

MEMORANDUM OF UNDERSTANDING WITH WAY SHAPE FORM, INC. FOR A COUNTYWIDE TEXT FOR HELP PROGRAM

This Memorandum of Understanding (“MOU”) is made between **Fulton County, Georgia**, a political subdivision of the State of Georgia (hereinafter, “Fulton County”), by and through its Department of Behavioral Health & Developmental Disabilities (“DBHDD”), and **Way Shape Form, Inc.**, a Florida for-profit corporation (hereinafter, “Way Shape Form”) with its principal place of business at 3206 W. River Cove Drive, Tampa, Florida 33614. This MOU shall be effective under the provision below specifying its effective date.

Recitals

WHEREAS, to address the opioid crisis in Fulton County, the Board of Commissioners implemented a strategy to develop, implement, evaluate, and sustain a multi-faceted, county-wide effort to prevent opioid abuse, addiction, overdose, and death; and

WHEREAS, in its on-going efforts to combat the opioid crisis, the Fulton County Board of Commissioners on December 21, 2022 (Agenda Item #22-0992) entered into an agreement (hereinafter, “Agreement”) with Linking Efforts Against Drugs (“LEAD”), an Illinois not-for-profit corporation, to implement its TextForHelp.app program, which is now called “TextForHelp” for FY2023; and

WHEREAS, the TextForHelp program allows individuals to send a confidential text message to a dedicated number and receive an immediate response from a licensed mental health professional, which then enables the person sending the text message to conduct a conversation with the professional while maintaining confidentiality during the process;

WHEREAS, a purpose of the TextForHelp program is to offer people wishing to share a concern about themselves or someone else the opportunity to do so, and receive assistance while maintaining confidentiality; and

WHEREAS, the Fulton County agreement with LEAD for TextForHelp was automatically renewed for FY2024 per the terms of the Agreement; and

WHEREAS, Way Shape Form is a for-profit organization that is dedicated to the promotion of healthy family relationships, emotional wellness, and the prevention of alcohol, drug use, and other risky behavior by youth through its efforts in providing parental education, dynamic youth programs, and engagement with key community stakeholders; and

WHEREAS, Way Shape Form has served as the subcontractor managing both the technical and clinical components of the TextforHelp.app for LEAD during FY2023 and FY2024; and

WHEREAS, LEAD is no longer entering into new contracts for TextForHelp, and LEAD’s existing contracts for TextForHelp are being fulfilled by Way Shape Form, with the goal to transition each client directly to Way Shape Form by the end of 2025; and

WHEREAS, one of the components of the Agreement with LEAD was for LEAD to provide Fulton County certain data and reports that are generated by the TextForHelp program so that Fulton County can assess the use of the program by its constituents and its success in assisting in efforts to address the opioid crisis; and

WHEREAS, with the expiration of the Agreement with LEAD, the Board of Commissioners finds it necessary to continue the TextForHelp program in Fulton County and for Way Shape Form to deliver and provide the necessary data and reports generated by the program as well as provide clinical management responsibilities for TextForHelp as set forth herein; and

WHEREAS, the Board of Commissioners may engage the services of a for-profit entity through entering into a contract for services for health and social welfare purposes pursuant to O.C.G.A. § 36-1-19.1 in the form of this MOU; and

WHEREAS, the Board of Commissioners finds that it is in the interest of its citizens' health, safety and welfare to enter into this MOU with Way Shape Form to continue to provide the TextForHelp program and other related services, including clinical management responsibilities for TextForHelp as well as the delivery of necessary data and reports by Way Shape Form to the County generated by the program.

NOW, THEREFORE, for and in consideration of the mutual covenants herein contained and for good and valuable consideration, the receipt, adequacy and legal sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

- 1. TextForHelp Program.** Way Shape Form, in coordination with its technical and mental health partners, shall provide its TextForHelp program in Fulton County, Georgia through a confidential text hotline using a dedicated toll-free number that will only be in used in Fulton County, Georgia. Way Shape Form shall ensure that a system back-up or redundancy is in place to minimize system failure or loss of data.
- 2. Clinical Services.** Way Shape Form shall contract with and oversee qualified clinicians to provide mental health crisis intervention services through the TextForHelp platform in accordance with applicable federal and state laws, regulations, and professional standards, including but not limited to:
 - Ensuring all clinicians providing services maintain current and appropriate licenses in Georgia
 - Verifying credentials of all clinicians prior to their engagement
 - Implementing and maintaining clinical protocols and standards of care for crisis intervention
 - Conducting regular quality assurance reviews of clinical services
 - Managing clinical documentation in compliance with applicable laws and professional standards
 - Providing 24/7 clinical coverage to respond to incoming messages within defined response time parameters
- 3. Program Coordination.** Way Shape Form shall ensure that a designated team member responds to inquiries from Fulton County or its agents within no longer than one (1) hour

of any general inquiry, including, but not limited to any inquiry regarding the delivery of the data or reports required by this MOU. The Way Shape Form team member(s) shall respond to inquiries from Fulton County or its agents within thirty (30) minutes regarding matters pertaining to system operational issues or outages. For purposes of this MOU, the designated Way Shape Form team member that shall serve as the contact person for the inquiries from Fulton County or its agents is Loretta C. Waters, Chief Executive Officer of Way Shape Form, and in her absence or unavailability, Way Shape Form shall identify in writing (and update as necessary) an alternate contact person. Way Shape Form shall provide and update the phone number and email address of the designated member as necessary.

4. **Promotional Efforts; Program Expansion.** At the request of Fulton County, Way Shape Form will assist the Fulton County Department of Behavioral Health & Developmental Disabilities in promoting the TextForHelp program by advertising the number and a series of taglines or keywords, such as “ATL” in communities throughout Fulton County, where possible. To continue the program in an orderly fashion, Way Shape Form will work with Fulton County's Department of Behavioral Health & Developmental Disabilities to expand the program County-wide, subject to resource availability at the time of the program's expansion.
5. **Payment.** In consideration for the satisfactory performance of the services relating to the program described above, Fulton County shall pay Way Shape Form in an amount not to exceed \$23,500.00 annually or as otherwise provided by an amendment to this MOU. The payment in the amount not to exceed \$23,500.00, or as subsequently amended, shall be payable on a quarterly basis during each year. All payments from the County to Way Shape Form are conditioned upon annual appropriation and approval of the agreed upon amount by the Fulton County Board of Commissioners.
6. **Development of Promotional Materials.** To promote the availability of the TextForHelp program, Way Shape Form will work with the Fulton County Department of Behavioral Health & Developmental Disabilities and the Fulton County Schools administration to create promotional materials and a plan to publicize those materials through print and online media.
7. **Periodic Reporting.** On no less than a quarterly basis, and more frequently if technically feasible, Way Shape Form shall produce a written report and deliver the report to the Fulton County Department of Behavioral Health & Developmental Disabilities detailing the following: a. the number of text conversations conducted under each tagline created; b. an overview of the daily frequency of the messages, averaged over time; c. an overview of the hourly frequency of the messages, averaged over time; d. to the extent determinable, demographic statistics on the number of Fulton County students and residents seeking assistance; and e. a breakdown of the general subject matter of the text conversations (e.g.: opioid abuse; depression; suicide; friend substance abuse; abusive relationship; anxious about class; counselor not helping; difficulty with parent; etc.).

8. **Financial Progress Reporting.** Way Shape Form shall produce a written financial report to Fulton County of the money spent under this MOU at the 3-month, 6-month, 9-month and 12-month anniversaries of the MOU's Effective Date, as further defined below. The financial report will provide a breakdown of technology, counseling, marketing, and overhead costs associated with this MOU.
9. **Delivery of Data and Reports; Breach.** Way Shape Form shall promptly deliver to Fulton County all data and reports required by this MOU as set forth in paragraphs 7 and 8 above. The failure of Way Shape Form to deliver the data or reports will constitute a material breach of the MOU from the date that the data or reports were due. If Way Shape Form fails to provide the data or reports within fifteen (15) days from the date in which the breach occurs (the cure period), Fulton County may withhold any future payment due to Way Shape Form until the breach is remedied; however, prior to such withholding the County will make an effort to contact Way Shape Form to discuss the breach and request that same be cured and notify Way Shape Form of the County's intent to withhold payment.
10. **Effective Date; Duration; Termination.** This MOU shall become effective May 1, 2025 (the "Effective Date") and shall continue until December 31, 2025. This MOU shall automatically renew for the next one (1) year term, subject to appropriation funding by Fulton County from any source. If the MOU is not funded for this successive year, the MOU shall terminate immediately. At any time prior to this MOU's anniversary date, either party may terminate this MOU with or without cause by providing the other party 30-days' prior written notice. On termination of this MOU for any reason or by any party, if the service related to the tagline used for this MOU is discontinued, Way Shape Form shall ensure that an automated electronic response shall be generated by Way Shape Form instructing the caller to contact 9-1-1 or some other number that can provide assistive services or provide immediate response to the caller.
11. **Indemnification.** Way Shape Form agrees to indemnify and hold harmless Fulton County, its elected officials, officers, employees, agents and representatives, from and against all claims, including copy right infringement claims, losses, liabilities, judgments, interest and settlements, including reasonable attorneys' fees and expenses, arising out of or relating to the performance of the Program under this MOU by Way Shape Form and its employees, agents and representatives.
12. **Insurance.**
 - a. Way Shape Form shall cause "Fulton County" to be added as additional insured entity to its current Business Owners Policy and its current General Liability Policy, and to update any policies that replace those policies during the term of this MOU.
 - b. Way Shape Form shall provide notice (to the contacts listed below under the Notices provision of this MOU) if either policy is cancelled or changed during the term of this MOU. Such notice shall be given promptly upon Way Shape Form learning of any cancellations or changes.

- c. Way Shape Form shall provide certificates of insurance of its policies, and of the policies of all subcontractors providing counseling services under Way Shape Form's TextForHelp program, to Fulton County prior to the effective date of this MOU.

- 13. Notice of Disrupted Service.** Way Shape Form shall notify the Fulton County Department of Behavioral Health & Developmental Disabilities within 24 hours of any disruption in the TextForHelp program, either because of technology issues or issues involving the availability of the response team.
- 14. Independent Contractor.** The Parties agree that Way Shape Form is an independent contractor and not an employee or agent of Fulton County. All persons employed by Way Shape Form shall be employees of and paid by Way Shape Form, and neither Way Shape Form nor any persons employed by Way Shape Form will be eligible for health insurance, sick leave, annual leave, pensions, or any other fringe benefit associated with employment with Fulton County. The Parties further agree that neither party shall be liable for any obligations incurred by the other party.
- 15. No Third-Party Beneficiaries.** Nothing in this MOU shall be construed to create any third-party beneficiary rights.
- 16. Data Privacy and Security.** Way Shape Form acknowledges the highly sensitive nature of text messages sent through the TextForHelp program and agrees to implement the following data privacy and security measures:
 - a) **PII-Free Records:** Way Shape Form shall maintain Personally Identifiable Information-free (PII-free) reports of all TextForHelp conversations. All personally identifiable information shall be removed or made confidential in any records maintained after crisis intervention is complete.
 - b) **Data Minimization:** Way Shape Form shall not store any personal data beyond what is minimally required for technical service fulfillment, such as:
 - i. Telephone numbers for text messaging (stored only for the duration of active conversations)
 - ii. Technical metadata necessary for service delivery
 - iii. No geolocation data, full names, or demographic identifiers will be stored unless required for immediate crisis intervention
 - c) **Data Retention:** Way Shape Form shall maintain PII-free records for no longer than necessary for reporting and quality assurance purposes. Anonymized statistical data may be retained for longer periods.
 - d) **Data Security:** All text messages shall be encrypted in transit and any stored data shall be encrypted at rest using industry-standard encryption methods. Access to any data shall be limited only to authorized personnel with a legitimate need to access such information.
 - e) **HIPAA Compliance:** To the extent applicable, Way Shape Form shall comply with the Health Insurance Portability and Accountability Act (HIPAA) and all other applicable

federal and state privacy laws.

f) **Breach Notification:** Way Shape Form shall notify Fulton County within 24 hours of discovering any breach or suspected breach of data security, unauthorized access, or other privacy incident involving TextForHelp data.

g) **Privacy Policy:** Way Shape Form shall maintain a clear privacy policy that can be shared with users of the TextForHelp service upon request, explaining data collection, use, and protection practices.

17. **Representations and Warranties.** Way Shape Form warrants and represents that any Way Shape Form materials will not infringe any copyright or invade or violate any right of privacy or any other right of any person, firm, or corporation and will not contain any libelous or other unlawful matter. Way Shape Form further represents and warrants that it is authorized to grant end-user licenses and make all necessary modifications to the technology that will be used to carry out this MOU.
18. **Severability.** If any provision of this MOU is unenforceable to any extent, the remainder of this MOU (or application of that provision to any persons or circumstances other than those as to which it is held unenforceable) will not be affected by that unenforceability and will be enforceable to the fullest extent permitted by law.
19. **Force Majeure.** If the performance of any part of this MOU by either party is prevented, hindered, delayed or otherwise made impracticable by reason of any flood, fire, riot, judicial or governmental action, labor dispute, act of God or other causes beyond the control of either party, the party shall be excused from such performance to the extent that it is prevented, hindered or delayed by such causes.
20. **Headings.** The captions and headings in this MOU are included for ease of reference only and shall be disregarded in interpreting this MOU.
21. **Waiver.** A waiver of any term or condition of this MOU shall not be deemed a continuing waiver of any such term or condition, or a waiver of any other term or condition. No waiver shall be effective unless agreed to in writing and signed by the Parties to this MOU.
22. **Drafting.** Each party agrees that no presumption or inference shall be made or drawn against the drafters of this MOU.
23. **Successors and Assigns.** This MOU shall be binding upon and shall inure to the benefit of the Parties and each of their respective successors and assigns, provided that Way Shape Form may not assign any right or obligation under this MOU without Fulton County's prior written consent.
24. **Entire Agreement.** This MOU constitutes the entire agreement between the Parties and supersedes all proposals, oral or written, and all other communications between the Parties relating to the subject matter of this MOU. This MOU may not be amended or modified except in writing signed by both Parties.

25. Governing Law; Venue. This MOU shall be governed by Georgia law and venue for all disputes shall be in Fulton County, Georgia.

26. Notices.

Notices under this MOU shall be sent to:

WAY SHAPE FORM, INC.:

Attn: Loretta C. Waters, Way Shape Form, Inc.
3206 W. River Cove Drive
Tampa, Florida 33614

FULTON COUNTY:

Richard "Dick" Anderson County Manager
141 Pryor Street, S.W. Suite 1000
Atlanta, Georgia 30303

Copy to:

Office of the County Attorney
141 Pryor Street, S.W., Suite 4038
Atlanta, Georgia 30303

27. Counterparts. The Parties may sign this MOU in several counterparts, each of which will be deemed an original but all of which together will constitute one instrument. Receipt of a signed agreement by facsimile or electronic mail shall be the same as receipt of a signed original.

IN WITNESS WHEREOF, the Parties have hereunto affixed their signatures on the date indicated to signify their acceptance of this MOU between Fulton County, Georgia and Way Shape Form, Inc.

[SIGNATURES CONTAINED ON THE FOLLOWING PAGE]

WAY SHAPE FORM, INC.

By: _____
Loretta C. Waters, Chief Executive Officer

**FULTON COUNTY BOARD OF
COMMISSIONERS**

By: _____
Robert L. Pitts, Chairman

SEAL

ATTEST:

Tonya Grier, Clerk to the Commission

APPROVED AS TO FORM:

Office of the Fulton County Attorney