



Western Reserve

Area Agency on Aging

WESTERN RESERVE AREA AGENCY ON AGING

CONTRACT

WITH

PROVIDER

PROGRAM: OLDER AMERICANS ACT/ SENIOR COMMUNITY SERVICES

CONTRACT PERIOD: JANUARY 1, 2023 THROUGH DECEMBER 31, 2023

CONTRACT AMOUNT: Contract Amount

**PURCHASE OF SERVICE AGREEMENT
FOR OLDER AMERICANS ACT/SENIOR COMMUNITY SERVICES FUNDS**

THIS AGREEMENT (hereinafter “Contract Agreement” or Agreement”) is entered into by and between the Western Reserve Area Agency on Aging, an Ohio Nonprofit Corporation serving the counties of Cuyahoga, Geauga, Lake, Lorain and Medina, Ohio (Agency), and **PROVIDER** as the implementing authority (Contractor) for the purpose of providing Older Americans Act/Senior Community Services (OAA) service(s) as described in the Older Americans Act of 1965, as amended, to persons sixty (60) years of age and older within the foregoing counties (“Consumers”).

The Agency and Contractor hereby agree as follows:

ARTICLE I: SCOPE OF CONTRACT

- 1.1 The Agency shall enter into agreements with the Contractor to develop and implement a comprehensive and coordinated system of services for consumers and their caregivers. The Agency is ultimately responsible to the Ohio Department of Aging (ODA) for ensuring that all state and federal funds received from ODA are used in a manner that complies with this chapter and the uniform administrative requirements, cost principles and audit requirements for federal awards under 45 C.F.R. Part 75.
- 1.2 The Contractor agrees to provide the OAA service(s) contained on the Contract Services page(s), attached, for a twelve-month period commencing January 1, 2023 through and including December 31, 2023 (“Term”).
- 1.3 The Contractor shall provide such service(s) according to the procedures described in the Contractor's proposal(s) for Older Americans Act/Senior Community Services (OAA) funds, as amended and approved by the Agency, and said proposal(s) is/are fully incorporated herein. The Contractor is prohibited from assigning any of its duties under the Contract Agreement to another provider or Contractor without the written authorization of the Agency. The Contractor for the Aging and Disability Resource Network shall follow the Roles and Responsibilities in Article II and provide such services as described in the Contractors Contract Service Pages.
- 1.4 The Contractor shall meet the Agency's specific objectives for giving priority to specific consumer groups (including those described in this section) and shall satisfy the service needs of older persons with the greatest economic and social needs. To the maximum

extent feasible, the Contractor shall give particular attention to providing services to older persons and adults with physical disabilities who are low-income, who are low-income minorities, who have limited proficiency in the English language, who reside in rural areas, or who are at risk for institutional placement (frail) in accordance with their need for such services.

- 1.5 The Contractor shall specify how it intends to satisfy the need for services by consumers with the greatest economic and social needs with particular attention to consumers who are low-income, who are low-income minorities, who have limited proficiency in the English language, who reside in rural areas, and/or who are at risk for institutional placement.
- 1.6 The Agreement shall comply with the Older Americans Act and any additional federal law governing, or federal rule regulating, the Agreement.
- 1.7 The Contractor warrants and covenants that during this Term of this Agreement it will have the capability to and agrees to provide such service(s) as referred to above in accordance with the Ohio Department of Aging (ODA) taxonomy of services and Agency clarifications to said taxonomy of all services. This includes the requirement to comply with the criminal records check under section 173.394 of the Revised Code and Rule 173-9-01 - 10 of the Ohio Administrative Code (OAC).
- 1.8 The Contractor shall comply with applicable Administrative Rules; those Rules are posted on ODA's website and are part of the Ohio Administrative Code: <https://aging.ohio.gov/wps/portal/gov/aging/agencies-and-service-providers/rules-and-forms/currently-effective-rules>
- 1.9 Contractors providing Nutrition Services shall comply with the provisions of Article X and the applicable Rules of the Ohio Administrative Code including all documentation, recordkeeping, and other requirements of the following Rules:

| <u>OAC</u> | <u>Topic / Service</u> |
|------------|-------------------------------------|
| 173-4-02 | Eligibility |
| 173-4-03 | Enrollment process |
| 173-4-05.1 | Congregate nutrition program |
| 173-4-05.2 | Home-delivered nutrition program |
| 173-4-05.3 | Restaurant and grocery meal service |
| 173-4-05 | Meal Service |
| 173-4-08 | Nutrition education service |

173-4-09 Nutrition health screening service

- 1.10 Contractors providing the following services shall comply with the applicable Rules of the Ohio Administrative Code, including all reporting, documentation, recordkeeping, and other requirements of the following Rules:

| <u>OAC</u> | <u>Service</u> |
|------------|--|
| 173-3-06.1 | Adult Day service |
| 173-3-06.2 | Chore service |
| 173-3-06.3 | Home maintenance, modification or repair service |
| 173-3-06.4 | Homemaker service |
| 173-3-06.5 | Personal care service |
| 173-3-06.6 | Transportation service |

- 1.11 If the service provided is not specified in OAC 173-4-02, 173-4-03, 173-4-04, 173-4-05.1, 173-4-05.2, 173-4-05.3, 173-4-08, 173-4-09, 173-3-06.1, 173-3-06.2, 173-3-06.3, 173-3-06.4, 173-3-06.5, 173-3-06.6, the Contractor shall comply with a written specification of the service (e.g., a description of the service and any conditions for providing the service contained in the Agency's Request for Proposal (RFP) or the Contractor's approved proposal).
- 1.12 The Agency shall not reimburse the Contractor for any service unless a valid Agreement is in place at the time the service is provided. No Agreement is valid unless and until the Agreement is signed by authorized representatives from both the Agency and the Contractor.
- 1.13 The Contractor shall designate its primary contact for purposes of this Agreement. Such primary contact shall participate in provider orientation sessions at the Agency as a condition to performance of this Agreement. Contractor shall also provide a current fax number and e-mail address.

ARTICLE II: ADRN ROLES AND RESPONSIBILITIES

- 2.1 The purpose of this Agreement is to outline the roles and responsibilities in the development of the Aging and Disability Resource Network (ADRN) between Contractor and Agency.

2.2 Goals of ADRN

The purpose of the *ADRN* is to provide consumers with a point of entry to all long-term services and supports, as well as a streamlined process for determining eligibility for all

public programs that provide services and supports with particular attention to identifying consumers at high risk for nursing home placement and re-hospitalization. The key operational functions of a fully developed ADRN include: Information and Referral Assistance; Specialized Information and Assistance: Long Term Services and Supports Options Counseling and Assistance; Streamlined Eligibility Determinations for Public Benefits; Care Transitions/Care Coordination and Quality Assurance and Continuous Improvement.

- 2.3 The ADRN consists of *Aging and Disability Resource Centers (ADRC)*, *Benefits Enrollment Centers (BEC)* and *Information and Referral Assistance (I&RA)* providers. The Agency is the coordinating agency for the ADRN. The **PROVIDER** shall be designated as a **N/A, N/A**.

2.4 Coordination of Responsibilities

The Agency, as the ADRN coordinating agency, agrees to provide leadership and guidance in the development and implementation of the ADRN and will work cooperatively in the development and execution of the activities of the ADRN initiative as follows:

- A. The Agency staff will work cooperatively with each ADRN partner to define program goals and budgetary issues to be addressed in implementing the project. A detailed work plan will be developed outlining major activities for each program year. The work plan will include timelines and evaluation outcomes.
- B. The Agency will work with ADRN partners to develop service protocols for the key operational components of the ADRN.
- C. The Agency will conduct periodic technical assistance briefings and trainings for ADRN staff related to carrying out the key operational components of the ADRN program.
- D. The Agency will convene meetings for the purposes of coordination and ongoing program development.
- E. The Agency will work with community partners in developing a comprehensive resource database which includes information about the range of long-term support resources in the ADRN service area.
- F. The Agency will assist ADRN partners with developing relationships with critical pathway partners.
- G. The Agency will work to develop a management information system that can support the ADRN program functions.
- H. The Agency will conduct Marketing and Outreach on behalf of the ADRN as a whole.

- I. The Agency will create a framework for quality assurance and evaluation.
- 2.5 The Contractor, as a designated N/A, agrees to fully participate in the development of a regional Aging and Disability Resource Network and will work cooperatively in the development and execution of the activities of the ADRN initiative as follows:
- A. The Contractor commits to developing program and evaluation goals as part of a detailed work plan that outlines major activities as well as quality assurance and evaluation processes.
 - B. The Contractor commits to work with Agency staff and ADRN partners in the ongoing development and implementation of service protocols for key operational components of the ADRN.
 - C. The Contractor commits to having a program representative participate in pre-program planning and ongoing ADRN technical assistance and development sessions.
 - D. The Contractor commits to having a program representative attend coordination and program development meetings with Agency staff and ADRN partners.
 - E. The Contractor commits to the use of a comprehensive resource database.
 - F. The Contractor commits to work in collaboration with the Agency to develop relationships and organizational partnerships with critical pathway partners.
 - G. The Contractor commits to consistency and competency in data collection and reporting processes developed as part of the management information system for the ADRN.
 - H. The Contractor commits to conducting own site-specific marketing and outreach in addition to what is coordinated for the whole network by Agency.
 - I. The Contractor commits to participating in quality assurance and evaluation developed by the Agency.

ARTICLE III: GRANT

- 3.1 The Agency agrees to pay the Contractor with OAA program funds for the service(s) detailed in the attached { X } Contract Services page(s) and delivered in accordance with Article 1 up to the amount(s) in Section B, Line 1 on the said page(s). The maximum

amount of funds to be paid under this Agreement is: Contract **Amount**.

3.2 The Contractor may request modification(s) to this Agreement no more than twice between January 1 and September 30th of each year unless the Agency initiates additional modifications. Modification shall be at the sole discretion of the Agency, and request for modification shall be made in writing and reasonably in advance of need for modification or as soon as practicable. The grounds for modifying this Agreement are: emergency/force majeure, unforeseen changes in Consumer needs or in Contractor's ability to meet Consumer needs, and changes in funding or funding levels. The process for modifying this Agreement is: Contractor shall in writing set forth the modification requested and the grounds for the modification sought. The Agency shall respond in writing promptly or as soon as practicable.

3.3 The Contractor understands that the funds allocated to this Agreement are subject to increase or decrease at any time prior to the final payment to the Contractor by the Agency based on its notification of grant awards from the ODA, and that such a change may affect the amount or the scope of the services provided by the Contractor under this Agreement. The funding source for this Agreement is federal and State of Ohio funds provided through the Ohio Department of Aging (ODA). State of Ohio funds are provided through the Senior Community Services State Subsidy. Federal funds provided through the Administration on Aging and ODA are:

| | | |
|---------------|----------------------------|--------------|
| Title III B | Supportive Services | CFDA #93.044 |
| Title III C-1 | Congregate Meals | CFDA #93.045 |
| Title III C-2 | Home-Delivered Meals | CFDA #93.045 |
| Title III-D | Preventive Health Services | CFDA #93.043 |
| Title III-E | Caregiver Services | CFDA #93.052 |

The federal funding source for each service is found on the Contract Services page(s) Section A, Line 2.

3.4 The Contractor shall attempt to pace service delivery proportionately at 1/12 of their annual contracted units per month. The Agency will inform the Contractor of reimbursement restrictions if they become necessary.

3.5 This Agreement is for the provision of goods or services paid for with federal funds that the United States Department of Health and Human Services appropriated to the Ohio Department of Aging (ODA). ODA, in turn, allocated the federal funds to the Agency. This Agreement is subject to all applicable federal and state laws, rules and regulations,

including ODA's Rules.

ARTICLE IV: METHOD OF PAYMENT

- 4.1 Payment for services rendered under this Agreement shall be made within thirty (30) calendar days after timely receipt by the Agency of an accurate and complete "Older Americans Act/Senior Community Services Provider Monthly *Request for Payment*" from the Contractor, if the reports required in Article V of this Agreement have also been submitted to the Agency by their due dates. The Agency shall then pay the Contractor at the OAA unit rate specified in Section B Line 9 of the attached Contract Service page(s) for each eligible OAA unit of service delivered by the Contractor and reported to the Agency.
- 4.2 If any such report is submitted after its due date no payment shall be made until thirty (30) days after such late report is received by the Agency. If any such report is deemed by the Agency not to be complete and accurate no payment shall be made until thirty (30) days after a complete and accurate report is received. Reports may be deemed inaccurate, for instance, if the SAMS Agency *Summary Report* is not included with the *Request for Payment*, or if the units shown on the SAMS Agency *Summary Report* do not match the units on the *Request for Payment*, as described in Article 5.
- 4.3 Updated unit, cash and in-kind match, client cost share, program income and other funds spent shall be reported on the *Request for Payment* no later than January 31, 2024.
- 4.4 If any report required in Article V of this Agreement is received by the Agency after January 31, 2024, the outstanding funds shall not be paid to the Contractor.
- 4.5 If a service under this Agreement is for any of the four (4) quarters of the Term of this Agreement not performed by the Contractor the Agency shall for each such quarter reduce the Contractor's OAA award for such service by a prorated one-fourth of the annual award for said service. Should Contractor fail to provide at least 65% of the units detailed in the attached Contract Services pages by September 30, 2023 the Contractor shall be deemed to have relinquished unused funds so that those funds may be distributed to other contractors by the Agency. In the Agency's discretion, exceptions to the consistent pace of service may be granted upon written request by the Contractor.
- 4.6 Contract amounts which are not earned by the Contractor will not accrue or carry forward to a future contract period.

ARTICLE V: MONTHLY AND OTHER FINANCIAL AND SAMS REPORTING REQUIREMENTS

- 5.1 The Contractor agrees to submit an Older Americans Act/Senior Community Services *Request for Payment* that is accurate and complete as to units of service, cash and in-kind match, client cost-share, program income and other funds spent; each such Request for Payment shall be received by the Agency on or before the tenth (10th) calendar day of each month from February 2023 through January 2024 for services performed in the preceding month. If the tenth (10th) day falls on a Saturday, Sunday, or holiday, such report shall be due the following business day.
- 5.2 The Contractor, to the extent determined by assigned cluster activities and as required by ODA, must use the Social Assistance Management System (SAMS) program to report required consumer information (including demographics) and account for units of service delivered. Such data must be entered into SAMS on or before the tenth (10th) calendar day of each month from February 2023 through January 2024 for services performed in the preceding month. The Agency will provide the Contractor with a subscription and license to access the SAMS Program during the Term of this Agreement; all other provisions of the RFP for this Agreement which relate to the use of the SAMS system are incorporated herein by reference.
- 5.3 To the extent Contractor uses the SAMS Program to report information, Contractor shall submit a printed SAMS *Agency Summary Report* with its Request for Payment. The units on the Agency Summary Report must match the monthly *Request for Payment*.
- 5.4 If an error is made on a monthly *Request for Payment* the error must be corrected within three months using the *Unit Adjustment Form*. The Contractor must provide a written explanation for the correction and request an adjustment on a subsequent *Request for Payment*; the error must also be corrected in SAMS. A request for adjustment is subject to approval by the Agency.

ARTICLE VI: MATCH, PROGRAM INCOME AND COST-SHARING

- 6.1 The Contractor is required to provide cash or in-kind resources equal to a percentage of the funds provided by the Agency for each service, as specified on the Contract Services page(s) attached to this Agreement. This amount is the “match”. Contractor covenants, warrants and certifies that the match required for each service will be a cost reasonably expected to be incurred in the delivery of the service.

- 6.2 The Contractor further agrees that final payment will be reduced if the Contractor has incurred and reported on the monthly *Request for Payment* less than the minimum match for each service, as required by the Agency. This reduction will be in the amount necessary to support the total payments to Contractor with the reported match using the Agency's minimum required match percentage.
- 6.3 The Contractor is encouraged by the Agency to receive voluntary contributions for services reimbursed with Older Americans Act funds, and to record these as Program Income.
- The Contractor further agrees as follows:
- A. The terms "charge" and "fee" must not be used when presenting this opportunity to contribute.
 - B. No person sixty (60) years of age or older may be denied service under this Agreement due to that person's inability or decision not to contribute to the service.
- 6.4 The Contractor shall implement a consumer cost-sharing policy under Rule 173-3-07 of the Administrative Code for any service that is subject to such Rule
- 6.5 Program Income and Cost Sharing funds shall be used exclusively to pay for the cost of and expand the capacity to provide the service from which they were generated.

ARTICLE VII: MONITORING

- 7.1 The Agency, ODA or the Administration on Aging may conduct on-site monitoring of a service(s) for which funds are being reimbursed under this Agreement at any time during the normal working hours of the Contractor with no prior notification necessary, and the Contractor agrees that representatives of the Agency, ODA or the Administration on Aging shall be given full and immediate access to the premises upon which such service(s) is/are being provided.

ARTICLE VIII: RECORD MAINTENANCE, ACCESSIBILITY AND RETENTION

- 8.1 To the extent authorized by law, the Contractor shall allow representatives of the Agency, ODA, and the Administration on Aging access without prior notice to all programmatic, fiscal, and other records related to the service(s) for planning, auditing, and monitoring purposes at any time during the normal working hours of the Contractor, except that prior notice of at least 24 hours shall be given where access is sought to the confidential complaint files of the Contractor.

- 8.2 The Contractor shall keep and maintain Consumer information, including but not limited to: name, address, telephone number, date of birth, gender, minority status, disability and poverty status, emergency contact person's name and telephone number, and functional abilities of Consumers, relevant to service(s) delivered.
- 8.3 The Contractor shall document that all service(s) were delivered in accordance with the ODA taxonomy of services and Agency clarifications to said taxonomy, as well as the ODA Conditions of Participation and Service Specifications contained in the applicable Administrative Rules.
- 8.4 The Contractor shall retain records relating to costs, work performed, supporting documentation for payment of work performed, and all deliverables for monitoring by the Agency and ODA, and for auditing by the state auditor, the inspector general, duly-authorized law enforcement officials, and agencies of the United States government for a minimum of three years after the end of the Term of this Agreement. If a record is monitored or audited, the Contractor shall retain it until the monitoring or auditing is concluded and all issues are resolved, even if doing so requires the Contractor to retain the record for more than three years.
- 8.5 The Office of the State Long Term Care Ombudsman of ODA shall have access to the complaint files of the Contractor. The Agency shall use and treat all information contained in said records as is required by law, including the Older Americans Act Amendments of 1987.
- 8.6 The Contractor shall have audit, review and monitoring rights to the extent provided by the Ohio Public Records Act.

ARTICLE IX: ACCOUNTING RECORDS

- 9.1 The Contractor agrees to maintain its accounts and documents at all times so as to readily permit the determination of the status of the cost of services rendered under this Agreement and to have such information readily available for examination by government auditors or Agency representatives.
- 9.2 The Contractor agrees to maintain supporting documents so as to permit the determination of the status of cash, accrual and in-kind transactions which are used as a match for the Contractor's OAA funds.
- 9.3 If the Contractor receives funds to administer activities not covered under this Agreement, the Contractor agrees to develop and maintain documentation describing the method used

to allocate any line-item costs that are shared by the OAA service(s) and other such activity and agrees to have such information readily available for examination by government auditors or Agency representatives.

- 9.4 The Contractor agrees to comply with all applicable federal (e.g. 45 CFR, Sec 92.25) and state administrative rules and regulations, ODA's Rules, and with Agency policy, for the procedures relating to and the accounting for program income.

ARTICLE X: NUTRITION SERVICES

If a nutrition service is covered under this Agreement, the Contractor further agrees as follows:

10.1 Meal Reports:

The Contractor agrees to submit to the Agency accurate meal report(s) in accordance with the forms provided by the Agency and in accordance with due dates established by the Agency.

10.2 Emergency Food and Closings:

In the event of an emergency which includes, but is not limited to, inclement weather, utility failure, strikes, natural hazards or acts of God, the Contractor may opt to close a service center, and written confirmation of such emergency must be received by the Agency within 48 hours of any such closure. In any such instance, the Contractor agrees to make every reasonable effort to fulfill its home-delivered meal responsibilities. Emergency food supplies are to be used only when authorized via telephone by the Agency, and written confirmation of such authorization together with the name of the person who provided such authorization on behalf of the Agency must be received by the Agency within 48 hours. The Contractor agrees to pay for the cost of replacing catered meal supplies and/or emergency food which are/is lost, stolen, or otherwise removed or used without the Agency's authorization.

10.3 Food/Supply Delivery:

The Contractor agrees to provide staff at its site who will accept, count, check and record temperatures of potentially hazardous foods, and who will sign for the delivery of IIIC meals and supplies scheduled to take place daily between 6:00 am and 10:30 am.

10.4 Interruption of Nutrition Service:

The Contractor agrees to submit in writing to the Agency all requests for relocating and remodeling nutrition sites. Such requests must be received by the Agency not less than sixty (60) calendar days prior to the proposed relocation/remodeling in order to receive

prior approval from the Agency. The Contractor agrees to notify the Agency in writing no later than the Thursday of the week prior to any scheduled activities which interrupt nutrition service delivery, and to obtain written Agency approval prior to any such interruptions.

10.5 Number of Serving Days

The Contractor agrees to provide OAA nutrition services each day during the Term of this Agreement (i) as detailed in the Contractor's WRAAA 2023 Nutrition Meal Worksheet, (ii) as summarized on the attached nutrition Contract Service page(s) (Section A, Line 5), and (iii) as approved by the Agency. The Contractor agrees that any change to the number of serving days (outside of emergency closing days) must be approved in writing and in advance by the Agency.

10.6 Meal Usage

The Contractor shall be responsible for paying the Agency for any meals ordered in excess of the number of meals allocated to Contractor on the appropriate Contract Services page(s) (Section A, Line 5) which are paid for with OAA funds. The Agency may recover the amount due to the Agency from the Contractor under this section in accordance with Article 14.2.

10.7 Menus for Sites funded for onsite or central kitchen preparation

If Contractor prepares and serves meals through onsite preparation or a central kitchen, Contractor must submit 3-month cycle menus to the Agency for pre-approval. The cycle menus must be submitted 30 days prior to the beginning of a menu cycle.

10.8 Nutrition Education and Health Screen Services

To the extent Contractor provides congregate nutrition products or services (OAC Rule 173-4-05.1), home-delivered nutrition products or services (OAC Rule 173-4-05.2) or restaurant and grocery meal services (OAC Rule 173-4-05.3), it is the responsibility of the Contractor to provide Consumers with nutrition education and health screening services in accordance with Rules 173-4-08 and 173-4-09 of the Ohio Administrative Code.

ARTICLE XI: CONDITIONS OF THE GRANT

- 11.1 If the Contractor is found to be in violation of a state and/or local health, fire, safety, zoning and/or sanitation code, the Contractor must in writing notify the Agency immediately. The Agency may suspend the grant without advance notice, including the withholding of the supply of meals and/or any payments in whole or in part due under this Agreement, due to

the Contractor's failure to comply with a state and local health, fire, safety, zoning and/or sanitation code; the Agency will give written notice of the specific reasons for the suspension to the Contractor. The Contractor must provide evidence that the violations have been corrected before the suspension will be lifted.

ARTICLE XII: PROBLEMS IN PROVISION OF SERVICES

- 12.1 The Agency may begin the process to suspend and/or terminate this Agreement, the grant and/or any payment due under this Agreement for any one of the following causes:
- A. The Contractor's failure to provide Reports required by this Agreement in accordance with due dates established by the Agency.
 - B. The Contractor's failure to permit on-site monitoring and/or review of all pertinent records.
 - C. The Contractor's failure to comply with the accounting, record keeping and/or audit requirements of this Agreement.
 - D. The Contractor's failure to provide and/or document service(s) in accordance with ODA Service Specifications and applicable Rules, or as required by this Agreement.
 - E. The Contractor's failure to conform to any of the legal requirements of Article 20.
 - F. The Contractor's failure to perform fully all of the Contractor's other duties and responsibilities in accordance with this Agreement.
- 12.2 The Agency will notify the Contractor in writing of any problems it finds in the provision of the service(s). If the health, safety or well-being of a Consumer is at immediate risk the Contractor shall respond to the Agency as soon as possible but not later than forty-eight (48) hours after receiving such notice, informing the Agency of the corrective action it has taken or it will take in regard to each such problem, and, if the corrective action has not yet been taken, stating when such corrective action will be effective. If the health, safety or well-being of a Consumer is not at immediate risk, the Contractor shall respond in writing to the Agency as soon as possible but not later than ten (10) calendar days after receiving such notice, informing the Agency of the corrective action it has taken or will take in regard to each such problem, and stating when such corrective action was or will be effective.
- 12.3 If the Contractor does not respond in writing as required by the foregoing provision, or if the Agency does not approve such corrective action and/or the date proposed for its

implementation, the Agency shall so inform the Contractor in writing and specify a time by which corrective action acceptable to the Agency shall be proposed and/or implemented. If such corrective action is not proposed and/or implemented by the Contractor timely the Agency may suspend or deny payment to Contractor or may terminate this Agreement.

- 12.4 If this Agreement has not been terminated pursuant to the foregoing provision, and payments are merely suspended, reimbursement may resume when the Contractor has taken all required corrective action and the Agency receives and approves a written report documenting the corrective action.

ARTICLE XIII: CONDITIONAL CONTRACTOR STATUS

- 13.1 The Agency may designate Contractor as an OAA service provider with problematic programs, in accordance with Agency Policy, due to performance failures; as a *Conditional Contractor*, the Contractor may be placed into a probationary status. In event of said designation, the terms of the probation shall become an addendum to this Agreement.

ARTICLE XIV: RECOVERY OF FUNDS

- 14.1 The Contractor must return any funds received from the Agency if the Agency determines that the Contractor was paid for any unit or units of service it did not actually provide, for units provided to ineligible Consumers, or for units that it provided that did not comply with the Ohio Administrative Code, the Ohio Revised Code, or any other law that regulates the Contractor or the services provided; a Contractor shall also return any funds received from the Agency for services that did not comply with the requirements set forth in the Agency's Request for Proposal, or the Contractor's approved Proposal, or which were not properly documented as required by this Agreement.
- 14.2 The Agency may recover its payment made for any such service unit or units from the Contractor by withholding funds due to the Contractor under this Agreement or under any other agreement the Contractor has entered into with the Agency, or at any time after the termination of this Agreement. Recovery may also be sought by legal action. The maximum amount of funds to be paid under this Agreement may, in the discretion of the Agency, be reduced by the amount of the funds recovered or to be recovered by the Agency.

ARTICLE XV: CONTRACTOR AUDITS

- 15.1 If the Contractor is subject to OMB circular A-133 requirements the Contractor shall obtain

an independent audit by a certified public accountant which encompasses the grant period and funds under this Agreement within nine months following the Term of this Agreement, and shall provide the Agency with a copy of the such audit within ten (10) calendar days after such an audit report is received by the Contractor.

- 15.2 If the Contractor is not subject to OMB circular A-133 requirements, but nonetheless obtains an annual agency audit which covers any part of this grant period or funds under this Agreement, the Contractor shall submit a copy of such audit to the Agency within ten (10) calendar days after such audit report is received by Contractor.
- 15.3 The Contractor agrees that such audit will be engaged and performed in accord with all federal and state regulations governing audits of the funds paid under this Agreement.
- 15.4 In the event an audit report discloses a discrepancy the Contractor shall respond in writing to the Agency within ten (10) calendar days of receipt of any such audit findings with a plan to resolve the discrepancy(ies). If said response is not received by the Agency within the said ten (10) calendar days, the Agency may suspend payment to Contractor until corrective action acceptable to the Agency is implemented; in addition, the Agency may take other appropriate action.
- 15.5 The Contractor agrees to reimburse the Agency any funds paid under this Agreement which are found in the course of an audit to have been improperly or illegally used.

ARTICLE XVI: CONFIDENTIALITY AND DISCLOSURE OF INFORMATION

- 16.1 The Contractor shall not use any information, systems, or records made available to Contractor for any purpose other than to fulfill the obligations specified herein. In the performance of any work authorized or funded under this Agreement, the Contractor specifically agrees to be bound by the same standards of confidentiality that apply to the employees of ODA and the State of Ohio. The terms of this Agreement shall be included in any agency-authorized subcontracts or lower-tiered grant agreements executed by the Contractor for work under this Agreement. The Contractor specifically agrees to comply with all state and federal confidentiality laws and regulations applicable to the programs under which this Agreement is funded. The Contractor is responsible for obtaining copies of all applicable administrative and other Rules governing confidentiality, and for assuring compliance with the Rules by its employees, contractors, or lower-tiered sub-recipients. To the extent federal requirements apply to this Agreement, the Contractor agrees to current and on-going compliance with the Health Insurance Portability and Accountability Act of

1996 (HIPAA), as amended, including 45 CFR 164.502 and 164.50, regarding the disclosure of protected health information.

- 16.2 The Contractor is required to store consumer records in a designated, locked storage space.
- 16.3 The Contractor shall not use or disclose any information concerning a Consumer for any purpose directly associated with the provision of services unless the Contractor has written documentation of the Consumer's consent to do so.
- 16.4 The Contractor is prohibited from using or disclosing any information concerning a Consumer for any purpose not directly associated with the provision of services, even if the Consumer consents to doing so.
- 16.5 If Contractor is a mandatory reporter, Contractor must immediately notify the county department of job and family services, or the agency the county department of job and family services designates to provide adult protective services, whenever the Contractor has reasonable cause to believe a Consumer is the victim of abuse, neglect, or exploitation.

ARTICLE XVII: CONTRACTOR ROLE IN CASE OF DISASTER

- 17.1 The Contractor is required to cooperate with the Agency and ODA to assess the extent of the disaster impact upon persons aged sixty years and over, and to coordinate the public and private resources in the field of aging in order to assist older disaster victims whenever the President of the United States declares that the Contractor's service area is a disaster area.

ARTICLE XVIII: INSURANCE

- 18.1 The Contractor shall secure and maintain at least the following minimum amounts of insurance for the capital term of this Agreement:
 - A. General commercial liability insurance against claims for injury and/or death in the amount of \$1,000,000 aggregate and per occurrence.
 - B. If Contractor staff is required to drive while providing the OAA service, and/or if transportation is part of the OAA service under this Agreement: automobile liability insurance against claims for injury and/or death in the amount of \$1,000,000.00 aggregate and per occurrence, and property damage insurance in an amount not less than \$50,000 aggregate and per

occurrence.

- C. Third party fidelity bond and property damage insurance (including damage or theft or loss involving the property of a Consumer) in any one accident or occurrence in an amount not less than \$50,000 for losses in connection with service visits to the Consumer's home, and in an amount no less than \$5,000 for all other services.
- D. First party fidelity bond or employee-theft coverage on persons handling OAA program funds in the amount of no less than \$10,000 or 10% of the amount set forth in Section 3.1 of this Agreement, whichever is greater.
- E. Full replacement value property insurance on equipment or capital improvements funded at least in part by Agency grant funds or OAA program income.
- F. The insurance required under this Agreement shall cover the acts and/or omissions of all of Contractor's paid employees, volunteers or approved sub-contractors.

ARTICLE XIX: INDEMNIFICATION

19.1 To the extent permitted by law, the Contractor agrees to indemnify and hold the Agency and ODA harmless from any and all claims, demands, damages, suits, judgments, awards, costs and expenses, including but not limited to attorney's fees, arising from, resulting from or attributable to the performance of services under this Agreement by the Contractor's employees, volunteers and/or its approved subcontractors, except to the extent those matters or occurrences are caused by the negligence of the Agency.

ARTICLE XX: LEGAL OBLIGATIONS

20.1 The Contractor shall conform to the requirements of all applicable federal, state and local laws, regulations, federal circulars, and established guidelines incorporated by reference herein, including, but not limited to:

- A. Older Americans Act of 1965, as amended;
- B. Civil Rights Act of 1964, as amended;
- C. Section 504 of the Rehabilitation Act of 1973, as amended;
- D. Age Discrimination Act of 1975, as amended;
- E. Fair Labor Standards Act of 1938, as amended;

- F. Age Discrimination in Employment Act of 1967, as amended;
- G. State and local health, fire, safety, zoning and sanitation codes;
- H. Federal, State and local financial and payroll reporting requirements;
- I. Federal and State lobbying restrictions and reporting requirements;
- J. The Americans with Disabilities Act of 1990;
- K. ODA and Agency Policies and Procedures; and
- L. Health Insurance Portability and Accountability Act.

- 20.2 The Contractor agrees that neither the Contractor, nor any sub-contractor, nor any person acting on behalf of Contractor or any sub-contractor will, in the employment of any person qualified and available to perform the work to which this Agreement relates, discriminate by reason of race, color, religion, sex, military status, national origin, disability, ancestry, age, or any other legally protected classification. Contractor further agrees that neither Contractor nor any sub-contractor, nor any person acting on behalf of Contractor or any of its sub-contractors, shall in any manner discriminate against, intimidate, or retaliate against any employee hired for the performance of work under the Agreement on account of race, color, religion, sex, military status, national origin, disability, age, ancestry, or any other legally protected classification.
- 20.3 The Contractor certifies that it understands Ohio's ethics and conflict of interest laws and will do nothing inconsistent with them.
- 20.4 If Contractor is approved by the Agency for and enters into a subcontracting relationship for OAA services, the Contractor shall require that the language of Articles XX and XXI of this Agreement be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
- 20.5 If Contractor is approved by the Agency for and enters into a subcontracting relationship for OAA services, the Contractor remains responsible for ensuring that all provisions of this Agreement are met by the sub-contractor.

ARTICLE XXI: AFFIRMATIVE ACTION

- 21.1 For the term of this Agreement, the Contractor agrees to have executed a written Equal Employment Opportunity Affirmative Action Plan in accordance with Title VI and Title VII of the 1964 Civil Rights Act, as amended. The Contractor further agrees that the following

posters and notices will be prominently displayed at the Contractor's main office: (A) EEO policy statement, (B) EEO posters, (C) Job vacancies, (D) Training session available, and (E) discrimination complaint procedures.

ARTICLE XXII: EXECUTIVE ORDER REQUIREMENTS

- 22.1 The Contractor affirms that it has read and understands Executive Order 2019-12D issued by Ohio Governor Mike DeWine, that it shall abide by those requirements in the performance of the Agreement, and that it shall perform no services required to implement the project or program subject to the Agreement outside of the United States for which grant funds will be used to pay or reimburse the cost of such services or for which the cost of such services will be counted as match or cost share specifically required as a condition to the disbursement of the grant funds. For purposes of this Addendum and the Agreement in which its terms are incorporated, “services under the Agreement” and “services performed under the Agreement” means services required to implement the grant-supported project or program and for which grant funds will be used to pay or reimburse the cost of such services or for which the cost of such services will be counted as match or cost share specifically required as a condition to the disbursement of the grant funds. The Executive Order is available at the following website: <https://governor.ohio.gov/wps/portal/gov/governor/media/executive-orders/2019-12d> and <https://governor.ohio.gov/wps/portal/gov/governor/media/executive-orders/Executive-Order-2022-02D>
- 22.2 The Contractor also affirms, understands, and agrees to immediately notify the Agency of any change or shift in the location(s) of services performed under the Agreement by Contractor or its agency-approved lower-tiered sub-grantees or sub-contractors, and no services performed under the Agreement shall be changed or shifted to a location(s) outside of the United States.
- 22.3 Notwithstanding any other provision of this Agreement, this Agreement shall not become effective unless and until the Contractor has executed this Agreement, and submitted it to the Agency.

ARTICLE XXIII: TERMINATION, SANCTION, DAMAGES

- 23.1 If the Contractor or any of its lower-tiered sub-grantees or sub-contractors performs services under the Agreement outside of the United States, the performance of such services shall be treated as a material breach of this Agreement. The Agency is not obligated to pay and shall not pay for such services. If the Contractor or any of its lower-tiered sub-grantees or sub-contractors perform any such services, the Contractor shall immediately return to the Agency all grant funds disbursed as payment or reimbursement for those services or on the basis of the cost of such services having been counted as match or cost share specifically required as a condition for disbursement of grant funds.
- 23.2 The Agency may, at any time after the breach, terminate this Agreement upon written notice to Contractor. The Agency may recover all accounting, administrative, legal and other expenses reasonably necessary for the preparation of the termination of the Agreement. If the Agency determines that actual and direct damages are uncertain or difficult to ascertain, the Agency, in its sole discretion, may recover a payment of liquidated damages in the amount of twenty-five percent (25%) of the value of this Agreement (not to exceed the amount of grant funds disbursed prior to any termination of the Agreement).
- 23.3 The Agency, in its sole discretion, may provide written notice to the Contractor of a breach and permit Contractor to cure the breach. Such cure period shall not be longer than 21 calendar days. Notwithstanding the Agency permitting a period of time to cure the breach or Contractor's cure of the breach, the Agency does not waive any of the rights and remedies provided the Agency under applicable law or in the Agreement, including, but not limited to, the recovery of grant funds paid for services provided by the Contractor, its lower tiered sub-grantees or sub-contractors performed outside of the United States, cost associated with corrective action, or liquidated damages.

ARTICLE XXIV: ASSIGNMENT / DELEGATION

- 24.1 The Contractor shall not assign any of its rights, nor delegate any of its duties and responsibilities under the Agreement without prior written consent of the Agency. Any assignment or delegation not pre-approved in writing by the Agency shall be void or voidable by the Agency.

ARTICLE XXV: DRUG-FREE WORKPLACE:

- 25.1 The parties agree to comply with all applicable federal, state, and local laws regarding smoke-free and drug-free work places, and shall make a good faith effort to ensure that none of its employees will purchase, transfer, use, or possess illegal drugs or alcohol, or abuse prescription drugs in any way, when they are engaged in the work being performed hereunder.
- 25.2 Public Law 103-227, Part C – Environmental Tobacco Smoke, also known as the Pro-children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, or by Federal grant, contract, loan or loan guarantee. The law does not apply to children's service provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 per day and/or the imposition of an administrative compliance order on the responsible entity.
- 25.3 By signing and submitting this document, the Contractor certifies that it will comply with the requirements of the Act. The Contractor further agrees that it will require the language of this certification to be included in any sub-awards, which sub-grantee shall certify accordingly.

ARTICLE XXVI: ENTIRE AGREEMENT

- 26.1 This Agreement and its exhibits and any documents referred to herein constitute the complete understanding of the parties and merge and supersede any and all other discussions, agreements and understandings, oral or written, between the parties with respect to the subject matter hereof. No other terms and conditions shall be considered a part of this Agreement unless expressly agreed upon in writing and signed by both parties, or unless otherwise required by law.

ARTICLE XXVII: SEVERABILITY

- 27.1 Whenever possible, each provision of this Agreement shall be interpreted in such matter as to be effective and valid under applicable law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable law, such provision

shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision of this Agreement.

ARTICLE XXVIII: DEBARMENT:

- 28.1 By signing this Agreement, Contractor verifies to ODA and the Agency that the Contractor is not currently debarred, proposed for debarment, declare ineligible, or voluntarily excluded from participation in transactions by any agency of the United States government under 2 CFR Part 376.
- 28.2 Contractor certifies to the best of its knowledge and belief, that it and its principals:
- A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;
 - B. Have not within a three-year period preceding the execution of this Agreement been convicted of or had a civil judgment rendered against it or them for commission of fraud or a criminal offense in connection with (i) obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; (ii) violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records; (iii) making false statements; or (iv) receiving stolen property;
 - C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in this certification; and
 - D. Have not within a three-year period preceding the execution of this Agreement had one or more public transactions (federal, state or local) terminated for cause or default.
- 28.3 Whenever the Contractor would be unable to certify to any of the statements in the foregoing certification for itself and for all of its principals at any time during the Term of this Agreement, the Contractor shall immediately notify the Agency in writing of the reason the Contractor can no longer make the certifications required by this Agreement.

ARTICLE XXIX: LOBBYING

- 29.1 The Contractor is subject to the restrictions on lobbying set forth in 45 CFR Part 93. (See 45 CFR 75.214). By signing this agreement, the Contractor certifies, to the best of its

knowledge and belief that:

- A. No federally appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal amendment or modification of any federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C. The Contractor shall require that the language of this paragraph be included in the award documents for all lower-tiered sub-contracts and that all lower-tiered sub-contractors shall certify and disclose accordingly.

29.2 The certifications contained in this Agreement, including those in Articles XXVIII and XXIX are material representations of fact upon which reliance will be placed when the Agreement is entered into by ODA and Agency. These certifications are a prerequisite for making or entering into this Agreement, and are imposed by Section 1352, title 31, U.S. Code and/or other applicable law. Any person who fails to make and file the required certifications shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

ARTICLE XXX: FOCAL POINTS

30.1 Focal points are posted on the Agency's website at www.areaagingsolutions.org.

ARTICLE XXXI: PUBLICITY

31.1 The Contractor agrees that all public notices and publicity regarding this program shall state that: "This program is made possible by a grant from the Ohio Department of Aging

through the Western Reserve Area Agency on Aging." If the grant reference is in written material, the words "Ohio Department of Aging" and "Western Reserve Area Agency on Aging" and their respective logos, shall appear in at least the same size letters or type as the name of the Contractor.

- 31.2 The Contractor shall not use the words "Ohio Department of Aging" and "Western Reserve Area Agency on Aging" to indicate funding of a program otherwise financed, unless specific authorization has been obtained from the Agency in writing.

ARTICLE XXXII: MODIFICATION

- 32.1 Any amendment to laws, Rules or regulations, including those cited in this Agreement, will result in a correlative modification to the Agreement without the necessity of executing a written amendment. However, this Agreement (which incorporates the Contractor's approved proposal and all amendments attached hereto) may otherwise be modified only in a writing signed by both parties.

ARTICLE XXXIII: TERMINATION BY CONTRACTOR

- 33.1 If the Contractor decides that it no longer wishes to provide services under this Agreement, the Contractor may not terminate services until the first day of the third month after the Agency has received written notice of termination from the Contractor. Nothing in this Article shall relieve the Contractor of the Contractor's legal obligations to the Agency under this Agreement or applicable law.

ARTICLE XXXIV: TERMINATION BY AGENCY

- 34.1 The Agency may at any time terminate this Agreement without further obligation if ODA determines, through the appeals process or through monitoring, that this Agreement was entered into inappropriately, or if funding is decreased or eliminated.

ARTICLE XXXV: RENEWAL OF AGREEMENT

- 35.1 This Agreement may be renewed by the Agency at the discretion of the Agency after the Agreement has been in effect for a year, upon notice given no later than 90 days prior to the expiration of the initial year of this Agreement, and for one additional year at the discretion of the Agency upon similar notice.

ARTICLE XXXVI: APPEALS

36.1 The Contractor has the right to appeal adverse action by the Agency in accordance with the following process and Rule 173-3-09 of the Ohio Administrative Code. The Contractor may appeal an adverse action decision made by Agency as follows:

1. An appealing Contractor must submit a letter, signed by the official authorized to sign the appeal, to the Chief Executive Officer of the Agency with a copy sent to the President of the Board of Trustees of the Agency, within two (2) working days of receipt of written notice of an adverse action taken by the Agency. The ground for appeal must be specified in the appeal letter.
2. If the Appeals Committee determines the appeal is not within the above-established criteria it shall so notify the appealing Contractor. If the Agency's Appeals Committee approves the appeal request and determines that the appeal is within the above-established criteria, a meeting of the Appeals Committee will be scheduled within five (5) working days, with an appearance by the appealing Contractor, to review the adverse decision and recommend final action by the Board of Trustees. An appealing Contractor will be notified of the date and time of the meeting. The Appeals Committee will render a final recommendation, in writing, within five (5) working days after the meeting, which shall become the final decision of the Agency unless appealed to the Board of Trustees.
3. An appealing Contractor may by letter appeal the notice that the appeal is not within the above-established criteria, or the final recommendation of the Appeals Committee to the Board of Trustees, with a copy to the Chief Executive Officer of the Agency, within two (2) working days of receipt of notice that the appeal is not within the above-established criteria or written notice of the final recommendation of the Appeals Committee. The ground for appeal must be specified in the appeal letter.
4. The Board of Trustees, or in its absence the Executive Committee, will review the notice that the appeal is not within the above-established criteria or the appeal from the final recommendation of the Appeals Committee at its next meeting, adopt a final course of action and notify the appealing Contractor about its final decision in writing within five (5) working days. The decision of the Board, or its Executive Committee, shall be the final decision of the Agency, which may be appealed by the Contractor to ODA.

5. An appealing Contractor may request a hearing by the ODA. ODA shall only honor a request for an appeal hearing before ODA if the provider has fully complied with the written process for appealing an adverse action by the Agency and the Agency has rendered its final decision on the appeal, or as required by applicable law.

To request a hearing before ODA, the Contractor shall submit a written request to ODA and its director via certified mail no later than fifteen (15) business days after the date that Agency renders its final decision, or as required by applicable law.

ODA shall hold a hearing and render its final decision on the appeal no later than thirty (30) business days after the date of the hearing. The appeal process will comply with Rule 173-3-09 and other applicable law.

ARTICLE XXXVII: NOTICES

- 37.1 Notices under this Agreement shall be in writing and may be delivered in person, by certified mail (return receipt requested), by overnight mail (proof of delivery required), or by facsimile (to the Contractor, only).

ARTICLE XXXVIII: APPLICABLE LAW AND FORUM

- 38.1 This Agreement shall be construed in accordance with Ohio law and specific applicable federal statutes, rules and regulations. Any litigation to enforce this Agreement shall be brought in the Cuyahoga County Court of Common Pleas or in the United States District Court for the Northern District of Ohio, in Cleveland, Ohio.

IN WITNESS WHEREOF, the duly authorized representatives of the Agency and the Contractor have executed this Agreement on the dates written below their signatures.

WESTERN RESERVE AREA AGENCY ON AGING

Contractor:
PROVIDER

E. Douglas Beach, Ph.D., CEO

Contractor/DULY AUTHORIZED SIGNATORY

DATE

TYPED or PRINTED NAME & TITLE OF
SIGNATORY

DATE

SAMPLE

