

FUNDING AGREEMENT

This AGREEMENT is made effective this ___ day of 2020, by and between the CITY OF GAINESVILLE, Florida (CITY), a municipal corporation, and ELDER CARE OF ALACHUA COUNTY, INC., a Florida not for profit corporation (RECIPIENT).

WITNESSETH

WHEREAS, the parties desire to enter into an agreement by which the City will provide funding to support the RECIPIENT's provision of On-Demand Transportation Services for Eligible Passengers (defined in Section 3, below).

NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

1. Term: This Agreement is made effective on **October 1, 2020**, and shall continue to **September 30, 2021**, or until the RECIPIENT has expended all of the funding provided by the CITY, whichever first occurs. Annual funding is contingent upon City Commission budget approval; unexpended/unrequested/unreimbursed funds do not roll forward.
2. Funding/Payment: The CITY shall reimburse the RECIPIENT for the On-Demand Transportation Services provided pursuant to this Agreement. The maximum amount the CITY shall reimburse the RECIPIENT is Thirty-Six Thousand Two Hundred Dollars (\$36,200.00).
 - a. The RECIPIENT shall request payment on a monthly basis through the submission of an invoice that specifies each On-Demand Transportation Service provided for that month, including the name of the Eligible Passenger, origin address, destination address, date of trip, and time of pick-up and drop-off.
 - b. The RECIPIENT shall provide such additional back-up and documentation as reasonably requested by the CITY to verify the services rendered and expenditures by the RECIPIENT. Upon approval by the CITY, the invoice will be processed.
 - c. Submission of the RECIPIENT's invoice for payment shall constitute RECIPIENT's representation to the CITY that, upon receipt by the RECIPIENT of the amount of the invoice, all obligations of the RECIPIENT to others, including any subcontractors that provide the On-Demand Transportation Services, incurred in connection with this Agreement will be paid in full.
3. Definitions
 - a. On-Demand Transportation Services are defined as on-call transportation originating or ending within the City of Gainesville limits, and not extending outside Alachua County limits, from the first floor or main lobby of the Eligible Passenger's origin to the first floor or main lobby of the Eligible Passenger's destination within the city limits of the City of Gainesville, Florida.
4. On-Demand Transportation Services: The RECIPIENT shall arrange for the provision of On-Demand Transportation Services (as defined in Section 3). The RECIPIENT shall determine the hours of availability of service and other program policies and procedures. Any provider of On-Demand Transportation Service utilized by the RECIPIENT must be a vehicle-for-hire company

permitted by the CITY pursuant to its Code of Ordinances, or exempt therefrom. The RECIPIENT shall train the Eligible Passengers on how to schedule a trip, including how to request trip changes and cancellation, and shall record and investigate complaints and commendations made by Eligible Passengers.

5. Reporting: In addition to the monthly invoice, the RECIPIENT agrees to make such reports and presentations concerning the On-Demand Transportation Services provided to the City Commission and any advisory board or committee, as reasonably requested by the CITY.

6. Default and Termination: If either party is in default (the DEFAULTING PARTY), then the other party (the NON-DEFAULTING PARTY) shall provide the DEFAULTING PARTY written notice of the default and intent to terminate the Agreement in ten (10) days after delivery of the letter. If the default is not corrected within that ten (10) day period (or such other period as the parties may determine to cure the default), the NON-DEFAULTING PARTY may terminate this Agreement without prejudice to any other rights or remedies the NON-DEFAULTING PARTY may have pursuant to law.

This Agreement may be terminated by either party, with or without cause, upon thirty (30) days written notice to the other party. In the event this Agreement is terminated, the RECIPIENT shall be reimbursed for services provided through the effective date of the termination.

7. Independent Contractor: RECIPIENT shall be considered an independent contractor and as such shall not be entitled to any rights or benefits to which CITY employees are or may be entitled to by reason of employment. RECIPIENT shall be solely responsible for the means, method, techniques, sequences, and procedures utilized by the RECIPIENT in full performance of this Agreement.

In the performance of this Agreement, the RECIPIENT will be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venture, or associate of the CITY. Neither the RECIPIENT nor any of its employees, officers, agents, Subcontractors or any other individual directed to act on behalf of the Recipient for any act related to this Agreement shall represent, act or purport to act or be deemed to be the agent, employee, partner, joint venture, or associate of the CITY.

8. Sovereign Immunity: Nothing in this Agreement shall be interpreted as a waiver of the CITY's sovereign Immunity as granted under Section 768.28 Florida Statutes.

9. Severability of Clauses: In the event that any clause or any terms or conditions of the Agreement are held to be invalid for any reason, all other clauses or terms shall remain in full force and effect as set out herein.

10. Laws and Regulations: The RECIPIENT will comply with all laws, ordinances, and regulations applicable to the work required by this Agreement. The RECIPIENT is presumed to be familiar with all state and local laws, ordinances, code rules, and regulations that may in any way affect the work required by this agreement. If the RECIPIENT is not familiar with the state and local laws, ordinances, code rules, and regulations, the RECIPIENT, or its subcontractor(s), remains liable for any violation and all subsequent damages, fines, or other costs and expenses attributable to such violations.

11. Non-Waiver: The failure of either party to exercise any right shall not be considered a waiver of such right In the event of any further default or non-compliance.

12. Governing Law and Venue: This Agreement shall be governed and construed in accordance with the laws of the State of Florida, notwithstanding its conflicts of laws provisions. In the event of any legal proceedings arising from or related to this Agreement, venue for such proceeding shall be in Alachua County.

13. Contact Person: The parties designate the following project managers as the primary contact point for purposes of the day-to-day management of this Agreement, including, without limitation, the receipt of invoices, scheduling meetings, and questions regarding this Agreement. The parties understand and acknowledge that the project managers are authorized to manage this Agreement, but may not be authorized to bind the party with respect to amendments to this Agreement. Each party shall provide notice of any change to the other party.

As to the CITY:

Malisa McCreedy, Mobility Director
City of Gainesville
PO Box 490 Station #5
Gainesville, FL 32627

As to the RECIPIENT:

Anthony Clarizio, Executive Director
Elder Care of Alachua County Inc.
5701 NW 34th Street
Gainesville, FL 32853

For any notice(s) required to be provided pursuant to this Agreement, the parties shall provide notice to the project managers designated above. Any notices required to be given pursuant to this Agreement shall be effective upon being sent by either facsimile, hand delivery, certified or registered mail (return receipt requested), or via overnight delivery services to the addresses listed above.

14. Right to Audit: RECIPIENT shall maintain records sufficient to document the use of the funds pursuant to this Agreement. These records shall be subjected at all reasonable times to review, inspection, copy, and audit by persons duly authorized by the CITY, including but not limited to employees of the City Budget and Finance Department and the City Auditor's Office. These records shall be kept for a minimum of five (5) years after the completion of the Agreement. Records related to any litigation, appeals, or settlements of claims arising from performance under this Agreement shall be made available until a final disposition has been made of such litigation, appeals, or claims. This right to audit/inspect includes a right to interview any employees and clients of the RECIPIENT to be assured of satisfactory performance of the terms.

15. Florida has a very broad public records law and certain records of a contractor may be considered public records. Accordingly, by entering into an agreement with the CITY, RECIPIENT must:

- a. Keep and maintain public records required by the CITY to perform the service.
- b. Upon request from the CITY's custodian of public records, provide the CITY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, F.S., or as otherwise provided by law.

- c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the RECIPIENT does not transfer the records to the CITY.
- d. Upon completion of the contract, transfer, at no cost, to the CITY all public records in possession of the RECIPIENT or keep and maintain public records required by the CITY to perform the service. If the RECIPIENT transfers all public records to the CITY upon completion of the contract, the RECIPIENT shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the RECIPIENT keeps and maintains public records upon completion of the contract, the RECIPIENT shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the CITY, upon request from the CITY's custodian of public records, in a format that is compatible with the information technology systems of the CITY.

IF THE RECIPIENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE RECIPIENT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (352) 393-7874, sleepbl@cityofgainesville.org, or Barbara Sleep, City of Gainesville, Department of Transportation & Mobility, P.O. Box 490, Mailbox 10G, Gainesville, FL, 32627.

16. Assignment of Interest: Neither party will assign or transfer any interest in this Agreement without prior written consent of the other party, which may be granted or denied in the sole discretion of each party.

17. Successors and Assigns: The CITY and RECIPIENT each bind their respective successors and assigns to all the terms, conditions, covenants, and provisions of this Agreement.

18. Amendments: This Agreement may be modified and amended by mutual written amendment to this Agreement, executed by the duly authorized representatives of each party.

19. Third Party Beneficiaries: This Agreement does not create any relationship with or any rights in favor of any third party.

20. Entire Agreement This Agreement constitutes the entire agreement between the CITY and the RECIPIENT with respect to the provision of On-Demand Transportation Services for Eligible Passengers.

IN WITNESS WHEREOF, the duly authorized representatives of each party have signed this Agreement.

ELDER CARE OF ALACHUA COUNTY INC.

CITY OF GAINESVILLE, FLORIDA

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

**** Draft ****

Date: _____

Date: _____

Approved as to Form and Legality

City Attorney