

ATTACHMENT D

COUNTY RESOLUTION LIVING WAGE EXCERPT

4-103 Service Contract Wages

- (1) Required Wage Rate. Except as otherwise provided in this Article, each public contract for the provision of services in excess of \$50,000 shall require that the contractor pay each employee assigned to perform such services under such public contract an hourly rate to be determined as follows:

The initial Required Wage Rate shall be \$10.98. The Required Wage Rate may be adjusted annually, as proposed by the County Manager and adopted by the County Board during the Budget adoption process. The annual adjustment shall be no less than that approved as the living wage for County employees. The Required Wage Rate, as adjusted, shall be effective July 1 of each year for every contract which this Article 4-103 applies. The Purchasing Agent shall post the Rate on the County's website.

- A. The County will be responsible for funding the contractual costs of increases to the Required Wage Rate if a contractor requests the increase and can demonstrate to the Purchasing Agent's satisfaction that the increase in the Required Wage Rate will directly increase their service delivery costs.

- (2) Covered Service Contracts

- A. The County Manager, or his or her designee, shall have the authority to determine those County contracts that are covered by the wage requirements of this Article, including the discretion to expand or otherwise adjust the limits set forth in 4-103(1) and 4-103(4)(A) consistent with Virginia law in order to best serve the interests of Arlington County.
- B. Service contract wage provisions will be determined at the time of solicitation or award of a sole source contract, and will not be added to an existing non-covered service contract until re-solicitation of that contract.
- C. The Purchasing Agent shall maintain at all times an updated list of covered service contracts.

- (3) Contractor Responsibilities

- A. In addition to applying the Required Wage Rate to its own employees pursuant to the terms of its contract with the County, the contractor under each such public contract shall include the provisions of Article 4-103 in every subcontract so that such provisions will be binding upon each subcontractor. When a contractor undertakes a public contract subject to this Article 4-103, the contractor agrees to assume the obligation that this section's wage requirements will be observed in fulfilling the requirements of the public contract. The appropriate enforcement sanctions under Article 4-103 may be invoked against the contractor and any such subcontractor in the event of such subcontractor's failure to comply with any of the provisions of Article 4-103.

- B. The Required Wage Rate shall be paid without contemporaneous or subsequent deduction or rebate of any nature, except such payroll deductions as are required or permitted by law, by a collective bargaining agreement, or by specific written authorization from an employee.
- C. Publication and Notice
 - 1. As soon as possible after the annual determination of the Required Wage Rate, the contractor shall post the rate, in English and Spanish, on a form supplied by the Purchasing Agent, in a prominent place at its offices and at each location where its employees perform services under a County contract.
 - 2. Within five days of an employee's request, a contractor shall provide to such employee a written statement, in English and Spanish, on a form supplied by the Purchasing Agent, setting forth the then current Required Wage Rate.
 - 3. Notice of the Required Wage Rate shall be stated in the procurement solicitation.
- D. Records and Reports. Each contractor and its subcontractors subject to the provisions of this Article 4-103, shall:
 - 1. for a period of five years after the expiration or earlier termination of the applicable public contract, keep and preserve records which show wages and benefits provided by such contractor and its subcontractors to each employee assigned to perform services under such public contract. The Purchasing Agent, or designee, shall have the authority to examine such records at reasonable times for the purpose of administering and enforcing the provisions of this Article, and to make copies of all or any parts thereof; and
 - 2. on a quarterly basis during the term of the applicable public contract, submit to the Purchasing Agent a report, in a form acceptable to the Purchasing Agent, which shows hourly wage rates, wages and benefits provided by such contractor and its subcontractors to each employee assigned to perform services under any such public contract, and such other information as may be required by the Purchasing Agent.
- E. Anti-Retaliation. No contractor or subcontractor shall discharge, reduce the compensation of, or otherwise retaliate against any employee who files a complaint with the Purchasing Agent as described below, or takes any other action to enforce the provisions of this Article.

(4) Limits on Applicability

- A. Subject to the authority conferred in 4-103(2)(A) to expand or adjust the limits of applicability, the provisions of Article 4-103 shall apply to public contracts with a value greater than \$50,000 performed on County-owned or controlled property, or contracts for home-based client services greater than \$50,000, and shall not apply to contracts for professional services, contracts for construction, construction management contracts, design build contracts, contracts for goods, or contracts procured by emergency. The Required Wage Rate shall not be applicable to jail inmates.

1. The \$50,000 threshold for contracts shall be measured as the estimated average annual spend for multi-year service contracts.
2. County-owned or controlled property shall also include sites or facilities owned, or leased, and operated by a contractor if the services provided at that location are exclusive to Arlington County Government. Contracts where services are provided in non-County facilities serving multiple customers simultaneously (e.g., recycling or yard waste processing facilities, printing presses, shared congregate care facilities, etc.) are not subject to the Required Wage Rate.
3. Public works operations and maintenance type services contracts are excluded from the definition of construction for purposes of this Article 4-103 and are therefore subject to the Required Wage Rate.

(5) Enforcement

- A. Any contractor or subcontractor that fails to pay an employee the then current Required Wage Rate shall be liable to the affected employee in the amount of the unpaid wage, plus interest at the judgment rate from the date originally due, and less any deductions required or permitted by law.
- B. Within six months of a contractor's or subcontractor's failure to comply with the wage requirements of a public contract, an aggrieved employee may file a complaint with the Purchasing Agent. The Purchasing Agent shall investigate the complaint and in the event that the complaint has merit, the Purchasing Agent shall direct the contractor or subcontractor to make restitution forthwith. The failure of the contractor or subcontractor to comply with the directive of the Purchasing Agent shall be grounds for termination of such public contract and for suspension or debarment of the contractor or subcontractor, in accordance with Article 6.

- (6) Administrative Procedures. The Purchasing Agent, in consultation with the County Manager or designee, shall have the authority to promulgate additional departmental procedures, not inconsistent with the provisions of this Article, designed to administer and enforcement this Article.