

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

NOTICE OF CONTRACT AWARD

TO: CHERYY BEKAERT LLP
1934 OLD GALLOWS RD, STE 400
TYSONS, VA 22182

DATE ISSUED:
CURRENT REFERENCE NO:

3/29/2018

18-004-RFP

CONTRACT TITLE:

EXTERNAL AUDIT SERVICES

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. XX-XXX-X including any attachments or amendments thereto.

EFFECTIVE DATE: 3/29/2018

EXPIRES: 3/28/2021

RENEWALS: TWO (2) ONE (1) YEAR RENEWAL OPTIONS 3/29/2021 THROUGH 3/28/2023

ATTACHMENTS:

AGREEMENT No. 18-004-RFP

EMPLOYEES NOT TO BENEFIT:

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

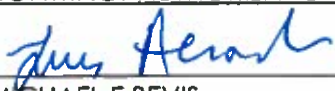
VENDOR CONTACT: KRISTA EDOFF
EMAIL ADDRESS: KEDOFF@CBH.COM

VENDOR TEL. NO.: (703) 584-0244

COUNTY CONTACT: BHAVANA NICHANI (DMF)
COUNTY CONTACT EMAIL: BNICHANI@ARLINGTONVA.US

COUNTY TEL. NO.: (703) 228-3427

CONTRACT AUTHORIZATION

For 
MICHAEL E BEVIS
PURCHASING AGENT

3/29/2018
DATE

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

AGREEMENT NO. 18-004-RFP

THIS AGREEMENT is made, on the date of execution by the County, between Cherry Bekaert LLP, of 1934 Old Gallows Road, Suite 400 ("Contractor") North Carolina Limited Partnership 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:

- This Agreement
- Attachment A – Scope of Work
- Attachment B – Contract Pricing
- Attachment C – Business Associate Agreement
- Attachment D – County Nondisclosure and Data Security Agreement (Contractor)
- Attachment E – County Nondisclosure and Data Security Agreement (Individual)

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" (Attachment A), the primary purpose of the Work is to provide external audit services. 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 the date of the execution of the Agreement by the County and must be completed no later than three years from the date of execution ("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 unilateral Notice of Award, authorize continuation of the Agreement under the same contract prices for not more than two additional 12-month periods (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 Attachment 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 Attachment B unless those additional goods or services are covered by a fully executed task order or amendment to this Contract. Additional services will be billed at the rates set forth in Attachment B unless otherwise agreed by the parties in writing.

The Contractor may not bill the County for obtaining information that is generally available to the public.

6. PAYMENT

The Contractor must submit itemized invoices to the County's Project Officer, who will either approve the invoice or require corrections. The County will pay the Contractor within 30 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.

7. ADJUSTMENTS FOR CHANGE IN SCOPE

The County may order additions, deletions and other revisions in the Work within the general scope of the project. If the Contractor believes that any change is not within the scope of the project or warrants additional compensation, the Contractor must notify the Project Officer as soon as the County requests the change; and the Contractor must then provide written notice of its position to the Project Officer within ten calendar days. The Contractor's notice must detail and document the basis for the claimed amount of additional compensation. The Contractor will not receive any additional compensation pursuant to this paragraph unless the parties execute a written Contract amendment and the County issues a purchase order consistent with the amendment.

8. REIMBURSABLE EXPENSES

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

9. REIMBURSABLE TRAVEL-RELATED EXPENSES

The County will not reimburse the Contractor for travel-related expenses for employees located within the greater Baltimore-Washington Metropolitan Area, as defined by the United States Office of Management and Budget. For employees located outside this area, the County will reimburse for pre-approved travel-related expenses, documented with receipts, as follows:

Meals: The County will reimburse at the U.S. General Services Administration's ("GSA") per diem rates for the destination, current for the date of travel, with the first and last days of travel counted at 75% of the per diem rate.

Lodging: The County will reimburse for actual lodging costs at a reasonably priced commercial facility in the immediate area of where the Work is performed, up to the GSA's daily rates for the destination, current for the date of travel. Receipts for lodging must be itemized. Only room and tax charges will be reimbursed; no reimbursement will be made for additional expenses, including but not limited to, room service, laundry, telephone and in-room movies. If the Contractor or its employee shares a room with another person who is not connected with the performance of the Work, including a spouse, the County will reimburse for only the cost of a single room.

The applicable GSA per diem rates can be obtained at <http://www.gsa.gov/portal/content/104877>.

Transportation:

General

Reservations must be made in advance whenever possible to take advantage of all available discounts.

Ground Transportation

Use of public transportation is encouraged. The County will reimburse for the business use of personal or company vehicles, if allowed, at the GSA's mileage rates current at the time of travel. The Contractor's request for reimbursement may not include any personal use of the vehicle.

The County may approve reimbursement for rental of vehicles or use of taxicabs if the Contractor can demonstrate that to be the most economical option. Any reimbursement will cover only those rental charges, insurance and/or fuel fees allocable to work on the Contract and will not cover the purchase of liability insurance and/or collision/comprehensive insurance if the Contractor's or the employee's existing insurance coverage provides such protection.

Air Travel

The County will reimburse for air travel at the lowest available fare, typically economy. Tickets must be purchased at least seven days in advance, unless otherwise approved by the County.

Time limit: The County will not honor requests for travel reimbursement that are submitted more than 60 days after completion of the travel.

Non-reimbursable Expenses: The County will never reimburse for the following expenses:

1. Alcoholic beverages
2. Personal phone calls
3. Entertainment (e.g. pay TV, movies, night clubs, health clubs, theaters, bowling)
4. Personal expenses (e.g. laundry, valet, haircuts)
5. Personal travel insurance (e.g. life, medical, or property insurance) for airfare or rental cars
6. Auto repairs, maintenance and insurance costs for personal vehicles

10. * 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.

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. * 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.

13. 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 shall permanently assign key personnel approved by the County to the term of the Contract. Key personnel are defined as the audit firm's Engagement Partner, Second Review Partner, or other Audit Partner(s) assigned for the overall audit of ACG, APS and ACERS. During the period of performance, the Contractor shall make no substitutes of key personnel unless substitution is necessitated by an uncontrollable circumstance such as, illness or termination of employment or upon the request of the County. The Contractor shall notify the Project Officer within five (5) calendar days after the occurrence of an event. The Contractor shall also provide a detailed explanation of the circumstance necessitating the proposed substitution. The proposed substitutions shall have comparable qualifications approved by the Project Officer, to those being replaced. The Contract Administrator and Project Officer will review the

information provided by the Contractor and notify the Contractor of their acceptance of new personnel within 15 days after receipt of information.

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.

14. * 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, national origin, age or 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.

15. * 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.

16. * 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.

17. 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.

18. 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.

19. 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.

20. 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.

21. 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.

22. **DATA SECURITY AND PROTECTION**

The Contractor will hold County Information, as defined below, in the strictest confidence and will comply with all applicable County security and network resources policies, as well as all local, state and federal laws and regulatory requirements concerning data privacy and security. The Contractor must develop, implement, maintain, continually monitor and use appropriate administrative, technical and physical security measures to control access to and to preserve the confidentiality, privacy, integrity and availability of all electronically maintained or transmitted information received from or created or maintained on behalf of the County. For purposes of this provision, and as more fully described in this Contract and in the County's Non-Disclosure and Data Security Agreement (NDA), "County Information" includes, but is not limited to, electronic information; documents; data; images; financial records; personally identifiable information; personal health information (PHI); personnel, educational, voting, registration, tax and assessment records; information related to public safety; County networked resources; and County databases, software and security measures that are created, maintained, transmitted or accessed to perform the Work under this Contract.

- (a) **County's Non-Disclosure and Data Security Agreement.** The Contractor and its Designees (Contractor Designees shall include, but shall not be limited to, all Contractor-controlled agents or subcontractors working on-site at County facilities or otherwise performing any work under this Contract) must sign the NDA (Attachment D) before performing any work or obtaining or permitting access to County networked resources, application systems or databases. The Contractor will make copies of the signed NDAs available to the County Project Officer upon request.
- (b) **Use of Data.** The Contractor will ensure against any unauthorized use, distribution or disclosure of or access to County Information and County networked resources by itself or its Designees. Use of County Information other than as specifically outlined in the Contract Documents is strictly prohibited. The Contractor will be solely responsible for any unauthorized use, reuse, distribution, transmission, manipulation, copying, modification, access to or disclosure of County Information and for any non-compliance with this provision by itself or by its Designees.
- (c) **Data Protection.** The Contractor will protect the County's Information according to standards established by the National Institute of Standards and Technology, including 201 CMR 17.00, Standards for the Protection of Personal Information of Residents of the Commonwealth and the Payment Card Industry Data Security Standard (PCI DSS), as applicable, and no less rigorously than it protects its own data and proprietary or confidential information. The Contractor must provide to the County a copy of its data security policy and procedures for securing County Information and a copy of its disaster recovery plan(s). If requested by the County, the Contractor must also provide annually the results of an internal Information Security Risk Assessment provided by an outside firm.
- (d) **Security Requirements.** The Contractor must maintain the most up-to-date anti-virus programs, industry-accepted firewalls and other protections on its systems and networking equipment. The Contractor certifies that all systems and networking equipment that support, interact with or store County Information meet the above standards and industry best practices for physical, network and system security requirements. Printers, copiers or fax machines that store County Data into hard drives must provide data-at-rest encryption. The County's Chief Information Security Officer or designee must approve any deviation from

these standards. The downloading of County information onto laptops, other portable storage media or services such as personal e-mail, Dropbox etc. is prohibited without the written authorization of the County's Chief Information Security Officer or designee.

- (e) **Conclusion of Contract.** Within 30 days after the termination, cancellation, expiration or other conclusion of the Contract, the Contractor must, at no cost to the County, return all County Information to the County in a format defined by the County Project Officer. The County may request that the Information be destroyed. The Contractor is responsible for ensuring the return and/or destruction of all Information that is in the possession of its subcontractors or agents. The Contractor must certify completion of this task in writing to the County Project Officer.
- (f) **Notification of Security Incidents.** The Contractor must notify the County Chief Information Officer and County Project Officer within 24 hours of the discovery of any unintended access to or use or disclosure of County Information.
- (g) **Subcontractors.** If subcontractors are permitted under this Contract, the requirements of this entire section must be incorporated into any agreement between the Contractor and the subcontractor. If the subcontractor will have access to County Information, each subcontractor must provide to the Contractor a copy of its data security policy and procedures for securing County Information and a copy of its disaster recovery plan(s).

23. * 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.

24. * 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.

25. 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.

26. * 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.

27. * 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.

28. 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.

29. 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, proposals 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)

30. AUDIT

The Contractor must retain all books, records and other work paper 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 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.

32. AMENDMENTS

This Contract may 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

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

34. * 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.

35. * 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.

36. ARBITRATION

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

37. 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.

38. 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.

39. 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.

40. ATTORNEY'S FEES

The County is entitled to attorney's fees and costs that it incurs to enforce any provision of this Contract.

41. 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 DATA SECURITY AND PROTECTION.

42. 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.

43. 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.

44. NOTICES

Unless otherwise provided in writing, all written 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:
Krista N. Edoff, Partner

Cherry Bekaert LLP

1934 Old Gallows Road, Suite 400

Tysons Corner, Virginia 22182

TO THE COUNTY:
_____, Project Officer

AND

Michael E. Bevis, Purchasing Agent
Arlington County, Virginia
2100 Clarendon Boulevard, Suite 500
Arlington, Virginia 22201

45. 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.

46. * NON-DISCRIMINATION NOTICE

Arlington County does not discriminate against faith-based organizations.

47. HIPAA COMPLIANCE

The Contractor must comply with the privacy, security and electronic transaction components of the Health Insurance Portability and Accountability Act of 1996, 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 (Attachment C). 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.

48. 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 \$100,000/100,000/500,000. The County will not accept W/C coverage issued by the Injured Worker's Insurance Fund, Towson, MD.
- b. Commercial General Liability - \$1,000,000 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 provided with the certificate.
- c. Business Automobile Liability - \$1,000,000 combined single-limit (owned, non-owned and hired).
- d. The Contractor shall carry Errors and Omissions or Professional Liability insurance which will pay for damages arising out of errors or omissions in the rendering, or failure to render services or perform Work under the contract, in the amount of \$1,000,000.
- e. Additional Insured – The County and its officers, elected and appointed officials, employees and agents must be named as additional insureds on all policies except workers compensation and automotive and professional liability; and the additional insured endorsement must be provided with the certificate.
- f. 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.

- g. 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.
- h. 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.

WITNESS these signatures:

THE COUNTY BOARD OF ARLINGTON
COUNTY, VIRGINIA

CONTRACTOR

AUTHORIZED SIGNATURE: 

AUTHORIZED SIGNATURE: 

NAME: MICHAEL E. BEVIS
TITLE: PURCHASING AGENT

NAME AND TITLE: Krista N. Edoff, Partner

DATE: 3/29/2018

DATE: March 14, 2018

I. ATTACHMENTS AND FORMS

Attachment A
SCOPE OF SERVICES

1. GENERAL

STANDARDS AND GUIDELINES

The County is required to prepare its financial statements in accordance with GAAP, as promulgated by various authoritative bodies through their statements, technical bulletins, interpretations, publications, and other pronouncements. These include standards set by various governing bodies such as, the Governmental Accounting Standards Board (GASB), the Financial Accounting Standards Board (FASB), the Offeror of Public Accounts (APA), and the American Institute of Certified Public Accountants (AICPA).

The County's audits must be conducted in accordance with applicable laws and regulations and professional standards such as, the American Institute of Certified Public Accountants (AICPA), the Specifications for Audits of Counties, Cities, and Town, issued by the Auditor of Public Accounts (APA), Generally Accepted Auditing Standards (GAAS), Government Auditing Standards (GAS, GAGAS, Yellowbook, etc.), issued by the Comptroller General of the United States, Single Audit Act Amendments, OMB Circular A-87, Cost principles for State, local and Indian Tribal Governments, Circular A-133, Audits of States, local governments and Non-profit organizations, Title 2 U.S. Code of Federal Regulations part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) and the U.S. General Accounting Office (GAO). The standards, circulars, supplements and guides require that the audits be planned and performed to obtain a high level of assurance that the financial statements are free of material misstatements whether caused by error, fraudulent financial reporting, or misappropriation of assets. Additionally, the audits must include consideration of internal control over financial reporting as a basis for designing risk assessments and audit procedures in accordance with auditing standards.

APPLICABLE LAWS AND REGULATIONS

The selected contractor must ensure compliance with the provisions of any and all Federal, State, and County statutes, ordinances, bond covenants and administrative rules and regulations that may pertain to the audit services, including but not limited to, the audit requirements for states, local governments and sub-recipient organizations that receive federal awards as established by Title 2 U.S. Code of Federal Regulations (CFR) Part 200, Uniform Requirements, Cost Principles, and Audit Requirements for Federal Awards. The contractor also must make the required compliance reviews in accordance with Section 15.2-2510 of the Code of Virginia, according to the "Specifications for Audits of Counties, Cities and Towns" as required by the Auditor of Public Accounts and as specified in this solicitation.

2. EXTERNAL FINANCIAL AUDIT

The audit must include an overall review of the ACG, APS and ACERS financial and accounting systems and procedures. The Contractor will evaluate and perform required risk assessments and auditing procedures for all funds, activities, financial statements and schedules of ACG, APS and ACERS. The audit must evaluate the County's policies, procedures, programs, accounting estimates and internal controls and present fairly the financial position of the financial reporting entity. The audit will consist at a minimum of an interim audit and a year-end audit and must be of sufficient scope to ensure that the audit is well executed and completed in a timely manner and as required by auditing standards. The audit must express an independent opinion as to whether the financial statements and underlying records present fairly the fiscal affairs of ACG, APS and ACERS. The resulting audit must render the contractor's opinion on the financial statements prepared by ACG, APS and the Retirement Board. The contractor must render its opinion in a

timely manner to enable the County to meet its year-end reporting and compliance deliverables to the authoritative bodies within the established timelines. If the contractor does not intend to render an unmodified opinion, the Contractor must proactively inform the Comptroller and furnish to the County or the Retirement Board, as required by authoritative bodies such as the Commonwealth of Virginia's Auditor of Public Accounts, on a mutually agreed timeline, the contractor's reasons for modifying or disclaiming an opinion or rendering an adverse opinion prior to rendering the opinion.

As required by the Code of Virginia, the Certified Public Accountant shall present a summary of the audit results along with a detailed written report to the local governing body at a public session no later than December 31 after the audited fiscal period.

AUDIT OF FINANCIAL TRANSACTIONS

The audit will include a review of the County's financial transactions and underlying records, financial statements, schedules and required information pertaining to the functions under the jurisdiction of the Arlington County Board, including the County's constitutional officers, County's elected officials, the Board of Trustees of the Arlington County Employees Retirement System and the Arlington County School Board. The financial statements and accompanying footnotes in the County's Comprehensive Annual Financial Report offer an overview of the overall financial activities of the County.

The audit will include review of the County's internal controls, including the County's automated financial system and other applicable integrated/interfaced systems. The core financial system is an Oracle E-Business Suite platform implemented in 2006, hosted thru Oracle in its data center in Austin, Texas. The County currently uses the following active modules and/or systems:

- Finance
 - General Ledger
 - Purchasing
 - iProcurement
 - Payables
 - Cash Management
 - Fixed Assets
 - Public Sector Budgeting (PSB) – recently replaced with Oracle Enterprise Planning and Budgeting Cloud Services (EPBCS)
 - iExpense
 - iSupplier
 - Property Manager – May be replaced by another system
- Human Resources
 - Human Resources
 - Payroll
 - Oracle Time and Labor
 - Advanced Benefits
 - Manager Self Service
 - Employee Self Service
- Other core systems include, but are not limited to the following:
 - ACE (Assessment and Collection Enterprise System)
 - CAPP (Customer Assessment Payment Portal)
 - iNovah POS Cashiering system
 - Real Estate Appraisal Systems (Assessments only)
 - Parking Ticket System

- Business License System
- Utilities Billing System
- Section 8 Housing System
- Department of Human Services Purchases of Services System
- Lease Administration Software
- ATRACK (Loan Portfolio Management System)
- RECTRAC

The County uses several interfaces across various systems that are developed and/or maintained by the County's Department of Technology Services and/or other departments across the County.

SCHEDULE OF EXPENDITURES FOR FEDERAL AWARDS (SEFA)

The Contractor shall perform the required compliance reviews and provide an opinion in accordance with the audit requirements for states, local governments, and sub-recipient organizations which receive federal awards as established by Title 2 U.S. Code of Federal Regulations (CFR) Part 200, Uniform Requirements, Cost Principles, and Audit Requirements for Federal Awards as specified in this solicitation. The Contractor shall also make the required compliance reviews required in accordance with Section 15.2-2510 of the Code of Virginia, according to the "Specifications for Audits of Counties, Cities and Towns" of the Offeror of Public Accounts and as specified in this solicitation.

AUDITOR OF PUBLIC ACCOUNTS (APA) TRANSMITTAL FORMS

Section 15.2-2510 of the Code of Virginia requires all counties, cities, towns with a population of 3,500 or more, and towns operating a separate school division to submit a statement of revenues, expenditures, and other required data to the Commonwealth of Virginia's Auditor of Public Accounts (APA) annually. The APA requires all localities to complete and file transmittal forms on or before November 30 in accordance with the provisions of the Uniform Financial Reporting Manual (UFRM). An opinion on these forms must be submitted to the Auditor of Public Accounts. The County will prepare the APA Transmittal forms, and the Contractor will render the Auditors' Report as to whether the County's APA Transmittal Forms comply with the requirements of the UFRM within seven (7) calendar days of receipt of the APA transmittal forms from the County.

ADDITIONAL STATE MANDATES

Sheriff Examination Report. In accordance with Sections 15.2-1609 through 15.2-1625 of the Virginia Code, the Auditor of Public Accounts (APA) has audit requirements for an examination of the sheriff's assertion to ensure compliance with the Virginia Sheriff's Accounting Manual, issued by the APA. Chapter 3 of the 2014 Acts of Assembly requires the locality's independent auditor to submit a report to the APA annually attesting to the sheriff's assertion whether the Sheriff's Office has maintained its funds, accounts and system of internal controls and records in accordance with the Code of Virginia. The contractor must provide the examination report no later than October 31 after each fiscal year.

VRS and LODA Examination Report. APA Specifications for Audits of Counties, Cities and Towns, Chapter 3 Section 7 requires the external financial auditor to perform specific audit and attestation procedures for localities that participate in the Virginia Retirement System ("VRS"). The auditor is required to submit a report to the APA, by October 1 (or as established by the APA) each year, reporting on the completeness and accuracy of the census data for local employees and teachers participating in VRS. The procedures must be performed and the report must be prepared as a part of an examination engagement performed in accordance with AT section 101, Attest Engagements (AICPA, Professional Standards).

The contractor must also provide an attachment to the report that identifies the requirements established by the APA such as:

- Number of control environments supporting census data reviewed during the engagement (i.e. one for the locality and one for the school board) and the responsible party for the control environment (i.e. the locality, the school board).
- For each control environment identified and required procedure performed, the following information will be noted:
 - The population size
 - The sample size
 - The risks and other considerations used to determine the sample size
 - Other requirements as established by the APA

VDEQ Financial Assurance - RMV Steam Sterilizer Agreed Upon Procedure. The Virginia Department of Environmental Quality (VDEQ) requires localities to complete forms in conjunction with their Permit-by-Rule No. (PBR) 621, for a RMW Steam Sterilizer at the Department of Human Services. An audit opinion from the Contractor on these forms must be submitted to the VDEQ no later than December 31 each year. The County will prepare the forms, and the contractor must render its opinion to VDEQ within seven (7) calendar days of receipt of the forms from the County.

Sewage Treatment Disposal Interjurisdictional Agreement. The Contractor must conduct an annual audit of whether the statements of allocation of current expenses for operations and maintenance of the inter-jurisdictional sewage treatment disposal system among Arlington County, Alexandria Renew Enterprises, Fairfax County and City of Falls Church present fairly the allocation of current expenses in conformity with the agreements among the jurisdictions.

Department of Aging and Rehabilitation Services (DARS) Reporting. Pursuant to 22VAC30-60-470.D of the Virginia Administrative Code, the audit firm must provide an opinion on Schedules A (Status of Funds), Schedule B (Costs by Program Activity) and C (Status of Inventories) for the period ending June 30 (the County's fiscal year) as a part of the External Financial Audit and included as supplementary information. Additionally, DARS requires a financial report and service report (13th Month Report Aging Monthly Report (AMR)), covering the Area Plan Contract Year and Schedules A (Status of Funds), Schedule B (Costs by Program Activity) and C (Status of Inventories) to be completed and electronically submitted annually. The 13th Month report includes finalized annual performance information, expenditures and receipts for the period October 1 through September 30. The contractor will audit the annual programmatic and financial information on the report and determine whether the expenditures obligated by June 30 of each fiscal year have been liquidated by September 30th each year and meet the carry-over requirements in accordance with DARS requirements.

ADDITIONAL FEDERAL MANDATE

Housing and Urban Development (Section 8) Agreed upon Procedure. Beginning in FY 2006, the U.S. Department of Housing and Urban Development's Office of Public and Indian Housing - Real Estate Assessment Center (PIH-REAC) requires that the County's Department of Human Services-Section 8 Housing Bureau (PHA) provide special audited financial information within nine (9) months after fiscal year end according to the following procedures:

- Draft Status - The PHA creates a draft submission covering the regulatory and contractual obligations by entering the financial information (including the required attachments) into the FASS On-Line System and submits the draft to the contractor;
- Contractor Review Status - The contractor performs the 'agreed upon procedures' to certify that the information in the FASS On-Line System is true and correct in accordance with the contractor's hard copy audit report. The contractor may either agree or disagree with the PHA's submission.
- Contractor Agree/Disagree Status - Once the PHA and the contractor reach Agree Status, the PHA must 'SUBMIT' the FDS to PIH-REAC to begin the review and approval process. Until the Audited FDS is submitted and received, the process will not be considered complete. The contractor will perform the agreed upon procedures required above to certify the information to (PIH-REAC) for the County.

SF-SAC Data Collection Forms. The contractor will prepare the auditor's section of Data Collection Forms as required by OMB Circular A-133 or Title 2 U.S. Code of Federal Regulations (CFR) Part 200.512 by November 30 (or as established annually by the regulation) for submission by the County to the Federal Audit Clearing House as part of the County's Reporting Package.

COMPLIANCE REVIEWS, AUDITS, EXAMINATIONS AND AGREED UPON PROCEDURES

The Contractor will be responsible for annual external financial audit services as well as related compliance reviews, examinations, agreed upon procedures and related consulting as specified in this solicitation. The contract resulting from this solicitation will be for a fixed price that covers the work detailed in the Scope of Services. Additional work that is related to but not specified in the Scope of Services may also be required during the contract term as a result of new standards, changing laws or regulations. These services will be considered as a part of the overall scope of the regular annual audit.

When additional work that is not related to the Scope of Services is needed, the County will submit the new requirements to the contractor. The Contractor, will then submit to the County a proposal based on pre-determined hourly rates established in the contract applicable to the level of work, hours and staff levels needed for the proposed work. If the County approves the proposal, the County will issue a purchase order to allow the additional work to begin.

TIMING OF AUDIT DELIVERABLES

The Contractor, upon completion of the audit and examination and preparation of the necessary reports, will submit to the Comptroller no later than October 25 after the fiscal year under audit: a management letter and governance communication that outlines the findings of the audit and the system of internal control and related budgeting and operating procedures. The communication will also offer suggestions for improving administrative methods, management operations, internal controls and best practices.

- The contractor will complete all fieldwork prior to October 15 of each fiscal year for the audits of the County, APS and the ACERS, unless the contractor advises the County of a specific reason for the delay to which the County agrees.
- The contractor will disclose the rationale for all proposed adjusting entries prior to October 15 of each fiscal year for the audit of the County, APS and the ACERS.
- The contractor will furnish a written opinion and auditors' report on the Arlington County Comprehensive Annual Financial Report (CAFR) prepared by the County no later than November 5 of each fiscal year or as agreed (in the event there are unforeseen delays), and on the Arlington County Employees' Retirement System Comprehensive Annual Financial Report prior to October 20 of each fiscal year or as agreed.

- The contractor will furnish a written opinion and provide the auditors' report on the Ballston Public Parking Garage Fund (An Enterprise Fund of Arlington County, Virginia) Financial Statements and Supplemental Schedule, the Ballston Public Parking Garage Fund (An Enterprise Fund of Arlington County, Virginia) Schedules of Net Cash Flow and MCI Area's and MCI Lease Area's Net Cash Flow, and the Industrial Development Authority Investment Bond Fund Ballston Skating Facility Project (A Private-Purpose Trust Fund of Arlington County, Virginia) Financial Statements prior to October 31 of each fiscal year.
- The Contractor will, within 30 days of the auditor's report or nine (9) months after the fiscal year-end, whichever is earlier, prepare the auditor's section of the Data Collection Form as required by Title 2 *U.S. Code of Federal Regulations* (CFR) Part 200, Uniform Requirements, Cost Principles, and Audit Requirements for Federal Awards for submission by the County to the Federal Clearinghouse as part of the Reporting Package.
- The Contractor will, by November 25 of each fiscal year, furnish a written opinion on the transmittal forms for the Uniform Comparative Cost Report submitted to the Auditor of Public Accounts.
- The Contractor will provide other compliance deliverables that have due dates that are subject to change annually in a timely manner (generally a week prior to submission due dates) to ensure the County is compliant with established by laws or regulations.

CONSULTING AND OTHER SERVICES

Included in the fixed fee, the Contractor will provide consulting services related to annual reporting and compliance requirements or standards and special assistance through webinars, periodic communication on upcoming requirements, etc. as needed to keep the County abreast of new Governmental Accounting Standards Board (GASB) pronouncements and applicable Financial Accounting Standards Board (FASB) pronouncements, OMB Circular updates, GAO Yellowbook and Greenbook guidance and related changes, AICPA guidance, recommendations of GFOA best practices and other required changes that affect any part of the total reporting entity.

The County has received the GFOA "Certificate of Achievement for Excellence in Financial Reporting" for the past 30 plus fiscal years. The Contractor will provide resources, publications or reporting or compliance guidelines periodically to ensure that the County is well informed of new requirements and continues to stay in a good position to receive the GFOA Certificate. This includes assistance with disposition of comments generated from the GFOA's review of the prior year's CAFR, compliance with annual GFOA requirements and compliance with GFOA checklist requirements prior to issuance of audit opinions. If the County requires advise for implementing new GASB or FASB requirements, the contractor must provide consulting services or guidance when requested.

OTHER REQUIREMENTS

The Contractor will provide services necessary to prepare governance drafts and issue compliance letters to various authoritative bodies, Trustees, etc. as needed during the audit.

During each fiscal year of the contract, the contractor will provide a minimum of eight (8) hours of continuing professional education in governmental accounting and reporting and/or related subjects to the County and APS professional accounting staff, as determined by the Project Officer; the training will be at an agreed upon location or online as determined by the Project Officer. In addition, the contractor will arrange for and provide the annual Virginia Ethics CPE Course at an agreed upon location or online as determined by the Project Officer.

AUDIT WORK SCHEDULE AND PROCEDURES

During the first quarter of each calendar year and prior to the beginning of the interim audit for each fiscal year, the contractor will schedule a pre-audit conference with the County. At this conference, the contractor and the County will develop and discuss the external audit (including SEFA, IT audit, APS audit and ACERS audit) schedule and audit procedures for the interim and year-end fieldwork until the publication of the Comprehensive Annual Financial Report and issuance of the audit report and management letters. The Contractor will provide a detailed Provided by Client (PBC) listing detailing the standard schedules or documents required for the interim and final audit. The Contractor must ensure the audit is well planned and schedule changes, additional or new audit requests or requirements impacting the audit schedule are proactively discussed with the comptroller. The audit schedule will be developed in conjunction with departmental finance staff, APS staff and Constitutional Offices staff and will be subject to approval by the County's comptroller. The Contractor will also develop a schedule and procedures with the ACERS staff for the commencement of fieldwork to the publication of the Arlington County Employees' Retirement System Comprehensive Annual Financial Report. The schedules established for the audit of APS and ACERS must take into consideration that the County requires financial information from APS and ACERS for timely completion of the County's financial statements. The schedules therefore must align with the County's audit closeout timeline.

AUDIT STAFF QUALIFICATIONS

The Contractor's proposed audit supervisor and/or manager assigned to the audit must have at least five (5) years of governmental auditing experience with jurisdictions similar in size and scope as ACG, and those jurisdictions must have received a Certificate of Achievement for Excellence in Financial Reporting. The audit staff assigned to the audit must have at least 2 years of governmental audit experience. The Contractor will maintain a listing of the County's departmental contacts who provide audit information each year to ensure a smooth of audit staff.

Each year of the contract, before the entrance conference, the contractor must provide to the Project Officer a written summary of qualifications and experience of new audit staff who will be utilized on the audit. The summary must include positions and/or classification titles, level of educational and professional backgrounds, and resumes, with particular emphasis on qualifications to audit a local government.

AUDIT CONFERENCE

The contractor will confer with the director of the Department of Management and Finance or his/her designee and the comptroller for the purpose of reviewing its audit findings and recommendations prior to the issuance of management letters, certifications or reports. As required by the Code of Virginia and the APA, the Contractor's Key Personnel assigned for the audit will present a detailed audit report to the County Board at a regularly scheduled meeting and answer questions from County Board members, if requested to do so.

AUDIT PERIOD

The scope covers the following periods of performance:

- July 1, 2017 through June 30, 2018 - Fiscal Year 2018
- July 1, 2018 through June 30, 2019 - Fiscal Year 2019
- July 1, 2019 through June 30, 2020 - Fiscal Year 2020

Periods covered by possible extension years

- July 1, 2020 through June 30, 2021 - Fiscal Year 2021

- July 1, 2021 through June 30, 2022 - Fiscal Year 2022

ARLINGTON COUNTY RESPONSIBILITIES

Arlington County Government, Arlington County Public Schools and the ACERS Staff will prepare and provide applicable audit information, including the following, as requested by the contractor for annual audit purposes in a format acceptable to both parties:

- Draft Financial Statements
- Trial balance of each fund and/or subsidiary ledger
- Schedules or supporting work sheets showing the composition or detail breakdown of the balance of general ledger account in all funds;
- Copy of the approved County budget, the original appropriation ordinance and all amendments;
- Schedule of insurance in force during the year and insurance expenditures for the fiscal year;
- Schedule of investment activity for the fiscal year;
- Schedule of all capital outlays during the fiscal year;
- Schedule of all capital asset dispositions during the fiscal year;
- Schedule of accounts payable at statement date;
- Copies of contracts with governmental grantor or grantee agencies;
- Copies of all other contracts of material amount in force at statement date;
- Schedule of general fixed assets, showing beginning balance, additions, disposals and the ending balance by major asset category;
- Schedule of budgeted versus actual revenues for all funds;
- Schedule of appropriations, expenditures and encumbrances for all funds;
- Schedule of County's pension plan contributions;
- Other reasonable financial schedules or standard audit Prepared By Client (PBC)s as the Contractor requests
- Bank reconciliations and supporting documents for transactions as needed for examination.
- ACG, ACERS and APS will also provide access to all necessary files and records of the County departments for audit and testing purposes.

Upon agreement between the County and the contractor on final audit adjustments to be recorded, the County will prepare and provide revised copies of the following, as applicable:

- The Arlington County Comprehensive Annual Financial Report;
- The Ballston Public Parking Garage Fund (An Enterprise Fund of Arlington County, Virginia) Financial Statements and Supplemental Schedule;
- The Ballston Public Parking Garage Fund (An Enterprise Fund of Arlington County, Virginia) Schedules of Net Cash Flow and MCI Area's and MCI Lease Area's Net Cash Flow;
- The Industrial Development Authority Investment Bond Fund Ballston Skating Facility Project (A Private-Purpose Trust Fund of Arlington County, Virginia) Financial Statements.

The ACERS will prepare the Arlington County Employees' Retirement System Comprehensive Annual Financial Report.

The County will prepare the required transmittal forms for the Commonwealth of Virginia's Auditor of Public Accounts.

County administrative staff will be available to prepare schedules and pull or reproduce source documents for the contractor.

The County will arrange working space for the contractor during the audit.

OTHER INFORMATION - INTERNAL AUDIT AND PERFORMANCE AUDITS

The County has an Internal Audit Department, which is comprised of County staff, and an outsourced audit firm. The Internal Audit Department reports to the Deputy Director of the Department of Management and Finance and is focused on compliance audits and testing of policies, procedures and internal controls to provide reasonable assurance that resources are safeguarded against waste and abuse. The internal audit reports and work plan are available at:

<https://departments.arlingtonva.us/arlington-county-internal-audit-services/>.

The County also has a County Board Auditor. The County Board Auditor reports to the County Board. The County Board Auditor is focused on conducting performance audits.

**ATTACHMENT B
PRICING**

Arlington County Cost Component and Fixed Price by Audit Phase

Proposed Staffing Plan	Cost Component					FY18
	Partner	Manager	Senior	Staff	Total	Fixed Price
Phase I - Planning and Orientation	2%	4%	5%	4%	15%	\$ 29,700
Phase II - Interim and Year End Procedures	2%	7%	12%	17%	37%	\$ 73,300
Phase III - Final Fieldwork	1%	6%	9%	12%	29%	\$ 58,200
Phase IV - Report Preparation and Wrap-up	6%	5%	5%	4%	19%	\$ 38,800
	11%	21%	30%	37%	100%	\$ 200,000

Pricing by Year by Major Component

	FY18	FY19	FY20	FY21	FY22
County	\$ 136,000.00	\$ 136,000.00	\$ 140,100.00	\$ 144,300.00	\$ 146,625.00
Schools	\$ 42,000.00	\$ 42,000.00	\$ 43,250.00	\$ 44,550.00	\$ 45,875.00
ACERS	\$ 22,000.00	\$ 22,000.00	\$ 22,650.00	\$ 23,325.00	\$ 24,025.00
	<u>\$ 200,000.00</u>	<u>\$ 200,000.00</u>	<u>\$ 206,000.00</u>	<u>\$ 212,175.00</u>	<u>\$ 216,525.00</u>

Rates for Additional Services

We recognize that circumstances may develop during the year that will require consultation research or compliance or agreed procedures that are independent of the annual financial audit and scope of outlined. We will discuss these matters with you and provide an estimate of the cost of the project prior to beginning additional work. Generally, these services will be provided at the hourly rates in place at the time. A breakout of our rates is presented below.

	Rate per Hour
Partner	\$275 - \$300
Manager	\$225 - \$275
Senior	\$165 - \$195
Staff	\$125 - \$150

ATTACHMENT C

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement is hereby entered into between Cherry Bekaert LLP (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,
Arlington County Privacy Officer
2100 Clarendon Blvd., Suite 511
Arlington, Virginia 22201

(2) Stephen Maclsaac
County Attorney
2100 Clarendon Blvd., Suite 511
Arlington, Virginia 22201

(3) County Project Officer

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

Cherry Bekaert LLP
Attn: **Krista N. Edoff**
1934 Old Gallows Road, Suite 400
Tysons Corner, VA 22182

- 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: Krista N. Edoff _____
(Signature)

Name: _____

Name: Krista N. Edoff

Title: County Privacy Officer

Title: Partner

Date: _____

Date: March 14, 2018

ATTACHMENT D

NONDISCLOSURE AND DATA SECURITY AGREEMENT
(CONTRACTOR)

The undersigned, an authorized agent of the Contractor and on behalf of Cherry Bekaert LLP ("Contractor"), hereby agrees that the Contractor will hold County-provided information, documents, data, images, records and the like confidential and secure and protect them 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 the Contractor for testing, support, conversion or other services provided under Arlington County Agreement No. 18-004-RFP (the "Project" or "Main Agreement") or that may be accessed through other County-owned or -controlled databases (all of the above collectively referred to as "County Information" or "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 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, any County Information that in any manner describes, locates or indexes anything about an individual, including, but not limited to, his/her ("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 anything that affords a basis for inferring personal characteristics, such as finger and voice prints, photographs, or things done by or to such individual, or the record of his presence, registration, or membership in an organization or activity, or admission to an institution.

Contractor also agrees that it will not directly or indirectly use or facilitate the use or dissemination of County information (whether intentionally or by inadvertence, negligence or omission and whether verbally, electronically, through paper transmission or otherwise) for any purpose other than that directly associated with its work under the Project. The Contractor acknowledges that any unauthorized use, dissemination or disclosure of County 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.

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. The Contractor shall coordinate closely with the County Project Officer to ensure that its authorization to its employees or approved subcontractors is appropriate and tightly controlled and that such person/s also maintain the security and privacy of County Information and the integrity of County-networked resources.

Contractor agrees to take strict security measures to ensure that County Information is kept secure; is properly stored in accordance with industry best practices, and if stored is encrypted as appropriate; and is otherwise protected from retrieval or access by unauthorized persons or for unauthorized purposes. Any device or media on which County Information is stored, even temporarily, will have strict security and access control. Any County Information that is accessible will not leave Contractor's work site or the County's physical facility, if the Contractor is working onsite, without written authorization of the County

ATTACHMENT E

NONDISCLOSURE AND DATA SECURITY AGREEMENT
(INDIVIDUAL)

I, the undersigned, agree that I will hold County-provided information, documents, data, images, records and the like 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. 18-004-RFP (the "Project" or "Main Agreement") or which may be accessed through County-owned or -controlled databases (all of the above collectively referred to as "County Information" or "Information").

I agree that I will maintain the privacy and security of County Information and 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, any County Information that in any manner describes, locates or indexes anything about an individual including, but not limited to, his/her ("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 for inferring personal characteristics, such as finger and voice prints, photographs, or things done by or to such individual, or the record of his presence, registration, or membership in an organization or activity, or admission to an institution.

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 and whether 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 County Information is prohibited and may also constitute a violation of Virginia or federal law/s, subjecting me and/or my employer 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 County Information is kept secure; is properly stored in accordance with industry best practices, and if stored is encrypted as appropriate; and is otherwise protected from retrieval or access by unauthorized persons or for unauthorized purposes. I will also ensure that any device or media on which County Information is stored, even temporarily, will have strict security and access control and that I will not remove, facilitate the removal of or cause any Information to be removed 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 is 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. I will not download any County Information except as authorized by the County Project Officer and then only onto a County-approved Device. I understand that downloading onto a personally-owned Device or service, such as personal e-mail, Dropbox etc., is prohibited.

I agree that I will notify the County Project Officer immediately upon discovery or becoming aware or suspicious of any unauthorized disclosure of County Information, security breach, hacking or other breach of this agreement, the County's or Contractor's security policies, or any other breach of Project protocols concerning data security or County Information. I will fully cooperate with the County to help regain possession of any County Information and to prevent its further disclosure, use or dissemination.

It is the intent of this *NonDisclosure 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 laws or regulatory requirements. Therefore, to the extent that this *Nondisclosure and Data Security Agreement* conflicts with the underlying Main Agreement or any local, state or federal law, regulation or provision, the more stringent requirement, law, regulation or provision controls.

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: _____

Printed Name: _____

Date: _____

Witnessed:

Contractor's Project Manager: _____

Printed Name: _____

Date: _____

TO BE COMPLETED PRIOR TO BEGINNING WORK ON THE PROJECT