

**CUYAHOGA COUNTY DIVISION OF SENIOR & ADULT SERVICES  
CONTRACTUAL AGREEMENT BETWEEN**

**CUYAHOGA COUNTY & LUTHERAN METROPOLITAN MINISTRY**

THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, by and between the County of Cuyahoga, Ohio (the "County"), on behalf of the Cuyahoga County Division of Senior & Adult Services ("DSAS"), 13815 Kinsman Road, Cleveland, OH 44120 (herein after referred to as "DSAS") and Lutheran Metropolitan Ministry, a corporation not-for-profit, with principal office located at 4515 Superior Ave., Cleveland, OH 44103 (herein after referred to as "Vendor") for the purchase of guardianship services.

**RECITAL**

Whereas, adult indigent persons of Cuyahoga County have experienced an increase in the documented need for guardianship, and

Whereas, adult indigent persons require guardianship when there is no appropriate or available family member to provide legal guardian services, and no other adult appears available to become the guardian, and

Whereas, the Vendor is qualified and willing to provide such services as will be needed by DSAS, and;

Whereas, the Vendor has demonstrated through a request for proposal that it possesses the necessary expertise, knowledge, resources and initiative to successfully assist DSAS in accomplishing the aforementioned objectives.

Therefore, in consideration of these tenets, DSAS and the Vendor do hereby acknowledge their mutual desire to enter into a contractual agreement. This agreement expressly requires that the Vendor make available to DSAS, social services which are subject to the terms and conditions outlined in the body of this contract. Also, all attachments and appendices are deemed to be a part of this contract and the contents therein are hereby considered legally binding.

The aforementioned parties mutually agree upon the following:

**ARTICLE I - SCOPE OF SERVICES:**

The Vendor shall provide the service(s) listed below, in the Vendor's proposal (Attachment A), addendum to proposal (Attachment B), and in the Conditions of Participation (Appendix A); such service(s) shall be inclusive of, but not limited to the following:

**Guardianship Services Specifications:**

**Purpose:** Guardianship of adult services include personal and professional services that satisfy the requirements of the Ohio Probate Code and common law relating to guardian of person and/or estate and ward relations, including concerns of health, education, welfare and fiduciary responsibility.

Guardian of person has custody of, controls, and protects the person of the ward.

Guardian of estate has custody of, controls, and protects the finances of the ward.

**Unit of Service:** One unit of guardianship of adult service equals one (1) hour of direct service. The unit rate must include all applicable fees and costs associated with the provision of the service requirements.

**Specifications:**

Assessment & Application

The vendor will open a formal case and conduct an assessment to determine if client referred by DSAS is eligible for guardianship of person.

The vendor will notify the DSAS caseworker of the case status within 2 business days after the team has reviewed the case and prepared the written disposition

The vendor will initiate filings for guardianship for clients for whom no less restrictive alternatives can be deemed appropriate.

The vendor will file an application for guardianship of person for clients deemed appropriate for guardianship of adult services.

Guardianship

The vendor, once appointed by the Probate Court, will become and act as guardian for the client.

The vendor will train, orient, supervise and support staff guardians.

The vendor will hire, train, monitor, supervise, and support volunteer guardians.

The vendor will provide appropriate supervision of guardians, both staff and volunteers.

The vendor shall visit each incapacitated person for whom public guardianship services are provided no less than monthly to be eligible for compensation. The vendor shall document the purpose, duration and outcome of these visits in accordance with the requirements of DSAS.

**Service Goal & Objective Requirements:**

Goal 1: To protect clients deemed by DSAS of being incapable of protecting themselves.

Objective 1-1: 75% of all clients referred to the vendor by DSAS will be accepted for guardianship application service by the vendor.

Objective 1-2: 75% of guardianship appointment cases will be filed within 30 business days of the initial referral by DSAS.

Objective 1-3: 25% of wards will receive face-to-face contacts from the vendor at least twice a month.

**Personnel Requirements:** See Conditions of Participation

**Structural Requirements:** See Conditions of Participation

**Client Service Management:** See Conditions of Participation

**ARTICLE II - TERMS OF SERVICE:**

The Vendor shall successfully provide all services as specified in the contract commencing on **January 1, 2014** and ending on the close of business on **December 31, 2014** which serves as the official termination date of this contract. All services outlined in this contract must be performed to the full and complete satisfaction of DSAS.

The Vendor's failure to render "satisfactory" services as outlined in the terms and conditions of this agreement, its proposal and other contract deliverables specified herein including subcontracted services (if applicable) shall serve as a breach of this contract and provide DSAS with ample justification to terminate this contract at any time period preceding the aforementioned termination date.

**ARTICLE III - CONTRACT VALUE:**

Payment for all services provided in accordance with the provisions of this contract is contingent upon the availability and appropriation of local funding and allocation of federal funds annually. **The total amount of the contract shall not exceed \$553,000.00 for the contract period.**

DSAS will allocate an amount not-to-exceed **Three Hundred Fifty Two Thousand dollars (\$352,000.00)** for the delivery of services by the Vendor to clients referred by DSAS.

The Probate Court, through the County, will allocate an amount not-to-exceed **Two Hundred One Thousand dollars (\$201,000.00)** for the delivery of services by the Vendor to clients referred by the Probate Court. The Application specifications in Article I do not apply to funds allocated from the Cuyahoga County Probate Court. All other portions of this contract will apply.

**ARTICLE IV - BILLING RATES:**

Subject to terms and conditions set forth in this contract, DSAS agrees to purchase on behalf of, and the Vendor agrees to furnish to eligible Cuyahoga County residents, those specific social service(s) detailed in this contract and in accordance with the Vendor's proposal including subcontractors services (if applicable).

Subject to the limitations specified in Article III, the amount to be paid for purchased services pursuant to the terms and conditions of this agreement will be based on the following unit rate(s) and/or fixed rate structure for the duration of this agreement. The Vendor agrees to provide the following service units per service code subject to the limitations specified by the unit rate.

Service: Guardianship of Adult

Unit Rate: \$66.76

The aforementioned rate will remain in effect for the entire contract period.

**ARTICLE V – BILLING INSTRUCTIONS:**

The Vendor shall adhere to all billing procedures as listed in the Conditions of Participation (Appendix A). Under no circumstances shall DSAS be subject to late fees or interest payment penalties. The Provider will invoice DSAS for services rendered to eligible clients no later than the 10<sup>th</sup> business day of the month following the end of the service month.

Such billing shall include the monthly actual aggregate number of units of service(s) provided per client. Such unit rates shall be in accordance with the authorized unit rate(s) in Article IV of this contract.

All invoices should be forwarded via e-mail to DSASGUARDIANSHIP@ODJFS.STATE.OH.US

**ARTICLE VI – TERMS OF PAYMENT:**

DSAS will review such roster(s) for completeness before making payment within thirty (30) business days after receipt of an accurate invoice. All invoices submitted are subject to adjustment by the DSAS before such payment is made in order to adjust for mathematical errors, incorrect rates, non-covered services and/or review recoveries; and the reported expenditures are subject to audit by appropriate County, State or Federal officials or an independent audit as describe in Article XIII after payment is made. **Under no circumstances shall this contract exceed \$553,000.00 for the contract period.**

DSAS shall not be required to, nor will it reimburse the Vendor for any administrative cost, fees, or other charges for services rendered above and beyond the unit rate(s) stipulated in Article IV of this contract including any subcontracted services.

Payments made will not be subject to late fees or interest payment penalties.

**ARTICLE VII – BILLING TIME LIMIT:**

DSAS reserves the right to withhold payment from the Vendor in the event rosters for services rendered are not submitted for payment in a timely manner based on the following:

- a. Billing Rosters received by DSAS 1 to 3 business days after the due date will be subject to a 5% reduction in the amount billed to be paid to the Vendor.
- b. Billing Rosters received by DSAS 4 to 6 business days after the due date will be subject to a 10% reduction in the amount billed to be paid to the Vendor.
- c. Billing Rosters received by DSAS 7 or more business after the due date will be subject to a 20% reduction in the amount billed to be paid to the Vendor.
- d. DSAS retains the right to refuse payment to the Vendor when requests for payment are not received within sixty (60) days of the due date.

**ARTICLE VIII - DUPLICATE BILLING:**

The Vendor warrants that rosters submitted and claims made to DSAS or the County for payment for purchased services shall be for actual services rendered to eligible individuals and they are not duplicate claims made by the Vendor to other government entities, municipalities or non-profit organizations for the same service.

**ARTICLE IX - SUBCONTRACTING: (IF APPLICABLE)**

When deemed necessary to deliver the quantity and quality of services as specified in this contract and/or the Vendor's proposal, the Vendor may need to subcontract appropriate services.

All such subcontracted services shall be in the same form as stipulated in this contract and subject to the same terms, conditions, and covenants contained herein. No such subcontracted services shall in any case release the Vendor of its liability under this contract. The Vendor is responsible for making direct payment to its subcontractors for such service(s) rendered as part of this agreement. DSAS will not be required to make direct payment(s) to nor held liable for any payment not made by the Vendor for subcontracted services provided under the auspices of this contract.

**ARTICLE X - INDEPENDENT VENDOR STIPULATIONS:**

The Vendor, its employees, agents and subcontractors will act in accordance with the terms of this contract in an independent capacity and not as officers, employees, agents or subcontractors of DSAS and/or the County.

**ARTICLE XI – MAINTAINING CLIENT AND FINANCIAL RECORDS:**

**Client Records** - The Provider shall prepare and maintain independent client records that reflect each client serviced under this contract with DSAS as outlined in the Conditions of Participation (Appendix A). The Provider shall keep client files current and in good order.

**Financial Records** – The Provider shall maintain financial records, payroll reports, and other pertinent accounting transactions in good order, which sufficiently and properly reflect direct and indirect costs expended in the performance of this contract and/or used in development of the unit rate(s) for each service proposed under contract.

Such client and financial records shall be subject at all reasonable times to inspection, review and/or audit by duly authorized federal, state or DSAS personnel and are subject to inspection by an individual(s) or entity selected to perform the audit as stipulated in Article XIII of this contract.

Such completed records, logs and financial documents shall include but not limited to the following:

**A. Client Records:**

1. Client Service Delivery Records/Logs for all contracted services
2. Client Case File(s)

**B. Financial Records:**

1. Payroll Distribution Reports/Time Sheets
2. Current Organizational Chart/Position Descriptions
3. Bank Statements/Cancelled Checks
4. General Ledger
5. Accounts Payable Transactions
6. Audited Financial Statements

**ARTICLE XII - AVAILABILITY AND RETENTION OF RECORDS:**

The Vendor shall maintain and preserve all financial records related to this contract and other documentation used in the administration of the program including any client information to support and substantiate each service billed to DSAS as stated in Article IV.

All records must remain in the Vendor's possession for a period of seven (7) years after the termination date of this contract and/or it must assure the maintenance of and availability of such for a like period of time if in the possession of a second or third party unless otherwise directed by DSAS. If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the seven (7) year period, the Vendor shall retain records until completion of this action and all issues which arise from it or until the end of the seven (7) year period, whichever is later.

**ARTICLE XIII - RIGHT TO AUDIT:**

DSAS reserves the right to audit and monitor the manner in which the terms and conditions of this contract are being carried out as outlined in the Conditions of Participation (Appendix A):

- a. Compliance and Operational Reviews will be performed by DSAS for compliance of all deliverables and/or upon request by the County of Cuyahoga Executive, or in tandem with another state/federal agency in the event of adverse information pertaining to the operation of the Provider.

**ARTICLE XIV - RESPONSIBILITY FOR AUDIT:**

The Vendor agrees to conduct an independent audit of expenditures or determinations of eligibility or both if required by DSAS on the basis of evidence of misuse or improper accounting of funds or in determinations of eligibility for which the Vendor is responsible. The Vendor will make available the audit report findings, within 30 days of receipt, to DSAS and/or the County or its duly appointed agent.

**ARTICLE XV - RESPONSIBILITY FOR AUDITED FINANCIAL STATEMENT:**

The Vendor agrees to submit annually its audited financial statement as prepared by an independent accounting firm at the close of each fiscal year. A complete copy of the audited financial statement must be submitted to DSAS within thirty (30) days after receipt to:

Division of Senior and Adult Services  
Attn: Procurement & Contractual Services  
13815 Kinsman Road  
Cleveland Ohio 44120

**ARTICLE XVI - RESPONSIBILITY FOR AUDIT EXCEPTIONS:**

The Vendor agrees to accept responsibility for receiving, replying to and/or complying with any audit exception(s) noted during a compliance or financial audit performed by DSAS or any appropriate state or federal agency that directly relates to the services billed and payment made by DSAS. Full and timely repayment is expected in the event of an audit and discovery of audit exceptions including, but not limited to the following:

- a. services billed and payment received on behalf of individuals who are determined ineligible for services rendered that were not in accordance with policies and procedures established by this contract.

- b. services billed and payment made by DSAS for services not covered by the contract.
- c. duplicate billings, over billings, erroneous billings, and or unsubstantiated \*deceptive claims.

The Vendor is not required to repay an overpayment caused by the negotiated rate being in excess of the Vendor's actual costs unless that rate was based upon: non-allowable or deceptive claims of estimated costs; projected expenditures for additional goods, services or personnel which the Vendor did not secure; or the contract was negotiated on a cost reimbursable basis.

\*As used in this section "deceptive" means knowingly deceiving another or causing another to be deceived, by a fake or misleading representation, by withholding information, by preventing another from acquiring information or by any other act, conduct, or omission which creates, confirms or perpetuates a fake impression in another, including a fake impression as to law, value, state of mind or other objective or subjective fact.

#### **ARTICLE XVII - CONTRACT AMENDMENT:**

This contract may be amended at any time as mutually agreed to by both parties and a written amendment signed by both parties and submitted to the County for approval in the same manner required by the County's Procurement Policy. Reasons for amendment may include, but are not necessarily limited to the following:

- a. The quality, quantity or scope of purchased services furnished by the Vendor has been reduced or increased.
- b. The quality, quantity or scope of purchased services requested by DSAS has been reduced or increased.
- c. The reimbursable fixed unit rate varies significantly from actual cost.
- d. The Vendor fails to meet the necessary state and federal licensing requirements.
- e. The time period needs to be extended.

In addition, DSAS reserves the right to unilaterally adjust and amend the maximum contract amount should it determine that the maximum contract amount will not be expended during the contract period based on DSAS' quarterly projections. DSAS will give notice of twenty-one days to the Vendors affected advising of the proposed amendment before seeking the County's resolution. The purpose of the twenty-one day notice is to give the parties affected a period of time to discuss the proposed adjustment or amendment.

The Vendor expressly waives its signature and approval of the contract amendment submitted to the County permitting the adjustment/amendment, based on information provided in the twenty-one day notice referenced above.

**ARTICLE XVIII - CONTRACT TERMINATION:**

DSAS shall have the right to terminate this agreement for any reason. Either party shall have the right to terminate this contract upon thirty (30) days written notice to the other party if either party does not meet the terms and conditions specified in this contract. The Vendor shall provide all services required by this contract up to and including the date of termination, and shall be compensated upon receipt of an itemized billing roster on a monthly basis for services rendered. The compensation against this contract shall not exceed the total value stipulated in Article III. Under no circumstances shall DSAS be responsible for or subject to any type of penalty and/or interest payment upon the cancellation of this contract.

**ARTICLE XIX - SAFEGUARDING/CONFIDENTIALITY OF CLIENT'S INFORMATION:**

The Vendor agrees that the use of, or disclosure by any of its employees, agents and subcontractors of any information concerning client's information for any purpose not directly related to the administration of this contract or carrying out its responsibilities is prohibited except upon the written consent of the client or his/her responsible guardian and/or DSAS.

**ARTICLE XX - ANTI-DISCRIMINATION:**

DSAS and the Vendor agree that as a condition of this contract, there shall be no discrimination against any client or any employee because of race, color, sex, religion, national origin, handicap, or any other factor as specified in Title VII of the Civil Rights Act of 1964, Rehabilitation Act of 1973, and subsequent amendments including the Americans With Disabilities Act of 1992.

It is further agreed that the Vendor will comply with all appropriate federal and state laws regarding such discrimination and the right to and method of appeal will be made available to all persons under this contract.

The Vendor also agrees as a condition of the contract to comply with section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), all requirements imposed by the applicable HHS regulations (45 CFR 84) and all guidelines and interpretations issued pursuant thereto.

If the Vendor or its agents or subcontractors are found to be out of compliance with any aspects of this provision, it may be subject to investigation by DSAS, the County or its duly appointed agent and subject to termination of this contract.

**ARTICLE XXI - INDEMNITY:**

The Vendor agrees that it will, at all times during the existence of this contract indemnify and save the County of Cuyahoga, all of its departments, agents and employees harmless from suits or actions of every nature and description, brought against the County, any and all of its officers, agents, servants or employees, thereof, for or on account of any injuries or damages received or sustained by a party or parties from any act of the Vendor, its servants or agents that arise out of the injuries or damages sustained during performance of services against this contract.



**ARTICLE XXII - INSURANCE:**

The contractor shall procure, maintain and pay premiums for the insurance coverage and limits of liability indicated below with respect to products, services, work and/or operations performed in connection with this Contract.

1. **Mandatory Insurance Requirements**

The following items (Worker's Compensation Insurance, Commercial General Liability Insurance, Business Automobile Liability Insurance, and Professional Liability/Errors & Omissions Insurance) are all mandatory requirements unless otherwise specified.

(a) **Worker's Compensation Insurance** as required by the State of Ohio. Such insurance requirement may be met by either purchasing coverage from the Ohio State Insurance Fund or by maintaining Qualified Self-Insurer status as granted by the Ohio Bureau of Workers Compensation (BWC).

For Contractors with employees working outside of Ohio, Worker's Compensation Insurance as required by the various state and Federal laws as applicable including Employers' Liability coverage with limits of liability not less than:

\$1,000,000 each accident for bodily injury by accident;  
\$1,000,000 each employee for bodily injury by disease;  
\$1,000,000 policy limit for bodily injury by disease.

Such insurance shall be written on the National Council on Compensation Insurance (NCCI) form or its equivalent.

(b) **Commercial General Liability Insurance** with limits of liability not less than:

\$1,000,000 each occurrence bodily injury & property damage;  
\$1,000,000 personal & advertising injury;  
\$2,000,000 general aggregate;  
\$2,000,000 products/completed operations aggregate.

Such insurance shall be written on an occurrence basis on the Insurance Services Office (ISO) form or its equivalent.

(c) **Business Automobile Liability Insurance** covering all owned, non-owned, hired, and leased vehicles. Such insurance shall provide a limit of not less than \$1,000,000 combined single limit (bodily injury & property damage) each accident;

Such insurance shall be written on an occurrence basis on the Insurance Services Office (ISO) form or its equivalent.

(d) **Professional Liability Insurance/Errors & Omissions Liability Insurance** providing coverage for claims arising out of the provision of design, architectural, engineering and/or other professional services with a limit of liability not less than:

\$5,000,000 per claim;  
\$5,000,000 aggregate.

Such insurance may be written on either an occurrence or claims-made basis. However, if written on a claims-made basis, the claims-made retroactive date on the policy shall be prior to the commencement of any design, architectural, engineering or other professional activity related to this Contract.

### **Insurance Coverage Terms and Conditions**

1. The insurance policies of the Contractor required for this contract, with the exception of the All Risk Equipment Insurance and Errors & Omissions Insurance, shall each name the "County of Cuyahoga, Ohio and its employees" as an Additional Insured and shall contain the following provisions:

- (i) Thirty (30) days prior notice of cancellation or material change;
- (ii) A waiver of subrogation wherein the insurer(s) waives all rights of recovery against the County.

2. The insurance required for this contract shall be provided by insurance carrier(s) licensed to transact business and write insurance in the state(s) where operations are performed and shall carry a minimum A.M. Best's rating of A VII or above.

3. These insurance provisions shall not affect or limit the liability of the Contractor stated elsewhere in this Contract or as provided by law.

4. The Contractor shall require any and all of its subcontractors to procure, maintain, and pay premiums for the insurance coverages and limits of liability outlined above with respect to products, services, work and/or operations performed in connection with this Contract.

5. The County reserves the right to require insurance coverages in various amounts or to modify or waive insurance requirements on a case-by-case basis whenever it is determined to be in the best interest of the County.

6. If the Bid/Proposal/RFQ specifies the need for higher limits of liability for any applicable insurance provision, the Bid/Proposal/RFQ specifications shall govern.

7. The Contractor shall furnish a Worker's Compensation Certificate and Certificate of Insurance evidencing the insurance coverages required herein are in full force and effect. Acceptance of a non-conforming certificate of insurance by the County shall not constitute a waiver of any rights of the parties under this Contract.

**ARTICLE XXIII - PUBLICITY:**

In any publicity release or other public reference including media release, information pamphlets, client sign-in sheets, etc., on the services provided as part of this contract, it will clearly state that the project is funded in part by Cuyahoga County through the Health & Human Services Levy.

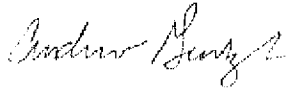
**ARTICLE XXIV. ELECTRONIC TRANSACTION:**

By entering into this Contract, I agree on behalf of the contracting or submitting business entity, its officers, employees, subcontractors, subgrantees, agents or assigns, to conduct this transaction by electronic means by agreeing that all documents requiring county signatures may be executed by electronic means, and that the electronic signatures affixed by the County to said documents shall have the same legal effect as if that signature was manually affixed to a paper version of the document. I also agree on behalf of the aforementioned entities and persons, to be bound by the provisions of chapters 304 and 1306 of the Ohio Revised Code as they pertain to electronic transactions, and to comply with the electronic transactions, and to comply with the electronic signature policy of Cuyahoga County.

IN WITNESS WHEREOF, the County of Cuyahoga, Ohio and Vendor have each caused this Contract to be signed and delivered by its duly authorized representative as of the date first written above.

**LUTHERAN METROPOLITAN  
MINISTRY**

By: \_\_\_\_\_



**COUNTY OF CUYAHOGA, OHIO**

Edward FitzGerald, County Executive

By: \_\_\_\_\_



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Edward FitzGerald, County Executive