

**REFERRAL RATE AGREEMENT BETWEEN BROWARD COUNTY AND
THE NORTHWEST FOCAL POINT SENIOR CENTER DISTRICT
FOR COMMUNITY-BASED SERVICES FOR THE ELDERLY**

Contract #: 22-EVSD-ADC-1440-01

This is a Referral Rate Agreement (“Agreement”) between Broward County, a political subdivision of the State of Florida (“County”), and The Northwest Focal Point Senior Center District, a municipality (“Vendor”). County and Vendor are collectively referred to as the (“Parties”).

RECITALS

A. This Agreement will enable Vendor to provide services not otherwise funded by any other public funding source.

B. The Board of County Commissioners of Broward County has found and declared that funding given to Vendor to be for a County and public purpose.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE 1. DEFINITIONS

- 1.1. **Applicable Law** means all applicable laws, codes, advisory circulars, rules, regulations, or ordinances of any federal, state, county, municipal, or other governmental entity, as may be amended.
- 1.2. **Board** means the Board of County Commissioners of Broward County, Florida.
- 1.3. **Contract Administrator** means the Broward County Administrator, the Director or Deputy Director of the Human Services Department, or the Director of the Broward County Elderly and Veterans Services Division. The primary responsibilities of the Contract Administrator are to coordinate and communicate with Vendor and to manage and supervise performance of the Services in accordance with the terms of this Agreement.
- 1.4. **County Administrator** means the administrative head of County appointed by the Board.
- 1.5. **County Attorney** means the chief legal counsel for County appointed by the Board.
- 1.6. **Services** means all work required by Vendor under this Agreement, including without limitation all deliverables, consulting, training, project management, or other services specified in Exhibit A.
- 1.7. **Subcontractor** means an entity or individual providing services to County through Vendor for all or any portion of the work under this Agreement. The term “Subcontractor” includes all subconsultants.

ARTICLE 2. SCOPE OF SERVICES, RATES, AND INVOICING

- 2.1. Vendor must provide the Services stated in Exhibit A, "Scope of Services," and must adhere to the rates stated in Exhibit B, "Approved Vendor Rates." Vendor must further adhere to the billing or invoicing requirements further detailed in Exhibit A. Vendor accepts the reimbursement rates listed in Exhibit B as complete compensation for the Services provided.
- 2.2. Vendor may submit invoices no more than on a monthly basis, but only after the Services for which the invoices are submitted have been completed. An original invoice plus one copy are due in accordance with the program-specific invoice schedules attached as Exhibits D1, D2, and D3. Invoices must designate the Services performed and, as applicable, the personnel, hours, tasks, or other details as requested by the Contract Administrator. If Vendor subcontracts any Services under this Agreement, Vendor must submit with each invoice a Certification of Payments to Subcontractors and Suppliers (Exhibit G). The certification must be accompanied by a copy of the notification sent to each unpaid Subcontractor listed on the form, explaining the good cause why payment has not been made to that Subcontractor.
- 2.3. Vendor must pay Subcontractors and suppliers within fifteen (15) days following receipt of payment from County for such subcontracted work or supplies. If Vendor withholds an amount as retainage from Subcontractors or suppliers, Vendor must release the retainage and pay it within fifteen (15) days following receipt of payment of retained amounts from County. Failure to pay a Subcontractor or supplier in accordance with this subsection is a material breach of this Agreement, unless Vendor demonstrates that such failure to pay results from a bona fide dispute with the Subcontractor or supplier and, further, Vendor promptly pays the applicable amounts to the Subcontractor or supplier upon resolution of the dispute. Vendor must include requirements substantially similar to those set forth in this subsection in its contracts with Subcontractors and suppliers.
- 2.4. County will pay Vendor within thirty (30) days of receipt of Vendor's proper invoice along with all required documentation (a sample invoice is attached as Exhibit C), as required by the "Broward County Prompt Payment Ordinance," Section 1-51.6, Broward County Code of Ordinances. To be proper, all invoices must comply with the requirements stated in this Agreement and must be submitted on the form and in accordance with instructions given by the Contract Administrator. County may withhold payment to Vendor for conduct which, in the Contract Administrator's discretion, constitutes Vendor's failure to comply with a term of this Agreement. County may, in the Contract Administrator's discretion, deduct and set off against any amounts otherwise owed Vendor by County any previous overpayments made by County to Vendor for Services.
- 2.5. Notwithstanding any provision of this Agreement to the contrary, County may withhold, in whole or in part, payment to the extent necessary to protect itself from loss on account of inadequate or defective work that has not been remedied or resolved in a manner satisfactory to the Contract Administrator or failure to comply with this Agreement. The amount withheld will not be subject to payment of interest by County.

- 2.6. At the request of County, Vendor must participate in County’s Human Services Client information software system (“Client Information System”). Vendor must work with County in an effort to eliminate duplication in Services and personnel among other health and human services organizations that receive funds from County. Vendor must work with County to ensure that all federal, state, and local laws regarding confidentiality are adhered to in collecting and reporting Client information. Vendor will use its staff who provides case management functions in a coordinated effort with County and other health and human services providers so that its staff is assigned at the Client’s first point of entry into the human services network. Vendor will be responsible for (1) coordinating Services to specific families and households; and (2) conducting follow-up activities designed to prevent Clients from becoming dependent on the Services after restorative Services are completed.

ARTICLE 3. TERM AND TIME OF PERFORMANCE

- 3.1. Term. The term of this Agreement begins on July 1, 2021 (“Effective Date”), and ends on June 30, 2022 (“Initial Term”). County has the option to renew this Agreement for up to two (2) additional one-year periods (each individually referred to as an “Option Period”) at the Contract Administrator’s sole option. If County elects to exercise its option to renew, the Contract Administrator will notify Vendor of the election, in writing, before the expiration of the Initial Term or then-applicable Option Period.
- 3.2. Renewal Rates and Terms. For any renewal beyond the Initial Term, Vendor will be compensated at the rates in effect, unless otherwise expressly stated in Exhibit B, when County notifies Vendor of exercising its option to renew. Vendor will continue to provide the Services upon the same terms stated in this Agreement for the Renewal Period.
- 3.3. Fiscal Year. The continuation of this Agreement beyond the end of any County fiscal year is subject to both the appropriation and the availability of funds in accordance with Chapter 129, Florida Statutes.

ARTICLE 4. CHANGE IN SCOPE OF SERVICES

Any change to the Services will only be effective if stated in a written amendment executed by the Parties in accordance with the Amendments section 10.19.

ARTICLE 5. SOVEREIGN IMMUNITY

Except to the extent sovereign immunity may be deemed waived by entering into this Agreement, nothing in this Agreement is intended to serve as a waiver of sovereign immunity by County nor will anything included in this Agreement be construed as consent by County to be sued by third parties in any matter arising out of this Agreement. Vendor is a state agency or political subdivision as defined in Section 768.28, Florida Statutes, and will be responsible for the negligent or wrongful acts or omissions of its employees in accordance with Section 768.28, Florida Statutes.

ARTICLE 6. INSURANCE

- 6.1. Throughout the Term, Vendor must, at its sole expense, maintain the minimum insurance coverages stated in Exhibit F in accordance with the terms and conditions of this article. Vendor must maintain insurance coverage against claims relating to any act or omission by Vendor, its agents, representatives, employees, or Subcontractors in connection with this Agreement. County reserves the right at any time to review and adjust the limits and types of coverage required under this article.
- 6.2. Vendor must ensure that "Broward County" is listed and endorsed as an additional insured as stated in Exhibit F on all policies required under this article.
- 6.3. On or before the Effective Date or at least fifteen (15) days prior to commencement of Services, Vendor must provide County with a copy of all Certificates of Insurance or other documentation sufficient to demonstrate the insurance coverage required in this article. If and to the extent requested by County, Vendor must provide complete, certified copies of all required insurance policies and all required endorsements within thirty (30) days after County's request.
- 6.4. Vendor must ensure that all insurance coverages required by this article will remain in full force and effect without any lapse in coverage throughout the Term and until all performance required by Vendor has been completed, as determined by the Contract Administrator. Vendor or its insurer must provide notice to County of any cancellation or modification of any required policy at least thirty (30) days prior to the Effective Date of cancellation or modification, and at least ten (10) days prior to the Effective Date of any cancellation due to nonpayment, and must concurrently provide County with a copy of its updated Certificates of Insurance evidencing continuation of the required coverages.
- 6.5. Vendor must ensure that all required insurance policies are issued by insurers: (1) assigned an A.M. Best rating of at least "A-" with a Financial Size Category of at least Class VII; (2) authorized to transact insurance in the State of Florida; or (3) a qualified eligible surplus lines insurer in accordance with Section 626.917 or 626.918, Florida Statutes, with approval by County's Risk Management Division.
- 6.6. If Vendor maintains broader coverage or higher limits than the minimum insurance requirements stated in Exhibit F, County will be entitled to all such broader coverage and higher limits maintained by Vendor. All required insurance coverages must provide primary coverage and must not require contribution from any County insurance, self-insurance or otherwise, which will be in excess of and will not contribute to the insurance required and provided by Vendor.
- 6.7. Vendor must declare in writing any self-insured retentions or deductibles over the limits prescribed in Exhibit F and submit to County for approval at least fifteen (15) days prior to the Effective Date or commencement of Services. Vendor will be solely responsible for and will pay any deductible or self-insured retention applicable to any claim against County. County may, at any time, require Vendor to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim

administration, and defense expenses within the retention. Vendor agrees that any deductible or self-insured retention may be satisfied by either the named insured or County, if so elected by County, and Vendor will obtain same in endorsements to the required policies.

- 6.8. Unless prohibited by the applicable policy, Vendor waives any right to subrogation that any of Vendor's insurer may acquire against County and will obtain same in an endorsement of Vendor's insurance policies.
- 6.9. Vendor must require that each Subcontractor maintains insurance coverage that adequately covers the Services provided by that Subcontractor on substantially the same insurance terms and conditions required of Vendor under this article. Vendor must ensure that all such Subcontractors comply with these requirements and that "Broward County" is named as an additional insured under the Subcontractors' applicable insurance policies. Vendor must not permit any Subcontractors to provide Services unless and until all applicable requirements of this article are satisfied.
- 6.10. If Vendor or any Subcontractor fails to maintain the insurance required by this Agreement, County may pay any costs of premiums necessary to maintain the required coverage and deduct such costs from any payment otherwise due to Vendor. If requested by County, Vendor must provide, within one (1) business day, evidence of each Subcontractor's compliance with this section.
- 6.11. If any of the policies required under this article provide claims-made coverage, (1) any retroactive date must be prior to the Effective Date; (2) the required coverage must be maintained after termination or expiration of the Agreement for at least the duration stated in Exhibit F; and (3) if coverage is canceled or nonrenewed and is not replaced with another claims-made policy form with a retroactive date prior to the Effective Date, Vendor must obtain and maintain "extended reporting" coverage that applies after termination or expiration of the Agreement for at least the duration stated in Exhibit F.

ARTICLE 7. TERMINATION

- 7.1. This Agreement may be terminated for cause by the aggrieved party if the party in breach has not corrected the breach within ten (10) days after receipt of written notice from the aggrieved party identifying the breach. This Agreement may also be terminated for convenience by the Board. Termination for convenience by the Board will be effective on the termination date stated in written notice provided by County, which termination date will be not less than thirty (30) days after the date of the written notice. Unless otherwise stated in this Agreement, if this Agreement was approved by Board action, termination for cause by County must be by action of the Board or the County Administrator; in all other instances, termination for cause may be effected by the County Administrator, the County representative expressly authorized under this Agreement, or the County representative (including any successor) who executed the Agreement on behalf of County. This Agreement may also be terminated by the County Administrator upon such notice as the County Administrator deems appropriate under the circumstances if the

County Administrator determines that termination is necessary to protect the public health, safety, or welfare. If County erroneously, improperly, or unjustifiably terminates for cause, such termination will be deemed a termination for convenience and will be effective thirty (30) days after such notice of termination for cause is provided and Vendor will be eligible for the compensation provided in Section 7.4. as its sole remedy.

- 7.2. This Agreement may be terminated for cause by County for reasons including but not limited to the Vendor's failure to suitably or continuously perform the Services in a manner calculated to meet or accomplish the objectives in this Agreement, or repeated submission (whether negligent or intentional) for payment of false or incorrect bills or invoices.
- 7.3. Notice of termination must be provided in accordance with the "Notices" section of this Agreement except that notice of termination by the County Administrator to protect the public health, safety, or welfare may be oral notice that must be promptly confirmed in writing.
- 7.4. If this Agreement is terminated for convenience by County, Vendor will be paid for any Services properly performed under this Agreement through the termination date specified in the written notice of termination, subject to any right of County to retain any sums otherwise due and payable. Vendor acknowledges that it has received good, valuable, and sufficient consideration from County, the receipt and adequacy of which are acknowledged by Vendor, for County's right to terminate this Agreement for convenience in the form of County's obligation to provide advance notice to Vendor of such termination in accordance with Section 7.1.
- 7.5. In addition to any right of termination stated in this Agreement, County will be entitled to seek any and all available contractual or other remedies at law or in equity.

ARTICLE 8. EQUAL EMPLOYMENT OPPORTUNITY

No party may discriminate on the basis of race, color, sex, religion, national origin, disability, age, marital status, political affiliation, sexual orientation, pregnancy, or gender identity and expression in the performance of this Agreement. Vendor must include the foregoing or similar language in its contracts with any Subcontractors, except that any project assisted by the U.S. Department of Transportation funds must comply with the nondiscrimination requirements in 49 C.F.R. Parts 23 and 26.

ARTICLE 9. REPRESENTATIONS AND WARRANTIES

- 9.1. Representation of Authority. Vendor represents and warrants that this Agreement constitutes the legal, valid, binding, and enforceable obligation of Vendor, and that neither the execution nor performance of this Agreement constitutes a breach of any agreement that Vendor has with any third party or violates Applicable Law. Vendor further represents and warrants that execution of this Agreement is within Vendor's legal powers, and each individual executing this Agreement on behalf of Vendor is authorized

by all necessary and appropriate action to do so on behalf of Vendor and does so with full legal authority.

- 9.2. Discriminatory Vendor and Scrutinized Companies Lists; Countries of Concern. Vendor represents that it has not been placed on the discriminatory vendor list as provided in Section 287.134, Florida Statutes, and that it is not a scrutinized company under Sections 215.473 or 215.4725, Florida Statutes. Vendor represents and certifies that it is not, and for the duration of the term will not be, ineligible to contract with County on any of the grounds stated in Section 287.135, Florida Statutes. Vendor represents that it is, and for the duration of the term will remain, in compliance with Section 286.101, Florida Statutes.
- 9.3. Warranty of Performance. Vendor represents and warrants that it possesses the knowledge, skill, experience, and financial capability required to perform and provide all required Services under this Agreement, and that each person and entity that will provide Services under this Agreement is duly qualified to perform the Services by all appropriate governmental authorities, where required, and is sufficiently experienced and skilled in any areas for which such person or entity will render Services. Vendor represents and warrants that the Services under this Agreement will be performed in a skillful and respectful manner, and that the quality of all Services will equal or exceed prevailing industry standards for the provision of the Services.
- 9.4. Minimum Standards of Performance and Warranty of Licensure. Vendor must adhere to the minimum pre-service and in-service training requirements as required by licensure and as stated in Chapter 400, Florida Statutes. Vendor represents that it is a licensed entity or is registered in the State of Florida, and Vendor will continue to be so licensed or registered at all times Services are performed under this Agreement.
- 9.5. Breach of Representations. Vendor acknowledges that County is materially relying on the representations, warranties, and certifications of Vendor stated in this article, and County will be entitled to exercise any or all of the following remedies if such representation, warranty, or certification is untrue: (i) recovery of damages incurred; (ii) termination of this Agreement without any further liability to Vendor; (iii) set off from any amounts due Vendor the full amount of any damage incurred; and (iv) debarment of Vendor.

ARTICLE 10. MISCELLANEOUS

- 10.1. Rights in Documents and Work. Any and all reports, photographs, surveys, documents, materials, data, or other work created by Vendor in connection with performing Services whether finished or unfinished ("Documents and Work") will be owned by County and, Vendor hereby transfers to County all rights, title, and interest, including any copyright or other intellectual property rights in or to the Documents and Work. Upon expiration or termination of this Agreement, the Documents and Work will become the property of County and must be delivered by Vendor to the Contract Administrator within seven (7) days after expiration or termination of this Agreement. Any compensation due to Vendor may be withheld until all Documents and Work are received as provided in this

Agreement. Vendor must ensure that the requirements of this section are included in all agreements with any of its Subcontractors.

- 10.2. Public Records. To the extent Vendor is acting on behalf of County as stated in Section 119.0701, Florida Statutes, Vendor must:
- 10.2.1. Keep and maintain public records required by County to perform the Services under this Agreement;
 - 10.2.2. Upon request from County, provide County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time and at a cost that does not exceed that provided in Chapter 119, Florida Statutes, or as otherwise provided by Applicable Law;
 - 10.2.3. Ensure that public records that are (i) exempt or (ii) confidential and exempt from public record requirements are not disclosed except as authorized by Applicable Law for the duration of this Agreement and after completion or termination of this Agreement if the records are not transferred to County; and
 - 10.2.4. Upon completion or termination of this Agreement, transfer to County, at no cost, all public records in possession of Vendor or keep and maintain public records required by County to perform the Services. If Vendor transfers the records to County, Vendor must destroy any duplicate public records that are (i) exempt or (ii) confidential and exempt. If Vendor keeps and maintains the public records, Vendor must meet all applicable requirements for retaining public records. All records stored electronically must be provided to County upon request in a format that is compatible with the information technology systems of County.

A request for public records regarding this Agreement must be made directly to the County, who will be responsible for responding to any such public records requests. Vendor will provide any requested records to County to enable County to respond to the public records request.

Any material submitted to County that Vendor contends constitutes or contains trade secrets or is otherwise exempt from production under Florida public records laws (including Chapter 119, Florida Statutes) ("Trade Secret Materials") must be separately submitted and conspicuously labeled "EXEMPT FROM PUBLIC RECORD PRODUCTION – TRADE SECRET." In addition, Vendor must, simultaneously with the submission of any Trade Secret Materials, provide a sworn affidavit from a person with personal knowledge attesting that the Trade Secret Materials constitute trade secrets under Section 688.002, Florida Statutes, and stating the factual basis for same. If a third party submits a request to County for records designated by Vendor as Trade Secret Materials, County will refrain from disclosing the Trade Secret Materials, unless otherwise ordered by a court of competent jurisdiction or authorized in writing by Vendor. Vendor will indemnify and defend County and its employees and agents from any and all claims, causes of action, losses, fines, penalties, damages, judgments and liabilities of any kind, including

attorneys' fees, litigation expenses, and court costs, relating to the nondisclosure of any Trade Secret Materials in response to a records request by a third party.

IF VENDOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO VENDOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (954) 357-6622, FMUNOZ@BROWARD.ORG, ELDERLY AND VETERANS SERVICES DIVISION, 1 NORTH UNIVERSITY DRIVE, SUITE 4108B, PLANTATION, FLORIDA 33324.

- 10.3. Audit Rights and Retention of Records. County has the right to audit the books, records, and accounts of Vendor and its Subcontractors that are related to this Agreement. Vendor and its Subcontractors must keep such books, records, and accounts as may be necessary to record complete and correct entries related to this Agreement and performance under this Agreement. All such books, records, and accounts of Vendor and its Subcontractors must be kept in written form, or in a form capable of conversion into written form within a reasonable time, and upon request to do so, Vendor or its Subcontractors must make same available in written form at no cost to County.

Vendor and its Subcontractors must preserve and make available, at reasonable times within Broward County, Florida, for examination and audit all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for at least three (3) years after expiration or termination of this Agreement or until resolution of any audit findings, whichever is longer. Any audit or inspection in accordance with this section may be performed by any County representative (including any outside representative engaged by County). Vendor hereby grants County the right to conduct such audit or review at Vendor's place of business, if deemed appropriate by County, with seventy-two (72) hours' advance notice.

Any incomplete or incorrect entry in such books, records, and accounts will be a basis for County's disallowance and recovery of any payment upon such entry. If an audit or inspection in accordance with this section discloses overpricing or overcharges to County of any nature by Vendor in excess of five percent (5%) of the total contract billings reviewed by County, in addition to making adjustments for the overcharges, Vendor must pay the actual cost of County's audit or, if the actual cost is unreasonably high, the reasonable cost. Any adjustments or payments due as a result of such audit or inspection must be made within thirty (30) days after presentation of County's findings to Vendor.

Vendor must ensure that the requirements of this section are included in all agreements with its Subcontractors, by written agreement, if authorized to subcontract.

- 10.4. HIPAA Compliance. County has access to protected health information ("PHI") that is subject to the requirements of 45 C.F.R. Parts 160, 162, and 164 and related regulations. If Vendor is considered by County to be a covered entity or business associate or is required to comply with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") or the Health Information Technology for Economic and Clinical Health Act

("HITECH"), Vendor must fully protect individually identifiable health information as required by HIPAA or HITECH and, if requested by County, must execute a Business Associate Agreement in the form attached as Exhibit E for the purpose of complying with HIPAA, HITECH, or other Applicable Law.

The County Administrator is authorized to execute a Business Associate Agreement on behalf of County. Where required, Vendor must handle and secure such PHI in compliance with HIPAA, HITECH, and related regulations and, if required by HIPAA, HITECH, or other laws, include in its "Notice of Privacy Practices" Vendor's and County's uses of Client's PHI. The requirement to comply with this provision, HIPAA, and HITECH will survive the expiration or termination of this Agreement. Vendor must ensure that the requirements of this section are included in all agreements with its Subcontractors.

- 10.5. Background Screening. Vendor must ensure compliance with Chapter 435, Florida Statutes, and all federal, state, and local statutes, whenever background screening for employment or a background security check is required by Applicable Law for employment. Vendor must maintain these screening requirements and records of same for volunteers or employees based on the population served.
- 10.6. E-Verify and Verification of Employment Eligibility. If Vendor is a recipient, directly or indirectly, of federal or state funds under this Agreement, Vendor must register with and use the E-Verify system maintained by the U.S. Department of Homeland Security ("DHS"), in accordance with the terms and conditions governing the use of the system by:
 - 10.6.1. Verifying the employment eligibility or work authorization status of all persons that Vendor employs during the term of this Agreement to perform Services under this Agreement in compliance with the requirements of Section 448.095, Florida Statutes.
 - 10.6.2. Enrolling in the E-Verify program within thirty (30) days after the Effective Date of this Agreement by obtaining a copy of the "Edit Company Profile" page and making such record available to Broward County within seven (7) days after request from County.
 - 10.6.3. Requiring all persons, including Subcontractors, assigned by Vendor to perform Services under this Agreement to enroll and participate in the E-Verify program within ninety (90) days after the Effective Date of this Agreement or within ninety (90) days after the Effective Date of the Agreement between Vendor and the Subcontractor, whichever is later. Vendor must obtain from the Subcontractor a copy of the printout of the "Edit Company Profile" screen indicating enrollment in the E-Verify program and make the printout screen available to County within seven (7) days after County's request.
 - 10.6.4. Displaying the notices supplied by DHS in a prominent place that is clearly visible to prospective employees and all employees who are to be verified through the E-Verify system.

- 10.6.5. Initiating E-Verify verification procedures for new employees within three (3) business days after the actual work start date of each new hire and thereafter responding appropriately to any additional requests from DHS or Social Security Administration.
- 10.6.6. Maintaining records of its participation and compliance with the provisions of the E-Verify program and making such records available to County within seven (7) days after County's request.

Vendor represents that its entry into this Agreement will not violate Section 448.095, Florida Statutes. If Vendor violates this section, County may immediately terminate this Agreement for cause and Vendor will be liable for all costs incurred by County due to the termination.

- 10.7. Independent Contractor. Vendor is an independent contractor of County, and nothing in this Agreement will constitute or create a partnership, joint venture, or any other relationship between the Parties. In providing Services under this Agreement, neither Vendor nor its agents will act as officers, employees, or agents of County. Vendor does not have the right to bind County to any obligation not expressly undertaken by County under this Agreement.
- 10.8. Notices. In order for a notice to a party to be effective under this Agreement, notice must be sent via U.S. first-class mail, hand delivery, or commercial overnight delivery, each with a contemporaneous copy via email, to the addresses listed below and will be effective upon mailing or hand delivery (provided the contemporaneous e-mail is also sent). The addresses for notice must remain as stated in this section unless and until changed by providing notice of the change in accordance with this section.

FOR COUNTY:

Elderly and Veterans Services Division
Andrea Busada, Director
1 N. University Drive
Suite 4108B
Plantation, Florida 33324
Email address: abusada@broward.org

FOR VENDOR:

The Northwest Focal Point Senior Center District
Karin Diaz, Project Director
6009 NW 10th Street
Margate, FL 33063
Email address: karindiaz@margatefl.com

- 10.9. Assignment. Except for subcontracting approved in writing by County at the time of its execution of this or any written amendment to this Agreement, neither this Agreement nor any right or interest in this Agreement may be assigned, transferred, subcontracted,

or encumbered by Vendor without the prior written consent of County. Any assignment, transfer, encumbrance, or subcontract in violation of this section will be void. If Vendor violates this provision, County has the right to immediately terminate this Agreement, in addition to any other rights and remedies at law or in equity.

- 10.10. Third-Party Beneficiaries. Neither Vendor nor County intends to directly or substantially benefit a third party by this Agreement. Therefore, the Parties acknowledge that there are no third-party beneficiaries to this Agreement and that no third party will be entitled to assert a right or claim against either of them based upon this Agreement.
- 10.11. Materiality and Waiver of Breach. Each requirement, duty, and obligation stated in this Agreement was bargained for at arm's length and is agreed to by the Parties. Each requirement, duty, and obligation in this Agreement is substantial and important to the formation of this Agreement, and each is, therefore, a material term. County's failure to enforce any provision of this Agreement will not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach will not be deemed a waiver of any subsequent breach and will not be construed to be a modification of this Agreement. To be effective, any waiver must be in writing signed by an authorized signatory of the party.
- 10.12. Conflicts. Neither Vendor nor its employees will have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with Vendor's loyal and conscientious exercise of judgment and care related to its performance under this Agreement. During the term of this Agreement, none of Vendor's officers or employees will serve as an expert witness against County in any legal or administrative proceeding in which he, she, or Vendor is not a party, unless compelled by court process. Further, such persons must not give sworn testimony or issue a report or writing as an expression of his or her expert opinion that is adverse or prejudicial to the interests of County in connection with any such pending or threatened legal or administrative proceeding unless compelled by court process. The limitations of this section will not preclude Vendor or any persons in any way from representing themselves, including giving expert testimony in support of such representation, in any action or in any administrative or legal proceeding. If Vendor is permitted under this Agreement to utilize Subcontractors to perform any Services required by this Agreement, Vendor must require such Subcontractors, by written contract, to comply with the provisions of this section to the same extent as Vendor.
- 10.13. Compliance with Laws. Vendor and the Services it provides must comply with all Applicable Law including without limitation Americans with Disabilities Act, 42 U.S.C. § 12101, Section 504 of the Rehabilitation Act of 1973, and the requirements of any applicable grant agreements.
- 10.14. Severability. If any part of this Agreement is found to be unenforceable by any court of competent jurisdiction, that part will be deemed severed from this Agreement and the balance of this Agreement will remain in full force and effect.

- 10.15. Joint Preparation. This Agreement has been jointly prepared by the Parties and will not be construed more strictly against either party.
- 10.16. Interpretation. The titles and headings contained in this Agreement are for reference purposes only and do not affect in any way the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement include the other gender, and the singular includes the plural, and vice versa, unless the context otherwise requires. Terms such as “herein” refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a section or article of this Agreement, such reference is to the section or article as a whole, including all subsections of the section or article, unless the reference is made to a particular subsection or subparagraph of such section or article. Any reference to “days” means calendar days, unless otherwise expressly stated.
- 10.17. Priority of Provisions. If there is a conflict or inconsistency between any term, statement, requirement, or provision of any document or exhibit attached to, referenced, or incorporated in this Agreement and any provision of Articles 1 through 10 of this Agreement, the provisions contained in Articles 1 through 10 will prevail and be given effect.
- 10.18. Law, Jurisdiction, Venue, Waiver of Jury Trial. This Agreement will be interpreted and construed in accordance with and governed by the laws of the State of Florida. The exclusive venue for any lawsuit arising from, related to, or in connection with this Agreement will be in the state courts of the Seventeenth Judicial Circuit in and for Broward County, Florida. If any claim arising from, relating to, or in connection with this Agreement must be litigated in federal court, the exclusive venue for any such lawsuit will be in the United States District Court or United States Bankruptcy Court for the Southern District of Florida. **EACH PARTY HEREBY EXPRESSLY WAIVES ANY RIGHTS IT MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT. IF A PARTY FAILS TO WITHDRAW A DEMAND FOR A JURY TRIAL AFTER WRITTEN NOTICE BY THE OTHER PARTY, THE PARTY MAKING THE DEMAND FOR JURY TRIAL WILL BE LIABLE FOR REASONABLE ATTORNEYS’ FEES AND COSTS OF THE OTHER PARTY TO CONTEST THE DEMAND FOR JURY TRIAL, AND SUCH AMOUNTS WILL BE AWARDED BY THE COURT IN ADJUDICATING THE MOTION.**
- 10.19. Amendments. No modification, amendment, or alteration of any portion of this Agreement is effective unless contained in a written document executed with the same or similar formality as this Agreement and by duly authorized representatives of County and Vendor.
- 10.20. Prior Agreements. This Agreement represents the final and complete understanding of the Parties regarding the subject matter and supersedes all prior and contemporaneous negotiations and discussions regarding that subject matter. All commitments, agreements, and understandings concerning the subject matter of this Agreement are contained in this written document.

10.21. Payable Interest.

10.21.1. Payment of Interest. Unless prohibited by Applicable Law, County will not be liable for interest to Vendor for any reason, whether as prejudgment interest or for any other purpose, and Vendor waives, rejects, disclaims, and surrenders any and all entitlement to interest in connection with a dispute or claim arising from, related to, or in connection with this Agreement. This paragraph does not apply to any claim for interest, including for post-judgment interest, if such application would be contrary to Applicable Law.

10.21.2. Rate of Interest. If the preceding subsection is inapplicable or is determined to be invalid or unenforceable by a court of competent jurisdiction, the annual rate of interest payable by County under this Agreement, whether as prejudgment interest or for any other purpose, will be, to the full extent permissible under Applicable Law, 0.25% (one quarter of one percent) simple interest (uncompounded).

10.22. Prohibited Telecommunications Equipment. Vendor represents and certifies that it and its Subcontractors do not use any equipment, system, or service that uses covered telecommunications equipment or Services as a substantial or essential component of any system, or as critical technology as part of any system, as such terms are used in 48 CFR §§ 52.204-24 through 52.204-26. Vendor represents and certifies that Vendor and its Subcontractors must not provide or use such covered telecommunications equipment, system, or Services during the Term.

10.23. Criminal History Screening Practices. If this Agreement is subject to the requirements of Section 26-125(d) of the Broward County Administrative Code, Vendor represents and certifies that its policies, practices, and procedures regarding inquiry into the criminal history of an applicant for employment, including a criminal history background check, preclude inquiry into an applicant's criminal history until the applicant is selected as a finalist and interviewed for the position.

10.24. Incorporation by Reference. The attached Exhibits A through G are incorporated into and made a part of this Agreement.

10.25. Counterparts and Multiple Originals. This Agreement may be executed in multiple originals, and may be executed in counterparts, each of which is deemed to be an original, but all of which, taken together, constitute one and the same agreement.

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IN WITNESS WHEREOF, the Parties have made and executed this Referral Rate Agreement: Broward County, through its Board of County Commissioners, signing by and through its County Administrator, authorized to execute same by Board action on the 23rd day of June 2015, and The Northwest Focal Point Senior Center District, signing by and through its Board Chair, duly authorized to execute same.

COUNTY

WITNESSES:

Broward County, by and through its
County Administrator

Signature

By: _____
Bertha Henry, County Administrator

Print/Type Name above

_____ day of _____, 2021

Signature

Approved as to form by
Andrew J. Meyers
Broward County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600

Print/Type Name above

By: _____
Karen S. Gordon (Date)
Senior Assistant County Attorney

KSG/bh
NW Focal Point-22-EVSD-ADC-1440-01-RRA
9/24/2021
#60067

REFERRAL RATE AGREEMENT BETWEEN BROWARD COUNTY AND THE NORTHWEST FOCAL POINT SENIOR CENTER DISTRICT, FOR COMMUNITY-BASED SERVICES FOR THE ELDERLY, CONTRACT # 22-EVSD-ADC-1440-01

VENDOR

The Northwest Focal Point Senior Center District

WITNESSES:

By: _____
Authorized Signature

Signature

Print or Type Signatory's Name and Title

Print or Type Name above

____ day of _____, 2021

Signature

Print or Type Name above

(Corporate Seal or Notary)

EXHIBIT A
SCOPE OF SERVICES

Agency Name: The Northwest Focal Point Senior Center District
Program Name: Community-Based Services for the Elderly
Services: Adult Day Care Services
Division: Elderly and Veterans Services Division

I. Statement of Purpose and General Vendor Obligations

Vendor will provide the Services based on Client referrals made by County to Vendor. Referrals are on a non-exclusive basis as County has entered into agreements with other vendors to also provide similar or identical Services to Clients.

Vendor will provide community-based services (“Services”) described in Section 430.203, Florida Statutes and organized in a continuum of care to help functionally impaired older people live in the least restrictive environment. Services include but are not limited to adult day care services, in-home healthcare services, medical or healthcare supplies, emergency alert response, and veterans’ community support services in the Community Care for the Elderly (“CCE”) program, Home Care for the Elderly (“HCE”) program, Alzheimer’s Disease Initiative (“ADI”), Wait List Reduction Program (“WLR”), and the Non-Department of Elder Affairs (non-DOEA Program or “NDP”) (all of the programs described in this paragraph are referred to as the “Programs”).

Vendor is to promote the development of a coordinated service delivery system to meet the needs of the elderly persons as defined in Chapter 430, Florida Statutes, who are at risk of premature institutionalization (“Clients”). Additionally, this Agreement enables Clients to receive Services from qualified vendors. These Services are provided so that the Clients may remain in the least restrictive setting and avoid or delay premature nursing home placement. Vendor must provide Services in a way that fosters the independence of each Client to live in a residence of the Client’s choice as long as the Client is able, as the Client ages. Vendor acknowledges that delivery of Services must be Client driven to the maximum extent possible. The Vendor must treat each Client with dignity and respect.

II. Objectives

The objectives are:

- A. To maintain a climate of cooperation and consultation between County and Vendor to achieve maximum efficiency and effectiveness.
- B. To promote programs and activities designed to prevent the premature institutionalization of Clients.
- C. To require the Parties to this Agreement to provide technical assistance and consultation to each other on matters pertaining to actual service delivery and share appropriate assessment information and care plans so duplication does not occur.

- D. To establish an effective working relationship between County, which is responsible for the development of care plans and authorization of Services (“Client Authorized Care Plan”) in the various Programs, and Vendor, which is responsible for direct provision of Services to Clients.

III. Responsibilities of Vendor

- A. Vendor must accept Clients authorized by the County for Services, including those enrolled in all Programs, and provide quality Services to all Clients. Provision of Services is subject to quality monitoring or observation by County.
- B. Vendor must update its name and other appropriate information on a list of approved County vendors, which must be shown to Client during development of an individualized plan of care, and Vendor understands that the Client reserves the right at all times to a choice of vendors approved by County.
- C. Vendor understands that new referrals through the Programs are made, and Services are authorized, by County’s Case Managers in accordance with the Department of Elder Affairs’ Client prioritization criteria.
- D. If the plan of care authorizes in-home services, Vendor must verify, at the service sites, that the Services are being provided as authorized and that quality-assured workers’ or aides’ time tickets comply with the approved plan of care. As applicable, Vendor must conduct such site verifications no less than every six (6) months during each term of this Agreement.
- E. Vendor must provide only those Services specifically outlined in the approved plan of care and authorized by County’s Case Managers.
- F. Vendor must immediately report any changes in the Client’s condition to County’s Case Manager.
- G. Vendor must immediately notify County of staffing shortfalls, which will negatively affect provision of Services to Clients.
- H. Vendor must participate and record all service transactions in the Client Information System, unless otherwise agreed by the Contract Administrator. Service activity reports, which are statements of individual billable service events, generated by this Client Information System or manual backup documentation, as agreed to by the Contract Administrator, must be signed by authorized Vendor personnel and attached to the invoice.
- I. Vendor must provide ten percent (10%) of the total cost per unit of all Services delineated in Exhibit B as a contribution to the CCE state grant.
- J. Vendor must submit an original proper invoice and the service activity reports referenced in paragraph H, to County’s Contract Administrator, by the due date indicated in Exhibits D1, D2, and D3 of this Agreement. Notwithstanding the provisions in Article 7, Vendor’s failure to adhere to invoice due dates will have the following consequences:

1. Upon first occurrence, the Contract Administrator will advise Vendor of its failure to meet invoice due date by way of letter to Vendor;
2. Upon second occurrence, the Contract Administrator will provide Vendor with written warning that next occurrence will result in suspension of referrals to Vendor for six (6) months;
3. Upon third occurrence, the Contract Administrator will provide Vendor with written notice that Vendor will not receive any referrals for six (6) months; and
4. Upon fourth occurrence, Vendor will be considered a performance failure, and this Agreement will be terminated, with all affected Clients transferred to another agency.

Invoices must indicate the summary of claims both at the reimbursement rate and the match rate so that Vendor's contributions are documented on the invoice.

- K. Vendor must not bill County for Services in excess of the authorized level of service as designated on the Client Authorized Care Plan.
- L. Vendor must not bill, charge, solicit, or accept payment directly from any Client referred by County for the Services.
- M. Vendor must submit any claim adjustment for Services rendered to Clients no later than thirty (30) days after the applicable Service invoice due date for the month in which those Services were delivered. In no event may Vendor present a year-end claim adjustment to County more than sixty (60) days after expiration or termination of this Agreement. Any error identified by either Party must be adjusted or voided within thirty (30) days. Vendor's refusal to adjust or void erroneous claims constitutes a material breach of this Agreement and cause for termination by County in accordance with Article 7.
- N. Vendor must maintain and implement a continuous quality improvement plan that includes but is not limited to a cultural competency plan acknowledging the various needs of Broward County's diverse population and measuring, at least annually, Client or caregiver satisfaction.
- O. Vendor must adhere to the policies and procedures as outlined in *the Department of Elder Affairs Client Services Manual* and *Home and Community-Based Services Handbook*.
- P. Vendor must maintain confidentiality regarding persons served, and abide by the Client confidentiality provisions of 45 C.F.R. Parts 160 and 164 (HIPAA Privacy Rule) and Sections 430.207 and 430.608, Florida Statutes.
- Q. Vendor must cooperate with County during pre-disaster and post-disaster phases by accepting Service-related assignments from County's Case Managers to ensure Clients served under this Agreement and other persons served with emergency needs are served in a timely manner. This commitment allows for County flexibility in reallocating human resources and service delivery schedules during this period to meet emergency and priority Client needs as identified by County's Case Managers.

- R. Vendor must maintain all Vendor qualifications contained in the *Department of Elder Affairs Manual*, as amended, and *Home and Community Services Handbook*, as amended, in accordance with which Services are provided.
- S. Vendor must attach required documentation regarding Vendor's qualifications to County's Community-Based Services for the Elderly Program Application, as requested for approval.

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EXHIBIT B
APPROVED VENDOR RATES

SERVICE	UNIT OF SERVICE	TOTAL UNIT COST	MATCH FUNDS	REIMBURSEMENT RATE
Adult Day Care	One Hour	\$10.60	\$1.05	\$9.55
Chore Services	One Hour	\$20.40	\$2.04	\$18.36
Emergency Alert Response System	Daily Phone Line	\$0.88	\$0.09	\$0.79
Homemaker	One Hour	\$17.78	\$1.78	\$16.00
Personal Care	One Hour	\$17.78	\$1.78	\$16.00
Respite Care	One Hour	\$17.78	\$1.78	\$16.00
24-Hour Respite Care	One Day	\$260.00	\$26.00	\$234.00
Specialized Medical Supplies	Per Item	Varies	10% Item Cost	90% Item Cost
Alzheimer's In-Home Respite Care	One Hour	\$16.00	Not Applicable	\$16.00
Alzheimer's Disease Initiative — Caregiver Training	Per Person	\$150.00	Not Applicable	\$150.00

EXHIBIT C
SAMPLE INVOICE

USE AGENCY LETTERHEAD

AGENCY NAME

AGENCY ADDRESS

FEDERAL ID NUMBER

COMMUNITY-BASED SERVICES FOR THE ELDERLY PROGRAMS *(Use separate invoice for each Program and each Service within the Program.)*

SERVICE: _____

DATES OF SERVICE PERIOD: FROM _____ TO _____

UNIT OF SERVICE RATE:

REIMBURSEMENT

MATCH COMMITMENT

Total Units _____

Total Units _____

Unit Cost (less 10%) X \$ _____

Match Unit Rate X \$ _____

Reimbursement \$ _____

Monthly Match Amount \$ _____

Applied Adjustments \$ _____

Applied Adjustments \$ _____

Reimbursement after
Adjustments \$ _____

Match after
Adjustments \$ _____

I hereby certify and affirm (i) that the Services billed in this invoice have been delivered on behalf of Broward County in accordance with the Agreement, and Services were rendered in accordance with the Client Authorized Care Plan, (ii) that requested **signed** reports from the Client Information System are attached representing billed units, and (iii) that sufficient written information is available to document Services.

Prepared by: _____	Date: _____
Approved by: _____	Date: _____

EXHIBIT D1
INVOICE DUE DATES

Programs: CCE and ADI

SERVICE MONTH	<u>Service Period</u>		INVOICE DUE DATE
	From	To	
July	07/01/21	07/10/21	07/21/21
August	07/11/21	08/14/21	08/25/21
September	08/15/21	09/11/21	09/22/21
October	09/12/21	10/16/21	10/27/21
November	10/17/21	11/13/21	11/24/21
December	11/14/21	12/11/21	12/22/21
January	12/12/21	01/15/22	01/26/22
February	01/16/22	02/12/22	02/23/22
March	02/13/22	03/12/22	03/23/22
April	03/13/22	04/16/22	04/27/22
May	04/17/22	05/14/22	05/25/22
June	05/15/22	06/30/22	07/06/22

EXHIBIT D2
INVOICE DUE DATES

Programs: NDP and WLR

SERVICE MONTH	<u>Service Period</u>		INVOICE DUE DATE
	From	To	
July	07/01/21	07/10/21	07/21/21
August	07/11/21	08/14/21	08/25/21
September	08/15/21	09/11/21	09/22/21
October – A*	09/12/21	09/30/21	10/05/21
October – B*	10/01/21	10/16/21	10/27/21
November	10/17/21	11/13/21	11/24/21
December	11/14/21	12/11/21	12/22/21
January	12/12/21	01/15/22	01/26/22
February	01/16/22	02/12/22	02/23/22
March	02/13/22	03/12/22	03/23/22
April	03/13/22	04/16/22	04/27/22
May	04/17/22	05/14/22	05/25/22
June	05/15/22	06/30/22	07/06/22

*The October Service Month is being split into two separate Service Periods – “**October A**” and “**October B**” - due to Broward County’s Fiscal Year ending on September 30th and subsequent limitations within Broward County’s automated financial accounting system. Therefore, two invoices must be submitted for the October Service Month.

EXHIBIT D3
INVOICE DUE DATES

Program: HCE

SERVICE MONTH	<u>Service Period</u>		INVOICE DUE DATE
	From	To	
July	07/01/21	07/15/21	07/17/21
August	07/16/21	08/15/21	08/17/21
September	08/16/21	09/15/21	09/17/21
October	09/16/21	10/15/21	10/17/21
November	10/16/21	11/15/21	11/17/21
December	11/16/21	12/15/21	12/17/21
January	12/16/21	01/15/22	01/17/22
February	01/16/22	02/15/22	02/17/22
March	02/16/22	03/15/22	03/17/22
April	03/16/22	04/15/22	04/17/22
May	04/16/22	05/15/22	05/17/22
June – A*	05/16/22	06/15/22	06/17/22
June – B*	06/16/22	06/30/22	07/05/22

*The June Service Month is being split into two separate Service Periods – “**June A**” and “**June B**” - due to the Home Care for the Elderly’s eligibility period beginning on the 16th of each month and ending on the 15th of the following month, and the contract end date of June 30th. Therefore, two invoices must be submitted for the June Service Month.

EXHIBIT E

**BUSINESS ASSOCIATE AGREEMENT BETWEEN
BROWARD COUNTY, FLORIDA, AND THE NORTHWEST FOCAL POINT SENIOR CENTER DISTRICT**

This Business Associate Agreement (“BAA”) is entered into by and between Broward County, Florida (“County”), and The Northwest Focal Point Senior Center District, with its principal office located at 6009 NW 10th Street, Margate, FL 33063 (“Business Associate”) (each a “Party,” and collectively the “Parties”), in connection with the Referral Rate Agreement (the “Agreement”).

RECITALS

A. Business Associate provides services related to the operation of certain activities/programs that involve the use or disclosure of Protected Health Information (“PHI”).

B. The operation of such activities/programs is subject to the federal Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), the American Recovery and Reinvestment Act of 2009 (“ARRA”), and the Health Information Technology for Economic and Clinical Health Act (“HITECH”).

C. HIPAA, ARRA, and HITECH mandate that certain responsibilities of contractors with access to PHI be documented through a written agreement.

D. County and Business Associate desire to comply with the requirements of HIPAA, ARRA, and HITECH and acknowledge their respective responsibilities.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

Section 1: Definitions

1.1 All terms used in this BAA not otherwise defined herein shall have the meanings stated in the Privacy and Security Rules, 45 CFR Parts 160, 162, 164, and 42 U.S.C. § 17921.

1.2 “HIPAA Laws” means collectively HIPAA, ARRA, HITECH, 42 CFR Part 2 (if applicable), and the related regulations and amendments.

1.3 When the term “PHI” is used in this BAA, it includes electronic Protected Health Information (also known as “EPHI”).

1.4 “Penalties” as used in Section 4.21 below is defined as civil penalties that may be applied to the Business Associate and its workforce members by the Secretary (“Secretary”) of Health and Human Services (“HHS”). The amount of the penalties range depending on the type of violation. In determining penalties, the Secretary may take into account:

- a. the nature and extent of the violation;
- b. the nature and extent of harm resulting from such violation;
- c. the degree of culpability of the covered entity or business associate;
- d. the history of prior compliance with the administrative simplification provision including violations by the covered entity or business associate;
- e. the financial condition of the covered entity or business associate; and
- f. such other matters as justice may require.

Section 2: Effective Dates

This Agreement shall become effective the earlier of the date the Agreement is executed by the Parties or the date Business Associate begins to receive PHI for purposes of this Agreement (the "Effective Date").

Section 3: Confidentiality

3.1 County and Business Associate shall comply with all federal and state laws governing the privacy and security of PHI.

3.2 If this box is checked, County and Business Associate are required to comply with 42 CFR Part 2 with respect to patient identifying information concerning alcohol and substance abuse treatment.

Section 4: Obligations and Activities of Business Associate

Use and Disclosure of PHI

4.1 Business Associate shall not use or disclose PHI other than as permitted or required by this BAA or as required by law. Business Associate may:

- a. Use and disclose PHI only as necessary to perform its obligations under the Agreement, provided that such use or disclosure would not violate HIPAA Laws if done by County;
- b. Use the PHI received in its capacity as a Business Associate of County for its proper management and administration and to fulfill any legal responsibilities of Business Associate;
- c. Disclose PHI in its possession to a third party for the proper management and administration of Business Associate, or to fulfill any legal responsibilities of Business Associate, provided that the disclosure would not violate HIPAA Laws if made by County, or is required by law, and Business Associate has received from the third party written assurances that (i) the information will be kept confidential and used or further disclosed only for the purposes for which it was disclosed to the third party or as required by law; (ii) the third party will notify Business Associate of any instances of which it becomes aware in which the confidentiality of the information may have been breached; and

(iii) the third party has agreed to implement reasonable and appropriate steps to safeguard the information;

d. Use PHI to provide data aggregation activities relating to the operations of County; and

e. De-identify any and all PHI created or received by Business Associate under the Agreement, provided that the de-identification conforms to the requirements of the HIPAA Laws.

4.2 Business Associate is prohibited from selling PHI, using PHI for marketing purposes, or attempting to re-identify any PHI information in violation of HIPAA Laws. Business Associate agrees to comply with the "Prohibition on Sale of Electronic Health Records or Protected Health Information," as provided in Section 13405(d) of Subtitle D (Privacy) of ARRA, the "Conditions on Certain Contracts as Part of Health Care Operations," as provided in Section 13406 of Subtitle D (Privacy) of ARRA, and related guidance issued by the Secretary from time to time.

4.3 Business Associate acknowledges that, effective on the Effective Date of this BAA, it shall be liable under the civil and criminal enforcement provisions set forth at 42 U.S.C. § 1320d-5 and 1320d-6, as amended, for failure to comply with any of the use and disclosure requirements of this BAA and any guidance issued by the Secretary from time to time with respect to such use and disclosure requirements.

Administrative, Physical, and Technical Safeguards

4.4 Business Associate shall implement the administrative safeguards set forth at 45 C.F.R. § 164.308, the physical safeguards set forth at 45 C.F.R. § 164.310, the technical safeguards set forth at 45 C.F.R. § 164.312, and the policies and procedures set forth at 45 C.F.R. § 164.316, to reasonably and appropriately protect the confidentiality, integrity, and availability of the PHI that it creates, receives, maintains, or transmits on behalf of County. Business Associate acknowledges that, effective on the Effective Date of this BAA, (a) the foregoing safeguards, policies, and procedures requirements shall apply to Business Associate in the same manner that such requirements apply to County, and (b) Business Associate shall be liable under the civil and criminal enforcement provisions set forth at 42 U.S.C. § 1320d-5 and 1320d-6, as amended from time to time, for failure to comply with the safeguards, policies, and procedures requirements and any guidance issued by the Secretary from time to time with respect to such requirements.

4.5 Business Associate shall require all of its subcontractors, agents, and other third parties that receive, use, transmit, maintain, store, or have access to PHI to agree, in writing, to the same restrictions, conditions, and requirements that apply to Business Associate pursuant to this BAA and the HIPAA Laws.

Access of Information; Amendment of Information; Accounting of Disclosures

4.6 Business Associate shall make available to County all PHI in designated record sets within ten (10) days of County's request for County to meet the requirements under 45 CFR § 164.524.

4.7 Business Associate shall make any amendments to PHI in a designated record set as directed or agreed to by County pursuant to 45 CFR § 164.526, and in the time and manner reasonably designated by County.

4.8 Business Associate agrees to comply with an individual's request to restrict the disclosure of their personal PHI in a manner consistent with 45 C.F.R. § 164.522, except where such use, disclosure, or request is required or permitted under applicable law.

4.9 Business Associate agrees that, when requesting, using, or disclosing PHI in accordance with 45 C.F.R. § 164.502(b)(1), such request, use, or disclosure shall be to the minimum extent necessary, including the use of a "limited data set" as defined in 45 C.F.R. § 164.514(e)(2), to accomplish the intended purpose of such request, use, or disclosure, as interpreted under related guidance issued by the Secretary from time to time.

4.10 Business Associate shall timely document maintain such disclosures of PHI and information related to such disclosures as would be required for County to respond to an individual for an accounting of disclosures of PHI in accordance with 45 CFR § 164.528. Further, Business Associate shall provide to County an accounting of all disclosure of PHI during the term of this BAA within ten (10) days after termination of this BAA, or sooner if reasonably requested by County for purposes of any monitoring/auditing of County for compliance with HIPAA Laws.

4.11 Business Associate shall provide County, or an individual under procedures approved by County, information and documentation collected in accordance with the preceding section to respond to an individual requesting an accounting for disclosures as provided under 45 CFR § 164.528 or HIPAA Laws.

Notification of Breach

4.12 Business Associate shall notify County's HIPAA Privacy Official at (954) 357-6500 of any impermissible access, acquisition, use, or disclosure (collectively and individually, a "Breach") of any Unsecured PHI within twenty-four (24) hours of Business Associate discovering such Breach. "Unsecured PHI" shall refer to such PHI that is not secured through use of a technology or methodology specified by the Secretary that renders such PHI unusable, unreadable, or indecipherable to unauthorized individuals. A Breach of Unsecured PHI shall be treated as discovered by Business Associate as of the first day on which such Breach is known to the Business Associate or, by exercising reasonable diligence, would have been known to Business Associate, including any employee, officer, contractor, subcontractor, or other agent of Business Associate. In addition, Business Associate's notification under this section shall comply in all respects with each applicable provision the HIPAA Rules and all related guidance issued by the Secretary or the delegate of the Secretary from time to time.

4.13 Business Associate shall submit a written report of a Breach to County within ten (10) business days after initial notification, which shall document the following:

- a. The identification of each individual whose Unsecured PHI has been, or is reasonably believed by Business Associate, to have been accessed, acquired, used, or disclosed during the Breach;

- b. A brief description of what occurred, including the date of the Breach and the date of the discovery of the breach, if known;
- c. A description of the types of Unsecured PHI that are involved in the Breach (such as full name, social security number, date of birth, home address, account number, diagnosis, etc.);
- d. A description of what is being done to investigate the Breach, to mitigate harm to individuals, and the reasonable and appropriate safeguards being taken to protect against future breaches;
- e. Any steps County or the individual impacted by the Breach should take to protect himself or herself from potential harm resulting from the Breach;
- f. Contact procedures for the Business Associate to enable individuals to ask questions or learn additional information, which may include, in the discretion of County, a toll-free telephone number, e-mail address, website, or postal address, depending upon the available contact information that Business Associate has for the affected individuals; and
- g. Any other reasonable information requested by County.

4.14 County, in its sole discretion, will determine whether County or Business Associate shall be responsible to provide notification to individuals whose Unsecured PHI has been impermissibly accessed, acquired, used, or disclosed, as well as to the Secretary and the media. Such notification shall be provided as follows:

- a. Notification will be by first-class mail, or by electronic mail, if the individual has specified notice in the manner as a preference.
- b. Information may be posted on County's and Business Associate's website(s) where the Business Associate experienced, or is reasonably believed to have experienced, an impermissible access, acquisition, use, or disclosure of Unsecured PHI that compromised the security or privacy of more than ten (10) individuals when no other current information is available to inform such individuals.
- c. Notice shall be provided to prominent media outlets with information on an incident where the Business Associate experienced an impermissible access, acquisition, use or disclosure of Unsecured PHI that compromised the security or privacy of more than five hundred (500) individuals within the same state or jurisdiction during the incident.

4.15 In the event of the impermissible access, acquisition, use, or disclosure of Unsecured PHI in violation of the HIPAA Laws, Business Associate bears the burden of demonstrating that all notification(s) required by Sections 3.10 – 3.12 (as applicable) was made, including evidence demonstrating the necessity of any delay, or that the use or disclosure did not constitute a Breach of Unsecured PHI.

4.16 Business Associate shall pay the costs of providing all notification(s) required by Sections 4.12 – 4.14 (as applicable) of this BAA.

Mitigation of Breach

4.17 Business Associate shall mitigate to the extent possible, at its own expense, any harmful effect that is known to Business Associate of any access, use, or disclosure of Unsecured PHI in violation of the requirements of this BAA or applicable law.

4.18 Business Associate shall take appropriate disciplinary action against any members of its workforce who use or disclose Unsecured PHI in any manner not authorized by this BAA or applicable law.

4.19 Business Associate shall have established procedures to investigate a Breach, mitigate losses, and protect against any future breaches, and shall provide such procedures and any specific findings of the investigation to County in the time and manner reasonably requested by County.

4.20 In the event of a Breach, Business Associate shall, in consultation with and at the direction of County, assist County in conducting a risk assessment of the Breach and mitigate, to the extent practicable, any harmful effect of such breach known to Business Associate. Business Associate shall pay the costs for mitigating damages, including, but not limited to, the expenses for credit monitoring, if County determines that the Breach warrants such measures.

4.21 Business Associate is liable to County for any civil penalties imposed on County under the HIPAA Laws in the event of a violation of the HIPAA Laws as a result of any practice, behavior, or conduct of Business Associate or its agents or employees.

Available Books and Records

4.22 Business Associate shall make its internal practices and books, related to the Agreement or the BAA, including all policies and procedures required by HIPAA Laws, available to the County Contract Administrator within five (5) business days after execution of the Agreement.

4.23 Business Associate shall make its internal practices, books, and records, including all policies and procedures required by HIPAA Laws, relating to the use and disclosure of PHI received from County or created or received on behalf of County, available to County or to the Secretary or its designee within five (5) business days after request for the purposes of determining the Business Associate's compliance with HIPAA Laws.

Section 5: Obligations of County

5.1 County shall notify Business Associate of any limitations in its notice of privacy practices in accordance with 45 CFR § 164.520, to the extent that such limitation may affect the Business Associate's use of PHI.

5.2 County shall notify Business Associate of any changes in, or revocation of, permission by an individual to use or disclose PHI, to the extent that such changes may affect Business Associate's use of PHI.

5.3 County shall notify Business Associate of any restriction to the use or disclosure of PHI to which County has agreed in accordance with 45 CFR § 164.522, to the extent that such changes may affect Business Associate's use of PHI.

5.4 County shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the HIPAA Laws if done by County.

5.5 County may report, at least annually, any impermissible access, use, or disclosure of unsecured PHI by Business Associate to the Secretary as required by HIPAA Laws.

Section 6: Term and Termination

6.1 The term of this BAA shall be effective upon execution by all Parties, and shall terminate upon the later of (a) expiration or earlier termination of the Agreement, or (b) return or destruction of all PHI within the possession or control of the Business Associate as a result of the Agreement.

6.2 Upon County's knowledge of a material breach of this BAA by Business Associate, County may:

- a. Provide an opportunity for Business Associate to cure the breach within the time for cure set forth in County's written notice to Business Associate and terminate if Business Associate does not cure the breach within the time specified by County; or
- b. Immediately terminate this BAA and the Agreement if Business Associate has breached a material term of this BAA and a cure is not possible; or
- c. If neither termination nor cure is feasible, County's HIPAA Privacy Official shall report the violation to the Secretary of HHS.

6.3 Upon expiration or termination of the Agreement, Business Associate agrees, at County's option, to return to County or destroy all PHI gathered, created, received, or processed pursuant to the Agreement. No PHI related to the Agreement will be retained by Business Associate, or a contractor, subcontractor, or other agent of Business Associate, unless retention is required by law and specifically permitted in writing by County.

6.4 If returning or destroying PHI is infeasible, Business Associate shall provide to County a written statement that it is infeasible to return or destroy the PHI and describe the conditions that make return or destruction of the PHI infeasible. Under that circumstance, Business Associate shall extend the protections of this BAA to the PHI retained and limit further uses and disclosures of such PHI to those purposes that make return or destruction infeasible, for so long as Business Associate maintains the PHI. Business Associate's obligations under this section shall survive termination of this BAA.

Section 7: Miscellaneous

7.1 Amendment. County and Business Associate shall take such action as is necessary to amend this BAA for County to comply with the requirements of HIPAA Laws or other applicable law.

7.2 Interpretation. Any ambiguity in this BAA shall be resolved to permit County to comply with HIPAA Laws. Any inconsistency between the HIPAA Laws, as interpreted by the HHS, a court, or another regulatory agency with authority over the Parties, and this BAA shall be interpreted in favor of the HIPAA Laws as interpreted by the HHS, the court, or the regulatory agency. Any provision of this BAA that differs from the requirements of the HIPAA Laws, but is nonetheless permitted by the HIPAA Laws, shall be adhered to as stated in this BAA.

7.3 Successors and Assignment. This BAA will be binding on the successors and assigns of County and Business Associate. However, this BAA may not be assigned, in whole or in part, without the written consent of the other Party. Any attempted assignment in violation of this provision shall be null and void.

[Remainder of Page Intentionally Left Blank]

BUSINESS ASSOCIATE AGREEMENT BETWEEN BROWARD COUNTY, FLORIDA, AND THE NORTHWEST FOCAL POINT SENIOR CENTER DISTRICT

WHEREAS, the Parties have made and executed this Business Associate Agreement: BROWARD COUNTY, through its Board of County Commissioners, signing by and through its County Administrator, authorized to execute same, and The Northwest Focal Point Senior Center District, signing by and through its Board Chair, duly authorized to execute same.

BROWARD COUNTY

WITNESSES:

BROWARD COUNTY, by and through its County Administrator

Signature

By: _____
Bertha Henry, County Administrator

Print Name of Witness

_____ day of _____, 2021

Signature

Approved as to form by
Andrew J. Meyers
Broward County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600

Print Name of Witness

By: _____
Karen S. Gordon (Date)
Senior Assistant County Attorney

**BUSINESS ASSOCIATE AGREEMENT BETWEEN BROWARD COUNTY, FLORIDA, AND
THE NORTHWEST FOCAL POINT SENIOR CENTER DISTRICT**

BUSINESS ASSOCIATE

The Northwest Focal Point Senior
Center District

By: _____

Name: _____

Title: _____

_____ day of _____, 2021

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of physical presence
or online notarization this ____ day of _____, 20____, by _____,
as _____, of the _____.

Personally Known OR Produced Identification
Type of Identification Produced

Print Name:
Notary Public, State of
Commission No.

Commission Expires:

EXHIBIT F
INSURANCE REQUIREMENTS

Project: Referral Rate Agreement
Agency: Elderly and Veterans Services Division

TYPE OF INSURANCE	ADDLINS	SUBRWVD	MINIMUM LIABILITY LIMITS		
				Each Occurrence	Aggregate
GENERAL LIABILITY - Broad form <input checked="" type="checkbox"/> Commercial General Liability <input checked="" type="checkbox"/> Premises-Operations <input type="checkbox"/> XCU Explosion/Collapse/Underground <input checked="" type="checkbox"/> Products/Completed Operations Hazard <input checked="" type="checkbox"/> Contractual Insurance <input checked="" type="checkbox"/> Broad Form Property Damage <input checked="" type="checkbox"/> Independent Contractors <input checked="" type="checkbox"/> Personal Injury <input type="checkbox"/> Sexual Abuse and Molestation Coverage Per Occurrence or Claims-Made: <input checked="" type="checkbox"/> Per Occurrence <input type="checkbox"/> Claims-Made Gen'l Aggregate Limit Applies per: <input type="checkbox"/> Project <input type="checkbox"/> Policy <input type="checkbox"/> Loc. <input type="checkbox"/> Other _____	?	?	Bodily Injury		
	Property Damage				
	Combined Bodily Injury and Property Damage	\$1,000,000	\$2,000,000		
	Personal Injury				
	Products & Completed Operations				
AUTO LIABILITY <input checked="" type="checkbox"/> Comprehensive Form <input checked="" type="checkbox"/> Owned <input checked="" type="checkbox"/> Hired <input checked="" type="checkbox"/> Non-owned <input checked="" type="checkbox"/> Any Auto, If applicable <i>Note: May be waived if no driving will be done in performance of services/project.</i>			Bodily Injury (each person)		
	Bodily Injury (each accident)				
	Property Damage				
	Combined Bodily Injury and Property Damage	\$500,000			
<input type="checkbox"/> EXCESS LIABILITY / UMBRELLA Per Occurrence or Claims-Made: <input type="checkbox"/> Per Occurrence <input type="checkbox"/> Claims-Made <i>Note: May be used to supplement minimum liability coverage requirements.</i>					
<input checked="" type="checkbox"/> WORKER'S COMPENSATION <i>Note: U.S. Longshoremen & Harbor Workers' Act & Jones Act is required for any activities on or about navigable water.</i>	N/A	?	Each Accident	STATUTORY LIMITS	
<input checked="" type="checkbox"/> EMPLOYER'S LIABILITY			Each Accident	\$100,000	
<input checked="" type="checkbox"/> PROFESSIONAL LIABILITY (ERRORS & OMISSIONS)	align="center">N/A		Each Claim:	\$1,000,000	
			*Maximum Deductible:	\$100,000	
<input type="checkbox"/> CYBER LIABILITY			Each Claim:		
			*Maximum Deductible:		
Description of Operations: "Broward County" shall be listed as Certificate Holder and endorsed as an additional insured for liability, except as to Professional Liability. County shall be provided 30 days written notice of cancellation, 10 days' notice of cancellation for non-payment. Contractors insurance shall provide primary coverage and shall not require contribution from the County, self-insurance or otherwise. Any self-insured retention (SIR) higher than the amount permitted in this Agreement must be declared to and approved by County and may require proof of financial ability to meet losses. Contractor is responsible for all coverage deductibles unless otherwise specified in the agreement. For Claims-Made policies insurance must be maintained and evidence of insurance must be provided for at least three (3) years after completion of the contract of work.					
CERTIFICATE HOLDER: Broward County 115 South Andrews Avenue Fort Lauderdale, Florida 33301			<div style="text-align: right;">  Digitally signed by COLLEEN A. POUNALL Date: 2021.10.15 15:06:29 -04'00' _____ Risk Management Division </div>		

EXHIBIT G
 Certification of Payments to Subcontractors and Suppliers

The undersigned Vendor hereby swears under penalty of perjury that:

1. Vendor has paid all Subcontractors and suppliers all undisputed contract obligations for labor, services, or materials provided on this project in accordance with Article 2. of this Agreement, except as provided in paragraph 2 below.
2. The following Subcontractors and suppliers have not been paid because of disputed contractual obligations; a copy of the notification sent to each, explaining in reasonably specific detail the good cause why payment has not been made, is attached to this form:

Subcontractor or supplier's name and address	Date of disputed invoice	Amount in dispute

3. The undersigned is authorized to execute this Certification on behalf of Vendor.

Dated _____, 20__

_____ Vendor
 By: _____ (Signature)
 By: _____ (Name and Title)

STATE OF)
)
 COUNTY OF)

Sworn to (or affirmed) and subscribed before me, by means of physical presence or online notarization, this ____ day of _____, ____, by _____ who is personally known to me or who has produced _____ as identification.

 Signature of Notary Public

(NOTARY SEAL)

 Print, Type or Stamp Name of Notary