IN THE SUPREME COURT OF VIRGINIA

No. 091271

TC MIDATLANTIC DEVELOPMENT, INC.,

Appellant,

v.

COMMONWEALTH OF VIRGINIA,
DEPARTMENT OF GENERAL SERVICES, et al.,

Appellees.

Appeal from the Circuit Court for the City of Richmond

OPENING BRIEF OF APPELLANT

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1. The Circuit Court erred in its Orders in sustaining DGS's demurrer and denying the Reconsideration Motions to Counts I-IV because (a) it failed to properly evaluate TCM's pleadings and, instead, improperly resolved the merits, and (b) it misinterpreted Section 47 and erroneously found that TCM failed to submit a timely claim and complaint 9

2. The Circuit Court erred in its Orders in sustaining DGS's demurrer and denying the Reconsideration Motions to Count V because it applied Section 47 to the Phase II claims, even though Section 47 was not part of the parties' Phase II contract 9

3. The Circuit Court abused its discretion by refusing to allow TCM to amend its Amended Complaint 10

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1. Whether the Circuit Court in its Orders erroneously sustained DGS's demurrer and denied the Reconsideration Motions to Counts I-IV because: (a) it failed to properly evaluate TCM's pleadings and, instead, improperly resolved the merits (Error No. 1(a)); and (b) it misinterpreted Section 47 and erroneously found that TCM failed to submit a timely claim and complaint (Error No. 1(b))? 10

2. Whether the Circuit Court in its Orders erroneously sustained DGS's demurrer and denied the Reconsideration Motions to Count V because it applied Section 47 to the Phase II claims, even though Section 47 was not part of the parties' Phase II contract (Error No. 2)? 10

3. Whether the Circuit Court abused its discretion by refusing to allow TCM to amend its Amended Complaint (Error No. 3)? 10

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