

**Memorandum of Agreement  
Between  
Middle Alabama Area Agency on Aging,  
The City of Alabaster**

**Purpose of the Memorandum of Agreement**

The purpose of this agreement is to set forth the essential elements of a cooperative working relationship between Middle Alabama Area Agency on Aging (M4A) and the **City of Alabaster** (hereinafter the Parties) to enhance the provision of nutrition and other services to eligible seniors in Shelby County and the **City of Alabaster** (hereinafter Contractor).

**Background**

The Middle Alabama Area Agency on Aging (hereinafter M4A), by vote of its Board of Directors in Fiscal Year 2007, determined that the seniors of Shelby County and the intent of the Older Americans Act would be better served through direct contract with local communities in providing aging services.

Shelby County, within specified limits, commits itself to assist the Contractor in meeting its financial obligation to operate the Contractor's senior center.

All Parties to this agreement commit themselves to fulfill the terms of this agreement.

The Middle Alabama Area Agency on Aging has been awarded grants from the Alabama Department of Senior Services (ADSS) to provide meals and other services (recreation, information and referral, education, health prevention, transportation, legal, etc., as outlined in Exhibit A) to adults 60 years of age and older in the M4A service area. These grants operate under the auspices of the Alabama Nutrition Program for the Elderly (NPE) and are awarded under authority of Titles III-B, III-C, and III-D of the Older Americans Act of 1965, as amended (or other Authority as appropriate) and subject to pertinent regulations and policies of the U.S. Department of Agriculture, the Department of Health and Human Services and the Administration on Aging (Administration for Community Living) applicable to the implementation of services under Title III of the Older Americans Act of 1965, as amended – Public Law 93-29, 87, Stat. 36-45.

The Middle Alabama Area Agency on Aging will enter into contracts with local governments and/or other non-profit entities to operate senior centers within each county in its service area. Centers shall be strategically located so that services can be delivered efficiently and targeted to meet those seniors with the greatest need for service. The local agency, in this instance the Contractor, will ensure that the center is staffed a minimum of five hours daily, five days a week except holidays, unless a waiver has been submitted to and approved by the Alabama Department of Senior Services to operate less than five hours daily, five days a week.

On behalf of the thirteen Area Agencies in the State, including Middle Alabama Area Agency on Aging, the Alabama Department of Senior Services bids a statewide food service contract for a contractor to prepare meals meeting the state nutrient-planning standard and to deliver these meals to senior centers and clients throughout the state. Trio, hereafter called Vendor, has been awarded the current contract.

## **TERM OF AGREEMENT**

This agreement shall begin on **October 1, 2023 and end not later than September 30, 2024** or any time prior if funds for this project are no longer available or other conditions or circumstances should cause this project to be altered, modified, extended or terminated. This agreement is subject to availability of funds.

## **PAYMENT AND REPORTING**

M4A agrees to pay the Contractor for services provided under the terms of this agreement and as outlined in Exhibit A and contingent upon continued level funding from the local governments which comprise the M4A region.

Support to the Contractor shall be made in the amount of 1/12 (one-twelfth) per month within 30 days after receipt of all required reports and provided that all required reports have been received by the M4A Fiscal Office and Nutrition Program on or before the 15<sup>th</sup> of the following month. The only exception to required reports is that the Contractor Time Recap Report (usually completed by the center manager) shall be faxed to the M4A Fiscal Office no later than the 5<sup>th</sup> of the following month. Reports from the center manager shall include: Weekly Logs, Participant Sign-in Sheets, and the Vendor Ticket. Reports from the Contractor shall include: Monthly Report of Expenditures and Request for Funds, Personnel Cost Recap—Program, Personnel Cost Recap—In-Kind, Contractor Employee Individual Time Report, and the Contractor Time Recap Report.

In order for M4A to comply with the deadlines and guidance as established by the Alabama Department of Senior Services, M4A shall require that all reports be submitted to M4A within a reasonable time after the close of the month but in no instance, any later than the 15<sup>th</sup> of the following month (except the Contractor Time Recap Report which is due on/before the 5<sup>th</sup> of the following month). Failure to provide required reports for monthly support under this agreement may, at M4A's discretion, result in forfeiture of support for that month. If the 15<sup>th</sup> falls on a Saturday, then all paperwork is due on Friday. If Friday is a holiday, then paperwork is due on Thursday. If the 15<sup>th</sup> falls on a Sunday, then all paperwork is due on Monday. If Monday is a holiday, then paperwork is due on Tuesday.

All reports for the fiscal year shall be due no later than **October 15, 2024**. Failure to provide required paperwork on or before this date shall result in forfeiture of any/all remaining funding from M4A under this agreement.

## **INELIGIBLE MEALS**

The cost of all ineligible meals attributed to the Contractor shall be deducted from the payment amount or support. An ineligible meal is a meal that is ordered by the Contractor's center manager and either not served or served to an ineligible participant. If two meals of the same meal type (i.e., 2 lunches) are served to an eligible participant on the same day, then the second meal (i.e., the second lunch) is ineligible according to guidance from the Alabama Department of Senior Services. For all purposes, the determiner of an ineligible meal shall be the Vendor Ticket completed by the Contractor's center manager and submitted to M4A. The cost of the ineligible meal or meals shall be determined by the Elderly Nutrition Program policies as specified by the Alabama Department of Senior Services.

## **CONTINGENCY CLAUSE**

It is expressly understood by the Parties and mutually agreed that any commitment of funds herein shall be contingent upon receipt and availability of funds under the program for which this agreement is made. In the event of the proration of the fund from which payment under which this agreement is to be made, the agreement will be subject to termination.

## **WHISTLEBLOWER**

The Contractor is hereby given notice that the 48 CFR §3.908 implementing section of 828, entitled “Pilot Program for Enhancement of Contractor Whistleblower Protections,” of the National Defense Authorization Act applies to the agreement.

## **CONFIDENTIALITY**

The Contractor shall treat all information, and in particular information relating to individuals that is obtained by or through its performance under this agreement, as confidential information to the extent confidential treatment is provided under state and federal laws and regulations. The Contractor shall not use any information so obtained in any manner except as necessary for the proper discharge of its obligations and rights under this agreement.

## **HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA)**

To the extent Contractor is maintaining Protected Health Information, the Contractor shall ensure that the center manager and other center staff implementing the terms of this agreement are properly trained in confidentiality and HIPAA. In addition, the Contractor shall enter into a HIPAA Business Associates Agreement (See Exhibit F) with M4A and shall comply with said Business Associates Agreement.

## **MAINTENANCE OF RECORDS**

The Contractor, shall maintain such records and accounts as identified by the Alabama Department of Senior Services in Exhibit E attached hereto to assure a proper accounting for all project funds. Client information will be obtained, processed, and maintained in a manner that assures the confidentiality of the client will not be violated. The Contractor shall maintain financial records, supporting documents, statistical records and all other records pertinent to contract fulfillment for a period of **five-years** from the date of the last payment made by M4A to the Contractor. However, if audit, litigation, or other legal action by or on behalf of M4A or ADSS has begun, but is not completed at the end of the **five-year** period, or if audit findings, litigation, or other legal action has not been resolved at the end of the **five-year** period, the records shall be retained until resolution.

## **CONFLICTS OF INTEREST**

The Contractor covenants that it presently has no interest and shall have no interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this agreement. The Contractor further covenants that in the performance of this agreement, no person having such interest shall be employed to perform the requirements of this agreement. The Contractor further covenants that it shall take reasonable steps to prevent any unlawful benefits from accruing to individuals associated with the Contractor as a result of the agreement.

## **AMENDMENTS**

No alteration or variation of the terms of this agreement shall be valid unless made in writing and duly signed by the parties thereto. The agreement may be amended by written agreement duly executed by the parties or in the event of program changes by the Alabama Department of Senior Services or the Administration for Community Living after the provision of notice of the same to Contractor. Any such agreement shall specify the date its provisions shall be effective as agreed to by the parties.

## **TERMINATION**

This agreement may be terminated by providing 30-day written notice to the other party. In addition, this agreement shall be terminated upon material breach by the Contractor or M4A.

## **ACCESS TO RECORDS**

At any time during normal business hours and as often as M4A may deem reasonably necessary for purposes of monitoring and evaluation, the Contractor shall make available to M4A or any authorized designee all records with respect to matters covered by this agreement and will permit M4A or those authorized designees to audit, examine, investigate, or extract excerpts from invoices, materials, documents, papers, records or other data relating to matters covered by this agreement, except and unless such document or other thing would not otherwise be available to M4A under Federal, state, or local law.

## **TRAFFICKING VICTIMS PROTECTION ACT**

This award is subject to the requirements of Section 106(g) of the Trafficking Victims Protection Act of 2000, as amended (72 USC 7104). This grant is subject to the requirements set forth in 45 CFR Part 75 (for nonprofit organizations and educational institutions) or 45 CFR Part 75 (for state, local, and federally recognized tribal governments).

## **MANDATORY DISCLOSURES**

The Contractor is required to notify M4A in writing of all violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting this agreement.

## **DEBARMENT AND REGISTRATION**

The Contractor, by signing this agreement, certifies it is not barred from bidding for or entering into this agreement and the Contractor acknowledges that M4A may declare this agreement void if the certification completed is false. All organizations receiving federal financial awards or sub-awards must have a DUNS (Data Universal Numbering System) and be registered with the CCR (Central Contractor Registration) as outlined in 2 CFR Part 25, *Financial Assistance Use of Universal Identifier and Central Contractor Registration*.

## **CIVIL RIGHTS**

The Contractor agrees to maintain, for the duration of this contract, an assurance of compliance with Title VI of the Civil Rights Act of 1964. The Contractor further assures that activities under this agreement will make no distinction regarding services, employment, and other service activities on the grounds of race, color, creed, national origin, age, sex, and further agrees to assure that facilities and services of the contracting service provider will be reasonably accessible to handicapped citizens.

### **EQUAL EMPLOYMENT OPPORTUNITY**

The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age or handicap. The Contractor shall take affirmative action to ensure that these standards are met. Such actions will include but not be limited to the following: employment, upgrading, demotions, transfers, recruitment or recruitment advertisings, layoffs, or terminations, selection for training, including apprenticeship and participation in recreational and educational activities. The Contractor agrees to post notices in places available to employees and applicants for employment, setting forth the provisions of this non-discrimination clause. The Contractor will in all solicitations or advertisements for employees placed by or on behalf of the Contractor state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, age, or handicap. The Contractor shall cause the foregoing provisions to be inserted in all subcontracts for any work covered by this agreement so that such provisions will be binding upon each subcontractor provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials. The Contractor shall keep such records and submit such records concerning the racial and ethnic origin of the applicant for employment and employees as the Secretary of Labor may require. The Contractor agrees to comply with such rules, regulations, or guidelines as the Secretary may issue to implement these requirements.

### **AMERICANS WITH DISABILITIES ACT COMPLIANCE**

The Contractor hereby agrees that it will comply with the Americans with Disabilities Act (ADA) of 1990, 42 U.S.C. §§12101 *et seq.* (1990) and all requirements imposed by or pursuant to the Regulations issued by the Department of Justice.

### **DRUG FREE WORKPLACE CERTIFICATION**

The Contractor certifies that it will provide a drug-free workplace in accordance with the Drug Free Workplace Act of 1988, 45 CFR Part 76, sub-part F.

### **CERTIFICATION REGARDING LOBBYING**

The Contractor shall comply with the Certification for Contracts, Grants, Loans, and Cooperatives Agreements as specified in Exhibit C.

### **GRIEVANCE**

The Contractor shall have on file a grievance procedure to receive, discuss, and resolve complaints registered by clients under this contract. All program participants have access to submit a grievance should a concern/complaint arise.

### **IMMIGRATION STATUS**

By signing this agreement, the Contractor affirms for the duration of the agreement that the Contractor will not violate federal immigration law or knowingly employ, hire for employment or continue to employ an unauthorized alien within the State of Alabama. Furthermore, if the Contractor is found to be in violation of this provision it shall be deemed in breach of the agreement and shall be responsible for all damages resulting therefrom. The Contractor hereby certifies compliance with the requirements of §31-13-9(a) and (b), Code of Alabama 1975, as amended, and has provided proper documentation to M4A.

## **HOLD HARMLESS**

Expressly subject to and without waving, abrogating, mitigating or otherwise effecting Contractor's statutory limitations on liability or immunities, the Contractor agree to hold the Area Agency on Aging, staff and Board of Directors harmless from any or all claims or loss or damage occasioned to it or any third person or property by reason of an Act(s) or Omission(s) on the part of Contractor, its subcontractors, agents, employees, or persons working directly or indirectly for Contractor in the performance of the agreement.

## **Responsibilities of M4A**

1. M4A will develop an Area Plan, in collaboration with local governments, for the implementation and development of programs and services for those 60 or older, and residing in the M4A service area.
2. M4A will serve as the advocate, focal point, and planning and development agency for older individuals within the county by monitoring, evaluating, and commenting upon policies, programs, hearings, levies and community actions which will affect older individuals.
3. M4A will identify any service gaps and use the information in planning new or expanded programs.
4. M4A will work to implement and expand programs.
5. M4A will obtain local, state, and federal financial support for program activities and disseminate funds within the service area.
6. M4A will advocate for more governmental services, funding, and other sources of revenue to support the senior programs in the service area.
7. M4A agrees to provide general program guidance, supervision and monitoring of the Senior Center Staff and other program activities.
  - a. Provide management and training of personnel who provide services to senior participants in the congregate and homebound meals programs to include food handling, operation of the meal site, volunteer training, and other pertinent topics.
  - b. Provide materials to center managers for nutrition education and public education.
  - c. Provide technical support to senior center personnel relative to site operation and funding requirements (food service, reservations, meal ordering, donations, data collection, etc.).
  - d. Order all meals from Vendor and ensure compliance with all ADSS Regulations, Rules, Policies, and Procedures.
  - e. Provide special event menus up to two times per year as requested by the center manager and approved in advance by the ADSS Nutritionist.
  - f. Evaluate and monitor nutrition services on a regular basis and provide feedback to ADSS.
  - g. Assist with solicitation of volunteers and outreach in the community.
8. The M4A Fiscal Office will monitor Contractor at least one time per fiscal year in compliance with the Older Americans Act assurances and requirements of the Alabama Department of Senior Services. In addition, the M4A Fiscal Office will provide guidance, training, and other technical assistance needed or requested in order to foster understanding, communication, and compliance with this agreement.
9. M4A will provide a toll-free hotline (1-800-AGELINE or 1-800-243-5463) for information and assistance through the M4A Aging and Disability Resource Center (ADRC). This system will pre-screen clients for services.
10. M4A will communicate and collaborate with sponsoring agency staff, ADSS, and vendors.

11. M4A agrees to follow all procedures and guidelines as outlined ADSS's *Alabama Elderly Nutrition Program: Guide to Meal Services*.

### **Responsibilities of the Food Service Vendor**

The responsibilities of the Vendor are defined in the state contract. For informational purposes only, some of the responsibilities of the Vendor that are pertinent to this agreement are listed here:

1. Provide meals that are safe, acceptable in quality and of sufficient quantity to yield the number of meals ordered for the center. Meals will be nutritionally balanced, comply with Dietary Guidelines, and provide 1/3 RDA for older adults of eight indicator nutrients.
2. Provide hot meals for the noon meal, 5 days per week, except 11 holidays and up to 10 additional non-serving days. Minimum daily order shall be 25 meals.
3. Provide additional meal types such as frozen, picnic, shelf-stable, holiday, breakfast, and liquid supplements. Delivery may be to the centers.
4. Equip each senior center with the following equipment and supplies:
  - a. Electric Holding Cabinet
  - b. Coffee Urn
  - c. Tea Urn
  - d. Serving Utensils
  - e. Digital Thermometers (2)
  - f. Plastic Pans as required to supplement sink basins
  - g. Chemical test strips

All of these items are for the exclusive use of the senior center for senior center activities. The Vendor will make any and all routine repairs without charge. However, center personnel are charged to make a reasonable effort to safeguard the equipment from abuse or pilferage. Equipment remains the property of the Vendor and shall be returned to the Vendor at the termination of the contract.

5. Provide centers with the disposable supplies required for serving both congregate and home delivered meals in amounts and proportions appropriate for number and mix of meals ordered.
6. Provide supplies required to serve coffee to congregate clients in fall and winter and tea in spring and summer.
7. Deliver meals to the senior centers by 10:30 am.
8. Follow all other contract requirements as outlined in bid specifications.

### **Responsibilities of the Contractor**

1. In collaboration with M4A, the Contractor will:
  - a. Develop a plan for providing nutrition and other services to older individuals residing in the community.
  - b. Give priority for services under this agreement to those with greatest social and economic need residing in Shelby County.
  - c. Assist M4A in developing a plan for meeting the service needs of minority, low-income and low-income minority older individuals in the service area.
  - d. In collaboration with M4A, conduct public hearings and/or needs assessments to give the public an opportunity to express their concerns about existing and needed senior programs.
  - e. Assist M4A in developing plans to help those older individuals with Alzheimer's disease or related disorders, and those with limited English-speaking abilities.

- f. Provide on-going social, recreational, and educational activities to be available at all times during senior center program hours except when meals are being served.
  - g. Agree that M4A may carry out monitoring and evaluation activities as determined necessary by M4A and/or ADSS.
- 2. The Contractor will employ a center manager capable of carrying out the responsibilities in this agreement. The center manager will be responsible for all aspects of the nutrition program for the elderly, including the congregant meal program, the home-delivered (or homebound) meal program, and any and all center volunteers and other center staff assisting with the operation of the senior center or nutrition program for the elderly. The center manager will also be responsible for completing all daily, weekly, and monthly reports as required by M4A and ADSS for the nutrition program for the elderly. Paperwork shall include: Weekly logs, Participant Sign-in Sheets, and the Vendor Ticket. Paperwork may include the Vendor Reimbursement Form, the Vendor Supply Form, and the Client Enrollment Form. The center manager shall be responsible for completing a Client Enrollment Form and Nutrition Risk Assessment on all homebound referrals to the nutrition program and faxing these completed forms to the M4A Nutrition Coordinator. Due to meal budgets, funding, and upon direction of the Alabama Department of Senior Services, no one shall be placed on home-delivered meals without the authorization of the M4A Nutrition Coordinator. The center manager shall maintain an individual record of each program participant on the appropriate ADSS client intake form. The center manager will ensure that all new clients complete the appropriate client intake form when services are requested and that all existing client records are updated annually.
- 3. The Contractor agrees the Center Manager shall work 5 hours a day for every serving day as established by the Alabama Department of Senior Services and up to 4 training days per fiscal year as required by M4A and/or ADSS. The Contractor agrees to provide any additional staff required for meal delivery and/or other center operations.
- 4. The Contractor agrees to provide personnel management and compensation for meal delivery to include the State of Alabama approved mileage reimbursement rate.
- 5. The Contractor agrees to solicit volunteers from the community to deliver homebound meals and to provide other volunteer services to meet the needs of the elderly or to enhance the quality of life of the elderly living within the community.
- 6. The Contractor agrees to provide space, utilities and other overhead necessary for food service and senior center operations to fulfill the terms of this agreement. At a minimum the senior center will have a:
  - a. Refrigerator
  - b. Three compartment sink or approved equivalent equipped with hot and cold running water
  - c. Hand washing sink equipped with hot and cold running water
  - d. Secure area for storage of disposable supplies
  - e. Serving tables or counters
  - f. Dining tables and chairs
  - g. Insulated carriers as required for home delivered meals
  - h. Grounded electrical receptacles for warmers and beverage appliances. Said space and equipment will be in accordance with all applicable Federal, State and local laws and regulations and in compliance with all Policies and Procedures of M4A and ADSS
- 7. The Contractor agrees to provide participants in the nutrition program for the elderly (both congregant and homebound) the opportunity to make voluntary donations for services rendered.



All donations shall be forwarded at least monthly to M4A by money order (which M4A will reimburse the cost of if a receipt is attached) or by check drawn on the Contractor's account.

8. The Contractor agrees that:
  - a. The suggested donation shall be \$2.00 per meal.
  - b. All donations shall be confidential.
  - c. No one shall be denied services because of an inability to or unwillingness to make a contribution.
  - d. The senior center will be provided with a locked box and individual donation envelopes to help ensure privacy and security of donations
  - e. The Center Manager will forward donations at least monthly to M4A with daily logs of donations and by check or money order. Expense for money orders submitted with receipt will be reimbursed on monthly expense reports.
9. The Contractor agrees to provide local resources to support the senior center and center activities. Local resources may be cash or in-kind. As required by ADSS, all local cash and in-kind expenditures in support of the Title III Program, regardless of source, must be reported by the Contractor to M4A. See Exhibit B for categories of local support and list of reports/paperwork required from the Contractor. For additional guidance, Contractor should contact M4A's Fiscal Office. Shelby County will provide support to the Contractor as indicated in Exhibit A (attached hereto and incorporated by reference into this agreement).
10. The Contractor agrees that by signing this agreement the Contractor hereby accepts ownership of all property, such as refrigerators, stoves, cooking utensils, fax machines and other items utilized in the operation or maintenance of the senior center which are currently owned by the Shelby County Commission. The Contractor further agrees to maintain such property for use by the Contractor's authorized personnel for the operation of the senior center.
11. The Contractor agrees to have an independent auditor include the Title III Program (the nutrition program for the elderly and transportation related thereto) in its examination including the type and amount of the M4A federal grant and at the close of the fiscal year, submit to M4A a copy of its audited financial statements.
12. The Contractor agrees to provide M4A with a Certificate of Insurance showing adequate insurance coverage for General Liability, Workers Compensation, Property, and Casualty for the senior center.
13. The Contractor agrees to follow all procedures and guidelines as outlined ADSS's *Alabama Elderly Nutrition Program: Guide to Meal Services* (manual has been provided to the center manager).
14. The Contractor agrees that all paperwork shall be received by M4A, no later than the 15<sup>th</sup> of the following month (except the Contractor Time Recap Report which is due on/before the 5<sup>th</sup> of the following month) in order for the Contractor to receive monthly support. Paperwork may be faxed or emailed to the attention of M4A's Fiscal Office (for reports from the Contractor's Fiscal Office) or to the attention of M4A's Nutrition Program (for center manager reports).

**IN WITNESS WHEREOF**, the Parties hereby execute this agreement.

\_\_\_\_\_  
For Middle Alabama Area Agency on Aging  
Title: Executive Director

Date \_\_\_\_\_

\_\_\_\_\_  
For the Contractor  
Title: Mayor, **City of Alabaster**

Date \_\_\_\_\_

Approved: \_\_\_\_\_  
M4A Board Chairman

## Exhibit A

Total Fiscal Year Financial Support from M4A: **\$7,160.04**

Contractor may use financial support for any of the following services:

- Personal Care
- Homemaker
- Chore
- Home Delivered Meals
- Transportation for Participants
- Transportation for Meal Delivery
- Adult Day Care/Health
- Case Management
- Congregate Meals
- Nutrition Education
- Information and Assistance
- Outreach
- Recreation
- Material Aid
- Public Education
- Telephone Reassurance
- Friendly Visiting
- Disease Prevention and Health Promotion (but only if the person providing this activity is certified)

The following Forms are to be used to report the above categories of services; these forms are (most often) completed by Contractor's Center Manager Employee:

1. Contractor Employee Individual Time Report (due on/before the 15<sup>th</sup> of the following month)
2. Contractor Time Recap Report (due on/before the 5<sup>th</sup> of the following month)

## Exhibit B

Categories in which Contractor May Report Local Support of Senior Activities (i.e., In-kind Receipts and Contractor's Cash):

- Personnel (Program)
- Personnel (In-Kind)
- FICA
- Worker's Comp
- SUI
- Other Employee Benefits
- Travel
- Office Expense
- Postage
- Telephone
- Utilities
- In-Kind (In-Kind=paid or given goods, commodities or services instead of money)
- Space In-Kind
- Training
- Transportation
- Equipment Maintenance
- Insurance
- Other

The following Forms are to be used to report the above categories of support from the Contractor:

1. Monthly Report of Expenditures and Request for Funds (due on/before the 15<sup>th</sup> of the following month)
2. Personnel Cost Recap-Program (due on/before the 15<sup>th</sup> of the following month)
3. Personnel Cost Recap-In-Kind (due on/before the 15<sup>th</sup> of the following month)

Exhibit C  
**CERTIFICATION REGARDING LOBBYING  
CERTIFICATION FOR CONTRACTS, GRANTS, LOANS AND COOPERATIVE  
AGREEMENTS**

The Contractor certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an office or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Exhibit D

**ATTESTATION AND DOCUMENTATION AS TO EMPLOYMENT POLICIES REQUIRED  
BY THE MIDDLE ALABAMA AREA AGENCY ON AGING OF ALL CONTRACTS AND  
DIRECT VENDORS**

Under the "Beason-Hammon Alabama Taxpayer and Citizen Protection Act," the State of Alabama requires all of the Middle Alabama Area Agency's on Aging contractors (including direct vendors) and their subcontractors (including sub-vendors) of any tier to refrain from knowingly employing any unauthorized alien in Alabama and, as a condition for the award of any contract to a contractor or direct vendor, for the Contractor or direct vendor to document participation in the E-Verify program of the U.S. Department of Homeland Security.

**ATTESTATION AND DOCUMENTATION AS TO EMPLOYMENT POLICIES REQUIRED BY  
THE MIDDLE ALABAMA AREA AGENCY ON AGING OF ALL CONTRACTORS AND  
DIRECT VENDORS**

As a condition to the award of any contract, each contractor (including direct vendors) must provide the Middle Alabama Area Agency on Aging with a sworn affidavit attesting that The Contractor or direct vendor will not knowingly employ, hire for employment, or continue to employ any unauthorized alien within the State of Alabama. The Contractor or direct vendor must also provide documentation that the Contractor or direct vendor is enrolled in the E-Verify program. Failure of the Contractor or direct vendor to continue to participate in the E-Verify program system and to verify every employee as required under applicable federal rules and regulations during performance of the contract will be grounds for termination of the contract.

In addition, before entering into any subcontract for the performance of a contract with the Middle Alabama Area Agency on Aging, the Contractor (including direct vendors) and each of its subcontractors (including sub-vendors) of any tier should obtain from each of their direct subcontractors or direct sub-vendors a sworn affidavit of the direct subcontractor or direct sub vendor attesting that the direct subcontractor or direct sub vendor will not knowingly employ, hire for employment, or continue to employ any unauthorized alien within the State of Alabama and attaching documentation establishing that the direct subcontractor or direct sub vendor is enrolled in the E-Verify system. Failure to obtain such affidavit or knowledge of violation by the direct subcontractor or direct sub vendor of the employment prohibitions of the Act may result in liability for the Contractor or subcontractor as provided in the Act. The affidavit and documentation of subcontractors and sub-vendors need not be filed with the Commission but should be retained by the Contractor or subcontractor obtaining them.

Attached is an affidavit that must be provided to the Middle Alabama Area Agency on Aging at the time of execution of any contract or agreement. Each vendor selling directly to or having a contact with M4A must provide M4A with a sworn affidavit. The affidavit must attach documentation confirming that the vendor participates in the E-Verify System. In the case of vendors with which M4A deals on a repetitive basis, the affidavit can be placed on file with the M4A and refilled by January 15 of each succeeding year.

Please send the affidavit to:

Middle Alabama Area Agency on Aging  
**Attn: Renee Green, Fiscal Manager**  
Post Office Drawer 618  
Saginaw, AL 35137

**AFFIDAVIT OF CONTRACTOR OR DIRECT VENDOR**

State of Alabama  
County of Shelby

Before me, a notary public, personally appeared \_\_\_\_\_  
(print name) who, being duly sworn, says as follows:

As a condition for the award of any contract, grant, or incentive by the Middle Alabama Area Agency on Aging, I hereby attest that in my capacity as \_\_\_\_\_ (state position) for the **City of Alabaster** that said business entity/employer/contractor shall not knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama.

I further attest that said business entity/employer/contractor is enrolled in the E-Verify program.

**(No E-Verify Documentation Needed for FY 2024)**

\_\_\_\_\_  
Signature of Affiant

Sworn to and subscribed before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

I certify that the affiant is known (or made known) to me to be the identical party he or she claims to be.

\_\_\_\_\_  
Signature and Seal of Notary Public

Exhibit E  
**Center and Contractor Assessment and Audit Tools**

**INTENTIONALLY LEFT BLANK**



**Senior Center  
Assessment Tool**

<b>CENTER NAME:</b>				<b>Region:</b>		<b>County</b>	
Date:		Menu #:		Time of Visit:			
Meal Order		C1:		C2:		Manager:	
		B'fast		Frozen		Years of service:	
Meals Served:		C1:		C2:		# Participants Present:	
Total Meals Served:						# Participants Signed in:	
Went on homebound route.		yes		no		Health Dept Score:	
Time Meals Arrive:		Production Unit:		Name:			
Meal Accept time:				Date:			
<b>A) General Facility</b>				<b>YES</b>	<b>NO</b>	<b>COMMENTS</b>	
page							
19	Outside pathways in good repair, accessible, no obstruction.						
19	Ramps w/ handrails available for entrance.						
19	Restrooms accessible to persons w/ disabilities.						
19	Site, in general provides a clean and welcoming environment.						
19	Temperature of the facility is comfortable.						
24	Screens are on windows and doors, if open.						
19	The senior center site is clearly identified from the outside.						
19	Working business phone and published number.						
20	2 exits available and not locked.						
<b>B) Informational Items - Chapter 11, page 104 of manual.</b>							
19-20, 104	Fire / Emergency Exit Plan / Drills/ emergency phone numbers.						
104	Hours of Operation.						
104	Current Menu and Current Activity Calendar.						
104	Contribution Sign.						
104	Sanitizing Procedures.						
104	Handwashing Sign.						
104	Foods that should not be taken from the center.						
104	Equal employment poster with non discriminatory clause						
<b>C) Volunteers - Chapter 6, page 59 of manual.</b>							
59-62	Volunteerism is encouraged by the center manager.						
18,20,59	Volunteers are adequately supervised by the center manager.						
<b>D) Contributions - Chapter 2, section 2-G of manual.</b>							
16	Contribution/Donation Box is available / locked.						
16	Contribution is confidential.						
16	Procedures are followed to account for all contributions.						
16	Oral programs encouraging contributions provided periodically.						
<b>E) Files and Forms</b>							
14-15	Attendance log reports are recorded daily and on file.						
15	Weekly meal reports and item delivery tickets on file.						
11	Participant eligibility has been determined. Form revised and on file. Checking 20% of C1 active participants.						
	Nutrition risk assessment: review/complete.						
	Nutrition risk assessment appears accurate.						
12	High risk receives meal 5 days per week.						
<b>F) Center Management</b>							
26	Operating Hours: Days per week:						
18	Adequate staffing during senior center hours.						
	Overall good atmosphere in center.						
	Manager and staff are receptive to concerns / suggestions.						
page				<b>YES</b>	<b>NO</b>	<b>COMMENTS</b>	

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### Senior Center Assessment Tool

14	Participants in attendance sign in.			
12	All persons served are eligible participants.			
11	Nutrition Education provided monthly-C1/quarterly-C2.			
21	Current Alabama ENP manual available & easily accessible?			
18	Manager demonstrates a sincere respect for all attendees, staff.			
14-15	Waiting list of eligible persons used for congregate fill-in days.			
15	Current contact info available on all clients.			
18	Basic education and training for center manager.			
18	Plan in place to manage the services if Center Manager is out.			
<b>G) Safety</b>				
19,21-22	Floor covering, walls, ceiling, doors, windows, etc. are in good condition with no hazardous areas. Kitchen light covers 6-202.11			
20	First Aid supplies are available and stocked adequately.			
20	Center staff are trained in basic first aid and emergency procedures.			
20	Yearly fire and severe weather drill provided to participants.			
20	Fire Extinguisher is easily accessible, serviced within the past 12 months and can be used by staff.			Date of service:
19	Furniture is arranged safely, aisles and doors are unobstructed.			
20	Cleaning supplies and toxic materials stored separate from food and serving items. MSDS available.			
37	Home prepared food items are not used or consumed during nutrition program hours.			
77	Manager & staff aware of illness plan and clean-up procedures.			
<b>H) Kitchen / Sanitation</b>				
64	Hand washing sign is posted in kitchen and restrooms.			
64	Soap, hot water and disposable towels or hand dryer are available for hand washing in kitchen and restrooms.			
30, 64	Servers wash hands before and after serving.			
30	Servers wash hands in appropriate sink designated for hand washing, not in dish washing sink.			
21-22	Garbage cans are lined and clean with lid. Trash is disposed of properly.			
22,45	Refrigerator is clean, holds food at $\leq 41^{\circ}\text{F}$ , enough capacity to store cold food items.			
22, 45	Freezer is clean, has thermometer, frozen meals frozen.			
47, 70-73,75	Tea/coffee urn is clean and sanitized.			
65	Sanitizing solution is available, labeled and is appropriate strength.			
66	Staff able to properly check thermometers in ice bath.			
42	Two properly working food thermometers on hand.			
54	All supplies stored at least 6" off floor and in a contained area.			
24	Adequate pest control.			How often serviced:
11, 51	Wiping cloths are clean and kept in sanitizing solution.			
53	No eating, drinking, smoking or chewing in the kitchen.			
page		YES	NO	COMMENTS
25	Mops / brooms stored not in direct contact w/ floor.			

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## Senior Center Assessment Tool

[illegible]

**Senior Center  
Assessment Tool**

36,38	Only those pans being served from are removed from hot/cold storage first.			
41	Kitchen area is appropriately cleaned after service.			
41	Pans washed, utensils cleaned and properly sanitized, supplies returned to storage area.			
41, 85	Comments about food are solicited and recorded on Item Delivery Ticket.			
<b>K) C-2 / Home Bound Meals</b>				
14-15	Current list of Home Delivered Meal Recipients on File.			
13-15	Meals are delivered only to eligible clients.			
13-15	Homebound waiting list is maintained at center.			
16	C-2 clients are periodically reminded about contributions.			
14-15	Participant information is maintained at the center for accurate record keeping.			
32, 38	3 compartment trays / cup lids are dated.			
22, 38-39	Home delivery meal containers are adequate in size and quantity and properly sealed for cold/hot.			
41, 48	Home delivery containers are clean and sanitized.			
39	Home delivery route is completed in less than 2 hours.			
*5	Vehicle is free of odors, dirt, grime, and pets.			
* Module 5 Course Book of Food Safety on the Go				
<b>L) Observations / Comments</b>				
<p><b>Menu Served:</b>      <b>Menu #</b></p>				
<p><b>Estimated Number of Servings left after all meals were served:</b></p>				
<p><b>Comments concerning meals in general: Shelf Stable Meals: Picnic:</b></p>				
<p><b>Physical Needs of Facility:</b></p>				

**Senior Center  
Assessment Tool**

<b>Additional Information of Interest:</b>
<b>Equipment Concerns:</b>
<b>Supply Concerns:</b>
<b>Reimbursement Concerns:</b>

**Senior Center  
Assessment Tool**

revised August 2018

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*Assessment of Financial Management of Aging Program*

**Senior Centers – M4A      Fiscal Year 2018**

County: \_\_\_\_\_ Senior Center: \_\_\_\_\_

Manager's Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Type of Audit:	Routine: <input type="checkbox"/>	Requested: <input type="checkbox"/>	By: _____	Date: _____
Reason for Request: _____				
Period Covered: _____				

1. Name(s) of counter(s) interviewed: \_\_\_\_\_

2. How many contribution boxes do you have?:    1    2    3    4    5    Other: \_\_\_\_\_

3. Do all of your boxes lock?    Yes \_\_\_\_\_    No \_\_\_\_\_ if no, \_\_\_\_\_

4. Where are boxes when contributions are made? \_\_\_\_\_

5. Where are the boxes when you leave? \_\_\_\_\_

6. Where are the keys to the boxes stored and who has access to the keys? \_\_\_\_\_

\_\_\_\_\_

7. Please describe the procedure for counting the contributions: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

8. When/How often are the contributions counted? \_\_\_\_\_

9. Who gets MO/deposit slip? \_\_\_\_\_ How Often? \_\_\_\_\_

10. Is a copy of the Nutrition Manual (Alabama Elderly Nutrition Program: Guide to Meal Services) on file?    Y    N

11. Date of most current authorized counters sheet: \_\_\_\_\_

12. Were counters listed on sheet? Yes \_\_\_\_\_ No \_\_\_\_\_ if no, \_\_\_\_\_

\_\_\_\_\_

Final Comments:

Senior Center Manager Signature

\_\_\_\_\_

Date

\_\_\_\_\_

Auditor Signature

\_\_\_\_\_

Date

\_\_\_\_\_

**Assessment of Financial Management of Aging Program**

**Contractors – M4A      Fiscal Year 2018**

County: \_\_\_\_\_ Contractor: \_\_\_\_\_ Amt. of Grant Funds: \_\_\_\_\_

Assessor: \_\_\_\_\_ Contact Person: \_\_\_\_\_ Phone: \_\_\_\_\_

Type of Audit:	Routine: <input type="checkbox"/>	Requested: <input type="checkbox"/>	By: _____	Date: _____
Reason for Request: _____				
Period Covered: _____				
Last Independent Audit: _____ By: _____				

**Monitoring Objectives:**

- To determine whether Aging Program Funds are expended for budgeting purposes and properly accounted for.
- To recommend where appropriate action is necessary to promote greater efficiency in fiscal management.

**Fiscal Procedures:**

**I. BANKING:**

1. Number of signatures required on checks: \_\_\_\_\_ Who signs checks? \_\_\_\_\_

2. Are all bank statements available for year?    **Y**    **N**      Are bank reconciliations done?    **Y**    **N**

**II. DOCUMENTATION:**

**YES   NO**

1. Does documentation exist to show that financial records are maintained for five years or until resolution of legal action or litigation?      \_\_\_\_\_

2. Are you providing supporting documentation with your monthly report? On File?      \_\_\_\_\_

3. Are the monthly reports submitted to M4A within the required number of days following the end of each month?      \_\_\_\_\_

4. Does Contractor have the current declaration of insurance for the senior center?      \_\_\_\_\_

**III. ACCOUNTS PAYABLE/RECEIVABLE:**

1. Who is responsible for accounts payable? \_\_\_\_\_

2. Does the Contractor have accessible documentation as to receipts and expenditures?      \_\_\_\_\_

3. Are supporting documents marked paid with the check number and date paid noted to prevent duplicate payment?      \_\_\_\_\_

4. Are all reimbursements to Contractor deposited promptly and properly accounted for?      \_\_\_\_\_

5. Are all financial transactions approved by Contractor's authorized individual?      \_\_\_\_\_

6. Who is authorized to approve invoices for payment? \_\_\_\_\_

**V. INVENTORY:**

1. Are inventory records for senior center maintained and accurate?      \_\_\_\_\_

Contractor Signature

Date

Auditor Signature

Date



Exhibit F  
**BUSINESS ASSOCIATE AGREEMENT**  
**BETWEEN**  
**MIDDLE ALABAMA AREA AGENCY ON AGING**  
**AND**  
**CITY OF ALABASTER**

This Agreement is entered into by and between **Middle Alabama Area Agency on Aging**, hereinafter “**Provider**,” and the **City of Alabaster**, hereinafter “**Business Associate**.” This agreement is effective this the **1st day of October, 2023** and terminates upon the termination of the relationship of the parties in accordance with provision 4 of this agreement.

The Business Associate preforms certain services on behalf of or for the Provider pursuant to the underlying Agreement that requires the exchange of information including protected health information protected by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended by the American Recovery and Reinvestment Act of 2009 (Pub. 1, No. 111-5)(the “HITECH Act”), any associated regulations and the federal regulations published at 45 CFR Parts 10 and 164 (sometimes collectively referred to as “HIPAA”). The Provider is a “Covered Entity” as that term is defined in HIPAA, and the Parties to the underlying Agreement are entering into this Agreement to establish the responsibilities of both Parties regarding HIPAA-covered information and to bring the underlying Agreement into compliance with HIPAA.

Whereas, it is desirable, in order to further the continued efficient operations of the Provider to disclose to its Business Associate certain information which may contain confidential individually identifiable health information (hereafter, Protected Health Information or PHI); and

Whereas, it is the desire of both Parties that the confidentiality of the PHI disclosed hereunder be maintained and treated in accordance with all applicable laws relating to confidentiality, including the Privacy and Security Rules, the HITECH Act and its associated regulations, and the Parties do agree to at all times treat the PHI and interpret this Agreement consistent with that desire.

NOW THEREFORE, the Parties agree that in consideration of the mutual promises herein, in the Agreement, and of the exchange of PHI hereunder that:

- 1. Definitions.** Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms in the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Parts 160 and 164.
  - a. **Privacy Officer** shall mean the Provider’s HIPAA Privacy Officer.
  - b. **Agent** shall mean those person(s) who are agent(s) of the Business Associate, in accordance with the federal common law, as referenced in 45 CFR §160.402(c).

- c. **Breach** shall mean the acquisition, access, use or disclosure of protected health information which compromises the security of privacy of such information except as excluded in the definition of “breach” in 45 CFR §164.402.
- d. **Business Associate** shall have the meaning given to such term in 45 CFR §160.103.
- e. **HITECH Act** shall mean the Health Information Technology for Economic and Clinical Health Act. Public Law No. 111-05. 111<sup>th</sup> Congress (2009).
- f. **Privacy Rule** means the Standards for Privacy of Individually Identifiable Health Information found at 45 CFR Parts 160 and 164.
- g. **Protected Health Information or PHI** shall have the meaning given to such term in 45 CFR §160.103 limited to the information created or received by Business Associate from or on behalf of Provider.
- h. **Security incident** means any known successful or unsuccessful attempt by an authorized or unauthorized individual to inappropriately use, disclose, modify, access, or destroy any information or interference with system operations in an information system.
- i. **Security Rule** means the Security Standards for the Protection of Electronic Protected Health Information found in 45 CFR Parts 160 and 164.
- j. **Subcontractor** means a person to whom a Business Associate delegates a function, activity, or service, other than in the capacity of a member of the workforce of such Business Associate.

## **2. Permitted Uses and Disclosures.**

- a. **PHI Described.** This means PHI created, received, maintained or transmitted on behalf of the Provider by the Business Associate. This PHI is governed by this Agreement and is limited to the minimum necessary to complete the tasks or to provide the services associated with the terms of the original Agreement, and is generally described in Appendix A.
- b. **Purposes.** Except as otherwise limited in this Agreement, Business Associate may use or disclose the PHI on behalf of, or to provide services to, Provider for purposes necessary to complete the tasks, or provide the services, associated with, and required by the terms of the original Agreement, or as required by law, if such use or disclosure of the PHI would not violate the Privacy or Security Rules or applicable state law if done by the Provider or Business Associate or violate the minimum necessary and related Privacy and Security Policies and Procedures of

the Provider. The Business Associate is directly liable under HIPAA for impermissible uses and disclosures of the PHI it handles on behalf of Provider.

- c. **Further Uses and Disclosures.** Except as otherwise limited in this Agreement, the Business Associate may disclose PHI to third Parties for the purpose of its own proper management and administration, or as required by law, provided that (a) the disclosure is required by law; or (b) the Business Associate has obtained from the third party reasonable assurances that the PHI will be held confidentially and used or further disclosed only as required by law or for the purpose for which it was disclosed to the third party by the Business Associate; and (c) there is an agreement to notify the Business Associate and Provider of any instance of which the third party is aware that the confidentiality of the information has been breached. To the extent practical, the information should be in a limited data set or the minimum necessary information pursuant to 45 CFR §164.502.

### 3. Obligations of Business Associate

- a. **Stated Purposes Only.** The PHI may not be used by the Business Associate for any purpose other than as stated in this Agreement or as required or permitted by law.
- b. **Limited Disclosure.** The PHI is confidential and will not be disclosed by the Business Associate other than as stated in this Agreement or as required or permitted by law. Business Associate is prohibited from directly or indirectly receiving any remuneration in exchange for an individual's PHI unless Provider gives written approval and the individual provides a valid authorization. Business Associate will refrain from marketing activities that would violate HIPAA, including specifically Section 13406 of the HITECH Act. Business Associate will report to Provider any use or disclosure of the PHI, including any security incident not provided for by this Agreement of which it becomes aware. However, the Business Associate shall not be required to report an immaterial incident consisting solely of trivial incidents that occur on a daily basis, such as scans, "pings," or an unsuccessful attempt to improperly access PHI that is stored in an information system under its control.

Business Associate shall report to Provider use or disclosure of PHI provided the use or disclosure of the PHI was in the possession of the Business Associate or a subcontractor or agent of Business Associate.

- c. **Safeguards.** The Business Associate will use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information, to prevent use or disclosure of the PHI, except as provided for in this Agreement. This shall include, but not be limited to:

- i. Limitations of the groups of its workforce and agents, to whom the PHI is disclosed to those reasonably required to accomplish the purposes stated in this Agreement, and the use and disclosure of the minimum PHI necessary or a Limited Data Set;
  - ii. Appropriate notification and training of its workforce and agents in order to protect PHI from unauthorized use and disclosure;
  - iii. Maintenance of a comprehensive, reasonable and appropriate PHI privacy and security program that includes administrative, technical and physical safeguards appropriate to the size, nature, scope, and complexity of the Business Associate's operations, in compliance with the Security Rule; and
  - iv. In accordance with 45 CFR §§ 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any subcontractors that create, receive, maintain, or transmit PHI on behalf of the Business Associate agree to the same restriction, conditions, and requirements that apply to the Business Associate with respect to such information.
- d. **Compliance with Law.** The Business Associate will not use or disclose the PHI in a manner in violation of existing law and specifically not in violation of laws relating to confidentiality of PHI, including but not limited to the Privacy and Security Rules.
- e. **Mitigation.** Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of the PHI by Business Associate in violation of the requirements of this Agreement and report its mitigation activity back to the Provider.
- f. **Support of Individual Rights.**
  - i. **Access to PHI.** Business Associate shall make the PHI maintained by Business Associate or its agents or subcontractors in Designated Record Sets available to Provider for inspection and copying, and in electronic format, if requested, within five (5) days of a request by Provider to enable Provider to fulfill its obligations under the Privacy Rule, including but not limited to 45 CFR §164.524 and consistent with Section 13405 of the HITECH Act.
  - ii. **Amendment of PHI.** Within five (5) days of receipt of a request from Provider for an amendment of the PHI or a record about an individual contained in a Designated Record Set, Business Associate or its agents or

subcontractors shall make such PHI available to Provider for amendment and incorporate any such amendments to enable Provider to fulfill its obligations under the Privacy Rule including, but not limited to, 45 CFR §165.526.

- iii. **Accounting Rights.** Within thirty (30) days of notice or a request for an accounting of disclosures of the PHI, Business Associate and its agents or subcontractors shall make available to Provider the documents required to provide an accounting of disclosures to enable Provider to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR §164.528 and consistent with Section 13405 of the HITECH Act, Business Associate agrees to document disclosures of the PHI and information related to such disclosures as would be required for Provider to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 CFR §164.528. This should include a process that allows for an accounting to be collected and maintained by Business Associate and its agents or subcontractors for at least six (6) years from the date of disclosure, or longer if required by state law. At a minimum, such documentation shall include:
- The date of disclosure;
  - The name of the entity or person who received the PHI and, if known, the address of the entity or person;
  - A brief description of the PHI disclosed; and
  - A brief statement of purposes of the disclosure that reasonably informs the individual of the basis for the disclosure or a copy of the individual's authorization, or a copy of the written request for disclosure.
- iv. **Request for Restriction.** Under the direction of the Provider, abide by any individual's request to restrict the disclosure of PHI, consistent with the requirements of Section 13405 of the HITECH Act and 45 CFR §164.522, when the Provider determines to do so, except as required by law, and if the disclosure is to a health plan for payment or health care operations and it pertains to a health care item or service for which the health care provider was paid in full "out-of-pocket."
- v. **Immediate Discontinuance of Use of Disclosure.** The Business Associate will immediately discontinue use or disclosure of Provider PHI pertaining to any individual when so requested by Provider. This includes, but is not limited to, cases in which an individual has withdrawn or modified an authorization to use or disclose PHI.

- g. **Retention of PHI.** Notwithstanding Section 4.a. of this Agreement, Business Associate and its subcontractors or agents shall retain all PHI pursuant to state and federal law and shall continue to maintain the PHI required under Section 3.f. of this Agreement for a period of six (6) years after termination of the Agreement, or longer if required under state law.
- h. **Agent's and Subcontractor's Compliance.** The Business Associate shall notify the Provider of all subcontracts and agreements relating to the Agreement, where the subcontractor or agent receives PHI as described in Section 2.a. of this Agreement. Such notification shall occur within thirty (30) calendar days of the execution of the subcontract and shall be delivered to the Provider's Privacy Officer and Provider's Office Manager. The Business Associate will ensure that any of its subcontractors, to whom it provides any of the PHI it receives hereunder, or to whom it provides any PHI which the Business Associate creates or receives on behalf of Provider, agree to the restrictions and conditions which apply to the Business Associate hereunder. The Provider may request copies of downstream subcontracts and agreements to determine whether all restrictions, terms and conditions have been flowed down. Failure to ensure that downstream contracts, subcontracts and agreements contain the required restrictions, terms and conditions may result in termination of the Agreement.
- i. **Federal and Provider Access.** The Business Associate shall make its internal practices, books, and records relating to the use and disclosure of PHI, as well as the PHI, received from, or created or received by the Business Associate on behalf of the Provider available to the U.S. Secretary of Health and Human Services consistent with 45 CFR §164.504. The Business Associate shall also make these records available to Provider, or Provider's contractor, for periodic audit of Business Associate's compliance with the Privacy and Security Rules. Upon Provider's request, the Business Associate shall provide proof of compliance with HIPAA and HITECH data privacy/protection guidelines, certification of a secure network and other assurances relative to compliance with the Privacy and Security Rules. This section shall also apply to Business Associate's subcontractors, if any.
- j. **Security.** The Business Associate shall take all steps necessary to ensure the continuous security of all PHI and data systems containing PHI. In addition, compliance with 74 FR 19006 Guidance Specifying the Technologies and Methodologies that Render PHI Unusable, Unreadable, or Indecipherable to Unauthorized Individuals for Purposes of the Breach Notification Requirements under Section 3402 of Title XIII is required, to the extent practicable.
- k. **Notification of Breach.** During the term of this Agreement, the Business Associate shall notify the Provider's Office Manager within five (5) days of a

breach, understanding that the Provider's Privacy Officer would already have notice, by e-mail or web form, upon the discovery of the breach of unsecured PHI of any suspected security incident, intrusion or unauthorized data affecting this Agreement. The Business Associate shall not be required to report an immaterial incident consisting solely of trivial incidents that occur on a daily basis, such as scans, "pings," or an unsuccessful attempt to improperly access PHI that is stored in an information system under its control.

The Business Associate shall investigate such security incident, breach or unauthorized use or disclosure of PHI or confidential data. Within five (5) days of the discovery, the Business Associate shall notify the Provider's Privacy Officer and Provider's Office Manager, unless otherwise directed by the Provider in writing: (a) Date of Discovery; (b) What data elements were involved and the extent of the data involved in the breach; (c) A description of the unauthorized person(s) known or reasonably believed to have improperly used or disclosed PHI or confidential data; (d) A description of where the PHI or confidential data is believed to have been improperly transmitted, sent, or utilized; (e) A description of the probable causes of the improper use or disclosure; and (f) Whether any federal or state laws requiring individual notifications of breaches are triggered.

Provider will coordinate with Business Associate to determine additional specific actions that will be required of the Business Associate for mitigation of the breach, which may include notification to the individual or other authorities.

The Business Associate shall be responsible for any and all costs associated with the notification and mitigation of a breach that has occurred because of the negligence of the Business Associate. This may include, but is not limited to, costs associated with notifying affected individuals.

If the Business Associate enters into a subcontract relating to the Agreement where the subcontractor or agent receives PHI as described in Section 2.2a. of this Agreement, all such subcontracts or downstream agreements shall contain the same incident notification requirements as contained herein, with reporting directly to the Provider's Privacy Officer. Failure to include such requirements in any subcontract or agreement may result in the Provider's termination of the Agreement.

1. **Assistance in Litigation or Administrative Proceedings.** The Business Associate shall make itself and any subcontractors, workforce or agents assisting Business Associate in the performance of its obligation under this Agreement, available to the Provider at no cost to the Provider to testify as witnesses or otherwise, in the event of litigation or administrative proceedings being commenced against the Provider, its officers, or employees based upon claimed

violation of HIPAA, the HIPAA regulations or other laws relating to security and privacy, which involves inaction or actions by the Business Associate, except where Business Associate or its subcontractors, workforce or agent is named as an adverse party.

#### **4. Agreement Administration.**

- a. **Term.** This Agreement shall terminate upon termination of the underlying Agreement or on the date the Provider terminates for causes as authorized in paragraph “c” of this Section, whichever is sooner.
- b. **Duties at Termination.** Upon any termination of the underlying Agreement, the Business Associate shall return or destroy, at the Provider’s option, all PHI received from, or created, or received by the Business Associate on behalf of the Provider that the Business Associate still maintains in any form and retain no copies of such PHI or, if such return or destruction is not feasible, the Business Associate shall extend the protections of this Agreement to the PHI and limit further uses and disclosures to the purposes that make the return or destruction of the PHI infeasible. This shall also apply to all agents and subcontractors of the Business Associate. The duty of the Business Associate and its agents and subcontractors to assist the Provider with any HIPAA required accounting of disclosures survives the termination of the underlying Agreement.
- c. **Termination for Cause.** Business Associate authorizes termination of this Agreement by Provider if Provider determines Business Associate has violated a material term of the Agreement. Provider may, at its sole discretion, allow Business Associate a reasonable period of time to cure the material breach before termination.
- d. **Judicial or Administrative Proceedings.** The Provider may terminate this Agreement if the Business Associate is found guilty of a criminal violation of HIPAA. The Provider may terminate this Agreement if the finding or stipulation that the Business Associate has violated a standard or requirement of HIPAA/HITECH, or other security or privacy laws is made in any administrative or civil proceeding in which the Business Associate is a party or has been joined. Business Associate shall be subject to prosecution by the Department of Justice for violations of HIPAA/HITECH.
- e. **Survival.** The respective rights and obligations of the Business Associate under this Agreement shall survive the termination of the underlying Agreement.



**5. General Provisions/Ownership of PHI.**

- a. **Retention of Ownership.** Ownership of the PHI resides with the Provider and is to be returned upon demand or destroyed at the Provider's option, at any time, and is subject to the restrictions found within Section 4.b. above.
- b. **Secondary PHI.** Any data or PHI generated from the PHI disclosed hereunder which would permit identification of an individual must be held confidential and is also the property of the Provider.
- c. **Electronic Transmission.** Except as permitted by law or this Agreement, PHI or any data generated from the PHI which would permit identification of an individual must not be transmitted to another party by electronic or other means for additional uses or disclosures not authorized by this Agreement or to another contractor or allied Provider, or affiliate without prior written approval of the Provider.
- d. **No Sales.** Reports or data containing the PHI may not be sold without the Provider's or the affected individual's written consent.
- e. **No Third-Party Beneficiaries.** Nothing expressed or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than the Provider, Business Associate and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.
- f. **Interpretations.** The provisions of this Agreement shall prevail over any provisions in the Agreement that may conflict or appear inconsistent with any provisions in this Agreement. The interpretation of this Agreement shall be made under the laws of the State of Alabama.
- g. **Amendment.** The Parties agree that, to the extent necessary to comply with applicable laws, they will agree to further amend this Agreement.
- h. **Additional Terms and Conditions.** Additional discretionary terms may be included in the release order or change order process.

**For Provider:**

Middle Alabama Area Agency on Aging

\_\_\_\_\_  
*Signature of Authorized Agent*

Carolyn Fortner, Executive Director

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

Mailing Address:  
P.O. Drawer 618  
Saginaw, AL 35137

Physical Address (if different):  
209 Cloverdale Circle  
Alabaster, AL 35007-4652

Telephone: 205-670-5770

Fax: 205-378-4198

E-Mail: [cfortner@m4a.org](mailto:cfortner@m4a.org)

**For Business Associate:**

\_\_\_\_\_  
*Print Name of Business Associate*

\_\_\_\_\_  
*Signature of Authorized Agent*

\_\_\_\_\_  
*Name of Authorized Agent*

\_\_\_\_\_  
*Title of Authorized Agent*

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

Mailing Address:

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

Physical Address (if different):

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

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

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

## **APPENDIX A**

Patient information from **Middle Alabama Area Agency on Aging** may be shared with **City of Alabaster** (Name of Business Associate) in accordance with the Business Associate Agreement. Examples of Protected Health Information (PHI) that may be shared include, but not limited to:

(List below)