



Hand Delivered

Mr. Leon Page, Esquire
Office of the County Counsel
County of Orange
400 West Civic Center Drive, Suite 202
Santa Ana, CA 92701

May 10, 2023

Dear Mr. Page:

We enclose the original Settlement Agreement which has been fully executed and initialed by Age Well and Meals on Wheels. We look forward to receipt of copies of the fully executed Settlement Agreement.

Thank you

A handwritten signature in blue ink that reads "Steve Moyer". The signature is written in a cursive style.

Steve Moyer

Chief Executive Officer

**SETTLEMENT AGREEMENT INCLUDING
MUTUAL GENERAL RELEASES**

This Settlement Agreement including Mutual General Releases (the “Agreement” or “Settlement Agreement”) is dated May 9, 2023, and is entered into among County of Orange (“County”), on the one hand and Community SeniorServ, Inc. dba Meals on Wheels Orange County (“Meals on Wheels”) and Age Well Senior Services, Inc. (“Age Well”) on the other hand. Meals on Wheels and Age Well are referenced collectively as the “Charities.” All three parties are collectively referenced as the “Parties”.

RECITALS

WHEREAS, with the Covid 19 pandemic spreading quickly throughout the United States, in April 2020, Governor Newsom announced the Great Plates Delivered (“GPD”) program to deliver three meals a day to the residences of seniors who were at high risk from Covid 19; he also announced that the GPD program would be funded partially by Federal Emergency Management Authority (“FEMA”) and partially by the State of California;

WHEREAS, to initiate this meal delivery program on a highly accelerated, emergency basis and save lives, the County announced that it would leverage its existing relationships with its Federal Title III Elderly Nutrition Program (“ENP”) providers, Meals on Wheels and Age Well, to implement the GPD program;

WHEREAS, the County awarded contracts under the GPD program to the Charities on May 13, 2020; it awarded Contract No. 20-27-0063-CV to Age Well and Contract No. 20-27-0065-CV to Meals on Wheels (collectively, “the GPD Contract”);

WHEREAS, the GPD program began in mid-May 2020 and ended in November 2020;

WHEREAS, a dispute under the Contract has arisen between the County and the Charities pursuant to which the County demanded in December 7, 2022 correspondence that Meals on Wheels was obligated to return to the County the sum of \$14,867,021.05 and that Age Well was obligated to return to the County the sum of \$8,570,980.31 from monies paid to the Charities under their respective GPD Contracts;

WHEREAS, the Charities dispute that they owe any monies that they received under the GPD contracts to the County; and

WHEREAS, the Parties now desire to resolve any and all disputes arising under or related to the GPD contracts and the GPD program on the terms set forth in this Settlement Agreement.

AGREEMENT

NOW THEREFORE, the Parties, and each of them, agree as follows:

1. Incorporation Of Recitals. Each of the above Recitals is incorporated herein, and the Parties, and each of them, agree that: (a) each of the Recitals is true and correct; and

(b) the Parties, and each of them, have relied upon the Recitals in agreeing to enter into this Agreement.

2. Dismissal of Any Pending Litigation. Upon execution of this Agreement by all Parties, the Parties shall cause all claims and causes of action asserted in any pending litigation to be dismissed with prejudice.


3. Settlement Payments. Meals on Wheels shall pay the County the sum of \$8,880,376 and Age Well shall pay the County the sum of \$5,119,624 (collectively, the "Settlement Payments"). Thus, the total payment by the Charities will be \$14 million. The Settlement Payments shall be due and payable no later than June 1, 2023.

4. Mutual General Release of All Claims Known And Unknown. The County on the one hand, and Meals on Wheels and Age Well, on the other hand, together with their respective agents, employees, representatives, supervisors, administrators, attorneys, insurers, lenders, shareholders, owners, officers, directors, divisions, affiliates, partnerships, partners, subsidiaries, and related corporations, assignors, assigns, predecessors in interest, and successors in interest, without conditions precedent to effectiveness, generally release and fully discharge each other, as well as their respective agents, employees, representatives, supervisors, administrators, attorneys, insurers, lenders, shareholders, owners, officers, directors, divisions, affiliates, partnerships, partners, joint venturers, subsidiaries, and related corporations, assignors, assigns, predecessors in interest, and successors in interest, from any and all claims, obligations, liabilities, actions and causes of action they may hold against one another arising under or related to the GPD contracts and GPD program. The obligations in this Settlement Agreement and Mutual Release shall be binding on the Board of Supervisors of the County and on the Boards of Directors of both Meals on Wheels and Age Well. In connection with such release, the Parties, and each of them, acknowledge that they have been advised by legal counsel, to the extent that they have seen fit, and are familiar with and waive the provision of California Civil Code Section 1542, which provides as follows:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY."



County of
Orange



Community SeniorServ,
Inc. dba Meals on
Wheels Orange County



Age Well Senior
Services, Inc.

5. Normalization of Relations. The County and the Charities have worked together for decades to address the nutritional and transportation needs of vulnerable senior residents in the County. The GPD contract dispute is the first contract dispute between the Parties during that lengthy period of time. The resolution of claims reflected in this Agreement includes an agreement by the Parties to normalize relations between the Parties. The County agrees not to hold the GPD dispute against the Charities as a negative factor in

County procurement decisions. More specifically, the GPD dispute will not be used by the County to support a finding of a lack of present responsibility or integrity by either Age Well or Meals on Wheels. The Parties agree that they shall not use the GPD dispute which is being resolved in this Agreement to undermine the reputation or business practices of the other Parties. This provision is limited to the GPD contract dispute and does not infringe upon or limit the Orange County Board of Supervisors' ability to comment upon matters of public concern.

6. FEMA Appeal. The Charities agree to provide any assistance requested by the County in the FEMA appeal. If the County should recover from FEMA any of the monies that are being paid by the Charities under this Agreement, the County agrees to pay to the Charities the monies that the County recovers from FEMA within 20 days of receipt of the monies from FEMA.

7. Confidentiality. The existence of this Agreement, and all terms and information contained herein, shall be kept confidential by the Parties and shall not be disclosed except: (a) as may be required by a court order compelling disclosure; (b) as may be required by a governmental entity or agency; (c) to the extent reasonably necessary to obtain legal and/or tax advice; or (d) to the extent that disclosure may be required under the California Public Records Act or the Ralph M. Brown Act. To the extent that any of the Parties is asked or intends to reveal all or any portion of this Agreement, the Party intending to reveal such information must first provide the other Parties with notice of such intent not less than 10 court days prior to revealing all or any portion of this Agreement.

8. Warranty Of Authority. Each of the Parties represent and warrant that the individuals executing this Agreement have full and complete authority to enter into this Agreement on behalf of the entity for which each individual has signed this Agreement.

9. Successors And Assigns. This Agreement is binding upon and shall inure to the benefit of and be binding upon the Parties and their respective agents, employees, representatives, administrators, attorneys, insurers, lenders, shareholders, owners, officers, directors, divisions, affiliates, partnerships, partners, joint venturers, parents, subsidiaries, and related corporations, assignors, assigns, predecessors in interest, and successors in interest, and each of them.

10. Construction Of Ambiguities And No Presumption Against Drafting Party. Each Party and its counsel have participated in the drafting of this Agreement and has reviewed and revised (or requested revisions to) this Agreement. Accordingly, the rule of construction that any ambiguities are to be resolved against the drafting Parties shall not be applicable in the construction and interpretation of this Agreement.

11. No Third-Party Beneficiaries. This Agreement is made and entered into for the sole protection and legal benefit of the Parties, and their permitted successors and assigns. No other person shall be a direct or indirect beneficiary of, or have any direct or indirect cause of action, claim, right or defense based upon this Agreement.

12. Entire Agreement And Modification Of Agreement. This Agreement constitutes the entire understanding of the Parties with respect to the subject matter hereof. This Agreement may not be modified, altered or amended except by an agreement in writing signed by all Parties hereto.

13. Section Headings. The captions, subject, section and paragraph headings in this Agreement are included for convenience and reference only. They do not form a part hereof, and do not in any way modify, interpret, or reflect the intent of the parties. Said headings shall not be used to construe or interpret any provision of this Agreement.

14. Execution In Counterparts; Electronic Transmission. This Agreement may be executed in two or more counterparts and transmitted between the Parties via electronic mail or other means of communication, each of which shall be considered an original instrument, but all of which shall be considered one and the same agreement and shall become binding when one or more counterparts have been signed by each of the Parties.

15. Further Assurances. The Parties shall execute and deliver any and all such other and further documents as may be reasonably necessary or appropriate to achieve the purposes of this Agreement.

16. Agreement As Defense. This Agreement may be pleaded as a full and complete defense by the Parties hereto and may be used as the basis for an injunction against any action, suit, motion, claim or other proceeding based on rights, claims, or interests compromised, resolved or released by this Agreement.

17. Non-Admission of Liability. Nothing in this Agreement shall constitute or be construed as an admission of liability on behalf of any of the Parties or their employees, directors, officers, agents, affiliates, parents, insurers, and attorneys, or an admission as to the validity of the allegations made by any Party. Further, there has been no determination or adjudication that any Party engaged in any wrongdoing in connection with the GPD contracts and the Parties mutually disclaim any allegation that wrongdoing occurred in connection with the GPD contracts.

18. Notices. A notice, demand or other communication that any Party may desire or be required to give to any other Party shall be in writing and given pursuant to the following:

If to the County of Orange, via FedEx to the following address:

Leon Page, Esquire
Office of the County Counsel
County of Orange
400 West Civic Center Drive, Suite 202
Santa Ana, CA 92701
(714) 834-3300

and with a copy sent via email to Leon.Page@coco.ocgov.com

If to Meals on Wheels or Age Well, via FedEx to the following addresses:

Holly Hagler
Meals on Wheels Orange County
1200 Knollwood Circle
Anaheim, CA 92801

and with a copy sent via email to hhagler@MealsOnWheelsOC.org

Steve Moyer
Age Well Senior Services, Inc.
23101 Lake Center Drive, Suite 325
Lake Forest, CA 92630

and with a copy sent via email to: smoyer@myagewell.org

and with copies to counsel at the following addresses:

Aaron J. Malo, Esquire
Sheppard, Mullin, Richter & Hampton, LLP
650 Town Center Drive, 10th Floor
Costa Mesa, CA 92626

with an email sent to: amalo@sheppardmullin.com

Richard W. Oehler, Esquire
Perkins Coie LLP
1201 Third Ave., Suite 4900
Seattle, WA 98101

with an email sent to: roehler@perkinscoie.com

All notices shall be deemed effective as of the close of business on the business day *after* such notice is deposited with FedEx for overnight delivery.

[SIGNATURES ON FOLLOWING PAGES]

May 10, 2023

COUNTY OF ORANGE

By _____

Name LEON J. PAGE

Title COUNTY COUNSEL

May 7, 2023

COMMUNITY SENIORSERV, INC. DBA MEALS
ON WHEELS

By  _____

Name Holly Hager

Title President & CEO

May 9, 2023

AGE WELL SENIOR SERVICES, INC.

By  _____

Name Steven Moyer

Title CEO