

## PRE-PROPOSAL CONFERENCE

RFP2000003034

PPEA – Autumn Willow Senior Housing

An optional pre-proposal conference will be held at **2:00 PM Monday, January 6, 2020** at the Fairfax County Government Center, 12000 Government Center Parkway, Conference Rooms 9/10, Fairfax Virginia. The purpose of this conference is to allow potential offerors an opportunity to present questions and obtain clarification relative to any facet of this solicitation.

While attendance at this conference will not be a prerequisite to submitting a proposal, offerors who intend to submit a proposal are encouraged to attend. Bring a copy of the solicitation with you. Any changes resulting from this conference will be issued in a written addendum to the solicitation.

All questions pertaining to this RFP should be submitted in writing to the contract specialist at [dpmteam2@fairfaxcounty.gov](mailto:dpmteam2@fairfaxcounty.gov).





# FAIRFAX COUNTY

## DEPARTMENT OF PROCUREMENT & MATERIAL MANAGEMENT

12000 GOVERNMENT CENTER PARKWAY, SUITE 427  
FAIRFAX, VIRGINIA 22035-0013

# VIRGINIA

TELEPHONE: (703) 324-3201 FAX: (703) 324-3228 TTY: 711

<b>ISSUE DATE:</b> December 12, 2019	<b>REQUEST FOR PROPOSAL NUMBER:</b> 2000003034	<b>TITLE:</b> PPEA – Autumn Willow Senior Housing
<b>DEPARTMENT:</b> Housing & Community Development	<b>DUE DATE/TIME:</b> February 27, 2020 at 2 PM	<b>CONTRACT SPECIALIST:</b> Shelley Brent, CPPB <a href="mailto:Shelley.brent@fairfaxcounty.gov">Shelley.brent@fairfaxcounty.gov</a>

**Proposals** - In accordance with the following and in compliance with all terms and conditions, unless otherwise noted, the undersigned offers and agrees, if the proposal is accepted, to furnish items or services for which prices are quoted, delivered or furnished to designated points within the time specified. It is understood and agreed that with respect to all terms and conditions accepted by Fairfax County the items or services offered and accompanying attachments shall constitute a contract.

**Note:** Fairfax County does not discriminate against faith-based organizations in accordance with the *Code of Virginia*, § 2.2-4343.1 or against a bidder or offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment in the performance of its procurement activity.

### NAME AND ADDRESS OF FIRM:

Telephone/Fax No.:

E-Mail Address:

Federal Employer Identification No or

Federal Social Security No.(Sole  
Proprietor)

Prompt Payment Discount: \_\_\_% for payment within \_\_\_ days/net \_\_\_  
days

State Corporation Commission (SCC)  
Identification No.

**By signing this proposal, Offeror certifies, acknowledges, understands, and agrees to be bound by the conditions set forth in the General Conditions and Instructions to Bidders as described in Attachment A, the Certification Regarding Ethics in Public Contracting, by any other relevant certifications set forth in Attachment B-4, and the Affirmation of Legally Required Contract Terms set forth in Attachments – B-8.**

Vendor Legally Authorized Signature

Date

Print Name

Title

Sealed proposals subject to terms and conditions of this Request for Proposal will be received by the Fairfax County Purchasing Agent at 12000 Government Center Parkway, Suite 427, Fairfax, Virginia 22035-0013 until the date/time specified above.

AN EQUAL OPPORTUNITY PURCHASING ORGANIZATION

(DPMM32) rev 7/2018



## **SPECIAL PROVISIONS**

### **1. PURPOSE:**

- 1.1. The purpose of this Request for Proposals is to solicit proposals under the Public-Private Education Facilities and Infrastructure Act of 2002 (the "PPEA"), as amended, from qualified Offerors to develop, own, and operate (at no cost to the County), a Autumn Willow Senior Housing facility located on County-owned land at Lee Highway and Stringfellow Road, Fairfax County, Virginia (Ref: Attachment C).
- 1.2. This procurement is governed by the Fairfax County Purchasing Resolution and the Fairfax County PPEA Guidelines and is being conducted on behalf of the Fairfax County Department of Redevelopment and Housing Authority (FCRHA), Owner, and the Department of Housing and Community Development (HCD).

### **2. PRE-PROPOSAL CONFERENCE:**

- 2.1. An optional pre-proposal conference will be held on **Monday, January 6, 2020** from **2:00-3:00 PM** at the Fairfax County Government Center, Conference Center Rooms 9/10, 12000 Government Center Parkway, Fairfax, Virginia. To request reasonable ADA accommodations, call the Department of Procurement and Material Management ADA representative at (703) 324-3201 or TTY 1-800-828-1140. Please allow seven working days in advance of the event to make the necessary arrangements.
- 2.2. The purpose of the pre-proposal conference is to give potential offerors an opportunity to ask questions and to obtain clarification about any aspect of this Request for Proposal. Offerors may submit any questions pertaining to the RFP, in writing, prior to the pre-proposal conference to [shelley.brent@fairfaxcounty.gov](mailto:shelley.brent@fairfaxcounty.gov).

### **3. CONTRACT PERIOD AND RENEWAL:**

- 3.1. This contract will begin on the date of award through such a time as negotiated by the Developer and the FCRHA at contract award.
- 3.2. The obligation of the County to pay compensation due the contractor under the contract or any other payment obligations under any contract awarded pursuant to this Request for Proposal is subject to appropriations by the Fairfax County Board of Supervisors to satisfy payment of such obligations. The County's obligations to make payments during subsequent fiscal years are dependent upon the same action. If such an appropriation is not made for any fiscal year, the contract shall terminate effective at the end of the fiscal year for which funds were appropriated and the County will not be obligated to make any payments under the contract beyond the amount appropriated for payment obligations under the contract. The County will provide the contractor with written notice of non-appropriation of funds within thirty (30) calendar days after action is completed by the Board of Supervisors. However, the County's failure to provide such notice shall not extend the contract into a fiscal year in which sufficient funds have not been appropriated.

### **4. TENTATIVE PROJECT SCHEDULE:**

- 4.1. The overall schedule for accepting and reviewing proposal and developer section is as follows:

RFP Issue Date	December 12, 2019
Pre-proposal Conference Date/Time	January 6, 2020 at 2 PM
Deadline for Receipt of Written Inquiries	January 27, 2020
Due Date/Time for Proposal Submission	February 27, 2020 at 2 PM
Anticipated Date of Developer Selection	May 27, 2020

**SPECIAL PROVISIONS****5. PROPERTY OVERVIEW AND DESCRIPTION:**

- 5.1. Reference Appendix 1, Paragraph 1, Overview and Property Description.

**6. DEVELOPMENT OBJECTIVES:**

- 6.1. Reference Attachment C 1, Paragraph 2, Development Objectives.

**7. DEVELOPMENT CRITERIA:**

- 7.1. Reference Attachment C, Paragraph 3, Development Criteria.

**8. TECHNICAL and COST PROPOSAL INSTRUCTIONS:**

- 8.1. Reference Attachment C, Paragraph 4, PROPOSALS – Submission Structure and Components.

**9. TRADE SECRETS/PROPRIETARY INFORMATION:**

- 9.1. Trade secrets or proprietary information submitted by an offeror in connection with a procurement transaction shall not be subject to public disclosure under the Virginia Freedom of Information Act; however, offerors must invoke the protections of this section prior to or upon submission of the data or other materials.
- 9.2. **The offeror must identify the data or other materials to be protected and state the reasons why protection is necessary.** Disposition of material after award(s) should be stated by the offeror.
- 9.3. Request for Protection of Trade Secrets or Proprietary Information (Attachment B-4) is provided as a courtesy to assist offerors desiring to protect trade secrets or proprietary information from disclosure under the Virginia Freedom of Information Act.
- 9.4. The classification of an entire proposal document, line item prices, and/or total proposal prices as proprietary or trade secrets is not acceptable and may result in rejection of the proposal.

**10. CONTACT FOR CONTRACTUAL MATTERS:**

- 10.1. All communications and requests for information and clarifications shall be directed to the following procurement official:

Shelley Brent, CPPB, Contract Analyst  
Department of Procurement and Material Management  
Telephone: (703) 324-2449  
Email: [shelley.brent@fairfaxcounty.gov](mailto:shelley.brent@fairfaxcounty.gov)

No attempt shall be made by any offeror to contact members of the Selection Advisory Committee (SAC) about this procurement (see paragraph 15.3).

**11. REQUIRED SUBMITTALS:**

- 11.1. Each Offeror responding to this Request for Proposal must supply all the documentation required in the RFP. Failure to provide documentation with the Offeror's response to the RFP may result in the disqualification of the Offeror's proposal.

**SPECIAL PROVISIONS****12. SUBMISSION OF PROPOSAL:**

- 11.1 One (1) original (duly marked) and ten (10) copies of the Proposal binder containing both the Technical and Financial components as detailed in Appendix 1, shall be delivered to the following address **on or before 2:00 PM EDT on February 27, 2020**.

Proposals should be **clearly labeled** on the outside of the sealed envelope:

**RFP2000003034**

**PPEA – PROPOSAL for Autumn Willow Senior Housing**

Signed and sealed proposals are received by US Mail, private courier or in person until the date/time specified above at the following location:

Department of Purchasing and Material Management  
12000 Government Center Parkway, Suite 427  
Fairfax, Virginia 22035-0013

- 11.2 Each original and set of the ten (10) copies of the proposal shall consist of:
- a. Cover sheet (DPMM32)
  - b. Completed RFP Forms (Attachments B 1-8)
  - c. Technical proposal as required in the Autumn Willow Senior Housing Requirements, Attachment C.
  - d. Cost proposal as required in the Autumn Willows Senior Housing Requirements, Attachment D.
- 11.3 By executing the cover sheet (DPMM32), Offeror acknowledges that they have read this Request for Proposal, understand it, and agree to be bound by its terms and conditions. Proposals may be submitted by mail or delivered in person to the address listed on the DPMM32 Coversheet.
- 11.4 Proposals received in the Office of the County Purchasing Agent after the date and time prescribed shall not be considered for contract award and shall be returned to the Offeror.

**13. ADDENDA:**

- 13.1 Offerors are reminded that changes to the RFP, in the form of addenda, are often issued between the issue date and within three (3) days before the due date. All addenda shall be signed and submitted before the due date/time or must accompany the proposal.
- 13.2 Notice of addenda will be posted on eVA and the DPMM current solicitation webpage. It is the Offeror's responsibility to monitor the web page for the most current addenda at [www.fairfaxcounty.gov/solicitation](http://www.fairfaxcounty.gov/solicitation).

**14. PROPOSAL ACCEPTANCE PERIOD:**

- 14.1 Any proposal submitted in response to this solicitation shall be valid for 180 days. At the end of the days the proposal may be withdrawn at the written request of the offeror. If the proposal is not withdrawn at that time it remains in effect until an award is made or the solicitation is canceled.

**SPECIAL PROVISIONS****15. BASIS FOR AWARD:**

- 15.1. This Request for Proposal is being utilized for competitive negotiation. Under the competitive negotiation process, a contract may be awarded to the responsible Offeror whose proposal is determined to be the most advantageous to the County, taking into consideration price and the evaluation factors set forth in the Request for Proposal. The County reserves the right to make multiple awards as a result of this solicitation.
- 15.2. A Selection Advisory Committee has been established to review and evaluate all proposals submitted in response to this Request for Proposal. The Committee shall conduct a preliminary evaluation of all proposals on the basis of the information provided with the proposal, and the evaluation criteria listed below. Based upon this review, the cost proposals of the highest rated offeror(s) will then be reviewed.
- 15.3. No Offeror, including any of their representatives, subcontractors, affiliates and interested parties, shall contact any member of the Selection Advisory Committee or any person involved in the evaluation of the proposals. Selection Advisory Committee members will refer any and all calls related to this procurement to the procurement official named in 10.1 above. Failure to comply with this directive may, at the sole discretion of the County, result in the disqualification of an offeror from the procurement process.
- 15.4. Based on the results of the preliminary evaluation, the highest rated offeror(s) may be invited by the County Purchasing Agent to make oral presentations to the Selection Advisory Committee. This committee will then conduct a final evaluation of the proposals. Selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis of the factors involved in the Request for Proposal, including price if so stated in the Request for Proposal. Negotiations shall then be conducted with each of the offerors so selected. After negotiations have been conducted with each offeror so selected, the County shall select the offeror which, in its opinion, has made the best proposal, and shall award the contract to that offeror.
  - a. The FCRHA and the County may request best and final offers from any or all Offerors at which point the SAC will conduct a final evaluation and rank order the proposals deemed responsive.
  - b. The SAC may, at any time, request any additional information it deems relevant and/or necessary for the purposes of its evaluation and decision-making process.
  - c. The FCRHA reserves the right to enter into competitive negotiations with one or more Offerors.
  - d. As part of the competitive negotiation process, Offerors may be requested to provide the FCRHA and the County with more detailed designs, project specifications and cost models or other information deemed necessary. Any additional information provided to the FCRHA and the County will be at the sole risk and expense of the Offeror.
  - e. The FCRHA and the County reserve the right, at its sole and discretion, to reject any or all proposals.
  - f. The designation of a Selected Developer will be based on the quality, clarity and thoroughness of the proposal and the degree to which it meets or exceeds the FCRHA's stated vision, goals and requirements and provides the FCRHA with the best value.

### **SPECIAL PROVISIONS**

- 15.5. Should the County determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror. The Committee will make appropriate recommendations to the County Executive and Board of Supervisors, if appropriate, prior to actual award of contract.
- 15.6. Proposal Evaluation Criteria
- The factors that will be considered in the award of this contract are:
- a. Feasibility of proposal, including financing and funding under 9% and/or 4% Low Income Housing Tax Credit scenarios (if proposed), with minimal or no cost to the County. Includes nominal ground rent payments to the County **[25 of 100 Points]**
  - b. Degree to which the Development Plan meets or exceeds the FCRHA's goals as set forth in this RFP, inclusive of the quality of design and construction including principles of urban and sustainable design **[20 of 100 Points]**
  - c. Offeror qualifications and past performance **[20 of 100 Points]**
  - d. Extent to which the proposal meets or exceeds the desired affordability **[15 of 100 Points]**
  - e. Community and stakeholder outreach strategy **[10 of 100 Points]**
  - f. Commitment to use FCRHA bond financing **[10 of 100 Points]**
- 15.7. Fairfax County reserves the right to make on-site visitations to assess the capabilities of individual offerors and to contact references provided with the proposal.
- 15.8. The County Purchasing Agent may arrange for discussions with firms submitting proposals, if required, for the purpose of obtaining additional information or clarification.
- 15.9. Offerors are advised that, in the event of receipt of an adequate number of proposals, which, in the opinion of the County Purchasing Agent, require no clarifications and/or supplementary information, such proposals may be evaluated without further discussion. Consequently, offerors should provide complete, thorough proposals with the offerors most favorable terms. Should proposals require additional clarification and/or supplementary information, offerors should submit such additional material in a timely manner.
- 15.10. Proposals which, after discussion and submission of additional clarification and/or supplementary information, are determined to meet the specifications of this Request for Proposal will be classified as "acceptable". Proposals found not to be acceptable will be classified as "unacceptable" and no further discussion concerning same will be conducted.
- 15.11. The County may cancel this Request for Proposal or reject proposals at any time prior to an award and is not required to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous.

### **16. INSURANCE:**

- 16.1. The Contractor shall be responsible for its work and every part thereof, and for all materials, tools, equipment, appliances, and property of any and all description used in connection therewith. The Contractor assumes all risks of direct and indirect damage or injury to the property or persons used or employed on or in connection with the work contracted for, and of all damages or injury to any person or property wherever located, resulting from any action, omission, commission or operation under the contract.



### **SPECIAL PROVISIONS**

- 16.2. The Contractor shall, during the continuance of all work under the contract provide the following:
- a. Maintain statutory Worker's Compensation and Employer's Liability insurance in limits of not less than \$100,000 to protect the Contractor from any liability or damages for any injuries (including death and disability) to any and all of its employees, including any and all liability or damage which may arise by virtue of any statute or law in force within the Commonwealth of Virginia.
  - b. The Contractor agrees to maintain Commercial General Liability insurance in the amount of \$1,000,000 per occurrence/aggregate, to protect the Contractor, its subcontractors, and the interest of the County, its officers and employees against any and all injuries to third parties, including bodily injury and personal injury, wherever located, resulting from any action or operation under the contract or in connection with the contracted work.
  - c. The Contractor agrees to maintain owned, non-owned, and hired Commercial Automobile Liability insurance, in the amount of \$1,000,000 per occurrence/aggregate, including property damage, covering all owned, non-owned, borrowed, leased, or rented vehicles operated by the Contractor. In addition, all mobile equipment used by the Contractor in connection with the contracted work will be insured under either a standard Commercial Automobile Liability policy, or a Comprehensive General Liability policy.
  - d. The Contractor agrees to maintain Professional Liability insurance in the amount of \$1,000,000 per claim to cover each individual professional staff.
  - e. Liability insurance may be arranged by General Liability and Automobile Liability policies for the full limits required, or by a combination of underlying Liability policies for lesser limits with the remaining limits provided by an Excess or Umbrella Liability policy.
  - f. Rating Requirements:
    - (1) Contractor agrees to provide insurance issued by companies admitted within the Commonwealth of Virginia, with the Best's Key Rating of at least A: VI.
    - (2) European markets including those based in London, and the domestic surplus lines markets that operate on a non-admitted basis are exempt from this requirement provided that the contractor's broker can provide financial data to establish that a market is equal to or exceeds the financial strengths associated with the A.M. Best's rating of A:VI or better.

Indemnification: Article 59 of the General Conditions and Instructions to Bidders (Appendix A) shall apply.
  - g. The Contractor will provide an original, signed Certificate of Insurance citing the contract number and such endorsements as prescribed herein, and shall have it filed with the County Purchasing Agent before any work is started.
  - h. The Contractor will secure and maintain all insurance certificates of its subcontractors, if any, which shall be made available to the County on demand.
  - i. If the Contractor delivers services from a County-leased facility, the Contractor is required to carry property insurance on all equipment, to include County-owned installed and maintained equipment used by the Contractor while in their care, custody and control for the use of this contract. The Contractor will provide on demand certified copies of all insurance policies related to the contract within ten (10) business days of demand by the County. These certified copies will be sent to the County from the contractor's insurance agent or representative.



**SPECIAL PROVISIONS**

- 16.3. No change, cancellation, or non-renewal shall be made in any insurance coverage without a thirty (30) day written notice to the County. The Contractor shall furnish a new certificate prior to any change or cancellation date. The failure of the Contractor to deliver a new and valid certificate will result in suspension of all payments until the new certificate is furnished.
- 16.4. Precaution shall be exercised at all times for the protection of persons (including employees) and property.
- 16.5. The County, its officers and employees shall be named as an "additional insured" in the General Liability policies and it shall be stated on the Insurance Certificate that this coverage "is primary to all other coverage the County may possess."

**17. CHANGES:**

- 17.1. Fairfax County may, at any time, by written order, require changes in the services to be performed by the Contractor. If such changes cause an increase or decrease in the Contractor's cost of, or time required for, performance of any services under this contract, an equitable adjustment shall be made, and the contract shall be modified in writing accordingly. The County Purchasing Agent must approve all work that is beyond the scope of this Request for Proposal.
- 17.2. No services for which an additional cost or fee will be charged by the Contractor shall be furnished without the prior written authorization of the Fairfax County Purchasing Agent.

**18. DELAYS AND SUSPENSIONS:**

- 18.1. The County may direct the Contractor, in writing, to suspend, delay, or interrupt all or any part of the work of this contract for the period of time deemed appropriate for the convenience of the County. The County will extend the Contractor's time of completion by a period of time that in the discretion of the Purchasing Agent is reasonably suited for completion of work. The County may further amend the contract by mutual agreement for any increase in the cost of performance of the contract (excluding profit) resulting solely from the delay or suspension of the contract. No adjustment shall be made under this clause for any delay or interruption resulting from any other cause, including the fault or negligence of the Contractor.
- 18.2. If the County does not direct the Contractor, in writing, to suspend, delay, or interrupt the contract, the Contractor must give the County Purchasing Agent written notice if Fairfax County fails to provide data or services that are required for contract completion by the Contractor. The County may extend the Contractor's time of completion by a period of time that in the discretion of the Purchasing Agent is reasonably suited for completion of work. The County may further amend the contract by mutual agreement for any increase in the cost of performance of the contract (excluding profit) resulting solely from the delay or suspension of the contract. No adjustment shall be made under this clause for any delay or interruption resulting from any other cause, including the fault or negligence of the Contractor.
- 18.3. The Contractor shall continue its work on other phases of the project or contract, if in the sole discretion of the Purchasing Agent such work is not impacted by the County's delay, suspension, or interruption. All changes to the work plan or project milestones shall be reflected in writing as a contract amendment.

**19. ACCESS TO AND INSPECTION OF WORK:**

- 19.1. The Fairfax County Purchasing Agent and using agencies will, at all times, have access to the work being performed under this contract wherever it may be in progress or preparation.

**SPECIAL PROVISIONS****20. DATA SOURCES:**

- 20.1. The County will provide the Contractor all available data possessed by the County that relates to this contract. However, the Contractor is responsible for all costs for acquiring other data or processing, analyzing or evaluating County data.

**21. SAFEGUARDS OF INFORMATION:**

- 21.1. Unless approved in writing by the County Purchasing Agent, the Contractor may not sell or give to any individual or organization any information, reports, or other materials given to, prepared or assembled by the Contractor under the final contract.

**22. ORDER OF PRECEDENCE:**

- 22.1. In the event of conflict, the Acceptance Agreement (provided at contract award) and the Special Provisions of this contract shall take precedence over the General Conditions and Instructions to Bidders, (Appendix A).

**23. SUBCONTRACTING:**

- 23.1. If one or more subcontractors are required, the contractor is encouraged to utilize small, minority-owned, and women-owned business enterprises. For assistance in finding subcontractors, contact the Virginia Department of Small Business and Supplier Diversity <https://www.sbsd.virginia.gov>; local chambers of commerce and other business organizations.

**24. NEWS RELEASE BY VENDORS:**

- 24.1. As a matter of policy, the County does not endorse the products or services of a contractor. News releases concerning any resultant contract from this solicitation will not be made by a contractor without the prior written approval of the County. All proposed news releases will be routed to the Purchasing Agent for review and approval.

**AMERICANS WITH DISABILITIES ACT REQUIREMENTS:**

- 24.2. Fairfax County Government is fully committed to the Americans with Disabilities Act (ADA) which guarantees non-discrimination and equal access for persons with disabilities in employment, public accommodations, transportation, and all County programs, activities and services. Fairfax County government contractors, subcontractors, vendors, and/or suppliers are subject to this ADA policy. All individuals having any County contractual agreement must make the same commitment. Your acceptance of this contract acknowledges your commitment and compliance with ADA.
- 24.3. Fairfax County is committed to a policy of nondiscrimination in all County programs, services, and activities and will provide reasonable accommodations upon request. Bidders requesting special accommodations should call the Department ADA representative at (703) 324-3201 or TTY 1-800-828-1140. Please allow seven (7) working days in advance of the event to make the necessary arrangements.

**25. STATE CORPORATION COMMISSION IDENTIFICATION NUMBER:**

- 25.1. Pursuant to *Code of Virginia*, §2.2-4311.2 subsection B, a bidder or offeror organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 is required to include in its bid or proposal the identification number issued to it by the State Corporation Commission (SCC). Any bidder or offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 or as otherwise required by law is required to include in its bid or proposal a statement describing why the bidder or offeror is not required to be so authorized. Any bidder or offeror that fails to provide the required information may not receive an award.

# COUNTY OF FAIRFAX COMMONWEALTH OF VIRGINIA

## GENERAL CONDITIONS AND INSTRUCTIONS TO BIDDERS

BIDS ON SOLICITATIONS ISSUED BY THE COUNTY WILL BIND BIDDERS TO THE APPLICABLE CONDITIONS AND REQUIREMENTS IN THE GENERAL CONDITIONS AND INSTRUCTIONS TO BIDDERS (GCIB) UNLESS OTHERWISE SPECIFIED IN THE SOLICITATION AND SUBJECT TO APPLICABLE STATE, LOCAL, AND FEDERAL LAWS.

BIDDERS OR THEIR AUTHORIZED REPRESENTATIVES SHOULD INFORM THEMSELVES FULLY AS TO THE CONDITIONS, REQUIREMENTS, AND SPECIFICATIONS OF EACH COUNTY PROCUREMENT BEFORE SUBMITTING BIDS. FAILURE TO DO SO WILL BE AT THE BIDDER'S OWN RISK AND RELIEF CANNOT BE SECURED ON THE PLEA OF ERROR.

- 1. AUTHORITY-**The Purchasing Agent has the sole responsibility and authority for purchasing supplies, materials, equipment, and services, except as excluded in the Fairfax County Purchasing Resolution. The Purchasing Agent's responsibility and authority includes, but is not limited to, issuing and modifying solicitations, negotiating and executing contracts, and placing purchase orders. In discharging these responsibilities, the Purchasing Agent may be assisted by contract specialists. Unless specifically delegated by the Purchasing Agent, no other County officer or employee is authorized to order supplies or services, enter into purchase negotiations or contracts, or in any way obligate the government of the County of Fairfax for an indebtedness. Any purchase ordered or contract made that is contrary to these provisions and authorities shall be of no effect, void, and does not bind the County.
- 2. DEFINITIONS-** Unless otherwise defined in the GCIB, capitalized terms shall have the meanings defined by the Fairfax County Purchasing Resolution.

AGENCY: Any Department, Agency, Authority, Commission, Board or other unit in the Administrative Service of the County.

BID: The offer of a bidder to provide specific goods or services at specified prices and/or other conditions specified in the solicitation.

BIDDER/OFFEROR: Any individual, company, firm, corporation, partnership or other organization bidding on solicitations issued by the Purchasing Agent and offering to enter into contracts with the County. The term "bidder" will be used throughout this document and shall be construed to mean "offeror" where appropriate.

CONTRACTOR: Any individual, company, firm, corporation, partnership or other organization to whom an award is made by the County.

INVITATION FOR BID (IFB): A request which is made to prospective suppliers (bidders) for their quotation on goods or services desired by the County. The issuance of an IFB will contain or incorporate by reference the specifications and contractual terms and conditions applicable to the procurement.

PURCHASING AGENT: The Purchasing Agent employed by the Board of Supervisors of Fairfax County, Virginia.

REQUEST FOR PROPOSAL (RFP): A request for an offer from prospective offerors which will indicate the general terms which are sought to be procured from the offeror. The RFP will specify the evaluation factors to be used and will contain or incorporate by reference other contractual terms and conditions applicable to the procurement.

SOLICITATION: The process of notifying prospective bidders that the County wishes to receive bids on a set of requirements to provide goods or services. The notification of County requirements may consist of public advertising (newspaper, County Web Site, or other electronic notification), the mailing of Notices of Solicitation, Invitation for Bid (IFB) or Request for Proposal (RFP), the public posting of notices, issuance of an informal solicitation to include telephone calls to prospective bidders.

## CONDITIONS OF BIDDING

- 3. BID FORMS-**Unless otherwise specified in the solicitation, all bids must be (i) submitted on the forms provided by the County, including the bid Cover Sheet and Pricing Schedule(s); (ii) properly signed in ink in the identified spaces; and (iii) submitted in a sealed envelope or package.

If the bid prices or any other submissions differ on the copy of the submitted bid, the ORIGINAL copy shall prevail.

- 4. LATE BIDS & MODIFICATIONS OF BIDS-**
  - a. Bids or proposals received after the date and time specified for receipt in the solicitation will not be considered.
  - b. **If an emergency, unanticipated event, or closing of County offices interrupts or suspends normal County business operations so that bids cannot be received at the County office designated for receipt of bids by the exact time specified in the solicitation, then bids will be due at the same time of day specified in the solicitation on the first work day that normal County business operations resume.**

**General Conditions and Instructions to Bidders**

- c. The official time used for receipt of bids/modifications is the time and date stamp clock located in the Department of Procurement & Material Management. No other clocks, calendars or timepieces are recognized. All bidders must ensure all bids/modifications are received prior to the scheduled due date/time.
5. **WITHDRAWAL OF BIDS**- Bids shall be withdrawn only as set forth in the Fairfax County Purchasing Resolution.
6. **ERRORS IN BIDS**-When an error is made in extending total prices, the unit bid price will govern. Erasures in bids must be initialed by the bidder. Bidders are cautioned to recheck their bids for possible error. Errors discovered after public opening cannot be corrected and the bidder will be required to perform if its bid is accepted.
7. **LABELING OF BIDS** – All bids and proposals submitted in response to a County solicitation must be submitted in a sealed envelope or package identified with the solicitation number, title, and bidder's name and address clearly marked on the outside of the envelope or package.
8. **ACCEPTANCE OF BIDS/BINDING 90 DAYS**-Unless otherwise specified, all formal bids submitted shall be binding for ninety (90) calendar days following bid opening date, unless extended by mutual consent of all parties.
9. **CONDITIONAL BIDS**-Conditional bids may be rejected in whole or in part.
10. **BIDS FOR ALL OR PART**-The Purchasing Agent reserves the right to make award on all items in the aggregate or on any of the items on an individual basis, whichever is in the best interest of the County. A bidder may restrict its bid to consideration in the group aggregate by so stating, but must name a single unit price on each item bid. Any bid in which the bidder names a total price for all the articles without quoting a unit price for each and every separate item may not be considered for award.
11. **AREA BIDS**-For the purchase and delivery of certain goods and services the County may be divided into Areas (e.g., Areas I, II, III, and IV). When such goods and services are included in the Pricing Schedule, bidders may bid on all areas or an individual area. A map showing the areas of the County will be furnished with the solicitation when required.
12. **RECEIPT OF BIDS**-Bids received prior to the time of opening will be securely kept, unopened by the County. No responsibility will attach to the Purchasing Agent or her representative for the premature opening of a bid not properly addressed and identified. Unless specifically authorized in the solicitation, telegraphic, electronic, or facsimile bids/modifications will not be considered by the County.
13. **BID OPENING**-All bids received in response to an Invitation for Bid (IFB) will be opened at the date, time and place specified, read publicly, and made available for inspection as provided in paragraph 64, General Conditions and Instructions to Bidders. The Purchasing Agent's representative assigned to open the bids will decide when the specified time for bid opening has arrived. Tabulations of bids received are posted on the County's website at: <http://www.fairfaxcounty.gov/dpmm/bid-tabulations>
- Proposals received in response to a Request for Proposal (RFP) will be made available as provided in Paragraph 64, General Conditions and Instructions to Bidders.
14. **OMISSIONS & DISCREPANCIES**-Any items or parts of any equipment listed in this solicitation that clearly necessary for the operation and completion of such equipment, but are: (i) not fully described by the County; or (ii) are omitted by the County from such specification, shall be considered a part of such equipment even if not directly specified or called for in the specifications.
- If a bidder finds discrepancies or ambiguities in, or omissions from, the solicitation, including the drawings and/or specifications, it shall notify the Purchasing Agent at least five (5) days prior to the date set for the opening of bids. If necessary, the Purchasing Agent will send a written addendum for clarification to all bidders no later than three (3) days before the date set for opening of bids. Notifications regarding specifications will not be considered if received within five days of the date set for opening of bids.
15. **BIDDER INTERESTED IN MORE THAN ONE BID**-If more than one bid is offered by a bidder, directly or indirectly, all such bids may be rejected. A bidder who has quoted prices on work, materials, or supplies to a bidder is not disqualified from quoting prices to other bidders or firms submitting a bid directly for the work, materials or supplies.
16. **TAX EXEMPTION**-The County is exempt from the payment of any federal excise or any Virginia sales tax. Fairfax County's Federal Excise Tax Exemption Number is 54-74-0127K.
17. **PROHIBITION AGAINST UNIFORM PRICING**-The Purchasing Agent encourages open and competitive bidding by all possible means and endeavors to obtain the maximum degree of open competition on all purchase transactions using the methods of procurement authorized by the Fairfax County Purchasing Resolution. Each bidder, by virtue of submitting a bid, guarantees that it has not been a party with other bidders to an agreement to bid a fixed or uniform price. Violation of this implied guarantee shall render void the bids of participating bidders. Any disclosure to or acquisition by a competitive bidder, in advance of the opening of the bids, of the terms or conditions of the bid submitted by another competitor may render the entire proceedings void and may require re-advertising for bids.
18. **UNBALANCED BIDS**—A Bid shall be mathematically unbalanced if the Bid contains unit pricing that does not reflect reasonable costs (including actual labor and material cost, overhead and profit) for the performance of the bid item(s) in question. A Bid shall be materially unbalanced if there is a reasonable doubt that award of the mathematically unbalanced Bid will result in the lowest ultimate cost to the County. A Bid that is, in the sole discretion of the County Purchasing Agent, both mathematically and materially unbalanced, may be rejected as non-responsive.

**General Conditions and Instructions to Bidders**

**SPECIFICATIONS**

- 19. CLARIFICATION OF TERMS**—If any prospective bidder has questions about the specifications or other solicitation documents, the prospective bidder should contact the contract specialist whose name appears on the face of the solicitation no later than five working dates before the due date. Any revisions to the solicitation will be made only by addendum issued by the contract specialist.
- 20. BRAND NAME OR EQUAL ITEMS**—Unless otherwise provided in the Invitation for Bid, the name of a certain brand, make or manufacturer does not restrict bidders to the specific brand, make or manufacturer named; it conveys the general style, type, character, and quality of the article desired. Any article that the County in its sole discretion determines to be the equivalent of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted. The bidder is responsible for clearly and specifically identifying the product being offered and providing sufficient descriptive literature, catalog cuts and technical detail to enable the County to determine if the product offered meets the requirements of the solicitation. This is required even if offering the exact brand, make, or manufacturer specified. Failure to furnish adequate data for evaluation purposes may result in declaring a bid nonresponsive. Unless the bidder clearly indicates in its bid that the product is an equivalent product, such bid will be considered to offer the brand name product referenced in the solicitation.
- 21. SPECIFICATIONS**—When a solicitation contains a specification that states no substitutes, no deviation therefrom will be permitted and the bidder will be required to furnish articles in conformity with that specification.

The bidder must abide by and comply with the true intent of the specifications and not take advantage of any unintentional error or omission, but shall fully complete every part as the true intent and meaning of the specifications and drawings. Whenever the mention is made of any articles, material, or workmanship to be in accordance with laws, ordinances, building codes, underwriter's codes, A.S.T.M. regulations or similar expressions, the requirements of these laws, ordinances, etc., shall be construed as to the minimum requirements of these specifications.

**AWARD**

- 22. AWARD OR REJECTION OF BIDS**—The Purchasing Agent shall award the contract to the lowest responsive and responsible bidder complying with all provisions of the IFB, provided the bid price is reasonable and it is in the best interest of the County to accept it. Awards made in response to a RFP will be made to the highest qualified offeror whose proposal is determined, in writing, to be the most advantageous to the County taking into consideration the evaluation factors set forth in the RFP. The Purchasing Agent reserves the right to award a contract by individual items, in the aggregate, or in combination thereof, or to reject any or all bids and to waive any informality in bids received whenever such rejection or waiver is in the best interest of the County. Award may be made to as many bidders as deemed necessary to fulfill the anticipated requirements of Fairfax County. The Purchasing Agent also reserves the right to reject the bid of a bidder deemed to be a non-responsible bidder.
- 23.** In determining the responsibility of a bidder, the following criteria will be considered:
- The ability, capacity and skill of the bidder to perform the contract or provide the service required;
  - Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;
  - The character, integrity, reputation, judgment, experience and efficiency of the bidder;
  - The quality of performance of previous contracts or services;
  - The previous and existing compliance by the bidder with laws and ordinances relating to the contract or services;
  - The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;
  - The quality, availability and adaptability of the goods or services to the particular use required;
  - The ability of the bidder to provide future maintenance and service for the use of the subject of the contract;
  - Whether the bidder is in arrears to the County on debt or contract or is a defaulter on surety to the County or whether the bidder's County taxes or assessments are delinquent; and
  - Such other information as may be secured by the Purchasing Agent having a bearing on the decision to award the contract. If an apparent low bidder is not awarded a contract for reasons of non-responsibility, the Purchasing Agent shall so notify that bidder and shall have recorded the reasons in the contract file.
- 24. NOTICE OF ACCEPTANCE/CONTRACT DOCUMENTS**—A written award (or Acceptance Agreement) mailed or otherwise furnished to the successful bidder within the time for acceptance specified in the solicitation shall result in a binding contract. The following documents, which are included in the solicitation, are incorporated by reference in and made part of the resulting contract:
- County of Fairfax Solicitation Form (Cover Sheet) and other documents which may be incorporated by reference, if applicable
  - Acceptance Agreement
  - General Conditions and Instructions to Bidders
  - Special Provisions and Specifications
  - Pricing Schedule
  - Any Addenda/Amendments/Memoranda of Negotiations
- 25. TIE-BIDS** — If all bids are for the same total amount or unit price (including authorized discounts and delivery times), and if the public interest will not permit the delay of re-advertisement for bids, the Purchasing Agent is authorized to award the contract to the tie bidder that has its principal place of business in the County, or if there be none, to the resident Virginia tie bidder, or if there be none, to one of the tie bidders by drawing lots in public; or the Purchasing Agent may purchase the goods or services in the open market except that the price paid shall not exceed the lowest contract bid price submitted for the same goods or services. The decision of the County to make award to one or more such bidders shall be final.

**General Conditions and Instructions to Bidders**

**26. PROMPT PAYMENT DISCOUNT-**

- a. Unless otherwise specified in the solicitation, prompt payment discounts requiring payment in less than fifteen (15) days will not be considered in evaluating a bid for award. However, even though not considered in the evaluation, such discounts will be taken if payment is to be made within the discount period.
- b. If a discount for prompt payment is allowed, the discount period will begin on the date of receipt of a properly completed invoice or acceptance of materials or services, whichever is later.
- c. For determining acceptance of supplies in accordance with the provisions of the prompt payment discount paragraph, inspection and acceptance shall be accomplished only after examination (including testing) of supplies and services to determine whether the supplies and services conform to the contract requirements.

For the purpose of earning the discount, payment is deemed to be made as of the date of mailing of the County check or issuance of an Electronic Funds Transfer, or completion of a credit card transaction.

**27. INSPECTION-ACCEPTANCE-** Acceptance shall occur only after receipt and inspection provided such inspection, as appropriate, is accomplished within a reasonable time. The County reserves the right to conduct any test/inspection it may deem advisable to assure goods and services conform to the specifications.

**28. DEFINITE BID QUANTITIES-**Where definite quantities are specifically stated, acceptance will bind the County to order quantities specified and to pay for, at contract prices, all such supplies or services delivered that meet specifications and conditions of the contract. However, the County will not be required to accept delivery of any balances unordered, as of the contract expiration date, unless the Contractor furnished the Purchasing Agent with a statement of unordered balances not later than ten (10) days after the termination date of the contract.

**29. REQUIREMENT BID QUANTITIES-**On "Requirement" bids, acceptance will bind the County to pay for, at unit bid prices, only quantities ordered and delivered. Where the County specifies estimated quantities, the Contractor shall not be required to deliver more than ten (10) percent in excess of the estimated quantity of each item, unless otherwise agreed upon.

**CONTRACT PROVISIONS**

**30. TERMINATION OF CONTRACTS-**Contracts will remain in force for full periods specified and/or until all articles ordered before date of termination shall have been satisfactorily delivered and accepted and thereafter until all requirements and conditions shall have been met, unless:

- a. Terminated prior to expiration date by satisfactory deliveries of entire contract requirements, or upon termination by the County for Convenience or Cause.
- b. Extended upon written authorization of the Purchasing Agent and accepted by Contractor, to permit ordering of unordered balances or additional quantities at contract prices and in accordance with contract terms.

**31. TERMINATION FOR CONVENIENCE-**A contract may be terminated in whole or in part by the County in accordance with this clause whenever the Purchasing Agent determines that such a termination is in the best interest of the County. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which performance shall be terminated and the date upon which termination becomes effective. An equitable adjustment in the contract price shall be made for completed service, but no amount shall be allowed for anticipated profit on unperformed services.

**32. TERMINATION OF CONTRACT FOR CAUSE-**

- a. If, through any cause, the Contractor fails to fulfill in a timely and proper manner its obligations under this contract, or if the Contractor violates any of the covenants, agreements, or stipulations of this contract, the County shall have the right to terminate the contract. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which performance shall be terminated and the date upon which termination becomes effective. In such event all finished or unfinished documents, data, studies, surveys, drawings, maps, models, and reports prepared by the Contractor under the contract shall, at the option of the County, become its property and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents.
- b. Termination of the Contract for Cause does not relieve the Contractor of liability to the County for damages sustained by the County by virtue of any breach of contract by the Contractor for the purpose of set off until such time as the exact amount of damages due to the County from the Contractor is determined.

**33. CONTRACT ALTERATIONS-**No alterations in the terms of a contract shall be valid or binding upon the County unless made in writing and signed by the Purchasing Agent or her authorized agent.

**34. SUBLETTING OR ASSIGNMENT** -It is mutually understood and agreed that the Contractor shall not assign, transfer, convey, sublet or otherwise dispose of his or her contractual duties to any other person, firm or corporation, without the previous written consent of the Purchasing Agent. If the Contractor desires to assign its right to payment of the contract, Contractor shall notify the Purchasing Agent immediately, in writing, of such assignment of right to payment. In no case shall such assignment of contract relieve the Contractor from its obligations or change the terms of the contract.

**35. FUNDING-** The obligation of the County to pay compensation due the Contractor under the contract or any other payment obligations under any contract awarded pursuant to this contract is subject to appropriations by the Fairfax County Board of Supervisors to satisfy payment of such obligations. The County's obligations to make payments during subsequent fiscal years are

**General Conditions and Instructions to Bidders**

dependent upon the same action. If such an appropriation is not made for any fiscal year, the contract shall terminate effective at the end of the fiscal year for which funds were appropriated and the County will not be obligated to make any payments under the contract beyond the amount appropriated for payment obligations under the contract. The County will provide the Contractor with written notice of non-appropriation of funds within thirty (30) calendar days after action is completed by the Board of Supervisors. However, the County's failure to provide such notice will not extend the contract into a fiscal year in which sufficient funds have not been appropriated.

- 36. DELIVERY/SERVICE FAILURES-**If a Contractor (i) fails to deliver goods or services within the time specified or within a reasonable time as interpreted by the Purchasing Agent; or (ii) fails to make replacements or corrections of rejected articles or services when so requested, immediately or as directed by the Purchasing Agent, then the Purchasing Agent shall have the authority to purchase in the open market goods or services of comparable grade or quality to replace goods or services not delivered or rejected. On all such purchases, the Contractor shall reimburse the County, within a reasonable time specified by the Purchasing Agent, for any expense incurred in excess of contract prices. Such purchases shall be deducted from the contract quantities if applicable. Should public necessity demand it, the County reserves the right to use or consume articles delivered or services performed which are substandard in quality, subject to an adjustment in price to be determined by the Purchasing Agent.
- 37. NON-LIABILITY-**The Contractor shall not be liable in damages for delay in shipment or failure to deliver when such delay or failure is the result of fire, flood, strike, the transportation carrier, act of God, act of Government, act of an alien enemy or by any other circumstances which, in the Purchasing Agent's opinion, are beyond the reasonable control of the Contractor. Under such circumstances, however, the Purchasing Agent may, at her discretion terminate the contract.
- 38. NON-DISCRIMINATION-**During the performance of this contract, the Contractor agrees as follows:
- The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
  - The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.
  - Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
  - The Contractor will include the provisions of the foregoing paragraphs a, b, and c above in every subcontract or purchase order of over \$10,000 so that the provisions will be binding upon each subcontractor or vendor.
  - Contractor shall, throughout the term of this contract, comply with the Human Rights Ordinance, Chapter 11 of the Code of the County of Fairfax, Virginia, as reenacted or amended. Contractor shall further require that all of its subcontractors will comply with the Human Rights Ordinance, Chapter 11 of the Code of the County of Fairfax, Virginia, as reenacted or amended
- 39. SMALL, WOMEN-OWNED, AND MINORITY-OWNED BUSINESS USE-**
- It is the declared policy of the County of Fairfax, through its Small and Minority Business Enterprise Program, that Fairfax County and its employees undertake every effort to increase opportunity for use of small or minority businesses in all aspects of procurement to the maximum extent feasible.
  - Where it is practicable for any portion of the awarded contract to be subcontracted to other suppliers, the contractor is encouraged to offer such subcontracting opportunities to small, women and minority businesses.
  - Where Federal grants or monies are involved, it is the policy of Fairfax County, through its agents and employees, to comply with the requirements set forth in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, as they pertain to small and minority business use.
- 40. GUARANTEES & WARRANTIES-**All guarantees and warranties required shall be furnished by the Contractor and shall be delivered to the Purchasing Agent before contract execution. Unless otherwise stated, manufacturer's standard warranty applies.
- 41. PRICE REDUCTION-**If the Contractor makes a general price reduction for any material covered by the solicitation to customers generally, an equivalent price reduction shall apply to this contract for the duration of the contract period (or until the price is further reduced). Such price reduction shall be effective at the same time and in the same manner as the reduction in the price to customers generally. For purpose of this provision, a "general price reduction" shall mean any horizontal reduction in the price of an article or service offered (1) to Contractor's customers generally, or (2) in the Contractor's price schedule for the class of customers (i.e., wholesalers, jobbers, or retailers), which was used as the basis for bidding on this solicitation. An occasional sale at a lower price, or sale of distressed merchandise at a lower price is not a "general price reduction" under this provision. The Contractor shall submit its invoice at such reduced prices indicating on the invoice that the reduction is pursuant to the "Price Reduction" provision of the contract documents. The Contractor will also within ten days of any general price reduction notify the Purchasing Agent of such reduction by letter. FAILURE TO DO SO MAY RESULT IN TERMINATION OF THE CONTRACT.
- 42. CHANGES-**If in the Purchasing Agent's opinion, it becomes proper or necessary in the execution of this contract to make any change in design, or to make any alterations that will increase the expense, the Purchasing Agent shall determine an equitable adjustment to the Contractor's compensation.

No payment shall be made to the Contractor for any extra material or services, or of any greater amount of money than stipulated to be paid in the contract, unless some changes in or additions to the contract requiring additional outlay by the Contractor are first expressly authorized and ordered in writing by contract amendment or otherwise furnished by the Purchasing Agent.



**General Conditions and Instructions to Bidders**

43. **PLACING OF ORDERS**-Orders against contracts will be placed with the Contractor by Purchase Order or Procurement Card (P-Card) executed and released by the Purchasing Agent or their designee. When a Blanket Purchase Order has been released by the Purchasing Agent, telephonic orders may be placed directly with the Contractor by authorized personnel in the ordering Agency.

**DELIVERY PROVISIONS**

44. **SHIPPING INSTRUCTIONS - CONSIGNMENT**-Unless otherwise specified in the solicitation each case, container, package, etc., delivered under the contract must be plainly marked, stating the Contractor's name, purchase order number, and delivery address as indicated in the order. Deliveries must be made within the hours of 8:00 AM - 3:00 PM. Deliveries at any other time will not be accepted unless specific arrangements have been previously made with the receiver at the delivery point. No deliveries will be accepted on Saturdays, Sundays and holidays, unless previous arrangements have been made. It shall be the responsibility of the Contractor to insure compliance with these instructions for items that are drop-shipped.
45. **RESPONSIBILITY FOR MATERIALS OR GOODS TENDERED**-Unless otherwise specified in the solicitation, the Contractor is responsible for the materials or supplies covered by the contract until they are delivered at the delivery point designated by the County. The Contractor bears all risk of loss on rejected materials or supplies after notice of rejection. Rejected materials or supplies must be removed by and at the expense of the Contractor promptly after notification of rejection, unless public health and safety require immediate destruction or other disposal of rejected delivery. If rejected materials are not removed by the Contractor within ten (10) days after date of notification, the County may return the rejected materials or supplies to the Contractor at its risk and expense or dispose of them as the County's own property.
46. **INSPECTIONS**-Inspection and acceptance of materials or supplies will be made after delivery at the designated destinations unless otherwise stated. If inspection is made after delivery at the designated destination, the County will bear the expense of inspection except for the value of samples used in case of rejection. Final inspection is conclusive except in regard to latent defects, fraud or such gross mistakes as to amount to fraud. Final inspection and acceptance or rejection of the materials or supplies will be made as promptly as practicable, but failure to inspect and accept or reject materials or supplies shall not impose liability on the County for such materials or supplies as are not in accordance with the specifications.
47. **COMPLIANCE**-Delivery must be made as ordered and in accordance with the contract or as directed by the Purchasing Agent when not in conflict with the contract. The decision of the Purchasing Agent as to reasonable compliance with delivery terms shall be final. If the Contractor claims the delay in receipt of goods was caused by the County, the Contractor must provide evidence satisfactory to the Purchasing Agent supporting the Contractor's claim. Any request for extension of delivery time from that specified in the contract must be approved by the Purchasing Agent, such extension applying only to the particular item or shipment affected. If the Contractor is delayed by the County, there shall be added to the time of completion a time equal to the period of such delay caused by the County. However, the Contractor shall not be entitled to claim damages or extra compensation for such delay or suspension. These conditions may vary for construction contracts. See contract for the individual instructions.
48. **POINT OF DESTINATION**-All materials shipped to the County must be shipped F.O.B. DESTINATION unless otherwise stated in the contract or purchase order. The materials must be delivered to the "Ship to" address indicated on the purchase order.
49. **ADDITIONAL CHARGES**-Unless bought F.O.B. "shipping point" and Contractor prepays transportation, no delivery charges shall be added to invoices except when express delivery is authorized and substituted on orders for the method specified in the contract. In such cases, difference between freight or mail and express charges may be added to invoice.
50. **METHOD AND CONTAINERS**-Unless otherwise specified, goods shall be delivered in commercial packages in standard commercial containers that are constructed to ensure acceptance by common or other carrier for safe transportation to the point of delivery. Containers become the property of the County unless otherwise specified by bidder.
51. **REPLACEMENT**-Materials or components that have been rejected by the Purchasing Agent, in accordance with the terms of a contract, shall be replaced by the Contractor at no cost to the County.
52. **PACKING SLIPS OR DELIVERY TICKETS**-All shipments must be accompanied by Packing Slips or Delivery Tickets and must contain the following information for each item delivered:
- a. The Purchase Order Number,
  - b. The Name of the Article and Stock Number (Supplier's),
  - c. The Quantity Ordered,
  - d. The Quantity Shipped,
  - e. The Quantity Back Ordered,
  - f. The Name of the Contractor.

Contractors are cautioned that failure to comply with these conditions is sufficient reason for the County's refusal to accept the goods.

**BILLING**

53. **BILLING**-Billing for the Fairfax County Public Schools and for County agencies: Unless otherwise specified on the contract or purchase order (PO), invoices are to be submitted for each purchase order immediately upon completion of the shipment or services. Invoices should be mailed to the "BILL TO" address on the PO or to the appropriate address specified in the contract.

**General Conditions and Instructions to Bidders**

**PAYMENTS**

54. **PAYMENT**-Payment shall be made after satisfactory performance that is in accordance with all provisions of the contract, and upon receipt of a properly completed invoice. The County reserves the right to withhold any or all payments or portions thereof for Contractor's failure to perform in accordance with the provision of the contract or any subsequent modifications.
55. **PARTIAL PAYMENTS**-Unless otherwise specified, partial payments will be made upon acceptance of materials or services so invoiced in accordance with completion date. However, up to 5 percent (5%) of the value of the entire order may be retained until completion of contract.
56. **PAYMENT FOR EQUIPMENT, INSTALLATION, AND TESTING**-When equipment requires installation (which includes erection, setting up or placing in position, service, or use) and testing, and the installation or testing is delayed, payment may be made on the basis of 50% of the contract price when such equipment is delivered on the site. A further allowance of 25% may be made when the equipment is installed and ready for test. The balance shall be paid after the equipment is tested and found to be satisfactory. If the equipment must be tested, but installation is not required to be made by the Contractor or if the equipment must be installed but testing is not required, payment may be made on the basis of 75% at the time of delivery and the balance shall be paid after satisfactory test or installation is completed.

**GENERAL**

57. **GENERAL GUARANTY**-Contractor agrees to:
- Save the County, its agents and employees harmless from liability of any nature or kind for the use of any copyrighted or uncopyrighted composition; secret process, patented or unpatented; invention; article or appliance furnished or used in the performance of a contract for which the Contractor is not the patentee, assignee, licensee or owner.
  - Warrant that when the contract includes a software license, or use of licensed software, the Contractor is the owner of the Software or otherwise has the right to grant to the County the license to use the Software granted through the Contract without violating or infringing any law, rule, regulation, copyright, patent, trade secret or other proprietary right of any third party.
  - Protect the County against latent defective material or workmanship and to repair or replace any damages or marring occasioned in transit or delivery.
  - Furnish adequate protection against damage to all work and to repair damages of any kind to the building or equipment, to his or her own work or to the work of other contractors, for which his or her workers are responsible.
  - Pay for all permits, licenses and fees and give all notices and comply with all laws, ordinances, rules, regulations, and policies of the County.
  - Protect the County from loss or damage to County owned property while it is in the custody of the Contractor.
58. **SERVICE CONTRACT GUARANTY**-Contractor agrees to:
- Furnish services described in the solicitation and resultant contract at the times and places and in the manner and subject to conditions of those documents provided that the County may reduce the said services at any time.
  - Enter upon the performance of services with all due diligence and dispatch, assiduously press to its complete performance, and exercise therein the highest degree of skill and competence.
  - All work and services rendered in strict conformance to all laws, statutes, and ordinances and the applicable government rules, regulations, methods, and procedures.
  - Allow services to be inspected or reviewed by an employee of the County at any reasonable time and place selected by the County. The County is under no obligation to compensate Contractor for any services not rendered in strict conformity with the contract.
  - Stipulate that the presence of a County Inspector shall not lessen the obligation of the Contractor for performance in accordance with the contract requirements, or be deemed a defense on the part of the Contractor for infraction thereof. The Inspector is not authorized to revoke, alter, enlarge, relax, or release any of the requirements of the contract documents. Any omission or failure on the part of the Inspector to disapprove or reject any work or material shall not be construed to be an acceptance of any such defective work or material. Notification of an omission or failure will be documented by the Purchasing Agent.
59. **INDEMNIFICATION**-
- General Indemnification. Contractor must indemnify, keep and save harmless, and defend the County, its agents, officials, employees and volunteers against Claims that may accrue or arise against the County as a result of the granting a contract, if the Claim was caused by the negligence or error, or omission of the Contractor, its employees, its subcontractor, or its subcontractor's employees. As used in this Section, a Claim includes: injuries, death, damage to property, breach of data security, suits, liabilities, judgments, or costs and expenses. Upon request by the County, the Contractor must at its own expense: appear, defend, and pay all attorney's fees and all costs and other expenses related to the Claim. If, related to a Claim, any judgment is rendered against the County or a settlement reached that requires the County to pay money, the Contractor must at its own expense satisfy and discharge the same. Contractor expressly understands and agrees that any performance bond or insurance protection required by this Contract, or otherwise provided by the Contractor, does not limit the Contractor's responsibility to indemnify, keep and save harmless, and defend the County as provided in this Contract.
  - Intellectual Property Indemnification. In addition to the General Indemnification, Contractor will indemnify the County for and defend the County against third-party claims for infringement of any valid United States patent, trademark or copyright by the Contractor's products, software, services, or deliverables. Contractor must indemnify the County for any loss, damage, expense or liability, including costs and reasonable attorney's fees that may result by reason of any such claim.

**General Conditions and Instructions to Bidders**

In the event of a claim covered by this subparagraph, and in addition to all other obligations of Contractor in this Paragraph 58, Contractor must at its expense and within a reasonable time: (a) obtain a right for the County to continue using such products and software, or allow Contractor to continue performing the Services; (b) modify such products, software, services or deliverables to make them non-infringing; or (c) replace such products or software with a non-infringing equivalent. If, in the Contractor's reasonable opinion, none of the foregoing options is feasible Contractor must immediately notify the County and accept the return of the products, software, services, or deliverables, along with any other components rendered unusable as a result of the infringement or claimed infringement, and refund to the County the price paid to Contractor for such components as well as any pre-paid fees for the allegedly infringing services, including license, subscription fees, or both. Nothing in Paragraph 58, however, relieves the Contractor of liability to the County for damages sustained by the County by virtue of any breach of contract related to a third-party infringement claim.

- c. **Right to Participate in Defense.** The County may, at its sole expense, participate in the defense or resolution of a Claim. Contractor will have primary control of the defense and resolution of the Claim, except when such defense or resolution requires the County to (i) admit liability or wrongdoing; or (ii) to pay money. In either of these cases Contractor must obtain the County's prior written consent before entering into such settlement or resolution.
- d. **No Indemnification by the County.** The parties agree that under applicable law the County cannot indemnify or defend the Contractor. To the extent any promise or term contained in this Contract, including any exhibits, attachments, or other documents incorporated by reference therein, includes an indemnification or obligation to defend by the County, that promise or term is stricken from this Contract and of no effect.

**60. OFFICIALS NOT TO BENEFIT-**

- a. Each bidder, offeror, or contractor shall certify, upon signing a bid, proposal, or contract, that to the best of their knowledge no Fairfax County official or employee having official responsibility for the procurement transaction, or member of their immediate family, has received or will receive any financial benefit of more than nominal or minimal value relating to the award of this contract. If such a benefit has been received or will be received, this fact shall be disclosed with the bid or proposal or as soon thereafter as it appears that such a benefit will be received. Failure to disclose the information prescribed above may result in suspension or debarment, or rescission of the contract made, or could affect payment pursuant to the terms of the contract.
- b. Whenever there is reason to believe that a financial benefit of the sort described in paragraph "a" has been or will be received in connection with a bid, proposal or contract, and that the Contractor has failed to disclose such benefit or has inadequately disclosed it, the County Executive, as a prerequisite to payment pursuant to the contract, or at any other time, may require the Contractor to furnish, under oath, answers to any interrogatories related to such possible benefit.
- c. In the event the bidder or offeror has knowledge of benefits as outlined above, this information should be submitted with the bid or proposal. If the above does not apply at time of award of contract and becomes known after inception of a contract, the bidder or offeror shall address the disclosure of such facts to the Fairfax County Purchasing Agent, 12000 Government Center Parkway, Suite 427, Fairfax, Virginia 22035-0013. Relevant Invitation/Request for Proposal Number (see cover sheet) should be referenced in the disclosure.

- 61. LICENSE REQUIREMENT-**All firms doing business in Fairfax County, shall obtain a license as required by Chapter 4, Article 7, of The Code of the County of Fairfax, Virginia, as amended, entitled "Business, Professional and Occupational Licensing (BPOL) Tax." Questions concerning the BPOL Tax should be directed to the Department of Tax Administration, telephone (703) 222-8234 or visit: [http://www.fairfaxcounty.gov/dta/business\\_tax.htm](http://www.fairfaxcounty.gov/dta/business_tax.htm). The BPOL Tax number must be indicated in the space provided on the Cover Sheet, "Fairfax License Tax No." when appropriate.

- 62. AUTHORIZATION TO CONDUCT BUSINESS IN THE COMMONWEALTH:** A contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth 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. Any business entity described above that enters into a contract with a Fairfax County pursuant to the Fairfax County Purchasing Resolution shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the contract. Fairfax County may void any contract with a business entity if the business entity fails to remain in compliance with the provisions of this section.

- 63. COVENANT AGAINST CONTINGENT FEES-**The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For violation of this warranty, the County shall have the right to terminate or suspend this contract without liability to the County or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

- 64. VIRGINIA FREEDOM OF INFORMATION ACT-**All proceedings, records, contracts and other public records relating to procurement transactions shall be open to the inspection of any citizen, or any interested person, firm or corporation, in accordance with the Virginia Freedom of Information Act except as provided below:

- a. Cost estimates relating to a proposed procurement transaction prepared by or for a public body shall not be open to public inspection.
- b. Any competitive sealed bidding bidder, upon request, shall be afforded the opportunity to inspect bid records within a reasonable time after the opening of all bids but prior to award, except in the event that the County decides not to accept any of

**General Conditions and Instructions to Bidders**

- c. the bids and to reopen the contract. Otherwise, bid records shall be open to public inspection only after award of the contract. Any competitive negotiation offeror, upon request, shall be afforded the opportunity to inspect proposal records within a reasonable time after the evaluation and negotiations of proposals are completed but prior to award except in the event that the County decides not to accept any of the proposals and to reopen the contract. Otherwise, proposal records shall be open to the public inspection only after award of the contract except as provided in paragraph "c" below. Any inspection of procurement transaction records under this section shall be subject to reasonable restrictions to ensure the security and integrity of the records.
- d. Trade secrets or proprietary information submitted by a bidder, offeror or Contractor in connection with a procurement transaction or prequalification application submitted pursuant to the prequalification process identified in the Special Provisions, shall not be subject to the Virginia Freedom of Information Act; however, the bidder, offeror or Contractor shall (i) invoke the protections of this section prior to or upon submission of the data or other materials, (ii) identify the data or other materials to be protected, and (iii) state the reasons why protection is necessary.
- e. Nothing contained in this section shall be construed to require the County, when procuring by "competitive negotiation" (Request for Proposal), to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous to the County.
- f. The County cannot maintain as confidential any information, data, or records obtainable through the Virginia Freedom of Information or similar law. This includes records or information that have not been properly designated as trade secret or proprietary information pursuant to Va. Code Ann. § 2.2-4342(F).
- g. A bidder or offeror shall not designate as trade secrets or proprietary information (a) an entire bid, proposal, or prequalification application; (b) any portion of a bid, proposal, or prequalification application that does not contain trade secrets or proprietary information; or (c) line item prices or total bid, proposal, or prequalification application prices.

**BIDDER/CONTRACTOR REMEDIES**

**65. INELIGIBILITY-**

- a. Any person or firm suspended or debarred from participation in County procurement shall be notified in writing by the Purchasing Agent.
  - 1. The Notice of Suspension shall state the reasons for the actions taken and such decision shall be final unless the person or firm appeals within ten (10) days of receipt of the Notice by instituting legal action as provided in the Code of Virginia.
  - 2. The Notice of Debarment shall state the reasons for the actions taken and the decision shall be final unless the person or firm appeals within ten (10) days of receipt of the Notice by instituting legal action as provided in the Code of Virginia.
- b. The Purchasing Agent shall have the authority to suspend or debar a person or firm from bidding on any contract for the causes stated below:
  - 1. Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;
  - 2. Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a County Contractor;
  - 3. Conviction under the state or federal antitrust statutes arising out of the submission of bids or proposals;
  - 4. Violation of contract provisions, as set forth below, of a character which is regarded by the Purchasing Agent to be so serious as to justify suspension or debarment action:
    - a. failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or
    - b. a recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts; provided, that failure to perform or unsatisfactory performance caused by acts beyond the control of the Contractor shall not be considered to be a basis for suspension or debarment;
  - 5. Any other cause the Purchasing Agent determines to be so serious and compelling as to affect responsibility as a Contractor, such as debarment by another governmental entity for any cause listed herein, or because of prior reprimands;
  - 6. The contractor has abandoned performance, been terminated for default on a Fairfax County project, or has taken any actions that inure to the detriment of Fairfax County or a Fairfax County project.
  - 7. The Contractor is in default on any surety bond or written guarantee on which Fairfax County is an obligee.
- c. If, upon appeal, it is determined that the action taken by the Purchasing Agent was arbitrary or capricious, or not in accordance with the Constitution of Virginia, statutes or regulations, the sole relief available to the person or firm shall be restoration of eligibility. The person or firm may not institute legal action until all statutory requirements have been met.

**66. APPEAL OF DENIAL OF WITHDRAWAL OF BID-**

- a. A decision denying withdrawal of a bid submitted by a bidder or offeror shall be final and conclusive unless the bidder appeals the decision within ten (10) days after receipt of the decision by instituting legal action as provided in the Code of Virginia. The bidder or offeror may not institute legal action until all statutory requirements have been met.
- b. If no bid bond was posted, a bidder refused withdrawal of bid under the provisions of Article 2, Section 4.A.8, of the Fairfax County Purchasing Resolution, prior to appealing, shall deliver to the County a certified check or cash bond in the amount of the difference between the bid sought to be withdrawn and the next low bid. Such security shall be released only upon a final determination that the bidder was entitled to withdraw the bid.

**General Conditions and Instructions to Bidders**

- c. If, upon appeal, it is determined that the decision refusing withdrawal of the bid was not an honest exercise of discretion, but rather was arbitrary or capricious or not in accordance with the Constitution of Virginia, applicable state law or regulation, or the terms or conditions of the Invitation to Bid, the sole relief shall be withdrawal of the bid.

**67. APPEAL OF DETERMINATION OF NONRESPONSIBILITY-**

- a. Any bidder who, despite being the apparent low bidder, is determined not to be a responsible bidder for a particular County contract shall be notified in writing by the Purchasing Agent. Such notice shall state the basis for the determination, which shall be final unless the bidder appeals the decision within ten (10) days of receipt of the notice by instituting legal action as provided in the Code of Virginia. The bidder may not institute legal action until all statutory requirements have been met.
- b. If, upon appeal, it is determined that the decision of the Purchasing Agent was arbitrary or capricious and the award for the particular County contract in question has not been made, the sole relief available to the bidder shall be a finding that the bidder is a responsible bidder for the County contract in question. Where the award has been made and performance has begun, the County may declare the contract void upon a finding that this action is in the best interest of the public. Where a contract is declared void, the performing Contractor shall be compensated for the cost of performance up to the time of such declaration. In no event shall the performing Contractor be entitled to lost profits.

**68. PROTEST OF AWARD OR DECISION TO AWARD-**

- a. Any bidder or offeror may protest the award or decision to award a contract by submitting a protest in writing to the Purchasing Agent, or an official designated by the County of Fairfax, no later than ten (10) days after the award or the announcement of the decision to award, whichever occurs first. Any potential bidder or offeror on a contract negotiated on a sole source or emergency basis who desires to protest the award or decision to award such contract shall submit such protest in the same manner no later than ten days after posting or publication of the notice of such contract as provided in Article 2, Section 2, of the Fairfax County Purchasing Resolution. However, if the protest of any actual or potential bidder or offeror depends in whole or in part upon information contained in public records pertaining to the procurement transaction which are subject to inspection under Article 2, Section 4.D of the Fairfax County Purchasing Resolution, then the time within which the protest must be submitted shall expire ten days after those records are available for inspection by such bidder or offeror under Article 2, Section 4.D, or at such later time as provided herein. No protest shall lie for a claim that the selected bidder or offeror is not a responsible bidder or offeror. The written protest shall include the basis for the protest and the relief sought. The Purchasing Agent shall issue a decision in writing within ten (10) days of the receipt of the protest stating the reasons for the action taken. This decision shall be final unless the bidder or offeror appeals within ten (10) days of receipt of the written decision by instituting legal action as provided in the Code of Virginia. Nothing in this section shall be construed to permit a bidder to challenge the validity of the terms or conditions of the Invitation for Bid or Request for Proposal.
- b. If prior to award it is determined that the decision to award is arbitrary or capricious, then the sole relief shall be a finding to that effect. The Purchasing Agent shall cancel the proposed award or revise it to comply with the law. If, after an award, it is determined that an award of a contract was arbitrary or capricious, then the sole relief shall be as hereinafter provided. Where the award has been made but performance has not begun, the performance of the contract may be declared void by the County. Where the award has been made and performance has begun, the Purchasing Agent may declare the contract void upon a finding that this action is in the best interest of the County. Where a contract is declared void, the performing Contractor shall be compensated for the cost of performance at the rate specified in the contract up to the time of such declaration. In no event shall the performing Contractor be entitled to lost profits.
- c. Pending final determination of a protest or appeal, the validity of a contract awarded and accepted in good faith in accordance with this article shall not be affected by the fact that a protest or appeal has been filed.
- d. An award need not be delayed for the period allowed a bidder or offeror to protest, but in the event of a timely protest, no further action to award the contract will be taken unless there is a written determination that proceeding without delay is necessary to protect the public interest or unless the bid or offer would expire.

**69. CONTRACTUAL DISPUTES-**

- a. Any dispute concerning a question of fact as a result of a contract with the County which is not disposed of by agreement shall be decided by the Purchasing Agent, who shall reduce her decision to writing and mail or otherwise forward a copy to the Contractor within ninety (90) days. The decision of the Purchasing Agent shall be final and conclusive unless the Contractor appeals within six (6) months of the date of the final written decision by instituting legal action as provided in the Code of Virginia. A Contractor may not institute legal action, prior to receipt of the Purchasing Agent's decision on the claim, unless the Purchasing Agent fails to render such decision within the time specified.
- b. Contractual claims, whether for money or other relief, shall be submitted in writing no later than sixty days after final payment; however, written notice of the Contractor's intention to file such claim shall have been given at the time of the occurrence or beginning of the work upon which the claim is based. Nothing herein shall preclude a contract from requiring submission of an invoice for final payment within a certain time after completion and acceptance of the work or acceptance of the goods. Pendency of claims shall not delay payment of amounts agreed due in the final payment.

**70. LEGAL ACTION-**No bidder, offeror, potential bidder or offeror, or Contractor shall institute any legal action until all statutory requirements have been met.

**71. VENUE:** This contract and its terms, including but not limited to, the parties' obligations, the performance due, and the remedies available to each party, are governed, construed, and interpreted in accordance with the laws of the Commonwealth of Virginia. Any jurisdiction's choice of law, conflicts of laws, rules, or provisions that would cause the application of any laws other than those of the Commonwealth of Virginia do not apply. Any and all disputes, claims, and causes of action arising out of or in any way connected with this contract or its performance must be brought in the applicable court of Fairfax County, or in the United States

**General Conditions and Instructions to Bidders**

District Court for the Eastern District of Virginia, Alexandria Division.

72. **COOPERATIVE PURCHASING**-The County or any entity identified in the Fairfax County Purchasing Resolution, Article 1, Section 3 may participate in, sponsor, conduct or administer a cooperative procurement agreement as set forth in the Fairfax County Purchasing Resolution.
73. **DRUG FREE WORKPLACE**-During the performance of a contract, the Contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor. For the purposes of this section, "drug-free workplace" means a site for the performance of work done in conjunction with a specific contract awarded to a Contractor in accordance with this section, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.
74. **IMMIGRATION REFORM AND CONTROL ACT**-Contractor agrees that it does not and shall not during the performance of the contract for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the Federal Immigration Reform and Control Act of 1986.
75. **AUDIT OF RECORDS** The parties agree that the County or its agent must have reasonable access to and the right to examine any records of the contractor involving transactions related to the contract or compliance with any clauses thereunder, for a period of three (3) years after final payment. The contractor shall include these same provisions in all related subcontracts. For purposes of this clause, the term "records" includes documents, and papers regardless of whether they are in written form, electronic form, or any other form.
76. **NONVISUAL ACCESS**-All information technology, which is purchased or upgraded by the County under this contract, must comply with the following access standards from the date of purchase or upgrade until the expiration of the Contract:
- Effective, interactive control and use of the technology (including the operating system), applications programs, and format of the data presented, shall be readily achievable by nonvisual means;
  - the technology equipped for nonvisual access shall be compatible with information technology used by other individuals with whom the blind or visually impaired individual interacts;
  - Nonvisual access technology shall be integrated into networks used to share communications among employees, program participants, and the public; and
  - The technology for nonvisual access shall have the capability of providing equivalent access by nonvisual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired. A covered entity may stipulate additional specifications in any procurement.
  - Compliance with the nonvisual access standards set out this Section is not required if the Board of Supervisors determines that (i) the information technology is not available with nonvisual access because the essential elements of the information technology are visual and (ii) nonvisual equivalence is not available.

**APPROVED:**

/S/ Elizabeth D. Teare  
**COUNTY ATTORNEY**

/S/ Cathy A. Muse  
**COUNTY PURCHASING AGENT**

**OFFEROR DATA SHEET**

NAME OF OFFEROR: \_\_\_\_\_

ADDRESS: \_\_\_\_\_  
\_\_\_\_\_

E-MAIL ADDRESS: \_\_\_\_\_

Name and e-mail addresses of both service and fiscal representatives (Key Personnel) who would handle this account.

Service Representative: \_\_\_\_\_  
Telephone Number: (    ) \_\_\_\_\_  
E-Mail Address: \_\_\_\_\_

Fiscal Representative: \_\_\_\_\_  
Telephone Number: (    ) \_\_\_\_\_  
E-Mail Address: \_\_\_\_\_

Payment Address, if different from above:

\_\_\_\_\_  
\_\_\_\_\_



## BUSINESS CLASSIFICATION SCHEDULE

**PLEASE CLASSIFY YOUR BUSINESS/ORGANIZATION BY MARKING IN STEP 1. STEP 2 IS OPTIONAL.** This designation is requested of all business/organizations including publicly traded corporations, non-profits, sheltered workshops, government organizations, partnerships, sole proprietorships, etc. Fairfax County does not certify business classifications, nor does it establish preferences or set asides for specific classifications.

**Examples:**

- A small, Asian women-owned business would mark "Small" in Step 1, then "Women-Owned" and "Minority-Owned" in Step 2
- A small, service-disabled veteran and women-owned business would mark "Small" in Step 1, then "Women-Owned" and "Service-Disabled Veteran-Owned" in Step 2
- A government agency/public body would ONLY mark "Government Agency/Public Body" in Step 1

**NAME OF BUSINESS:**

**LAST 4 DIGITS OF TIN/EIN:** \_\_\_\_\_ **SIGNATURE:** \_\_\_\_\_

**Step 1: Please indicate the classification of your business/organization. Select ONLY one (1) option.**

☐ Small      ☐ Large      ☐ Non-Profit      ☐ Government Agency/Public Body      ☐ Shelter Workshop

**Step 2 (OPTIONAL): Please indicate what type of ownership your business/organization consists of. You may choose MORE than one (1) option.**

☐ Women-Owned      ☐ Minority-Owned      ☐ Service-Disabled Veteran-Owned

**DEFINITIONS**

**Small Business/Organization** - "Small business" means a business that is at least 51% independently owned and controlled by one or more individuals who are U.S. citizens or legal resident aliens, and together with affiliates, has 250 or fewer employees, or average annual gross receipts of \$10 million or less averaged over the previous three years. One or more of these individual owners shall control both the management and daily business operations of the small business.

**Minority Business** - is a business concern that is at least 51% owned by one or more minority individuals or in the case of a corporation, partnership or limited liability company, or other entity, at least 51% of the equity ownership interest in the corporation, partnership or limited company or other entity is owned by one or more minority individuals and both the management and daily business operations are controlled by one or more minority individuals. Such individuals shall include Asian American, African American, Hispanic American, Native American, Eskimo, or Aleut.

**Women-Owned Business** - a business concern that is at least 51% owned by one or more women who are U.S. citizens or legal resident aliens, or in the case of a corporation, partnership or limited company or other entity, at least 51% of the equity ownership interest is owned by one or more women who are U.S. citizens or legal resident aliens, and both the management and daily business operations are controlled by one or more women who are U.S. citizens or legal resident aliens.

**Service-Disabled Veteran** - means a veteran who (i) served on active duty in the United States military ground, naval, or air service, (ii) was discharged or released under conditions other than dishonorable, and (iii) has a service - connected disability rating fixed by the United States Department of Veterans Affairs.

**Service-Disabled Veteran-Owned Business** - is a business that is at least 51 percent owned by one or more service - disabled veterans or, in the case of a corporation, partnership, or limited liability company or other entity, at least 51 percent of the equity ownership interest in the corporation, partnership, or limited liability company or other entity is owned by one or more individuals who are service-disabled veterans and both the management and daily business operations are controlled by one or more individuals who are service-disabled veterans.

**Shelter Workshop** - a private non-profit, state, or local government institution that provides employment opportunities for individuals who are developmentally, physically, or mentally impaired, to prepare for gainful work in the general economy. These services may include physical rehabilitation, training in basic work and life skills (e.g., how to apply for a job, attendance, personal grooming, and handling money), training on specific job skills, and providing work experience in the workshop.

**VIRGINIA STATE CORPORATION COMMISSION (SCC)**  
**REGISTRATION INFORMATION**

The offeror:

☐ is a corporation or other business entity with the following SCC identification number:  
\_\_\_\_\_ **-OR-**

☐ is not a corporation, limited liability company, limited partnership, registered limited liability partnership, or business trust **-OR-**

☐ is an out-of-state business entity that does not regularly and continuously maintain as part of its ordinary and customary business any employees, agents, offices, facilities, or inventories in Virginia (not counting any employees or agents in Virginia who merely solicit orders that require acceptance outside Virginia before they become contracts, and not counting any incidental presence of the bidder in Virginia that is needed in order to assemble, maintain, and repair goods in accordance with the contracts by which such goods were sold and shipped into Virginia from bidder's out-of-state location) **-OR-**

☐ is an out-of-state business entity that is including with this bid/proposal an opinion of legal counsel which accurately and completely discloses the undersigned bidder's current contacts with Virginia and describes why those contacts do not constitute the transaction of business in Virginia within the meaning of § 13.1-757 or other similar provisions in Titles 13.1 or 50 of the Code of Virginia.

Please check the following box if you have not checked any of the foregoing options but currently have pending before the SCC an application for authority to transact business in the Commonwealth of Virginia and wish to be considered for a waiver to allow you to submit the SCC identification number after the due date for proposals: ☐

**Request for Protection of Trade Secrets or Proprietary Information Pursuant to  
Article 2, Section 4.D.3 of the Purchasing Resolution and Va. Code Ann.  
§ 2.2-4342(F)**

Request for Protection of Trade Secrets or Proprietary Information Pursuant to Article 2, Section 5.C.3 of the Purchasing Resolution and Va. Code Ann. § 2.2 4342(F)

This form is provided as a courtesy to assist vendors desiring to protect trade secrets and proprietary information from disclosure under the Virginia Freedom of Information Act. In order to receive protection, you must (a) invoke the protection prior to or upon submission of the data or other materials, (b) identify the data or other materials to be protected, and (c) state the reason(s) why protection is necessary. Each of these requirements must be met with respect to the particular information for which protection is sought.

a) Submission of this form with or without other reference to Article 2, Section 5.C.3 of the Purchasing Resolution or Va. Code Ann. § 2.2-4342(F) shall satisfy the invocation requirement with respect to data or other materials clearly identified herein.

b) Identify the specific data or other material for which protection is sought. Suggested forms of designation include: listing the Proposal Section, Tab, or Page numbers; attaching to this form a copy of the table of contents from your Proposal with the relevant trade secret or proprietary contents highlighted; or identifying herein a document stamp used within the Proposal to designate the relevant materials (e.g. "all portions of the Proposal marked "Proprietary" or "Trade Secret"). NOTE: The classification of an entire proposal document, line item prices, and/or total proposal prices as proprietary or trade secrets is not acceptable.

c) For each distinct section of data or other information identified in response to paragraph b), above, state the reason(s) why protection is necessary. NOTE: Your explanation must do more than simply stating the materials are "proprietary," or "trade secrets," or "not publicly available." You may attach additional sheets to this form as needed.

Use of this form does not guarantee protection. It is incumbent upon each vendor to meet the prerequisites for protection of their trade secrets or proprietary information. Provision of this form does not constitute legal advice; you are encouraged to consult with your legal counsel prior to designation of materials for protection.

DATA/MATERIAL TO BE PROTECTED	SECTION NO., & PAGE NO.	REASON WHY PROTECTION IS NECESSARY

**BUSINESS, PROFESSIONAL AND OCCUPATIONAL LICENSE**

All firms located or operating in Fairfax County must obtain a Business, Professional and Occupational License (BPOL) as required by Chapter 4, Article 7, of the Code of the County of Fairfax, Virginia. In order for the Department of Tax Administration to determine your BPOL requirement prior to contract award, it is necessary for you to provide the following information:

- If you currently have a Fairfax County business license, please submit a copy with your proposal.
- Do you have an office in:      Virginia                      ☐ Yes              ☐ No  
   Fairfax County              ☐ Yes              ☐ No
- Date business began/will begin work in Fairfax County

A detailed description of the business activity that will take place in Fairfax County. If business is located outside of Fairfax County, give the percentage of work actually to be done in the County

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\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**Complete and return this form or a copy of your current Fairfax County Business License with your proposal.**

**CERTIFICATION REGARDING DEBARMENT OR SUSPENSION**

In compliance with contracts and grants agreements applicable under the U.S. Federal Awards Program, the following certification is required by all offerors submitting a proposal in response to this Request for Proposal:

1. The Offeror certifies, to the best of its knowledge and belief, that neither the Offeror nor its Principals are suspended, debarred, proposed for debarment, or declared ineligible for the award of contracts from the United States federal government procurement or nonprocurement programs, or are listed in the *List of Parties Excluded from Federal Procurement and Nonprocurement Programs* issued by the General Services Administration.
2. "Principals," for the purposes of this certification, means officers, directors, owners, partners, and persons having primary management or supervisory responsibilities within a business entity (e.g., general manager, plant manager, head of a subsidiary, division, or business segment, and similar positions).
3. The Offeror shall provide immediate written notice to the Fairfax County Purchasing Agent if, at any time prior to award, the Offeror learns that this certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. This certification is a material representation of fact upon which reliance will be placed when making the award. If it is later determined that the Offeror rendered an erroneous certification, in addition to other remedies available to Fairfax County government, the Fairfax County Purchasing Agent may terminate the contract resulting from this solicitation for default.

**Printed Name of Representative:** \_\_\_\_\_

**Signature/Date:** \_\_\_\_\_/\_\_\_\_\_

**Company Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**City/State/Zip:** \_\_\_\_\_

**SSN or TIN No:** \_\_\_\_\_

**Certification Regarding Ethics in Public Contracting**

In submitting this bid or proposal, and signing below, Bidder/Offeror certifies the following in connection with a bid, proposal, or contract:

Check one:

☐

1. I have not given any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal or minimal value to any public employee or official have official responsibility for a procurement transaction.

☐

2. I have given a payment, loan, subscription, advance, deposit of money, services or anything of more than nominal or minimal value to a public employee or official have official responsibility for a procurement transaction, but I received consideration in substantially equal or greater value in exchange.

If 2 is selected, please complete the following:

Recipient: \_\_\_\_\_

Date of Gift: \_\_\_\_\_

Description of the gift and its value:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Description of the consideration received in exchange and its value:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Printed Name of Bidder/Offeror Representative: \_\_\_\_\_

Signature/Date: \_\_\_\_\_ / \_\_\_\_\_

Company Name: \_\_\_\_\_

Company Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

***This certification supplements but does not replace the requirements set forth in paragraph 64 (OFFICIALS NOT TO BENEFIT) of the General Conditions and Instructions to Bidders included in this solicitation***

**AFFIRMATION OF LEGALLY REQUIRED CONTRACT TERMS**

BY SIGNING THIS AFFIRMATION, THE OFFEROR REPRESENTS THAT IT UNDERSTANDS THAT THE FOLLOWING CONTRACT TERMS ARE REQUIRED BY LAW AND CANNOT BE VARIED, REVISED, AMENDED, CHANGED, OR OTHERWISE NEGOTIATED:

1. Funding: The obligation of the County to pay compensation due the Contractor under the contract or any other payment obligations under any contract awarded pursuant to this contract is subject to appropriations by the Fairfax County Board of Supervisors to satisfy payment of such obligations. The County's obligations to make payments during subsequent fiscal years are dependent upon the same action. If such an appropriation is not made for any fiscal year, the contract shall terminate effective at the end of the fiscal year for which funds were appropriated and the County will not be obligated to make any payments under the contract beyond the amount appropriated for payment obligations under the contract. The County will provide the Contractor with written notice of non-appropriation of funds within thirty (30) calendar days after action is completed by the Board of Supervisors. However, the County's failure to provide such notice will not extend the contract into a fiscal year in which sufficient funds have not been appropriated.
2. Non-discrimination-During the performance of this contract, the Contractor agrees as follows:
  - a. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
  - b. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.
  - c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
  - d. The Contractor will include the provisions of the foregoing paragraphs a, b, and c above in every subcontract or purchase order of over \$10,000 so that the provisions will be binding upon each subcontractor or vendor.
  - e. Contractor shall, throughout the term of this contract, comply with the Human Rights Ordinance, Chapter 11 of the Code of the County of Fairfax, Virginia, as reenacted or amended. Contractor shall further require that all of its subcontractors will comply with the Human Rights Ordinance, Chapter 11 of the Code of the County of Fairfax, Virginia, as reenacted or amended.
3. Authorization to Conduct Business in the Commonwealth: A contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth 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. Any business entity described above that enters into a contract with a Fairfax County pursuant to the Fairfax County Purchasing Resolution shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the contract. Fairfax County may void any contract with a business entity if the business entity fails to remain in compliance with the provisions of this section.
4. No Indemnification by the County. The parties agree that under applicable law the County cannot indemnify or defend the Contractor. To the extent any promise or term contained in this Contract, including any exhibits, attachments, or other documents incorporated by reference therein, includes an indemnification or obligation to defend by the County, that promise or term is stricken from this Contract and of no effect.



5. Contractual Disputes:

- a. Any dispute concerning a question of fact as a result of a contract with the County which is not disposed of by agreement shall be decided by the Purchasing Agent, who shall reduce her decision to writing and mail or otherwise forward a copy to the Contractor within ninety (90) days. The decision of the Purchasing Agent shall be final and conclusive unless the Contractor appeals within six (6) months of the date of the final written decision by instituting legal action as provided in the Code of Virginia. A Contractor may not institute legal action, prior to receipt of the Purchasing Agent's decision on the claim, unless the Purchasing Agent fails to render such decision within the time specified.
  - b. Contractual claims, whether for money or other relief, shall be submitted in writing no later than sixty days after final payment; however, written notice of the Contractor's intention to file such claim shall have been given at the time of the occurrence or beginning of the work upon which the claim is based. Nothing herein shall preclude a contract from requiring submission of an invoice for final payment within a certain time after completion and acceptance of the work or acceptance of the goods. Pendency of claims shall not delay payment of amounts agreed due in the final payment.
6. Drug Free Workplace: During the performance of a contract, the Contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor. For the purposes of this section, "drug-free workplace" means a site for the performance of work done in conjunction with a specific contract awarded to a Contractor in accordance with this section, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.
7. Immigration Reform and Control Act: Contractor agrees that it does not and shall not during the performance of the contract for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the Federal Immigration Reform and Control Act of 1986.
8. Audit of Records: The parties agree that County or its agent must have access to and the right to examine any books, documents, papers, and records of the Contractor involving transactions related to the Contract or compliance with any clauses thereunder, for a period of three (3) years after final payment. The contractor must include this requirement in all subcontracts related to this Contract.
9. Nonvisual Access: All information technology, which is purchased or upgraded by the County under this contract, must comply with the following access standards from the date of purchase or upgrade until the expiration of the Contract:
- a. Effective, interactive control and use of the technology (including the operating system), applications programs, and format of the data presented, shall be readily achievable by nonvisual means;
  - b. The technology equipped for nonvisual access shall be compatible with information technology used by other individuals with whom the blind or visually impaired individual interacts;
  - c. Nonvisual access technology shall be integrated into networks used to share communications among employees, program participants, and the public; and
  - d. The technology for nonvisual access shall have the capability of providing equivalent access by nonvisual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired. A covered entity may stipulate additional specifications in any procurement.

- e. Compliance with the nonvisual access standards set out this Section is not required if the Board of Supervisors determines that (i) the information technology is not available with nonvisual access because the essential elements of the information technology are visual and (ii) nonvisual equivalence is not available.

Signature/Date: \_\_\_\_\_ / \_\_\_\_\_

Printed Name/Title: \_\_\_\_\_ / \_\_\_\_\_

Company Name: \_\_\_\_\_

## AUTUMN WILLOW SENIOR HOUSING PPEA REQUIREMENTS

### 1. OVERVIEW AND PROPERTY DESCRIPTION

- 1.1. In accordance with the terms and conditions of the RFP, and in compliance with Fairfax County Policy for the implementation of the PPEA as adopted by the Board of Supervisors on February 24, 2003 as amended, the FCRHA desires to enter into a Public-Private Partnership contract to create a new residential facility as follows:
  - a. Design, develop, construct, own, and operate, at no cost to the FCRHA, an affordable Senior Independent Living residential community for senior citizens pursuant to a long-term, nominal fee ground lease from the FCRHA. The residential facilities shall not exceed 150 affordable independent senior living units for adults 62 years or older, with low to moderate incomes, and shall be known as "Autumn Willow Senior Housing".
- 1.2. The approximately 10.89-acre subject parcel is identified as Tax Map #0553 01 0026B and is located north of Lee Highway, east of Stringfellow Road, and south of and fronting Autumn Willow Drive. A map of the general vicinity in which the property is located is provided below in Figure 1:

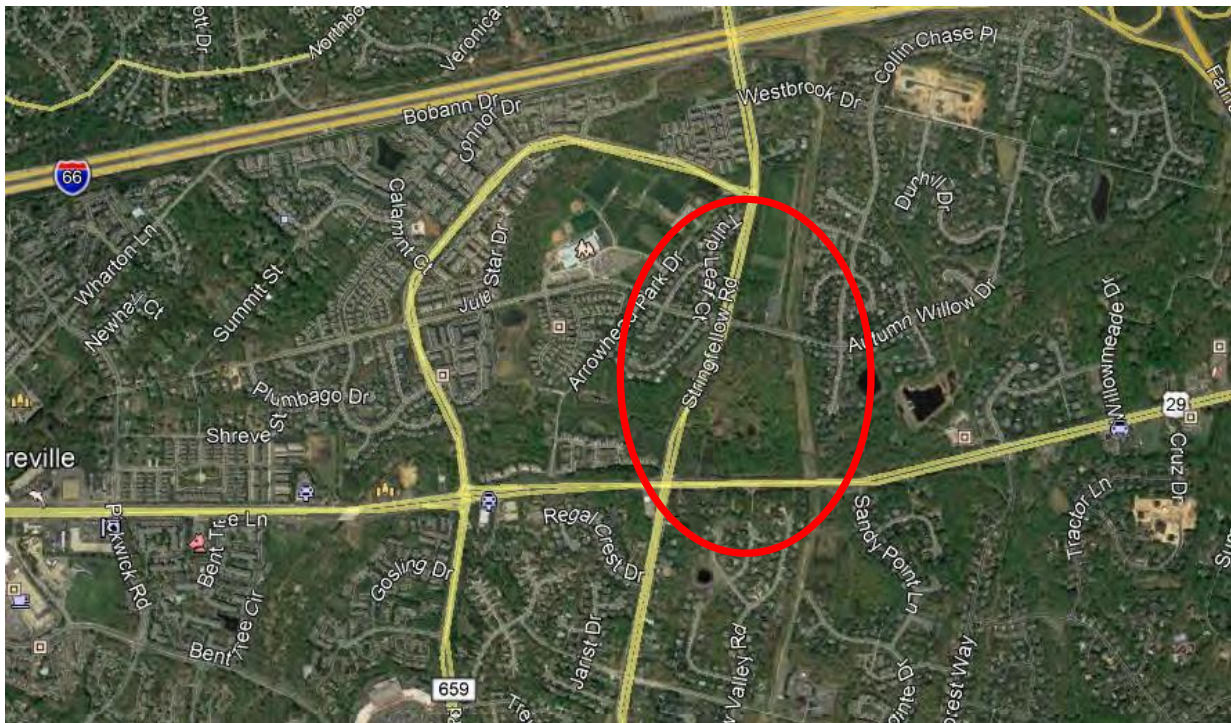


Figure 1: General Vicinity Map

- 1.3. Currently Zoned R-1, the property enjoys excellent access and proximity to Route 29, Route 50, Route 66 and the Fairfax County Parkway. The site is located close to retail and hospital uses as follows:

- 1 mile north of a Giant grocery store
- 1 mile south of Fair Lakes Shopping Center
- 5 miles south of Inova Fair Oaks Hospital
- 3 miles to Wegmans
- 12 miles south of Washington Dulles International Airport (IAD)
- 27 miles west of downtown Washington, D.C., and the Ronald Regan Washington National Airport (DCA)



### Figure 2: Subject Property



- 1.5. A Special Exception is required for the senior independent affordable living use. The proposed zoning action is to combine subject property #0553 01 0026B with the FCPA property #0553 01 0026A and rezone from R-1 to R-2 to allow for an increase in density. The proposed development shall not exceed 150 units. This approach to allowable density was verified with the Fairfax County Department of Planning and Development (DPD) as appropriate. FCPA has confirmed they are willing to be a part of the rezoning application.
- 1.6. Location map, existing zoning graphic, boundary and topographic surveys, phase I environmental site assessment and a geotechnical engineering report are included with this RFP as links to the PDF files on the DPMM solicitation page (<https://www.fairfaxcounty.gov/solicitation/>).

## **2. DEVELOPMENT OBJECTIVES:**

Primary objectives for the development of the Autumn Willow Senior Housing as more fully described in Section 3, Development Criteria, include:

- 2.1. Affordability – Implementation of the County’s mission of creating affordable housing. All residential rental or for-sale units shall be affordable to households earning 60% or less of the Area Median Income (AMI) as established by the United States Department of Housing and Urban Development (HUD).
- 2.2. Design/Development – Demonstration of the highest quality of site planning and design. Create an imaginative, and well-designed community that includes up to 150 multi-family housing units.
- 2.3. Community Outreach – Implementation of a robust community outreach strategy that includes adjacent communities and local advisory groups, associations and committees.
- 2.4. Transaction Structure -- Consideration of a Ground Lease and at no cost to the FCRHA, designing, constructing, owning and operating the residential rental units.
- 2.5. Financing – Economic feasibility for all proposed development of the Autumn Willow site. Any development plan submitted in response to this Request for Proposals must include a financing strategy that mitigates risks associated with changes in capital market conditions and is in keeping with the County’s high standards of credit quality.
- 2.6. Accessibility – Full accessibility of a minimum of ten percent (10%) of all residential units. Universal design features should be incorporated throughout the site.
- 2.7. Offeror Qualifications -- Demonstration of proven experience, financial capacity, and expertise in Federal Low-Income Housing Tax Credit financing, multi-family development and construction, as well as affordable housing development and the management of senior communities.

**3. DEVELOPMENT Criteria**

The following is a more detailed discussion of the Development Objectives identified in Section 2:

**3.1. Affordability**

The development shall create additional senior affordable housing as follows:

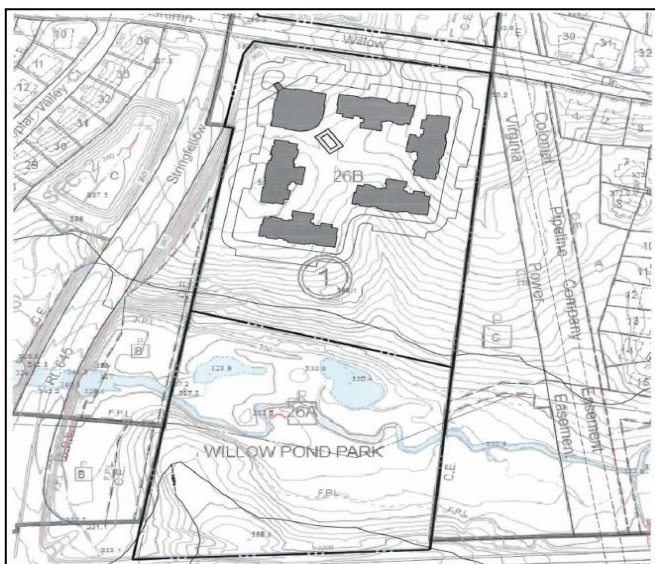
- a. 30% of units shall be affordable to households earning up to 50% of AMI
- b. 70% of units shall be affordable to households earning 60% of AMI up to market rate.
- c. Preference given to offerors that provide a substantial number of units at lower affordability levels beyond the proportions indicated above.
- d. FCRHA reserves the right to negotiate other housing affordability mixes at its discretion.

**3.2. Design/Development**

The FCRHA does not desire to constrain the flexibility of potential respondents in devising innovative approaches which combine high quality - including attractiveness, durability, maintainability and sustainability - with economical design concepts and construction techniques; however, proposals should:

- a. The Autumn Willow Senior Housing facility should incorporate innovative and aesthetically pleasing exterior and interior spaces and design features. The Olley Glen Senior Residences ([https://mafiadoc.com/olley-glen-senior-residences-brochure\\_59c0410f1723dd70109560fc.html](https://mafiadoc.com/olley-glen-senior-residences-brochure_59c0410f1723dd70109560fc.html)) may serve as a representative baseline example of the level of design and quality construction the County desires. The complex consists of 90 independent living units. This facility is comprised of the same uses as contemplated for Autumn Willow.
- b. Be responsive to the preferred design solution of two-story structures; however, the FCRHA reserves the flexibility to negotiate building height depending on neighborhood feedback.
- c. Demonstrate an understanding of the site's opportunities and existing conditions (e.g. underground utilities, external and internal access, trees and topography). A narrative describing and qualifying the developer's conclusions should be submitted as part of the development plan.
- d. Incorporate innovative uses of building heights, building massing and spacing, parking, building materials, and views to enhance the relationship of the facilities to each other and to the adjacent offsite residential and commercial areas.
- e. The proposed development should incorporate sustainable design principles consistent with Fairfax County's Sustainable Design Policy, including use of low impact site development features.

- f. Address transportation improvements, including any proposed or future roadway reconfigurations and/or realignments, if any; pedestrian and vehicular connectivity; permanent parking solutions.
- g. Identify the anticipated impacts that the development will have, if any, on the surrounding neighborhoods and propose appropriate mitigation measures.
- h. Preserve the natural environment of the site, particularly the trees, to the greatest extent possible.
- i. Provide accessible pedestrian connections from all facility entrances to public bus stops and public walkways for the site design.
- j. Incorporate features of universal design and full accessibility in at least 10% of the living units and comply with the accessibility requirements of the governing codes and regulations.
- k. Designed pursuant to the Fairfax County Guidelines for Architects and Engineers (Guidelines), as amended such that the subject facilities are designed to be consistent with the quality of other reasonable compared facilities of similar use. A copy of the Guidelines can be can be viewed and downloaded at the following location:  
[https://www.fairfaxcounty.gov/publicworks/sites/publicworks/files/assets/documents/guidelines/guidelines\\_for\\_architects\\_and\\_engineers.pdf](https://www.fairfaxcounty.gov/publicworks/sites/publicworks/files/assets/documents/guidelines/guidelines_for_architects_and_engineers.pdf).
- l. Subject to County review and approval throughout the design and construction phases as per schedule to be determined for all design and construction documents for the Senior Independent Living Residence area.
- m. Describe how the proposed development shall meet the Comprehensive Plan and the Zoning Ordinance, specifically including the Additional Standards for Special Exception required for Affordable Independent Senior Living.



**Figure 3: Conceptual Layout**



3.3. Community Outreach

All proposals must have a clear and comprehensive community outreach strategy that includes all surrounding communities as well as local community organizations, groups and committees.

3.4. Transaction Structure

- a. It is anticipated that the FCRHA will retain ownership of the land and will provide a long-term unsubordinated Ground Lease to the developer. The annual ground lease payment should reflect market value.
- b. For and in consideration of a long term, nominal fee, ground lease the selected Developer, at no cost to the FCRHA, shall design, construct, own and operate the Senior Independent Living Residence for a period of 99 years.
- c. Throughout the term of the ground lease the Developer and its successors, including any lenders and their successors who may acquire an interest in the property, will be obligated to maintain and operate the project and make all appropriate capital improvements and/or replacements in a first class manner.
- d. Capital repair and replacements shall be made as appropriate to maintain the project in superb condition throughout the term of the ground lease which will also guarantee that when the land reverts to the FCRHA at the end of the ground lease term, the improvements will be in excellent condition.
- e. Upon expiration of the Ground Lease, all buildings and improvements contained within the Ground Lease area shall revert back to the FCRHA; any financing shall be secured only on the ground leasehold interest; there shall be no financing on the FCRHA's fee interest; the agreement shall present no cost or risk to the FCRHA or the County; the Successful Offeror shall be responsible for all engineering, design and zoning and costs thereof including all operating and maintenance costs on any leasehold portion improvements; and, shall incur all risk of development and construction.

3.5. Financing

- a. Offerors shall provide a description of their strategy for financing the initial development and construction as well as the long-term operation of the completed improvements. The financing plan should include at a minimum:
  1. Anticipated financing costs.
  2. Discussion of the risks and benefits of the structure.
  3. How changes in capital market conditions can be accommodated by the proposed financing structure (specifically changes in interest rates and leverage).
  4. Long-term outlook for project financial viability.
  5. Why this strategy is the most advantageous to the FCRHA and the County.

6. timing for execution of financing and financing closure
- b. All proposed development for the Autumn Willow Senior Housing site must be economically feasible. Understanding that there may be many alternatives available, the FCRHA does not wish to constrain the flexibility of Offerors in devising suitable financing plans. For example, possible financing strategies may include, but are not limited to:
  1. Use of privately arranged short term borrowing to be redeemed with permanent financing, including, but not limited to tax-exempt bond financing.
  2. Use of 9% Low Income Housing Tax Credits (LIHTC) available through the Virginia Housing Development Authority, and/or 4% Low Income Housing Tax Credits.
  3. Offerors that propose to utilize the competitive 9% LIHTC must also provide a contingency plan in the event the 9% credits are not obtained.
  4. In the event bond financing is utilized then it will be expected that such financing shall be issued through the FCRHA.

3.6. Accessibility and Services

A minimum of 10% of the units shall be fully accessible, as defined by the Americans with Disabilities Act (ADA). Universal design features are expected to be incorporated to the greatest extent possible.

- a. Developer shall work with and accommodate The Fairfax County Department of Family Services and the Area Agency on Aging to ensure that “enhanced services” are made available to those senior residents who choose to utilize them.
- b. Enhanced services should be offered to residents of Autumn Willow to enable residents to age in place. A plan should be identified for how affordable supportive services will be made available to senior residents and how those services will be coordinated in partnership with community service providers. These services could include but are not limited to language assistance for a diverse senior population, transportation, light to moderate housekeeping support, meals, socialization, wellness programming and access to personal care.
- c. Developer is encouraged to provide proposals that also contemplate providing limited access to such exercise facilities and related amenities as may be provided on-site for seniors aged sixty-two (62) and above living in adjacent communities.

3.7. Offeror Qualifications

Offerors should have proven experience, financial capacity, and expertise in Federal Tax Credit funding mechanisms, multi-family development and construction and affordable housing development and management.

#### 4. **PROPOSALS--Submission Structure and Components**

##### 4.1. General

Proposals should be printed on 8.5 by 11-inch paper and bound into one binder containing both the technical and financial components as described below.

It is the Offeror's responsibility to clearly describe the project it proposes to develop. Offerors are cautioned that organization of their response, as well as thoroughness, is critical to the evaluation process. All forms must be completed legibly and, in their entirety, and all required supplemental information must be furnished and presented in an organized, comprehensive and easy to follow manner.

Proposals may be submitted by mail or delivered in person.

Each Offeror responding to this Request for Proposals is encouraged to supply all the documentation requested herein. Failure to provide documentation with the Offeror's response may result in the disqualification of the Offeror's proposal.

##### 4.2. Technical Component

The Offeror should submit the following information, arranged in the same order and identified with headings as presented herein. This information will be considered the minimum content of the proposal. The Project has not been officially named; however, Offerors may refer to the Project throughout their application materials by the name "Autumn Willow Senior Housing."

###### a. Transmittal Letter

A letter signed by an officer of the development team authorized to make a binding commitment for the Offeror without the consent or joiner of any other party or authority. Transmittal Letter should state that the Proposal is valid for 180 days and that, if selected, the Offeror will negotiate in good faith with Fairfax County.

###### b. Completed Appendix 2.

###### c. Table of Contents

###### d. Executive Summary including all technical and financial information (five pages maximum)

###### e. Development Team Information

###### 1. Development Team Overview and Organizational Structure

Offerors shall provide a company overview for each member of the proposed Development Team. Offerors must identify the lead Developer and the role of each member of the Development Team, as well as the proposed Project Manager and project architect.

Offerors shall provide an organizational chart and narrative description that identifies the proposed team structure, clearly delineating relationships among reporting roles. Summary qualifications of key project staff should be included as well as a description of their role on this project and relevant experience.

2. Past Performance

Offeror's qualifications should demonstrate expertise, financial capacity and proven experience in multi-family residential development, mixed-income / affordable housing development and management, public-private partnerships, and successful procurement of LIHTC funding.

Offerors should provide illustrative materials of recent projects of similar or comparable scope with specific emphasis on multi-family development projects with affordable housing components in the Mid-Atlantic region over the past 10 years. Past Performance examples should include:

- a. Name / address / location of project
- b. Development team members including lead Developer, project architect, general contractor, lender(s) and equity provider(s)
- c. References including names, addresses, telephone numbers and email addresses and a letter authorizing each reference to respond to inquiries regarding the design, financing and development of the project as well as prior projects
- d. Evidence of design excellence and inclusion of sustainable design features
- e. Development scope
  - i. Land area acreage/square feet
  - ii. Square footage of buildings (broken down by product type)
  - iii. Residential unit mix (market rate units, affordable units – indicate AMI thresholds)
  - iv. Parking spaces and orientation (above grade structured, surface, below grade)
  - v. Construction type (high rise, mid-rise, low rise)
- f. Development costs (excluding land costs)
  - i. Total project development costs
  - ii. Hard costs by product type (total and \$ / s.f.)
  - iii. Soft costs
  - iv. Development fees
- g. The sources and amounts of project funding
- h. Development structure – indicated whether the project was a Public-Private Partnership, and if so, Offerors must provide the following information:
  - i. Whether the project was in response to an open solicitation

- ii. Total consideration to the government including but not limited to:
      - a. Land value (initial proposal and final negotiated agreement) – amount, methodology for establishing amount (if applicable), timing of payments
      - b. Affordable housing
      - c. Other public benefits - list and identify the cost of each (i.e. public parking, public facilities, etc.)
    - iii. If the project received public financial assistance, provide the following information:
      - a. Form and structure of public financial assistance (i.e. tax-exempt bonds, below market debt, guarantees and other types of credit enhancement, grants, Tax Increment Financing, Payments In Lieu Of Taxes, etc.)
      - b. Amount of assistance / subsidy
      - c. Timing of assistance – when were the funds contributed (as applicable)
      - d. Initial proposed amount, timing, and terms
      - e. Final negotiated amount, timing, and terms
  - i. Project timeline from initial planning to land acquisition to construction completion and lease up / sale as well as current project status
  - j. Challenges associated with the project
  - k. Statement of how the project compares to the Autumn Willow project
  - l. Any factual measures of success including but not limited to:
    - i. Initial budget vs. final cost
    - ii. Projected Net Operating Income (NOI) for first stabilized year (and projected year) vs. actual stabilized NOI (and actual year of stabilization)
    - iii. Satisfaction of public entity (where applicable, demonstrate through past performance review)
3. Development Overview
- Information should be provided that demonstrates an understanding of the site's opportunities and constraints. This should include at a minimum, the following:
- a. Narrative description of the Offeror's vision for the project
  - b. How the Development Plan addresses each of the goals set forth herein.
  - c. A full description of land areas proposed to be developed.
  - d. Proposed Development Program including residential unit mix with unit count and square footage for each unit type and affordability level by building and/or phase (Complete Appendix A - Development Program Summary Sheet)
  - e. Existing conditions (e.g., infrastructure, utilities, external and internal access, topography).

- f. The anticipated impact that the development will have, if any, on public facilities, public improvements, and the surrounding properties
- g. Detailed description of the design / construction quality of the residential units and overall site / public infrastructure amenities
- h. Identification of costs associated with proposed site / public infrastructure amenities
- i. Proposed planning of infrastructure costs (e.g. proffers, public art, walkways, etc.)

4. Development Plan and Renderings

Offerors should submit a proposed conceptual development plan and building renderings as well as a description of land uses. Additionally, a full color visual of the development plan 24" by 36" in size should accompany the Proposal. The visual must be flat folded and be a maximum of four sheets. The development plan and supporting graphics should portray the layout, the visual character of the proposal design, and the relationship to adjacent properties, as well as a narrative that explains the concept and organizing principle. The plans should also include the following elements:

- a. Location and dimensions of paved surfaces and open space areas
- b. Location of existing and proposed dimensions of parking areas and drive aisles, driveways, curb cuts, easements and rights-of-way, walkways, transit stops, and bicycle parking areas
- c. Pedestrian and vehicular infrastructure improvements; permanent parking solutions; streetscape improvements; and interim parking solutions during the proposed project's construction that result in minimal disruption to residential uses, if any.
- d. Location and description of proposed on-site amenities and recreational areas.
- e. Any proposed road and streetscape improvements.

5. Project Schedule

Offerors should submit a Project schedule, detailing the duration (in number of months) and dates for key milestones beginning at initial selection (assume May 27, 2020) through stabilized occupancy of the completed building. The Project Schedule must clearly distinguish activities and events which are specific to each phase of development if multiple phases are proposed. Offerors must identify the anticipated time required for each governmental approval. The Project Schedule must identify the anticipated dates and outside dates of conveyance for each phase of development (as applicable), timing of payments to the FCRHA. The Project Schedule must address at a minimum, the following:

- a. Concept plan preparation, review and approval by County staff
- b. Development Plan preparation, review and approval by County staff..

- c. Local/state/federal governmental and jurisdictional approvals and actions (zoning, site plan, etc.)
- d. Project financing plan approval
- e. Schematic design, design development and construction drawing preparation and approval
- f. Permitting process
- g. Project construction period
- h. Initial occupancy
- i. Final/stabilized occupancy

6. Community and Stakeholder Outreach Strategy

Each Offeror must describe their understanding and approach to soliciting feedback and obtaining support from the County, FCRHA, community groups and key stakeholders.

The contractor shall be responsible for all aspects of community and stakeholder outreach including the development of presentation materials, meeting schedule and scheduling, meeting logistics.

The community and stakeholder outreach strategy should address:

- a. Sequential steps required to create a successful Development
- b. Milestones and key decision points
- c. Projected frequency of meetings/presentations between the Developer and:
  - i. County Staff
  - ii. Task Force / Advisory groups, if any
  - iii. Public Meetings, Public Presentations, and Public Hearings
- d. Anticipated use of outside consultants, as needed (expenses related to outside consultants will be the sole responsibility of the selected Developer)

7. Requested Statements

Offerors should submit statements for the following:

- a. The Project will conform to all applicable federal, state, and local laws, regulations and ordinances including all federal and relevant local environmental regulations.
- b. Identify the past, current or anticipated contractual or financial relationship of any member of the Development Team (including, but not limited to, the Developer partners or co-ventures) with Fairfax County. The Development Team must also disclose any contractual or financial relationship which may give the appearance of a conflict of interest.

- c. Describe the Developer's contact with Fairfax County regulatory staff (representatives' names and meeting dates) and the views and representations of the Fairfax County regulatory staff regarding the Project including any existing or anticipated permitting or zoning issues or concerns.

8. Additional Information

Any other information to assist the FCRHA and Fairfax County in its evaluation of the Proposal including a statement of why the FCRHA and Fairfax County should select the Offeror and its Development Team.

4.3. Financial Component

The Offeror must submit the following information, arranged in the same order and identified with headings as presented herein. This information will be considered the minimum content of the Financial component content.

1. Proposed consideration to the FCRHA including but not limited to:

- a. Non-contingent fixed payments to the FCRHA.
  - i. Amount of each payment
  - ii. Timing of each payment expressed as number of months following conveyance of the Property
- b. Other direct payments to the FCRHA (please provide description)
- c. Other public benefits (Please provide description)

2. Financial Plan and Transactional Instruments

Offerors shall provide a description of its strategy for financing the project on a long-term basis including anticipated financing costs, discussion of the risks and benefits of the structure, long term outlook for project financial viability, and why this strategy is the most advantageous to the FCRHA and the County. Proposals will address timing for execution of financing, and financing closure.

Since a ground lease is contemplated for the multi-family development, upon expiration of the ground lease, all buildings and improvements contained in the ground lease area shall revert back to the FCRHA. Any such proposal must address and demonstrate that any financing shall be secured only on the ground leasehold interest; there shall be no financing on the FCRHA's fee interest; the agreement shall present no cost or risk to the FCRHA or to the County.

Offerors that propose to utilize the competitive 9% Low Income Housing Tax Credits (LIHTC) must also provide a contingency plan in the event the 9% credits are not obtained.

3. Project Pro Forma

All financial models must be submitted to Fairfax County on CD as well as hard copy. Offerors must provide a complete project pro forma model in a single Microsoft Excel file ("Offeror Pro Forma(s)"). The Offeror Pro Formas must detail the development scope, project financing, operating projections and



capital events for all phases. All Offeror Pro Forms must be dynamic with fully functioning linked formulas. Offerors shall limit hard coding to assumption inputs only which should be identified by blue text. The County may wish to perform sensitivity analyses on various assumptions within Offeror Pro Forms, therefore all formulas should be properly linked to hard coded assumptions.

The pro forma should include a cash flow statement detailing the pre-development, construction and operating period cash flows from project commencement through stabilization on a monthly basis including but not limited to:

- a. development costs
- b. ground rent payments to the County
- c. project funding draws
- d. rental or sales revenue
- e. operating expenses
- f. NOI
- g. debt service
- h. proceeds from sale or refinancing
- i. net cash flow available for distribution
- j. return on equity

All fees and income that the Developer, its partners and affiliates receive from the Project should be clearly shown and by product type. For residential rental units, the submission should include an absorption and lease-up schedule detailing the estimated absorption time.

4. Tax Impact

Offerors should provide a detailed financial analysis of the Project's impact on the tax base of Fairfax County, including a detailed calculation of the projected annual property taxes, sales taxes, fees and contributions and other local public income. (Note that a comprehensive financial analysis will occur during negotiations with the County. The Selected Developer will be required to update the financial analysis to reflect the Project approved by the FCRHA.)

5. Historical Financials

Copies of Developer's audited financial statements for the past three fiscal years.

6. Financial Qualifications

Offerors should provide statements regarding the Developer's financial creditworthiness and past development experience which can be verified, including the names and addresses of at least three (3) commercial or institutional credit references and a letter authorizing each credit reference to respond to inquiries from Fairfax County. At least two (2) of the references should be lending institutions.

DEVELOPMENT PROGRAM SUMMARY SHEET (by Building / Phase)	
<b>DEVELOPMENT SCOPE</b>	<b>SCOPE</b>
Building GSF	
Building NSF	
Unit Count: 30% AMI Units	
Unit Count: 50% AMI Units	
Unit Count: 60% AMI Units	
Unit Count: Other (please specify)	
Unit Count: Market Rate Units	
Unit Count: Total Units	
Parking Spaces: Surface	
Parking Spaces: Above Grade	
<b>DEVELOPMENT COSTS</b>	<b>COSTS</b>
Hard Costs	
Site work (\$ / GSF)	
Infrastructure (\$ / GSF)	
Base Building (\$ / GSF excluding Parking)	
Interiors (\$ / GSF)	
Parking Spaces: Above Grade (\$ / space)	
Other Hard Costs (add lines as necessary)	
Hard Cost Contingency (\$ / GSF)	
Total Hard Costs (\$ / GSF and \$ / unit)	
Soft Costs (\$ / GSF)	
Soft Cost Contingency (\$ / GSF)	
Development Fees (\$ / GSF)	
Construction Interest / Capitalized Interest (\$ / GSF)	
Other Financing Costs (\$ / GSF)	
Other Development Costs (\$ / GSF)	
Total Development Costs (\$ / GSF and \$ / unit)	
<b>PROJECT FINANCING</b>	<b>FINANCING</b>
Debt	
Equity	

LIHTC Equity	
Other Sources (specify)	
Total Project Sources	
<b>OPERATING / SALES ASSUMPTIONS (2013 \$'s)</b>	<b>ASSUMPTIONS</b>
Rental Rate: 30% AMI Units (\$ / RSF)	
Rental Rate: 50% AMI Units (\$ / RSF)	
Rental Rate: 60% AMI Units (\$ / RSF)	
Rental Rate: WDU Units (\$ / RSF)	
Operating Expenses (\$ / RSF)	
NOI	
<b>PROJECT RETURNS</b>	<b>RETURNS</b>
Going-In Cap Rate (NOI 2013 \$'s / Total Development Cost)	
Leveraged IRR	

#### Residential Unit Matrix

Unit Type - BDRM / BA (add lines as necessary)	Multi-family Units	
	# of Units	Unit Size (RSF)
Unit Type 1 (indicate AMI threshold)		
Unit Type 2 (indicate AMI threshold)		
Unit Type 3 (indicate AMI threshold)		
Unit Type 4 (indicate AMI threshold)		
Unit Type 5 (indicate AMI threshold)		
Unit Type 6 (indicate AMI threshold)		
Unit Type 7 (indicate AMI threshold)		
Unit Type 8 (indicate AMI threshold)		
Unit Type 9 (indicate AMI threshold)		
Unit Type 10 (indicate AMI threshold)		
Add lines for other Unit Types as necessary		