

OPEN SOLICITATION #1163448  
FOR CATERING/FOOD SERVICES

**Exhibit A**  
**Application Process**

To all prospective applicants:

Montgomery County (the "County") through its Department of Recreation (the "Department") provides various after school, school break, and weekend programs. Additionally, the County hosts a variety of public and internal events.

The County will incorporate the General Conditions of Contract Between County and Contractor into the contract as Attachment A. The Contractor must sign the pre-approved form contract as written and must accept all attachments to the pre-approved form contract, including the General Conditions of Contract Between County and Contractor as written, with no modification.

The following documents must be completed and submitted prior to execution of the contract, and will be incorporated into the contract:

1. Attachment B – Catering/Food Services Rate Schedule;
2. Attachment C – Mandatory Insurance Requirements;
3. Minority-owned Business Addendum to the General Conditions of Contract between County & Contractor ([www.montgomerycountymd.gov/PRO/Resources/Files/SolForm/PMMD-91.pdf](http://www.montgomerycountymd.gov/PRO/Resources/Files/SolForm/PMMD-91.pdf)) and its companion document entitled, "Minority, Female, Disabled Person Subcontractor Performance Plan" ([www.montgomerycountymd.gov/PRO/Resources/Files/SolForm/PMMD-65.pdf](http://www.montgomerycountymd.gov/PRO/Resources/Files/SolForm/PMMD-65.pdf));
4. Wage Requirements for Services Contract Addendum to the General Conditions of Contract Between County and Contractor, and its companion documents entitled "Wage Requirements Certification" and "501(c)(3) Nonprofit Organization's Employee's Wage and Health Insurance Form" ([www.montgomerycountymd.gov/PRO/Resources/Files/SolForm/PMMD-177.pdf](http://www.montgomerycountymd.gov/PRO/Resources/Files/SolForm/PMMD-177.pdf)); and
5. Mid Atlantic Purchasing Team Rider Clause ([www.montgomerycountymd.gov/PRO/Resources/Files/SolForm/PMMD-147B.pdf](http://www.montgomerycountymd.gov/PRO/Resources/Files/SolForm/PMMD-147B.pdf)).

Please note that your firm must be registered in the Central Vendor Registration System, in order to provide services to the County. To register in this system, go online to [www.mcipcc.net](http://www.mcipcc.net) and click "Register". The NIGP Class/Item Code is 961-15. A W-9 form will need to be uploaded to complete the registration process. Registration may take 2-3 business days once, initial registration and W-9 is submitted.

Applicants must complete and submit the Contract, including the documents referenced above and proof of Good Standing with the State of Maryland Department of Assessments and Taxation Business Services (<https://egov.maryland.gov/BusinessExpress/>).

The qualifications for the Catering/Food Services are listed in the Contract. The Department will review each application/Contract for completeness and determine if your firm meets these minimum qualifications. At the discretion of the Department, any applicant may be contacted by the Department to assist them in the determination of the applicant's qualifications and the determination of the applicant's responsibility and ability to perform the services required. Those applications which are incomplete will be returned to the applicant. These applicants may resubmit a completed application. Those applicants that are found not qualified will be notified by the Department.

If the applicant is determined to be qualified and is considered to be responsible, the Department will obtain the Certificate of Insurance from the applicant and forward it to the Division of Risk Management for review and approval. Upon receipt of an acceptable certificate, the Department will submit all of the documents to the Office of Procurement for processing the Contract.

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After execution of the Contract, the Office of Procurement will forward an electronic copy of the Contract to both the Department and the Contractor.

**APPLICATION PREPARATION EXPENSES**

All costs incurred in the preparation and submission of applications will be borne by the applicant and shall not be incurred in anticipation of receiving reimbursement from the County.

**JOINT PROCUREMENT (Optional Use of the Contract)**

The following entities within Montgomery County must be able to purchase directly from any contract resulting from this Solicitation:

- Maryland-National Capital Park & Planning Commission (M-NCPPC)
- Montgomery College (MC)
- Montgomery County Public Schools (MCPS)
- Montgomery County Revenue Authority
- Montgomery County Housing Opportunities Commission (HOC)
- Washington Suburban Sanitary Commission (WSSC)
- Municipalities & Special Tax Districts in Montgomery County

While this solicitation is prepared on behalf of Montgomery County, it is intended to apply for the benefit of the above-named entities as though they were expressly named throughout this Open Solicitation. Each of these entities may purchase from the contractor under the same prices and services of the contract with Montgomery County, in accordance with each entity's respective laws and regulations. An entity may choose not to procure from the contractor at the entity's sole discretion. If one of the above-named entities elects to purchase under the contract, the prices shall be determined by using unit costs and other pertinent costs that are provided in the contract. Montgomery County shall not be held liable for any costs, payments, invoices, or damages incurred by the above jurisdictions. Each jurisdiction listed in this section will be solely responsible for and contract directly with the contractor under the jurisdiction's own procurement laws and regulations. ANY SPECIAL DISCOUNTS UNIQUE TO A PARTICULAR ENTITY (e.g. Montgomery County Public Schools educational discounts) SHOULD BE OFFERED TO THAT ENTITY.

**PROPRIETARY & CONFIDENTIAL INFORMATION**

This is to notify prospective applicants that the County has unlimited data rights regarding applications submitted in response to this solicitation. Unlimited data rights mean that Montgomery County has the right to use, disclose, reproduce, prepare derivative works, distribute copies to the public, or perform publicly and display publicly any information submitted by applicant in response to this or any solicitation issued by the County. However, information that is deemed to be confidential, commercial, or financial information as defined by the Maryland Information Act, State Government Article § 10-617, will be exempted from disclosure if the submitter can show that release of such information would cause substantial competitive harm to the submitter. It is the responsibility of the applicant to clearly identify each part of the application that it believes is confidential, commercial, or financial information by stamping the bottom right-hand corner of each pertinent page with large, one-inch, boldface letters stating the words "confidential" or "proprietary." The applicant agrees, with regard to any portion of the application that is not stamped as proprietary or confidential, that it believes and expressly permits the County to deem it not to be proprietary or confidential.

**QUALIFICATIONS OF APPLICANTS**

Applicants may be required to furnish satisfactory evidence that they are qualified and are regularly engaged in performing the services for which they are applying for, and in both cases maintain a regularly established place of business. An authorized representative of the County may visit any prospective applicant's place of business to determine ability, capacity, reliability, financial stability and other factors necessary to perform the contract. In addition, the applicant must provide with the application submission proof of Good Standing with the State of Maryland

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Department of Assessments and Taxation Business Services (<https://egov.maryland.gov/BusinessExpress/>) - if applicable.

**SERVICES CONTRACT (County Code 11B-33A)**

Under County law, a solicitation for a contractor to provide services is subject to the Montgomery County Code regarding compliance with certain wage requirements payable to the Contractor's employees. Additional information regarding the County's wage requirements is contained within this solicitation (see the provision entitled "Wage Requirements (Living Wage) for Services Contracts Addendum to the General Conditions of Contract Between County and Contractor" and its companion document entitled "Wage Requirements Certification"). If an applicant fails to complete and submit the required material information on the Wage Requirements Certification form, its application may be deemed unacceptable and rejected under County law.

**MANDATORY SUBMISSIONS**

The following items must be completed and submitted by the applicant for consideration of a contract award under this Open Solicitation:

- A. Signed Contract document;
- B. Catering/Food Services Rate Schedule (Attachment B)
- C. Minority-owned Business Addendum to the General Conditions of Contract between County & Contractor ([www.montgomerycountymd.gov/PRO/Resources/Files/SolForm/PMMD-91.pdf](http://www.montgomerycountymd.gov/PRO/Resources/Files/SolForm/PMMD-91.pdf)) and its companion document entitled, "Minority, Female, Disabled Person Subcontractor Performance Plan" ([www.montgomerycountymd.gov/PRO/Resources/Files/SolForm/PMMD-65.pdf](http://www.montgomerycountymd.gov/PRO/Resources/Files/SolForm/PMMD-65.pdf))
- D. Wage Requirements for Services Contract Addendum to the General Conditions of Contract Between County and Contractor, and its companion documents entitled "Wage Requirements Certification" and "501(c)(3) Nonprofit Organization's Employee's Wage and Health Insurance Form" ([www.montgomerycountymd.gov/PRO/Resources/Files/SolForm/PMMD-177.pdf](http://www.montgomerycountymd.gov/PRO/Resources/Files/SolForm/PMMD-177.pdf)); and
- E. Mid Atlantic Purchasing Team Rider Clause ([www.montgomerycountymd.gov/PRO/Resources/Files/SolForm/PMMD-147B.pdf](http://www.montgomerycountymd.gov/PRO/Resources/Files/SolForm/PMMD-147B.pdf)).
- F. Certificate of Insurance that meets the Mandatory Insurance Requirements (Attachment C)
- G. URL of menu(s) offering and available to the County.
- H. List of at least three (3) current references for which comparable work has been performed by the applicant. This list must include company name, person to contact, address and telephone number.

Failure to submit any of the documents listed above, in a timely manner as indicated, may be cause to consider the applicant as non-responsive.

Should you have any questions regarding this application process, please contact the Department of Recreation at [Allison.cohen@montgomerycountymd.gov](mailto:Allison.cohen@montgomerycountymd.gov).

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**Exhibit B**

**CONTRACT #** \_\_\_\_\_

This Contract is between Montgomery County, Maryland (the "County") and \_\_\_\_\_ (the "Contractor").

**I. BACKGROUND**

- A. The County requires a variety of food service contractors from various pre-qualified vendors for indoor and outdoor events.
- B. Specifically, the County seeks restaurants (catering services only), grocery stores (catering services only), food trucks, and caterers who are available upon request to provide catering and/or food services at indoor or outdoor County events.

**II. SCOPE OF SERVICES**

- A. The Contractor must provide food and beverages as requested by the County. Delivery must be provided within Montgomery County.
- B. Contractor must set up and break down all buffets, as required by the County.
- C. Contractor must confirm each order and submit a quote within two (2) business days to the County.
- D. If required, the Contractor must provide sufficient staffing for each event. Contractor's staff must be appropriately attired for the event and contain identification from the Contractor. All staff must be properly trained in providing food services and always conduct themselves in a professional manner while providing services to the County and while on County premises.
- E. If requested, Contractor must deliver all food and associated items to designated locations.

**III. CONTRACTOR'S RESPONSIBILITIES**

- A. The Contractor must designate a point of contact for each event who must be available in the office on the day of the event(s), at all times during the event(s), for the County to have a point of contact in case of questions, to provide assistance in case of an emergency.
- B. It is the responsibility of the Contractor to obtain and maintain all required certifications, permits and food licenses to provide food services under the resulting contract.
- C. The Contractor must label all food, including allergen information. Nutritional information must be available for all food upon request by the County.
- D. The Contractor must deliver orders, upon request, per the Caterer/Food Services Rate Schedule.
- E. The Contractor must have orders available ready at requested times for takeout orders.

**IV. COUNTY'S RESPONSIBILITIES**

- A. The County will submit a request for services at least two (2) weeks prior to the event for non-take-out orders. Requests must include:
  - 1. Event Date;
  - 2. Event Duration;
  - 3. Location, including Room information;

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4. Number of guests;
5. Requested menu;
6. Details of any special dietary requirements; and
7. Contact information for the event.

- B. The County will submit take-out orders for fewer than ten (10) people at least one (1) hour in advance during the Contractor's regular business hours.
- C. The County will provide tables for buffet style serving.
- D. If available, the County will provide a kitchen for the use of the Contractor up to 30 minutes prior to and during the event.

V. CONTRACTOR QUALIFICATIONS

- A. The Contractor must be located within Montgomery County, Maryland.
- B. Contractors must have at least five (5) years of food service experience.
- C. All employees, subcontractors, and/or volunteers of the Contractor must be at least 18 years of age, and have experience in the type of work performed.

VI. INDEPENDENT CONTRACTOR/CONTRACTOR CONDUCT

- A. Contractor's personnel and the personnel retained by any approved subcontractor engaged by the Contractor are the employees, consultants, workers and contractors of the Contractor or subcontractor, as applicable. The Contractor's personnel and the personnel of any subcontractor engaged by the Contractor are not employees of Montgomery County. The Contractor's personnel and the personnel of any subcontractor engaged by the Contractor must not represent themselves as an employee of the County in their interaction with the public, other contractors, or County employees. In situations where the Contractor's personnel or the personnel of any subcontractor engaged by the Contractor may be mistaken for a County employee, the Contractor's personnel and the personnel of any subcontractor engaged by the Contractor must disclose that they are working under a County contract and that they are not a County employee. Persons assigned to work for the County under this Contract must not set policies for the County or independently interpret County policies.
- B. The Contractor must provide administrative oversight for, and coordinate the recruitment, hiring/subcontracting, termination and placement of, qualified individuals who will provide the services as stipulated in this Contract. The Contractor must also provide overall supervision, control over, and direction of all personnel who work under this Contract in the provision of the services described in this Contract.
- C. The Contractor and any subcontractor engaged by the Contractor must abide by all federal, state, and local labor laws and regulations and all applicable federal, state, and local tax laws and regulations in the hiring and management of all personnel employed or retained to provide services to the County under this Contract. For purposes of this Contract, "personnel" means the employees, consultants, contractors, or other worker retained by the Contractor or any subcontractor engaged by the Contractor to provide the services under this Contract.
- D. The Contractor or any subcontractor engaged by the Contractor, as applicable, must be responsible for all taxes, as well as other obligations or benefits related to its workers, including F.I.C.A., federal, and state withholdings, unemployment, and workers' compensation for persons who work for the Contractor, or the subcontractor engaged by the Contractor under this Contract in the provision of the services described in this Contract.

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- E. The Contractor's personnel and the personnel of any subcontractor engaged by the Contractor to provide services under this Contract are not entitled to the use of, and must not use, County vehicles.
- F. The Contractor's personnel and the personnel of any subcontractor engaged by the Contractor are not entitled to benefits available to County employees, including but not limited to, credit union membership, administrative leave, access to deferred compensation benefits, affirmative action initiatives, personnel services, employee training, and other County employee benefits.
- G. The Contractor or any subcontractor engaged by the Contractor, as applicable, is solely responsible for all costs or expenses related to personnel costs of its personnel, including those related to wages, benefits, training, mileage, travel, parking, fringe benefits and paid leave.

VII. COMPENSATION

- A. The Contractor will be compensated for services provided, in accordance with the Catering Services Rate Schedule (Attachment B). The cost of all services must not exceed the total amount listed on the purchase order issued by the County to the Contractor.
- B. The Contractor must not commence any service under this Contract until a purchase order has been executed by the Office of Procurement and a Notice to Proceed has been issued by the Department of Recreation.
- C. This is a requirements Contract. The County makes no representation, promise, or guarantee regarding any minimum number of orders to be placed, or minimum compensation to the Contractor.

VIII. CONTRACT TERM

The effective date of this Contract begins upon signature by the Director, Office of Procurement. The period in which the Contractor must fill all orders for service under the Contract begins on the Contract's effective date and ends on \_\_\_\_\_.

IX. INVOICES

The County's payment terms are net thirty (30) days. The Contractor must submit itemized statements within thirty (30) days after completion of the services provided by the Contractor to the County. The Contractor's invoices must include the company name and remittance address; the County Purchase Order number; a unique invoice number and date; and the name of the contact staff person in the County. All invoices must be submitted to [rec.payable@montgomerycountymd.gov](mailto:rec.payable@montgomerycountymd.gov) or the Bill To information on the purchase order.

X. GENERAL CONDITIONS

The General Conditions of Contract Between County and Contractor ("General Conditions") are incorporated by reference and made a part of this Contract as Attachment A. The Mandatory Insurance Requirements set forth in Attachment C supersede the Insurance Requirements set forth in Provision 21, Insurance, of the General Conditions.

XI. PRIORITY OF DOCUMENTS

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

- A. This Contract document;
- B. The General Conditions of Contract Between County and Contractor (Attachment A), and the Mandatory Insurance Requirements (Attachment C);
- C. Catering Services Rate Schedule (Attachment B).

**[SIGNATURES TO FOLLOW ON NEXT PAGE]**

**SIGNATURES**

**CONTRACTOR:** \_\_\_\_\_

**MONTGOMERY COUNTY, MARYLAND**

By: \_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Avinash G Shetty, Director  
Office of Procurement

Printed Name: \_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_

Street: \_\_\_\_\_

City, State Zip: \_\_\_\_\_

Date: \_\_\_\_\_

**RECOMMENDED**

By: \_\_\_\_\_  
Robin Riley, Director  
Department of Recreation

Date: \_\_\_\_\_

**THIS CONTRACT HAS BEEN PRE-APPROVED AS TO  
FORM BY THE OFFICE OF THE COUNTY ATTORNEY AND  
MAY NOT BE MODIFIED.**

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 County's prevailing wage law, as found at §11B-33C of the County Code, applies to certain construction contracts. To the extent applicable, the County's prevailing wage requirements are enumerated within this solicitation/contract in the "Prevailing Wage Requirements for Construction Contract Addendum to the General Conditions of Contract between County and Contractor." If applicable to this contract, the Addendum will be attached to the contract, and will be incorporated herein by reference, and made a part thereof.

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.



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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.

Montgomery County's Earned Sick and Safe Leave Law, found at Sections 27-76 through 27-82 of the County Code, became effective October 1, 2016. An employer doing business in the County, as defined under the statute, must comply with this law. This includes an employer vendor awarded a County contract. A vendor may obtain information regarding this law at <http://www.montgomerycountymd.gov/humanrights/>

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. The contractor must not employ any subcontractor that is a debarred or suspended person under County Code §11B-37. The contractor is fully responsible to the County for the acts and omissions of itself, its subcontractors and any persons either directly or indirectly employed by them. Nothing contained in the contract documents shall create any contractual relation between any subcontractor and the County, and nothing in the contract documents is intended to make any subcontractor a beneficiary of the contract between the County and the contractor.

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.

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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.

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.

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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.

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 minimum 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. The minimum limits of coverage listed shall not be construed as the maximum as required by contract or as a limitation of any potential liability on the part of the proposed awardee/contractor to the County, nor shall failure by the County to request evidence of this insurance in any way be construed as a waiver of proposed awardee/contractor's obligation to provide the insurance coverage specified.

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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. Contractor must provide to the County at least 30 days written notice of a cancellation of, or a material change to, an insurance policy. In no event may the insurance coverage be less than that shown on the applicable table, attachment, or contract provision for required insurance. After consultation with the Department of Finance, Division of Risk Management, the Director, Office of Procurement, may waive the requirements of this section, in whole or in part.

Please disregard TABLE A. and TABLE B., if they are replaced by the insurance requirements as stated in an attachment to these General Conditions of Contract between County and Contractor.

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
Disease (policy limits)	500	500	500	Attachment
Disease (each employee)	100	100	100	
Commercial General Liability 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
each occurrence	300	500	1,000	Attachment
Property Damage				
each occurrence	300	300	300	
Professional Liability* for errors, omissions	250	500	1,000	See Attachment

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and negligent acts, per  
claim and aggregate, with  
one year discovery period and  
maximum deductible of \$25,000

Certificate Holder  
Montgomery County Maryland (Contract #)  
Office of Procurement  
27 Courthouse Square, Suite 330  
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>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 27 Courthouse Square, Suite 330 Rockville, Maryland 20850 4166				

**(Remainder of Page Intentionally Left Blank)**

**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. INFORMATION SECURITY**

**A. 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 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).

**B. Payment Card Industry Compliance:**

In any contract where the Contractor provides a system or service that involves processing credit card payments (a "Payment Solution"), the Payment Solution must be Payment Card Industry Data Security Standard Compliant ("PCI-DSS Compliant"), as determined and verified by the Department of Finance, and must (1) process credit card payments through the use of a Merchant ID ("MID") obtained by the County's Department of Finance by and in the name of the County as merchant of record, or (2) use a MID obtained by and in the name of the Contractor as merchant of record.

**24. 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.

**25. 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.



26. PAYMENT AUTHORITY

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.

27. P-CARD OR SUA PAYMENT METHODS

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.

28. 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.

29. 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.

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30. 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.

31. TIME

Time is of the essence.

32. 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.

33. 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.

**THIS FORM MUST NOT BE MODIFIED WITHOUT THE PRIOR APPROVAL OF THE OFFICE OF THE COUNTY ATTORNEY.**

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ATTACHMENT B

CATERING/FOOD SERVICES RATE SCHEDULE

The applicant shall submit this form for any of the services listed below. By submission of this form, the applicant is offering the following checked (X) items:

1. \_\_\_\_ Take Out/Delivery meals from Restaurants or Food Trucks
2. \_\_\_\_ Catering, including delivery from Caterers, Restaurants, Food Trucks or Grocery Stores
3. \_\_\_\_ Onsite Food (Food Trucks only)

All food will be priced at 5% discount of public pricing as listed on the Menu URL below or a Price List dated less than twelve months prior to contract execution. Pricing includes Local, State and Federal taxes. Orders under \$1,000 are, if requested, delivered for free. Pricing for catering includes condiments, table linens, serving platters, serving utensils, flatware, napkins, cups, plates, chafing dishes, wick fuels, and all products necessary to complete the work listed in the provided purchase order. Pricing is inclusive of any staff needed for set up and breakdown. There is no minimum order.

Delivery Fee for orders over \$1,000     \$100.00

Catering Servers                             \$25.00/staff/hour

ORGANIZATION INFORMATION

Company's Legal Name: \_\_\_\_\_

\_\_\_\_\_ Restaurant (take-out, delivery and catering services)

\_\_\_\_\_ Food Truck

\_\_\_\_\_ Grocery Store (Catering Only)

\_\_\_\_\_ Caterer

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Email Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Menu URL: \_\_\_\_\_

CONTACT PERSONS

Contact Person for ordering.

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Phone: \_\_\_\_\_ Email Address: \_\_\_\_\_

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REFERENCES

The applicant is to submit three (3) current references for whom comparable service has been performed by the applicant. The three references must be from individuals or firms currently being serviced or supplied under similar contracts, or for whom work of a similar scope has been performed within the last year. Names for references shall be of individuals who directly supervised or had direct knowledge of the services provided.

1. Name of Firm: \_\_\_\_\_

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

Contact Person: \_\_\_\_\_ Title: \_\_\_\_\_

Phone: \_\_\_\_\_ Email Address: \_\_\_\_\_

2. Name of Firm: \_\_\_\_\_

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

Contact Person: \_\_\_\_\_ Title: \_\_\_\_\_

Phone: \_\_\_\_\_ Email Address: \_\_\_\_\_

3. Name of Firm: \_\_\_\_\_

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

Contact Person: \_\_\_\_\_ Title: \_\_\_\_\_

Phone: \_\_\_\_\_ Email Address: \_\_\_\_\_

QUESTIONNAIRE (attach separate document)

Please describe the company's background and experience:

1. How long the company has been in business?
2. A brief description of the company, including history, present status, future, etc.
3. Include a profile of the business location, staff and services that will be assigned to the County's account.
4. A brief description of the company's plans to keep pace with changing catering business techniques.
5. Company size and organization. Please break down number of employees.
6. What percentage of staff turn-over does the company experience annually?
7. Gross revenue for the prior fiscal year (in US dollars).
8. Has your company ever been sued by a customer? If so, please explain each incident and outcome(s).
9. Are there any lawsuits currently outstanding against your company? If any, please explain.
10. If you have had any contract(s) terminated for default during the past six years, describe all incidents. Termination for default is defined as notice to stop work due to the vendors non-performance or poor performance and the issue was either: a) not litigated; or b) litigated and litigation determined the vendor to be in default. Elaborate as needed. If the vendor has experienced no terminations as described, please indicate so.
11. If you have had ANY contract(s) terminated during the past six years for any other reason than the above stated "termination for default", please describe all such terminations fully. Include the name, address and phone number of other contracting party or parties.
12. Please provide the most recent audited financial statement for your company or credit references that can verify the financial standing of your company.
13. Please list and describe in detail the most unique feature of you company's food services.

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ATTACHMENT C

MANDATORY INSURANCE REQUIREMENTS

Prior to the execution of the contract by the County, the proposed awardee/contractor must obtain, at their own cost and expense, the following *minimum* (not maximum) 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 proposed awardee/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 the maximum as required by contract or as a limitation of any potential liability on the part of the proposed awardee/contractor to the County nor shall failure to request evidence of this insurance in any way be construed as a waiver of proposed awardee / contractor's obligation to provide the insurance coverage specified. The Contractor's insurance shall be primary with the County's being non-contributory.

Commercial General Liability

A minimum limit of liability of **three hundred thousand dollars (\$ 300,000)**, for bodily injury, personal injury and property damage coverage per occurrence including the following coverages:

- Contractual Liability
- Premises and Operations
- Independent Contractors & Subcontractors
- Products and Completed Operations

Business Automobile Liability

A minimum limit of liability of **three hundred thousand dollars (\$ 300,000)**, combined single limit, for bodily injury and property damage coverage per occurrence including the following:

- Owned automobiles
- Hired automobiles
- Non-owned automobiles

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***

Subcontractor Requirements

Unless otherwise stated below the proposed awardee/contractor shall require all subcontractors to obtain, and maintain, insurance with limits equal to, or greater, than those limits required within the contract.

Additional Insured

Montgomery County, Maryland, its elected and appointed officials, officers, consultants, agents and employees, must be included as an additional insured on an endorsement to Contractor's commercial general, automobile insurance, and contractor's excess/umbrella insurance policies, if used to satisfy the Contractor's minimum insurance requirements under this contract, for liability arising out of contractor's products, goods and services provided under this contract. The stipulated limits of coverage above shall not be construed as a limitation of any potential liability of the contractor. Coverage pursuant to this Section shall not include any provision that would bar, restrict, or preclude coverage for claims by Montgomery County against Contractor, including but not limited to "cross-liability" or "insured vs insured" exclusion provisions.

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 Recreation  
2425 Reddie Drive, 10th Floor  
Silver Spring, MD 20902  
Attn: Allison Cohen