

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

AGREEMENT NO. 16-129-RFP

THIS AGREEMENT is made, on the date of execution by the County, between Tempest Interactive Media, LLC, 30 South 15<sup>th</sup> Street, Suite 800, Philadelphia, PA 19102 ("Contractor") an Arizona Limited Liability Company 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 – Website Development Timeline
- Attachment D – ACVS StayArlington Branding Guidelines

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 provision of strategy, design, development, hosting and maintenance of the StayArlington.com website. 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. Website development will commence on the date of the execution of the Agreement by the County and must be completed no later than one hundred and eighty (180) calendar days after execution of the Agreement, to include website launch; the Final Acceptance of the website will be scheduled for 180 days after the website launch, subject to any modifications as provided in the Contract Documents.

Contract Term for Hosting, Maintenance and Technical Support will commence after Final Acceptance of the website and will be completed five (5) calendar years thereafter. 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 five (5) additional 12-month periods. The entire Contract Term for Hosting, Maintenance and Technical Support shall be not more than ten (10) calendar years.

**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 A unless those additional goods or services are covered by a fully executed amendment to this Contract. Additional services will be billed at the rates set forth in Attachment B unless otherwise agreed by the parties in writing.

**6. CONTRACT PRICE ADJUSTMENTS**

The Contract hourly rates will remain firm for the first two (2) years of the Contract Term; the annual lump sum prices for Hosting, Maintenance and Technical Support will remain firm for the first five (5) years of the Contract Term. To request a price adjustment, the Contractor or the County must submit a written request to the other party not less than 60 days before the Contract Term Anniversary date. Adjustments to Contract pricing will not exceed the percentage of change in the U.S. Department of Labor Consumer Price Index, All Items, Unadjusted, Urban Areas ("CPI-U") for the 12-month period ending in December of each year of the Contract.

Any Contract pricing changes that result from this provision will become effective the day after the Contract Term Anniversary date and will be binding for 12 months. The new Contract Term Anniversary date will be 12 months after the price adjustment.

If the Contractor and the County have not agreed on a requested adjustment by 30 days before the Contract Term Anniversary date, the County may terminate the Contract, whether or not the County has previously elected to extend the Contract's term.

**7. PAYMENT**

The Contractor must submit invoices to the County's Project Officer, who will either approve the invoice or require corrections. The County will pay the Contractor within 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. 5% of each invoice amount will be retained by the County and paid to the Contractor after Final Acceptance. The number of the County Purchase Order pursuant to which goods or services have been delivered or performed must appear on all invoices.



**8. 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.

**9. NO WAIVER OF RIGHTS**

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

**10. 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.

**11. 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.

**12. REPLACEMENT OF PERSONNEL AND SUBCONTRACTORS**

The County has the right reasonably to reject staff or subcontractors whom the Contractor assigns to the project. The Contractor must then provide replacement staff or subcontractors satisfactory to the County



in a timely manner and at no additional cost to the County. The day-to-day supervision and control of the Contractor's and its subcontractors' employees is the sole responsibility of the Contractor.

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

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

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

**13. 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.

**14. 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.

**15. 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.

## **16. 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. Upon such termination, the Contractor may apply for compensation for Contract services that the County previously accepted ("Termination Costs"), unless payment is otherwise barred by the Contract. 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, as defined above, 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.

#### **17. INDEMNIFICATION**

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.

#### **18. 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.

**19. 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.

**20. OWNERSHIP AND RETURN OF RECORDS**

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

All drawings, specifications, blueprints, data, information, findings, memoranda, correspondence, documents or records of any type, whether written, oral or electronic, and all documents generated by the Contractor or its subcontractors as a result of this Contract (collectively "Records") are the exclusive 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 willingly cause or allow such materials to be used for any purpose other than performance of this Contract without the written consent of the County.

The Records are confidential, and the Contractor will neither release the Records nor share their contents. The Contractor will refer all inquiries regarding the status of any Record to the Project Officer or to his or her designee. At the County's request, the Contractor will deliver all Records, including hard copies of electronic records, to the Project Officer and will destroy all electronic Records.

The Contractor agrees to 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.

**21. CONFIDENTIAL INFORMATION**

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

**22. 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.

**23. 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.

**24. 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.

**25. 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.

**26. 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.





**27. 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.

**28. 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)

**29. AUDIT**

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

**30. 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.

**31. AMENDMENTS**

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

**32. 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.



**33. 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.

**34. 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.

**35. ARBITRATION**

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

**36. 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.

**37. 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.

**38. 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.

**39. ATTORNEY'S FEES**

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

**40. 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 AND RETURN OF RECORDS; AUDIT; COPYRIGHT; DISPUTE RESOLUTION; APPLICABLE LAW AND JURISDICTION; ATTORNEY'S FEES, AND CONFIDENTIAL INFORMATION.

**41. 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.



**42. 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.

**43. NOTICES**

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

**TO THE CONTRACTOR:**

Alex Heimann  
Tempest Interactive Media, LLC  
30 South 15<sup>th</sup> Street, Suite 800  
Philadelphia, PA 19102

**TO THE COUNTY:**

Courtney Cacatian, Project Officer  
Arlington Economic Development  
1100 N. Glebe Road, Suite 1500  
Arlington, VA 22201

**AND**

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

**44. NON-DISCRIMINATION NOTICE**

Arlington County does not discriminate against faith-based organizations.

**45. ACCESSIBILITY OF WEB SITE**

If any work performed under this Contract results in the design, development or maintenance of or responsibility for the content or format of any County web sites or for the County's presence on third-party web sites, the Contractor must perform such work in compliance with ADA.

**46. 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 typed on the certificate.
- c. Business Automobile Liability - \$1,000,000 combined single-limit (owned, non-owned and hired).
- a. 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 typed on the certificate.
- b. 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.
- c. 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.
- d. 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

TEMPEST INTERACTIVE MEDIA, LLC

AUTHORIZED SIGNATURE: *M. E. Bevis*

AUTHORIZED SIGNATURE: *Mark Lynch*

NAME: <sup>for</sup> MICHAEL E. BEVIS  
TITLE: PURCHASING AGENT

NAME AND TITLE: *MARK LYNCH Chief Business Dev Officer*

DATE: *4/17/2017*

DATE: *4/16/17*



## ATTACHMENT A

### SCOPE OF WORK

#### OVERVIEW

The Contractor will create a new version of the StayArlington website ([www.stayarlington.com](http://www.stayarlington.com)) that incorporates current Destination Marketing Organization (DMO) industry best practices to promote Arlington to domestic and international audiences. When the newly developed website is complete, it will replace the existing site. The new site will continue to integrate with the Arlington Convention and Visitor Service's (ACVS) Salesforce Customer Relationship Management (CRM) system and an externally hosted booking engine (currently from aRes Travel, Inc.). The Contractor will be responsible for planning, designing, building, testing launching, hosting and maintenance of the website in coordination with ACVS.

#### GENERAL OBJECTIVES

The new StayArlington website needs to achieve the following key ACVS objectives:

- Attract meeting, convention and leisure visitors to Arlington -- driving overnight hotel stays (particularly during off-peak periods of late summer and mid-winter and weekends year-round) – and increase visitor spending at local businesses.
- Provide meeting and group planners, business and leisure travelers (domestic and international), travel industry stakeholders (Arlington hotels, stores, restaurants and other service providers), media and residents with information on Arlington hotels, shopping, dining, attractions, arts, transportation, history and other tourism-related topics, as well as information on Washington, D.C. and other regional highlights.
- Provide an insider's perspective on the County, including lesser-known attractions and one-of-a-kind Arlington experiences.
- Enable users worldwide to access information and materials to plan their trips to Arlington and the Washington, D.C. area, and in their own languages (especially Chinese/Mandarin, Portuguese, German, French and Spanish)
- Aid meeting and group planning professionals in the discovery of Arlington's convention and meeting assets, both within and outside of hotels.
- Motivate meeting and group professionals to select Arlington over other destinations as host site for their meetings/conventions, and to book pre- and post-event vacation stays.
- Motivate conventional press and bloggers to write about Arlington topics that are of interest to their audiences.
- Host landing pages for StayArlington marketing campaigns
- Paint "the big picture" of Arlington

The Contractor shall plan, design, build, test and launch the site within the technical and budget parameters detailed below, using destination marketing organization best practices. The plan will include a strategic overview; detailed recommendations for the site's information architecture, navigation and wireframes; the proposed content management system; a proposed timeline for development, testing and launch; and a complete technical requirements document. The site's "look and feel" must follow the *ACVS StayArlington Branding Guidelines* document (Attachment D).



## WEBSITE CAPABILITIES

The website capabilities must include the following (additional recommendations are welcome in the proposal):

- Content Management System (CMS):
  - The website will be built on the ExpressionEngine Content Management System.
  - The County will maintain ownership over the CMS licensing, content and design.
  - CMS installation and additional code must adhere to security best practices.
- Customer Relationship Management (CRM): Data collected via web forms on the StayArlington website must be created in the CMS and drop into ACVS's Salesforce Customer Relationship Management (CRM) system. The necessary forms include: Requests for Proposals for conventions/meetings/groups; e-newsletter sign ups; forms to request or download StayArlington marketing collateral and other resources (Visitors Guide, Meeting Planner Guide, and Official Map); and forms to submit questions and comments to ACVS.
- Booking Engine: the site must use aRes Travel, Inc., hosted externally, as its reservations technology. Space for booking widgets must be incorporated into Page Template designs, including multiple points of booking integration and a prominent widget on the homepage.
- Mapping: The site must use Google Maps API.
- Translation: In addition to having significant language-specific international content pages with translation provided by the County, the site's remaining content must have translation functionality through Google's advanced translation API.
- Search Engine Optimization (SEO): The site must: 1) optimize for search engines to maximize site traffic and lead generation (personal contact information, including name, company, physical address, email address, etc.); 2) incorporate DMO-industry and Internet-marketing best practices, including meaningful and search-aiding H tags, unique and accurate page titles, description meta tags, meaningful and simple URLs, meaningful anchor tags and alt tags on all images to integrate StayArlington website content; and 3) utilize robots.txt and XML sitemap. The site must include multiple methods of information discovery and content navigation based on location, maps, time or date, website, or social suggestion and others as recommended by the Contractor.
- Social Media Integration: The site must interact in a seamless, integrated way with major social media sites (Facebook, Twitter, LinkedIn, YouTube, Pinterest and Instagram) and Facebook Open Graph integration and must have the ability to share website content through popular social media platforms via a tool similar to AddThis or ShareThis.
- Display Advertising with Ability to Measure & Report Performance: The site must strategically integrate partner advertising in a visually appealing, unobtrusive design, and measure and report on ad performance using Google's DoubleClick for Publishers.
- Information Architecture (IA), User Interface (UI) and User Experience (UX) Best Practices: The County requires a fully responsive website that can be viewed on desktop and mobile devices, including a documented quality assurance process for the following browsers: Internet Explorer (PC) 10, 11 +; Microsoft Edge; Safari (Mac); Chrome (Mac, PC); Firefox (Mac, PC) and device specification for testing to include: Apple iPhone 6, 6S +; Apple iPad; Samsung Galaxy Tablet S5, S6 +, Google Nexus Android, Motorola Droid Turbo. The Contractor will take a "mobile-first approach" and use the CMS to create page elements that can be easily resized, rearranged, reprioritized and shifted in real time based on the device.
- A flexible set of taxonomy structures that can evolve over time.
- At a minimum, page templates will need to be created for Home, Top Level Landing, Interior Detail Pages, Partner Listing Template, Top Level and Detail Calendar of Events Templates, a Blog Top Level Landing and a Blog Detail Template.



- User-friendly events calendar with multifunctional search and display options and strong visual appeal that will pull in the current event feed from Virginia.org and other event feeds requested by the County based on the Discovery phase of the redesign.
- Template-based method of creating meeting, convention and group “microsites”.
- Robust search functionality with ability to return results from CMS, CRM and other content.
- Robust list-sorting functionality. Filtering capabilities that will allow users to be able to navigate the site quickly and find the specific information for which they are looking.
- Google Analytics integration, with custom features, including custom event tracking.
- User-friendly and attractive video and photo integration onto website pages, including HTML5 video content.
- Method of highlighting and promoting individual listings for hotels, attractions, stores, restaurants, etc.
- Method of providing users access to trip essentials from any page of the website.
- Experience-builder functionality allowing users to plan their trips based on their unique interests and travel style, while collecting data on their points of origin, travel companions and interests.
- Google AMP Integration designed to support mobile content.
- Weather widget, allowing users quick access to current local weather information and detailed forecasts.
- Method for including seasonal or featured content and articles.
- Adherence to all modern web standards and accessibility guidelines set forth for XHTML and CSS under ADA Compliance Section 508 and Web Content Accessibility Guidelines (WCAG) 2.0.

#### **WEBSITE DEVELOPMENT**

The Contractor will provide complete pre- and post-launch website development services, which will focus on modularity and ease of integrating future improvements, creating stable systems for future upgrades and changes and using mature CMS modules. The Contractor will not customize the CMS core without the County’s approval. Development will also include integration with third-party Application Program Interfaces (API), including Google, social media and others.

Prior to beginning the website development work, the Contractor shall perform the following tasks, in collaboration with ACVS staff:

1. Discovery – extensive research and review of the ACVS branding guidelines, past web performance, analytics, and any other brand research needed for the project.
2. Creative Brief – onsite meetings with the ACVS staff over the course of two (2) days. Contractor will review findings from discovery, address County needs and expectations, perform a competitive set analysis and provide creative direction for the project. The Contractor shall deliver and review with ACVS an interactive account plan that details creative direction, competitive analysis, target audience, measurable goals and how the Contractor proposes to achieve the plan from a website design and user experience point of view. The Contractor will visit Arlington to experience and assess it from a visitor perspective and will provide insights based on that experience.
3. Content Inventory – comprehensive review of available content, search engine optimization analysis, and Google Analytics performance analysis. The Contractor shall use this information to define the site’s different navigational, content and page structures that best engage Arlington’s visitors. Based on content strategy, the Contractor will work with ACVS to recommend an updated information architecture that gives the best user experience for the sites visitors.





4. Digital Style Guide & Creative Direction – after completing both the interactive account plan and Content Inventory, the Contractor shall deliver and review a digital style guide. This guide will highlight brand usage, typography, colors and layouts of the new site. The Contractor shall also deliver and review with ACVS the creative direction, to include detailed mock-ups of the overall design, interior pages, navigation, and content structures of the new site.
5. In case of disagreements in regards to strategy, the County will retain final approval right.

The Contractor will work directly with the booking engine vendor for website elements that require integration of consumer booking engine components.

The Contractor will work with ACVS and its marketing collateral publisher, VistaGraphics, Inc., to develop website elements that require integration of digital advertising components.

Before testing and launch of the new StayArlington website, the Contractor will migrate select existing content, as directed by the County.

Prior to the launch of the website, the Contractor shall perform comprehensive testing of all site elements to ensure usability and performance in all current website browsers and via mobile. ACVS will have unlimited access to the beta version and will be able to review the website to ensure proper functionality before launch. ACVS will have the right to delay the launch if, in the sole discretion of ACVS, there are issues that need to be resolved before the website launches.

The Contractor will collaborate with the County on all phases of the redesign, to include Discovery, Design, Development, quality assurance, testing and launch. These communications will occur through a combination of in-person meetings, email, phone and online screen sharing, and will not require project management software.

The project kick-off meeting and the final project wrap-up presentation will be held at County's offices, and the Contractor will be required to attend those meetings in person. Throughout the project, there will be weekly teleconferences between the County and the development team; and the County may schedule additional teleconferences as needed.

The Contractor will develop a complete technical requirements document that the Contractor and ACVS will use throughout the website development process, as well as for formal documentation of the work completed.

The website's go-live date must be no later than 180 days after the County executes the Agreement, in accordance with the schedule included in Attachment C – Website Development Timeline. The County anticipates but does not guarantee that it will accept the website as final 180 days after the go-live date. The Contractor must address any development issues that the County raises after go-live before the County will accept the website as final.

The Contractor must provide a post-launch support period during which site updates are performed and undiscovered bugs are resolved at no additional charge to the County. The post-launch support period will end at the time of the website's Final Acceptance. Any bugs found after the website's Final Acceptance will also be resolved free of charge.



## COUNTY RESPONSIBILITIES

- Providing timely feedback (no more than three business days) on each major project deliverable. Delays in providing feedback or in delivery of editorial copy, photography, business listings and other content will result in a corresponding adjustment of the 180-day website development timeline in Attachment C.
- Providing all editorial copy, photography, business listings and other destination-specific content in accordance with the project schedule.
- Assisting the Contractor with testing the website before and after launch.

## WEBSITE ACCEPTANCE

The following conditions must be met and accepted by the County in order for the County to grant Final Acceptance of the website:

- Final technical requirements
- Final Site Map
- Delivery to the County of .psd files for all templates for Home, top level landing, interior detail and partner listing pages
- Front end and back end development work completed and approved
- Migration of existing content to CMS
- Quality Assurance testing of final site
- 60 hours of ACVS staff training completed
- Successful launch of fully responsive website, tested across devices specified in the Contract Documents, that matches the approved templates and wireframes developed in the Design stage
- Successful completion of 180 days of post-launch support period with uptime of at least 99.0% and no issues classified as Critical or Urgent that are resulting from Contractor's website development work

## USER TRAINING AND TECHNICAL ASSISTANCE

The Contractor must provide 60 hours of training on how to use the content management system (including how to enter and tag content) and any website plug-ins that ACVS staff would need to use to update the website. The training will be online and/or by teleconference and must be completed before the County accepts the website as final.

The Contractor will also provide ongoing technical support for ACVS staff through web-meetings, e-mail and phone calls during normal business hours throughout the contract term. Normal business hours are 8:00 a.m. – 5:00 p.m. Mountain Standard Time (Arizona).

Issue classification levels and response times are listed below. The Contractor's technical support team shall be available outside of normal business hours to address Critical issues. In the event of a disagreement whether an issue is Critical, the County retains final decision-making authority.



Level	Description	Initial Response Time	Resolution Time
Critical	Server service interruption, including system unavailability.	1 business hour	24 hours from initial request, if within this Scope of Work
Urgent	Server functionality and performance is not optimal.	2 business hours	24 hours from initial request, if within this Scope of Work
High	Minor server performance issue affecting some but not all website visitors.	4 business hours	48 hours from initial request, if within this Scope of Work
Medium	Inquiry regarding a routine technical issue; information requested on server application capabilities, navigation, installation or configuration.	8 business hours	48 hours from initial request, if within this Scope of Work

**ONGOING DEVELOPMENT**

Given the length of the contract term and the rate at which technology changes, the County may ask the Contractor to implement changes or overhaul the Website. In that event, the parties will negotiate payment for those services based on Contractor’s hourly rate specified in Attachment B.

The County may also contract with another vendor to provide additional features for the website that the Contractor does not offer; and the Contractor must coordinate with any such vendor to include the features on the website.

**HOSTING AND MAINTENANCE**

The Contractor will be responsible for aspects of the website’s ongoing maintenance and for hosting the website during the first five years after the County accepts the site, with optional renewal for additional years.

The Contractor shall use a tiered hosting environment comprised of application and database servers running a Linux operating system, Apache web server and MYSQL database software. The Contractor must ensure that the website is backed up nightly at a separate location for added redundancy.

ACVS staff will handle the daily updating and maintenance. The Contractor will provide all necessary hardware, software and technical personnel to manage, troubleshoot, repair and upgrade the website for the duration of the contract.

The Contractor shall use commercially reasonable efforts to make the website available with an uptime percentage of at least 99.95% for each month. In the event that the Contractor does not meet this service commitment, the County will receive the following credits:

- Less than 99.5% but equal to or greater than 99% –10% credit towards next month’s hosting price
- Less than 99.0% – 30% credit towards next month’s hosting price



**CONTRACTOR'S STAFF**

Throughout the website development project the Contractor's Project Manager will be Jenny Rose. The Contractor must retain at least two full-time developers on staff throughout the duration of the project (not contracted or outsourced), with the lead developer having at least five years of experience with open-source CMS systems, custom programming solutions and API work.

The Contractor must have Information Architecture, User Interface and User Experience (IA/UI/UX) experts on staff throughout the project duration (contract employees are acceptable).





**ATTACHMENT B**

**CONTRACT PRICING**

**WEBSITE DEVELOPMENT**

The website development fee includes the following services:

- Strategy
- Design
- Website Development (including Testing and Launch)
- Hosting and Maintenance through the Final Acceptance, including web development work to repair broken applications and upgrade existing applications
- 60 hours of County staff training through Final Acceptance
- Technical support for ACVS staff through Final Acceptance

Contract pricing shall be structured as follows:

Activity	Amount Due
Contract Execution	\$11,970.00
Creative Brief Completed	\$33,915.00
Digital Style Guide and Design Direction Approval	\$33,915.00
Website Launch	\$33,915.00
Final Acceptance of the Website	\$5,985.00
<b>TOTAL:</b>	<b>\$119,700.00</b>

**ONGOING HOSTING, MAINTENANCE AND TECHNICAL SUPPORT**

After the County accepts the website, the Contractor shall provide hosting, maintenance and technical support services for the first five years of the Contract Term for Hosting, Maintenance and Technical Support at the price of \$14,400.00 per year.

Prices for hosting, maintenance and technical support for Contract Years 6-10 will be based on this lump sum price; although the Contractor may request an increase in accordance with the provisions of this Agreement.

**HOURLY RATES**

Any major upgrade and miscellaneous project work will be performed by the Contractor at the blended fully loaded hourly rate of \$125.00.

This hourly rate will remain firm for Contract Years 1 and 2, after which the Contractor may request an increase in accordance with the contract.

No reimbursable expenses will be allowed under any portion of this contract.



# ATTACHMENT C - WEBSITE DEVELOPMENT TIMELINE



