



Meeting Date: 07/10/12

ACTION	TYPE OF ITEM
<input type="checkbox"/> Approved Recommendation	<input checked="" type="checkbox"/> Info/Consent
<input type="checkbox"/> Ord. No(s) _____	<input type="checkbox"/> Report
<input type="checkbox"/> Res. No(s) _____	<input type="checkbox"/> Public Hearing (Info/consent)
<input type="checkbox"/> Other _____	<input type="checkbox"/> Other _____

Prepared By: Richard Arias *RA* Agenda Item No. I-7

Reviewed By: City Manager *SRB* City Attorney *BA* Finance *JL* Other (Specify) \_\_\_\_\_

**DATE:** June 29, 2012

**TO:** City Council

**FROM:** Richard Arias, Recreation Supervisor *RA*  
Senior Services

**SUBJECT:** Acceptance of Senior Nutrition Grant Funds from the Ventura County Area Agency on Aging (“VCAAA”) for FY 2012-2013.

**RECOMMENDATION**

That City Council:

1. Adopts a resolution approving and authorizing the Mayor to execute a twelve-month (July 1, 2012 to June 30, 2013) agreement (A-7513) between the City of Oxnard and the Ventura County Area Agency on Aging (“VCAAA”) for FY 2012-2013.
2. Approves a special budget appropriation to recognize grant award and program donations as matching funds to the FY 2012-2013 Senior Nutrition Program.

**DISCUSSION**

The VCAAA has awarded grant funds in the amount of \$80,731 to the City of Oxnard Senior Nutrition Program for FY 2012-2013. The Senior Nutrition Program provides congregate and home-delivered meals to Oxnard area seniors, 60 years of age and older. The City’s Senior Services currently serves approximately 11,000 congregate meals and 28,000 home-delivered meals, in partnership with FOOD Share, to home-bound seniors yearly.

The City’s Senior Services Program provides the administrative oversight and management of the program, space to serve, prepare and distribute the meals, along with volunteers to assist in the day-to-day operation of the program. The program also collects an estimated \$20,000 in donations as a matching contribution.

**FINANCIAL IMPACT**

Grant revenue in amount of \$80,731 and program donations in amount of \$20,000 will be appropriated to FY12-13 Senior Nutrition Program (Project No. 775355).

Funding and Operation of the Senior Nutrition Program

July 10, 2012

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RA:gdb

Attachment #1 – VCAAA Contract for FY 2012-2013

Attachment #2 – Resolution Contracting with the VCAAA

Attachment #3 – Special Budget Appropriation



**Ventura County Area Agency on Aging  
Agreement and Assurances of Older Americans Act  
Grant Award for Services**

This agreement is made and entered into on July 1, 2012, by and between the **County of Ventura**, which includes among its component parts the **Ventura County Area Agency on Aging** (hereinafter called Area Agency) and the **City of Oxnard** (hereinafter called Contractor) for services specific in **Exhibit A** attached hereto and incorporated herein by reference ("Service Requirements").

**Article I: Scope of Service and Performance Standards**

**Section 1**

The performance of this contract is subject to the contingencies identified in **Exhibit C** attached hereto and incorporated herein by reference ("Contingencies"). Area Agency shall not be obligated to perform any obligation pursuant to this agreement unless and until each and every one of the Contingencies occurs to the satisfaction of the Area Agency. The Area Agency will notify Contractor, in writing, if and when Contractor has satisfied the Contingencies.

The provision of services under the terms of this contract by Contractor prior to receiving written notification of the satisfaction of Contingencies from the Area Agency is at Contractor's sole risk. Contractor understands and agrees that unless agreed otherwise in writing by VCAAA, Contractor will abide by the terms of its grant application and by the terms of the VCAAA Contractors' Manual.

**Section 2**

Contractor shall provide, in a satisfactory and proper manner as determined by the Area Agency's representative, the necessary personnel, equipment and materials required to carry out the services and/or activities and/or construction or acquisition as detailed in the grant application incorporated herein by reference and specifications attached as **Exhibit B** and incorporated herein. Contractor agrees to provide the services and/or activities and/or construction or acquisition in accordance with all applicable local, state, and federal designation and program standards, regulations and laws.

Contractor shall provide services provided for in this agreement in accordance with, and to comply with all terms of, the contract (AP-1213-18, HI-1213-18 or TV-1213-18) between the California Department of Aging (CDA) and the Area Agency ("the CDA Contract"), and will require any subcontractors to administer their subcontracts in accordance with this agreement and the CDA Contract, and with all applicable local, state, and federal laws and regulations including, but not limited to: those regarding discrimination, wages, and hours of employment; occupational safety; and, to fire, safety, health and sanitation regulations, directives, guidelines and/or manuals related to this agreement and resolve all issues using good administrative practices and sound

judgment. A copy of the CDA Contract is on file with the Area Agency and is available upon request.

### Section 3

If performance under this contract for any quarter falls below 90 percent of the contracted level of units of service, or exceeds the contracted level by more than 15 percent for the quarter, or fails to meet the quality performance standards specified in this agreement, the service provider shall submit a corrective action plan for approval by the Area Agency. The plan shall specify the specific actions to be taken to correct the problem and a timetable for each action.

If the corrective action plan is not submitted within 10 days of the end of the quarter, or if it is not implemented in accordance with the approved corrective action plan, appropriate sanctions may be imposed as described in the Area Agency's sanction policy which is incorporated herein by reference. Failure to implement the approved corrective action plan may result in termination of the contract.

At its sole discretion, the Area Agency may waive the requirement of a corrective action plan if exceptional circumstances account for performance below the contracted level. Exceptional circumstances are those circumstances which are beyond the service provider's control, such as natural disasters, inflationary increases beyond anticipated levels, and/or shortages of materials or supplies due to labor disputes or other reasons.

The Area Agency may request corrective action or impose sanctions at any time it is deemed necessary to uphold Area Agency, state, and federal policies and regulations.

All services provided pursuant to this agreement must be fully implemented and operational within 120 days of commencement of this agreement if this is a one-year grant, or upon the effective date of this contract if this is a one-time-only grant contract.

### Section 4

The Contractor agrees that the performance of work and services pursuant to the requirements of this Agreement shall conform to accepted professional standards.

The Contractor agrees that during the terms of this agreement that they are of sound financial status. Any Contractor that is a private corporation, Joint Powers Agreement (JPA) or private non-profit must be in good standing with the Secretary of State of California and shall maintain that status throughout the term of the Agreement. Failure to maintain good standing shall result in suspension or termination of this Agreement with the Area Agency on Aging until satisfactory status is restored.

### Section 5

Under the terms of this contract, the following definitions apply:

"In-kind Contributions" mean the value of non-cash contributions donated to support the project or program (e.g., property, service, etc.).

"Non-Matching Contributions" mean local funding that does not qualify as matching contributions and/or is not being budgeted as matching contributions. (e.g., federal funds, overmatch, etc.).

"Program Income" means revenue generated by the Contractor or subcontractor from contract-supported activities. Program income is:

- a) Voluntary contributions received from a participant or responsible party as a result of services.
- b) Income from usage or rental fees of real or personal property acquired with grant funds or funds provided under this Agreement.
- c) Royalties received on patents and copyrights from contract-supported activities.
- d) Proceeds from sale of items fabricated under a contract agreement.

"Indirect Costs" means costs incurred for a common or joint purpose benefiting more than one cost objective and not readily assignable to the cost objective specifically benefited, without effort disproportionate to the results achieved.

**"Contractor" means the legal entity that receives funds from the Area Agency on Aging to provide direct services identified in this Agreement.**

## Article II: Period of Performance

Except as otherwise provided, the term of this agreement shall commence on July 1, 2012, and terminate on June 30, 2013.

## Article III: Program Budget and Payment Schedule

### Section 1

The total compensation to be paid to Contractor shall not, in any event, exceed **\$80,731** (the "Grant Amount"). Such reimbursed compensation shall be paid in monthly increments upon receipt of a monthly request for advance of funds submitted by Contractor to the Area Agency and on the basis of an evaluation of Contractor's cash requirements, cash-on-hand as documented on the request form, and the Area Agency's approval of performance to-date.

No expenditure shall be made or obligation incurred in excess of the Grant Amount, this agreement, or not in accordance with the Authorized Total Budget, as defined herein. The total budget authorized by the Area Agency shall be provided with the written notification of satisfaction of contingencies ("Authorized Total Budget"). Any expenditure of funds that is not in compliance with the Authorized Total Budget or this agreement, or not within the costs set forth in the Authorized Total Budget, or in accordance with applicable federal and state rules and regulations, shall not be

chargeable to the Area Agency. Any unauthorized expenditures shall be borne by Contractor. The contractor is required to submit a request for reimbursement no later than thirty (30) days from the end of the service month. For contractors requesting reimbursement requests quarterly, the request is to be submitted within thirty (30) days following the end of the quarter.

Any reimbursement for authorized travel and per diem under the terms of this agreement shall be at rates not to exceed those amounts paid by the State in accordance with Department of Personnel Administration's rules and regulations.

- Mileage -<http://www.dpa.ca.gov/personnel-policies/personal-vehicle-mileage-reimbursement.htm>
- Per Diem (meals and incidentals) - <http://www.dpa.ca.gov/personnel-policies/travel/meals-and-incidentals.htm>,
- Lodging -<http://www.dpa.ca.gov/personnel-policies/travel/short-term-travel.htm>

This is not to be construed as limiting the Contractor from paying any differences in costs, from funds other than those provided by the Area Agency on Aging, between the Department of Personnel Administration rates and any rates the Contractor is obligated to pay under other contractual agreements. No travel outside the State of California shall be reimbursed unless prior written authorization is obtained from the Area Agency on Aging. (CCR, Title 2 Section 599.615 et seq.)

## Section 2

All payments shall be made in accordance with the provisions of this agreement and the Authorized Total Budget. The funds to be paid by the Area Agency to Contractor are solely federal and state funds and shall be spent in accordance with the Authorized Total Budget. Contractor must obtain prior approval in writing from Area Agency's representative for any budget modifications.

## Section 3

The Area Agency may, at its discretion, reallocate to other projects that portion of Contractor's Older Americans Act award which (during the mid-year or other budget review) is projected to become unexpended grant funds.

## Section 4

Contractor shall maintain accounting records (including payroll records, bills, invoices and receipts) for all funds received pursuant to this agreement separate from any other funds administered by Contractor. This shall include project income and all matching funds indicated in the grant application. Contractor shall expend the same solely for the purpose of the project, and shall refund to the Area Agency any unencumbered amounts upon termination or completion of the subject project. Contractor shall also account for all other non-cash items reflected in the budget of the grant application.

**Section 5**

In the event Contractor receives payment for a service to which reimbursement is disallowed by the Area Agency or to the Area Agency by the California Department of Aging or the Federal Administration on Aging, Contractor shall promptly refund the disallowed amount to the Area Agency on request.

**Section 6**

Funds made available under this Agreement shall supplement, and not supplant, any federal, State, or local funds expended by a State or unit of general purpose local government to provide Title III (excluding III E), or Title VII Programs.

Funds made available under Title III E shall supplement and not supplant other services that may directly or indirectly support informal caregiving, such as Medicaid waiver programs (e.g., MSSP, etc.), or other caregiver services such as those provided through Caregiver Resource Centers, Linkages, Alzheimer's Day Care Resource Centers, Respite Purchase of Service, and other Title III funded providers.

**Section 7**

Costs incurred by the Contractor or subcontractor must be verifiable from the records of the Contractor or subcontractor and must be allowable as outlined in Office of Management and Budget (OMB) circulars and may be cash or in-kind contributions.

**Section 8**

The maximum reimbursement amount allowable for indirect costs is 8% of Contractors direct costs, excluding in-kind contributions and nonexpendable equipment.

**Article IV: Reporting and Evaluation**

**Section 1**

Contractor shall submit status reports to the Area Agency on a monthly basis in a form to be determined by the Area Agency. All program reports are due on or before the fifteenth of each month following the month being reported and shall contain the information requested by the Area Agency.

**Section 2**

Area Agency may, at its discretion, conduct periodic evaluations or audits of the Program. Contractor shall cooperate with the Area Agency in evaluations of the Program as scheduled by the Area Agency. Contractor will collect and make available all pertinent project information as needed and/or requested, and participate in any project site visits made by the Area Agency. No request for payment of funds shall be approved by the Area Agency's representative until such reports have been timely filed.

Article V: Information Integrity and Security

Contractor shall protect from unauthorized disclosure the names and other identifying information concerning persons receiving services pursuant to this agreement, except for statistical information not identifying any participant. This provision shall remain in force even after termination of the contract. Contractor shall not use such identifying information for any other purpose than carrying out Contractor's obligations under this agreement. Identifying information shall include, but not be limited to, name, identifying number, social security number, state driver's license or state identification number, financial account numbers, symbol or other identifying characteristic assigned to the individual, such as finger or voice print or a photograph.

Contractor will not, except as otherwise specifically authorized or required by this agreement or court order, disclose any identifying information obtained under the terms of this agreement to anyone other than the Area Agency and/or the California Department of Aging without prior written authorization from the Area Agency and/or the California Department of Aging. Contractor may be authorized, in writing, by a participant to disclose identifying information specific to the authorizing participant.

Contractor may allow participants to authorize the release of information to specific entities, but shall not request or encourage any participant to give blanket authorization to sign a blank release, nor shall Contractor accept such from any participant.

Contractor is required to encrypt (or use an equally effective measure), any data collected under this Agreement that is confidential, sensitive, and/or personal including data stored on portable computing devices (including but not limited to, laptops, personal digital assistants, and notebook computers) and/or portable electronic storage media (including but not limited to, discs and thumb/flash drives, portable hard drives). The Contractor shall ensure that personal, sensitive and confidential information is protected from inappropriate or unauthorized access or disclosure in accordance with applicable laws, regulations and State policies. The requirement to protect information shall remain in force until superseded by laws, regulations or policies.

Contractor agrees to comply with the privacy and security requirements of the Health Insurance Portability and Accountability Act (HIPAA) to the extent applicable and to make all reasonable efforts to implement HIPAA requirements.

Article VI: State Licensure Requirements

Contractor represents or warrants that it possesses or will possess all necessary licenses, permits, notices and certificates required to provide the services which are the subject of this agreement prior to the commencement date of the agreement.

**Article VII: Contributions for Social Services**

Contractor shall provide older persons receiving services the opportunity to contribute to all or part of the costs of the social services provided. Contractor will consult with the project consumer participation body regarding proposed contributions. Each individual recipient will determine what he or she is able to contribute toward the cost of the social service. No older person will be denied a social service because of his or her failure to contribute.

Means tests shall not be used by any Contractor for any Title III or Title VII services nor shall services be denied to any Title III or Title VII client that does not contribute toward the cost of the services received. Methods used to solicit voluntary contributions for Title III and Title VII services shall be non-coercive. Donation letters sent to clients for Title III and Title VII services shall stipulate that contributions are voluntary and not required to receive service.

In the event that Contractor generates program income from a program funded by this agreement, this income must be reported and expended under the same terms and conditions as the program funds from which it is generated. Program income must be used to expand services and be used to pay for current allowable costs of the program in the same fiscal year that the income was earned. For programs funded by Title III B, Title III C, Title III D, Title III E, Title VII Ombudsman and Title VII Elder Abuse Prevention programs, program income must be spent before contract funds and may reduce the total amount of contract funds payable to Contractor. Program income may not be used to meet the matching requirements of this contract.

**Article VIII: Non-Discrimination**

Contractor shall comply with all federal and state statutes relating to non-discrimination, including those contained in the Contractor Certification Clauses (CCC1005) which is hereby incorporated by reference. These include, but are not limited to: (a) Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et. seq.), as amended by the Equal Opportunity Act of March 24, 1972 (Public Law 92-261); (b) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color, or national origin; (c) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (d) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicap; (e) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (f) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to non-discrimination on the basis of drug abuse; (g) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to non-discrimination on the basis of alcohol abuse or alcoholism; (h) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd-3 and 290 ee-3) as amended, relating to confidentiality of alcohol and drug abuse patient records; (i) Government Code sections 11135-11139.5, and Section 98000 et seq. of Title 22 of the California Code of

Regulations, which prohibits recipients of state financial assistance from discriminating against persons based on race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability (22 CCR 98323)(Chapter 182, Stats. 2006), Title VII of the Civil Rights Act of 1968 (42 U.S.C. §§ 43601 et seq.) as amended, relating to nondiscrimination in the sale, rental or refinancing of housing; (J) any other nondiscrimination provisions in the specific statute(s) under which application for federal assistance is being made; and, (k) the requirements of any other nondiscrimination statute(s) which may apply to this agreement.

Contractor shall comply with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. §§ 12101 et seq.)

#### Article IX: Training

Contractor agrees to participate in staff training and development programs provided by the Area Agency, the California Department of Aging, the Administration on Aging, or any of their agents. Contractor shall make budget provisions to pay for the travel, per diem, and tuition costs of such efforts as required or necessary.

#### Article X: Lobbying Certification

Contractor certifies to the best of its knowledge and belief that:

1. No federally appropriated funds have been paid or will be paid, by or on behalf of Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of a 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.
2. 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 any federal agency, a member of Congress, or an officer or employee of Congress in connection with this federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions. The form is available upon request from the Area Agency.
3. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. This certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

**Article XI: Subcontracts and Assignments**

In the event any subcontractor or assignment is utilized by Contractor for any portion of the project, Contractor retains the prime responsibility for carrying out all of the terms of this agreement, including, but not limited to, the responsibility for preserving the State's copyrights and rights in data, for handling property in accordance with Article XVIII of this agreement, and the responsibility for ensuring the availability and retention of records of subcontractors and assignments in accordance hereto. No subcontract or assignment utilizing funds from this agreement shall be entered into which has a term extending beyond the ending date of this agreement as set forth in Article II hereto. Any subcontracts to provide program services under this agreement shall be approved in writing by an Area Agency designated representative and shall have no force or effect until so approved and will be subject to the provision of this agreement. Purchase of items such as standard commercial supplies, office space, or printing services do not require a subcontract and do not require prior Area Agency approval. A copy of any executed subcontract or assignment must be forwarded to the Area Agency within thirty (30) days after the beginning of the subcontract or assignment. Contractor will be responsible for monitoring the insurance requirements of its subcontractors in accordance with Article XVI of this contract.

**Article XII: Recordkeeping**

Contractor shall maintain complete records (which shall include, but not be limited to: accounting records; contracts; agreements; reconciliation of the "Financial Closeout Report" to the audited financial statements; a summary worksheet of results from the audit resolutions performed for all subcontractors with supporting documentation; letters of agreement; insurance documentation in accordance with this contract; Memorandums and/or letters of understanding; patient or client records; and, electronic files) of its activities and expenditures hereunder in a form satisfactory to the Area Agency and the California Department of Aging in compliance with the laws and regulations of the State of California and the Department of Health and Human Services. The financial records of Contractor as they pertain to this grant are subject to audit by the Area Agency. Contractor shall allow the California Department of Aging, the Controller General of the United States, or duly authorized representatives of any of those entities, to inspect Contractor books and records at any time during the grant period, and for a period of four (4) years after the expiration of the grant. Contractor will maintain responsibility for such records, both during the grant period and the ensuing four (4) year period following the last transaction related to the grant. Records for non-expendable property must be retained for four (4) years subsequent to the final disposition of this property.

If any unauthorized expenditures, unallowable expenditures, or irregularities are discovered, Contractor is responsible for making any necessary reparation to the Area Agency. If an audit is commenced or discovers any unallowable expenditures or irregularities, the records must be kept by Contractor as long as necessary until the issue is satisfactorily resolved. After the authorized period has expired, confidential records shall be shredded and disposed of in a manner that will maintain confidentiality.

Article XIII: Unexpended Funds

Contractor understands and agrees that there is no provision for carryover of unexpended grant funds at the end of the contract period. Unexpended grant funds will be returned to the Area Agency.

Article XIV: Audit and Close-out Requirements

Section 1

Contractor shall provide to Area Agency a copy of any audit performed of Contractor within thirty (30) days of its completion.

Section 2

Within thirty days (30) days after the close of the project period or when requested by the Area Agency (whichever comes earlier), Contractor shall provide the Area Agency with an ending Close-out Financial Report signed by Contractor's representative. The Area Agency shall provide Contractor the form on which to complete the Close-out Financial Report and the Close-out Financial Report shall contain all the information required by the Area Agency.

Section 3

A specific grant-funded program audit will be performed and shall be provided to the Area Agency within ninety (90) days after the close of any contract when requested by the Area Agency. The auditors shall comply with all applicable audit requirements.

Contractors expending less than \$500,000 in total federal funds are exempt from federal audit requirements but their records must be available for review. Area Agency reserves the right to determine whether Contractor expended the funds provided under this agreement in accordance with applicable laws and regulations. This may be accomplished by reviewing an audit of Contractor (financial statements including working papers and accounting records) or through other means (e.g., monitoring reviews) if Contractor has not been audited. Accounting records must contain receipts and/or other documentation enumerated in Article III Section 4 of this contract, to support all claims.

Contractors that expend \$500,000 or more in Federal Awards (not necessarily from the Area Agency) shall arrange for an audit to be performed as required by the Single Audit Act of 1984, Public Law 98-502, Single Audit Act Amendments of 1996, Public Law 104-156, and Office of Management and Budget (OMB) Circular A-133. Contractor shall permit independent auditors to have access to the records and financial statements as necessary for Contractor to comply with OMB Circular A-133.

The Contractor shall ensure that Federal-Funded expenditures are displayed discretely in the single audit report's "Schedule of Expenditures of Federal Awards" (SEFA) under

the appropriate Catalog of Federal Domestic Assistance (CFDA) number along with the related State-Funded expenditures. The Contractor shall ensure that the State-funded expenditures are discretely identified in the SEFA by the appropriate program name, identifying grant/contract number, and as passed-through the Area Agency on Aging.

The following closely related programs identified by CFDA number are to be considered as an "Other Cluster" for purposes of determining major programs or whether a program specific audit may be elected. The Contractor shall identify the CFDA titles and numbers to the independent auditor conducting the organization's single audit. The funding source (Federal Grantor) for the following programs is the U.S. Department of Health and Human Services.

- 93.041 - Special Programs for the Aging-Title VII, Chapter 3- Programs for Prevention of Elder Abuse, Neglect, and Exploitation (Title VII-B)
- 93.042 - Special Programs for the Aging-Title VII, Chapter 2- Long Term Care Ombudsman services for Older Individuals (Title VII-A)
- 93.043 - Special Programs for the Aging-Title III, Part D- Disease Prevention and Health Promotion Services (Title III-D)
- 93.044 - Special Programs for the Aging-Title III, Part B – Grants for Supportive Services and Senior Centers (Title III-B)
- 93.045 - Special Programs for the Aging-Title III, Part C – Nutrition Services (Title III-C)
- 93.052 - National Family Caregiver Support-Title III, Part E
- 93.053 - Nutrition Services Incentive Program (NSIP)

Any money obligated under the grant (even if in the possession of Contractor) but not needed to meet incurred obligations will be returned with the Closeout Financial Report to the Area Agency.

The California Department of Aging shall have access to all audit reports of Contractor and has the option to perform audits and/or additional work, as needed.

It is understood that the costs of audits requested by the Area Agency shall be at the expense of Contractor. Unless prohibited by law, the cost of audits made in accordance with the provisions of the Single Audit Act Amendments of 1996, are allowable charges to Federal Awards. The costs may be considered a direct cost, or an allocated indirect cost, as determined in accordance with provisions of applicable OMB cost principal circulars. Contractor may not charge to Federal Awards the cost of any audits under the Single Audit Act Amendments of 1996, not conducted in accordance with the Act.

Contractor will ensure that appropriate corrective action has been taken to correct instances of non-compliance with federal laws and regulations. Corrective action shall be taken within six months after the Area Agency receives Contractor's audit report.

#### Article XV: Indemnity

1. All activities and/or work covered by this Agreement shall be at the risk of Contractor alone. Contractor agrees to defend (at Area Agency's request), indemnify, and hold

harmless the Area Agency and the County of Ventura, including all of its boards, districts, agencies, departments, officers, employees, agents and volunteers, against any and all claims and losses, lawsuits, judgments, debts, demands and liability, injuries or death of persons and/or damages to property arising directly or indirectly out of the obligations herein described or undertaken, or out of operations conducted or subsidized in whole or in part by Contractor, save and except claims or litigation arising through the sole negligence or wrongdoing and/or sole willful misconduct of the Area Agency and the County of Ventura.

Contractor further agrees to indemnify, defend, and hold harmless the Area Agency, the County of Ventura and the California Department of Aging, their officers, agents, and employees from any and all liability, claims and losses, damages or expenses, including reasonable attorneys fees arising from all acts or omissions to act of contractor or its officers, agents or employees in rendering services under this contract; excluding, however, such liability, claims, losses, damages or expenses arising from Agency's sole negligence or willful acts accruing to or resulting from any subcontractors, suppliers, laborers, and any other person, firm, or corporation furnishing or supplying work services, materials, or supplies in connection with any activities performed for which funds from this agreement were used and from any and all claims and losses accruing or resulting to any person, firm, or corporation who may be injured or damaged by Contractor in the performance of this agreement.

2. Contamination and Pollution. Contractor, solely at its own cost and expense, will provide clean up of any premises, property, or natural resources contaminated or polluted due to Contractor activities. Any fines, penalties, punitive or exemplary damages assigned due to contamination or polluting activities of Contractor will be borne entirely by Contractor. Any Contractor receiving more than \$100,000 in funding shall comply with all orders or requirements issued under the following laws: Clean Air Act, as amended (42 U.S.C. 1857); Clean Water Act, as amended (33 U.S.C. 1368); Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq.); Environmental Protection Agency Regulations (40 CFR, Part 15 and Executive Order 11738), and Public Contract Code Section 10295.3.
3. Contractor, and the agents and employees of Contractor, in the performance of this Agreement, duties, and obligations, and in the exercise of the rights granted under this Agreement shall act in an independent capacity and not as officers or employees or agents of the Area Agency, the County of Ventura or the State of California.
4. If, in the performance of this Agreement, Contractor chooses to associate, subcontract with, or employ any third person in carrying out its responsibilities under this Agreement, any such third person shall be entirely and exclusively under the direction, supervision, and control of Contractor. All terms of association, subcontract or employment, including hours, wages, working conditions, discipline, hiring and discharging, or any other terms of association, subcontract or employment or requirements of law, shall be determined by Contractor, and the Area Agency shall have no right or authority over such persons or the terms of their association,

subcontract or employment, except as provided in this Agreement. Neither Contractor nor any such person shall have any claim under this Agreement or otherwise against the Area Agency for sick leave, vacation pay, retirement benefits, social security benefits, workers' compensation, disability, unemployment insurance benefits, or employee benefits of any kind.

5. Contractor is an independent contractor and shall hold the Area Agency and the County of Ventura harmless from any and all claims that may be made against the Area Agency or the County of Ventura based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement. The Area Agency is not required to make any deductions from the compensation payable to Contractor under the provisions of this Agreement. Contractor shall be solely responsible for self-employment social security taxes, income taxes and any other taxes levied against it. Contractor does not assign such obligation to the Area Agency for collection or administration except as may be required by federal and state statutes.

Contractor further agrees to hold the Area Agency harmless from, and to compensate the Area Agency for, any claims against the Area Agency for payment of state or federal income or other tax obligations relating to Contractor's compensation under the terms of this Agreement.

#### Article XVI: Insurance

Contractor, at its sole cost and expense, shall obtain and maintain in full force during the term of this agreement, adequate liability insurance to cover all activities of Contractor necessary to fulfill Contractor's obligations under this Agreement. It is understood and agreed that the Area Agency reserves the right to determine the type and extent of insurance that may be required:

1. Prior to commencement of any work under this Agreement Contractor shall maintain the following insurance:
  - (a) **General liability** "occurrence" coverage in the minimum amount of \$1,000,000 combined single limit (CSL) bodily injury & property damage each occurrence, and \$2,000,000 aggregate (\$3,000,000 million for Senior Nutrition and Brown Bag contractors), including personal injury, broad form property damage, products/completed operations and broad form blanket contractual and \$100,000 fire legal liability. The Area Agency will accept a statement of self-insurance which provides the required coverage.
  - (b) **Workers' Compensation Insurance** coverage, in full compliance with California statutory requirements, for all employees of Contractor and Employer's Liability in the minimum amount of \$1,000,000.

- (c) **Professional liability and/or medical malpractice** as it appropriately relates to services being rendered. Coverage in the minimum amount of \$1,000,000 each occurrence and \$3,000,000 aggregate.
  - (d) **Automobile liability** including owned, non-owned, and hired auto liability, for not less than \$1,000,000 for volunteers and paid employees providing services supported by the contractual agreement.
2. All insurance required shall be primary coverage in respect to the Area Agency and the County of Ventura, and any insurance or self-insurance maintained by the Area Agency and the County of Ventura shall be in excess of Contractor's insurance coverage and shall not contribute to it.
  3. The County of Ventura and the Ventura County Area Agency on Aging are to be named as Additional Insured with respect to work done by Contractor under the terms of this Agreement on all policies required (except Workers' Compensation).
  4. Contractor agrees to waive all rights of subrogation against the County of Ventura and the Ventura County Area Agency on Aging for losses arising directly or indirectly from the activities and/or work performed by Contractor under the terms of this agreement (applies only to Commercial General Liability and Workers' Compensation).
  5. The Area Agency is to be notified immediately if any aggregate insurance limit is not met. Additional coverage must be purchased to meet requirements.
  6. Policies will not be canceled, non-renewed, or reduced in scope of coverage at any time that said policies are required by this agreement until after 30 days' written notice has been given to the Area Agency and approved in writing by the Area Agency. If the reason for cancellation is non-payment of the insurance premium, 10 days' written notice is acceptable.
  7. Contractor agrees to provide the Area Agency with the following insurance documents on or before the effective date of this contract:
    - (a) Certificates of Insurance for all required coverages. The Area Agency shall be named the certificate holder and the address must be listed on the certificate.
    - (b) Additional Insured endorsements naming the Area Agency and the County of Ventura and authorized with a signature by the insurance carrier.
    - (c) Waiver of Subrogation endorsement (A.K.A.: Waiver of Transfer Rights of Recovery Against Others, Waiver of Our Right to Recover from Others).
  8. If Contractor fails to maintain insurance as required, Area Agency shall have the right, but not the duty, to purchase any such required insurance on Contractor's behalf (a) utilizing grant funds and/or (b) with Contractor obligated to reimburse Area

Agency promptly for all such costs not paid by Area Agency directly out of grant funds. Failure to maintain adequate insurance and/or bonds pursuant to Article XVI(a) hereof shall constitute a material breach for which the Area Agency may terminate this Agreement effectively by giving written notice to Contractor, or as other indicated in said notice. Insurance coverage in the minimum amounts set forth herein shall not be construed to relieve Contractor from liability in excess of such coverage, nor shall it preclude Area Agency from taking such other actions as are available to it under any other provisions of this Agreement or otherwise by law.

9. If the Professional Liability coverage is "claims made", Contractor must, for a period of three (3) years after the date when contract is terminated, completed or non-renewed, maintain insurance with a retroactive date that is on or before the start date of this agreement OR Contractor must purchase an extended reporting period endorsement (tail coverage). The Area Agency may withhold final payments due until satisfactory evidence of the tail coverage is provided by Contractor to the Area Agency.

Article XVII: Grant Modifications

Any revision, waiver, or modification of this agreement must be approved in writing by the Area Agency by amendment to this agreement. Only a grant modification that changes a single approved budget line item that is less than 10 percent may be made without prior written approval by the Area Agency.

Article XVIII: Equipment and Property (per State Contract Manual – Section 3.17.2)

1. Unless otherwise provided for in this Article, property refers to all assets, capitalized or non-capitalized, used in operation of this Agreement. Property includes land, buildings, improvements, machinery, vehicles, furniture, tools, and intangibles, etc. Property does not include consumable office supplies such as paper, pencils, typing ribbons, file folders, etc.
2. Property meeting all of the following criteria is subject to the capitalization requirement. Such property must:
  - (a) Have a normal useful life of at least 1 year;
  - (b) Have a unit acquisition cost of at least \$5,000 (e.g., four identical assets which cost \$3,000 each, for a \$12,000 total would not meet this capitalization requirement); and,
  - (c) Be used to conduct business under this Agreement.
3. Non-capitalized property includes those items which do not meet all three requirements in this Article, Section B above.
4. Additions, improvements, and betterments to assets meeting all of the conditions in Section 2(b) above must be capitalized. Additions typically involve physical extensions of existing units. Improvements and betterments typically do not increase the physical size of the asset. Instead, improvements and betterments

enhance the condition of an asset (e.g., extend life, increase service capacity, and lower operating costs). Examples of assets that might be improved and bettered include roads, bridges, curbs and gutters, tunnels, parking lots, streets and sidewalks, drainage, and lighting systems.

5. Intangibles are property which lack physical substance but give valuable rights to the owner and can be capitalized or non-capitalized. Examples of intangible property include patents, copyrights, leases, and computer software. By contrast, hardware consists of tangible equipment (e.g., computer printer, terminal, etc.).

Costs include all amounts incurred to acquire and to ready the intangible asset for its intended use. Typical intangible property costs include the purchase price, legal fees, and other costs incurred to obtain title to the asset.

6. Equipment purchased shall be subject to applicable state and federal procurement procedures.
7. Any equipment purchased under Older Americans Act programs will be subject to review over the life of the equipment and, if not used, underused or misused, may be claimed by the Area Agency.
8. The State shall retain title to all equipment purchased wholly or in part with federal and state funds and described as "Equipment" in the budget set forth in the grant application incorporated herein by reference to the extent permitted under federal and state regulations.
9. Contractor is required to keep records of the following information when property is purchased with Grant funds. This information should include the date acquired, property description (including model number), property identification number, serial number, rate of depreciation (or depreciation schedule) if applicable, and cost. This information is to be provided to the Area Agency.

Contractor shall keep track of all property purchased with Grant funds, whether capitalized or not. Contractor shall submit to the Area Agency annually, with the Close-out Financial Report, a current inventory of property furnished or purchased by Contractor with funds awarded under the terms of this Agreement or any predecessor agreement for the same purpose.

10. Prior to the disposal of any non-expendable property purchased with grant funds. Contractor must obtain permission from the Area Agency regardless of the acquisition value. Disposition, which includes sale, trade-in, discarding, or transfer to another agency, may not occur until approval is received from the Area Agency.
11. Contractor shall inform Area Agency within three days in the event of the loss, destruction, or theft of grant-purchased non-expendable property.

12. Contractor shall exercise due care in the use, maintenance, protection and preservation of such property during the period of the project, and shall assume responsibility for replacement or repair of such property during the period of the project, until Contractor has complied with all written instructions from the Area Agency regarding final disposition of the property.
13. Contractor shall use the property for the purpose for which it was intended under this agreement. When no longer needed for that use, Contractor shall use it if needed, and with written approval of the Area Agency, for other purposes in this order:
  - (a) another California Department of Aging program providing the same or similar service; or,
  - (b) another California Department of Aging funded program; or,
  - (c) another state or federally funded program.

Contractor shall not use equipment or supplies acquired under this agreement with federal and/or state monies for personal gain or to usurp the competitive advantage of a privately owned business entity.

**Article XIX: Planning Efforts**

Contractor shall cooperate fully with the Area Agency in any efforts toward developing a comprehensive and coordinated system of services for the elderly. Contractor shall participate in joint planning efforts and service which may include the shared use of grant-funded equipment, service coordination, and other activities as may be determined by the Area Agency to attain this goal.

**Article XX: Personnel**

Contractor shall maintain adequate staffing levels to perform at the contracted level as stipulated in the grant application submitted to the Area Agency. Contractor shall actively seek qualified older persons for paid positions on the project and make provisions for volunteer opportunities for older persons.

**Article XXI: Debarment, Suspension, and other Responsibility Matters**

Contractor certifies to the best of its knowledge and belief, that it or its agents:

1. are not presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
2. have not, within a three-year period preceding this Agreement, been convicted of, or had a civil judgment rendered against them, for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlements, theft, forgery,

bribery, falsification or destruction of records, making false statements, or receiving stolen property;

3. 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 paragraph (a)(2) of this certification; and,
4. have not, within a three-year period preceding this Agreement, had one or more public transactions (federal, state, or local) terminated for cause or default.

Contractor shall report immediately to the Area Agency in writing any incidents of alleged fraud or abuse. Contractor will maintain any records, documents, or other evidence of fraud and abuse until otherwise notified by the Area Agency on Aging.

#### Article XXII: Living Wage Ordinance

This contract is subject to the County of Ventura Living Wage Ordinance ("Ordinance"). The Ordinance requires the payment of a living wage and accompanying paid time off to all covered employees engaged in providing services pursuant to a service contract as defined in Sec.4952 (f). Misrepresentation during the procurement or contracting process in order to secure the contract will disqualify a bidder or contractor from further consideration in the procurement or contracting process. Failure to comply once a contract has been awarded will constitute a material breach of the contract and may result, among other things, in the suspension or termination of the affected contract and debarment from future County contracting opportunities for a period not to exceed three years. 501 (c)(3) nonprofit organizations are exempt from the Ordinance.

#### Article XXIII: Termination of Grant

##### Section 1

Older Americans Act funds awarded under this grant may be terminated by the Area Agency at any time for non-compliance with any of the terms and conditions of this grant provided that at least thirty (30) days written notice is given to Contractor.

##### Section 2

The Contractor (applies to all grants except for the Ombudsman) may terminate this grant at any time, for reasons of its own choosing, provided that at least one hundred and twenty (120) days written notice is given to the Area Agency. The Ombudsman Contractor shall carry out the federal and state mandates and responsibilities without any break in the provision of ombudsman services. Contractor shall promptly notify the Area Agency of any intention to terminate responsibility for ombudsman services. Except as provided elsewhere in this agreement, Contractor shall continue the program without any break in service until another contractor can take over responsibility for operation of the program.

### Section 3

Contractor shall promptly notify the Area Agency of any intention to terminate responsibility for providing the specified grant funded services.

### Section 4

This contract may be terminated on twenty-four (24) hours notice in the event the allocation to the Area Agency of Older Americans Act and/or state funds are reduced, suspended, or terminated for any reason. Contractor hereby expressly waives any and all claims against the Area Agency for damages arising from the reduction, suspension, or termination of the federal and/or state funds provided to the Area Agency, under which this agreement is made, or to the portion thereof delegated by this agreement.

### Section 5

In the event that Contractor dissolves or terminates this contract, Contractor shall provide a final property inventory to the Area Agency. The Area Agency and the California Department of Aging reserve the right to require Contractor to transfer such property to another agency, the Area Agency, or the California Department of Aging.

To exercise the above right, no later than 120 days after the termination of the Agreement or notification of Contractor's dissolution, the Area Agency will issue specific written disposition instructions to Contractor.

### Article XXIV: Access

Contractor shall provide access to the federal or state agency, Bureau of State Audits, the Controller General of the United States and the Area Agency, or any of their duly authorized federal or state representatives, to any books, documents, papers, records, and electronic files of Contractor which are directly pertinent to this specific Agreement for the purpose of audit, examination, excerpts, and transcriptions.

### Article XXV: Monitoring

1. Authorized State representatives and Area Agency representatives shall have the right to monitor, assess, and evaluate Contractor's performance pursuant to this Agreement. Said monitoring, assessment, and evaluation may include, but is not limited to: audits, inspections of project premises, inspection of food preparation sites and interviews of project staff and participants.
2. Contractor shall cooperate with the State and the Area Agency in the monitoring, assessment and evaluation processes, which include making any administrative program and fiscal staff available during any scheduled process.

### Article XXVI: Grievance

### Section 1

Contractor is required to establish a written grievance procedure for reviewing and attempting to resolve complaints of older individuals (California Code of Regulations Section 7400(a)(2)). At a minimum the process shall all of the following:

- (a) Time frames within which a complaint will be acted upon.
- (b) Written notification to the complainant of the results of the review, including a statement that the complainant may appeal to the Area Agency if dissatisfied with the results of the Contractors review.
- (c) Confidentiality provisions to protect the complainant's rights to privacy. Only information relevant to the complaint may be released to the responding party without the older individual's consent.

### Section 2

Contractor is required to notify all older individuals of the grievance process through their organization as well as the Area Agency. Contractor may notify older individuals by the following methods:

- (a) Posting notification of the process in visible and accessible areas, such as the bulletin boards in senior centers. For areas in which a substantial number of older individuals are non-English speaking, the notification shall also be posted in the primary language of a significant number of older individuals. The term "substantial number" and "significant number" shall be determined by the Area Agency.
- (b) Advising homebound older individuals of the process either orally or in writing upon the service providers' contact with the individuals.

### Section 3

Complaints may involve, but not be limited to, any or all of the following: amount or duration of a service, denial or discontinuance of a service or dissatisfaction with the service being provided or with the service provider, complaints regarding an issue of professional conduct that is under the jurisdiction of another entity, such as the California Medical Board or the State Bar Association, or failure of the Contractor to comply with the terms of this contract. Sections 9102 and 9105, Welfare and Institutions Code. Reference 42 U.S.C. 3026(a) (6) (P) and 3027 (a) (43).

Article XXVII: Contract for Responsibility and Notification

Section 1

The Director of the Ventura County Area Agency on Aging, or designee, shall be the Area Agency's representative for purposes of administering this agreement. Greg Barnes and Beth Vo shall represent Contractor. *If the Contractor's representative changes, Contractor agrees to immediately notify the Area Agency's Grants Manager.*

Section 2

Any notice or notices required or permitted to be given pursuant to this agreement may be personally served on the other party by the party giving such notice, or may be served by certified mail, return receipt requested, to the following address:

AREA AGENCY:

Ventura County Area Agency on Aging  
L#4450  
646 County Square Drive, Suite 100  
Ventura, CA 93003-9086

CONTRACTOR:

At address shown on Page 1 of  
this Agreement.

IN WITNESS THEREOF, the Area Agency and Contractor have executed this Agreement as of the date first written above.

**COUNTY OF VENTURA  
Area Agency on Aging**

CITY OF OXNARD

\_\_\_\_\_  
Dr. Thomas E. Holden, Mayor

By:

\_\_\_\_\_  
Authorized Purchasing Agent  
GSA Procurement  
County of Ventura

ATTEST:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Daniel Martinez, City Clerk

APPROVED AS TO FORM:



\_\_\_\_\_  
Alan Holmberg, City Attorney

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD APPROVING THE CONTRACT WITH THE COUNTY OF VENTURA TO ASSUME DAY-TO-DAY SITE OPERATIONS FOR THE CITY OF OXNARD SENIOR NUTRITION PROGRAM.

WHEREAS, the Ventura County Area Agency on Aging ("VCAAA") currently receives Older Americans Act Funds in order to provide county-wide senior nutrition program services in Ventura County, including the Wilson, Colonia and South Oxnard Senior Center programs; and

WHEREAS, VCAAA is planning a continuation of the county-wide senior nutrition program effective July 1, 2012; and

WHEREAS, the continued county-wide senior nutrition program will result in the VCAAA arranging for the purchase and periodic delivery of frozen meals to the senior centers; and

WHEREAS, the VCAAA has agreed to allow the City to collect and retain program revenues and voluntary donations and has further agreed to provide federal grant funding to offset the cost of the City providing day-to-day management of the Oxnard Senior Nutrition Program at the senior centers; and

NOW, THEREFORE, the City Council of the City of Oxnard does resolve as follows:

SECTION 1: The Mayor is authorized to execute an agreement for the Fiscal Year 2012-2013 Senior Nutrition Program, in the amount of \$80,371 with the VCAAA.

SECTION 2: The City will enter into a twelve-month (July 1, 2012 to June 30, 2013) agreement with the County of Ventura and the City of Oxnard for the operation of the Senior Nutrition Program.

SECTION 3: The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the Office of the City Clerk.

PASSED AND ADOPTED this 10<sup>th</sup> day of July, 2012 by the following vote:

AYES:

NOES:

ABSENT:

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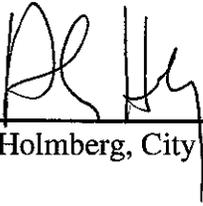
Dr. Thomas E. Holden, Mayor

ATTEST:

---

Daniel Martinez, City Clerk

APPROVED AS TO FORM:



---

Alan Holmberg, City Attorney

# REQUEST FOR SPECIAL BUDGET APPROPRIATION

Department: Recreation  
Project/Program \_\_\_\_\_  
Manager: Richard Arias

Date: July 3, 2012  
Phone: 7990

**Reason for Appropriation:**

To recognize FY12-13 Senior Nutrition grant from Ventura County Area Agency Aging and program donation as matching contribution

**Accounts and Descriptions**

**AMOUNT**

Fund: **FEDERAL TERM GRANTS FUND (261)**

**Revenues**

**SENIOR NUTRITION PROGRAM FY13 (Project 775355)**

261-5307-581-75-33	MISC. REVENUES / FEDERAL PASS-THRU.	80,731
261-5390-581-75-08	MISC. REVENUES / DONATION	20,000

Sub-total Revenues 100,731

**Expenditures**

**SENIOR NUTRITION PROGRAM FY13 (Project 775355)**

261-5307-805-8001	DIRECT LABOR	51,500
261-5307-805-8109	SUPPLIES OTHERS	3,410
261-5307-805-8209	SRV PROF' CONTRACT	25,821
261-5390-805-8001	DIRECT LABOR	20,000

Sub-total Expenditures 100,731

**Net Change to Fund Balance (100,731)**

**Approvals**

Department Director \_\_\_\_\_

Chief Financial Officer James Cameron

City Manager \_\_\_\_\_

**ATTACHMENT** 1  
**PAGE** 1 **OF** 1

SBA# (Finance Use Only) \_\_\_\_\_

BA Doc# (Finance Use Only) \_\_\_\_\_

Revised : 2/23/2012

REQUIRES CITY COUNCIL AUTHORIZATION