (alternatively “Work”). The primary purpose of the Work is to provide programming, installation, deployment, and design services for a real time bus tracking and prediction system. The Contract Documents set forth the minimum work estimated by the County and the Contractor to be necessary to complete the Work. It shall be the Contractor’s responsibility, at the Contractor’s sole cost, to provide the specific services set forth in the Contract Documents and sufficient services to fulfill the purposes of the Work. Nothing in the Contract Documents shall be construed to limit the Contractor’s responsibility to manage the details and execution of the Work.

3. CONTRACT TERM
The Work shall commence on April 1, 2011, and be completed no later than March 31, 2012 ("Initial Contract Term"), subject to any modifications as provided for in the Contract Documents. Upon satisfactory performance by the Contractor and with the concurrence
of the Contractor, the County may, through issuance of an amendment executed by the parties, authorize continued operations of the Contractor under the same contract unit prices for not more than four (4) additional twelve (12) month periods from April 1, 2012 to March 31, 2016 (Each such period shall be referred to as a "Subsequent Contract Term").

The phrase "Contract Term" as used in this Agreement and any attached exhibits shall refer collectively to the Initial Contract Term and all Subsequent Contract Terms agreed to by the parties through an executed amendment.

4. CONTRACT AMOUNT

The County will pay the Contractor in accordance with the terms of the Payment paragraph below, and Exhibit B for the Contractor's completion of the Work described and required in the Contract Documents. The Contractor agrees that it shall complete the Work for the total amount specified in this section ("Contract Amount") unless such amount is modified as provided in this Agreement.

5. CONTRACT EXTENSION WITH PRICE ADJUSTMENTS NEGOTIATED UP TO CPI-U

The Contract Amount/unit price shall remain firm for at least the Initial Contract Term. The Contract Amount/unit price for any one or more Subsequent Contract Terms, if the County elects to extend the Contract, shall be negotiated by the County and the Contractor. Increases in the amount for ensuing years shall not exceed the percentage of change in the U.S. Department of Labor, Consumer Price Index, All Items, Unadjusted, Urban Areas ("CPI-U") for the twelve (12) month period ending in November of each year of the Contract.

If the Contractor and the County do not agree on a contract amount for a Subsequent Contract Term using the procedure set forth above by the thirtieth (30th) calendar day prior to the final day of the Initial Contract Term or any Subsequent Contract Term, the County may in its sole discretion terminate the Contract whether or not the County has previously elected to extend the term. The contract amount/unit price that changed as a result of this procedure shall become effective on the anniversary date of the Contract and shall be binding on the parties for the next Subsequent Contract Term.

6. PAYMENT

Payment will be made by the County to the Contractor within thirty (30) days after receipt by the County Project Officer of an invoice for work done which is reasonable and allocable to the Contract and which has been performed to the satisfaction of the Project Officer. Amounts on invoices shall not include amounts allocated to tasks (as shown in Exhibit A) on which no work has been done. The Project Officer will either approve the invoice or require corrections. The number of the County Purchase Order pursuant to which authority goods or services have been performed or delivered shall appear on all invoices.

7. PROJECT OFFICER

The performance of the Contractor is subject to the review and
approval of the County Project Officer ("Project Officer") who shall be appointed by the Director of the Arlington County department or agency requesting the work under this Contract. However, it shall be the responsibility of the Contractor to manage the details of the execution and performance of its work pursuant to the Contract Documents.

8. ADJUSTMENTS FOR CHANGE IN SCOPE
The County may order changes in the Work within the general scope of the Work consisting of additions, deletions or other revisions. No claim may be made by the Contractor that the scope of the Work or that the Contractor's services have been changed requiring adjustments to the amount of compensation due the Contractor unless such adjustments have been made by a written amendment to the Contract signed by the County and the Contractor. If the Contractor believes that any particular work is not within the scope of the Work or is a material change or otherwise will call for more compensation to the Contractor, the Contractor must immediately notify the Project Officer after the change or event occurs and within ten (10) calendar days thereafter must provide written notice to the Project Officer. The Contractor’s notice must provide to the Project Officer the amount of additional compensation claimed, together with the basis therefore and documentation supporting the claimed amount. The Contractor will not be compensated for performing any work unless a proposal complying with this paragraph has been submitted in the time specified above and a written Contract amendment has been signed by the County and the Contractor and a County purchase order is issued covering the cost of the services to be provided pursuant to the amendment.

9. REIMBURSABLE EXPENSES
No reimbursable expenses are allowed under this Agreement. The lump sum Contract Amount includes all costs of providing the services described in this Agreement to the County.

10. REIMBURSABLE TRAVEL-RELATED EXPENSES
No reimbursable travel-related expenses shall be allowed for employees of firms located within the greater Baltimore-Washington Metropolitan Area, as defined by the United States Office of Management and Budget (OMB). If approved by the County for employees of firms outside this area, the County's policy for reimbursement of travel-related expenses will be as follows:

MEALS:
The County will reimburse a contractor for the actual out-of-pocket expenses for employee meals, excluding alcoholic beverages at the per diem rate not to exceed $41.00 or the individual meal rates not to exceed of $8.00 for breakfast, $11.00 for lunch, and $22.00 for dinner. Receipts are required.

LODGING:
The County will reimburse lodging expenses incurred for lodging at a reasonably priced commercial facility in the immediate area of the work, where feasible. Complete and legible itemized
receipts shall accompany any request for reimbursement. No reimbursement shall be made for ineligible expenses including room service, laundry, telephone and in-room movies. If a room is shared with another person not connected with the work being performed for the County, including a spouse, the County will reimburse a contractor for no more than the cost of a single room.

TRANSPORTATION:

General
Reservations shall be made in advance whenever possible to take advantage of all available discounts.

Ground Transportation
Use of public transportation is encouraged. Receipts must be submitted for any inter-city public transportation used. Reimbursement for the use of personal or company vehicles, if allowed, shall not exceed the then current mileage rates paid by the County to its employees and personal use must be excluded from the request for reimbursement. Parking expenses are reimbursable up to $7.00 per day.

Rental of vehicles or use of taxicabs, in lieu of the use of a personal or company vehicle, may be approved if the Contractor can justify a cost savings by renting a car or using a taxicab, and obtains approval in advance from the Project Officer. For rental vehicles, the Contractor will be reimbursed for only those rental charges, insurance and/or fuel fees allocable to the work. The Contractor will not be reimbursed for the purchase of liability insurance and/or collision/comprehensive insurance if their existing insurance coverage provides protection. Receipts are required for reimbursement.

Air Travel
Airfare will be reimbursed at the lowest cost available, typically coach rate, and must be purchased at least 7 days in advance, unless otherwise approved.

TIME LIMIT:
Requests for travel reimbursement covering the above submitted more than sixty (60) days after completion of the travel shall not be honored.

NON-REIMBURSABLE EXPENSES:
The following expenses are not allowable for reimbursement:

1. Alcoholic beverages
2. Personal phone calls
3. Self-entertainment activities (i.e. pay TV, movies, night clubs, health clubs, theaters, bowling)
4. Personal expenses (i.e. laundry, valet, haircuts)
5. Personal travel insurance (i.e. life, medical, or property insurance) for air fare or rental cars.
6. Auto repairs, maintenance and insurance costs for
7. Travel expenses incurred to obtain or maintain training and/or certificates that are not associated with an employee's job requirements.
8. If the County adopts different rates for its employees, the adopted rates shall prevail.

11. PAYMENT OF SUBCONTRACTORS

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

a. Pay the subcontractor for the proportionate share of the total payment received from the County attributable to the work performed by the subcontractor under this Contract; or

b. Notify the County and the subcontractor, in writing, of the Contractor's intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment.

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

The Contractor shall include in each of its subcontracts, if any are permitted, a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier subcontractor.

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

12. NON-APPROPRIATION

All funds for payments by the County under this Contract are subject to the availability of an annual appropriation for this purpose by the County Board of Arlington County, Virginia. In the event of non-appropriation of funds by the County Board of Arlington County, Virginia for the goods or services provided under this Contract or substitutes for such goods or services which are as advanced or more advanced in their technology, the County will terminate the Contract, without termination charge or other liability to the County, on the last day of the then current fiscal year or when the appropriation made for the then current year for the services covered by this Contract is spent, whichever event occurs first. If funds are not appropriated at any time for the continuation of this Contract, cancellation will be accepted by the Contractor on thirty
(30) days prior written notice, but failure to give such notice shall be of no effect and the County shall not be obligated under this Contract beyond the date of termination specified in the County's written notice.

13. REQUIREMENTS CONTRACT (ESTIMATED QUANTITIES)

During the Initial Contract Term or any Subsequent Contract Term, the Contractor will furnish all of the items or services described in the Contract Documents if so requested by the County. The Contractor understands and agrees that this is a requirements contract and the County will have no obligation to the Contractor if no, or fewer, items or services are required or requested by the County. Any quantities which are included in the Contract Documents are the present expectations of those who are planning for the County for the period of the Contract. The amount is only an estimate and the Contractor understands and agrees that the County is under no obligation to the Contractor to buy that amount, or any amount, as a result of having provided this estimate or of having had any normal or otherwise measurable requirement in the past. The Contractor further understands that the County may require goods and/or services in excess of the estimated annual contract amount and that such excess shall not give rise to any claim for compensation other than at the unit prices set forth in this Contract.

14. COUNTY PURCHASE ORDER REQUIREMENT

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

15. PROJECT STAFF

The County will, throughout the Initial Contract Term and any Subsequent Contract Term, have the right of reasonable rejection and approval of staff or subcontractors assigned to the project by the Contractor. If the County reasonably rejects staff or subcontractors pursuant to this section, the Contractor must provide replacement staff or subcontractors satisfactory to the County in a timely manner and at no additional cost to the County. The day-to-day supervision and control of the Contractor's employees, and employees of any of its subcontractors, shall be the sole responsibility of the Contractor.

16. SUPERVISION BY CONTRACTOR

The Contractor shall at all times enforce strict discipline and good order among the workers performing under this Contract, and shall not employ on the Work any person not reasonably proficient in the work assigned.
17. **EMPLOYMENT DISCRIMINATION BY CONTRACTOR PROHIBITED**

During the performance of this Contract, the Contractor agrees as follows:

a. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability or any other basis prohibited by state law related to discrimination in employment except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

b. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an Equal Opportunity Employer.

c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

d. The Contractor will comply with the provisions of the Americans with Disabilities Act of 1990 which prohibits discrimination against individuals with disabilities in employment and mandates their full participation in both publicly and privately provided services and activities.

e. The Contractor will include the provisions of the foregoing paragraphs in every subcontract or purchase order of over $10,000, so that the provisions will be binding upon each subcontractor or vendor.

18. **EMPLOYMENT OF UNAUTHORIZED ALIENS PROHIBITED**

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

19. **DRUG-FREE WORKPLACE TO BE MAINTAINED BY CONTRACTOR**

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 vendor.
For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a contractor by Arlington County in accordance with the Arlington County Purchasing Resolution, the employees of which contractor are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

20. WARRANTY

The Contractor warrants to furnish the services described herein at the times and places and in the manner and subject to the conditions set forth. The Contractor shall enter upon and complete the performance of services with all due diligence and dispatch and shall exercise the highest degree of skill and competence.

21. HARDWARE WARRANTY AND MAINTENANCE

The Contractor represents and warrants that all goods provided by it to the County pursuant to this Contract, will be new, free from defects in material and workmanship, and will conform to, and comply, function, and perform in accordance with the requirements and specifications, and that the Contractor will make all necessary adjustments, repairs, and replacements to maintain all goods in such condition during the term of the applicable warranty, in accordance with the terms and conditions hereof. The Contractor further warrants that each product furnished pursuant to this Contract will perform such general and specific operations and have such general and specific characteristics as described and claimed for them in any of the Contractor's published literature, descriptions, and specifications whether or not such literature, descriptions, and specifications are included or referenced by a purchase order or this Contract.

All warranties shall survive inspection, acceptance, and payment, as long as this Contract remains in effect, and the County is current in its payments for on-going support services.

22. UNSATISFACTORY WORK

If any of the work done, or material or equipment provided, by the Contractor is unsatisfactory to the County, the Contractor shall, on being notified by the County, immediately remove at the Contractor's expense such unsatisfactory work or material or equipment and replace the same with work or material or equipment satisfactory to the County and, in the event the Contractor fails within fifteen (15) days after receipt of written notice to remove improper or unsuitable work or material or equipment and replace it with suitable and satisfactory work or material or equipment, the County shall have the right, but not the obligation, to remove the rejected work or material or equipment and replace it with proper work or material or equipment at the expense of the Contractor. This paragraph applies during the Contract term and during any warranty or guarantee period. The County shall be entitled to offset such expense against any sums owed by the County to the Contractor under this Contract. If the Project Officer and the County deem it expedient not to require correction or replacement of the work which has not been done in accordance with the Contract, an appropriate adjustment to the Contract Amount may be made therefore.
23. **TERMINATION FOR CAUSE, INCLUDING BREACH AND DEFAULT: CURE**

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

If the County determines that the Contractor has failed to perform satisfactorily, then the County will give the Contractor written notice of such failure(s) and the opportunity to cure such failure(s) within at least fifteen (15) days before termination of the Contract takes effect ("Cure Period"). If the Contractor fails to cure within the Cure Period or as otherwise specified in the notice, the Contract may be terminated for the Contractor's failure to provide satisfactory Contract performance. Upon such termination, the Contractor may apply for compensation for Contract services satisfactorily performed by the Contractor, allocable to the Contract and accepted by the County prior to such termination unless otherwise barred by the Contract ("Termination Costs"). In order to be considered, such request for Termination Costs, with all supporting documentation, must be submitted to the County Project Officer within fifteen (15) days after the expiration of the Cure Period. The County may accept or reject, in whole or in part, the application for Termination Costs and notify the Contractor of same within a reasonable time thereafter.

If the County terminates the Contract for default or breach of any Contract provision or condition, then the termination shall be immediate after notice from the County to the Contractor (unless the County in its discretion provides for an opportunity to cure) and the Contractor shall not be permitted to seek Termination Costs.

Upon any termination pursuant to this section, the Contractor shall be liable to the County for all costs incurred by the County after the effective date of termination, including costs required to be expended by the County to complete the Work covered by the Contract, including costs of delay in completing the Work or the cost of repairing or correcting any unsatisfactory or non-compliant work performed or provided by the Contractor or its subcontractors. Such costs shall be either deducted from any amount due the Contractor or shall be promptly paid by the Contractor to the County upon demand by the County. Additionally, and notwithstanding any provision in this Contract to the contrary, the Contractor is liable to the County, and the County shall be entitled to recover, all damages to which the County is entitled by this Contract or by law, including, and without limitation, direct damages, indirect damages, consequential damages, delay damages, replacement costs, refund of all sums paid by the County to the Contractor under the Contract and all attorney fees and costs incurred by the County to enforce any provision of this Contract.
Except as otherwise directed by the County in the notice, the Contractor shall stop work on the date of receipt of notice of the termination or other date specified in the notice, place no further orders or subcontracts for materials, services, or facilities except as are necessary for the completion of such portion of the Work not terminated, and terminate all vendors and subcontracts and settle all outstanding liabilities and claims. Any purchases after the date of termination contained in the notice shall be the sole responsibility of the Contractor.

In the event any termination for cause, default, or breach shall be found to be improper or invalid by any court of competent jurisdiction then such termination shall be deemed to have been a termination for convenience.

24. TERMINATION FOR THE CONVENIENCE OF THE COUNTY

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

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

25. INDEMNIFICATION

The Contractor covenants for itself, its employees, and subcontractors to save, defend, hold harmless and indemnify the County, and all of its elected and appointed officials, officers, current and former employees, agents, departments, agencies, boards, and commissions (collectively the "County" for purposes of this section) from and against any and all claims made by third parties or by the County for any and all losses, damages, injuries, fines, penalties, costs (including court costs and attorney's fees), charges, liability, demands or exposure, however caused, resulting from, arising out of, or in any way connected with the Contractor's acts or omissions, including the acts or omissions of its employees and/or subcontractors, in performance or nonperformance of its work called for by the Contract Documents. This duty to save, defend,
hold harmless and indemnify shall survive the termination of this Contract. If, after Notice by the County, the Contractor fails or refuses to fulfill its obligations contained in this section, the Contractor shall be liable for and reimburse the County for any and all expenses, including but not limited to, reasonable attorneys fees incurred and any settlements or payments made. The Contractor shall pay such expenses upon demand by the County and failure to do so may result in such amounts being withheld from any amounts due to Contractor under this Contract.

26. INTELLECTUAL PROPERTY INDEMNIFICATION

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

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

27. COPYRIGHT

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

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

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

28. OWNERSHIP, CONFIDENTIALITY, AND RETURN OF RECORDS

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

The Contractor agrees that all drawings, specifications, blueprints, data, information, findings, memoranda, correspondence, documents or records of any type, whether written or oral or electronic, and all documents generated by the Contractor or its subcontractors as a result of the County's request for services under this Contract, are the exclusive property of the County ("Record" or "Records"), and all such Records shall be provided to and/or returned to County upon completion, termination, or cancellation of this Contract. The Contractor shall not use, willingly allow, or cause such materials to be used for any other purpose other than performance of all obligations under the Contract without the written consent of the County. Additionally, the Contractor agrees that the Records are confidential records and neither the Records nor their contents shall be released by the Contractor, its subcontractors, or other third parties; nor shall their contents be disclosed to any person other than the Project Officer or his or her designee. The Contractor agrees that all oral or written inquiries from any person or entity regarding the status of any Record generated as a result of the existence of this Contract shall be referred to the Project Officer or his or her designee for response. At the County's request, the Contractor shall deliver all Records to the Project Officer, including "hard copies" of computer records, and at the County's request, shall destroy all computer records created as a result of the County's request for services pursuant to this Contract.

The Contractor agrees to include the provisions of this section as part of any contract or agreement the Contractor enters into with subcontractors or other third parties for work related to work pursuant to this Contract.

No termination of this Contract shall have the effect of rescinding, terminating or otherwise invalidating this section of the Contract.

29. ETHICS IN PUBLIC CONTRACTING

This Contract incorporates by reference Article 9 of the Arlington County Purchasing Resolution, as well as any state or federal law.
related to ethics, conflicts of interest, or bribery, including by way of illustration and not limitation, the State and Local Government Conflict of Interests Act (Code of Virginia § 2.2-3100 et seq.), the Virginia Governmental Frauds Act (Code of Virginia § 18.2-498.1 et seq.), and Articles 2 and 3 of Chapter 10 of Title 18.2 of the Code of Virginia, as amended (§ 18.2-438 et seq.). The Contractor certifies that its offer was made without collusion or fraud and that it has not offered or received any kickbacks or inducements from any other offeror, supplier, manufacturer, or subcontractor and that it has not conferred on any public employee having official responsibility for this procurement 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.

30. COUNTY EMPLOYEES

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

31. FORCE MAJEURE

The Contractor shall not be held responsible for failure to perform the duties and responsibilities imposed by this Contract if such failure is due to fires, riots, rebellions, natural disasters, wars, or an act of God beyond control of the Contractor, and outside and beyond the scope of the Contractor’s then current, by industry standards, disaster plan, that make performance impossible or illegal, unless otherwise specified in the Contract.

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

32. AUTHORITY TO TRANSACT BUSINESS

The Contractor shall pursuant to Code of Virginia § 2.2-4311.2, be and remain authorized to transact business in the Commonwealth of Virginia during the Initial Term and any Subsequent Contract Term(s) of this Contract. A contract entered into by a Contractor in violation of this requirement is voidable, without any cost or expense, at the option of the County.

33. RELATION TO COUNTY

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

34. **ANTITRUST**

By entering into this Contract, the Contractor conveys, sells, assigns and transfers to the County all rights, title, and interest in and to all causes of action the Contractor may now have or hereafter acquire under the antitrust laws of the United States or the Commonwealth of Virginia, relating to the goods or services purchased or acquired by the County under this Contract.

35. **REPORT STANDARDS**

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

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

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

36. **AUDIT**

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

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

38. **AMENDMENTS**

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

39. **ARLINGTON COUNTY PURCHASING RESOLUTION AND COUNTY POLICIES**

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

40. **DISPUTE RESOLUTION**

All disputes arising under this Agreement, or its interpretation, whether involving law or fact, or extra work, or extra compensation or time, and all claims for alleged breach of Contract shall be submitted to the Project Officer for decision at the time of the occurrence or beginning of the work upon which the claim is based, whichever occurs first. Such claims shall state the facts surrounding it in sufficient detail to identify it together with its character and scope. In accordance with the Arlington County Purchasing Resolution, claims denied by the Project Officer may be submitted to the County Manager in writing no later than 60 days after final payment. The time limit for final written decision by the County Manager in the event of a contractual dispute, as that term is defined in the Arlington County Purchasing Resolution, is fifteen (15) days. Procedures for considering contractual claims, disputes, administrative appeals, and protests are contained in the Purchasing Resolution, incorporated herein by reference, and available upon request from the Office of the Purchasing Agent. The Contractor shall not cause a delay in the Work pending a decision of the Project Officer, County Manager, County Board, or a court.

41. **APPLICABLE LAW, FORUM, VENUE AND JURISDICTION**

This Contract and the work performed hereunder shall be governed in all respects by the laws of the Commonwealth of Virginia and the jurisdiction, forum, and venue for any litigation with respect thereto shall be in the Circuit Court for Arlington County, Virginia, and in no other court. In performing the Work under this Contract, the Contractor shall comply with applicable federal, state, and local laws, ordinances and regulations.

42. **ARBITRATION**

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

43. **NONEXCLUSIVITY OF REMEDIES**

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

44. **NO WAIVER**
The failure of either party to exercise in any respect a right provided for in this Contract shall not be deemed to be a subsequent waiver of the same right or any other right.

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

46. **NO WAIVER OF SOVEREIGN IMMUNITY**
Notwithstanding any other provision of this Contract, nothing in this Contract or any action taken by the County pursuant to this Contract shall constitute or be construed as a waiver of either the sovereign or governmental immunity of the County. The parties intend for this provision to be read as broadly as possible.

47. **SURVIVAL OF TERMS**
In addition to any numbered section in this Agreement which specifically state that the term or paragraph survives the expiration of termination of this Contract, the following sections if included in this Contract also survive: **INDEMNIFICATION; RELATION TO COUNTY; CONFIDENTIALITY AND RETURN OF RECORDS; AUDIT; COPYRIGHT; INTELLECTUAL PROPERTY INDEMNIFICATION; AND WARRANTY.**

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

49. **NOTICES**
Unless otherwise provided herein, all notices and other communications required by this Contract shall be deemed to have been given when made in writing and either (a) delivered in person, (b) delivered to an agent, such as an overnight or similar delivery service, or (c) deposited in the United States mail, postage prepaid, certified or registered, addressed as follows:

**TO THE CONTRACTOR:**

Robert Burke  
Connexionz Limited  
1 Show Place  
Addington, Christchurch  
New Zealand, 8005
TO THE COUNTY:

Steven Yaffe, the County Project Officer
Arlington County, Virginia
2100 Clarendon Boulevard, Suite 900
Arlington, Virginia 22201

AND

Richard D. Warren, Jr., Purchasing Agent
Arlington County, Virginia
2100 Clarendon Boulevard, Suite 500
Arlington, Virginia 22201

50. NON-DISCRIMINATION NOTICE
Arlington County does not discriminate against faith-based organizations.

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

a. Workers Compensation - Virginia Statutory Workers Compensation (W/C) coverage including Virginia benefits and employers liability with limits of $100,000/100,000/500,000. The County will not accept W/C coverage issued by the Injured Worker’s Insurance Fund, Towson, MD.

b. Commercial General Liability - $1,000,000 combined single limit coverage with $2,000,000 general aggregate covering all premises and operations and including Personal Injury, Completed Operations, Contractual Liability, Independent Contractors, and Products Liability. The general aggregate limit shall apply to this Contract. Evidence of Contractual Liability coverage shall be typed on the certificate.

c. Business Automobile Liability - $1,000,000 Combined Single Limit (Owned, non-owned and hired).

d. The Contractor shall carry Errors and Omissions or Professional Liability insurance which will pay for injuries arising out of errors or omissions in the rendering, or failure to render services or perform Work
under the contract, in the amount of $1,000,000.

e. Additional Insured - Arlington County, and its officers, elected and appointed officials, employees, and agents shall be named as an additional insured on all policies except Workers Compensation and Auto and Professional Liability; and evidence of the Additional Insured endorsement shall be typed on the certificate.

f. Cancellation - All insurance policies required by this Contract shall be endorsed to include the following provision: "It is agreed that this policy is not subject to cancellation or non-renewal until thirty (30) days prior written notice has been given to the Purchasing Agent, Arlington County, Virginia."  If there is a material change or reduction in coverage the Contractor shall notify the Purchasing Agent immediately upon Contractor’s notification from the insurer. Any policy on which the Contractor has received notification from an insurer that the policy has or will be cancelled or materially changed or reduced must be replaced with another policy consistent with the terms of this Contract, and the County notified of the replacement, in such a manner that there is no lapse in coverage. Not having the required insurance throughout the Contract Term is grounds for termination of the Contract.

g. Any insurance coverage that is placed as a "claims made" policy must remain valid and in force, or the Contractor must obtain an extended reporting endorsement consistent with the terms of this Contract, until the applicable statute of limitations has expired, such date as determined to begin running from the date of the Contractor’s receipt of final payment.

h. Contract Identification - The insurance certificate shall state this Contract’s number and title.

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

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

No acceptance or approval of any insurance by the County shall be construed as relieving or excusing the Contractor from any liability or obligation imposed upon the Contractor by the provisions of the Contract Documents.

The Contractor shall be responsible for the work performed under the Contract Documents and every part thereof, and for all materials, tools, equipment, appliances, and property of any description used in connection with the work. The Contractor assumes all risks for direct and indirect damage or injury to the property or persons used or employed on or in connection with the Work contracted for, and of all damage or injury to any person or property wherever located, resulting from any action, omission, commission or operation under the Contract, or in connection in any way whatsoever with the contracted work.

The Contractor shall be as fully responsible to the County for the acts and omissions of its subcontractors and of persons employed by them as it is for acts and omissions of persons directly employed by it.

Notwithstanding any of the above, the Contractor may satisfy its obligations under this section by means of self insurance for all or any part of the insurance required, provided that the Contractor can demonstrate financial capacity and the alternative coverages are submitted to and acceptable to the County. The Contractor must also provide its most recent actuarial report and provide a copy of its self insurance resolution to determine the adequacy of the insurance funding.

52. **ACCESSIBILITY OF WEB SITE (If applicable)**

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

53. **ADA COMPLIANCE**

Compliance with the Americans with Disabilities Act (ADA) shall be the sole responsibility of the Contractor. The Contractor shall defend and hold the County harmless from any expense or liability arising from the Contractor’s non-compliance therewith. The Contractor’s responsibilities related to ADA compliance shall include, but not be limited to, the following:

a. Access to Programs, Services and/or Facilities: The Contractor shall ensure its programs; services and facilities are accessible to persons with disabilities. If a particular facility or program is not accessible, the Contractor shall
provide equivalent services in an accessible alternate location or manner to ensure that persons with disabilities are not denied access to services.

b. Effective Communication: The Contractor, upon request, shall provide appropriate aids and services leading to effective communication for qualified persons with disabilities so they can participate equally in the Contractor's programs, services, and activities, including qualified sign language interpreters, documents in Braille, and other ways of making information and communications accessible to people who have speech, hearing, or vision impairments, as required by the ADA.

c. Modifications to Policies and Procedures: The Contractor shall make the necessary modifications to its policies and procedures to ensure that people with disabilities have an equal opportunity to enjoy the Contractor’s programs, services, and activities, as may be required by the ADA. For example, individuals with service animals are welcomed in the Contractor’s offices or facilities, even where pets are generally prohibited.

d. The Contractor shall not place a surcharge on a person with a disability or any group of individuals with disabilities to cover the cost of providing auxiliary aids/services or reasonable modifications of policy.

e. Employment: The Contractor shall not discriminate on the basis of disability in its hiring or employment practices.

f. Responding to inquiries from the U.S. Department of Labor.

WITNESS these signatures:

THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA

CONNEXIONZ LIMITED

TAXPAYER ID NUMBER 68-635-265

AUTHORIZED SIGNATURE:

NAME AND RICHARD D. WARREN, JR. TITLE: PURCHASING AGENT

DATE: 6/7/2011

AUTHORIZED SIGNATURE:

NAME AND TITLE: R.W. CARRUTHERS CEO

DATE: MAY 25, 2011
AGREEMENT NO. 225-11
EXHIBIT A

SCOPE OF SERVICES

PURPOSE

The intent of this Agreement is to obtain the services of Connexionz Limited to provide Arlington Transit (ART) dispatchers, operations supervisors and maintenance personnel with the continued ability to monitor the location and scheduled adherence of each bus on every route, updated on an on-going basis, and to provide these individuals with the ability to communicate verbally with bus operators.

The Contract shall begin on the date the Notice to Proceed is given and shall continue for a period of up to five (5) years. The details of the services to be performed are covered below.

SCOPE

A. The Contractor shall provide the following services as required by the County.

1. Using the Connexionz Bus Finder equipment and links to electronic displays through XML and Voice XML, as appropriate, the Contractor shall provide information that ART customers can access as to the number of minutes they must wait for the next bus to arrive at their selected bus stops. Bus Finders shall be powered by means that do not require connections to an external power source.

2. Continue to supply ART with a Turn-Key radio voice network using narrow band analog radio, providing dispatch and maintenance personnel with voice communications capability with individual bus drivers and "all-call" voice messaging.

This will require one additional portable hand-held unit for voice communications and the option to buy additional mobile units, should the ART fleet increase over the course of the Contract Term.

3. Continue to store bus location and schedule adherence data, to convey real-time bus location information, by leased UHF channels and to allow research, at a later date, of reported incidents. Contractor shall provide the capability to download data directly into the XP 2007 version of Microsoft Excel or other spreadsheet programs as designated by the County.

As the functionality is shared with other local transit providers, the proportional cost of the server and radio channels would be reduced. The cost of shared training opportunities would also be reduced proportionately. Cost reductions shall be reflected in an Amendment to the Agreement.
B. The Contractor shall manage the system including hardware and software upgrades and updates and service patches in accordance with the change control procedures shown below.

Every Three (3) Years:
- Review and make recommendations as to required server maintenance and/or upgrades and hosting arrangements.

Yearly:
- Implement software updates as necessary.
- Carry out radio frequency signal strength check, check modem, terminal services device, antenna, cable paths and security of links.
- Inspect each vehicle and check security of BusPack installation, frayed cables, battery condition, antenna and GPS unit. Secure and replace parts as necessary.
- Inspect each BusFinder sign, at six month intervals, to check battery condition and clean and/or replace as required.
- Provide two (2) remote training sessions, approximately four (4) hours, at a time and location approved by the County.
- Provide annual on-site training to familiarize ART and Transit Bureau staff of system updates, additional features, and assist new personnel in their use of the software.

Daily:
- Carry out random system monitoring and work with dispatch staff to ensure buses are assigned correctly. Contractor shall notify County Transit Bureau staff and the ART contractor General Manager when they observe a pattern of late bus assignments, unintended use of the software, or other anomalies and recurring problems that should have been caught and addressed by ART.
- Analyze system performance and take remedial action for non-tracking or poorly performing vehicles.
- Liaise with County Transit Bureau staff and ART contractor staff as required throughout ART service hours.
- Liaise with Commercial Communications to carry out site work as required and inform County Transit Bureau staff and ART contractor when the work has been completed.
- Carry out remedial work necessary to ensure the system is functioning to agreed expectations.

C. The Contractor shall respond to ART service and repair requests according to the priority listed below. The County shall have sole discretion to determine the priority of its service/repair requests.

CATEGORY 1 - EMERGENCY:
The Contractor shall respond within two (2) hours of the receipt of notification from the County and with immediate commencement of repair (subject to site access).
Examples of emergency level requests include, but are not limited to, system crashes.

CATEGORY 2 - URGENT:
The Contractor shall respond within four (4) hours, during normal working hours (8:00 am - 5:00 pm EST), of receipt of notification from the County. Repairs shall be carried out during normal working hours, excluding Public Holidays.

CATEGORY 3 - NEXT BUSINESS DAY:
The Contractor shall respond within the next business day (Monday to Friday) of receipt of notification from the County. Repairs shall be carried out within two (2) business days, excluding Public Holidays, providing replacement parts are available. If parts are not available, contractor will advise County of component lead time.

CATEGORY 4 - PREARRANGED SERVICES:
Prearranged Services (e.g. training) by prior arrangement.

OPTIONAL TASK:

Arlington County reserves the option to negotiate additional tasks with the Contractor under this Agreement, including but not limited to:

- Supply an Application Program Interface to enable outside developers to use the bus, block and location data for externally-based bus location systems.
- Optional tasks may be added to the Work by an Amendment to this Contract executed by both parties.
## AGREEMENT NO. 225-11

**EXHIBIT B**

**CONTRACT RATES**

<table>
<thead>
<tr>
<th>Cost Category</th>
<th>Number of Units</th>
<th>Unit Cost</th>
<th>Total Cost</th>
<th>Payment Frequency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annual Software and Device Licenses</td>
<td>1</td>
<td>$4,500</td>
<td>$4,500</td>
<td>Annual</td>
</tr>
<tr>
<td>General User Licensing</td>
<td>1</td>
<td>$2,000</td>
<td>$2,000</td>
<td>Annual</td>
</tr>
<tr>
<td>Hardware Device Licenses</td>
<td>1</td>
<td>$19,250</td>
<td>$19,250</td>
<td>Annual</td>
</tr>
<tr>
<td>Routine System Monitoring</td>
<td>1</td>
<td>$36,380</td>
<td>$36,380</td>
<td>Quarterly</td>
</tr>
<tr>
<td>Communications Infrastructure &amp; Dispatch Access</td>
<td>1</td>
<td>$10,600</td>
<td>$10,600</td>
<td>Annual</td>
</tr>
<tr>
<td>Remote Training</td>
<td>1</td>
<td>$1,000</td>
<td>$1,000</td>
<td>One Time</td>
</tr>
<tr>
<td>On-Site Training</td>
<td>1</td>
<td>$5,000</td>
<td>$5,000</td>
<td>One Time</td>
</tr>
<tr>
<td>Hand Portable Radio Battery Replacement</td>
<td>4</td>
<td>$115</td>
<td>$460</td>
<td>One Time</td>
</tr>
<tr>
<td>Data Radio Channel Infrastructure</td>
<td>1</td>
<td>$12,000</td>
<td>$12,000</td>
<td>Quarterly</td>
</tr>
<tr>
<td>Voice Radio Channel Infrastructure</td>
<td>1</td>
<td>$7,200</td>
<td>$7,200</td>
<td>Quarterly</td>
</tr>
<tr>
<td>Furnish and Install BusPak Units</td>
<td>8</td>
<td>$4,360</td>
<td>$34,880</td>
<td>As Needed</td>
</tr>
<tr>
<td>Furnish BusFinders</td>
<td>15</td>
<td>$4,260</td>
<td>$63,900</td>
<td>As Needed</td>
</tr>
<tr>
<td>Systems Development</td>
<td>1</td>
<td>$18,750</td>
<td>$18,750</td>
<td>As Needed</td>
</tr>
<tr>
<td>Mobile Radios</td>
<td>6</td>
<td>$1,205</td>
<td>$7,230.00</td>
<td>As Needed</td>
</tr>
<tr>
<td>Parts Replacement</td>
<td>By Item</td>
<td>By Item</td>
<td>$6,075</td>
<td>As Needed</td>
</tr>
</tbody>
</table>

**GRAND TOTAL**

$229,225
AGREEMENT NO. 225-11

EXHIBIT C

SOFTWARE LICENSE AGREEMENT AND HARDWARE WARRANTY

THIS SOFTWARE LICENSE AGREEMENT AND HARDWARE WARRANTY (hereinafter "License Agreement") is made, on the date of execution by the County, between Connexionz Limited, 1 Show Place, Addington, Christchurch, New Zealand 8005 ("Contractor"), a Limited Liability Company authorized to do business in the Commonwealth of Virginia, and the County Board of Arlington County, Virginia ("County").

I. SOFTWARE LICENSE

A. LICENSE GRANT

In connection with the transfer of possession of the software package provided pursuant to Contract No. ("the Contract"), the Contractor hereby grants to Arlington County a non-exclusive license to use the software program(s) ("Software") and user manuals, technical manuals, and other information ("Documentation") for the software package for the duration of the Contract Term of Contract No. 225-11 ("Contract Term").

B. OWNERSHIP

The Contractor will provide the County with a software license, but title to the Software and Documentation, all copies thereof and all rights therein, including all rights in patents, copyrights, and trade secrets applicable thereto, shall remain vested in the Contractor, regardless of the form or media in or on which the original and other copies of the Software and Documentation may subsequently exist. Nothing contained herein shall be deemed to convey any title or ownership interest in the program module(s), Software or Documentation to the County.

The County agrees not to disclose, transfer, provide or otherwise make available in any form, except as otherwise provided in the Contract Documents, the software package or any portion thereof, to any person other than employees of the County without the prior written consent of the Contractor, and any such disclosure or transfer shall be consistent with the use in a single-user computer system.

The County agrees not to reverse compile or disassemble the Software.

The County agrees that it will not, in any form, export, re-export, resell, ship, or divert or cause to be exported, re-exported, resold, shipped, or diverted, directly or indirectly, the Software and Documentation or any direct product thereof without first obtaining the requisite license or approval from the Contractor.
C. COPYING RIGHTS
The County may make copies of the Software and Documentation, as required for backup or modification purposes in support of its use of the Software and Documentation, but the County must include existing copyright notices on any such copies, or modifications. Such notice(s) may appear in several forms, including machine-readable form, and the County agrees to reproduce such notice(s) in each form in which it appears, to the extent it is physically possible to do so.

D. TERM
This License Agreement shall remain in full force and effect for the duration of the Contract Term.

E. SOFTWARE WARRANTY AND MAINTENANCE
The Contractor warrants that the software will conform to the requirements and specifications as set forth herein. The Contractor warrants the operation of all Software for the Contract Term and will provide all revisions, updates, upgrades, and minor releases to both the Software and Supporting Documentation during that warranty term as long as the Contract remains effective.

II. HARDWARE WARRANTY AND MAINTENANCE

A. BUSFINDER AND BUSPAK
Connexionz warrants that the BusFinder and BusPak products purchased under Contract shall be free from material defects in design, materials and workmanship and will function, under normal use and circumstances, in accordance with the documentation provided, for a period of one (1) year from the date of purchase of the product. If a hardware defect arises and a claim is received within the one (1) year warranty period, Connexionz will repair or exchange the product with a product that is new or which has been manufactured from new or serviceable used parts and is at least functionally equivalent to the original product without additional charge to the County. A replacement product or part shall assume the remaining warranty of the original product or ninety (90) days from the date of replacement, whichever provides the County with longer coverage.

B. VOICE RADIO PRODUCTS
Connexionz warrants that the voice radio products purchased under this Contract shall be free from material defects in design, materials and workmanship and will function, under normal use and circumstances, in accordance with the documentation provided, for a period of two (2) years from the date of purchase of the product. If a hardware defect arises and a claim is received within the two (2) year warranty period, Connexionz will repair or exchange the product with a product that is new or which has been manufactured from new or serviceable used parts and is at least functionally equivalent to the original product without
additional charge to the County. A replacement product or part shall assume the remaining warranty of the original product or ninety (90) days from the date of replacement, whichever provides the County with longer coverage.

Subsequently, at the end of the two (2) year warranty period set forth in the preceding paragraph, Connexionz warrants that it shall, for one (1) additional year thereafter, repair any defective component of any voice radio product purchased under this Contract at no charge, using new or refurbished replacement parts. A repaired product or part shall assume the remaining repair warranty of the original product or ninety (90) days from the date of repair, whichever provides the County with longer coverage.

C. VOICE RADIO ACCESSORIES
Connexionz warrants that accessories to voice radio products purchased under this Contract shall be free from material defects in design, materials and workmanship and will function, under normal use and circumstances, in accordance with the documentation provided, for a period of one (1) year from the date of purchase of the voice radio product(s). If a hardware defect arises and a claim is received within the one (1) year warranty period, Connexionz will repair or exchange the product with a product that is new or which has been manufactured from new or serviceable used parts and is at least functionally equivalent to the original product without additional charge to the County. A replacement product or part shall assume the remaining warranty of the original product or ninety (90) days from the date of replacement, whichever provides the County with longer coverage.

D. OBTAINING WARRANTY SERVICE
County may make a claim for warranty service by contacting Contractor using any of the following methods:

- By email to: [List email address if Contractor will consent to claims by email]
- By telephone call to [insert phone number if Contractor will consent to claims by phone]
- By mail to [insert Contractor’s mailing address for warranty claim]

Contractor shall repair or replace defective products or parts under this Section II within thirty (30) days after receipt of a warranty claim as outlined in this subsection D.
WITNESS these signatures:

THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA

AUTHORIZED SIGNATURE:

NAME AND RICHARD D. WARREN, JR. TITLE: PURCHASING AGENT

DATE: 6/8/11

CONNEXIONZ LIMITED

TAXPAYER ID: 88-615-861

VA SCC:

AUTHORIZED SIGNATURE:

NAME AND TITLE: ROGER CARRUTHERS CEO

DATE: 8 JUNE 2011