

# REQUEST FOR COUNCIL ACTION



CITY COUNCIL MEETING DATE:

JUNE 19, 2018

TITLE:

**APPROVE AN AGREEMENT WITH  
COMMUNITY SENIORSERV INC. FOR  
SENIOR MEALS PROGRAMS  
{STRATEGIC PLAN NO. 5, 6E}**

CITY MANAGER

CLERK OF COUNCIL USE ONLY:

APPROVED

- ☐ As Recommended
- ☐ As Amended
- ☐ Ordinance on 1<sup>st</sup> Reading
- ☐ Ordinance on 2<sup>nd</sup> Reading
- ☐ Implementing Resolution
- ☐ Set Public Hearing For \_\_\_\_\_

CONTINUED TO \_\_\_\_\_

FILE NUMBER \_\_\_\_\_

## **RECOMMENDED ACTION**

Authorize the City Manager and Clerk of the Council to execute an agreement with Community SeniorServ, Inc. for Senior Meals Programs in the amount of \$90,290 for the period from the effective date of the agreement through June 30, 2019, subject to non-substantive changes approved by the City Manager and City Attorney.

## **DISCUSSION**

Community SeniorServ, Inc. provides two programs; Meals on Wheels and Senior Lunch.

The Meals on Wheels program prepares and delivers three meals daily directly to the homes of homebound, frail, and socially isolated seniors in the City. Approximately 22,000 deliveries are made per year. A registered dietician plans the meals to assure 100% of the U. S. Nutritional Recommended Daily Allowance - consisting of breakfast, a cold lunch, and a frozen dinner. In addition to meals, clients benefit from daily contact with delivery staff as well as the calls and/or visits from case workers who regularly check on their well-being.

The Senior Lunch Program will be offered at two sites in Santa Ana (Santa Ana Senior Center and Southwest Senior Center) to help alleviate poor nutrition among the elderly population, especially prevalent among those who live alone and/or on a limited income. Approximately 20,000 lunches are served per year. This nutrition program seeks to enhance the physical and mental well-being of the elderly population by:

- Encouraging a sense of dignity;
- Providing stimulating activities and volunteer opportunities; and
- Augmenting participants' financial resources by providing donation-based meals.

The Senior Lunch Program meals are also planned and certified by a dietician to meet one third of each person's daily nutritional needs based on Food and Drug Administration (FDA) guidelines.

As part of the fiscal year 2018/2019 budget process, \$90,290 in general fund monies was proposed to be included in the Parks, Recreation and Community Services Agency's account to have Community SeniorServ, Inc. provide these programs to Santa Ana residents.

### **STRATEGIC PLAN ALIGNMENT**

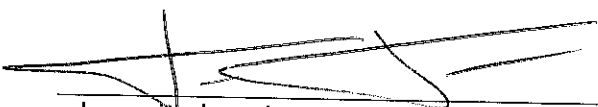
Approval of this item allows the City to meet Goal #5 - Community Health, Livability, Engagement & Sustainability, Objective #6 (Focus projects and programs on improving the health and wellness of all residents), Strategy E (Expand Senior Center programming to provide greater enrichment and explore activities in art, culture and health).

### **FISCAL IMPACT**

Funds will be budgeted in the following account for the specified year:

Accounting Unit	FY 18/19
PRCSA Recreation (no. 01113230-62300)	\$90,290

APPROVED AS TO FUNDS AND ACCOUNT:

  
Jeannie Jurado  
Acting Executive Director  
Parks, Recreation and Community Services  
Agency

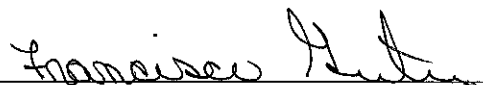
  
Francisco Gutierrez  
Executive Director IM  
Finance and Management Services Agency

Exhibit: 1. Agreement

**AGREEMENT BETWEEN THE CITY OF SANTA ANA AND  
COMMUNITY SENIORSERV, INC. FOR THE PROVISION OF HOME DELIVERED  
MEALS PROGRAM SERVICES**

THIS AGREEMENT is hereby made and entered into this 19<sup>th</sup> day of June, 2018, by and between the City of Santa Ana, a charter city and municipal corporation organized and existing under the Constitution and laws of the State of California ("City"), and Community SeniorServ, Inc., a California nonprofit corporation ("Provider").

**RECITALS**

- A. The City desires to retain Provider to participate in delivering meals to the homes of senior citizens and providing Congregate Meals Program at senior centers in the City.
- C. In undertaking the performance of this Agreement, Provider represents that it is knowledgeable in its field and that any services performed by Provider under this Agreement will be performed in compliance with such standards as may reasonably be expected from a professional firm in the field.

**NOW THEREFORE**, in consideration of the mutual and respective promises, and subject to the terms and conditions hereinafter set forth, the parties agree as follows:

**1. SCOPE OF SERVICES**

Provider shall deliver meals to the homes of senior citizens and provide Congregate Meals Program at certain senior centers in the City as set forth in the **Exhibit A** and incorporated by reference to this Agreement.

**2. COMPENSATION**

- a. City agrees to pay, and Provider agrees to accept as total payment for its services, the sum of \$90,290.00. The total sum to be expended under this Agreement shall not exceed this amount during the term of this Agreement.
- b. City will be invoiced by Consultant on a quarterly basis. Payment will be made within forty-five (45) days of the date of the invoice.

**3. TERM**

The term of this Agreement shall commence on the date first written above and terminate on June 30, 2019, unless terminated earlier in accordance with Section 13, below.

#### **4. INDEPENDENT CONTRACTOR**

Provider shall, during the entire term of this Agreement, be construed to be an independent contractor and not an employee of the City. This Agreement is not intended nor shall it be construed to create an employer-employee relationship, a joint venture relationship, or to allow the City to exercise discretion or control over the professional manner in which Provider performs the services which are the subject matter of this Agreement; however, the services to be provided by Provider shall be provided in a manner consistent with all applicable standards and regulations governing such services. Provider shall pay all salaries and wages, employer's social security taxes, unemployment insurance and similar taxes relating to its employees and shall be responsible for all applicable withholding taxes.

#### **5. INSURANCE**

Prior to undertaking performance of work under this Agreement, Provider shall maintain and shall require its subcontractors, if any, to obtain and maintain insurance as described below:

a. Commercial General Liability Insurance. Provider shall maintain commercial general liability insurance which shall include, but not be limited to protection against claims arising from bodily and personal injury, including death resulting therefrom and damage to property, resulting from any act or occurrence arising out of Provider's negligent operations in the performance of this Agreement, including, without limitation, acts involving vehicles. The amounts of insurance shall be not less than the following: single limit coverage applying to bodily and personal injury, including death resulting therefrom, and property damage, in the total amount of \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Such insurance shall (a) name the City, its officers, employees, agents, volunteers and representatives as additional insured(s); (b) be primary and not contributory with respect to insurance or self-insurance programs maintained by the City; and (c) contain standard separation of insured provisions.

b. Business automobile liability insurance, or equivalent form, with a combined single limit of not less than \$1,000,000 per occurrence. Such insurance shall include coverage for owned, hired and non-owned automobiles.

c. Worker's Compensation Insurance. In accordance with California State law, Provider, if Provider has any employees, is required to be insured against liability for worker's compensation or to undertake self-insurance. Prior to commencing the performance of the work under this Agreement, Provider agrees to obtain and maintain any employer's liability insurance with limits not less than \$1,000,000 per accident.

d. If Provider is or employs a licensed professional such as an architect or engineer: Professional liability (errors and omissions) insurance, with a combined single limit of not less than \$1,000,000 per claim with \$2,000,000 in the aggregate.

e. The following requirements apply to the insurance to be provided by Provider pursuant to this section:

- (i) Provider shall maintain all insurance required above in full force and effect for the entire period covered by this Agreement.
- (ii) Certificates of insurance shall be furnished to the City upon execution of this Agreement and shall be approved in form by the City.
- (iii) Certificates and policies shall state that the policies shall not be canceled or reduced in coverage or changed in any other material aspect without thirty (30) days prior written notice to the City.
- (iv) Provider shall supply City with fully executed additional insured endorsement.

f. If Provider fails or refuses to produce or maintain the insurance required by this section or fails or refuses to furnish the City with required proof that insurance has been procured and is in force and paid for, the City shall have the right, at the City's election, to terminate this Agreement. Such termination shall not affect Provider's right to be paid for its time and materials expended prior to notification of termination. Provider waives the right to receive compensation and agrees to indemnify the City for any work performed prior to approval of insurance by the City.

## **6. INDEMNIFICATION**

Provider agrees to and shall indemnify and hold harmless the City, its officers, agents, employees, Providers, special counsel, and representatives from liability: (1) for personal injury, damages, just compensation, restitution, judicial or equitable relief arising out of claims for personal injury, including death, and claims for property damage, which may arise from the negligent operations of the Provider or its contractors, subcontractors, agents, employees, or other persons acting on their behalf which relates to the services described in section 1 of this Agreement; and (2) from any claim that personal injury, damages, just compensation, restitution, judicial or equitable relief is due by reason of the terms of or effects arising from this Agreement. This indemnity and hold harmless agreement applies to all claims for damages, just compensation, restitution, judicial or equitable relief suffered, or alleged to have been suffered, by reason of the events referred to in this Section or by reason of the terms of, or effects, arising from this Agreement. The Provider further agrees to indemnify, hold harmless, and pay all costs for the defense of the City, including fees and costs for special counsel to be selected by the City, regarding any action by a third party challenging the validity of this Agreement, or asserting that personal injury, damages, just compensation, restitution, judicial or equitable relief due to personal or property rights arises by reason of the terms of, or effects arising from this Agreement. City may make all reasonable decisions with respect to its representation in any legal proceeding. Notwithstanding the foregoing, to the extent Provider's services are subject to Civil Code §2782.8, the above indemnity shall be limited, to the extent required by Civil Code §2782.8, to claims that arise of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Provider.

## **7. RECORDS**

Provider shall keep records and invoices in connection with the work to be performed under this Agreement. Provider shall maintain complete and accurate records with respect to the costs incurred under this Agreement and any services, expenditures, and disbursements charged to the City for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to Provider under this Agreement. All such records and invoices shall be clearly identifiable. Provider shall allow a representative of the City to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement during regular business hours. Provider shall allow inspection of all work, data, documents, proceedings, and activities related to this Agreement for a period of three (3) years from the date of final payment to Provider under this Agreement.

## **8. CONFIDENTIALITY**

If Provider received from the City information which due to the nature of such information is reasonably understood to be confidential and/or proprietary, Provider agrees that it shall not use or disclose such information except in the performance of this Agreement, and further agrees to exercise the same degree of care it uses to protect its own information of like importance, but in no event less than reasonable care. "Confidential Information" shall include all nonpublic information. Confidential information includes not only written information, but also information transferred orally, visually, electronically, or by other means. Confidential information disclosed to either party by any subsidiary and/or agent of the other party is covered by this Agreement. The foregoing obligations of non-use and nondisclosure shall not apply to any information that (a) has been disclosed in publicly available sources; (b) is, through no fault of the Provider disclosed in a publicly available source; (c) is in rightful possession of the Provider and disclosed without an obligation of confidentiality; (d) is required to be disclosed by operation of law; or (e) is independently developed by the Provider without reference to information disclosed by the City.

## **9. CONFLICT OF INTEREST CLAUSE**

Provider covenants that it presently has no interest and shall not have interests, direct or indirect, which would conflict in any manner with performance of services specified under this Agreement.

## **10. NOTICE**

Any notice, tender, demand, delivery, or other communication pursuant to this Agreement shall be in writing and shall be deemed to be properly given if delivered in person or mailed by first class or certified mail, postage prepaid, sent by fax or other telegraphic communication in the manner provided in this Section, to the following persons:

To City:                      City of Santa Ana  
                                    Community Development Agency (M-25)  
                                    20 Civic Center Plaza  
                                    P.O. Box 1988

Santa Ana, California 92702-1988

With copy to: Executive Director of Parks, Recreation and Community Services  
City of Santa Ana  
26 Civic Center Plaza (M-23)  
P.O. Box 1988  
Santa Ana, California 92702  
Fax (714) 571-4211

To Provider: Community SeniorServ, Inc.  
1200 N. Knollwood Circle  
Anaheim, CA 92801  
Fax (714) 220-1374

A party may change its address by giving notice in writing to the other party. Thereafter, any communication shall be addressed and transmitted to the new address. If sent by mail, communication shall be effective or deemed to have been given three (3) days after it has been deposited in the United States mail, duly registered or certified, with postage prepaid, and addressed as set forth above. If sent by facsimile, communication shall be effective or deemed to have been given twenty-four (24) hours after the time set forth on the transmission report issued by the transmitting facsimile machine, addressed as set forth above. For purposes of calculating these time frames, weekends, federal, state, County or City holidays shall be excluded.

#### **11. EXCLUSIVITY AND AMENDMENT**

This Agreement represents the complete and exclusive statement between the City and Provider regarding the subject matter herein, and supersedes any and all other agreements, oral or written, between the parties. In the event of a conflict between the terms of this Agreement and any attachments hereto, the terms of this Agreement shall prevail and will serve to fully supersede existing Agreement. This Agreement may not be modified except by written instrument signed by the City and by an authorized representative of Provider. The parties agree that any terms or conditions of any purchase order or other instrument that are inconsistent with, or in addition to, that terms or conditions hereof, shall not bind or obligate Provider nor the City. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any parties which are not embodied herein.

#### **12. ASSIGNMENT**

Inasmuch as this Agreement is intended to secure the specialized services of Provider, Provider may not assign, transfer, delegate, or subcontract any interest herein without the prior written consent of the City and any such assignment, transfer, delegation or subcontract without the City's prior written consent shall be considered null and void. Nothing in this Agreement shall be construed to limit the City's ability to have any of the services which are the subject to this Agreement performed by City personnel or by other Providers retained by City.

### **13. TERMINATION**

This Agreement may be terminated by the City with thirty (30) days written notice of termination to the Provider.

a. As a condition of such payment, the City may require Provider to deliver to the City all the work product completed as of such date, and in such case such work product shall be the property of the City unless prohibited by law, and Provider consents to the City's use thereof for such purposes as the City deems appropriate.

b. Payment need not be made for work that fails to meet the standard of performance specified in the Recitals of this Agreement.

### **14. NON DISCRIMINATION**

Provider shall not discriminate because of race, color, creed, relation, sex, marital status, sexual orientation, age, national origin, ancestry, or disability, as defined and prohibited by applicable law, in the recruitment, selection, training, utilization, promotion, termination or other employment related activities or any activities under this Agreement. Provider affirms that it is an equal opportunity employer and shall comply with all applicable federal, state and local laws and regulations.

### **15. JURISDICTION - VENUE**

This Agreement has been executed and delivered in the State of California and the validity, interpretation, performance, and enforcement of any of the clauses of this Agreement shall be determined and governed by the laws of the State of California. Both parties further agree that Orange County, California, shall be the venue for any action or proceeding that may be brought or arise out of, in connection with or by reason of this Agreement.

### **16. PROFESSIONAL LICENSES**

Provider shall, throughout the term of this Agreement, maintain all necessary licenses, permits, approvals, waivers, and exemptions necessary for the provision of the services hereunder and required by the laws and regulations of the United States, the State of California, the City of Santa Ana and all other governmental agencies. Provider shall notify the City immediately and in writing of her inability to obtain or maintain such permits, licenses, approvals, waivers, and exemptions. Said inability shall be cause for termination of this Agreement.

### **17. BACKGROUND CHECKS**

Consultant represents and warrants that it has engaged an independent entity to conduct a background check of all employees, agents, independent contractors, volunteers, or other individuals that provides services to senior citizens in their homes pursuant to this Agreement. The background check shall include at a minimum a state and county criminal history



investigation where such individual resides and a search of the national and California state sex offender registries. Proof of the background check required under this section shall be provided to City upon request.

#### **18. MISCELLANEOUS PROVISIONS**

- a. Each undersigned represents and warrants that its signature herein below has the power, authority and right to bind their respective parties to each of the terms of this Agreement, and shall indemnify City fully, including reasonable costs and attorney's fees, for any injuries or damages to City in the event that such authority or power is not, in fact, held by the signatory or is withdrawn.
- b. All exhibits referenced herein and attached hereto shall be incorporated as if fully set forth in the body of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the date and year first above written.

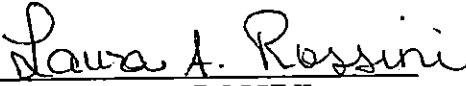
**ATTEST:**

**CITY OF SANTA ANA**

\_\_\_\_\_  
MARIA D. HUIZAR  
Clerk of the Council

\_\_\_\_\_  
RAUL GODINEZ II  
City Manager

**APPROVED AS TO FORM:**  
SONIA R. CARVALHO  
City Attorney

  
By: LAURA A. ROSSINI  
Senior Assistant City Attorney

**RECOMMENDED FOR APPROVAL:**

**COMMUNITY SENIORSERV, INC.**

\_\_\_\_\_  
Gerardo Mouet  
Executive Director of Parks,  
Recreation and Community Services Agency

\_\_\_\_\_  
By:  
Name:  
Title:

## EXHIBIT A

Community SeniorServ Inc.  
1200 N. Knollwood Circle  
Anaheim, CA 92801

For Fiscal Year 18-19

To provide meals to Santa Ana older adults through the Meals on Wheels and Congregate Lunch Meals programs.

### Home Delivered Meal Program:

Participants in the Home Delivered Meals program will receive a total of 3 nutritious meals daily for 5 days a week (Monday-Friday) delivered to their home and case management services. Meals will be delivered by paid and volunteer drivers. Eligibility and case management services will be provided by CSS Case Managers. Participants will also have access to other services at no charge including in-home services, respite services, home safety equipment, and other resources. Last year, the program served an average of 85 seniors per week at a cost of \$1.56 per meal.

### Congregate Lunch Meals Program:

Last year, the program provided meals to an average of 78 seniors, Monday-Friday at a cost of \$2.02 per meal. Participants in the Congregate Lunch program will be provided with a nutritional lunch five days a week at 2 sites in Santa Ana:

Southwest Senior Center  
Santa Ana Senior Center

Consultant will work with City staff in the Parks, Recreation and Community Services Agency to work out the details of the services on a weekly basis.