REQUEST FOR PROPOSALS NO. 16-174-RFP

SEALED PROPOSALS WILL BE RECEIVED IN HAND IN THE OFFICE OF THE BID CLERK, SUITE 511, 2100 CLARENDON BOULEVARD, ARLINGTON, VIRGINIA 22201, UNTIL 3.00 PM EST ON THE 7TH DAY OF APRIL, 2016 FOR:

PROGRAM ADMINISTRATOR FOR A COMMERCIAL PROPERTY ASSESSED CLEAN ENERGY (PACE) FINANCING PROGRAM

Proposals will not be publicly opened.

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

PREPROPOSAL CONFERENCE
A preproposal conference will be held at 10:00 a.m., March 3, 2016 via a teleconference call to allow potential Offerors an opportunity to obtain clarification of the specifications and requirements of the solicitation. PARTICIPATION IS OPTIONAL. A summary of the preproposal conference will be provided by the County and will be incorporated into the solicitation documents through an Addendum. Interested Offerors are, however, urged to attend.

The teleconference number will be 888-387-8686. Enter the Room number: 8646059 and press #. You will be placed directly into the meeting if the moderator has already joined. If the moderator hasn’t joined, you will be placed on hold for up to 10 minutes.

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

Arlington County, Virginia
Office of the Purchasing Agent

Igor Scherbakov
Procurement Officer
ischerbakov@arlingtonva.us
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I. INTRODUCTION TO EVALUATION PROCESS

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

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

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

MANDATORY REQUIREMENTS

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

1. QUESTIONS AND ADDENDUMS

All communications relating to this solicitation must be e-mailed to Igor Scherbakov, Procurement Officer in the Office of the Purchasing Agent, via ischerbakov@arlingtonva.us. For a question to be considered, the subject line of the email must state the following: RFP No. 16-174-RFP Questions. Questions should be succinct and must include the submitter’s name, title, company name, company address, and telephone number. Prior to the award of a contract resulting from this solicitation, Offerors and prospective Offerors are prohibited from contacting any County staff other than those assigned to the Office of the Purchasing Agent.

**RFP No. 16-174-RFP – TENTATIVE SCHEDULE**

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<tr>
<td>RFP ISSUANCE</td>
<td>Wednesday, February 24, 2016</td>
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<tr>
<td>PRE-PROPOSAL CONFERENCE</td>
<td>Thursday, March 3, 2016 at 10:00 am</td>
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<td>QUESTION 1 DEADLINE</td>
<td>Thursday, March 10, 2016 at 5:00 p.m.</td>
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<td>ADDENDUM A ISSUANCE (if applicable)</td>
<td>Friday, March 14, 2016</td>
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<td>QUESTION 2 DEADLINE</td>
<td>Friday, March 18, 2016 at 5:00 p.m.</td>
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<td>ADDENDUM B ISSUANCE (if applicable)</td>
<td>Wednesday, March 22, 2016</td>
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<td>PROPOSALS DUE</td>
<td>Friday, April 7th, 2016 at 3:00 p.m.</td>
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<td>CONTRACT AWARD</td>
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QUESTIONS REGARDING THE ORIGINAL SOLICITATION MUST BE SUBMITTED BY THURSDAY, MARCH 10, 2016, AT 5:00 P.M. EASTERN TIME TO BE CONSIDERED FOR ADDENDUM A. ONLY QUESTIONS RELATED TO THE ANSWERS PROVIDED IN ADDENDUM A, IF ANY, WILL BE ADDRESSED IN ADDENDUM B. QUESTIONS RELATED TO ADDENDUM A MUST BE SUBMITTED BY FRIDAY, MARCH 18, 2016, AT 5:00 P.M. EASTERN TIME TO BE CONSIDERED FOR ADDENDUM B.

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

2. OFFERORS’S RESPONSIBILITY TO INVESTIGATE

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

3. INTEREST IN MORE THAN ONE PROPOSAL, AND COLLUSION

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

Arlington County RFP No. 16-174-RFP
4. COMPETITIVE NEGOTIATION FOR NON-PROFESSIONAL SERVICES
This solicitation is a competitive negotiation for goods and services, as defined in the Arlington County Purchasing Resolution. The content of the proposals and the identity of the offerors are not public record until a Notice of Decision to Award has been issued. The opening of proposals is therefore not public.

5. NOTICE OF DECISION TO AWARD
When the County has made a decision to award a contract(s), the County will send a Notice of Decision to Award to all Offerors using the e-mail addresses provided on the Proposal Form.

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

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

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

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

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

10. EQUIVALENT EXPERIENCE AND REFERENCES
If an Offeror is unable to meet the experience and/or reference requirements of this solicitation, the Offeror may submit a resume indicating the qualifying experience and references for previous work by the proposed project manager. The Project Manager’s resume must include a description of the previous
project(s) and contact information for the previous employer(s), the project owner(s) and a verifying reference, if different.

Arlington County may request additional information and will determine whether the project manager’s experience is an acceptable substitute for all or part of the experience and/or reference requirements of the solicitation.

If a contract is awarded based on documents and information submitted pursuant to this section, the Offeror may not change the named project manager for the duration of the contract unless the County approves a substitute project manager with equivalent qualifications.

11. **REPLACEMENT OR AUGMENTATION OF KEY PERSONNEL OR SUBCONTRACTORS**
The key personnel and subcontractors in an Offeror’s proposal are considered essential to the Offeror’s qualifications and may not be replaced or substituted, nor may additional personnel or subcontractors be added, after qualification of the Offeror’s proposal unless the County approves the changes in advance in writing.

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

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

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

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

14. **INSURANCE REQUIREMENTS**
Each Offeror must be able to demonstrate proof of the specific coverage requirements and limits applicable to this solicitation. If the Offeror is not able to do so, it may propose alternate insurance coverage in its exceptions to the County’s Terms and Conditions.
15. **ARLINGTON COUNTY BUSINESS LICENSES**

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

16. **OPTIONAL RIDER CLAUSE**

A. **Extension to Other Jurisdictions**

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

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

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

C. **Notification and Reporting**

The contractor must notify the issuing jurisdiction of entities that use any contract resulting from this solicitation and to provide usage information as requested. The contractor will provide a copy of the solicitation and resultant contract documents to any requesting jurisdiction or entity.

D. **Contract Agreement**

The contractor may be required by a using jurisdiction to enter into a separate contract containing general terms and conditions unique to that jurisdiction.
III. INTRODUCTION TO REQUEST FOR PROPOSAL NO. 16-174-RFP

BACKGROUND

The Arlington County Community Energy Plan (CEP) is a roadmap for transforming how we obtain, distribute and use energy. The CEP envisions an Arlington in which our residents and businesses save money by owning and operating more energy efficient buildings; in which we breathe healthier air by using cleaner sources of energy and a wider array of alternatives to driving; in which electricity is more reliable and energy prices are less volatile; and in which new businesses and residents are attracted to a higher quality of life supplied by cleaner and more reliable energy.

The Arlington County Board has set a carbon emissions target of 3.0 metric tons (mt) of carbon dioxide equivalent (CO2e) emissions per capita per year by 2050, a reduction of 70% from the 2007 carbon emissions level of 13.4 mt CO2e/capita/year. The goal of 3.0 mt CO2e/capita/year by 2050 is ambitious, and to achieve it Arlington will need a comprehensive approach.

Improvements must be made in all areas of energy use, including reduced energy waste in existing commercial buildings. In CY 2012 non-residential buildings generated the largest share (63%) of total buildings-sector emissions, followed by single-family homes at 22%, and multi-family residences around 15%. Reaching the communitywide GHG emission reduction goal will require a number of programs and policies.

Arlington recognizes that the traditional economic models for energy efficiency or renewable energy projects do not always cause building owners to pursue those projects. Plus, existing building owners do not always want to invest their own capital in energy efficiency or renewable energy projects.

In response to these and other project implementation hurdles, and as detailed below, Arlington County wants to create a Commercial Property Assessed Clean Energy (PACE) financing program for commercial buildings, as authorized by Virginia Code § 15.2-958.3.

PURPOSE OF SOLICITATION

The intent of this solicitation and resulting agreement is to obtain the services of a qualified Program Administrator (PA) to design, launch and maintain for the County a PACE program that is consistent with Virginia Code § 15.2-958.3. The PA will receive assistance from County staff in all aspects of the solicited work.
IV. SCOPE OF SERVICES

GENERAL:

The selected Program Administrator will, with the assistance of County staff, design, launch and maintain a PACE financing program that is consistent with Virginia Code § 15.2-958.3.

The PACE financing program, by facilitating contracts between private lenders and commercial property owners, must enable the property owners to obtain low-cost financing to make energy efficiency, solar thermal, solar electric, and water conservation improvements and pay for the cost over a multi-year period (up to at least 20 years) through a semi-annual special assessment on their property tax bills. Those owners who choose to participate and have qualifying systems installed on their property will pay only for the cost of their financing (including principal, interest, reserves and administrative costs) and fees to administer the program. If the property is sold prior to the end of the repayment period, the new owner will assume the remaining assessments as part of the property’s semi-annual tax bill.

The following services are anticipated to be required:

1. **Design:** Arlington County staff will rely on the PA’s expertise, background, and experience working with other commercial PACE programs to help County staff draft Arlington’s program. This includes, but is not limited to creating: program forms, a Frequently Asked Questions document, financial underwriting criteria, a list of qualifying improvements, and a flow chart showing how the program will work. County staff will draft an ordinance for the County Board’s consideration and adoption.

2. **Administration:** The PA will manage the PACE program for Arlington County. This includes, but is not limited to, processing applications from property owners, providing customer service to both property owners and lenders, managing assessments and payments, engaging with contractors who perform the qualifying improvements and updating the program as market conditions warrant.

3. **Financing:** The PA will determine the most effective program for qualifying lenders to finance the improvements, whether an open-market, i.e., any lender can participate, or a closed-market program, i.e., the County selects one or more lenders to participate. The qualified lenders will contract directly with the building owners to obtain the financing.

4. **Marketing:** The PA will implement a marketing plan for the PACE program. As part of this marketing plan, the PA will work with County staff to create a program-specific website that will outline the specifics of the PACE program and provide educational and training materials for potential and actual participants. The PA will also develop and manage a broader outreach program using the Internet, local media and other means.

   To maximize program results, the PA will also provide an analysis of existing building stock and target marketing toward opportunities for greatest program impact.

5. **Contractor Certification, Workforce Development and Training:** Arlington County wants local qualified contractors to be available to conduct commercial building energy audits and to implement energy efficiency and renewable energy projects. The PA will develop and implement
a program to train local contractors sufficiently to participate in Arlington’s PACE program. The training program could be run through the County’s own initiatives or through cooperation with programs and/or partners in the region. Arlington County does not intend to limit which contractors can participate in the PACE program; however, Arlington does intend to inform building owners which contractors have participated in an appropriate training program developed by the PA.

6. **Quality Assurance and Program Reporting:** The Administrator shall develop a quality assurance, verification and reporting protocol for the program.

Offerors should outline in their proposals specifically how they would design the program, including with regard to effective outreach and cost competitiveness.
V. PROPOSAL REQUIREMENTS

1. **GENERAL**

   Proposals must be submitted in hard copy and must be fully executed. FAILURE TO SUBMIT A PROPOSAL WITH A FULLY COMPLETED PROPOSAL FORM USING THE PROPOSAL FORM PROVIDED IN THIS SOLICITATION WILL BE CAUSE FOR REJECTION OF THE PROPOSAL. The Proposal Form must be signed by a person legally authorized to bind the Offeror.

   The County may reject proposals that do not include the number of copies requested and will not accept proposals by fax or e-mail.

   The Offeror’s proposal must address the Proposal Submittal Elements below, in the order listed, and must not exceed the stated page limitations. The proposal must be on 8 ½” x 11” paper, single-spaced, and the type size must not be less than 10-point. Note: for counting purposes, a page equals a one-sided sheet.

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

2. **PROPOSAL SUBMISSION**

   One copy of the submitted proposal, marked “ORIGINAL”, must contain an original longhand signature on the Proposal Form. The Offeror must also submit four (4) hard copies and one (1) electronic copy of the original signed proposal. The electronic copy must be on unencrypted CDs or Flash Drives.

   The Offeror must, no later than the deadline specified in this solicitation, submit all copies of its proposal by hand, courier or mail in a sealed envelope to:

   Arlington County Government
   Office of the Bid Clerk
   Suite 511
   2100 Clarendon Boulevard
   Arlington, Virginia 22201

   The exterior of the envelope or package must indicate the name of the Offeror and the number of the solicitation. The Bid Clerk will stamp the envelope with the time and date of receipt.

   Timely submission of the proposal is the responsibility of the Offeror. The County will reject proposals received after the deadline.

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

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

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

4. **PROPOSAL STANDARDS**
Proposals submitted in response to this solicitation should be accurate and grammatically correct and should not contain spelling errors. Whenever possible, proposals must comply with the following guidelines:

- print double-sided on at least 30% recycled-content and/or tree-free paper
- use 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)

5. **UNNECESSARILY ELABORATE RESPONSES**
The County may view unnecessarily elaborate brochures or other presentations, including elaborate or expensive artwork, paper, bindings, and visual and other presentations, as an indication of the Offeror’s lack of cost consciousness.

6. **EXPENSES INCURRED IN PREPARING PROPOSAL**
The County accepts no responsibility for any expense incurred by any Offeror in the preparation or presentation of a proposal or related in any way to an offer.

7. **EVALUATION CRITERIA AND WEIGHTS**
The County will evaluate proposals that meet the above-stated requirements using the following criteria:

- EXECUTED FORMS (MANDATORY – NOT WEIGHTED)
- MANDATORY REQUIREMENTS (MANDATORY – NOT WEIGHTED)
- PROJECT APPROACH (40%)
- PROJECT COSTS (20%)
- OFFEROR’S QUALIFICATIONS AND EXPERIENCE (30%)
- REFERENCES (10%)
- EXCEPTIONS TO THE COUNTY’S CONTRACT TERMS AND CONDITIONS (MANDATORY – NOT WEIGHTED)

8. **PROPOSAL SUBMITTAL ELEMENTS**
The County will not evaluate proposals that do not contain all requested content. Use dividers with numbered tabs for each of the proposal elements, in the order listed.

1. **EXECUTED FORMS**
   a. **Proposal Form**: original and copies as detailed above.
   b. **Conflict of Interest Statement**: included in the RFP document.
   c. **Addendum Acknowledgment Form(s)**: provided with any RFP addendum(s).

2. **MANDATORY REQUIREMENTS**

Arlington County RFP No. 16-174-RFP
The following requirements are mandatory. If the County concludes after its initial review of a submitted proposal that the Mandatory Requirements are not met, the proposal will be considered non-responsive and will not be evaluated further.

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

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

2. The Offeror and/or the Offeror’s Project Manager has participated in designing and/or administering at least one (1) PACE program for a local U.S. jurisdiction.

   Offeror must provide supporting documentation to show that this requirement is met. At minimum, the Offeror must provide the name of the jurisdiction(s) and an appropriate contact person in each jurisdiction, including name, title, e-mail and phone number.

3. **PROJECT APPROACH**

Offerors must demonstrate that they have the resources and capability to provide the required services; specifically each Offeror must submit a detailed proposal for providing the following services:

   **Administration/Program Structure** – Provide your firm’s proposal for program design, implementation and administration, including but not limited to details on the following:

   a. Processing applications, providing customer service and engagement with contractors.
   b. The minimum criteria for a property owner to qualify for PACE financing.
   c. Minimum parameters of the size and scope of a PACE project that would be considered.
   d. Minimum underwriting requirements and, if needed, rationale for varying from the VA DMME Underwriting Guidelines.
   e. How you would coordinate implementation with mortgage lenders, including obtaining lender consent.
   f. Whether the Arlington PACE program would dictate the scope of any energy surveys or audits to be performed on a potential PACE program participant’s property.
   g. The method of contractor selection. Would the vendor responsible for making energy improvements be selected by the applicant or pre-screened, and would you require any selection standards?
   h. The process for verification of the installed improvements.
   i. Collection of data necessary to evaluate the efficacy of the program over time. Explain who would collect the data and what data would be collected.
   j. Anticipated roles and responsibilities of County staff, the PA and any other partner or entity.
   k. A description of how this program could be scaled up to include surrounding cities and/or counties.
Marketing – Provide your firm’s proposal to develop and implement an effective marketing strategy to reach property owners in all asset classes, with a primary focus on Class B and C building owners, including but not limited to details on the following:

a. Use of any partnerships to develop or expand the program.
b. The program-specific website.
c. Educational and training materials for those interested in participating in the program, including but not limited to building owners, contractors and lenders.
d. Local outreach program using the Internet, local media and other means.
e. An analysis of existing building stock and means to target marketing toward opportunities for greatest program impact.

Contractor Certification, Workforce Development and Training - Arlington wants to ensure that qualified contractors are available to conduct energy audits and implement PACE project tasks. Another goal is to have PACE program contractors local to Arlington. Arlington County does not intend to limit which contractors can participate in the PACE program; however, Arlington does intend to inform building owners which contractors have participated in an appropriate training program developed by the PA. Provide your firm’s proposal to develop and implement a contractor workforce development, training and recruitment program, including but not limited to the following:

a. Plans to recruit and maintain a list of contractors who have been trained to participate in the program, including how to verify participation in the training program. Explain whether you would advocate for additional requirements for PACE program contractor eligibility, such as proof of relevant certifications, e.g., ASHRAE or other certifications for commercial energy consultants.
b. How property owners would provide feedback on contractor performance.
c. Workforce development in order to support local energy contractor and subcontractor job creation. Include information on how the program would reach out to and include women, minorities, and the long-term unemployed.

Quality Assurance and Program Reporting - Provide your firm’s proposal to maintain program integrity through quality assurance and verification with reports and data generated from the program’s operation. Provide annual reporting, including but not limited to the following data:

a. Overall program growth and performance.
b. Program impact, including but not limited to:
   1) Number of participants and average project size.
   2) The value PACE projects added to buildings.
   3) Funds disbursed.
   4) Energy consumption reduction (actual vs. projected).
   5) Effect on carbon inventory.

4. PROJECT COSTS

This program will be self-financed, with the program fees and financing costs charged to property owners covering program costs and the PA’s compensation.
Provide your firm’s proposal regarding project financing, including but not limited to the following:

a. An itemized list of proposed program fees. Specify whether the fees would be recurring or one-time. Also list any specific fee(s) you would charge for each approved project.
b. Describe how you firm would recover its program design and maintenance costs in a manner that is affordable to the property owners and attractive for investors.
c. Explain the program’s proposed path for financing projects, including whether the program should follow a closed- or open-market model. Provide rationale for your choice and a list of potential funding sources, if applicable.
d. Provide an assessment of the risk and cost to Arlington County government in the event a property owner enrolled in the program defaults on payments under the proposed program structure.
e. Propose the maximum and minimum PACE finance amounts.
f. Provide information on the optimal length of time to carry the project with regard to cash flow and the useful life of improvements.
g. List any other proposed fees that should be part of the PACE program, e.g., re-occurring fees to property owner, measurement and verification fees, energy audit fees, early repayment penalties, fees associated with project closing costs.

5. OFFEROR’S QUALIFICATIONS AND EXPERIENCE

Describe your firm’s qualifications and experience, including but not limited to the following:

a. One-page letter of Introduction summarizing why your firm is the most qualified for this scope of work.
b. Descriptions of a minimum of three and a maximum of ten past projects that were completed by the firm within the last ten years from the date of this RFP involving the design, launch, and/or maintenance of a commercial PACE program. For each project provide the following information. Limit two pages per project.
   1) Describe the scope and type of the project (commercial, government, etc.) and detail the services provided.
   2) Describe any problems encountered, lessons learned and solutions devised.
c. Credentials of the proposed team. Limit two pages, plus the resumes.
   1) Name of proposed Project Manager.
   2) Project Manager’s portfolio of related projects. Please indicate which of the projects referenced above in section 5b were managed by the Project Manager.
   3) An organizational chart that describe the division of responsibility among the members of the team.
   4) A one-page resume for each of the key project staff members.
   5) Name of and information concerning proposed subcontractors, including the following:
      a) Areas of expertise and a description of how the subcontractor would be used in this project.
      b) One-page resume for each proposed subcontractor staff member.
      c) Up to three relevant projects completed in the past five years by proposed staff members and copies of any awards or commendations received for the projects.
      d) Contact information, including name, organization, telephone number and email address.
6. REFERENCES

Provide contact information for up to three local jurisdictions for which your firm has designed, launched, and/or maintained a commercial PACE program in the past five years, including but not limited to:

a. Name of an individual from each jurisdiction who can provide information regarding the quality of services provided by your firm. Also provide that individual’s contact information, including organization, telephone number and email address.
b. Copies of any awards, commendations or testimonials received for the project.

7. EXCEPTIONS TO THE COUNTY’S CONTACT TERMS AND CONDITIONS

Refer to Section 13 of the Instructions for Offerors above.
VI. CONTRACT TERMS AND CONDITIONS

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

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

AGREEMENT NO. 16-174-RFP

THIS AGREEMENT is made, on the date of execution by the County, between (Contractor’s name), (Contractor’s address) (“Contractor”) a (name of state) (type of entity) authorized to do business in the Commonwealth of Virginia, and the County Board of Arlington County, Virginia. 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 – County Nondisclosure and Data Security Agreement (Contractor)
Attachment D – 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 contract with a Program Administrator for a Commercial Property Assessed Clean Energy (PACE) Financing Program. It will be the Contractor’s responsibility, at its sole cost, to provide the specific services set forth in the

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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 April 30, 2018 ("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 three (3) additional 12-month periods, from March 1st, 2018 to April 30, 2021 (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") unless such amount is modified as provided in this Agreement. The Contract Amount includes all of the Contractor's overhead and fees (profit).

6. **PAYMENT**
The Contractor will be paid through a fee attached to each PACE project that receives financing and is assessed a special tax assessment by Arlington County.

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. The number of the County Purchase Order pursuant to which goods or services have been delivered or performed must appear on all invoices.

7. **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.

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. **BACKGROUND CHECK**
All employees or subcontractors whom the Contractor assigns to work on this Contract must pass the County's standard background check. The background check will include fingerprinting by the County Sheriff’s Office and a credit check.

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 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.

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

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

18.  **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.

19. **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 Indemnites”) 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.

20. **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 Indemnities, 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.

21. **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.

22. **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.
23. **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).

24. **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.

25. **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.

26. **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.

27. **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.
28. **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.

29. **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.

30. **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)

31. **AUDIT**
The Contractor must provide to the County the complete findings and all components of an independent certified public accountant’s audit of its finances and program operation within two months after the close of Contractor’s fiscal year. If a management letter was not prepared with the audit, the Contractor must so certify in writing as part of the audit report to the County. The Contractor must allow the County to review its records as the County deems necessary for audit purposes within 15 calendar days of the County’s receipt of the findings. All accounts of the Contractor are subject to 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.

32.  **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.

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

34.  **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.

35.  **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.

36.  **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.

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

38.  **NONEXCLUSIVE 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.

39.  **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.

40.  **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.

41.  **ATTORNEY’S FEES**
The County is entitled to attorney’s fees and costs that it incurs to enforce any provision of this Contract.
42. **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 DATA SECURITY AND PROTECTION.

43. **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.

44. **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.

45. **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:**


**TO THE COUNTY:**


AND

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

46. **NON-DISCRIMINATION NOTICE**
Arlington County does not discriminate against faith-based organizations.

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

48. **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.

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

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

a. **Access to Programs, Services and Facilities:** The Contractor must ensure that its programs, services and facilities are accessible to persons with disabilities. If a particular facility or program is not accessible, the Contractor must provide equivalent services in an accessible alternate location or manner.

b. **Effective Communication:** Upon request, the Contractor, must provide appropriate communication aids and services so that qualified persons with disabilities can participate equally in the Contractor’s programs, services and activities. Communication aids and services can include, but are not limited to, qualified sign language interpreters, Braille documents and other means of facilitating communications with people who have speech, hearing or vision impairments.

c. **Modifications to Policies and Procedures:** The Contractor must modify its policies and procedures as necessary to ensure that people with disabilities have an equal opportunity to enjoy the Contractor’s programs, services and activities. For example, individuals’ service animals must be allowed in the Contractor’s offices or facilities, even if pets are generally prohibited.

d. **No Extra Charges:** The Contractor may not charge a person with a disability or any group of individuals with disabilities to cover the cost of providing aids or services or of reasonable modifications to policies and procedures.

50. **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).

d. **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.

e. **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.

f. **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.

g. **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 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.

51. **OPTIONAL RIDER CLAUSE CONDITIONS**

The successful bidder will have the option to extend any contract resulting from this solicitation to all or some of the member jurisdictions of the Metropolitan Washington Council of Governments (“COG”) and the Northern Virginia Cooperative Purchasing Council as set forth in the extension checklist (Attachment E) contained in the Bid Form. The following conditions shall apply to the extension of an award to a designated jurisdiction:

a. A negative reply to inclusion of any jurisdiction shall not adversely affect consideration of a bid for award.

b. There shall be no obligation on the part of any designated jurisdiction to utilize an award extended to that jurisdiction.

c. The awardee is solely responsible for notification of the identified jurisdictions of the availability of the award.

d. Arlington County shall not be held responsible for any costs or damages incurred by another jurisdiction as a result of any award extended to that jurisdiction by the awardee.

e. Participating jurisdictions will be permitted to purchase at Contract prices in accordance with contract terms. Participating jurisdictions will place their orders directly with the awardee and will be responsible for placing orders directly with the awardee, arranging deliveries, reconciling discrepancies and invoices, and issuing payments.

f. Each participating jurisdiction has the option of executing a separate contract with the awardee. Contracts entered into with a participating jurisdiction may contain general terms and conditions unique to that jurisdiction including, by way of illustration and not limitation, clauses covering minority participation, non-discrimination, indemnification, naming the jurisdiction as an additional insured under any required insurance policies, and venue. If, when preparing such a contract, the general terms and conditions of a jurisdiction are unacceptable to the awardee, the awardee may withdraw its extension of the award to that jurisdiction.

g. Any extension to another jurisdiction shall be at the unit prices identified in the bid. Bidders shall not, under the conditions of this extension, offer any adjustment, addition, modification or other change to the technical requirements of this solicitation or the unit prices awarded by Arlington County under this solicitation to any public body to which the award is extended.
WITNESS these signatures:

THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA

AUTHORIZED SIGNATURE: ________________________
NAME: MICHAEL E. BEVIS
TITLE: PURCHASING AGENT
DATE: ________________________

AUTHORIZED SIGNATURE: ________________________
NAME AND TITLE: ________________________
DATE: ________________________

CONTRACTOR
VII. ATTACHMENTS AND FORMS
PROPOSALS WILL BE RECEIVED IN THE OFFICE OF THE BID CLERK, SUITE 511, 2100 CLARENDON BOULEVARD, ARLINGTON, VA 22201 NOT LATER THAN 3.00 P.M., APRIL 7TH, 2016.

FOR PROVIDING PROGRAM ADMINISTRATION FOR A COMMERCIAL PROPERTY ASSESSED CLEAN ENERGY (PACE) FINANCING PROGRAM PER THE FOREGOING SOLICITATION.

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

SUBMITTED BY:  
(legal name of entity)  

AUTHORIZED SIGNATURE:  

PRINT NAME AND TITLE:  

ADDRESS:  

CITY/STATE/ZIP:  

TELEPHONE NO.:  
E-MAIL ADDRESS:  

THIS ENTITY IS INCORPORATED IN:  

THIS ENTITY IS A:  
(check the applicable option)  
CORPORATION ☐  LIMITED PARTNERSHIP ☐  
GENERAL PARTNERSHIP ☐  UNINCORPORATED ASSOCIATION ☐  
LIMITED LIABILITY COMPANY ☐  SOLE PROPRIETORSHIP ☐  

IS OFFEROR AUTHORIZED TO TRANSACT BUSINESS IN THE COMMONWEALTH OF VIRGINIA?  
YES ☐  NO ☐  

IDENTIFICATION NO. ISSUED TO THE ENTITY BY THE SCC:  

Any Offeror exempt from Virginia State Corporation Commission (SCC) authorization requirement must include a statement with its proposal explaining why it is not required to be so authorized.
IS YOUR FIRM OR ANY OF ITS PRINCIPALS CURRENTLY DEBARRED FROM SUBMITTING PROPOSALS TO ARLINGTON COUNTY, VIRGINIA, OR ANY OTHER STATE OR POLITICAL SUBDIVISION?  

OFFEROR STATUS:  MINORITY OWNED:  NO  WOMAN OWNED:  NO  NEITHER:  NO  

THE UNDERSIGNED UNDERSTANDS AND ACKNOWLEDGES THE FOLLOWING:  

THE OFFICIAL COPY OF THE SOLICITATION DOCUMENTS, WHICH INCLUDES ANY ADDENDUMS, IS THE ELECTRONIC COPY THAT IS AVAILABLE FROM THE COMMONWEALTH OF VIRGINIA’S eVA WEBSITE AT: HTTP://WWW.EVA.VIRGINIA.GOV.  

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

1. OFFEROR MUST SUBMIT: ONE COMPLETE PROPOSAL, CLEARLY MARKED ON ITS COVER WITH THE WORD “ORIGINAL”, THAT INCLUDES AS ITS FIRST PAGE THIS PROPOSAL FORM WITH AN ORIGINAL LONGHAND SIGNATURE; 4 ADDITIONAL HARD COPIES OF THE COMPLETE PROPOSAL; AND 1 ELECTRONIC COPY OF THE COMPLETE PROPOSAL ON UNENCRYPTED CDS OR FLASH DRIVES.  

2. INDICATE THE NAME AND CONTACT INFORMATION OF THE PERSON WHO CAN RESPOND AUTHORITATIVELY TO QUESTIONS REGARDING THIS PROPOSAL.  

NAME (PRINTED): ___________________________  TITLE: ___________________________  

E-MAIL ADDRESS: ___________________________  TEL. NO.: ___________________________  

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

Please mark one:  

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

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

OFFEROR’S PRINTED NAME: ___________________________
If Yes, you must clearly identify below the exact data or materials to be protected and list all applicable page numbers of the proposal that contain such data or materials:

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

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

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

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

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

CONTACT PERSON AND MAILING ADDRESS FOR DELIVERY OF NOTICES
Provide the name and address of the person who is designated to receive notices and other communications regarding this solicitation. Refer to the “Notices” section in the draft Contract Terms and Conditions for information regarding delivery of notices.

NAME: ________________________________
ADDRESS: ________________________________
________________________________________________________________________
E-MAIL: ________________________________
OFFEROR’S PRINTED NAME: ________________________________
CONFLICT OF INTEREST STATEMENT

I, whose name is subscribed below, a duly authorized representative and agent of the entity submitting this proposal to Arlington County in response to its Request for Proposal No. 16-174-RFP, and on behalf of the Offeror certify that:

1. Neither the Offeror nor any affiliated entity has, within the past five years, been employed by or represented a deliverer of services that reasonably could be expected to be considered for purchase by the County as a result of this solicitation;

2. if the Offeror is awarded a contract under this solicitation and during the term of that contract prepares an invitation to bid or request for proposal for or on behalf of the County, the Offeror must not (i) submit a bid or proposal for that procurement or any portion thereof or (ii) disclose to any potential bidder or offeror information concerning the procurement that is not available to the public.

3. The Offeror will not solicit or accept any commissions or fees from vendors who ultimately furnish services to the County as a result of any contract award made as a result of this solicitation.

OFFEROR’S NAME: ________________________________

SIGNED BY: ____________________________________

PRINTED NAME/TITLE: ________________________________

DATE: ____________________________________________

NOTARY STATEMENT

COMMONWEALTH OF VIRGINIA/STATE OF _____________

CITY/COUNTY OF _________________________________

to wit:

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

_______________________________________________

(Seal)

Notary registration number: _______________________________

My commission expires: ________________________________

Arlington County RFP No. 16-174-RFP
ATTACHMENT C

NONDISCLOSURE AND DATA SECURITY AGREEMENT
(CONTRACTOR)

The undersigned, an authorized agent of the Contractor and on behalf of ____________________________ (“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. 16-174-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
Project Officer. If remote access or other media storage is authorized, the Contractor is responsible for the security of such storage device or paper files.

Contractor will ensure that any laptops, PDAs, netbooks, tablets, thumb drives or other media storage devices, as approved by the County and connected to the County network, are secure and free of all computer viruses, or running the latest version of an industry-standard virus protection program. The Contractor will ensure that all passwords used by its employees or subcontractors are robust, protected and not shared. The Contractor will not download any County Information except as agreed to by the parties and then only onto a County-approved device. The Contractor understands that downloading onto a personally owned device or service, such as personal e-mail, Dropbox, etc., is prohibited.

Contractor agrees that it 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. The Contractor will fully cooperate with the County to regain possession of any Information and to prevent its further disclosure, use or dissemination. The Contractor also agrees to promptly notify others of a suspected or actual breach if requested.

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

It is the intent of this NonDisclosure and Data Security Agreement to ensure that the Contractor has the highest level of administrative safeguards, disaster recovery and best practices 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 Main Agreement or with any applicable local, state, or federal law, regulation or provision, the more stringent requirement, law, regulation or provision controls.

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

Authorized Signature:  

Printed Name and Title:  

Date:
ATTACHMENT D

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. 16-174-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