

**MEMORANDUM OF UNDERSTANDING
FARE COLLECTION MACHINE PROCUREMENT**

THIS MEMORANDUM OF UNDERSTANDING (the “**Memorandum**”) is made this ____ day of _____, 2014, by and between the **COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA** (“**Arlington County**”) and the **CITY COUNCIL OF THE CITY OF ALEXANDRIA, VIRIGINA** (“**City of Alexandria**”). Arlington County and the City of Alexandria are referred to herein individually as a “**Party**” and collectively as the “**Parties**”.

RECITALS

WHEREAS, the Crystal City/Potomac Yard Transitway Project extends from the Braddock Road Metrorail Station in the City of Alexandria to the Pentagon City Metrorail Station in Arlington County; and

WHEREAS, the Parties have been working on the Crystal City/ Potomac Yard Transitway Project together for over 10 years, including developing the fare collection strategy; and

WHEREAS, an important facet of the project is off-vehicle fare collection, which will allow all-door boarding on the transit vehicles to speed boarding time; and

WHEREAS, off-vehicle fare collection must be compatible with the existing regional SmarTrip system, which is a proprietary technology by Cubic Transportation Systems; and

WHEREAS, the off-vehicle fare collection system will function with future fare collection structures adopted by the region and for future transit vehicle technologies, such as streetcar;

NOW THEREFORE, in consideration of the above recitals and the terms and conditions hereinafter set forth, the Parties hereby agree to the following:

1. The Parties shall jointly develop specifications for off-vehicle fare collection machines to be employed as part of the Crystal City/Potomac Yard Transitway Project.
2. The City of Alexandria shall lead the procurement and serve as the contracting entity with the prevailing vendor for the fare collection machines that are SmarTrip compatible.
3. The Parties shall jointly negotiate the contract budget, scope of services, schedule, and terms and conditions associated with the contract with the prevailing vendor for the fare collection machines (the “Contract”). . The Contract, including the price, scope of services, and terms and conditions, shall be subject to mutual approval by the Parties and an authorization of funding by each Party for their respective share of the costs of the Contract. No changes may be made to the Contract, including the contract budget, scope of services, schedule, and terms and conditions, without a written amendment mutually agreed to by the Parties and executed by the City of Alexandria and the prevailing vendor.
4. The Parties expect that this will be a sole source procurement and shall jointly develop sole source justification documentation as needed to meet local jurisdiction and Federal Transit Administration requirements. Each Party has an FTA grant and is providing the local match respectively for the fare collection equipment.

5. The City of Alexandria plans to seek pricing for a minimum of sixty-three (63) fare collection machines, including those required by Arlington County, as well as necessary accompanying spare parts. This procurement is subject to authorization of funding by the City Council of Alexandria, Virginia, and the agreement set forth herein by Arlington County, subject to appropriation of funds, to pay its share of the costs for Arlington County's fare collection machines.
6. The Parties shall jointly perform inspection and acceptance testing for the fare collection machines as such inspection and acceptance testing is set forth in the Contract. Should inspection and acceptance testing involve the participation of the Washington Metropolitan Area Transit Authority (WMATA), the Parties shall jointly enter into an agreement with WMATA for its services and shall proportionally share costs reimbursable to WMATA, if any, equal to the proportional number of fare collection machines purchased by each Party .
7. Arlington County plans to obtain a minimum of twenty-seven (27) fare collection machines, including accompanying spare parts, at the unit price set forth in the Contract with the prevailing vendor, and shall reimburse the City of Alexandria for the costs thereof. This reimbursement is subject to authorization of funding by the County Board of Arlington County. The City of Alexandria shall provide Arlington County with copies of invoice(s) received from the prevailing vendor and Arlington County shall diligently process payment thereof.
8. The Parties shall require that the fare collection machines and spare parts purchased on behalf of Arlington County shall be delivered by the prevailing vendor to Arlington County at the location specified by Arlington County. Arlington County shall provide the City of Alexandria documentation of the receipt and acceptance of fare collection machines and spare parts delivered to Arlington County.
9. The Parties shall require that the warranty(ies) and maintenance terms of the Contract with the prevailing vendor shall be transferable to Arlington County for the equipment and parts procured on Arlington County's behalf.
10. The Parties each shall individually procure multi-space parking meters under their own existing contracts and have those parking meters retrofitted to dispense fare media for the Crystal City/Potomac Yard Transitway Project. Each Party will install one of the "parking meter" style fare machines on each platform next to the SmarTrip machine. The "parking meter" style fare machines will be used to collect fares paid by coin or credit card. The Parties shall work jointly to develop graphics to be applied to both the SmarTrip-compatible fare machines and the "parking meter" style fare machines. The graphics will communicate to passengers how to pay their fares.
11. The Parties each shall identify a Project Manager who shall be the representative for their respective appointing Party in all matters related to this Memorandum. The Parties hereby appoint the following individuals as their respective Project Manager, which individual may be changed upon written notice to the other Party:

Arlington County

City of Alexandria

12. GENERAL

- A. Incorporation of the Recitals. The recitals set forth above are incorporated herein by this reference to the same extent and with the same force and effect as if fully hereinafter set forth.
- B. Authority. Each Party to this Memorandum represents and warrants to the other Party that it has the full and unrestricted lawful power and authority to enter into and carry out the terms of this Memorandum and the execution, delivery and performance of this Memorandum.
- C. Applicable Law. This Memorandum, and the rights and obligations of the Parties under this Memorandum, shall be governed by the laws of the Commonwealth of Virginia without regard to principles of conflicts of laws.
- D. Amendments; Waivers. Amendments, modifications, or supplements to this Memorandum shall be in writing, signed by all Parties. Waivers under this Memorandum shall be in writing, signed by the Party to be charged with the waiver. In the absence of a signed waiver, no act, or failure to act by any Party shall constitute or be construed as an estoppel or waiver with respect to that Party's rights.
- E. Severability. Each provision of this Memorandum is intended to be severable. If any term or provision of this Memorandum shall be determined by a court of competent jurisdiction to be illegal or invalid for any reason whatsoever, such provision shall be severed from the Memorandum and shall not affect the validity of the remainder of this Memorandum, unless to do so would cause this Memorandum to fail of its essential purposes.
- F. Relationship of the Parties. This Memorandum does not create any partnership, joint venture agency or other similar relationship among the Parties, but is merely a means to perform certain tasks benefitting the Parties.
- G. Binding Effect. This Memorandum shall be binding upon and inure to the benefit of the Parties, and their successors and assigns.
- H. No Third Party Beneficiary. Nothing contained in this Memorandum shall be deemed to create rights or obligations accruing to the benefit of, or enforceable by, any entity or person not a party to this Memorandum, including, without limitation, any contractors, subcontractors or other parties providing labor, services, or materials in connection with the Project.
- I. Reasonable Approval Standard. Except as otherwise specifically provided in this Memorandum, where any Party's approval is required under this Memorandum, such approval shall be in writing. The Parties agree and understand that the Project Managers are hereby authorized to approve actions within the approved Contract. Any change to the Contract will require authorization from the Arlington County Board and the Alexandria City Council.
- J. Entire Memorandum; Amendment. This Memorandum and its attachments, contain the entire agreement between the Parties with respect to the subject hereof, and all other prior communications and agreements, whether written or oral, are superseded hereby. This Memorandum may be amended or modified only by an instrument in writing executed by the Parties.

- K. Dispute Resolution. Any dispute arising under this Memorandum may be disposed of by written agreement between the Parties. The Project Managers shall attempt to resolve any dispute and, to the extent such resolution cannot be achieved, shall refer the matter to the County Manager for Arlington County and the City Manager for the City of Alexandria for resolution. If such a dispute cannot be resolved by the Parties within ten (10) business days, then the disputing party may, but shall not be required to, request that such dispute be considered and resolved by a mediator(s) mutually agreed upon by the Parties. If the Parties agree to resolve the dispute by mediation, then the mediator(s) shall provide a written recommendation to resolve the dispute. The Parties agree to make a good faith effort to accept such a recommendation. Nothing herein is intended to limit the rights of either of the Parties to resolve disputes through any other means not described or provided for in this Memorandum.
- L. Monetary Obligations Limited To Appropriated Encumbered Funds. Notwithstanding any other provision of this Memorandum to the contrary, as to either Party, any monetary obligations arising under this Memorandum are further strictly limited and subject to the amount of funds approved and appropriated by the Arlington County Board and the Alexandria City Council. The Parties shall not otherwise be liable under this Memorandum to commit to or to expend or to incur liability for any expenditure of funds or payment of money in excess of the amount so approved and appropriated for this Memorandum by the Arlington County Board and the Alexandria City Council. There shall not be any recourse against either Party for any such expenditure, commitment to expend funds, or payment thereof, which has not been so approved and appropriated.
- M. Personal Liability. Nothing in this Memorandum shall be construed as creating any personal liability on the part of any officer, employee, or agent of the parties, nor shall it be construed as giving any rights or benefits to anyone other than the Parties hereto.
- N. No Waiver of Sovereign Immunity. Nothing in this Memorandum shall be construed as a waiver of the Parties' sovereign immunity.
- O. Termination. This Memorandum may be terminated by either party upon sixty (60) days advance written notice. Upon termination, both Parties shall retain ownership of plans, specifications and project materials produced as of the date of termination, as applicable under law, unless otherwise mutually agreed upon in writing.
- P. Headings. Headings are intended only as a matter of convenience and for reference and in no way define, limit, or describe the scope or intent of this Memorandum.
- Q. Notices. Any notice or communication required under this Memorandum shall be effective upon receipt and shall be sent by personal delivery or by overnight air courier service with evidence of receipt to the following:

If to Arlington County,
Dennis Leach, Director
Division of Transportation
Department of Environmental Services
2100 Clarendon Blvd., Suite 900
Arlington, VA 22201

With copies to:

Stephen A. MacIsaac, County Attorney
2100 Clarendon Blvd. Ste 403
Arlington, Virginia 22201

If to City of Alexandria,
Richard Baier, Director
Department of Transportation and Environmental Services
301 King Street, Room 4100
Alexandria, Virginia 22314

With copies to:
James L. Banks, City Attorney
301 King Street, Room 1300
Alexandria, Virginia 22314

IN WITNESS WHEREOF, the Parties hereto have caused this Memorandum of Understanding to be executed under seal as of the date first above written.

COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA

**CITY COUNCIL OF
CITY OF ALEXANDRIA,
VIRGINIA**

By: _____
Name: Barbara M. Donnellan
Title: County Manager

By: _____
Name: Rashad M. Young
Title: City Manager

List of fare machines

City of Alexandria (24 machines)

Braddock Road Metrorail Station – 2
Fayette & First northbound – 2
Potomac & Route 1 northbound – 2
Potomac & Route 1 southbound – 2
Custis & Route 1 northbound – 2
Custis & Route 1 southbound – 2
Swann & Route 1 northbound – 2
Swann & Route 1 southbound – 2
East Glebe & Route 1 northbound – 2
East Glebe & Route 1 southbound – 2
Reed & Potomac northbound – 2
Reed & Potomac southbound – 2

Future (8 machines)

Potomac & East Glebe northbound – 2
Potomac & East Glebe southbound – 2
Four Mile Run & Potomac northbound – 2
Four Mile Run & Potomac southbound – 2

Arlington County (27 machines)

Segment D:

South Glebe Station northbound platform – 2
South Glebe Station southbound platform – 2
33rd/Crystal Station northbound platform – 2
33rd/Crystal Station southbound platform – 2
27th/Crystal Station northbound platform – 2
27th/Crystal Station southbound platform – 2

Segment E:

23rd/Crystal Station northbound platform – 2
18th/Crystal Station northbound platform – 2
Crystal City Metro station southbound platform – 2
23rd/Clark Station southbound platform – 2
26th/Clark Station southbound platform – 2

Segment F:

Fern/15th Station northbound platform – 1
Pentagon City Metro station northbound platform – 2
14th/Fern Station southbound platform – 1
Eads/15th Station southbound platform – 1

Future (4 machines)

Clark/12th northbound platform – 2
12th/Clark southbound platform – 2