

**Open Solicitation Plan
For
Open Solicitation #1049652
Delivery of Meals to Seniors in Adult Day Care**

As required by Montgomery County Procurement Regulations, Code of Montgomery County Regulations (COMCOR), Section 11B.00.01, et seq., Section 4.1.6.3 (a), the Department of Health and Human Services (DHHS)/Aging and Disability Services is submitting this Open Solicitation Plan for approval by the Director, Office of Procurement, Montgomery County, Maryland.

Section 4.1.6.3 Procedure

- (1) Public Notice – Notice for this solicitation will be posted on the Montgomery County (“County”), Office of Procurement website. Additionally, DHHS will send a copy of the notice to current providers under Open Solicitation #4645014007 whose contracts will be replaced with those awarded under this Open Solicitation.
- (2) Application Process – All providers who are interested in applying to provide the service may download a solicitation packet at <http://www.montgomerycountymd.gov/HHS-program/coo/contractmgmt/cmtcursolicits.html>. The solicitation packet includes the following: 1) the Notice to Vendors that summarizes this Open Solicitation; 2) the Instructions, Minimum Qualifications, and Submissions document for this Open Solicitation; 3) the Application/ Vendor Information Form (Attachment B to the Pre-Approved Contract); and 4) the Pre-Approved Form Contract including the Scope of Services and General Conditions of Contract Between County and Contractor, and all other attachments. Applicants must sign the Application/Vendor Information Form stating that they have received the solicitation packet and understand the requirements of this Open Solicitation, including submission of all required documents described under the Instructions, Minimum Qualifications, and Submission document of this Open Solicitation.
- (3) Criteria for accepting or rejecting applications – The solicitation packet contains the minimum requirements that applicants must meet. Applications will be reviewed by DHHS staff for acceptance or rejection, based on the minimum requirements.

All applicants meeting the minimum qualifications listed in the Instructions, Minimum Qualifications and Submission document of the Open Solicitation will be eligible to receive a Contract to provide the services described in the Open Solicitation. The County makes no guarantee that any single Contractor will receive referrals or serve clients under a Contract resulting from this Open Solicitation.

- (4) Pre-Approved Form Contract – Applicants will be required to execute a Contract with the County using the Pre-Approved Form Contract, including the General Conditions of Contract Between County and Contractor (“General Conditions”) (Attachment A) and all attachments, **without modification**.
- (5) Cost – The cost of Contracts will not exceed available appropriations. Prior to encumbrance of funds for Contracts awarded under this Open Solicitation, the total available appropriation for the Contracts will be verified by DHHS. Funds will be encumbered under Contracts for Delivery of Meals to Seniors in Adult Day Care via a Purchase Order. The County’s Senior Nutrition Program will monitor expenditures for each executed Contract against the Purchase Order and any subsequent delivery orders that the Office of Procurement authorizes.
- (6) Cancellation – The County reserves the option to cancel this Open Solicitation at any time. Award of a Contract under this Open Solicitation is subject to fiscal appropriations made by the County Council and the encumbrance of such appropriated funds.

NOTICE TO VENDORS
OPEN SOLICITATION # 1049652
Delivery of Meals to Seniors in Adult Day Care

Montgomery County, Maryland, through its Department of Health and Human Services (the "County" or "DHHS") Senior Nutrition Program, is seeking applications from qualified, experienced, and competent licensed non-profit Adult Day Care (ADC) programs to provide nutritious meals for senior adults in Montgomery County. The County wishes to continue its promotion of better health for seniors through improved nutrition and wishes to reduce isolation by fostering socialization in settings in which older adults can obtain other supportive services, such as nutrition education and physical fitness activities.

All Applicants must meet the County's mandatory insurance requirements as defined under this solicitation and must provide insurance certificates to the County which reflects compliance with the mandatory insurance requirements. Applicants must operate a non-profit ADC program in Montgomery County, Maryland which complies with State of Maryland and local laws and regulations, and must have a current license issued by the Maryland Department of Health and Mental Hygiene (DHMH) authorizing them to operate as an ADC program. Applicants must also have a Food Service Facility License issued by the Montgomery County Department of Health and Human Services, Division of Licensing and Regulatory Services. All applicants must make provisions for serving persons with disabilities, in accordance with Maryland Department of Aging (MDoA) policies and the federal Americans with Disabilities Act.

Applicants must have the capacity to provide meals that meet the Meal Requirements listed in Attachment C to the Pre-Approved Form Contract, which is included in the Open Solicitation packet. Attachment C complies with requirements mandated by the Maryland Department of Aging (MDoA) and may be updated from time to time. If the County decides to modify Attachment C, a copy of the revised Attachment C will be provided to the Contractor by program staff and Contractor must comply with the most current version of Attachment C provided by County program staff.

Applicants must also have the capacity to provide activities for senior adults which include, but are not limited to, nutrition education activities at least twice per year, physical fitness activities daily, and other activities designed to meet the needs of senior adults.

Applicants must have the capacity to provide a mechanism by which participants can make voluntary financial contributions for meals provided under this Contract. The Contractor must collect any such contributions from participants and forward the contributions to the County within ten (10) calendar days after the close of each month. Applicants must also have the capacity to provide the required records and reports as described in Article III Records and Reports of the Pre-Approved Form Contract. Applicants must submit these materials to the County within ten (10) calendar days after the close of each month.

The County makes no guarantee that any single provider will serve clients under a Contract resulting from this Open Solicitation and makes no guarantee that any Contractor will receive a minimum number of clients per month. Award of a Contract under this Open Solicitation is subject to the appropriation and encumbrance of funding for the purposes described in this Open Solicitation. These services are to be consumer-driven, in that Contractors will be placed on a list of current providers of meals for seniors in non-profit adult day care programs and consumers choose the adult day care based on personal preference, openings available in the adult day care program, location/geographical accessibility, transportation availability, and cultural capability, including language capability of the adult day care program.

The compensation for services provided under Contracts resulting from this Open Solicitation will be per meals provided, as detailed in the attached Pre-Approved Form Contract. These rates will be established for the Contractor by the DHHS and will be based on the funding received by the County through the federal Older Americans Act of 1965, as amended November 13, 2000, the major funding source for the County's Senior Nutrition Program, as well as overall service needs of the Senior Nutrition Program. Contractors must invoice the County for services rendered on a monthly basis. ***The County will not compensate Contractors for meals provided to persons for whom the Contractor receives Medicaid funding or other federal or state reimbursement.*** The County will compensate Contractors only for meals which conform to the County's meal requirements as set forth in Attachment C of the Pre-Approved Form Contract.

The County will compensate the Contractor on a fixed per-meal rate basis. The County will establish the per-meal rate for each federal fiscal year based on the availability of funds, the number of meals to be served, and the data provided on the Components of Meal Cost forms submitted by the Contractors under this Open Solicitation. For the fiscal year that runs through September 30, 2016, the per-meal rate will be \$5.00. For subsequent fiscal years, the County may revise the per-meal rate based on the factors mentioned above. If the County revises the per-meal rate, the County will set forth the new rate on a Meal Rate Schedule for this Open Solicitation which will be posted on the DHHS website at <http://www.montgomerycountymd.gov/HHS-program/coo/contractmgmt/cmtcursolicits.html>. The Contractor is responsible for checking the website listed above at the beginning of each federal fiscal year (beginning October 1) to obtain a copy of the current Meal Rate Schedule. A purchase order will be issued to the Contractor for each fiscal year the Contract is in effect. The County will compensate the Contractor only up to the amount stated in the purchase order. The maximum amount payable under this Contract for each fiscal year must not exceed the total amount shown on the purchase order(s) for that fiscal year. The Contractor is responsible for monitoring the balance of their purchase order based on the amount allocated minus the amounts invoiced.

Questions relating to the technical information required in this open solicitation should be directed to Melanie Polk, Director, Senior Nutrition Program, at 240-777-3053. All other questions (e.g., application process, insurance, contract execution) may be directed to Lisa M. Colburn, Senior Contract Manager, at 240-777-1163.

The County reserves the right to cancel this Open Solicitation at any time.

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INSTRUCTIONS, MINIMUM QUALIFICATIONS, AND SUBMISSION DOCUMENTS
OPEN SOLICITATION #1049652
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The County will enter into a Contract with all applicants who meet the minimum qualifications as described in Item I, Minimum Requirements, below, and are found to be a responsible organization. The County will sign the Pre-Approved Form Contract and return a copy to the applicant. The Pre-Approved Form Contract including the Signature Page, and Attachments A, B, C, D, E, F, and G will constitute the entire Contract. The applicant must sign the Pre-Approved Form Contract which includes the General Conditions of Contract Between County and Contractor, and all other Attachments, as written, with **no modifications**. Please keep a copy of the entire Open Solicitation packet for your records. *Applicants are strongly encouraged to carefully review all of the documents and information provided before completing and returning the packet.* **Incomplete applications will not be processed.**

Questions relating to the technical information required in this open solicitation should be directed to Melanie Polk, Director, Senior Nutrition Program, at 240-777-3053. All other questions (e.g., application process, insurance, Contract execution) may be directed to Lisa M. Colburn, Senior Contract Manager, at 240-777-1163.

I. MINIMUM REQUIREMENTS

The **minimum qualifications** for this Open Solicitation are as follows:

- A. Applicants must meet the County's mandatory insurance requirements as defined under this solicitation and must provide insurance certificates to the County which show coverage reflecting the mandatory insurance requirements.
- B. Applicants must operate a non-profit Adult Day Care (ADC) program in Montgomery County, Maryland which complies with State of Maryland and local laws and regulations.
- C. Applicants must have a current license issued by the Maryland Department of Health and Mental Hygiene (DHMH) authorizing the organization to operate as an ADC program.
- D. Applicants must have a current Food Service Facility License issued by DHHS, Division of Licensing and Regulatory Services.
- E. Applicants must make provisions for serving persons with disabilities, in accordance with MDoA policies and the federal Americans with Disabilities Act (ADA).
- F. Applicants must have the capacity to provide meals that meet the Meal Requirements listed in Attachment C to the Pre-Approved Form Contract, included in the Open Solicitation packet. Attachment C complies with requirements mandated by the MDoA. If the MDoA modifies its meal requirements in any way throughout the term of a Contract resulting from Open Solicitation #1049652, the County reserves the right to modify Attachment C accordingly.

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- G. Applicants must have the capacity to provide activities for senior adults that include, but are not limited to, nutrition education activities at least twice per year; physical fitness activities daily; and other activities designed to meet the needs of senior adults.
- H. Applicants must have the capacity to provide a mechanism by which program participants can make voluntary financial contributions for meals provided under this Contract. Subsequently, the Contractor must collect and track any such contributions from participants, and must forward the contributions to the County within ten (10) calendar days after the close of each month.
- I. Applicants must have the capacity to provide the required records and reports described in Article III Reports and Records of the Pre-Approved Form Contract. Applicants must submit these materials to the County within ten (10) calendar days after the close of each month.

II. MANDATORY SUBMISSION DOCUMENTS

The following **mandatory submission documents** that must be provided in response to this Open Solicitation are as follows:

- A. **Narrative Document**
Each applicant must submit a description of its organization's experience with operating a non-profit ADC program, to include the provision of meals and other activities (nutrition education, physical fitness, etc.) for senior adults. This information must be provided in no more than **five (5) double-spaced typewritten pages** and must be attached to the application. Each narrative must adequately describe the applicant's ability to meet **all** of the minimum qualifications described in this Open Solicitation.
- B. **Insurance**
Applicants must submit Certificate(s) of Insurance – that provide evidence of meeting the insurance requirements set forth in Article VII, General Conditions and Insurance, of the Pre-Approved Form Contract. Please contact your insurance broker to obtain the correct Certificate.
- C. **Licenses**
Applicants must submit copies of any licenses required in the minimum qualifications section above. The applicants must keep these licenses current, update the copies submitted with this application as needed, and notify the County immediately of suspension, revocation, or any other licensing problems.
- D. **Pre-Approved Form Contract**
The Pre-Approved Form Contract must be filled out and submitted following these steps:
 - 1. Sign the Form Contract – If the applicant is a corporation, an officer of the corporation with authority to sign contracts for the corporation must sign the Form Contract.

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2. ***Do not put a date in the paragraph at the top of the signature page. Enter a date only in the signature block.***
3. Submit **all** the pages of the Form Contract (not just the signature page).
- E. If the applicant is a corporate entity, provide the applicant's Articles of Incorporation along with any amendments.
- F. W-9 Tax form or copy of Social Security Card, if Sole Proprietorship.
- G. Proof of Good Standing with the State of Maryland Department of Assessments and Taxation Business Services (<http://sdat.resiusa.org/ucc-charter/default.aspx>).
- H. Provide a copy of the applicant's Not-For-Profit Letter of Determination from the IRS.
- I. The following attachments are required and must be completed if applicable and returned with your application packet or the application may be rejected:
 1. Attachment A: PMMD45 General Conditions of Contract Between County & Contractor - ("General Conditions") is included with the solicitation packet as Attachment A. The County's General Conditions will be attached to any Contract that results from this Open Solicitation and includes terms and conditions that the County requires of contractors;
 2. Attachment B: Application/Vendor Information Form. Please complete the Application/Vendor Information Form in its entirety. Applicants must check off profit, non-profit, or sole proprietorship designation;
 3. Attachment F: PMMD91 Minority-Owned Business Addendum to General Conditions of Contract Between County and Contractor;
 4. Attachment G: Business Associate Agreement;
 5. Attachment H: PMMD65 Rev. 06/15 Minority, Female, Disabled (MFD) Person Subcontractor Performance Plan. Please submit your MFD plan or request a waiver¹;
 6. Attachment I: PMMD90 Minority Business Program & Offeror's Representation.

¹If you have questions or need assistance in completing Attachment H - MFD Subcontractor Performance Plan or need assistance in requesting a waiver, please contact Al Boss at 240-777-9912.

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I. BACKGROUND/INTENT

- A. Montgomery County, Maryland through its Department of Health and Human Services (the County or DHHS) Senior Nutrition Program (SNP), is seeking applications from qualified, experienced, and competent licensed non-profit adult day care (ADC) programs to provide nutritious meals for senior adults in Montgomery County. The County wishes to continue its promotion of better health for seniors through improved nutrition and wishes to reduce isolation by fostering socialization in settings in which older adults can obtain other supportive services, such as nutrition education and physical fitness activities.
- B. The County's Senior Nutrition Program is administered under policies and procedures of the Maryland Department of Aging (MDoA) and is funded under the federal Older Americans Act of 1965 as amended November 13, 2000. The Senior Nutrition Program works with public and private partners to provide nutrition services for older adults.

II. SCOPE OF SERVICES

- A. The Contractor must operate a licensed, non-profit Adult Day Care (ADC) program in Montgomery County, Maryland, to serve persons with disabilities which complies with State of Maryland and local regulations. The Contractor must have and maintain for the term of this Contract, and any subsequent renewal terms, a current license issued by the Maryland Department of Health and Mental Hygiene (DHMH) to operate as an ADC program.
- B. The Contractor must have the capacity to provide lunch meals which meet the current Meal Requirements.
- C. The Contractor must have and maintain, throughout the term of this Contract and any subsequent renewal terms, a Food Service Facility License issued by DHHS, Division of Licensing and Regulatory Services.
- D. The Contractor must make provisions for serving persons with disabilities under this Contract in accordance with MDoA policies and the Federal Americans with Disabilities Act (ADA).
- E. The Contractor must provide meals to adult day care clients who are aged 60 years and older and the spouses of these clients (of any age) if they accompany the clients ("qualified participants") to the ADC program. All of the meals provided under this Contract must meet the meal requirements listed in the document titled "Meal Requirements", which is included as Attachment C to this Contract. Attachment C complies with requirements mandated by the MDoA. If the MDoA modifies its meal requirements in any way throughout the term of this Contract, the County reserves the right to modify Attachment C accordingly. The County will compensate the Contractor *only* for meals served which conform to the meal requirements listed in Attachment C. *(To ensure that compensation will be paid for meals provided, the Contractor must submit menus to the County's Contract Monitor for approval prior to using them. The Contractor must submit menus on a monthly basis by the 15th of the month for meal to be provided in the following month).*

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- F. **Effective January 1, 2016**, use only compostable or recyclable food service products, in accordance with the Montgomery County ban on the use of polystyrene foam.

- G. The County will compensate the Contractor only for meals served to ADC clients who are age 60 years and older and the spouses of these clients (of any age) if they accompany the clients to the ADC program. The County will not compensate the Contractor for meals served to persons for whom the Contractor receives Medicaid or other federal or state reimbursement.

- H. The Contractor must provide activities for the senior adults at the ADC program which include but are not limited to:
 - 1. Evidence based nutrition education services a minimum of two (2) times per contract year;
 - 2. Daily physical fitness activities; and
 - 3. Other activities designed to meet the needs of senior adults.

- I. The Contractor must provide a mechanism for participants to make voluntary financial contributions for meals provided under this Contract. The Contractor must collect any such contributions, must keep records of them, and must submit contributions and records of contributions to the County within ten (10) calendar days after the close of each month, as indicated in Article III, Records and Reports, Paragraph B of this Contract.

III. RECORDS AND REPORTS

- A. The Contractor must complete a Participant Registration/Nutrition Checklist form using the form attached to this Contract as Attachment D for each qualified participant who receives one or more meals under this Contract. The Contractor must complete this form on the first day of a person's participation and must submit this form to the County within ten (10) calendar days after the close of each month, as indicated in Article III, Records and Reports, Paragraph B.

- B. The Contractor must submit the following records/reports to the County within ten (10) calendar days after the close of each month, for services provided during the month: Participant Registration/Nutrition Checklist forms (Attachment D); a list of participants' names and number of meals served to each participant; menus for each meal served; a list of any health-promotion activities provided during the month (Attachment E, Nutrition Education Form); and any participants' financial contributions for meals provided, including a records of contributions received.

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IV. COMPENSATION

The County will compensate the Contractor based on the number of meals provided on a monthly basis under this Contract to adult day care clients who are 60 years of age and older and the spouses of these clients (of any age) if they accompany the clients to the ADC program. The County will compensate the Contractor on a fixed rate basis, per meals provided. This fixed rate is based upon the funding received by the County through the federal Older Americans Act of 1965, as amended November 13, 2000, the major funding source for the

County's Senior Nutrition Program, and is also based on overall service needs of the SNP. For the fiscal year that runs through September 30, 2016, the per-meal rate will be \$5.00. For subsequent fiscal years, the County may revise the per-meal rate based on the factors mentioned above. If the County revises the per-meal rate, the County will set forth the new rate on a Meal Rate Schedule for this Open Solicitation which will be posted on the DHHS website at <http://www.montgomerycountymd.gov/HHS-program/coo/contractmgmt/cmtcursolicits.html>. The Contractor is responsible for checking the website listed above at the beginning of each federal fiscal year (beginning October 1) to obtain a copy of the current Meal Rate Schedule. A purchase order will be issued to the Contractor for each fiscal year the Contract is in effect. The County will compensate the Contractor only up to the amount stated in the purchase order. The maximum amount payable under this Contract for each fiscal year must not exceed the total amount shown on the purchase order(s) for that fiscal year. The Contractor is responsible for monitoring the balance of their purchase order based on the amount allocated minus the amounts invoiced. A fiscal year for this Contract begins on October 1st and expires on the following September 30th. The Contractor must not exceed, and the County will not compensate the Contractor for services provided in excess of the purchase order amount. Compensation under this Contract is subject to the Contractor's menu, participant eligibility, and alternate reimbursement restrictions stated in Article II, D and E above.

V. INVOICES

The Contractor must submit monthly invoices to the County, in a format approved by the County, within ten (10) calendar days after the close of each month. The Contractor must submit supporting documentation, to include the required records and reports as described in Article III, Records and Reports, Paragraph B of this Contract, with each invoice submitted. All payments of invoices under this Contract are subject to County approval and acceptance prior to payment. The County will make payment on approved invoices within thirty (30) days of the County's receipt, acceptance and approval of the Contractor's invoice and supporting documentation, including all required reports.

VI. TERM

This Contract is entered into on the date of signature by the County's Director, Office of Procurement, and will be for a period ending on the second September 30th following the effective date of the Contract. Before the Contract term ends, and subject to fiscal appropriations, the Director may (but is not required to) renew this Contract, if the Director determines that renewal is in the best interests of the County. Contractor's satisfactory performance does not guarantee renewal of this Contract. The County shall have the option to extend this Contract for two (2) additional two-year terms.

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VII. GENERAL CONDITIONS AND INSURANCE

The attached General Conditions of Contract between County and Contractor are incorporated by reference and made part of this Contract as Attachment A. The following insurance requirements supersede those outlined in the General Conditions:

MANDATORY MINIMUM INSURANCE REQUIREMENTS

Prior to the execution of the contract by the County, the Contractor must obtain, at their own cost and expense, the *minimum* following insurance coverage with an insurance company/companies licensed to conduct business in the State of Maryland and acceptable to the Division of Risk Management. This insurance must be kept in full force and effect during the term of this contract, including all extensions. The insurance must be evidenced by a certificate of insurance, and if requested by the County, the Contractor shall provide a copy of the insurance policies and additional insured endorsements. The minimum limits of coverage listed below shall not be construed as a limitation of any potential liability on the part of the Contractor to the County nor shall failure to request evidence of this insurance in any way be construed as a waiver of Contractor's obligation to provide the insurance coverage specified. The Contractor's insurance shall be primary. Subject to applicable law, the insurance companies providing insurance coverage, as referenced in this agreement, may not limit coverage to their insured, or the County as an additional insured, to stated minimum amount(s) of insurance referenced in this contract/agreement.

Commercial General Liability

A minimum limit of liability of **one million dollars (\$1,000,000)**, combined single limit, for bodily injury and property damage coverage per occurrence including the following coverages:

Contractual Liability
Premises and Operations
Independent Contractors
Products and Completed Operations

Worker's Compensation/Employer's Liability

Meeting all statutory requirements of the State of Maryland Law and with the following minimum Employers' Liability limits:

Bodily Injury by Accident - \$100,000 each accident
Bodily Injury by Disease - \$500,000 policy limits
Bodily Injury by Disease - \$100,000 each employee

Additional Insured

Montgomery County, Maryland, its elected and appointed officials, officers, consultants, agents and employees must be included as an additional insured on Contractor's Commercial and Excess/Umbrella Insurance for liability arising out of contractor's products, goods and services provided under this contract. The Additional Insured endorsements shall have no added exclusions or limitations of coverage to limits of liability contractually required; or percentage of negligence attributed to the named insured. The stipulated limits of coverage above shall not be construed as a limitation of any potential liability to Customer and failure to request evidence of this insurance shall in no way be construed as a waiver of Contractor's obligation to provide the insurance coverage specified.

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Policy Cancellation

Should any of the above policies be cancelled before the expiration date thereof, written notice must be delivered to the County in accordance with the policy provisions.

Certificate Holder

Montgomery County, Maryland
Department of Health and Human Services/CMT
401 Hungerford Drive, Sixth Floor
Rockville, Maryland 20850

VIII. BUSINESS ASSOCIATE AGREEMENT

The Contractor must sign and comply with the County's Business Associate Agreement which is incorporated by reference and made a part of this Contract as Attachment G.

IX. PRIORITY OF DOCUMENTS

The following documents are incorporated by reference and made a part of the Contract and are listed in the following order precedence in the event of a conflict in their terms:

1. This Contract Document;
2. The General Conditions of Contract Between County and Contractor (Attachment A), and the Minority-Owned Business Addendum to General Conditions of Contract Between County and Contractor (Attachment F);
3. Application/Vendor Information Form (Attachment B);
4. Maryland Department of Aging Senior Nutrition Program Menu Policies (Attachment C);
5. Participant Registration Form (Attachment D);
6. Nutrition Education Form (Attachment E); and
7. The Business Associate Agreement (Attachment G).

SIGNATURE PAGE FOLLOWS

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This Contract, which incorporates the Application/Vendor Information Form, the Open Solicitation with its Pre-Approved Form Contract, Signature Page, General Conditions of Contract between County and Contractor (Attachment A), and Attachments B, C, D, E, F and G copies of which have been provided to the Contractor, is entered into by and between _____, the "Contractor" and Montgomery County, Maryland, (the "County"). This Contract is entered into the date of signature by the Director, Office of Procurement, and will become effective on _____, by signature of the Director, Office of Procurement. This Contract and any renewals or extensions of this Contract are subject to the appropriation of funds.

Part A: Contractor's Offer to Provide Services:

(Prospective Contractor Must Complete)

Contracting Corporation, Partnership
Limited Liability Company OR
Proprietorship

Agency Name

Signature

Typed

Title

Date

Part B. County Acceptance

MONTGOMERY COUNTY, MARYLAND

Cherri Branson, Director
Office of Procurement

Date

RECOMMENDATION

Uma S. Ahluwalia, Director
Department of Health and Human Services

Date

THIS FORM HAS BEEN APPROVED AS
TO FORM AND LEGALITY BY THE
OFFICE OF THE COUNTY ATTORNEY.

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ATTACHMENT A
GENERAL CONDITIONS OF CONTRACT BETWEEN COUNTY & CONTRACTOR

1. ACCOUNTING SYSTEM AND AUDIT, ACCURATE INFORMATION

The contractor certifies that all information the contractor has provided or will provide to the County is true and correct and can be relied upon by the County in awarding, modifying, making payments, or taking any other action with respect to this contract including resolving claims and disputes. Any false or misleading information is a ground for the County to terminate this contract for cause and to pursue any other appropriate remedy. The contractor certifies that the contractor's accounting system conforms with generally accepted accounting principles, is sufficient to comply with the contract's budgetary and financial obligations, and is sufficient to produce reliable financial information.

The County may examine the contractor's and any first-tier subcontractor's records to determine and verify compliance with the contract and to resolve or decide any claim or dispute arising under this contract. The contractor and any first-tier subcontractor must grant the County access to these records at all reasonable times during the contract term and for 3 years after final payment. If the contract is supported to any extent with federal or state funds, the appropriate federal or state authorities may also examine these records. The contractor must include the preceding language of this paragraph in all first-tier subcontracts.

2. AMERICANS WITH DISABILITIES ACT

The contractor agrees to comply with the nondiscrimination requirements of Titles II and III, and other provisions, of the Americans with Disabilities Act of 1990, Pub. Law 101-336, and ADA Amendments Act of 2008, Pub. Law 110-325, as amended, currently found at 42 U.S.C., § 12101, et seq., and 47 U.S.C., ch. 5.

3. APPLICABLE LAWS

This contract must be construed in accordance with the laws and regulations of Maryland and Montgomery County. The Montgomery County Procurement Regulations are incorporated by reference into, and made a part of, this contract. In the case of any inconsistency between this contract and the Procurement Regulations, the Procurement Regulations govern. The contractor must, without additional cost to the County, pay any necessary fees and charges, obtain any necessary licenses and permits, and comply with applicable federal, state and local laws, codes and regulations. For purposes of litigation involving this contract, except for contract Disputes discussed in paragraph 8 below, exclusive venue and jurisdiction must be in the Circuit Court for Montgomery County, Maryland or in the District Court of Maryland for Montgomery County.

The prevailing wage law (County Code §11B-33C) applies to construction contracts. Specifically, under County law, a County financed construction contract is subject to the Montgomery County Code regarding compliance with the prevailing wage paid to construction workers, as established for the County by the Maryland State Commissioner of Labor and Industry. Additional information regarding the County's prevailing wage requirements is contained within this solicitation/contract (see the provision entitled "Prevailing Wage Requirements for Construction Contract Addendum to the General Conditions of Contract between County and Contractor").

Furthermore, certain non-profit and governmental entities may purchase supplies and services, similar in scope of work and compensation amounts provided for in a County contract, using their own contract and procurement laws and regulations, pursuant to the Md. State Finance and Procurement Article, Section 13-101, et. seq.

Contractor and all of its subcontractors must comply with the provisions of County Code §11B-35A and must not retaliate against a covered employee who discloses an illegal or improper action described in §11B-35A. Furthermore, an aggrieved covered employee under §11B-35A is a third-party beneficiary under this Contract, who may by civil action recover compensatory damages including interest and reasonable attorney's fees, against the contractor or one of its subcontractors for retaliation in violation of that Section.

Contractor and all of its subcontractors must provide the same benefits to an employee with a domestic partner as provided to an employee with a spouse, in accordance with County Code §11B-33D. An aggrieved employee, is a third-party beneficiary who may, by civil action, recover the cash equivalent of any benefit denied in violation of §11B-33D or other compensable damages.

The contractor agrees to comply with the requirements of the Displaced Service Workers Protection Act, which appears in County Code, Chapter 27, Human Rights and Civil Liberties, Article X, Displaced Service Workers Protection Act, §§ 27-64 through 27-66.

4. ASSIGNMENTS AND SUBCONTRACTS

The contractor must not assign or transfer this contract, any interest herein or any claim hereunder, except as expressly authorized in writing by the Director, Office of Procurement. Unless performance is separately and expressly waived in writing by the Director, Office of Procurement, an assignment does not release the contractor from responsibility for performance of this contract. Unless otherwise provided in the contract, the contractor may not contract with any other party for furnishing any of the materials or services herein contracted for without the written approval of the Director, Office of Procurement. Any subcontract for any work hereunder must comport with the terms of this Contract and County law, and must include any other terms and conditions that the County deems necessary to protect its interests.

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5. CHANGES

The Director, Office of Procurement, may unilaterally change the work, materials and services to be performed. The change must be in writing and within the general scope of the contract. The contract will be modified to reflect any time or money adjustment the contractor is entitled to receive. Contractor must bring to the Contract Administrator, in writing, any claim about an adjustment in time or money resulting from a change, within 30 days from the date the Director, Office of Procurement, issued the change in work, or the claim is waived. Any failure to agree upon a time or money adjustment must be resolved under the "Disputes" clause of this contract. The contractor must proceed with the prosecution of the work as changed, even if there is an unresolved claim. No charge for any extra work, time or material will be allowed, except as provided in this section.

6. CONTRACT ADMINISTRATION

A. The contract administrator, subject to paragraph B below, is the Department representative designated by the Director, Office of Procurement, in writing and is authorized to:

- (1) serve as liaison between the County and the contractor;
- (2) give direction to the contractor to ensure satisfactory and complete performance;
- (3) monitor and inspect the contractor's performance to ensure acceptable timeliness and quality;
- (4) serve as records custodian for this contract, including wage and prevailing wage requirements;
- (5) accept or reject the contractor's performance;
- (6) furnish timely written notice of the contractor's performance failures to the Director, Office of Procurement, and to the County Attorney, as appropriate;
- (7) prepare required reports;
- (8) approve or reject invoices for payment;
- (9) recommend contract modifications or terminations to the Director, Office of Procurement;
- (10) issue notices to proceed; and
- (11) monitor and verify compliance with any MFD Performance Plan.

B. The contract administrator is NOT authorized to make determinations (as opposed to recommendations) that alter, modify, terminate or cancel the contract, interpret ambiguities in contract language, or waive the County's contractual rights.

7. COST & PRICING DATA

Chapter 11B of the County Code and the Montgomery County Procurement Regulations require that cost & pricing data be obtained from proposed awardees/contractors in certain situations. The contractor guarantees that any cost & pricing data provided to the County will be accurate and complete. The contractor grants the Director, Office of Procurement, access to all books, records, documents, and other supporting data in order to permit adequate evaluation of the contractor's proposed price(s). The contractor also agrees that the price to the County, including profit or fee, may, at the option of the County, be reduced to the extent that the price was based on inaccurate, incomplete, or noncurrent data supplied by the contractor.

8. DISPUTES

Any dispute arising under this contract that is not disposed of by agreement must be decided under the Montgomery County Code and the Montgomery County Procurement Regulations. Pending final resolution of a dispute, the Contractor must proceed diligently with contract performance. Subject to subsequent revocation or alteration by the Director, Office of Procurement, the head of the County department, office or agency ("Department Head") of the contract administrator is the designee of the Director, Office of Procurement, for the purpose of dispute resolution. The Department Head, or his/her designee, must forward to the Director, Office of Procurement, a copy of any written resolution of a dispute. The Department Head may delegate this responsibility to another person (other than the contract administrator). A contractor must notify the contract administrator of a claim in writing, and must attempt to resolve a claim with the contract administrator prior to filing a dispute with the Director, Office of Procurement or designee. The contractor waives any dispute or claim not made in writing and received by the Director, Office of Procurement, within 30 days of the event giving rise to the dispute or claim, whether or not the contract administrator has responded to a written notice of claim or resolved the claim. The Director, Office of Procurement, must dismiss a dispute that is not timely filed. A dispute must be in writing, for specific relief, and any requested relief must be fully supported by affidavit of all relevant calculations, including cost and pricing information, records, and other information. At the County's option, the contractor agrees to be made a party to any related dispute involving another contractor.

9. DOCUMENTS, MATERIALS AND DATA

All documents materials or data developed as a result of this contract are the County's property. The County has the right to use and reproduce any documents, materials, and data, including confidential information, used in the performance of, or developed as a result of, this contract. The County may use this information for its own purposes, including reporting to state and federal agencies. The contractor warrants that it has title to or right of use of all documents, materials or data used or developed in connection with this contract. The contractor must keep confidential all documents, materials, and data prepared or developed by the contractor or supplied by the County.

10. DURATION OF OBLIGATION

The contractor agrees that all of contractor's obligations and warranties, including all requirements imposed by the Minority Owned Business Addendum to these General Conditions, if any, which directly or indirectly are intended by their nature or by implication to survive contractor performance, do survive the completion of performance, termination for default, termination for convenience, or termination by mutual consent of the contract.

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11. ENTIRE AGREEMENT

There are no promises, terms, conditions, or obligations other than those contained in this contract. This contract supersedes all communications, representations, or agreements, either verbal or written, between the parties hereto, with the exception of express warranties given to induce the County to enter into the contract.

12. ETHICS REQUIREMENTS/POLITICAL CONTRIBUTIONS

The contractor must comply with the ethics provisions contained in Chapters 11B and 19A, Montgomery County Code, which include the following:

- (a) a prohibition against making or offering to make certain gifts. Section 11B-51(a).
- (b) a prohibition against kickbacks. Section 11B-51(b).
- (c) a prohibition against a person engaged in a procurement from employing or offering to employ a public employee. Section 11B-52 (a).
- (d) a prohibition against a contractor that is providing a recommendation to the County from assisting another party or seeking to obtain an economic benefit beyond payment under the contract. Section 11B-52 (b).
- (e) a restriction on the use of confidential information obtained in performing a contract. Section 11B-52 (c).
- (f) a prohibition against contingent fees. Section 11B-53.

Furthermore, the contractor specifically agrees to comply with Sections 11B-51, 11B-52, 11B-53, 19A-12, and/or 19A-13 of the Montgomery County Code.

In addition, the contractor must comply with the political contribution reporting requirements currently codified under the Election Law at Md. Code Ann., Title 14.

13. GUARANTEE

- A. Contractor guarantees for one year from acceptance, or for a longer period that is otherwise expressly stated in the County's written solicitation, all goods, services, and construction offered, including those used in the course of providing the goods, services, and/or construction. This includes a guarantee that all products offered (or used in the installation of those products) carry a guarantee against any and all defects for a minimum period of one year from acceptance, or for a longer period stated in the County's written solicitation. The contractor must correct any and all defects in material and/or workmanship that may appear during the guarantee period, or any defects that occur within one (1) year of acceptance even if discovered more than one (1) year after acceptance, by repairing, (or replacing with new items or new materials, if necessary) any such defect at no cost to the County and to the County's satisfaction.
- B. Should a manufacturer's or service provider's warranty or guarantee exceed the requirements stated above, that guarantee or warranty will be the primary one used in the case of defect. Copies of manufacturer's or service provider's warranties must be provided upon request.
- C. All warranties and guarantees must be in effect from the date of acceptance by the County of the goods, services, or construction.
- D. The contractor guarantees that all work shall be accomplished in a workmanlike manner, and the contractor must observe and comply with all Federal, State, County and local laws, ordinances and regulations in providing the goods, and performing the services or construction.
- E. Goods and materials provided under this contract must be of first quality, latest model and of current manufacture, and must not be of such age or so deteriorated as to impair their usefulness or safety. Items that are used, rebuilt, or demonstrator models are unacceptable, unless specifically requested by the County in the Specifications.

14. HAZARDOUS AND TOXIC SUBSTANCES

Manufacturers and distributors are required by federal "Hazard Communication" provisions (29 CFR 1910.1200), and the Maryland "Access to Information About Hazardous and Toxic Substances" Law, to label each hazardous material or chemical container, and to provide Material Safety Data Sheets to the purchaser. The contractor must comply with these laws and must provide the County with copies of all relevant documents, including Material Safety Data Sheets, prior to performance of work or contemporaneous with delivery of goods.

15. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) COMPLIANCE

In addition to the provisions stated above in Section 3. "Applicable Laws," contractor must comply with all requirements in the federal Health Insurance Portability and Accountability Act (HIPAA), to the extent that HIPAA is applicable to this contract. Furthermore, contractor must enter into the County's standard Business Associate Agreement or Qualified Service Organization Agreement when contractor or the County, as part of this contract, may use or disclose to one another, to the individual whose health information is at issue, or to a third-party, any protected health information that is obtained from, provided to, made available to, or created by, or for, the contractor or the County.

16. IMMIGRATION REFORM AND CONTROL ACT

The contractor warrants that both the contractor and its subcontractors do not, and shall not, hire, recruit or refer for a fee, for employment under this contract or any subcontract, an alien while knowing the alien is an unauthorized alien, or any individual without complying with the requirements of the federal Immigration and Nationality laws, including any verification and record keeping requirements. The contractor further assures the County that, in accordance with those laws, it does not, and will not, discriminate against an individual with respect to hiring, recruitment, or referral for a fee, of an individual for employment or the discharge of an individual from employment, because of the individual's national origin or, in the case of a citizen or prospective citizen, because of the individual's citizenship status.

17. INCONSISTENT PROVISIONS

Notwithstanding any provisions to the contrary in any contract terms or conditions supplied by the contractor, this General Conditions of Contract document supersedes the contractor's terms and conditions, in the event of any inconsistency.

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18. INDEMNIFICATION

The contractor is responsible for any loss, personal injury, death and any other damage (including incidental and consequential) that may be done or suffered by reason of the contractor's negligence or failure to perform any contractual obligations. The contractor must indemnify and save the County harmless from any loss, cost, damage and other expenses, including attorney's fees and litigation expenses, suffered or incurred due to the contractor's negligence or failure to perform any of its contractual obligations. If requested by the County, the contractor must defend the County in any action or suit brought against the County arising out of the contractor's negligence, errors, acts or omissions under this contract. The negligence of any agent, subcontractor or employee of the contractor is deemed to be the negligence of the contractor. For the purposes of this paragraph, County includes its boards, agencies, agents, officials and employees.

19. INDEPENDENT CONTRACTOR

The contractor is an independent contractor. The contractor and the contractor's employees or agents are not agents of the County.

20. INSPECTIONS

The County has the right to monitor, inspect and evaluate or test all supplies, goods, services, or construction called for by the contract at all reasonable places (including the contractor's place of business) and times (including the period of preparation or manufacture).

21. INSURANCE

Prior to contract execution by the County, the proposed awardee/contractor must obtain at its own cost and expense the insurance specified in the applicable table (See Tables A and B) or attachment to these General Conditions, with one or more insurance company(s) licensed or qualified to do business in the State of Maryland and acceptable to the County's Division of Risk Management. Contractor must keep this insurance in full force and effect during the term of this contract, including all extensions. Unless expressly provided otherwise, Table A is applicable to this contract. The insurance must be evidenced by one or more Certificate(s) of Insurance and, if requested by the County, the proposed awardee/contractor must provide a copy of any and all insurance policies to the County. At a minimum, the proposed awardee/contractor must submit to the Director, Office of Procurement, one or more Certificate(s) of Insurance prior to award of this contract, and prior to any contract modification extending the term of the contract, as evidence of compliance with this provision. The contractor's insurance must be primary. Montgomery County, MD, including its officials, employees, agents, boards, and agencies, must be named as an additional insured on all liability policies. Thirty days written notice to the County of cancellation or material change in any of the policies is required, unless a longer period is required by applicable law. In no event may the insurance coverage be less than that shown on the applicable table, attachment, or contract provision for required insurance. The Director, Office of Procurement, may waive the requirements of this section, in whole or in part.

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TABLE A. - INSURANCE REQUIREMENTS
(See Paragraph #21 Under the General Conditions of Contract
Between County and Contractor)

CONTRACT DOLLAR VALUES (IN \$1,000's)

	<u>Up to 50</u>	<u>Up to 100</u>	<u>Up to 1,000</u>	<u>Over 1,000</u>
Workers Compensation (for contractors with employees)				
Bodily Injury by Accident (each)	100	100	100	See Attachment
Disease (policy limits)	500	500	500	
Disease (each employee)	100	100	100	
Commercial General Liability minimum combined single limit for bodily injury and property damage per occurrence, including contractual liability, premises and operations, and independent contractors	300	500	1,000	See Attachment
Minimum Automobile Liability (including owned, hired and non-owned automobiles)				
Bodily Injury each person	100	250	500	See Attachment
each occurrence	300	500	1,000	
Property Damage each occurrence	300	300	300	
Professional Liability* for errors, omissions and negligent acts, per claim and aggregate, with one year discovery period and maximum deductible of \$25,000	250	500	1,000	See Attachment

Certificate Holder
Montgomery County Maryland (Contract #)
Office of Procurement
Rockville Center
255 Rockville Pike, Suite 180
Rockville, Maryland 20850-4166

*Professional services contracts only

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TABLE B. - INSURANCE REQUIREMENTS
(See Paragraph #21 Under the General Conditions of Contract
Between County and Contractor)

	<u>Up to 50</u>	<u>Up to 100</u>	<u>Up to 1,000</u>	<u>Over 1,000</u>
Commercial General Liability minimum combined single limit for bodily injury and property damage per occurrence, including contractual liability, premises and operations, independent contractors, and product liability	300	500	1,000	See Attachment

Certificate Holder

Montgomery County Maryland (Contract #)
Office of Procurement
Rockville Center
255 Rockville Pike, Suite 180
Rockville, Maryland 20850-4166

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22. INTELLECTUAL PROPERTY APPROVAL AND INDEMNIFICATION - INFRINGEMENT

If contractor will be preparing, displaying, publicly performing, reproducing, or otherwise using, in any manner or form, any information, document, or material that is subject to a copyright, trademark, patent, or other property or privacy right, then contractor must: obtain all necessary licenses, authorizations, and approvals related to its use; include the County in any approval, authorization, or license related to its use; and indemnify and hold harmless the County related to contractor's alleged infringing or otherwise improper or unauthorized use. Accordingly, the contractor must protect, indemnify, and hold harmless the County from and against all liabilities, actions, damages, claims, demands, judgments, losses, costs, expenses, suits, or actions, and attorneys' fees and the costs of the defense of the County, in any suit, including appeals, based upon or arising out of any allegation of infringement, violation, unauthorized use, or conversion of any patent, copyright, trademark or trade name, license, proprietary right, or other related property or privacy interest in connection with, or as a result of, this contract or the performance by the contractor of any of its activities or obligations under this contract.

23. NON-CONVICTION OF BRIBERY

The contractor hereby declares and affirms that, to its best knowledge, none of its officers, directors, or partners or employees directly involved in obtaining contracts has been convicted of bribery, attempted bribery, or conspiracy to bribe under any federal, state, or local law.

24. NON-DISCRIMINATION IN EMPLOYMENT

The contractor agrees to comply with the non-discrimination in employment policies and/ or provisions prohibiting unlawful employment practices in County contracts as required by Section 11B-33 and Section 27-19 of the Montgomery County Code, as well as all other applicable state and federal laws and regulations regarding employment discrimination.

The contractor assures the County that, in accordance with applicable law, it does not, and agrees that it will not, discriminate in any manner on the basis of race, color, religious creed, ancestry, national origin, age, sex, marital status, disability, or sexual orientation.

The contractor must bind its subcontractors to the provisions of this section.

25. PAYMENTS

No payment by the County may be made, or is due, under this contract, unless funds for the payment have been appropriated and encumbered by the County. Under no circumstances will the County pay the contractor for legal fees. The contractor must not proceed to perform any work (provide goods, services, or construction) prior to receiving written confirmation that the County has appropriated and encumbered funds for that work. If the contractor fails to obtain this verification from the Office of Procurement prior to performing work, the County has no obligation to pay the contractor for the work.

If this contract provides for an additional contract term for contractor performance beyond its initial term, continuation of contractor's performance under this contract beyond the initial term is contingent upon, and subject to, the appropriation of funds and encumbrance of those appropriated funds for payments under this contract. If funds are not appropriated and encumbered to support continued contractor performance in a subsequent fiscal period, contractor's performance must end without further notice from, or cost to, the County. The contractor acknowledges that the County Executive has no obligation to recommend, and the County Council has no obligation to appropriate, funds for this contract in subsequent fiscal years. Furthermore, the County has no obligation to encumber funds to this contract in subsequent fiscal years, even if appropriated funds may be available. Accordingly, for each subsequent contract term, the contractor must not undertake any performance under this contract until the contractor receives a purchase order or contract amendment from the County that authorizes the contractor to perform work for the next contract term.

The County is expressly permitted to pay the vendor for any or all goods, services, or construction under the contract through either a procurement card ("p-card") or a Single Use Account ("SUA") method of payment, if the contractor accepts the noted payment method from any other person. In that event, the County reserves the right to pay any or all amounts due under the contract by using either a p-card (except when a purchase order is required) or a SUA method of payment, and the contractor must accept the County's p-card or a SUA method of payment, as applicable. Under this paragraph, contractor is prohibited from charging or requiring the County to pay any fee, charge, price, or other obligation for any reason related to or associated with the County's use of either a p-card or a SUA method of payment.

26. PERSONAL PROPERTY

All furniture, office equipment, equipment, vehicles, and other similar types of personal property specified in the contract, and purchased with funds provided under the contract, become the property of the County upon the end of the contract term, or upon termination or expiration of this contract, unless expressly stated otherwise.

27. PROTECTION OF PERSONAL INFORMATION BY GOVERNMENT AGENCIES

In any contract under which Contractor is to perform services and the County may disclose to Contractor personal information about an individual, as defined by State law, Contractor must implement and maintain reasonable security procedures and practices that: (a) are appropriate to the nature of the personal information disclosed to the Contractor; and (b) are reasonably designed to help protect the personal information from unauthorized access, use, modification, disclosure, or destruction. Contractor's requirement to implement and maintain reasonable security practices and procedures must include requiring any third-party to whom it discloses personal information that was originally disclosed to Contractor by the County to also implement and maintain reasonable security practices and procedures related to protecting the personal information. Contractor must notify the County of a breach of the security of a system if the unauthorized acquisition of an individual's personal information has occurred or is reasonably likely to occur, and also must share with the County all information related to the breach. Contractor must provide the above notification to the County as soon as reasonably practicable after

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Contractor discovers or is notified of the breach of the security of a system. Md. Code Ann., State Gov't. § 10-1301 through 10-1308 (2013).

28. TERMINATION FOR DEFAULT

The Director, Office of Procurement, may terminate the contract in whole or in part, and from time to time, whenever the Director, Office of Procurement, determines that the contractor is:

- (a) defaulting in performance or is not complying with any provision of this contract;
- (b) failing to make satisfactory progress in the prosecution of the contract; or
- (c) endangering the performance of this contract.

The Director, Office of Procurement, will provide the contractor with a written notice to cure the default. The termination for default is effective on the date specified in the County's written notice. However, if the County determines that default contributes to the curtailment of an essential service or poses an immediate threat to life, health, or property, the County may terminate the contract immediately upon issuing oral or written notice to the contractor without any prior notice or opportunity to cure. In addition to any other remedies provided by law or the contract, the contractor must compensate the County for additional costs that foreseeably would be incurred by the County, whether the costs are actually incurred or not, to obtain substitute performance. A termination for default is a termination for convenience if the termination for default is later found to be without justification.

29. TERMINATION FOR CONVENIENCE

This contract may be terminated by the County, in whole or in part, upon written notice to the contractor, when the County determines this to be in its best interest. The termination for convenience is effective on the date specified in the County's written notice. Termination for convenience may entitle the contractor to payment for reasonable costs allocable to the contract for work or costs incurred by the contractor up to the date of termination. The contractor must not be paid compensation as a result of a termination for convenience that exceeds the amount encumbered to pay for work to be performed under the contract.

30. TIME

Time is of the essence.

31. WORK UNDER THE CONTRACT

Contractor must not commence work under this contract until all conditions for commencement are met, including execution of the contract by both parties, compliance with insurance requirements, encumbrance of funds, and issuance of any required notice to proceed.

32. WORKPLACE SAFETY

The contractor must ensure adequate health and safety training and/or certification, and must comply with applicable federal, state and local Occupational Safety and Health laws and regulations.

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ATTACHMENT B

**Open Solicitation # 1049652
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APPLICATION/VENDOR INFORMATION FORM

Name of Applicant/Vendor: _____
(Organization Name)

Federal Taxpayer Identification # (TIN): _____

Address: _____

City and State: _____ Zip Code: _____

Primary Contact Name: _____

E-mail Address: _____

Phone #: _____ Fax #: _____ Other #: _____

Type of Corporation (check one): For Profit Not-For-Profit Sole Proprietorship

Licenses/Certifications: _____
(Please List if applicable)

Acknowledgement:

I have received a copy of the packet for Open Solicitation #1049652, reviewed the documents, and agree to the solicitation's requirements, including the insurance requirements. I have received a copy of the County's General Conditions (Attachment A) to the Pre-Approved Form Contract and accept those terms and conditions.

Signature of Person Completing this Form

Title

Date

Open Solicitation #1049652
Delivery of Meals to Seniors in Adult Day Care
**MARYLAND DEPARTMENT OF AGING SENIOR
NUTRITION PROGRAM MENU POLICIES**

I. PURPOSE

Menu standards are developed to sustain and improve Senior Nutrition Program (SNP) participants' health through the provision of safe and nutritious meals using specific guidelines. These guidelines shall be incorporated into all requests for proposals/bids, contracts and open solicitations for meals.

Each meal served by the Older Americans Act-funded nutrition services provider must meet the current USDA/HHS Dietary Guidelines and must contain at least 33-1/3 percent of the current Dietary Reference Intakes (DRI) as established by the Food and Nutrition Board of the National Academy of Science-National Research Council, 66-2/3 if two meals are provided and 100 percent of the DRI if 3 meals are provided per day.

Requirements For Two Meals Daily

1. Congregate and home delivered meal providers serving two meals per day must furnish a total of two-thirds of the RDA.
2. If the two meals are not served to the same population, **each** meal must meet the requirements for one meal.
3. In the senior center environment, it is difficult to track whether the populations are the same. If unknown, it is assumed that the participants are two different populations and each meal must meet the requirements for one meal per day.

Requirements for Three Meals Daily

1. Congregate and home delivered meal providers serving three meals per day to the same population must provide 100% of the RDA.
2. In the senior center environment, it is difficult to track whether the populations are the same. If unknown, it is assumed that the participants are different populations and each meal must meet the requirements for one meal per day.

In order to comply with federal Older Americans Act regulations, Maryland-based SNP programs will begin implementing a progressive reduction in sodium per meal (averaged over one month) which includes:

1,400 mg, effective FY2014 (October 1, 2013)
1,200 mg, effective FY2015 (October 1, 2014)
1,000 mg, effective FY2016 (October 1, 2015)

Section VI, B. (Protein Foods) contains additional guidance for meeting these sodium requirements for SNP programs that do not utilize nutrient analysis.

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A key goal of the SNP is nutrition education. Menus can be an excellent vehicle to relate the beneficial nutrient content of our meals to clients, their families and potential referral sources. AAAs are encouraged produce menu materials that reflect how their menus meet the 2010 Dietary Guidelines by use of graphics, icons and other tools. The Dietary Guidelines and associated nutrition education materials can be found at <http://health.gov/dietaryguidelines/2010.asp>.

The 2010 Dietary Guidelines established subgroups within the fruits and vegetables category, which are reflected in a new, optional meal pattern categories and RD Approval Form.

II. NUTRITIONAL ASSURANCES

Each AAA is responsible for ensuring that meals served by SNPs meet the Maryland Department of Aging (MDoA) Menu Policies requirements. The nutritional value of menus shall be confirmed either by (1) Nutrient Analysis or (2) conformance to the Meal Pattern. It is the AAA/SNPs responsibility to determine whether Nutrient Analysis or Meal Patterns will be utilized to plan a menu and evaluate its nutritional sufficiency. See Appendix A for Menu Approval Forms.

A. Nutrient Analysis versus Menu Pattern Requirements and Approval

In every case, a planned SNP menu must be reviewed and approved by a Registered Dietitian (RD). AAAs may choose whether to utilize either the Nutrient Analysis or either one of the two Menu Pattern approval processes for each menu type served.

Catering Contract Tip:

SNPs may require a contractor to have a dietitian on staff to certify their menus

I. Nutrient Analysis:

SNPs utilizing this option for menu review are not required to meet the Menu Pattern requirements. SNPs may utilize this option if either the organization or their contractor, has access to nutrient analysis software and the program utilized incorporates accurate information regarding the actual foods served. Examples of nutrient analysis software include:

Computrition – www.computrition.com
Food Processor, ESHA Research – www.eshacom
DINE Healthy – www.dinesystems.com
Mealformation Software – www.mealformation.com
NutriBase Software – www.nutribase.com

In addition, meal-based nutrient calculation is available at no cost at – www.supertracker.usda.gov

Catering Contract Tip:

SNPs may consider requiring a contractor to provide nutrient analysis for review on a periodic basis, for example quarterly, or at the initiation of a contract even if they plan to review menus using a Menu Pattern Approval Form.

II. Meal Pattern (Two Types: Standard or Sub-Group)

A menu may be reviewed and approved by an RD using the Meal Pattern method. This method is typically employed when an RD does not have access to nutrient analysis software, but may also be selected for other reasons, such as

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ease of use when making substitutions. A menu item (e.g., broccoli, chicken) may only count towards meeting one meal pattern component, unless otherwise noted in the MEAL PATTERN REQUIREMENTS section.

An AAA may choose whether the RD reviewing their menus shall utilize the Standard or Sub-Group of approval.

Careful appraisal of the actual foods purchased and utilized in the preparation of the meals is therefore required in order to adequately determine whether the MDoA Menu Policies will be met by the planned menu. AAAs are therefore encouraged to establish requirements for caterers to provide nutrient analysis and/or require provision of food product labels and nutritional information to the RD. An AAA should, in all cases, have the ability to review any food products prior to their being utilized within the SNP meals.

A major focus of the Dietary Guidelines is moderate sodium (e.g., salt) intake, and therefore the MDoA Menu Policies have established maximum sodium content per meal, averaged over a month. To assist SNPs in determining if food products meet the sodium limits, please refer to Chart 1, below, and review the Protein Foods section.

Chart 1: Food and Drug Administration Regulations for Low Sodium Labeling Terminology

“Sodium Free”	Less than 5 milligrams per serving
“Very low sodium”	35 milligrams or less per serving
“Low sodium”	140 milligrams or less per serving
“Reduced Sodium”	Usual sodium level is reduced by 25%
“Unsalted, no-salt-added, or without added salt”	Made without the salt that is normally used, but contains the sodium that is a natural part of the food itself.

B. AAA Menu and Approvals Documentation Retention

Required AAA documentation includes:

1. A Menu Approval Form, checked and signed by a Registered Dietitian (RD).
2. The respective menu(s) which correspond to the signed RD approval form.

Program Administration Tip

Keep a file for each year (October 1 – September 30) where you place each menu with its RD approval form attached, so it is ready for review when your program is monitored.

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Documentation must be maintained on file for a period of no less than 3 years at each AAA providing Title III C meals, even if a contractor serves several AAAs and the AAA is not directly responsible for contracting with the Registered Dietitian reviewing the menus.

Each menu type served by an AAA (e.g., standard, special meals, emergency meals, cold plates, ethnic meals, etc.) must have separately signed and documented menus, each with their own signed Menu Approval Forms to verify that every meal type served meets minimum MDoA menu policy requirements. Annual MDoA monitoring reviews will include an audit of menu documentation for the previous 12 month period.

III. MENU PLANNING, USAGE AND POSTING

The following are the requirements for planning and utilizing menus. Menus must be:

1. planned in advance for a minimum of one month. Repetition of entrees shall be kept to a minimum. If a cycle menu is utilized, there shall be at least three cycles per year.
2. certified in writing by a Registered Dietitian as meeting the current Dietary Reference Intakes (DRI) based on the meal pattern.
3. posted in a conspicuous location in each congregate meal site, or provided to Home Delivered Meal clients, so as to be available to all participants.
4. adhered to. However, it is known that menus are subject to change with the seasonal availability of food items and unanticipated events. AAA Policy and Procedure manuals must indicate which staff person at the AAA is qualified to approve substitutions.
5. on file, including documentation of menu changes made after the RD has approved the menus, for at least three years.

To assure that each participant is offered a meal which meets the minimum nutritional requirements, the first meal served at each nutrition site or portioned for home delivered participants, should be accurately weighed or measured by volume to provide a visual standard of reference for portion size when serving the remainder of meals. Portion control utensils should be used when serving food. Standardized recipes must be implemented to assure consistent nutritional content and adequate portion size of meals.

Program Administration Tip:

Approved menu changes can be written onto the typed menu and retained in your files. Or, consider having a list of substitutions for each month's menus.

Salt substitutes shall not be provided. Sugar substitutes, pepper, herbal seasonings, lemon, vinegar, non-dairy coffee creamer, salt and sugar may be provided, but shall not be counted as fulfilling any part of the nutritive requirements.

IV. POPULATIONS WITH MEDICAL NEEDS

AAAs may offer therapeutic diets where feasible and appropriate to meet the particular health-related dietary needs of its participants; these diets may include meals that are mechanically altered

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(mechanical soft or puree diets) or which are part of a medical regime (e.g., renal (pre-dialysis), bland, carbohydrate restricted, dialysis diets). AAAs shall establish policies and procedures that detail eligibility criteria for persons receiving these meals. Meals for participants who require therapeutic diets may be offered only when the modified meal can be obtained from a facility where a licensed dietitian-nutritionist provides oversight of the meal preparation.

Liquid nutritional supplement may be provided to participants with limited usage as outlined in below. Conventional meals are highly preferred over liquid nutritional supplements.

1. AAAs shall establish policies and procedures that detail eligibility criteria for persons receiving liquid nutritional supplements, if they are provided.
2. Liquid nutritional supplements may not replace a meal except by a physician's order or emergency/disaster situation if a meal cannot be provided and should be used only in extenuating circumstances.
3. Liquid nutritional supplements are optional, per agency discretion.

V. SPECIAL MEALS

All emergency, shelf stable and/or other special meals must meet the same menu requirements as conventional meals.

AAAs are encouraged to provide emergency meals to both congregate and home delivered meals participants, as feasible. Emergency, shelf stable meals are useful throughout the year, as weather emergencies and other significant natural events may occur unexpectedly regardless of season. Emergencies may impair the SNP's ability to deliver meals for a number of days at any time during the year.

Emergency Meals Packaging Requirements:

The package shall include menus to instruct the clients how to combine the foods to meet the meal requirements.

If the meal is frozen, heating instructions should be provided.

Cans are to be easy to open, with pull tabs whenever possible.

Foods must be labeled with a use by/expiration date.

SNPs may also offer special meals to recognize holidays, birthdays or other occasions and events. These meals tend to feature additional menu items or more expensive foods than the typical meals served.

VI. MEAL PATTERN REQUIREMENTS A.

Milk and Milk Alternatives

Requirement: Each meal shall offer 8 ounces of milk, or equivalent milk product, as listed below.

(one source per meal; partial servings not permitted)

Catering Contract Tip:

SNPs may indicate the minimum number of items that must be served to make a complete meal, so that participants will be provided meals with sufficient "plate appeal". For example, some SNPs feel that no fewer than 3 items should be served on a participant's plate, in addition to milk/milk product item. This may particularly apply when combination foods e.g., lasagna, are served.

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Milk and Milk Products

- 8 oz. of fortified milk, lactose-reduced or buttermilk (fat free or 1%, may be flavored)
- 8 oz. calcium-fortified soy/rice/almond milk (fat free or 1%, may be flavored)
- 6 oz. of fat free or low fat yogurt (fruited or non-fruited)
- 1/3 cup Nonfat dry milk powder must have serving of water to accompany

Milk Alternatives

If milk/milk products are not preferred as evidenced by documented feedback from the SNP participants or to address food safety concerns, a milk alternative may be provided. Serving sizes may vary, depending on the product used. A milk alternative must contain at least 250 mg calcium per serving as provided to participants.

- 1 ½ oz. of cheese
- ½ cup calcium processed tofu Calcium fortified, ready to eat cereal
- Powdered calcium-fortified beverage mix; must have serving of water to accompany
- 4 -6 oz. of calcium fortified juice
- 3 oz. Sardines (with bones)
- Liquid nutritional supplement

Catering Contract Tip:

SNPs may require a specific milk/milk alternative, such as low-fat milk, to be served with meals based on client preferences.

Use of milk alternatives to meet other meal component requirements

If a milk alternative is used in a meal, it *may* also count towards another meal pattern component, if it is provided in amounts adequate to meet the minimum serving sizes of the second component. Generally, it is recommended that SNPs avoid this “double counting” to maintain plate appeal for participants and to meet the minimum nutrient requirements for the meal.

Examples:

6 ounces calcium fortified orange juice (250 mg Calcium) = One Milk Alternative and also One Fruit/Vegetable.

3 oz Sardines = One Milk Alternative and also One Protein Food

Religious Preclusion of Milk and Milk Products

If religious requirements preclude the acceptance of a milk or milk alternative, it may be omitted. In such cases, nutrition education which specifically, but not exclusively, includes information on high calcium food and beverage sources, must be provided to participants at least twice per year, and documentation maintained at the AAA. For example, information can be provided to participants regarding additional food and beverage choices they can make at other meals throughout the day to obtain adequate calcium intake.

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B. Protein Foods

Requirement: A meal shall contain at least 3 oz. or a minimum of 18 grams of protein in the meat/meat alternative when one meal a day is served. Two-ounce portions containing at least 14 grams of protein per meal may be served when a second or third meal is served daily.

Breading (e.g., breaded fish patty) does not count towards meeting the serving size requirement and such breading does not count towards the grain/starch requirement.

One ounce-equivalent protein food includes the following:

- 1 egg
- ½ cup (4 oz.) legumes (beans and lentils)*
- 1 ounce cooked meat, fish, poultry
- 1 oz. cheese
- 2 tablespoons peanut butter
- 1/3 cup nuts
- ¼ cup cottage cheese
- ¼ cup raw, firm tofu

Note: a 3 oz. serving of meat is the size of a deck of cards.

*Dried beans and lentils are in both the Protein Foods and the Grains/Starches group, however, can count as only one group in a meal. Legume dishes include: lima, kidney, black-eyed or split peas, navy, black, pinto or garbanzo beans, lentils, and soybeans.

1. Ground meat may be served no more than:

- 2 times per week when serving 1 meal per day
- 4 servings per week when serving 2 meals per day
- 6 servings per week when serving 3 meals per day

Examples of ground meat are ground beef, chicken, pork and turkey. It does not include formed meat products (e.g. rib patty) or shredded meats.

2. Three ounces of seafood is recommended to be served once a week for one meal per day, 5 ounces for two meals per day, and 8 ounces for three meals per day. Seafood includes fish (including “imitation crab” made from fish meat) and shellfish (e.g., shrimp, oysters, crab).

Meeting the Sodium Requirements for the Meal

Typically, the entrée contributes the majority of the sodium in a meal and can also be the most variable in sodium content, depending on the Protein Food selected as well as any sauces, gravies and other seasonings which may be added.

The following tool is provided for programs which utilize the meal pattern method, as this process does not determine the exact nutrient content of each meal:

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To meet the 1,400 mg level by October 1, 2013:

The sodium in the Protein Food should not exceed 1,000 mg per serving. High sodium foods (e.g. processed cheese, hot dogs, sausage, bacon, ham, cold cuts, etc.) are not recommended, unless replaced with a low-sodium version, more than:

- Twice per week for 1 meal per day
- Four times per week for 2 meals per day
- Six times per week for 3 meals per day

To meet the 1,200 mg level by October 1, 2014:

The sodium in the Protein Food should not exceed 800 mg. High sodium foods (e.g. processed cheese, hot dogs, sausage, bacon, ham, cold cuts, etc.) are not recommended, unless replaced with a low-sodium version, more than:

- 6 times per month for 1 meal per day
- Twice per week for 2 meals per day
- Three times per week for 3 meals per day

To meet the 1,000 mg level by October 1, 2015:

The sodium in Protein Food should not exceed 600 mg. High sodium foods (e.g. processed cheese, hot dogs, sausage, bacon, ham, cold cuts, etc.) are not recommended, unless replaced with a low-sodium version, more than:

- Once a week for 1 meal per day
- 6 times per month for 2 meals per day
- Twice per week for 3 meals per day

C. Fruits and Vegetables

Requirement: Four ounces (drained weight) of vegetables or fruits, per serving, must be included in any stew, soup, casserole, gelatin or other combination dish if serving a vegetable/fruit in the menu plan.

The 2010 Dietary Guidelines established subgroups within the fruits and vegetables category, which are reflected in an optional meal pattern category entitled, “Sub-Groups”. The list in Appendix C shows the Fruits and Vegetables that are within each sub-category.

“Standard Meal Pattern” requirements for Fruit/Vegetable:

Fruit and Vegetable	1 meal per day	2 meals per day	3 meals per day
(Vitamin A & C servings can be met by either	2 rich or 4 fair Vitamin A servings per week	4 rich or 8 fair Vitamin A servings per week	6 rich or 12 fair Vitamin A servings per week

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Fruit/Vegetables or Starchy Vegetables)	1 rich or 2 fair Vitamin C servings daily	2 rich or 4 fair Vitamin C servings daily	3 rich or 6 fair Vitamin C servings daily
--	---	---	---

“Sub-Group Meal Pattern” requirements for Fruit/Vegetable:

Fruit and Vegetable (Sub-Group servings can be met by either Fruit/Vegetables or Starchy Vegetables)	1 meal per day	2 meals per day	3 meals per day
	3 red, orange, orange-yellow per week	6 red, orange, orange-yellow per week	9 red, orange, orange-yellow per week
	1 dark green per week	2 dark green per week	3 dark green per week

Vegetables and fruits are an important parts of the SNP meal. They not only enhance its flavor and appeal but also its nutritional quality. Lightly cooked and uncooked fruits and vegetables retain more of their natural nutrient and fiber content. Fresh fruits and vegetables should be purchased in season when they are abundant and most economical. Use of canned vegetables is discouraged due to added sodium in these products.

The physiological needs of seniors, however, must be considered when selecting and preparing vegetables. Chewing raw or lightly cooked items may be too difficult for some, especially those with dental problems.

Vegetables and fruits are generally good sources of fiber, low in fat, and are often the main sources of vitamins A and C and folic acid.

1. FRUIT

A serving of fruit is generally:

- ½ cup cooked, frozen or canned, drained fruit (e.g., apple, pear, banana, etc.)
- ½ cup 100% fruit juice
- 1/3 cup cranberry juice
- ¼ cup dried fruit
- 15 grapes

Fresh, frozen or canned fruit must be packed in its own juice or water. All juices must be 100% juice.

Fresh fruit may be cut, sliced or peeled for easy manipulation by the client.

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2. VEGETABLES

A serving of vegetables is:

- ½ cup cooked, drained fresh, frozen, canned or raw vegetable (e.g., green beans, peas, etc.)
 - 1 cup raw leafy greens and shall consist of at least 3 different vegetable greens
 - ½ cup tomato juice*
 - ½ cup 100% vegetable juice*
- * low sodium versions may be necessary to meet the sodium limits per meal.

Lettuce and tomato served as a garnish or on a sandwich is a condiment and does not count as a serving of vegetables.

Note: Potatoes, corn and dried beans, split peas and lentils are counted a serving from the Grains/Starchy Vegetable Group (see listing on following page).

3. Fruit and Vegetables: 2010 Dietary Guidelines Subgroups. Please refer to Appendix C.

D. GRAINS/STARCHY VEGETABLES

Requirement: 2 servings for one meal per day, 4 servings for two meals per day, and 6 servings for three meals per day. Whole grains (whole wheat, oats, brown rice, wild rice, popcorn, whole rye, and whole grain multi- grains) must be served at least:

- 3 times per week for 1 meal per day
- 6 times per week for 2 meals per day
- 9 times per week for 3 meals per day

Dried beans and lentils are in both the Protein Food and the Grains/Starchy Vegetable group, however, can count as only one group in a meal. Legume dishes include: dried beans, split or black-eye peas and lentils such as lima, kidney, navy, black, pinto or garbanzo beans, lentils, and soybeans. Legumes must be served at least:

- 1 time per week for 1 meal per day
- 2 times per week for 2 or 3 meals per day



Catering Contract Tip:

SNPs may consider requiring at least 2 seasonal fruits and/or vegetables per week, providing a list of examples for each season.

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Serving sizes for Grains:

When selecting whole grain breads and other grain products, choose ones that include the word “whole” as part of the first item on the ingredient list, such as “whole grain” or “whole wheat.” Another way of ensuring a whole grain product is to look for the “Whole Grain Stamp” (<http://www.wholegrainscouncil.org/>). The “**100% Stamp**” indicates that the food contains a full serving of whole grain whereas the “**Basic Whole Grain Stamp**” appears on products containing at least half a serving of whole grain per labeled serving.

- 1 slice (1 oz.) bread
- ½ cup cooked pasta, rice, noodles
- 1 ounce ready-to-eat cereal
- 1 small (2 oz.) muffin
- 2” cube cornbread
- 1 tortilla, 6” diameter
- ½ bagel, 3-4” diameter
- 1 small sandwich bun
- ½ cup cooked cereal
- 1 biscuit, 2.5” diameter
- 1 waffle, 4-5” diameter
- 1 slice French toast
- ½ English muffin
- 4-6 crackers (1 oz.)
- 1 pancake, 4” diameter
- ½ large hotdog/hamburger bun, 1 oz.
- ½ cup bread dressing/stuffing

Serving size for Starchy Vegetables: A serving is ½ cup.

Starchy Vegetables include:

Potatoes	Lima, Kidney, Garbanzo, Black and Pinto beans
Sweet potatoes	Lentils
Corn	Black-eyed peas
Yams	Split peas
Plantains	Soybeans

E. Vitamin A and Vitamin C Requirements – Standard Menu Pattern

Vitamin A Requirements

1. When the meal pattern is followed, Vitamin A rich foods must be served 2 to 3 times per week for one meal per day.
2. When serving 2 meals per day, vitamin A rich foods must be served 4 to 6 times per week.

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3. One rich source or two fair servings may be used to meet the requirements.
4. One serving of carrots or sweet potatoes/yams is equivalent to 3 servings of vitamin A rich sources.

Vitamin A Food Sources

Rich Sources:

Apricots	Kale
Cantaloupe	Mango
Carrots	Spinach
Collard greens	Turnip greens, other dark green leaves
	Winter squash (Hubbard, Butternut)

Fair sources:

Tomato Sauce	Broccoli
Vegetable Juice	Pumpkin

Vitamin C Requirements

1. For each meal, vitamin C may be provided as one serving of a rich source, 2 half servings of rich sources or 2 servings of fair sources.
2. When serving one meal per day, 1 rich or 2 fair sources must be served.
3. When serving 2 meals per day, 2 rich or 4 fair servings must be served
4. When serving 3 meals per day, 3 rich or 6 fair sources must be served.
5. Fortified, full-strength juices, defined as fruit juices that are 100% natural juice with vitamin C added, are vitamin C-rich foods.
6. Partial-strength or simulated fruit juices or drinks, even when fortified, may not count as fulfilling this requirement, except cranberry juice.

Vitamin C Food Sources

Rich sources:

Broccoli	Brussels sprouts
Cantaloupe	Mandarin oranges
Cauliflower	Fruit juices, fortified with Vitamin C
Kale	Tangerine
Mango	Citrus or citrus juice (Orange, grapefruit)
Strawberries	Sweet red pepper
Green pepper	Sweet potatoes/yams
Honeydew melon	

Fair sources:

Asparagus	Spinach
Cabbage	Tomatoes, tomato juice or sauce
Collard greens	Turnip greens
Mustard greens	Vegetable juice

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Vitamin C Food Sources, continued:

Pineapple

Watermelon

Potatoes

Note: If a food item served is both a good/fair source of Vitamin A and Vitamin C, it may count towards meeting the requirements for both Vitamin A and Vitamin C.

F. QUALITY STANDARDS

1. Food Purchasing Standards

Ground Beef - IMP Specifications #136. USDA Standard or better, not exceeding 20% fat, with no soy additives. Commercially prepared ground beef products (beef patties, meatballs, etc.) which contain soy additives and other fillers will be considered individually by the AAA dietitian on the basis of flavor and texture, only if the proposed serving contains at least 18 grams of protein

Beef – No. 1 or USDA Choice cut to IMPS Specifications.

Meat - Graded for wholesomeness and quality by USDA. Texturized Vegetable Protein (TVP) may be incorporated in recipes with a maximum ratio of 30% TVP to 70% meat. Ground Beef - USDA Utility not to exceed 18% - 22% fat.

Poultry - USDA Grade A. No comminuted processed chicken or turkey roll may be used. When chicken parts are served, all meals shall contain like parts; i.e., boneless chicken thighs; all legs or all breasts.

Eggs - USDA Grade A, large fresh or pasteurized

Fresh Fruits and Vegetables - USDA No 1.

Canned Fruits, Vegetables, and Juices - USDA Grade A. Canned Fruits shall be packed only in their natural juices (without added sugar). All juices must be 100% juice.

Frozen Fruits, Vegetables, and Juices - USDA Grade A.

Milk - USDA Grade A, pasteurized 1% Milk fortified with 400 IU Vitamin D per quart.

Cheese - USDA Grade A; No cheese substitute or imitation cheese permitted.

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2. Food Donation Standards

Donations of food items may be prepared and served as part of SNP meal if they are safe, wholesome and able to be used as human food.

MAY ACCEPT

Dried goods (e.g., sugar, flour, etc.);
Food products that do not require refrigeration; Whole, fresh fruit;
Whole, fresh vegetables;
Baked goods (not cream-meat-filled);
(Unopened) commercially packaged or canned foods in sound condition; and commercially purchased, sealed, condiments in unopened containers (e.g., salt, sugar, ketchup, relish, mustard, jams and jellies).

MAY NOT ACCEPT

Leftover food from a participant's table;
Foods from home gardens or prepared in non-licensed kitchens;
Swollen, leaking, rusty, severely dented food containers; unpasteurized dairy products;
Spoiled foods;
Potentially hazardous foods prepared in a private home; Home-canned foods of any kind;
Potentially hazardous foods that have not been stored/maintained at a temperature below 41°F or above 135°F;
Food without a label, or with a label that indicates it is past expiration or "use by" date;
Physically or chemically contaminated foods;
Ungraded shell eggs;
Custom processed meats or poultry or wild game; and
Distressed foods damaged by fire, flood, or accident.

Appendix A: Menu Approval Sheets



Maryland Department of Aging

Standard Meal Pattern Menu Approval Sheet						
This form will not be accepted without check marks based on meals/day and signature						
Food Group	1 Meal per Day		2 Meals per Day		3 Meals per Day	
	Minimum	Check	Minimum	Check	Minimum	Check
Protein Foods	3 oz or equivalent		4 oz or equivalent		6 oz or equivalent	
	Ground meat limit 2x/wk		Ground meat limit 4x/wk		Ground meat limit 6x/wk	
Fruit and Vegetable (Vitamin A & C servings can be met with either Fruit/Vegetables or Starchy Vegetables)	3 servings		6 servings		9 servings	
	2 rich or 4 fair Vitamin A servings per week		4 rich or 8 fair Vitamin A servings per week		6 rich or 12 fair Vitamin A servings per week	
	1 rich or 2 fair Vitamin C servings daily		2 rich or 4 fair Vitamin C servings daily		3 rich or 6 fair Vitamin C servings daily	
Grains and Starchy Vegetables	2 servings		4 servings		6 servings	
	Whole Grains 3 times per week		Whole Grains 6 times per week		Whole Grains 9 times per week	
	Legumes 1x/wk		Legumes 2x/wk		Legumes 3x/wk	
Milk/milk alternatives	1 serving		2 servings		3 servings	
Maximum Calorie, Fat and Sodium Content						
Averaged Over One Month (daily minimums in parenthesis)						
Energy	660 calories (No less than 600 calories per day)		1320 calories (No less than 1200 calories per day)		2000 calories (No less than 1800 calories per day)	
Fat	30% (35% or less per meal)		30% (35% or less per meal)		30% (35% or less per meal)	
Sodium	FY2014:1400 mg		FY2014:1800 mg		FY2014: 2200 mg	
	FY2015:1200 mg		FY2015:1650 mg		FY2015: 2000 mg	
	FY2016:1000 mg		FY2016:1500 mg		FY2016:1800 mg	

I certify that I have reviewed the MDoA Menu Policy and the menu herein meets all nutritional requirements as indicated on this table and within the Menu Policy specifications.

Registered Dietitian
Signature

Date

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**Appendix B: Protein Foods and Sodium Content by
Serving Size**

Protein Food	Portion for 7 grams protein or 1 oz. serving	Sodium in 1 oz. (mg)	Sodium in 3 oz. serving (mg)
Beans, baked	½ cup	576	1,728
Beans, canned	½ cup	200	600
Beef, fresh	1 oz.	30	90
Cheese, processed	1 ½ oz.	530	1,350
Cheese, natural	1 ½ oz.	264	792
Cheese, cottage	¼ cup	229	687
Egg	1	140	420
Fish, breaded, baked	1 oz.	150	450
Fish, canned	1 oz.	116	348
Fish, frozen	1 oz.	111	333
Hot Dogs, beef	1 oz.	319	957
Nuts, unsalted	1/3 cup	12	36
Peanut butter	2 Tablespoons	147	440
Pork, fresh	1 oz.	62	186
Pork, ham	1 oz.	340	1,020
Pork, sausage	1 oz.	210	630
Poultry, baked	1 oz.	90	270
Poultry, deli meat	1 oz.	288	864
Poultry salad	1 oz.	85	340
Tofu, firm	¼ cup	9	27

Appendix C: Fruits and Vegetables Sub-Groups

Orange-Yellow	Red-Purple	Yellow-Green
<p>Nectarines Oranges Papayas Peaches Pineapple Tangerines Yellow grapefruit</p>	<p>Beets Blackberries Blueberries Cranberries Plums Prunes Raspberries Red Apples Red Cabbage Red Grapes Red Pears Red Peppers Strawberries</p>	<p>Avocado Collard Greens Cucumber Green Beans Green Peas Green Pepper Honeydew Kiwi Mustard Greens Romaine Lettuce Spinach Turnip Greens Yellow Corn Yellow Pepper</p>
Orange	Red	Green
<p>Acorn Squash Apricots Cantaloupe Carrots Mangoes Pumpkin Sweet Potatoes Winter Squash</p>	<p>Pink grapefruit Tomatoes Tomato Products Watermelon</p>	<p>Bok Choy Broccoli Brussels Sprouts Cabbage Kale Swiss Chard</p>
White-Green		
<p>Artichoke Asparagus Cauliflower Celery Chives</p>	<p>Endive Garlic Leeks Onions Mushrooms</p>	

DHHS, Aging & Disability Services
SENIOR NUTRITION PROGRAM
PARTICIPANT REGISTRATION

Date _____

Name: _____
Last First MI

Address: _____

City: _____ State: _____ Zip Code: _____

Phone No: (____) _____ - _____ Primary Language: _____

Date of Birth: ____ - ____ - 1 9 Male Female

Emergency Contact Name: _____
Last First

Emergency Contact Phone No: (____) _____ - _____

At which lunch sites do you usually eat lunch? _____

Ethnicity:

- African American
- American Indian/Alaskan
- Asian/Pacific Islander
- Latino
- White

Lives Alone?:

- Yes
- No

Income: Below Poverty? Yes No

*Annual income under \$11,770/one person or
under \$15,930/two persons*



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****Rate your Nutritional Health****

Read each statement below
Circle the number in the YES column for statements that apply to you.

	YES
I have an illness/condition that made me change the kind and/or amount of food I eat	2
I eat fewer than 2 meals per day.	3
I eat few fruits or vegetables or milk products each day.	2
I have 3 or more drinks of beer, wine or liquor almost every day.	2
I have tooth or mouth problems that make it hard for me to eat.	2
I don't always have enough money to buy the food I need.	4
I eat alone most of the time.	1
I take 3 or more different prescribed or over-the-counter drugs each day.	1
Without wanting to, I have lost or gained 10 pounds in the last 6 months.	2
I am not always physically able to shop, cook and/or feed myself.	2

To get your score:

Add the circled numbers above.

TOTAL SCORE: _____

If your score is –

0 to 2 **Good!** Recheck your score in 6 months.

3 to 5 You are at **moderate nutritional risk.** Discuss this with your doctor or dietitian or contact the Senior Nutrition Program.

6 or more You are at **high nutritional risk.** Talk to your doctor or dietitian or contact the Senior Nutrition Program to improve your nutritional health.

Please check: Male Female Live alone: yes no

Age: ___ 64 and under ___ 65 to 74 ___ 75 to 84 ___ 85+

Date _____ Name _____

Site _____

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Attachment E

**Montgomery County Department of Health & Human Services
SENIOR NUTRITION PROGRAM**

Contractor

Month/Year

NUTRITION EDUCATION

A minimum of 2 print items/year must be provided to clients receiving home delivered and to congregate lunch participants via presentation or discussion to meet nutrition education requirements. These may be chosen or developed by a Registered/Licensed Dietitian. The Senior Nutrition Program (SNP) will provide items to home delivered meals clients. For congregate County Recreation programs, one program will be presented by SNP. The congregate site is responsible for organizing the second program.

Please report the date each item is delivered, the topic of the item and the number of participants who receive the item. Submit a copy of the items that were distributed, if possible. Thank you.

Nutrition Education Items & Participants		
Date	Topic of Item	# Participants

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ATTACHMENT F

Minority-Owned Business Addendum to General Conditions of Contract Between County and Contractor

- A. This contract is subject to the Montgomery County Code and the Montgomery County Procurement Regulations regarding participation in the Minority-Female-Disabled Person (MFD) procurement program.
- B. Contractor must subcontract a percentage goals listed below of the total dollar value of the contract, including all modifications and renewals, to certified minority owned businesses. The MFD subcontracting goal may be waived under appropriate circumstances by submission of a letter to the Minority Business Program Manager. The letter must explain why a waiver is appropriate. The Director of the Office of Procurement or designee may waive, in whole or in part, the MFD subcontracting goal if the Director determines that a waiver is appropriate under Section 7.3.3.5 of the Montgomery County Procurement Regulations. In determining if a waiver should be granted, the Director may require the Contractor to submit additional information; the Director may require the Contractor to submit some or all of this information on forms approved by the Director.

For Goals by each purchasing category, please refer to www.montgomerycountymd.gov/mfd

- C. The attached MFD Subcontractor Performance Plan, which must be approved by the Director, is an integral part of the contract between County and Contractor. In a multi-term contract, Contractor must submit a MFD Subcontract Performance Plan to be in effect for the life of the contract, including any renewal or modification.
- D. Contractor must include in each subcontract with a minority owned business a provision that requires the use of binding arbitration with a neutral arbitrator to resolve disputes between the Contractor and the minority owned business subcontractor. This arbitration provision must describe how the cost of dispute resolution will be apportioned; the apportionment must not, in the judgment of the Director, attempt to penalize a minority owned business subcontractor for filing an arbitration claim.
- E. County approval of the MFD Subcontractor Performance Plan does not create a contractual relationship between the County and the minority owned business subcontractor.
- F. Contractor must notify and obtain prior written approval from the Director regarding any change in the MFD Subcontractor Performance Plan.
- G. Before receiving final payment under this contract, Contractor must submit documentation showing compliance with the MFD Subcontracting Performance Plan. Documentation may include, at the direction of the Director, invoices, copies of subcontracts with minority owned businesses, cancelled checks, affidavits executed by minority owned business subcontractors, waivers, and arbitration decisions. The Director may require Contractor to submit periodic reports on a form approved by the Director. The Director may conduct an on-site inspection for the purpose of determining compliance with the MFD Subcontractor Performance Plan. If this is a multi-term contract, final payment means the final payment due for performance rendered for each term of the contract.

If the Contractor fails to submit documentation demonstrating compliance with the MFD Subcontractor Performance Plan, to the satisfaction of the Director, after considering relevant waivers and arbitration decisions, the Contractor is in breach of this contract. In the event of a breach of contract under this addendum, the Contractor must pay to the County liquidated damages equal to the difference between all amounts the Contractor has agreed under its Plan to pay minority owned business subcontractors and all amounts actually paid minority owned business subcontractors with appropriate credit given for any relevant waiver or arbitration decision. Contractor and County acknowledge that damages which would result to the County as a result of a breach under this addendum are difficult to ascertain, and that the liquidated damages provided for in this addendum are fair and reasonable in estimating the damage to the County of a breach of this addendum by Contractor. In addition, the County may terminate the contract. As the result of a breach under this addendum, The Director of the Office of Procurement must find the Contractor non-responsible for purposes of future procurement with the County for the ensuing three years.

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Attachment G

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (the “Agreement”) is made by and between Montgomery County, Maryland (hereinafter referred to as “Covered Entity”), and _____ (hereinafter referred to as “Business Associate”). Covered Entity and Business Associate shall collectively be known herein as the “Parties.”

I. GENERAL

A. Covered Entity has a business relationship with Business Associate that is memorialized in Montgomery County Contract # _____ (the “Underlying Agreement”), pursuant to which Business Associate may be considered a “business associate” of Covered Entity as defined in the Health Insurance Portability and Accountability Act of 1996, including all pertinent regulations (45 CFR Parts 160 and 164), issued by the U.S. Department of Health and Human Services, including Subtitle D of the Health Information Technology for Economic and Clinical Health Act (the “HITECH Act”), as codified in Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5), and including any and all applicable Privacy, Security, Enforcement, or Notice (Breach Notification) Rules or requirements (collectively, “HIPAA”), as all are amended from time to time; and

B. The performance of the Underlying Agreement may involve the creation, exchange, or maintenance of Protected Health Information (“PHI”) as that term is defined under HIPAA; and

C. For good and lawful consideration as set forth in the Underlying Agreement, Covered Entity and Business Associate enter into this Agreement for the purpose of ensuring compliance with the requirements of HIPAA; and

D. This Agreement articulates the obligations of the Parties as to use and disclosure of PHI. It does not affect Business Associate’s obligations to comply with the Maryland Confidentiality of Medical Records Act (Md. Code Ann., Health-General I §§4-301 *et seq.*) (“MCMRA”) or other applicable law with respect to any information the County may disclose to Business Associate as part of Business Associate’s performance of the Underlying Agreement; and

E. This Agreement supersedes and replaces any and all Business Associate Agreements the Covered Entity and Business Associate may have entered into prior to the date hereof; and

F. The above premises having been considered and incorporated by reference into the sections below, the Parties, intending to be legally bound, agree as follows:

II. DEFINITIONS.

A. The terms used in this Agreement have the same meaning as the definitions of those terms in HIPAA. In the absence of a definition in HIPAA, the terms have their commonly understood meaning.

B. Consistent with HIPAA, and for ease of reference, the Parties expressly note the definitions of the following terms:

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1. “Breach” is defined at 45 CFR § 164.402.
2. “Business Associate” is defined at 45 CFR § 160.103, and in reference to the party to this Agreement, shall mean _____.
3. “Covered Entity” is defined at 45 CFR § 160.103, and in reference to the party to this Agreement, shall mean the County.
4. “Designated Record Set” is defined at 45 CFR § 164.501.
5. “Individual” is defined at 45 CFR §§ 160.103, 164.501 and 164.502(g), and includes a person who qualifies as a personal representative.
6. “Protected Health Information” or “PHI” is defined at 45 CFR § 160.103.
7. “Required By Law” is defined at 45 CFR § 164.103.
8. “Secretary” means the Secretary of the U.S. Department of Health and Human Services or designee.
9. “Security Incident” is defined at 45 CFR § 164.304.
10. “Unsecured Protected Health Information” or “Unsecured PHI” means PHI that is not rendered unusable, unreadable, or indecipherable to unauthorized persons through the use of a technology or methodology, as specified by the Secretary in the guidance as noted under the HITECH Act, section 13402(h)(1) and (2) of Public Law 111-5, codified at 42 U.S.C. § 17932(h)(1) and (2), and as specified by the Secretary in 45 CFR 164.402.

III. PERMISSIBLE USE AND DISCLOSURE OF PHI

A. Except as otherwise limited in this Agreement, or by privilege, protection, or confidentiality under HIPAA, MCMRA, or other applicable law, Business Associate may use or disclose (including permitting acquisition or access to) PHI to perform applicable functions, activities, or services for, or on behalf of, Covered Entity as specified in the Underlying Agreement. Moreover, the provisions of HIPAA are expressly incorporated by reference into, and made a part of, this Agreement.

B. Business Associate may use or disclose (including permitting acquisition or access to) PHI only as permitted or required by this Agreement or as Required By Law.

C. Business Associate is directly responsible for full compliance with the relevant requirements of HIPAA.

D. Business Associate must not use or disclose (including permitting acquisition or access to) PHI other than as permitted or required by this Agreement or HIPAA, and must use or disclose PHI only in a manner consistent with HIPAA. As part of this, Business Associate must use appropriate safeguards to prevent use or disclosure of PHI that is not permitted by this Agreement or HIPAA. Furthermore, Business Associate must take reasonable precautions to protect PHI from loss, misuse, and unauthorized access, disclosure, alteration, and destruction.

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E. Business Associate must implement and comply with administrative, physical, and technical safeguards governing the PHI, in a manner consistent with HIPAA, that reasonably and appropriately protect the confidentiality, integrity, and availability of the PHI that it creates, receives, maintains, or transmits on behalf of Covered Entity.

F. Business Associate must immediately notify Covered Entity, in a manner consistent with HIPAA, of: (i) any use or disclosure of PHI not provided for by this Agreement, including a Breach of PHI of which it knows or by exercise of reasonable diligence would have known, as required at 45 CFR §164.410; and, (ii) any Security Incident of which it becomes aware as required at 45 CFR §164.314(a)(2)(i)(C). Business Associate's notification to Covered Entity required by HIPAA and this Section III.F must:

1. Be made to Covered Entity without unreasonable delay and in no case later than 14 calendar days after Business Associate: a) knows, or by exercising reasonable diligence would have known, of a Breach, b) becomes aware of a Security Incident, or c) becomes aware of any use or disclosure of PHI not provided for by this Agreement;

2. Include the names and addresses of the Individual(s) whose PHI is the subject of a Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement. In addition, Business Associate must provide any additional information reasonably requested by Covered Entity for purposes of investigating the Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement;

3. Be in substantially the same form as Exhibit A hereto;

4. Include a brief description of what happened, including the date of the Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement, if known, and the date of the discovery of the Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement;

5. Include a description of the type(s) of Unsecured PHI that was involved in the Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement (such as full name, Social Security number, date of birth, home address, account number, disability code, or other types of information that were involved);

6. Identify the nature and extent of the PHI involved, including the type(s) of identifiers and the likelihood of re identification;

7. If known, identify the unauthorized person who used or accessed the PHI or to whom the disclosure was made;

8. Articulate any steps the affected Individual(s) should take to protect him or herself from potential harm resulting from the Breach, Security Incident, or use or disclosure of PHI not permitted by this Agreement;

9. State whether the PHI was actually acquired or viewed;

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10. Provide a brief description of what the Covered Entity and the Business Associate are doing to investigate the Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement, to mitigate losses, and to protect against any further Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement;

11. Note contact information and procedures for an Individual(s) to ask questions or learn additional information, which must include a toll-free telephone number of Business Associate, along with an e-mail address, Web site, or postal address;

and

12. Include a draft letter for the Covered Entity to utilize, in the event Covered Entity elects, in its sole discretion, to notify the Individual(s) that his or her PHI is the subject of a Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement that includes the information noted in Section III.F.4 – III.F.11 above.

G. Business Associate must, and is expected to, directly and independently fulfill all notification requirements under HIPAA.

H. In the event of a Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement, Business Associate must mitigate, to the extent practicable, any harmful effects of said disclosure that are known to it.

I. In accordance with 45 CFR §§ 164.502(e)(1)(ii) and 164.308(b)(2), Business Associate agrees to ensure that any agent, subcontractor, or employee to whom it provides PHI (received from, or created or received by, Business Associate on behalf of Covered Entity) agrees to the same restrictions, conditions, and requirements that apply through this Agreement to Business Associate with respect to such information.

J. Business Associate must ensure that any contract or other arrangement with a subcontractor meets the requirements of paragraphs 45 CFR §164.314(a)(2)(i) and (a)(2)(ii) required by 45 CFR § 164.308(b)(3) between a Business Associate and a subcontractor, in the same manner as such requirements apply to contracts or other arrangements between a Covered Entity and Business Associate.

K. Pursuant to 45 CFR § 164.502(a)(4)(ii), Business Associate must disclose PHI to the Covered Entity, Individual, or Individual's designee, as necessary to satisfy a Covered Entity's obligations under § 164.524(c)(2)(ii) and (3)(ii) with respect to an individual's request for an electronic copy of PHI.

L. To the extent applicable, Business Associate must provide access to PHI in a Designated Record Set at reasonable times, at the request of Covered Entity or as directed by Covered Entity, to an Individual specified by Covered Entity in order to meet the requirements under 45 CFR § 164.524.

M. A Business Associate that is a health plan, excluding an issuer of a long-term care policy falling within paragraph (1)(viii) of the definition of health plan, must not use or disclose PHI that is genetic information for underwriting purposes, in accordance with the provisions of 45 CFR 164.502.

N. To the extent applicable, Business Associate must make any amendment(s) to PHI in a Designated Record Set that Covered Entity directs or agrees to, pursuant to 45 CFR § 164.526, at the request of Covered Entity or an Individual.

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O. Business Associate must, upon request with reasonable notice, provide Covered Entity access to its premises for a review and demonstration of its internal practices and procedures for safeguarding PHI.

P. Business Associate must, upon request and with reasonable notice, furnish to Covered Entity security and privacy audit results, risk analyses, security and privacy policies and procedures, details of previous Breaches and Security Incidents, and documentation of controls.

Q. Business Associate must also maintain records indicating who has accessed PHI about an Individual in an electronic designated record set and information related to such access, in accordance with 45 C.F.R. § 164.528. Business Associate must document such disclosures of PHI and information related to such disclosures as would be required for a Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528. Should an Individual make a request to Covered Entity for an accounting of disclosures of his or her PHI pursuant to 45 C.F.R. § 164.528, Business Associate must promptly provide Covered Entity with information in a format and manner sufficient to respond to the Individual's request.

R. Business Associate must, upon request and with reasonable notice, provide Covered Entity with an accounting of uses and disclosures of PHI that was provided to it by Covered Entity.

S. Business Associate must make its internal practices, books, records, and any other material requested by the Secretary relating to the use, disclosure, and safeguarding of PHI received from Covered Entity available to the Secretary for the purpose of determining compliance with HIPAA. Business Associate must make the aforementioned information available to the Secretary in the manner and place as designated by the Secretary or the Secretary's duly appointed delegate. Under this Agreement, Business Associate must comply and cooperate with any request for documents or other information from the Secretary directed to Covered Entity that seeks documents or other information held or controlled by Business Associate.

T. Business Associate may use PHI to report violations of law to appropriate Federal and State authorities, consistent with 42 C.F.R. § 164.502(j)(1).

U. Except as otherwise limited in this Agreement, Business Associate may disclose PHI for the proper management and administration of Business Associate or the Underlying Agreement, provided that disclosures are Required By Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and be used or further disclosed only as Required By Law or for the limited purpose for which it was disclosed to the person, and the person must agree to notify Business Associate of any instance of any Breach, Security Incident, or use or disclosure of PHI not provided for by this Agreement of which it is aware in which the confidentiality of the information has been breached.

V. Business Associate understands that, pursuant to 45 CFR § 160.402, the Business Associate is liable, in accordance with the Federal common law of agency, for a civil money penalty for a violation of the HIPAA rules based on the act or omission of any agent of the Business Associate, including a workforce member or subcontractor, acting within the scope of the agency.

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TERM AND TERMINATION.

IV.

A. Term. The Term of this Agreement shall be effective as of the effective date of the Underlying Agreement, and shall terminate: (1) when all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity; or, (2) if it is infeasible to return or destroy PHI, in accordance with the termination provisions in this Article IV.

B. Termination for Cause. Upon Covered Entity's knowledge of a material breach of this Agreement by Business Associate, Covered Entity shall:

1. Provide an opportunity for Business Associate to cure the breach or end the violation and, if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity, have the right to terminate this Agreement and to terminate the Underlying Agreement, and shall report the violation to the Secretary;

2. Have the right to immediately terminate this Agreement and the Underlying Agreement if Business Associate has breached a material term of this Agreement and cure is not possible, and shall report the violation to the Secretary; or

3. If neither termination nor cure is feasible, report the violation to the Secretary.

4. This Article IV, Term and Termination, Paragraph B, is in addition to the provisions set forth in Paragraph 27, Termination for Default of the General Conditions of Contract Between County and Contractor, attached to the Underlying Agreement, in which "Business Associate" is "Contractor" and "Covered Entity" is "County" for purposes of this Agreement.

C. Effect of Termination.

1. Except as provided in Section IV.C.2, upon termination or cancellation of this Agreement, for any reason, Business Associate must return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision applies to PHI that is in the possession of a subcontractor(s), employee(s), or agent(s) of Business Associate. Business Associate must not retain any copies of the PHI.

2. In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate must provide to Covered Entity written notification of the nature of the PHI and the conditions that make return or destruction infeasible. After written notification that return or destruction of PHI is infeasible, Business Associate must extend the protections of this Agreement to such PHI and limit further use(s) and disclosure(s) of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI. Notwithstanding the foregoing, to the extent that it is not feasible to return or destroy such PHI, the terms and provisions of this Agreement survive termination of this Agreement with regard to such PHI.

3. Should Business Associate violate this Agreement, HIPAA, the Underlying Agreement, the MCMRA, or other applicable law, Covered Entity has the right to immediately terminate any contract then in force between the Parties, including the Underlying Agreement.

V.CONSIDERATION. Business Associate recognizes that the promises it has made in this Agreement shall, henceforth, be reasonably, justifiably, and detrimentally relied upon by Covered Entity in choosing to continue or commence a business relationship with Business Associate.

VI.CAUSES OF ACTION IN THE EVENT OF BREACH. As used in this paragraph, the term "breach" has the meaning normally ascribed to that term under the Maryland law related to contracts, as opposed to the specific definition under HIPAA related to PHI. Business Associate hereby recognizes that irreparable harm will result to Covered Entity in the event of breach by Business Associate of any of the covenants and assurances contained in

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this Agreement. As such, in the event of breach of any of the covenants and assurances contained in this Agreement, Covered Entity shall be entitled to enjoin and restrain Business Associate from any continued violation of this Agreement. Furthermore, in the event of breach of this Agreement by Business Associate, Covered Entity is entitled to reimbursement and indemnification from Business Associate for Covered Entity's reasonable attorneys' fees and expenses and costs that were reasonably incurred as a proximate result of Business Associate's breach. The causes of action contained in this Article VI are in addition to (and do not supersede) any action for damages and/or any other cause of action Covered Entity may have for breach of any part of this Agreement. Furthermore, these provisions are in addition to the provisions set forth in Paragraph 18, "Indemnification", of the General Conditions of Contract Between County and Contractor, attached to the Underlying Agreement in which "Business Associate" is "Contractor" and "Covered Entity" is "County", for purposes of this Agreement.

VII. MODIFICATION; AMENDMENT. This Agreement may be modified or amended only through a writing signed by the Parties and, thus, no oral modification or amendment hereof shall be permitted. The Parties agree to take such action as is necessary to amend this Agreement, from time to time, as is necessary for Covered Entity to comply with the requirements of HIPAA, including its Privacy, Security, and Notice Rules.

VIII. INTERPRETATION OF THIS AGREEMENT IN RELATION TO OTHER AGREEMENTS BETWEEN THE PARTIES. Should there be any conflict between the language of this Agreement and any other contract entered into between the Parties (either previous or subsequent to the date of this Agreement), the language and provisions of this Agreement, along with the Underlying Agreement, shall control and prevail unless the Parties specifically refer in a subsequent written agreement to this Agreement, by its title, date, and substance and specifically state that the provisions of the later written agreement shall control over this Agreement and Underlying Agreement. In any event, any agreement between the Parties, including this Agreement and Underlying Agreement, must be in full compliance with HIPAA, and any provision in an agreement that fails to comply with HIPAA will be deemed separable from the document, unenforceable, and of no effect.

IX. COMPLIANCE WITH STATE LAW. The Business Associate acknowledges that by accepting the PHI from Covered Entity, it becomes a holder of medical records information under the MCMRA and is subject to the provisions of that law. If HIPAA conflicts with another applicable law regarding the degree of protection provided for Protected Health Information, Business Associate must comply with the more restrictive protection requirement.

X. MISCELLANEOUS.

A. Ambiguity. Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with HIPAA.

B. Regulatory References. A reference in this Agreement to a section in HIPAA means the section in effect, or as amended.

C. Notice to Covered Entity. Any notice required under this Agreement to be given Covered Entity shall be made in writing to:

Joy Page, Esq.
Deputy Privacy Official
Montgomery County, Maryland
401 Hungerford Drive, 7th Floor
Rockville, Maryland 20850
(240) 777-3247 (Voice)
(240) 777- 3099 (Fax)

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Notice to Business Associate. Any notice required under this Agreement to be given Business Associate shall be made in writing to:

Address: _____

Attention: _____

Phone: _____

D. Maryland Law. This Agreement is governed by, and shall be construed in accordance with, applicable federal law and the laws of the State of Maryland, without regard to choice of law principles.

E. Incorporation of Future Amendments. Other requirements applicable to Business Associates under HIPAA are incorporated by reference into this Agreement.

F. Penalties for HIPAA Violation. In addition to that stated in this Agreement, Business Associate may be subject to civil and criminal penalties noted under HIPAA, including the same HIPAA civil and criminal penalties applicable to a Covered Entity.

SIGNATURE PAGE FOLLOWS

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IN WITNESS WHEREOF and acknowledging acceptance and agreement of the foregoing, the Parties affix their signatures hereto.

MONTGOMERY COUNTY, MARYLAND

VENDOR NAME

By: _____

By: _____

Name: _____

Name: Cherri Branson

Title: _____

Title: Director, Office of Procurement

Date: _____

Date: _____

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EXHIBIT A

FORM OF NOTIFICATION

This notification is made pursuant to Section III.F of the Business Associate Agreement between:

- Montgomery County, Maryland, (the “County”) and
- _____ (Business Associate).

Business Associate hereby notifies the County that there has been a Breach, Security Incident, or use or disclosure of PHI not provided for by the Business Associate Agreement (an “Incident”) that Business Associate has used or has had access to under the terms of the Business Associate Agreement.

Description of the Incident:

Date of the Incident: _____

Date of discovery of the Incident: _____

Does the Incident involve 500 or more individuals? Yes/No

If yes, do the people live in multiple states? Yes/No

Number of individuals affected by the Incident:

Names and addresses of individuals affected by the Incident:

(Attach additional pages as necessary)_____

The types of unsecured PHI that were involved in the Incident (such as full name, Social Security number, date of birth, home address, account number, or disability code):

Description of what Business Associate is doing to investigate the Incident, to mitigate losses, and to protect against any further Incidents:

Contact information to ask questions or learn additional information:

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Name: _____

Title: _____

Address: _____

Email Address: _____

Phone Number: _____

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ATTACHMENT H

MONTGOMERY COUNTY, MARYLAND
MINORITY, FEMALE, DISABLED PERSON SUBCONTRACTOR
PERFORMANCE PLAN

Contractor's
Name: _____
Address: _____
City: _____ State: _____ Zip: _____
Phone Number: _____ Fax Number: _____ Email: _____

CONTRACT NUMBER/PROJECT DESCRIPTION: _____

A. Individual assigned by Contractor to ensure Contractor's compliance with MFD Subcontractor Performance Plan:

Name: _____
Title: _____
Address: _____
City: _____ State: _____ Zip: _____
Phone Number: _____ Fax Number: _____ Email: _____

B. This Plan covers the life of the contract from contract execution through the final contract expiration date.

C. The percentage of total contract dollars, including modifications and renewals, to be paid to all certified minority owned business subcontractors, is _____% of the total dollars awarded to Contractor.

D. Each of the following certified minority owned businesses will be paid the percentage of total contract dollars indicated below as a subcontractor under the contract.

I hereby certify that the business(s) listed below are certified by one of the following: Maryland Department of Transportation (MDOT); Virginia Small, Woman and Minority Owned Business (SWAM); Federal SBA (8A); MD/DC Minority Supplier Development Council (MSDC); Women's Business Enterprise National Council (WBENC); or City of Baltimore.
A Certification Letter must be attached.
For assistance, call 240-777-9912.

1. Certified by: _____
Subcontractor Name: _____
Title: _____
Address: _____
City: _____ State: _____ Zip: _____
Phone Number: _____ Fax Number: _____ Email: _____

CONTACT PERSON: _____

Circle MFD Type:

AFRICAN AMERICAN	ASIAN AMERICAN	DISABLED PERSON
FEMALE	HISPANIC AMERICAN	NATIVE AMERICAN

The percentage of total contract dollars to be paid to this subcontractor :

This subcontractor will provide the following goods and/or services: _____

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2. Certified by: _____
Subcontractor Name: _____
Title: _____
Address: _____
City: _____ State: _____ Zip: _____
Phone Number: _____ Fax Number: _____ Email: _____

CONTACT PERSON: _____

Circle MFD Type:

- | | | |
|------------------|-------------------|-----------------|
| AFRICAN AMERICAN | ASIAN AMERICAN | DISABLED PERSON |
| FEMALE | HISPANIC AMERICAN | NATIVE AMERICAN |

The percentage of total contract dollars to be paid to this subcontractor: _____
This subcontractor will provide the following goods and/or services: _____

3. Certified by: _____
Subcontractor Name: _____
Title: _____
Address: _____
City: _____ State: _____ Zip: _____
Phone Number: _____ Fax Number: _____ Email: _____

CONTACT PERSON: _____

Circle MFD Type:

- | | | |
|------------------|-------------------|-----------------|
| AFRICAN AMERICAN | ASIAN AMERICAN | DISABLED PERSON |
| FEMALE | HISPANIC AMERICAN | NATIVE AMERICAN |

The percentage of total contract dollars to be paid to this subcontractor: _____
This subcontractor will provide the following goods and/or services: _____

4. Certified By: _____
Subcontractor Name: _____
Title: _____
Address: _____
City: _____ State: _____ Zip: _____
Phone Number: _____ Fax Number: _____ Email: _____

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CONTACT PERSON: _____

Circle MFD Type:

AFRICAN AMERICAN
FEMALE

ASIAN AMERICAN
HISPANIC AMERICAN

DISABLED PERSON
NATIVE AMERICAN

The percentage of total contract dollars to be paid to this subcontractor:

This subcontractor will provide the following goods and/or services:

E. The following language will be inserted in each subcontract with a certified minority owned business listed in D above, regarding the use of binding arbitration with a neutral arbitrator to resolve disputes with the minority owned business subcontractor; the language must describe how the costs of dispute resolution will be apportioned:

F. Provide a statement below, or on a separate sheet, that summarizes maximum good faith efforts achieved, and/or the intent to increase minority participation throughout the life of the contract or the basis for a full waiver request.

G. A full waiver request must be justified and attached.

Full Waiver Approved:

Partial Waiver Approved:

MFD Program Officer

Date: _____

MFD Program Officer

Date: _____

Full Waiver Approved:

Partial Waiver Approved:

Director
Cherri Branson
Office of Procurement

Date: _____

Director
Cherri Branson
Office of Procurement

Date: _____

The Contractor submits this MFD Subcontractor Performance Plan (Plan Modification No. _____) in accordance with the Minority Owned Business Addendum to General Conditions of Contract between County and Contractor.

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CONTRACTOR SIGNATURE

USE ONE:

1. TYPE CONTRACTOR'S NAME: _____

Signature

Typed Name

Date

2. TYPE CORPORATE CONTRACTOR'S NAME: _____

Signature

Typed Name

Date

I hereby affirm that the above named person is a corporate officer or a designee empowered to sign contractual agreements for the corporation.

Signature

Typed Name

Title

Date

APPROVED:

Cherri Branson, Director, Office of Procurement

Date

Section 7.3.3.4(a) of the Procurement Regulations requires:
The Contractor must notify the Director, Office of Procurement, of any proposed change to the Subcontractor Performance Plan.

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ATTACHMENT I

MINORITY BUSINESS PROGRAM & OFFEROR'S REPRESENTATION

It is the policy of the County to recruit actively, minority-owned businesses to provide goods and services to perform governmental functions pursuant to Section 11B-57 of the County Code. Minority-owned businesses are described in County law as Minority/Female/Disabled Person owned businesses (MFD). MFD businesses include certain non-profit entities organized to promote the interests of persons with a disability demonstrating (on a contract by contract basis) that at least 51% of the persons used by the non-profit entity to perform the services or manufacture the goods contracted for by the County, are persons with a disability. MFD firms also include those firms that are 51% owned, controlled and managed by one or more members of a socially or economically disadvantaged minority group, which include African Americans who are not of Hispanic origin, Hispanic Americans, Native Americans, Asian Americans, Women and Mentally or Physically Disabled Persons.

Section 7 - "Minority Contracting", Montgomery County Procurement Regulations specifies the procedure to be followed and will govern the evaluation of offers received pursuant to this solicitation. A copy of Section 7 of the Procurement Regulations is available upon request.

Prior to awarding contracts with a value of \$50,000 or more, a prospective Contractor (who is not a certified MFD firm) must demonstrate that a minimum percentage of the overall contract value as set by the County, will be subcontracted to certified MFD businesses. A decision as to whether the prospective Contractor has demonstrated a good faith effort to meet this subcontracting requirement will be made by the Director, Office of Procurement, or his/her designee, who may waive this requirement.

A sample of the MFD Report of payment Received is attached. This form is mailed to the MFD Subcontractor to complete for documentation of payment by the Prime Contractor. It is not to be completed by the Prime Contractor nor submitted with the MFD Subcontractor Performance Plan.

The Director, Office of Procurement, or his /her designee determines whether a waiver of MFD subcontracting would be appropriate, under Section 7.3.3.5 of the Procurement Regulations.

For further information regarding the MFD Business Program, please contact the MFD Program, Office of Business Relations and Compliance at (240) 777-9912.

Offerors are encouraged (but not required) to complete the following:

I hereby represent that this is a Minority Business firm as indicated below (CIRCLE ONE):

AFRICAN AMERICAN	ASIAN AMERICAN	DISABLED PERSON
FEMALE	HISPANIC AMERICAN	NATIVE AMERICAN

Attach one of the following certification documents from: Maryland Department of Transportation (MDOT); Virginia Small, Women & Minority-Owned Business; Federal SBA 8(a); MD/DC Minority Supplier Development Council, Women's Business Enterprise National Council; or City of Baltimore.