

**STATE OF NORTH CAROLINA  
COUNTY OF WAKE**

**ANNUAL FUNDING AGREEMENT  
FISCAL YEAR 2019**

This Annual Funding Agreement is made and entered into this the 1<sup>st</sup> day of July, 2018 by and between the County of Wake, a political subdivision of the State of North Carolina (“Wake County”) and Alliance Behavioral Healthcare, a political subdivision of the State of North Carolina (“Alliance”).

**WITNESSETH:**

WHEREAS, Alliance is responsible for the management and oversight of the public system of Mental Health, Intellectual/Developmental Disability and Substance Abuse (“MH/I-DD/SA”) Services for Wake, Durham, Cumberland, and Johnston Counties; and

WHEREAS, Wake County has a total Fiscal Year 2019 (“FY 19”) funding commitment to Alliance for MH/I-DD/SA services for eligible Wake County residents in the amount of \$29,232,300 (this amount inclusive of a three-way funding agreement with UNC Hospitals for WakeBrook) and desires to direct \$18,531,388 of that total amount to Alliance for administration and purchase of MH/I-DD/SA services as identified and defined herein; and

WHEREAS, this Funding Agreement is entered to set forth the terms and conditions upon which Wake County shall direct the funding specified herein to Alliance pursuant to N.C.G.S. 122C-115 for current operations and ongoing programs and MH/I-DD/SA services for Wake County residents.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, the receipt and sufficiency of which is hereby acknowledged, Wake County and Alliance agree as follows:

**ARTICLE I  
TERM**

1.1 The term of this Funding Agreement shall be for services provided from **July 1, 2018 through June 30, 2019**, unless terminated or modified by written agreement of the parties hereto.

**ARTICLE II  
CONDITIONS PRECEDENT TO FUNDING COMMITMENT**

2.1 Wake County shall have no obligation to tender the funding commitment outlined in Article III herein for any funded services until and unless Alliance has executed a written contract or agreement with a Provider selected by Alliance for the services (“Contract”). This Contract shall meet or exceed the applicable state requirements for state-funded MH/DD/SA services, shall identify an annual contract maximum and shall detail services to be provided, reimbursement rates, reporting, performance standards (including outcomes), penalties and/or sanctions up to and

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including termination for failure to meet program requirements, and an appeals and/or opportunity to cure process meeting the requirements of state and federal laws, rules and regulations. Alliance shall provide a copy of each executed Contract to Wake County and shall for the term of this Funding Commitment be required to provide a copy of any termination, modification, amendment, or renewal of any Contract with a service Provider to Wake County within seven (7) business days of execution. Wake County shall have no obligation to fund a service for which a Contract has not been executed or is no longer in effect, or for which dates of services fall outside of the term of this funding agreement.

### **ARTICLE III WAKE COUNTY RESPONSIBILITIES**

3.1 For the Term of this Funding Agreement, Wake County agrees to direct funding up to the total amount of EIGHTEEN MILLION FIVE HUNDRED THIRTY-ONE THOUSAND THREE HUNDRED EIGHTY-EIGHT AND NO/100 DOLLARS (\$18,531,388) to Alliance. Alliance may use up to \$289,589 of the funding to cover costs associated with administering the obligations set forth herein. The remainder of the funding shall be used exclusively for the purchase of behavioral health services for eligible Wake County residents to the extent that other first or third-party payor sources such as Medicaid, Medicare, private pay, insurance, or grant funding are not available, have been denied or exhausted, or State funding is not allocated by Alliance (“Wake County Services”). The total amount shall be allocated by program category as follows:

<b>Program Category</b>	<b>Amount</b>
Crisis Services	\$ 8,668,000
Treatment	4,789,011
Criminal Justice	1,341,446
Residential	1,120,344
Supports	1,937,591
Recovery	385,567
Administrative Support	289,429
<b>Total funded through this Agreement</b>	<b>\$ 18,531,388</b>
Crisis Services – WakeBrook*	10,700,912
<b>Total FY 18 Funding</b>	<b>\$ 29,232,300</b>

\* WakeBrook funding established through separate multi-year three-way funding agreement ending June 30, 2019

The Program Categories presented above include the following services:

1. Crisis Services – Assessment, residential, inpatient and rapid response programs meant for the treatment of individuals in crisis.
2. Treatment – Adult outpatient treatment and urgent care and assessment and treatment for children in foster care.
3. Criminal Justice – Coordination and treatment for individuals within the Wake County Jail and for individuals who are otherwise involved with the justice system.

4. Residential – Support for housing, including transitional living, and independent living.
  5. Supports – Programs that do not directly provide treatment on their own, but instead are meant to be utilized in conjunction with other programs, including school based mental health, parks and recreation programs, and daycare support.
  6. Recovery – Programs to help individuals who have severe mental illness maintain stability in the community.
  7. Administrative Support – Alliance’s costs related to administering the obligations of this Funding Agreement, the multi-year three-way funding agreement for WakeBrook, and the multi-year funding agreement with Holly Hill Hospital.
- a. Any funds allocated by Wake County under this agreement but unspent at the end of the fiscal year shall be held by Wake County and such funds may be available for behavioral health purposes in future fiscal years upon approval by the Wake County Manager.
  - b. Wake County will process quarterly reimbursement payments to Alliance when the following conditions are met:
    1. Execution of this Agreement.
    2. Contract terms set forth in Article II, Section 2.1 – If a Contract with a Provider has not been executed or is no longer in effect, per section 2.1, Wake County will make a partial quarterly payment that excludes the amount for that Program. If the Contract is executed after the quarterly payment has been made, Wake County will make a payment for that program within ten (10) business days of receipt of an updated and approved quarterly invoice and a copy of the executed Contract.
    3. For the first three quarters, receipt of a quarterly invoice from Alliance. The quarterly invoice will include cash basis amounts requested for reimbursement along with supporting financial document(s) which will include a summary of expenses paid to Providers quarter to date. Cash basis amounts represent payments made to Providers for service dates within the Term of this current Funding Agreement (**July 1, 2018 through June 30, 2019**)
    4. Program data supporting the invoices will be provided 30 days after quarter end to allow time to collect and compile self-reported data from service Providers. A second report including outcomes and analysis of data will be provided within 30 days of the next quarter end. Alliance will provide Wake County with a Provider reporting schedule per each Provider’s service contract.
    5. For the fourth quarter, receipt of a monthly invoice from Alliance. The monthly invoice will include cash basis amounts requested for reimbursement. Cash basis amounts represent payments made to Providers for service dates within the Term of this current Funding Agreement (**July 1, 2018 through June 30, 2019**). Claims and program data supporting the request will be provided 30 days after quarter end to allow time to collect and compile self-reported data from Providers.
  - c. For the June invoice, claims and invoices received after June 30, 2019 for service dates within the Term of this current Funding Agreement (July 1, 2018 through June 30, 2019) will be invoiced by August 15th, payment to be made within 10 business days. Claims and

invoices received after final invoice for service dates within the terms of the contract (July 1, 2018 through June 30, 2019) may be included on the next fiscal year's invoice upon approval by the Wake County Manager or designee.

- d. A schedule of invoices, payments, and reporting requirements outlined in this section is attached to this funding agreement as Attachment B.
- e. In the event that Wake County and Alliance do not enter a Funding Agreement for the next fiscal year, Alliance may submit a final invoice covering all services rendered under this funding agreement paid beyond the effective date of this agreement as agreed upon by both parties.
- f. Per the terms of the funding agreement for UNC Health Care System and Holly Hill between the parties, Wake County shall pay Alliance in the manner described in those agreements.

#### **ARTICLE IV ALLIANCE RESPONSIBILITIES**

4.1 For the Term of this Agreement, Alliance agrees to use its best efforts to ensure the service portion of funding provided by Wake County is used exclusively for the purchase of Wake County Services as outlined in Article III for eligible Wake County residents. Such efforts include, but are not limited to: Provider education, training, technical assistance, authorization criteria, and audits.

For the purpose of this Agreement, a person is considered an eligible Wake County resident if he or she resides in Wake County at the time of admission (even if the individual owns or rents a home in a different county or state) subject to the following qualifications:

- 1. An individual in a hospital, mental institution, nursing facility (SNF, ICF-MR), Adult Care Home (rest homes/domiciliary care facility/assisted living), State prison, County jail or other institution/facility is a resident of the county in which he or she lived immediately prior to entering the facility. Residence in an adult care home does not establish county residence, even when the individual was a private paying adult care home resident.
- 2. If an individual moves from another state directly into an institutional living arrangement, the individual is a resident of the county in which the facility is located. If the individual moves to more than one institution/facility, the county of residence is the county where the first institution/facility is located.
- 3. Temporary absence from Wake County, with subsequent return or intent to return, does not change the residence, unless it is determined that the individual is no longer receiving mail or paying utilities in Wake County.
- 4. A person with no fixed or permanent address (i.e. (person experiencing homelessness) is a resident of the county where the individual states his or her intent to remain. If the individual is incapable of stating intent to remain, he is a resident in the county in which he is found. Under no circumstances shall a person with no fixed or permanent address be

found to be a resident of Wake County if the individual states intent to return to another county.

4.2 Alliance shall not apply any direct funding under this Agreement to the cost of services directly authorized by Alliance for patients who are not Wake County residents. The parties agree and acknowledge that there may be isolated instances where direct funding is applied to the cost of services for patients who are not Wake County residents due to inaccurate information received from the Provider or patient that is outside the control of Alliance. In such cases funding shall not be deemed a breach of the terms of this contract, provided that Alliance corrects any payments for non-Wake County residents out of Wake County funding upon discovery by including in the quarterly report erroneous payments by service, cost, and corrected county of residence; and crediting Wake County for such amounts erroneously paid within a reasonable time of discovery.

4.3 Alliance shall administer the funding under this Agreement as outlined in Article III Section 3.1. Any deviations from the plan described in Attachment A must be approved in writing by the Wake County Manager or designee.

4.4 Funds held by Alliance at year end:

a. Creation of Fund Balance – When Wake County payments to Alliance exceed expenses approved by Wake County during a fiscal year, Alliance shall hold these funds in a Restricted Fund Balance and may recognize the payments as restricted income in the year received. It is the intent of the parties that for any fiscal year that a Restricted Fund Balance is held by Alliance exclusively for the purchase of Wake County Services, the Restricted Fund Balance reflected in the audit statement is considered part of Wake County’s required appropriation and allocation of funds pursuant to N.C.G.S. 122C-115 for current operations and ongoing programs and MH/I-DD/SA services that serve the catchment area.

b. Use of Restricted Fund Balance – Alliance shall adhere to the following:

1. Expenditures of Wake County Funds, including Restricted Fund Balance, are subject to the restrictions of Article III Section 3.1.
2. Restricted Fund Balance shall be used exclusively for the purchase of behavioral health services for eligible Wake County residents.
3. Prior to expending Restricted Fund Balance, the Wake County Manager or designee must approve in writing the purpose and use of the Restricted Fund Balance.
4. Wake County may require Alliance to utilize Restricted Fund Balance at the end of a fiscal year to pay a portion of the subsequent fiscal year’s expenses. Thereby, reducing the subsequent fiscal year’s contractual amount owed. This could also result in a reduction of future years’ appropriations.
5. Wake County may, instead of making direct payment to Alliance, authorize and require Alliance to utilize the Restricted Fund Balance to pay any invoice or part of an invoice submitted by Alliance to Wake County.

4.5 Alliance is responsible for providing a report as described in Section 4.6 to the County for  
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each category of funded Wake County Services (other than administrative support) for services as of September 30, December 31, March 31, and June 30, and are due by the last business day of the subsequent month. This report shall contain a separate accounting for Wake County Services provided by each Provider for a funded program during the previous reporting period. This report shall be referred to as the Performance Measures Report. It will include numbers served for each program and service. An additional document detailing the full analysis of Wake County programs and services will be provided within 30 days of the end of the above referenced quarters. This shall be referred to as the Wake County Outcome and Analysis Report.

In addition, Alliance shall provide a final adjusted year-end report to Wake County. The final adjusted report shall be due October 15 of the following fiscal year. Reporting obligations under this section survive the termination of this Agreement.

4.6 Form of Report: Wake County and Alliance will collaborate to mutually agree upon the information to be included in the quarterly reports. The reports are intended to provide appropriate and adequate documentation to evidence services provided by service Category and Provider. The reports will also include any corrections for funding non-Wake County residents, per section 4.2.

4.7 Audit Rights: For all Wake County Services being funded hereunder, Wake County or its authorized representative shall have the right to inspect, examine, and make copies of any and all books, accounts, invoices, records and other writings related to the funding of the Wake County Services pursuant to this Agreement.

To the extent that any Records may constitute “protected health information” as that term is defined by the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), it is the intent of this Section to allow Wake County to receive the minimum necessary information in de-identified and/or aggregated form only for the purpose of evaluating financial and reporting requirements under this Agreement. Costs of any audit or review conducted under the authority of this Section are the responsibility of Wake County unless a material breach by Alliance is detected, in which case the breaching party shall be responsible for the reasonable costs of the audit or review.

4.8 Alliance is responsible for oversight of all funding stipulations set forth herein.

4.9 In the event that a Provider in any category of funded services is consistently not meeting contract requirements, Alliance is responsible for using best efforts to issue penalties or sanctions, up to and including termination of that Provider Contract if legal grounds exist, and if necessary, enter into Contracts with alternate Provider(s) under that category of funded services in order to ensure adequate service to the eligible Wake County population.

4.10 Alliance is responsible for conducting monitoring site visits for all programs and Providers funded under this agreement during the year. Alliance will provide Wake County with the completed site visit monitoring tools/report within three (3) days after Alliance approved the completed report. If Wake County has additional questions about the services provided by a particular Provider, Alliance will assist Wake County in facilitating an in person meeting with a

Wake County representative and the Provider at Alliance's offices or a location otherwise agreed to by the Provider within 30 days of the request. A monitoring site visit schedule shall be due to Wake County August 1 outlining the plan to monitor programs and Providers during the fiscal year. An updated site visit schedule shall be due to Wake County as Provider Contracts are finalized.

## **ARTICLE V OTHER PROVISIONS**

### **5.1 RELATIONSHIP OF PARTIES**

Alliance represents that it has or will secure all personnel required in performing the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with Wake County. Alliance agrees that all personnel engaged in work under this Agreement shall be fully qualified and shall be authorized or permitted under federal, state, and local law to perform such services. Alliance further agrees that it shall obey all State and Federal statutes, rules and regulations which are applicable to provisions of the services called for herein.

### **5.2 NON-ASSIGNMENT**

Alliance shall not assign any portion of this Agreement, including the right to receive payment hereunder, to any party without the prior written consent of Wake County.

### **5.3 NO THIRD PARTY BENEFICIARIES**

This Agreement is not intended for the benefit of any third party. The rights and obligations contained herein belong exclusively to the parties hereto, and shall not confer any rights or remedies upon any person or entity other than the parties hereto.

### **5.4 GOVERNING LAW AND VENUE**

The parties acknowledge that this Agreement shall be governed by the laws of the State of North Carolina. Venue over any action arising out of this Funding Agreement shall be in the Superior Court of Wake County.

### **5.5 ENTIRE AGREEMENT**

The terms and provisions herein contained constitute the entire agreement by and between Wake County and Alliance and shall supersede all previous communications, representations or agreements, either oral or written between the parties hereto with respect to the subject matter hereof.

### **5.6 NOTICES**

All notices, reports, records, or other communications which are required or permitted to be given to the parties under the terms of this Agreement shall be sufficient in all respects if given in writing and delivered in person, by confirmed email transmission, by overnight courier, or by registered or certified mail, postage prepaid, return receipt requested, to the receiving party at the following address:

If to Wake County: Mr. David Ellis  
Wake County Manager  
Wake County Justice Center, 4<sup>th</sup> Floor  
301 S. McDowell Street  
Raleigh, North Carolina 27601

USPS Address:  
PO Box 550  
Raleigh, NC 27602-0550

With a copy to: Mr. Scott W. Warren  
Wake County Attorney  
Wake County Justice Center, 4<sup>th</sup> Floor  
301 S. McDowell Street  
Raleigh, N.C. 27601

Ms. Denise Foreman  
Wake County Manager's Office  
Wake County Justice Center, 4<sup>th</sup> Floor  
301 S. McDowell Street  
Raleigh, N.C. 27601

If to Alliance: Mr. Rob Robinson  
Chief Executive Officer  
Alliance Behavioral Healthcare  
4600 Emperor Boulevard  
Durham, North Carolina 27703

With a copy to: Ms. Carol Hammett  
General Counsel  
Alliance Behavioral Healthcare  
4600 Emperor Boulevard  
Durham, N.C. 27703

## 5.7 SEVERABILITY

If any provision of this Agreement shall be determined to be unenforceable by a court of competent jurisdiction, such determination will not affect any other provision of this Agreement.

## 5.8 COUNTERPARTS

This Agreement may be executed in several counterparts, each of which shall be deemed an original.

## 5.9 EFFECTIVE DATE OF AGREEMENT

The effective date of this Agreement shall be the date upon which the authorized agent of Wake County executes this agreement. This date shall be reflected in the first paragraph of this Agreement.

**ARTICLE VI**  
**Authorization and Binding Obligation**

The parties hereto each have the authority to enter the Agreement set forth herein, and that execution of this Agreement has been duly approved and authorized by resolution or any other necessary action, and this Agreement constitutes a legal, binding, and valid obligation.

Executed as of the day and year first above written.  
**COUNTY OF WAKE, NORTH CAROLINA**

By: \_\_\_\_\_  
Wake County Manager

Date: \_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
Scott W. Warren  
Wake County Attorney

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

\_\_\_\_\_  
Wake County Finance Director, or designee

**ALLIANCE BEHAVIORAL HEALTHCARE**

By: \_\_\_\_\_  
Rob Robinson, Area Director/ CEO

Date: \_\_\_\_\_