

**STATE OF NORTH CAROLINA**

**COUNTY OF CHATHAM**

**THIS AGREEMENT**, made and entered into by and between **CHATHAM COUNTY**, a public body politic and corporate of the State of North Carolina, hereinafter referred to as "**Chatham County**" or the "**County**" and the **Chatham County Council of Aging**, a North Carolina non-profit, hereinafter referred to as "**the Provider**";

**NOW, THEREFORE**, in consideration of the mutual promises contained herein and other good and valuable considerations, the parties hereto agree as follows:

**SECTION 1. TERM OF AGREEMENT**

Subject to the terms and conditions hereinafter set forth, the term of this Agreement shall be **July 1, 2019 - June 30, 2020**.

**SECTION 2. MAXIMUM AMOUNT PAYABLE \$1,073,033**

Subject to the terms and conditions hereinafter set forth, Chatham County agrees to pay the Provider for approved services provided, up to and not to exceed the maximum amount of **One Million Seventy-three Thousand, Thirty-three Dollars** during the term of this Agreement, with no minimum payment guarantee.

**SECTION 3. METHOD OF PAYMENT**

Payment for services will be made in **equal monthly installments** not to exceed a maximum amount of **\$960,845, or \$80,070** per month. The remaining **\$112,188 will be reimbursed upon request**, per the terms of the County's annual funding letter.

**SECTION 4. SERVICES TO BE PROVIDED**

4.1. The Provider agrees to meet the needs of the elderly in Chatham County by promoting independent living, supporting family caregiving, enhancing physical and mental wellness, and coordinating community, financial and volunteer resources so that the cost of remaining at home will generally be lower than the costs associated with institutional care for adults aged 60 and older.

The Provider agrees to serve as the local Designated Lead Agency for the State's Home and Community Care Block Grant (HCCBG) and adhere to the requirements associated with this responsibility. The Provider agrees to administer services under the HCCBG, pursuant to the HCCBG funding plan recommended by a citizen advisory committee and approved by the County Commissioners. The HCCBG allows for the provision of a broad range of services designed to improve the quality of life for older adults. These services are intended to provide home and community-based services in support of older adults and their unpaid primary caregivers. HCCBG funds shall be spent according to the County's approved funding plan.

Chatham County does not operate as a pass through agent for HCCBG funds. The Provider receives its designated allocation and reimbursement for HCCBG directly from the Triangle J Council of Governments and receives the requisite match for HCCBG from Chatham County.

The Provider also accepts and administers other public and private funds in a way that assures proper stewardship of these resources.

Services of the Provider will include:

- Home-based services, including in-home aide personal care, Meals-on-Wheels (home-delivered meals), frozen and shelf-stable meals, minor home repair and the loaning of mobility and assistive equipment, which enable older adults to continue living in their own homes and avoid premature and costly care in a facility.
- Health, wellness, nutrition, recreational, educational and social programs and activities at both senior centers, which are State-certified Centers of Excellence. The Provider agrees to do what is necessary to maintain this State certification.
- Information and referral assistance, as well as options counseling to support older adults and caregivers in maintaining a high quality of life in the community and understanding what resources are available to help with this.
- Support of family caregivers of older adults and younger adults with dementia who are striving to continue living at home through respite, support groups, training and other means.

The Provider is expected to collaborate with other health and human services agencies, educational institutions, volunteers and professionals to extend health care access to underserved older adults throughout the County, including the provision of general and medical transportation.

The Provider is expected to stay informed of relevant demographics and other statistics, raise awareness about the aging of Chatham's growing population and encourage efforts to assure that Chatham remains an age-friendly community where there are opportunities for social and civic engagement, continuous learning, fitness, and an appreciation for the life accomplishments of older adults and their continuing contributions to the community.

The Provider will advocate for older adults and their caregivers on a wide range of matters.

4.2 The Provider must maintain satisfactory Home and Community Care Block Grant reviews conducted by the Triangle J Area Agency on Aging.

## **SECTION 5. STANDARD OF PERFORMANCE**

5.1 The Provider warrants and represents that it possesses the special skill and professional competence, expertise and experience to undertake the obligations imposed by this Agreement. The Provider agrees to carry out its work in a diligent, efficient, competent, and skillful manner, and to devote such time as is necessary to perform services under this Agreement.

5.2 The Provider agrees to comply with all federal, state, and local statutes, regulations, and ordinances and rules applying to Provider's performance hereunder.

5.3 The Provider agrees that the personnel performing services under this Agreement shall possess licensure or qualification required to perform the services hereunder, when and where applicable. In the event of a suspension, disciplinary action, or other adverse change in the licensure or qualification of any personnel performing services under this Agreement, the Provider shall no longer assign responsibilities under this Agreement to such personnel.

## **SECTION 6. REPORTING OF PERFORMANCE AND ANNUAL BUDGET REQUEST**

The Senior Services Director of the Provider shall report performance on County goals and objectives in a frequency and manner acceptable to the County. Performance reporting will occur during bi-monthly meetings with the County Manager, annually in the work plan published in the budget document, and also reported annually as requested in the State of the County report. In addition to reporting performance related to work plan goals, any progress or accomplishments made towards Commissioners' goals set at the annual retreat shall also be reported in the work plan.

The Provider will adhere to the current County policies and procedures in regards to the annual budget process. This includes adhering to the budget calendar and submitting a copy of the Provider's budget to the County.

## **SECTION 7. RELATIONSHIP OF PARTIES**

The County and the Provider agree that the Provider is an independent contractor and shall not represent itself or be deemed as an officer, agent or employee of the County for any purpose. The Provider represents that it has or will secure at its own expense, all personnel required in performing the services under this Agreement except for the positions of Executive Director (Senior Services Director) and Deputy Director/Finance Officer (Accounting Specialist). Such personnel, other than those specified in the preceding sentence, shall not be employees of or have any contractual relationship with the County. The Provider agrees that all personnel engaged in work under this Agreement shall be fully qualified and shall be authorized or permitted under State and local law to perform such services. The Provider further agrees that it shall obey all State and Federal statutes, rules and regulations which are applicable to provisions of the services called for herein.

The aforementioned positions of Senior Services Director and Accounting Specialist are County employees "loaned" to the Provider. The Senior Services Director is directly supervised by the County Manager. The Accounting Specialist is supervised by the Senior Services Director. These loaned employees shall perform such duties, tasks, and undertakings as shall be assigned to them by the Provider's Board of Directors as well as by the County per the terms of the "Loaned Employee Agreement".

The County shall retain the right to hire, discipline and discharge these "loaned employees" subject to the County's Personnel Policy. The County may invite the President of the Provider's Board of Directors to provide input regarding the performance of the Senior Services Director. The Provider's Board of Directors may request that the County take disciplinary action with respect to either one or both of the "loaned employees" regarding duties, tasks or undertakings performed or failed to be performed. The County shall investigate any such request received from the Provider's Board of Directors but shall have no obligation to take any disciplinary action unless the County, as employer, deems such action is warranted.

The County agrees to make these two "loaned employees" available to the Provider at no cost or charge. The compensation to be paid to these employees and the benefits to be provided shall be established by the County.

**SECTION 8. CANCELLATION**

This Agreement may be cancelled by either party for any reason upon thirty (30) days written notice to the other party.

**SECTION 9. INSURANCE REQUIREMENTS**

At its expense, the Provider shall participate in the Cincinnati Insurance Companies with minimum coverage limits at all times as follows:

Worker's Compensation: \$1,000,000/1,000,000/1,000,000

General Liability: \$1,000,000/2,000,000

Automobile Liability: \$1,000,000 Combined Single Limit

Directors and Officers Liability: \$1,000,000/\$2,000,000

Employment Practices Liability: \$1,000,000/2,000,000

Physical Abuse, Sexual Misconduct/Sexual Abuse & Molestation: \$1,000,000/2,000,000

Social Services Professional Liability: \$1,000,000/2,000,000

Commercial Umbrella: \$2,000,000

**SECTION 10. NO ASSIGNMENT OR SUBCONTRACTING**

Provider shall not assign or subcontract any portion of this Agreement, including any duties or obligations hereunder, including the right to receive payment from the County, to any party without the prior written approval of the County.

**SECTION 11. NON-APPROPRIATION**

The Provider recognizes that Chatham County is a governmental entity, and that the County's funding obligations under this Agreement are contingent upon the availability of funds.

In the event that funds are not available, or not appropriated, to pay for the Services specified in this Agreement, then this Agreement shall automatically terminate upon notice to the Provider without penalty to the County and without the thirty (30) day notice requirement set forth in Section 7.

In the event of a change in Chatham County's statutory authority, mandate, or mandated functions, which adversely affects Chatham County's authority to continue its obligations under this Agreement, then this Agreement shall automatically terminate upon notice to the Provider without penalty to Chatham County and without the thirty (30) day notice requirement set forth in Section 7.

## **SECTION 12. NO THIRD PARTY BENEFICIARIES**

This Agreement is not intended for the benefit of any third party. The rights and obligations contained herein belong exclusively to the parties hereto, and this Agreement shall not confer any rights or remedies upon any person or entity other than the parties hereto.

## **SECTION 13. NO WAIVER OF SOVEREIGN IMMUNITY**

Chatham County and the Provider agree that nothing in this Agreement shall be construed to mandate the purchase of insurance by the County pursuant to N.C.G.S. 153A-435; or to be inconsistent with Chatham County's "Resolution Regarding Limited Waiver of Sovereign Immunity" enacted October 6, 2003; or in any other way waive the County's defense of sovereign or governmental immunity from any cause of action alleged or brought against the County for any reason if otherwise available as a matter of law.

## **SECTION 14. GOVERNING LAW**

The parties acknowledge that this Agreement shall be governed by the laws of the State of North Carolina.

## **SECTION 15. ENTIRE AGREEMENT**

The terms and provisions herein contained constitute the entire Agreement between the County and the Provider and shall supersede all previous communications, representations or agreements, either oral or written between the parties hereto with respect to the subject matter of this Agreement.

## **SECTION 16. NOTICES**

All notices, reports, records, or other communications which are required or permitted to be given to the parties under the terms of this Agreement shall be sufficient in all respects and effective upon receipt if given in writing and delivered in person, transmitted by overnight courier, or by registered or certified mail, postage prepaid, return receipt requested, to the receiving party at the following address:

If to Chatham County: Chatham County, Attn: County Manager, Post Office 1809, Pittsboro, North Carolina 27312

If to Provider: Chatham County Council on Aging, Attn: Executive Director, PO Box 715, Pittsboro, North Carolina 27312.

## **SECTION 17. SEVERABILITY**

If any provision of this Agreement shall be determined to be unenforceable by a court of competent jurisdiction, such determination will not affect any other provision of this Agreement.

## **SECTION 18. COUNTERPARTS**

This Agreement may be executed in several counterparts, each of which shall be deemed an original.

## **SECTION 19. EFFECTIVE DATE OF AGREEMENT**

The effective date of this Agreement shall be the date upon which it is finally executed by the County.

## **SECTION 20. STATE AND FEDERAL REQUIREMENTS; COUNTY TERMS AND CONDITIONS**

By signing this Agreement Contractor certifies that (*if applicable*) Contractor, and any of Contractor's subcontractor are in compliance with State and Federal laws, including any divestment list by the NC State Treasurer, and Federal or State debarment or suspension lists. The County Terms and Conditions are incorporated herein, made an integral part of this Agreement, and may be found at following link: <http://www.chathamnc.org/finance>. A hard copy of the Terms and Conditions is available upon request.

## **SECTION 21. MONITORING**

The County may from time to time conduct fiscal, administrative, and/or programmatic monitoring to assure Provider's compliance with applicable State and Federal regulations, applicable County policy and procedure, funding recipient requirements (if applicable) , or the terms of the Agreement. The frequency and the intensity of the monitoring will be at the discretion of Chatham County, and nothing herein shall be construed to relieve the Provider of the requirements of this Agreement in the absence of monitoring. The Provider shall cooperate with Chatham County monitoring as follows:

1. The Provider shall maintain and permit the County or its authorized representative to audit, examine, and make copies of or extracts from all records, in whatever form they exist, related to activities under this Agreement, including, original receipts, cancelled checks, a detailed general ledger, and an inventory of supplies/equipment purchased with funds under this Agreement, program expenditures, eligibility requirements, program data, revenue, billing records, receipts, records to substantiate programmatic outcomes and compliance with all applicable contract terms and laws and regulations, licensure, and insurance, and any other documents needed to substantiate invoices.
2. The Provider shall make available to the County its annual audit report no later than December 1st of the current fiscal year.
3. The Provider shall permit unannounced on-site visits or a pre-arranged requests for access to records.
4. When requested by the County, the Provider will make records available for duplication or supply copies.
5. The Provider shall maintain all records related to activities under this Agreement for at least five (5) years after the conclusion of the Agreement.

The County will attempt in good faith to resolve any dispute with the Provider related to the subject matter of this Agreement. To ensure accountability and future program success, the County may, but is not required, to present a list of suggested corrective actions to the Provider. If presented, the Provider will ensure that each issue is addressed within thirty (30) days from the time notice of the issue is received unless a different timeframe is agreed upon. Nothing in this clause shall be construed as prohibiting either party from immediately applying to a court of competent jurisdiction located in Chatham County for legal or equitable relief or terminating this Agreement pursuant to Section 7.

**CHATHAM COUNTY COUNCIL ON AGING, INC.**

Dennis W. Streets

Dennis W. Streets, Executive Director

Date 06/26/2019

Larry Ross

Larry Ross, Board President

Date: 6/26/19

**CHATHAM COUNTY**

Dan LaMontagne

Dan LaMontagne, County Manager

Date: 06-27-19

Mike Dasher

Mike Dasher, Chair  
Chatham County Board of Commissioners

Date: 06-27-19

This instrument has been pre-audited in the manner required  
by the Local Government Budget and Fiscal Control Act

Vicki McConnell

Vicki McConnell, Finance Director