

SUB-CONTRACTOR SERVICE AGREEMENT RENEWAL

This Service Agreement ("Agreement") Renewal for July 1, 2022, through June 30, 2023, is entered into on this 1st day of July 2022 between the Contractor, Volunteers of America Colorado Branch (VOA) and the Subcontractor, Gilpin County (GC).

VOA is a provider of nutrition services to eligible senior citizens in the community and by this service agreement arranges for the services of Gilpin County Senior Services (GC) as an independent contractor for the purpose of providing nutritionally balanced meals for service to eligible older adults who require home-delivered meals that meet Older Americans Act nutritional guidelines.

The parties desire to enter into this Agreement in order to provide a full statement of their respective responsibilities in connection with the delivery of services hereunder.

Purpose:

For the Subcontractor to provide services on behalf of the Contractor as requested by the Contractor, the Subcontractor acknowledges that a portion of these services may involve using Title III, Older Americans Act funds or Colorado funding for Senior Citizens. These funds are administered by Denver Regional Council of Governments (DRCOG). As such, the attached language or Subcontractor addendum required by DRCOG, and the State of Colorado is part of this contract. Your signature acknowledges you will adhere to the requirements contained in this addendum as part of this contract (copy of VOA contract with DRCOG).

A. GC Responsibilities

1. Provide a hall for the use of the Seniors' Nutrition Program at least three times each week from 12:00 P.M. to 2:00 P.M. for the purpose of serving meals, socializing and provision of other programs and services. The dining center will be open three (3) days each week excluding Gilpin County holidays and VOA holidays.
2. Prepare and serve hot meals that meet one-third of the recommended daily dietary allowance a) for the dining center Monday through Thursday each week and b) for the home-delivered meal program Monday through Friday each week. The number of meals to be served in each program will be determined by VOA in consultation with DRCOG.
3. Provide a four-week cycle menu with portion sizes one month in advance of service for approval by the VOA Staff Dietitian and DRCOG.
4. Provide VOA all recipes used in meal production for the purpose of analyzing the nutrient content of the meals served.

5. Provide a program coordinator to be responsible for the daily supervision of participants and service provision at the Dining Center and for the daily coordination of Meals on Wheels services.
6. Provide telephone service for the Dining Center and the Meals on Wheels Program.
7. Assure the deliver of meals to homebound clients by 12 Noon each day
8. Maintain and submit data required by VOA to include, but not be limited to participant forms, documentation of meals served, computer log sheets, temperature compliance forms, meals reports and any other service and/or client data required by VOA in accordance with program rules and regulations.
9. Provide clients the opportunity to make a confidential and voluntary contribution for the meal. All individuals not eligible to participate in the meal program on a donation basis will pay for the meal at the current guest rate approved by DRCOG; this may change with each annual program budget or budget update.
10. Forward all client contributions and guest fees to VOA on a weekly basis.
11. Provide outreach to the community about the Dining Center and the Meals on Wheels programs.
12. Provide VOA copies of all Colorado Department of Health food service inspections.
13. Adhere to all applicable rules and regulations governing program operations as specified by all regulatory agencies and funding sources.
14. Recruit, supervise and coordinate volunteers for the Dining Center and the Meals on Wheels Program.
15. The Subcontractor (GC) agrees that it is subject to audit and inspection for compliance to further rules, regulations and policies as may be prescribed from time to time by VOA or any other governmental agency or organization funding the program services required under this Agreement.

B. VOA Responsibilities:

1. Provide training for the program coordinator(s) and assisting volunteers assigned by Gilpin County.
2. Assign a staff supervisor responsible for the supervision and training of the program coordinator(s) and assisting volunteers.

3. Provide a Dining Center instruction manual to the program coordinator(s) to be used as a reference in the operation of the Dining Center and in the training of staff and volunteers.
4. Meet with GC staff and supervisors as necessary to facilitate communication about program operations, program planning, and program compliance.

C. Pricing, Billing, and Payment

1. Reimburse Gilpin County on a monthly basis, within two weeks of receipt of an itemized invoice, at a rate of \$4.50 per meal (as of July 1, 2022) for approved meals provided during the month for the Dining Center and the Meals on Wheels Program in Gilpin County.
2. Pass through to Gilpin County a total sum of \$26,160 (\$13,080 to Nutrition Programs and \$13,080 to Transportation Program) per year payable at a rate of \$2,180 per month (beginning July 1, 2022) to assist with the cost of operations of the Dining Center, the Meals on Wheels Program and the Transportation Program (see separate Transportation Letter of Agreement).

D. Term of Agreement

The term of this Agreement shall be from the date of its execution through June 30, 2023, and may be renewed annually as long as VOA continues to be the designated Older Americans Act nutrition service provider to the elderly under contract with the Denver Regional Council of Governments' Area Agency on Aging for Region III-A in Colorado.

E. Termination

1. Either party may terminate this Agreement at any time by giving 90 days written notice to the other party.
2. Either party may terminate this Agreement after seven (7) day notice if the other party is in default of any of the terms of this Agreement.
3. Termination shall be effective upon the sending of a notice of termination in accordance with the terms of Section J. of this Agreement.

F. Notice

All notices and other communications that either party may desire or may be required to deliver to the other party may be delivered in person or by depositing the same in the United States mail, postage prepaid, certified or registered mail, or by electronic facsimile, addressed or delivered as follows:

If to VOA:

Dale Elliott, Senior Director of Aging & Nutrition Services
Volunteers of America
2660 Larimer Street
Denver, CO 80205
Phone: (303) 297-0408
(720) 264-3303 (Direct Line)
FAX: (720) 264-3306

If to Gilpin County:

Mary Ellen Makosky, Coordinator
Gilpin County Senior Services
15193 Highway 119
Black Hawk, CO 80422
Phone: (303) 582-5444
Direct: (303) 515-4292
FAX: (303) 582-5798

Either party may change the address to which notices are to be delivered by giving notice herein provided. Any notice shall be deemed to have been given if hand delivered or sent by electronic facsimile, as of the date delivered or transmitted, or if mailed as provided herein, on the third day after mailing.

G. Indemnification

1. To the extent permitted under the Colorado Governmental Immunity Act, and without waiving any defenses or immunities thereunder, GC shall defend, indemnify and hold VOA harmless from any and all loss, obligation, claim, liability, settlement, payment, award, judgment, fine, penalty, interest, charge, expense, including costs of suit and reasonable attorney's fees and disbursements, damages or deficiency, or other charges incurred or required to be paid due to any claim resulting from GC's negligence or willful misconduct in the performance of this Agreement.
2. VOA shall defend, indemnify and hold GC harmless from any and all loss, obligation, claim, liability, settlement, payment, award, judgment, fine, penalty, interest, charge, expense, including costs of suit and reasonable attorney's fees and disbursements, damages or deficiency, or other charges incurred or required to be paid due to any claim resulting from VOA's negligence or willful misconduct in the performance of this Agreement.
3. The services to be performed by GC are those of an independent contractor and said services are not performed by the GC as an employee or agent of VOA or Denver regional Council of Governments (DRCOG). Furthermore, to the extent permitted by Colorado law, GC shall fully defend, indemnify, and hold harmless DRCOG and the State of Colorado from any liability or responsibility for any damages, injuries, performance disputes, grievances or claims made by or on

behalf of any person, firm, corporation, or other entity, arising in any way out of the services performed by GC pursuant to this Agreement.

4. Additional Insurance Requirements:

- A. The Subcontractor (GC) agrees to procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands, and other obligations assumed by the Subcontractor pursuant to Section 4, C. Such insurance shall be in addition to any other insurance requirements imposed by this agreement or by law. The Subcontractor shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to Section 4, C of this Agreement by reason of its failure to procure or maintain insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, durations, or types.
- B. Such coverages shall be procured and maintained with forms and insurers acceptable to VOA and DRCOG.
- C. All coverages shall be continuously maintained through the term of this contract. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage for a period of three years beyond the expiration of the contract. Evidence of qualified self-insured status may be substituted for the insurance requirements listed below:
 - (1) Workers' Compensation insurance to cover obligations imposed by applicable laws for any employee engaged in the performance of work under this agreement, and Employers' Liability insurance with minimum limits of ONE HUNDRED THOUSAND DOLLARS (\$100,000) each accident, FIVE HUNDRED THOUSAND DOLLARS (\$500,000) disease policy limit, and ONE HUNDRED THOUSAND DOLLARS (\$100,000) disease - each employee.
 - (2) General Liability insurance with minimum combined single limits of ONE MILLION DOLLARS (\$1,000,000) each occurrence and ONE MILLION DOLLARS (\$1,000,000) aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal and advertising injury (including coverage for contractual and employee acts), blanket contractual, products, and completed operations, and shall provide for defense of sexual abuse and molestation claims for innocent insureds. The policy shall contain a severability of interests provision.
 - (3) Comprehensive Automobile Liability insurance with minimum combined single limits for bodily injury and property damage of not less than ONE MILLION DOLLARS (\$1,000,000) each occurrence and ONE MILLION DOLLARS (\$1,000,000) aggregate with respect to each of Contractor's owned, hired or non-owned vehicles assigned to or used in performance of the services.
 - (4) Security & Privacy Liability or Cyber Risk insurance to cover loss of Protected Health Information ("PHI") data and claims based upon alleged

violations of privacy rights through improper use or disclosure of PHI with minimum annual limits as follows:

- Contractors with 10 or less clients **and** revenues of \$250,000 or less shall maintain limits on Privacy Liability Insurance of not less than \$50,000.
 - Contractors with 25 or less clients **and** revenues of \$500,000 or less shall maintain limits on Privacy Liability Insurance of not less than \$100,000.
 - Contractors with more than 25 clients **and** revenues of more than \$500,000 shall maintain limits on Privacy Liability Insurance of not less than \$1,000,000.
- (5) Professional Liability insurance in the amount of ONE MILLION DOLLARS (\$1,000,000) each occurrence for coverage to defend against allegations as well as damages resulting from failure to perform on the part of, financial loss caused by, and error or omission in the service or product of the policy holder.
- (6) Every policy required above shall be primary insurance, and any insurance carried by VOA, its officers, or its employees, shall be excess and not contributory insurance to that provided by Subcontractor. No additional insured endorsement to the policy required by paragraph (1) above shall contain any exclusion for bodily injury or property damage arising from completed operations. The Subcontractor shall be solely responsible for any deductible losses under any policy required above.
- (7) A certificate of insurance evidencing coverage and naming VOA, DRCOG, its officers, its employees and the State of Colorado as additional insureds on the general liability and automobile liability policies shall be completed by the Subcontractor's insurance agent as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect, and shall be reviewed and approved by VOA and/or DRCOG prior to commencement of the agreement. In the case of qualified self-insurance status, VOA and/or DRCOG may require satisfactory evidence of sufficient funding for such purposes. The certificate shall identify this Contract and shall provide that coverages afforded under the policies shall not be cancelled, terminated or materially changed until at least 30 days prior written notice has been given to VOA and/or DRCOG. The completed certificate and/or evidence of qualified self-insured status must be sent with the signed Agreement to:

Volunteers of America
2660 Larimer Street
Denver, CO 80205

- (8) Failure on the part of the Subcontractor to procure or maintain policies providing the required coverages, conditions, and minimum limits shall constitute a material breach of this agreement upon which VOA may immediately terminate this agreement, or at its discretion, VOA may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by VOA shall be repaid by Subcontractor to VOA upon demand, or VOA may offset the cost of the premiums against any monies due to Subcontractor from VOA.
 - (9) VOA reserves the right to request and receive a certified copy of any policy and any endorsement thereto.
 - (10) Notwithstanding the above provisions, the Subcontractor, if a governmental entity, may elect to self-insure for any of the coverage areas required by subsections (c)(1) – (c)(3) of this Section 4. In such case, the Subcontractor shall maintain a claims fund that is available solely to pay claims against the Subcontractor that are proven or otherwise settled by the Subcontractor in its sole discretion. Such claims fund is intended for and available for only those purposes and is not available or allocated to fund a commitment or obligation, if any, or to defend or indemnify any party. Payments out of such funds may require approval by the Subcontractor's governing body. It is understood and agreed that a commitment by the Subcontractor to self-insure by the creation of said claims fund does not commit the Subcontractor to otherwise appropriate funds to fund self-insurance for this Agreement or for any other commitment of the Subcontractor, and it is further understood and agreed that the Subcontractor has not appropriated funds for such purpose. In case of such election to self-insure, the Subcontractor shall itself provide VOA and/or DRCOG with written confirmation of the Subcontractor's self-insured status and the existence of said claims fund.
- D. GC will provide a Certificate of Liability Insurance which includes coverage for Commercial General Liability, Umbrella Liability, Automobile Liability, and Workers Compensation. The insurance required shall be procured and maintained in full force and effect for the duration of the Agreement. All insurance policies, except Workers Compensation, shall name Volunteers of America Colorado Branch, DRCOG, and the State of Colorado as an additional insured.
- E. **Subrogation Waiver:** All insurance policies in any way related to this Agreement and secured and maintained by GC as required herein shall include clauses stating that each carrier shall waive all rights of recovery, under subrogation or otherwise, against GC or Volunteers of America, its agencies, institutions, organizations, officers, agents, employees, and volunteers.

All insurers of the Subcontractor must be licensed or approved to do business in the State of Colorado. Upon failure of the Subcontractor to furnish, deliver and/or maintain such insurance as provided herein, this Agreement, at the election of the Contractor, may be immediately declared suspended, discontinued, or terminated. Failure of the Subcontractor in obtaining and/or maintaining any required insurance shall not relieve the Subcontractor from any liability under this Agreement.

The Subcontractor or its issuing insurer shall provide proof of insurance coverages required under this Agreement to the Contractor immediately after signing this Agreement.

H. Governing Law

This Agreement shall be governed by and construed under the laws of the State of Colorado.

I. Modification and Waiver

This Agreement can be amended only with a written agreement executed by the parties at the time of the modification. No breach of any provision hereof can be waived unless in writing. Waiver of any one breach of any provision hereof shall not be deemed a waiver of any other breach of the same or any other provision hereof.

J. Severability

Subject to the provisions of Section E., if any one or more of the terms, provisions, promises, covenants or conditions of the Agreement or the application thereof to any person or circumstance shall be adjudged to any extent invalid, unenforceable, void or voidable for any reason whatsoever, by a court of competent jurisdiction, or shall be determined by the ruling or interpretations of a Governmental agency or new legislation, to cause either party to perform an act which threatens its governmental provider or tax status, then such terms shall be deemed stricken from this agreement, and each and all of the remaining terms, provisions, promises, covenants and conditions of this Agreement or their application to other persons or circumstances shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law. Notwithstanding the aforesaid, should the severance have the effect of materially altering the meaning of this Agreement, this Agreement shall be void.

K. Interpretation

No provision in this Agreement is to be interpreted for or against any party because that party or that party's legal representative drafted such provision.

L. Assignment

Neither party may assign this Agreement without the prior written consent of the other party.

M. Entire Agreement

This Agreement embodies the entire agreement and understanding between the parties with respect to the subject matter of this Agreement and supersedes all prior and contemporaneous oral and written agreements with respect hereto.

GILPIN COUNTY SENIOR SERVICES

BY: _____

Print: _____

Date: _____

VOLUNTEERS OF AMERICA, COLORADO BRANCH

BY: _____

Print: David Schunk, President/CEO

Date: _____