

COUNTY OF BERKS

Request for Proposals #25-18-SKMZ

Congregate and Home Delivered Meal Program

Issued on November 24, 2025

Pre-Proposal Conference

Monday, December 15, 2025, 2:00 PM

Refer to Section 1, paragraph 1.2 for details

Submittal Deadline:

Wednesday, January 29, 2025, 2:00 P.M., Local Prevailing Time

Refer to Section 5, paragraph 5.1 for submittal instructions.

County's Point-of-Contact for this RFP

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This Request for Proposals (RFP) package consists of [112] pages including this cover page and the Table of Contents page. If the RFP package you received is missing any pages, contact the County of Berks Purchasing Department by telephone at (610) 478-6168.

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SECTION ONE - Introduction and Instruction

1.1. Purpose of this Request for Proposals (“RFP”)

The County of Berks (hereinafter “County”), a municipal corporation with its principal office in Reading, Pennsylvania is soliciting competitive sealed proposals (a “Proposal”) from professional firms (each a “Proposer”) that are interested in and capable of providing Congregate and Home-Delivered meals as further detailed in the Scope of Work of this RFP (inclusive of all tasks, deliverables and products required herein, “Services”). If the County elects to make an award to a Proposer in connection with the Services, the Proposed Form of Agreement and General Conditions included as Attachment A to this RFP as well as all documents incorporated therein shall form the entire agreement between the County and the successful Proposer (“Agreement”).

1.2. Pre-Proposal Conference

A pre-proposal conference will be held through a live broadcast using Microsoft Teams on 15, December, Monday, 2025, beginning promptly at 02:00 PM. The Proposers may participate in the pre-proposal conference of this Request for Proposal through a call-in number or utilizing Microsoft Teams. The Microsoft Teams URL may be subject to change, current Microsoft Teams URL for the opening can be located and on the following site under the listing for this specific RFP.

<https://www.berkspa.gov/departments/purchasing/itb-rfp>

The purpose of this meeting is to conduct a question-and-answer session regarding this RFP package to maximize the Proposer’s understanding as to what is required. Should questions asked and answers given at the pre-proposal conference potentially alter the intent or scope of the RFP, the County will issue an addendum to the RFP to formally modify the RFP. This RFP cannot be modified by, and Proposers shall not rely on, comments made during the pre-proposal conference except as set forth in an addendum.

All Proposers who have received the RFP package from the County will receive notification of the issuance of the addendum.

1.3. Due / Opening Dates

The deadline for the County’s receipt of Proposals is 02:00 PM, local prevailing time, 29, January, Thursday, 2026 (“Proposal Deadline”). The County Controller’s time clock shall be considered the official time. Proposals received after the Proposal Deadline will not be considered. Refer to Section 5, paragraph 5.1 for specific Proposal submittal instructions.

Proposals will be opened publicly at 02:15 PM, on 29, January, Thursday, 2025. Proposers may attend the proposal opening through a live broadcast using Microsoft Teams. A summary of Proposals received (Proposer name) will be posted on the Purchasing Department’s page of the County’s website

<https://www.berkspa.gov/departments/purchasing/itb-rfp>

This Microsoft Teams URL may be subject to change, current Microsoft Teams URL for the opening can be located and on the following site under the listing for this specific RFP:

<https://www.berkspa.gov/departments/purchasing/itb-rfp>

1.4. Amendments to Submitted, Unopened Proposals

Amendments to or withdrawals of submitted, unopened Proposals will only be allowed if requests are received by the County prior to the Proposal Deadline. No amendments or withdrawals will be accepted after the Proposal Deadline unless they are in response to the County’s request.

1.5. Required Review of RFP Package

Proposers shall carefully review this RFP for defects, inconsistencies, or ambiguities. Comments concerning defects, inconsistencies or ambiguities must be made in writing and received by the RFP’s point-of-contact (see cover page), at least ten (10) business days prior to the Proposal Deadline. This will allow for the issuance of any necessary addenda.

All questions must be in writing and directed to the RFP’s point-of-contact. This RFP cannot be modified except by written addenda issued by the County. The decision on whether an addendum is required shall be made by the County in its sole discretion.

If an addendum is issued, it will be provided to all parties who were provided a copy of the RFP by the County’s Purchasing Department. It shall ultimately be the responsibility of the Proposer to check and download Addenda from the County’s website.

1.6. Receipt of RFP Package

The County’s Purchasing Department is the sole authority to provide the RFP package to interested companies or individuals. Proposers who are working from an RFP package obtained from any other source, may be working from an incomplete set of documents. The County assumes no responsibility for an error, omission, or misinterpretation resulting from a Proposer’s use of an incomplete RFP package.

Proposers who have received the RFP package from a source other than the County Purchasing Department, are advised to contact the Purchasing Department to provide their Proposer’s name, address, telephone number, fax number, and contact name. This will ensure that the Proposer will receive all communication regarding the RFP such as Addenda.

Proposers who have received the RFP package by downloading it from the County’s website and have not provided their Proposer’s information to the County’s Purchasing Department are responsible for checking the website to obtain any Addenda issued for the RFP.

1.7. Preparation Costs

The County will not be responsible for any costs associated with the preparation, submittal, or presentation of any Proposal. If the County rejects a Proposal or does not award an Agreement to any particular Proposer, the Proposer agrees that it will not seek to recover lost or expected profits, Proposal preparation costs or claims for unjust enrichment.

1.8. Public Information

All Proposals and other material submitted become the property of the County and may be returned only at the County’s option. Information contained in the Proposals will not be disclosed during the evaluation process. Under Pennsylvania’s “Right to Know” laws (65 P.S. §§ 67.101-67.3104), public records are required to be open to reasonable inspection. All Proposal information, including detailed price and cost information, will be held in confidence during the evaluation process and prior to the time the Agreement is executed by the County. Thereafter, the Proposals will become public information. Requests for

photocopies of public records must be made to the Open Records Officer and will be provided to the requestor for a nominal per page fee.

Trade secrets and other proprietary data contained in Proposals may be held confidential, if the Proposer requests, in writing, that the County does so, and if the County agrees, in writing, to do so. Material considered confidential by the Proposer must be clearly identified and the Proposer must include a brief statement that sets out the reasons for confidentiality.

1.9. Reservation of Rights

1.9.1. The County reserves and may, at its sole discretion, exercise the following rights with respect to this RFP and all Proposals submitted pursuant to this RFP:

- 1.9.1.1.** To reject all Proposals and re-issue the RFP at any time prior to execution of the Agreement; to require, in any RFP for similar products and/or services that may be issued subsequent to this RFP, terms and conditions that are substantially different from the terms and conditions set forth in this RFP; or to cancel this RFP with or without issuing another RFP.
- 1.9.1.2.** To reject any Proposal if, in the County's sole discretion, the Proposal is incomplete, the Proposal is not responsive to the requirements of this RFP, the Proposer does not meet the qualification requirements set forth in Section 5 herein, or it is otherwise in the best interest of the County to reject the Proposal.
- 1.9.1.3.** To supplement, amend, substitute, or otherwise modify this RFP at any time prior to the execution of the Agreement.
- 1.9.1.4.** To accept or reject any or all of the items in any Proposal and award the Agreement for the whole or only a part of any Proposal if the County determines, in its sole discretion, that it is in the County's best interest to do so.
- 1.9.1.5.** To reject the Proposal of any Proposer that, in the County's sole judgment, has been delinquent or unfaithful in the performance of any contract with the County, is financially or technically incapable, or is otherwise not a responsible Proposer.
- 1.9.1.6.** To waive any informality, defect, non-responsiveness, and/or deviation from this RFP that is not, in the County's sole judgment, material to the Proposal.
- 1.9.1.7.** To permit or reject, at the County's sole discretion, amendments (including information inadvertently omitted), modifications, alterations, and/or corrections to Proposals by one or more of the Proposers following Proposal submission.
- 1.9.1.8.** To request that one or more of the Proposers modify their Proposals or provide additional information.
- 1.9.1.9.** To request additional or clarifying information from any Proposer at any time, including information inadvertently omitted by a Proposer.
- 1.9.1.10.** To require that Proposers appear for interviews and/or presentations of their Proposals at County offices.

- 1.9.1.11. To inspect programs similar in type and scope to the work sought in this RFP and/or to inspect the Proposer’s facilities to be used in furnishing goods or services required by the RFP.
- 1.9.1.12. To conduct such investigations as the County considers appropriate with respect to the qualifications of any Proposer and with respect to the information contained in any Proposal.
- 1.10. Any and all protests related to this solicitation are subject to the County of Berks Protest Policy which is located on the County of Berks Purchasing Department website: <https://www.berkspa.gov/departments/purchasing/itb-rfp>

1.11. RFP Timeline

Following is the County’s estimated timeline for the RFP process:

Issue RFP	24, November, 2025
Pre-Proposal Conference	15, December, 2025
Cutoff for Submission of Written Questions (10 business days before due date)	13, January, 2026
Deadline for Submission of Proposals	29, January, 2026
Opening of Submitted Proposals	29, January, 2026
County’s Review of Proposals	January 29, 2026 – February 26, 2026
Notify Short List Firms	28, February, 2026
Interview Short List Firms	March 03 – March 10, 2026
Taste Testing/Site Tours	March 03 – March 10, 2026
Issue Notice of Contract Award	17, March, 2026
Commencement of Work	01, July, 2026

SECTION 2 – Method of Vendor Selection

2.1. Interviews with Short List Firms

The County may, in its sole discretion, elect to conduct interviews with one or more Proposers. The purpose of an interview will be to clarify and assure the Proposer’s full understanding of, and responsiveness to, the solicitation requirements. Revisions to a Proposal may be permitted after submission and before the County’s execution of the Agreement for the purpose of obtaining best and final offers with the County’s approval. The individual identified in the Proposal as the Program Manager, must be in attendance at the interview.

2.2. Right to Negotiate

After the County’s completion of the Proposal evaluation process, including any interviews held with Proposers during the evaluation process, the County may elect to initiate negotiations with one or more Proposers for modification of any component of the Agreement, including, without limitation, the scope of services, price or schedule for completion. The option of whether or not to initiate or terminate negotiations rests solely with the County, which may be exercised at any time.

2.3. Award of Contract

- 2.3.1.** If the County elects to award the Agreement pursuant to this RFP, it intends to award the Agreement to the responsible and responsive Proposer(s) whose Proposal is determined to provide the best overall value to the County. The County intends to award a three (3) year Agreement term with the option of extending the term of the Agreement for two (2) additional one (1) year periods upon the mutual agreement of the parties. The Vendor should be prepared to begin work on July 01, 2026.
- 2.3.2.** The County reserves the right, upon notice to the Proposer(s), to extend the term of the Agreement for up to three (3) months upon the same terms and conditions. This will be utilized to prevent a lapse in agreement coverage and only for the time necessary, up to three (3) months, to enter into new Agreement and to ensure a smooth transition process for consumers.
- 2.3.3.** This option provision shall be within the sole and exclusive discretion of the County to exercise and shall not obligate the County to extend the Agreement.
- 2.3.4.** Amounts of services to be purchased by County in any additional twelve (12) month period shall be dependent upon the availability of funds and participant demand.

SECTION 3 - Standard Contract Information

3.1. Standard Agreement Provisions

The Agreement resulting from the award of this RFP will be governed by the terms and conditions set forth in the Proposed Form of Agreement and General Conditions set forth in Attachment A, attached hereto and incorporated herein. Proposers must detail in their Technical Proposal their reasons for objection to any part of RFP or Proposed Form of Agreement and General Conditions. Hindrance of the award process due to the extent of a Proposer's objection to the form or substance of the RFP or Proposed Form of Agreement and General Conditions may have a negative impact on the County's assessment of that Proposal.

3.2. Agreement Content

The Agreement will incorporate this RFP, the Proposer's Proposal, and any additional information deemed necessary as a result of the negotiations held with the Vendor.

3.3. Confidentiality of Protected Health Information:

- 3.3.1.** To the extent applicable, the parties hereto agree to fully comply with the Health Insurance Portability and Accountability Act of 1996, P.L. 104-191, and all amendments thereto and regulations promulgated thereunder (collectively, "HIPAA"), as well as any other applicable laws or regulations concerning the privacy and security of health information. The successful Proposer agrees at all times to treat any protected health information (as defined by HIPAA), created by or disclosed or otherwise made available to the successful Proposer in connection with the Agreement, in accordance with all federal, state and local laws and regulations regarding the confidentiality of protected health information. Without limitation to other rights and remedies under the Agreement or afforded by law, County may immediately terminate the Agreement if it determines that there has been a material breach of this provision.

3.3.2. To the extent that County meets the definition of a “Covered Entity” or “Business Associate” (as such terms are defined under HIPAA) and the successful Proposer/Vendor is determined by County to meet the definition of a “Business Associate” or “Subcontractor” (as such terms are defined under HIPAA) of County, the successful Proposer and County shall enter into a HIPAA Business Associate Agreement in a form satisfactory to County as set forth in Attachment B, attached hereto and incorporated herein, which shall govern the treatment of any protected health information created, received, transmitted, or maintained by successful Proposer on behalf of the County.

SECTION 4 – Scope of Work

4.1. Background

4.1.1 The Berks County Area Agency on Aging (BCAAA/AAA) is an agency of the County of Berks, Pennsylvania subject to authority, direction and supervision of the County of Berks Commissioners which receives its funding from the Commonwealth of Pennsylvania, Department of Aging (hereinafter “PDA”) pursuant to the terms and conditions of the Aging Services Block Grant Agreement (hereinafter “Funding Agreement”). The Funding Agreement obligates the AAA to perform or to contract with others to perform in Berks County certain services for the PDA subject to the availability of funds to reimburse AAA in proportion to costs incurred and validly attributable to Title III of the Older Americans Act and State Statutes in accordance with its Funding Agreement, budget estimates and payment provisions. The Older Americans Act (OAA), Section 339 (42 U.S.C. §§ 3030g-21) requires a state to:

- 4.1.1.1 establish and operate nutrition programs that solicit the expertise of a dietitian or individual with comparable expertise in the planning of nutrition services;
- 4.1.1.2 ensure that the project provides meals that comply with the Dietary Guidelines for Americans (DGA);
- 4.1.1.3 provide each participating older individual a minimum of one-third (1/3) of the Dietary Reference Intakes (DRIs) if one (1) meal is served, a minimum of two-thirds (2/3) of the DRIs if two (2) meals are served, or one-hundred percent (100%) of the DRIs if three (3) meals are served; and
- 4.1.1.4 ensure that meals comply with applicable provisions of state and/or local laws regarding the safe and sanitary handling of food, equipment, and supplies used in the storage, preparation, service, and delivery of meals to an older individual.

4.1.2. Breakdown of Monthly Meals Served

Home Delivered Meals: Breakdown of monthly meals served FY24/25:	
Location	# of Meals Served
Berks Encore- Douglassville	945
Berks Encore- Fleetwood	1,202
Berks Encore- Mifflin	2,466
Berks Encore- Reading	4,126
Berks Encore- Strausstown	1,229

Berks Encore- Wernersville	717
Boyertown Area Multi-Service	1,811

Congregate and Grab & Go Meals: Breakdown of monthly meals served FY24/25:	
Location	# of Meals Served
Berks Encore- Douglassville	186
Berks Encore- Fleetwood	208
Berks Encore- Mifflin	453
Berks Encore- Reading	1,011
Berks Encore- Strausstown	320
Berks Encore- Wernersville	87
Boyertown Area Multi-Service	1,271
Casa de la Amistad	4,256

Shelf Stable Meals: Breakdown of annual meals served FY23/24:	
Location	# of Meals Served
Berks Encore- Douglassville	839
Berks Encore- Fleetwood	721
Berks Encore- Mifflin	1,793
Berks Encore- Reading	1,528
Berks Encore- Strausstown	791
Berks Encore- Wernersville	416

4.2 Legislative / Regulatory Reference

- 4.2.1 The Pennsylvania Department of Aging nutrition programs, which include meals funded by Title III Part C Subparts 1 and 2 and the Nutritional Services Incentive Program (NSIP), i.e., congregate meals, grab & go meals, and home delivered meals are authorized under Title III and Title VI of the Older Americans Act 42 U.S.C.§§3001-3058ee.
- 4.2.2 The food service contract related hereto must be conducted consistent with the relevant provisions of Aging Program Directives (APD’s) including OPTIONS Chapter 1 (Administration); Chapter 2 (Hearing and Appeals); #05-01-11 (AAA Program Income Policies); and APD #15-03-01 (Food Safety and Menu Compliance) and APD #15-03-02 (Nutrition Services).

4.3 Program Goals and Objectives

- 4.3.1 To provide nutrition which is designed to promote better health and well-being for older individuals through improved nutrition in accordance with Title III of the OAA.
- 4.3.2 The BCAAA is seeking proposals for a nutrition program which will provide food service for congregate, home delivered, and/or grab & go meal consumers and meal supplies for eight (8) senior centers in Berks County, Pennsylvania, as detailed in Attachment D “Berks County Senior Centers”.
- 4.3.2.1 If additional senior centers open in Berks County during the term of this Agreement, the awarded proposer with the lowest cost per meal will be provided the first option to provide the meals at the new location(s).

4.3.3 Berks County has a rich history of cultural diversity. While each senior center is unique, some tend to attract a specific portion of the population. In the best interest of each center and the population that they primarily serve, consideration must be given to providing a menu that is culturally relevant to the senior center(s) that a food service provider will be serving.

4.3.4 The following list outlines the majority population that visits each center. This list is provided to assist potential bidders with information regarding the population they will be serving. It is by no means the full scope of the population that will take part in the meal program at each center. The Vendor(s) that are awarded a contract(s) are strongly encouraged to meet with the AAA, senior center staff, and their consumers while developing menus to ensure that they are agreeable meals to the population that they will be serving.

4.3.4.1 Berks Encore:

4.3.4.1.1 The Douglassville, Fleetwood, Mifflin, Strausstown, and Wernersville centers primarily serve Pennsylvania Dutch seniors in the rural areas of Berks County.

4.3.4.1.2 The Reading center is a melting pot that serves primarily Pennsylvania Dutch, Hispanic, and African American seniors.

4.3.4.2 Boyertown Area Multi-Service:

4.3.4.2.1 Boyertown has a large Pennsylvania Dutch population that it serves.

4.3.4.3 Casa de la Amistad:

4.3.4.3.1 Casa de la Amistad serves primarily the Hispanic population of Berks County in the city of Reading.

4.4 Definitions

4.4.1. Approved Dietitian – An individual with a bachelor’s degree in dietetics who has successfully completed the national examination of the Commission on Dietetic Registration (CDR) and maintains continuing education requirements as established by the CDR. The Dietitian/Nutritionist shall be licensed in Pennsylvania pursuant to the State Board of Nursing regulations at 49 PA. Code Chapter 21, Professional and Vocational Standards for Licensing Dietitian Nutritionists.

4.4.2. Cold Storage – Refers to a refrigeration unit or freezer unit.

4.4.3. Congregate Meal – A meal authorized under Title III Part C Subpart 1 of the OAA providing nutrition services in group settings.

4.4.4. Dietary Approach to Stop Hypertension (DASH) Diet – A dietary pattern promoted by the National Heart, Lung, and Blood Institute to prevent hypertension and cardiovascular disease and to control hypertension. The DASH diet is rich in fruits, vegetables, whole grains, and low-fat dairy foods; includes meat, fish, poultry, nuts,

and beans; and is limited in sugar-sweetened foods and beverages; red meat; and added fats.

- 4.4.5. Dietary Guidelines for Americans (DGA) – The Dietary Guidelines for Americans are based on the most recent scientific evidence review, providing information and advice for choosing a healthy eating pattern. Dietary Guidelines for Americans is reviewed, updated if necessary, and published every five years.
- 4.4.6. Dietary Reference Intakes (DRIs) – Reference values of nutrients used primarily by nutrition and health professionals. DRIs are the basis for assessing and planning diets of healthy people and are also used as a basis for federal nutrition and food programs.
- 4.4.7. Edible Protein Portion – The cooked protein portion of the entrée, excluding bone and skin weight.
- 4.4.8. Elderly Nutrition Program (ENP) – Program providing meals and related nutrition services to aging individuals in congregate facilities such as senior centers; or by home delivery to older individuals who are homebound due to illness, disability, or geographic isolation. Nutrition Services Incentive Program (NSIP) funding is part of the ENP meal funding. Services are targeted to those in greatest social and economic need with particular attention to individuals with low incomes, minority status, living in rural communities, limited English proficiency, and at risk of institutional care.
- 4.4.9. Emergency Meals – Meals that generally consist of shelf-stable items that do not require refrigeration or frozen meals that can be delivered prior to need. Emergency meals are provided to qualifying older adults to ensure they have food when weather, center emergencies, or other temporary organizational situations prohibit the AAA from providing regular meal service for a defined period of time.
- 4.4.10. Food and Drug Administration (FDA) – Agency of the United States Department of Health and Human Services responsible for protecting and promoting public health through the regulation and supervision of food safety, tobacco products, dietary supplements, prescription, and over-the-counter pharmaceutical drugs (medications), vaccines, biopharmaceuticals, blood transfusions, medical devices, electromagnetic radiation emitting devices, cosmetic, and veterinary products.
- 4.4.11. FDA Food Code – Rules that assist food control jurisdictions at all levels of government by providing scientifically sound technical and legal basis for regulating the food service industry.
- 4.4.12. Food Transport Equipment – Equipment used to transport bulk meals and individually packaged meals including thermal transport units and vendor vehicles.
- 4.4.13. Food Service Provider (FSP) – An organization or contracted Food Service Vendor responsible for the activities performed and resources needed to prepare meals including procuring, preparing, distributing, and serving of food and the cleaning of equipment in facilities related to meal service. The FSP may work directly for the County, be contracted through the County, or be a subcontracted meal provider.
- 4.4.14. Foodborne Illness – Reported illness of two or more unrelated people linked to a common food or a common facility. Suspected foodborne illness shall be reported to the local licensing and inspection agency and PDA.

- 4.4.15. Fresh Vegetable or Fruit – A vegetable or fruit that has not been cooked or frozen prior to serving.
- 4.4.16. Grab & Go Meal – A meal that an eligible individual picks up at a senior center that will be consumed in a different location, typically their place of residence.
- 4.4.17. Handwashing Sink– Facilities provided with warm water, soap and hand drying device that is dedicated to handwashing. No food service functions shall take place in a handwashing sink.
- 4.4.18. Hazardous Food – Food that requires time and/or temperature control to keep them safe for human consumption. The following are characteristics of hazardous food:
 - 4.4.18.1 Contains moisture - usually regarded as a water activity greater than 0.85.
 - 4.4.18.2 Contains protein.
 - 4.4.18.3 Neutral to slightly acidic - typically having a pH between 4.6 and 7.5.
- 4.4.19. Home Delivered Meal – A meal authorized under Title III Part C Subpart 2 of the OAA which authorizes meals and related nutrition services to older individuals who are homebound.
- 4.4.20. Lacto-Ovo Vegetarian – Meal plan eliminating animal flesh but allowing dairy and egg products.
- 4.4.21. Licensing and Inspection Agency –The regulatory authority responsible for providing food safety inspections for a food service operation. The licensing and inspection agency could be a local health department, a county health department, or the PA Department of Agriculture. A licensing and inspection agency may conduct routine unannounced sanitation inspections as often as deemed necessary. The Pennsylvania Department of Agriculture’s website contains a list of local licensing and inspection agencies.
- 4.4.22. Meal – Any foods or combination of foods served which meet the nutritional requirements prescribed in the OAA of 1965, as amended (42 U.S.C. §§3030 F and G). The meal shall meet temperature control or time in lieu of temperature control guidelines.
 - 4.4.22.1 Hot Meals – A meal which provides a hot entrée to participants.
 - 4.4.22.2 Cold Meal – A meal which provides a cold entrée to participants.
 - 4.4.22.3 Frozen Meal – A meal which provides a frozen entrée or a frozen complete meal.
 - 4.4.22.4 Retort Pouch Meal – A flexible container in which food is placed and heated to commercial sterility in a retort or other sterilization system. Complete meals or meal components may utilize this method of packaging.

- 4.4.22.5 Leftover Meal – A meal that was ordered but not served. Leftover meals may be offered to an unduplicated individual to be consumed in a congregate setting and recorded as an ENP meal.
- 4.4.23. Meal Production Records – Forms used to determine the kind and amount of food to produce and portion sizes to serve for the menu.
- 4.4.24. Meal Service – The point at which the individual receives the meal either at the community site or in the individual’s home.
- 4.4.25. Menu Cycle – Menus that are repeated on a cycle basis and are used for forecasting, purchasing, scheduling and other management functions. A lunch and dinner menu cycle shall be comprised of a minimum of four weeks of distinct menus.
- 4.4.26. Menu Substitutions – A food item replacing a menu item that is not available. Menu substitutions are a food equivalent to the food being changed and shall have a comparable nutrient profile.
- 4.4.27. Modified Diet – A diet based on the regular menu and designed to meet the nutritional requirements of a specific situation. The diet may be modified in consistency, flavor, techniques of service or preparation, content of specific foods or a combination of these factors. Examples include pureeing or chopping a meal, providing alternative condiments (i.e. a salt alternative) or serving a healthy dessert option.
- 4.4.28. Monitoring and Evaluation – Ongoing activities undertaken to determine the extent to which a program is in compliance with applicable law, policy, regulation, and contracts; determining the quality and effectiveness of programs in order to suggest ways to enhance and improve these programs.
- 4.4.29. Non-Perishable Foods – Foods that are shelf-stable, not potentially hazardous, and do not spoil. This may be inherent in the food (cookies, fruit, bread, crackers) or as a result of packaging.
- 4.4.30. Nutrient Analysis – Process of determining the nutritional content of foods and food products. Nutrient analysis can also be done using reference books which use the United States Department of Agriculture (USDA) database as their reference point.
- 4.4.31. Nutrient Average – Vitamin A, calcium, fat, fiber, calories, and grain serving requirements averaged over one continuous week of meal service in lieu of a daily meal requirement.
- 4.4.32. Nutrition Service Incentive Program (NSIP) – A program that provides allocation grants to states, territories, and eligible Indian tribal organizations. These grants are in addition to Title C1 and Title C2 funding and may only be used for food.
- 4.4.33. Offer versus Serve (OVS) – OVS recognizes consumer choice. Any consumer has the right to refuse any part of the meal. To be eligible as an ENP meal, all foods on the menu must be available in sufficient quantity and the meal shall be recorded as an ENP meal.

- 4.4.34. Person In Charge (PIC) – FDA Food Code Chapter 2 requires a designated person to be on site and in charge during all hours of food service operation. The PIC is responsible for:
- 4.4.34.1 Assuring safe food handling practices and demonstrating knowledge of foodborne disease prevention as it relates to the individual food service site.
 - 4.4.34.2 Identifying menu components which may include a food allergen through information provided by the FSP. Ninety percent of serious food allergies are caused by contact with the proteins in eight foods: milk, eggs, fish, shellfish, tree nuts, wheat, peanuts, or soybeans.
 - 4.4.34.3 Restricting any person with a communicable disease from working or volunteering in any food service establishment in any capacity in which there is likelihood that the person might contaminate food or food contact surfaces.
 - 4.4.34.4 Documenting food safety. Materials are available through the Pennsylvania Department of Aging, the Pennsylvania Department of Agriculture, and other resources. Information about food safety training is available at PDA website under the Health and Wellness menu.
- 4.4.35. Public Health Control for Food Transport – Food shall be transported to a meal service site using temperature only or time in lieu of temperature control guidelines.
- 4.4.36. Sanitation Certification – Documentation which may be required by the licensing and inspection agency or by contract with the AAA. This may include Food Protection Manager Certification Programs (i.e. ServeSafe), PA Department of Agriculture Sanitation for nonprofit organizations training or other options as agreed upon by the FSP and the AAA.
- 4.4.37. Single Use Containers – A container used for transporting food where the container is disposed of after one use. Examples of single use containers include aluminum meal trays and take-out clamshell plates.
- 4.4.38. Temperature Control Unit – Equipment designed to maintain temperature when food is required to be heated, cooled, or both to remain at the target temperature regardless of the changing environment around it. Examples include a refrigerator, oven, or temperature regulated thermal unit. Removal from this unit will mark the start of the four-hour time in lieu of temperature control.
- 4.4.39. Thermal Transport Units – An insulated container used to transport hot or cold foods.
- 4.4.40. Whole Meats – Protein sources which have not been ground or adulterated but left whole, i.e. roasted meats, beef cubes or tips, and chicken parts.

4.5 Service Description

This section contains references to palatability, taste, flavors, presentation (inclusive of shapes and colors), digestibility, and ease to chew and appeal. The BCAAA at its sole and absolute discretion shall make a determination as to if these requirements were achieved and if they continue to be achieved.

4.5.1 Congregate and Grab & Go Meals

- 4.5.1.1 Successful Proposer(s)/FSP shall furnish congregate and grab & go meals for individuals that attend a senior center in Berks County once a day, five (5) days per week, Monday-Friday, with the holiday schedule (Attachment E) and inclement weather being the only adjustment. Meals are typically served to the older adults between 11:30 A.M. – 12:00 P.M.
- 4.5.1.2 All food must arrive at the senior center(s) at the temperature at which it should be consumed. Congregate and grab & go meals may not be delivered frozen or cold, if it is to be consumed hot.
- 4.5.1.3 An exception can be made to delivering five (5) days per week if a meal in which all elements are to be consumed cold and/or room temperature follows a “hot meal” on the menu Monday through Thursday. The “cold meal” may be delivered the same day as the “hot meal”.
- 4.5.1.4 If the congregate and grab & go meals are not prepared on-site at a senior center, they shall be delivered to each designated meal hub. The following senior centers have been designated as meal hubs:
 - 4.5.1.4.1 Berks Encore: Reading
 - 4.5.1.4.2 Berks Encore: Mifflin
 - 4.5.1.4.3 Boyertown Area Multi-Service
 - 4.5.1.4.4 Casa de la Amistad
 - 4.5.1.4.5 Additional senior center locations that average more than ten (10) congregate and/or grab & go meals consumers daily over a six-month period (January-June and July-December).
 - 4.5.1.4.5.1 Berks Encore Strausstown and Fleetwood currently meet this criterion.
 - 4.5.1.4.5.2 The FSP will be notified within one (1) week of the close of the six-month period if a meal hub has been added or removed.
 - 4.5.1.4.6 If a senior center is hosting a special event in which a congregate meal will be served and the consumer count is twenty-five (25) or more, the provider shall be responsible for delivering the meals directly to the center even if their six (6) month daily average is less than ten (10) individuals.
 - 4.5.1.4.6.1 Senior centers will provide at least a two (2) week notice to the FSP of any special event meeting this criterion.
 - 4.5.1.4.6.2 Senior centers may request this exception no more than one (1) time per month.

- 4.5.1.5 The FSP may deliver congregate and grab & go meals to the hubs in pans or prepack them in appropriate containers.
 - 4.5.1.5.1 How the meals will be delivered must be specified in the FSP's bid proposal. If the FSP would like to offer multiple options that will have a different per meal cost, separate price proposals must be submitted.
 - 4.5.1.6 If meals are delivered in pans, they shall be delivered to each designated congregate meal hub between 8:30am-10:00am.
 - 4.5.1.7 If meals are prepacked, they shall be delivered to each designated congregate meal hub between 9:00am-10:30am.
 - 4.5.1.8 Exceptions for meal delivery will occur when conditions result in the closing of schools in the area, holidays stipulated in Attachment E or by Presidential or gubernatorial directive. In the event of adverse weather conditions, such as snowstorms, ice, and unforeseen conditions, a representative from each senior center provider will contact the Vendor at approximately 6:00 a.m. to confirm closure of the center(s). Other special circumstances may require a change in mealtimes, in which case a change may be made with two (2) weeks' minimum notice.
 - 4.5.1.9 Food shall be transported to a congregate meal service site using temperature control or time in lieu of temperature control guidelines for food transport as per clause 4.5.5 and 4.5.6.
- 4.5.2 Home Delivered Meals (HDM)**
- 4.5.2.1 One (1) pre-packed meal for each weekday (Monday-Friday) shall be provided within the Planning and Service Area for each individual deemed eligible by the BCAA or their HDM Care Management subcontractor(s). HDM's may consist of cold, frozen, and shelf stable foods.
 - 4.5.2.2 The FSP shall deliver HDMs at an agreed upon frequency to each senior center.
 - 4.5.2.2.1 Frozen meals may be delivered to each senior center from one (1) to five (5) days per week.
 - 4.5.2.2.2 Cold meals may be delivered to each senior center two (2) to five (5) days per week.
 - 4.5.2.2.2.1 If less than five (5) days per week, the FSP must ensure that no more than three (3) meals are included in any delivery.
 - 4.5.2.2.2.2 Cold meals may not be delivered for the next week. For example, three (3) meals may not be delivered on a Thursday since the third meal would be for Monday of the following week.
 - 4.5.2.2.3 Exceptions for meal delivery will occur when conditions result in the closing of schools in the area, holidays stipulated in Attachment E or by Presidential or gubernatorial directive. In the event of adverse weather conditions, such

as snowstorms, ice, and unforeseen conditions, a representative from each senior center provider will contact the Vendor at approximately 6:00 a.m. to confirm closure of the center(s). Other special circumstances may require a change in mealtimes, in which case a change may be made with two (2) weeks' minimum notice.

- 4.5.2.2.4 The FSP shall specify in their bid proposal if HDMS will be delivered cold or frozen and how many days per week they will be delivered to each senior center.
- 4.5.2.2.5 The FSP may propose to deliver the meals directly to consumers. The same frozen meal delivery frequency applies, and this must be specified in the bid proposal.
- 4.5.2.2.6 If the FSP would like to provide multiple options in their bid proposal, additional price proposals shall be submitted if the cost per meal differs.

4.5.3 Meal and Product Orders

- 4.5.3.1 Each senior center provider will place meal orders by 4:00 P.M. two (2) days prior to the day services are required. A sample order form used for this purpose is shown in Attachment F.
- 4.5.3.2 Excess food shall not be ordered or prepared for the purpose of having leftovers. The senior centers have procedures in place to limit leftovers including a reservation policy, ordering the correct number of meals and utilizing portion control when serving meals.
- 4.5.3.3 There are approximately two hundred fifty (250) days of service per year. Actual orders may vary. No minimum or maximum total contract amount is guaranteed.
- 4.5.3.4 The Vendor shall provide disposable products, condiments and kitchen supplies as described in Attachment G. Items shall be ordered by the senior center manager on an as needed basis two (2) days prior to delivery, using Attachment G.

4.5.4 Delivery of Meals and Goods

- 4.5.4.1 The Vendor shall have delivery vehicles, insulated food carriers for the transport of bulk food items (including hot and cold foods) and other essential items to ensure safe delivery of food to each senior center listed in Attachment D.
- 4.5.4.2 Foods to be delivered shall be packaged individually in separate leak-proof containers with sufficient insulation to prevent heat loss by the hot foods and heat gain by the cold and frozen foods. Temperature control or time in lieu of temperature control guidelines shall be used as the public health control as defined in the FDA Food Code Section 3-501.
- 4.5.4.3 If meals are delivered cold, to prevent bacteria growth, foods shall meet temperature control or time in lieu of temperature control guidelines.
- 4.5.4.4 If meals are delivered frozen, food shall remain frozen solid to touch through transportation and delivery.

- 4.5.4.5 Food containers shall be constructed in a manner which provides for the separation of cold, shelf stable, and frozen food items during delivery.
- 4.5.4.6 Cold, shelf stable, and frozen food shall be kept in separate containers from the point of preparation, through delivery to the participant.
- 4.5.4.7 If using time in lieu of temperature control guidelines meals or meal carriers shall be labeled to make participants aware of the four (4) hour time and temperature control. This label shall reflect the time the food may no longer be consumed safely.
- 4.5.4.8 Containers for transporting pre-packed meals shall be of a type which the vendor can be easily clean and sanitize and be equipped with handles and secure closures.
- 4.5.4.9 Delivery drivers shall be employees of the Vendor and must have proof of a current license and insurance. Delivery personnel shall be appropriately dressed and wear proper identification.
- 4.5.4.10 The Vendor shall unload and place all deliveries in the designated food service areas of the meal sites.
- 4.5.4.11 The FSP is responsible for the sanitary holding of the transported food until the last point of control in accordance with Aging Program Directive APD #15-03-02, Chapter 1, Section 1, as amended.
- 4.5.4.12 Food that will be transported in bulk shall be packaged so that there will be a minimum of spills in the carrier. The Vendor will take all necessary measures including, but not limited to, reducing fill level, and covering all pans with stretch plastic film and/or aluminum foil to prevent spillage. Pans are required to have lids. Carriers should be of a size and/or quantity to contain all food delivered to the sites.
- 4.5.4.13 All bulk food containers and supplies shall be labeled as follows:
 - 4.5.4.13.1 Senior Center Name (to be delivered)
 - 4.5.4.13.2 Contents
 - 4.5.4.13.3 Number of Servings
- 4.5.4.14 Empty food containers, utensils and other equipment must be retrieved from each senior center within two (2) business days; airtight non-penetrable containers must be provided for overnight pan storage. These containers must be “dirty” dedicated and may not be used for foods that will be served. The senior centers will rinse the pans of any grime. Cleaning and sanitizing of pans, carriers, and other equipment shall be the responsibility of the FSP.
- 4.5.4.15 All meal delivery vehicles are subject to inspection by the BCAA.
- 4.5.4.16 The use of a delivery form as approved by the AAA; a sample is included as Attachment H, shall be used to facilitate accurate communications with the Vendor.

4.5.5 Temperature Control for Food Transport

- 4.5.5.1 The temperature of hot food items shall at no time drop below 135°F from the point of preparation through delivery until meal service.
- 4.5.5.2 The temperature of cold foods shall remain at or below 41°F from the point of preparation through delivery until meal service.
- 4.5.5.3 At a minimum, food temperatures shall be checked and recorded at the point of final preparation prior to delivery to the meal site and at the point of receipt at the meal site.
- 4.5.5.4 If upon receipt at the meal site food temperature checks reveal that hot foods have not been maintained at 135°F or above for a period of less than four (4) hours, the affected foods shall not be served and must be discarded for reasons of food safety.
- 4.5.5.5 Cold food items that have not been maintained at 41°F or below for a period no longer than four hours or are received at a temperature of 71°F or higher shall be discarded for reasons of food safety.

4.5.6 Time in Lieu of Temperature Control for Food Transport

- 4.5.6.1 Hot food items can be held without temperature control for up to four (4) hours provided temperature is 135°F or higher directly upon removing it from temperature control (oven, stove, microwave, etc.) followed by immediate plating, packaging, and placing into the thermal transport unit for delivery. Items shall be labeled as to the time they were packed and discarded if not served within four (4) hours.
- 4.5.6.2 Cold food items can be held without temperature control for up to four (4) hours provided the temperature is 41°F or lower upon removal from refrigeration and does not reach 71°F at any time. Items shall be labeled indicating the time they were packed and discarded if not served within four hours. Cold food that reaches a temperature above 71°F at any time shall be discarded.
- 4.5.6.3 Time of packing meals and temperature of food items when packed shall be documented at the food service site and on food transport containers.
- 4.5.6.4 Frozen meals may be delivered reheated or frozen. To prevent bacteria growth, foods shall meet temperature control or time in lieu of temperature control guidelines. If frozen, food shall remain frozen solid to touch through transportation and delivery.
- 4.5.6.5 Food containers shall be constructed in a manner which provides for the separation of hot, refrigerated, and frozen food items during delivery.
- 4.5.6.6 To assist in maintaining proper food temperatures, hot and cold foods shall be kept in separate containers from the point of preparation through delivery (if appropriate) and during meal services.

- 4.5.6.7 Arrangements may be made, where feasible and appropriate, to provide meals during emergency situations such as the unexpected closing of preparation kitchens, delivery vehicle breakdown, or weather-related emergencies.
- 4.5.6.8 The ENP meal shall provide participants with all the required menu items; however, participants may decline any components of the planned meal. This is considered OVS which allows the choice to be left at the discretion of the participant.

4.5.7 Menu Development

- 4.5.7.1 One of the purposes of nutrition services provided through Title III of the OAA is to promote better health and well-being for older individuals through improved nutrition. Proposer(s) shall ensure that meals are nutritionally adequate in accordance with the requirements herein and considered to be satisfying to program participants. The BCAAA at its sole and absolute discretion shall make a determination as to if this requirement was and continues to be achieved.
- 4.5.7.2 All meals provided that receive ENP funds, whether prepared on site, frozen, non-perishable, boxed, or catered, shall comply with the most recent DGAs and provide a minimum of one-third of the DRIs.
- 4.5.7.3 All menus must be reviewed, analyzed, and approved by a licensed dietitian who will be employed or subcontracted by the successful proposer(s). A record of the menu approvals shall be documented and provided to the BCAAA within ten (10) business days of the approval.
- 4.5.7.4 All foods used shall be in conformance with guidelines promulgated by the PDA for menu planning and the specifications stated herein. Foods, handling, and storage are subject to inspection, as applicable, by the AAA, PDA, and the Pennsylvania Department of Agriculture. The Vendor(s) should be aware that AAA specifications exceed PDA guidelines in some instances.
- 4.5.7.5 Meals must be attractive, palatable, tasty and appealing to the food preference of the participants. Cultural food preferences should be considered.
- 4.5.7.6 Different flavors shall be clearly discernable by the average palate and will vary clearly between the different food groups offered in a meal.
- 4.5.7.7 In any meal presentation, food shapes and colors shall be attractive, appetizing and varied with no two (2) food groups presenting a similar appearance or color.
- 4.5.7.8 Meals shall be readily digestible by the geriatric client. Overcooking of vegetables and protein foods shall be avoided; however, no vegetable or meat should be excessively hard to chew.
- 4.5.7.9 All consumables served shall be free of foreign objects.

4.5.8 Meal Requirements

- 4.5.8.1 Consideration should be given to the food preferences of individuals. Section 339 of the OAA mandates meal providers receive input from individuals. As part of

the ongoing menu planning process, individual input shall be obtained no less than annually through individual interviews, focus groups, advisory councils, and/or surveys.

- 4.5.8.2 All menus shall be planned in accordance with the most recent version of the DGA. The minimum standards for menus will be based on the nutrient requirements as calculated using the USDA Food Pattern and DRIs using the requirements of a female, 71 years of age or older (representative of the majority of the participants in Pennsylvania's meal programs) while providing enough food to meet PDA nutrition requirements. Specific menu requirements are outlined in Attachment I and Attachment J.
- 4.5.8.3 Traditional Menu Pattern Model (Attachment I) requires a nutrient analysis.
 - 4.5.8.3.1 The Traditional Menu Pattern model with nutrient analysis is acceptable for all meal programs.
 - 4.5.8.3.2 Nutrient analysis is required for menus that incorporate the DASH menu pattern or a Lacto-Ovo Vegetarian pattern (Attachment K & Attachment L).
 - 4.5.8.3.3 Modifications can be made by increasing non-meat protein sources, providing weekly or bi-weekly seafood servings, and offering beneficial nuts and oils as part of the meal.
 - 4.5.8.3.4 Modified menus are not required to meet the portion guidelines but shall meet nutrient requirements.
- 4.5.8.4 Food-Based Menu Pattern Model (Attachment J) is acceptable for all meal programs and does not require nutrient analysis. The nutrient requirements are calculated from the USDA Food Pattern for a female, 71 years of age or older. The food-based menu incorporates an increase in food component requirements to assure nutrient adequacy. Food labels shall be used to determine calorie, fat, and sodium content of these meals.
- 4.5.8.5 With AAA approval, the FSP may utilize a combination of sets of requirements (traditional or food-based) to construct a menu cycle. For example, an FSP may elect to utilize the Food-Based Model in menu planning maintaining a Traditional Menu Pattern planning process for a vegetarian senior center meal site. An FSP may also choose to utilize a Traditional Menu Plan for daily menu planning but provide special occasion meals based on a Food Based Menu Model.
- 4.5.8.6 Emergency meals shall comply with the meal components outlined in Attachment I, "Traditional Menu Pattern."
- 4.5.8.7 The requirements for the Traditional Menu Pattern are as follows:
 - 4.5.8.7.1 Protein – To target the incidence of loss of skeletal muscle mass associated with aging, minimum protein requirements shall be a three-ounce edible portion in the entrée. The total protein content of any meal served shall be a minimum of 25 grams per meal per day. Whole meat shall be served once a week. Breakfast meals, DASH plan meals, and Lacto-Ovo Vegetarian meals shall be based solely on 25 grams of protein in each meal served.

- 4.5.8.7.2 Fruits/Vegetables – Two different servings of fruit and/or vegetables shall be served at each meal. One serving is one-half cup of drained fruits or vegetables, four ounces of juice, one piece of fresh fruit, or one cup raw leafy greens. Fresh or raw fruits or vegetables shall be provided a minimum of two (2) times each week in the congregate setting. HDMs are exempt from the requirement of serving fresh or raw forms of fruits or vegetables.
- 4.5.8.7.3 Grains/Enriched Bread – One to two grain servings shall be served in each meal. A weekly average of seven grain servings shall be served in a five-day-a-week program. Carbohydrates in any meal shall be limited to no more than 75 grams. Whole-grain bread product may be served fifty percent of the time with a goal of providing an average of seven grams of fiber daily in each meal served.
- 4.5.8.7.4 Milk/Calcium – Each meal served shall provide a calcium source with the minimum daily calcium average of 350 milligrams per meal. Because of the increased incidence of lactose intolerance in some populations, including the elderly, the minimum daily calcium average may be met using a source other than fluid milk. If religious or cultural preference by a majority of individuals at the meal site precludes the acceptance of dairy products or alternates, dairy products and alternates may be omitted and calcium enriched non-dairy foods shall be utilized. In such cases, nutrition education, which specifically, but not exclusively, includes information about high calcium food and beverage sources shall be provided to individuals annually with documentation retained at the AAA. Notification and justification of this modification shall be submitted to the PDA.
- 4.5.8.7.5 Fiber – Each meal shall contain a minimum of seven grams of fiber per meal averaged over one week.
- 4.5.8.7.6 Fat – A fat serving is an optional menu component. Each meal shall contain a maximum daily fat content, averaged over one week, not to exceed thirty-five (35) percent of total calories.
- 4.5.8.7.7 Sodium – A modest reduction in salt intake leads to a fall in blood pressure in both normotensive and hypertensive older individuals. The maximum daily average of sodium over one week is 1,300 milligrams.
- 4.5.8.7.8 Vitamin C – Each meal shall contain a minimum of 20 milligrams per day.
- 4.5.8.7.9 Vitamin A – Each meal shall contain a minimum daily average of 250 micrograms. Because Vitamin A is a fat-soluble vitamin, the requirement for Vitamin A may be averaged over a one-week period.
- 4.5.8.7.10 Calorie/Energy Level – To recognize declining energy needs in the aging population, daily calories in meals shall be a minimum of 600 calories each day and a maximum of 750 calories averaged over one week.
- 4.5.8.7.11 Potassium – It is recommended that foods with high potassium content (more than 400 milligrams per serving) be served two (2) to three (3) times per week. A diet supplying at least 4.7 grams per day is associated with decreased risk of stroke, hypertension, osteoporosis, and kidney stones.

- 4.5.8.7.12 Dessert is an optional menu component.
- 4.5.8.7.13 All foods served as part of the meal shall be included in the nutrition analysis of the meal.
- 4.5.8.8 The requirements for a Food Based Pattern (Attachment J) are as follows:
 - 4.5.8.8.1 Protein – Minimum requirements shall be three (3) ounces edible entrée portion, and the total protein content of any meal served shall be a minimum of twenty-five (25) grams. Whole meat shall be served one (1) time per week. High fat/high sodium entrée are to be limited to no more than two (2) meals per month. A high fat meat is one that provides more than eight (8) grams of fat per ounce. A high sodium entrée provides more than 650 milligrams of sodium per serving. Food labels shall be utilized for making this analysis.
 - 4.5.8.8.2 Fruits/Vegetables – Three (3) servings of fruit and/or vegetables shall be served in each meal as two (2) or three (3) distinct foods to assure requirements for Vitamin A, Vitamin C, and fiber will be met. One (1) serving is equal to one-half cup of drained fruits or vegetables, four (4) ounces of juice, one (1) piece of fresh fruit, or one (1) cup raw leafy greens. Fresh or raw fruit or vegetables shall be provided two (2) or more times each week in the congregate setting. HDMs are exempt from the requirement of serving fresh or raw fruits/vegetables although they may still be served. The use of juice is discouraged as juice does not provide a source of fiber.
 - 4.5.8.8.3 Vitamin C – Vitamin C sources providing a minimum of twenty (20) milligrams per serving shall be served daily with every meal. This can be done by serving one high Vitamin C source or two fair Vitamin C sources at each meal.
 - 4.5.8.8.4 Vitamin A – Vitamin A sources providing more than 250 micrograms per serving shall be served a minimum of three (3) times per week per meal served.
 - 4.5.8.8.5 Potassium – Foods with high potassium content shall be served two (2) to three (3) times per week to offset elevated sodium levels. This can be done by serving one (1) high potassium source two (2) to three (3) times per week or one (1) fair potassium source at each meal beyond the use of milk and beef entrées. A high potassium food shall be served when a high sodium entrée is served.
 - 4.5.8.8.6 Grains/Enriched Bread – One (1) to two (2) grain servings shall be served at each meal. A weekly average of seven (7) grain servings shall be served in a five-day-a-week program. A weekly average of ten (10) grain servings shall be served in a seven-day-a-week program. Carbohydrates in any meal shall be limited to no more than five (5) carbohydrate exchange servings (75 grams). Whole-grains or whole-grain bread products shall be served a minimum of fifty percent of the time as part of the goal to provide an average of seven (7) grams of fiber daily at each meal served.
 - 4.5.8.8.7 Milk/Calcium – Milk shall be served daily unless religious or cultural preference by a majority of individuals precludes the acceptance of dairy

products or alternates at a meal site and is approved by the AAA. Calcium enriched non-dairy foods may be utilized. When non-dairy sources of calcium are used, entrée portions shall be adequate to replace the protein lost through the elimination of dairy products.

- 4.5.8.8.8 Fat – Lower fat foods are encouraged. Therefore, each meal shall contain a maximum daily fat content averaged over one (1) week not to exceed thirty-five (35) percent of total calories. This requirement may be met by using skim or 1% milk, low-fat condiments, poultry and fish, and limiting most processed meats.
- 4.5.8.8.9 A fat serving is an optional menu component.
- 4.5.8.8.10 Sodium – A modest reduction in salt intake may lead to a fall in blood pressure. Therefore, meals shall be prepared without added salt. High sodium foods defined as those providing more than 650 milligrams per meal, shall be limited throughout all menus. It is encouraged that meal programs strive for a further reduction. Food labels shall be utilized in menu planning to meet sodium guidelines.
- 4.5.8.8.11 Calorie/Energy Level – To recognize declining energy needs in the aging population, daily calories in meals shall be a minimum of 600 calories each day and a maximum of 750 calories averaged over one week.

Calorie information shall be compiled utilizing food labels or utilizing a Diabetic Exchange List Model to approximate calories.
- 4.5.8.8.12 Dessert is not a mandatory menu component.
- 4.5.8.8.13 All foods served as part of the meal shall be included in the menu approval form for the meal.
- 4.5.8.9 The AAA will have the authority to discontinue the use of a particular product when determined to be necessary due to consumer dissatisfaction.
- 4.5.8.10 The successful proposer(s) will maintain standards of quality for all menu items as outlined in Attachment M.
- 4.5.8.11 Recipes must be approved by a registered dietitian that is employed or subcontracted by the vendor and checked for proper nutrient values with a written analysis required for all meals.
- 4.5.8.12 No food previously served to an individual, prepared in a private home or processed in an unregulated food processing establishment shall be used in the preparation of foods. Home canned and home prepared foods may not be used.
- 4.5.8.13 Menus shall be planned to use a minimum of a 21-day cycle. The menus will provide nutritional analysis as required for menu submissions to PDA. Nutrient analysis will include protein, Vitamin A, Vitamin C, calories, sodium, fat and fiber. Menus shall be submitted using the menu format shown in Chapter 2 of APD #15-03-02, with all necessary information completed, including the signature of the FSP's Registered Dietitian.

- 4.5.8.13.1 Finalized nutritional analysis menus approved by the dietitian should be sent to the BCAA Contract Manager by June 1 of each year for the July through December period and by December 1 of each year for the January through June period. This submission should be provided in menu format, based on the analyzed cycle menu.
- 4.5.8.13.2 For the initial start of the contract, a finalized menu must be submitted to the BCAA prior to July 1, 2026.
- 4.5.8.14 The AAA reserves the right to make menu changes and/or substitutions as necessary to ensure food service quality and menu acceptance by the BCAA's dietitian and meal recipients. The Vendor shall be required to adjust accordingly.
- 4.5.8.15 Menus shall accurately reflect the food that will be received at the meal sites unless criteria for Vendor substitutions, as described herein, have been met.
- 4.5.8.16 If awarded contracts for both congregate and HDM/grab & go meals, the menus may differ as not all congregate meal food items are conducive to home delivery. For example, soup.
- 4.5.8.17 When combination dishes such as casseroles, soups, salads or blended fruit juices are used as part of the meal, the major ingredients and portion sizes must be indicated to aid in accurate menu evaluation. Also, menu items with inexplicit names must be described. Examples of combination dishes and menu items with inexplicit names include:
 - 4.5.8.17.1 Spaghetti with meat sauce (6 ounces meat sauce containing 3 ounces of ground beef, 4 ounces of tomato sauce and 1 teaspoon of grated cheese).
 - 4.5.8.17.2 Two (2) cups of winter mixed vegetables (broccoli, cauliflower carrots); and
 - 4.5.8.17.3 Health salad (Two (2) cups of fresh spinach, two (2) tablespoons of mandarin oranges, one (1) teaspoon of walnuts, one (1) teaspoon of raisins and one (1) tablespoon of sweet and sour dressing).
- 4.5.8.18 Upon request, the Vendor will supply the composition of and/or recipe for any menu item. Also, upon request the Vendor will prepare and test recipes for sampling by the AAA.
- 4.5.8.19 A portion guide, indicating portion size and required serving utensil, shall be provided to correspond with each new menu cycle. Vendor is responsible for forwarding the portion guide to the AAA with the final menu copy. The portion guide may utilize the serving utensils owned and supplied by FSP or the Senior Center daily. (Attachment N)
- 4.5.8.20 Condiments and small food items:
 - 4.5.8.20.1 Condiments such as mayonnaise, mustard, ketchup, and tartar sauce should be served in place of the required one (1) teaspoon of butter or margarine on days when the bread item is used to make a sandwich. One (1) each of mustard and ketchup must be provided when appropriate. The menu should indicate condiments replacing butter or margarine.

- 4.5.8.20.2 Salt and pepper shall be supplied for all congregate meals.
- 4.5.8.20.3 Other condiments, such as grated cheese, salad dressing, ketchup, mustard, tartar sauce, mayonnaise, etc. shall be supplied with meals with costs included in the per meal cost. Minimum required condiments:
 - 4.5.8.20.3.1 Mustard, ketchup, and mayonnaise with hamburgers
 - 4.5.8.20.3.2 Mustard and ketchup with hot dogs
 - 4.5.8.20.3.3 Grated cheese with pasta dishes
 - 4.5.8.20.3.4 Tartar sauce with fried fish entrees
 - 4.5.8.20.3.5 Salad dressing with salads
- 4.5.8.20.4 Each service size will be a minimum of one (1) tablespoon, with salads receiving a minimum of two (2) tablespoons.

4.5.9 **Provision for Special Menu Needs**

- 4.5.9.1 Special Meals are provided at a senior center to increase participation or acknowledge a holiday. Special meals may utilize a Traditional Menu Plan or Food-Based Menu Plan without a nutrient analysis. Documentation of special meals shall include the date and the menu served. Information shall be filed as a hard or electronic copy and shall be available for monitoring and evaluation.
- 4.5.9.2 The FSP shall provide special congregate meals as requested by the senior centers. These events may include, but are not limited to concerts, parties, picnics, and holiday celebrations.
- 4.5.9.3 Senior Centers may request a special meal up to six (6) times per year and shall request the meals at least two (2) weeks prior to the holiday or their event. The AAA shall be charged at the established contract unit cost per meal.
- 4.5.9.4 Representative samples of Holiday menus together with sample Special Meals Menus are included in Attachment O.
- 4.5.9.5 Modified Meal Menus – Modified meal menus meet the regular menu pattern but contain modifications to one or more items on a regular basis. Examples include but are not limited to texture modifications, daily yogurt instead of milk, healthy dessert options that continue to meet the menu requirements, or choice in menus that continue to meet the menu requirements. The types and amounts of all items shall conform to PDA menu requirements. A health care practitioner authorization is not needed for a participant to receive modified meals. However, a nutrition program may wish to prioritize requests for modified meals.
- 4.5.9.6 Special Diet Menus – Health conditions, religious requirements, or the ethnic background of the program individuals may necessitate the development of special menus that might fall outside of menu requirements. Meal programs are encouraged to provide special menus when there are sufficient numbers of interested individuals as determined by the BCAA, available food service resources, and when it is economically feasible. These may include but are not limited to:

- 4.5.9.6.1 Modified Diet Menus – The Title III program is designed to meet one-third of the healthy nutrition needs of the majority of aging adults while limiting fats, sodium, and the carbohydrate content of a meal while encouraging an increased intake of fruits, vegetables, and calcium rich foods. Modified menu plans shall allow individual compliance with most dietary recommendations. Individual modifications in the regular diet menus may be made to meet individual needs. Examples of modified diets include cardiac or heart healthy diets plans, reduced sodium plans allowing more than two grams of sodium, reduced fat plans, consistent carbohydrate plans, or texture modifications. Each of these diets shall meet PDA guidelines with minimal or no food choice changes.
- 4.5.9.6.2 Ethnic Menus – A meal site consistently serving a population group that because of cultural preference may fall outside of the PDA menu component requirements may serve those populations alternate menus. Examples are lacto-ovo vegetarians, Pennsylvania Dutch, Asian and Hispanic populations. Ethnic menus not meeting menu component requirements shall be computer analyzed, received and accepted by an approved dietitian, and shall meet one-third of the DRIs.

4.5.10 Menu Substitutions

- 4.5.10.1 Menu substitutions shall be reviewed and approved by the Vendor’s dietitian prior to delivery.
- 4.5.10.2 The Vendor(s) will give the AAA and the affected senior center representative at least twenty-four (24) hours’ notice and documentation of menu substitutions that are known in advance. Revised nutrition analysis documentation must follow within one (1) week of the substitution. The AAA and/or senior center designee has the right to not approve a substitution.
- 4.5.10.3 Menu substitutions shall be an equivalent meal component of the same quality and nutrient profile as noted in Attachments P, Q, and R.
- 4.5.10.4 Allowances for emergency substitution can be made if the substituted item is of similar nutritional value as determined by the Vendor’s dietitian. Emergency substitutions can occur no more than five (5) times per month and require notification to BCAAA and the affected senior center representative.
- 4.5.10.5 Menus may be subject to change based upon seasonal availability of food and/or product procurement difficulties.
- 4.5.10.6 The AAA and Vendor shall retain documentation of menu substitutions including date of substitution, original menu item, and substituted menu item.
- 4.5.10.7 A complete menu move from one day to another does not constitute a substitution.
- 4.5.10.8 The Vendor will not be compensated for the cost of any meal in which an item is omitted from the daily approved menu and not substituted, unless prior written approval is obtained from BCAAA.

4.5.11 **Menu Documentation:**

- 4.5.11.1 Monthly menus shall be provided to the BCAA and the senior center provider(s) in which the vendor(s) is providing services to at least ten (10) business days prior to the beginning of each month to ensure that older adults are provided adequate notice of what will be served.
- 4.5.11.2 Menus shall:
 - 4.5.11.2.1 Be planned in advance.
 - 4.5.11.2.2 Be designed to ensure repetitive entrées are kept to a minimum. The AAA shall determine what repetition is acceptable. If a cycle menu is utilized there shall be at least two (2) cycles per year, and menus shall reflect seasonal adjustments. The schedule of menu changes is at the discretion of the AAA. Menus changing more than twice a year shall be submitted for approval by the BCAA or their approved dietitian no less than one (1) month prior to service.
 - 4.5.11.2.3 Be adhered to as written. All changes and/or substitutions shall be documented.
 - 4.5.11.2.4 Be accepted in writing by the FSP's approved dietitian as meeting the current DRI based on the meal pattern.
 - 4.5.11.2.5 Be recorded on Attachment S and Attachment T, Menu Approval Forms or the excel menu submission form available on the PDA website.
 - 4.5.11.2.6 Have a signed Menu Approval Form to verify that each meal served meets menu policy requirements. The Menu Approval Form, signed by the FSP's dietitian, shall be retained and filed by day or by entire menu period (i.e. a one-month menu filed with 20 days of signed menu approval forms).
 - 4.5.11.2.7 Utilize the specific guidelines outlined in Attachments I and J. Menu references are outlined in Attachments K, P, Q, R and U.
 - 4.5.11.2.8 Be kept on file. Filed as a hard and/or electronic copy, retained on file for three (3) years according to the PDA retention policy, as amended, and shall be available for PDA and BCAA monitoring, evaluation, and technical assistance visits.

4.5.12 **Emergency Procedures**

- 4.5.12.1 The successful proposer(s) must develop an emergency procedure for delivering food in case of vehicle breakdowns. The procedure will be mutually agreed upon between Vendor and BCAA, with BCAA having the final decision-making authority. The successful proposer(s) must also develop an emergency procedure for food preparation in the event of a disaster or pandemic. The procedures for both must be filed with the BCAA as part of documentation that is returned along with the executed contract from the awarded Proposer(s).
- 4.5.12.2 In the event that the Vendor fails to deliver any meal or parts of a meal as scheduled, the AAA may procure a meal or missing items elsewhere, and the

Vendor will not be compensated for the cost of any meal if an item is omitted from the approved menu meal.

4.5.12.3 The successful proposer(s) will develop procedures for meal delivery in the event of natural disasters (i.e., tornados, blizzards, floods, etc.) These procedures must include the procurement and delivery of shelf-stable meals to the affected nutrition sites and/or home delivery clients. The procedures for natural disasters must be filed with the AAA.

4.5.12.4 If the vendor is not located within twenty-five (25) miles of the senior center(s) in which it will be providing services, they shall supply and deliver, as incorporated into the per unit meal cost, emergency foods that will be stored at each site for use in case of failure to deliver food, food arriving at unsafe temperatures, or other reasons as determined by the designated senior center staff member or AAA. Emergency food may consist of #10 cans of beef stew, ravioli, spaghetti sauce, potatoes, carrots; green beans, fruit; pudding or comparable to the same nutritional value to the items listed herein. Vendor also agrees to promptly supply and deliver, as incorporated in the per unit meal cost, emergency meal supplies that will be stored at project sites for use in case of failure to deliver meal supplies or shortage of meal supplies. Emergency food and meal supplies stored at the senior center(s) will be enough to serve the Center for five (5) business days to serve the total number of meals served daily at each senior center.

4.5.12.4.1 The #10 cans must have the date of delivery marked on the can and shall be replaced within (1) week of the one (1) year anniversary date of delivery.

4.5.13 HDM Emergency Weather Packs

4.5.13.1 Throughout the year approximately 6,000 “Emergency Weather Packs” are used by HDM consumers on days when senior centers are closed or HDMs cannot be delivered due to poor weather conditions. Vendor shall, as incorporated into the per unit meal cost, store and deliver, as requested, “emergency weather packs” to the various sites. “Emergency Weather Packs” is defined as a pack of emergency food to be distributed to eligible HDM consumer in the case of Vendor’s inability to deliver meals due to inclement weather or some unforeseen circumstance. Each pack will consist of shelf stable food products such as an individual canned small beef stew, chili, soup, fruit, applesauce, juice and powdered milk, low sodium crackers packs and/or approved equal. These packs shall be distributed to HDM consumers by the senior center provider in advance of inclement weather or unforeseen circumstances. Ordering shall be the responsibility of the senior center designated employee and shall meet the nutritional requirements of the current Recommended Dietary Allowance as established by the Food and Nutrition Board of the National Academy of Science, National Research Council for persons aged 51 and older.

4.5.13.2 Emergency weather packs may be packaged and delivered in packs of three (3) or (5) meals. Each meal in the pack must consist of different food items from the other meals in the pack.

4.5.14 Nutrition Monitoring and Evaluation

- 4.5.14.1 The BCAAA contracts with a dietitian to determine the quality and effectiveness of each meal program, consumer satisfaction, and compliance with PDA nutrition requirements and FSP contacts.
- 4.5.14.2 The Vendor shall allow the BCAAA's contracted dietitian, in conjunction with the BCAAA Contract Manager, to perform the following:
 - 4.5.14.2.1 Monitor each distinct type of meal served within the County a minimum of once per six-month cycle. For each location that provides a congregate/grab & go program, and a HDM program, each shall be monitored separately. This will result in two (2) monitoring visits every six (6) months.
 - 4.5.14.2.2 Monitor meals at the site of meal service.
 - 4.5.14.2.3 Verify meal compliance of menus submitted and approved.
 - 4.5.14.2.4 Portion monitoring to ensure compliance within the APD guidelines and the contract that results from this RFP.
 - 4.5.14.2.5 Observation to ensure the amount of food distributed to the meal site is adequate for meal service.
 - 4.5.14.2.6 Quality monitoring to ensure food served is of a quality deemed acceptable for service to the individuals and meets food quality and food grade requirements set forth in the contract that result from this RFP.
 - 4.5.14.2.7 A nutrition analysis of the menu served to assure the meal meets the nutrient profile of the menu to be served. Meals shall mirror the approved menu with substitutions providing a comparable nutrient profile.
 - 4.5.14.2.8 Validating food item temperatures.
- 4.5.14.3 Senior center managers are the designated representatives to address most meal related issues. Meal issues pertaining to meal and meal component rejection, meal shortages, and cancellations due to inclement weather shall be the responsibility of the Senior Center, or, as backup, the County's Program Manager. The Senior Center Manager will notify that County's Program Manager of any issues that arise.
- 4.5.15 **Food Safety and Menu Compliance Monitoring of ENP Meal Providers:**
 - 4.5.15.1 The AAA's responsibility shall be as follows:
 - 4.5.15.1.1 Monitor Vendor(s) to ensure compliance with the policies and standards of the PDA Food Safety and Menu Compliance Monitoring APD, menu compliance to the PDA Nutrition Services APD and the OAA, evaluate the provision of service and arrange for/provide technical assistance as needed.
 - 4.5.15.1.2 At a minimum, ensure that food safety monitoring visits are completed annually at all sites where ENP meals are prepared and/or served.
 - 4.5.15.1.3 Report any suspected foodborne illness to the local licensing and inspection agency and notify PDA of the number of people affected, name of the alleged food item, name of the FSP, and actions taken.

- 4.5.15.1.4 Report suspected facility sanitation deficiencies to the licensing and inspection agency. The AAA shall also notify PDA of the actions taken.
- 4.5.15.1.5 During the term of a contract awarded as a result of this process, failure to meet required standards may result in sanctions imposed by the AAA or in revocation of the contract. Such deviations may include, but not be limited to:
 - 4.5.15.1.5.1 Failure to furnish copy of inspection report from Department of Health.
 - 4.5.15.1.5.2 Failure to correct critical violations cited in inspection report from Department of Health.
 - 4.5.15.1.5.3 Failure to maintain safe food handling procedures and/or techniques.
 - 4.5.15.1.5.4 Failure to submit menus for review/approval as specified.
 - 4.5.15.1.5.5 Failure to adhere to food grade standards as listed in Attachment M.

4.5.16 Sanitation Standards for PDA Funded Nutrition Services

- 4.5.16.1 The Vendor shall comply with applicable federal, state and local fire, health, sanitation, safety and building codes, regulations, licenser requirements and other provisions relating to the public health, safety, and welfare of individuals is required in all stages of food service operation.
- 4.5.16.2 All persons handling food/food service for the Vendor shall do so in compliance with local public health codes regulating food service establishments referencing the most recent version of the FDA Food Code as adopted by the Pennsylvania Department of Agriculture.
- 4.5.16.3 The Vendor will procure and keep in effect all necessary licenses, permits and food handlers' certifications as required by federal, state and local laws and regulations, and shall post such documents in a prominent place within the meal preparation areas, as required.
- 4.5.16.4 The Vendor shall comply with all federal, state and local laws and regulations concerning the preparing, handling, and transporting of food. Minimum standards as set forth by the PDA found in APD #15-03-02, Chapter 4, and additional standards as set forth herein.
- 4.5.16.5 The Vendor must provide BCAA with a copy of each inspection report, notice of violation or other enforcement related action within ten (10) days of receiving from the enforcement agency documentation of such activity. A letter outlining how and when violations will be corrected must be included.

4.5.17 Additional Procedures:

- 4.5.17.1 Dishwashing Procedures –All eating equipment and utensils shall be cleaned and sanitized using one of the following methods:
 - 4.5.17.1.1 Cleaning and sanitizing by any mechanical dishwashing machine that meets the NSF International (formerly National Sanitation Foundation) Standard 3 for 6 commercial spray dishwashing machines. Wash and rinse temperatures

shall be no less than those specified by the machine manufacturer which are shown on the machine's data plate.

- 4.5.17.1.2 If a commercial dishwashing machine does not meet NSF International Standard 3 for commercial spray type dishwashing machines, all dishes and utensils shall be sanitized using a separate sanitation procedure. Dishes and utensils shall be submerged in a sanitizing solution following guidance as stated below, 4.5.17.1.4
- 4.5.17.1.3 If a commercial dishwasher is unavailable, the three-sink method shall be utilized as outlined below. The use of a residential dishwasher is not allowed.
- 4.5.17.1.4 For manual washing, rinsing, and sanitizing utensils and equipment, the three-sink method/procedures shall be followed:
 - 4.5.17.1.4.1 Equipment and utensils shall be pre-scraped and when necessary pre-soaked.
 - 4.5.17.1.4.2 Equipment and utensils shall be thoroughly washed in the temperature specified on the cleaning agent manufacturer's label instructions or using 110°F water containing a detergent solution.
 - 4.5.17.1.4.3 Equipment and utensils shall be rinsed in clean, 110° F water.
 - 4.5.17.1.4.4 Dishwashers not meeting NFS International Standard 3 are not considered sanitizing equipment. All eating equipment and utensils shall be sanitized using one of the following methods:
 - 4.5.17.1.4.4.1 Immersion in clean, hot water at a temperature of at least 171°F.
 - 4.5.17.1.4.4.2 Immersion in a clean solution containing 50 parts per million (PPM) of available chlorine as a hypochlorite and at a temperature not to exceed 220°F.
 - 4.5.17.1.4.4.3 Immersion in a clean solution containing 200 to 400 PPM or as otherwise specified by the manufacturer of any other chemical sanitizing agent such as quaternary ammonia which demonstrates to be effective and non-toxic under use conditions following the manufacturer's label for PPM and on a room temperature solution.
 - 4.5.17.1.4.4.4 A test strip or other device that accurately measures the PPM concentration of a solution shall be available and used regularly.
 - 4.5.17.1.4.4.5 After sanitization, all equipment and utensils shall be air dried and stored in a self-draining position. Glasses and cups shall be stored inverted. Other items should be covered or inverted, whenever practical.
- 4.5.17.1.5 If adequate facilities for cleaning and sanitization are not available, single service articles shall be used and discarded.

- 4.5.17.2 Dishwashing machines may be checked for NSF 3 compliance at the Public Health and Safety Organization's website at NSF Certified Food Equipment.
- 4.5.17.3 Glove Use Procedure – Single-use gloves should be worn when manual contact is made with food products. Barehanded contact is prohibited. Single-use gloves shall be used for only one (1) task. Single-use gloves shall be discarded when damaged or soiled, interruptions occur during a task, and continual use during a single task lasts more than four (4) hours.
- 4.5.17.4 Handwashing Procedure – Handwashing shall be completed on the hands and exposed parts of arms with soap and hot water before work; after using the restroom; before and after handling raw foods; after touching the hair, face or body, after sneezing, coughing or using a handkerchief or tissue; after smoking, eating, drinking, or chewing gum or tobacco; after handling chemicals that might affect the safety of food; after taking out the trash; after clearing tables or handling dirty dishes or utensils; after touching clothing or aprons; after touching anything else that may contaminate hands, such as equipment that has not been sanitized, work surfaces or washcloths. Paid and unpaid staff shall receive training on proper handwashing techniques:
 - 4.5.17.4.1 Step 1: Wet hands with running water as hot as the persons can comfortably stand (at least 100°F).
 - 4.5.17.4.2 Step 2: Apply enough soap to build up a good lather.
 - 4.5.17.4.3 Step 3: Vigorously scrub hands and arms for at least twenty seconds, lather well beyond the wrists, including the exposed portions of the arms.
 - 4.5.17.4.4 Step 4: Clean under fingernails and between fingers.
 - 4.5.17.4.5 Step 5: Rinse thoroughly under running water, turn the faucet off using a single-use paper towel if available.
 - 4.5.17.4.6 Step 6: Dry hands and arms, use single-use paper towels or a warm-air hand dryer. Never use aprons or wiping cloths to dry hands after washing.
- 4.5.17.5 Public Health Control for Food Transport Procedures – Food may be transported to a meal service site using temperature only guidelines or using time in lieu of temperature control guidelines. The temperature control process used by the FSP must be made known to the AAA within thirty (30) days of the Agreement start date.
- 4.5.17.6 Thermometer Calibration Procedures – Thermometers should be calibrated before initial use when going from one temperature extreme to another or if dropped. The following are two calibration methods:
 - 4.5.17.6.1 Ice Point Method:
 - 4.5.17.6.1.1 Fill an insulated cup with crushed ice and water. The cup shall have enough crushed ice to provide an environment of 32°F.

- 4.5.17.6.1.2 When the mixture of the water has stabilized in about four or five minutes, insert the thermometer to be calibrated to the appropriate immersion depth.
- 4.5.17.6.1.3 Be sure to hold the stem of the instrument away from the bottom and sides of the container (preferably one inch) to avoid error.
- 4.5.17.6.1.4 If the thermometer is not accurate within +/- 2°F of 32°F, adjust the thermometer accordingly. The ice point method permits calibration to within 0.1°F.

4.5.17.6.2 Boiling Point Method:

- 4.5.17.6.2.1 Place distilled water in a container and heat.
- 4.5.17.6.2.2 After the water in the container has reached a complete rolling boil, insert the instrument to the appropriate immersion depth.
- 4.5.17.6.2.3 Be sure there is at least a two-inch clearance between the stem or sensing element and the bottom and sides of the container.
- 4.5.17.6.2.4 If the thermometer is not accurate within +/- 2°F of 212°F, adjust thermometer accordingly. The boiling point method permits calibration to within 1.0°F.

4.5.18 Specific Staff Qualification Requirements:

- 4.5.18.1 The Vendor shall designate a Project Manager who is responsible for the administration of the contract and shall be available Monday through Friday, 8:00 AM to 4:00 PM to answer questions and/or requests. The AAA shall be notified in writing of any changes in key personnel which may affect the delivery of service.
- 4.5.18.2 There shall be a PIC at each food preparation site. Each site shall document food safety training of the PIC. Materials are available through PDA, the Pennsylvania Department of Agriculture, and other resources.
- 4.5.18.3 The Vendor must have an adequate number of qualified staff to operate the kitchen, prepare the volume of meals identified in 4.1.2, and deliver meals to the senior centers as awarded.
- 4.5.18.4 The Vendor must provide orientation training to all employees that includes but is not limited to the following topics: sanitation standards for the PDA funded Nutrition Services, proper attire, hygiene for food service workers, sickness policies, use of plastic gloves, appropriate hot and cold food temperatures, proper use of a thermometer, and washing and sanitizing of equipment.
 - 4.5.18.4.1 Orientation training must be provided prior to the employee being installed into any part of the line of service including handling, preparing and delivery of food.
- 4.5.18.5 Supervisory/management staff must be trained to be thoroughly familiar with the nutrition program standards as set forth in these bid specifications and in APD #15-03-01 & APD #15-03-02.

4.5.19 **Equipment and Supplies**

- 4.5.19.1 If congregate and grab & go meals will be delivered in bulk pans, the Vendor shall provide electric food warming equipment with three top openings, dimensions 29-1/2" x 44-1/2" x 34", which will accommodate standard steam table pans. Built-in or free-standing units shall be provided depending upon requirements of specific centers. It shall be the Vendor's responsibility to supply these units if the existing units become non-functioning.
- 4.5.19.2 The Vendor is responsible for maintaining, in good working order, any of the equipment used in the performance of the contract requirements, including the replacement of gaskets and hinges on portable insulated carrier units, and all maintenance on food warming equipment supplied by the Vendor.
- 4.5.19.3 While the County does not own any of the facilities where congregate and grab & go meal service is provided, it does own equipment at some sites as well as equipment for the HDMs. This equipment may be available for use or ownership by the successful proposer(s) depending upon the award of the successful bid.
 - 4.5.19.3.1 All proposals should specifically indicate the use or non-use of existing equipment and be reflected in the cost per meal.
- 4.5.19.4 The successful proposer(s) shall provide all equipment and supplies needed to store, prepare, serve and deliver the meal as needed to run the nutrition program per agreed standards. The proposal should include the use or non-use of available equipment as described previously. The Vendor is required to identify all the equipment needed, this may include, but is not limited to the following:
 - 4.5.19.4.1 Equipment, at each site, that will heat and maintain food at proper temperatures
 - 4.5.19.4.2 Equipment, at each site, necessary to store meals at proper temperatures
 - 4.5.19.4.3 Equipment and supplies necessary to serve the meal at sites
 - 4.5.19.4.4 Cambros, coolers, warming units, and equipment for maintaining proper temperature of food during holding and delivery
 - 4.5.19.4.5 Vehicles to deliver meals from successful proposer(s) to sites and HDM participants
 - 4.5.19.4.6 Miscellaneous supplies such as plates, utensils, cups, napkins, etc. needed to properly run and maintain the nutrition program
- 4.5.19.5 The successful proposer(s) will be responsible for cleaning and sanitizing in accordance with 4.5.17 and maintaining equipment in good working order. Equipment owned by BCAAA and the senior centers and deemed to be damaged and not meeting sanitary requirements due to the Vendor's practices will be replaced at the Vendor's expense.
- 4.5.19.6 Proposers are encouraged to visit the senior centers in which they are interested in providing services to see the setup of their individual kitchen areas.

- 4.5.19.6.1 An opportunity to visit the senior centers will be given during the bid process at set dates and times. Vendors will be required to RSVP for each senior center visit that they will attend.

4.5.20 Quality Control

- 4.5.20.1 The BCAAA and senior center representatives shall be represented in its overall food service operations and shall have the right and authority to do the following:
 - 4.5.20.1.1 Inspect food to determine compliance with the specifications required and to reject food not meeting specifications.
 - 4.5.20.1.2 Inspect at any time the food preparation, packaging and storage areas, the food containers and vehicles used in transporting prepared meals and to determine the adequacy of the Vendor's cleaning, sanitation and maintenance.
 - 4.5.20.1.3 Determine the adequacy of the Vendor's record-keeping practices.
 - 4.5.20.1.4 Have access to the Vendor's food purchase records, inventory control records or any other records, including financial records, pertinent to the BCAAA Nutrition Program.
 - 4.5.20.1.5 To withhold payment for meals not meeting prescribed requirements.

4.6 Qualifications / Experience

4.6.1 Proposing Firm

- 4.6.1.1 The proposing firm shall at minimum:
 - 4.6.1.1.1 have three (3) years' experience as a food service provider and/or staff with relative experience;
 - 4.6.1.1.2 have demonstrated past performance related to the ability to meet schedules and deadlines on programs of similar scope and size; and
 - 4.6.1.1.3 have demonstrated past exceptional performance related to quality Nutrition Services of design on programs of similar scope and size.
- 4.6.1.2 It is important to note that "proposing firm" refers to the company that would enter into the Agreement with the County. To be considered, the proposing firm must meet or exceed the benchmarks set forth above on its own merit. The experience and qualifications of firms that the proposing firm will partner with in the performance of this Program, cannot be used to bring a proposing firm's less than required experience and qualifications up to the benchmark.
- 4.6.1.3 Each proposing firm shall certify that it is not currently under suspension or debarment by the Commonwealth of Pennsylvania or federal government. If the proposing firm cannot so certify, then it shall submit a written explanation of why such certification cannot be made.

4.6.2 Program Team

- 4.6.2.1 The program manager shall at minimum:
 - 4.6.2.1.1 have three (3) years' experience with Nutrition Services Programs of similar scope and size;
 - 4.6.2.1.2 on past projects of similar scope and size, have demonstrated skills, technical knowledge, and administrative capability to serve all the requirements of the proposed program; and
 - 4.6.2.1.3 possess certifications, licenses and proficiency in the application of requirements and guidelines as applicable.
- 4.6.2.2 The Program team shall at minimum:
 - 4.6.2.2.1 have three (3) years' experience in the provision of food service/food preparation collectively on at least three (3) projects of similar scope and size; and
 - 4.6.2.2.2 on past programs of similar scope and size, have demonstrated skills, technical knowledge, and administrative capability to serve all the requirements of the proposed program scope of work.
- 4.6.2.3 If a subcontractor will be utilized to fulfill any of these criteria this must be clearly outlined in vendor's proposal. In addition, the required documentation in this section shall be completed for both the proposing firm and each respective subcontractor.

5 SECTION 5 - Proposal Format and Content

5.1 Submission of Proposal

Proposals shall be submitted with one (1) original and one (1) electronic copy of the Proposal and an electronic excel file of Price Proposal thumb drive to: **County of Berks, c/o County Controller, Berks County Services Center, 633 Court Street, 12th Floor, Reading, PA, 19601.** The original Proposal shall be marked "original" and the electronic copy of the Proposal must be a complete copy of the original including all attachments and appendixes.

Proposals shall be submitted in two (2) parts – a "Technical Proposal" and "Price Proposal". The Technical Proposal shall cover the technical aspects of the Services, but shall not include any mention of proposed fees or out-of-pocket expenses. The Price Proposal shall include all details as to the fees charged and out-of-pocket expenses to be billed for the comprehensive completion of Services. The Technical Proposal and the Price Proposal shall be submitted in separate sealed, opaque envelopes or containers with the words "Sealed Technical Proposal – RFP #XX-25-SKMZ" and "Sealed Price Proposal – RFP #XX-25-SKMZ" clearly printed on the outside of each package. Proposals received via facsimile will not be considered.

Each Proposal section enumerated in paragraph 5.3 – 5.12 must be clearly identified and tabbed in the submitted Proposal.

5.2 Proposal Format

The County discourages overly lengthy and costly proposals; however, Proposers should follow the format set out herein and provide all of the information requested. For a Proposal to be considered, Proposers must follow the instructions outlined in this RFP.

5.3 Transmittal Letter

Proposals shall include a brief letter which provides the company's name; address of the main office and any branch offices; telephone and fax number for each office; name, title, telephone number, fax number, and email address of the company's contact person for this program; a statement that the Proposal is in response to this RFP; and the signature, typed name, and title of an individual who has *actual authority** to commit the Proposer to the Proposal. The transmittal letter shall also include an acknowledgement of each RFP addendum received (if applicable), and a statement that the Price Proposal is valid for at minimum ninety (90) days from the Proposal opening date.

**Proposals by individuals must be signed personally, with name typed below signature, and witnessed. A complete address and trade name must be provided. Proposals by partnerships must include the typed names and business address of all partners and the trade name of the company. The Proposal must be signed by at least one general partner, whose signature must be witnessed. Proposals by corporations must include the typed name of the corporation, the State of incorporation, and the principal officer of the corporation. The Proposal must be signed by the President or Vice-President (or by an officer or agent duly authorized to bind the corporation to a contract, proof of whose corporate authority shall be attached), and attested by the Secretary, Assistant Secretary, or Treasurer of the corporation.*

5.4 Understanding of the Services

Proposers must provide a comprehensive narrative statement that illustrates their understanding of the requirements of the Services, and illustrates how their methodology will serve to accomplish the work and meet the County's schedule. Proposers must describe how they will approach the Services; describe the methods and frequency of interface between your program team members and the County's program team members in performing the Services; and indicate how often the program manager and the program team members will be on site in the performance of Services.

5.5 Qualification Statement

5.5.1 Each Proposal shall include, at minimum, the following information about the company:

5.5.1.1 The number of years the company has been in business.

5.5.1.2 The number of years the company has provided Nutrition services.

5.5.1.3 The type of organization of the company. (i.e. Corporation, Partnership, Sole Proprietorship).

5.5.1.4 The names and titles of the company's principles.

5.5.1.5 Number of employees

5.5.1.6 The company's most recent annual report or the company's most recent income statement, balance sheet, and statement of cash flow accompanied by an auditor's report attesting to the accuracy of these financial statements.

- 5.5.1.7 Complete the Worker Protection and Investment Certification Form BOP-2201, Attachment D.

- 5.5.2 The following questions should be answered thoroughly as part of the Proposal:
 - 5.5.2.1 What is the company's main business focus?
 - 5.5.2.2 What are the strengths of the company and how will the County benefit from those strengths?
 - 5.5.2.3 Identify the location(s) of where the food will be prepared and delivered from.

- 5.5.3 Each Proposal shall address the company's qualifications for the development and completion of the Services based on the following:
 - 5.5.3.1 List and describe the company's experience with Nutrition programs. For each listed program include: name and location of program; reference contact name; and telephone number; email address; estimated total program cost and actual per meal cost; and summary description of the program. Additionally, include one monitoring report that was supplied to each agency/government, (if applicable).
 - 5.5.3.2 Identify the program manager and submit this individual's credentials (work/program experience and education), evidencing the experience required in Section 4, Clause 4.6.2 herein. List the names and titles of your planned program team members and describe their individual levels of experience and expertise with this type of program, evidencing the experience required in Section 4, Clause 4.6.2 herein. Include an organizational chart showing the reporting structure of the team members.
 - 5.5.3.3 Describe the company's capacity to execute the Services within the proposed schedule. Describe the company's willingness and ability to commit personnel to meet the scope and schedule of the Services. (Include a list of current programs and the anticipated completion dates of these programs.)
 - 5.5.3.4 Describe your company's experience with menu planning and preparation. What is the approach to generating menus and building recipes for these meals?
 - 5.5.3.5 Submit sample menus for the type(s) of meals (congregate/grab & go and home delivered) that you are bidding to provide, that meets the provisions set forth in sections 4.5.7, 4.5.8, and 4.5.13 that encompasses one (1) month of service.
 - 5.5.3.6 If bidding to provide HDMs, submit a sample emergency weather pack menu.
 - 5.5.3.7 Supply a copy of a food service license(s) and the most recent food safety inspection report by the official agency (or agencies) that oversees the bidder's food processing operations.

- 5.5.3.8 Indicate which types of meals you are proposing to provider (congregate/grab & go and/or HDMs) and whether they will be delivered unpacked or prepacked and whether the HDMs will be delivered cold or frozen.
- 5.5.3.9 Submit a proposed delivery schedule for each senior center that you are bidding to provide services to.
- 5.5.3.10 What will be the approach for deliveries? Identify the composition of the fleet that will be handling the deliveries.
- 5.5.3.11 Sample survey which will be provided to the consumer for feedback on the meals. Identify all methodologies and the frequency of how often surveys will be conducted and the manner in which the results are compiled. How will the results be incorporated and addressed in future menus?
- 5.5.3.12 Approach to or sample emergency procedure as it pertains to Section 4, Clause 4.5.12.
- 5.5.3.13 If selected as a shortlisted firm, the Proposer shall provide one (1) frozen sample meal for each member of the scoring committee for taste testing, at a time and location designated by the County.

5.6 Conflict of Interest

- 5.6.1 Each Proposal shall include a conflict of interest statement indicating whether or not any principals in the company, their spouse, or their child is employed by the County of Berks, and whether or not the company or any individuals providing Services has a possible conflict of interest, and, if so, the nature of that conflict. Furthermore, Proposers shall complete the Non-Collusion Affidavit Form attached to this RFP as Attachment B and submit an executed copy with its Technical Proposal.
- 5.6.2 To preserve the integrity of County employees and elected officials and to maintain public confidence in the RFP process, the County prohibits the solicitation or acceptance of anything of value by a County employee or elected official from any person seeking to initiate or maintain a business relationship with County departments, boards, commissions, and agencies.
- 5.6.3 Proposers shall not pay any salaries, commissions, fees, or make any payments or rebates to any employee, elected official of the County or their designees. Nor shall any Proposer favor any employee, elected official of the County or their designees with gifts or entertainment of significant cost or value, or with services or goods sold at less than full market value.
- 5.6.4 The County reserves the right to disqualify a Proposer or cancel an award of the Agreement if any interest disclosed from any source could either give the appearance of a conflict or cause speculation as to the objectivity of the program to be performed by the Proposer. The County's determination regarding any question of conflict of interest shall be final.

5.7 Subcontractors

- 5.7.1 Subcontractors may be used to perform portions of Services. If a Proposer intends to use subcontractors, the Proposer must identify in its Proposal the names of the subcontractors and the portions of Services the subcontractors will perform in its Proposal. Proposals must contain the following information concerning each prospective subcontractor:
- 5.7.1.1 Complete name of the subcontractor.
 - 5.7.1.2 Complete address of the subcontractor.
 - 5.7.1.3 Type of Services the subcontractor will be performing.
 - 5.7.1.4 Percentage of Services the subcontractor will be performing.
 - 5.7.1.5 Evidence that the subcontractor holds a valid Pennsylvania business license. A copy of the most recent Pennsylvania Department of Agriculture inspection report and food service licenses.
 - 5.7.1.6 A written statement, signed by each proposed subcontractor, that clearly verifies that the subcontractor is committed to render the Services required.
- 5.7.2 A Proposer's failure to provide this information in its Proposal may cause the County to consider the Proposal non-responsive and reject the Proposal.

5.8 Insurance

Each Proposer must provide with its Proposal a sample certificate of insurance evidencing, at minimum, the insurance coverage types and levels set forth in the Proposed Form of Agreement and General Conditions.

5.9 Counter Terms

The Proposer shall specify any exceptions or objections taken to this RFP or the Proposed Form of Agreement and General Conditions, attached hereto as Attachment A, for the County to consider when evaluating the Proposal. Each provision the Proposer takes exception to shall be specifically identified (including a citation to the paragraph such provision is found) with the Proposer's suggested modification. It is understood that the Proposer takes no exception to the provisions of the RFP and form of Agreement not specifically identified as an exception or objection in this section of its Proposal. . If there are any objections or exceptions to the RFP or the Proposed Form of Agreement that Proposer believes must be addressed **prior to submitting its Proposal** (e.g., the execution of a non-disclosure agreement), those objections or exceptions must be received by Stephanie Kofke, Contract Manager, at least ten (10) working days prior to the submission deadline. Any objections or exceptions submitted after the deadline shall not be considered.

5.10 Program Schedule

Proposals shall include the Proposer's planned program schedule including expected completion time periods for each task defined in Section 4 - Specifications, and an expected completion time period for the overall program.

5.11 Alternative Proposals

Proposers are encouraged to review the scope of Services created by the County and the various task requirements called for within the scope of the Specification. If the Proposer believes that

there are alternate methods for meeting any of the RFP requirements different than those envisioned by the County, the Proposer should detail these and submit them as a separate section within the Proposal.

5.12 Price Proposal (the paper and electronic Price Proposal shall be submitted in a separate sealed envelope)

If the per meal rate that is submitted would differ if the proposer is not awarded all of the senior center sites in which it bids, multiple price proposals must be submitted indicating the rate change(s).

Price Proposals must include:

Congregate and Grab & Go Meals

Senior Center	Estimated # of Congregate and Grab & Go Meals per year	Per Meal Rate/ Unpacked***	Per Meal Rate/ Pre-packed****
Berks Encore*	27,180		
Boyertown Area Multi-Service	15,252		
Casa de la Amistad**	51,072		

*Includes the Douglassville, Fleetwood, Mifflin, Reading, Strausstown, and Wernersville locations

**Includes their satellite site Kennedy Towers

Home Delivered Meals

Senior Center	Estimated # of HDMs per year	Estimated # of Emergency Weather Packs	Per Meal Rate/ Pre-packed****	Emergency Weather Packs Rate*****
Berks Encore: Douglassville	11,340	839		
Berks Encore: Fleetwood	14,424	721		
Berks Encore: Mifflin	29,592	1,793		
Berks Encore: Reading	49,512	1,528		
Berks Encore: Strausstown	14,748	791		
Berks Encore: Wernersville	8,604	416		
Boyertown Area Multi-Service	21,732			

***Unpacked congregate meals will be delivered to a senior center in bulk containers and placed in an appropriate holding container, such as a steam table for hot meals. This shall also include meals that will be prepared at the same site in which the congregate meal is served and HDMs are delivered from. Senior center staff and volunteers will pack the meals with the provided meal containers and sealed for delivery

or on plates for congregate meal consumers. Unpacked congregate meals shall be at the temperature in which they are to be served. Please note that Senior Center kitchen equipment may only be used by Senior Center staff and volunteers. An outside vendor may not utilize Senior Center equipment for the preparation of food.

****Pre-packed meals shall be packaged and sealed in the appropriate containers by the proposing vendor and delivered to the senior center to be placed in the appropriate holding container until the time of delivery or congregate meal service. Pre-packed meals may be delivered cold or frozen for HDMs, and congregate meals shall be at the temperature in which they are to be served.

*****While an emergency weather pack may include more than one (1) meal, please only indicate the per meal price.

5.12.1 The figures identified herein are estimates and subject to change during the term of the contract. The County shall only pay for actual meals supplied which meet the requirements of the agreement.

5.12.2 The County reserves the right to award based upon what it is in its best interest, as a result the County may opt to award by individual site/center or in aggregate. Only place a rate for the type(s) of meals you would like to provide (congregate/grab & go and/or HDMs) and at which senior centers you are interested in providing the service.

6 SECTION 6 - Evaluation Criteria and Process

6.1 A committee of County personnel representing the functions of the Berks County Area Agency on Aging will review and evaluate Proposals submitted in response to this RFP (“Evaluation Committee”). The proceedings of the Evaluation Committee are confidential. Members of the Evaluation Committee are not to be contacted by the Proposers. All communication between a Proposer and the County shall be through Stephanie Kofke, Contract Manager.

6.2 Proposals will be evaluated against the following criteria using a pass/fail determination.

6.2.1 Financial stability of the Proposer (based on our examination of the required financial statements).

6.2.2 Compliance with the essential minimum experience and qualifications of the Proposer.

6.2.3 Compliance with the essential minimum experience and qualifications of the program team members.

6.2.4 Evidence of sufficient levels of insurance coverage.

6.3 Proposals must pass this first-tier evaluation to move on to the second-tier evaluation described below.

6.3.1 Proposals will be evaluated against the following criteria using point-rated scoring:

- 6.3.1.1 Ability (Resource Commitment) – The Proposer’s ability to perform the required service expeditiously. The Proposer must have the resources to be capable of meeting the required program completion schedule.
- 6.3.1.2 Competence (Qualifications of Personnel) – The Proposer’s competence in performing the required Services as indicated by the training, education and experience of the personnel assigned to the program team. The Proposer must have in its possession all appropriate and required certifications, permits, and licenses.
- 6.3.1.3 Past Performance – The Proposer’s past performance on similar programs. If the County cannot verify references based on the information provided in the Proposal, the scoring for this criteria factor may be affected.
- 6.3.1.4 Quality and Feasibility (Technical & Organizational Approach) – The quality and feasibility of the Technical Proposal and the Proposer’s understanding of the program’s requirements and the overall goals and objectives of the program.
- 6.3.1.5 Proposal Content/Format – The Proposal’s compliance with the content and format requirements of the RFP.
- 6.3.1.6 Price

ATTACHMENT A – PROPOSED FORM OF AGREEMENT
AND GENERAL CONDITIONS

AGREEMENT #

THIS AGREEMENT (“Agreement”) is entered into by and between the **County of Berks** with offices at Berks County Services Center, 633 Court Street, Reading, Pennsylvania, 19601 (hereinafter “County”) and **Vendor** with offices at [] (hereinafter “Vendor”).

Background

The County desires to engage the Vendor/Grantee for the provision of In-Home and Congregate Meal Services for the Berks County Area Agency on Aging in accordance with the requirements set forth in the County’s Request for Proposal #25-18-SKMZ inclusive of all addendums (“RFP”), and Vendor’s/Grantee’s Proposal thereto dated **Month Day, Year**, both of which are incorporated in this Agreement by reference.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and intending to be legally bound hereby, the parties agree as follows:

1. Definitions

Capitalized terms not defined herein shall have the meaning set forth in the RFP.

2. Engagement

Subject to the terms and conditions set forth in this Agreement, the County hereby engages the Vendor/Grantee to perform the Services set forth in the RFP on behalf of the County consistent with the terms of this Agreement.

3. Term of Agreement

This Agreement shall be effective July 1, 2026 through June 30, 2029 unless terminated in accordance with the terms and conditions of this Agreement.

4. Scope of Work

- 4.1. The Services shall include, without limitation, In-Home and Congregate Meal Services for the Berks County Area Agency on Aging as per RFP #25-18-SKMZ.
- 4.2. The following County employee(s) are hereby authorized to place orders under this Agreement:
 - 4.2.1. Jessica Jones
 - 4.2.2. Todd Reinert

5. Time is of the Essence

Time is of the essence in the performance of this Agreement. The schedule for the performance of Services is identified in RFP #25-18-SKMZ. If the completion of Services is delayed, the County reserves the right, without liability, and in addition to its other rights and remedies, to terminate this Agreement by notice, and to procure substitute Services from another vendor. The Vendor/Grantee shall reimburse the County for the costs to procure substitute Services.

**ATTACHMENT A – PROPOSED FORM OF AGREEMENT
AND GENERAL CONDITIONS**

6. Fees

As set forth in Vendor’s/Grantee’s Price Proposal dated _____, including the Best & Final Offer dated _____.

The Agreement resulting from the award of this RFP will be for a set fee amount and shall not exceed \$____ for In-Home and Congregate Meals for Year 1 through 3. Additional years will be determined at a later date.

7. Notices and Program Manager

All necessary coordination and communication required to carry out this Agreement, including meetings between the parties, as well as all written notices, shall be done through the individuals indicated below. Written notices shall be effective when delivered by hand, or if sent by registered or certified mail, or verified facsimile, or by confirmed courier to the address of each party indicated below.

	<i>County:</i>	<i>Vendor/Grantee:</i>
Attention	County of Berks Contract Manager, Berks County Area Agency on Aging	
Address	400 East Wyomissing Avenue Mohnton, PA 19540	
Telephone	610-478-6500	
Fax	610-478-6886	
Email	tareinert@berkspa.gov	

Written notices shall be copied to: County of Berks, Attn: Director of Contracts and Procurements, Berks County Services Center, 633 Court Street, 13th Floor, Reading, PA, 19601. Fax: 610-898-7404.

8. Invoicing / Payment

- 8.1. **Invoices must reference the above noted Agreement number.** Original invoices shall be submitted to: County of Berks, Attn: Fiscal Manager, Berks County Area Agency on Aging, 400 East Wyomissing Avenue, Mohnton, PA 19540
- 8.2. Vendor/Grantee must submit the invoice within ten (10) days of the close of the month in which Services were rendered.
- 8.3. Vendor/Grantee may submit invoices no more than once per month for Services properly performed under this Agreement. No advance payments or billings are allowed. Payment by the County shall require the submittal of an itemized invoice, which shall include, but not be limited to, a description of the Services performed, the associated fee for each task, and the date(s) of performance for each task. The County shall render payment within forty-five (45) days of the County’s receipt of a properly prepared invoice. Payment shall be considered made when the County mails the check. Undisputed amounts unpaid after thirty (30) days of the County’s receipt of a properly prepared invoice shall bear interest at a rate of three percent (3%) per annum.

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9. Insurance

- 9.1. The Vendor/Grantee, at its sole expense, shall carry and maintain, in full force at all times during the term of this Agreement, the following insurance coverages:
- 9.1.1. Comprehensive General Liability insurance covering bodily injury and property damage with limits of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate;
 - 9.1.2. Commercial Automobile Liability insurance with a combined single limit of not less than \$1,000,000;
 - 9.1.3. Professional Liability insurance with limits of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate;
 - 9.1.4. Umbrella/Excess Liability insurance with limits of not less than \$2,000,000 per occurrence and \$2,000,000 aggregate; and
 - 9.1.5. Worker’s Compensation insurance in statutory limits; and Employer’s Liability insurance with limits of not less than \$100,000 each accident, \$500,000 disease-policy limit, and \$100,000 disease-each employee.
 - 9.1.6. Abuse and Molestation Liability insurance with a limit of not less than \$100,000.
- 9.2. Prior to the commencement of the performance of Services, Vendor/Grantee shall furnish to the County a certificate of insurance evidencing all required coverage with at least the limits required herein, naming the County of Berks, its elected officials, agents, and employees as Additional Insured for “ongoing operations” and “products and completed operations” for a period of three (3) years after final payment under the Commercial General Liability Coverage. Coverage should be provided by ISO Endorsements CG20 10 04 13 and CG 20 37 04 13 or their equivalent. Vendor’s/Grantee’s Commercial General Liability and Umbrella/Excess Policy shall be Primary to and will not require contribution from any other insurance under which the Additional Insured is a Named Insured. To the fullest extent permitted by applicable state law, all policies shall contain a Waiver of Subrogation Clause. The County of Berks reserves the right to waive the waiver of subrogation for any and all worker’s compensation policies that are provided under the State Worker’s Insurance Fund (SWIF). The Certificate shall note the program and provide that no policies may be cancelled without thirty (30) days advance notice to the County. Such certificate shall be issued to: County of Berks, Attn: Contract Coordinator, 633 Court Street, 13th Floor Services Center, Reading, PA 19601. All insurance policies shall be in effect with companies holding an A.M. Best rating of “A-” or better or financial rating of IX or better with the A.M. Best’s Company Key Rating, Guide Latest Edition and shall be licensed or authorized to do business in the Commonwealth of Pennsylvania. Such companies shall also be acceptable to the County. Said policies shall remain in full force and effect until the expiration of the terms of the Agreement or until completion of all duties to be performed hereunder by the Vendor/Grantee, whichever shall occur later.

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

10. Precedence

Where a conflict exists between the RFP and the Vendor's/Grantee's Proposal, the Vendor/Grantee shall provide the higher quality or quantity of Services except as specifically addressed in this Agreement. Where a conflict exists between these General Conditions and RFP or the Vendor's/Grantee's Proposal, the terms of these General Conditions shall prevail.

11. Availability of Appropriated Funds

The parties agree that any and all payments due from the County, as required under the terms of the Agreement, are contingent upon the availability of appropriated funds.

12. Taxes

The County is exempt from all Federal excise and transportation taxes, and Pennsylvania sales and use tax. The County's registration number with the Internal Revenue Service is 23-6003049. No exemption certificates are required, and none will be issued. Nothing in this paragraph is meant to exempt the Vendor/Grantee from the payment of any applicable sales tax or use tax required to be paid with respect to its purchase or use of tangible personal property used or transferred in connection with its performance of Service. Only the County is required by law to pay any excise tax and then seek a refund or credit, the Vendor/Grantee may separately charge the County the amount of the tax as a reimbursable expense.

13. Ownership of Work Product

The County, its departments, employees, agents, or assigns shall have the unrestricted right and authority to reproduce, distribute and use in whole or in part any submitted report or written materials generated by the Vendor/Grantee in the performance of this Agreement. The ownership and right of control of all reports, records, and supporting documents prepared in connection with the services contemplated herein shall vest exclusively with the BCAAA and shall remain, at all times, at the Vendor's/Grantee's Office, with a copy sent to the BCAAA, however, that Vendor/Grantee shall have such right of access to such reports, records, and supporting documentation as necessary for the provision of professional services hereunder. The Vendor/Grantee shall notify the Executive Director and Deputy Director of the BCAAA, who then shall notify other affected County Officials, anytime the Vendor/Grantee receives a request for Aging Records. In addition, for Protective Services cases, an in-camera review shall be completed before a record is disclosed. Vendor/Grantee shall notify the County if a motion is filed, so that the County can respond to said motion.

14. Patents, Copyrights, Trademarks

Vendor/Grantee warrants, represents and covenants that the Goods and the sale and use thereof do not infringe directly or indirectly any valid patent, copyright, property right or trademark and Vendor/Grantee agrees, at its cost and expense, to indemnify and hold the County free and harmless from and against any and all costs, expense, liabilities or damages, including attorneys' fees, arising out of alleged or actual patent, copyright, property right, trademark or trade secret infringement resulting from the sale or use of deliverables provided in the performance of Services.

15. Records, Audit, and Inspection

- 15.1. Vendor/Grantee shall maintain such records as may be necessary to adequately reflect the accuracy of Vendor's/Grantee's charges and invoices for reimbursement under this Agreement and such other additional records as the County may reasonably require in connection with this Agreement. Vendor/Grantee shall preserve such records in accordance with statutory requirements, but in no case for less than three (3) years after the date of final

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

payment, without additional reimbursement or compensation therefor. The County and its duly authorized representatives shall have the right, from time to time, and upon reasonable notice, to audit, inspect and verify the records kept by Vendor/Grantee in connection with this Agreement. The County and its duly authorized representatives shall have the right to visit, observe, audit, and inspect, during the Vendor's/Grantee's normal business hours, Vendor's/Grantee's production and related facilities utilized to perform its obligations under this Agreement.

15.2. **Monitoring**

Vendor/Grantee's shall make available to BCAAA during the term of this Agreement all pertinent financial, program, administrative and personnel records, reports, documents, and files related directly or indirectly to Vendor's/Grantee's activities under and compliance with this Agreement.

- 15.2.1. BCAAA programmatic monitoring shall occur on a day-to-day basis as well as through site visits to be scheduled throughout the contract term. Site monitoring visits shall be conducted at a minimum of once per year.
- 15.2.2. Areas to be monitored may include but are not limited to: invoice submission/accuracy, incident reports, time sheets, staffing, staff retention, training, supervision, employee records, and consumer satisfaction. Unsatisfactory performance shall jeopardize contract continuation or renewal.
- 15.2.3. Monitoring tools outlining acceptable evidence are used in evaluating compliance with regulatory requirements, service standards, documentation, and reporting requirements.
- 15.2.4. Discrepancies during the monitoring visit will be documented by the County and forwarded to the Vendor's/Grantee's Director for review and correction. A follow-up visit may occur to determine the disposition of outstanding improvement recommendations.

16. **Warranty**

Vendor/Grantee warrants to the County that all Services shall be done in a skilled manner and shall comply with industry standards. Vendor/Grantee shall promptly re-perform Services, after receiving notification from the County of defects or nonconformance.

17. **Indemnity**

Vendor/Grantee agrees to indemnify and hold harmless the County, its elected officials, employees and agents from and against any and all liability, damages, claims, suits, liens, and judgments (including reasonable attorney's fees), of whatever nature, for injuries to or death of any person or persons, or loss of or damage to property, to the extent attributable to the negligent acts or omissions or willful misconduct of Vendor/Grantee or its subcontractors or any of their respective agents, servants, or employees or Vendor's/Grantee's failure to perform in accordance with the provisions of this Agreement.

18. **Force Majeure**

Neither party shall be liable for any failure or delay in its performance resulting from any reasonably foreseeable cause beyond its reasonable control including, but not limited to, acts of God; acts or omissions of civil or military authority; fires, floods; unusually severe weather; strikes or other labor

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disputes; embargoes; wars; political strife; riots; delays in transportation; sabotage; or fuel, power, material or labor shortages, provided that the affected party notifies the other party, in writing, within forty-eight (48) hours subsequent to the commencement of an occurrence of force majeure.

19. Additional Services

In the event the Vendor/Grantee determines that any alteration, modification or addition to the Services is necessary (“Additional Services”), the Vendor/Grantee shall submit a proposal to the County setting forth in reasonable detail the scope of such Additional Services, the estimated time and price of performing the Additional Services and any potential impact on the then-existing Services and any fees related thereto. The Vendor/Grantee shall obtain the prior written approval from the County before performing any Additional Services. The Vendor/Grantee shall not be entitled to additional compensation for any work or materials associated with Additional Services unless it received such approval. If approved by the County, the Vendor/Grantee shall perform or cause to be performed such Additional Services in accordance with the terms of this Agreement.

20. Termination for Convenience

The County reserves the right, at any time and for its convenience, to terminate this Agreement in whole or in any separable part by written notice to Vendor/Grantee. Such notice shall be provided at least thirty (30) days prior to the intended termination date. Vendor/Grantee shall be compensated for Services performed in accordance with the provisions of this Agreement up to the effective date of termination, less any payments previously made by the County for such Services, but in no event shall Vendor/Grantee be entitled to recover lost or expected profit or termination expenses.

21. Termination for Cause

- 21.1. In the event that either the Vendor/Grantee or the County defaults in the performance of any obligation specified herein, the non-defaulting party shall notify the other party in writing and may suspend the Agreement, in whole or in part, pending remedy of the default. If such default is not remedied within fifteen (15) days from the date of receipt of such notice, or if the other party is diligently attempting to cure such default but is unable to cure such default within thirty (30) days from the date of receipt of such notice, then the non-defaulting party shall have the right to terminate the Agreement immediately by providing written notice of termination to the other party.
- 21.2. In the event of such notice of breach, and a failure to cure same, all finished or unfinished documents, dates of studies and reports prepared by Vendor/Grantee shall at the option of the County become its property and Vendor/Grantee shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents through the date of termination.
- 21.3. Notwithstanding the above, Vendor/Grantee shall not be relieved of any liability to the County for damages sustained by the County by virtue of any breach of the Agreement by Vendor/Grantee. The County may withhold any payments to Vendor/Grantee for the purpose of set off until such time as the exact amount of damage due the County from Vendor/Grantee is determined.
- 21.4. In the event that a Vendor's/Grantee's agreement is terminated, whether for cause or through nonrenewal, and a new vendor is awarded the agreement, the existing Vendor/Grantee must

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

- participate in a plan of transition as developed by County. This plan may include a gradual transfer of consumers to the new agency prior to the end of the existing Vendor's/Grantee's agreement period.
- 21.5. Existing Vendors/Grantees are prohibited from communicating with consumers regarding changes in Vendor/Grantee agencies. County will notify all consumers in writing regarding the change in service Vendor/Grantee.
- 21.6. If this Agreement is only terminated by County in part, Vendor/Grantee shall continue performance of this Agreement to the extent not terminated, provided, however, that said continuation by Vendor/Grantee shall take place only after County's evaluation of any and all surrounding circumstances.
- 21.7. After the effective date of any termination by County and except as otherwise stated by County, Vendor/Grantee shall:
- 21.7.1. Stop work under this Agreement to the extent specified in such termination notice.
 - 21.7.2. Place no further orders and/or agreements for materials, services and/or facilities except as may be necessary for completion of any such portion of work under this Agreement that is not subject to termination.
 - 21.7.3. Terminate any and all orders and/or contracted work to the extent that relates to the performance of any work terminated.
 - 21.7.4. Settle any and all outstanding liabilities and any and all claims arising out of any such termination of orders and/or agreements, to the extent County may require, and/or upon County's written approval of any such settlement.
 - 21.7.5. Return to County any and all funds received not expended for any services and/or materials pursuant to this Agreement.
- 21.8. The remedies set forth above shall be cumulative and shall be in addition to any and all other rights and remedies otherwise available to the County at law or in equity.
- 21.9. If, during the term of this Agreement, Vendor/Grantee shall be adjudged bankrupt, make a general assignment for the benefit of its creditors, or become insolvent, Vendor/Grantee shall give the County written notice of such occurrence as soon as is legally permissible. If such occurrence or proposed occurrence is unacceptable to the County, the County may terminate this Agreement immediately upon written notice thereof to Vendor/Grantee.
- 21.10. If the County terminates this Agreement for cause, in whole or in part, the County may acquire, correct, or replace Services similar to those terminated, by contract or otherwise, and the Vendor/Grantee shall reimburse the County for any costs incurred by the County thereby, or an equitable reduction to the Vendor's/Grantee's compensation shall be made.

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22. Claims for Consequential and/or Incidental Damages

The Vendor/Grantee waives claims against the County for lost or expected profits, consequential damages and/or incidental damages arising out of or relating to this Agreement.

23. Release of Liens

Before any payment hereunder shall become due, the County, at its option, may require Vendor/Grantee to furnish reasonable evidence of the payment of all subcontractor accounts for labor and materials pertaining to Vendor's/Grantee's performance hereunder. Prior to payment, the County reserves the right to require Vendor/Grantee to furnish the County with a full and complete release of liens from all persons furnishing labor and materials toward the performance hereof, and in any event, Vendor/Grantee agrees to indemnify and hold harmless the County, its officials, employees and agents from and against any and all liens and encumbrances arising out of Vendor's/Grantee's performance of this Agreement.

24. Assignment

24.1. Vendor/Grantee shall not assign this Agreement in whole or in part nor delegate any duties, without the prior written consent of the County. Such consent shall not be unreasonably withheld. Any assignment consented to by the County shall be evidenced by a written assignment agreement executed by the Vendor/Grantee and its assignee in which the assignee agrees to be legally bound by all of the terms and conditions of the original Agreement and to assume the duties, obligations, and responsibilities being assigned.

24.2. The Vendor/Grantee shall not assign any interest in this Agreement and shall not transfer any interest in the same (whether by assignment or novation), without the prior written approval of the Pennsylvania Department of Aging ("Department") thereto, which shall be attached to the original Agreement, and subject to such conditions and provisions as the Department may be deem necessary. No such approval by the Department of any assignment shall be deemed in any event or in any manner to provide for the incurrence of any obligation of the Department in addition to the total agreed-upon price: PROVIDED, however, that claims for compensation due or to become due the Vendor/Grantee from the Commonwealth under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly in writing to the Department.

25. Publicity

Neither Vendor/Grantee nor any tier subcontractor shall use the name of the County or quote the opinion of any County employee in any advertising, publicity, endorsement or testimonial, without the prior written approval of the County.

26. Compliance with Laws

In the performance of this Agreement, Vendor/Grantee shall comply with all applicable laws, ordinances, rules, and regulations of governmental authorities. Vendor/Grantee shall minimize pollution and shall strictly comply with all applicable environmental laws and regulations. Vendor/Grantee shall give required notices, and secure and pay for any permits, licenses, and easements required for performance of services. The Vendor/Grantee shall give any and all necessary formal notices required in conjunction with the lawful prosecution of the Services.

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27. Health and Safety

The Vendor/Grantee shall, at all times, control the health, safety and welfare of its employees and subcontractors. Vendor/Grantee shall:

- 27.1. comply with all federal, state, and local regulations, as well as all safety information and instructions as may be set forth in writing or otherwise provided by the County;
- 27.2. promptly report to the County all incidents with potentially adverse safety, health, or environmental implications, including slips, falls, equipment malfunctions, fume releases and any situation requiring first-aid or medical observations or treatment;
- 27.3. promptly report to the County all cases Vendor/Grantee determines to be recordable on the OSHA 300 log or its equivalent and upon request, provide the County with a copy of the OSHA 300 log and all supporting forms;
- 27.4. properly maintain, inspect, and supervise its designated work area and roadways to keep them in reasonably safe condition;
- 27.5. supply the applicable Material Safety Data Sheet (MSDS) on all products supplied to the County or used on County property;
- 27.6. use, handle, store and dispose of any hazardous materials or waste while on the County's property in strict compliance with applicable laws and as instructed in the Material Safety Data Sheet(s); and
- 27.7. keep the County's property free of waste as the work progresses and, on completion of such activities, leave the site "broom clean" and tools, equipment and materials furnished shall be so placed and maintained as to permit unobstructed access to the work and to minimize exposure to personal injury or fire loss in a location approved by the County. The County may remove waste or store Vendor's/Grantee's tools, equipment, and materials if Vendor/Grantee fails to properly do so and the Vendor/Grantee shall reimburse the County for any costs incurred, including charges for employee time, within seven (7) days of demand.

28. Equal Employment Opportunity

- 28.1. In accordance with (2 CFR § 200.326), Appendix II, the Vendor/Grantee shall comply to the applicable provision in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."
- 28.2. During the performance of the Agreement, the Vendor/Grantee shall not discriminate against any employees or applicant for employment because of race, color, religion, sex, or national origin. The Vendor/Grantee will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, color,

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

- religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer, recruitment, or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Vendor/Grantee agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this paragraph.
- 28.3. Vendor/Grantee shall, in advertisements or requests for employment placed by it or on its behalf, state that all qualified applicants will receive consideration for employment without regard to race, color, religious creed, handicap, ancestry, national origin, age, or sex.
- 28.4. Vendor/Grantee shall send each labor union or workers' representative with which it has a collective bargaining agreement or other Contracts or understanding, a notice advising said labor union or workers' representative of its commitment to this non-discrimination clause. Similar notice shall be sent to every other source of recruitment regularly utilized by Vendor/Grantee.
- 28.5. It shall be no defense to a finding of noncompliance with this non-discrimination clause that Vendor/Grantee had delegated some to its employment practices to any union, training program, or other source of recruitment that prevents it from meeting its obligations. However, if the evidence indicates that the Vendor/Grantee was not on notice of the third-party discrimination or made a good faith effort to correct it, such factor shall be considered in mitigation in determining appropriate sanctions.
- 28.6. Where the practices of a union or any training program or other source of recruitment will result in the exclusion of minority group persons, so that Vendor/Grantee will be unable to meet its obligations under this non-discrimination clause, Vendor/Grantee shall then employ and fill vacancies through other non-discriminatory employment procedures.
- 28.7. Vendor/Grantee shall comply with all state and federal laws prohibiting discrimination in hiring or employment opportunities. In the event of Vendor's/Grantee's noncompliance with the non-discrimination clause of this Agreement or with any such laws, this Agreement may be terminated or suspended, in whole or in part, and Vendor/Grantee may be declared temporarily ineligible for further Agreements, and other sanctions may be imposed and remedies invoked.
- 28.8. Vendor/Grantee shall furnish all necessary employment documents and records to, and permit access to its books, records, and accounts by, the contracting agency for purposes of investigation to ascertain compliance with the provisions of this clause. If Vendor/Grantee does not possess documents or records reflecting the necessary information requested, it shall furnish such information on reporting forms supplied by the contracting agency.
- 28.9. Vendor/Grantee shall include the provisions of this non-discrimination clause in every Agreement, so that such provisions will be binding upon each subcontractor.
- 28.10. Vendor/Grantee obligations under this clause are limited to the Vendor's/Grantee's facilities within Pennsylvania or, where the Agreement is for purchase of goods manufactured outside of Pennsylvania, the facilities at which such goods are actually produced.

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29. Independent Contractor

The employees, subcontractors, methods, facilities, and equipment used by Vendor/Grantee shall be at all times under Vendor's/Grantee's direction and control. Vendor's/Grantee's relationship to the County under this Agreement shall be that of an independent contractor, and nothing in this Agreement shall be construed to constitute Vendor/Grantee, its subcontractors or any of their employees as an employee, agent, associate, joint venturer, or partner of the County.

30. Employees of Vendor/Grantee

30.1. Vendor/Grantee agrees that each of its employees will be properly qualified and will use reasonable care in the performance of services while on County property. If the County, in the County's sole opinion, determines, for any reason, that the qualifications, actions or conduct of any particular Vendor/Grantee employee is inconsistent with Vendor's/Grantee's obligations under this Agreement by performing unsatisfactory services, interfering with the operation of the County's facilities, bothering or annoying any occupants, visitors, or other vendors then at facility, or that such actions or conduct is otherwise detrimental to the County, then upon the County's written notice, Vendor/Grantee shall immediately provide a qualified replacement.

30.2. Vendor/Grantee shall advise its employees and the employees of its subcontractors and agents that:

30.2.1. It is the policy of the County of Berks to provide a drug-free work environment. To that end the County prohibits the consumption of alcohol or illegal use, possession, sale, manufacture, dispensing, and distribution of drugs or other controlled substances while performing Services or on County property on the work site, and prohibits in the workplace the presence of an individual with such substances in the body for non-medical reasons.

Any employee of Vendor/Grantee who is found in violation of the policy may be removed or barred from the work site at the discretion of the County.

31. Governing Law and Jurisdiction

This Agreement shall be interpreted under the substantive law of the Commonwealth of Pennsylvania, without giving effect to its principles of conflicts of law. EACH PARTY IRREVOCABLY CONSENTS TO THE EXCLUSIVE JURISDICTION AND VENUE OF THE COURT OF COMMON PLEAS OF BERKS COUNTY, COMMONWEALTH OF PENNSYLVANIA, AND IRREVOCABLY AGREES THAT ALL ACTIONS OR PROCEEDINGS BETWEEN THE PARTIES, INCLUDING, BUT NOT LIMITED TO, THOSE ACTIONS OR PROCEEDINGS RELATING TO THIS AGREEMENT, SHALL BE LITIGATED IN SUCH COURT.

32. Subcontractors

32.1. If subcontractors are permitted by the RFP, the Vendor/Grantee shall only use such subcontractors identified in its Proposal. The substitution of one subcontractor for another may be made only with the prior written approval of the County. Such approval shall not be unreasonably withheld.

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- 32.2. Notwithstanding the foregoing, the Vendor/Grantee shall not subcontract with or employ any entity or individual who is currently suspended or debarred by the Commonwealth of Pennsylvania or federal government during the term of this Agreement or any extensions or renewals thereof. The County shall have the right to require the Vendor/Grantee to terminate such subcontracts or employment at no cost to the County. The Vendor/Grantee agrees to reimburse the County for costs and expenses incurred due to the Vendor's/Grantee's noncompliance with the terms of this certification requirement. For further details regarding debarment refer to Clause 47.

33. Severability

The provisions of this Agreement shall be deemed to be severable. Consequently, in the event that any provision of this Agreement is found to be void or unenforceable, such findings shall not be construed to render any other provision of this Agreement either void or unenforceable, and all other provisions shall remain in full force and effect unless the provisions which are void or unenforceable shall substantially affect the rights or obligations granted to or undertaken by either party.

34. Reservation of Rights

Either party's waiver of any of its remedies afforded hereunder or by law is without prejudice and shall not operate to waive any other remedies which such party shall have available to it, nor shall such waiver operate to waive such party's rights to any remedies for future breach, whether of a like or different character. Furthermore, any termination or assignment of this Agreement shall not relieve or release either party hereto from any rights, liabilities, or obligations which it has accrued under law or under the terms of this Agreement prior to the date of such termination or assignment.

35. Covenant Against Contingent Fees

The Vendor/Grantee warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee (excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Vendor/Grantee for the purpose of security business). For breach or violation of this warranty, the Commonwealth shall have the right to annul this Agreement without liability or, in its discretion, to deduct from the consideration otherwise due under the Agreement, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.

36. Funds from Private Sources

Vendor/Grantee agrees that funds under this Agreement shall not be used to replace funds from non-Federal and non-State sources. Vendor/Grantee further agrees to continue or initiate efforts to obtain support from private sources or other public organizations for services funded under this Agreement.

37. Special Efforts in Employment

Subject to the requirements of merit employment systems, and in accordance with state and federal laws and regulations, the Vendor/Grantee shall make every possible effort to recruit and hire persons aged 60 and over for staff positions (full-time and part-time) paid under this contract. For positions paid under this contract the Vendor/Grantee shall not have a policy of mandatory retirement or deny employment to any person on account of age or have a policy of mandatory retirement applicable to positions paid under subcontract with the Vendor/Grantee.

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38. Regulations

This Agreement is subject to the provisions set forth in the following regulations: 28 Code of Federal Regulations Part 38, 45 Code of Federal Regulations Part 75 and 2 CFR 200 “Uniform Administrative Requirements, Cost principles and Audit Requirements for Federal Awards”; 45 Code of Federal Regulations Part 81 – Practice and Procedure for Hearings under Part 80 of this Title; and 45 Code of Federal Regulations Part 90 – Nondiscrimination of the Basis of Age.

- 38.1. In carrying out this Agreement, the Vendor/Grantee and any subcontractors shall minimize pollution and shall strictly comply with all applicable environmental laws and regulations. (Clean Streams Law, Act of June 22, 1937, P.L. 1987, as amended, the Pennsylvania Solid Waste Management Act, Act of July 7, 1980, P.L. 380, as amended and the Water Obstructions Act, Act of June 25, 1913, P.L. 555, as amended.)
- 38.2. Services shall be provided in compliance with 25 Pa. Code_151 et seq., relating to Environmental Health and Safety regulations for food protection, and 34 Pa. Code_50.1 et seq., relating to Fire and Panic regulations.
- 38.3. The Vendor/Grantee agrees to comply with the provisions of the Uniform Relocation Assistance and Real Property Acquisition Act, the Flood Disaster Protection Act, and the Commonwealth Motor Vehicle Procurement Act. When applicable, the Vendor/Grantee agrees to comply with the provisions of the National Historic Preservation Act, Executive Order 11593 and the Archaeological and Historic Preservation Act.
- 38.4. The Vendor/Grantee agrees to fully comply with the Integrity Provisions set forth below and any changes or modification made thereto.
- 38.5. The Vendor/Grantee agrees to comply with the provisions of the Older Americans Act, as amended Section 312 and 321(b), Protecting Federal Reversionary Interest in Multipurpose Senior Centers.
- 38.6. The Vendor/Grantee agrees to comply with the provisions of the Drug-Free Workplace Act of 1998 in 41 U.S.C. Chapter 10, s. 701, et seq.
- 38.7. The Vendor/Grantee agrees to comply with and is subject to all applicable provisions of 41 U.S.C. 4172, including prohibitions on reprisal and notice to employees.
- 38.8. All claims against the County respecting any matter pertaining to this Agreement or any part thereof shall be referred to the Board of Claims (under the Act of May 20, 1937, P.L. 728, as amended).
- 38.9. The Vendor/Grantee agrees to comply with 28 CFR Part 38, “Partnerships with Faith Based and Other Neighborhood Organizations.”
- 38.10. Pursuant to Executive Order 13513, “Federal Leadership on Reducing Text Messaging While Driving,” 74 Fed. Reg 51225. The County encourages Vendor/Grantee to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this contract and to establish workplace safety policies and

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- conduct education, awareness and other outreach to decrease crashes cause by distracted drivers.
- 38.11. In the performance of this Agreement, Vendor/Grantee shall comply with all applicable laws, ordinances, rules, and regulations of governmental authorities. Vendor/Grantee shall minimize pollution and shall strictly comply with all applicable environmental laws and regulations. Vendor/Grantee shall give required notices, and secure and pay for any permits, licenses, and easements required for performance of services. The Vendor/Grantee shall give any and all necessary formal notices required in conjunction with the lawful prosecution of the Services.
- 38.12. In accordance with 2 CRF Part 200, Section 200.318, Vendor/Grantee attests to the following:
- 38.12.1. That no employee, officer, or agent of the Vendor/Grantee that participates in the selection, award, or administration of this contract has a real or apparent conflict of interest. Such a conflict of interest would arise when an employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.
- 38.12.2. The officers, employees, and agents of the Vendor/Grantee may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontractors.
- 38.12.3. The Vendor's/Grantee's standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity/County.
- 38.13. In accordance with (2 CFR § 200.326), Appendix II, the Vendor/Grantee shall comply to the applicable provisions as follows:
- 38.13.1. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148)
- 38.13.1.1. Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The Vendor/Grantee must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The Vendor/Grantee must report all suspected or reported violations to the County.
- 38.13.2. Copeland "Anti-Kickback" Act (40 U.S.C. 3145)

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- 38.13.2.1. Copeland “Anti-Kickback Act (40 U.S.C. 3145, as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The Vendor/Grantee must report all suspected or reported violations to the County.

- 38.13.3. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708)
 - 38.13.3.1. 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5) applicable for awarded contracts in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

- 38.13.4. Rights to Inventions Made Under a Contract or Agreement which shall be applicable for federal funding streams that meet the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

- 38.13.5. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended.
 - 38.13.5.1. Applicable for contracts and subgrants of amounts in excess of \$150,000. Vendor/Grantee must comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

- 38.13.6. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)
 - 38.13.6.1. Vendors/Grantees with an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other

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award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

38.13.7. Procurement of Recovered Materials - §200.322

- 38.13.7.1. Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

39. Grievance Procedure

Vendor/Grantee will establish a system through which applicants for and recipients of service may present grievances about the operation of the program. Vendor/Grantee will advise applicants and recipients of their rights to appeal, denial, or exclusion from the program or failure to recognize the recipient's choice of service and of their right to a fair hearing. The Berks County Area Agency on Aging appeal process must be followed by the Vendor/Grantee.

40. Notice Required

All notices, informational pamphlets, press releases, research reports, and similar public notices prepared and released by the Vendor/Grantee shall be pre-approved by the Area Agency and include the statement, "This program is funded, in part, under an Agreement with money allocated by the Pennsylvania Department of Aging and the Berks County Commissioners, through the Berks County Area Agency On Aging."

41. Budget Flexibility

- 41.1. Vendor/Grantee may reallocate funds within cost centers and/or major objects up to 10% of the amount budgeted for the cost center/major object to which the funds are to be transferred, after informing the Area Agency. Reallocation of funds within cost centers major objects exceeding 10% require prior written approval by the Area Agency. Vendor/Grantee shall submit copies of any changes in writing to the Area Agency. No amendments or revisions may be made after the end of the third quarter of the annual Agreement period.
- 41.2. Should the "County" or "Department" or "Agency" determine that there are accruals (under spending) in the contract, the "entity" shall have the right to reduce the contract by the accrual amount, with 30 days written notice to the Vendor/Grantee. Vendor/Grantee has the right to request a meeting within the 30-day period to review the accrual calculation and present information to amend the accrual amount. This right to reduce shall only be utilized by the "entity" when accruals are present and not as a means to modify the scope or term of the contract.

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42. Earnings of Funds

- 42.1. Receipt of funds from County, by advance or reimbursement, does not constitute earnings of funds; funds are earned only when an allowable cost is incurred. Any unearned funds paid to Vendor/Grantee shall be repaid by check to County no later than thirty (30) days after notification by County that said funds are due and owing.
- 42.2. Should the “County” or “Department” or “Agency” determine that there are accruals (under spending) in the contract, the “entity” shall have the right to reduce the contract by the accrual amount, with 30 days written notice to the Vendor/Grantee. Vendor/Grantee has the right to request a meeting within the 30-day period to review the accrual calculation and present information to amend the accrual amount. This right to reduce shall only be utilized by the “entity” when accruals are present and not as a means to modify the scope or term of the contract.

43. Program-Budget Changes

Vendor/Grantee shall inform the Area Agency in writing of all proposed changes in program operations, administration, or policy prior to implementation and will implement changes only after Area Agency's approval. The Area Agency reserves the right to approve contracted consumer service priorities, forms, and service delivery.

44. Eligibility Determination

- 44.1. Eligibility for service recipients will be determined by the Berks County Area Agency on Aging and approved by the Pennsylvania Department of Aging in accordance with the regulations and philosophy of the Older Americans Act and Pa. Act 70.
- 44.2. For Adult Services Block Grant service recipients only, eligibility determination for those persons eligible for Title XX of the Social Security Act will be by the Vendor/Grantee through the Area Agency and the County Board of Assistance in accordance with the Department of Public Welfare's comprehensive Annual Services Program Plan and Department regulations, and any Department of Aging processes and regulations.

45. Claims Against the County

The provisions of this Agreement shall be construed in accordance with the provision of the Laws of the Commonwealth of Pennsylvania. All questions or disputes arising between the parties hereto respecting any matter pertaining to this Agreement or any part thereof or any breach of contract arising thereunder must be referred by the Vendor/Grantee to the Board of Claims pursuant to 61 Pa. C.S. § 1721 et seq. This shall be the exclusive remedy for the Vendor/Grantee to resolve such questions and disputes if the Vendor/Grantee and the County are unable to resolve them between themselves. Settlement of disputes under this provision must be prior to the final payment to the Vendor/Grantee.

46. Integrity Provisions

- 46.1. It is essential that those who seek to contract with the County observe high standards of honesty and integrity. They must conduct themselves in a manner that fosters public confidence in the integrity of the County procurement process.

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46.2. In furtherance of this policy, Vendor/Grantee agrees to the following:

- 46.2.1. Vendor/Grantee shall maintain the highest standards of honesty and integrity during the performance of this Agreement and shall take no action in violation of state or federal laws or regulations or any other applicable laws or regulations or other requirements applicable to Vendor/Grantee or that governs contracting with the County and Commonwealth.
- 46.2.2. Vendor/Grantee shall establish and implement a written business integrity policy, which includes, at a minimum, the requirements of these provisions as they relate to Vendor/Grantee employee activity with the County and Commonwealth; County and Commonwealth employees, and which is distributed and made known to all Vendor/Grantee employees.
- 46.2.3. Vendor/Grantee, its affiliates, agents and employees shall not influence, or attempt to influence any County or Commonwealth employee to breach the standards of ethical conduct for County or Commonwealth employees set forth in the *Public Official and Employees Ethics Act, 65 Pa.C.S. §§1101 et seq.*; the *State Adverse Interest Act, 71 P.S. §776.1 et seq.*; and the *Governor's Code of Conduct, Executive Order 1980-18, 4 Pa. Code §7.151 et seq.*, or to breach any other state or federal law or regulation.
- 46.2.4. Vendor/Grantee, its affiliates, agents and employees shall not offer, give or agree or promise to give any gratuity to a County and/or Commonwealth official or employee or to any other person at the direction or request of any County and/or Commonwealth official or employee.
- 46.2.5. Vendor/Grantee, its affiliates, agents and employees shall not offer, give or agree or promise to give any gratuity to a County official or employee or to any other person, the acceptance of which would violate the *Governor's Code of Conduct, Executive Order 1980-18, 4 Pa. Code §7.151 et seq.* or any statute, regulation, statement of policy, management directive or any other published standard of the County and Commonwealth.
- 46.2.6. Vendor/Grantee, its affiliates, agents and employees shall not, directly or indirectly, offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for the decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty by any County or Commonwealth official or employee.
- 46.2.7. Vendor/Grantee, its affiliates, agents, employees, or anyone in privity with him or her shall not accept or agree to accept from any person, any gratuity in connection with the performance of work under the agreement, except as provided in the Agreement.
- 46.2.8. Vendor/Grantee shall not have a financial interest in any other provider, subcontractor or supplier providing services, labor or material on this program, unless the financial interest is disclosed to the County in writing and the County consents to Vendor's/Grantee's financial interest prior to County execution of the agreement. Vendor/Grantee shall disclose the financial interest to the County at the time of bid or

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proposal submission, or if no bids or proposals are solicited, no later than Vendor's/Grantee's submission of the agreement signed by Vendor/Grantee.

- 46.2.9. Vendor/Grantee must promptly refer to the Department of Justice Office of the Inspector General (OIG) any credible evidence that a principal, employee, agent, subrecipient, contractor subcontractor or other person has, in connection with funds under this award (1) submitted a claim that violates the False Claims Act or (2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity or similar misconduct. Potential fraud, waste, abuse or misconduct involving or relating to funds under this contract should be reported to the OIG by (1) mail directed to: Office of the Inspector General, U.S. Department of Justice, Investigations Division 950 Pennsylvania Avenue, N.W. Room 4706, Washington, DC 20530; (2) email to oig.hotline@usdoj.gov and/or (3) the DOJ OIG hotline: at (800) 869-4499 (phone) or (202) 616-9881. Additional information is available from the DOJ OIG website at <http://www.usdoj.gov/oig>.

Link above is provided for your reference and is subject to change. It shall be the responsibility of the Vendor/Grantee to determine and utilize the appropriate site for said database.

- 46.2.10. Restrictions and certifications regarding non-disclosure agreements and related matters.
- 46.2.10.1. Vendor/Grantee shall not require any employee or contractor to sign an internal confidentiality agreement or statement that prohibits or otherwise restricts or purports to prohibit or restrict the reporting (in accordance with law) of waste, fraud, or abuse to an investigative or law enforcement representative of federal department or agency authorized to receive such information.
- 46.2.10.2. The foregoing is not intended, and shall not be understood by, to contravene requirements applicable to Standard Form 312 (which relates to classified information), Form 4414 (which relates to sensitive compartmental information), or any other form issued by a federal department or agency governing the nondisclosure of classified information.
- 46.2.10.3. In accepting this Agreement, the Vendor/Grantee
- 46.2.10.3.1. represents that it neither requires nor has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and
- 46.2.10.3.2. certifies that if it learns or is notified that it is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds, will provide prompt written notification to the federal agency whom has awarded these grant funds and will resume (or

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permit resumption of) such obligations only if expressly authorized to do so by that agency.

- 46.2.10.4. If the Vendor/Grantee does or is authorized to make subawards (“subgrants”), or engage a procurement contractor to perform services under this Agreement:
- 46.2.10.4.1. it represents that
 - 46.2.10.4.1.1. it has determined that no other entity that the Vendor’s/Grantee’s application proposes may or will receive award funds (whether through a subaward (“subgrant”), procurement contract, or subcontract under a procurement contract) either requires or has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and
 - 46.2.10.4.2. it has made appropriate inquiry, or otherwise has an adequate factual basis, to support this representation; and
 - 46.2.10.4.3. it certifies that if it learns or is notified that any subrecipient contractor or subcontractor entity that receives funds under this agreement is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, the County, will immediately stop any further obligations of agreement funds to or by that entity, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.
 - 46.2.11. Vendor/Grantee, its affiliates, agents and employees shall not disclose to others any information, documents, reports, data or records provided to, or prepared by, Vendor/Grantee under this agreement without the prior written approval of the County, except as required by the *Pennsylvania Right-to-Know Law, 65 P.S. §§67.101-3104*, or other applicable law or as otherwise provided in this Agreement. Any information, documents, reports, data, or records secured by Vendor/Grantee from the County or a third party in connection with the performance of this agreement shall be kept confidential unless disclosure of such information is:
 - 46.2.11.1. Approved in writing by the County prior to its disclosure; or
 - 46.2.11.2. Directed by a court or other tribunal of competent jurisdiction unless the agreement requires prior County approval; or
 - 46.2.11.3. Required for compliance with federal or state securities laws or the requirements of national securities exchanges; or

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- 46.2.11.4. Necessary for purposes of Vendor's/Grantee's internal assessment and review; or
 - 46.2.11.5. Deemed necessary by Vendor/Grantee in any action to enforce the provisions of this Agreement or to defend or prosecute claims by or against parties other than the County; or
 - 46.2.11.6. Permitted by the valid authorization of a third party to whom the information, documents, reports, data, or records pertain; or
 - 46.2.11.7. Otherwise required by law.
- 46.2.12. Vendor/Grantee certifies that neither it nor any of its officers, directors, associates, partners, limited partners or individual owners has been officially notified of, charged with, or convicted of any of the following and agrees to immediately notify the County agency granting officer in writing if and when it or any officer, director, associate, partner, limited partner or individual owner has been officially notified of, charged with, convicted of, or officially notified of a governmental determination of any of the following:
- 46.2.12.1. Commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements or receiving stolen property.
 - 46.2.12.2. Commission of fraud or a criminal offense or other improper conduct or knowledge of, approval of or acquiescence in such activities by Vendor/Grantee or any affiliate, officer, director, associate, partner, limited partner, individual owner, or employee or other individual of entity associated with:
 - 46.2.12.2.1. Obtaining;
 - 46.2.12.2.2. Attempting to obtain; or
 - 46.2.12.2.3. Performing a public grant or subgrantVendor's/Grantee's acceptance of the benefits derived from the conduct shall be deemed evidence of such knowledge, approval, or acquiescence.
 - 46.2.12.3. Violation of federal or state antitrust statutes.
 - 46.2.12.4. Violation of any federal or state law regulating campaign contributions.
 - 46.2.12.5. Violation of any federal or state environmental law.
 - 46.2.12.6. Violation of any federal or state law regulating hours of labor, minimum wage standards or prevailing wage standards; discrimination in wages; or child labor violations.
 - 46.2.12.7. Violation of the *Act of June 2, 1915 (P.L.736, No. 338)*, known as the *Workers' Compensation Act*, 77 P.S. 1 et seq.

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- 46.2.12.8. Violation of any federal and state law prohibiting discrimination in employment, including but not limited to 28 FR Part 42.
- 46.2.12.9. Debarment by any agency or department of the federal government or by any other state.
- 46.2.12.10. Any other crime involving moral turpitude or business honesty or integrity.
- Vendor/Grantee acknowledges that the County may, in its sole discretion, terminate the agreement for cause upon such notification or when the County otherwise learns that Vendor/Grantee has been officially notified, charged, or convicted.
- 46.2.13. If this Agreement was awarded to Vendor/Grantee on a non-bid basis, Vendor/Grantee must, (as required by *Section 1641* of the *Pennsylvania Election Code*) file a report of political contributions with the Secretary of the Commonwealth on or before February 15 of the next calendar year. The report must include an itemized list of all political contributions known to Vendor/Grantee by virtue of the knowledge possessed by every officer, director, associate, partner, limited partner, or individual owner that has been made by:
- 46.2.13.1. Any officer, director, associate, partner, limited partner, individual owner or members of the immediate family when the contributions exceed as aggregate of one thousand dollars (\$1,000) by any individual during the preceding year; or any employee or members of his immediate family whose political contribution exceeded one thousand dollars (\$1,000) during the preceding year.
- 46.2.13.2. To obtain a copy of the report form, Vendor/Grantee shall contact the Bureau of Commissioners, Elections and Legislation, Division of Campaign Finance and Lobby Disclosure, Room 210, North Office Building, Harrisburg, PA 17120.
- 46.2.14. Vendor/Grantee shall comply with requirements of the *Lobbying Disclosure Act, 65 Pa.C.S. § 13A01 et seq.*, and the regulations promulgated pursuant to that law. Vendor/Grantee employee activities prior to or outside of formal Commonwealth procurement communication protocol are considered lobbying and subjects the Vendor/Grantee employees to the registration and reporting requirements of the law. Actions by outside lobbyists on Vendor's/Grantee's behalf, no matter the procurement stage, are not exempt and must be reported.
- 46.2.15. When Vendor/Grantee has reason to believe that any breach of ethical standards as set forth in law, the Governor's code of Conduct, or in these provisions has occurred or may occur, including but not limited to contact by a Commonwealth officer or employee which, if acted upon, would violate such ethical standards, Vendor/Grantee shall immediately notify the Commonwealth granting officer or Commonwealth Inspector General in writing.
- 46.2.16. Vendor/Grantee, by submission of its bid or proposal and/or execution of this agreement by the submission of any bills, invoices or requests for payment pursuant to

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the grant, certifies and represents that it has not violated any of these integrity provisions in connection with the submission of the bid or proposal, during any agreement negotiations or during the term of the Agreement.

- 46.2.17. Vendor/Grantee shall cooperate with the Office of Inspector General in its investigation of any alleged Commonwealth employee breach of ethical standards and any alleged Vendor/Grantee non-compliance with these provisions. Vendor/Grantee agrees to make identified Vendor/Grantee employees available for interviews at reasonable times and places. Vendor/Grantee, upon the inquiry or request of the Office of Inspector General, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Inspector General to Vendor's/Grantee's integrity and compliance with these provisions. Such information may include, but shall not be limited to, Vendor's/Grantee's business or financial records, documents or files of any type or form that refers to or concern this Agreement.
- 46.2.18. For violation of any of these Integrity Provisions, the County may terminate that and any other agreement with Vendor/Grantee, claim liquidated damages in an amount equal to the value of anything received in breach of these provisions, claim damages for all additional costs and expenses incurred in obtaining another vendor to complete performance under this Agreement, and debar and suspend Vendor/Grantee from doing business with the County. These rights and remedies are cumulative, and the use or non-use of anyone shall not preclude the use of all or any other. These rights and remedies are in addition to those the Commonwealth may have under law, statute, regulation or otherwise.
- 46.2.19. For purposes of these Integrity Provisions, the following terms shall have the meanings found in this Clause 46.
- 46.2.19.1. "Confidential information" means information that a) is not already in the public domain; b) is not available to the public upon request; c) is not or does not become generally known to Vendor/Grantee from a third-party without an obligation to maintain its confidentiality; d) has not become generally known to the public through an act or omission of Vendor/Grantee; or e) has not been independently developed by Vendor/Grantee without the use of confidential information of the County or Commonwealth.
- 46.2.19.2. "Consent" means written permission signed by a duly authorized officer or employee of the County or Commonwealth, provided that where the material facts have been disclosed, in writing, by pre-qualification, bid, proposal, or grantual terms, the County or Commonwealth shall be deemed to have consented by virtue of execution of this Agreement.
- 46.2.19.3. "Vendor/Grantee" means the individual or entity that has entered into this Agreement with the County, including those directors, officers, partners, managers, and owners having more than a five percent interest in Vendor/Grantee.

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- 46.2.19.4. “Financial interest” means:
- 46.2.19.4.1. Ownership of more than a five percent interest in any business; or
 - 46.2.19.4.2. Holding a position as an officer, director, trustee, partner, employee or holding any position of management.
- 46.2.19.5. “Gratuity” means tendering, giving or providing anything of more than nominal monetary value including, but not limited to, cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment or grants of any kind. The exceptions set forth in the Governor’s Code of Conduct, Executive Order 1980-18, the 4 Pa. Code §7.153(b), shall apply.
- 46.2.19.6. “Immediate family” means a spouse and any unemancipated child.
- 46.2.19.7. “Non-bid basis” means a grant awarded or executed by the County with Vendor/Grantee without seeking bids or proposals from any other potential bidder or offeror.
- 46.2.19.8. “Political contribution” means any payment, gift, subscription, assessment, grant, payment for services, dues, loan, forbearance, advance or deposit of money or any valuable thing, to a candidate for public office or to a political committee, including but not limited to a political action committee, made for the purpose of influencing any election in the Commonwealth of Pennsylvania or for paying debts incurred by or for a candidate or committee before or after any election.

47. Debarment/Tax Liabilities

- 47.1. For the purpose of these provisions, the term vendor is defined as any person, including, but not limited to, a bidder, offeror, loan recipient, provider, or subcontractor, who has furnished or seeks to furnish goods, supplies, services, or leased space, or who has performed or seeks to perform construction activity under contract, subcontract, grant or subgrant with the County, or with a person under contract, subcontract, grant, or subgrant with the County or its state-affiliated entities, and state-related institutions. The term vendor may include a permittee, licensee, or any agency, political subdivision, instrumentality, public authority, or other entity of the County.
- 47.1.1. The Vendor/Grantee must certify, in writing, for itself and all its subcontractors, that as of the date of its execution of any County contract, that neither the Vendor/Grantee, nor any subcontractors, nor any suppliers are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Vendor/Grantee cannot so certify, then it agrees to submit, along with the bid/proposal, a written explanation of why such certification cannot be made.

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- 47.1.1.1. The Vendor/Grantee must also certify, in writing, that as of the date of its execution, of any County contract it has no tax liabilities or other County or Commonwealth obligations.
- 47.1.1.2. The Vendor's/Grantee's obligations pursuant to these provisions are ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the Vendor/Grantee shall have an obligation to inform the contracting agency if, at any time during the term of the contract, it becomes delinquent in the payment of taxes, or other County or Commonwealth obligations, or if it or any of its subcontractors are suspended or debarred by the Commonwealth, 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.
- 47.1.2. The failure of the Vendor/Grantee to notify the contracting agency of its suspension or debarment by the Commonwealth, any other state, or the federal government shall constitute an event of default of the contract with the County.
- 47.1.3. The Vendor/Grantee agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of State Inspector General for investigations of the Vendor's/Grantee's compliance with the terms of this or any other agreement between the Vendor and the County, which results in the suspension or debarment of the Vendor/Grantee. 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 Vendor/Grantee shall not be responsible for investigative costs for investigations that do not result in the Vendor's/Grantee's suspension or debarment.
- 47.1.4. Vendor/Grantee is required to screen their employees and contractors, both individuals and entities, to determine if they have been excluded from participation in Medicare, Medicaid, or any other federal health care program. Vendor/Grantee will immediately notify County of any discovered exclusion of an employee or contractor, either an individual or entity.
- 47.1.5. All employees, vendors, contractors, service providers, and referral sources should be screened for exclusion before employing and/or contracting with them and, if hired, should be rescreened on an ongoing monthly basis to capture exclusions and reinstatements that have occurred since the last search.
- 47.1.6. Vendor/Grantee will develop and maintain auditable documentation of screening efforts, including dates the screenings were performed and the source data checked and its date of more recent update; and periodically conduct self-audits to determine compliance with this requirement.
- 47.1.7. Any Vendor/Grantee being paid with Medical Assistance or State Children's Health Insurance Program (SCHIP) dollars shall adhere to the following:
- 47.1.8. Develop policies and procedures for screening of all employees and contractors (both individuals and entities), at time of hire or contracting; and, thereafter, on an ongoing

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monthly basis to determine if they have been excluded from participation in federal health care programs;

47.1.9. Vendor/Grantee will use the following databases to determine exclusion status:

47.1.9.1. *Pennsylvania Medichcek List*: a data base maintained by the Pennsylvania Department of Human Services (“DHS”) that identifies providers, individuals, and other entities that are precluded from participation in Pennsylvania’s MA Program:

<https://www.humanservices.state.pa.us/Medchk/MedchkSearch/Index>

Link above is provided for your reference and is subject to change. It shall be the responsibility of the Vendor/Grantee to determine and utilize the appropriate site for said database.

If an individual’s resume indicates that he/she has worked in another state, providers should also check that state’s individual list.

47.1.9.2. *List of Excluded Individuals/Entities (LEIE)*: data base maintained by HHS-OIG that identifies individuals or entities that have been excluded nationwide from participation in any federal health care program. An individual or entity included on the LEIE is ineligible to participate, either directly or indirectly, in the MA Program. Although the DHS makes best efforts to include on the Medichcek List all federally excluded individuals/entities that practice in Pennsylvania, providers must also use the LEIE to ensure that the individual/entity is eligible to participate in the MA Program:

https://oig.hhs.gov/exclusions/exclusions_list.asp

Link above is provided for your reference and is subject to change. It shall be the responsibility of the Vendor/Grantee to determine and utilize the appropriate site for said database.

47.1.9.3. Excluded Parties List System (EPLS): worldwide database maintained by the General Services Administration (GSA) that provides information about parties that are excluded from receiving Federal contracts, certain subcontracts, and certain Federal financial and nonfinancial assistance and benefits:

<https://www.sam.gov/>.

Link above is provided for your reference and is subject to change. It shall be the responsibility of the Vendor/Grantee to determine and utilize the appropriate site for said database.

47.1.9.4. Vendor/Grantee shall immediately self-report any discovered exclusion of an employee or contractor, either an individual or an entity, to the Bureau of Program Integrity either:

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47.1.9.4.1. Via e-mail through the MA Provider Compliance form at the following link:

<https://expressforms.pa.gov/apps/pa/DHS/MA-Provider-Compliance-Hotline>

47.1.9.4.2. By U.S. mail at the following address:

Department of Human Services
Office of Administration
Bureau of Program Integrity
Commonwealth of Pennsylvania
P.O. Box 2675
Harrisburg, PA 17105-2675

47.1.9.4.3. By fax at: 1-717-772-4655 or 1-717-772-4638.

47.1.9.4.4. Vendor/Grantee shall copy the County on any notice given to the Bureau of Program Integrity in the manner and at the address provided for giving notices to the County in this Agreement.

47.1.9.5. Vendor/Grantee shall develop and maintain auditable documentation of screening efforts, including dates the screenings were performed and the source data checked and its date of most recent update.

47.1.9.6. Vendor/Grantee shall periodically conduct self-audits to determine compliance with this requirement.

47.1.9.7. Vendor/Grantee shall provide evidence of compliance with these requirements to the County within ten (10) days following a request by the County.

47.1.10. The Vendor/Grantee may obtain a current list of suspended and debarred Commonwealth providers by accessing:

47.1.10.1.1. The Commonwealth of Pennsylvania - Debarment and Suspension List online at the website below:

<https://www.dgs.internet.state.pa.us/debarmentsearch/debarment/index>

Department of General Services
Office of Chief Counsel
603 North Office Building
Harrisburg, PA 17125
Telephone No: 717-783-6472
Fax No: 717-787-9138

47.1.10.1.2. The Worker Protection and Labor Law Non-Compliance List online at the website below:

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<https://www.dli.pa.gov/Pages/Non-Compliance-List.aspx>

- 47.1.11. It shall be the responsibility of the Vendor/Grantee to determine and utilize the appropriate site for said database.

48. Examination of Records

- 48.1. Vendor/Grantee shall maintain books, records, documents, and other evidence and accounting procedures and practices, sufficient to reflect properly all direct and indirect costs of whatever nature claimed to have been incurred for the performance of this Agreement. The foregoing constitutes "records" for the purpose of this section. Vendor/Grantee agrees that a program and facilities review, including meetings with consumers, review of service records, review of service policy and procedural issuances, review of staffing rations and job descriptions, and meetings with any staff directly or indirectly involved in the provision of services may be conducted at any reasonable time by State and Federal personnel and other persons duly authorized by the Area Agency. If Vendor/Grantee is not a public body, Vendor/Grantee agrees to maintain books, records, documents, and other evidence and accounting procedures and practices which comply with the nationally accepted Uniform Standards of Accounting and Financial Reporting for Voluntary Health and Welfare Organizations, as published by the National Health Council and the National Social Welfare Assembly, 1964.
- 48.2. Vendor/Grantee facilities or such part thereof as may be utilized in the performance of this Agreement and Vendor's/Grantee's records shall be subject at all reasonable times to inspection and audit by the Commonwealth and Federal auditors and other persons duly authorized by the Area Agency.
- 48.3. Vendor/Grantee agrees that until the expiration of five years after final payment under this Agreement, Federal and Commonwealth auditors and other persons duly authorized by the Area Agency shall have access to and the right to examine any records of the Vendor/Grantee involving transactions related to this Agreement. Vendor/Grantee may, in fulfillment of Vendor's/Grantee's obligation to retain Vendor's/Grantee's records, substitute photographs, microphotographs, or other authentic reproductions of such records after the expiration of two years following the last date of reimbursement to the Vendor/Grantee.
- 48.4. Vendor/Grantee agrees to collect statistical data of a fiscal nature on a regular basis and to make fiscal statistical reports at time prescribed by, and on forms furnished by the Area Agency.
- 48.5. If this Agreement is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of four years from the date of any resulting final settlement. In addition, records which relate to litigations or the settlement of claims arising out of the performance of this Agreement, or costs and expenses of this Agreement as to which exception has been taken by the Auditors, shall be retained by the Vendor/Grantee until such litigations, claims, or exceptions have been disposed of.
- 48.6. During the period of this Agreement, all information obtained by the Vendor/Grantee shall be made available to the Area Agency immediately upon demand.

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49. Progress Reports

- 49.1. The Vendor/Grantee and its subcontractors shall furnish to the County such progress and periodic reports in such form and quantity as the County may from time to time require, including but not limited to, status reports of the program, proposed budgets, invoices, copies of all contracts executed and proposed and any and all other information relative to the program as may be requested.
- 49.2. In the event that the County determines that the Vendor/Grantee or its subcontractors have not furnished such reports as required by the County, the County, by giving written notice to the Vendor/Grantee, may suspend payments under this Agreement, until such time as the required reports are submitted.

50. Rights In Data: Copyrights and Disclosure

- 50.1. Definition: The term "data" as used herein, includes written reports, drawings, studies, computer programs, and work of any similar nature that is required to be delivered under this Agreement. It does not include Vendor's/Grantee's financial reports or other information incidental to Agreement's administration.
- 50.2. Rights in Data: Data submitted to and accepted by the Department of Aging under this Agreement shall be the property of the Department of Aging and it shall have full right to use such data for any official purpose in whatever manner deemed desirable and appropriate. Such use shall be without any additional payment to or approval by the Vendor/Grantee.
- 50.3. Copyrights: Vendor/Grantee relinquishes any and all copyrights and/or privileges to data developed under this Agreement. Vendor/Grantee shall not include in the data any copyrighted matter without the written approval of the Department of Aging unless Vendor/Grantee provides the Department of Aging with written permission of the copyright owner for the Department of Aging to use such copyrighted matter in a manner provided herein. Vendor/Grantee shall exert all reasonable effort to advise the Department of Aging, at the time of delivery of data furnished under this Agreement, of all invasions of the right to privacy contained therein. The Vendor/Grantee shall defend any suit or proceeding brought against the Commonwealth and/or County on account of any alleged infringement of any copyright arising out of the performance of this Agreement, including all work, services, materials, reports, studies, and computer programs provided by the Vendor/Grantee. This is upon the condition that the Commonwealth and/or County shall provide prompt notification in writing of such suit or proceedings, full right, authorization and opportunity to conduct the defense thereof, and full information and all reasonable cooperation for the defense of the same. As principles of governmental or public law are involved, the Commonwealth and/or County may participate in the defense of any such action. The Vendor/Grantee shall pay all damages and costs awarded therein against the Commonwealth and/or County. If information and assistance are furnished by the Commonwealth and/or County at Vendor's/Grantee's written request, it shall be at the Vendor's/Grantee's expense, but the responsibility for such expense shall be only that within the Vendor's/Grantee's written authorization. If any of the materials, reports, studies, or computer programs provided by the Vendor/Grantee are in such suit or proceeding held to constitute infringement and the use of

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publication thereof is enjoined, the Vendor/Grantee shall, at his/her own expense and at his/her option, either procure the right to publish or continue use of such infringing materials, reports, studies, or computer programs, replace them with non-infringing items, or so modify them so that they are no longer infringing. The obligations of the Vendor/Grantee under this paragraph continue without time limit.

51. Americans with Disabilities Act

Pursuant to federal regulations promulgated under the authority of the Americans with Disabilities Act, 28 C.F.R. §35.101 *et seq.*, the Vendor/Grantee understands and agrees that no individual with a disability shall, on the basis of the disability, be excluded from participation in this Agreement or from the activities provided for under this Agreement. As a condition of accepting and executing this Agreement, the Vendor/Grantee 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 the benefits, services, programs and activities provided by the Commonwealth of Pennsylvania through contracts with outside providers.

52. Nondiscrimination/Sexual Harassment Clause

52.1. During the term of the Agreement, Vendor agrees as follows:

- 52.1.1. In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the Agreement or any contract or subcontract, the Vendor/Grantee, a contractor, each subcontractor, or any person acting on behalf of the Vendor/Grantee, contractor or subcontractor shall not discriminate by reason of race, gender, creed or 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.
- 52.1.2. Neither the Vendor/Grantee, 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 under this Agreement.
- 52.1.3. Neither the Vendor/Grantee, 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, in the provision of services under this Agreement.
- 52.1.4. Neither the Vendor/Grantee, contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate against employees by reason of participation in or decision to refrain from participating in labor activities protected under the Public Employee Relations Act, Pennsylvania Labor Relations Act or National Labor Relations Act, as applicable and to the extent determined by entities charged with such Acts’ enforcement, and shall comply with any provision of law establishing organizations as employees’ exclusive representatives.

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- 52.1.5. The Vendor/Grantee, 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.
- 52.1.6. The Vendor/Grantee, contractor or 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 contractor, subcontractor or supplier who is qualified to perform the work to which the Agreement relates.
- 52.1.7. The Vendor/Grantee, contractor and each subcontractor represent 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 Vendor/Grantee, contractor and each subcontractor further represents that it has filed a Standard Form 00 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 Vendor/Grantee, contractor and each subcontractor shall, upon request and within the time periods requested by the Commonwealth, furnish all necessary employment documents and records, including EEO-1 reports, and permit access to their books, records, and accounts by the County and the Bureau of Diversity, Inclusion and Small Business Opportunities for purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause.
- 52.1.8. The Vendor/Grantee, any contractor or any subcontractor shall, within the time periods requested by the County, furnish all necessary employment documents and records and permit access to their books, records and accounts by the County and the Bureau of Minority and Women Business Opportunities (BMWBO), for the purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause.
- 52.1.9. The Vendor/Grantee, shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every contract or subcontract so that those provisions applicable to contractors or subcontractors will be binding upon each contractor or subcontractor.
- 52.1.10. The Vendor's/Grantee's, contractor's and each subcontractor's obligations pursuant to these provisions are ongoing from and after the effective date of this Agreement through the termination date thereof. Accordingly, the Vendor/Grantee, contractor and each subcontractor shall have an obligation to inform the Commonwealth if, at any time during the term of this Agreement, it becomes aware of any actions or occurrences that would result in violation of these provisions.

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- 52.1.11. The County/Commonwealth may cancel or terminate the Agreement and all money due or to become due under this Agreement may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, County may proceed with debarment or suspension and may place the Vendor/Grantee, contractor, or subcontractor in the Contractor Responsibility File.

53. Set Off Clause

The Vendor/Grantee agrees that the County may set off the amount of any county or state tax liability or other obligation of the Vendor/Grantee or its subsidiaries to the County against any payments due the Vendor/Grantee under any contract with the County.

54. Property and Supplies

- 54.1. Vendor/Grantee agrees to use its best efforts to obtain all supplies and equipment for use in the performance of this Agreement at the lowest practicable cost and to purchase all supplies and equipment over \$3,000.00 by means of a system of competitive quoting and/or bidding as required under the provisions of the Pennsylvania 3rd Class County Code, Article XVIII and/or Federal Acquisitions Regulations, as applicable.
- 54.1.1. Proper bidding procedures shall adhere to Federal Regulations governing procurement outlined in 2 CFR Part 200 “Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards”, as amended. When obtaining written quotations procedures must be in place to ensure that a linkage is maintained with the Small Business Administration and other agencies which are able to assist in identifying small and minority-owned businesses.
- 54.2. In addition, the Vendor/Grantee shall maintain and administer with sound business practice a program for maintenance, repair, preservation, and insurance of property.
- 54.3. Any vehicle purchased by the Vendor/Grantee with Aging funds shall be adequately insured to cover occasional operation by Berks County Area Agency on Aging staff; said insurance to be in an amount approved by Berks County Area Agency on Aging and proof of said insurance shall be provided to Berks County Area Agency On Aging yearly.
- 54.4. Title to all property furnished by the Department of Aging through the Area Agency Agreements shall remain with the said Department. Title to all property acquired by the Vendor/Grantee, including purchase by lease-purchase agreement, for the cost of which the Vendor/Grantee is to be reimbursed under this Agreement, shall vest in the Vendor/Grantee during the term of this Agreement unless otherwise noted in the Agreement. Upon cancellation or termination of this Agreement, disposition of such purchased property that has remaining useful life shall be made in accordance with the following provisions:
- 54.4.1. If the Vendor/Grantee wishes to retain any items of such purchased property, both parties will arrange for an independent third party appraisal (agreed upon by the Area Agency) of these property items and will reimburse said Department for the value of the remaining life of the property on the basis of such appraisals;

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54.4.2. The Vendor/Grantee may sell the property and reimburse said Department for its appropriate share providing said Department is notified ten days in advance of the date of sale, and prior written approval is received from the Secretary of Aging, the Governor's Office of Administration and the Area Agency.

54.5. The Commonwealth property and any property purchased under this Agreement shall, unless otherwise provided herein or approved in writing by said Department, be used only for the performance of this Agreement. In the event the Vendor/Grantee is compensated for any loss, destruction or damage to the property, the Vendor/Grantee shall renovate, repair, or replace the property. Any proceeds shall be credited to the Agreement.

55. Right to Know Law

55.1. The Pennsylvania Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101-3104, applies to this Agreement.

55.2. Unless the Vendor/Grantee provides the County, in writing, with the name and contact information of another person, the County shall notify the provider using the Vendor/Grantee information provided by the Vendor/Grantee in this Agreement if the County needs the Vendor's/Grantee's assistance in any matter arising out of the RTKL. The Vendor/Grantee shall notify the County in writing of any change in the name or the contact information within a reasonable time prior to the change.

55.3. Upon notification to the Vendor/Grantee that the County has received a request for records under the RTKL related to this Agreement that may be in the Vendor's/Grantee's possession, constituting or alleged to constitute, a public record in accordance with the RTKL (“Requested Information”), the Vendor/Grantee shall:

55.3.1. Provide the County, within five (5) business days after receipt of the County's written notification, access to, and copies of, any document or information in the Vendor's/Grantee's possession arising out of this Agreement that the County reasonably believes is Requested Information and may be a public record under the RTKL; and

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

55.4. If the Vendor/Grantee 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 information that the Vendor/Grantee considers exempt from production under the RTKL, the Vendor/Grantee must notify the County and provide within five (5) business days of receiving the County's written notification, a written statement signed by a representative of the Vendor/Grantee explaining why the requested material is exempt from public disclosure under the RTKL.

55.5. The County will rely upon the written statement from the Vendor/Grantee 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. If the

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County denies a RTKL request in reliance upon Vendors written statement and the denial is appealed, Vendor agrees to fully participate in any RTKL appellate proceedings.

- 55.6. If the Vendor/Grantee fails to provide the Requested Information within the time period required by these provisions, the Vendor/Grantee 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 Vendor's/Grantee's failure, including any statutory damages assessed against the County.
- 55.7. The County will reimburse the Vendor/Grantee 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.
- 55.8. The Vendor/Grantee may file a legal challenge to a decision by the County's decision to release a record to the public with the Office of Open Records, or in the Pennsylvania Courts, however, the Vendor/Grantee 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 Vendor's/Grantee's failure, including any statutory damages assessed against the County, regardless of the outcome of such legal challenge. As between the parties, the Vendor/Grantee 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.
- 55.9. The Vendor's/Grantee's duties relating to the RTKL are continuing duties that survive the expiration of the Agreement and shall continue as long as the Vendor/Grantee has Requested Information in its possession.

56. Federal and State Audit Requirements

- 56.1. Vendor/Grantee must comply with all federal and state audit requirements including: the Single Audit Act, as amended, 31 U.S.C. 7501 *et seq*; 2 CFR Part 200 "Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards", as amended; and any other applicable law or regulation and any amendment to such other applicable law or regulation which may be enacted or promulgated by the state or federal government.
- 56.2. If the Vendor/Grantee is a local government or non-profit organization and expends total federal awards during its fiscal year in an amount at or exceeding the threshold listed in 2 CFR Part 200, received either directly from the federal government or indirectly from a recipient of federal funds, Vendor/Grantee is required to have an audit made in accordance with the provisions of 2 CFR Part 200 "Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards".
- 56.3. If the Vendor/Grantee is a for-profit organization and expends total federal awards during its fiscal year in an amount at or exceeding the threshold listed in 2 CFR Part 200, received either directly from the federal government or indirectly from a recipient of federal funds, Vendor/Grantee is required to have a program-specific audit made in accordance with the provisions of 2 CFR Part 200 "Uniform Administrative Requirements, Cost Principles and

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Audit Requirements for Federal Awards” and in accordance with the laws and regulations governing the programs in which it participates.

- 56.4. If the Vendor/Grantee expends total federal awards of less than the threshold listed in 2 CFR Part 200 during its fiscal year, it is exempt from these audit requirements but is required to maintain auditable records of federal and any state funds which supplement such awards and to provide access to such records by federal and state agencies or their designees.
- 56.5. In the event an audit is required, the Vendor/Grantee is responsible for obtaining the required audit and securing the services of a certified public accountant or other independent governmental auditor. The audit shall be completed, and the report submitted to the County no later than 90 days after the close of the agreement period.
- 56.6. In the event that an audit is performed that is not mandated by applicable federal laws or regulations, Vendor/Grantee shall not charge its costs of the audit to federal funding streams.
- 56.7. Vendor/Grantee shall maintain adequate and sufficiently detailed records of all the services provided pursuant to this Agreement to permit an evaluation of finances and performance, which records shall be open at all reasonable times for inspection by the County, federal, state and county agencies or their authorized representatives. The County and any competent federal, state or county agency or their authorized representatives shall have the right to inspect, audit and copy Vendor's/Grantee's records during normal business hours. The County shall provide fourteen (14) days' notice to Vendor/Grantee in the event of such an audit.
- 56.8. The County shall advise Vendor/Grantee of any discrepancies in adherence to this Agreement. Vendor/Grantee upon receipt of such notification hereby agrees to promptly correct any discrepancies to the satisfaction of the County.
- 56.9. Vendor/Grantee shall maintain and make available such books, records and documents related to this Agreement for five (5) years from the termination of this Agreement, or until all disputes have been resolved to the satisfaction of the County or by final decision or judgment, or as otherwise required by applicable federal or state laws and regulations, whichever is greater.

57. Assurance of Compliance

- 57.1. The Vendor/Grantee provides this assurance in consideration of and for the purpose of obtaining Federal Grants, loans, contracts, property, discounts or other Federal financial assistance from the Department of Health and Human Services.
- 57.2. The Vendor/Grantee hereby agrees that it will comply with:
 - 57.2.1. Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352), as amended, and all requirements imposed by or pursuant to the Regulations of the Department of Health and Human Services (45 C.F.R. Part 80), to the end that, in accordance with Title VI of that Act and the Regulations, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits

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of, or be otherwise subjected to discrimination under any program or activity for which the Vendor/Grantee receives Federal financial assistance from the County.

- 57.2.2. Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112), as amended, and all requirements imposed by or pursuant to the Regulations of the Department of Health and Human Services (45 C.F.R. Part 84), to the end that, in accordance with Section 504 of that Act and the Regulations, no otherwise qualified individual with a disability in the United States shall, solely by reason of her or his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity for which the Vendor/Grantee receives Federal financial assistance from the County.
- 57.2.3. Title IX of the Educational Amendments of 1972 (Pub. L. 92-318), as amended, and all requirements imposed by or pursuant to the Regulations of the Department of Health and Human Services (45 C.F.R. Part 86), to the end that in accordance with IX and the Regulations, no person in the United States shall on the basis of sex, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any educational program or activity for which the Vendor/Grantee received Federal financial assistance from the County.
- 57.2.4. The Age Discrimination Act of 1975 (Pub. L. 94-135), as amended, and all requirements imposed by or pursuant to the Regulations of the Department of Health and Human Services (45 C.F.R. Part 91), to the end that, in accordance with the Act and the Regulations, no person in the United States shall, on the basis of age, be denied the benefits of, be excluded from participation in or be subjected to discrimination under any program or activity for which the Vendor/Grantee receives Federal financial assistance from the County.
- 57.3. The Vendor/Grantee agrees that compliance with this assurance constitutes a condition of continued receipt of Federal financial assistance, and that is binding upon the Vendor/Grantee, its successors, transferees, and assignees for the period during which such assistance is provided. If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the Vendor/Grantee by the County, this assurance shall obligate the Vendor/Grantee, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is so provided, this assurance shall obligate the Vendor/Grantee for the period during which it retains ownership or possession of the property. The Vendor/Grantee further recognizes and agrees that the United States shall have the right to seek judicial enforcement of this assurance.

58. Worker Protection and Investment

- 58.1. To the extent applicable, Vendor shall comply with Commonwealth of Pennsylvania Executive Order 2021-06, Worker Protection and Investment, and certify Vendor is in compliance with all applicable Pennsylvania state labor and workforce safety laws including:

- 58.1.1. Construction Workplace Misclassification Act;

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- 58.1.2. Employment of Minors Child Labor Act;
 - 58.1.3. Minimum Wage Act;
 - 58.1.4. Prevailing Wage Act;
 - 58.1.5. Equal Pay Law;
 - 58.1.6. Employer to Pay Employment Medical Examination Fee Act;
 - 58.1.7. Seasonal Farm Labor Act;
 - 58.1.8. Wage Payment and Collection Law;
 - 58.1.9. Industrial Homework Law;
 - 58.1.10. Construction Industry Employee Verification Act;
 - 58.1.11. Act 102: Prohibition on Excessive Overtime in Healthcare;
 - 58.1.12. Apprenticeship and Training Act; and,
 - 58.1.13. Inspection of Employment Records Law.
- 58.2. Vendor shall also certify compliance with Unemployment Compensation tax requirements and Workers' Compensation insurance requirements.
- 58.3. Vendor shall certify compliance with the aforementioned statutes by completing the "Worker Protection and Investment Certification Form BOP-2201, Attachment I", attached hereto and made a part of this Agreement.

59. Vendor's Commitments

Any written commitment or representation of Vendor/Grantee made within the scope of this Agreement shall be binding upon Vendor/Grantee and is hereby incorporated into this Agreement.

60. Cooperation in Litigation

The Vendor/Grantee shall cooperate fully with the County in any prosecution or defense of any litigations, claims, and threatened litigations. If County becomes involved in any matters involving litigation or threatened litigation against others not including Vendor/Grantee, Vendor/Grantee shall cooperate fully with County's efforts to dispose of such matters. Such cooperation shall include, but not be limited to, submission of information, attendance at meetings and appearance in court or before other judicial or quasijudicial bodies.

61. Membership Restrictions of Facilities

Funds awarded by this Agreement shall not be used to hold meetings, conferences, training sessions or other gatherings at any facility which excludes or restricts membership of individuals on account of race, color, religion, national origin, ancestry, or gender.

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62. Reporting of Allegations/Suspicious

- 62.1. Vendor/Grantee shall be responsible for resolution of consumer/family allegations against Vendor/Grantee employees regarding theft and misappropriation, including instituting disciplinary/legal action against the employee if warranted. Vendor/Grantee shall immediately notify County of all allegations made by or on behalf of a consumer funded under this Agreement.
- 62.2. All allegations made against any Vendor/Grantee employee involving consumer abuse, neglect or exploitation shall be immediately reported to County and County's Older Adult Protective Services Unit. Failure to report such allegations shall jeopardize continuation of the agreement.
- 62.3. If any Vendor/Grantee employee suspects consumer abuse, neglect, exploitation, or abandonment by individuals other than Vendor/Grantee employees, it shall be immediately reported to County's Older Adult Protective Services Unit.

63. Headings

All headings included for convenience only and shall not affect any construction or interpretation of this Agreement.

64. Entire Agreement

The governing terms and conditions of this Agreement are expressly limited to the terms and conditions contained in this Agreement and documents incorporated herein. This Agreement constitutes the complete integration of all oral and written documents, is the entire and final Agreement between the parties and may be amended only by a written instrument signed by authorized officials of both parties.

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With the intent to be legally bound, authorized officials of each party have signed this Agreement on the dates written below. Each person signing this Agreement represents and warrants that such person is fully authorized to sign and enter into this Agreement on behalf of the Vendor/Grantee named above his or her signature.

Both parties agree and acknowledge that electronic/facsimile signatures are binding to this Agreement.

County of Berks

Vendor

By: _____

By: _____

Name (printed): George M. Rodrigues

Name (printed): _____

Title: Director of Contracts and Procurement

Title: _____

Date: _____

Date: _____

ATTEST:

ATTEST:

By: _____

By: _____

Name (printed): Stephanie Kofke

Name (printed): _____

Title: Contract Manager Title: _____

ATTACHMENT B – HIPPA AGREEMENT

BUSINESS ASSOCIATE AGREEMENT

AND NOW, effective this ____ day of _____, 2026 (the “**Effective Date**”), this Business Associate Agreement (“**Agreement**”) is entered into by and between _____ (the “**Business Associate**”) and the **County of Berks** (the “**Covered Entity**”), located at 633 Court Street, 13th Floor, Services Center, Reading, PA 19601.¹

WHEREAS, Business Associate will or may have access to, or may create on behalf of the Covered Entity, certain Protected Health Information (“**PHI**”) in carrying out its obligations, as more fully described below, and therefore is obligated to protect such PHI as a Business Associate, in accordance with the regulations issued by the U.S. Department of Health and Human Services (“**DHHS**”) pursuant to the Health Insurance Portability and Accountability Act (“**HIPAA**”) and the Health Information Technology for Economic and Clinical Health Act (“**HITECH**”) (the regulations being promulgated thereunder being hereinafter referred to as the “**HIPAA/HITECH Regulations**”).

WHEREAS, the parties desire to delineate their obligations pursuant to the HIPAA/HITECH Regulations, all as more fully described herein.

NOW THEREFORE, in consideration of the mutual promises contained herein, and intending to be legally bound hereby, the parties agree as follows:

1. Definitions.

(a) “**Breach**” shall have the same meaning as in 45 C.F.R. § 164.402, and shall include the acquisition, access, use or disclosure of “Protected Health Information” (as defined below) in a manner not permitted under the Privacy Rule, as defined below, and which compromises the privacy or security of the information, unless there is a low probability that the protected health information has been compromised based on Covered Entity’s risk assessment of the following factors:

(i) the nature and extent of the protected health information involved, including the types of identifiers and the likelihood of re-identification;

(ii) the unauthorized person who used the protected health information or to whom the disclosure was made;

(iii) whether the protected health information was actually acquired or viewed, and

(iv) the extent to which the risk to the protected health information has been mitigated.

A Breach excludes: (1) Any unintentional acquisition, access, or use of protected health information by a workforce member or person acting under the authority of a Covered Entity or a Business Associate, if made in good faith and within the scope of authority and does not result in further use or disclosure in a manner not permitted under HITECH; (2) Any inadvertent disclosure by a person

¹ To the extent that the County is deemed to be a “Hybrid Entity” (as defined herein), all terms and conditions of this Agreement that apply with respect to the “Covered Entity” above shall apply equally to the County as a “Hybrid Entity” and/or to the covered components or functions of such entity.

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authorized to access protected health information at a Covered Entity or Business Associate to another person authorized to access protected health information at such entities, or organized health care arrangement in which the Covered Entity participates, and the information received is not further used or disclosed in a manner not permitted under HIPAA/HITECH Regulations; or (3) Any disclosure of protected health information where the Covered Entity determines in good faith that the person to whom the disclosure was made would not reasonably have been able to retain the information.

(b) “**Business Associate**” shall have the same meaning as in 45 C.F.R. § 160.103, and shall include with respect to a covered entity, a person or entity who, in performing its functions or activities on behalf of such covered entity creates, receives, maintains, or transmits Protected Health Information (as defined below), and includes a person or entity who:

(i) provides legal, actuarial, accounting, consulting, data aggregation (as defined in 45 C.F.R. § 164.501), management, administrative, accreditation, or financial services to or for such covered entity;

(ii) provides data transmission services with respect to protected health information to Covered Entity and that requires access on a routine basis to such protected health information;

(iii) a person that offers a personal health record to one or more individuals on behalf of a covered entity; or,

(iv) a subcontractor that creates, receives, maintains, or transmits protected health information on behalf of the business associate.

(c) “**Designated Record Set**” shall mean a group of records maintained by or for Covered Entity that includes the medical records and billing records about an “individual” maintained by or for the Covered Entity, and shall have the same meaning as the term “designated record set” in 45 C.F.R. § 164.501.

(d) “**Electronic PHI**” shall mean electronic protected health information or “PHI”, as further defined below, and shall have the same meaning as the term “electronic protected health information” in 45 C.F.R. § 160.103.

(e) “**HIPAA Rules**” shall mean the privacy, transaction and security regulations/standards further defined below, as promulgated pursuant to **HIPAA**, as codified at 45 C.F.R. Parts 160, 162 and 164.

(f) “**HITECH Standards**” shall mean the breach notification provisions/standards applicable to a business associate under **HITECH**, pursuant to the DHHS regulations promulgated thereunder, as codified at 45 C.F.R. § 164, Subpart D.

(g) “**Hybrid Entity**” shall have the same meaning as defined in 45 C.F.R. 164.103 and refers to a single legal entity whose business activities include both covered and non-covered HIPAA/HITECH functions.

(h) “**Individual**” shall have the same meaning as the term “individual” in 45 C.F.R. § 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. § 164.502(g).

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(i) **“Individually Identifiable Health Information”** shall have the same meaning as defined in 45 C.F.R. § 160.103, and shall include health information, including demographic information collected from an individual that: (1) is created by or received from a health care provider, health plan, employer or health care clearinghouse, and (2) relates to the past, present or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present or future payment for the provision of health care to an individual, and either (i) identifies the individual or (ii) there is a reasonable basis to believe that the information can be used to identify the individual.

(j) **“Protected Health Information”** or **“PHI”** shall have the same meaning as the term “protected health information” in 45 C.F.R. § 160.103, including but not limited to the “individually identifiable health information” (as defined above) created or received by a business associate from or on behalf of a covered entity.

(k) **“Privacy Rule”** shall mean the standards for privacy of individually identifiable health information set forth at 45 C.F.R. § 164, Subpart E.

(l) **“Security Incident”** shall have the same meaning as defined in 45 C.F.R. § 304 and means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.

(m) **“Security Rule”** shall mean the security standards, 45 C.F.R. § 164, Subpart C, as they exist now or as they may be amended, including but not limited to § 164.308 (Administrative Safeguards); § 164.310 (Physical Safeguards), and § 164.312 (Technical Safeguards).

(n) **“Unsecured Protected Health Information”** or **“Unsecured PHI”** shall have the same meaning as defined in 45 C.F.R. § 164.402, and shall mean PHI that is not rendered unusable, unreadable or indecipherable to unauthorized persons through the use of a technology or methodology specified by DHHS in the implementing regulations of HITECH.

Terms used, but not otherwise defined, in this Business Associate Agreement shall have the same meaning as those terms in the HIPAA/HITECH Regulations.

2. General Uses and Disclosures. Business Associate acknowledges and agrees as follows:

(a) Use or Disclosure. Business Associate agrees not to use or further disclose PHI other than as expressly permitted or required by this Business Associate Agreement or as required by law.

(b) Minimum Necessary. Business Associate will take reasonable efforts to limit, use and disclosure of PHI to the minimum necessary to fulfill its obligations, or as necessary to fulfill the intended request, use or disclosure.

(c) Specific Use or Disclosure Provisions. Business Associate may use and disclose PHI to properly perform its obligations pursuant to the parties’ Services Agreement (the **“Services Agreement”**), and consistent with applicable law, as long as such use or disclosure would not violate the HIPAA Rules if done by the Covered Entity, and/or such use or disclosure is expressly permitted in (i) through (iii) below:

(i) Business Associate may use PHI as minimally necessary to fulfill its obligations pursuant to the parties’ Services Agreement.

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(ii) Business Associate may use PHI for the proper management and administration of Business Associate or to carry out Business Associate's legal responsibilities.

(iii) Subject to Section 2(f) below, Business Associate may disclose PHI to third parties for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate provided that the disclosures are required by law, or Business Associate obtains reasonable assurances from the third party to whom the information is disclosed that: (A) the information will remain confidential, (B) the information will be used or further disclosed only as required by law or for the purpose for which it was disclosed to the third party, and (C) the third party notifies Business Associate of any instances of which it is aware that the privacy/security of the information has been breached in accordance with the HIPAA Rules and HITECH Standards.

(d) Security Safeguards. Business Associate agrees to use appropriate safeguards and comply with the security standards of Subpart C of 45 C.F.R. § 164, to prevent use or disclosure of PHI in a manner that would violate this Business Associate Agreement or applicable legal requirements. Business Associate shall provide Covered Entity with information concerning such safeguards as Covered Entity may reasonably request from time to time. To the extent that Business Associate creates, receives, maintains or transmits Electronic PHI, Business Associate agrees to use appropriate administrative, physical and technical safeguards to protect the Electronic PHI as required by the Security Rule.

(e) Mitigation/Indemnification. To the extent that Business Associate is responsible for a breach, Business Associate agrees to mitigate, to the extent commercially reasonable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of this Business Associate Agreement, or in violation of applicable HIPAA/ HITECH Regulations. Business Associate acknowledges and agrees that it shall be liable for, and shall indemnify and hold Covered Entity harmless against, any claims, damages or government penalties, as well as reasonable attorneys' fees, resulting from any act or omission of Business Associate or its subcontractor(s)/agent(s) in breach of this Agreement, or in violation of law, including the HIPAA/HITECH Regulations.

(f) Subcontractors and Agents. Business Associate shall ensure that if any subcontractor, to the extent authorized by Covered Entity, creates, receives, maintains or transmits PHI for the Business Associate on behalf of the Covered Entity, the subcontractor shall agree to the same restrictions, terms and conditions that apply through this Agreement to Business Associate with respect to such information, including the requirement that it implement reasonable and appropriate safeguards to protect any PHI that is disclosed to it, as well as the breach notification requirements applicable to PHI under HITECH, by executing a business associate agreement approved by Covered Entity. Business Associate shall notify Covered Entity of any subcontractor's breach of its business associate agreement, or of any privacy/security incident or violation of law applicable to the subcontractor, including Business Associate's steps to cure or mitigate subcontractor's breach, if applicable.

(g) Access. Only if applicable to the Services Agreement, and upon reasonable request by the Covered Entity, but not later than thirty (30) days following such request, Business Associate shall provide access or copies to Covered Entity of PHI, in a Designated Record Set in order to meet the requirements under 45 C.F.R. § 164.524.

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(h) Amendment. Only if applicable to the Services Agreement, and upon reasonable request by the Covered Entity, but not later than thirty (30) days following such request, Business Associate agrees to make PHI available to Covered Entity for any appropriate amendment(s) to PHI in a Designated Record Set that Covered Entity directs or agrees to pursuant to 45 C.F.R. § 164.526.

(i) Accounting. Only if applicable to the Services Agreement, and upon reasonable request by the Covered Entity, but not later than sixty (60) days following such request, Business Associate agrees to document and make available to Covered Entity or subject Individual, for a reasonable cost-based fee (to the extent permitted by HIPAA Rules) such disclosures of PHI, and information related to such disclosures, necessary to respond to a request for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.

(j) Audit and Inspection. Business Associate agrees to make internal practices, books, and records relating to the use and disclosure of PHI received from or created or received by Business Associate on behalf of the Covered Entity, available to DHHS or the Covered Entity, in a time and manner requested by DHHS or the Covered Entity, for purposes of determining the Business Associate's compliance with the HIPAA/HITECH Regulations.

(k) Compliance. To the extent the Business Associate is required to carry out any Covered Entity's obligations that are subject to the HIPAA/HITECH requirements, if applicable, Business Associate shall comply with all applicable HIPAA/HITECH requirements and standards the same extent as required by the Covered Entity.

3. Covered Entity Obligations.

(a) If applicable to the Services Agreement, Covered Entity shall notify Business Associate of any limitation(s) in the notice of privacy practices of Covered Entity in accordance with 45 C.F.R. § 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of PHI in performing its functions under the Services Agreement.

(b) If applicable to the Services Agreement, Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by an Individual to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI in performing its functions under the Services Agreement.

(c) If applicable to the Services Agreement, Covered Entity shall notify Business Associate of any restriction of the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI in performing its functions under the Services Agreement.

(d) If applicable to the Services Agreement, Covered Entity agrees that it will have entered into "Business Associate Agreements" with any third parties (e.g., trading partners) to which Covered Entity directs and authorizes Business Associate to disclose PHI.

4. Security Incident Reporting/Breach Notification. Business Associate agrees to promptly notify the Covered Entity if Business Associate has knowledge of a Security Incident related in any way to the Services Agreement, that PHI has been used or disclosed by Business Associate, its subcontractor/agent or otherwise in a manner that violates the HIPAA/HITECH Regulations or this Business Associate Agreement. Business Associate agrees to report to the Covered Entity any Security Incident or breach of Unsecured PHI (as defined in Section 1) which Business Associate discovers (as

ATTACHMENT B – HIPPA AGREEMENT

defined in 45 C.F.R. § 164.410), immediately and without unreasonable delay, or as promptly as reasonably warranted by the circumstances (subject to (a) below), in order for Covered Entity to properly assess the breach and to comply with all applicable legal requirements in accordance with § the HITECH Standards.

(a) Business Associate shall provide the following information to the Covered Entity immediately upon discovery of a breach/incident except when, despite all reasonable efforts by Business Associate to obtain the information required, circumstances beyond the control of the Business Associate necessitate additional time, in which case the information shall be provided as soon as reasonably possible, but in no event more than two (2) business days following the breach/incident, and in accordance with 45 C.F.R. § 164.404 of the HITECH Rule, as follows:

- (i) the date of the breach/incident;
- (ii) the date of the discovery of the breach/incident;
- (iii) a description of the Unsecured PHI that was involved;
- (iv) identification of each Individual(s) whose Unsecured PHI has been or is reasonably believed to have been, accessed, acquired or disclosed; and,
- (v) any other information reasonably necessary to complete an assessment of the breach and requirements necessary for compliance with the HITECH Standards.

(b) At the direction of the Covered Entity, Business Associate will cooperate with Covered Entity in providing notification to the Individual(s) concerning Unsecured PHI that has been disclosed, as well as to DHHS and by media or public notice, if necessary, as may be required by the HITECH Rule.

(c) Business Associate agrees to take corrective action, if applicable, to investigate the breach, mitigate losses, and protect against any future breaches, and to provide a description of this corrective action plan to Covered Entity promptly upon the reasonable request of Covered Entity.

5. Term; Termination.

(a) Except as otherwise expressly provided herein, the Term of this Business Associate Agreement shall expire automatically upon the termination or expiration of the parties' Services Agreement.

(b) Without limiting the termination rights of the parties pursuant to the Services Agreement, upon Covered Entity's knowledge of a material breach by Business Associate of this Business Associate Agreement, Covered Entity may notify Business Associate that it has thirty (30) days to cure such breach, or such shorter time as reasonably warranted by the circumstances. In the event Business Associate does not cure the breach, or if cure is infeasible as reasonably determined by Covered Entity, the Covered Entity shall have the right to terminate this Business Associate Agreement, upon written notice thereof.

(c) Upon termination of this Agreement for any reason, Business Associate shall, and/or shall cause its subcontractor/agent to, return or destroy and retain no copies of all PHI created or received by, Business Associate or its subcontractor/agent on behalf of the Covered Entity. If Business Associate determines that return or destruction of such information is not

ATTACHMENT B – HIPPA AGREEMENT

feasible, Business Associate shall provide Covered Entity with notification of conditions that render return or destruction infeasible. In such event, Business Associate shall continue to limit the use or disclosure of such information as set forth in this Agreement and shall not use or disclose such information except for those purposes that make return or destruction of the information infeasible, for so long as Business Associate maintains the PHI.

(d) The obligations of Business Associate under this Business Associate Agreement shall survive the termination of this Agreement.

6. Miscellaneous.

(a) Amendment. The parties acknowledge that the foregoing provisions are designed to comply with the mandates of the HIPAA/HITECH Regulations. The parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary to comply with all federal, state or other legal requirements, including, but not limited to, the requirements of the HIPAA/HITECH Regulations as may be amended from time to time. The parties shall work in good faith to reach agreement on an amendment to the Business Associate Agreement that continually complies with the law and shall act at all times in accordance with the law, as fully incorporated herein, even this Agreement has not been formerly amended. Any other amendment to this Agreement unrelated to compliance with applicable law and regulations shall be effective only upon execution of a written agreement between the parties.

(b) Other Laws. In addition to the HIPAA/HITECH laws and regulations, the parties acknowledge that there may be other federal or state laws applicable to protecting the privacy and security of the medical or other personal information, including without limitation, Pennsylvania's Breach or Personal Information Notification Act (73 P.S. §§ 2301, et seq.), and the parties agree to fully comply with such laws and corresponding regulations, As fully incorporated by reference herein.

(c) Effect on the Services Agreement. Except as relates to the use, security, privacy and disclosure of PHI and electronic PHI transactions, this Business Associate Agreement is not intended to change the terms and conditions of, or the rights and obligations of the parties under, the Services Agreement. All non-conflicting terms and conditions of the Services Agreement as between Covered Entity and Business Associate shall control the interpretation and enforcement of this Agreement and remain in full force and effect.

(d) No Third-Party Beneficiaries. Except as may be required by law, nothing express or implied in the Services Agreement or in this Business Associate Agreement is intended to confer, nor shall anything herein confer, upon any person other than the parties and the respective successors or assigns of the parties, any rights, remedies, obligations or liabilities whatsoever.

(e) Governing Law. This Business Associate Agreement shall be governed by, and interpreted consistently with, the HIPAA/HITECH Regulations to the fullest extent applicable to this Agreement. In all other respects, the parties agree this Agreement shall be governed by, and interpreted consistently with, the parties' Services Agreement, which is fully incorporated by reference herein.

(f) Assignment. This Agreement shall bind and inure to the benefit of the parties hereto and their respective successors and assigns, except that neither part may, without the specific prior written consent of the other party, assign any of its interest or rights in or to, or

ATTACHMENT B – HIPPA AGREEMENT

arising under, this Agreement, or delegate the performance of any of its obligations and duties hereunder except to the extent permitted by the parties' Services Agreement.

(g) No Waiver. The failure of any party or parties to enforce at any time any right or privilege under this Agreement shall in no way constitute or be construed as a waiver of that or any other right or privilege under this Agreement, nor shall it affect in any way the validity and full enforceability of this Agreement. No waiver of any right or privilege under this Agreement shall operate as a waiver of any other breach of that or any other provision of this Agreement and no waiver of any remedy for any such breach shall operate as a waiver of any other remedy for such breach. Should any provision of this Agreement be deemed unenforceable by a court of competent jurisdiction, such finding shall not invalidate the balance of this Agreement, which shall remain in full force and effect.

(h) No Prior Business Associate Agreement. This Business Associate Agreement is the entire agreement between the parties with respect to the subject matter hereof and supersedes any prior business associate agreements between the parties hereto.

IN WITNESS WHEREOF, the parties' authorized representatives have executed this Agreement effective as of the day and year first above written.

BUSINESS ASSOCIATE

COVERED ENTITY

COUNTY OF BERKS

By: _____

By: _____

Printed Name: _____

Printed Name: George M. Rodrigues

Title: _____

Title: Director of Contracts and Procurement

Date: _____

Date: _____

ATTEST:

ATTEST:

By: _____

By: _____

Name (printed): _____

Name (printed): Stephanie Kofke

Title: _____

Title: Contract Manager

ATTACHMENT C – NON-COLLUSION AFFIDAVIT FORM

INSTRUCTIONS FOR NON-COLLUSION AFFIDAVIT

1. This Non-Collusion Affidavit is material to any Agreement pursuant to a Proposal. According to the Pennsylvania Antirigging Act, 62 Pa. C.S.A. § 4501 et seq., governmental agencies may require Non-Collusion Affidavits to be submitted together with Proposals, such as the Proposal submitted by the Proposer.
2. This Non-Collusion Affidavit must be executed by the member officer, or employee of the Proposer who is authorized to legally bind the Proposer.
3. Proposal rigging and other efforts to restrain competition, and the making of false sworn statements in connection with the submission of bids are unlawful and may be subject to criminal prosecution. The person who signs the Affidavit should carefully examine it before signing and assure himself or herself that each statement is true and accurate, making diligent inquiry, as necessary, of all other persons employed by or associated with the Proposer with responsibilities for the preparation, approval or submission of the Proposal.
4. If the Proposal is submitted by a joint venture, each party to the venture must be identified in the Proposal documents, and a Non-Collusion Affidavit must be submitted separately on behalf of each party.
5. The term “complementary Proposal” as used in the Non-Collusion Affidavit has the meaning commonly associated with that term in the RFP process, and includes the knowing submission of a Proposal higher than the Proposal of another firm, any intentionally high or noncompetitive Proposal, and any form of Proposal submitted for the purpose of giving a false appearance of competition.
6. Failure to file a Non-Collusion Affidavit in compliance with these instructions will result in disqualification of the Proposal.

ATTACHMENT C – NON-COLLUSION AFFIDAVIT FORM

NON-COLLUSION AFFIDAVIT

State of _____

County of _____

_____, being first duly sworn, deposes and says that:

(1) He/She is _____
(Owner, Partner, Officer, Representative or Agent of Proposer)

of _____, the Proposer that
(Name of the Proposer)
has submitted the attached Proposal;

(2) He/She is fully informed respecting the preparation and contents of the attached Proposal and of all pertinent circumstances respecting such Proposal;

(3) Such Proposal is genuine and is not a collusive or sham Proposal;

(4) Neither the said Proposer nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly, with any other Proposer, firm or person to submit a collusive or sham Proposal or complementary Proposal in connection with the Contract for which the attached Proposal is submitted or to refrain from submitting in connection with such Contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication of conference with any other Proposer, firm or person to fix the price or prices in the attached Proposal or of any other Proposer, or to fix any overhead, profit or cost element of the prices in the Proposal or the price of any other Proposer, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the County of Berks or any person interested in the proposed Agreement;

(5) The price or prices quoted in the attached Proposal are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Proposer or any of its agents, representatives, owners, employees, or parties in interest, including this affiant; and,

(6) Neither the said Proposer nor any of its officers, partners, owners, agents or parties in interest, have any interest, present or prospective, that can be reasonably construed to result in a conflict of interest between them and the County of Berks, which the Proposer will be required to perform.

ATTACHMENT C – NON-COLLUSION AFFIDAVIT FORM

I state that _____ understands
(Name of Proposer)

and acknowledges that the above representations are material and important and will be relied on by the County of Berks in awarding the Agreement for which the Proposal is submitted. I understand and the Proposer understands that any misstatement in this Non-Collusion Affidavit is and shall be treated as fraudulent concealment from the County of Berks of the true facts relating to the submission of proposals for this Agreement.

Name: _____

By: _____
Authorized Signatory

Title: _____
President or Vice President

SWORN TO AND SUBSCRIBED
BEFORE ME THIS _____ DAY
OF _____, 2025

Notary Public

My Commission Expires: _____

[PLACEHOLDER FOR ATTACHMENT D]

[PLACEHOLDER FOR ATTACHMENT E]

[PLACEHOLDER FOR ATTACHMENT F]

[PLACEHOLDER FOR ATTACHMENT G]

[PLACEHOLDER FOR ATTACHMENT H]

[PLACEHOLDER FOR ATTACHMENT I]

[PLACEHOLDER FOR ATTACHMENT J]

[PLACEHOLDER FOR ATTACHMENT K]

[PLACEHOLDER FOR ATTACHMENT L]

[PLACEHOLDER FOR ATTACHMENT M]

[PLACEHOLDER FOR ATTACHMENT N]

[PLACEHOLDER FOR ATTACHMENT O]

[PLACEHOLDER FOR ATTACHMENT P]

[PLACEHOLDER FOR ATTACHMENT Q]

[PLACEHOLDER FOR ATTACHMENT R]

[PLACEHOLDER FOR ATTACHMENT S]

[PLACEHOLDER FOR ATTACHMENT T]

[PLACEHOLDER FOR ATTACHMENT U]