

AGREEMENT BETWEEN  
MONTGOMERY COLLEGE  
AND  
(CORPORATE OR INDIVIDUAL NAME)

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Agreement made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_ hereinafter referred to as "Consultant," located at \_\_\_\_\_, a Corporation organized and existing under the laws of the State of \_\_\_\_\_, and having its principal office at \_\_\_\_\_, and Montgomery College, hereinafter referred to as "the College" with its administrative center located at 9221 Corporate Boulevard, Rockville, Maryland 20850.

In consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, \_\_\_\_\_ (consultant's name) and the College agree as follows:

**1. SCOPE OF SERVICES**

Consultant agrees (include detailed description of services to be provided by consultant) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Consultant shall be responsible for all services performed under this Agreement. Further Consultant shall be responsible for all damage to persons or property that occurs or is a result of the fault or negligence of Consultant, its agents, subcontractors or employees. Consultant shall be required to take proper safety and health precautions to protect the College, the public and the property of others.

**2. PAYMENT**

For the services rendered, the College agrees to pay Consultant a total of \_\_\_\_\_ (\$ ).

This amount represents payment for **all work performed and expenses incurred** in connection with the services to be provided under this Agreement.

This amount will be paid after satisfactory completion of the tasks described in Section 1 of this Agreement and within thirty (30) working days or receipt of a bill which shall be accompanied by such documentation as the College may reasonably require.

**3. DELEGATION OF AUTHORITY**

**A.** The individual designated as the Contract Administrator has the authority to perform the following functions:

1. Provide direction to the contractor to ensure satisfactory and complete performance;
2. Monitor and inspect contractor performance to ensure acceptable timeliness and quality;
3. Maintain necessary documentation and records regarding contractor performance and other pertinent matters;
4. Furnish timely written notice of contractor performance failures to appropriate College officials;
5. Determine acceptance or rejection of contractor performance;
6. Prepare receiving reports;
7. Approve or reject invoices for payment by the Finance Office;
8. Furnish necessary reports to the Contracting Officer; and
9. Recommend contract modifications or terminations for default or convenience to the Contracting Officer.

**B.** Unless this delegation of authority changes, in writing, no other person is authorized to perform the functions of the Contract Administrator for this particular contract.

**C.** The Contract Administrator is NOT authorized to make determinations (as opposed to recommendations) that:

1. Alter or modify contracts;
2. Terminate or cancel contracts;
3. Effect procurements;
4. Interpret ambiguities in contract language;
5. Waive the College's contractual rights; or
6. Settle disputes or claims.

**4. ADDITIONAL SERVICES**

Consultant is not authorized to perform any additional services or make any changes in the scope of the project without the written approval of the College. Should the College require additional service, a separate agreement shall be prepared for those services. The College and Consultant shall agree on a fee for any additional services prior to the beginning of any additional services. The College disclaims all financial responsibility for any additional service performed or changes made without written authorization from the College.

**5. TERM OF CONTRACT**

Consultant shall perform the services specified in Section 1 of this Agreement no later than \_\_\_\_\_, 20\_\_\_\_.

**6. CONFIDENTIALITY CONSIDERATIONS**

Consultant agrees that all of the College's materials and knowledge relating thereto obtained by Consultant shall not be disclosed to any third party without obtaining prior written consent from the College.

**7. PUBLICITY/USE OF LOGO**

Consultant shall not in any way or in any form publicize or advertise in any manner the fact that it is providing services to the College without the express written approval of the College, obtained in advance, for each item of advertising or publicity. Consultant shall not use the logo of the College without the prior written consent of the College. However, nothing herein shall preclude Consultant from listing the College on its routine client list for matters of reference.

**8. QUALIFICATIONS OF CONTRACTOR**

Consultant hereby assures the College that Consultant is qualified to perform the services provided for in this Agreement in accordance with all applicable laws, orders, rules, and regulations. Consultant further assures the College that Consultant is financially solvent and has the legal right to, and is authorized to, perform the services provided for in this Agreement. Consultant further assures the College that Consultant is free from any financial interests which may conflict with the prior performance of this Agreement. Consultant covenants that he shall not acquire any interest, direct or indirect, financial or otherwise, that would conflict in any manner or degree with the performance of services under this Agreement. Consultant certifies that no one who has or will have any financial interest under this Agreement is an official or employee of the College.

**9. INDEPENDENT CONTRACTOR**

At all times the Consultant shall perform its works as an independent contractor and not as an employee of the College. As an independent contractor, Consultant shall be solely responsible for any insurance protecting it and its employees, including but not limited to general comprehensive liability, worker's compensation, and business automobile insurance as required by the College. It is understood and agreed that Contractor is considered to be an independent contractor and shall not be considered as an agent of the College nor shall any employee or agent of Contractor be considered sub-agents of the College. Nothing in this Agreement shall be construed as constituting a partnership, joint venture, or agency between the College and Contractor. No acts performed or representations by the Contractor, whether oral or written, with respect to third parties shall be binding on the College. Contractor agrees to make all required tax filings and withholdings based on Contractor's independent contractor status, and further agrees to fully indemnify and hold harmless the College in the event that the College is later found liable for any lack of filings or withholdings because the independent contractor status is not accepted by the taxing authority or the Contractor fails to meet all filing and withholding responsibilities.

**10. TERMINATION FOR THE CONVENIENCE OF THE COLLEGE**

The performance of the work or services under this Agreement may be terminated in whole or in part, whenever the President of Montgomery College shall deem that termination is in the best interest of the College. In such event, the College shall be liable only for payment in accordance with the payment provisions of this Agreement for work or services performed or furnished prior to the effective date of termination. The

Consultant shall not be reimbursed for anticipatory profits. Termination hereunder shall become effective by delivery to Consultant of written notice of termination upon which date the termination shall become effective.

**11. FINAL PAYMENT**

It is agreed that acceptance by Consultant of final payment shall be and shall operate as a release to the College from all claims and all liabilities under this Agreement.

**12. AUDIT**

Consultant shall permit audit and fiscal and programmatic monitoring of the work performed under this Agreement. The College shall have access to and the right to examine and/or audit any records, books, documents and papers of Consultant and any subcontractor involving transactions related to this Agreement during the term of this Agreement and for a period of three (3) years after final payment under this Agreement.

**13. NON-ASSIGNMENT AND SUBCONTRACTING**

Neither party may assign this Agreement or any rights or obligations hereunder without obtaining prior written consent of the other. No contract shall be made by Consultant with any other party for furnishing the services to be performed under this Agreement without the written approval of the College. These provisions will not be taken as requiring the approval of the contract of employment between Consultant and its personnel.

**14. NOTICES**

Any notice to be provided hereunder shall be sent by first-class mail, and shall be addressed as follows or as may be later designated in writing:

FOR THE COLLEGE: Patrick Johnson,  
Director of Procurement  
Montgomery College  
9221 Corporate Boulevard  
Rockville, Maryland 20850

FOR CONTRACTING PARTY: (Consultant Name and Contact Info Here)

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

**15. ASSURANCE OF NON-CONVICTION OF BRIBERY**

Consultant hereby declares and affirms that, to its best knowledge, none of its officers, directors or partners and none of its employees directly involved in obtaining contracts

has been convicted of bribery, attempted bribery or conspiracy to bribe under the laws of any state or the federal government.

**16. CONTINGENT FEES**

Consultant warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency working for Consultant to solicit or secure this Agreement, and that it has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide salesperson, or commercial selling agency, any fee or other consideration contingent on the making of this Agreement.

**17. NON-DISCRIMINATION**

Consultant assures the College that, in accordance with applicable law, it agrees not to discriminate against students or employees who are covered by this contract on the basis of age, sex, race, color, creed, religious belief, national origin, status as a qualified individual with a disability or handicap, marital status or status as a disabled veteran or veteran of the Vietnam era. Consultant further agrees to post in conspicuous places notices setting forth the provisions of the non-discrimination clause and to take affirmative action to implement the provisions of this section.

Consultant further assures the College that, in accordance with the Immigration Reform and Control Act of 1986, it does not and will not discriminate against an individual with respect to hiring, or recruitment or referral for a fee, of the individual for employment or the discharging of the individual from employment because of such individual's national origin or in the case of a citizen or intending citizen, because of such individual's citizenship status.

**18. BEHAVIOR OF CONTRACTOR'S EMPLOYEES, AGENTS, AND SUBCONTRACTORS**

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The College is committed to provide a work and study environment that is free from discrimination and harassment on the basis of race, color, religious creed, ancestry, national origin, age, sex, marital status, handicap, pregnancy or status as a disabled veteran or veteran of the Vietnam era. Behavior contrary to this philosophy, which has the purpose or effect of creating an intimidating, hostile, or offensive environment, will not be tolerated by the College, and it is the Contractor's responsibility to ensure that such behavior by its employees, agents, and subcontractors does not occur.

This policy extends to maintaining an environment free from sexual harassment. Therefore, sexual advances or sexual remarks, requests for sexual favors, and other verbal or physical conduct of a sexual nature must not be condoned or permitted by the Contractor. This prohibition extends to such harassment within the employment context as well as harassment of students, staff, and visitors of the College. It should be assumed that all sexual behavior by the Contractor's employees, agents, and subcontractors on any campus or facility of the College, whether owned, operated, maintained or leased by the College, is improper and unwelcome.

**19. COMPLIANCE WITH LAWS**

The Consultant agrees to comply, at no additional expense, with all applicable Executive Orders, Federal, State, bi-county, regional and local laws, ordinances, rules and regulations in effect as of the date of this Agreement and as they may be amended from time to time, including but not limited to the equal employment opportunity clause set forth in 41 CFR 60-250.5.

**20. OWNERSHIP OF MATERIALS DEVELOPED**

Any materials developed as a result of this Agreement shall be the sole property of the College and the College shall have the right of ownership, title and interest in any such materials. Consultant shall have no rights in the materials.

**21. PERFORMANCE STANDARDS**

Consultant agrees to perform the services specified under this Agreement with that standard of care, skill and diligence normally provided by a professional organization in the performance of such services.

**22. INDEMNIFICATION**

Consultant agrees to indemnify and hold harmless the College, its trustees, employees, agents, and students, from any claim, damage, liability, injury, expense and loss arising out of Consultant's performance under this Agreement, except for injury of damage caused by the sole negligence of the College. This indemnification provision shall survive the termination and/or completion of this Agreement.

**23. NON-HIRING OF EMPLOYEES**

No employees of the College or of the State or any department, commission, agency or branch thereof whose duties as such employee include matters relating to or attending the subject matter of this Agreement shall, while being employed, become or be an employee of Consultant.

**24. MODIFICATION OF AGREEMENT**

No modification, amendment or extension of this Agreement shall be valid unless in writing and signed by all parties. The terms and conditions of this written agreement cannot be varied or waived by any oral representations or promise.

**25. ENTIRE AGREEMENT**

This Agreement contains the entire agreement between the parties. This Agreement shall, as of its effective date, supersede any and all other agreements between the Consultant and the College in connection with this Agreement.

**26. MARYLAND LAW**

This contract shall be construed and interpreted according to Maryland law.

**27. CAPTIONS**

The captions and headings contained herein are solely for convenience and reference and do not constitute a part of this Agreement.

**28. SEVERABILITY**

If any term or provision of this Agreement is at any time during the term of this Agreement in conflict with any law, such term or provision shall continue in effect only to the extent permitted by law. If any term or provision of this Agreement shall be held illegal, unenforceable, or in conflict with any law governing this Agreement, the validity of the remaining portions shall not be affected thereby.

**29. CONFLICT OF INTEREST LAW**

The Consultant understands that it is unlawful for any College officer, employee, or agent to participate personally in his/her official capacity through decision, approval, disapproval, recommendation, advice, or investigation in any contract or other matter in which he/she, his/her spouse, parent, minor child, brother, or sister, has a financial interest or to which any firm, corporation, association, or other organization in which he/she has a financial interest or in which he/she is serving as an officer, director, trustee, partner, or employee, or any person or organization with whom he/she is negotiating or has any arrangement concerning prospective employment, is a part, unless such officer, employee, or agent has previously complied with the provisions of Section 15-502, et. seq. of the *State Government Article* of the *Annotated Code of Maryland*.

**30. REGISTRATION FOR CORPORATIONS NOT INCORPORATED IN THE STATE OF MARYLAND**

(Note: This clause can be disregarded when the Consultant is an individual, and not represented by a Corporation).

Pursuant to 7-202, et. seq. of the *Corporation and Associations Article* of the *Annotated Code of Maryland*, corporations not incorporated in the State of Maryland shall be registered with the State Department of Assessments of Taxation, 301 West Preston Street, Baltimore, Maryland 21201, before doing any interstate or foreign business in this State. By signing this Agreement, the Consultant certifies that it has qualified with the Department of Assessments and Taxation.

**31. WORK UNDER THE CONTRACT**

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

The College and Consultant acknowledge that they have read this Agreement, understand it, and agree to be bound by its terms and conditions.

**(CONSULTANT NAME)**

Typed Individual Name, Title

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**MONTGOMERY COLLEGE**

Patrick Johnson,  
Director of Procurement

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date