STANDARD CONTRACT
TERMS AND CONDITIONS FOR SERVICES
– ELECTRONIC CONTRACT –

1. SCOPE

This form has been pre-approved by the Montgomery County Solicitor as indicated by the version number indicated in the header. Provided that that the County's Standard Contract and Signature page is used to memorialize this contract, and that no changes have been made to the text below, no additional Solicitor approval is required.

The version number contained on the header of this document shall govern the contents of these Terms and Conditions, and in the event of any discrepancy between the official version contained on the County's website and the text below, the version on the website shall control unless the signature of the Montgomery County Solicitor or his designee accompanies the change.

Note that failure to include this paragraph without a Solicitor signature shall not relieve Contractor of the terms below, provided this document was included in the advertised solicitation or procurement that gave rise to this Contract or was otherwise publicly advertised in a manner such that the Contractor knew or should have known that these provisions are applicable to the Contract.

2. DEFINITIONS

As used in this Contract, these words shall have the following meanings:

a. County: The department, board, commission, row office or other agency of the County of Montgomery listed as the Purchasing Agency.

b. Contracting Officer: The person authorized to administer this Contract for the County and to make written determinations with respect to the Contract.

c. Days: Unless specifically indicated otherwise, days mean calendar days.

d. Developed Materials: All documents, sketches, drawings, designs, works, papers, files, reports, computer programs, computer documentation, data, records, software, samples or any other tangible material without limitation authored or prepared by Contractor as the work product covered in the scope of work for the Project.

e. Documentation: All materials required to support and convey information about the Services required by this Contract. It includes, but is not necessarily restricted to, written reports and analyses, diagrams, maps, logical and physical designs, system designs, computer programs, flow charts, disks, and/or other machine-readable storage media.

f. Services: All Contractor activity necessary to satisfy the Contract.

g. Statement of Work: Shall refer to any statement of work attached to the contract, as well as all material posted to the PublicPurchase.com or other website used to advertise the Invitation for Bid, Request for Proposal, Statement of Interest or other solicitation that resulted in this Contract, including any and all questions and answers.

h. Supplies: All tangible and intangible property including, but not limited to materials and equipment, provided by the Contractor to satisfy the Contract.

3. TERM OF CONTRACT

The term of the Contract shall commence on the Effective Date (as defined below) and shall end on the Expiration Date identified in the Contract, subject to the other provisions of the Contract. If no Expiration Date is specified, the Term of the Contract shall be one year from the Effective Date and shall be extendable up to five years on terms negotiated between the parties.

The Effective Date shall be: a) the Effective Date printed on the Contract after the Contract has been fully executed by the Contractor and the County; or b) the "Valid from" date printed in the Statement of Work/Specification, whichever is later.

4. EXTENSION OF CONTRACT TERM

The County reserves the right, upon notice to the Contractor, to extend the term of the Contract for up to three (3) months upon the same terms and conditions.

5. SIGNATURES

This Contract shall not be a legally binding contract until the fully-executed Contract has been sent to the Contractor. No County employee has the authority to verbally direct commencement of any work or delivery of any supply under this Contract prior to the Effective Date. The Contractor hereby waives any claim or cause of action for any services or work performed prior to the Effective Date.

The fully-executed Contract may be sent to the Contractor via facsimile, email, first class mail or other means as agreed to between the parties. The Contract will not be considered fully-executed unless it has a resolution number written across the top of it, Contractor's signature, and the signature of a Commissioner or Commissioner Designee. If the enabling resolution for this Contract does not have a resolution number at the time the County needs to start work, the Contract will be considered valid if the top of the contract indicates that a resolution number is pending and states the date the resolution was passed. The Contract may be updated to include the resolution number without notice unless prior written objection has been provided.

Neither party shall contest the admissibility of copies of a genuine Contract or acknowledgements under either the business records exception to the hearsay rule or the best evidence rule on the basis that the Contract or acknowledgement were not in writing or signed by the parties. A Contract or acknowledgment shall be deemed to be genuine for all purposes if it is transmitted to the location designated for such documents. Each party will immediately take steps to verify any document that appears to be obviously garbled in transmission or improperly formatted to include re-transmission of any such document if necessary.

6. INDEPENDENT PRIME CONTRACTOR

In performing its obligations under the Contract, the Contractor will act as an independent contractor and not as an employee or agent of the County. The Contractor will be responsible for all Services in this Contract whether or not Contractor provides them directly. Further, the Contractor is the sole point of contact with regard to all contractual matters, including payment of any and all charges resulting from the Contract.

7. SUBCONTRACTS

The Contractor may subcontract any portion of the Services described in this Contract to third parties selected by Contractor if the Subcontractor is approved in writing by the County or the Subcontractor(s) and their role were disclosed in the Contractor's bid/proposal, and the bid/proposal was accepted without reservation as to the issue of Subcontractor(s). Approval for Subcontractor(s) will not be unreasonably withheld by the County.

Upon request of the County, the Contractor must provide the County with a copy of the subcontract agreement between the Contractor and Subcontractor(s). The County reserves the right, for good cause, to require that the Contractor remove a subcontractor from the project. The County will not be responsible for any costs incurred by the Contractor in replacing the subcontractor if good cause exists.

8. OTHER CONTRACTORS

The County may undertake or award other contracts for additional, alternate or related work or supplies, and the Contractor shall fully cooperate with other contractors and County employees, and coordinate its Services with such additional work as may be required.

9. DELIVERY

Delivery of Services: The Contractor shall proceed with all due diligence in the performance of the Services with qualified personnel, in accordance with the completion criteria set forth in the Contract.

10. PRODUCT CONFORMANCE

The County reserves the right to require any and all Contractors to:

a. Provide certified data from laboratory testing performed by the Contractor, or performed by an independent laboratory, as specified by the County.

b. Supply published manufacturer product Documentation.

c. Permit a County representative to witness testing at the Contractor's location or at an independent laboratory.

11. ACCEPTANCE

Services: Acceptance of Developed Materials will occur in accordance with a Deliverable Approval Plan submitted by the Contactor and approved by the County. Upon approval of the plan by the County, the Deliverable Approval Plan becomes part of this Contract.

12. ESTIMATED QUANTITIES

Unless explicitly stated, it shall be understood and agreed that any quantities listed in the Contract are estimated only and may be increased or decreased in accordance with the actual requirements of the County and that the County in accepting any bid or portion thereof, contracts only and agrees to purchase only the materials and services in such quantities as represent the actual requirements of the County.

13. WARRANTIES

a. The Contractor warrants all Services performed by the Contractor, its agents and subcontractors shall conform in all material respects to the functional specifications and requirements of the Contract. If any supplies are provided, Contractor agrees to extend to the County all manufacturer warranties covering those supplies to the best of Contractor's ability.

b. The Contractor hereby represents and warrants to the County that the Contractor will not cause, or take any action that may directly or indirectly cause a disruption of the County's operations that is not clearly envisioned by the Contract.

c. Contractor warrants that it has the necessary legal rights, including licenses to third party products, tools or materials, to perform the Services and deliver the Supplies and Developed Materials under this Contract.

d. THE FOREGOING EXPRESS WARRANTIES ARE THE CONTRACTOR'S SOLE AND EXCLUSIVE WARRANTIES AND NO OTHER WARRANTIES, EXPRESS OR IMPLIED, SHALL APPLY, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

e. All warranties shall survive final acceptance.

14. COMPENSATION

Compensation for Services: The Contractor shall be required to perform the specified Services at the price(s) quoted in the Contract. All Services shall be performed within the time period(s) specified in the Contract. The Contractor shall be compensated only for work performed to the satisfaction of the County. The Contractor shall not be allowed or paid travel or per diem expenses except as specifically set forth in the Contract.

15. PAYMENT

Unless stated otherwise, payments shall be made to the Contractor within thirty (30) days of receipt of invoice, after inspection and acceptance of the material and/or work by an authorized representative of the Commissioners, and approval of the invoice by the Controller. Where partial delivery is made, invoice for such part shall be made upon delivery, and payment made within thirty (30) days under conditions as above. County shall have the right to offset from all payments any amounts owed to the County for back taxes or other delinquent fees, fines or liens owed to the County.

16. TAXES

The County is exempt from State and Local Sales and Use Taxes.

17. INSURANCE

a. Contractor shall maintain adequate public liability, property damage, malpractice and workers compensation insurances, insuring as they may appear in the interest of all parties to said contract. CERTIFICATION OF SAID INSURANCE COVERAGE SHALL BE SUBMITTED TO THE COUNTY AT THE TIME OF THE EXECUTION OF THE CONTRACT BY CONTRACTOR. County shall be named as an additional insured on certificate of insurance provided. If the additional insured requirement must be endorsed then the endorsement must accompany the insurance certificate.

b. Contractor shall upon request annually provide the County with a certificate of insurance as noted below in paragraph G, with the Contract Number or Solicitation (Specification or RFP) Number clearly noted on said certificate of insurance.

c. Contractor will notify County immediately in writing when it knows or should have known that its insurance policy is or will be canceled, not renewed, or reduced.

d. If Contractor desires to self-insure any or all of the coverage listed in this section, except where prohibited by law, it shall provide to the County documentation that such self-insurance has received all the approvals required by law or regulations, as well as the most recent audited financial statement of the Contractor's insurance. Any coverage, which is self-insured, shall provide the same coverage limits and benefits as the coverage listed in this section.

e. If Contractor fails to provide such required insurance coverage and/or adequate proof of current coverage in amounts required, the County shall have the right to treat such failure as a material breach of the contract and to exercise all appropriate rights and remedies.

f. The County reserves the right to review categories and levels of insurance coverage held by the Contractor in an ongoing program of risk management. The Contractor will be notified, in writing, of coverage requirements as determined by this review and Contractor agrees to secure such requested coverage.

g. Unless either: (1) general industry practice calls for amounts less than those listed below and such practice can be demonstrated, or (2) the amounts are changed through mutual written agreement, Contractor should have the insurance detailed below:

Commercial General Liability - Each policy and Certificate of Insurance shall contain an endorsement naming the County of Montgomery as an additional insured party.

$1,000,000 Each Occurrence
$2,000,000 General Aggregate
$2,000,000 Products/Completed Operations Aggregate
$1,000,000 Personal/Advertising Injury

(Any restrictive endorsements must be included)

Workers Compensation

PA Statutory Coverage
Employers Liability - Basic Limits

Business Automobile Policy (required only if contract involves transportation of goods or persons)

$1,000,000 Each Accident Limit

Professional Errors and Omissions Liability (required only if contract involves performance of a recognized professional service)

$1,000,000 Each Occurrence
$1,000,000 Each Aggregate

Medical Malpractice Insurance (required only if contract involves performance of a member of the medical profession. Those in the medical professions must also provide evidence of participation in the MCARE in the amounts noted below)

$ 1,000,000.00 Each Occurrence
$ 3,000,000.00 Each Aggregate

18. CONFIDENTIALITY

a. The Contractor agrees to protect the confidentiality of the County's confidential information. The County agrees to protect the confidentiality of Contractor's confidential information.

b. The Contractor shall use the following process when submitting information to the County it believes to be confidential and/or proprietary information or trade secrets:

1) Prepare an un-redacted version of the appropriate document, and;

2) Prepare a redacted version of the document that redacts the information that is asserted to be confidential or proprietary information or a trade secret.

c. Prepare a signed written statement that states:

1) The attached document contains confidential or proprietary information or trade secrets;

2) the Contractor is submitting the document in both redacted and un-redacted format in accordance with 65 P.S. § 67.707(b); and

3) the Contractor is requesting that the document be considered exempt under 65 P.S. § 67.708(b)(11) from public records requests.

d. Submit the two documents along with the signed written statement to the County.

19. SENSITIVE INFORMATION

a. The Contractor shall not publish or otherwise disclose, except to the County or the Contractor's subcontractors and except matters of public record (which is to be determined entirely in the discretion of the County), any information or data obtained hereunder from private individuals, organizations, or public agencies.

b. The parties shall not use or disclose any information about a recipient receiving services from, or otherwise enrolled in, a County program affected by or benefiting from Services under this Contract for any purpose not connected with the parties' Contract responsibilities except with consent pursuant to applicable state and federal law and regulations. All documents associated with direct disclosures of this kind must be announced to and open for inspection by the County.

c. Rights and obligations of the parties under this Section survive the expiration or termination of this Contract

20. Pennsylvania Data Privacy

a. The Contractor shall comply with all state and federal data breach notification laws, including but not limited to the Commonwealth of PA Breach of Personal Information Notification Act (73 P.S. § §2301 et seq., as amended by Act 151 of Nov. 3, 2022, P.L. 2139).

21. COUNTY HELD HARMLESS

a. The Contractor shall hold the County harmless from and indemnify the County against any and all third party claims, demands and actions based upon or arising out of any activities performed by the Contractor and its employees and agents under this Contract, provided the County gives Contractor prompt notice of any such claim of which it learns.

b. Notwithstanding the above, neither party shall enter into any settlement without the other party's written consent, which shall not be unreasonably withheld. The County may, in its sole discretion, allow the Contractor to control the defense and any related settlement negotiations. In addition to the foregoing indemnity obligation, Contractor shall indemnify the County for any and all costs associated with establishing or enforcing this indemnity obligation.

22. DEFAULT

a. The County may, subject to the Force Majeure provisions of this Contract, and in addition to its other rights under the Contract, declare the Contractor in default by written notice thereof to the Contractor, and terminate (as provided in the Termination Provisions of this Contract) the whole or any part of this Contract or any Purchase Order for any of the following reasons:

1) Failure to begin work within the time specified in the Contract or Purchase Order or as otherwise specified;

2) Failure to perform the work with sufficient labor, equipment, or material to insure the completion of the specified work in accordance with the Contract or Purchase Order terms;

3) Unsatisfactory performance of the work;

4) Failure to deliver the awarded item(s) within the time specified in the Contract or Purchase Order or as otherwise specified;

5) Improper delivery;

6) Failure to provide an item(s) which is in conformance with the specifications referenced in the Contract or Purchase Order;

7) Delivery of a defective item;

8) Failure or refusal to remove material, or remove and replace any work rejected as defective or unsatisfactory;

9) Discontinuance of work without approval;

10) Failure to resume work, which has been discontinued, within a reasonable time after notice to do so;

11) Insolvency or bankruptcy;

12) Assignment made for the benefit of creditors;

13) Failure or refusal within 10 days after written notice by the Contracting Officer, to make payment or show cause why payment should not be made, of any amounts due for materials furnished, labor supplied or performed, for equipment rentals, or for utility services rendered;

14) Failure to protect, to repair, or to make good any damage or injury to property;

15) Breach of any provision of the Contract;

16) Failure to comply with representations made in the Contractor's bid/proposal;

17) Failure to comply with applicable industry standards, customs, and practice.

b. In the event that the County terminates this Contract or any Purchase Order in whole or in part as provided in Subparagraph a. above, the County may procure, upon such terms and in such manner as it determines, Supplies and/or Services similar or identical to those so terminated, and the Contractor shall be liable to the County for any reasonable excess costs for such similar or identical items included within the terminated part of the Contract or Purchase Order.

c. If the Contract or a Purchase Order is terminated as provided in Subparagraph a. above, the County, in addition to any other rights provided in this paragraph, may require the Contractor to transfer title and deliver immediately to the County in the manner and to the extent directed by the Contracting Officer, such partially completed items, including, where applicable, reports, working papers and other Documentation, as the Contractor has specifically produced or specifically acquired for the performance of such part of the Contract or Purchase Order as has been terminated. Except as provided below, payment for completed work accepted by the County shall be at the Contract price. Except as provided below, payment for partially completed items including, where applicable, reports and working papers, delivered to and accepted by the County shall be in an amount agreed upon by the Contractor and Contracting Officer. The County may withhold from amounts otherwise due the Contractor for such completed or partially completed works, such sum as the Contracting Officer determines to be necessary to protect the County against loss.

d. The rights and remedies of the County provided in this paragraph shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

e. The County’s failure to exercise any rights or remedies provided in this paragraph shall not be construed to be a waiver by the County of its rights and remedies in regard to the event of default or any succeeding event of default.

23. FORCE MAJEURE

Neither party will incur any liability to the other if its performance of any obligation under this Contract is prevented or delayed by causes beyond its control and without the fault or negligence of either party. The Contractor shall notify the County orally within five (5) days and in writing within ten (10) days of the date on which the Contractor becomes aware, or should have reasonably become aware, that such cause would prevent or delay its performance. After receipt of such notification, the County may elect to cancel the Contract, cancel the Purchase Order, or to extend the time for performance as reasonably necessary to compensate for the Contractor's delay.

In the event of a declared emergency by competent governmental authorities, the County by notice to the Contractor, may suspend all or a portion of the Contract or Purchase Order.

24. TERMINATION PROVISIONS

The County has the right to terminate this Contract or any Purchase Order for any reason as detailed more fully below. Termination shall be effective upon written notice to the Contractor.

a. **TERMINATION FOR CONVENIENCE**: The County shall have the right to terminate the Contract or a Purchase Order for its convenience if the County determines termination to be in its best interest. The Contractor shall be paid for work satisfactorily completed prior to the effective date of the termination, but in no event shall the Contractor be entitled to recover loss of profits.

b. **NON-APPROPRIATION**: The County's obligation to make payments during any fiscal year succeeding the current fiscal year shall be subject to availability and appropriation of funds. When funds (county, state and/or federal) are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year period, the County shall have the right to terminate the Contract or a Purchase Order. The Contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the Supplies or Services delivered under the Contract. Such reimbursement shall not include loss of profit, loss of use of money, or administrative or overhead costs. The reimbursement amount may be paid from any appropriations available for that purpose

c. **TERMINATION FOR CAUSE**: The County shall have the right to terminate the Contract or a Purchase Order for Contractor default under the Default Clause upon written notice to the Contractor. The County shall also have the right, upon written notice to the Contractor, to terminate the Contract or a Purchase Order for other cause as specified in the Contract or by law. If it is later determined that the County erred in terminating the Contract or a Purchase Order for cause, then, at the County discretion, the Contract or Purchase Order shall be deemed to have been terminated for convenience under Subparagraph a.

25. ASSIGNABILITY AND SUBCONTRACTING

a. Except as provided for in subsection b, the Contractor may not assign, in whole or in part, this Contract or its rights, duties, obligations, or responsibilities hereunder without the prior written consent of the Contracting Officer, which consent may be withheld at the sole and absolute discretion of the Contracting Officer.

b. If another entity acquires all or substantially all of Contractor's assets, Contractor may assign this Contract in whole to the new entity without prior consent, provided that notice is provided

once the acquisition becomes public knowledge. Contemporaneous consent must still be obtained if the Contractor will not be transferring the whole Contract. Additionally, County may terminate the Contract without penalty upon receiving notice of the assignment.

c. The Contractor and the County recognize that in actual economic practice, any overcharge by the Contractor's supplier(s) resulting from any violation of state or federal antitrust laws is in fact borne by the County. Therefore, the Contractor assigns to the County any and all causes of action that may exist now or which may arise in the future that the Contractor may have against any party under all state and federal antitrust laws for the products or services that are the subject of this contract, and as to any products or services that are otherwise related to the products or services that are the subject of this contract. The Contractor hereby certifies that the above causes of action are lawfully owned and that no previous assignment of the same has been made, nor has the same heretofore been attached or pledged in any manner whatsoever.

26. AUDIT PROVISIONS

The County shall have the right, at reasonable times and at a site designated by the County, to audit the books, documents and records of the Contractor to the extent that the books, documents and records relate to costs or pricing data for the Contract. The Contractor agrees to maintain records which will support the prices charged and costs incurred for the Contract. The Contractor shall preserve books, documents, and records that relate to costs or pricing data for the Contract for a period of three (3) years from date of final payment. The Contractor shall give full and free access to all records to the County and/or their authorized representatives.

27. OWNERSHIP RIGHTS

The County shall have unrestricted authority to reproduce, distribute, and use any submitted report, data, or material, and any software or modifications and any associated Documentation that is designed or developed and delivered to the County as part of the performance of the Contract.

28. NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE

The Contractor agrees:

a. In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the contract or any subcontract, the Contractor, each subcontractor, or any person acting on behalf of the Contractor or subcontractor shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the *Pennsylvania Human Relations Act* (PHRA) and applicable federal laws, against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.

b. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under the contract.

c. The Contractor and each subcontractor shall establish and maintain a written nondiscrimination and sexual harassment policy and shall inform their employees in writing of the policy. The policy must contain a provision that sexual harassment will not be tolerated and employees

who practice it will be disciplined. Posting this Nondiscrimination/Sexual Harassment Clause conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the contracted services are performed shall satisfy this requirement for employees with an established work site.

d. The Contractor and each subcontractor shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of PHRA and applicable federal laws, against any subcontractor or supplier who is qualified to perform the work to which the contract relates.

e. The Contractor and each subcontractor represents that it is presently in compliance with and will maintain compliance with all applicable federal, state, and local laws, regulations and policies relating to nondiscrimination and sexual harassment. The Contractor and each subcontractor further represents that it has filed a Standard Form 100 Employer Information Report ("EEO-1") with the U.S. Equal Employment Opportunity Commission ("EEOC") and shall file an annual EEO-1 report with the EEOC as required for employers' subject to *Title VII* of the *Civil Rights Act of 1964*, as amended, that have 100 or more employees and employers that have federal government contracts or first-tier subcontracts and have 50 or more employees. The Contractor and each subcontractor shall, upon request and within the time periods requested by the County, furnish all necessary employment documents and records, including EEO-1 reports, and permit access to their books, records, and accounts by the contracting agency and the Bureau of Diversity, Inclusion and Small Business Opportunities for purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause.

f. The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that those provisions applicable to subcontractors will be binding upon each subcontractor.

g. The Contractor's and each subcontractor's obligations pursuant to these provisions are ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the Contractor and each subcontractor shall have an obligation to inform the County if, at any time during the term of the contract, it becomes aware of any actions or occurrences that would result in violation of these provisions.

h. The County may cancel or terminate the contract and all money due or to become due under the contract may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, the agency may proceed with debarment or suspension and may place the Contractor in the Contractor Responsibility File.

29. CONTRACTOR RESPONSIBILITY PROVISIONS

For the purpose of these provisions, the term Contractor is defined as any person, including, but not limited to, a bidder, offeror, loan recipient, grantee or lessor, who has furnished or performed or seeks to furnish or perform, goods, supplies, services, leased space, construction or other activity, under a contract, grant, lease, purchase order or reimbursement agreement with the County of Montgomery (County). The term Contractor includes a permittee, licensee, or any agency, political subdivision, instrumentality, public authority, or other public entity in the Commonwealth.

a. The Contractor certifies, in writing, for itself and its subcontractors required to be disclosed or approved by the County, that as of the date of its execution of this Bid/Contract, that neither the Contractor, nor any such subcontractors, are under suspension or debarment by the

Commonwealth of Pennsylvania, County or any governmental entity, instrumentality, or authority and, if the Contractor cannot so certify, then it agrees to submit, along with its Bid/Contract, a written explanation of why such certification cannot be made.

b. The Contractor also certifies, in writing, that as of the date of its execution of this Bid/Contract it has no tax liabilities or other County obligations, or has filed a timely administrative or judicial appeal if such liabilities or obligations exist, or is subject to a duly approved deferred payment plan if such liabilities exist. If the Contractor cannot so certify because of the scope and nature of its organizational structure, then it agrees to make such certification to the best extent possible and to submit, along with its Bid/Contract, a written explanation of why such certification cannot be made in full.

c. The Contractor's obligations pursuant to these provisions are ongoing from and after the effective date of the Contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to inform the County if, at any time during the term of the Contract, it becomes delinquent in the payment of taxes, or other County obligations, or if it or, to the best knowledge of the Contractor, any of its subcontractors are suspended or debarred by the Commonwealth of Pennsylvania, County, the federal government, or any other state or governmental entity. Such notification shall be made within 15 days of the date of suspension or debarment. To the extent the size or nature of the Contractor prevents it from carrying out this obligation in full, it shall provide written documentation explaining why this obligation cannot be fully complied with, and shall have a continuing obligation to report to the greatest extent possible.

d. The failure of the Contractor to notify the County of its suspension or debarment by the Commonwealth of Pennsylvania, County, any other state, any other county or the federal government shall constitute an event of default of the Contract with the Commonwealth.

e. The Contractor agrees to reimburse the County for the reasonable costs of investigation incurred by any investigate office of the County for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the County that results in the suspension or debarment of the Contractor. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.

30. AMERICANS WITH DISABILITIES ACT

a. Pursuant to federal regulations promulgated under the authority of The Americans With Disabilities Act, 28 C.F.R. § 35.101 et seq., the Contractor understands and agrees that it shall not cause any individual with a disability to be excluded from participation in this Contract or from activities provided for under this Contract on the basis of the disability. As a condition of accepting this contract, the Contractor agrees to comply with the "General Prohibitions Against Discrimination," 28 C.F.R. § 35.130, and all other regulations promulgated under Title II of The Americans With Disabilities Act which are applicable to all benefits, services, programs, and activities provided by the County through contracts with outside contractors. Contractor will comply, and all of its subcontractors will comply, with the nondiscrimination requirements of the Civil Rights Act of 1870; Title VI of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973; Subtitle A, Title II of the Americans with Disabilities Act (ADA) (1990); Title IX of the Education Amendments of 1972; Regulations implementing Sections 799A and 845 of the Public

Health Service Act, 45 C.F.R. Part 83; the Age Discrimination Act of 1975; and 45 C.F.R. Parts 83, 84, 86, and 90, as well as any other applicable federal nondiscrimination statutes and regulations. Specifically, Contractor must provide foreign language interpreters and translated documents to limited English proficient participants in compliance with Title VI of the Federal Civil Rights Act, and sign language interpreters to deaf or hard of hearing participants in compliance with the Americans with Disabilities Act.

b. The Contractor shall be responsible for and agrees to indemnify and hold harmless the County from all losses, damages, expenses, claims, demands, suits, and actions brought by any party against the County as a result of the Contractor's failure to comply with the provisions of subparagraph a above.

31. RIGHT TO KNOW LAW

a. The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, ("RTKL") applies to this Contract.

b. If the County needs the Contractor's assistance in any matter arising out of the RTKL related to this Contract, it shall notify the Contractor using the legal contact information provided in this Contract. The Contractor, at any time, may designate a different contact for such purpose upon reasonable prior written notice to the County.

c. Upon written notification from the County that it requires the Contractor's assistance in responding to a request under the RTKL for information related to this Contract that may be in the Contractor's possession, constituting, or alleged to constitute, a public record in accordance with the RTKL ("Requested Information"), the Contractor shall:

1) Provide the County, within ten (10) calendar days after receipt of written notification, access to, and copies of, any document or information in the Contractor's possession arising out of this Contract that the County reasonably believes is Requested Information and may be a public record under the RTKL; and

2) Provide such other assistance as the County may reasonably request, in order to comply with the RTKL with respect to this Contract.

d. If the Contractor considers the Requested Information to include a request for a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, or other information that the Contractor considers exempt from production under the RTKL, the Contractor must notify the County and provide, within seven (7) calendar days of receiving the written notification, a written statement signed by a representative of the Contractor explaining why the requested material is exempt from public disclosure under the RTKL.

e. The County will rely upon the written statement from the Contractor in denying a RTKL request for the Requested Information unless the County determines that the Requested Information is clearly not protected from disclosure under the RTKL. Should the County determine that the Requested Information is clearly not exempt from disclosure, the Contractor shall provide the Requested Information within five (5) business days of receipt of written notification of the County's determination.

f. If the Contractor fails to provide the Requested Information within the time period required by these provisions, the Contractor shall indemnify and hold the County harmless for any damages, penalties, costs, detriment or harm that the County may incur as a result of the Contractor's failure, including any statutory damages assessed against the County.

g. The County will reimburse the Contractor for any costs associated with complying with these provisions only to the extent allowed under the fee schedule established by the Office of Open Records or as otherwise provided by the RTKL if the fee schedule is inapplicable.

h. The Contractor may file a legal challenge to any County decision to release a record to the public with the Office of Open Records, or in the Pennsylvania Courts, however, the Contractor shall indemnify the County for any legal expenses incurred by the County as a result of such a challenge and shall hold the County harmless for any damages, penalties, costs, detriment or harm that the County may incur as a result of the Contractor's failure, including any statutory damages assessed against the County, regardless of the outcome of such legal challenge. As between the parties, the Contractor agrees to waive all rights or remedies that may be available to it as a result of the County's disclosure of Requested Information pursuant to the RTKL.

i. The Contractor's duties relating to the RTKL are continuing duties that survive the expiration of this Contract and shall continue as long as the Contractor has Requested Information in its possession.

32. COVENANT AGAINST CONTINGENT FEES

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

33. APPLICABLE LAW

This Contract shall be governed by and interpreted and enforced in accordance with the laws of the Commonwealth of Pennsylvania (without regard to any conflict of laws provisions) and the decisions of the Pennsylvania courts. The Contractor consents to the jurisdiction of the Court of Common Pleas of the County of Montgomery, Pennsylvania and the United States District Court for the Eastern District of Pennsylvania, waiving any claim or defense that such forum is not convenient or proper. The Contractor agrees that any such court shall have in personam jurisdiction over it, and consents to service of process in any manner authorized by Pennsylvania law.

34. COMPLIANCE WITH LAW

The Contractor shall comply with all applicable federal and state laws and regulations and local ordinances in the performance of the Contract.

35. INTEGRATION

This Contract, including all referenced documents and any Purchase Order, constitutes the entire agreement between the parties. No negotiations between the parties, nor any custom or usage, shall be permitted to modify or contradict any of the terms and conditions of the Contract. No

modifications, alterations, changes, or waiver to the Contract or any of its terms shall be valid or binding unless accomplished by a written amendment signed by both parties.

36. ORDER OF PRECEDENCE

In the event there is a conflict among the documents comprising this Contract, the County and the Contractor agree on the following order of precedence: the Contract; the solicitation; and the Contractor's response to the solicitation.

37. CHANGES

The County reserves the right to make changes at any time during the term of the Contract or any renewals or extensions thereof: 1) to increase or decrease the quantities resulting from variations between any estimated quantities in the Contract and actual quantities; 2) to make changes to the Services within the scope of the Contract; 3) to notify the Contractor that the County is exercising any Contract renewal or extension option; or 4) to modify the time of performance that does not alter the scope of the Contract to extend the completion date beyond the Expiration Date of the Contract or any renewals or extensions thereof. Any such change shall be made by the Contracting Officer by notifying the Contractor in writing. The change shall be effective as of the date of the change, unless the notification of change specifies a later effective date. Such increases, decreases, changes, or modifications will not invalidate the Contract, nor, if performance security is being furnished in conjunction with the Contract, release the security obligation. The Contractor agrees to provide the service in accordance with the change order.

38. NOTICE

Any written notice to any party under this Contract shall be deemed sufficient if delivered personally, or by facsimile, telecopy, electronic or digital transmission (provided such delivery is confirmed), or by a recognized overnight courier service (e.g., DHL, Federal Express, etc.) with confirmed receipt, or by certified or registered United States mail, postage prepaid, return receipt requested, and sent to following:

1) If to the Contractor: the Contractor's address as recorded in the bid, proposal or vendor system used by the County.

2) If to the County: the address of the Issuing Office as set forth on the Contract.

39. CONTROLLING TERMS AND CONDITIONS

The terms and conditions of this Contract shall be the exclusive terms of agreement between the Contractor and the County. All quotations requested and received from the Contractor are for obtaining firm pricing only. Other terms and conditions or additional terms and conditions included or referenced in the Contractor's quotations, invoices, business forms, or other documentation shall not become part of the parties' agreement and shall be disregarded by the parties, unenforceable by the Contractor and not binding on the County.