STATE OF TEXAS §
COUNTY OF WILLIAMSON §

CONTRACT
IN THE PUBLIC INTEREST
BETWEEN
WILLIAMSON COUNTY, TEXAS
AND
FAMILY ELDERCARE
(FY 2019)
(Probate Court Operations- County Court at Law #4)

THIS CONTRACT is entered into by and between WILLIAMSON COUNTY, a political subdivision of the State of Texas, hereinafter referred to as ("WILLIAMSON COUNTY"), and FAMILY ELDERCARE, hereinafter referred to as ("FAMILY ELDERCARE").

WITNESSETH

WHEREAS, WILLIAMSON COUNTY has an interest in supporting guardianships for individuals who are unable to care for themselves and have no family or friends to serve as guardian;

WHEREAS, FAMILY ELDERCARE has an interest in supporting the provision of community and county-wide eldercare support services;

WHEREAS, WILLIAMSON COUNTY believes that it is in the public interest to enter into this CONTRACT with FAMILY ELDERCARE;

NOW, THEREFORE, THE PARTIES agree as follows:

1. **Public Purpose and Public Benefit**. FAMILY ELDERCARE will operate as an independent contractor in Williamson County, Texas. FAMILY ELDERCARE shall use the funding paid hereunder to perform the services and achieve the broad goals outlined in this CONTRACT, *which must be based on referrals from Williamson County*

through the Presiding Judge of the County Court at Law #4. The services include, but are not limited to the following items in order to complete the project:

- **As described in the Proposal from Family Eldercare, set forth in the attached Exhibit "A" and dated April 8, 2014, which is incorporated herein as if copied in full; and**

- **In addition to the services described in Exhibit "A," Family Eldercare also will provide financial management services for individuals whom the Presiding Judge of the County Court at Law #4 determines are in need of assistance but not in need of guardianship services, up to a total of 30 guardianship and financial management clients.**

2. Reports/Payment. FAMILY ELDERCARE shall provide to WILLIAMSON COUNTY quarterly and annual financial reports in a form agreed upon by WILLIAMSON COUNTY, and FAMILY ELDERCARE shall cooperate with annual inspections and audits that WILLIAMSON COUNTY or the auditor on behalf of WILLIAMSON COUNTY may make to ensure service standards and fiscal responsibility.

In return, WILLIAMSON COUNTY agrees to pay from funding provided by WILLIAMSON COUNTY to FAMILY ELDERCARE the full yearly amount of **$73,800.00 payable in monthly installments of $6,150.00 after October 1, 2018 and *prior* to the end of FY 2019 or September 30, 2019.**

3. Reimbursement of Funds. Despite the agreed upon method of payment set forth above, FAMILY ELDERCARE agrees to return to WILLIAMSON COUNTY all funds distributed to FAMILY ELDERCARE if (a.) FAMILY ELDERCARE's use of the funds for intended purposes is insufficient; (b.) this CONTRACT is terminated for any reason; (c.) FAMILY ELDERCARE fails in any other respect under this CONTRACT; (d.) FAMILY ELDERCARE changes its operations in such a way that, in WILLIAMSON COUNTY's opinion, the FAMILY ELDERCARE no longer serves a public purpose; or (e) FAMILY ELDERCARE conveys, leases or otherwise transfers its interest in the its operations to another entity without the prior written consent of WILLIAMSON COUNTY, which such consent shall not be unreasonably withheld provided the successor entity continues to use a public purpose consistent with the spirit of this CONTRACT. The reimbursement of funds shall be prorated based on those portions that were reasonably used for intended purposes.

4. Records. FAMILY ELDERCARE shall keep sufficient records of all of its expenditures in connection with services rendered pursuant to this CONTRACT. FAMILY ELDERCARE agrees that WILLIAMSON COUNTY'S auditors shall have the right to audit such FAMILY ELDERCARE records on an annual basis along with their regular review of records in a manner and form to be agreed upon by WILLIAMSON COUNTY and FAMILY ELDERCARE. FAMILY ELDERCARE further agrees that WILLIAMSON COUNTY or its duly authorized representatives shall, until the

expiration of three (3) years after final payment under this Agreement, have access to and the right to examine and photocopy any and all books, documents, papers and records of FAMILY ELDERCARE which are directly pertinent to the services to be performed under this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions. FAMILY ELDERCARE expressly agrees that WILLIAMSON COUNTY shall have access during normal working hours to all necessary FAMILY ELDERCARE facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. Additionally, WILLIAMSON COUNTY shall give FAMILY ELDERCARE reasonable advance notice of intended audits.

5. **Independent Contractor/Indemnity**. It is understood and agreed that FAMILY ELDERCARE is not and shall not in any sense be considered an employee, partner or joint venturer with WILLIAMSON COUNTY, additionally neither shall FAMILY ELDERCARE be considered or in any manner hold itself out as an agent or official representative of WILLIAMSON COUNTY. FAMILY ELDERCARE shall be considered an independent contractor for purposes of this CONTRACT and shall in no manner incur any expenses or liability on behalf of WILLIAMSON COUNTY.

FAMILY ELDERCARE FURTHER AGREES TO HOLD WILLIAMSON COUNTY HARMLESS FOR ANY AND ALL CLAIMS BY THIRD PARTIES FOR ANY INJURIES, DAMAGES, OR LIABILITY OF ANY KIND ARISING UNDER THIS CONTRACT OR OCCASIONED BY FAMILY ELDERCARE.

6. **Compliance With All Laws.** FAMILY ELDERCARE and WILLIAMSON COUNTY each agree, in connection with the services or any related items to the subject matter of this CONTRACT, to comply with any and all local, state or federal requirements.

7. **Notice**. Any notice required to be given under the terms of this CONTRACT shall be effective if and when given in writing and mailed by certified mail to the addresses listed below or subsequently provided in writing:

WILLIAMSON COUNTY:
WILLIAMSON COUNTY JUDGE
710 MAIN STREET, SUITE 101
GEORGETOWN, TEXAS 78626

GENERAL COUNSEL:
GENERAL COUNSEL
OFFICE OF WILLIAMSON COUNTY JUDGE
710 MAIN STREET, SUITE 200
GEORGETOWN, TEXAS 78626

FAMILY ELDERCARE:
FAMILY ELDERCARE
ATTN: Kent Herring
1700 RUTHERFORD LANE
AUSTIN, TEXAS 78754

8. No Assignment. This CONTRACT may not be assigned.

9. Termination. Notwithstanding the agreed upon term, this CONTRACT may be terminated upon the occurrence of any of the following:

a. the termination of the corporate or business existence of FAMILY ELDERCARE;
b. the insolvency of FAMILY ELDERCARE, the filing of a petition in bankruptcy either by or against FAMILY ELDERCARE, or an assignment by FAMILY ELDERCARE for the benefit of creditors;
c. the breach by FAMILY ELDERCARE of any of the terms of this CONTRACT and the continuation of such breach for a period of ten (10) days after written notice is given by WILLIAMSON COUNTY to FAMILY ELDERCARE of such breach.
d. upon WILLIAMSON COUNTY's sole discretion with or without cause by providing thirty (30) days written notice.

10. Term. The stated term of this CONTRACT shall be from **October 1, 2018** until **September 30, 2019**, but with on-going contractual obligations relating to audits and record keeping by FAMILY ELDERCARE extending beyond the termination date (and the payment of funds by WILLIAMSON COUNTY).

11. Employees. The parties covenant and agree that each party will pay its own salaries, and all Social Security taxes, Federal and State Unemployment Insurance, Worker's Compensation Insurance and any similar taxes or expenses related to its own employees, including, but not limited to, license fees, insurance premiums and outfitting expenses. The Parties shall be responsible for complying with all Federal, State and Local laws, ordinances and regulations regarding its own employees.

12. Venue & Applicable Law. Venue of this CONTRACT shall be WILLIAMSON COUNTY, Texas, and the laws of the State of Texas shall govern all terms and conditions.

13. Severability. In case any one or more of the provisions contained in this CONTRACT shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision in this CONTRACT and this CONTRACT shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it

14. Mediation. The parties agree to use mediation for dispute resolution prior to and formal legal action being taken on this CONTRACT.

15. Proof of Non-Profit Status. FAMILY ELDERCARE has provided proof of

status as a 501(c) non-profit corporate entity, which is attached and marked as "Exhibit A" and is incorporated herein as if copied in full. **Exhibit "B".**

EXECUTED to be effective as of the 1st day of October, 2018.

FOR WILLIAMSON COUNTY:

_____
Presiding Officer
Williamson County Commissioners Court
Williamson County, Texas

Date: _____ _____, 20____

FOR FAMILY ELDERCARE:

_____
Authorized Agent
FAMILY ELDERCARE

Date: September 12, 2018

Exhibit "A"

2014 Board of Directors
Frank Letfingwell
President
Cass Grange
President-Elect
Eric Lassberg
Secretary
Rudy Belton
Past President & Treasurer
Charles Colley
Robert Josef Cross
Bruce Garlick
Char Hu
Bill McHugh
Sandy Morris
Bliss Burdett Pak
Paul M. Saper
Shubhada Saxena

President's Council
Jackie Lelong
Founder Of Family Eldercare
Jacqueline Angel
Michelle Bonilla
Tom Buckle
Don Carnes
Ellis "Pat" Craig
John Crane
Mark Davis
Clyde Farrell
Alva Finck
Cheryl George
Holly Gilman
Deborah Green
Diane "Dede" Hebner
Barbara Lipscomb
Donna Loflin
Ann Marett
J.C. "Dusty" Mccormick
Susan Sharlot
Gail Sulak
Gaye Thompson
Brent Weber

April 8, 2014

The Honorable John B. McMaster
Williamson County Court at Law #4
405 M.L.K. Street, Box 17
Georgetown, TX 78626

Dear Judge McMaster:

Per your recent discussions with Family Eldercare, I am sending you a proposal requesting $73,800 from Williamson County in FY2015 for Family Eldercare to serve as legal guardian for up to 30 incapacitated older adults and adults with disabilities. Funds will be used to provide ongoing care management and/or estate management to incapacitated Williamson County residents referred by the Court. Family Eldercare will provide guardianship services for as long as they are needed.

Family Eldercare has provided Guardianship services since 1986. We have developed a cost effective model for this service by using trained Care Managers to provide care oversight. Our program is also very successful. In 2013, and several years prior, 100% of our clients were protected from abuse and neglect.

Family Eldercare is seeking a formal contract in order to continue providing and expanding our guardianship services in Williamson County. The benefits to the County in entering into a formal agreement include:

- Guaranteed availability of Guardianship services for up to 30 Williamson County residents through the creation of new guardianships or through appointment as successor guardian;
- Reduced County costs related to civil or criminal incidents and emotional/health crises experienced by persons needing guardianship;
- Ongoing protection, care management and an improved quality of life for vulnerable older and disabled residents who are at risk of fraud, abuse, failing health and neglect; and,
- Housing with support services, located within Williamson County or outside the County, for individuals who need specialized residential care.

I hope that you will forward our request to the Williamson County Commissioners Court for their consideration. Please let me know if you need additional information or have any questions. I can be reached at (512) 483-3553 or jhefner@familyeldercare.org.

Sincerely,

Joyce Hefner
Chief Executive Officer

generously supported by
St David's Foundation

Offices in Austin and Georgetown
1700 Rutherford Lane Austin, Texas 78754
ph: 512.450.0844 fax: 512.459.6436
familyeldercare.org

Family Eldercare
Proposal to Provide Guardianship Services in Williamson County

Summary

Family Eldercare requests $73,800 from Williamson County in FY 2015 to provide legal guardianship for up to 30 incapacitated older adults and adults with disabilities. Funds will provide ongoing care, estate management, and legal services related to administering guardianship to individuals who are unable to care for themselves and have no family or friends to serve as guardian. In return for the County's investment, Family Eldercare will ensure that 100% of clients receive regular monitoring visits and protection from abuse, neglect or exploitation. Our proposal will also save the County a significant amount of costs related to serving individuals who need guardianship. These costs include law enforcement, legal, EMS, health and mental health expenses resulting from crises experienced by persons who need guardianship.

Need for Services

Williamson County has one of the fastest growing populations of older adults in the Country. Census data show that Williamson County's senior population has grown 110% since 2000.[1] The Texas State Data Center estimates that the number of older adults in Williamson County will grow to over 175,000 in 2040 – an increase of almost 400%. The most significant growth will be among persons age 75 and over.[2] This is important because these individuals tend to have fewer financial resources and more disabling health conditions that require regular care and monitoring. Many also will be challenged with degenerative brain disorders. By 2025, Texas is expected to experience a 48% increase in the number of older adults with Alzheimer's disease.[3]

In addition to the growing population of older adults in Williamson County there is also a significant population of disabled individuals. According to the 2012 American Community Survey, 34,303 Williamson County residents age 18 or older, or 11.4% of the adult population, have some type of disability. This does not include persons living in institutional settings. Of this non-institutionalized adult disabled population, 35% also had physical, mental or emotional conditions that made it difficult for them to live independently.[4]

---

[1] U.S. Census, 2008-2012 American Community Survey 5-Year Estimates.
[2] Texas State Data Center. 2008 Population Projections by Single Years of Age (Table 2) by County http://txsdc.utsa.edu/tpepp/2008projections/indage_csv_county.php.
[3] alz.org Alzheimer's Association, Texas. http://www.alz.org.
[4] 2012 American Community Survey, Table S1810, for Williamson County, TX.

Because of their frail physical and/or mental health, older adults and adults with disabilities are vulnerable to abuse, neglect, and financial exploitation, and need protection to live safely in community and institutional settings. In 2013, Adult Protective Services confirmed 419 cases victims of abuse, neglect or exploitation among Williamson County residents over age 18. Because this number only includes adults living in non-institutional settings, it understates the true extent of the problem. Research shows that for every reported case of elder abuse or neglect, another five instances go unreported. The majority of these abuse cases were committed by family members who are also the most common care providers for individuals in non-institutional settings.

Currently, there are over 200 guardianship investigation proceedings pending in Williamson County Court No. 4. Many of the persons subject to these investigations will not have family members or other persons willing or able to serve as their guardian.

Family Eldercare Guardianship Services

Family Eldercare has been providing guardianship services in Central Texas for over twenty years through staff members who are certified by the State of Texas Guardianship Certification Board. The guardianship program has a proven history of helping incapacitated individuals achieve a better quality of life by coordinating stable housing and appropriate medical care. In 2013, Family Eldercare served as guardian for 448 individuals and protected them from abuse, neglect, and exploitation and worked to increase their quality of life.

As legal guardian, Family Eldercare is responsible for managing nearly every aspect of a client's well-being, including their personal care, medical care, housing, financial management and even end of life decisions. Upon accepting a client for services, a Care Manager who is a certified guardian conducts an assessment and develops a comprehensive plan of care in collaboration with residential, medical, and other care providers. The assigned Care Manager will conduct at least one monthly visit to monitor the individual's condition, ensure his or her basic needs are met, advocate on his or her behalf, and secure resources to address unmet needs. Many individuals whose cases involve complex circumstances receive multiple monthly visits. Care Managers also ensure that clients are housed in the most appropriate, least restrictive living environment.

Care Managers are also responsible for ensuring clients remain free of abuse, that their individual rights are respected, and that they receive proper medical treatment. Once appointed as guardian for an individual, Family Eldercare provides care management, including providing consent for medical and psychiatric care, throughout the client's life

or until a court orders the guardianship closed. Typically, Family Eldercare provides guardianship services for many years.

Family Eldercare also recruits volunteers from the community to support clients. Volunteers visit clients monthly and provide much needed socialization and companionship to individuals who often have no family or friends. Volunteers may take clients shopping, or to recreational events, or just visit and provide company. In 2013, 67 community volunteers provided over 1,900 hours of support to Family Eldercare's Guardianship clients.

Family Eldercare's guardianship program has a lasting and meaningful impact on the lives of individuals who are extremely vulnerable to abuse, neglect and exploitation as a result of age or disability and who have no family or friends to help provide for their needs. An example is Sarah, a 65 year old woman with chronic schizophrenia with bipolar features. She is a Williamson County native, with no family members involved in her care. Sarah's chronic noncompliance with psychiatric care contributed to her being unable to maintain employment and, ultimately, becoming homeless. City of Georgetown and Williamson County Law officers struggled to deal with Sarah through the only tool available to them - the criminal justice system. Sarah was also committed to Austin State Hospital for 74 days (at a cost of approximately $500 per day) during this time. After Family Eldercare was appointed her guardian, however, the assigned Care Manager implemented a plan of care that ensured safe housing and access to medical and psychiatric care. Sarah currently lives in a Travis County group home and has been stable for the past 4 years. She has not been readmitted to Austin State Hospital.

Another example is Emma. Emma and her husband Harold moved to the Georgetown area after retirement. Their daughters lived in the area. Harold passed away in 2005. One afternoon five years later, Emma's daughters brought her to a nursing home. They left her there, and did not return. Emma was at the nursing home for a year, then experienced a decline in health. She critically needed a surgical procedure, however medical personnel felt that she was unable to give informed consent. Her daughters could not be found. Family Eldercare agreed to be appointed as her guardian and Emma received the necessary procedure. Back at the nursing home, Family Eldercare was there to monitor her well-being and to advocate for the best possible services. Family Eldercare was there at the end, ensuring that Hospice services were in place to keep her pain free. Emma passed away two months ago. Family Eldercare made the final arrangements.

Family Eldercare's Guardianship Program is a cost effective approach to providing guardianship. In many counties, probate courts address this responsibility by appointing and paying for private lawyers to advocate for and oversee the affairs of incapacitated

adults. Family Eldercare utilizes trained Care Managers, instead of attorneys, to oversee the care of incapacitated individuals.

Proposal for Funding from Williamson County

In 2013, Family Eldercare provided guardianship services to 448 individuals, including 25 residents of Williamson County. While Family Eldercare has been able to provide guardianship services without cost to Williamson County in the past, those services cannot be maintained or expanded without additional support. We are receiving an increased number of referrals, especially for individuals under the age of 55. In 2013, Family Eldercare received 22 referral calls from Williamson County. As of April 1, 2014, the program has received 14 calls from Williamson County requesting guardianship assistance.

Of the Williamson County residents served in 2013, 14 were older adults, most of whom suffer from Alzheimer's disease and dementia. The remaining clients were persons under age 55 who are incapacitated as a result of developmental or intellectual disabilities or chronic mental illness. Seventeen of the 25 persons served had incomes below the federal poverty income level.

Family Eldercare's request for funding of $73,800 in FY 2015 will provide Williamson County with a reliable, successful, and cost effective mechanism for addressing the needs of up to 30 county residents who are incapacitated as a result of age or disability. This request is based on the provision of guardianship services at a rate of $205/month per client, the rate of reimbursement paid by the Department of Aging and Disability Services for guardianship services. County funding will ensure that these residents receive the housing and care they need to live out their lives with dignity and well-being.

County funding for guardianship services will also reduce other costs incurred in dealing with incapacitated persons. Guardianship services frequently bring stability to the chaotic circumstances faced by many incapacitated persons. This stability leads to lower rates of emergency medical service calls, law enforcement dispatches, county jail incarceration, and involuntary mental health commitments, all of which are expensive services for the County to provide.

Our proposal includes providing both Guardianship of the Person and/or Guardianship of the Estate services to county residents. Family Eldercare does not propose to investigate guardianship cases or provide legal services to establish guardianships. Rather, the Court would appoint Family Eldercare as guardian after the investigation and initial guardianship. Family Eldercare will provide guardianship services in accordance with an agreement that further outlines our responsibilities, including

timeframes for providing care to referred individuals, program outcome measures, and reporting requirements.

Thank you for your consideration of this request. We value our partnership with Williamson County in addressing the needs of older adults and adults with disabilities. We are available if the County has questions or needs further information regarding this proposal.

Joyce Hefner
Chief Executive Officer
Family Eldercare
1700 Rutherford Lane
Austin, TX 78754
Phone: (512) 483-3553
Fax: (512) 459-6436
Email: jhefner@familyeldercare.org

Exhibit "B"

RECEIVED FEB 17 2004

Internal Revenue Service

Date: February 5, 2004

Family Eldercare, Inc.
2210 Hancock Dr
Austin, TX 78756-2509

Department of the Treasury
P. O. Box 2508
Cincinnati, OH 45201

Person to Contact:
Delphene Naegele 31-04012
Customer Service Specialist
Toll Free Telephone Number:
8:00 a.m. to 8:30 p.m. EST
877-829-5500
Fax Number:
513-263-3756
Federal Identification Number:
74-2286307

Dear Sir or Madam:

This is in response to your request of February 5, 2004, regarding your organization's tax-exempt status.

In January 1984 we issued a determination letter that recognized your organization as exempt from federal income tax. Our records indicate that your organization is currently exempt under section 501(c)(3) of the Internal Revenue Code.

Based on information subsequently submitted, we classified your organization as one that is not a private foundation within the meaning of section 509(a) of the Code because it is an organization described in sections 509(a)(1) and 170(b)(1)(A)(vi).

This classification was based on the assumption that your organization's operations would continue as stated in the application. If your organization's sources of support, or its character, method of operations, or purposes have changed, please let us know so we can consider the effect of the change on the exempt status and foundation status of your organization.

Your organization is required to file Form 990, Return of Organization Exempt from Income Tax, only if its gross receipts each year are normally more than $25,000. If a return is required, it must be filed by the 15th day of the fifth month after the end of the organization's annual accounting period. The law imposes a penalty of $20 a day, up to a maximum of $10,000, when a return is filed late, unless there is reasonable cause for the delay.

All exempt organizations (unless specifically excluded) are liable for taxes under the Federal Insurance Contributions Act (social security taxes) on remuneration of $100 or more paid to each employee during a calendar year. Your organization is not liable for the tax imposed under the Federal Unemployment Tax Act (FUTA).

Organizations that are not private foundations are not subject to the excise taxes under Chapter 42 of the Code. However, these organizations are not automatically exempt from other federal excise taxes.

Donors may deduct contributions to your organization as provided in section 170 of the Code. Bequests, legacies, devises, transfers, or gifts to your organization or for its use are deductible for federal estate and gift tax purposes if they meet the applicable provisions of sections 2055, 2106, and 2522 of the Code.

Your organization is not required to file federal income tax returns unless it is subject to the tax on unrelated business income under section 511 of the Code. If your organization is subject to this tax, it must file an income tax return on the Form 990 T, Exempt Organization Business Income Tax Return. In this letter, we are not determining whether any of your organization's present or proposed activities are unrelated trade or business as defined in section 513 of the Code.

Section 6104 of the Internal Revenue Code requires you to make your organization's annual return available for public inspection without charge for three years after the due date of the return. The law also requires organizations that received recognition of exemption on July 15, 1987, or later, to make available for public inspection a copy of the exemption application, any supporting documents and the exemption letter to any individual who requests such documents in person or in writing. Organizations that received recognition of exemption before July 15, 1987, and had a copy of their exemption application on July 15, 1987, are also required to make available for public inspection a copy of the exemption application, any supporting documents and the exemption letter to any individual who requests such documents in person or in writing. For additional information on disclosure requirements, please refer to Internal Revenue Bulletin 1989 - 17.

Because this letter could help resolve any questions about your organization's exempt status and foundation status, you should keep it with the organization's permanent records.

If you have any questions, please call us at the telephone number shown in the heading of this letter.

This letter affirms your organization's exempt status.

Sincerely,

Janna K. Skufca

Janna K. Skufca, Acting Director, TE/GE
Customer Account Services