

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

NOTICE OF CONTRACT AWARD

DANO ENTERPRISES, INC.	DATE ISSUED:	<u>12/3/2019</u>
P.O. BOX 4470	CURRENT REFERENCE NO:	<u>19-301-ITB</u>
STAMFORD, CT 06907		
	CONTRACT TITLE:	<u>CUSTOMIZED LEAF BAGS</u>

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

The contract documents consist of the terms and conditions of AGREEMENT No. 19-301-ITB including any attachments or amendments thereto.

EFFECTIVE DATE: DECEMBER 3, 2019

EXPIRES: NOVEMBER 30, 2021

RENEWALS: THREE (3) ONE (1) YEAR RENEWAL OPTIONS FROM DECEMBER 1, 2021 – NOVEMBER 30, 2024

COMMODITY CODE(S): 0505956, 6401522

LIVING WAGE: N

ATTACHMENTS:

AGREEMENT No. 19-301-ITB

EMPLOYEES NOT TO BENEFIT:

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

VENDOR CONTACT: JOEL EPHRAIM

VENDOR TEL. NO.: (203) 357-0070

EMAIL ADDRESS: SALES@DANOINC.COM

COUNTY CONTACT: DANIEL GRAY

COUNTY TEL. NO.: (703) 228-7626

COUNTY CONTACT EMAIL:
DWGRAY@ARLINGTONVA.US

AGREEMENT NO. 19-301-ITB

THIS AGREEMENT is made, on the date of execution by the County, between Dano Enterprises, Inc., 4 Omega Drive, Stamford, CT 06907 ("Contractor") a New York corporation authorized to do business in the Commonwealth of Virginia, and the County Board of Arlington County, Virginia. The County and the Contractor, for the consideration hereinafter specified, agree as follows:

1. CONTRACT DOCUMENTS

The "Contract Documents" consist of the bid of the successful bidder (hereinafter "Contractor") and Arlington County (hereinafter "County") Invitation to Bid No. 19-301-ITB

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

2. SCOPE OF WORK

The Contractor agrees to provide goods described in the Contract Documents (hereinafter "the Work"), more particularly described in the Specifications included with the Invitation to Bid. The primary purpose of the Work is to supply customized leaf collection bags. The Contract Documents set forth the minimum work estimated by the County and the Contractor to be necessary to complete the Work. It shall be the Contractor's responsibility, at the Contractor's sole cost, to provide the specific goods set forth in the Contract Documents and sufficient goods to fulfill the purposes of the Work. Nothing in the Contract Documents shall be construed to limit the Contractor's responsibility to manage the details and execution of the Work.

3. CONTRACT TERM

Time is of the essence. The Work will commence on the date of the execution of the Agreement by the County and must be completed no later than November 30, 2021 ("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 Award, authorize continuation of the Agreement under the same contract prices for not more than three (3) additional 12-month periods, from December 1, 2021 to November 30, 2024 (each a "Subsequent Contract Term"). The Initial Contract Term and any Subsequent Contract Term(s) are together the "Contract Term".

4. CONTRACT PRICING

Unless otherwise provided in the Contract Documents, the Contractor shall provide the goods covered in the County's Invitation to Bid No. 19-301-ITB at the prices provided in the bid of the Contractor. Pricing shall be at two (2) years fixed, with up to three (3) additional option years. Price adjustments are at the sole discretion of the County, and will only be considered at the start of the renewal term.

5. PROJECT OFFICER

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

6. PAYMENT TERMS

Payment terms will be recorded by the County as Net thirty (30) days. The County will pay the Contractor within thirty (30) calendar days after the date of receipt of a correct, as determined by the Project Officer, invoice approved by the Project Officer describing completed work which is reasonable and allocable to the Contract, or the date of receipt of the entire order, or the date of acceptance of the work which meets the Contract requirements, whichever is later. Payments will be made by the County for goods furnished, delivered, inspected, and accepted upon receipt of invoices submitted on the date of delivery of service, subject to applicable payment terms. The number of the County Purchase Order pursuant to which authority services have been performed shall appear on all invoices. Invoices shall be submitted in duplicate. Unless otherwise specified herein, payment shall not be made prior to delivery and acceptance of the entire order by the County.

7. PAYMENT OF SUBCONTRACTORS

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

- a. Pay the subcontractor for the proportionate share of the total payment received from the County attributable to the work performed by the subcontractor under this Contract; or
- b. Notify the County and the subcontractor, in writing, of the Contractor's intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment.

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

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

The Contractor's obligation to pay an interest charge to a subcontractor pursuant to 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.

8. NON-APPROPRIATION

All funds for 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. In the event of non-appropriation of funds by the County Board of Arlington County, Virginia for the goods or services provided under this Contract or substitutes for such goods or services which are as advanced or more advanced in their technology, the County will terminate the Contract, without termination charge or other liability to the County, on the last day of the then-current fiscal year or when the appropriation made for the then-current year for the services covered by this Contract is spent, whichever event occurs first.

9. ESTIMATED QUANTITIES/NON-EXCLUSIVITY OF CONTRACTOR

During the Contract Term, the Contractor will furnish all of the goods or services described in the Contract Documents, if so requested by the County. The County will have no obligation to the Contractor if no, or fewer, items or services are required or requested by the County. Any quantities which are included in the Contract Documents are the present expectations of those who are planning for the County for the period of the Contract. The amount is only an estimate and the Contractor understands and agrees that the County is under no obligation to the Contractor to buy that amount, or any amount as a result of having provided this estimate or of having had any normal or otherwise measurable requirement in the past. The Contractor further understands that the County may require goods and/or services in excess of the estimated annual contract amount and that such excess shall not give rise to any claim for compensation other than at the unit prices and/or rates set forth in this Contract. Further, the items or services covered by this contract may be available or become available under other County contracts, and in analyzing its needs, the County may determine that it is in its best interest to procure the items or services through such another contract. Therefore, the County does not guarantee that the Contractor will be the exclusive provider of the goods or services covered by this contract.

10. COUNTY PURCHASE ORDER REQUIREMENT

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

11. DELIVERY

All goods are purchased F.O.B. destination in Arlington County as designated in this Contract. All costs for handling and transportation charges to the designated point of delivery shall be borne by the Contractor. Transportation, handling and all related charges are included in the unit prices or discounts submitted by the Contractor with its bid.

12. WARRANTY

All goods and materials provided to the County shall be fully guaranteed by the Contractor against factory defects. Any defects which may occur as the result of either faulty material or workmanship by the manufacturer within the period of the manufacturer's standard warranty shall be corrected by the Contractor at no expense to Arlington County. The Contractor shall provide all manufacturers' warranties available to the Project Officer at the time of delivery. All goods and materials are guaranteed by the Contractor against defects resulting from the use of inferior or faulty materials or workmanship for one (1) year from the date of final acceptance by the County in addition to and irrespective of any manufacturer's or supplier's warranty. No date other than the date of final acceptance shall govern the effective date of the Warranty, unless that date is agreed upon by the County and the Contractor in advance and in a signed writing.

13. INSPECTION, ACCEPTANCE, TITLE, AND RISK OF LOSS

Inspection and acceptance of goods or materials by the County will be at the delivery location in Arlington County, Virginia, and within ten (10) calendar days of delivery, unless otherwise provided for in the Contract. The County will not inspect, accept, or pay for any goods or materials stored or delivered off-site by the Contractor.

Title and risk of loss or damage to all goods shall be the responsibility of the Contractor until acceptance by the County. The County's right of inspection shall not be deemed to relieve the Contractor of its obligation to ensure that all articles, materials and supplies are consistent with specifications and instructions and are fit for their intended use. The County reserves the right to conduct any tests or inspections it may deem appropriate before acceptance.

No goods or materials shall be purchased by the Contractor or any subcontractor subject to any chattel mortgage or under a conditional sale or other agreement by which an interest is retained by the seller. The Contractor warrants that it has good title to, and that it will require all subcontractors to warrant that they have good title to, all goods or materials for which the Contractor invoices for payment.

14. DISPOSAL OF PACKING MATERIALS, TRASH, AND DEBRIS

The Contractor shall be responsible for all costs associated with the immediate removal of all packing materials, trash, and debris ("Waste"), and legal disposal of said Waste off-site. No County building or waste containers shall be used for such Waste. If the Contractor fails to adhere to this requirement the County will contract a third party for removal and disposal of the Waste left by the Contractor. By accepting this award, the Contractor agrees that all costs incurred by the County for removal and disposal of Waste left by the Contractor will be deducted from the final payment due to the Contractor. Similarly, any damage to walls, floors, carpeting or any other County-owned or County-controlled property caused by the Contractor or the Contractor's agents during service provision, delivery, setup or equipment installation shall be repaired or caused to be repaired by the County at the Contractor's sole expense with all costs of the repair deducted from the Contractor's final payment unless the County agrees that such repairs will be made by the Contractor. Any such Contractor repairs shall be made within ten (10) days of the date of damage to the satisfaction of the County.

15. EMPLOYMENT DISCRIMINATION BY CONTRACTOR PROHIBITED

During the performance of its Work pursuant to this Contract, the Contractor agrees as follows:

- a. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability or any other basis prohibited by state law related to discrimination in employment except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- b. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an Equal Opportunity Employer.
- c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
- d. The Contractor will comply with the provisions of the Americans with Disabilities Act of 1990 which prohibits discrimination against individuals with disabilities in employment, and mandates their full participation in both publicly and privately-provided services and activities.
- e. The Contractor will include the provisions of the foregoing paragraphs in every subcontract or purchase order of over \$10,000.00, so that the provisions will be binding upon each subcontractor or vendor.

16. EMPLOYMENT OF UNAUTHORIZED ALIENS PROHIBITED

In accordance with § 2.2-4311.1 of the Code of Virginia, as amended, the Contractor acknowledges that it does not, and shall 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.

17. DRUG-FREE WORKPLACE TO BE MAINTAINED BY CONTRACTOR

During the performance of this Contract, the Contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace, and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000.00 relating to this Contract, so that the provisions will be binding upon each subcontractor or vendor.

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

18. FAILURE TO DELIVER

In case of failure by the Contractor to deliver goods or services in accordance with the Contract Documents, the County, after written notice, may procure the same or similar goods or services from other sources and the Contractor shall be liable for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which the County may have pursuant to this Contract or under law. At its discretion, the County shall be entitled to offset such costs against any sums owed by the County to the Contractor.

19. TERMINATION FOR CAUSE, INCLUDING BREACH AND DEFAULT; CURE

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

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

(15) days after the expiration of the Cure Period. The County may accept or reject, in whole or in part, the application for Termination Costs and notify the Contractor of same within a reasonable time thereafter.

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

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

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

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

20. TERMINATION FOR THE CONVENIENCE OF THE COUNTY

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

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

paperwork for terminated work to the County; and terminate all vendors and subcontracts and settle all outstanding liabilities and claims.

21. INDEMNIFICATION

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

22. INTELLECTUAL PROPERTY INDEMNIFICATION

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

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

23. COPYRIGHT

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

Further, the Contractor agrees that the rights granted to the County by this paragraph are irrevocable. Notwithstanding anything else in this Contract, the Contractor's remedy in the event of termination of or

dispute over the terms of this Contract shall not include any right to rescind, terminate or otherwise revoke or invalidate in any way the rights conferred pursuant to the provisions of this paragraph. Similarly, no termination of this Contract shall have the effect of rescinding, terminating or otherwise invalidating the rights acquired pursuant to the provisions of this "Copyright" paragraph.

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

24. ETHICS IN PUBLIC CONTRACTING

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

25. COUNTY EMPLOYEES

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

26. FORCE MAJEURE

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

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

27. AUTHORITY TO TRANSACT BUSINESS

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

28. RELATION TO THE COUNTY

The Contractor is an independent contractor, and neither the Contractor nor its employees or subcontractors will, under any circumstances, be considered employees, servants or agents of the County.

The County will not be legally responsible for any negligence or other wrongdoing by the Contractor, its employees, servants or agents. The County will not withhold payments to the Contractor for any federal or state unemployment taxes, federal or state income taxes, Social Security tax, or any other amounts for benefits to the Contractor. Furthermore, the County will not provide to the Contractor any insurance coverage or other benefits, including workers' compensation, normally provided by the County for its employees.

29. ANTITRUST

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

30. AUDIT

The Contractor must retain all books, records and other documents related to this Contract for at least five years 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, the Contractor must give the County at least 30 days' notice and must not dispose of the documents if the County objects.

31. ASSIGNMENT

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

32. AMENDMENTS

Unless otherwise specified herein, this Contract shall not be modified except by written amendment executed by persons duly authorized to bind the Contractor and the County.

33. ARLINGTON COUNTY PURCHASING RESOLUTION AND COUNTY POLICIES

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

34. DISPUTE RESOLUTION

All disputes arising under this Agreement, or its interpretation, whether involving law or fact, extra work or extra compensation or time, and all claims for alleged breach of Contract shall be submitted in writing to the Project Officer for decision at the time of the occurrence or beginning of the work upon which the claim is based, whichever occurs first. Any such claims shall state the facts surrounding it in sufficient detail to identify it together with its character and scope. In accordance with the Arlington County Purchasing Resolution, claims denied by the Project Officer may be submitted to the County Manager in writing no later than sixty (60) days after final payment. The time limit for final written decision by the County Manager in the event of a contractual dispute, as that term is defined in the Arlington County

Purchasing Resolution, is fifteen (15) days. Procedures for considering contractual claims, disputes, administrative appeals, and protests are contained in the Purchasing Resolution, which is incorporated herein by reference. A copy of the Arlington County Purchasing Resolution is available upon request from the Office of the Purchasing Agent. The Contractor shall not cause a delay in the Work pending a decision of the Project Officer, County Manager, County Board, or a court of law.

35. APPLICABLE LAW, FORUM, VENUE, AND JURISDICTION

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

36. ARBITRATION

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

37. NONEXCLUSIVITY OF REMEDIES

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

38. NO WAIVER

The failure of either party to exercise in any respect a right provided for in this Contract shall not be deemed to be a subsequent waiver of the same right or any other right.

39. SEVERABILITY

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

40. NO WAIVER OF SOVEREIGN IMMUNITY

Notwithstanding any other provision of this Contract, nothing in this Contract or any action taken by the County pursuant to this Contract shall constitute or be construed as a waiver of either the sovereign or governmental immunity of the County. The parties intend for this provision to be read as broadly as possible.

41. SURVIVAL OF TERMS

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

42. HEADINGS

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

43. AMBIGUITIES

Each party and its counsel have participated fully in the review and revision of this Agreement. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in interpreting this Agreement. The language in this Agreement shall be interpreted as to its fair meaning and not strictly for or against any party.

44. ATTORNEYS' 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. NOTICES

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

TO THE CONTRACTOR:

Joel Ephraim, Vice President
Dano Enterprises, Inc.
P.O. Box 4470
Stamford, CT 06907

TO THE COUNTY:

Daniel Gray, Project Officer
Arlington County Government, DES, Solid Waste Bureau
4300 29th Street South
Arlington, VA 22206

AND

Arlene Palmer, Procurement
Arlington County, Virginia
2100 Clarendon Boulevard, Suite 500
Arlington, Virginia 22201

46. NON-DISCRIMINATION NOTICE

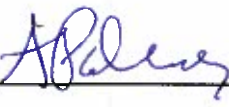
Arlington County does not discriminate against faith-based organizations.

47. 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

AUTHORIZED
SIGNATURE: 

NAME: ARLENE PALMER
TITLE: PROCUREMENT

DATE: 12/3/19

DANO ENTERPRISES, INC.

AUTHORIZED
SIGNATURE: 

NAME AND
TITLE: Joel Ephraim - Vice President

DATE: 11/22/19

II. SPECIFICATIONS

GENERAL

Arlington County will receive bids for the provision of biodegradable paper bags in palletized shipments for its Leaf Collection Program and Spring Yard Waste Program for up to a five (5) year period. Bid prices shall include all costs of production, transportation and delivery fees. Bags will be off-loaded and stacked by County personnel.

REQUIREMENTS

The bag shall be a 30-gallon minimum (16" x 12" x 35"), 2-ply 50 LB wet strength Kraft paper, gusseted, flat bottom, waterproof adhesive, recyclable and biodegradable, non-toxic ink, minimum 50% post-consumer waste in bundles of 25, palletized.

A message shall be printed with non-toxic ink, color to be determined by the County (Project Officer) on the front of each bag. Camera ready copy will be provided to the Contractor. The Contractor shall provide to the County Project Officer a proof for approval prior to release for production.

SAMPLE

One (1) sample bag and specification details shall be included with bid submittal.

On the next page is a sample message at 50% reduction of desired imprint size. The actual text will be to some extent different.

FAILURE TO PROVIDE BAG SAMPLE AND BAG SPECIFICATION MAY RESULT IN BID REJECTION.

DELIVERY

Bags shall be packaged in bundles of 25 and palletized. Upon order receipt by the County, the Contractor shall deliver the bags in palletized shipments to the Solid Waste Bureau within **thirty (30) days** of the order being placed and PO receipt by the Contractor. The delivery address noted here will also be listed on the PO: 4300 S. 29th Street, Arlington, VA 22206. The deliveries expected under the contract are as follows:

*NOTE: COUNTY PROJECT OFFICER WILL CONTACT THE CONTRACTOR WITH SPECIFIC DATES OF DELIVERY.

*****THE COUNTY WILL UTILIZE THE SECONDARY CONTRACTOR IN THE EVENT THAT THE PRIMARY CONTRACTOR CANNOT MEET ANY OF THE DELIVERIES AS SPECIFIED ABOVE*****

Supplies Limited. Also available at local retail stores.

ARLINGTON COUNTY YARD WASTE BAG



FOR ARLINGTON RESIDENTIAL CUSTOMERS ONLY
Limited Use - For Seasonal Programs Listed Below.
All other uses prohibited.



FALL LEAF COLLECTION PROGRAM



Leaves only



SPRING YARD WASTE PROGRAM

No Grass Clippings



ARLINGTON
VIRGINIA

Department of Environmental Services

Solid Waste Bureau

703.228.6570

www.arlingtonva.us/recycle

ARLINGTON COUNTY, VIRGINIA
OFFICE OF THE PURCHASING AGENT
INVITATION TO BID NO. 19-301-ITB

BID FORM

SUBMIT TWO (2) FULLY-COMPLETED AND SIGNED BID FORMS TO THE OFFICE OF THE BID CLERK, SUITE 511, 2100 CLARENDON BLVD., ARLINGTON, VIRGINIA 22201 (ONE FORM SHALL CONTAIN AN ORIGINAL LONGHAND SIGNATURE; THE OTHER SHALL BE A PHOTOCOPY OF THE SIGNED ORIGINAL IN AN UNENCRYPTED ELECTRONIC FLASH DRIVE)

BIDS WILL BE OPENED AT 2:00 P.M., ON NOVEMBER 7, 2019

FOR PROVISION AND DELIVERY OF 30-GALLON, 2-PLY, 50 LB KRAFT LEAF COLLECTION BAGS FOR UP TO A FIVE (5) YEAR PERIOD PER THE TERMS, CONDITIONS AND SPECIFICATIONS OF THIS SOLICITATION

	<u>ESTIMATED QUANTITY OF BAGS</u>	<u>UNIT PRICE PER BAG</u>	<u>EXTENDED TOTAL</u>
YEAR 1	68,000	\$ <u>.465</u>	\$ <u>31,620.00</u> Delivered
YEAR 2	68,000	\$ <u>.445</u>	\$ <u>33,660.00</u> Delivered.
GRAND TOTAL (YEARS 1 & 2)			\$ <u>65,280.00</u>

DELIVERIES MUST BE MADE WITHIN THIRTY (30) DAYS AFTER RECEIPT OF PURCHASE ORDER.

THE COUNTY WILL UTILIZE THE SECONDARY CONTRACTOR IN THE EVENT THE PRIMARY CONTRACTOR CANNOT DELIVER AS SPECIFIED ABOVE.

The undersigned understands and acknowledges the following:
The official, true, and complete copy of the solicitation documents, WHICH SHALL INCLUDE ALL ADDENDUMS THERETO, is the electronic copy of the solicitation documents provided at the County Purchasing Agent's website (<http://www.arlingtonva.us/purchasing>).
Each bidder is responsible for determining the accuracy and completeness of ALL solicitation documents they receive, including documents obtained from the County, and documents obtained from all other sources.

BIDDER NAME: DANO ENTERPRISES, INC.

25
19-301-ITB



4 Omega Drive • Stamford, CT 06907
PO Box 4470 Stamford, CT 06907
sales@danoinc.com
203-357-0070-phone • 203-357-0484-fax
800-348-3268 (DANO)

TRADE SECRETS OR PROPRIETARY INFORMATION:

Trade secrets or proprietary information submitted by a bidder in connection with a procurement transaction shall not be subject to public disclosure under the Virginia Freedom of Information Act. However, Section 4-111 of the Arlington County Purchasing Resolution states that the bidder must invoke the protection of this section prior to or upon submission of the data or other materials, and must identify the data or other materials to be protected and state the reasons why protection is necessary.

Please mark one:

() No, the bid I have submitted does not contain any trade secrets and/or proprietary information.

Yes, the bid I have submitted does contain trade secrets and/or proprietary information.

If Yes, you must clearly identify below the exact data or other materials to be protected and list all applicable page numbers of the bid containing such data or materials:

THE NAME OF THE SUPPLIER


State the specific reason(s) why protection is necessary:

THE SUPPLIER IS A SOURCE THAT WE
DEVELOPED A RELATIONSHIP WITH

If you fail to identify the data or other materials to be protected and state the reasons why protection is necessary in the space provided above, you will not have invoked the protection of Section 4-111 of the Purchasing Resolution. Accordingly, effective upon the award of contract, the bid will be open for public inspection consistent with applicable law.

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

BIDDER NAME: _____



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4 Omega Drive • Stamford, CT 06907
PO Box 4470 Stamford, CT 06907
sales@danoinc.com
203-357-0070-phones • 203-357-0484-fax
800-348-1000 (DANO)

CONTACT PERSON AND MAILING ADDRESS FOR DELIVERY OF NOTICES

Provide the name and address of the person designated by the Bidder to receive notices and other communications (Refer to section headed Notices in the Contract Terms and Conditions of this solicitation for further details):

DANO ENTERPRISES, INC.
ATTN: JOEL EPHRAIM
P.O. Box 4470
STAMFORD, CT 06907

THE PROPER LEGAL NAME OF THE FIRM OR ENTITY SUBMITTING THIS BID MUST BE WRITTEN IN THE SPACE PROVIDED BELOW. THIS BID FORM, AND ALL OTHER DOCUMENTS REQUIRED BY THE INVITATION TO BID TO BE SUBMITTED WITH THIS BID FORM, INCLUDING, BUT NOT LIMITED TO ALL ISSUED ADDENDUMS, MUST BE FULLY AND ACCURATELY COMPLETED AND SIGNED BELOW BY A PERSON AUTHORIZED TO LEGALLY BIND THE BIDDER, OR THE BID MAY BE REJECTED:

AUTHORIZED SIGNATURE: 
PRINT NAME AND TITLE: JOEL EPHRAIM, VP

INDICATE THE NAME AND CONTACT INFORMATION OF THE PERSON WHO CAN RESPOND AUTHORITATIVELY TO ANY QUESTIONS REGARDING THIS BID AND THE CONTRACT, IF AWARDED (I.E. PROJECT MANAGER):

NAME (PRINTED): JOEL EPHRAIM TITLE: VP
E-MAIL ADDRESS: Sales@danoinc.com TEL. NO.: 203-357-0070

BIDDER NAME: DANO ENTERPRISES, INC.

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19-301-ITB



4 Omega Drive • Stamford, CT 06907
PO Box 4470 Stamford, CT 06907
sales@danoinc.com
203-357-0070-phone • 203-357-0484-fax
800-348-3266 (DANO)

SUBMITTED BY: (LEGAL NAME OF ENTITY) DANO ENTERPRISES, INC.	
ADDRESS: 4 OMEGA DRIVE	
CITY/STATE/ZIP: STAMFORD, CT 06907	
TELEPHONE NO.: 203-357-0070	FACSIMILE NO.: 203-357-0484
THIS FIRM IS A: • INSERT NAME OF STATE _____ <input checked="" type="checkbox"/> CORPORATION, ___ GENERAL PARTNERSHIP, ___ LIMITED PARTNERSHIP, ___ UNINCORPORATED ASSOCIATION, ___ LIMITED LIABILITY COMPANY, ___ SOLE PROPRIETORSHIP	
IS FIRM AUTHORIZED TO TRANACT BUSINESS IN THE COMMONWEALTH OF VA? Yes	
IDENTIFICATION NO. ISSUED TO THE FIRM BY THE SCC:	TO BE PROVIDED IN 8-10 DAYS
ANY BIDDER EXEMPT FROM SCC AUTHORIZATION REQUIREMENT SHALL INCLUDE A STATEMENT WITH ITS BID WHY THEY ARE NOT REQUIRED TO BE SO AUTHORIZED	
IS YOUR FIRM OR ANY OF ITS PRINCIPALS CURRENTLY DEBARRED FROM SUBMITTING BIDS TO ARLINGTON COUNTY, VIRGINIA, OR ANY OTHER STATE OR POLITICAL SUBDIVISION? No	
ENTITY'S DUN & BRADSTREET D-U-N-S NUMBER: (if available)	068049287
BIDDER STATUS:	MINORITY OWNED: No WOMAN OWNED: NO NEITHER: <input checked="" type="checkbox"/>

BIDDER NAME: _____



4 Omega Drive • Stamford, CT 06907
 PO Box 4470 Stamford, CT 06907
 sales@danoinc.com 19-301-11B
 203-357-0070-phone • 203-357-0484-fax
 800-346-3288 (DANO)

ARLINGTON COUNTY, VIRGINIA
OFFICE OF THE PURCHASING AGENT

INVITATION TO BID No. 19-301-ITB

ADDENDUM A

Arlington County Invitation to Bid No. 19-301-ITB for Body Repair Services for Leaf Collection Bags is amended as follows:

The following are responses to the questions received:

I. **RESPONSES TO QUESTIONS**

Below are the responses to the questions received by the County via email:

1. I wanted to request the last bid tabulation for the paper bags. Also, is this contract going to be for two years with an option of renewing for an additional 1 year for three additional years? If so would there be allowed an increase when renewal comes to an option for the first renewal year?

RESPONSE: The bid tabulation from the prior solicitation is not available.

Per the solicitation, 4. **CONTRACT PRICING:**

Unless otherwise provided in the Contract Documents, the Contractor shall provide the goods covered in the County's Invitation to Bid No. 19-301-ITB at the prices provided in the bid of the Contractor. Pricing shall be at two (2) years fixed, with up to three (3) additional option years. Price adjustments are at the sole discretion of the County, and will only be considered at the start of the renewal term.

2. Please let me know what quantities will be purchased per delivery? Also, is there any flexibility on the packing? Would you accept 10 sleeves per bundle consisting of 5 bags per sleeve (i.e. 50 bags per bundle)?

RESPONSE: Per the solicitation, 24. **ESTIMATED QUANTITIES/NON-EXCLUSIVITY OF CONTRACTOR ACKNOWLEDGEMENT:**

Bidders acknowledge that the contract that will be entered into as a result of this solicitation will not obligate the County to purchase a specific quantity of items or services during the Contract Term. Any quantities which are included in the Contract Documents are the present expectations of those who are planning for the County for the period of the Contract. The amount is only an estimate and the Contractor understands and agrees that the County is under no obligation to the Contractor to buy that amount, or any amount as a result of having provided this estimate or of having had any normal or otherwise measurable requirement in the past. Bidders further understand that the County may require goods and/or services in excess of the estimated annual contract amount and that such excess shall not give rise to any claim for compensation other than at the unit prices and/or rates set forth in the resulting Contract. Further, bidders acknowledge that the items or services covered by this contract may be available or become available under other County contract(s), and that in analyzing its needs,

the County may determine that it is in its best interest to procure the items or services through such other contract(s). Therefore, the County does not guarantee that the Contractor will be the exclusive provider of the goods or services covered by the resulting contract.

Per II. SPECIFICATIONS:

Bags shall be packaged in bundles of 25 and palletized.

Arlington County, Virginia
Arlene Palmer
Procurement
ampalmer@arlingtonva.us

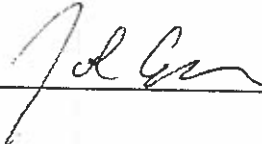


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100-348-1200 (DANO)

RETURN THIS PAGE, FULLY COMPLETED AND SIGNED, WITH YOUR BID:

RECEIPT OF ADDENDUM A IS ACKNOWLEDGED.

FIRM NAME: DANO ENTERPRISES, INC.

AUTHORIZED SIGNATURE:  DATE: 11/5/19