



DEPARTMENT OF MANAGEMENT AND FINANCE
Office of the Purchasing Agent

2100 Clarendon Blvd., Suite 501 Arlington, VA 22201
TEL 703-228-3410 FAX 703-228-3409 EMAIL purchasing@arlingtonva.us www.arlingtonva.us

October 24, 2019

VIA E-MAIL AND US MAIL

Mr. David W. King, President, CEO
IPS Group, Inc.
7737 Kenamar Court
San Diego, California 92121

RE: Arlington County Sole Source Contract No. 20-810, entitled, "Single Space Meters"

Dear Mr. King:

Enclosed for your files is a fully executed Contract for your file. Should you have any questions, please feel free to contact me at 703-228-3424 or via e-mail at stdiamond@arlingtonva.us.

Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in blue ink that reads "Shirley Diamond".

Shirley Diamond
Procurement Officer

Enclosure

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

SOLE SOURCE AGREEMENT NO. 20-810

THIS AGREEMENT ("Agreement") is made on the date of execution by the County between the COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA ("County") and IPS Group, Inc., with a principal place of business located a Pennsylvania Corporation ("Contractor") located at 7737 Kenmar Court, San Diego, California 92121.

- 1. The Contractor agrees to provide M5tm Single Space Meters in accordance with the attached Scope of Services (Attachment A).**
- 2. The County will have no obligation to the Contractor if no goods or services are required under this Agreement.**
- 3. The Contractor's provision of these goods or services is subject to review and approval by the County's Project Officer.**
- 4. The Contract Term shall be Two (2) Base Years with Three (3) One-Year Option Periods and will commence up full execution of this Agreement.**
- 5. The County will pay the Contractor in accordance with the Pricing Schedule (Attachment B). The County will pay the Contractor net-Forty-Five (45) days from receipt of an invoice approved for payment by the Project Officer.**
- 6. The Contractor is an independent Contractor. The County will not withhold from the Contractor's compensation any federal or Virginia unemployment taxes, federal or Virginia income taxes, Social Security tax or any other amounts for benefits to the Contractor or its agents or employees.**
- 7. The Contractor is obligated to take one of the Two (2) following actions within Seven (7) consecutive calendar days after receipt of amounts paid to the Contractor by the County for Work performed by any sub-contractor under this Agreement:**
 - 1. Pay the sub-contractor for the proportionate share of the total payment received from the County attributable to the Work performed by the sub-contractor under this Agreement; or**
 - 2. Notify the County and the sub-contractor, in writing, of the Contractor's intention to withhold all or a part of the sub-contractor's payment, with the reason for nonpayment.**

The Contractor is obligated to pay interest to any sub-contractor on all amounts owed by the Contractor to the sub-contractor that remain unpaid after Seven (7) days following receipt by the

Contractor of payment from the County for Work performed by the sub-contractor under this Agreement, except for amounts withheld as allowed in Section (2) above.

Unless otherwise provided under the terms of this Agreement, interest shall accrue at the rate of One Percent (1%) per month.

The Contractor shall include in each of its sub-contracts a provision requiring each sub-contractor to include or otherwise be subject to the same payment and interest requirements as those contained in this Agreement with respect to each lower-tier sub-contractor. The Contractor's obligation to pay an interest charge to a sub-contractor pursuant to the above provisions 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. The County may terminate this Agreement by Thirty (30) days' written notice whenever the Purchasing Agent determines that termination is in the County's best interest.

The Contractor will be entitled to receive compensation for all goods or services that the County accepted before the termination notice.

9. The County may terminate this Agreement within Forty-Eight (48) hours' written notice if the Contractor fails to provide satisfactory goods or services, in the determination of the Project Officer. The notice will be effective upon receipt by the Contractor or Three (3) consecutive calendar days after the County mails the notice, whichever is sooner.

The Contractor will be entitled to receive compensation only for goods or services that the County accepted before the County mailed the notice. The Contractor will be liable to the County for all costs that the County incurs after the termination takes effect to complete the Work covered by the Contract, including delay costs and costs to repair or replace any unsatisfactory Work.

The County may deduct these costs from any amount that it owes the Contractor or require that the Contractor pay the costs on demand.

10. Time is of the essence and the Contractor agrees that failure to provide timely service will render this Agreement null and void.

11. The Contractor must provide a certificate of proof of the insurance coverages before the start of Work:

- Workers Compensation-Standard Virginia Workers Compensation Policy.
- Commercial General Liability (CGL)- \$500,000 combined single limit with \$1,000,000 aggregate coverage to include Personal Injury, Completed Operations, Contractual Liability and, where applicable to the services, Products and Independent Contractors. "The County

Board of Arlington County, Virginia, and its officers, employees and agents" must be additional named insureds on the CGL policy.

- Automobile Bodily Injury and Property Damage Liability - \$500,000 Combined Single Limit (Owned, non-owned, or hired, as applicable)

12. The Contractor agrees as follows:

- a. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, sexual orientation, national origin, age, disability or on any other basis prohibited by Virginia or federal law and must post in this nondiscrimination clause in conspicuous places, available to employees and applicants for employment;
- b. The Contractor must state that it is an Equal Opportunity Employer in all solicitations or advertisements for employees that it places or causes to be placed;
- c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall meet the requirements of this Section, and
- d. The Contractor must include the provisions of the foregoing paragraphs (a), (b) and (c) in every sub-contract or Purchase Order in excess of \$10,000.00, so that the provisions will be binding upon each sub-contractor and/or supplier.

13. The Contractor must 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 publicly- and privately-provided services and activities.

14. The Contractor must provide the following:

- (i) 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 marijuana or any other controlled substance 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 in excess of \$10,000.00, so that the provisions will be binding upon each sub-contractor or supplier. For the purposes of this section, "drug-free Workplace" means a site for the performance of Work done in connection with this Agreement.

15. The Contractor acknowledges that it does not, and will not during the performance of this Agreement, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.
16. This Agreement is governed by the Arlington County Purchasing Resolution, which is incorporated by reference. The time limit for decision by the County Manager in Contractual Disputes, as that term is used in the Purchasing Resolution, is Thirty calendar (30) days.
17. This Agreement is not effective until the County issues a valid County Purchase Order covering the amount of the Agreement.
18. 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 County 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.
19. 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.).
20. 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 sub-contractor; 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.
21. 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
22. The County does not discriminate against faith-based organizations.
23. The Contractor will hold all County information and data obtained under this Agreement confidential in accordance with the Nondisclosure and Data Security Agreement (Attachment C).

If individual employees or sub-contractors of the Contractor will perform Work under this Contract on County-owned property, then each must sign a separate individual Nondisclosure and Data Security Agreement before performing any Work or being allowed access to County data. (Attachment D).

24. The Contractor must comply with the provisions of Chapter 11 of the Arlington County Code covering business licenses as applicable.

25. The Contractor must remain authorized to transact business in the Commonwealth of Virginia during the term of this Agreement.
26. This Agreement is governed in all respects by the laws of the Commonwealth of Virginia, and the jurisdiction and venue for any litigation is in the Circuit Court for Arlington County, Virginia, and in no other court.
27. The Contractor covenants for itself, its employees and its sub-contractors 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 sub-contractors, 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.

28. Notices will be effective when made in writing and either (a) delivered in person, (b) delivered to an overnight delivery service or (c) deposited in the United States mail, certified or registered. Notices should be addressed as follows:

TO THE CONTRACTOR:

David W. King, President and CEO
IPS Group, Inc.
7737 Kenamar Court
San Diego, California 92121
Telephone: 877-630-6638

TO THE COUNTY:

Jason Barnet, Trades Management Leader
Arlington County Government
2700 South Taylor Street
Arlington, Virginia 22204
Telephone: 703-228-7952

AND

**Shirley Diamond, Procurement Officer
Office of the Purchasing Agent
2100 Clarendon Boulevard
Suite 500
Arlington, Virginia 22201
Telephone: 703-228-3424**

29. 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 Fifteen (15) calendar days of the request, at the Contractor's expense.

Should the County's examination reveal any overcharging by the Contractor, the Contractor must, within Thirty (30) calendar 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, a minimum of, Thirty (30) days' notice and must not dispose of the documents if the County objects.

30. The Contractor shall not assign or transfer this Agreement, or any of its rights or interests, without the County's prior written consent.
31. This Agreement may be modified only by written amendment.
32. All remedies available to the County under this Agreement are cumulative, and no remedy is exclusive of any other that is available to the County at law or in equity.
33. The sections, paragraphs, sentences, clauses and phrases of this Agreement are severable; and if any part is held to be invalid, the rest of the Agreement will remain in effect.

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE AFFIXED THEIR SIGNATURES.

THE COUNTY BOARD OF ARLINGTON
COUNTY, VIRGINIA

CONTRACTOR'S NAME

PRINTED NAME: SHIRLEY DIAMOND
PRINTED TITEL: PROCUREMENT OFFICER

PRINTED NAME: DAVID A. KING
PRINTED TITLE: PRSIDENT, CEO

SIGNED *Shirley Diamond*

SIGNED *David W. King*

DATE: 10-23-2019

DATE: 10-21-2019

ATTACHMENT AND FORMS

SOLE SOURCE AGREEMENT NO. 20-810

ATTACHMENT - C

NON-DISCLOSURE AND DATA SECURITY AGREEMENT (CONTRACTOR)

The undersigned, an authorized agent of the Contractor and on behalf of IPS Group, Inc., (Contractor) hereby agree that the Contractor will hold County provided information, documents, data, images, records and the like (hereafter "information") confidential and secure and to protect it against loss, misuse, alteration, destruction or disclosure. This includes but is not limited to the information of the County, its employees, contractors, residents, clients, patients, taxpayers and property as well as information that the County shares with Contractor for testing, support, conversion or other services provided under Arlington County Agreement No. 20-810 (the "Project" or "County Agreement" as applicable) or which may be accessed through other County owned or controlled databases (all of the above collectively referred to herein as "information" or "County information").

In addition to the DATA SECURITY obligations set in the County Agreement, the Contractor agrees that it will maintain the privacy and security of the County information, control and limit internal access and authorization for access to such information and not divulge or allow or facilitate access to County information for any purpose or by anyone unless expressly authorized. This includes but is not limited to information that in any manner describes, locates or indexes anything about an individual including, but not limited to, his/her (hereinafter "his") Personal Health Information, treatment, disability, services eligibility, services provided, investigations, real or personal property holdings, and his education, financial transactions, medical history, ancestry, religion, political ideology, criminal or employment record, social security number, tax status or payments, date of birth, address, phone number or that affords a basis of inferring personal characteristics, such as finger and voice prints, photographs, or things done by or to such individual, and the record of his presence, registration, or membership in an organization or activity, or admission to an institution (also collectively referred to herein as "information" or "County information").

Contractor also agree that it will not directly or indirectly use or facilitate the use or dissemination of information (whether intentionally or by inadvertence, negligence or omission verbally, electronically, through paper transmission or otherwise) for any purpose other than that directly associated with its work under the Project. Contractor acknowledges that any unauthorized use, dissemination or disclosure of information is prohibited and may also constitute a violation of Virginia or federal laws, subjecting it or its employees to civil and/or criminal penalties.

The Contractor agrees that it will not divulge or otherwise facilitate the disclosure, dissemination or access to or by any unauthorized person, for any purpose, of any information obtained directly, or indirectly, as a result of its work on the Project. Contractor shall coordinate closely with the County Project Officer to ensure that its authorization to its employees or approved subcontractors is appropriate, tightly controlled and that such person/s also maintain the security and privacy of information and the integrity of County networked resources.

Contractor agrees to take strict security measures to ensure that information is kept secure, properly stored, that if stored that it is encrypted as appropriate, stored in accordance with industry best practices and otherwise protected from retrieval or access by unauthorized persons or unauthorized purpose. Any device or media on which information is stored, even temporarily, will have strict security and access control. Any information that is accessible will not leave the Contractor's work site or the County's physical facility, if working onsite, without written authorization of the County Project Officer. If remote access or other media storage is authorized, Contractor is responsible for the security of such storage device (or paper files).

Contractor will ensure that any laptops, PDAs, netbooks, tablets, thumb drives or other media storage devices, as approved by the County and connected to the County network are secure and free of all computer viruses or running the latest version of an industry standard virus protection program. Contractor will ensure that all passwords used by its employees or subcontractors are robust, protected and not shared. No information may be downloaded expect as agreed to by the parties and then only onto a County approved device. Downloading onto a personally owned device is prohibited. Contractor agrees that it will notify the County Project Officer immediately upon discovery, becoming aware or suspicious of any unauthorized disclosure of information, security breach, hacking or other breach of this Agreement, the County Contract, County policy, Contractor's security policies, or any other breach of Project protocols. The Contractor will fully cooperate with the County to regain possession of any information and to prevent its further disclosure, use or dissemination. The Contractor also agrees, if requested, to promptly notify others of a suspected or actual breach.

Contractor agrees that all duties and obligations enumerated in this agreement also extend to its employees, agents or subcontractors who are given access to County information. Breach of any of the above conditions by Contractor's employees, agents or subcontractors shall be treated as a breach by Contractor. Contractor agrees that it shall take all reasonable measures to ensure its employees, agents and subcontractors are aware of and abide by the terms and conditions of this Agreement and related data security provisions in the County Agreement.

It is the intent of this Non-Disclosure and Data Security Agreement to ensure that the Contractor has the highest level of administrative safeguards, disaster recovery and best practices are in place to ensure confidentiality, protection, privacy and security of County information and County networked resources and to ensure compliance with all applicable local, state and federal law or regulatory requirements. Therefore, to the extent that this Non-Disclosure and Data Security Agreement conflicts with the County Agreement or with any applicable local, state, or federal law, regulation or provision, the more stringent County Contract requirement, law, regulation or provision shall control.

At the conclusion of the Project, Contractor agrees to return all County information to the County Project Officer. These obligations remain in full force and effect throughout the Project and shall survive any termination of the County Agreement.

Authorized Signature: David W. King
Printed Name and Title: DAVID W KING CEO
Date: 10/21/2019

SOLE SOURCE AGREEMENT NO. 20-810

ATTACHMENT -D

NON-DISCLOSURE AND DATA SECURITY AGREEMENT

(INDIVIDUAL)

I, the undersigned, agree that I will hold County provided information, documents, data, images, records and the like (hereafter "information") confidential and secure and protect it against loss, misuse, alteration, destruction or disclosure. This includes but is not limited to the information of the County, its employees, contractors, residents, clients, patients, taxpayers, and property as well as information that the County shares with my employer or prime contractor for testing, support, conversion or the provision of other services under Arlington County Agreement No. 20-810 the "Project" or "County Agreement", as applicable) or which may be accessed through County owned or controlled databases (all of the above collectively referred to herein as "information" or "County information").

I agree that I will maintain the privacy and security of County information and I will not divulge or allow or facilitate access to County information for any purpose or by anyone unless expressly authorized to do so by the County Project Officer. This includes but is not limited to information that in any manner describes, locates or indexes anything about an individual including, but not limited to, his/her (hereinafter "his") Personal Health Information, treatment, disability, services eligibility, services provided, investigations, real or personal property holdings, education, financial transactions, medical history, ancestry, religion, political ideology, criminal or employment record, social security number, tax status or payments, date of birth or that otherwise affords a basis of inferring personal characteristics, such as finger and voice prints, photographs, or things done by or to such individual, and the record of his presence, registration, or membership in an organization or activity, or admission to an institution(as also collectively referred to herein as "information" or "County information").

I agree that I will not directly or indirectly use or facilitate the use or dissemination of information (whether intentionally or by inadvertence, negligence or omission verbally, electronically, through paper transmission or otherwise) for any purpose other than that directly authorized and associated with my designated duties on the Project. I understand and agree that any unauthorized use, dissemination or disclosure of information is prohibited and may also constitute a violation of Virginia or federal law/s, subject to civil and/or criminal penalties.

I also agree that I will not divulge or otherwise facilitate the disclosure, dissemination or access to or by any unauthorized person for any purpose of the information obtained directly, or indirectly, as a result of my work on the Project. I agree to view, retrieve or access County information only to the extent concomitant with my assigned duties on the Project and only in accordance with the County's and my employer's access and security policies or protocols.

I agree that I will take strict security measures to ensure that information is kept secure, properly stored, that if stored that it is encrypted as appropriate, stored in accordance with industry best practices, and otherwise protected from retrieval or access by unauthorized persons or unauthorized purpose. I will also ensure that any device or media on which information is stored, even temporarily, will have strict

security and access control and that I will not remove, facilitate the removal of or cause to be removed any information from my employer's worksite or the County's physical facility without written authorization of the County Project Officer. If so authorized, I understand that I am responsible for the security of the electronic equipment or paper files on which the information is stored and agree to promptly return such information upon request.

I will not use any devices, laptops, PDAs, netbooks, tablets, thumb drives or other media storage devices ("Device") during my work on the Project without pre-approval. I will ensure that any Device connected to the County network shall be free of all computer viruses or running the latest version of an industry standard virus protection program. I will also ensure that my password, if any, is robust, protected and not shared. No information may be downloaded except as authorized by the County Project Officer and then only onto a County-approved Device. Downloading onto a personally owned Device is prohibited.

I agree that I will notify the County Project Officer immediately upon discovery, becoming aware of or suspicious of any unauthorized disclosure of information, security breach, hacking or other breach of this Agreement, County policy, my employer's security system or any other breach of Project protocols. I will fully cooperate with the County to help regain possession of any information and to prevent its further disclosure, use or dissemination.

It is the intent of this **Non-Disclosure and Data Security Agreement** to ensure that the highest level of administrative safeguards and best practices are in place to ensure confidentiality, protection, privacy and security of County information and County networked resources and to ensure compliance with all applicable local, state and federal law or regulatory requirement. Therefore, to the extent that this *Nondisclosure and Data Security Agreement* conflicts with the underlying County Agreement or any local, state or federal law, regulation or provision, the more stringent County Contract provision, law, regulation or provision shall control.

Upon completion or termination of my work on the Project, I agree to return all County information to the County Project Officer. I understand that this Agreement remains in full force and effect throughout my work on the Project and shall survive my reassignment from the Project, termination of the above referenced Project or my departure from my current employer.

Signed: David W. King

Printed Name: DAVID W KING

Date: 10-21-2019

Witnessed:

Contractor's Project Manager _____

Printed Name: _____

Date: _____

TO BE COMPLETED PRIOR TO BEGINNING WORK ON THE PROJECT

