

CONTRACT
BETWEEN FULTON COUNTY, GEORGIA
AND
ATLANTA ASSOCIATION FOR CONVALESCENT AGED PERSONS, INC.

THIS CONTRACT, entered into this _____ day of March, 2023, between FULTON COUNTY, a political subdivision of the State of Georgia (“Fulton County” or the “County”), and the ATLANTA ASSOCIATION FOR CONVALESCENT AGED PERSONS, INC. d/b/a Sadie G. Mays Health and Rehabilitation Center, a Georgia non-profit corporation (the “Association”).

WHEREAS, pursuant to O.C.G.A. § 36-1-19.1, Fulton County is authorized and empowered under the laws of the State of Georgia to enter into contracts for services with individuals, organizations and institutions, for purely charitable reasons to include health and social welfare, provided that the activities funded by any such contributions shall take place within the county making the contribution; and

WHEREAS, the Association is a 501(c)(3) not-for-profit corporation that operates the Sadie G. Mays Health & Rehabilitation Center, previously known as Happy Haven, a 206-bed, skilled nursing facility located in northwest Atlanta in Fulton County, Georgia (the “Sadie G. Mays Facility”); and

WHEREAS, the Association has been tasked with the responsibility of caring for many of Fulton County’s neediest, chronically ill and elderly citizens; and

WHEREAS, the mission of the Sadie G. Mays Facility is to establish quality standards for the long-term care industry and to meet the ever changing needs of residents with professional, compassionate, individualized care that protects their health and allows them to achieve their highest level of well-being, with dignity and respect; and

WHEREAS, on June 19, 1968, Fulton County entered into an agreement (the “1968 Agreement”) to provide financial support to the Association for the operation of the Sadie G. Mays Facility; and

WHEREAS, the Sadie G. Mays Facility, has been receiving funds from Fulton County since 1968 pursuant to the 1968 Agreement in order to provide care for the ill and indigent elderly citizens of Fulton County; and

WHEREAS, on January 18, 2023, the Fulton County Board of Commissioners approved

a \$1,200,000 increase in the FY2023 Budget to provide non-recurring increased financial assistance for FY2023 to the Association for operation of the Sadie G. Mays Facility; and

WHEREAS, the Association guarantees, by and through this Contract, that it shall expend the funds under this Contract for health and social welfare purposes consistent with its mission and non-profit status only, deriving no profit to the organization, and on activities within Fulton County consistent with the Contract provisions outlined in Section 1.0 hereunder.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the parties hereunto agree as follows:

1.0 STATEMENT OF WORK

1.1 The County shall provide financial assistance monthly to the Association to help provide operational resources for the Association to provide vital care to the ill, indigent elderly citizens of Fulton County who reside at the Sadie G. Mays Facility, now and in the future.

1.2 The Association will, at its own expense and from funds provided from any and all sources, operate said facility in accordance with recognized medical and nursing home standards, and will provide care for patients who are accepted for treatment and care in said facility to the best of its ability and within the limits of its resources in accordance with the requirements of this Contract.

1.3 The Association shall set admissions policies of persons to receive care in the Sadie G. Mays Facility. The Association agrees to give first priority to the infirm aged who are entirely dependent upon public or private Association support for care and livelihood, and to make particular effort to provide care for infirm aged who are dependent upon Fulton County for such care and support; but it is agreed that it is in the public interest that the Association also extend service and care to persons who are not entirely dependent upon public or private agencies for livelihood and care. It is further agreed that the Board of Directors of the Association and the Fulton County Board of Commissioners will, from time to time, consult upon admission policies and regulations, through representatives or joint committees appointed for this purpose.

1.4 The Association will set such charges and fees for persons receiving care as it shall deem proper and necessary, retaining the income from same, whether paid by the patients or by other persons or agencies on behalf of the patients, to cover operating costs and other necessary expenses of the facility. The Association may enter into agreements with persons or organizations or with public or private agencies to provide funds for the care of patients or to provide materials or services required in accomplishing the purposes of the Association or the facility.

1.5 All donations, appropriations, and grants made to the Association shall be available to the Association for its purposes, and the County shall have no control over any part of same.

1.6 The Association agrees to make up its budget not later than November of each year for the succeeding calendar year, containing an estimate of operating expenses and costs, also an estimate of revenues and contributions anticipated from other sources. A copy of said budget shall be transmitted to the County after its adoption by the Association. The Association agrees to maintain

complete records of all transactions, to have an independent annual audit made of its financial affairs, and to forward a copy same to the County. The audit report shall show the patient daily cost and the number of patient days of care furnished to and at the request of the County.

1.7 The Association agrees to operate the health and rehabilitation center on an economical basis consistent with good business practices and sound principles of accounting.

2.0 COMPENSATION FOR SERVICES AND WORK

Funding for the services and work described in Section 1.0 herein and provided during FY2023 shall be as follows: The total annual amount payable by Fulton County to the Association per the terms of this Contract is not to exceed One Million Two Hundred Thousand Dollars (**\$1,200,000**) for FY2023. Such payment by Fulton County during 2023 shall be made in accordance with Attachment "A", Payment Schedule. Future payments or subsidization shall be negotiated and mutually agreed upon, based on actual cost per patient, being the cost per patient above any funds, grants or monies received that will be used to provide the nursing care outlined in this Contract.

3.0 TERM OF AGREEMENT

Unless terminated by mutual agreement, or in accordance with other terms and provisions contained herein, the term of this Contract shall be upon execution through December 31, 2023. This Contract shall automatically be renewed for successive periods of one year each unless either Party hereto shall, not later than December 1st of any year, notifies the opposite Party of its intention to terminate the Contract on January 1st of the ensuing year. Notwithstanding anything contained in this Contract, the County's obligation to make payments provided under this Agreement is subject to the County's annual appropriations of funds for the goods, services, materials, property and/or supplies procured under this Contract by the Fulton County Board of Commissioners. In the event that the Fulton County Board of Commissioners does not allocate funding for this Contract in any given year, the Contract shall be deemed to have automatically terminated on December 31st of the last year the Fulton County Board of Commissioners allocated funding for this Contract.

4.0 TERMINATION OF AGREEMENT

4.1 TERMINATION OF AGREEMENT FOR CAUSE

Either the County or the Association may terminate this Contract in the event the other party fails to perform in a timely and proper manner its obligations in accordance with the provisions of the Contract. Any party seeking to terminate this Contract is required to give ten (10) days' prior written notice to the other party specifying the reasons for such intention to terminate or suspend the Contract. The party receiving such notice under this provision shall have seven (7) days after receipt of service of the notice to correct the violation. If performance is not made, the Contract shall, upon expiration of the ten (10) days from the date notice is delivered, be terminated without further notice. Notice of termination shall be delivered by hand delivery, certified mail with receipt for delivery returned to the sender, or delivery by a nationally recognized overnight delivery service.

4.2 TERMINATION FOR CONVENIENCE OF THE COUNTY

Notwithstanding any other provisions, the County may terminate this Contract for its convenience at any time by giving at least seven (7) days' prior notice in writing (hand delivery, certified mail with receipt, or delivery by a nationally recognized overnight delivery service) to the Association.

5.0 RECORDS, REPORTS AND AUDITS

The Association shall maintain accounts and records, including personal property and financial records, adequate to identify and account for all costs pertaining to this Contract and such other records as may be requested by the County to assure proper accounting for all funds, both public and private. Said records shall be made available for audit purposes to the County or its representative(s), and shall be retained for at least three (3) years after expiration of this Contract or completion of the program unless permission to destroy them is granted by the County. The Association's records and accounts shall at all times meet or exceed the applicable requirements of Federal, State and County laws, rules and regulations. Further, the Association shall submit reports on a monthly basis of the services rendered. Said reports shall be submitted to the Fulton County, c/o Finance Director, 141 Pryor Street, Suite 7000 Atlanta, Georgia 30303.

6.0 INSPECTION OF FILES AND RECORDS

Fulton County shall at all reasonable times have access to the pertinent offices and books and records of the Association for inspection of the activities performed and expenses incurred under this Contract.

7.0 ASSIGNMENT OF CONTRACT

The Association shall not make any purported assignment of this Contract, any part thereof, or the funds, or delegate the duties herewith without prior written consent of the County.

8.0 CONFLICT OF INTEREST

No member, officer, or employee of the County or its designee or agents, no member of the governing body of the County, and no other official of the County who exercises or has exercised any functions or responsibilities with respect to the County-assisted activities or who are in a position to participate in a decision-making process or gain inside information with regard to such activities covered by this Contract, may obtain a personal or financial interest or benefit in any contract, subcontract with respect thereto, or the proceeds thereunder, either for themselves or for those with whom they have family or business ties, during their tenure or for one (1) year thereafter.

9.0 EQUAL OPPORTUNITY AND NONDISCRIMINATION

The Association shall comply with all requirements imposed by or pursuant to Title VI and Title VII of the Civil Rights Act, as amended, Age Discrimination in Employment Act; Rehabilitation Act of 1973, as amended, section 504; Equal Pay Act; the American with Disabilities Act of 1990, as amended; Fair Housing Act, as amended; and any other applicable Acts which prohibit

discrimination on the ground of race, color, religion, sex, age, national origin, handicap, disability, or familial status.

10.0 HOLD HARMLESS/ INDEMNIFICATION

The Association hereby warrants, represents, covenants and agrees to indemnify and save and hold harmless the County, its commissioners, officers, and employees, from any and all claims, losses, liabilities, damages, deficiencies or costs (including without limitation, reasonable attorney's fees and legal expenses) suffered or incurred by, or asserted against, such parties, whether arising in tort, contract, strict liability or otherwise, and including without limitation, personal injury, wrongful death or property damage, arising in any way from the actions or omissions of the Association, its agents, employees, officers and directors. The Association does further hereby agree to release, indemnify, defend and hold harmless the County, its commissioners, officers, and employees, from any injury (including death resulting therefrom), loss, claim or damage sustained by the Association's agents and employees, without regard to negligence. The language of this indemnification clause shall survive the termination of this Contract.

11.0 SEVERABILITY

If any provision of this Contract is held to be unenforceable for any reason, the unenforceability thereof shall not affect the remainder of the Contract, which shall remain in full force and effect and enforceable in accordance with its terms.

12.0 VARIATIONS OR MODIFICATIONS TO CONTRACT

This Contract constitutes the entire arrangement between the County and the Association, and there are no further written or oral contracts with respect thereto. No variation or modification of this Contract and no waiver of its provisions shall be valid unless in writing, approved by the Board of Commissioners, and signed by County and the Association's duly authorized representatives.

Nothing herein shall preclude the Association from pursuing contracts with the County for subsequent years, with the approval of additional funding by the Board of Commissioners.

13.0 NOTICES

All notices shall be in writing and delivered in person or transmitted by certified mail, postage prepaid.

Notice to Fulton County, shall be addressed as follows:

Fulton County
Office of the County Manager
141 Pryor Street SW, 10th Floor
Atlanta, Georgia 30303

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

Notices to the Association shall be addressed as follows:

Atlanta Association for Convalescent Aged Persons, Inc.
1821 Anderson Avenue, NW
Atlanta, Georgia 31314

Attention: Samuel Bacote, III, CEO
Beth Laxton, Executive Director

14.0 GOVERNING LAW

This Contract shall be governed in all respects, as to validity, construction, capacity, and performance or otherwise, by the laws of the State of Georgia.

15.0 COUNTERPARTS

This Contract may be executed and delivered in any number of counterparts, each of which so executed and delivered shall be deemed to be an original and all of which shall constitute one and the same instrument. Electronic, photocopy and facsimile copies of signatures may be used in place and stead of original signatures with the same force and effect as originals.

IN WITNESS WHEREOF, each party attests that the individual(s) executing the Contract on its behalf has both express and apparent authority to bind the respective entity to the terms and conditions of the Contract and has hereto caused the Contract to be executed and delivered on this, the _____ day of March, 2023.

**Atlanta Association for Convalescent and
Aged Persons, Inc.**

Attest:

Samuel Bacotte, III, Chief Executive Officer
Atlanta Association for Convalescent and
Aged Persons, Inc.

(Signature)

Name (Typed or Printed)

Title

(Seal)

Fulton County, Georgia

Attest:

Robert L. Pitts, Chair
Board of Commissioners

Tonya Grier,
Clerk to the Commission

(Seal)

Approved as to Form:

Office of the County Attorney

ATTACHMENT “A” - PAYMENT SCHEDULE

ATLANTA ASSOCIATION FOR CONVALESCENT AGED PERSONS, INC

1. By May 31, 2023 - \$500,000.00
2. By June 30, 2023 - \$100,000.00
3. By July 31, 2023 - \$100,000.00
4. By August 31, 2023 - \$100,000.00
5. By September 30, 2023 - \$100,000.00
6. By October 31, 2023 - \$100,000.00
7. By November 30, 2023 - \$100,000.00
8. By December 31, 2023 -\$100,000.00