



ARLINGTON COUNTY, VIRGINIA  
OFFICE OF THE PURCHASING AGENT  
2100 CLARENDON BOULEVARD, SUITE 500  
ARLINGTON, VA 22201  
(703) 228-3410

**REQUEST FOR PROPOSALS NO. 23-DHS-RFPLW-160**

**ELECTRONIC SEALED PROPOSALS WILL BE RECEIVED BY ARLINGTON COUNTY VIA VENDOR REGISTRY, UNTIL 5:00 P.M. ON THE 14TH DAY OF NOVEMBER 2022 FOR:**

**NUTRITION AND MEAL SERVICES (PLANNING, PREPARATION, PACKAGING, AND DELIVERY)**

**VENDORS ARE REQUIRED TO REGISTER ON [VENDOR REGISTRY](#) IN ORDER TO SUBMIT A RESPONSE TO THIS REQUEST FOR PROPOSAL. NO RESPONSES WILL BE ACCEPTED AFTER THE PROPOSAL DUE DATE AND TIME.**

Proposals will not be publicly opened.

NOTICE: ANY OFFEROR ORGANIZED AS A STOCK OR NONSTOCK CORPORATION, LIMITED LIABILITY COMPANY, BUSINESS TRUST OR LIMITED PARTNERSHIP, OR REGISTERED AS A LIMITED LIABILITY PARTNERSHIP, MUST BE AUTHORIZED TO TRANSACT BUSINESS IN THE COMMONWEALTH OF VIRGINIA PRIOR TO SUBMITTING A PROPOSAL (REFER TO AUTHORITY TO TRANSACT BUSINESS SECTION OF THE SOLICITATION FOR FURTHER INFORMATION).

**PREPROPOSAL CONFERENCE**

A virtual preproposal conference will be held at 2:00 p.m., October 24, 2022 on Microsoft Teams to allow potential Offerors an opportunity to obtain clarification of the specifications and requirements of the solicitation. To join the meeting, please click the following link [JOIN MEETING](#) or join by dialing [+1 347-973-6905](#) and enter Conference ID 850 357 808#. ATTENDANCE AT THE PREPROPOSAL CONFERENCE IS OPTIONAL. Minutes of the preproposal conference will be recorded by the County and may be incorporated into the solicitation documents through an Addendum. Interested Offerors are, however, urged to attend.

Arlington County reserves the right to reject any and all proposals, cancel this solicitation, and waive any informalities as defined in the Arlington County Purchasing Resolution.

Arlington County, Virginia  
Office of the Purchasing Agent  
Rebecca Kirby, Purchasing Officer  
[rkirby@arlingtonva.us](mailto:rkirby@arlingtonva.us)

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## **I. INTRODUCTION TO EVALUATION PROCESS**

Arlington County, Virginia, is soliciting proposals from Offerors having experience and abilities in the areas identified in this solicitation. Each proposal must contain evidence of the Offeror's qualifications in the specified areas and in other disciplines directly related to the proposed work. Offerors might also be required to submit profiles and resumes of the staff to be assigned to the project, references, examples of similar work performed and other information that will clearly demonstrate the Offeror's relevant expertise, as specified in the solicitation.

A County Selection Advisory Committee ("SAC") will review and evaluate all written proposals based on the criteria identified in this solicitation. Subsequent evaluations, such as to select firms for negotiation, may include, but are not limited to, review of more detailed proposals and/or oral presentations. Any such subsequent evaluations will be based on the same criteria.

The County reserves the right to accept or reject and to waive any informalities or irregularities in the proposals and to contract as the best interests of the County require in order to obtain the services described in this RFP. Selection of an Offeror's proposal does not mean that all aspects of the proposal are acceptable to the County. The County reserves the right to negotiate terms and conditions with the selected Offeror before executing a contract.

### **MANDATORY REQUIREMENTS**

Note that this solicitation contains qualification requirements that are mandatory for all Offerors. Refer to the Proposal Submittal Elements section of this document for details.

## II. INFORMATION FOR OFFERORS

### 1. SOLICITATION SCHEDULE

#### RFP No. 23-DHS-RFPLW-160 – TENTATIVE SCHEDULE

RFP ISSUANCE	October 17, 2022
QUESTION DEADLINE	October 31, 2022 at 5:00 p.m. EST
ADDENDUM ISSUANCE (if applicable)	November 4, 2022
<b>PROPOSALS DUE</b>	<b>November 14, 2022 at 5:00 p.m. EST</b>
CONTRACT AWARD	TBD

### 2. QUESTIONS AND ADDENDA

OFFERORS MUST BE REGISTERED IN VENDOR REGISTRY TO SUBMIT A QUESTION FOR THIS REQUEST FOR PROPOSALS.

All communications relating to this solicitation must be submitted online using Vendor Registry. For a question to be considered, the question must be entered in the Question Section of the RFP. Prior to the award of a contract resulting from this solicitation, Offerors are prohibited from contacting any County staff other than those assigned to the Office of the Purchasing Agent.

**QUESTIONS REGARDING THE ORIGINAL SOLICITATION MUST BE SUBMITTED BY THE DUE DATE INDICATED IN THE SCHEDULE ABOVE TO BE CONSIDERED FOR AN ADDENDUM. ALL QUESTIONS RECEIVED BY THE QUESTION DEADLINE WILL BE RESPONDED TO WITHIN VENDOR REGISTRY AND POSTED FOR ALL OFFERORS. THE SYSTEM WILL NOT ACCEPT ANY QUESTIONS AFTER THIS DATE AND TIME.**

If any questions or responses require revisions to this solicitation, such revisions will be by formal Addendum only. Offerors are cautioned not to rely on any written, electronic, or oral representations made by any County representative or other person, including the County's technical contact, that appear to change any portion of the solicitation, unless the change is ratified by a written Addendum to this solicitation issued by the Office of the Purchasing Agent.

### 3. OFFERORS' RESPONSIBILITY TO INVESTIGATE

Before submitting a proposal, each Offeror must make all investigations necessary to ascertain all conditions and requirements affecting the full performance of the contract and to verify any representations made by the County upon which the Offeror will rely. No pleas of ignorance of such conditions and requirements will relieve the successful Offeror from its obligation to comply in every detail with all provisions and requirements of the contract or will be accepted as a basis for any claim for any monetary consideration on the part of the successful Offeror.

### 4. INTEREST IN MORE THAN ONE PROPOSAL, AND COLLUSION

Reasonable grounds for believing that an Offeror is interested in more than one proposal for a solicitation, including both as an Offeror and as a subcontractor for another Offeror, or that collusion exists between two or more Offerors, will result in rejection of all affected proposals. However, an individual or entity acting only as a subcontractor may be included as a subcontractor on two or more different Offerors' proposals. Offerors rejected under the above provision will also be disqualified if they respond to a re-solicitation for the same work.

**5. COMPETITIVE NEGOTIATION FOR NON-PROFESSIONAL SERVICES**

This solicitation is a competitive negotiation for goods and services, as defined in the Arlington County Purchasing Resolution. The content of the proposals and the identity of the offerors are not public record until a Notice of Decision to Award has been issued. The opening of proposals is therefore not public.

**6. NOTICE OF DECISION TO AWARD**

When the County has made a decision to award a contract(s), the County will post an Award Notice or Intent to Award to [Vendor Registry](#).

**7. TRADE SECRETS OR PROPRIETARY INFORMATION**

Trade secrets or proprietary information that an Offeror submits in connection with a procurement transaction may be exempted from public disclosure under the Virginia Freedom of Information Act ("VFOIA"). However, the Offeror must invoke VFOIA protection clearly and in writing on the Proposal Form for County review. The Proposal Form must include at least the following: (1) the data or other materials sought to be protected and (2) specific reasons why the material is confidential or proprietary. It is the Offeror's sole responsibility to defend such exemptions if challenged in a court of competent jurisdiction.

**8. FINANCIAL STATEMENT**

If requested by the County, an Offeror must submit its most recent independent certified public accountant's audit of its finances, including the management letter and other ancillary audit components. If the audited financial statement is not available, the Offeror must submit a written statement explaining the statement's absence and provide other documents (e.g., tax returns) that enable the County to assess the Offeror's financial condition. Failure to submit a financial statement upon request will be grounds for immediate disqualification. If the financial statement is not for the identical organization submitting the offer, the Offeror must submit a written explanation of the relationship and financial responsibility of the organization whose financial statement is provided (e.g., parent-subsiary).

The County will return the financial statement at the conclusion of the award process only upon receipt of a written request signed by an officer of the organization or the same person who signed the original Proposal Form. The County considers a non-public financial statement submitted pursuant to this paragraph to be proprietary information that is not subject to disclosure under VFOIA.

**9. DEBARMENT STATUS**

The Offeror must indicate on the Proposal Form whether it or any of its principals is currently debarred, enjoined, or suspended from submitting proposals to the County or to any other state or political subdivision and whether the Offeror is an agent of any person or entity that is currently debarred, enjoined or suspended from submitting proposals to the County or to any other state or political subdivision. An affirmative response may be considered grounds for rejection of the proposal.

**10. CONFLICT OF INTEREST STATEMENT**

The Offeror must provide a statement regarding any potential conflict of interest, with the notarized signature of a principal of the Offeror, on the form provided in this solicitation.

**11. REPLACEMENT OR AUGMENTATION OF KEY PERSONNEL OR SUBCONTRACTORS**

The key personnel and subcontractors in an Offeror's proposal are considered essential to the Offeror's qualifications and may not be replaced or substituted, nor may additional personnel or subcontractors be

added, after qualification of the Offeror's proposal unless the County approves the changes in advance in writing.

**12. AUTHORITY TO TRANSACT BUSINESS**

Any Offeror organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership must be authorized to transact business in the Commonwealth of Virginia as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the Code of Virginia, or as otherwise required by law. The proper and full legal name of the entity and the identification number issued to the Offeror by the Virginia State Corporation Commission must be included on the Proposal Form. Any Offeror that is not required to be authorized to transact business in the Commonwealth must include in its proposal a statement describing why the Offeror is not required to be so authorized. The County may require an Offeror to provide documentation that 1) clearly identifies the complete name and legal form of the entity and 2) establishes that the entity is authorized by the State Corporation Commission to transact business in the Commonwealth of Virginia. Failure of an Offeror to provide such documentation will be a ground for rejection of the proposal or cancellation of any award. For further information refer to the Commonwealth of Virginia State Corporation Commission website at: [www.scc.virginia.gov](http://www.scc.virginia.gov).

**13. EXCEPTIONS TO TERMS AND CONDITIONS**

The attached draft Contract Terms and Conditions contain a number of mandatory terms, which are marked with an asterisk. Those terms are not negotiable. If an Offeror objects to a mandatory term, the County will consider the proposal non-responsive.

The Offeror must state whether it requests revisions to any of the remaining, non-mandatory terms and, if so, must explain the reason for the request(s) and propose alternative language. An Offeror who does not request a revision in its proposal may not object or request revisions to any contract terms during the negotiation process.

The County will review any request for revisions to non-mandatory terms after the selection of finalists for negotiation. Such requests will not factor into the evaluation of proposals.

**14. INSURANCE REQUIREMENTS**

Each Offeror must be able to demonstrate proof of the specific coverage requirements and limits applicable to this solicitation. If the Offeror is not able to do so, it may propose alternate insurance coverage in its exceptions to the County's Terms and Conditions.

**15. ARLINGTON COUNTY BUSINESS LICENSES**

The successful Offeror must comply with the provisions of Chapter 11 ("Licenses") of the Arlington County Code, if applicable. For information on the provisions of that Chapter and its applicability to this solicitation, contact the Arlington County Business License Division, Office of the Commissioner of the Revenue, at 2100 Clarendon Blvd., Suite 200, Arlington, Virginia, 22201, tel. (703) 228-3060, or e-mail [mailto: business@arlingtonva.us](mailto:business@arlingtonva.us).

**16. COVID-19 VACCINATION POLICY FOR CONTRACTORS**

Due to the ongoing COVID-19 pandemic, the County has taken various steps to protect the welfare, health, safety, and comfort of the workforce and public at large. As part of these steps, the County has implemented various requirements with respect to health and safety including policies with respect to social distancing, the use of face-coverings and vaccine mandates. To protect the County's workforce and

the public at large, all employees and subcontractors of the Contractor who are assigned to this Contract, should be fully vaccinated against COVID-19. Any contractor employee or subcontractor who is not fully vaccinated should follow a weekly testing protocol as established by the Contractor, unless exempt pursuant to a valid reasonable accommodation under state or federal law. By submitting a proposal, the Offeror certifies that it will comply with this provision and will ensure that its subcontractors, if any, do so as well.

**17. ESTIMATED QUANTITIES/NON-EXCLUSIVITY OF CONTRACTOR**

The contract that will result from this solicitation will not obligate the County to purchase a specific quantity of items or services during the Contract Term. Any quantities that are included in the contract documents are the present expectations of the County for the period of the contract, and the County is under no obligation to buy that, 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 County may require more goods and/or services than the estimated annual amount, and any such additional quantities will not give rise to any claim for compensation other than at the unit prices and/or rates specified in the contract.

The items or services covered by this contract may be or become available under other County contract(s), and the County may determine that it is in its best interest to procure the items or services through such other contract(s). The County does not guarantee that the selected contractor will be the exclusive provider of the goods or services covered by the resulting contract.

**18. LIVING WAGE CONTRACT**

If this solicitation and the resulting contract are subject to the Service Contract Wage (also called “Living Wage”) provisions covered under Article 4-103 of the Arlington County Purchasing Resolution, all employees of any contractor or subcontractor working on County-owned, County controlled property, facilities owned, or leased, and operated by a Contractor if services provided at that location are exclusive to Arlington County, or contracts for home-based client services must be paid an hourly wage no less than the Living Wage published on the County’s website. By submitting a proposal, the Offeror certifies that it will comply with this provision and will ensure that its subcontractors, if any, do so as well. (Refer to draft Contract Terms and Conditions for further Living Wage details specific to this solicitation/contract.)

**19. RIDER CLAUSE**

Offerors will have the option to extend any contract resulting from this solicitation as follows:

**A. Extension to Other Jurisdictions**

The County extends the resultant contract(s), including pricing, terms and conditions, to all public entities under the jurisdiction of the United States of America and its territories.

**B. Inclusion of Governmental & Nonprofit Participants**

Eligible entities include but are not limited to private schools, parochial schools, non-public schools such as charter schools, special districts, intermediate units, non-profit agencies providing services on behalf of government, and/or state, community and/or private colleges/universities.

**C. Contract Agreement**

The contractor may be required by a using jurisdiction to enter into a separate contract containing general terms and conditions unique to that jurisdiction.

**20. ELECTRONIC SIGNATURE**

If awarded, the Offeror may be required to accept an agreement and sign electronically through the County's e-signature solution, DocuSign.

### **III. INTRODUCTION TO THE REQUEST FOR PROPOSAL**

The intent of this solicitation and resulting agreement is to obtain the services of a qualified contractor for Nutrition and Meal Services (planning, preparation, packaging, and delivery).

#### **BACKGROUND/PURPOSE OF SOLICITATION**

The Arlington County Department of Human Services (DHS) is seeking a qualified contractor to provide approximately 128,000 healthy, nutritious meals annually to selected clients participating in various DHS programs. The contractor must be able to provide meal services to various locations. The services include planning, preparation, packaging, and delivery of individually packaged (fresh and frozen) meals and other items incidental to meal services. The meals must comply with various state and federal regulations and guidelines as listed in this solicitation.

The Nutrition and Meals Programs assist eligible Arlington County residents and are designed to promote the general health and well-being of program participants. The services are intended to reduce hunger, food insecurity and malnutrition and promote the health and well-being of our residents.

Arlington County Departments and Divisions currently involved with Nutrition and Meal programs include:

- Department of Human Services, Aging and Disability Services Division
- Department of Parks and Recreation, Office of 55+ Programs
- Department of Human Services, Economic Independence Division
- Department of Human Services, Behavioral Health Division



## **IV. SCOPE OF SERVICES**

### **I. MEAL CATEGORIES**

#### **A. Meals fall into one of three categories:**

- Home Delivered Meals (HDM): targeted to persons 60 years of age or older who are homebound as defined in the Service Standard for Home Delivered Meal Services in Section IV. ***Home-delivered nutrition services*** delivers at least one hot, cold, frozen, dried, canned, or supplemental foods meal per day and may provide additional meals to an eligible individual who is homebound by reason of illness, incapacitating disability or is otherwise isolated.
- Congregate Nutrition Meals (CNM): targeted to persons 60 years of age or older. Meals are provided at a site that provides opportunities for socialization and recreation that may alleviate isolation and loneliness. Congregate nutrition programs provide at least one hot or other appropriate meal per day, and may provide additional meals, in a congregate setting in which a range of social and supporting services are available.
- Other DHS Programs (DHS): targeted to other vulnerable populations within Arlington County.  
Arlington County Departments and Divisions currently involved with Nutrition and Meal programs include:
  - Department of Human Services, Aging and Disability Services Division
  - Department of Parks and Recreation, Office of 55+ Programs
  - Department of Human Services, Economic Independence Division
  - Department of Human Services, Behavioral Health Division

### **II. MEAL SCHEDULE AND LOCATIONS**

#### **A. The types of meals for each site are specified in Table 2: MEAL DELIVERY LOCATIONS AND SCHEDULE.**

1. Meals must be delivered to the locations specified in Table 2, unless otherwise directed by the County Project Officer. The County may change the delivery time or location for any of the programs included in this solicitation. The County Project Officer will provide the Contractor with a one-week notice of any delivery address changes.
2. Provide meals, either daily or weekly, for the following programs (the County's Project Officer will work with the Contractor's Point of Contact (POC) to determine the frequency):
  - Home Delivered Meal program
  - Congregate Nutrition program
  - Other DHS programs. Note: Unless otherwise specified, Other DHS Program meals must conform to the Congregate Nutrition Meals standards and requirements.

### **III. MENU REQUIREMENTS AND MEAL PLANNING**

#### **A. Menu Requirements**

1. The Contractor must provide an electronic version of the monthly menus as approved by the Contractor's registered dietitian (RD) and the County Project Officer, to the designated staff of the participating programs. Contact names and emails will be provided upon contract start.
2. The Contractor must provide a list of foods used in the menus containing potential allergens or food sensitivities to the designated staff of the participating programs.

3. The Contractor must submit quarterly nutrient analysis sheets for the menu items via email to the Project Officer for review and feedback. The DARS Menu Planning Guidelines referenced in Section III provide the requirements for the nutrient analysis report.
4. The Contractor must provide menu cycles of at least six weeks and include portion sizes and nutritional analysis in the meal pattern. The meals within the menu cycle may repeat over the six weeks, but not in the same week.
5. Menu plans must be emailed to the Project Officer 60 calendar days prior to implementation for review and approval. The County may make changes to the proposed or existing menu after discussion with the Contractor to better serve the needs and preferences of the clients.
6. Menus must include fresh fruit and vegetables daily with emphasis on fresh fruit in season. Food choices should reflect a seasonal menu offering variety in meats, soups, fresh fruit and vegetables, and salads. Menus must consider the ethnic diversity of clients.
7. Menu options must include:
  - Breakfast
    - Hot Pre-Plated Meal
    - Vegetarian Hot Pre-plated Meal (no meat, fish, or poultry)
    - Vegan Hot Pre-plated Meal (no meat, seafood, dairy, or egg)
  - Lunch or Dinner Hot Meal (may be flash frozen) including options for:
    - regular meal (meat, fish, or poultry),
    - vegetarian meal (no meat, fish, or poultry),
    - vegan meal (no meat, seafood, dairy, or egg).
  - Cold Boxed Meals or Boxed Lunches including options for:
    - regular meal (meat, fish, or poultry),
    - vegetarian meal (no meat, fish, or poultry),
    - vegan meal (no meat, seafood, dairy, or egg).
  - Meals for specialty diets upon request, such as mechanically soft and pureed, or meals for diabetics.
8. For Home Delivered meals only, each meal must include a minimum of 1 cup of milk or juice in a pre-sealed, leak-proof container. The count of milks or juices will be specified in the meal count provided each week.

**B. Meal Requirements**

1. The Contractor must provide meals that are individually packaged, either fresh or flash frozen, as ordered by each participating program. Packages must be eco-friendly, free of leakages and easy to open.
2. Meals must be delivered within two hours of prepared meal completion or removal from heat. Hot meals must maintain a minimum temperature of 135 degrees F. Cold meals or box lunches must maintain a maximum temperature of 41 degrees F. Frozen meals must be maintained frozen.
3. A 15-minute grace period will be allowed for delivery of meals to accommodate unforeseen circumstances. It is imperative that the delivery of meals not be later than this grace period for both the quality of the food and the safety of the client. If there is a foreseeable delay in the delivery of meals, such as a power outage, traffic accident or natural disaster, the Contractor must immediately contact the County's Project Officer

or their designee to make alternative arrangements to ensure that the timeline is maintained.

4. Temperature checks of hot and cold meals must be taken with a correctly calibrated food thermometer and logged daily when the food leaves the kitchen. The daily temperature log must include date, time, actual temperature, and specific food items tested. For milk, the temperature of the refrigerated unit may be taken and documented instead of the milk temperature. The refrigerator must be maintained at 41 degrees or below. The accuracy of the refrigerator thermometer should be verified on a weekly basis by taking a product temperature.
5. Monthly temperature logs must be submitted electronically to the Project Officer no later than the 5th day of the following month.
6. Each meal package must have a heating and storage instruction label.
7. The Contractor shall provide individually packaged utensils and napkins for each meal.

C. Specific Program Requirements

1. *Home Delivered Meal Program*

- i. The Home Delivered Meal program has approximately 200 participants. It is coordinated by Meals on Wheels of Arlington. Meals on Wheels of Arlington provides the weekly meal count to the vendor, accepts the delivery of meals, and provides volunteer drivers to deliver the meals to the participants. 90% of the participants receive a once-a-week bulk delivery on Wednesdays; 10% receive a daily delivery Monday through Friday. The once-a-week delivery provides 10 meals per week for each program participant. Each meal should include 1 cup of milk or juice in a pre-sealed, leak-proof container for each eligible participant. The program is coordinated by Meals on Wheels of Arlington.
- ii. Delivery for daily meals occurs Monday through Friday. There is no delivery of meals on Thanksgiving, Christmas Day, and New Year's Day.
- iii. All meals must be delivered to the parking lot of the First Presbyterian Church, 601 N Vermont Street, Arlington, VA 22203 by 11:00 am on the delivery day or to a location specified by the County Project Officer.
- iv. Meals on Wheels of Arlington will provide meal counts for upcoming week of deliveries no later than 5:00 pm Saturday for the next week. The meal count will also include the count of milk and juice for each client.

2. *Meals to be Provided - Bulk Delivery*

- i. The Contractor must prepare and deliver 5 flash frozen and 5 cold meals per participant each week.
- ii. Each meal must be individually packaged and labeled by day so the participant can easily determine the contents of the meal. The meals should be packaged so that all the meals for a participant are together and easily transported by the volunteer driver.
- iii. Each meal package must have a heating and storage instruction label. Flash frozen meals must contain both microwave and conventional oven instructions to reheat the meal to 165 degrees F for 15 seconds.

3. *Meals to be Provided - Daily Delivery*

- i. The Contractor must prepare and deliver 1 hot meal and 1 cold meal per participant each day, Monday through Friday.
- ii. The meals must be individually packaged and delivered by delivery route so that the meals are maintained at a safe temperature through the delivery period.
- iii. Each meal package must have a heating and storage instruction label. The delivered meal packages must have a container label advising the recipient to consume the meal immediately at delivery, refrigerate, or later reheat hot meals to a minimum temperature of 165 degrees for 15 seconds.

4. *Congregate Meal Program*

- i. The congregate nutrition program provides a minimum of 1 hot meal per day for each program participant delivered to a setting that presents the opportunity for social interaction. The types of meals for each site are specified in Table 2: MEAL DELIVERY LOCATIONS AND SCHEDULE. The meals must include disposable plates, bowls, napkins, utensils, trays, other necessary paper products (preference for environmentally friendly items), condiments, serving gloves, coffee, tea, and coffee filters. Options for plates and bowls must include models with at least three or more divided sections.
- ii. Meal delivery locations are specified in Table 2: MEAL DELIVERY LOCATIONS AND SCHEDULE. Each individual program is responsible for providing meal counts to the contractor. Meal counts for the following week will be submitted a minimum of 2 business days in advance. The program will provide the number of regular meals, vegetarian meals, vegan meals, and cold boxed meals to be delivered.

5. *Meals to be Provided*

*Breakfast*

- i. For programs requesting breakfast meals, the contractor must deliver one (1) hot breakfast per participant each day, Monday through Friday unless otherwise specified by the site program director.
- ii. The meals must be individually packaged and include individually packaged utensils and napkins for each meal.

*Lunch*

- i. For programs requesting lunch meals, the contractor must deliver one hot lunch per participant each day, Monday through Friday unless otherwise specified by the program.
- ii. The meals must be individually packaged and include individually packaged utensils and napkins for each meal.

*Dinner*

- i. For programs requesting dinner meals, the contractor must deliver one hot dinner per participant each day, Monday through Friday unless otherwise specified by the program.
- ii. The meals must be individually packaged and include individually packaged utensils and napkins for each meal.

6. *Special Meals* - For participating Department of Parks and Recreation, Office of 55+ Centers only:
  - i. The Contractor must provide meals for special events on holidays or other special events, which focus on foods pertaining to these events. Plans for these special events must be made in collaboration with County program staff.
  - ii. Once a month, when requested by County program staff, the Contractor must provide a sheet birthday cake. Additional plates, napkins and utensils must be provided with the cake.
7. *Other participating DHS Programs*  
Same as Congregate Meals program and standards as listed above. Delivery sites are listed in Table 2, Meal Delivery and Schedule.

D. Additional Requirements

1. Provide services during inclement weather or other emergencies. When Arlington County Government is closed, the decision whether to provide meals will be made by the County's Program Manager or a designee.
2. Meet with the Project Officer and other staff at least quarterly to discuss any program issues. The Contractor must have one dedicated staff to address any service-related issues. The Contractor must be available for consultation with County staff on an as-needed basis between 8:00 AM and 5:00 PM, Eastern Time, Monday through Friday.

**IV. SAFETY REQUIREMENTS**

The Contractor must adhere to the following standards to ensure safe and wholesome meal service:

- A. Procure food from sources that comply with all laws relating to food and food labeling. Food must be safe for human consumption, sound and free of spoilage, filth, or contamination. Food in hermetically sealed containers must be processed in an establishment operating under appropriate regulatory authority. No home canned food may be used. All milk products used and served must be pasteurized. Fluid milk must meet Grade A quality standards as established by law.
- B. "Potentially hazardous food" must be delivered to the facility for immediate consumption at a temperature below 41 degrees Fahrenheit for cold meals and above 140 degrees Fahrenheit for hot meals.

Potentially hazardous food is any food or food ingredient, natural or synthetic that requires temperature control because it is in a form capable of supporting:

- The rapid and progressive growth of infectious or toxigenic microorganisms;
- The growth and toxin production of *Clostridium botulinum*; or
- In raw shell eggs, the growth of *Salmonella enteritidis*.

Potentially hazardous food includes:

- A food of animal origin that is raw or heat-treated;
- A food of plant origin that is heat-treated or consists of raw seed sprouts;
- Cut melons; and

- Garlic-in-oil mixtures that are not acidified or otherwise modified at a food processing plant in a way that results in mixtures that do not support bacterial growth as specified above.

In addition, any food that consists in whole or in part of the following ingredients is considered potentially hazardous:

- Milk or milk products
- Shell eggs
- Beef, poultry, pork, lamb, fish, and shellfish
- Tofu
- Soy protein foods
- Cooked rice, beans, potatoes (baked or boiled), or other heat-treated plant foods

C. The following foods must not be used:

- Prepackaged un-pasteurized juice (including un-pasteurized apple cider);
- Raw animal foods, such as raw fish, raw-marinated fish, raw molluscan shellfish, and steak tartare;
- Partially cooked animal food, such as lightly cooked fish, rare meat, soft-cooked eggs that are made from raw shell eggs, and meringue;
- Raw seed sprouts (including alfalfa, clover, and radish); and
- Home-canned foods

D. All prepared food must be handled with minimal contact to reduce opportunities for contamination and to maintain quality and food acceptability.

E. The holding time and temperature between food preparation and delivery must be minimal to reduce opportunities for contamination and to maintain nutritional quality and food acceptability.

## **V. INSPECTION/QUALITY ASSURANCE**

A. The Contractor must inspect a sample of the food daily for appearance and quality before delivery to the designated sites. The Contractor must maintain a daily log on the date, time, and food inspected for quality assurance and submit to the Project Officer via email no later than the 5th day of the following month.

B. The Contractor must communicate and work together with the Project Officer, who will perform weekly checks. Checks will consist of temperature, portion, and the sanitation and appearance of containers and food items and will be conducted at the time of meal delivery. Feedback will be reported to the vendor within one business day. Meals not meeting the temperature requirements and deemed unacceptable due to portion, appearance and/or sanitation may be rejected by the Project Officer and no payment will be made to the Contractor for those meals. The Contractor must provide acceptable replacement meals, at its own cost the same day.

C. The Contractor must work with County staff and allow access for the following:

1. Review and audit Contractor's purchase records for food and supplies purchased for the food provided under this contract.

2. Inspect the Contractor's food preparation, packaging, storage areas, and food containers used for transportation of meals and other supplies to the sites.
  3. In conjunction with a state of Virginia auditor, conduct audits for Aging & Disability Services state-funded programs.
- D. The Contractor must have written policies regarding:
1. Food preparation, including use of standardized recipes, menu development, changes to menu items, recipe ingredients, and product changes.
  2. Safety
  3. Employee health and hygiene
  4. Required meal temperatures
  5. Handling potentially hazardous food items that do not meet temperature standards.
  6. Weather-related emergencies and other situations that affect service delivery.
  7. Cleaning and sanitizing
  8. Continuity of Operations. County staff must be informed immediately of any disruption or delay in services.
- E. The Contractor must respond to the County's Project Officer within 48 hours with a resolution related to any food-related incidences reported by the County. A plan of correction must be submitted electronically to the Project Officer. See Table 1: Performance Standards Chart for details.
- F. The Contractor and County's Project Officer (or designee) must collaborate for the purposes of meal evaluation, menu planning, and making changes to the quality and presentation of the meals. If parties disagree, County will make final determination.
- G. The Contractor must coordinate and cooperate with the County in planning periodic site visits for the purpose of monitoring the contract and services provided.
- H. The Contractor must submit to the County's Project Officer any Corrective Action Plans (CAP) pertaining to regulatory violations with the state, local laws, ordinances, and/or codes for establishment within ten business days.
- I. The Contractor must maintain a Commonwealth of Virginia Health Department Permit to Operate a Food Service Establishment and ensure compliance with the standards set forth by the Health Department at all times.

**VI. SERVICE STANDARDS AND REGULATIONS**

Meals provided under this contract must comply with the most up-to-date DARS Service Standards for Home Delivered Meals Services, Congregate Nutrition Services, and the Menu Planning Guidelines, as applicable, in the preparation and delivery of meals. The current standards and regulations can be viewed at the following links.

- Older Americans Act of 1965 (Home Delivered Meals and Congregate Nutrition Programs) [Older Americans Act of 1965](#)

- DARS Service Standards for Home Delivered Meal Services:  
[DARS Service Standards for Home Delivered Meal Services](#)
- DARS Service Standards for Congregate Nutrition Services:  
[DARS Service Standards for Congregate Nutrition Services](#)
- DARS Menu Planning Guidelines:  
[DARS Menu Planning Guidelines](#)

All meals must:

- Comply with the Dietary Guidelines for Americans:  
[Dietary Guidelines for Americans](#)
- Abide by the Recommended Dietary Allowance (RDA) requirements by providing 33% RDA for one meal, 67% RDA for 2 meals, and 100% RDA for 3 meals per day.  
[Recommended Dietary Allowance \(RDA\)](#)
- Be adjusted to meet the special dietary needs of participants to the maximum extent feasible.
- Comply with applicable provisions of state or local laws regarding the safe and sanitary handling of food, equipment, and supplies used in the storage, preparation, service, and delivery of meals to an older individual.

## VII. PERFORMANCE STANDARDS

Contractor performance is measured in large part on program participant satisfaction with the meals provided (See Exhibit F). The County performs periodic client satisfaction surveys and will relay any relevant information to the contractor.

Table 1: The Performance Standards outline key performance measures that will be used to evaluate the Contractor’s performance throughout the period of performance. A rating of Poor and/or Unacceptable performance on two or more categories will prompt a CAP implemented by the County Project Officer (or designee).

**TABLE 1: PERFORMANCE STANDARDS**

Category	Acceptable	Poor	Unacceptable
Food Temperature at Delivery	Always delivered per specs.	Out of compliance up to 5 times in a month.	Out of compliance more than 5 times in a month.
Time of Delivery	Always in specified time frame.	Delivery more than 15 min late up to 3 times per month.	Delivery more than 15 min. late more than 3 times per month.
Sanitation	Cleanliness and appearance of containers and utensils always maintained.	Up to 2 findings of inadequately cleaned equipment or utensils per month.	More than 2 findings of inadequately cleaned equipment or utensils per month.
Appearance/Freshness	Food has appetizing appearance and tastes good (not overcooked or undercooked).	Up to 3 findings of pale, mushy, rare, or tough meals per month.	More than 3 findings of pale, mushy, rare, or tough meals per month.



**TABLE 2: MEAL DELIVERY LOCATIONS AND SCHEDULE**

Name of Center	Address of Center	Number of Meals per day
Home Delivered Meals	First Presbyterian Church of Arlington, 601 N Vermont Street, Arlington, VA 22203	<p>Daily Deliveries: (M-F)                      - up to 50 hot meals and 50 cold meals (lunches and dinners) per day, 5 days per week</p> <p>Bulk Deliveries: (Wed)                      - average of 1,000 flash frozen meals and 1,000 cold meals (lunches and Dinners) per week packaged in sets of 5 flash frozen and 5 cold meals per recipient.</p> <p><i>Delivery time must be no later than 11:00 am for both Daily and Bulk deliveries.</i></p>
Arlington Mill Social 60+ Café	909 S Dinwiddie St, Arlington, VA 22204	<p>25 (up to) (M-F)                      - Hot pre-plated meals                      - Vegetarian and Vegan meals upon requested.                      - Cold boxed meals upon request.</p> <p><i>Delivery time must be no later than 11:15 am</i></p>
Langston-Brown Social 60+ Cafe	212 N. Culpepper St, Arlington, VA, 22207	<p>20 (up to) (M-F)                      - Hot, pre-plated meals                      - Vegetarian and Vegan meals upon requested.                      - Cold boxed meals upon request.</p> <p><i>Delivery time must be no later than 11:30 am</i></p>
Walter Reed Social 60+ Café	2909 16 <sup>th</sup> St S, Arlington, VA 22204	<p>35 (up to) (M-F)                      - Hot, pre-plated meals                      - Vegetarian and Vegan meals upon requested.                      - Cold boxed meals upon request.</p> <p><i>Delivery time must be no later than 11:45 am</i></p>
Arlington Adult Day Program	2909 16 <sup>th</sup> St S Arlington, VA 22204	<p>24 (up to) (M-F)                      -Hot, pre-plated lunches.                      - ability for family-style once COVID restrictions are lifted.                      -Vegetarian and Vegan meals upon request</p> <p>Delivery time must be no later than 11:45 am</p>

*Table 2 - continued below*

**TABLE 2: MEAL DELIVERY LOCATIONS AND SCHEDULE - CONTINUED**

Name of Center	Address of Center	Number of Breakfasts per day	Number of Lunches per day	Number of Dinners per day
Homeless Shelter, Residential Program Center (RPC), EID	1554 Columbia Pike Arlington, VA 22204	44 (up to) (7 days per week) -Hot Breakfast -Vegetarian Hot Breakfast -Vegan Hot Breakfast  Delivery time must be no later than 7:00 am	44 (up to) (7 days per week) -Boxed Lunch -Vegetarian Boxed Lunch -Vegan Boxed Lunch  Delivered with breakfast each day.	44 (up to) (7 days per week) -Hot Dinner -Vegetarian Hot Dinner -Vegan Hot Dinner  Delivery time must be no later than 5:00 pm.
Clarendon House	2120 Washington Blvd., Arlington, VA 22204 (FRONT ENTRANCE)	N/A	20 (up to) (M-F) (ordered in advance) Hot and/or cold pre-plated Lunches (meals)  Delivery time must be no later than 12:00 pm	N/A
Crisis Intervention Center/ Emergency Services	2120 Washington Blvd., Arlington, VA 22204 (side entrance)	Approximately 1; (delivery of frozen breakfast, lunch and dinner together twice per week TBD) Frozen Breakfast	Approximately 2, (delivery of frozen breakfast, lunch and dinner together twice per week TBD) Frozen Lunch	Approximately 2, (delivery of frozen breakfast, lunch and dinner together twice per week TBD) Frozen Dinner
Emergency Lodging Operations	3030 Columbia Pike Arlington, VA 22204	Average of 10 per day 7 days per week (ordered two days in advance) -Hot Breakfast -Vegetarian Hot Breakfast -Vegan Hot Breakfast  Delivery time must be no later than 7:30 am	Average of 10 per day 7 days per week (ordered two days in advance) -Boxed Lunch -Vegetarian Boxed Lunch -Vegan Boxed Lunch  Delivered with breakfast each day.	Average of 10 per day 7 days per week (ordered two days in advance) -Hot Dinner -Vegetarian Hot Dinner -Vegan Hot Dinner  Delivery time must be no later than 5:30 pm.
Additional Location(s)	TBD	TBD	TBD	TBD

## **V. PROPOSAL REQUIREMENTS**

### **1. GENERAL**

FAILURE TO SUBMIT A PROPOSAL WITH A FULLY COMPLETED PROPOSAL FORM USING THE PROPOSAL FORM PROVIDED IN THIS SOLICITATION MAY BE CAUSE FOR REJECTION OF THE PROPOSAL. THE PROPOSAL FORM MUST BE SIGNED BY A PERSON LEGALLY AUTHORIZED TO BIND THE OFFEROR.

The Offeror's proposal must address the Proposal Submittal Elements below, in the order listed, and must not exceed the stated page limitations. The proposal must be on 8 ½" x 11" paper, single-spaced, and the type size must not be less than 10-point.

Proposals and all documents related to this solicitation become the property of the County upon receipt.

### **2. PROPOSAL SUBMISSION**

The submitted Proposal Form must be signed and fully executed. The Proposal Form must be submitted electronically via Vendor Registry no later than the date and time specified in this solicitation. The Vendor Registry system will not accept responses after the close date and time. The County will not accept emailed or faxed proposals.

The Offeror name on the electronic proposal submittal shall be the same as the Contractor/Vendor name as the registration in Vendor Registry for the upload to be considered a valid response. **ONLY ELECTRONIC SUBMISSION IS ALLOWED, NO PROPOSAL SUBMITTED OTHER THAN A VENDOR REGISTRY ELECTRONIC UPLOAD WILL BE ACCEPTED. Arlington County is not responsible for late submissions, missed Addendums, or questions not submitted before the end date and time.**

Timely submission is solely the responsibility of the Offeror. The Vendor Registry System will not accept applications after the publicly posted date and time. A proposal may be rejected if the Proposal Form is not signed in the designated space by a person authorized to legally bind the Offeror.

Proposals and all documents uploaded/submitted to Arlington County by an Offeror become the property of the County upon receipt.

The County may reject any proposal that modifies or supplements the solicitation requirements.

### **3. OFFEROR'S RESPONSIBILITY FOR ERRORS OR OMISSIONS IN DOCUMENTS**

Each Offeror is responsible for having determined the accuracy and/or completeness of the solicitation documents, including electronic documents, upon which it relied in making its proposal and has an affirmative obligation to notify the Arlington County Purchasing Agent immediately upon discovery of an apparent inaccuracy or error in or omission from the solicitation documents.

If the successful Offeror is aware of such an error or omission and has not notified the County Purchasing Agent, the Offeror must perform any work described in such incomplete or missing documents at no additional cost to the County.

### **4. PROPOSAL STANDARDS**

Proposals submitted in response to this solicitation should be accurate and grammatically correct and should not contain spelling errors.

**5. EXPENSES INCURRED IN PREPARING PROPOSAL**

The County accepts no responsibility for any expense incurred by any Offeror in the preparation or presentation of a proposal or related in any way to an offer.

**6. PROPOSALS EVALUATION CRITERIA AND WEIGHTS**

The County will evaluate technical proposals that meet the below-stated requirements using the following criteria:

<u>Evaluation Criteria</u>	<u>Points</u>
Experience and References	25
Personnel Management, Training, and Professional Standards	30
Service Capabilities and Management Plan	35
Specific Plan and/or Methodology to Perform Services	10
<b>Total</b>	<b>100</b>

**7. PROPOSAL SUBMITTAL ELEMENTS**

The County may not evaluate proposals that do not contain all requested content. Each of the proposal elements should be provided in the order listed below.

**A. EXECUTED FORMS**

1. Proposal Form: original as detailed above.
2. Conflict of Interest Statement: included in the RFP document.
3. Addendum Acknowledgment Form(s): provided with any RFP addendum(s).

**B. MANDATORY REQUIREMENTS**

The following requirement is mandatory. If the County concludes after its initial review of a submitted proposal that the Mandatory Requirement is not met, the proposal will be considered non-responsive and will not be evaluated further.

The Offeror may not take exceptions to mandatory provisions of the draft Contract Terms and Conditions that are attached to this solicitation. Mandatory provisions are marked with an asterisk.

*Compliance with this mandatory requirement will be verified against the Offeror's exceptions, if any, to the County's draft Terms and Conditions.*

**C. EXPERIENCE AND REFERENCES**

1. Provide a written narrative describing the Offeror's organizational structure and history, qualifications and business experience/references (use Attachment B to list contact information for references), key staff qualifications and experience, locations and subsidiaries, legal status and location from which the services will be performed. The narrative should not exceed three pages.
2. Work experiences as it relates to the requirements in the Scope of Services including:
  - years of experience (minimum of 3 years)
  - volume of daily production
  - number of employees
3. The Offeror must have a Registered Dietitian on staff or on contract to review menus for compliance with local, state, and federal nutrition standards.

4. The Offeror must include a current copy of its Permit to Operate a Food Establishment for the kitchen where the meals are prepared.

**D. PERSONNEL MANAGEMENT, TRAINING, AND PROFESSIONAL STANDARDS**

1. The Offeror shall provide training opportunities for food service staff to become more competent in serving meals as part of the vended meal program. Provide a detailed training plan and include a sample of the training materials.
2. The Offeror must provide copies of current certifications and permits from the USDA showing their facilities meet USDA and state and local government health standard for the jurisdiction in which the facility is located. Interior and exterior warehousing areas must be clean at all times.

**E. SERVICE CAPABILITIES AND MANAGEMENT PLAN**

1. Provide a detailed description of the Offeror's capabilities and skills to perform the contract services, including experience providing meals to older adults and other vulnerable populations and experience adapting menu plans to meet preferences of older adults and diverse populations.
2. Identify the Project Manager who will serve as the day-to-day lead throughout the duration of the implementation. Submit a detailed resume for the Project Manager and describe why he or she is qualified to serve in this capacity.
3. Provide assumptions for estimating the Offeror and County staff resources necessary to meet the needs of the services, including County staff and any subcontractor staff and hours.

**F. SPECIFIC PLAN AND/OR METHODOLOGY TO PERFORM SERVICES**

1. The Offeror must provide a detailed description of the methodology for providing services under the contract, including a description of the meal preparation and delivery approach and a detailed description of quality assurance approach.
2. The Offeror must provide proposed meal selections for each program offered and menu type.
3. The Offeror must provide visuals of packaging (in color, on 8 ½ x 11 paper), including variations of individual compartment trays, oven-safe boxes, fresh meal trays and three-compartment trays. The County will be the sole judge in evaluating these alternatives. **Foil and styrofoam trays are not acceptable.**

**G. COST PROPOSAL**

The Offerors must use the Cost Proposal Spreadsheet included in this solicitation as ATTACHMENT A to provide its pricing proposal.

**H. EXCEPTIONS TO THE COUNTY'S NON-MANDATORY CONTRACT TERMS AND CONDITIONS, if any.**

## **VI. CONTRACT TERMS AND CONDITIONS**

THE FOLLOWING AGREEMENT WILL BE EXECUTED BY THE COUNTY AND THE SUCCESSFUL OFFEROR. BLANKS WILL BE COMPLETED DURING CONTRACT NEGOTIATIONS. NON-NEGOTIABLE PROVISIONS THAT ARE REQUIRED BY VIRGINIA LAW OR BY THE ARLINGTON COUNTY PURCHASING RESOLUTION ARE INDICATED BY AN ASTERISK (\*). THIS AGREEMENT IS SUBJECT TO REVIEW BY THE COUNTY ATTORNEY BEFORE BEING SUBMITTED TO THE SUCCESSFUL OFFEROR FOR SIGNATURE.



**ARLINGTON COUNTY, VIRGINIA  
OFFICE OF THE PURCHASING AGENT  
2100 CLARENDON BOULEVARD, SUITE 500  
ARLINGTON, VA 22201**

### ***SAMPLE AGREEMENT NO. 23-DHS-RFPLW-160***

THIS AGREEMENT is made, on \_\_\_\_\_, between Contractor's name, Contractor's address ("Contractor") a name of state type of entity 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 Pricing
- Exhibit C – Living Wage Forms
- Exhibit D – Living Wage Quarterly
- Exhibit E – Business Associate Agreement

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 will prevail over the other Contract Documents, and the remaining Contract Documents will be complementary to each other. If there are any conflicts, the most stringent terms or provisions will 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 party has made any representation or promise with respect to the parties' agreement that is not contained in the Contract Documents. The Contract Documents may be referred to below as the "Contract" or the "Agreement".

**2. SCOPE OF WORK**

The Contractor agrees to perform the services described in the Contract Documents (the "Work"). As detailed in the "Scope of Work" (EXHIBIT A), the primary purpose of the Work is Nutrition and Meal Services (planning, preparation, packaging, and delivery). It will be the Contractor's responsibility, at its 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 limits the Contractor's responsibility to manage the details and execution of the Work.

**3. PROJECT OFFICER**

The performance of the Contractor is subject to the review and approval of the County Project Officer, who will be appointed by the Director of the Arlington County department or agency requesting the Work under this Contract.

**4. CONTRACT TERM**

Time is of the essence. The Work will commence on \_\_\_\_\_, 20\_\_\_\_ and must be completed no later than \_\_\_\_\_20 \_\_\_\_ ("Initial Contract Term"), subject to any modifications provided in the Contract Documents. Upon satisfactory performance by the Contractor the County may, through issuance of a bilateral Notice of Renewal, authorize continuation of the Agreement under the same contract prices for not more than \_\_\_\_\_ additional 12-month periods, from \_\_\_\_\_, 20\_\_\_\_ to \_\_\_\_\_, 20\_\_\_\_ (each a "Subsequent Contract Term"). The Initial Contract Term and any Subsequent Contract Term(s) are together the "Contract Term".

**5. CONTRACT AMOUNT**

The County will pay the Contractor in accordance with the terms of the Payment section below and of EXHIBIT B for the Contractor's completion of the Work as required by the Contract Documents. The Contractor will complete the Work for the total amount specified in this section ("Contract Amount").

The County will not compensate the Contractor for any goods or services beyond those included in EXHIBIT A unless those additional goods or services are covered by a fully executed amendment to this Contract. Additional services will be billed at the rates set forth in Exhibit B unless otherwise agreed by the parties in writing.

**6. CONTRACT PRICE ADJUSTMENTS**

The Contract Amount/unit price(s) will remain firm until [\_\_\_\_] ("Price Adjustment Date"). To request a price adjustment, the Contractor or the County must submit a written request to the other party not less than 90 days before the Price Adjustment Date. Adjustments to the Contract Amount/unit price(s) will 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 12 months of statistics available at the time of the Contract's renewal.

Any Contract Amount/unit price(s) that result from this provision will become effective the day after the Price Adjustment Date and will be binding for 12 months. The new Price Adjustment Date will be 12 months after the price adjustment.

If the Contractor and the County have not agreed on a requested adjustment by 30 days before the Price Adjustment Date, the County may not renew the Contract, whether or not the County has previously elected to renew the Contract's term.

**7. PAYMENT**

The Contractor must submit invoices to the County's Project Officer, who will either approve the invoice or require corrections. The County will pay the Contractor within forty-five (45) days after receipt of an invoice for completed work that is reasonable and allocable to the Contract and that has been performed to the satisfaction of the Project Officer. The number of the County Purchase Order pursuant to which goods or services have been delivered or performed must appear on all invoices.

If the County makes a partial payment, it will retain 5% of the estimate upon which the partial payment is based until completion and final acceptance of the Work.

**8. REIMBURSABLE EXPENSES**

The County will not reimburse the Contractor for any expenses under this Contract. The amount in Exhibit B includes all costs and expenses of providing the services described in this Contract.

**9. \* PAYMENT OF SUBCONTRACTORS**

The Contractor is obligated to take one of the two following actions within seven days after receipt of payment 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 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 will accrue at the rate of 1% per month.

The Contractor must 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 this section 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.

**10. NO WAIVER OF RIGHTS**

The County's approval or acceptance of or payment for any goods or services under this Contract will not waive any rights or causes of action arising out of the Contract.



**11. \* NON-APPROPRIATION**

All payments by the County to the Contractor pursuant to this Contract are subject to the availability of an annual appropriation for this purpose by the County Board of Arlington County, Virginia ("Board"). In the event that the Board does not appropriate funds for the goods or services provided under this Contract, the County will terminate the Contract, without termination charge or other liability to the County, on the last day of the fiscal year or when the previous appropriation has been spent, whichever event occurs first.

**12. ESTIMATED QUANTITIES/NON-EXCLUSIVITY OF CONTRACTOR**

This Contract does not obligate the County to purchase a specific quantity of items or services during the Contract Term. Any quantities that are included in the Contract Documents are the present expectations of the County for the period of the Contract; and the County is under no obligation to buy that 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 County may require more goods and/or services than the estimated annual quantities, and any such additional quantities will not give rise to any claim for compensation other than at the unit prices and/or rates in the Contract.

The County does not guarantee that the Contractor will be the exclusive provider of the goods or services covered by this Contract. The items or services covered by this Contract may be or become available under other County contract(s), and the County may determine that it is in its best interest to procure the items or services through those contract(s).

**13. \* COUNTY PURCHASE ORDER REQUIREMENT**

County purchases are authorized only if the County issues a Purchase Order in advance of the transaction, indicating that the ordering County agency has sufficient funds available to pay for the purchase. If the Contractor provides goods or services without a signed County Purchase Order, it does so at its own risk and expense. The County will not be liable for payment for any purchases made by its employees that are not authorized by the County Purchasing Agent.

**14. BACKGROUND CHECK**

The Contractor will be responsible for completing a criminal background check and a Virginia Central Registry Check for all employees or subcontractors whom the Contractor assigns to work on this Contract. Any findings may result in the immediate removal of the individual from the contract.

**15. REPLACEMENT OF PERSONNEL AND SUBCONTRACTORS**

The County has the right reasonably to reject staff or subcontractors whom the Contractor assigns to the project. The Contractor must then 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 and its subcontractors' employees is the sole responsibility of the Contractor.

The Contractor may not replace key personnel or subcontractors identified in its proposal, including the approved Project Manager, without the County's written approval. The Contractor must submit any request to remove or replace key personnel or subcontractors to the County Project Officer at least 15 calendar days in advance of the proposed action. The request must contain a detailed justification, including identification of the proposed replacement and his or her qualifications.

If the approved Project Manager must be absent for an extended period, the Contractor must provide an interim Project Manager, subject to the County's written approval.

If the approved Project Manager resigns or is terminated by the Contractor, the Contractor will replace the Project Manager with an individual with similar qualifications and experience, subject to the County's written approval.

**16. \* EMPLOYMENT DISCRIMINATION BY CONTRACTOR PROHIBITED**

During the performance of its work pursuant to this Contract:

- A. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, sexual orientation, gender identity, national origin, age, disability or on any other basis prohibited by state law. 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. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation will be deemed sufficient for meeting the requirements of this section.
- C. The Contractor will state in all solicitations or advertisements for employees that it places or causes to be placed that such Contractor is an Equal Opportunity Employer.
- D. The Contractor will comply with the provisions of the Americans with Disabilities Act of 1990 ("ADA"), which prohibits discrimination against individuals with disabilities in employment and mandates that disabled individuals be provided access to publicly and privately provided services and activities.
- E. The Contractor must include the provisions of the foregoing paragraphs in every subcontract or purchase order of more than \$10,000.00 relating to this Contract so that the provisions will be binding upon each subcontractor or vendor.

**17. \* EMPLOYMENT OF UNAUTHORIZED ALIENS PROHIBITED**

In accordance with §2.2-4311.1 of the Code of Virginia, as amended, the Contractor must not during the performance of this Contract knowingly employ an unauthorized alien, as that term is defined in the federal Immigration Reform and Control Act of 1986.

**18. \* DRUG-FREE WORKPLACE TO BE MAINTAINED BY CONTRACTOR**

During the performance of this Contract, the Contractor must: (i) provide a drug-free workplace for its 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 violating 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 more than \$10,000.00 relating to this Contract so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "workplace" means the site(s) for the performance of the work required by this Contract.

**19. \*SEXUAL HARASSMENT POLICY**

If the Contractor employs more than five employees, the Contractor shall (i) provide annual training on the Contractor's sexual harassment policy to all supervisors and employees providing services in the Commonwealth, except such supervisors or employees that are required to complete sexual harassment training provided by the Department of Human Resource Management, and (ii) post the Contractor's sexual harassment policy in (a) a conspicuous public place in each building located in the Commonwealth that the Contractor owns or leases for business purposes and (b) the Contractor's employee handbook.

**20. SAFETY**

The Contractor must ensure that it and its employees and subcontractors comply with all applicable local, state and federal policies, regulations and standards relating to safety and health, including the standards of the Virginia Occupational Safety and Health program of the Department of Labor and Industry for General Industry and for the Construction Industry and the applicable Federal Environmental Protection Agency and Virginia Department of Environmental Quality standards.

**21. TERMINATION**

The County may terminate this Contract at any time as follows: (1) for cause, if, as determined by the County, the Contractor is in breach or default or has failed to perform the Work satisfactorily; or (2) for the convenience of the County.

Upon receipt of a notice of termination, the Contractor must not place any further orders or subcontracts for materials, services or facilities; must terminate all vendors and subcontracts, except as are necessary for the completion of any portion of the Work that the County did not terminate; and must immediately deliver all documents related to the terminated Work to the County.

Any purchases that the Contractor makes after the notice of termination will be the sole responsibility of the Contractor, unless the County has approved the purchases in writing as necessary for completion of any portion of the Work that the County did not terminate.

If any court of competent jurisdiction finds a termination for cause by the County to be improper, then the termination will be deemed a termination for convenience.

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

1. Termination for Unsatisfactory Performance. 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 them within 15 days or any other period specified by the County ("Cure Period"). If the Contractor fails to cure within the Cure Period, the County may terminate the Contract for failure to provide satisfactory performance by providing written notice with a termination date. The Contractor must submit any request for termination costs, with all supporting documentation, to the County Project Officer within 30 days after the expiration of the Cure Period. The County may accept or reject the request for termination costs, in whole or in part, and may notify the Contractor of its decision within a reasonable time.

In the event of termination by the County for failure to perform satisfactorily, the Contractor must continue to provide its services as previously scheduled through

the termination date, and the County must continue to pay all fees and charges incurred through the termination date.

2. Termination for Breach or Default. If the County terminates the Contract for default or breach of any Contract provision or condition, then the termination will be immediate after notice of termination to the Contractor (unless the County provides for an opportunity to cure), and the Contractor will not be permitted to seek termination costs.

Upon any termination pursuant to this section, the Contractor will be liable to the County for costs that the County must expend to complete the Work, including costs resulting from any related delays and from unsatisfactory or non-compliant work performed by the Contractor or its subcontractors. The County will deduct such costs from any amount due to the Contractor; or if the County does not owe the Contractor, the Contractor must promptly pay the costs within 15 days of a demand by the County. This section does not limit the County's recovery of any other damages to which it is entitled by law.

Except as otherwise directed by the County, the Contractor must stop work on the date of receipt the notice of the termination.

**B. TERMINATION FOR THE CONVENIENCE OF THE COUNTY**

The County may terminate this Contract in whole or in part whenever the Purchasing Agent determines that termination is in the County's best interest. The County will give the Contractor at least 15 days' notice in writing. The notice must specify the extent to which the Contract is terminated and the effective termination date. The Contractor will be entitled to termination costs, plus any other reasonable amounts that the parties might negotiate; but no amount will be allowed for anticipatory profits.

Except as otherwise directed by the County, the Contractor must stop work on the date of receipt of the notice of the termination.

**22. INDEMNIFICATION (Note: Virginia law does not permit the County to indemnify others; cross indemnity provisions are not acceptable to the County)**

The Contractor covenants for itself, its employees and its 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 Indemnitees") from and against any and all claims made by third parties for any and all losses, damages, injuries, fines, penalties, costs (including court costs and attorneys' fees), charges, liability, demands or exposure 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 the Contract. This duty to save, defend, hold harmless and indemnify will survive the termination of this Contract. If the Contractor fails or refuses to fulfill its obligations contained in this section, the Contractor must reimburse the County for any and all resulting payments and expenses, including reasonable attorneys' fees. The Contractor must pay such expenses upon demand by the County, and failure to do so may result in the County withholding such amounts from any payments to the Contractor under this Contract.

**23. INTELLECTUAL PROPERTY INDEMNIFICATION**

The Contractor warrants and guarantees that in providing services under this Contract neither the Contractor nor any subcontractor is infringing on the intellectual property rights (including, but not limited to, copyright, patent, mask and trademark) of third parties.

If the Contractor or any of its employees or subcontractors uses any design, device, work or material that is covered by patent or copyright, it is understood that the Contract Amount includes all royalties, licensing fees, and any other costs arising from such use in connection with the Work under this Contract.

The Contractor covenants for itself, its employees and its subcontractors to save, defend, hold harmless, and indemnify the County Indemnitees, as defined above, from and against any and all claims, losses, damages, injuries, fines, penalties, costs (including court costs and attorneys' fees), charges, liability or exposure for infringement of or on account of any trademark, copyright, patented or unpatented invention, process or article manufactured or used in the performance of this Contract. This duty to save, defend, hold harmless and indemnify will survive the termination of this Contract. If the Contractor fails or refuses to fulfill its obligations contained in this section, the Contractor must reimburse the County for any and all resulting payments and expenses, including reasonable attorneys' fees. The Contractor must pay such expenses upon demand by the County, and failure to do so may result in the County withholding such amounts from any payments to the Contractor under this Contract.

**24. COPYRIGHT**

By this Contract, the Contractor irrevocably transfers, assigns, sets over and conveys to the County all rights, title and interest, including the sole exclusive and complete copyright interest, in any and all copyrightable works created pursuant to this Contract. The Contractor will execute any documents that the County requests to formalize such transfer or assignment.

The rights granted to the County by this section are irrevocable and may not be rescinded or modified, including in connection with or as a result of the termination of or a dispute concerning this Contract.

The Contractor may not use subcontractors or third parties to develop or provide input into any copyrightable materials produced pursuant to this Contract without the County's advance written approval and unless the Contractor includes this Copyright provision in any contract or agreement with such subcontractors or third parties related to this Contract.

**25. OWNERSHIP OF WORK PRODUCT**

This Contract does not confer on the Contractor any ownership rights or rights to use or disclose the County's data or inputs.

All work product, in any form, that results from this Contract is the property of the County and must be provided or returned to the County upon completion, termination, or cancellation of this Contract. The Contractor will not use or allow others to use the work product for any purpose other than performance of this Contract without the written consent of the County.

The work product is confidential, and the Contractor may neither release the work product nor share its contents. The Contractor will refer all inquiries regarding the status of any work product to the Project Officer or to his or her designee. At the County's request, the Contractor will deliver all work product, including hard copies of electronic files, to the Project Officer and will destroy all electronic files.

The Contractor must include the provisions of this section as part of any contract or agreement related to this Contract into which it enters with subcontractors or other third parties.

The provisions of this section will survive any termination or cancellation of this Contract.

**26. CONFIDENTIAL INFORMATION**

The Contractor and its employees, agents and subcontractors will hold as confidential all County information obtained under this Contract. Confidential information includes, but is not limited to, nonpublic personal information; personal health information (PHI); social security numbers; addresses; dates of birth; other contact information or medical information about a person; and information pertaining to products, operations, systems, customers, prospective customers, techniques, intentions, processes, plans and expertise. The Contractor must take reasonable measures to ensure that all of its employees, agents and subcontractors are informed of and abide by this requirement.

**27. \* ETHICS IN PUBLIC CONTRACTING**

This Contract incorporates by reference Article 9 of the Arlington County Purchasing Resolution, as well as all state and federal laws related to ethics, conflicts of interest or bribery, including 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 proposal was made without collusion or fraud; 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.

**28. \* COUNTY EMPLOYEES**

No Arlington County employee may share in any part of this Contract or receive any benefit from the Contract that is not available to the general public.

**29. FORCE MAJEURE**

Neither party will be held responsible for failure to perform the duties and responsibilities imposed by this Contract if such failure is due to a fire, riot, rebellion, natural disaster, war, act of terrorism or act of God that is beyond the control of the party and that makes performance impossible or illegal, unless otherwise specified in the Contract, provided that the affected party gives notice to the other party as soon as practicable after the force majeure event, including reasonable detail and the expected duration of the event's effect on the party.

**30. \* AUTHORITY TO TRANSACT BUSINESS**

The Contractor must, pursuant to Code of Virginia § 2.2-4311.2, be and remain authorized to transact business in the Commonwealth of Virginia during the entire term of this Contract. Otherwise, the Contract is voidable at the sole option of and with no expense to the County.

**31. \* RELATION TO COUNTY**

The Contractor is an independent contractor, and neither the Contractor nor its employees or subcontractors will be considered employees, servants or agents of the County. The County will not be responsible for any negligence or other wrongdoing by the Contractor or 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 or Social Security tax or for any other benefits. The County will not provide to the Contractor any insurance coverage or other benefits, including workers' compensation.

**32. ANTITRUST**

The Contractor conveys, sells, assigns and transfers to the County all rights, title and interest in and to all causes of action under state or federal antitrust laws that the Contractor may have relating to this Contract.

**33. REPORT STANDARDS**

The Contractor must submit all written reports required by this Contract for advance review in a format approved by the Project Officer. Reports must be accurate and grammatically correct and should not contain spelling errors. The Contractor will bear the cost of correcting grammatical or spelling errors and inaccurate report data and of other revisions that are required to bring the report(s) into compliance with this section.

Whenever possible, reports must comply with the following guidelines:

- printed double-sided on at least 30% recycled-content and/or tree-free paper
- recyclable and/or easily removable covers or binders made from recycled materials (proposals with glued bindings that meet all other requirements are acceptable)
- avoid use of plastic covers or dividers
- avoid unnecessary attachments or documents or superfluous use of paper (e.g., separate title sheets or chapter dividers)

**34. AUDIT**

The Contractor must retain all books, records and other documents related to this Contract for at least five years, or such period of time required by the County's funding partner(s), if any, whichever is greater, after the final payment and must allow the County or its authorized agents to examine the documents during this period and during the Contract Term. The Contractor must provide any requested documents to the County for examination within 15 days of the request, at the Contractor's expense. Should the County's examination reveal any overcharging by the Contractor, the Contractor must, within 30 days of County's request, reimburse the County for the overcharges and for the reasonable costs of the County's examination, including, but not limited to, the services of external audit firm and attorney's fees; or the County may deduct the overcharges and examination costs from any amount that the County owes to the Contractor. If the Contractor wishes to destroy or dispose of any records related to this Contract (including confidential records to which the County does not have ready access) within five years after the final payment, or such period of time required by the County's funding partner(s), if any, whichever is greater, the Contractor must give the County at least 30 days' notice and must not dispose of the documents if the County objects.

The Purchasing Agent may require the Contractor to demonstrate that it has the necessary facilities, ability, and financial resources to comply with the Contract and furnish the service, material or goods specified herein in a satisfactory manner at any time during the term of this Contract.

**35. ASSIGNMENT**

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

**36. AMENDMENTS**

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

**37. \* ARLINGTON COUNTY PURCHASING RESOLUTION AND COUNTY POLICIES**

Nothing in this Contract waives any provision of the Arlington County Purchasing Resolution, which is incorporated herein by reference, or any applicable County policy.

**38. \* DISPUTE RESOLUTION**

All disputes arising under this Agreement or concerning its interpretation, whether involving law or fact and including but not limited to claims for additional work, compensation or time, and all claims for alleged breach of contract must be submitted in writing to the Project Officer as soon as the basis for the claim arises. 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 the final payment. The time limit for a final written decision by the County Manager is 30 days. Procedures concerning contractual claims, disputes, administrative appeals and protests are contained in the Arlington County Purchasing Resolution. The Contractor must continue to work as scheduled pending a decision of the Project Officer, County Manager, County Board or a court of law.

**39. \* APPLICABLE LAW, FORUM, VENUE AND JURISDICTION**

This Contract is governed in all respects by the laws of the Commonwealth of Virginia; and the jurisdiction, forum and venue for any litigation concerning the Contract or the Work is in the Circuit Court for Arlington County, Virginia, and in no other court.

**40. ARBITRATION**

No claim arising under or related to this Contract may be subject to arbitration.

**41. NONEXCLUSIVITY OF REMEDIES**

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

**42. NO WAIVER**

The failure to exercise a right provided for in this Contract will not be a subsequent waiver of the same right or of any other right.

**43. SEVERABILITY**

The sections, paragraphs, clauses, sentences, and phrases of this Contract are severable; and if any section, paragraph, clause, sentence or phrase of this Contract is declared invalid by a court of competent jurisdiction, the rest of the Contract will remain in effect.

**44. \* ATTORNEY'S FEES**

In the event that the County prevails in any legal action or proceeding brought by the County to enforce any provision of this Contract, the Contractor will pay the County's reasonable attorney's fees and expenses.

**45. SURVIVAL OF TERMS**

In addition to any statement that a specific term or paragraph survives the expiration or termination of this Contract, the following sections also survive: INDEMNIFICATION; INTELLECTUAL PROPERTY INDEMNIFICATION; RELATION TO COUNTY; OWNERSHIP OF WORK PRODUCT; AUDIT; COPYRIGHT; DISPUTE RESOLUTION; APPLICABLE LAW AND JURISDICTION; ATTORNEY'S FEES, AND CONFIDENTIAL INFORMATION.



**46. HEADINGS**

The section headings in this Contract are inserted only for convenience and do not affect the substance of the Contract or limit the sections’ scope.

**47. AMBIGUITIES**

The parties and their counsel have participated fully in the drafting of this Agreement; and any rule that ambiguities are to be resolved against the drafting party does not apply. The language in this Agreement is to be interpreted as to its plain meaning and not strictly for or against any party.

**48. NOTICES**

Unless otherwise provided in writing, all legal notices and other communications required by this Contract are deemed to have been given when either (a) delivered in person; (b) delivered by an agent, such as a delivery service; or (c) deposited in the United States mail, postage prepaid, certified or registered and addressed as follows:

**TO THE CONTRACTOR:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**TO THE COUNTY:**

<mailto:> \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

AND

Dr. Sharon T. Lewis, LL.M, MPS, VCO, CPPB  
Purchasing Agent  
Arlington County, Virginia  
2100 Clarendon Boulevard, Suite 500  
Arlington, Virginia 22201  
Phone: (703) 228-3294  
Email: [slewis1@arlingtonva.us](mailto:slewis1@arlingtonva.us)

**TO COUNTY MANAGER’S OFFICE (FOR PROJECT CLAIMS):**

Mark Schwartz, County Manager  
Arlington County, Virginia  
2100 Clarendon Boulevard, Suite 318  
Arlington, Virginia 22201

**49. ARLINGTON COUNTY BUSINESS LICENSES**

The Contractor must comply with the provisions of Chapter 11 (“Licenses”) of the Arlington County Code, if applicable. For information on the provisions of that Chapter and its applicability to this Contract, the

Contractor must contact the Arlington County Business License Division, Office of the Commissioner of the Revenue, 2100 Clarendon Blvd., Suite 200, Arlington, Virginia, 22201, telephone number (703) 228-3060, or e-mail [business@arlingtonva.us](mailto:business@arlingtonva.us).

**50. \* NON-DISCRIMINATION NOTICE**

Arlington County does not discriminate against faith-based organizations.

**51. LIMITED ENGLISH PROFICIENCY**

The Contractor must comply with Executive Order 13166, Title VI of the Civil Rights Act of 1964 and make reasonable efforts to ensure that as part of the services that it provides, adequate communication services, including interpretation and translation, are available to persons who have limited English proficiency. If such services are not included in the Contract's scope of services and pricing, the Contractor will use a County-contracted service provider, and the County will pay the fees.

**52. HIPAA COMPLIANCE**

The Contractor must comply with the privacy, security and electronic transaction components of the, as amended ("HIPAA"). Pursuant to 45 C.F.R. §164.502(e) and §164.504(e), the Contractor is designated a Business Associate for purposes of this Contract and must execute the attached Arlington County Business Associate Agreement (EXHIBIT E). Pursuant to 45 C.F.R. § 164.308(b)(1) and the Health Information Technology for Economic and Clinic Health Act ("HITECH"), § 13401, the Contractor must also enter into an agreement with any subcontractors that, in a form approved by the County, requires the subcontractor to protect PHI to the same extent as the Arlington County Business Associate Agreement. The Contractor must ensure that its subcontractors notify the Contractor immediately of any breaches in security regarding PHI. Software and platforms used in performance of this Contract must be HIPAA compliant.

The Contractor takes full responsibility for HIPAA compliance, for any failure to execute the appropriate agreements with its subcontractors and for any failure of its subcontractors to comply with the existing or future regulations of HIPAA and/or HITECH. The Contractor will indemnify the County for any and all losses, fines, damages, liability, exposure or costs that arise from any failure to comply with this paragraph.

**53. ADA COMPLIANCE**

The Contractor is solely responsible for its compliance with the ADA and must defend and hold the County harmless from any expense or liability arising from the Contractor's non-compliance. The Contractor also must respond promptly to and cooperate fully with all inquiries from the U.S. Department of Labor.

The Contractor's responsibilities related to ADA compliance include, but are not limited to, the following:

- A. Access to Programs, Services and Facilities: The Contractor must ensure that its programs, services and facilities are accessible to persons with disabilities. If a particular facility or program is not accessible, the Contractor must provide equivalent services in an accessible alternate location or manner.
- B. Effective Communication: Upon request, the Contractor, must provide appropriate communication aids and services so that qualified persons with disabilities can participate equally in the Contractor's programs, services and activities. Communication aids and services can include, but are not limited to, qualified sign language interpreters, Braille

documents and other means of facilitating communications with people who have speech, hearing or vision impairments.

- C. Modifications to Policies and Procedures: The Contractor must modify its policies and procedures as necessary to ensure that people with disabilities have an equal opportunity to enjoy the Contractor's programs, services and activities. For example, individuals' service animals must be allowed in the Contractor's offices or facilities, even if pets are generally prohibited.
- D. No Extra Charges: The Contractor may not charge a person with a disability or any group of individuals with disabilities to cover the cost of providing aids or services or of reasonable modifications to policies and procedures.

### **SERVICE CONTRACT WAGE REQUIREMENTS**

#### **A. LIVING WAGE**

The County has determined that the provisions of Section 4-103 of the Arlington County Purchasing Resolution (regarding "Service Contract Wage" or "Living Wage") apply to this Contract. All employees of the Contractor and any subcontractors working on County-owned, County controlled property, facilities owned, or leased, and operated by a Contractor if services provided at that location are exclusive to Arlington County, or contracts for home-based client services must be paid no less than the hourly Living Wage rate that is published on the County's web site.

The Contractor shall submit a quarterly compliance report and certified copies of quarterly payroll reports for each employee, including subcontractor employees, through the [eComply website](#). If the Contractor or any subcontractor does not have an eComply profile, a one-time registration process immediately following the Notice of Award or Notice of Intent to Award and training on system functionality are required for each non-registered entity.

#### **B. COMPLAINTS BY AGGRIEVED EMPLOYEES**

If the Contractor fails to pay the Living Wage rate, an aggrieved employee or subcontractor may file a complaint with the County Purchasing Agent within six months of the underpayment. If the Purchasing Agent determines that the Contractor has failed to comply with the Living Wage rate provisions of the Purchasing Resolution, the Contractor will be liable to the employee for the unpaid wages, plus interest at the judgment rate from the date originally due, and less any deductions required or permitted by Virginia law. The Contractor must not discharge, reduce the compensation of or otherwise retaliate against any employee who files a complaint with the County Purchasing Agent or takes any other action to enforce the requirements of this section.

#### **C. ADDITIONAL COMPLIANCE REQUIREMENTS**

At all times during the term of the Contract, the Contractor must:

1. Post the current Living Wage rate, in English and Spanish, in a prominent place at its offices and at each location where its employees perform services under this Contract Go (see sample notice in EXHIBIT C);
2. Within five days of an employee's request, provide a written statement of the applicable Living Wage rate, using the same form provided in EXHIBIT C;

3. Include the provisions of this section in all subcontracts for work performed under the Contract; and
4. Submit to the Purchasing Agent, within five working days of the end of each quarter, certified copies of quarterly payroll reports for each employee, including subcontractor employees, working under the Contract during the quarter and a completed Arlington County Contractor Living Wage Quarterly Compliance Report (EXHIBIT D).

D. CONTRACTOR RECORD KEEPING

The Contractor must preserve for five years after the expiration or termination of this Contract records of wages and benefits provided to each employee who worked under the Contract and must allow the County or its authorized agents to examine the documents during this period and during the Contract Term. The Contractor must provide any requested documents to the County for examination within 15 days of the request at the Contractor's expense.

E. VIOLATIONS

Violation of this section, as determined by the Purchasing Agent, will be a ground for termination of this Contract and suspension or debarment of the Contractor from consideration for future County contracts.

F. QUESTIONS

For questions regarding Living Wage, please email [livingwage@arlingtonva.us](mailto:livingwage@arlingtonva.us).

**54. INSURANCE REQUIREMENTS**

Before beginning work under the Contract or any extension, the Contractor must provide to the County Purchasing Agent a Certificate of Insurance indicating that the Contractor has in force at a minimum the coverage below. The Contractor must maintain this coverage until the completion of the Contract or as otherwise stated in the Contract Documents. All required insurance coverage must be acquired from insurers that are authorized to do business in the Commonwealth of Virginia, with a rating of "A-" or better and a financial size of "Class VII" or better in the latest edition of the A.M. Best Co. Guides.

- A. Workers Compensation - Virginia statutory workers compensation (W/C) coverage, including Virginia benefits and employer's liability with limits of \$500,000/500,000/500,000. The County will not accept W/C coverage issued by the Injured Worker's Insurance Fund, Towson, MD.
- B. Commercial General Liability - \$2000,000 per occurrence, with \$2,000,000 annual aggregate covering all premises and operations and including personal injury, completed operations, contractual liability, independent contractors, and products liability. The general aggregate limit must apply to this Contract. Evidence of contractual liability coverage must be typed on the certificate.
- C. Business Automobile Liability - \$1,000,000 combined single-limit (owned, non-owned and hired).
- D. Professional/Miscellaneous Errors & Omissions Liability - \$2,000,000 per occurrence.
- E. Employee Dishonesty Liability or Crime Liability - \$500,000 per occurrence.

- F. Additional Insured – The County and its officers, elected and appointed officials, employees and agents must be listed as additional insureds on all policies except workers compensation and automotive and professional liability; and the additional insured endorsement must be typed on the certificate.
- G. Cancellation - If there is a material change or reduction in or cancellation of any of the above coverages during the Contract Term, the Contractor must notify the Purchasing Agent immediately and must, with no lapse in coverage, obtain replacement coverage that is consistent with the terms of this Contract. Not having the required insurance throughout the Contract Term is grounds for termination of the Contract.
- H. Claims-Made Coverage - Any “claims made” policy must remain in force, or the Contractor must obtain an extended reporting endorsement, until the applicable statute of limitations for any claims has expired.
- I. Contract Identification - All insurance certificates must state this Contract's number and title.

The Contractor must disclose to the County the amount of any deductible or self-insurance component of any of the required policies. With the County’s approval, the Contractor may satisfy its obligations under this section by self-insurance for all or any part of the insurance required, provided that the Contractor can demonstrate sufficient financial capacity. In order to do so, the Contractor must provide the County with its most recent actuarial report and a copy of its self-insurance resolution.

The County may request additional information to determine if the Contractor has the financial capacity to meet its obligations under a deductible and may require a lower deductible; that funds equal to the deductible be placed in escrow; a certificate of self-insurance; collateral; or another mechanism to guarantee the amount of the deductible and ensure protection for the County.

The County’s acceptance or approval of any insurance will not relieve the Contractor from any liability or obligation imposed by the Contract Documents.

The Contractor is responsible for the Work and for all materials, tools, equipment, appliances and property used in connection with the Work. The Contractor assumes all risks for direct and indirect damage or injury to the property used or persons employed in connection with the Work and for 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 Work. The Contractor’s insurance shall be the primary non-contributory insurance for any work performed under this Contract.

The Contractor is 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 whom the Contractor employs directly.

**55. COUNTERPARTS**

This Agreement may be executed in one or more counterparts and all of such counterparts shall together constitute one and the same instrument. Original signatures transmitted and received via facsimile or

other electronic transmission, (e.g., PDF or similar format) are true and valid signatures for all purposes hereunder and shall be effective as delivery of a manually executed original counterpart.

WITNESS these signatures:

THE COUNTY BOARD OF ARLINGTON  
COUNTY, VIRGINIA

CONTRACTOR

AUTHORIZED  
SIGNATURE: \_\_\_\_\_

AUTHORIZED  
SIGNATURE: \_\_\_\_\_

NAME: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

# **WAGE NOTICE**

THE HOURLY RATE FOR EMPLOYEES OF THE CONTRACTOR AND ANY SUBCONTRACTORS WORKING ON COUNTY-OWNED, COUNTY-CONTROLLED PROPERTY, FACILITIES OWNED, OR LEASED, AND OPERATED BY A CONTRACTOR IF SERVICES PROVIDED AT THAT LOCATION ARE EXCLUSIVE TO ARLINGTON COUNTY, OR CONTRACTS FOR HOME-BASED CLIENT SERVICES MUST NOT BE LOWER THAN

**\$17.00 PER HOUR**

REFERENCE: ARLINGTON COUNTY PURCHASING RESOLUTION  
SECTION 4-103

**FOR INFORMATION CONTACT:**

ARLINGTON COUNTY  
OFFICE OF THE PURCHASING AGENT  
2100 CLARENDON BOULEVARD, SUITE 500  
ARLINGTON, VA 22201  
703-228-3410

# **AVISO de SALARIO**

## **MINIMO**

LA TARIFA HORARIA DE LOS EMPLEADOS DEL CONTRATISTA, Y DE CUALQUIER SUBCONTRATISTA QUE TRABAJE EN PROPIEDADES DEL CONDADO, EN INSTALACIONES PROPIAS/ALQUILADAS Y OPERADAS POR UN CONTRATISTA SI LOS SERVICIOS PRESTADOS EN ESE LUGAR SON EXCLUSIVOS DEL CONDADO DE ARLINGTON, O EN CONTRATOS DE SERVICIOS DOMICILIARIOS A CLIENTES, NO DEBE SER INFERIOR  
A

**\$17.00 POR HORA**

REFERENCIA: SECCIÓN 4-103, DE LA RESOLUCIÓN DE LA OFICINA DEL AGENTE DE COMPRAS DEL CONDADO DE ARLINGTON.  
(ARLINGTON COUNTY PURCHASING RESOLUTION SECTION 4-103)

**PARA OBTENER MAS INFORMACIÓN, LLAME A:**

LA OFICINA DEL AGENTE DE COMPRAS DEL CONDADO DE  
ARLINGTON.  
703-228-3410.

**PARA INFORMACION EN PERSONA DIRIJASE A:**

2100 CLARENDON BOULEVARD, OFICINA No 500  
ARLINGTON, VA 22201





## EXHIBIT E

### BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement is hereby entered into between \_\_\_\_\_ (hereafter referred to as "Business Associate") and the County Board of Arlington County, Virginia (hereafter referred to as "Covered Entity" or "County") (collectively "the parties") and is hereby made a part of any Underlying Agreement for goods or services entered into between the parties.

#### Recitals

The County provides services to its residents and employees which may cause it or others under its direction or control to serve as covered entities for purposes of the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

The County, in its capacity as a covered entity, may provide Business Associate with certain information that may include Protected Health Information (PHI), so that Business Associate may perform its responsibilities pursuant to its Underlying Agreement(s) with and on behalf of County.

Covered Entity and Business Associate intend to protect the privacy of PHI and provide for the security of any electronic PHI received by Business Associate from Covered Entity, or created or received by Business Associate on behalf of Covered Entity in compliance with HIPAA; in compliance with regulations promulgated pursuant to HIPAA, at 45 CFR Parts 160 and Part 164; and in compliance with applicable provisions of the Health Information Technology for Economic and Clinical Health Act, as incorporated in the American Recovery and Reinvestment Act of 2009 (the "HITECH Act") and any applicable regulations and/or guidance issued by the U.S. Department of Health and Human Services ("DHHS") with respect to the HITECH Act (collectively "federal law").

WHEREAS, federal law and the specific regulations promulgated pursuant to HIPAA at 45 CFR § 164.314, 45 CFR § 164-502(e) and 45 CFR § 164.504(e) require a Covered Entity to enter into written agreements with all Business Associates (hereinafter "Business Associate Agreement");

WHEREAS, the parties desire to comply with HIPAA and desire to secure and protect such PHI from unauthorized disclosure;

THEREFORE, **Business Associate** and **Covered Entity**, intending to be legally bound, agree as follows. The obligations, responsibilities and definitions may be changed from time to time as determined by federal law and such changes are incorporated herein as if set forth in full text:

#### **1) Definitions**

The capitalized terms used in this Business Associate Agreement shall have the meaning set out below:

- a) **Accounting.** "Accounting" means a record of disclosures of protected health information made by the Business Associate.

- b) **Breach.** "Breach" means the acquisition, access, use, or disclosure of protected health information in a manner not permitted by this Business Associate Agreement and/or by HIPAA, which compromises the security or privacy of the protected health information. For purposes of this Business Associate Agreement, any unauthorized acquisition, access, use, or disclosure of protected health information shall be presumed to be a breach.
- c) **Business Associate.** "Business Associate" means a person who creates, receives, maintains, or transmits protected health information on behalf of a Covered Entity to accomplish a task regulated by HIPAA and not as a member of the Covered Entity's workforce. A Business Associate shall include, but is not limited to, a non-workforce person/entity who performs data processing/analysis/transmission, billing, benefit management, quality assurance, legal, actuarial, accounting, administrative and/or financial services on behalf of the Covered Entity involving protected health information. A Business Associate also includes a subcontractor.
- d) **Covered Entity.** "Covered Entity" means a health plan, a health care clearinghouse, and/or a health care provider who transmits any health information in electronic form in connection with an activity regulated by HIPAA.
- e) **Data Aggregation.** "Data Aggregation" means, with respect to PHI created or received by Business Associate in its capacity as the Business Associate of Covered Entity, the combining of such PHI by the Business Associate with the PHI received by the Business Associate in its capacity as a Business Associate of another covered entity, to permit data analyses that relate to the health care operations of the respective covered entities.
- f) **Designated Record Set.** "Designated Record Set" means all records, including medical, enrollment, billing, payment, claims, and/or case management maintained by and/or for a Covered Entity.
- g) **Discovery.** "Discovery" shall mean the first day an unauthorized use or disclosure is known or reasonably should have been known by Business Associate, including when it is or should have been known by any person other than the person who engaged in the unauthorized use/disclosure who is an employee, officer, or agent of Business Associate.
- h) **Electronic Protected Health Information.** "Electronic Protected Health Information" means individually identifiable health information that is transmitted by or maintained in electronic media.
- i) **HIPAA.** "HIPAA" means the Health Insurance Portability and Accountability Act of 1996 as in effect and/or as amended.
- j) **HITECH Act.** "HITECH Act" means the portions of the Health Information Technology for Economic and Clinical Health Act which serve as amendments to HIPAA. HITECH is included within the definition of HIPAA unless stated separately.
- k) **Individual.** "Individual" means the person who is the subject of protected health information and/or a person who would qualify as a personal representative of the person who is the subject of protected health information.

- l) **Protected Health Information.** "Protected Health Information" or "PHI" means individually identifiable health information transmitted and/or maintained in any form.
- m) **Remuneration.** "Remuneration" means direct or indirect payment from or on behalf of a third party.
- n) **Required By Law.** "Required By Law" means an activity which Business Associate is required to do or perform based on the provisions of state and/or federal law.
- o) **Secretary.** "Secretary" means the Secretary of the Department of Health and Human Services or the Secretary's designee.
- p) **Security Incident.** "Security Incident" means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with the system operations in an information system.
- q) **Underlying Agreement.** "Underlying Agreement" means the County contract for goods or services made through the County's procurement office which the parties have entered into and which the County has determined requires the execution of this Business Associate Agreement.
- r) **Unsecured Protected Health Information.** "Unsecured Protected Health Information" means protected health information that is not rendered unusable, unreadable, or indecipherable to unauthorized persons through the use of a technology or methodology approved by the Secretary.

## 2) **Obligations and Activities of Business Associate**

- a) Business Associate acknowledges and agrees that it is obligated by law (or upon the effective date of any portion thereof shall be obligated) to meet the applicable provisions of HIPAA and such provisions are incorporated herein and made a part of this Business Associate Agreement. Covered Entity and Business Associate agree that any regulations and/or guidance issued by DHHS with respect to HIPAA that relate to the obligations of business associates shall be deemed incorporated into and made a part of this Business Associate Agreement.
- b) In accordance with 45 CFR §164.502(a)(3), Business Associate agrees not to use or disclose PHI other than as permitted or required by this Business Associate Agreement or as Required by Law.
- c) Business Associate agrees to develop, implement, maintain and use appropriate administrative, technical, and physical safeguards that reasonably prevent the use or disclosure of PHI other than as provided for by this Business Associate Agreement, in accordance with 45 CFR §§164.306, 310 and 312. Business Associate agrees to develop, implement, maintain and use administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of Electronic PHI, in accordance with 45 CFR §§164.306, 308, 310, and 312. In accordance with 45 CFR §164.316, Business Associate shall also develop and implement policies and procedures and meet the documentation requirements as and at such time as may be required by HIPAA.

- d) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate, of a use or disclosure of PHI by Business Associate in violation of the requirements of this Business Associate Agreement.
- e) In accordance with 45 CFR §§164.308, 314 and 502, Business Associate will ensure that any workforce member or agent, including a vendor or subcontractor, whom Business Associate engages to create, receive, maintain, or transmit PHI on Business Associate's behalf, agrees to the same restrictions and conditions that apply through this Business Associate Agreement to Business Associate with respect to such information, including minimum necessary limitations. Business Associate will ensure that any workforce member or agent, including a vendor or subcontractor, whom Business Associate engages to create, receive, maintain, or transmit PHI on Business Associate's behalf, agrees to implement reasonable and appropriate safeguards to ensure the confidentiality, integrity, and availability of the PHI.
- f) At the request of Covered Entity, Business Associate will provide Covered Entity, or as directed by Covered Entity, an Individual, access to PHI maintained in a Designated Record Set in a time and manner that is sufficient to meet the requirements of 45 CFR § 164.524, and, where required by HIPAA, shall make such information available in an electronic format where directed by the Covered Entity.
- g) At the written request of Covered Entity, (or if so directed by Covered Entity, at the written request of an Individual), Business Associate agrees to make any amendment to PHI in a Designated Record Set, in a time and manner that is sufficient to meet the requirements of 45 CFR § 164.526.
- h) In accordance with 45 CFR §164.504(e)(2), Business Associate agrees to make its internal practices, books, and records, including policies and procedures, and any PHI, relating to the use and disclosure of PHI, available to Covered Entity or to the Secretary for purposes of determining compliance with applicable law. To the extent permitted by law, said disclosures shall be held in strictest confidence by the Covered Entity. Business Associate will provide such access in a time and manner that is sufficient to meet any applicable requirements of applicable law.
- i) Business Associate agrees to document and maintain a record of disclosures of PHI and information related to such disclosures, including the date, recipient and purpose of such disclosures, in a manner that is sufficient for Covered Entity or Business Associate to respond to a request by Covered Entity or an Individual for an Accounting of disclosures of PHI and in accordance with 45 CFR § 164.528. Business Associate further shall provide any additional information where required by HIPAA and any implementing regulations. Unless otherwise provided under HIPAA, Business Associate will maintain the Accounting with respect to each disclosure for at least six years following the date of the disclosure.
- j) Business Associate agrees to provide to Covered Entity upon written request, or, as directed by Covered Entity, to an Individual, an Accounting of disclosures in a time and manner that is sufficient to meet the requirements of HIPAA, in accordance with 45 CFR §164.528. In addition, where Business Associate is contacted directly by an Individual based upon information provided to the Individual by Covered Entity and where so required by HIPAA and/or any implementing regulations, Business Associate shall make such Accounting available directly to the Individual.

- k) In accordance with 45 CFR §164.502(b), Business Associate agrees to make reasonable efforts to limit use, disclosure, and/or requests for PHI to the minimum necessary to accomplish the intended purpose of the use, disclosure, or request. Where required by HIPAA, Business Associate shall determine (in its reasonable judgment) what constitutes the minimum necessary to accomplish the intended purpose of a disclosure.
- l) In accordance with 45 CFR §502(a)(5), Business Associate shall not directly or indirectly receive remuneration in exchange for any PHI of an Individual, except with the express written pre-approval of Covered Entity.
- m) To the extent Business Associate is to carry out one or more obligation(s) of the Covered Entity's under Subpart E of 45 CFR Part 164, Business Associate shall comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligation(s).
- n) In accordance with 45 CFR §164.314(a)(1)(i)(C), Business Associate agrees to promptly report to Covered Entity any Security Incident of which Business Associate becomes aware.
- o) In accordance with 45 CFR §164.410 and the provisions of this Business Associate Agreement, Business Associate will report to Covered Entity, following Discovery and without unreasonable delay, but in no event later than five business days following Discovery, any Breach of Unsecured Protected Health Information. Business Associate shall cooperate with Covered Entity in investigating the Breach and in meeting Covered Entity's obligations under HIPAA and any other applicable security breach notification laws, including, but not limited to, providing Covered Entity with such information in addition to Business Associate's report as Covered Entity may reasonably request, e.g., for purposes of Covered Entity making an assessment as to whether/what Breach Notification is required.

Business Associate's report under this subsection shall, to the extent available at the time the initial report is required, or as promptly thereafter as such information becomes available but no later than 30 days from discovery, include:

1. The identification (if known) of each Individual whose Unsecured Protected Health Information has been, or is reasonably believed by Business Associate to have been, accessed, acquired, or disclosed during such Breach;
2. A description of the nature of the unauthorized acquisition, access, use, or disclosure, including the date of the Breach and the date of discovery of the Breach;
3. A description of the type of Unsecured PHI acquired, accessed, used or disclosed in the Breach (e.g., full name, Social Security number, date of birth, etc.);
4. The identity of the individual(s) who made and who received the unauthorized acquisition, access, use or disclosure;
5. A description of what Business Associate is doing to investigate the Breach, to mitigate losses, and to protect against any further breaches; and

6. Contact information for Business Associate's representatives knowledgeable about the Breach.
- p) Business Associate shall maintain for a period of six years all information required to be reported under paragraph "o". This records retention requirement does not in any manner change the obligation to timely disclose all required information relating to a non-permitted acquisition, access, use or disclosure of Protected Health Information to the County Privacy Officer and the County Project Officer or designee five business days following Discovery.

### **3) Permitted Uses and Disclosures by Business Associate**

Except as otherwise limited in this Business Associate Agreement, Business Associate may use or disclose PHI, consistent with HIPAA, as follows:

- a) Business Associate may use or disclose PHI as necessary to perform functions, activities, or services to or on behalf of Covered Entity under any service agreement(s) with Covered Entity, including Data Aggregation services related to the health care operations of Covered Entity, if called for in the Underlying Agreement, if Business Associate's use or disclosure of PHI would not violate HIPAA if done by Covered Entity.
- b) Business Associate may use PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate.
- c) Business Associate may disclose PHI for the proper management and administration of Business Associate if:
  1. Disclosure is Required by Law;
  2. Business Associate obtains reasonable assurances from the person to whom the PHI is disclosed that the PHI will remain confidential, and will be used or further disclosed only as Required By Law or for the purpose for which it was disclosed, and the person agrees to promptly notify Business Associate of any known breaches of the PHI's confidentiality; or
  3. Disclosure is pursuant to an order of a Court or Agency having jurisdiction over said information.
- d) Business Associate may use PHI to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR § 164.502(j)(1).

### **4) Obligations of Covered Entity**

- a) Covered Entity will notify Business Associate of any limitations on uses or disclosures described in its Notice of Privacy Practices (NOPP).
- b) Covered Entity will notify Business Associate of any changes in, or revocation of, permission by an Individual to use or disclose PHI, to the extent that such changes or revocation may affect Business Associate's use or disclosure of PHI.

- c) Covered Entity will notify Business Associate of any restriction of the use or disclosure of PHI, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.
- d) Covered Entity will notify Business Associate of any alternative means or locations for receipt of communications by an Individual which must be accommodated or permitted by Covered Entity, to the extent that such alternative means or locations may affect Business Associate's use or disclosure of PHI.
- e) Except as otherwise provided in this Business Associate Agreement, Covered Entity will not ask Business Associate to use or disclose PHI in any manner that would not be permissible under HIPAA if such use and/or disclosure was made by Covered Entity.

**5) Term, Termination and Breach**

- a) This Business Associate Agreement is effective when fully executed and will terminate when all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, including any material provided to subcontractors. If it is infeasible to return or destroy all PHI, protections are extended to such information, in accordance with the Section 5(d) and 5(e) below.
- b) Upon Covered Entity's determination that Business Associate has committed a violation or material breach of this Business Associate Agreement, and in Covered Entity's sole discretion, Covered Entity may take any one or more of the following steps:
  1. Provide an opportunity for Business Associate to cure the breach or end the violation, and if Business Associate does not cure the Breach or end the violation within a reasonable time specified by Covered Entity, terminate this Business Associate Agreement;
  2. Immediately terminate this Business Associate Agreement if Business Associate has committed a material breach of this Business Associate Agreement and cure of the material breach is not feasible; or,
  3. If neither termination nor cure is feasible, elect to continue this Business Associate Agreement and report the violation or material breach to the Secretary.
- c) If Business Associate believes Covered Entity has failed to fulfill any of its duties under this Business Associate Agreement, Business Associate will promptly notify Covered Entity as to same and Covered Entity shall promptly address the matter with Business Associate.
- d) Except as provided in Section 5(e) upon termination of this Business Associate Agreement for any reason, Business Associate will return or destroy, at the discretion of Covered Entity, all PHI received from Covered Entity or created or received by Business Associate on behalf of Covered Entity. This provision will also apply to PHI that is in the possession of workforce members, subcontractors, or agents of Business Associate. Neither Business Associate, nor any workforce member, subcontractor, or agent of Business Associate, will retain copies of the PHI.
- e) If Business Associate determines that returning or destroying all or part of the PHI received or created by and/or on behalf of Covered Entity is not feasible, Business Associate will notify



Covered Entity of the circumstances making return or destruction infeasible. If Covered Entity agrees that return or destruction is infeasible, then Business Associate will extend the protections of this Business Associate Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI. Business Associate further agrees to retain the minimum necessary PHI to accomplish those tasks/responsibilities which make return and/or destruction infeasible.

**6) Miscellaneous**

- a) Covered Entity and Business Associate agree to take any action necessary to amend this Business Associate Agreement from time to time as may be necessary for Covered Entity or Business Associate to comply with the requirements of HIPAA, and/or any other implementing regulations or guidance.
- b) Notwithstanding the expiration or termination of this Business Associate Agreement or any Underlying Agreement, it is acknowledged and agreed that those rights and obligations of Business Associate which by their nature are intended to survive such expiration or termination shall survive, including, but not limited to, Sections 5(d) and 5(e) herein.
- c) In the event the terms of this Business Associate Agreement conflict with the terms of any other agreement between Covered Entity and Business Associate or the Underlying Agreement, then the terms of this Business Associate Agreement shall control.
- d) Notices and requests provided for under this Business Associate Agreement will be made in writing to Covered Entity, delivered by hand-delivery, overnight mail or first-class mail, postage prepaid at:

(1) Marcy Foster,  
County Privacy Officer  
2100 Clarendon Blvd., Suite 511  
Arlington, Virginia 22201

(2) Minh Chau Corr  
County Attorney  
2100 Clarendon Blvd., Suite 511  
Arlington, Virginia 22201

(3) Helen King  
County Project Officer  
2100 Clarendon Blvd., Suite 511  
Arlington, Virginia 22201

Notice and requests provided for under this Business Associate Agreement will be made in writing in the manner described above to Business Associate at:

\_\_\_\_\_  
Attn: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- e) Covered Entity will have the right to inspect any records of Business Associate or to audit Business Associate to determine whether Business Associate is in compliance with the terms of this Business Associate Agreement. However, this provision does not create any obligation on the part of Covered Entity to conduct any inspection or audit.
- f) Nothing in this Business Associate Agreement shall be construed to create a partnership, joint venture, or other joint business relationship between the parties or any of their affiliates, or a relationship of employer and employee between the parties. Rather, it is the intention of the parties that Business Associate shall be an independent contractor.
- g) Nothing in this Business Associate Agreement provides or is intended to provide any benefit to any third party.
- h) The Business Associate will indemnify and hold harmless Arlington County, its elected officials, officers, directors, employees and/or agents from and against any employee, federal administrative action or third party claim or liability, including attorneys' fees and costs, arising out of or in connection with the Business Associate's violation (or alleged violation) and/or any violation and/or alleged violation by Business Associate's workforce, agent/s, or subcontractor/s of the terms of this Business Associate Agreement, federal law, HIPAA, the HITECH Act, and/or other implementing regulations or guidance or any associated audit or investigation.

The obligation to provide indemnification under this Business Associate Agreement shall be contingent upon the party seeking indemnification providing the indemnifying party with written notice of any claim for which indemnification is sought. Any limitation of liability provisions contained in the Underlying Agreement do not supersede, pre-empt, or nullify this provision or the Business Associate Agreement generally.

This indemnification shall survive the expiration or termination of this Business Associate Agreement or the Underlying Agreement.

- i) Any ambiguity in this Business Associate Agreement shall be resolved to permit the parties to comply with HIPAA, its implementing regulations, and associated guidance. The sections, paragraphs, sentences, clauses and phrases of this Business Associate agreement are severable. If any phrase, clause, sentence, paragraph or section of this Business Associate Agreement is declared invalid by a court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences and sections of this Business Associate Agreement.
- j) If any dispute or claim arises between the parties with respect to this Business Associate Agreement, the parties will make a good faith effort to resolve such matters informally, it being the intention of the parties to reasonably cooperate with each other in the performance of the obligations set forth in this Business Associate Agreement. The Dispute Resolution clause of the Underlying Agreement ultimately governs if good faith efforts are unsuccessful.
- k) A waiver with respect to one event shall not be construed as continuing, or as a bar to or waiver of any other right or remedy as to any subsequent events.
- l) Neither party may assign any of its rights or obligations under this Business Associate Agreement without the prior written consent of the other party.

- m) This Business Associate Agreement and the rights and obligations of the parties hereunder shall be construed, interpreted, and enforced with, and shall be governed by, the laws of the Commonwealth of Virginia and the United States of America.
- n) This Business Associate Agreement shall remain in effect for the duration of the Underlying Agreement between the parties, any renewals, extension or continuations thereof, and until such time as all PHI in the possession or control of the Business Associate has been returned to the Covered Entity and/or destroyed. If such return or destruction is not feasible, the Business Associate shall use such PHI only for such limited purposes that make such return or destruction not feasible, and the provision of this Business Associate Agreement shall survive with respect to such PHI.
- o) The Business Associate shall be deemed to be in violation of this Business Associate Agreement if it knew of, or with the exercise of reasonable diligence or oversight should have known of, a pattern of activity or practice of any subcontractor, subsidiary, affiliate, agent or workforce member that constitutes a material violation of that entity's obligations in regard to PHI unless the Business Associate took prompt and reasonable steps to cure the breach or end the violation, as applicable, and if such steps were unsuccessful, terminated the contract or arrangement with such entity, if feasible.
- p) Upon the enactment of any law or regulation affecting the use or disclosure of PHI, or any change in applicable federal law including revisions to HIPAA; upon publication of any decision of a court of the United States or of the Commonwealth of Virginia, relating to PHI or applicable federal law; upon the publication of any interpretive policy or opinion of any governmental agency charged with the enforcement of PHI disclosures or applicable federal law, the County reserves the right, upon written notice to the Business Associate, to amend this Business Associate Agreement as the County determines is necessary to comply with such change, law or regulation. If the Business Associate disagrees with any such amendment, it shall so notify the County in writing within thirty (30) days of the County's notice. In case of disagreement, the parties agree to negotiate in good faith the appropriate amendment(s) to give effect to such revised obligation. In the County's discretion, the failure to enter into an amendment shall be deemed to be a default and good cause for termination of the Underlying Agreement.
- q) The County makes no warranty or representation that compliance by the Business Associate with this Business Associate Agreement, HIPAA, the HITECH Act, federal law or the regulations promulgated thereunder will be adequate or satisfactory for the Business Associate's own purposes or to ensure its compliance with the above. The Business Associate is solely responsible for all decisions made by it, its workforce members, agents, employees, subsidiaries and subcontractors regarding the safeguarding of PHI and compliance with federal law.
- r) The Business Associate agrees that its workforce members, agents, employees, subsidiaries and subcontractors shall be bound by the confidentiality requirements herein and the provisions of this Business Associate Agreement shall be incorporated into any training or contracts with the same.
- s) This Business Associate Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document.

- t) This Business Associate Agreement shall replace and supersede any prior Business Associate Agreement entered between the parties.

IN WITNESS WHEREOF, each party hereto has executed this Business Associate Agreement in duplicate originals on the date below written:

**Arlington County, Virginia**

**Business Associate**

By: \_\_\_\_\_  
(Signature)

By: \_\_\_\_\_  
(Signature)

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: County Privacy Officer

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**VII. FORMS AND ATTACHMENTS**

**ARLINGTON COUNTY, VIRGINIA  
REQUEST FOR PROPOSALS NO. 23-DHS-RFPLW-160**

**PROPOSAL FORM**

**ELECTRONIC PROPOSALS WILL BE RECEIVED BY THE COUNTY VIA VENDOR REGISTRY NOT LATER THAN  
5:00 P.M., NOVEMBER 14, 2022.**

FOR PROVIDING NUTRITION AND MEAL SERVICES PER THE SOLICITATION.

**THE FULL LEGAL NAME OF THE ENTITY SUBMITTING THIS PROPOSAL MUST BE WRITTEN IN THE SPACE BELOW. THIS PROPOSAL FORM AND ALL OTHER DOCUMENTS THAT REQUIRE A SIGNATURE MUST BE FULLY AND ACCURATELY COMPLETED AND SIGNED BY A PERSON WHO IS AUTHORIZED TO BIND THE OFFEROR, OR THE PROPOSAL MAY BE REJECTED.**

**SUBMITTED BY:**

*(Legal name of entity)*

\_\_\_\_\_

**AUTHORIZED SIGNATURE:**

\_\_\_\_\_

**PRINT NAME AND TITLE:**

\_\_\_\_\_

**ADDRESS:**

\_\_\_\_\_

**CITY/STATE/ZIP:**

\_\_\_\_\_

**TELEPHONE NO.:**

\_\_\_\_\_

**E-MAIL  
ADDRESS:**

\_\_\_\_\_

**THIS ENTITY IS INCORPORATED  
IN:**

\_\_\_\_\_

**THIS ENTITY IS A:**

*(check the applicable  
option)*

CORPORATION   

LIMITED PARTNERSHIP   

GENERAL PARTNERSHIP   

UNINCORPORATED ASSOCIATION   

LIMITED LIABILITY COMPANY   

SOLE PROPRIETORSHIP   

**IS OFFEROR AUTHORIZED TO TRANSACT BUSINESS IN THE  
COMMONWEALTH OF VIRGINIA?**

YES   

NO   

**IDENTIFICATION NO. ISSUED TO THE ENTITY BY THE  
SCC:**

\_\_\_\_\_

*Any Offeror exempt from Virginia State Corporation Commission (SCC) authorization requirement must include a statement with its proposal explaining why it is not required to be so authorized.*

ENTITY'S DUN & BRADSTREET D-U-N-S NUMBER: *(if available)*

HAS YOUR FIRM OR ANY OF ITS PRINCIPALS BEEN DEBARRED, ENJOINED, OR SUSPENDED FROM SUBMITTING PROPOSALS TO ARLINGTON COUNTY, VIRGINIA, OR ANY OTHER STATE OR POLITICAL SUBDIVISION WITHIN THE PAST THREE YEARS?

YES    "                      NO    "

OFFEROR STATUS:    MINORITY OWNED:    "                      WOMAN OWNED:    "                      NEITHER:    "

THE UNDERSIGNED UNDERSTANDS AND ACKNOWLEDGES THE FOLLOWING:

THE OFFICIAL COPY OF THE SOLICITATION DOCUMENTS, WHICH INCLUDES ANY ADDENDA, IS THE ELECTRONIC COPY THAT IS AVAILABLE FROM THE VENDOR REGISTRY WEBSITE AT:

[HTTPS://VRAPP.VENDORREGISTRY.COM/BIDS/VIEW/BIDSLIST?BUYERID=A596C7C4-0123-4202-BF15-3583300EE088.](https://vrapp.vendorregistry.com/bids/view/bidslst?buyerid=A596C7C4-0123-4202-BF15-3583300EE088)

POTENTIAL OFFERORS ARE RESPONSIBLE FOR DETERMINING THE ACCURACY AND COMPLETENESS OF ALL SOLICITATION DOCUMENTS THEY RECEIVE FROM ANY SOURCE, INCLUDING THE COUNTY.

1. OFFEROR MUST SUBMIT: ONE ELECTRONIC COMPLETE SIGNED PROPOSAL THAT INCLUDES AS ITS FIRST PAGE THIS PROPOSAL FORM.
2. INDICATE THE NAME AND CONTACT INFORMATION OF THE PERSON WHO CAN RESPOND AUTHORITATIVELY TO QUESTIONS REGARDING THIS PROPOSAL.

NAME (PRINTED): \_\_\_\_\_ TITLE: \_\_\_\_\_

E-MAIL ADDRESS: \_\_\_\_\_ TEL. NO.: \_\_\_\_\_

**TRADE SECRETS OR PROPRIETARY INFORMATION:**

Trade secrets or proprietary information submitted by an Offeror in connection with a procurement transaction will not be subject to public disclosure under the Virginia Freedom of Information Act. Pursuant to Section 4-111 of the Arlington County Purchasing Resolution, however, an Offeror seeking to protect submitted data or materials from disclosure must, before or upon submission of the data or materials, identify the data or materials to be protected and state the reasons why protection is necessary.

Please mark one:

- " No, the proposal that I have submitted does not contain any trade secrets and/or proprietary information.
- " Yes, the proposal that I have submitted does contain trade secrets and/or proprietary information.

If yes, you must clearly identify below the exact data or materials to be protected and list all applicable page numbers, sections, and paragraphs, of the proposal that contain such data or materials:

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State the specific reason(s) why protection is necessary and why the identified information constitutes a trade secret or is proprietary:

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If you fail above to identify the data or materials to be protected or to state the reason(s) why protection is necessary, you will not have invoked the protection of Section 4-111 of the Purchasing Resolution. Accordingly, upon the award of a contract, the proposal will be open for public inspection consistent with applicable law.

CERTIFICATION OF NON-COLLUSION: The undersigned certifies that this proposal is not the result of or affected by (1) any act of collusion with another person engaged in the same line of business or commerce (as defined in Virginia Code §§ 59.1-68.6 *et seq.*) or (2) any act of fraud punishable under the Virginia Governmental Frauds Act (Virginia Code §§ 18.2-498.1 *et seq.*).

CONTACT PERSON AND MAILING ADDRESS FOR DELIVERY OF NOTICES

Provide the name and address of the person who is designated to receive notices and other communications regarding this solicitation. Refer to the "Notices" section in the draft Contract Terms and Conditions for information regarding delivery of notices.

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Email: \_\_\_\_\_

OFFEROR'S PRINTED NAME: \_\_\_\_\_



**ACKNOWLEDGEMENT OF COUNTY COVID-19 VACCINATION POLICY**

I, \_\_\_\_\_(hereinafter referred to as “Offeror”), certify that I will comply with the COVID-19 Vaccination Policy as a condition of contract award which may require that all contractor employees or subcontractors who will be working on the contract are fully vaccinated against COVID-19, or being tested on a weekly basis, or are exempt pursuant to a valid reasonable accommodation under state or federal law.

**Signed:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Name of Offeror:** \_\_\_\_\_

**CONFLICT OF INTEREST STATEMENT**

I, whose name is subscribed below, a duly authorized representative and agent of the entity submitting this proposal to Arlington County in response to its Request for Proposal No23-DHS-RFPLW-160, and on behalf of the Offeror certify that:

1. Neither the Offeror nor any affiliated entity has, within the past five years, been employed by or represented a deliverer of services that reasonably could be expected to be considered for purchase by the County as a result of this solicitation.
2. if the Offeror is awarded a contract under this solicitation and during the term of that contract prepares an invitation to bid or request for proposal for or on behalf of the County, the Offeror must not (i) submit a bid or proposal for that procurement or any portion thereof or (ii) disclose to any potential bidder or offeror information concerning the procurement that is not available to the public.
3. The Offeror will not solicit or accept any commissions or fees from vendors who ultimately furnish services to the County as a result of any contract award made as a result of this solicitation.

OFFEROR'S NAME: \_\_\_\_\_

SIGNED BY: \_\_\_\_\_

PRINTED NAME/TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

**NOTARY STATEMENT**

COMMONWEALTH OF VIRGINIA/STATE OF \_\_\_\_\_)

CITY/COUNTY OF \_\_\_\_\_) to wit:

\_\_\_\_\_ personally appeared before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ the undersigned a Notary Public in and for the State and County of aforesaid, \_\_\_\_\_, known to me (or satisfactorily proven) to be the person whose name is subscribed to within the instrument as an agent of the Offeror and acknowledged that he/she has executed the same for the purposes therein contained.

\_\_\_\_\_

(Seal)

Notary registration number: \_\_\_\_\_

My commission expires: \_\_\_\_\_

**ATTACHMENT A**

**COST PROPOSAL**

Per Meal Pricing: The Offeror must use Tables 3 and 4 below to propose pricing. Pricing shall be inclusive of all costs associated with providing the services as detailed in this RFP. No other costs will be paid by the County to the Contractor for services provided.

**TABLE 3 – PROPOSED PRICING**

<b>Name of Center</b>	<b>Address of Center</b>	<b>Number of Lunches per day</b>	<b>Cost per meal/per day</b>
<b>First Presbyterian Church of Arlington, (Home Delivered Meals Program)</b>	601 N Vermont Street, Arlington, VA 22203	Daily Deliveries: (M-F) - up to 50 hot meals and 50 cold meals per day, 5 days per week  Bulk Deliveries: (Wed) - average of 1,000 flash frozen meals and 1,000 cold meals per week packaged in sets of 5 flash frozen and 5 cold meals per recipient.  <i>Delivery time for both daily delivery and bulk must be no later than 11:00 am</i>	
<b>Arlington Mill Social 60+ Café</b>	909 S Dinwiddie St, Arlington, VA 22204	25 (up to) (M-F) - hot, pre-plated meals - Vegetarian and Vegan meals upon requested. - Cold boxed meals upon request.  <i>Delivery time must be no later than 11:15 am</i>	
<b>Langston-Brown Social 60+ Cafe</b>	212 N. Culpepper St, Arlington, VA, 22207	20 (up to) (M-F) - hot, meals - Vegetarian and Vegan meals upon requested. - Cold boxed meals upon request.  <i>Delivery time must be no later than 11:30 am</i>	
<b>Walter Reed Social 60+ Café</b>	2909 16 <sup>th</sup> St S, Arlington, VA 22204	35 (up to) (M-F) - hot, pre-plated meals - Vegetarian and Vegan meals upon requested. - Cold boxed meals upon request.  <i>Delivery time must be no later than 11:45 am</i>	

*Table 3 continued on next page*

**TABLE 3 - CONTINUED**

Name of Center	Address of Center	Number of Lunches per day	Cost per meal/per day
<b>Arlington Adult Day Program</b>	2909 16 <sup>th</sup> St S Arlington, VA 22204	24 (up to) (M-F) -Hot Pre-plated lunches. - ability for family-style once COVID restrictions are lifted. -Vegetarian and Vegan meals upon request  Delivery time be no later than 11:45 am	
<b>Homeless Shelter, Residential Program Center (RPC), EID</b>	1554 Columbia Pike Arlington, VA 22204	44 (up to) (7 days per week) -Boxed Lunch -Vegetarian Boxed Lunch -Vegan Boxed Lunch (Delivered with breakfast each day.)  -Hot Dinner -Vegetarian Hot Dinner \$ -Vegan Hot Dinner  Delivery time must be no later than 5:00 pm	
<b>Clarendon House</b>	2120 Washington Blvd. Arlington, VA 22204 (Front entrance)	(Up to) 20 (M-F) (ordered in advance) Hot and/or cold pre-plated Lunches (meals)  Delivery time must be no later than 12:00 pm	
<b>Crisis Intervention Center/Emergency Services</b>	2120 Washington Blvd. Arlington, VA 22204 (side entrance)	Approximately 2, (delivery of frozen breakfast, lunch and dinner together twice per week TBD) Frozen Lunch	
<b>Additional Location(s)</b>	TBD	TBD	TBD

**TABLE 4 – PROPOSED PRICING FOR INDIVIDUAL MEALS**

Meal Type	Unit Price (Per Meal)
Hot Pre-Plated Breakfast	
Hot Pre-Plated Vegetarian Breakfast	
Hot Pre-Plated Vegan Breakfast	
Frozen Breakfast	
Boxed Lunch	
Vegetarian Boxed Lunch	
Vegan Boxed Lunch	
Hot and/or Cold Pre- Plated Lunch	
Hot Dinner	
Vegetarian Hot Dinner	
Vegan Hot Dinner	

**ATTACHMENT B**

**OFFEROR REFERENCES**

**Primary Contact:**

**Name:** \_\_\_\_\_ **Phone:** \_\_\_\_\_

**Email Address:** \_\_\_\_\_

Indicate below a listing of at least three (3) current or recent accounts, either commercial or governmental, that your company is servicing, has serviced, or has provided similar goods or services. Include the length of service and the name, address, and telephone number of the point of contact:

A. Company: \_\_\_\_\_ Contact: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Project Description: \_\_\_\_\_

Dates of Service: \_\_\_\_\_ Value: \_\_\_\_\_

B. Company: \_\_\_\_\_ Contact: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Project Description: \_\_\_\_\_

Dates of Service: \_\_\_\_\_ Value: \_\_\_\_\_

C. Company: \_\_\_\_\_ Contact: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Project Description: \_\_\_\_\_

Dates of Service: \_\_\_\_\_ Value: \_\_\_\_\_

I certify the accuracy of this information:

Signature: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_